

THE STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

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In the Matter of:)

2008 Order Instituting Informational)
Proceeding and Rulemaking on)
Load Management Standards.)

Docket No. 08-DR-01

**LOAD MANAGEMENT STANDARDS: PROPOSED STANDARDS COMMENTS
OF THE NORTHERN CALIFORNIA POWER AGENCY**

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Pursuant to the schedule established in the Load Management Standards Proceeding (Docket No. 08-DR-01) and the December 10, 2008 Workshop Notice, the Northern California Power Agency¹ (NCPA) hereby submits these written comments on the *Proposed Load Management Standards* (Proposed Standards), dated November 2008.

I. INTRODUCTION

NCPA, like the rest of the publicly owned utilities (POU), is committed to pursuing cost-effective means of reducing electricity consumption in California. Since the outset of this proceeding, NCPA has made efforts to work with the California Energy Commission (Commission) staff to develop an approach that would take into account the needs and resources of POUs while at the same time considering the goals and objectives of the Commission. To that end, NCPA submits these comments on the Proposed Standards in an attempt to balance these two interests, by meeting the goals of the Commission while providing POUs the maximum flexibility to develop cost-effective utility programs.

NCPA member utilities will take appropriate steps to provide their customers with the information necessary to make informed rate decisions, and the tools that will allow

¹ NCPA members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, the Truckee Donner Public Utility District, and the Turlock Irrigation District, and whose Associate Members are the Plumas-Sierra Rural Electric Cooperative and the Placer County Water Agency.

them to cost-effectively reduce energy consumption. That said, however, NCPA cautions against the development of rigid, overly prescriptive regulations and rather, encourages the Commission to develop guidelines that will give utilities the flexibility to create the most cost-effective rate designs.

The Commission has already recognized that smaller utilities may find implementation of the load management standards infeasible or excessive in terms of the associated financial costs to ratepayers. The Proposed Standards specifically note that “[i]t is not the intent of the Energy Commission to create undue burdens on any utility or to increase costs for utility customers.”² In accordance with this intent, as discussed herein, NCPA proposes that the Commission work toward incorporating the objectives of the Proposed Standards via the use of guidelines and establish a minimum threshold for exempting smaller entities.

II. COMMENTS

A. The Commission’s Proper Role with Regard to the Load Management Standards and Publicly Owned Utilities is Advisory.

NCPA believes that California law fully supports the conclusion that it is proper for the Commission to make recommendations to POUs regarding rates and rate design, but not mandate the implementation of specific programs and rates for POUs. Accordingly, NCPA supports the comments filed by the California Municipal Utilities Association (CMUA) illustrating the fact that local regulatory authorities are the bodies sanctioned to establish rates for their respective POUs. Despite the statement in the December 10 Workshop Notice that the Commission “has longstanding authority to adopt cost-effective load management standards” pursuant to Public Resources Code § 25403.5, an accurate reading of the relevant law demonstrates that ratemaking authority rests solely in the local regulatory authority, as detailed in CMUA’s comments.

In fact, the Commission recognized this lack of authority at the June 10, 2008 workshop in which Chair Pfannenstiel stated, “[m]ost people are probably cognizant of the fact that...the Energy Commission really has no authority to do rate design.”³ Further,

² Proposed Load Management Standards, Draft Committee Report, November 2008, p. 31.

³ Chair Pfannenstiel, June 10, 2008 Workshop, Tr. at 2:17-19.

Chair Pfannenstiel's Proposed Revisions to the Draft Load Management Standards, dated December 10, 2008, acknowledge the limitations on the Commission's ratemaking authority.

The role of the Commission as advisory to the local governing bodies is consistent with the existing regulatory framework in which the current Load Management Standards are enforced and under which the proposed revisions at issue were developed. Indeed, the 1982 Load Management Standards cited in the Proposed Standards repeatedly reference the authority of the local governing bodies to adopt and implement programs based on the recommendations of the Commission. NCPA concurs with the comments of CMUA that there is no legal authority to support a different outcome.

B. The Commission's Should Adopt Guidelines that Address the Goals and Objectives of Load Management Standards.

NCPA suggests that the Proposed Standards be developed as general guidelines that encourage utilities to take all appropriate steps to provide customers with the information necessary to make informed choices, and serve as a resource that utilities can refer to when determining the best means to cost-effectively implement load management programs. NCPA appreciates the Commission's willingness to consider the time and expense associated with the development and implementation of several of the load management standards proposed.

For example, many small utilities are without the resources necessary to develop an advanced metering infrastructure (AMI) business plan; such a requirement would be a significant burden both to the utility and its customers, and in many cases would not be cost-effective. In fact, there may be instances where other programs would provide significantly greater energy savings and be more cost-effective. To impose an arbitrary mandate that all utilities – regardless of size or resources – implement AMI programs is simply not in the best interest of all utilities, nor the most effective means of achieving the Commission's stated objectives.

Moreover, small utilities face diverse cost-effectiveness considerations, including size and climate zone, such that the development of general guidelines, as opposed to mandates, would provide the necessary flexibility in terms of deciding what load

management tools or time-differentiated rates are in the best interest of each uniquely situated utility.

Given the significant burden that many small utilities would be faced with, NCPA recommends that the Commission establish a categorical exemption and clearly identify the exemption in its final decision. NCPA stands ready to work with Commission staff to determine the best threshold for exemption. A minimum threshold should be established that would exempt smaller utilities from conforming to the proposed standards, where to do so would prove to be an onerous and costly burden, especially in the absence of perceived benefits. As a starting point, NCPA supports exempting utilities with a peak load of 200 MW or less. This figure is the standard in other Commission proceedings, including data collection. Furthermore, in the renewable portfolio standard (RPS) proceeding, the Commission recognized that small utilities may face significant hardships when faced with RPS reporting requirements and recommended an exemption process for small utilities to avoid the overly burdensome requirements that compliance with RPS goals may present.⁴

The utilization of Commission guidance or recommendations to facilitate the implementation of many different kinds of policy objectives is not new, and has proven successful in the past. For example, Assembly Bill (AB) 2021 required POUs to develop efficiency potential and targets in cooperation with the Commission giving POUs the flexibility to determine how best to achieve energy efficiency targets, but authorizing the Commission to make recommendations for improving POU efficiency strategies or targets.⁵ In March 2008, CMUA provided the Commission with its first progress report since targets were adopted in December 2007.⁶ The 2008 IEPR Update found that POUs “have demonstrated their commitment to increased efficiency savings over the past year by expanding both efficiency staffing and customer programs.”⁷ Accordingly, NCPA encourages the Commission to adopt a similar approach to the development of load management programs where, under Commission guidance, utilities have the ability to decide how best to achieve the desired objectives. .

⁴ 2005 Integrated Energy Policy Report (IEPR), p. 110.

⁵ 2007 IEPR, p. 85.

⁶ 2008 IEPR Update, p. 93.

⁷ 2008 IEPR Update, p. 49.

C. The Commission Should Revise the Proposed Load Management Standards to Reflect the Suggested Revisions Addressed in the CMUA Comments.

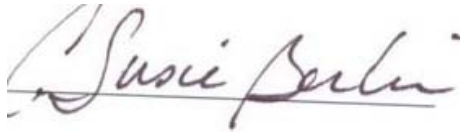
NCPA is generally supportive of the proposed revisions set forth in the CMUA comments, and believes that those proposed revisions are a good starting point for formulating the Proposed Standards into guidelines.

III. CONCLUSION

NCPA appreciates the opportunity to submit these comments and looks forward to working with the Commission to develop load management guidelines that meet the objectives articulated by the Commission and at the same time provide all utilities the necessary flexibility to accommodate the needs of their individual communities.

December 19, 2008

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Susie Berlin", written over a horizontal line.

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