**CAEECC-Hosted Working Group on Market Transformation—Part II**

**Draft Prospectus 5/7/20**

**Goals:**

To develop detailed recommendations related to resolving any potential overlap between A) Market Transformation Initiatives (MTIs) and Resources Acquisition Programs (RAs); B) MTIs that overlap with one another; C) MTIs that overlap with C&S advocacy efforts; and D) MTIs that draw on, or build on, non-resource program efforts in the EE portfolio. [Collectively referred to herein as “Other EE Efforts”]

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**Brief Background/History:**

CAEECC-hosted a Market Transformation Working Group between November 2018 and March 2019, culminating in a Report filed with the Commission on March 19th of 2019. The Report proposed a new framework for market transformation for energy efficiency in California. MTWG members reached consensus on recommendations for the vast majority of the framework elements, with two notable exceptions (one on who should be the Market Transformation Administrator (MTA) and another related to cost-effectiveness for market transformation initiatives).[[1]](#footnote-1)

In the Commission’s final decision regarding the MTWG’s recommendations, the Commission accepted most of the MTWG’s recommendations, decided the non-consensus issues for the time-being, and praised the work of the MTWG.

# It also requested that the MTWG reconvene prior to the hiring of an MTA to further flesh out a series of issues related to the potential overlap between future particular market transformation initiatives and Other EE Efforts.[[2]](#footnote-2)

[Note: See the appendix to this prospectus for full discussion and finding language from Decision on this topic, as well as the original relevant section from our MTWG Report.]

**Problem Statement:**

With the initiation of MTIs under the guidance of an MTA, there will inevitably be MTIs which overlap with Other EE Efforts. While these MTAs/Other EE Efforts may very well be designed to dove-tail with each other, there still will likely remains potentially complex if not controversial decisions regarding the relative goals and attribution of savings in overlapping sectors and markets. The original MTWG recommendations, while dedicating an entire chapter and set of recommendations on this topic, did not resolve these complex issues at a level of granularity that’s readily implementable—and the Commission’s decision has requested that these issues be further developed ahead of the retention of the MTA by CAEECC.

**Scope/Key Questions:**

“…*to figure out how to set goals and how to attribute savings to various effort under the overall market transformation umbrella in each market, as well as how to ensure minimal duplication or negative overlap”—*from Commission Decision

1. How to ensure minimal duplication or negative overlap between market transformation initiatives administered by the MTA and Other EE Efforts.
2. How to set goals for market transformation initiatives and Other EE Efforts where there will likely be overlap.
3. How to attribute savings for market transformation initiatives and Other EE Efforts where there will likely be overlap.
4. [Optional and only if directed by ED—Flesh out further the proposed cost-effectiveness framework for Market Transformation Initiatives vis a vis evolving overall EE cost-effectiveness framework issues.]

**Deliverables:**

A Report from the Working Group delineating recommendations related to the scope and questions above

a. Any such recommendations would be made by consensus of the Working Group where possible. Where consensus is not reached, the Report would delineate two or more alternatives including their rationales and which WG Members support each alternative.

b. Put in a motion on the record for CPUC consideration

**Timeframe/Meetings:**

August 2020—February 2021 [3 Working Group Meetings (potentially August, November, and February on day before or after Full Quarterly CAEECC meetings) plus sub-WGs between meetings as needed]

**Working Group Members**:

Open to representatives from any CAEECC Member, former MTWG members who are not CAEECC Members (i.e., TURN, CLEAResults, and Resource Innovations), plus other stakeholder organizations that are qualified and interested in fully participating in the Working Group; open to public to observe. [Add criteria on knowledge and experience with Market Transformation/Other EE Efforts.]

**Facilitation Team:**

Jonathan Raab and Meredith Cowart

**Appendix 1: Relevant Language from MTWG Report and Commission Decision**

**From the Decision** (note this is from proposed decision—anything change in final decision?)

3.5.2. Discussion

The MTWG report and the comments from parties focus more on the

concept of coordination and overlap rather than the particulars. We agree with

Resource Innovations in their suggestion to think of market transformation as the

umbrella under which all of the energy efficiency activities are taking place, with

the MTIs designed to “wrap around,” in many cases, existing interventions in

particular markets, in order to fill gaps and form a complete approach to

transforming that particular market.

We also agree that the MTA should have the primary responsibility to

develop the logic model for each MTI and to coordinate it with existing efforts.

Thus, we expect the MTA will spend a great deal of effort and time on

coordination efforts, stakeholder outreach, and coordination among program

administrators.

Having said this, we are concerned that the MTWG report

recommendations do not go far enough to identify the particular areas where

overlap and coordination will be critical, and how to handle them. In particular,

we are concerned about the process for setting savings goals and attributing

savings to particular programs and program administrators.

In general, we prefer that individual MTIs set goals at the time that they

are formulated, with goals generally incremental to the other energy efficiency

resource acquisition goals, because the MTIs should be going after savings that

could not be achieved within the normal portfolio. But these dynamics are

complex, and vary in different markets where interventions are already

underway. Likewise, we would like to avoid disputes over which initiative or

program created the energy savings, preferring to celebrate the victory without

arguing over attribution. However, the existence of incentive mechanisms for

existing program administrators may complicate this effort.

We generally adopt the approaches recommended by the MTWG in the

framework attached to this decision. However, we think more detailed work

may be needed to figure out how to set goals and how to attribute savings to

various effort under the overall market transformation umbrella in each market,

as well as how to ensure minimal duplication or negative overlap. In this, we

agree with JCEEP/IBEW/NECA that overlap itself is not necessarily a problem,

though conflict will be.

To continue working on these issues, we ask that the CAEECC consider

keeping the MTWG in place to begin addressing these types of issues while the

MTA hiring process is begun. Once the MTA is in place, that entity should begin

an effort to formalize some of these coordination approaches and issues.

We also agree that, in general, we prefer a collaborative and coordinated

approach to all of these issues, but the Commission’s informal or formal dispute

resolution processes may be used, if they become necessary.

Finding # 17: There may be some complex goal-setting and goal-attribution issues

associated with market transformation that could benefit from further discussion

at the CAEECC in advance of the hiring of a new, independent, statewide MTA.

Once the MTA is in place, it will likely pursue additional work in this area.

**From our MTWG Report on this Topic**

# Section 8: Market Transformation Initiatives and Resource Acquisition Programs

## Introduction

As MTI ideas are being collected and progress through the stage-gate approval process, their potential impacts on RA program(s) and C&S implementation should be carefully considered. The MTWG suggests applying the framework described in this section to identify overlaps, find opportunities for collaboration, and where necessary, help resolve conflicts between MTIs and RA and/or C&S program(s).

The MTA(s), and any impacted PA(s), 3P Implementers (3PIs) of RA programs, and C&S teams each have a role in charting a course that enhances the efficiency outcomes (potentially including savings as well as equity, grid support, and other objectives) of the proposed MTI as well as of RA and C&S programs. Each may also have a role in eliminating or minimizing and mitigating any conflict between the MTI and RA/C&S programs. The MTWG recommends that these parties are provided every opportunity to work collaboratively toward these objectives. While the CPUC is the ultimate arbiter in the event of conflict between an MTI and RA/C&S program(s), customers and California’s policy objectives for the energy system will be best served if the MTA(s), PA, 3PIs, and C&S teams can optimize outcomes amongst themselves.

## Overview

The MTWG proposes a multi-step framework for addressing MTI overlaps with RA/C&S programs. The framework is discussed in further detail in subsequent sub-sections below.

1. **Identify Overlaps.** During the process of identifying and developing any MTI, the MTA(s), working with the MTI proposer(s), relevant PA(s), 3PIs, C&S teams and other stakeholders, will evaluate whether, and to what extent, the proposed MTI might overlap with any RA/C&S programs.
2. **Select MTIs to Enhance Positive and Minimize Negative Overlaps.** The MTA(s), during the process of identifying and developing any MTI, will consider the nature and extent of overlap with RA/C&S implementation programs as part of the MT selection process, seeking opportunities for positive overlaps and the elimination or reduction of negative overlaps.
3. **Collaboration to Enhance Outcomes.** The MTA(s), MTI proposer(s), and relevant PA(s), 3PI(s) and C&S implementation team(s) will work collaboratively together to find ways for the proposed MTI and affected RA/C&S programs to work synergistically, increasing value to customers and the energy system and promoting a robust and competitive market for efficiency.
4. **Informal Dispute Resolution.** The MTA(s), PA, 3PI(s)/C&S teams and relevant MTI proposer(s) would engage in informal discussions intended to find project-by-project solutions to any conflicts.
5. **Formal CPUC Alternative Dispute Resolution (ADR) Procedures.** If a conflict remains after the informal discussions, the MTA(s), PA, 3PI or C&S team(s), or MTI proposer(s) may invoke expedited CPUC resolution procedures.[[3]](#footnote-3) The CPUC would be the ultimate arbiter in the event the parties cannot resolve the dispute themselves.

## Types of Overlap

Overlap issues may take many forms, both positive and negative; it is impossible to foresee all of the potential overlaps, as we cannot forecast all of the potential MTIs. Ideally, overlaps could enhance the benefits realized from RA/C&S programs as well as those from the MTIs. An MTI might also conflict with an RA/C&S program; it may or may not promise equal or superior benefits, and the degree of certainty of its benefits may also vary significantly. Conflicts could include:

* Customer confusion among the proposed MTI target customers and existing or potential 3PI customers and/or C&S target communities.
* Prevention or diminished ability of the MTI and RA/C&S programs to meet anticipated efficiency outcomes (potentially including premature reduction or cessation of RA/C&S programs, or loss of post-contract outcomes expected to result from RA).
* Prevention or diminished ability of the MTI and RA/C&S programs to serve a unique market segment.

## Activities to Encourage Cooperation

The best outcome for securing maximum cost-effective EE is for all parties to work together. The MTA(s) and PAs should set a constructive tone and work to create a collaborative environment, with the full cooperation of parties implementing RA, C&S and MTIs. CPUC rules, guidance and oversight should be designed to promote that environment.

* MTA(s) and PAs will take responsibility to facilitate cooperation between MTI, RA and C&S implementers.  
  + MTA(s) will ensure that MTI proposers and RA implementers engage early in the MTI development process and have frequent opportunities to talk thereafter.
  + PAs will “seek and pitch the positive.” MTIs will be intended to bring new or increased benefits to the market (more product, lower cost, more trained workforce), and generally on a longer timeline than RA or C&S implementation programs (which must focus on keeping costs to a minimum and producing immediate benefits). Overlaps should ideally be viewed as “dovetailing” rather than replacing RA/C&S programs and should be shaped accordingly.

## Selecting MTIs to Enhance Positive and Minimize Negative Overlaps

The MTA should review and select markets to take advantage of synergistic overlaps, and to avoid or minimize negative overlaps, keeping in mind how extensive the overlap will be, the nature and degree of impacts on overall and market segment customer and system benefits, and the likely receptivity of the parties to work together.[[4]](#footnote-4) These criteria should be in addition to all other desired MT qualities (CE savings, lasting change, leverage points, etc.).

## Identifying & Assessing Overlaps

The MTA(s), working with the MTI proposer(s) and with relevant PA(s), 3PIs, and C&S implementation teams, will:

1. **Identify Potential Conflicts**Review potential MTIs and potentially affected 3PI/C&S programs to identify any potential overlaps, including those noted above.
2. **Assess Significance of Benefit Loss.** Assess the potential of the overlap to:
   1. Eliminate or reduce benefits from the MTI and/or the RA/C&S programs;
   2. Cause customer or market confusion;
   3. Decrease competition/chill investment;
   4. Deter or increase costs of financing the MTI or RA/C&S program(s).
3. **Assess Timing Overlap.** Assess:
   1. The remaining RA contract term/C&S implementation phase relative to the MTI implementation timing;
   2. When the MTI is expected to begin impacting customers in a way that might interfere with RA/C&S program(s);
   3. Whether any conflict(s) could be resolved by adjusting the timing of the MTI and/or the RA/C&S program(s).
4. **Cost of Coordination**

Assess any additional cost to coordinate the MTI and the RA/C&S program(s) to avoid:

* 1. Loss of anticipated benefits from the MTI or the RA/C&S program(s);
  2. Customer confusion; or
  3. Other harm to a robust, competitive market.

## Activities to Avoid/Reduce/Mitigate Overlap

* Define principles and expectations of coordination prior to MT idea solicitation: The MTA(s) and Rolling Portfolio PA(s) should develop and share mutually agreed upon guidance to potential proposers regarding the types and potential implications of MTI/Rolling Portfolio coordination.[[5]](#footnote-5)
* Design MTI with cooperation in mind: All MTIs will be designed, and MTI RFPs/RFAs will include requirements, to work together with RAs, C&S implementation, and other mechanisms delivering EE in that market, seeking to maximize beneficial cooperation and minimize conflict. MT Plans will include a discussion of RA coordination.
* Modifying the MTI: The MTA(s) will modify the MTI as appropriate to maximize customer and energy system benefits, maximize collaboration and synergistic benefits with RA/C&S programs, and minimize conflicts detrimental to CPUC’s EE policy objectives. For example, if a proposed MTI might stop an existing RA program before the MTI could be effective, the MTA(s) should seek to ramp implementation of the MTI on a timeline that would enable the RA program to complete its work.
* Early alignment during RA RFPs: Future RA RFPs will include incentives for 3PIs to collaborate in the development and implementation of MTIs, in coordination with MTA(s) and MTI proposer(s)/implementer(s). Any potential to adjust RA/C&S programs in conjunction with MTI implementation should avoid increasing uncertainty for the 3PI, which would increase financing burden and cost and, as a result, increase customer cost.[[6]](#footnote-6)
* Accessible info: All MT RFPs/RFAs will include a brief description of related RA and C&S implementation programs, as well as links to detailed descriptions. MTI proposer(s) will be required to include a discussion of how their potential MTIs would dovetail with existing RA/ C&S implementation effort(s) in their submission(s).[[7]](#footnote-7)
* Opportunities pro-actively sent to 3P implementers: The MTA(s), when releasing any solicitation of MT ideas/proposals, will simultaneously send the notice of opportunity to all 3PIs. This will allow 3PIs to participate in developing MTIs, to think through MT approaches to their market, and to submit bids should they so desire.

## Resolution of Conflicts

If conflicts remain after efforts to coordinate, collaborate, and avoid, minimize and mitigate conflicts, the MTWG recommends that the conflict is resolved through the following process. We recommend that the CPUC develop proposed guidelines and rules to be applied to this process, building on the assessment factors and avoidance, minimization, and mitigation activities discussed above.

We suggest three stages of dispute resolution:

1. **Informal Dispute Resolution.** The MTA(s), MTI proposer(s) and relevant PA and 3PI(s)/C&S teams would engage in informal discussions focused on developing project-specific solutions that would maximize efficiency benefits while maintaining a robust, competitive market and minimizing customer confusion.
2. **Formal ADR Procedures.** If a conflict remains after the informal discussions, the MTA(s), MTI proposer(s) or relevant PA, 3PI(s) or C&S team(s) may use a mediator through the CPUC’s ADR procedures, an independent mediator, or the CAEECC’s facilitation team. The party invoking dispute resolution would be required to provide a summary of issues and impacts. To minimize harm to the proposed MTI and the affected RA/C&S program(s), the ADR would follow an expedited schedule. Ideally, the ADR results would be included in the Advice Letter submission for the applicable MTI phase.
3. **Last Resort: CPUC Decision.** If informal and formal dispute resolution efforts are unavailing, the CPUC would be the ultimate arbiter, ideally including its decision within its approval of the Advice Letter for the applicable phase of the MTI.

1. See CAEECC Website for final MTWG Report and NRDC transmittal letter: https://www.caeecc.org/2-27-19-wg-mtg-market-transformation [↑](#footnote-ref-1)
2. See ALJ Draft Decision at same location on CAEECC website [↑](#footnote-ref-2)
3. Existing CPUC alternative dispute resolution processes could be used, preferably with expedited timing. See <http://www.cpuc.ca.gov/adr/>. [↑](#footnote-ref-3)
4. This will require the parties working on selection criteria to include overlap (positive and negative) in the criteria. [↑](#footnote-ref-4)
5. This would be analogous to the joint cooperation memos between the IOUs, Community Choice Aggregators (CCAs), and Regional Energy Networks (RENs). [↑](#footnote-ref-5)
6. Increasing cost or difficulty of financing has been established to increase cost of delivering energy products to market, requiring implementers to increase bid prices, which in turn increases customer costs. [↑](#footnote-ref-6)
7. In practice the MTWG thinks that the first MTI proposals reaching “Review 1” (see illustration at the end of this paper) may not happen until 2020 or 2021. In this case, early RA programs will already be in year 2 or 3 of typically three-year contracts. In this scenario the RA program will be needing to extend or be rebid and MT work then underway can be more easily integrated. [↑](#footnote-ref-7)