BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company for Adoption of Electric Revenue
Requirements and Rates Associated with its
2015 Energy Resource Recovery Account
(ERRA) and Generation Non-Bypassable
Charges Forecast

(U 39 E)

Application 14-05-024
(Filed May 30, 2014)

Expedited Application of Pacific Gas and
Electric Company Pursuant to the
Commission’s Approved Energy Resource
Recovery Account (ERRA) Trigger
Mechanism

(U 39 E)

Application 14-08-023
(Filed August 29, 2014)

CONSOLIDATED

COMMENTS OF MARIN CLEAN ENERGY, SONOMA CLEAN POWER, THE CITY OF
LANCASTER, THE CITY AND COUNTY OF SAN FRANCISCO, THE COUNTY OF
LOS ANGELES, LEAN ENERGY US, CLEAN COALITION, AND COMMUNITIES FOR
A BETTER ENVIRONMENT ON THE DRAFT WORKSHOP REPORT

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June 20, 2016
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CONSOLIDATED


Pursuant to the Administrative Law Judge’s Ruling Introducing a Draft Workshop Report and Inviting Comments (“Ruling”) issued on June 6, 2016, MCE,¹ Sonoma Clean Power

¹ Marin Clean Energy (“MCE”) is a CCA program that serves customers in Marin, Napa, west Contra Costa, and Solano counties. By the end of 2016, MCE will have a peak load of 500 MW and serve approximately 250,000 customer accounts.

(footnote continued)
Authority, Lancaster Choice Energy, the City and County of San Francisco, the County of Los Angeles, LEAN Energy US, Clean Coalition, and Communities for a Better Environment ("Joint Parties") hereby submit their comments on the draft Power Charge Indifference Adjustment (PCIA) Inputs and Methodologies Workshop Report.

I. INTRODUCTION

The Joint Parties appreciate the California Public Utilities Commission’s (“Commission”)
efforts in considering this particularly challenging issue. The workshop and ensuing workshop report are starting points for a broader discussion on the fairness and reasonableness of non-bypassable charges.

In Decision (“D.”) 15-12-022, the Commission ordered the Energy Division to host a workshop in Phase 2 of this proceeding (Application 14-05-024) to address stakeholder concerns on non-bypassable charges specific to the PCIA.⁹ As stated in that decision, the intended scope of the workshop was to address: “(a) the methodology for calculating the PCIA; (b) whether the calculation of the PCIA should be different for Direct Access (DA) and Community Choice Aggregation (CCA) entities, and if so, what those different methodologies should be; (c) the inputs to the calculation of the PCIA; and (d) ensuring that all proposals are in compliance with existing Public Utilities Code Sections, including but not limited to ensuring no bias or harm to DA, CCA, or bundled customers.”¹⁰

The Energy Division held the workshop on March 8, 2016. Prior to the workshop, the Energy Division also sought input in the form of an “optional homework assignment,” which invited discussion on many broader policy issues such as PCIA reform. The workshop report, however, ignores the portion of the proposed scope to consider different methodologies for calculating the PCIA and merely summarizes the discussion of PCIA methodology and inputs. It does not offer any analysis of those discussions, or propose solutions to the issues raised. It also does not address statutory provisions providing that exit fees should reflect unavoidable costs and that departing load customers incur only reasonable costs attributable to those customers. Most importantly, it does not provide or set forth a venue for parties for further discussion of the many

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⁹ D.15-12-022 at 14-15.
¹⁰ Decision at p. 22-23 (Ordering Paragraph 4).
significant concerns raised in the workshop, including volatility, reasonableness, fairness, and lack of transparency.

There are still many issues with the PCIA that deserve greater attention. Because the ALJ Ruling accompanying the workshop report inexplicably found that virtually all of the issues raised at the workshop are outside the scope of the proceeding, the Joint Parties request clarification as to where the Commission will address these concerns.\(^{11}\)

This is not the first time the Joint Parties have asked for consideration of the PCIA. As described in detail below, over the past four years, members of the Joint Parties have requested no less than six times that the Commission provide a venue for consideration of PCIA reform. Yet the Commission has rebuffed each request by refusing to provide a venue to examine these issues. Given the importance of non-bypassable charges to CCA operations, the Commission should delay no further.

II. THE DRAFT WORKSHOP REPORT DOES NOT ACCURATELY REFLECT THE PROPOSED SCOPE OF THE WORKSHOP AND SHOWS AN UNWILLINGNESS TO CONSIDER SUBSTANTIVE REFORM TO THE PCIA

The Joint Parties thank the Commission for hosting a workshop and incorporating both the workshop report and the parties’ responses to initial queries from the Commission into the official record. The workshop report, however, appears to only reinforce the current methodology of the PCIA and does not address whether the current proposal in compliance with existing Public Utilities Code Sections, including ensuring basic fairness between bundled and unbundled customers.

The workshop report appears to assume that the purpose of the PCIA is to insulate bundled

\(^{11}\) Ruling at p. 2.
ratepayers from any cost-shifting. By doing so, the workshop report ignores other statutory obligations incumbent upon the investor owned utilities (“IOUs”), and the Commission. As the workshop report states:

“The purpose of the PCIA is to ensure that the costs that the utility had incurred in the past to serve the customers now taking service from DA and CCA do not fall unfairly on the remaining utility customers. The PCIA is intended to keep investor owned utility’s remaining bundled service customers financially indifferent to the departure of these customers. The charge depends on the above-market costs of electricity portfolio of the utility when those customers were still bundled service customers of the IOU.”¹²

Instead, as outlined in D.15-12-022, the workshop report should state that the purpose of the PCIA is to ensure that no bias or harm is imposed on either DA, CCA, or bundled customers. To ensure this basic fairness, the workshop report should state that the IOUs have a statutory duty to limit a departing CCA customer’s exit fees to the “estimated net unavoidable electricity purchase contract costs attributable to the customer”¹³ and “that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.”¹⁴ Ensuring that the PCIA complies with all parts of the Public Utilities Code will help prevent cost-shifting between bundled customers and departing load. This should include a review of the reasonableness of the electricity contract costs and whether the indifference amount results in cost-shifting to departing load.

The workshop report should do more than restate the current methodology. When describing the mechanics of the PCIA, the workshop report states “in simple terms: Total Portfolio

¹² Workshop Report at p. 3.

(footnote continued)
Costs minus Market Value of the portfolio equals the Indifference amount.” While this statement is accurate, it should be qualified to consider proposals set forth in various responses to the Energy Division’s “optional homework assignment.” For example, MCE and Lancaster proposed that “through an annual audit, require an IOU to mitigate damages for Power Purchase Agreements.” These principles benefit departing customers, such as CCA and DA customers, but also bundled customers as well. As identified at the workshop, IOUs currently have no motivation to minimize their procurement costs. The workshop report lacks consideration of these issues or explanation regarding why these considerations were omitted.

Similarly, in the section titled “Review Workshop outcomes/action items/closing remarks” the workshop report states, “There was serious interest in establishing an alternate sunset on PCIA for 10 years for all resources. However, Cal. Pub. Util. Code § 366.2(f)(2) seems to allow cost recovery for the duration of the contract. So a sunset may not be possible absent a legislative fix.” This statement merely echoes a statement made by the IOUs previously in the workshop report. This was an opportunity for the workshop report to consider some of the creative proposals included in the homework assignment. Rather than working towards a substantive solution, the workshop report simply reiterates the status quo.

III. THE COMMISSION HAS REPEATEDLY DENIED A VENUE TO ADDRESS PCIA FAIRNESS ISSUES AND MUST IMMEDIATELY DESIGNATE A PROPER VENUE FOR THESE ISSUES TO BE EXAMINED

The Joint Parties appreciate that these considerations are complex and may require more

15 Workshop Report at p. 7.
16 MCE and Lancaster response to Optional Homework assignment at p. i.
18 See Workshop Report at p. 16.
19 See e.g. Direct Access response to Optional Homework assignment at p. 5.
than a workshop to resolve. However, based on the fact that the Commission devoted the resources necessary to convene a workshop, the Joint Parties had every expectation and hope that the Commission would identify a procedural path forward for resolving at least some of the issues raised. Inexplicably, then, the ruling accompanying the workshop report abruptly concludes that “the issues discussed at the workshop and contained in the workshop report is [sic] outside the scope of the current proceeding.”\footnote{Ruling at p. 2} There is no further elaboration about appropriate procedural next steps.

To address this gap, the Commission should open a third phase in the instant proceeding specifically to address issues raised in the workshop and workshop report. Over the past four years up to 40 parties have attempted in a number of different proceedings to address the growing volatility, uncertainty, and reasonableness of the PCIA and other non-bypassable charges on departing load customers. Each time, the Commission has found a reason to refer these issues to some other proceeding, at some future date.

It is time for the Commission to finally deliberate on whether the PCIA is just and reasonable, as is required by California Public Utilities Code § 451.\footnote{Cal. Pub. Util. Code § 451 states, “All charges demanded or received by any public utility… for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful…. All rules made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.” (footnote continued)}

A. The Commission Denied a Venue to Address PCIA Fairness Issues in a 2012 Rulemaking on CCA Issues

The first denial of a venue to address PCIA fairness issues for CCA customers occurred on August 9, 2012. The size, uncertainty, and reasonableness of the PCIA have been unresolved at
least since the passage of Senate Bill (“SB”) 790 (2012) required the Commission to institute a rulemaking to “incorporate rules that the Commission finds necessary or convenient in order to facilitate the development of community choice aggregation programs, to foster fair competition, and to protect against cross-subsidization paid by ratepayers.”

The Commission subsequently initiated Rulemaking (“R.”) 12-02-009 in response to fulfill the requirements of SB 790 (“SB 790 Rulemaking”). Despite the efforts by several parties to address specific cost allocation issues in that proceeding, the Scoping Memo in R.12-02-009 provided that cost allocation issues and non-bypassable charges were “outside the scope of this proceeding” and were more “appropriately addressed in other Commission proceedings that directly address costs and rates.”

B. The Commission Denied a 2012 Petition for Rulemaking to Address PCIA Fairness Issues

The second denial of venue to address PCIA fairness issues for CCA customers occurred on August 20, 2013. Since the final decision in the SB 790 Rulemaking did not address fundamental fairness and competitive issues related to non-bypassable charges, including the PCIA, a Petition for Rulemaking to address non-bypassable charges was filed by 15 co-filers and

23 R.12-02-009, Assigned Commissioner’s and Administrative Law Judge’s Scoping Memo and Ruling at 5, August 9, 2012. See also R.12-02-009, Opening Comments of the Marin Energy Authority, San Joaquin Valley Power Authority, South San Joaquin Irrigation District, City of Santa Cruz, the Climate Protection Campaign, Direct Energy, LLC, Noble Americas Energy Solutions LLC, Constellation Newenergy, Inc., Alliance for Retail Energy Markets and Direct Access Customer Coalition Regarding the Rulemaking Issues Pursuant to Senate Bill 790 at 30-33, March 26, 2012.
Senator Mark Leno, the sponsor of SB 790, expressed concerns about the proper implementation of SB 790. In late 2012, Senator Leno wrote a letter to the Commission’s President asking how the Commission would examine these issues. On January 3, 2013, President Peevey responded to Senator Leno indicating, “I believe that opening a rulemaking as requested by the petition [filed by CCA and direct access parties] may be the most efficient vehicle for comprehensively evaluating these complex [non-bypassable charge] issues. Whatever proceeding we ultimately use to address cost allocation, we intend to begin addressing this issue soon.”

Despite these assurances from the Commission President, who was also the assigned Commissioner for the Petition for Rulemaking, the Commission denied the Petition for Rulemaking. The Commission failed to consider the issues raised, reasoning, “to the extent that

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25 Letter from President Peevey to Senator Mark Leno, January 3, 2013, emphasis added. Letter included as Attachment A.
any issues raised in the petition may require additional review, they can be addressed in proceedings such as the Long Term Procurement Planning proceeding and General Rate Cases.”26

C. The Commission Denied a Motion to Address PCIA Applicability to CARE Customers

This third denial of venue to address PCIA fairness issues for CCA customers occurred on May 7, 2015. On March 6, 201527 MCE and CBE jointly filed a motion in the instant proceeding to expand the scope to address PCIA fairness issues, specifically arguing that Pacific Gas & Electric (“PG&E”) should not apply the PCIA to low-income customers enrolled in the CARE program. The ALJ not only denied the ability of CBE to become a party to the proceeding, but also referred this issue to another proceeding, indicating “Application 14-11-010 provides a more appropriate forum for the issue raised by MCE and CBE.”28

D. The Commission Repeatedly Denied a Motion to Address PCIA Applicability to CARE Customers

The fourth denial of venue to address PCIA fairness issues for CCA customers occurred on June 17, 2015. Following the directive of the ALJ in A.14-05-024, MCE and CBE subsequently filed their Motion to Amend the Scope of the Proceeding in A.14-11-007 et al., the proceeding that

26 Decision (“D.”) 13-08-023 at 2. The Commission also indicated that it had addressed similar issues in a recent proceeding, most likely referring to R. 07-05-025. However, the Commission’s actions in that proceeding only stopped a clear case of double counting. Specifically, the decision incorporated the “green adder” into the PCIA to ensure that the value of renewables retained by the IOUs was not also collected from CCAs and other unbundled ratepayers. This narrow technical fix of the methodology, while important, did not reform the PCIA, nor did it address the PCIA’s volatility, lack of transparency, or whether its inputs or outputs are reasonable. See D.11-12-018.
27 This motion was initially rejected because of CBE’s lack of party status.

(footnote continued)
addresses policy issues for low-income customers throughout the state. This motion was supported by other advocates for low-income consumers, such as The Greenlining Institute and the Center for Accessible Technology. Notwithstanding the ALJ’s directive in A.14-05-024 to pursue these fundamental issues of fairness for low-income customers in this proceeding, the motion was orally denied by the ALJ in A.14-11-007 et al. with no examination of the issues raised, explanation of the rationale behind the denial, or any further procedural instruction on a proper forum.

E. The Commission Did Not Examine CCA Issues in R. 13-12-010, the 2014 Long-Term Procurement Plan (“LTPP”) Proceeding

The fifth failure to provide a venue to examine issues related to reducing non-bypassable charges occurred on July 29, 2015. In the Scoping Memo and Ruling of Assigned Commissioner and Law Judge of R.13-12-010, the Commission identified issues it would address in Phase 2 of the proceeding, namely, “changes to the Commission’s rules regarding treatment of CCAs and DAs [Direct Access providers], including those adopted related to the CAM [Cost Allocation Mechanism] per SB 695, SB 790, D.11-05-005, and any relevant previous decisions.” This was an opportunity to address PCIA in a larger context of the LTPP proceeding, as the Commission indicated in D.13-08-023 was the proper venue.

Again, however, ultimately the Commission failed to examine the issues outlined for CCAs in the Scoping Memo. When later asked when these issues would be examined, the assigned ALJ

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29 A.14-11-007 et al., Response of the Greenlining Institute and the Center for Accessible Technology to the Motion of Marin Clean Energy to Amend the Scope of the Proceeding, June 2, 2015.

30 See A.14-11-007 et al., Reporter’s Transcript, June 17, 2015 at 6. ALJ Colbert: “And there’s a pending motion of Marin Clean Energy to amend the scope of the proceeding. That motion is denied. Okay. Who’s first?”

(footnote continued)
indicated that CCA issues would not, in fact, be addressed in that proceeding at all. He indicated, “At this point, I do not have an intention of putting out anything on that particular [outstanding CCA] issue. However, that doesn't mean the issue disappears. It means that it is more likely to be considered in the 2016 LTPP.”

The 2016 LTPP proceeding identified by the ALJ in R.13-12-010 as a potential venue to address CCA issues has released an initial Scoping Memo outlining two phases of the proceeding. CCA methodological issues with non-bypassable charges have not yet been included within the scope of that proceeding.

F. The Commission Directed a PCIA Workshop In the Instant Proceeding

The sixth denial of venue to examine PCIA fairness issues occurred in A.15-06-001 on December 28, 2015. In its Proposed Decision to approve PG&E’s proposed 95% increase to the PCIA, the Commission originally indicated a workshop to address the methodologies and inputs used for calculating PCIA should be “outside of any proceeding.” The Proposed Decision was met with a public outcry on this issue. A diverse array of stakeholders urged the Commission to take action on the PCIA, including Senator Mark Leno, Assemblymember Marc Levine, Senator Mike McGuire, Senator Loni Hancock, Assemblymember Kevin Mullin, Richmond Mayor Tom Butt, Berkeley Mayor Tom Bates, the City of Lafayette, the City of El Cerrito, Fremont Mayor Bill Harrison, the City of Hayward, the Los Angeles County Board of Supervisors, the City of

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32 R.16-02-007, Joint Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, May 26, 2016. See also R.16-02-007, Comment of Marin Clean Energy, Sonoma Clean Power Authority, and City of Lancaster Regarding Preliminary Scoping Memo Contained Within the Order Instituting Rulemaking at 6.
Larkspur, the City of Richmond, the City of Menlo Park, the Town of Ross, the Town of San Anselmo, the Town of Tiburon, the San Francisco Local Agency Formation Commission, the San Diego Energy District Foundation, the Local Energy Aggregation Network, the Center for Climate Protection, the Marin Conservation League, Mainstreet Moms Organize or Bust, the Greenlining Institute, Communities for a Better Environment, and the Sierra Club of California.

In its final decision, the Commission indicated the workshop should be held in Phase 2 of the instant proceeding. So, although the Commission denied the ability of a venue to raise PCIA methodological issues for CCA customers in A.15-06-001, it directed these issues to be addressed in the instant proceeding through the workshop.

However, since the Workshop Report indicates these issues are outside the scope of the proceeding, this again leaves no venue for examination of fundamental fairness and reasonableness issues of the PCIA.

IV. THE COMMISSION MUST CREATE A SEPARATE PHASE TO ADDRESS PCIA METHODOLOGICAL ISSUES

As indicated above, although the Commission indicated a PCIA methodology workshop should occur in A.14-05-024, in her Ruling, the ALJ has indicated that issues related to PCIA fairness, uncertainty, and reasonableness are outside the scope of the current proceeding. There is a straightforward solution to this problem: amend the scope of the proceeding and finally address these issues.

Although the workshop report accurately summarizes the current PCIA methodology, it fails to accomplish any reform to it. Despite the repeated requests of CCAs, consumer advocacy

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34 D.15-12-022 at 2.
groups, and state and local elected officials, the Commission has failed to provide an adequate venue to address PCIA fairness and reasonableness issues for CCA customers. In essence, the ruling requesting workshop report comments is a seventh denial of venue in four years to address these issues.

In the meantime, resolution of the uncertainty, level, and reasonableness of PCIA charges grows more urgent. The Commission continues to consider additions to the types of costs eligible for recovery under the PCIA, such as storage.35 CCAs currently have no control or visibility of these costs; they are only accountable to pay these costs. At the same time, customer options for departing the traditional utility generation service are only increasing with the growth of utility green tariff programs, Net Energy Metering and the expansion of CCA across California.

Therefore, the Joint Parties request the Commission open a new phase of the instant proceeding and amend the scope of the proceeding to include the workshop report within the scope of the proceeding and address PCIA fairness and reasonableness issues for CCA customers.

The Joint Parties thank Administrative Law Judge Tsen and Commissioner Florio for their attention to the matters discussed herein.

Respectfully submitted,

35 See D. 14-10-045.
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June 20, 2016
January 3, 2013

Honorable Mark Leno
Senator
State Capitol, Room 5100
Sacramento, CA 95814

Dear Mark:

In response to your letter of December 18 regarding the Community Choice Aggregation Code of Conduct, I assure you that the CPUC staff and I are committed to its firm and expeditious enforcement. As the founder and former president of a direct access energy service provider, I am sympathetic to the need for the CPUC to remain vigilant in preserving a level playing field for alternative retail providers.

On December 18, a coalition of CCA and direct access parties filed a petition for rulemaking on cost allocation issues. Because questions regarding the appropriate allocation of costs between the utilities' bundled and unbundled customers affect both direct access and CCA providers, I believe that opening a rulemaking as requested by the petition may be the most efficient vehicle for comprehensively evaluating these complex issues. Whatever proceeding we ultimately use to address cost allocation, we intend to begin addressing this issue soon.

Please let me know if I can provide any further information regarding the implementation of SB 790.

Sincerely,

Michael R. Peevey
President
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June 27, 2016
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AND COMMUNITIES FOR A BETTER ENVIRONMENT
ON THE DRAFT WORKSHOP REPORT

Pursuant to the Administrative Law Judge’s Ruling Introducing a Draft Workshop Report
and Inviting Comments (“Ruling”) issued on June 6, 2016, Main Clean Energy,\textsuperscript{1} Sonoma Clean
Power Authority,\textsuperscript{2} Lancaster Choice Energy,\textsuperscript{3} LEAN Energy US,\textsuperscript{4} Clean Coalition,\textsuperscript{5} and

\textsuperscript{1} Marin Clean Energy (“MCE”) is a CCA program that serves customers in Marin, Napa, west
Contra Costa, and Solano counties. By the end of 2016, MCE will have a peak load of 500 MW
and serve approximately 250,000 customer accounts.

\textsuperscript{2} Sonoma Clean Power (“SCP”) is a California joint powers authority operating a CCA program
in Sonoma County. SCP currently serves about 198,000 accounts encompassing a population of
approximately 450,000. The reduction of greenhouse gas emissions in Sonoma County is one of
the primary reasons for SCP’s formation.
Communities for a Better Environment⁶ (“Joint Parties”) hereby submit their reply comments on the draft *Power Charge Indifference Adjustment (PCIA) Inputs and Methodologies Workshop Report*. The Joint Parties limit their reply to responding to a single issue raised by both Pacific Gas and Electric Company (“PG&E”) and Southern California Edison (“SCE”) in their comments presented on June 20, 2016.

I. INTRODUCTION

The Joint Parties appreciate the California Public Utilities Commission’s (“Commission”) efforts in considering this particularly challenging issue. The workshop and ensuing workshop report are starting points for a broader discussion on the fairness and reasonableness of non-bypassable charges.

As expressed in the Joint Parties’ opening comments the continuance of this proceeding, amending the proceeding’s scope to address issues related to PCIA fairness, uncertainty, and reasonableness is paramount. The potential for efforts to seek PCIA reform through working

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3 The City of Lancaster is a community of nearly 160,000 residents that is aggressively pursuing energy solutions in hopes of bettering the current and future environmental and economic conditions of its community and region. In that context, the Lancaster City Council approved a CCA program, Lancaster Choice Energy, which is now fully operational.

4 LEAN Energy US is a 501(c)(3) non-profit to support the development of viable CCA programs in California and nationwide. LEAN’s participation in this proceeding is focused on the interests of those California jurisdictions that plan to launch CCA programs and those that should have the option to do so at a later date, by ensuring that the PCIA is fair and calculated according to Commission rules and consistent with California law.

5 The Clean Coalition is a nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. In this proceeding, the Clean Coalition seeks to ensure that all renewable energy options affected by the PCIA, including CCAs and the Green Tariff Shared Renewables Program, remain cost-competitive by ensuring that the PCIA properly accounts for both the net costs and benefits of departing load.

6 Communities for a Better Environment (“CBE”) is a non-profit environmental justice movement building organization, with several members in Richmond and Benecia that are residential customers of MCE. CBE is particularly concerned with the inconsistent application of the PCIA to customers enrolled in the California Alternate Rate for Energy (“CARE”) program throughout the state.
groups should not supplant the continuing need for a formal venue before the Commission to address PCIA reform.

II. WORKING GROUPS ARE NOT A Viable SUBSTITUTE FOR A FORMAL PROCEEDING AND WILL PROVIDE LIMITED PROGRESS TOWARDS SIGNIFICANT PCIA REFORM

SCE’s comments state that it would support “the use of working groups to further clarify and potentially resolve issues identified by parties.”7 PG&E’s comments also draw attention to the convening of a working group including several parties to address the potential for forecasting of PCIA rates by PG&E.8 While MCE and SCP are both engaged in this working group effort and remain hopeful that efforts will result in the creation of both medium-term (5-year) and long-term (duration of vintage) forecasts of PCIA rates, these parties – and moreover the Joint Parties as a whole – do not believe these working groups will result in meaningful PCIA reform. Such necessary reform can only come through a formal proceeding overseen by the Commission.

As stated in parties’ responses to the “optional homework assignment” leading up to the March 8, 2016 workshop and as parties stated through detailed presentations during the workshop, there are significant disputes over whether the PCIA is being correctly implemented at present. Without the support and oversight of the regulator through a formal venue there is no incentive for the Investor-Owned Utilities (“IOUs”) to meaningfully alter the status quo. As such, working groups convened through the mutable willingness of the IOUs will only go so far

7 SCE Comments at 3.
8 PG&E Comments at 3 states “Since the PCIA Workshop, Marin Clean Energy, Sonoma Clean Power, the Alliance for Retail Energy Markets and Direct Access Customer Coalition, California Large Energy Consumers Association, Energy Users Forum, and PG&E have been working together collaboratively to develop a methodology and have agreed to a schedule for providing the Mid-Term (i.e., five years) PCIA Forecast to DA and CCA representatives beginning in 2016.”
towards effecting change.

The Commission should not rely on unregulated workgroups to perform its own duties as the regulatory authority charged with setting PCIA rates. To do so would be a disservice to ratepayers statewide. Instead as detailed in the Joint Parties’ opening comments, the Commission should amend the scope of the instant proceeding by creating a new phase to finally address issues related to PCIA fairness, uncertainty, and reasonableness.

III. CONCLUSION

The Joint Parties thank Administrative Law Judge Tsen and Commissioner Florio for their attention to the matters discussed herein.

Respectfully submitted,
June 27, 2016

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Contracts Resulting From Its 2014 Energy Storage Request for Offers (ES RFO).

Application 15-12-003
(Filed December 1, 2015)

CONSOLIDATED


Application 15-12-004
(Filed December 1, 2015)

REPLY BRIEF OF MARIN CLEAN ENERGY, SONOMA CLEAN POWER AUTHORITY, THE CITY OF LANCASTER AND THE COUNTY OF LOS ANGELES

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June 8, 2016
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison
Company (U338E) for Approval of
Contracts Resulting From Its 2014 Energy Storage
Request for Offers (ES RFO).

Application 15-12-003
(Filed December 1, 2015)

CONSOLIDATED

Application of Pacific Gas and Electric
Company for Approval of Agreements
Resulting from Its 2014-2015 Energy Storage
Solicitation and Related Cost Recovery.
(U39E)

Application 15-12-004
(Filed December 1, 2015)

REPLY BRIEF OF MARIN CLEAN ENERGY, SONOMA CLEAN POWER
AUTHORITY, THE CITY OF LANCASTER, AND THE COUNTY OF LOS
ANGELES

Pursuant to direction provided in the Scoping Memo and Ruling of Assigned Commissioner
and Administrative Law Judge ("Ruling"), dated March 25, 2016, and in accordance with Rule
13.11 of the Rules of Practice and Procedure of the Public Utilities of Commission of the State of
California ("Commission"), Marin Clean Energy ("MCE"), Sonoma Clean Power Authority
("SCP"), the City of Lancaster ("Lancaster"), and the County of Los Angeles ("LA County")
(collectively, the "CCA Parties") hereby submit this reply to the briefs of Pacific Gas and Electric
Company ("PG&E"), Southern California Edison ("SCE"), and The Utility Reform Network
("TURN"). The CCA Parties restrict their comments in this reply to cost recovery issues, and
particularly, how best to modify the Power Charge Indifference Adjustment ("PCIA") to reflect
the value of energy storage resources, pursuant to the Commission’s direction in Decision (D.) 14-
10-045.1

1 D.14-10-045 at page 46.
I. IT IS FALSE TO ASSUME THAT REVENUE FROM ANCILLARY SERVICES WOULD BE DE MINIMIS

PG&E stated in its opening brief that ancillary services provided by energy storage assets should not be considered as part of the resources’ market value for the PCIA calculation because the revenue generated in the CAISO markets by storage resources are de minimis.2 This assumption does not acknowledge that the storage market is still at the nascent stage, and as the market evolves these resources can become more lucrative.

In SCE’s Comments on Administrative Law Judge’s Ruling Noticing Workshop and Setting a Comment Schedule in Rulemaking (R.) 15-03-011, SCE consistently acknowledged the potential to expand revenue opportunities for energy storage resources.3 SCE specifically called out the tariff that the California Independent System Operator (“CAISO”) filed at FERC to allow small Distributed Energy Resources (“DER”) to participate in the market through aggregation.4 This tariff would enable small resources, including storage resources, which have not had the ability to bid into CAISO markets because of size limitation, to generate new revenue streams.5

While the revenue opportunities may not be apparent today, as CAISO market rules continue to develop to enable the participation of more resources, storage resources may generate greater revenue in the near future. The Commission should adopt a Storage Adder, as the CCA Parties recommended in their opening brief, to ensure the PCIA calculation accurately captures additional values provided by ancillary services of storage resources.

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2 Opening Brief of PG&E at page 24. 
3 Comments of SCE at pages 1 and 4. 
4 Comments of SCE at page 4. 
II. SIMILAR TO RENEWABLE RESOURCES, STORAGE RESOURCES GENERATE ADDITIONAL VALUE BY MEETING THE STATE’S POLICY MANDATE

The IOUs propose to apply the PCIA to energy storage resources without modification and take issue with the proposal advanced by the CCA Parties and Direct Access (“DA”) Parties to adopt Storage Adder as part of the Market Price Benchmark (“MPB”) component of the PCIA that is analogous to the renewable adder that has been adopted.⁶ In addition to providing values associated with energy, capacity, and ancillary services, storage resources procured by the IOUs also help them meet their state-mandated goals, which is analogous to the renewable adder. The Joint IOU Protocol does not acknowledge this value. PG&E argued in its opening brief that “A storage resource brings no analogous additional value to a bundled portfolio. Therefore, a storage resource is not analogous to a renewable resource in this regard. The green adder included in the market benchmark does not support the addition of a storage adder.”⁷ Similarly, TURN’s opening brief stated that the Joint DA and CCA Parties’ alternative proposal should be rejected based on the potential of negative cash flow by equating the value of storage assets with their costs.⁸ These arguments are not valid and should be rejected.

The renewable adder, or “RPS Adder”, was created in D.11-12-018 to “recognize the market value of RPS-eligible resources for purposes of calculating the indifference amount.”⁹ The RPS adder does not solely recognize the market value of Renewable Energy Credits (“RECs”), as PG&E wrongly claims in its opening brief.¹⁰ Rather, the RPS adder acknowledges

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⁶ Comments of Marin Clean Energy, Sonoma Clean Power Authority, the City of Lancaster, Alliance for Retail Energy Markets, Direct Access Customer Coalition, and Shell Energy North America (U.S.) LP to Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge at Attachment A.
⁷ Opening Brief of PG&E at page 26.
⁸ Opening Brief of TURN at page 2.
⁹ D.11-12-018 at page 17.
¹⁰ Opening Brief of PG&E at page 26.
the increasing renewable procurement requirements mandated by state policy, and that renewable sources are generally more costly than conventional generation sources.\textsuperscript{11} The Commission further directed the IOUs to include pre-2004 resources in the RPS adder,\textsuperscript{12} even though the IOUs claimed that while these resources have compliance value, these resources do not generate RECs.\textsuperscript{13} In other words, the RPS adder captures additional attributes associated with renewable resources, including their ability to comply with state policy, and is not based on cash flows but on the price at which renewable energy can be acquired in the marketplace.

All Load Serving Entities, including IOUs, CCAs, and DA providers have state-mandated storage procurement requirement,\textsuperscript{14} which was determined by the Commission’s Decision (“D.”) 13-10-040.\textsuperscript{15} While storage resources generate various energy, capacity, reliability, and ancillary service benefits, they are also utilized by all LSEs to meet their storage procurement requirements. This is exactly analogous to the RPS adder, and the CCA Parties urge the Commission to reject PG&E’s argument and adopt the proposed Storage Adder. Such adder fully captures the various benefits of storage resources, including compliance with state policy.

III. THE JOINT DA AND CCA PARTIES’ ALTERNATIVE PROPOSAL DOES NOT RESULT IN DOUBLE COUNTING OF SYSTEM LEVEL BENEFITS

The CCA Parties disagree with SCE’s claim that the alternative proposal would result in the double counting of energy and capacity value.\textsuperscript{16} In the May 9 workshop, the Joint DA and CCA Parties suggested that the total portfolio side of the equation be adjusted so that double counting does not occur. To calculate the energy value, the storage benchmark would be based on

\begin{itemize}
\item\textsuperscript{11} D.11-12-018 at page 10.
\item\textsuperscript{12} D.11-12-018 at page 24.
\item\textsuperscript{13} D.11-12-018 at page 11.
\item\textsuperscript{14} AB 2514.
\item\textsuperscript{15} Appendix A of D.13-10-040 provides procurement targets for all LSEs.
\item\textsuperscript{16} SCE Opening Brief at page 11.
\end{itemize}
the capacity contract payment and not include energy costs or dispatch energy value.\textsuperscript{17} Therefore, there would be no double counting. The existing market benchmark does not capture the unique dispatch value of energy storage contracts because it is based on a load weighted average of peak and baseload energy prices. In contrast, storage would be dispatched during the few, highest priced hours, and the existing market price benchmark does not capture this unique value.

Separately, the net qualifying capacity of storage projects would be excluded from the total portfolio market capacity valuation so that double counting of capacity does not happen. At the May 9 workshop, the Joint CCA and DA Parties clarified that the proposed methodology would be adjusted by excluding the storage net qualifying capacity from the total portfolio before applying the capacity market price benchmark.\textsuperscript{18} These proposed measures are sufficient to address the concerns around double counting.

IV. THE JOINT DA AND CCA PARTIES’ ALTERNATIVE PROPOSAL IS IMPLEMENTABLE

The CCA Parties disagree with SCE’s characterization that the CCA Parties and the DA Parties’ proposed alternative Market Price Benchmark (“MPB”) and PCIA calculation methodology cannot be implemented.\textsuperscript{19} SCE argued that the Joint DA and CCA Parties’ proposed benchmark does not account for different types of storage resources, is not robust or transparent, and would rely on insufficient volume of IOU operational storage contracts.\textsuperscript{20} SCE mischaracterized the principles that MCE and the DA Parties advocated for in R.07-05-025, and the Commission should reject these arguments.

\textsuperscript{17} May 9 PCIA Workshop Webex Recording at 03:00:41-03:00:56.
\textsuperscript{18} May 9 PCIA Workshop Webex Recording at 03:02:16-03:02:37.
\textsuperscript{19} Opening Brief of SCE at page 12.
\textsuperscript{20} \textit{Id.}
First, SCE claims that the Storage adder, unlike the RPS adder, cannot be adopted because it cannot accurately capture the value associated with different types of storage products.\(^{21}\) This argument is baseless because the RPS adder includes all RPS-compliant resources that do not all have the same characteristics.\(^{22}\)

Second, the process proposed in the Joint DA and CCA Parties is consistent with the methodology of calculating the RPS adder, and is therefore transparent and robust. The storage benchmark would be based on a broad portfolio of contracts to ensure that the benchmark is robust. The CCA Parties and DA Parties’ joint proposal accomplishes this by including all storage contracts from all three investor owned utilities averaged over a two year period. As clarified at the workshop on May 9, 2016, if a situation arose where there were insufficient IOU storage contracts to update the storage benchmark, the previously calculated storage benchmark would continue to apply.\(^{23}\) Furthermore, the CCA Parties proposed in their opening brief that the Commission adopt a three-year transitional period that would allow all parties to evaluate whether the adopted PCIA calculation methodology accurately reflects stranded costs.\(^{24}\)

V. SCE’S USE OF WORKSHOP COMMENTS TO DISPARAGE THE CCA AND DA PARTIES’ PROPOSAL MAY HAVE PREJUDICIAL EFFECT AND VIOLATES THE SPIRIT AND PURPOSE OF THE WORKSHOP

The CCA Parties encourage the Commission to not assign the weight of testimony to Section B (2) of SCE’s opening brief. In this section, direct quotations from the representatives of the Joint DA and CCA Parties at the May 9 workshop were used by SCE as if they were sworn testimony in formal Commission hearings.\(^{25}\) This is in contrary with the intention of Commission

\(^{21}\) Id.
\(^{22}\) D.11-12-018 at page 23.
\(^{23}\) May 9 PCIA Workshop WebEx Recording at 02:49:36.
\(^{24}\) Opening Brief of the CCA Parties at pages 10-11.
\(^{25}\) Opening Brief of SCE at pages 9-11.
workshops, which serve as venues where parties share and discuss different concepts and proposals. The CCA Parties are concerned that the use of these direct quotes in an adversarial manner may be prejudicial and contradict the purpose of the workshop stated in the Scoping Memo of the Assigned Commissioner and Administrative Law Judge.\textsuperscript{26}

The Scoping Memo showed that the Commission has intended that the workshop to “promote further discussion and the possibility of consensus building.”\textsuperscript{27} The Joint DA and CCA Parties did exactly that by acting in good faith to attempt to reach the consensus the Scoping Memo clearly hoped to see parties try to achieve.

In contrast, SCE treated the exchanges in an adversarial manner, which counters the intended goal of the Commission in convening the May 9 workshop. The Commission should not assign the same weight to Section B(2) of SCE’s opening brief, since doing so may set a precedent that might affect future workshops and discourage parties from actively working to reach consensus.

VI. CONCLUSION

The CCA Parties thank Commissioner Peterman and Administrative Law Judge Cooke for their attention to the matters discussed herein.

\textsuperscript{26} March 25, 2016, Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (“Scoping Memo”).
\textsuperscript{27} Scoping Memo at page 5.
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June 8, 2016
July 5, 2016

Via Regular Mail and E-Mail (edtariffunit@cpuc.ca.gov)

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RE: COMMENTS OF MARIN CLEAN ENERGY AND THE CITY OF LANCASTER ON DRAFT RESOLUTION E-4874

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Dear Mr. Sullivan:

Marin Clean Energy (“MCE”) and the City of Lancaster (“Lancaster”) (collectively, the “CCA Parties”) file these comments on Draft Resolution E-4874 (“Draft Resolution”) regarding San Diego Gas & Electric Company’s (“SDG&E”) request for approval of its proposed Community Choice Aggregation (“CCA”) Code of Conduct Compliance Plan (“Compliance Plan”), pursuant to Decision (“D.”) 12-12-036. Unless the Draft Resolution is amended to address the concerns expressed below, the CCA Parties respectfully oppose the approval of SDG&E’s request to establish an Independent Marketing Division (“IMD”).

While Senate Bill (“SB”) 790 and the CCA Code of Conduct\(^1\) establish a process for Investor-Owned Utilities (“IOUs”) to market and lobby against CCA programs, an IOU must establish a separate division that is funded solely by shareholders, prevent that division from using competitively sensitive information and meet a number of other requirements to ensure that the IOU does not engage in unfair competition against CCA programs. SDG&E’s Compliance Plan does not meet these requirements, even when the Draft Resolution’s proposed modifications are taken into account. The Draft Resolution must be substantially modified to ensure that these key requirements are properly applied to SDG&E’s proposal.

Specifically, the Draft Resolution fails to “incorporate rules that the commission finds to be necessary or convenient in order to facilitate the development of community choice aggregation programs, to foster fair competition, and to protect against cross subsidization paid by ratepayers”\(^2\) and fails to ensure that SDG&E has established “adequate procedures”\(^3\) to comply with SB 790 and the CCA Code of Conduct. To bring SDG&E’s proposal into compliance with the law, the CCA Parties recommend that the Commission:

- Establish a schedule for an additional round of comments to allow all parties – not just SDG&E – to vet the proposal and require SDG&E to file a Tier 2 Advice Letter with a revised compliance plan;

- Retain the Draft Resolution’s existing requirement that the Affiliate Transaction Rules in their entirety apply to SDG&E’s IMD;

- Improve procedures that govern the use of shared services and the transfer of competitively sensitive information, including:
  - Rules governing shared services and employees should be applied to Sempra and SDG&E;

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\(^1\) See Decision (“D.”) 12-12-036.
\(^2\) Public Utilities Code Section 707(a)(4)(A).
\(^3\) Rule 22, CCA Code of Conduct.
Sempra and SDG&E employees should not be permitted to transfer into the
division because competitively sensitive information may be relayed and
cross-subsidization may occur;

- Shared services and employees should be reviewed according to function
  rather than an individual’s job title or department; and
- Shared services employees should receive training and be required to sign a
  binding and enforceable agreement, reviewed by the Commission in advance,
  that they will abide by the CCA Code of Conduct

- Amend current reporting requirements and require SDG&E to submit a quarterly
  report that addresses accounting and reporting matters comprehensively and in detail,
  including lobbying and marketing activities, competitively sensitive information,
  governance, and shared services, particularly consultants, experts, and contractors;

- Require SDG&E to maintain a website that explains the IMD, identifies all
  employees presently working for the IMD, and provides a mechanism for registering
  complaints;

- Approve a disclaimer that IMD representatives should be required to use in all
  communications, oral or written, that explains they are with a division that is distinct
  from SDG&E and funded by shareholders; and

- Clarify that the expedited complaint procedure contained in the CCA Code of
  Conduct is available for enforcement of violations, despite the fact that SDG&E’s
  IMD is an affiliate

I. OVERVIEW

SDG&E was founded in 1881 and had annual revenues of over $3.7 billion and earnings
(profit paid to shareholders) of $587 million in 2015.4 Under SDG&E’s proposal, an independent
affiliate with no spending limits and virtually no Commission oversight would be able to market
against CCA programs that do not yet exist and do not yet have operations, much less profits.
This disparity in resources can be expected to have a significant effect on public debate about
CCA programs in San Diego because SDG&E and its parent corporation, Sempra Energy, have
the resources to run a sophisticated and wide-reaching campaign against CCA programs that,
simply because of their formative status and limited resources, are in no position to run an
analogous campaign of their own.

reports/2015_annualreport.pdf
There is little that stands between SDG&E and CCA programs other than SB 790 and the CCA Code of Conduct. That is why it is critical for the Commission to ensure that SDG&E’s proposal complies with these authorities and that CCA programs are given the full protection of the law. While the CCA Parties support the Commission’s proposal to require SDG&E to comply with all aspects of the Affiliate Transaction Rules, the CCA Parties are deeply concerned that the Commission has not addressed the serious flaws associated with reliance on those rules alone and with the process used by the Commission to reach certain conclusions in the Draft Resolution.

A. The CCA Parties Have Concerns Regarding Process

The CCA Parties thank the Energy Division for its commitment to transparency in this matter and for attaching the Energy Division’s data requests and SDG&E’s responses to the Draft Resolution. The CCA Parties, however, view the issues raised in the data requests to be important for all affected parties, and they should have the opportunity to engage in a more robust process that includes additional feedback that the Commission can incorporate into its review. The CCA Parties recommend that the Commission schedule a second round of comments to address the items set forth in these comments, and as outlined in the CCA Code of Conduct, require SDG&E to file a revised compliance plan in the form of a Tier 2 Advice Letter.

The CCA Parties further note that the responses of SDG&E reflect a high level of non-responsiveness, including, for example, failure to respond to the following questions presented: 1 (types of communications), 2 (public communications), and 14 (identification of communications). These are just a few examples of the many responses that SDG&E provided that lack any kind of relevant information or meaningful substance, or that only partially address the question. Additional process and review will permit the parties and the Commission to obtain additional information that can be used to properly evaluate SDG&E’s proposal and make sure that it complies with the law.

B. The Commission Must Implement Appropriate Rules from the Start

There is a need for the Commission to establish appropriate ground rules on marketing and lobbying now rather than at a later date. The past efforts of Pacific Gas and Electric Company (“PG&E”) regarding CCA programs serve as a cautionary tale. When PG&E launched its efforts in 2010 to thwart CCA, the Commission found that PG&E “violated tariffs and rules [related to CCA]” and “directed PG&E to immediately cease such actions.”5 PG&E’s actions continue to have lasting effects on CCA customers and the community’s understanding of CCA programs. The Commission should take steps to prevent similar damaging outcomes elsewhere, including in San Diego.

To avoid such outcomes, the Draft Resolution needs substantial revision. The limited oversight proposed in the Draft Resolution and the lack of constraints on the IMD’s expenditures and operations underscore the need for additional stakeholder input and meaningful review. Without further action by the Commission, the parties will be left to confront the first official effort to market and lobby against CCA programs without adequate guidance about what is permissible under the law and what is not. Putting off difficult decisions about how to interpret the rules until disputes arise or until violations are discovered will benefit no one and likely require additional Commission intervention. A careful and thorough review process will help to cure these problems.

SDG&E is the first IOU in California to officially request approval to market and lobby against CCA programs and in that sense is in uncharted waters. The Commission has never before interpreted some of the rules in SB 790 and the CCA Code of Conduct. SDG&E’s unprecedented step has serious consequences, not only for CCA development efforts in San Diego, but also for future efforts by the other IOUs. Because the Commission’s decision in this matter will serve as a precedent for those efforts, there is all the more reason to do it right the first time.

II. ADDITIONAL PROCESS IS NECESSARY TO VET THE PROPOSAL AND THE DRAFT RESOLUTION PRIOR TO ITS ADOPTION

Given the complexity of the issues raised by SDG&E’s proposal, the precedential nature of SDG&E’s plan, and the concerns over process, the CCA Parties request that the Commission schedule a second round of comments on the Draft Resolution and require SDG&E to submit a Tier 2 Advice Letter with a revised compliance plan. An additional round of comments will ensure that the parties and the Commission have a full opportunity to participate in the process and contribute to a sound and workable decision. This matter is critically important to existing CCA programs and CCA program development, and the Commission should give SDG&E’s proposal serious thought and careful consideration.

SDG&E should also be required to submit a Tier 2 Advice Letter with a revised compliance plan. The CCA Code of Conduct identifies this process for changes to a compliance plan, and it is both suitable and appropriate in this context. As discussed above, the Compliance Plan in its present form is inadequate and requires substantial changes. Furthermore, while insufficient, the Draft Resolution makes changes to the Compliance Plan that are not contained in the plan itself. To provide added review and ensure that the Compliance Plan includes adequate procedures that comply with SB 790 and the CCA Code of Conduct, SDG&E should also be required to submit a revised plan.

6 “An electrical corporation shall submit a revised compliance plan thereafter by Tier 2 advice letter served on all parties to this proceeding whenever there is a proposed change in the compliance plan for any reason.” Rule 22, CCA Code of Conduct.
III. THE PROPOSAL AND THE DRAFT RESOLUTION REQUIRE ADDITIONAL REVISIONS TO COMPLY WITH SB 790 AND THE CODE OF CONDUCT

SDG&E’s proposal must be reviewed under the rules that the legislature established in SB 790 and that, pursuant to the legislation, the Commission subsequently established in the CCA Code of Conduct. Rule 22 of the CCA Code of Conduct provides:7

No later than March 31, 2013, each electrical corporation that intends to market or lobby against a CCA shall submit a compliance plan demonstrating to the Commission that there are adequate procedures in place that will preclude the sharing of information with its independent marketing division that is prohibited by these rules, and is in all other ways in compliance with these rules.

Yet SDG&E’s Compliance Plan, the first of its kind ever proposed in California, fails to provide “adequate procedures” to comply with SB 790 and the CCA Code of Conduct in several respects, as required under Rule 22.

While the Draft Resolution includes some important requirements that will ensure the IMD is in compliance with some of the provisions of the CCA Code of Conduct, such as the requirement that the IMD will be subject to the entire scope of the Affiliate Transaction Rules, it falls short of requiring that SDG&E comply with the prohibitions on shared services and transfer of confidential information, omits provisions to ensure compliance with disclosure and reporting rules, and does not adequately consider how basic enforcement will occur. Finally, given the serious nature of the compliance issues with SDG&E’s Compliance Plan and the unprecedented nature of SDG&E’s request, there should be additional opportunities for all parties to seek information from SDG&E and contribute to the development of adequate procedures that ensure compliance with SB 790 and the CCA Code of Conduct. The Draft Resolution should be modified to ensure that SDG&E’s Compliance Plan meets the requirements of SB 790 and the CCA Code of Conduct, as further described below.

A. Requiring SDG&E’s IMD to Comply with the Affiliate Transaction Rules Is an Important Step, but those Rules Alone Are Insufficient

While the Affiliate Transaction rules are a good starting point to ensure a fair playing field, those rules are not fit for the purpose of governing the playing field. As the Draft Resolution notes, the Affiliate Transaction Rules are “designed to prevent cross-subsidization of utilities’ affiliated activities by ratepayers and minimize harm to the competitive marketplace from the utility’s monopoly status and market power.”8 In general, concerns about the role of affiliates relate to an IOU or its affiliate offering services that could otherwise be provided by the competitive market. In those cases, we do not want the IOUs “tipping the scales” in favor of their affiliate when a competitive product is better for the customer.

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7 Rule 22, CCA Code of Conduct (italics added).
8 Draft Resolution 4.
The concerns around CCA programs are much different. Since there is not yet a competitive retail energy market in the San Diego area, SDG&E appears to be launching this division to prevent competition rather than participate in competition. A more apt description is that SDG&E is launching an organization akin to a Political Action Committee where unlimited funds can be utilized in a campaign without oversight. SDG&E’s assertion that the IMD “will allow a more robust public dialog on CCA” should be received with a healthy dose of skepticism.

1. The CCA Parties Support the Full Application of the Affiliate Transaction Rules

That said, the CCA Parties support the Commission’s decision, as expressed in the Draft Resolution, to categorize the IMD as a Rule II.B affiliate subject to the Affiliate Transaction Rules in their entirety. Rule II.B provides that affiliates that provide services that relate to the use of electricity must comply with all Affiliate Transaction Rules. As SDG&E states, the IMD would be “engaged in communications and lobbying” on “topics that may relate to energy.” The purpose of the IMD is to lobby and market against specific energy policies and providers, namely, community choice and CCA programs. The activities that SDG&E plans to engage in to advance these purposes are directly related to the energy market and fall within the scope of Rule II.B. The CCA Parties fully support this requirement and welcome the added protection that compliance with the full set of Affiliate Transaction Rules will provide. Nevertheless, as discussed above, such a requirement is not sufficient to ensure that SDG&E’s proposal meets the requirements of SB 790 and the CCA Code of Conduct. To meet those requirements, the Draft Resolution must be revised as described below.

B. SDG&E’s Proposed Use of Shared Services and Employees Does Not Comply with SB 790 or the CCA Code of Conduct

Restrictions on shared services and employees are a critical part of the regulatory framework established by SB 790 and the CCA Code of Conduct because they prevent an IOU from evading the requirements of the law by using resources and personnel that jointly serve the IOU and the division. But SDG&E’s proposal does not comply with the CCA Code of Conduct’s detailed rules governing the use of shared services and employees, and the Draft Resolution does not go far enough to require compliance. Importantly, the Draft Resolution does not apply the rules on shared services to Sempra Energy, SDG&E’s parent corporation, which it must, or else SDG&E will have a ready and willing partner to lobby and market against CCA programs without having to observe the rules at all. The Draft Resolution should be amended as set forth below to ensure that SDG&E and Sempra do not impermissibly shares services with the division.

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9 Draft Resolution E-4874 at 12.
10 Draft Resolution E-4874 at 14.
11 Affiliate Transaction Rules, Rule II.B.
12 Draft Resolution E-4874, Appendix A at 5-6, Response to Question 11.
1. **SB 790 and the CCA Code of Conduct Restrict Shared Services and Employees**

   The general rule is that an IOU and its independent marketing division may **not** share services or employees. Rule 15 of the CCA Code of Conduct states that “[e]xcept as permitted in Rule 13 of this Code of Conduct, employees of an electrical corporation’s independent marketing division shall not otherwise be employed by the electrical corporation.” Rule 13 authorizes certain shared services but subjects them to broad limitations.\(^{13}\)

   As a general principle, an electrical corporation may share with its independent marketing division joint corporate oversight, governance, support systems and support personnel; provided that support personnel shall not include any persons who are themselves involved in marketing or lobbying ... As a general principle, such joint utilization shall not allow or provide a means for the transfer of competitively sensitive information from the electrical corporation to the independent marketing division, create the opportunity for preferential treatment or unfair competitive advantage, lead to customer confusion, or create significant opportunities for cross-subsidization of the independent marketing division.

   The logic behind the restrictions on shared services is compelling. Requiring the IOUs to create an IMD funded entirely by shareholders in order to market and lobby against CCA programs would be easily circumvented if an IOU could simply designate marketing and lobbying as a shared service and rely on its existing marketing and lobbying personnel funded by ratepayers. Such an exception would swallow the rule. So, while Rule 13 permits some shared services, those services are heavily restricted. Services and personnel engaged in marketing or lobbying may not be shared if they permit the rules of the CCA Code of Conduct to be circumvented. Such rules include the restrictions on the use of competitively sensitive information and cross-subsidization.

2. **SDG&E Does Not Have Adequate Procedures Governing Shared Services and Employees to Comply with SB 790 and the CCA Code of Conduct**

   Nevertheless, SDG&E proposes to rely on a number of shared services, some of which may include marketing and lobbying activities, without adequate procedures in place to prevent the rules from being circumvented. SDG&E is silent about whether the division will share services with Sempra Energy, its parent corporation, and states the following about compliance with Rule 13.\(^{14}\)

   For purposes of this Rule, SDG&E considers that shared services include, but are not limited to: payroll, taxes, shareholder services, insurance, financial reporting, financial

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\(^{13}\) Rule 13, CCA Code of Conduct (italics added).

\(^{14}\) SDG&E Compliance Plan at 12 (bold and italics added).
planning and analysis, corporate accounting, corporate security, human resources (compensation, benefits, employment policies), employee records, regulatory affairs, lobbying, legal and pension management. The CPUC acknowledged in D.98-08-035 that the list of permissible shared services presented in Rule V.E is not exhaustive. Communications and public affairs, for instance, may also be shared.

According to SDG&E, this is not exhaustive list, so there may be other shared services that the IMD uses that are also used and more importantly funded by Sempra or SDG&E. Marketing and public affairs certainly come to mind as services that are omitted from the list but that SDG&E or Sempra may ultimately choose to share with the division.\(^\text{15}\)

Setting that important concern aside, there are obvious problems among the list of shared services that SDG&E does identify, including the proposed use of shared services in the areas of “regulatory affairs, lobbying, legal …” While SDG&E later clarified in response to a data request from the Energy Division that lobbying would not be a shared service,\(^\text{16}\) many of the other activities conducted by Sempra and SDG&E employees in the other areas explicitly identified by SDG&E involve lobbying and marketing, despite the particular job titles of the individuals involved or the names of their respective departments. To the extent the shared services involve marketing or lobbying, or otherwise permit SDG&E to circumvent the rules, they are inconsistent with Rule 13 and Rule 15.

The only procedure that SDG&E proposes to guard against these outcomes is to require employees in shared services to sign “anti-conduit provisions” as part of a regular training program. But SDG&E has not provided a sample of these provisions, has not elaborated on what those provisions are, and has not indicated whether the provisions are binding and enforceable.\(^\text{17}\) This is not an “adequate procedure” under Rule 22 to ensure compliance with shared services requirements of the CCA Code of Conduct.

3. The Draft Resolution Should Include Procedures Designed to Prevent Impermissible Shared Services

Despite the Energy Division’s specific communication with SDG&E,\(^\text{18}\) the Draft Resolution leaves many unanswered questions about shared services and employees. The Energy Division did obtain a clarification from SDG&E on lobbying, but other shared services

\(^{15}\) Furthermore, the Commission decision that SDG&E cites, D.98-08-035, was decided long before SB 790 and the CCA Code of Conduct were adopted, and cannot be read to govern compliance with these rules.

\(^{16}\) “SDG&E intended to list permissible shared services. COC Rule 13 allows shared services except for employees engaged in marketing and lobbying otherwise prohibited by the COC. Thus, lobbying, as covered by the COC, will not be a shared service.” Draft Resolution E-4874, Appendix A at 4, Response to Question 8.

\(^{17}\) SDG&E Compliance Plan at 12.

\(^{18}\) See Draft Resolution E-4874 at 13.
that SDG&E explicitly mentions, such as regulatory affairs and legal services, for example, often involve lobbying activities. Similarly, SDG&E states that the list of shared services is not exhaustive, and so other shared services such as marketing and public affairs may be shared in the future, even though to the extent they involve lobbying and marketing, they are strictly prohibited.

To bring SDG&E in line with the shared services provisions of SB 790 and the CCA Code of Conduct, the Commission should amend the Draft Resolution as follows:

- Rules governing shared services and employees should be applied to Sempra and SDG&E;
- Sempra and SDG&E employees should not be permitted to transfer into the division because competitively sensitive information may be relayed and cross-subsidization may occur;
- Shared services and employees should be reviewed according to function rather than an individual’s job title or department; and
- Shared services employees should receive training and be required to sign a binding and enforceable agreement, reviewed by the Commission in advance, that they will abide by the CCA Code of Conduct.

The Commission should take any additional steps that are necessary and appropriate to ensure that SDG&E’s complies with the rules governing shared services.

C. The Draft Resolution’s Existing Reporting and Disclosure Requirements Are a Step in the Right Direction but Are Inadequate for Compliance and Enforcement

The Draft Resolution includes some important reporting and disclosure requirements that are lacking in SDG&E’s Compliance Plan. Nevertheless, these requirements fall short of adequate procedures for SDG&E to comply with the CCA Code of Conduct. The disparate reporting requirements should include additional detail and be consolidated into a single quarterly report. In addition, reporting and disclosure must be viewed in light of their close relationship to enforcement, an area of particular concern for the CCA Parties. Without adequate disclosures by SDG&E about the IMD, including clear identification of participating employees and notices about the source of information that the IMD is distributing, enforcement will be difficult if not impossible.

1. The Draft Resolution Should Be Amended to Require Accounting and Other Reporting as Part of a Unified Quarterly Report

The Draft Resolution and SDG&E’s Compliance Plan address several disparate and general reporting requirements. As currently drafted, however, neither the Draft Resolution nor
the Compliance Plan includes any procedures to comply with Rule 4 of the CCA Code of Conduct. Furthermore, a fragmented and limited approach is likely to lead to serious difficulties in monitoring SDG&E’s compliance with the CCA Code of Conduct and enforcing violations.

Rule 4 of the CCA Code of Conduct establishes accounting and reporting requirements governing the use of shared services funded by ratepayers. Such reports are to be made “public” and “shall be filed quarterly with the Commission’s Energy Division as an information only filing, no later than one month after the end of each quarter, and shall be made available on the utility’s website at the same time.” Yet SDG&E’s Compliance Plan merely indicates that SDG&E will “maintain required supporting documentation” to comply with this requirement. Neither SDG&E’s Compliance plan nor the Draft Resolution actually states that SDG&E will provide the required quarterly reports. This is a deficiency that should be remedied.

While the Draft Resolution and SDG&E’s Compliance Plan also provide for SDG&E to submit various internal reports and reports to the Commission, these disclosure requirements are short on critical information. The annual reports on the IMD’s spending and shareholder funding, for example, are only required for three years unless the Commission decides to extend the requirement. It is unclear whether SDG&E’s proposal for reporting staff transfers would provide sufficient information to assess compliance, or whether this information would be available to CCAs and to the public. Furthermore, SDG&E’s plan to report compliance issues internally does not provide for disclosure to the Commission, CCAs, or other interested parties. The existing disclosure requirements fall far short of requiring the kind of regular, comprehensive compliance disclosures needed to ensure that SDG&E and the IMD are complying with the CCA Code of Conduct. In addition, requiring several reports with related content, at different intervals, to different parties is unnecessarily complex and inefficient, and it would result in the unnecessary waste of resources on the part of the Commission and other interested parties.

To ensure compliance with the CCA Code of Conduct, full, regular and broad disclosure of critical information is essential. While the current reporting requirements in the Draft Resolution begin to address the issues, they do not require disclosure of additional information that is essential to meaningful compliance, monitoring and enforcement. Reports should provide additional detail – including financial reporting – on lobbying and marketing activities, transfer

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19 Rule 4, CCA Code of Conduct.
20 SDG&E Compliance Plan at 7.
21 These reports include submission of an annual report with the Energy Division “detailing the amount of spending and shareholder funding of the Independent Marketing Division” (Draft Resolution at Ordering Paragraph 9); A report of all employee transfers between SDG&E, Sempra Energy, and the IMD, to the Commission in its annual Affiliate Transactions Report (SDG&E Compliance Plan at 14); Internal reports on “any CCA COC issues to the Compliance Officers and its Board of Directors as is already the case for ATR issues.” (SDG&E Compliance Plan at 2.)
22 Draft Resolution E-4874 at Ordering Paragraph 9.
of competitively sensitive information, governance, and shared services, particularly consultants, experts, and contractors who also perform work for Sempra and SDG&E.

Furthermore, the Commission should amend the Draft Resolution to require that the IMD file such a report on a quarterly basis. The political and public relations issues surrounding CCA formation are time sensitive, and less frequent reporting would pose a risk to CCA development and limit the usefulness of existing enforcement mechanisms. The unified report should provide disclosures regarding all compliance issues, and should be sufficiently detailed for the Commission and CCA programs to assess whether SDG&E and the IMD are complying with the requirements set forth in the CCA Code of Conduct. This disclosure requirement should be in place as long as the IMD is in operation.

2. Additional Disclosures Should Be Required to Avoid Customer Confusion and to Promote Enforcement

The existing requirements in SDG&E’s Compliance Plan and the Draft Resolution do not provide adequate disclosures for proper enforcement of SB 790 and the CCA Code of Conduct. Public Utilities Code Section 707(a) requires that the Commission adopt “enforcement procedures” sufficient to ensure that an IOU does not market against a community choice aggregation program except through an IMD that is funded exclusively by shareholders and is functionally and physically separate from ratepayer funded divisions;\(^{23}\) that the IOU limit the IMD’s use of support services from ratepayer funded divisions;\(^{24}\) and that the IOU ensure that the IMD does not have access to competitively sensitive information.\(^{25}\) In keeping with these requirements, the Commission has adopted the expedited complaint procedure set forth in the CCA Code of Conduct.

For this enforcement procedure to remain viable, the IMD must provide the public with regular and timely access to current information addressing compliance issues. Without basic disclosure requirements, in addition to the information discussed above, it will be impossible, for example, to distinguish between representatives of the IMD on the one hand, and representatives from SDG&E or Sempra, its parent company, on the other. The same goes for content generated by the IMD. Without enhanced disclosure, marketing and lobbying material generated by SDG&E will be indistinguishable from material generated by the IMD.

As a practical matter, enforcement under the expedited complaint procedure will not be possible under these circumstances because CCA programs will not have adequate information to determine who is part of the IMD and subject to the rules set forth in the CCA Code of Conduct, and who is not, and by the same token, what marketing and lobbying material is subject to the rules, and what material is not. The absence of such disclosure will make violations

possible with relative ease because there will not be adequate facts available to file an expedited complaint.

To ensure that enforcement under the expedited complaint procedure is possible and to avoid customer confusion, the Commission should require the IMD to maintain a dedicated website that:

- Explains what the IMD is, and that it is separate and distinct from SDG&E;
- Identifies by name all current employees of the IMD as well as contractors and agents; and
- Provides an avenue for informal complaints and comments to be made by members of the public.

Without that information, there will be no way to tell who is part of SDG&E and who is part of the IMD, an omission that will confuse customers, local government officers and elected officials alike. Furthermore, without added disclosure, the expedited complaint procedure will be of little use because it will be impossible to determine the identity of employees subject to the rules.

For largely the same reasons, IMD representatives should be required to identify themselves and provide a disclaimer that explains they are with a division that is distinct from SDG&E and funded by shareholders in all their communications, including when speaking in public or interacting with local government. Similarly, the IMD should be required to identify the source of all of its communications as originating with an entity that is funded by shareholders, and is separate and distinct from SDG&E. A single disclaimer that could be used by employees and placed on all media and other communications should be sufficient. Such disclaimers will help to avoid customer confusion and ensure that the expedited complaint procedure serves as a meaningful and useful enforcement mechanism.

The approach described above is neither novel nor overbearing. In fact, the approach described above was included as part of a voluntary settlement agreement that PG&E entered into with California’s first prospective CCA, San Joaquin Valley Power Authority (“SJVPA”), as approved by the Commission in D.08-06-016. In D.08-06-016, the Commission accepted as reasonable the requirement that PG&E use extensive disclaimers when PG&E was engaged in marketing or lobbying activities. The rules relating to the disclaimers, which included specific, detailed requirements, applied to PG&E’s oral and written communications, and also PG&E’s broadcast advertisements. Among other things, PG&E was required to include the following disclaimer as part of each communication:

26 See Attachment 1: D.08-06-016 at 5 and Appendix A (referencing Section 5.3 of the Settlement Agreement).
“Both PG&E and SJVPA are interested in selling electric energy to you. You do not need to buy your electric energy from PG&E in order to receive other regulated services and programs from PG&E, except for those programs we are not allowed by law to provide if you buy your electric energy from someone other than PG&E. Our shareholders are paying for this communication and it reflects their views, not necessarily the views of our customers.”

The Commission should follow a similar approach here, and require SDG&E to include a clear disclaimer on all of its marketing and lobbying materials.

**D. Enforcement Procedures under the CCA Code of Conduct Should Be Available**

Lastly, the Commission should make explicit in its final decision that the expedited complaint procedure under Rules 24 - 29 of the CCA Code of Conduct is available for enforcement. SDG&E has proposed a hybrid construct that is both Independent Marketing Division under the CCA Code of Conduct and Affiliate under the Affiliate Transaction Rules. That voluntary decision on the part of SDG&E should not interfere with enforcement mechanisms established by the Commission for the purpose of ensuring compliance with the CCA Code of Conduct. Accordingly, the CCA Parties request that the Commission explicitly authorize the expedited complaint procedure to enforce compliance with the CCA Code of Conduct, regardless of how SDG&E’s IMD is ultimately organized.

**IV. CONCLUSION**

For the reasons stated above, the CCA Parties request that the Commission require SDG&E to take a number of additional steps to establish adequate procedures that will ensure compliance with SB 790 and the CCA Code of Conduct. These steps include:

- Establish a schedule for an additional round of comments to allow all parties – not just SDG&E – to vet the proposal and require SDG&E to file a Tier 2 Advice Letter with a revised compliance plan;

- Retain the Draft Resolution’s existing requirement that the Affiliate Transaction Rules in their entirety apply to SDG&E’s IMD;

- Improve procedures that govern the use of shared services and the transfer of competitively sensitive information, including:

  - Rules governing shared services and employees should be applied to Sempra and SDG&E;

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27 D.08-06-016, Appendix A, Section 5.3.4.
o Sempra and SDG&E employees should not be permitted to transfer into the
division because competitively sensitive information may be relayed and
cross-subsidization may occur;

o Shared services and employees should be reviewed according to function
rather than an individual’s job title or department; and

o Shared services employees should receive training and be required to sign a
binding and enforceable agreement, reviewed by the Commission in advance,
that they will abide by the CCA Code of Conduct

- Amend current reporting requirements and require SDG&E to submit a quarterly
report that addresses accounting and reporting matters comprehensively and in detail,
including lobbying and marketing activities, competitively sensitive information,
governance, and shared services, particularly consultants, experts, and contractors;

- Require SDG&E to maintain a website that explains the IMD, identifies all
employees presently working for the IMD, and provides a mechanism for registering
complaints;

- Approve a disclaimer that IMD representatives should be required to use in all
communications, oral or written, that explains they are with a division that is distinct
from SDG&E and funded by shareholders; and

- Clarify that the expedited complaint procedure contained in the CCA Code of
Conduct is available for enforcement of violations, despite the fact that SDG&E’s
IMD is an affiliate

Until such time as adequate procedures are established, SDG&E’s IMD and Compliance Plan
should not be approved. The CCA Parties thank the Commission for considering these proposed
changes.

/S/ Ty Tosdal

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Service Lists R. 12-20-009, R.03-10-003
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


Rulemaking 13-11-005
(Filed November 14, 2013)

COMMENTS OF MARIN CLEAN ENERGY
TO RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE SEEKING INPUT ON APPROACHES FOR STATEWIDE AND THIRD-PARTY PROGRAMS

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Pursuant to the May 24, 2016 Ruling of Assigned Commissioner and Administrative Law Judge Seeking Input on Approaches for Statewide and Third-Party Programs (“Ruling”), Marin Clean Energy (“MCE”) respectfully submits the following comments and responds to the specific questions included in the Ruling.

I. INTRODUCTION

MCE commends the Commission for addressing fundamental questions related to the administration of ratepayer energy efficiency (“EE”) funds. MCE appreciates the opportunity to provide a response to the significant proposals in the Ruling. MCE addresses how programs should be coordinated among Program Administrators (“PAs”) and particularly between local governments, Statewide approaches, and Third Party Programs. MCE also addresses a number of potential unintended consequences of the proposals in the Ruling including programs focusing on low hanging fruit, losing out on the potential for integrated solutions, and avoiding stranded savings.
Summary of Recommendations:

- Designate Community Choice Aggregators (“CCAs”) as default PAs within their service area.
- Enable Regional Energy Networks (“REns”) to elect which programs they deliver.
- Adopt the proposal to create a statewide lead for Local Government Partnerships (“LGPs”) and local government implementors as proposed in comments from the Local Government Sustainable Energy Coalition (“LGSEC”).
- Define Statewide Programs as upstream\(^1\) and midstream\(^2\) efforts.
- Limit incentives for upstream and midstream efforts to those technologies that do not require technical assistance.
- Define Third Party Programs as downstream\(^3\) efforts.
- Address the cost-effectiveness implications of changes to Statewide and Third Party Programs by providing attribution for those activities or through changes to the methodology for determining cost effectiveness.
- Create a statewide data platform to improve successful program delivery and consistency in evaluating progress of the ratepayer funded EE programs.

\(^1\) Upstream activities should only include work with manufacturers to develop products that maximize energy efficiency.

\(^2\) Midstream activities should only include work with distributors or retailers to drive market adoption of energy efficient products.

\(^3\) Downstream programs are those that deliver products or services directly to end-use customers (e.g. mail-in rebates, building retrofits, and technical assistance).
Without these recommendations, it is unclear what programmatic opportunities remain for CCAs and other local government PAs to leverage their strong connections to the community and ability to locally tailor programs.

II. MCE RESPONSES TO SPECIFIC QUESTIONS RELATED TO THE RULING

A. Questions Related to Overall Regulatory Framework for Statewide and Third-Party Programs

Question 1: Should the Commission give additional guidance beyond the broad outlines in D.15-10-028 for the Rolling Portfolio Cycles and Sector Business Plans to the program administrators in the areas of statewide and third-party programs prior to submission of the Sector Business Plans in late 2016? Or would it be preferable to have the Commission wait to evaluate proposals brought forward in the Business Plans by the program administrators? Explain in detail the rationale for your preferred approach.

The Commission should provide additional guidance in advance of Business Plan submissions to avoid the need to update Business Plans. Major policy changes in response to proposals in a single PA’s Business Plan filing (e.g. rules addressing program overlap with proposed Third Party Programs) may necessitate updates to other PAs’ Business Plans, which can be costly and time consuming for the Commission, stakeholders, and PAs. Additionally, clear guidance describing what program activities are available to each PA should be provided before Business Plans are filed to focus the development of Business Plans and avoid the need to rework them after filing. Early guidance will help avoid unnecessary expenditures of time and resources to rework a Business Plan.
Question 2: If you prefer the Commission to give guidance prior to the submission of Business Plans, what level of guidance should be given? Explain in detail.

Guidance on Program Overlap

As drafted, the Ruling leaves many questions about the possible overlap between different program types. To ensure efficient program administration, the Commission should accept MCE’s outstanding proposal to become the default PA for EE programs in its service area. The Commission should provide guidance addressing program overlap among multiple PAs (i.e. investor-owned utilities (“IOUs”), CCAs, and RENs) and among multiple programs (e.g. Statewide Programs, Third Party Programs, and other program activities).

The Commission should designate CCAs as default PAs within their service areas for all downstream programs, including those bid out to Third Parties. This would support the right of CCAs to determine which customer sectors and which intervention strategies they serve with their programs. Duplicative offerings from other PAs would need to avoid delivering programs in the CCA’s service area or enter a bilateral agreement with the CCA to deliver programs.

The California Public Utilities Code supports CCAs serving the role of default administrator: CCAs have statutory right to administer EE programs and independent jurisdiction over procurement. MCE has that responsibility for approximately 80% of the

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4 The proposal for how the default administrator status would operate with Statewide and Third Party Programs is included in the responses to Questions 3, 19, and 20 in these comments.
6 “A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.” Cal. Pub. Util. Code § 366.2(a)(5).
accounts within its service area. Since EE is the first resource in the loading order,\textsuperscript{7} CCAs should be designated as the default PA for that primary procurement resource in their service area.

In addition to the statutory basis, there are a number of public policy justifications for CCAs to serve as the default PA. CCAs are local governments with deep connections to the communities they represent. These connections include local accountability through the governance structure\textsuperscript{8} and enable CCAs to tailor programs to meet the needs of their community. Under the proposals in the Ruling, there will be a lack of diversity in implementors and program design for certain activities. CCAs acting as default administrators can serve as laboratories for innovative program design. As discussed in more detail in response to Questions 8 and 13 below, many program activities benefit from local tailoring. Establishing CCAs as the default PA will preserve programmatic opportunities to leverage their strong connections to the community and ability to locally tailor programs.

To provide additional guidance related to possible program overlap, the Commission should specify a discrete set of customers that are intended to be served with the updated Statewide and Third Party Programs and should specify whether these customers are only eligible for the Statewide or Third Party programs. The Commission should also specify the program activity intended for Statewide and Third Party Programs, including whether those

\textsuperscript{7} Cal. Pub. Util. Code § 454.5(b)(9)(C) indicates: “the electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.” See also State of California Energy Action Plan I, 2003 at p. 4 (defining a loading order with energy efficiency as the primary resource); and the Energy Efficiency Policy Manual at p. 1 (noting energy efficiency is a procurement resource and first in the loading order).

\textsuperscript{8} MCE is governed by a Board of Directors composed of locally elected officials representing each member jurisdiction.
programs will be expected to provide integrated solutions\(^9\) or focus on discrete technology areas (e.g. commercial lighting). This guidance will help focus PAs on developing a Business Plan with the appropriate scope of activities.

The Commission should also provide guidance that addresses program overlap for all local government EE programs. As with CCAs, other local governments have similar connections to their communities that enable them to deliver tailored and innovative EE programs. CCAs, RENs, LGPs, and local government implementer programs should be preserved under any changes to the Statewide and Third Party Programs. These entities are well coordinated with local government climate action planning aimed at achieving the state’s greenhouse gas reduction goals and can leverage the full spectrum of local government resources. Many of these entities have effectively served hard to reach markets. Local governments are also charged with implementation of the building energy codes; and leveraging this capacity will help to strengthen permit compliance. Local government PAs also lack a profit motive resulting in less contention with ex post review and Energy Savings Performance Incentive (“ESPI”) awards. Local governments are well situated to combine multiple resource offerings, tailor programs to the unique needs of their communities, and strengthen compliance with the Title 24 building energy codes. Local governments should be empowered to continue to deliver EE programs while achieving broader state goals.

In the guidance, the Commission should afford RENs a similar opportunity to CCAs to select the programs they deliver in their service area in coordination with CCA programs. RENs should retain authority over program design and retain the ability to perform implementation

\(^9\) Including the resources relevant to the Integrated Distributed Energy Resources proceeding (R.14-10-003).
activities. The Commission should also invite new RENs to form. LGPs and local government implementors should be continued and supported under a statewide local government lead as described in LGSEC’s opening comments to the Ruling.

Guidance on Cost Effectiveness

The Commission should provide guidance for CCA and REN PAs on how to achieve cost-effective portfolios under the proposals in the Ruling. Many of the program activities described in the Ruling are very cost-effective programs,\(^{10}\) including industrial, large commercial, upstream, and midstream activities. If the Commission decides to preclude certain PAs from performing these activities, it should also provide guidance on how to address the resulting difficulty in achieving a cost-effective portfolio.

MCE provides four potential solutions the Commission could adopt to address the resulting cost-effectiveness challenges. The Commission could: (1) apply the cost-effectiveness analysis to the portfolio of programs for the combined, total portfolio of ratepayer funded programs rather than for each PA alone; (2) replace the TRC test with the Program Administrator Cost (“PAC”) test; (3) provide attribution to each PA for the Statewide and Third Party activities occurring within their service area – also creating an incentive for PAs to drive customers to those programs; or (4) adopt a more granular approach to cost effectiveness that reflects the limitations on PAs’ abilities to provide comprehensive programs (e.g. evaluating cost effectiveness by customer sector). Each of these solutions would help address the cost-

\(^{10}\) Southern California Edison’s Budget and Savings Placemat for 2013-2014 lists the statewide industrial program at a 2.79 Total Resource Cost ratio (“TRC”), the statewide lighting program at a 2.39 TRC, and the statewide Commercial program at a 2.02 TRC. These high TRCs are in stark contrast to the residential program which is currently at a 1.0 TRC; the only program listed in the residential portfolio with a TRC greater than 1 is the Multifamily Energy Efficiency Rebate program, currently slated in the Ruling as a Statewide program. This placemat is available at: http://eestats.cpuc.ca.gov.
effectiveness challenges that arise from precluding CCAs and RENs from delivering comprehensive programs.

**Question 3: How should any Commission requirements for statewide and/or third-party approaches apply to non-utility program administrators (e.g., community choice aggregators (CCAs), CAEATFA, the Regional Energy Networks (RENs), CSE, etc.)?**

These approaches should not preclude CCA PAs from serving all customer sectors with comprehensive programs. The best way to ensure this is to designate CCAs as default PAs as discussed in the response to Question 2 above. RENs should similarly be allowed to elect which customers and intervention strategies to include in their programs, with the exception of upstream and midstream programs as described further below.

Due to the challenges with the definition of Statewide, discussed in greater detail in response to Questions 8 and 9 below, those programs should be limited to upstream and midstream activities. Upstream activities should only include work with manufacturers to develop products that maximize EE. Midstream programs should only include work with distributors or retailers to drive market adoption of energy efficient products. Under this definition for Statewide activities, CCAs will coordinate with, but will not need to administer or implement these programs. As discussed in response to Questions 19 and 20 below, Third Party Programs should be limited to downstream programs. Downstream programs should only include those that deliver products or services directly to end-use customers (e.g. mail-in rebates, building retrofits, and technical assistance). Under this definition, CCAs should have default administrator status. In the event a Third Party implementor won the bid for the entire commercial sector, it would need to work in partnership with a CCA to deliver a program in the
CCA’s service area. The CCA would have the option to administer its own programs that parallel or diverge from the third party program design.

**Question 4:** What type of showing should the Commission require for any Business Plan proposal that addresses statewide and/or third-party approaches? (e.g., rationale, program logic model, relationship to other parts of the portfolio, definition of designer/implementer/evaluator, proportion of the budget, bid solicitation protocols, etc.). Describe in detail.

MCE offers no comments on this question at this time.

**Question 5:** Are there aspects of the current statewide programs approach that are effective and should be continued? Explain.

MCE offers no comments on this question at this time.

**Question 6:** Are there aspects of the current third-party programs approach that are effective and should be continued? Explain.

MCE offers no comments on this question at this time.

**Question 7:** How should the Senate Bill 350 requirements for market transformation programs and pay-for-performance programs factor in to our policies for statewide and third-party programs?

The Commission should create a statewide data platform to ensure consistency and scale for data collection and associated analysis related to ratepayer-funded EE programs, including market transformation efforts. The data platform should be administered by a Third Party (i.e. a non-IOU entity) following a solicitation and include, but not be limited to, the following data sets: (1) energy usage information – including the California Energy Commission (“CEC”)
benchmarking information; (2) standardized savings claims, such as DEER\textsuperscript{11} values and other standardized assumptions (e.g. operating hours, guidance on weather normalization, etc.) – which could be developed by the California Technical Forum (“CalTF”); (3) baseline data, metrics and tracking for market transformation; (4) prior program participation information in ratepayer-funded EE programs; (5) locational value to facilitate appropriate market pricing of distributed energy resources (“DERs”); and any other relevant data sets including those from publicly owned utilities (“POUs”). The platform may have varying levels of permissions for various entities including policymakers, regulators, and PAs. This platform could build on the work to create the EE Stats portal and could be combined with the DEER database, the CalTF technical resources manual (“TRM”), the work overseen by the Energy Data Access Committee, and any tools necessary to support the CEC benchmarking efforts. This platform will help PAs and other stakeholders gain new insights to design and track market transformation and other important strategic interventions. This standardized data platform could also facilitate the scaling up of pay for performance programs in compliance with Assembly Bill 802 (2015) by providing consistency in savings claims and information on market performance.

B. Questions Related to the Proposals/Options Outlined in this Ruling

1. Statewide Programs

Question 8: Is the general outline of the proposal in this ruling for statewide programs workable? Why or why not? Explain.

The Ruling’s proposal is unworkable because it lacks clarity in the scope of the Statewide Programs. The Ruling provides a new definition of Statewide Programs for the sake of clarity.\textsuperscript{12} However, the definition is unclear about which activities and which customers are intended for

\textsuperscript{11} DEER is the acronym for the Database for Energy Efficient Resources.
\textsuperscript{12} Ruling at p. 3.
Statewide Programs. The list of activities by customer sector that are tentatively slated for Statewide Programs\textsuperscript{13} could be read broadly to include all customers and related activities in the listed sectors. The Ruling attempts to confine the list of customers through identifying some bright lines such as whether the customer has a chain of locations.\textsuperscript{14} However, the clarity is lost with the inclusion of “other customers of a similar nature.”\textsuperscript{15} It is also not necessarily true that a statewide approach is appropriate for chains. A chain restaurant may have two or three locations in a single city making it no more fit for a statewide approach than a restaurant with a single location. This lack of clarity is unavoidable due to the diversity of customers served by EE programs. To ensure clarity, Commission should avoid defining the scope of Statewide Programs using customer type.

The Commission should define the scope of Statewide Programs as upstream and midstream efforts. While, several listed activities appear inappropriate for a consistent approach statewide because they have local components that vary by geography (e.g. California Advanced Homes Program and local building ordinances, workforce readiness and Zero-Net Energy (“ZNE”) strategies),\textsuperscript{16} the upstream (at the manufacturer level) and midstream (at the distributor or retailer level) activities are a very good fit. These efforts, when pursued at the statewide level will likely reduce administrative costs and increase savings as compared to the regional efforts underway today. These efforts are also discrete from downstream activities meaning that a clear line can be drawn for the purposes of defining Statewide Programs. The Commission should

\textsuperscript{13} Ruling at p. 5-7.
\textsuperscript{14} Ruling at p. 3.
\textsuperscript{15} Ruling at p. 3.
\textsuperscript{16} These are discussed in greater detail in response to Question 13 below.
eliminate the lack of clarity in the scope of Statewide Programs by defining them as all upstream and midstream efforts.

While this definition of Statewide provides simplicity and allows for coherent coordination, upstream and midstream efforts should be limited to offering incentives for those technologies which are truly “off the shelf” technologies. Upstream and midstream incentives are not a good match for measures which require technical assistance to properly install. For example, heating, ventilation, air conditioning and variable frequency drive improvements or retrofits provide the most savings when installed by a trained, qualified professional and thus are more ideally delivered in the context of a downstream program. This also ensures that savings associated with these measures balance the cost of providing the technical assistance, helping to ensure a more cost effective program design.

**Question 9: Do you agree with the proposed definition of “statewide” given in this ruling? Why or why not?**

Improved clarity in the definition for Statewide approaches would address the challenges discussed in response to Question 8. The Commission should limit Statewide approaches to upstream (at the manufacturer level) and midstream (at the distributor or retailer level) approaches. The Commission should also provide the guidance about which technologies are appropriate for upstream and midstream incentives discussed in the response to Question 8. This clear delineation will create certainty for PAs about which customers they can serve with non-Statewide programs. It also provides clarity about what programmatic activities are intended to be Statewide.
**Question 10: Are there specific actions that should be taken to collaborate with the California Energy Commission (regarding its Existing Buildings Energy Efficiency Action Plan) and/or with the publicly-owned utilities to further advance the idea of truly statewide programs?**

The Commission should initiate the collaboration through a joint workshop with the CEC. The Commission should also develop a common data platform (as discussed in the response to Question 7 above) to standardize access to energy usage data, savings estimates, and other information. This coordination could be an assigned role for a statewide market transformation entity. The CalTF is an ideal forum for this standardization process as it is currently working to standardize savings claims among POUs and Commission authorized PAs.

**Question 11: Should the current IOU lead administrators for the statewide program areas remain the same or be changed?**

The Commission should adopt the proposed definition of Statewide as discussed in response to Questions 8 and 9 above, which may eliminate the need for sector-based statewide lead administrators. While sector-based leads may still be appropriate under MCE’s proposed definition, some sectors may be consolidated under a single PA if the efforts are limited to upstream and midstream. Additionally, MCE supports the proposal outlined in LGSEC’s comments to create a lead local government administrator for LGPs and local government implementors.
Question 12: How should community choice aggregator and regional energy network areas be handled, and what should be the role of those entities with respect to interactions with statewide programs?

(See response to Questions 2 and 3 above)

Question 13: Are there programs, subprograms, or other functions that should be added or removed from the list of statewide programs to be assigned for non-utility competitively-bid implementation contracts? Be specific and provide your rationale.

The Commission should confine Statewide programs to upstream and midstream activities (see response to Questions 3, 8, and 9 above). The downstream (at the end-user level) programs are too difficult to clearly divide between those appropriate for a statewide approach and those with the need for tailored or local approaches.

However, if the Commission includes downstream program activities within the definition of Statewide, it should make the following adjustments in the scope of the proposal:

(1) Some of the Residential activity should be removed:
   - ZNE requires a regional approach. The diversity of building stock, readiness of the workforce, and adoption rate of customers precludes a standardized customer experience.
   - If the Multifamily Energy Efficiency Rebates catalogue is managed by a statewide entity, it will need to have local variations to account for geographic differences (e.g. climate zones). The catalogue should be used as a resource for customers, contractors, and PAs but should not preclude any downstream multifamily program activities.
- The California Advanced Homes Program and New Construction may be inappropriate for a statewide approach for the same reasons a ZNE program would be difficult at a statewide level (e.g. workforce readiness and customer adoption rates as well as individual climate variations and local building ordinances).

(2) Small and Mid-sized commercial should be removed from statewide approaches because they are harder to reach, have highly fragmented savings opportunities, and a wide diversity in needs for which a uniform design is inappropriate.

(3) Large commercial, industrial, and agricultural customers should be eligible for Statewide programs, but not disallowed from participating in local programs delivered by local government EE PAs and implementors.

(4) Financing should be available consistently throughout the state on the same terms, but should not preclude opportunities for local pilots. Financing strategies should be designed and funded on a statewide basis to provide low lending rates and simplicity for implementors. Statewide financing should be available for participants in any program (e.g. Statewide, local, or Third Party). The Commission should still allow local and regional pilots to try new approaches.

(5) Lighting; Heating, Ventilation, and Air Conditioning; and Emerging Technologies should be removed from the Statewide list. The Commission should avoid programs and implementors focused on a single technology type because it: (1) creates silos; (2) eliminates opportunities to leverage customer acquisition expenditures to maximize savings and deliver integrated solutions;\(^\text{17}\) and (3) leads to sweeping low-hanging fruit. The Commission should

\(^{17}\) Including the resources relevant to the Integrated Distributed Energy Resources proceeding (R.14-10-003).
provide opportunities to articulate local programs that include these technologies, especially with emerging technologies.

(6) Codes and Standards (“C&S”) should be limited to allow for opportunities to articulate local C&S programs, particularly in the context of the building code. Some jurisdictions have adopted more aggressive standards and many have resource constraints which limit the ability of building officials to successfully implement statewide codes and standards. These resource constraints will vary from region to region. For example, some jurisdictions may struggle with housing sufficient staff to ensure timely permitting, which serves as a disincentive to compliance. Other jurisdictions may find gaps in workforce readiness. Finally, while there are statewide standards, there may also be local building standards. Those local components to C&S preclude a uniform delivery across the state.

Local C&S programs should be authorized to provide more resources for local governments to determine the right way to conduct trainings and distribute training funds for their area. These programs should also support efforts and provide resources to improve permit compliance (e.g. tools to streamline permitting). The Commission could have a consistent statewide approach to the training process, but should allow for local delivery and local add-ins. A statewide approach to support local governments in improving compliance should be overseen by a lead local government entity like the one proposed in LGSEC’s comments.

(7) Integrated Demand Side Management (“IDSM”) should be removed from Statewide to ensure successful programs. IDSM will be most successful when the entity providing the solutions has a strong relationship with the customer. This allows for: (a) phasing projects over time through a continued relationship; (b) reengaging a customer for a subsequent project; and (c) earned trust which may reduce resistance to adding to the scope of a project or could result in
repeat business. A statewide implementer may have difficulty maintaining a strong relationship with the customer due to their broad footprint and potential for turnover among subcontractors. Additionally, the lead PA may be removed (e.g. by geography or interface with the program) from the customer relationship. These attributes of the proposed Statewide approach undermine the ability to maximize IDSM across the state.

The Rulemaking 14-10-003 is scoped to include the development of sourcing mechanisms for integrated resources. The EE Rulemaking proceeding\(^\text{18}\) could determine whether each sourcing mechanism is appropriate for inclusion in Statewide or non-Statewide programs.

(8) Workforce Education and Training should also allow for local approaches. While there should be a consistent set of statewide standards, there should also be an opportunity for local governments to articulate specific community needs and propose program designs. There is a high diversity in workforce needs and training organizations across the state (e.g. community colleges, high schools, and local training organizations). Consistent requirements for workforce across the state are reasonable, but program delivery relies upon coordination at the local government level.

(9) Marketing Education and Outreach ("ME&O") should be limited. The statewide ME&O efforts should be continued but should not subsume local ME&O.

**Question 14: Should the treatment of programs and subprograms as statewide be phased in? Why or why not? If yes, which subprograms should we start with and over what period of time should others be phased in?**

If the Commission adopts the definition of Statewide proposed in these comments (i.e. confining it to upstream and midstream activities), the Commission should order the

\(^{18}\text{R. 13-10-005}\)
implementation of the Statewide program concept in the August decision with direction that Program Administrators reflect these changes in their Business Plans.

**Question 15: Do you agree with the proposal contained in this ruling with respect to budget sharing for statewide programs? Why or why not?**

Budget sharing is appropriate for statewide activities that require local coordination, but a more frequent true up would better align spending with estimates. The proposal includes a 5-year timeframe to true up cost sharing.\(^\text{19}\) This period should be shorter to ensure appropriate oversight of spending. The Commission should require the lead PA to state spending projections over the five year period. The Commission should also require the lead PA to file an annual advice letter that compares spending to projections throughout the state and triggers more substantive review if there is a major discrepancy.

Additionally, if attribution of savings is needed for each PA to maintain cost effectiveness, then attribution and cost sharing should be expanded to CCA and REN PAs as well. The Commission may be able to alleviate the need for shared attribution through a different approach to cost effectiveness including those offered in response to Question 2.

**Question 16: Should there be any guidelines or limitations on the extent to which non-lead administrators (including other utilities, CCAs, or Regional Energy Networks) could incur expenses to coordinate, monitor, and/or otherwise engage with statewide programs?**

Some programs may require regional coordination and there should be accommodation for these expenses. CCAs and RENs should be able to exclude expenses related to coordinating, monitoring, or otherwise engaging with Statewide programs from the TRC unless those

\(^{19}\) Ruling at p. 8.
programs provide attribution to the CCA or REN. Statewide Programs should be required to make referrals to any local variations of those programs.

**Question 17: Do you agree with the idea of encouraging pay for performance elements in the contracts for selected statewide program implementors? Why or why not?**

Pay for performance (“P4P”) should be included where relevant for upstream and midstream programs. CalTF would be a good forum to develop statewide guidance on P4P. The CEC benchmarking data could inform P4P standards and baselines.

If the Commission includes downstream activities in the definition of Statewide approaches, it should also include P4P. However the Commission should develop protections to: (1) avoid implementors sweeping low-hanging fruit; (2) ensure an emphasis on IDSM; (3) and provide for contractor accountability. Additionally, it will be difficult to achieve substantial savings in hard to reach markets with P4P unless the metrics used to justify payment incorporate elements that are specific to serving hard to reach customers. These metrics should be developed in conjunction with stakeholders, such as the California Energy Efficiency Coordinating Committee (“CAECC”), or a separate working group like the Low Income Oversight Board (“LIOB”).

2. **Third-Party Programs**

**Question 18: Do you agree with the definition of “third-party” in this ruling? Why or why not?**

Yes, however the Commission should clarify that third-party programs are entirely downstream programs to avoid duplication with Statewide programs. Downstream programs should only include those that deliver products or services directly to end-use customers (e.g. mail-in rebates, building retrofits, and technical assistance). This will ensure there is clarity about the types of program activities that are subject to the Third Party rules.
Question 19: Is the general outline of the proposal in this ruling for third-party programs workable? Why or why not? Explain.

Both Option 1 and Option 2 are problematic for two reasons: (1) it is unclear how the activities under Third Party Programs would interface with activities under Statewide Programs in the same sector; and (2) it is unclear what role local government EE programs (e.g. CCAs, RENs, LGPs) would serve in a sector if it were bid out to a Third Party. The Commission should address the first challenge by adopting the proposed definition for Statewide Programs described in response to Questions 8 and 9 above while also limiting Third Party Programs to downstream (at the end-user level) efforts. This will create a clear delineation between what is Statewide and what is Third Party. The Commission should address the second challenge by adopting the proposals for local government EE programs described in response to Questions 2 and 3 above (e.g. designating CCAs as default PAs and RENs the option to elect the programs they administer). The Commission should adopt these proposals to provide clarity and ensure CCAs and other local government programs will not lose the right to deliver EE programs.

Option 1 is also problematic because there is no assurance that IOUs will actually engage meaningfully with Third Parties. IOUs may, for example, simply incorporate proposed ideas into their own portfolios in lieu of accepting bids. This distinction makes Option 2 MCE’s preferred approach, subject to resolution of the issues raised above, for Third Party Programs.

Question 20: Which third-party option (Option 1 or Option 2) do you prefer and why? Or would you prefer a different option entirely? If so, describe your preferred approach.

Local governments should be able to deliver comprehensive programs in their jurisdictions regardless of the approach adopted for IOUs and Third Parties (see the responses to
Questions 2 and 3 above). CCAs should be designated as default PAs in their service areas, RENs should be able to elect the programs they administer, and other local government EE programs should be preserved and coordinated under a Statewide lead as proposed in LGSEC’s comments to this Ruling. Third Parties should be precluded from delivering programs in a particular local government jurisdiction that are duplicative of the local government’s EE programs. This would encourage Third Parties to work through bilateral agreements to implement their programs within local government jurisdictions that run their own locally tailored programs.

MCE also proposes that the Public Sector be brought within the scope of local governments and away from IOUs. This organization of program activity is a more natural fit because local governments are embedded in the Public Sector. This could be overseen by the lead local government entity proposed in the LGSEC comments. That entity could help facilitate new local government capacity or solicit bids for implementation in areas that do not currently have a local government entity providing EE programs.

**Question 21: If you prefer Option 1 for third-party approaches, are there criteria that administrators should use for determining eligible program targets, sizes or budgets, or should this be determined in the course of formulating the Sector Business Plans?**

If the Commission pursues Option 1, these criteria should be determined in the course of formulating Business Plans. The Commission should allow latitude for different IOU PAs to manage it differently, while being mindful of the concern raised in response to Question 19.

As discussed above (in response to Questions 2, 3, and 20), CCAs and RENs should be able to enter into bilateral agreements with third party programs or design and implement their own programs in their own jurisdictions.
Question 22: If you prefer Option 2 for third-party approaches, would you limit the initial focus to the large commercial sector? Why or why not? Or suggest a different focus and rationale for it.

If the Commission pursues Option 2, it should start in sectors where the EE industry has capacity to provide the services that would be put out for bid. This could be accomplished by focusing on sectors that currently have a large proportion of savings delivered by third party implementors. As discussed above (in response to Questions 2, 3, and 20), CCAs and RENs should be able to enter into bilateral agreements with third party programs or design and implement their own programs in their own jurisdictions.

C. General Questions

Question 23: Is the sector business plan process, with utility, program administrator, and stakeholder collaboration, sufficient to inform the development of program designs and solicitation documents for the proposals herein?

Additional guidance from the Commission on program overlap and cost effectiveness would be helpful to focus Business Plan development (as discussed in response to Questions 1 and 2). Solicitation documents will be critical to both the Statewide and Third Party approaches. It is unclear whether the existing review boards are sufficient to provide oversight. This could be initiated and potentially resolved at the CAEECC but thus far participation has been composed primarily of parties to the proceeding with limited discussion from the broader stakeholder community. Additionally, the CAEECC is presently responding to a concern raised by the Commission’s Legal Division related to conflicts of interest when market actors participate, especially in the development of solicitation materials. MCE supports the CAEECC providing this oversight function when the conflict of interest issue is resolved and encourages the Commission to facilitate broader stakeholder participation.
Question 24: Are there any other elements or guidance needed from the Commission to ensure that high quality, high-value programs can be effectively implemented across the IOU service areas?

As proposed in the responses to questions above, the Commission should: (1) work to develop a statewide data platform (see response to Question 7); (2) designate CCAs as default administrators in their service areas and provide RENs the opportunity to elect the programs they provide (see response to Questions 2, 3, 19, and 20); and (3) invite a local government lead consistent with the proposal in LGSEC’s comments.

Question 25: Are there other criteria the Commission should use in determining which programs should be required to be competitively bid (e.g., because the IOU cost-effectiveness showings have dropped below a certain threshold, etc.)?

No, however the Commission should continue with the sector-based approach to program delivery, as opposed to a program-by-program approach. Discrete programs tend to create silos and the sector-based Business Plans with implementation strategies allow for more customized and comprehensive offerings.

Question 26: How might the CEC’s statewide benchmarking and disclosure regulations and program activities for commercial and multi-family buildings be reflected in the statewide and third-party program approaches?

The benchmarking and disclosure regulations and program activities should be: (1) implemented consistently; (2) have related data housed in a statewide database (see response to Question 7) with CalTF supporting standardization of savings claims; and (3) make related data available to other PAs to the extent possible. The statewide benchmarking data could help inform program design (e.g. implementation of AB 802 and setting existing conditions baselines).
Question 27: If you suggest that some or all of the proposals in this ruling be implemented, what is the appropriate timeframe and transition process (if any), and why?

As stated in response to Question 14, the Commission should order the implementation of the Statewide concept in the August decision to be reflected in Business Plans.

Question 28: If you have alternative proposals for statewide and third-party aspects of the energy efficiency program portfolios, please describe them in detail.

(See response to Question 24)

III. CONCLUSION

MCE thanks Commissioner Peterman and Administrative Law Judge Fitch for their thoughtful consideration of these comments.

Respectfully submitted,

/s/
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June 17, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


Rulemaking 13-11-005
(Filed November 14, 2013)

REPLY COMMENTS OF MARIN CLEAN ENERGY
TO RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE SEEKING INPUT ON APPROACHES FOR STATEWIDE AND THIRD-PARTY PROGRAMS

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Replied Comments of MCE to Administrative Law Judge Ruling Seeking Input on Approaches for Statewide and Third-Party Programs

Pursuant to the May 24, 2016 Ruling of Assigned Commissioner and Administrative Law Judge Seeking Input on Approaches for Statewide and Third-Party Programs (“Ruling”), Marin Clean Energy (“MCE”) respectfully submits the following reply comments. The Ruling called for reply comments to be filed on June 20, 2016.\(^1\) Administrative Law Judge Fitch granted an extension of time to file the reply comments to July 1, 2016.\(^2\)

I. INTRODUCTION

MCE agrees that changes to energy efficiency (“EE”) program administration are needed and supports many of the ideas advanced by other parties in opening comments. MCE supports the comments of several parties to limit the definition of Statewide programs to upstream (at the manufacturer level) and midstream (at the distributor or retailer level) activities. MCE also supports the recommendations that Third Party programs not displace local government EE programs.

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\(^1\) Ruling at p. 2.
MCE encourages the California Public Utilities Commission (“Commission”) to embrace the unique strengths of local governments under the Statewide and Third Party program structure. This includes (1) supporting local governments administering comprehensive programs; (2) allowing local government programs to coexist with Statewide and Third Party programs; (3) considering concerns of parties about Community Choice Aggregator (“CCA”) and Regional Energy Network (“REN”) program administrators (“PAs”) in the appropriate context; (4) empowering local governments to deliver all Zero-Net-Energy (“ZNE”) activities; (5) continuing to allow local tailoring of programs while authorizing a statewide market transformation entity; and (6) enhancing the role of local governments in compliance improvement.

MCE also recommends the Commission should implement several ideas that will improve EE programs. The Commission should: (1) ensure that the posited benefits of bidding out programs will materialize; (2) create an integrated statewide data platform; (3) consolidate workpaper development under the California Technical Forum (“CalTF”); and (4) avoid overly burdensome requirements for Business Plan filings.

II. THE COMMISSION SHOULD LIMIT STATEWIDE PROGRAMS TO MIDSTREAM AND UPSTREAM ACTIVITIES

The Commission should adopt MCE’s proposal that Statewide programs include upstream (at the manufacturer level) and midstream (at the distributor or retailer level) activities but not include downstream activities (at the customer or end-user level).3 Nine other parties including PAs, industry groups, and ratepayer advocates also proposed this distinction in their opening

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3 MCE Opening Comments at p. 10-12.
The Commission should incorporate this input and limit Statewide programs to upstream and midstream activities.

The Commission should avoid upstream and midstream incentives that preclude downstream activities that benefit from technical assistance. CLEAResult similarly expressed a concern that attempts to address measures at the upstream or midstream level will limit the ability to incorporate those measures in downstream programs. SCE is correct that a distributor model (midstream) can help small and medium customers cost-effectively. However, there should be no incentives in the distributor model for technologies that benefit from technical assistance to install and operate properly. Providing such incentives in the distributor model would preclude incentives or savings claims for those technologies in downstream activities. The lack of ability to claim savings would result in technical assistance negatively impacting the cost-effectiveness of those downstream activities. This disincentive would effectively preclude downstream programs providing technical assistance to customers for measures benefit from technical assistance. The Commission should avoid this result by only allowing upstream and midstream incentives in the Statewide programs for measures that do not benefit from technical assistance.

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4 Pacific Gas & Electric Company (“PG&E”) Opening Comments at p. 19; Southern California Gas Company (“SoCalGas”) at p. 20; The Utility Reform Network (“TURN”) at p. 3-4; City of Lancaster at p. 3-4; Bay Area Regional Energy Network (“BayREN”) Opening Comments at p. 1; California Energy Efficiency Industry Council (“CEEIC”) Opening Comments at p. 3; Ecology Action of Santa Cruz at p. 3, 6; Synergy Companies at p. 3; Natural Resources Defense Council (“NRDC”) at p. 7 (NRDC also included some cross-cutting activities in Statewide).

5 MCE Opening Comments at p. 12.

6 CLEAResult Opening Comments at p. 15-16.

7 Southern California Edison (“SCE”) Opening Comments at p. 16.
III. THE COMMISSION SHOULD EMBRACE THE UNIQUE STRENGTHS OF LOCAL GOVERNMENTS UNDER STATEWIDE AND THIRD PARTY PROGRAMS

A. CCAs and RENs should Be Able to Administer Comprehensive Programs

The Commission should designate CCAs as default PAs and RENs should be afforded a similar opportunity. MCE agrees with the City of Lancaster that the Commission preserve the right of CCAs to provide comprehensive programs because CCAs understand the needs of their communities and have statutory authority to administer programs.

MCE disagrees with the investor owned utilities (“IOUs”) proposals for CCAs and RENs to have a limited role in statewide programs. These limitations are contrary to Commission decisions articulating both that CCAs are PAs in the same sense that IOUs are PAs and that CCA programs are allowed to overlap with other programs. This is particularly relevant for the Third Party programs as discussed below in Section III.B.

B. The Commission should Allow Local Government EE Programs to Coexist with Statewide and Third Party Programs

MCE agrees with the parties that caution the Commission against applying the Statewide and Third Party rules equally to local government entities and IOUs. Some parties advocate for

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8 MCE Opening Comments at p. 4.
9 MCE Opening Comments at p. 4, 6-7.
10 City of Lancaster Opening Comments at p. 2-3.
11 SCE Opening Comments at p. 9 (asserting non-utility PA programs should not duplicate or overlap with statewide programs); PG&E Opening Comments at p. 23 (proposing CCAs and RENs run pilots that can be scaled up to local programs only if not adopted for statewide implementation).
12 D.14-01-033, Conclusion of Law 11 at p. 47.
13 D.14-01-033 at p. 36; D.14-10-046 at p. 120.
14 BayREN Opening Comments at p. 1; Center for Sustainable Energy (“CSE”) Opening Comments at p. 1, 4-5; SoCalREN at p. 2 (referring specifically to RENs); BlueGreen Alliance Opening Comments at p. 5 (supporting limitations on bidding requirements for local governments).
applying the rules equally,\textsuperscript{15} however this disregards the unique benefits provided by local
governments including innovation and an understanding of their communities.\textsuperscript{16}

MCE agrees with East Bay Energy Watch that the Statewide approach should support a
growing role for local governments to administer and implement EE and that local entities should
be able to select the third-party implementor in their area and not be precluded from offering
parallel or supplementary programs.\textsuperscript{17} While MCE agrees with CodeCycle that Statewide
implementors conducting downstream activities should work through RENs and CCAs,\textsuperscript{18} those
RENs and CCAs should not be subcontractors to the Statewide implementors. A REN or CCA
should have the ability to run their own programs or enter bilateral agreements with the statewide
implementor to deliver programs in the REN’s or CCA’s jurisdiction. Further, local governments
cannot be limited to an advisory role for Statewide programs as suggested by CEEIC.\textsuperscript{19} Local
government EE programs need to be able to implement elements from the statewide programs (\textit{e.g.}
financing options and Codes and Standards enforcement).

MCE also supports BayRENs proposal that Statewide Administrators be selected in a
competitive process from among IOUs, RENs, CCAs, and other non-IOU PAs.\textsuperscript{20} While this
process may be difficult to implement prior to submission of Business Plans, the Commission
could establish a periodic review of the designated lead Statewide Administrators.

\textsuperscript{15} See \textit{e.g.} San Diego Gas and Electric Company (“SDG&E”) Opening Comments at p. 20;
NRDC Opening Comments at p. 5.
\textsuperscript{16} MCE Opening Comments at p. 5-6.
\textsuperscript{17} Easy Bay Energy Watch Opening Comments at p. 1-2.
\textsuperscript{18} CodeCycle Opening Comments at p. 7.
\textsuperscript{19} CEEIC Opening Comments at p. 20.
\textsuperscript{20} BayREN Opening Comments at p. 1, 3.
C. Concerns about CCA and RENs are Overstated

MCE agrees with CLEAResult that CCAs and RENs should be involved in the design and implementation of Statewide and Third Party programs. However, MCE disagrees with CLEAResult that additional CCA and REN programs will create exceptions and compete in a way that prevents consistency, efficiency, and cost-effectiveness. Inconsistencies, inefficiencies, and challenges with cost-effectiveness are common challenges faced by every EE PA, even within a single IOU portfolio as identified in the Ruling. Additional CCA and REN programs do add complexity, however this is a healthy pressure that encourages interested stakeholders and the Commission to improve policies to address those challenges. For example, MCE has proposed to be the default PA in its service territory to avoid overlapping programs that lead to inefficiencies and challenges with cost-effectiveness.

MCE disagrees with National Association of Energy Service Companies’ (“NAESCO”) characterization of CCAs and RENs as having a “history of administrative cost overruns…” This characterization does not reflect the fact that both RENs and CCAs are running programs under specific Commission direction to fill gaps in IOU programs, address hard-to-reach markets, and test innovative approaches. Further, NAESCO’s recommendation that CCAs and RENs simply conduct outreach for Statewide programs in their areas, assumedly without attribution of savings, conflicts with NAESCO’s concern as it would reduce the cost-effectiveness of CCA and REN programs. MCE also disagrees that “RENS and CCAs should be held to very strict limits on

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21 CLEAResult Opening Comments at p. 10.
22 CLEAResult Opening Comments at p. 10.
23 Ruling at p. 9.
24 MCE Opening Comments at p. 4-6.
25 NAESCO Opening Comments at p. 4.
26 D.12-11-015 at p. 45.
27 NAESCO Opening Comments at p. 4.
any expenses they might incur in coordinating or engaging in statewide programs.” 28 If the
Commission adopts the definition of Statewide programs proposed above in Section II, the need
for coordination or engagement will be very limited.

D. ZNE Activity should Be Delivered by Local Governments

MCE agrees with BayREN that all ZNE activity should be performed by local government
etentities. 29 This leverages the local government nexus between EE programs and local building
departments developing and implementing ZNE and other building standards. Allowing a diverse
group of local governments to perform ZNE activities, as opposed to a single Statewide
implementor, also means that customers will have a tailored program that matches the unique
needs of their jurisdiction, including workforce readiness and climate variances.

E. The Commission should Preserve Local Tailoring and Delivery of Programs
Under a Statewide Market Transformation Entity

MCE supports a statewide market transformation entity that “would not replace resource
acquisition portfolio administration functions held by the utilities or supplant local activities.
Rather, this entity would need to work closely with utilities, CCAs, RENs, local governments, and
stakeholders to ensure that California leverages the power of its statewide market (the largest in
the United States) by deploying a limited portfolio of strategic, transformative initiatives.” 30
TURN also supports market transformation being administered on a statewide basis. 31 MCE finds
CSE’s distinctions between resource acquisition and market transformation illustrative. 32
However, the Commission should not limit the EE market transformation activities to the statewide
entity’s portfolio. It should encourage the statewide entity to also work with all PAs to incorporate

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28 NAESCO Opening Comments at p. 6.
29 BayREN Opening Comments at p. 6.
30 CSE Opening Comments at p. 7.
31 TURN Opening Comments at p. 3.
32 CSE Opening Comments at p. 9.
market transformation strategies into their portfolios that will support the statewide market transformation efforts.

F. The Commission should Enhance the Role of Local Governments in Compliance Improvement Efforts

MCE agrees with CEEIC, BayREN, and CodeCycle that changes are needed to enhance Compliance Improvement efforts. CEEIC is correct that a local entity is needed for codes and standards compliance improvement, and that entity should be a local government with close connections to building officials. MCE supports codes and standards advocacy moving to statewide administration with activities targeting enforcement and building officials remaining at the local level. MCE also supports CodeCycle’s thoughtful remarks about removing the role of Enforcement Assistance from the IOUs with a non-utility PA acting as the statewide lead for the Compliance Improvement Program. This lead should be a local government entity. MCE also supports CodeCycle’s proposal to explore pay-for-performance for Compliance Improvement. These changes to Compliance Improvement will help motivate greater rates of compliance and greater energy savings.

IV. THE COMMISSION SHOULD ENSURE THE POSITED BENEFITS OF BIDDING OUT WILL MATERIALIZE

MCE shares the concerns of CLEAResult and SDG&E that there is a lack of factual support that bidding out large portions of the portfolio will provide significant benefits. MCE disagrees

33 CEEIC Opening Comments at p. 6; BayREN Opening Comments at p. 3; CodeCycle Opening Comments at p. 3-7.
34 CEEIC Opening Comments at p. 6.
35 BayREN Opening Comments at p. 3-4.
36 CodeCycle Opening Comments at p. 3-4.
37 CodeCycle Opening Comments at p. 5-6.
38 MCE Opening Comments at p. 16.
39 CodeCycle Opening Comments at p. 6-7.
40 CLEAResult Opening Comments at p. 4-6; SDG&E Opening Comments at p. 7.
with CEEIC that bidding out will necessarily: (1) generate the highest value for ratepayers; (2) minimize risk of non-performance; (3) eliminate a structural conflict of interest for program delivery; or (4) increase the flow of ideas.\footnote{CEEIC Opening Comments at p. 13-14.} It is entirely possible that bidding out will not generate the highest value for ratepayers. For example, the winning implementor may have provided the most cost-competitive bid due to underfunding customer service. Non-performance is not necessarily minimized, especially for innovation or serving hard-to-reach and rural communities; both of these important features may be deprioritized by a statewide implementor because they are less cost-effective than other activities. The structural conflict of interest raised by CEEIC, that a PA will execute projects referred by internal PA staff over those that come from an external provider,\footnote{CEEIC Opening Comments at p. 14.} is a red herring. PAs are incentivized and motivated to deliver cost-effective savings regardless of the source of the lead for the project. Finally, the flow of ideas may be limited considering the winning bidders are market actors participating in a competitive market. Market actors have an advantage over their competitors when they possess good ideas (\textit{e.g.} trade secrets). The Commission should proceed cautiously and attempt to ensure the posited benefits of bidding will materialize.

\textbf{V. THE COMMISSION SHOULD ORDER THE CREATION OF AN INTEGRATED STATEWIDE DATA PLATFORM}

MCE agrees with the challenge of statewide implementors getting access to customer data from all IOUs.\footnote{CEEIC Opening Comments at p. 9.} MCE reiterates that an integrated statewide data platform is needed\footnote{MCE Opening Comments at p. 9-10.} and will help address the challenge raised by CEEIC.

\footnote{CEEIC Opening Comments at p. 9.}

\footnote{MCE Opening Comments at p. 9-10.}
VI. THE COMMISSION SHOULD CONSOLIDATE WORKPAPER DEVELOPMENT UNDER THE CALTF

MCE agrees with SCE and PG&E that the Commission should consolidate workpaper development under the CalTF.45

VII. THE COMMISSION SHOULD AVOID OVERLY-BURDENSOME REQUIREMENTS FOR THE BUSINESS PLAN FILINGS

MCE disagrees with the proposals from ORA and CLEAResult that everything in the Business Plan be either bid out or explicitly justified to keep in house.46 Requiring this demonstration in the Business Plan is overly burdensome and may unnecessarily clutter the document. Considering the lack of evidence supporting a move to bid out all programs discussed above in Section V, it will be difficult for PAs to make a showing that they will be more cost-effective than an unknown result. Additionally, such determinations are more appropriately addressed through changes in Commission policy based on a factual record and providing this substance in the Business Plan may substantially lengthen the document. MCE supports a Commission-led process to better understand the potential benefits of bidding out, but disagrees with that being addressed through Business Plan filings.

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45 SCE Opening Comments at p. 5; PG&E Opening Comments at p. 8.
46 CLEAResult at p. 13, 20.
VIII. CONCLUSION

MCE thanks Commissioner Peterman and Administrative Law Judge Fitch for their thoughtful consideration of these comments.

Respectfully submitted,

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July 1, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


Rulemaking 13-11-005
(Filed November 14, 2013)

COMMENTS OF MARIN CLEAN ENERGY
TO ADMINISTRATIVE LAW JUDGE’S RULING SEEKING COMMENT ON EVALUATION, MEASUREMENT, AND VERIFICATION AND ENERGY SAVINGS PERFORMANCE INCENTIVE ISSUES

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June 24, 2016
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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA  

Order Instituting Rulemaking Concerning Energy  
Efficiency Rolling Portfolios, Policies, Programs,  
Evaluation and Related Issues.  

Rulemaking 13-11-005  
(Filed November 14, 2013)  

COMMENTS OF MARIN CLEAN ENERGY  
TO ADMINISTRATIVE LAW JUDGE’S RULING SEEKING COMMENT ON  
EVALUATION, MEASUREMENT, AND VERIFICATION AND ENERGY SAVINGS  
PERFORMANCE INCENTIVE ISSUES  

Pursuant to the June 8, 2016 Administrative Law Judge’s Ruling Seeking Comment on  
Evaluation, Measurement, and Verification and Energy Savings performance Incentive Issues  
(“Ruling”), Marin Clean Energy (“MCE”) respectfully submits the following comments and  
responds to the specific questions included in the Ruling.  

I. INTRODUCTION  

MCE commends the California Public Utilities Commission (“Commission”) and Energy  
Division for their effort to identify necessary changes to Evaluation, Measurement, and  
Verification (“EM&V”) and the Energy Savings Performance Incentive (“ESPI”) in the context  
of implementing Assembly Bill (“AB”) 802 and Senate Bill (“SB”) 350. The White Paper  
Regarding Evaluation, Measurement & Verification and Energy Savings Performance Incentive  
Issues in 2016 and Beyond ("White Paper") attached to the Ruling presents numerous  
recommendations that will improve EM&V and ESPI.  

MCE generally supports the Energy Division’s proposals to increase EM&V funding.  
Some of this funding is needed to incorporate embedded Measurement and Verification  
(“M&V”) into program activity that utilizes an existing conditions baseline. Additional funding
is also needed for non-utility Program Administrators (“PAs”) due to their smaller budget and service area relative to investor-owned utility (“IOU”) PAs. The existing method for allocation of EM&V resources is based on a percentage of overall budget; thus a smaller budget, as is currently the case for non-IOU PAs, results in a smaller, and potentially insufficient, portion of the budget being available to perform the necessary EM&V activities.¹ The smaller service area also indicates that the statewide market studies provide little, if any, insight about market conditions and remaining energy efficiency potential for a non-IOU PA. MCE recommends the Commission provide Energy Division with the authority to resolve funding challenges for smaller PAs via a Tier 2 Advice Letter process. Those PAs should also be able to request a different allocation in their Applications.

MCE also supports Energy Division’s proposal to address the funding mechanisms and accounting processes for non-IOU PAs. In addition to adopting Energy Division’s proposed language, the Commission should specify an annually-recurring date for IOUs to disperse funds to non-IOU PAs. The Commission should also designate Energy Division as the appropriate entity to resolve disputes over amounts and timing of disbursements to non-IOU PAs.

II. MCE RESPONSES TO SPECIFIC QUESTIONS RELATED TO THE RULING

A. Questions on EM&V Topics:

Question 1: Priorities for EM&V: Should the EM&V priorities adopted in D.10-04-029 be revised? If so, why and how?

MCE offers no comment on this question at this time.

¹ The same rules for EM&V apply to all PAs including IOUs and CCAs. Decision 14-01-033, Conclusion of Law 14 at p. 47.
Question 2: Accountability for priorities: Are clarifications or changes needed in assignments of priorities to particular entities? Why or why not?

MCE offers no comment on this question at this time.

Question 3: Response to Legislation: Do Assembly Bill (AB) 802 or Senate Bill (SB) 350 create the need to reassign or rearrange responsible parties for achieving the priorities? Why or why not?

MCE offers no comment on this question at this time.

Question 4: Funding levels for EM&V: Is the overall EM&V funding level set at 4 percent of total budget sufficient to meet the EM&V priorities? Why or why not? If not, what funding level is justified and why?

MCE supports the Energy Division proposal to increase overall EM&V funding from 4% to 5% of the total budget.² It is important to provide additional funding for the embedded M&V activities that PAs will undertake to comply with AB 802 and SB 350. These embedded activities are critical to verifying program savings against an existing conditions baseline and may help reduce overall EM&V expenditures in the long-run.

MCE also recommends providing Energy Division the authority to allow flexibility in allocating EM&V funding to PAs with smaller budgets, including enabling ED to exceed the percentage-based allocation. The proposed percentage may not be sufficient for non-IOU PAs to lead their own EM&V work. For example, MCE’s existing portfolio would result in a range of annual EM&V funding between $21,416 and $27,761.³ This amount is likely insufficient for either a single EM&V study or for embedding M&V in program activities. As a point of

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³ This example uses MCE’s currently authorized budget of $1,586,347 per D.16-05-004 and assumes a 5% set aside for EM&V and a range of 27%-35% as the portion of the set aside available for the PA-led activities.
comparison, the total EM&V budget for 2013-2105 was more than $62 million, while the budget just for Local Government Partnership programs was $1.1 million. MCE recommends the Commission delegate authority to Energy Division to authorize a non-IOU PA to exceed the cap for particular EM&V activities proposed via a Tier 2 Advice Letter. Non-IOU PAs should also be encouraged to request the appropriate level of EM&V funds in their Applications.

**Question 5: Is the current funding split appropriately between the right entities to meet the EM&V priorities and fulfill the assigned roles and responsibilities?**

MCE generally supports Energy Division’s proposal to increase the portion of EM&V funds available for PA-led activities. However, the higher proposed portion of 35% may not be sufficient for non-IOU PAs. It is likely that MCE’s annual budget will be lower than the $30 million used in the illustrative example provided in Figure 4 in the White Paper. MCE will provide an updated Business Plan, with a gradually increasing annual budget that is likely to range from approximately $10 million to $20 million across the 10 year planning horizon. It follows that MCE would have approximately $175,000 to $350,000 annually for MCE-led EM&V activities based on a 35% proportion. This is insufficient to conduct market studies, evaluate comprehensive programs, and support the embedded analysis necessary for the contemplated pay for performance and metered-based savings approaches under AB 802. Non-IOU PAs may have very small budgets relative to IOU PAs and may require a larger portion of funds for PA-led EM&V activities. To resolve this challenge, the Commission should delegate authority to the Energy Division to adjust the proportion of EM&V funding for non-IOU PAs for

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6 It also appears that Figure 4 is based on a 40% portion for PA-led activities, whereas the Energy Division proposed a 35% portion in the body of the White Paper. White Paper at p. 9-10.
particular EM&V activities proposed via Tier 2 Advice Letter. Non-IOU PAs should also be encouraged to request the appropriate level of EM&V funds in their Applications.

All PAs should benefit from markets studies that provide useful insights for program design. PAs and Commission staff are both responsible for the market assessment EM&V priority, including assessing the potential for remaining energy savings and monitoring market conditions that affect program design. However, statewide studies (e.g. the Residential Appliance Saturation Survey and the Commercial End-Use Survey) have very limited insights for non-IOU PAs due to their need to cover a large and varied geographic range and minimize regional differences for the sake of consistency. Market assessments and analysis need to provide insights on more granular basis than statewide or regional. The Commission should consider providing additional resources to support more granular market studies.

One potential approach to achieve more granular market studies would be to include multiple levels of granularity in a single study. A statewide study could analyze and make findings relevant to each PA’s service area then roll up the data to provide statewide findings.

Question 5(a): Are the funding mechanisms and accounting processes clear for non-utility program administrators to get the necessary funds in their accounts?

No; currently PG&E is declining to transfer EM&V funds to MCE without an order of the Commission stating the exact amount and date for transfer. MCE supports Energy Division’s proposal that “IOU administrators shall distribute their portion of the evaluation budget to non-IOU program administrators based at the same rate as those programs appear in their portfolio (based on budget allocation, not energy savings).” The Commission should incorporate this

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7 White Paper a p. 1-2, 4-5.
8 White Paper at p. 9.
language in an ordering paragraph and include an annually-recurring date (e.g. January 1) for the timing of the distribution.

The Commission should further specify that Energy Division is designated as the appropriate entity to resolve any disputes over the amount or timing of EM&V fund transfers from IOUs to non-IOU PAs. This authority should include the ability of Energy Division to determine the appropriate amount and timing of EM&V fund transfers from an IOU to any non-IOU PA without a Commission vote.

Question 5(b): Will the funds available after distribution be sufficient to meet the priorities and fulfill the assigned roles and responsibilities?

No; see answer to Question 4.

Question 6: Schedules and timing: Are there any necessary changes in the schedule for EM&V to meet new priorities in AB 802 and/or SB 350 or in the rolling portfolio regulatory process? Explain.

MCE offers no comment on this question at this time.

Question 7: Collaborative process: Are there any necessary changes in the collaborative process for EM&V as described in D.10-04-029 to meet the priorities or improve efficiency with other coordinating entities?

MCE offers no comment on this question at this time.
B. Questions on ESPI Topics:

Question 8: The paper suggests five high level issue areas as a way to group the estimation of portfolio savings. Comment on the appropriateness of this approach or if there is a better way to capture the overall portfolio achievements (e.g., by collapsing the number of measures or some other method).

MCE offers no comment on this question at this time.

Question 9: Do the modified ESPI metrics strike the right balance between flexibility and specificity, to allow for process improvements while still making the scoring process predictable and clear? Why or why not?

MCE offers no comment on this question at this time.

Question 10: As we move forward in a post-AB 802 era, is there a more useful way to weight the savings estimates for different categories of savings, other than the historic distinction between “deemed” and “custom” projects and measures?

MCE offers no comment on this question at this time.

Question 11: Are there additional metrics that would be helpful to inform program administrators’ efforts and effectiveness in administering the ex ante review process?

MCE offers no comment on this question at this time.

Question 12: Is the proposed timing and structure of feedback adequate to allow program administrators to make timely mid-course adjustments to their program designs, savings estimates, and implementation processes? Why or why not?

MCE offers no comment on this question at this time.
III. CONCLUSION

MCE thanks Commissioner Peterman and Administrative Law Judge Fitch for their thoughtful consideration of these comments.

Respectfully submitted,

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


Rulemaking 13-11-005  
(Filed November 14, 2013)

REPLY COMMENTS OF MARIN CLEAN ENERGY  
TO ADMINISTRATIVE LAW JUDGE’S RULING SEEKING COMMENT ON EVALUATION, MEASUREMENT, AND VERIFICATION AND ENERGY SAVINGS PERFORMANCE INCENTIVE ISSUES

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July 1, 2016
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REPLY COMMENTS OF MARIN CLEAN ENERGY
TO ADMINISTRATIVE LAW JUDGE’S RULING SEEKING COMMENT ON EVALUATION, MEASUREMENT, AND VERIFICATION AND ENERGY SAVINGS PERFORMANCE INCENTIVE ISSUES

Pursuant to the June 8, 2016 Administrative Law Judge’s Ruling Seeking Comment on Evaluation, Measurement, and Verification and Energy Savings performance Incentive Issues (“Ruling”), Marin Clean Energy (“MCE”) respectfully submits the following reply comments.

I. INTRODUCTION

MCE responds to several parties’ remarks related to the White Paper Regarding Evaluation, Measurement & Verification and Energy Savings Performance Incentive Issues in 2016 and Beyond (“White Paper”) attached to the Ruling. MCE supports the proposed changes to provide non-investor owned utility (“IOU”) program administrators (“PAs”) access to Evaluation, Measurement, & Verification (“EM&V”) funds. The Commission should rely on the actual portfolio budgets of not-IOU PAs in establishing the dollar value for those PAs’ EM&V budgets. The Commission should avoid an administratively burdensome invoicing process by ordering IOUs to make annual transfers of EM&V budgets to non-IOU PAs. The Commission should take steps to ensure evaluators are versed in the differences among IOUs, Regional Energy Networks (“RENs”), and Community Choice Aggregators (“CCAs”). Finally, the
Commission should adopt several recommendations made by the California Energy Industry Counsel (“CEEIC”) to improve EM&V.

II. THE COMMISSION SHOULD FACILITATE APPROPRIATE TREATMENT OF NON-IOU PAS FOR EM&V ACTIVITIES

MCE agrees with the Office of Ratepayer Advocates (“ORA”) that non-IOU PAs should participate in EM&V with the same rights and responsibilities as IOU PAs. The California Public Utilities Code and the Commission have recognized this right and obligation for CCAs.

A. The Commission should Establish Appropriate Funding Rules

MCE experienced the same challenge the Bay Area Regional Energy Network (“BayREN”) faced in using program resources to support an EM&V study of MCE’s programs without receiving a specific, Commission directed budget allocation for EM&V. MCE supports the Commission’s efforts to ensure non-IOU PAs receive adequate funding for EM&V activities.

Pacific Gas and Electric Company’s (“PG&E”) proposed allocation of EM&V funds should not be used to establish the dollar value of funds available to non-IOU PAs. Energy Division included an illustrative table demonstrating the application of the higher proposed portion of EM&V funding (i.e. from 27% to 40%) for PA-led activities. MCE agrees with PG&E that the higher allocation of 40% for PA-led EM&V should be adopted. However, PG&E provided a table in their comments similar to the table in the White Paper that assumes

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1 ORA Opening Comments at p. 10.
2 Cal. Pub. Util. Code § 381.1(b): “All audit and reporting requirements established by the commission pursuant to Section 381 and other statutes shall apply to the parties chosen as administrators under this section.”
3 D.14-01-033, Conclusion of Law 14, at p. 47.
4 BayREN Opening Comments at p. 2-3.
5 Ruling at p. 2.
6 PG&E Opening Comments at p. 8-9.
7 White Paper at p. 10.
8 PG&E Opening Comments at p. 9.
MCE’s portfolio will represent 3% and the RENs’ portfolios will each represent 2% of the entire EE budget.\(^9\) PG&E also proposes that EM&V funds be allocated to the RENs and MCE as shown in their table.\(^10\) It appears that PG&E simply used the same percentages that were included, for illustrative purposes, in the White Paper.\(^11\) The Commission should use non-IOU PAs’ actual budgets to determine the appropriate dollar value for non-IOU EM&V budgets. The Commission should not rely on the projected 2%-3% portion of the overall portfolio included in the White Paper or in comments on the Ruling. MCE still supports the Commission providing Energy Division flexibility to modify EM&V allocations for small PAs.\(^12\)

MCE disagrees with PG&E that non-utility PAs should be required to submit invoices to the relevant IOU for reimbursement of EM&V funds.\(^13\) The Commission, and parties, should endeavor to eliminate unnecessary administrative burdens such as invoicing for EM&V expenditures. The Commission should order the IOUs to simply transfer the authorized amount\(^14\) on a date certain each year (i.e. January 1).\(^15\) Under this approach, unspent EM&V funds would be treated the same way as other unspent funds and the administrative burden associated with invoicing is avoided.

**B. The Commission should Ensure Evaluators are Appropriately Prepared**

MCE supports BayRENs recommendation that evaluators be versed on differences between RENs and IOUs.\(^16\) The evaluators should also be versed in differences between CCAs, RENs, and IOUs. For example, BayREN is correct that RENs and CCAs were not assigned cost-

\(^9\) PG&E Opening Comments at p. 9.
\(^10\) PG&E Opening Comments at p. 8-9.
\(^12\) MCE Opening Comments at p. 3-4.
\(^13\) PG&E Opening Comments at p. 10.
\(^14\) Calculated by the IOU using the Commission-designated percentage allocation.
\(^15\) MCE Opening Comments at p. 5-6.
\(^16\) BayREN Opening Comments at p. 3.
effectiveness thresholds when initially approved in Decision 12-11-015.\textsuperscript{17} MCE supports BayREN’s assertion that RENs should be evaluated using the criteria upon which they were approved.\textsuperscript{18}

MCE also adds, for clarity, that CCAs were assigned cost-effectiveness requirements similar to the IOU requirement since Decision 12-11-015.\textsuperscript{19} MCE filed an application before the Commission in October 2015 that includes a more cost-effective portfolio of programs.\textsuperscript{20} The Commission held a pre-hearing conference on the application but has not taken any further action.

III. THE COMMISSION SHOULD ADOPT SEVERAL RECOMMENDATIONS TO IMPROVE EM&V

MCE supports several recommendations made by the CEEIC including: (1) an update to the White Paper to articulate how \textit{ex ante} will work with normalized metered energy consumption where the key driver is \textit{ex post} review;\textsuperscript{21} (2) incorporation of energy consumption into market assessments;\textsuperscript{22} and (3) incorporation of Industry Standard Practice studies into market assessments.\textsuperscript{23} The Commission should adopt these recommendations to improve expectations related to \textit{ex ante} and \textit{ex post} work and improve the quality of market assessments.

\textsuperscript{17} BayREN Opening Comments at p. 3-5.
\textsuperscript{18} BayREN Opening Comments at p. 3-5.
\textsuperscript{19} D.14-01-033, Ordering Paragraph 3 at p. 50.
\textsuperscript{20} Application 15-10-014.
\textsuperscript{21} CEEIC Opening Comments at p. 2.
\textsuperscript{22} CEEIC Opening Comments at p. 3.
\textsuperscript{23} CEEIC Opening Comments at p. 2-5.
IV. CONCLUSION

MCE thanks Commissioner Peterman and Administrative Law Judge Fitch for their thoughtful consideration of these comments.

Respectfully submitted,

/s/
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July 1, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Create a
Consistent Regulatory Framework for the
Guidance, Planning, and Evaluation of Integrated
Distributed Energy Resources.

Rulemaking 14-10-003
(Filed October 2, 2014)

OPENING COMMENTS OF MARIN CLEAN ENERGY
ON THE FINAL CONSENSUS REPORT OF THE INTEGRATED DISTRIBUTED
ENERGY RESOURCES COST-EFFECTIVENESS WORKING GROUP

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June 21, 2016
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OPENING COMMENTS OF MARIN CLEAN ENERGY
ON THE FINAL CONSENSUS REPORT OF THE INTEGRATED DISTRIBUTED ENERGY RESOURCES COST-EFFECTIVENESS WORKING GROUP

I. INTRODUCTION

Pursuant to the directions set forth in the Administrative Law Judge’s Ruling issued on February 29, 2016, Marin Clean Energy (“MCE”) respectfully submits the following comments to the Final Report of the IDER Working Group (“Final Report”) filed by the Southern California Edison Company (“SCE”) on May 31, 2016. MCE commends the Working Group for acknowledging the need to align cost-effectiveness principles with statewide environmental goals. MCE also encourages the Working Group to strive for simplicity, wherever possible, in future phases of this proceeding.

II. THE USE OF COMPUTER SIMULATIONS SHOULD BE FURTHER SPECIFIED

MCE agrees with the short-term recommendations made by the Working Group, but note that the use of “computer simulation” ¹ is a fairly broad recommendation that should be further refined. The report indicated that computer simulation is an acceptable alternative “when data-

based studies are too costly,”\textsuperscript{2} but did not specify any other circumstances where using computer simulation would be acceptable. Additional guidance could help parties determine when it is appropriate to use computer simulations instead of data-based studies. If computer simulations are encouraged in general, a sensitivity analysis to the assumptions should potentially be built into the model to help parties determine whether or not using real data would be necessary to develop cost-effectiveness metrics.

III. \textbf{THE ALIGNMENT BETWEEN STATE ENVIRONMENTAL POLICY GOALS AND COST EFFECTIVENESS IS HIGHLY ENCOURAGING}

MCE agrees with draft list of Phase 3 issues, in particular with aligning the cost-effectiveness framework with California’s environmental goals. MCE especially supports the recommendation to establish a new societal cost-effectiveness test.\textsuperscript{3}

MCE recommends simplifying cost-effectiveness tests by establishing one carbon-based societal test, and removing many of the existing frameworks for analyzing cost-effectiveness, particularly costs and benefits which are overly granular, possibly unnecessary, and conflict between resources. This recommendation does not eliminate the need to incorporate these costs into resource planning. Rather, these costs should not be the basis for the cost-effectiveness tests and simplifying based on carbon would serve to align the tests with the state’s environmental policy goals. This may also offer administrative relief and address concerns related to the incorporation of appropriate load shapes.

\textsuperscript{2} Final Report at page 2.
\textsuperscript{3} Final Report at page 3.
Using this approach would eliminate the need to add various costs and benefits that are specific to different types of resources, and allow consistent accounting across different types of resources.

IV. COST EFFECTIVENESS SHOULD BE EXAMINED AT THE PORTFOLIO LEVEL

MCE appreciates the Working Group’s effort in examining all the Standard Practice Manual (“SPM”) tests and developing a better understanding of the usefulness of each SPM perspective. MCE is also encouraged that this issue will be further examined in Phase 3 to determine the level of granularity at which cost-effectiveness should be measured. MCE supports measuring cost-effectiveness at the portfolio level, meaning one test applied across all Program Administrators, and looks forward to participating to refine the definition of various terms.

V. CONCLUSION

MCE thanks Assigned Commissioner Florio and Assigned Administrative Law Judge Hymes for the opportunity to provide these comments on the Ruling.

Respectfully submitted,

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June 21, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2015 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast

Application 14-05-024
(Filed May 30, 2014)

(U 39 E)

Expedited Application of Pacific Gas and Electric Company Pursuant to the Commission’s Approved Energy Resource Recovery Account (ERRA) Trigger Mechanism

Application 14-08-023
(Filed August 29, 2014)

CONSOLIDATED

(U 39 E)

MARI N CLEAN ENERGY NOTICE OF EX PARTE COMMUNICATION

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June 22, 2016
Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2015 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast

Application 14-05-024 (Filed May 30, 2014)

Expedited Application of Pacific Gas and Electric Company Pursuant to the Commission’s Approved Energy Resource Recovery Account (ERRA) Trigger Mechanism

Application 14-08-023 (Filed August 29, 2014)

CONSOLIDATED

MARIN CLEAN ENERGY NOTICE OF EX PARTE COMMUNICATION

Pursuant to Rule 8.4 of the Commission’s Rules of Practice and Procedure, Marin Clean Energy (“MCE”) hereby gives notice of the following ex parte communication. The communication was initiated by MCE and occurred on June 22, 2016 at approximately 2:00pm over the phone with the California Public Utilities Commission offices. The communication was between Shalini Swaroop, MCE Regulatory and Legislative Counsel, Jeremy Waen, MCE Senior Regulatory Analyst, and Sepideh Khosrowjah, Advisor to Commissioner Florio’s Office, and lasted approximately 10 minutes.

In the meeting, MCE provided a summary of its joint comments on the workshop report that were filed on June 20, 2016. MCE emphasized the need for another phase in the current ERRA proceeding to address issues of fairness with the Power Charge Indifference Adjustment (“PCIA”). MCE also noted that while a working group is a step in the right direction, the Commission should establish a proceeding to examine PCIA methodological issues in order to ensure Commission oversight.
Respectfully submitted,

/s/ Catalina Murphy

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June 22, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Assess Peak
Electricity Usage Patterns and Consider
Appropriate Time Periods for Future Time-of-Use
Rates and Energy Resource Contract Payments.

Rulemaking 15-12-012
(Filed December 17, 2015)

OPENING COMMENTS OF MARIN CLEAN ENERGY
ON THE SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND
ASSIGNED ADMINISTRATIVE LAW JUDGE

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OPENING COMMENTS OF MARIN CLEAN ENERGY
ON THE SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND
ASSIGNED ADMINISTRATIVE LAW JUDGE

I. INTRODUCTION

Pursuant to the directions set forth in the Scoping Memo and Ruling of Assigned Commissioner and Assigned Administrative Law Judge (“Ruling”) issued on May 3, 2016, Marin Clean Energy (“MCE”) respectfully submits the following comments on the Ruling. The comments of MCE primarily focus on the need to minimize customer confusion about Time-of-Use (“TOU”) rates that may result in customers opting out of Community Choice Aggregation (“CCA”) services.

MCE is the first operational CCA in California, and there are three other CCAs presently serving customers, including Sonoma Clean Power (“SCP”), Lancaster Choice Energy (“LCE”), and CleanPower SF. Customers in the service areas of MCE, SCP, and CleanPower SF receive electricity generation service from the CCAs, while continuing to receive distribution, transmission, and billing services from Pacific Gas and Electric Company (“PG&E”). Customers served by LCE receive their non-generation services from Southern California Edison (“SCE”).

MCE currently serves approximately 175,000 customer accounts in Marin County, unincorporated Napa County, and the cities of Richmond, San Pablo, El Cerrito, and Benicia. Later
this year, MCE will start providing generation service to the rest of Napa County, and the cities of Walnut Creek and Lafayette. The inclusion of these new cities will increase MCE’s total customer accounts to approximately 275,000.

II. RESPONSES OF MCE

MCE responds to specific questions related to customer acceptance and competitive neutrality, and reserves the right to respond to other questions in reply comments.

A. Methodology for Setting TOU Periods

1. The OIR, and parties commenting on the OIR, suggested the following data to support the development of a methodology for identifying target TOU periods. Which data are relevant to setting TOU periods from a grid perspective?

In addition to developing hourly metered load, net load, usage data, and wholesale supply data disaggregated by location, customer class, and type of generation, MCE thinks it is also important to develop and disaggregate these types of data by CCA service areas. These data can help the Investor Owned Utilities (“IOUs”) and the CCAs to identify customer acceptance needs in these areas to minimize potential opt-outs from CCA services due to confusion.

B. Other Considerations for Designing TOU Rates

1. What principles should the Commission use in setting the TOU periods? Specifically, what factors would lead the Commission to adopt TOU periods that depart from the TOU periods that result from your recommended methodology? Possible principles and factors may include, but may not be limited to, those included in the Residential Rates Design OIR.

The Commission should ensure that competitive neutrality is maintained amongst different LSEs when setting the TOU periods. Additionally, the Commission should strive to minimize
customer confusion, especially those who are served by CCAs, to prevent customer opt-outs from CCA service when implementing these significant structural changes to rates.

III. CONCLUSION

MCE thanks Assigned Commissioner Picker and Assigned Administrative Law Judge McKinney for the opportunity to provide these comments on the Ruling.

Respectfully submitted,

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June 27, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Assess Peak
Electricity Usage Patterns and Consider
Appropriate Time Periods for Future Time-of-Use
Rates and Energy Resource Contract Payments.

Rulemaking 15-12-012
(Filed December 17, 2015)

MOTION FOR PARTY STATUS OF
MARIN CLEAN ENERGY

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June 27, 2016
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Assess Peak Electricity Usage Patterns and Consider Appropriate Time Periods for Future Time-of-Use Rates and Energy Resource Contract Payments.

Rulemaking 15-12-012
(Filed December 17, 2015)

MOTION FOR PARTY STATUS OF
MARIN CLEAN ENERGY

I. INTRODUCTION

Marin Clean Energy ("MCE") respectfully moves for party status in this proceeding in accordance with Section 1.4 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure.

II. INTEREST IN PROCEEDING R.15-12-012

As the Investor Owned Utilities ("IOUs") begin to set Time-of-Use ("TOU") rate periods, these changes will inevitably impact Community Choice Aggregation ("CCA") customers. MCE is the first operational CCA in California, and has a vested interest in maintaining competitive neutrality in the rate setting process. MCE would like to join this proceeding to ensure that the transition to TOU rate periods will not result in customer confusion, which could cause customers to opt out of CCA service.
III. NOTICE

Service of notices, orders, and other correspondence in this proceeding should be directed to MCE at the address set forth below:

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If granted party status in this proceeding, MCE requests email-only service in this proceeding.

IV. CONCLUSION

MCE's participation in this proceeding will not prejudice any party and will not delay the schedule or broaden the scope of the issues in the proceeding. For the reasons stated above, MCE respectfully requests that the Commission grant this Motion for Party Status filing.

To obtain a copy of this notice, please notify Catalina Murphy at (415) 464-6014 or via email at cmurphy@mcecleanenergy.org.

Respectfully submitted,

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June 27, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2017 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue and Reconciliation

Application 16-06-003
(Filed June 1, 2016)

PROTEST OF MARIN CLEAN ENERGY TO APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR 2017 ENERGY RESOURCE RECOVERY ACCOUNT AND GENERATION NON-BYPASSABLE CHARGES FORECAST AND GREENHOUSE GAS FORECAST REVENUE AND RECONCILIATION

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July 6, 2016
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I. INTRODUCTION

In accordance with Rule 2.6 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Marin Clean Energy (“MCE”), submits the following protest to the APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) FOR 2017 ENERGY RESOURCE RECOVERY ACCOUNT AND GENERATION NON-BYPASSABLE CHARGES FORECAST AND GREENHOUSE GAS FORECAST REVENUE AND RECONCILIATION, dated June 1, 2016 (“Application”). This Protest is timely filed within the standard 30-day period which ends on July 5th. MCE protests this Application primarily on the grounds that Pacific Gas and Electric Company’s (“PG&E”) proposal would create a significant anti-competitive advantage for PG&E over other Load-Serving Entities within its service territory, especially in regards to Community Choice Aggregators (“CCAs”),
through a tremendous increase in costs collected through the Power Charge Indifference Adjustment ("PCIA").

II. BACKGROUND

MCE is the first operational CCA within California. Currently MCE is one of three operational CCAs within PG&E’s service territory, the other two being Sonoma Clean Power Authority ("SCPA") and Clean Power San Francisco ("CPSF"). MCE currently provides electricity generation services to approximately 170,000 customer accounts within seventeen distinct communities. 1 MCE is underway with enrolling seven additional communities which will add approximately 80,000 more customer accounts bringing the total number of customer accounts served by MCE Clean Energy to upwards of 250,000. 2 MCE’s customers receive generation services from MCE while continuing to receive transmission, distribution, billing and other services from PG&E. Because of this split in electricity service provisions, CCA customers are commonly referred to as “unbundled” electricity customers.

Customers that choose to participate in MCE’s CCA service are subjected to several non-bypassable charges ("NBC") including the PCIA and the Cost Allocation Mechanism ("CAM"). The revenue requests presented by PG&E within its ERRA proceedings ultimately determine how large these NBCs will be for CCA customers and thereby how little of a price margin CCAs will have to compete with PG&E’s bundled electricity generation service rates. MCE’s interest

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1 Communities currently participating in MCE’s CCA include: the City of Belvedere, City of Benicia, Town of Corte Madera, City of El Cerrito, Town of Fairfax, City of Larkspur, City of Mill Valley, County of Marin, County of Napa, City of Novato, City of Richmond, Town of Ross, Town of San Anselmo, City of San Pablo, City of San Rafael, City of Sausalito, Town of Tiburon.

2 MCE us currently going through the steps of enrolling the incorporated cities and towns within Napa County along with the Cities of Lafayette and Walnut Creek, both of which are located in Contra Costa County.
in this Application is to ensure that the revenue requirements proposed through the ERRA process are fairly determined and weighed against the Commission’s mandate by California legislature “to facilitate the consideration, development, and implementation of community choice aggregation programs, to foster fair competition, and to protect against cross-subsidization by ratepayers.”

Based upon MCE’s preliminary analysis of PG&E’s request within the instant Application, PG&E is seeking the largest cost recovery in history from departing load customers via the PCIA. Based on the requested increase in the PCIA of up to 30% effective January 1, 2017 on top of the 95% increase that was approved by the Commission effective January 1, 2016, MCE anticipates PCIA rates would reach never before seen levels (approximately 3¢/kWh for residential customers). This potential change to the PCIA would have material impacts on the competitive operations of both existing and emerging CCAs throughout PG&E’s service area.

III. GROUNDS FOR PROTEST

A. Proposed PCIA Rate Increases Are Unreasonable

MCE protests the instant Application because it would create significant competitive advantages for PG&E over other LSEs in its service territory, especially in regards to CCAs, by substantially increasing the amount of revenue recovered from departing load customers via the PCIA. Based upon MCE’s initial analysis the PCIA, if PG&E’s funding request were granted

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4 In addition to the three operational CCAs (MCE, SCPA, & CPSF) numerous other communities within PG&E’s service area are very seriously pursuing the formation of CCA programs including: the San Mateo peninsula region (Peninsula Clean Energy), the Silicon Valley region (Silicon Valley Clean Energy), the Monterey-Santa Cruz-San Benito region (Monterey Bay Community Power), the City of Davis and Yolo County, Alameda County region, Mendocino County, Lake County, Humboldt County, and the San Luis Obispo-Santa Barbara-Ventura region.
unaltered, it would increase the PCIA rate for residential customers participating in CCA programs that have a 2012 customer vintage by 24%. Following the nearly doubling of the PCIA rate in PG&E’s last ERRA cycle, this additional 24% increase would result in PCIA charges represent approximately 29% of the generation-side charges on MCE’s customers’ bills, meaning MCE must procure power at less than 71% of PG&E’s generation costs to remain competitive. The PCIA in PG&E’s service territory is anti-competitive for CCAs and is fundamentally unfair for CCA customers, particular small usage customers such as residential, small commercial and especially CARE-eligible customers.

Previously the Commission has found it reasonable to cap departing load charges for DA customers under the Cost Responsibility Surcharge (“CRS”) to 2.7¢/kWh in order to preserve the economic viability of DA programs.\(^5\) If the Commission does not dismiss this Application outright, then the issue of applying a cap to the PCIA rate should be considered within the scope of this proceeding so that the economic viability of CCA programs can be similarly protected.

**B. Green Tariff Shared Renewables Participant Load Complicates the PCIA Calculus**

PG&E presents for the first time within an ERRA proceeding a forecast for load departure due to its Green Tariff Shared Renewables (“GTSR”) program. Participants in this program are subjected to stranded cost recovery under the PCIA, like CCA customers. Unlike CCA departing load, PG&E does not appear to factor GTSR load growth into its PCIA revenue requirement forecast which will skew the results. MCE believes this and other matters relating to the GTSR load forecasting must be thoroughly examined within the instant proceedings record before PG&E’s 2017 ERRA can be deemed reasonable by the Commission.

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\(^5\) See Decision D.02-11-022 at 118 and Ordering Paragraph 19.
C. Retirement of the Negative Indifferent Balance for Early Departing Load Would Violate the Ratepayer Indifference Principle

In D.15-12-022, the Commission ordered PG&E to request authority from the Commission if PG&E wished to retire its billion-dollar negative indifference balance. In its application, PG&E seeks Commission authorization “to retire the DWR PCIA negative indifference amount…” Importantly, PG&E refers to the PCIA as the “DWR PCIA,” and hangs the entirety of its legal argument on the mistaken view that “[b]ecause the last DWR contract has expired, it is now appropriate to retire the negative indifference amount consistent with the Commission’s earlier determination.” As summarized below, PG&E has an anachronistic and wrong view of the Commission’s earlier determinations, and PG&E’s proposal runs contrary to the Commission’s longstanding and fundamental “bundled customer indifference” standard. As such, MCE objects to PG&E’s proposal and urges the Commission to reject the proposal.

1. Negative Indifference Must Offset Positive Indifference

Boiled down to its core elements, the issue raised by PG&E’s proposal is as follows: is it proper and consistent with the bundled customer indifference standard to continue to apply negative indifference amounts as an offset against positive indifference amounts? Contrary to PG&E’s farsighted view of Commission precedent, the Commission has said repeatedly, and in particular in recent years, that the answer is “yes.” With respect to the PCIA and its antecedent cost responsibility surcharge (“CRS”) elements, the Commission has repeatedly stated that “[t]he threshold policy issue underlying cost responsibility surcharges is to ensure that remaining bundled ratepayers remain indifferent to stranded costs left by the departing customers.”

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6 See D.15-12-022 at 23; Ordering Paragraph 5.
7 PG&E Application at 11.
8 Ibid.
9 D.08-09-012 at 10 (referencing D.04-12-048; Finding of Fact 28).
“Indifference” is defined as the scenario in which “bundled customers should be no worse off, nor should they be any better off as a result of customers choosing alternative energy suppliers (ESP, CCA, POU or customer generation).”\textsuperscript{10} In order to ensure that bundled customers are not “better off” because of the departure of CCA customers, the Commission has repeatedly (and at times stridently) insisted that the investor-owned utilities’ accrued negative indifference amount balances be used to offset positive indifference amounts.

2. \textit{PG&E Has Repeatedly Attempted to Use the Ratepayer Indifference Principle to Their Competitive Advantage}

PG&E has a long history of trying to buck, resist and ignore this Commission directive. At seemingly every juncture in the storied history of the CRS, PG&E has tried to eliminate the mitigating effect of negative CRS elements, whether it is the PCIA or other charges. In response, the Commission has repeatedly rejected PG&E’s efforts, principally because PG&E’s proposals undermine and violate the overarching rule governing the CRS – the bundled customer indifference policy. It is important to note that PG&E’s view of the “regulatory history of negative indifference amounts” is stuck in time.\textsuperscript{11} Inexplicably, PG&E fails to address Commission decisions on this issue that occurred after 2007, most important of which is D.08-09-012, which is the Commission’s foremost decision on CRS, as further described below. The following is offered as a brief rebuttal to PG&E’s anachronistic view of “regulatory history.”

3. \textit{Regulatory History Does Not Support PG&E’s Proposal}

\textbf{a. D.06-07-030 & D.07-05-005}

The use of negative PCIA balances was first addressed by the Commission in D.06-07-030, in which the Commission expressly held that “[t]he PCIA component of DA CRS may be a

\textsuperscript{10} D.08-09-012 at 10 (emphasis added).
\textsuperscript{11} See PG&E Prepared Testimony at 10-6 to 10-7.
negative number in those instances in which ongoing competition transition charge (CTC) is larger than the indifference charge, *so that overall indifference is maintained.*”\(^{12}\) The Commission addressed a similar issue in D.07-05-005, which was issued in response to a petition for modification filed by PG&E. PG&E argued that negative CRS amounts should not be carried-forward to be used to offset positive CRS amounts. In D.07-05-005, the Commission rejected PG&E’s proposed modification, expressly stating that “PG&E’s proposed modification would not result in bundled customer indifference.”\(^{13}\) The Commission affirmed that “in order to maintain indifference, both positive and negative indifference effects must still be tracked, with the negative amounts offsetting positive amounts.”\(^{14}\)

\(b.\) **D.08-09-012**

Seemingly ignorant of the Commission’s past directives, PG&E again tried to upend these directives in R.06-02-013 – the proceeding that examined, among other things, how the indifference amount should be calculated with the inclusion of so-called “new world” generation resources. In that proceeding, as it had done repeatedly in past proceedings, PG&E advanced a proposal that, if approved, would have resulted in a negative indifference element not being used to offset a positive indifference element. In D.08-09-012, the Commission again flatly rejected PG&E’s proposal. In that decision, the Commission first affirmed the ongoing relevance of D.07-05-005 with respect to the principle of bundled customer indifference, stating that “[w]hile the Commission’s reasoning in [D.07-05-005] applied to the existing DA/DL CRS calculations, the basic principles directly relate to handling of negative charges in this proceeding….”\(^{15}\) As it had previously concluded in D.07-05-005, the Commission likewise concluded in D.08-09-012

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\(^{12}\) D.06-07-030; Ordering Paragraph 7 (emphasis added).

\(^{13}\) D.07-05-005 at 19.

\(^{14}\) D.07-05-005 at 19.

\(^{15}\) D.08-09-012 at 48.
that “[i]t is similarly necessary that negative indifference amounts be carried over for use in subsequent years to maintain bundled customer indifference. The total portfolio approach is consistent with this principle. PG&E’s separate approach is not.”

c. **D.11-12-018**

Unaffected by the Commission’s repeated rejections, PG&E again advanced a proposal in R.07-05-025 (PCIA Reforms) that would have had the effect of eviscerating negative indifference amounts. In D.11-12-018, the Commission again rejected PG&E’s proposal, recounting the numerous times in which the Commission had rejected PG&E’s “similar proposals” and reiterating its enduring view that negative amounts must be used offset positive amounts. Although apparently PG&E would prefer to ignore the Commission’s views with respect to negative indifference amounts, it should not be allowed to do so.

4. **The Duration of Negative Indifference Amounts Are Not Tied to Expiration of DWR Contracts**

One final thing should be noted about PG&E’s view of history. PG&E states repeatedly that “[r]etirement is warranted at this time because the underlying DWR contracts have all expired or been terminated and thus, the requirement to preserve customer indifference for this portfolio of resources is no longer applicable.” In this regard, in particular, PG&E’s view

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16 D.08-09-012 at 48.

17 See D.11-12-018 at 40 (“Consistent with our prior review of similar proposals as noted in the above-referenced decisions, we find no basis to approve PG&E’s proposed modification here. … PG&E’s proposal would violate the bundled customer indifference principle by recognizing only the cost to bundled customers…while not recognizing the offsetting benefit accruing to bundled customers….”).

18 PG&E Prepared Testimony at 10-8. See also PG&E Prepared Testimony at 10-6 (“The last remaining DWR contract eligible for stranded cost recovery pursuant to D.06-07-030 expired on April 15, 2015, which effectively ended the need for stranded cost recovery.”) and PG&E Application at 11 (“Because the last DWR contract has expired, it is now appropriate to retire the negative indifference amount consistent with the Commission’s earlier determination.”).
would have been greatly informed if PG&E had consulted and relied on D.08-09-012. D.08-09-012 directly addressed this issue, as follows:

[T]he current provisions related to negative indifference charge carryover for use in subsequent years should be continued once DWR power charge recovery ends. Again, this is necessary to maintain bundled customer indifference. D.07-05-005 did state that at the expiration of the DWR contract term, the applicability of the indifference requirement would also expire. That made sense in the context of that decision, since it was the recovery of the DWR contracts themselves that necessitated the total portfolio approach and bundled customer indifference as it relates to such recovery. With the expiration of the DWR contract term, none of this would have been necessary, and the applicability of the indifference requirement as it relates to DWR power charge cost recovery should also have ended. However, with the inclusion of D.04-12-048 cost recovery as part of the total portfolio, the reasons cited in D.07-05-005, as discussed above as to why negative indifference charge carryover is appropriate, apply even after expiration of the DWR contract term. That reasoning is as valid for cost recovery related to the ongoing CTC and D.04-12-048 charges as it was for cost recovery related to the ongoing CTC and DWR power charges.\(^{19}\)

**D. PG&E’s Application Should Be Rejected as Presented**

For all of these reasons, PG&E’s Application should be rejected. If the Commission does not reject PG&E’s Application outright, then it should proceed with great caution paying extremely close attention to the impacts that PG&E’s request would have on CCAs, CCA customers, and participants of unbundled electricity services at large. Bundled and unbundled ratepayers alike are entitled to fair and reasonable electricity rates and PG&E’s latest request is simply both unfair and unreasonable. Additionally close scrutiny is needed to consider the impacts of GTSR program participation on the ERRA PCIA calculation process. Lastly the Commission should uphold prior policy precedent by rejecting PG&E’s request to retire the negative indifference balance for early vintages of departing load.

\(^{19}\) D.08-09-012 at 51-52. See also D.08-09-012 at 99; Finding of Fact 28 (“With the inclusion of D.04-12-048 cost recovery as part of the total portfolio, the reasons cited in D.07-05-005 as to why negative indifference charge carryover is appropriate apply even after expiration of the DWR contract term.”).
IV. RULE 2.6(D) COMPLIANCE

A. Proposed Category

The instant proceeding is appropriately categorized at “ratesetting.”

B. Need for Hearing

Due to the significant anti-competitive impacts on CCAs resulting from specific NBC funding requests within the PG&E’s proposal, evidentiary hearings will be necessary. The factual record will need to be explored in detail to determine whether these proposed cost recoveries are accurate and reasonable.

C. Issues to Be Considered

If the Commission continues to consider PG&E’s proposal as currently presented, then the Commission should closely evaluate and weigh the appropriateness of these funding requests in light of the unfair and anti-competitive impacts that they will have on departing load customers, especially CCA customers.

D. Proposed Schedule

No revisions to the proposed schedule are presented at this time.

V. SERVICE LIST

Filings and other communications to this proceeding should be served on the following individuals:

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VI. CONCLUSION

MCE thanks Commissioner Mike Florio and Assigned Administrative Law Judge Pat Tsen for their thoughtful consideration of this protest and the issues detailed herein.

Respectfully submitted,

/s/ Jeremy Waen

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July 6, 2016
July 7, 2016

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 16-IEPR-1
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Comments on Workshop on Methodological Improvements to the Energy Demand Forecast for 2017 and Beyond

Marin Clean Energy (MCE) hereby submits its comments on the workshop on methodological improvements to the energy demand forecast. MCE’s comments focus on the need to disaggregate various types of demand forecast at CCA service area level.

I. Introduction

MCE is the first of the four operating CCAs in California. The other three are Sonoma Clean Power, Lancaster Clean Energy, and CleanPower SF. One more CCA, Peninsula Clean Power in San Mateo County, will begin its customer enrollment in September 2016. Eighteen more counties have invested resources into exploring the potential of forming their own CCAs or joining nearby CCAs.

MCE currently serves over 171,000 customers throughout Marin County, unincorporated Napa County, and the cities of Richmond, San Pablo, El Cerrito, and Benicia. Later this year, MCE will begin customer enrollment in cities and town of Napa County, and cities of Walnut Creek and Lafayette in Contra Costa County. Inclusion of new communities will increase MCE’s customer accounts to approximately 250,000.

MCE is a not-for-profit public agency formed to reduce greenhouse gas emissions by providing communities within its service area the choice to purchase alternative energy products to PG&E’s product. Within MCE’s service area, customers may choose one of three energy products: PG&E’s 27% renewable energy,
MCE’s “Light Green” 56% renewable energy, and MCE’s “Deep Green” 100% renewable energy.

Currently, approximately 80% of customers within MCE’s service area receive generation services from MCE. In addition to electricity generation products, MCE also administers a Net Energy Metering program, and various pilots that explore the viability of controlled charging, demand response, and battery storage.

II. Incorporating CCAs into demand forecast to appropriately reflect their impacts on the electricity generation system

Although the original statute that enabled CCA did not obligate CCAs to reduce Greenhouse Gas (GHG) emissions, all operational and emerging CCAs have adopted the mission to deploy more renewable energy resources to combat climate change. Understanding that various distributed energy resources can have impacts on grid reliability, MCE believes that future demand forecast should be disaggregated to reflect the impacts of resources procured by CCAs whenever appropriate. The disaggregation would help CCAs better plan for resource procurement and tariff design that would optimize the deployment of various distributed energy resources.

As existing CCAs continue to grow and new CCAs are expected to come online, they can implement policies and deploy clean energy technologies to support the State’s long-term GHG goals, and increase the resiliency of the energy system to climate impacts. Almost all operational CCAs are providing, or exploring, customer-facing demand-side programs in addition to electricity generation services. For example, MCE has been administering an energy efficiency program approved by the CPUC since 2013 to supplement Pacific Gas and Electric Company’s (PG&E) program. Sonoma Clean Power is exploring a controlled charging pilot, and Lancaster Choice Energy has partnered with the Antelope Valley Transit Authority to replace their existing fleet with electric buses.

As these analyses can impact future energy policies that would affect resource procurement and customer program design for CCAs, MCE urges the CEC to include various CCAs and their programs in applicable forecasts. As the CEC staff develops the demand forecast, MCE is willing to collaborate with the staff to provide appropriate information for various analyses.

III. Conclusion

MCE respectfully requests that the CEC include CCA electricity load and other customer programs into the IEPR. MCE looks forward to robust participation in the 2016 IEPR Update and thanks CEC staff for addressing this important issue.
Sincerely,

C.C. Song
Regulatory Analyst
July 7, 2016

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 16-RGO-01
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Comments on Regional Energy Market Governance Structure Draft Proposal

Marin Clean Energy (MCE) hereby submits its comments on the Regional Energy Market Governance Structure Draft Proposal, which was made available on the Energy Commission’s website on June 9, 2016. MCE’s comments focus on the need to ensure that the proposed governance structure will adequately incorporate Community Choice Aggregators’ input.

I. Introduction

MCE is the first of four operating Community Choice Aggregators (CCAs) in California.\(^1\) MCE is a not-for-profit public agency formed to reduce greenhouse gas emissions by providing communities within its service area the choice to purchase alternative energy products to PG&E’s product.

MCE supports the environmental and economic goals of regionalization, including reducing Greenhouse Gas (GHG) emissions, creating benefits for ratepayers, and increasing the reliability and integration of renewable resources. In addition, MCE urges the Energy Commission to ensure that the concerns of CCA customers will be adequately represented in the governance structure of the Regional Independent System Operator (Regional ISO).

\(^1\) MCE currently serves over 171,000 customers throughout Marin County, unincorporated Napa County, and the cities of Richmond, San Pablo, El Cerrito, and Benicia. Later this year, MCE will begin customer enrollment in cities and towns of Napa County, and cities of Walnut Creek and Lafayette in Contra Costa County. Inclusion of new communities will increase MCE’s customer accounts to approximately 250,000.
II. The Unique Role of CCAs

CCAs are unique among load serving entities in California. Unlike investor-owned utilities (IOUs), CCAs are not regulated by the CPUC. Rather, the governing boards of the CCAs set the long-term integrated resource planning for the CCA and approves the contracts of the CCA to achieve those planning goals. Furthermore, unlike IOUs and publicly-owned utilities (POUs), CCAs do not perform transmission or distribution functions, but are involved in a wide range of utility-scale, small scale and behind-the-meter offerings. As a result, it is essential to ensure fairness when evaluating policies that may have disparate impacts on generation, transmission, distribution and distributed energy functions.

CCAs are also unique in their pursuit of (1) environmental and greenhouse gas goals, and (2) local procurement goals, including local distributed energy goals. To date, all operating CCAs have the objective of exceeding California's renewables goals and reducing greenhouse gas emissions. Furthermore, all operating CCAs have the objective of procuring locally.

Furthermore, CCA service in California is expanding rapidly. Since MCE's launch in 2010, three other CCAs have launched operations: Sonoma Clean Power, Lancaster Clean Energy, and CleanPowerSF. One more CCA, Peninsula Clean Power in San Mateo County, will begin its customer enrollment in September 2016. Eighteen more counties have invested resources in exploring the potential of forming their own CCAs or joining nearby CCAs.

III. The Development of the Regional ISO Governance Should Include CCA Representation

Due to the unique role of CCAs described above and the scale of CCAs in California, it is important to appropriately include CCA representatives in the various aspects of governance for the Regional ISO.

a. Transitional Committee

The proposed Transitional Committee on Governance will provide important structural direction to the governance of the Regional ISO. MCE recommends CCA have a role in the Transitional Committee process as follows:

- Provide a clear role for CCA in the selection process for the Transitional Committee, such as creating a CCA sector subcommittee with voting rights for the selection of Transitional Committee members; and
- Ensure CCA stakeholder input to the Transitional Committee to ensure governance structure treats CCA fairly.
b. Regional ISO Board

The composition of the Regional ISO Board will be important to ensure a competitively neutral playing field for CCA. MCE recommends CCA have a role in the nomination and/or approval process for members of the Regional ISO Board, such as creating a CCA sector subcommittee with voting rights for the selection of Regional ISO Board members.

c. Body of State Regulators

The proposed Body of State Regulators will provide important policy direction on matters of collective state interest. Given the unique role of CCAs, particularly that their long-term integrated resource planning is not under the jurisdiction of the California regulator, MCE recommends that the Body of State Regulators include one CCA representative in a non-voting, advisory capacity.

IV. Conclusion

MCE thanks the Energy Commission, the California Independent System Operator and the Governor's Office for the opportunity to provide comments on the proposed principles for governance of a regional grid operator. MCE looks forward to actively participating in future proceeding activities related to regionalization.

Sincerely,

Elizabeth Kelly
General Counsel
Marin Clean Energy
ekelly@mcecleanenergy.org
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Assess Peak
Electricity Usage Patterns and Consider
Appropriate Time Periods for Future Time-of-Use
Rates and Energy Resource Contract Payments.

Rulemaking 15-12-012
(Filed December 17, 2015)

MOTION FOR PARTY STATUS OF
 MARIN CLEAN ENERGY

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July 8, 2016
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MOTION FOR PARTY STATUS OF
MARIN CLEAN ENERGY

I. INTRODUCTION

Marin Clean Energy (“MCE”) respectfully moves for party status in this proceeding in accordance with Section 1.4 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure.

II. INTEREST IN PROCEEDING R.15-12-012

MCE is the first operational Community Choice Aggregator (“CCA”) in California, and has a vested interest in ensuring that the Time-of-Use (“TOU”) rate design principles would result in accurate reflection of actual and near-term expected electricity supply and demand. In particular, TOU periods will impact the resource procurement and customer program designs of CCAs, and MCE should have an opportunity to review the data and underlying assumptions on which the analysis of the California Independent System Operator’s (“CAISO”) recommendations are based.

In addition, different CCA service areas have load profiles that differ from the larger service territories of the Investor Owned Utilities (“IOUs”). The TOU rate design principle, as
stated in the Order Instituting Rulemaking (“OIR”),¹ should “reflect actual and near-term expected electricity supply and demand.” MCE believes that this principle should also be considered through the lens of CCA service areas, and future TOU time periods should be designed with the growth of CCAs² in mind.

III. NOTICE

Service of notices, orders, and other correspondence in this proceeding should be directed to MCE at the address set forth below:

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If granted party status in this proceeding, MCE requests email-only service in this proceeding.

IV. CONCLUSION

MCE's participation in this proceeding will not prejudice any party and will not delay the schedule or broaden the scope of the issues in the proceeding. For the reasons stated above, MCE respectfully requests that the Commission grant this Motion for Party Status filing.

¹ OIR at page 2.
² In addition to MCE, Sonoma Clean Power (“SCP”), Lancaster Choice Energy (“LCE”), and CleanPower SF have also begun serving customers respectively in 2014, 2015, and 2016. Peninsula Clean Energy is expected to enroll customers in San Mateo County later in 2016, and there are 18 distinctive counties that are exploring the potential to form their own CCAs or join nearby CCAs.
To obtain a copy of this notice, please notify Catalina Murphy at (415) 464-6014 or via email at cmurphy@mcecleanenergy.org.

Respectfully submitted,

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July 8, 2016
MOTION FOR LEAVE TO FILE CONFIDENTIAL COMMENTS OF MARIN CLEAN ENERGY UNDER SEAL; [PROPOSED] ORDER

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, Marin Clean Energy (“MCE”) hereby submits this Motion for Leave to File Confidential Comments of MCE Under Seal; [Proposed] Order, in the above-referenced docket. The Confidential version of MCE’s comments is filed pursuant to applicable Commission precedent in D.11-07-028, D.08-04-023, and D.06-06-066 related to filing and service of protected materials. A public version has also been filed in this docket, and served to all parties.
MCE’s comments contain privacy information related to Track 2 demonstration projects. MCE has redacted customer-specific data consistent with the requirements in the California Public Records Act (including Cal. Gov't Code §§ 6254.16, 6255(a)). Thus, MCE respectfully requests the Commission grant this motion, so that market-sensitive information may remain protected under seal.

Respectfully submitted,

/s/ Shalini Swaroop

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July 22, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


Rulemaking 14-08-013
(Filed August 14, 2014)

And Related Matters

Application 15-07-002
Application 15-07-003
Application 15-07-006

(NOT CONSOLIDATED)

In the Matter of the Application of PacifiCorp (U901E) Setting Forth its Distribution Resource Plan Pursuant to Public Utilities Code Section 769.

Application 15-07-005
(Filed July 1, 2015)

And Related Matters.

Application No. 15-07-007
Application No. 15-07-008

PROPOSED ORDER

Having reviewed the Motion of Marin Clean Energy (“MCE”) for an order to file a confidential version of its comments, and for good cause appearing,

IT IS HEREBY ORDERED that the Confidential Comments of MCE may be filed under seal.

Dated: ____________________ , at San Francisco, California.

By: _________________________
Administrative Law Judge
## Comments of Marin Clean Energy

### On the Joint Assigned Commissioner and Administrative Law Judge’s Ruling Regarding Track 2 Demonstration Projects

**Public Version**
(Section III. B. Confidential)

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July 22, 2016
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies,
Procedures and Rules for Development of
Distribution Resources Plans Pursuant to Public
Utilities Code Section 769.

Rulemaking 14-08-013
(Filed August 14, 2014)

And Related Matters

Application 15-07-002
Application 15-07-003
Application 15-07-006

(NOT CONSOLIDATED)

In the Matter of the Application of PacifiCorp
(U901E) Setting Forth its Distribution
Resource Plan Pursuant to Public Utilities
Code Section 769.

Application 15-07-005
(Filed July 1, 2015)

Application No. 15-07-007
Application No. 15-07-008

COMMENTS OF MARIN CLEAN ENERGY
ON THE JOINT ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW
JUDGE’S RULING REGARDING TRACK 2 DEMONSTRATION PROJECTS

I. INTRODUCTION

Pursuant to the directions set forth in the Joint Assigned Commissioner and Administrative
Law Judge’s Ruling Regarding Track 2 Demonstration Projects (“Ruling”) issued on May 17,
2016, Marin Clean Energy (“MCE”) respectfully submits the following comments on the Ruling.

MCE is the first operational Community Choice Aggregator (“CCA”) in California, and its
mission is to address climate change by reducing energy related greenhouse gas emissions. MCE
currently serves approximately 175,000 customer accounts in Marin County, unincorporated Napa

MCE Comments on Track 2 Demonstration Projects
County, and the cities of Richmond, San Pablo, El Cerrito, and Benicia and will begin serving cities and towns of Napa County and cities of Walnut Creek and Lafayette in Contra Costa County in 2016. The inclusion of these communities will increase MCE’s total customer accounts to approximately 250,000.

II. BACKGROUND

As a Load-Serving Entity (“LSE”), MCE has several local programs that aim to increase the adoption of Distributed Energy Resources (“DER”). MCE currently administers $1.2 million in ratepayer funded energy efficiency (EE) programs, focusing on hard to reach customer segments. MCE supports local renewable energy development through the Feed-in Tariff (“FIT”) program, which purchases energy from 2 MW of local rooftop solar, with another 10 MW currently under construction. MCE has partnered with many third-party technology providers to administer pilot projects to help facilitate market deployment. These projects include Electric Vehicles (“EV”), Demand Response (“DR”), and Energy Storage (“ES”). Besides achieving the goal of reducing energy related greenhouse gas emissions, MCE also has an interest in deploying DERs in a manner that would reduce or defer grid upgrade needs to facilitate the integration of local renewable energy and to benefit ratepayers.

As a not-for-profit public agency, MCE has a unique perspective to offer on challenges that serve as barriers to DER implementation. MCE looks forward to working with the Commission, utilities, and other non-utility parties to develop DER deployment best practices to minimize the environmental impact of energy consumption in California.

Due to privacy concerns, MCE requests for the second section of these comments to be kept confidential pursuant to Commission Rule 11.4(A).
III. COMMENTS ON DEMONSTRATION PROJECTS

A. Center for Sustainable Energy Integrated Community and Grid Planning Project

MCE recommends the approval of the Integrated Community and Grid Planning Project, a collaborative project proposed by the City and County of San Francisco’s Department of Environment and the Center for Sustainable Energy. The project seeks to develop best practices that can streamline the sharing of data and planning tools between Investor Owned Utilities (“IOUs”) and local governments that can lead to better alignment of local policies and consumer benefits.

MCE is supportive of the project because it can demonstrate how DER deployment can support local government planning goals, enable consumer choice, and develop local targeted incentives, rates and programs to encourage DER deployment at optimal locations. This proposal is especially important in light of the growth of CCAs in California, and all of them so far have adopted the goal of deploying more renewable energy and energy efficiency technologies to reduce Greenhouse Gas (“GHG”) emissions. Given that San Francisco recently launched its own CCA, CleanPowerSF, this demonstration project has the potential to help IOUs and CCAs statewide to understand various implementation opportunities and challenges related to DER deployment.

Confidential Begins.

MCE Comments on Track 2 Demonstration Projects
IV. CONCLUSION

MCE thanks Assigned Commissioner Picker and Assigned Administrative Law Judge Allen for the opportunity to provide these comments on the Ruling.

Respectfully submitted,

/s/ C.C. Song
July 22, 2016

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company for Approval of its Electric Vehicle Infrastructure and Education Program

A.15-02-009
(Filed Feb. 9, 2015)

OPENING BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY (U39E), ALLIANCE OF AUTOMOBILE MANUFACTURERS, AMERICAN HONDA MOTOR CO., INC., CENTER FOR SUSTAINABLE ENERGY, COALITION OF CALIFORNIA UTILITY EMPLOYEES, GREENLOTS, THE GREENLINING INSTITUTE, MARIN CLEAN ENERGY, NATURAL RESOURCES DEFENSE COUNCIL, PLUG IN AMERICA, GENERAL MOTORS LLC, SIERRA CLUB, AND SONOMA CLEAN POWER

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SONOMA CLEAN POWER AUTHORITY

June 17, 2016
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company for Approval of its Electric Vehicle Infrastructure and Education Program

A.15-02-009
(Filed Feb. 9, 2015)

OPENING BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY (U39E), ALLIANCE OF AUTOMOBILE MANUFACTURERS, AMERICAN HONDA MOTOR CO., INC., CENTER FOR SUSTAINABLE ENERGY, COALITION OF CALIFORNIA UTILITY EMPLOYEES, GREENLOTS, THE GREENLINING INSTITUTE, MARIN CLEAN ENERGY, NATURAL RESOURCES DEFENSE COUNCIL, PLUG IN AMERICA, GENERAL MOTORS LLC, SIERRA CLUB, AND SONOMA CLEAN POWER

Pursuant to Article 12 and Rule 1.8 (d) of the Commission’s Rules of Practice and Procedure, Settling Parties hereby file their opening brief requesting that the Commission adopt the “Charge Smart and Save” Settlement Agreement in A.15-02-009 (“Charge Smart and Save” or “Settlement Agreement”).\(^1\) PG&E has been authorized by the other Settling Parties to file and serve this Opening Brief on their behalf.

I. INTRODUCTION, BACKGROUND AND PROCEDURAL HISTORY


Charge Smart and Save is the last of three multi-party electric vehicle (“EV”) infrastructure settlements to be considered by the California Public Utilities Commission.\(^2\)

\(^1\) Settling Parties are Pacific Gas and Electric Company (“PG&E”), Alliance of Automobile Manufacturers, American Honda Motor Co., Inc., Center for Sustainable Energy, Coalition of California Utility Employees (“CCUE”), Greenlots, The Greenlining Institute (“Greenlining”), Marin Clean Energy, Natural Resources Defense Council (“NRDC”), Plug In America, General Motors LLC, Sierra Club, and Sonoma Clean Power Authority. PG&E has been authorized by the other Settling Parties to file and serve this Opening Brief on their behalf.

\(^2\) See JOINT SETTLING PARTIES-1, designated as such per direction of Administrative Law
These settlements embody the Commission’s leadership role in supporting ambitious initiatives by California Governor Jerry Brown and the California Legislature to electrify California’s transportation sector and reduce petroleum use, in order to achieve California’s climate, air quality and equity goals.\(^3\)

If the Charge Smart and Save settlement is approved, it will add approximately 7,600 EV charging stations and infrastructure at approximately 760 sites to the 3,500 charging stations at 350 sites already approved by the Commission to support San Diego Gas & Electric Company’s customers, and the 1,500 charging stations at approximately 150 to 300 sites approved by the Commission to support Southern California Edison Company’s customers.\(^4\)

Consistent with the Commission’s findings that EV customers at workplaces and multi-unit dwellings (MUDs) are underserved, Charge Smart and Save will deploy EV charging stations at workplaces, MUDs and other public places.\(^5\) Consistent with California’s goals to expand the availability of EVs to underserved low and moderate income customers, Charge Smart and Save also will seek to deploy 15-20 percent of its EV charging stations and infrastructure in Disadvantaged Communities – fifty percent more than under either SCE’s or SDG&E’s EV programs.\(^6\)

Although these Phase 1 utility EV programs represent only a small initial proportion of the EV charging stations needed to achieve California’s Zero Emissions Vehicle (ZEV) goals,

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3/ R.13-11-007 and D.14-12-079, cited in D.16-01-045, pp. 5-6; see also, D.16-01-023, pp. 7-8, Finding of Fact 21, p. 54.


6/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, p. 3; Section 15, p. 12.
they represent a potential global model for collaboration among utilities, EV equipment suppliers, site hosts, EV drivers and utility customers to advance transportation electrification, using clean energy to replace petroleum use and its associated greenhouse gas (GHG) emissions.7/

The Charge Smart and Save settlement is proposed and supported by 13 parties in this proceeding and is modeled (in many cases verbatim) after both the SDG&E and SCE settlements as modified by the Commission in D.16-01-045 and D.16-01-023.8/ While taking into account the guidance the Commission has provided in its SCE and SDG&E decisions, the Charge Smart and Save settlement contains distinguishing elements that now can be tested in the real world under the Commission’s Phase 1 program, including:9/

- Time-of-use price signals seen by EV drivers as an alternative to hourly dynamic pricing as a simpler means of providing foundational load management, upon which more sophisticated forms of load management will be evaluated.

- DC Fast Charging stations, which are needed to accelerate the market and key to eliminating range anxiety, especially for pure battery electric vehicles, and evaluating the use of DC Fast Charging as a means to increase access to the use of electricity as a transportation fuel.

- An increased targeted deployment of charging stations in Disadvantaged Communities of 15 percent, a 50 percent increase relative to the SDG&E and SCE programs, with a stretch goal of an additional 5 percent (20 percent total) of sites located in Disadvantaged and low-income communities.

7/ Charge Smart and Save’s 7, 600 charging stations represent a small proportion of the need for EV charging stations to support 400,000 EVs in PG&E’s service territory by 2020, even assuming a higher “attach rate” than the 4-to-1 “attach rate” assumed by PG&E in its testimony (Compare, Exh. PGE-2, p.2-4, fn.4, with Exh. TURN-50 to 56.

8/ E.g, compare, D.16-01-045, Attachment 2, to Exh. JOINT SETTLING PARTIES-1. Also compare, D.16-01-023 to Exh. JOINT SETTLING PARTIES-1. Although the SCE settlement and decision use indirect financial rebates instead of direct utility investment to fund EV charging stations, both the SCE and Charge Smart and Save settlements include other substantially similar program elements.

9/ Exh. JOINT SETTLING PARTIES-1, Joint Motion for Adoption of Settlement Agreement, pp. 5-6.
• An additional $5 million to fund complementary and innovative programs to further the goals of the Charge Ahead California Initiative (Senate Bill 1275, De León) and increase access to clean transportation in disadvantaged and low- and moderate-income communities.

• A unique collaboration with Community Choice Aggregators (CCAs) to enhance both the deployment of EV equipment and services, and the usage rate of electricity as a transportation fuel.

The cost of Charge Smart and Save to PG&E customers is reasonable and consistent with the Commission’s approval of other EV settlements.\textsuperscript{10}\ The cost and scale of Charge Smart and Save are slightly smaller, on a proportional per-customer basis, than the SDG&E EV program as modified by the Commission in D.16-01-045.\textsuperscript{11} The highest annual cost to typical residential customers of Charge Smart and Save is approximately $2.64, four percent less than the $2.75 per year highest annual cost approved as reasonable by the Commission in its SDG&E decision.\textsuperscript{12}

The Charge Smart and Save settlement includes 18 modifications to PG&E’s original EV infrastructure proposals, in order to resolve issues raised by the Settling Parties.\textsuperscript{13} These modifications include, most prominently, reducing the size and cost of PG&E’s original EV proposal by 75 percent, from $654 million to $160 million and proportional to the size and cost of the SDG&E approved program.\textsuperscript{14}

In addition, Charge Smart and Save includes modifications to PG&E’s original proposal that make key changes that the Commission ordered to SDG&E’s and SCE’s original EV

\textsuperscript{10} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, p. 4.

\textsuperscript{11} Joint Reply Comments of Settling Parties, A.15-02-009, April 18, 2016, p. 3 (SDG&E’s VGI program cost per number of customer accounts is $32.14 ($45 million/1.4 million) and its number of charging stations per number of customer accounts is 0.0025(3,500/1.4 million). Charge Smart and Save program cost per number of PG&E customer accounts is $29.63 ($160 million/5.4 million) and its number of charging stations per number of residential customers is 0.0014 (7,600/5.4 million.).

\textsuperscript{12} Exh. JOINT SETTLING PARTIES-1, \textit{Joint Motion For Adoption of Settlement}, p. 22; D.16-01-045, p. 129.

\textsuperscript{13} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, p. 3.

\textsuperscript{14} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, p. 4; see also fn. 11, supra.
proposals. For example, Charge Smart and Save incorporates similar requirements regarding competitively-neutral choice of technology, load management, education and outreach, the role of an advisory committee, and data assessment and reporting requirements. Likewise, Charge Smart and Save includes the same utility ownership and site host choice of technology provisions that parties supported and the Commission approved in the modified SDG&E settlement in D.16-01-045. For example, the relevant Charge Smart and Save terms are nearly identical to the SDG&E decision:

- Under Charge Smart and Save, “site hosts or their designees, can choose the [TOU] Rate-to-Host option, which allows site hosts to offer a similar [TOU] rate or other pricing option to EV charging customers” (Language pulled from D.16-01-045 with “VGI” replaced with “TOU”).
- Likewise, as in D.16-01-045, Charge Smart and Save, “allows the site host or its designee to select the EVSE and related EV charging services from preapproved vendors, which allows third party providers to offer competing EVSE and EV charging services.”
- Likewise, as in D.16-01-045, under Charge Smart and Save, “the site host would have to pay a participation fee which will help offset a portion of EV charging infrastructure costs.” (Also consistent with D.16-01-045, revenue from the Charge Smart and Save participation payment will be used to defray operation and maintenance expenses.)

In addition to the elements of Charge Smart and Save that are comparable to or provide enhancements to the SCE and SDG&E programs, Charge Smart and Save meets and exceeds the

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15/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Sections 6-17, pp. 9-13; D.16-01-023, pp. 20-42.

16/ Compare, Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Sections 4, 9, 11 and 12, pp. 9, 11-12, to D.16-01-045, Attachment 2, Sections 9, 12 and 13, pp. 6-8.

17/ E.g., compare, Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement Sections 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 20 and Appendices A, B and C, with D.16-01-045, Attachment 2, “Definitions,” “Guiding Principles,” “Modifications to SDG&E’s VGI Framework,” sections 5, 6, 8, 9, 10, 12, 13, 14, 16, 17, 18, 19, 22, 23, Appendices A, B and C.


19/ Id.

20/ Id.
“balancing test” competitive criteria applied by the Commission to utility ownership in D.16-01-045.21/ On a statewide basis, PG&E’s EV charging station market share would be only 7.5 percent of the 100,000 charging stations needed in PG&E’s service territory to support the State’s goal of deploying infrastructure to support 1 million Zero Emission Vehicles (ZEVs) by 2020, less than the 11 percent market share estimated by SDG&E and adjusted as approved by the Commission in its SDG&E decision.22/ Charge Smart and Save’s EV station deployment goal will be filled by pre-qualified, non-utility market participants able to be chosen by EV site hosts pursuant to the results of a competitive, fair Request for Offer procurement process comparable to the process approved by the Commission for SDG&E.23/

B. Procedural History and Positions of Settling Parties


On May 5, 2015, the Assigned Commissioner held an all-party meeting in this and two related proceedings. Motions filed across the proceedings and the merits of consolidating the proceedings were discussed at the all-party meeting. On June 12, 2015, the Administrative Law Judge (ALJ) held a prehearing conference (PHC) to determine the parties, issues, schedule, and other procedural matters. At the PHC, parties were asked to consider more formally phasing PG&E’s proposed EV Program. By ruling dated June 16, 2015, the ALJ requested comments on more formally phasing PG&E’s proposed EV Program. Parties filed comments on July 2 and 3, 2015 and reply comments on July 10, 2015.25/

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21/ D.16-01-045, pp. 107-110, 125.
22/ Exh. PGE-3, Table 7, p. 25; SDG&E Reply Brief, A.14-04-014, September 18, 2015, p. 24, adjusted as modified by D.16-01-045.
24/ A.15-02-009; Exh. PGE-2.
25/ See, e.g., Pacific Gas and Electric Company’s Opening Comments on Potential Phasing of
On September 4, 2015, the Assigned Commissioner and Assigned Administrative Law Judges issued a Scoping Memo and Ruling requiring PG&E to file and serve a supplement to its application no later than October 12, 2015 that included: 1) an initial phase of electric charging station deployment, limited to a maximum of 2,510 charging stations, to be deployed over no more than 24 months; 2) a transition plan that provides at least 18 months of data for evaluation by the Commission, and that identifies steps to minimize market uncertainty and discontinuity during the regulatory review period; and 3) responses to specific questions described in the Scoping Memo and Ruling.26/

On October 12, 2015, PG&E filed its supplemental testimony and responses to the questions in the Scoping Memo and Ruling.27/ PG&E’s supplemental testimony stated that a Phase 1 deployment of only 2,510 charging stations over 24 months does not meet the stated program objectives or provide sufficient data or learnings to adequately inform a potential Phase 2 deployment. PG&E’s supplemental testimony provided a more phased deployment approach to its originally proposed program, including both a requested “compliant” proposal and enhanced proposal. PG&E’s compliant proposal would limit Phase 1 to 2,510 charging stations (10% of original proposal), deployed over 24 months from the date of first construction, including 18 months of data collection and a comprehensive proposal for transitioning from Phase 1 to Phase 2. PG&E’s compliant proposal would total $70 million in capital costs and $17 million in expense amounts, with deployment over a 24-month timeframe. PG&E’s enhanced proposal would deploy a maximum of 7,530 EV charging stations over no more than 36 months from the date of first construction, in order to collect and report 30 full months of information


27/ Exh. PGE-3.
from deployed EV stations to better inform PG&E’s Phase 2 EV Program proposal. The enhanced proposal would total $187 million in capital costs and $35 million in expense amounts, with deployment over a 36-month timeframe.28/

As required by the Scoping Memo Ruling, both PG&E’s compliant and enhanced proposals included a “bridge funding” transition mechanism to minimize market uncertainty and discontinuity during the Phase 2 Commission review period.29/ In addition, both the compliant and enhanced proposals provided for collection of specific data and information during Phase 1 similar to data collection proposals agreed to by parties in the SCE and SDG&E settlements, as well as creation of a formal Advisory Committee of stakeholders to advise PG&E on its Phase 1 and Phase 2 programs.30/

On November 30, 2015, 14 parties filed intervenor testimony in response to PG&E’s supplemental testimony, including the following members of the Settling Parties: American Honda Motor Co.; the Coalition of California Utility Employees; General Motors LLC; The Greenlining Institute; Marin Clean Energy; Natural Resources Defense Council (NRDC); and Plug In America.31/ Of the 14 parties filing intervenor testimony, none expressed support for PG&E’s “enhanced” program proposed in its supplemental testimony without modifications. NRDC, The Greenlining Institute, the Coalition of California Utility Employees, and Plug In America, only expressed support for PG&E’s effort to provide the Commission with two options, noting that even the “enhanced” proposal would fall short of the infrastructure required to meet Governor Brown’s infrastructure deployment goals.32/ On December 21, 2015, PG&E filed rebuttal testimony responding to the intervenor testimony.33/

28/ Id., p. 1 (Corey).
29/ Id., p. 34 (Corey).
30/ Id., p. 33 (Corey).
31/ Exh. JOINT SETTLING PARTIES-1, Joint Motion for Adoption of Settlement Agreement, p. 11.
32/ Exh. NRDC-101, Testimony of Max Baumhefner on Behalf of the Natural Resources Defense Council, Coalition of California Utility Employees, The Greenlining Institute, and Plug In America.
On January 14 and 28, 2016, the Commission issued decisions approving with modifications alternative electric vehicle programs proposed by SCE and SDG&E, respectively (D.16-01-023 and D.16-01-045). Following issuance of both these decisions, the Settling Parties and other parties engaged in intensive settlement discussions, seeking to take into account the guidance provided by the Commission in the SDG&E and SCE decisions in order to settle the issues in dispute in this proceeding. Following the settlement discussions, PG&E convened a formal settlement conference on March 11, 2016 in accordance with the Commission’s settlement rules. On March 21, 2016, the Settling Parties executed the Settlement Agreement and filed with the Commission their Joint Motion for Adoption of the Settlement Agreement.34/

On March 29, 2016, the Administrative Law Judge issued his Ruling Setting Hearing Schedule and Directing Joint Settling Parties to Respond to Various Questions. On April 12, 2016, Settling Parties filed and served their responses to the ALJ’s questions.35/ Also on April 12, 2016, eight non-settling parties filed and served their comments on the Charge Smart and Save settlement.36/

Of the eight non-settling parties, two (TURN and ORA) opposed Charge Smart and Save for largely the same reasons they opposed the SDG&E settlement, and for reasons rejected by the Commission in its SDG&E decision.37/ One party (ChargePoint) opposed key elements of

America, November 30, 2015, p. 20: “By offering both the “Compliant” and “Enhanced” options in its supplemental testimony, PG&E has given the Commission the opportunity to consider how it might better facilitate progress toward state goals. Unfortunately … even PG&E’s ‘Enhanced Option’ will only provide 7,530 charging stations by 2020, far short of a proportional share of what is required to meet Executive Order B-16-2012, given the size of PG&E’s service territory.”

33/ Exh. PGE-4.
34/ Exh. JOINT SETTLING PARTIES-1, Joint Motion for Adoption of Settlement Agreement; Charge Smart and Save Settlement.
36/ TURN; ORA; ChargePoint; EVCA; TechNet; Consumer Federation of America; Joint Minority Parties; Green Power Institute.
37/ TURN Comments, pp. 2-4; ORA Comments, pp. 6-9; D.16-01-045, pp. 108-111, 115-121, 123-
Charge Smart and Save that it expressly supported in the SDG&E proceeding and which were also approved by the Commission in its SDG&E decision.\textsuperscript{38/} Two additional parties (EVCA and TechNet) were virtually indistinguishable from ChargePoint, which founded and remains the president of EVCA and which appears to be the only third-party Electric Vehicle Service Provider (EVSP) member of TechNet.\textsuperscript{39/} The three remaining opposing parties (Consumer Federation of California, Joint Minority Parties, Green Power Institute) opposed Charge Smart and Save for cost or other reasons similar to reasons rejected by the Commission in its SDG&E decision.\textsuperscript{40/}

On April 18, 2016, the 13 Settling Parties filed and served their reply comments to the opening comments on the Charge Smart and Save settlement.\textsuperscript{41/}

Four days of evidentiary hearings on the Charge Smart and Save settlement and PG&E’s application were held on April 25-28, 2016.\textsuperscript{42/} At the hearings, the 13 Settling Parties presented witnesses in support of the settlement, including a panel of witnesses addressing specific questions about the settlement at the request of the ALJ. Six opposing parties presented witnesses in opposition to the settlement.

\begin{itemize}
\item \textsuperscript{38/} Compare, ChargePoint Comments, A.15-02-009, April 12, 2016, to ChargePoint Opening Comments on Proposed Decision, A.14-04-014, January 12, 2016, p. 1 ("ChargePoint continues to support the Settlement Agreement and encourages the Commission to adopt it without change."); see also, D.16-01-045, pp. 123-129, approving utility ownership, site host technology choice, size and cost for SDG&E comparable to Charge Smart and Save Settlement.
\item \textsuperscript{39/} EVCA Comments, pp. 2-3; TechNet Comments, p. 2.
\item \textsuperscript{40/} D.16-01-045, pp. 53-57, 63, 65-66, 148-149.
\item \textsuperscript{41/} Joint Reply Comments of Settling Parties to Opening Comments on Charge Smart and Save Settlement, A. 15-02-009, April 18, 2016.
\item \textsuperscript{42/} Tr. Vol. 2-5, April 25-28, 2016, A. 15-02-009.
\end{itemize}
II. BURDEN OF PROOF AND LEGAL STANDARDS

A. Statutory Criteria and Commission Decisions

The Commission’s D. 16-01-023 and D.16-01-045, approving modifications to SCE’s and SDG&E’s EV settlements, list the legal standards and principal criteria the Commission applies in evaluating a utility EV program and whether a utility has carried its burden of proof to demonstrate that the program complies with the legal standards and criteria:43/

Applicable Public Utilities Code Sections and other Relevant State Policy Goals for Transportation Electrification. California’s clean energy and transportation electrification policies are included in various laws that address the deployment of EVs, EV charging infrastructure, GHG reductions, and the amount of energy that is to come from renewable sources of energy.44/ In addition, Governor Brown’s Executive Order and ZEV Action Plan provide further guidance concerning these various code sections, and what action needs to be taken.45/ However, Senate Bill (SB) 350 (De León, 2015), which added or amended four sections of the Public Utilities Code related to transportation electrification is the most recent, most specific, and most comprehensive legislative directive for how the Commission should encourage and review utility transportation electrification programs.46/ SB 350 amended Pub. Util. Code § 701.1 to change the mission of the utility industry, placing widespread transportation electrification on par with energy efficiency and renewable energy as principal goals:

43/ D.16-01-045, pp. 88-89; D.16-01-023, pp. 6-8.
44/ D.16-01-045, pp. 90-93.
46/ Stats 2015, Ch. 547.
The Legislature finds and declares that, in addition to other ratepayer protection objectives, a principal goal of electric and natural gas utilities’ resource planning and investment shall be … to improve the environment and to encourage the diversity of energy sources through improvements in energy efficiency, development of renewable energy resources, …and widespread transportation electrification.

(Emphasis added.) The law also defined transportation electrification in Pub. Util. Code § 237.5 as follows:

“Transportation electrification” means the use of electricity from external sources of electrical power, including the electrical grid, for all or part of vehicles, vessels, trains, boats, or other equipment that are mobile sources of air pollution and greenhouse gases and the related programs and charging and propulsion infrastructure investments to enable and encourage this use of electricity.

Senate Bill 350 also added Pub. Util. Code § 740.12(b), which directs the Commission and the utilities under its jurisdiction:

...to accelerate widespread transportation electrification to reduce dependence on petroleum, meet air quality standards, achieve the goals set forth in the Charge Ahead California Initiative, and reduce emissions of greenhouse gases to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050.

Meeting fast approaching 2023 federal Clean Air Act standards, deploying one million electric vehicles by 2023, increasing access to clean vehicles in low- and moderate-income and disadvantaged communities as required by the Charge Ahead California Initiative, and meeting those very aggressive 2030 and 2050 greenhouse gas emissions reduction targets will require a level of EV charging infrastructure deployment that goes well beyond Phase 1 of Charge Smart and Save.47/ However, Pub. Util. Code § 740.12 is not applicable to Phase 1 of Charge Smart and Save, because it does not meet either of the two conditions specified in Pub. Util. Code § 740.12(d).48/

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47/ The Commission at pp. 89-94 of D.16-01-045 has provided a summary of these goals.

48/ D.16-01-045, p. 92.
Nevertheless, SB 350 also amended Pub. Util. Code § 740.8 to clarify the standard of review for utility transportation electrification proposals, and is applicable to Phase 1 of Charge Smart and Save:

740.8. As used in Section 740.3 or 740.12, “interests” of ratepayers, short- or long-term, mean direct benefits that are specific to ratepayers, consistent with both of the following:

(a) Safer, more reliable, or less costly gas or electrical service, consistent with Section 451, including electrical service that is safer, more reliable, or less costly due to either improved use of the electric system or improved integration of renewable energy generation;

(b) Any one of the following:

(1) Improvement in energy efficiency of travel.
(2) Reduction of health and environmental impacts from air pollution.
(3) Reduction of greenhouse gas emissions related to electricity and natural gas production and use.
(4) Increased use of alternative fuels.
(5) Creating high-quality jobs or other economic benefits, including in disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.

In its decision approving modification of the SCE settlement, the Commission applied these statutory criteria through the following key findings, inter alia:

- EVs can result in a range of environmental and grid benefits such as are defined in Pub. Util. Code Sections 740.2, 740.3, and 740.8, and SB 350.49/
- The upfront costs of charging stations can be prohibitive to their installation.50/
- Customer participants located in disadvantaged communities may not have adequate private capital to invest in EV charging stations, which could discourage program participation by customer participants in disadvantaged communities.51/

49/ D.16-01-023, Finding of Fact 21, p. 54.
50/ D.16-01-023, Finding of Fact 3, p. 52.
51/ D.16-01-023, Finding of Fact 12, p. 53.
• EV charging is particularly needed in multi-unit dwellings to increase adoption consistent with the Governor’s Zero Emission Vehicles Action Plan.\(^{52}\)

• The appropriate basis for defining disadvantaged communities (service territory or statewide) is the one that allows the broadest eligibility, as that will allow for the most equitable access to incentives.\(^{53}\)

• For Multi-Unit Dwelling participants, Phase 1 will provide data to determine whether demand response capabilities, time of use pricing for customer participants, and customer education components will incentivize prudent load management.\(^{54}\)

• For Fleet, Workplace, and Destination Center participants, load management strategies should be informed by SCE’s Demand Response Pilots authorized in D.12-04-045.\(^{55}\)

Similarly, in its decision modifying the SDG&E settlement, the Commission applied the relevant statutory criteria through findings, *inter alia*:

• Governor Brown’s Executive Order B-16-2012 set a target of creating infrastructure to support up to one million ZEVs by 2020, and to have 1.5 million ZEVs on California’s roads by 2025.\(^{56}\)

• Among other things, SB 350 added provisions to the Public Utilities Code to promote the widespread use of electricity as a transportation fuel in order to

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\(^{52}\) D.16-01-023, Finding of Fact 13, p. 53.

\(^{53}\) D.16-01-023, Finding of Fact 23, p. 54.

\(^{54}\) D.16-01-023, Conclusion of Law 20, p. 57.

\(^{55}\) D.16-01-023, Conclusion of Law 21, p. 57.

\(^{56}\) D.16-01-045, Finding of Fact 1, p. 162.
achieve the goals of the Charge Ahead California Initiative as set forth in the Health & Safety Code.\textsuperscript{57/}

- Health & Safety Code § 44258.4(b) states in part that the goal of the Charge Ahead California Initiative is to place in service at least one million ZEVs and near-ZEVs by January 1, 2023.\textsuperscript{58/}

- The objective and goals behind SDG&E’s…program are set forth in the Governor’s Executive Order, and in various California statutes….\textsuperscript{59/}

- The legislative direction to encourage the development of an EV charging infrastructure and to promote the widespread adoption of EVs so as to reduce GHG emissions, and to promote the use of renewable energy resources, must not be ignored.\textsuperscript{60/}

- The deployment of EV charging infrastructure will help assure potential purchasers of EVs that EV charging will be available.\textsuperscript{61/}

- The…proposal addresses the concerns in Public Utilities Code Section 740.2 about: (1) the widespread use of PEVs and EVs and the role and development of public charging infrastructure; (2) the impact of EVs and PEVs on grid stability and the integration of renewable energy resources; and (3) the widespread use of PEVs and EVs to achieve the state’s goals regarding the reduction of GHGs, obtaining more electric generation from renewable sources of energy, and the

\textsuperscript{57/} D.16-01-045, Finding of Fact 5, p. 162.

\textsuperscript{58/} D.16-01-045, Finding of Fact 6, p. 162.

\textsuperscript{59/} D.16-01-045, Finding of Fact 24, p. 165.

\textsuperscript{60/} D.16-01-045, Finding of Fact 25, p. 165.

\textsuperscript{61/} D.16-01-045, Finding of Fact 26, p. 165.
shifting of emissions reductions responsibilities from the transportation sector to the electric industry.62/

- In applying the balancing test, the Commission stated in D.14-12-079 that the Commission will assess the likely competitive impact on the market segment targeted, and whether any anticompetitive impacts can be prevented or adequately mitigated through the exercise of existing rules or conditions.63/

- Under the Proposed Settlement, the site hosts or their designees, have two options that were not offered as part of SDG&E’s original…proposal: (1) the site host or designee can choose to take service under the…Rate-to-Host billing option, and (2) they can choose the EVSE and related services that they want from preapproved vendors under either the…Rate-to-Driver or the…Rate-to-Host billing options.64/

- These two options appear to mitigate some of the concerns about anticompetitive impacts by offering the site host two billing options under the…rate, and allowing preapproved third party providers to offer EVSE and related services to site hosts, which promotes competition and innovation.65/

- Under the Proposed Settlement, the anticompetitive impacts would be reduced because site hosts would be allowed to choose the EVSE and related services from preapproved vendors, the site hosts could choose the…Rate-to-Host option, and the site host would be obligated to pay a participation fee.66/

If the cost and the size of the...program is reduced from what is being offered in the Proposed Settlement, that would strengthen the reasoning for finding that a scaled down...program will not result in SDG&E unfairly competing with nonutility enterprises because the number of EV site installations and charging stations owned by SDG&E would be reduced.67/

Consistent with these statutory and decisional criteria, the Charge Smart and Save program proposed by the Settling Parties is in the interest of ratepayers, as defined by Public Utilities Code Section 740.8 because it will provide:68/

1. Safer electrical service because “all of the construction and installation of the EV charging infrastructure will be performed safely, and to code, by licensed electrical contractors with EV infrastructure training certification;”69/
2. More reliable electrical service by using time-of-use price signals and other load management strategies that shift EV load to hours of the day when there is spare capacity in the grid;70/
3. More reliable electrical service by leveraging PG&E’s Distributed Resource Plan Integration Capacity Analysis to improve site selection;71/
4. Less costly electrical service due to improved integration of renewable generation that will result from using time-of-use rates as a foundation for load management

68/ Note: while Charge Smart and Save is designed to provide all of these enumerated benefits, §740.8(b) only requires a showing of one of these or other benefits.
69/ Compare, D.16-01-045, p. 114, fn.30, to Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, p. 6 (“Safety Considerations”).
70/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, p. 6 (“Metering and Billing – ‘TOU Rate-to-Drive’ and ‘TOU Rate-to-Host’ Billing Options.”).
71/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 7, p. 10.
upon which more sophisticated forms of load will be evaluated to identify an
“Advanced EV Grid Support” program to be deployed in Phase 2;\textsuperscript{72/}
Likewise, Charge Smart and Save will, under 740.8(b):\textsuperscript{73/}

1. Promote the accelerated adoption of EVs which will promote the efficiency of travel;
2. Reduce the health and environmental impacts from air pollution because vehicle
electrification results in “over 85 percent fewer ozone-forming air pollutants
emitted;”\textsuperscript{74/}
3. For every mile driven on electricity in a typical EV, reduce emissions of greenhouse
gases by a factor of four relative to the average new conventional vehicle in PG&E’s
service territory;
4. Deploy EV charging stations that will increase the use of an alternative fuel; and
5. Create high-quality jobs or other economic benefits, including in disadvantaged
communities, by using union labor and deploying in disadvantaged communities.
Furthermore, Charge Smart and Save, including the Guiding Principles set forth in the
Settlement Agreement, makes clear that the overarching objective of Charge Smart and Save is
to help implement other relevant goals set by Governor Brown and the State of California
including:

- Deploy EV charging infrastructure to support 1 million ZEVs by 2020,
- Deploy 1 million ZEVs by 2023 and increase access to clean vehicles in
disadvantaged and low- and moderate-income communities pursuant to the
Charge Ahead California Initiative (SB 1275, De León),
- To have 1.5 million ZEVs on California roads by 2025, and

\textsuperscript{72/} Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 6, p. 10.

\textsuperscript{73/} Note: while Charge Smart and Save is designed to provide all of these enumerated benefits, §740.8(b) only requires a showing of any one of these benefits.

\textsuperscript{74/} PU Code § 740.12(a)(1)(I).
To ensure that all new vehicles sold by 2050 be ZEVs.

As discussed further below, Charge Smart and Save also provides the following benefits consistent with the Commission’s overall goals for reasonable, affordable and competitively-neutral electricity service:

1. Priority for siting EV charging stations and infrastructure in underserved EV market segments, including workplaces, MUDs and Disadvantaged Communities.  
2. Lower overall cost and reduced size of the program, as well as site host choice of technology and rate options, comparable to the size, cost, choice of technology, rate and load management options approved by the Commission for SDG&E.

Through deployment of EV charging infrastructure, and promoting the adoption of EVs in California, Charge Smart and Save will help to achieve California’s goal of reducing greenhouse gas emissions by reducing the number of vehicles that use fossil fuels and increasing the use of renewable sources of energy – just as the Commission found for SDG&E’s similar EV program in D.16-01-045.

Reasonableness of Program Costs. Public Utilities Code Section 451 requires that the charges to ratepayers to pay for the program must be just and reasonable. (D.16-01-045, p. 88.) The cost of PG&E’s Charge Smart and Save Program is capped at approximately $160 million, compared to PG&E’s original proposal of $654 million and its revised “enhanced proposal” of $222 million. More importantly, the estimated cost of the Program to the typical residential ratepayer using 500 kilowatt hours per month in PG&E’s service territory would be approximately $2.64 annually, 4 percent less than the $2.75 per year typical residential customer

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75/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, p. 4 (“Targeting of Multi-Unit Dwellings (MUDs) and Workplaces.”).

76/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, pp. 4- 5. “Cost, Size, Structure and Duration of Charge Smart and Save;” “Choice of Charging Technology.”

77/ Exh. JOINT SETTLING PARTIES-1, Joint Motion for Adoption of Settlement Agreement, Table 1, Row “Cost,” p. 6.
cost approved as “just and reasonable” by the Commission in the SDG&E decision. (D.16-01-045, p.129.)

Directive Set Forth in D.14-12-079. In D.14-12-079, the Commission endorsed an expanded role for the electric utilities to develop and support EV charging infrastructure, and eliminated the blanket prohibition in D.11-07-029 against electric utility ownership of EVSE, citing the fact that “parties’ comments represent near unanimity that the utilities should have an expanded role in EV infrastructure support and development in order to realize the potential benefits of widespread EV adoption.”

To evaluate whether a utility should be permitted to own EVSE, the Commission in D.14-12-079 determined that this should be decided on a case-specific approach, and that a balancing test weighing the benefits of electric utility ownership of EVSE against the potential competitive limitation that may result from that ownership, should be used. Applying that balancing test in the SDG&E proceeding, the Commission concluded as a matter of law, “the EVSE ownership by SDG&E should be permitted in a scenario as proposed by SDG&E in the Proposed Settlement, or in a scaled down VGI pilot program patterned after the Proposed Settlement, and that such ownership would be in the ratepayers’ interests and outweigh the disadvantages that could result from a lack of competition.”

The Charge Smart and Save program incorporates every element upon which the Commission relied in declaring that both the $103 million settlement proposed in the SDG&E

78/ Exh. PGE- 1, Charge Smart and Save Settlement Agreement, p. 4 (“Cost, Size, Structure and Duration of Charge Smart and Save.”) The scoping memo in R.13-11-007 provides that pilot programs initiated under the Rulemaking will not be required to demonstrate positive cost-benefit ratios as a condition of Commission approval. (Assigned Commissioner’s Scoping Memo and Ruling, R.13-11-007, July 16, 2014, p. 11.)

79/ D.14-12-079, p. 5.

80/ Id., pp. 5- 6.

81/ D.16-01-045, Conclusion of Law 15, p. 177.
proceeding and the scaled down version of the SDG&E program adopted by the Commission passed the balancing test established by D.14-12-079:

- Under Charge Smart and Save, “site hosts or their designees, can choose the [TOU] Rate-to-Host option, which allows site hosts to offer a similar [TOU] rate or other pricing option to EV charging customers” (Language pulled from D.16-01-045 with “VGI” replaced with “TOU”).82/

- Likewise, as in D.16-01-045, Charge Smart and Save, “allows the site host or its designee to select the EVSE and related EV charging services from preapproved vendors, which allows third party providers to offer competing EVSE and EV charging services.”83/

- Likewise, as in D.16-01-045, under Charge Smart and Save, “the site host would have to pay a participation fee which will help offset a portion of EV charging infrastructure costs.” (Also consistent with D.16-01-045, revenue from the Charge Smart and Save participation payment will be used to defray operation and maintenance expenses.)84/

Charge Smart and Save incorporates significantly higher commitments to deploy charging stations in Disadvantaged Communities, a demonstrably underserved market, than either the SCE or SDG&E approved programs.85/

As explained in D.16-01-045: “As part of the balancing test adopted in D.14-12-079, the weighing of the benefits of utility ownership is to rely heavily on the guidance set forth in Public Utilities Code Section 740.8.”86/ As noted previously, Charge Smart and Save far exceeds the

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82/ D.16-01-045, p. 109; Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 6, pp. 9- 10.

83/ D.16-01-045, p. 109; Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Sections 9, 11, p. 11.

84/ D.16-01-045, p. 109; Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 8, pp. 10- 11.


86/ D.16-01-045, p. 105.
requirements of Public Utilities Code Section 740.8, upon which the Commission should rely heavily.

**Reasonableness of Settlement.** As outlined in the Commission’s SCE decision, under the Commission’s precedents and Rule 12.1(c), the Settlement Agreement must be reasonable in light of the whole record, consistent with the law, and in the public interest.\(^\text{87/}\) Factors that the Commission has considered in reviewing settlements include: (1) whether the settlement negotiations were at arms-length; (2) whether major issues were addressed; and (3) whether the parties were adequately represented.\(^\text{88/}\)

Charge Smart and Save meets these criteria. The Settling Parties are represented by experienced CPUC practitioners, or are otherwise well-resourced and sophisticated entities. They negotiated in good faith, bargained aggressively, and, ultimately compromised. The result is a comprehensive settlement of the major issues raised by the Settling Parties and other parties.\(^\text{89/}\) The Settlement Agreement reduces the risk that litigation will waste time and resources of the parties and the Commission.

**B. The Settlement is Reasonable In Light of the Whole Record**

Charge Smart and Save is a product of substantial negotiation efforts and compromise on behalf of the Settling Parties. The Settlement Agreement is based on the prepared testimony of the Settling Parties as well as the Commission’s decision and findings regarding the similar EV programs proposed by SDG&E and SCE and approved as modified in D.16-01-045 and D.16-01-023. The Settling Parties have relied extensively on the guidance and findings of the

\(^{87/}\) D.16-01-023, p. 6.

\(^{88/}\) Id., pp. 50- 51.

\(^{89/}\) Pursuant to Rule 12.1(a), settlements in Commission proceedings need not be joined by all parties, and may propose settlement on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding, regardless of whether some parties oppose the settlement. For example, of the 16 other parties besides SDG&E that entered into the SDG&E settlement, only one party (ChargePoint) did not generally support SDG&E’s pre-settlement proposal. SDG&E’s settlement was opposed by 8 parties. (D.16-01-045, pp. 32- 87.)
Commission in D.16-01-045 and D.16-01-023, as well as their own prepared testimony and positions, including positions that have resulted in significant improvements to the “model” for a utility-owned EV infrastructure adopted by the Commission in D.16-01-045.

In addition, the Settling Parties have included in Charge Smart and Save specific modifications and compromise changes to PG&E’s proposed EV program in order to take into account the positions of parties who are not Settling Parties but who supported the resolution of certain disputed issues in the SDG&E EV settlement and D.16-01-045 that are identical to the issues in dispute in this proceeding.

In light of the testimony by the Settling Parties and other parties in this proceeding, along with the record of the Commission’s resolution of identical or comparable disputed issues in the SDG&E proceeding and D.16-01-045, the Settlement Agreement in this proceeding is reasonable in light of the whole record.

C. **The Settlement Agreement is Consistent with Law and in the Public Interest.**

As discussed in detail above, the Settlement Agreement is in the public interest because it fully supports California’s transportation electrification, electric vehicle, and greenhouse gas reduction goals, and will make a significant contribution to achieving Governor Brown’s Executive Order and ZEV Action Plan goals as well as goals adopted by the California Legislature, such as those enacted in the Charge Ahead California Initiative of deploying one million ZEVs by 2023 and increasing access to clean transportation in disadvantaged and low and moderate income communities.

As outlined in the Commission’s decision on the SCE settlement, the agreed-upon outcomes in the Charge Smart and Save settlement also represent negotiated outcomes that, for the most part, reasonably balance the competing interests of many different parties. The settlement will, among other things, allow for a smooth transition to a Phase 2, encourage the
growth of EV charging stations and competition among service providers, and provide useful information to the Commission to assess the EV Phase 1 pilot results. 90/

In addition, the Settlement Agreement meets and exceeds the Commission’s statutory and decisional criteria for approval of utility EV deployment programs under the Public Utilities Code.

For these reasons, Charge Smart and Save, including the significant modifications to PG&E’s original proposals, is consistent with law and in the public interest. The Settling Parties have met their burden of proof and complied with all relevant Commission legal standards in proposing and supporting the Charge Smart and Save settlement.

III. STATUS OF PROPOSALS

The Settling Parties, including PG&E, fully support the Charge Smart and Save settlement as an improvement on and substitute for PG&E’s prior proposals in this proceeding, except as required to support the specific provisions of the settlement or as incorporated by reference into the settlement. To that extent, PG&E’s other proposals are no longer pending before the Commission in this proceeding. 91/

IV. PHASE 1 PROGRAM ISSUES AND ELEMENTS

In the sections below, Settling Parties provide additional details on the specific provisions of the Charge Smart and Save Settlement. In addition, Appendix A to this brief provides a table that compares and contrasts Charge Smart and Save with PG&E’s prior proposals in this proceeding.

A. Guiding Principles

PG&E’s original proposals did not include specific “guiding principles” similar to those proposed and approved by the Commission in the SCE and SDG&E settlements. The Settling

90/ D.16-01-023, pp. 50-51.

91/ Exh. JOINT SETTLING PARTIES-1, Joint Motion for Adoption of Settlement Agreement, pp. 1-2.
Parties agreed to include in the Charge Smart and Save settlement the same “Guiding Principles to guide implementation of the settlement as approved by the Commission for SCE and SDG&E.”²² No parties commented on or opposed the proposed guiding principles. The guiding principles provide a foundation for moving forward with the Charge Smart and Save settlement.

**B. Program Scope, Duration and Cost**

The Settling Parties agreed that the cost of Charge Smart and Save should be substantially reduced from PG&E’s $222 million “Enhanced Proposal,” to a cost cap of no more than $160 million as described in the settlement with a target of 7,500 Level 2 charging ports and a target of 100 DC Fast Chargers.²³ The Settlement Agreement provides specific cost and forecast revenue requirement tables for the Charge Smart and Save Program, comparable to Tables 6 and B-4 provided for PG&E’s earlier proposals in its Supplemental Testimony.²⁴ Charge Smart and Save requires PG&E to seek to achieve these cost-effective deployment goals by offering site-appropriate additional technologies, such as dual-port Level 2 charging stations, and seeking cost reductions through the procurement, site selection, and implementation process. Any savings on site-specific deployment costs will be used for additional deployment not to exceed the cost cap.²⁵

Based on PG&E’s current electric revenue requirements, the maximum estimated cost of the program to the typical residential ratepayer of PG&E using 500 kilowatt hours per month in PG&E’s service territory would be approximately $2.64 annually, less than the $2.75 per year typical residential customer cost with full rollout of the program approved as reasonable by the

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²² Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 2, pp. 7-8.

²³ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, p. 4.

²⁴ Exh. JOINT SETTLING PARTIES, Charge Smart and Save Settlement Agreement, Appendix E; Exh. Exh. PGE-3, Table 6, p. 15; Table B-4, pp. B-7 to B-9.

²⁵ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, p. 4.
Commission in the SDG&E decision.\textsuperscript{96} Those cost estimates do not account for the downward pressure on rates that will result from properly managed widespread transportation electrification.\textsuperscript{97}

PG&E will own the charging stations on the same terms and conditions as the Commission approved for SDG&E in the SDG&E decision, D.16-01-045.

Consistent with the duration of the SCE and SDG&E pilot programs, the duration of Charge Smart and Save will be three years from the beginning of construction.

C. Ownership: Applying the EVSE Ownership Balancing Test

As discussed above, in D.14-12-079, the Commission endorsed an expanded role for the electric utilities to develop and support EV charging infrastructure, and eliminated the blanket prohibition in D.11-07-029 against electric utility ownership of EV supply equipment (EVSE), including EV charging stations. To evaluate whether a utility should be permitted to own EVSE, the Commission in D.14-12-079 determined that a balancing test weighing the benefits of electric utility ownership of EVSE against the potential competitive limitation that may result from that ownership, should be used. Also as discussed above, applying that balancing test in the SDG&E proceeding, the Commission concluded as a matter of law, “the EVSE ownership by SDG&E should be permitted in a scenario as proposed by SDG&E in the Proposed Settlement, or in a scaled down VGI pilot program patterned after the Proposed Settlement, and that such ownership would be in the ratepayers’ interests and outweigh the disadvantages that could result from a lack of competition.”\textsuperscript{98}

Applying the balancing test to the Charge Smart and Save settlement demonstrates that the settlement meets and exceeds the Commission’s criteria for approving PG&E ownership of EVSE as proposed by the settlement. Charge Smart and Save program incorporates every

\begin{itemize}
\item \textsuperscript{96} Id.
\item \textsuperscript{97} Id.
\item \textsuperscript{98} D.16-01-045, Conclusion of Law 15, p. 177.
\end{itemize}
element upon which the Commission relied in declaring that both the $103 million settlement proposed in the SDG&E proceeding and the scaled down version of the SDG&E program adopted by the Commission passed the balancing test established by D.14-12-079 and appropriately mitigated any potential competitive impacts:

- Under Charge Smart and Save, “site hosts or their designees, can choose the [TOU] Rate-to-Host option, which allows site hosts to offer a similar [TOU] rate or other pricing option to EV charging customers” (Language pulled from D.16-01-045 with “VGI” replaced with “TOU”).

- Likewise, as in D.16-01-045, Charge Smart and Save, “allows the site host or its designee to select the EVSE and related EV charging services from preapproved vendors, which allows third party providers to offer competing EVSE and EV charging services.”

- Likewise, as in D.16-01-045, under Charge Smart and Save, “the site host would have to pay a participation fee which will help offset a portion of EV charging infrastructure costs.” (Also consistent with D.16-01-045, revenue from the Charge Smart and Save participation payment will be used to defray operation and maintenance expenses.)

In addition, as a further benefit to weigh in applying the balancing test, Charge Smart and Save incorporates significantly higher commitments to deploy charging stations in Disadvantaged Communities, a demonstrably underserved market, than either the SCE or SDG&E approved programs.

On solely a numerical market share basis, the size of PG&E’s ownership under Charge

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99/ D.16-01-045, p. 109; Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 6, pp. 9-10.

100/ D.16-01-045, p. 109; Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Sections 9, 11, p. 11.

101/ D.16-01-045, p. 109; Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 8, pp. 10-11.

Smart and Save compares favorably to the market concentration criteria presented in the record of the SDG&E proceeding – Charge Smart and Save’s number of utility-owned chargers (7,500 Level 2 chargers) is only a fraction (three percent) of the infrastructure required to meet California’s transportation electrification goals. PG&E’s ownership of EV charging stations is more likely than not to actually reduce market concentration in EV charging station markets in PG&E’s service area, thus improving competition.

Based on the record evidence and the reduced size of the PG&E program negotiated by the Settling Parties, the Commission should find that Charge Smart and Save fully meets the Commission’s balancing test for competitive impacts.

D. Reasonableness of Costs; Ratepayer Costs and Benefits

As discussed above, the Settling Parties negotiated a significant reduction in the overall costs of PG&E’s program, in order to ensure that the costs are reasonable and the benefits of the program are consistent with the Commission’s requirements for utility-sponsored EV pilot programs. The key cost metric in the settlement is the cost of Charge Smart and Save to the typical residential electric customer. Charge Smart and Save will cost the typical residential electric customer a maximum of $2.64 for a single year of peak revenue recovery, less than the $2.75 per year cost metric approved by the Commission as reasonable in the SDG&E decision.

On the benefits side, the Charge Smart and Save settlement includes, in many cases verbatim, the same or similar data collection, monitoring, reporting and assessment requirements that the Commission has adopted in its SCE and SDG&E decisions, in order to ensure that the utility EV pilot programs provide results and customer experience that benefit all utility...

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103/ Joint Reply Comments of Settling Parties, A.15-02-009, April 18, 2016, p. 5.

104/ Exh. PGE-3, pp. 24-25, Table 7.

105/ Exh. JOINT SETTLING PARTIES-1, Smart Charge and Save Settlement Agreement, p. 4 (“Cost, Size, Structure and Duration of Charge Smart and Save.”).
customers in future phases of the utility programs and under more robust deployment of EVs on the utilities’ grids. These benefits include not only EV infrastructure siting and utilization metrics and data, but also data on grid impacts, time-of-use rates, and load management programs that may help integrate future EV loads on PG&E’s grid more efficiently for the benefit of all customers, EV and non-EV alike.

In negotiating the Charge Smart and Save settlement, the Settling Parties understood that the Commission had provided specific guidance on ratepayer costs and benefits in its two prior decisions for SCE and SDG&E. Accordingly, Charge Smart and Save incorporates that guidance directly into ratemaking and programmatic elements in order to ensure that the costs and benefits of the settlement are comparable to and consistent with the EV programs approved for the other two utilities.

E. **Choice and Procurement of Charging Technology; Supplier Diversity**

Like the SDG&E and SCE programs, Charge Smart and Save ensures that PG&E contracts with third parties to provide Electric Vehicle Supply Equipment (EVSE) operating systems, network services and related hardware to implement the PG&E program. It is PG&E’s aim to specify “what” is required to be achieved per the objectives of Charge Smart and Save, and not “how” these requirements are met. This approach is intended to leverage the EVSP market expertise and foster innovation. Site hosts may choose Level 2 (L2, 240 volt) EVSE and services from a list of pre-qualified providers that meet the goals of this program, including providing for base charging functionality and load management capability, a positive driver experience, and prudent expenditure of ratepayer funds. PG&E will establish an annual

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106/ Exh. JOINT SETTLING PARTIES-1, *Smart Charge and Save Settlement Agreement*, Sections 17, 18, 19, 20, pp. 13-14; Appendices A and B.

107/ Exh. JOINT SETTLING PARTIES-1, *Smart Charge and Save Settlement Agreement*, Appendix B.

108/ Exh. JOINT SETTLING PARTIES-1, *Smart Charge and Save Settlement Agreement*, Sections 9 and 11, p. 11; Appendix C.

109/ Exh. JOINT SETTLING PARTIES-1, *Smart Charge and Save Settlement Agreement*, Section 11,
qualification process in order to foster innovation and competition for EV charging products and services.\textsuperscript{110} PG&E’s procurement of EV charging equipment and services will be subject to advisory review by Non-Market Participant members of the Program Advisory Council.\textsuperscript{111}

EV charging equipment and service providers pre-qualified by PG&E for the Charge Smart and Save Program may offer and contract with the EV Site Host or PG&E to provide any additional or complementary services, as long as these services do not interfere with the objectives of the Program.\textsuperscript{112} As noted in the Settlement Agreement, PG&E will encourage discussions during the qualification process that allow equipment and service providers to explore with PG&E the funding of innovative opportunities that may exceed the minimum implementation requirements of the Charge Smart and Save Program, and have the potential to enhance and improve the grid integration and clean energy benefits of the Program overall.\textsuperscript{113}

The Settling Parties have required that Charge Smart and Save be included within PG&E’s women, minority, disabled veteran -owned business enterprise (WMDVBE) procurement goal. As such, the Charge Smart and Save program and contracts will request a subcontracting plan that meets PG&E’s goal of reflecting the diversity of the communities it serves.\textsuperscript{114}

In summary, the technology choice, procurement and quality assurance processes required for Charge Smart and Save are virtually the same as EVSPs and other parties have

\textsuperscript{110} Id.
\textsuperscript{111} Id.
\textsuperscript{112} Id.
\textsuperscript{113} Exh. JOINT SETTLING PARTIES-1, Smart Charge and Save Settlement Agreement, Sections 11 and 12, pp. 11- 12.
\textsuperscript{114} Exh. JOINT SETTLING PARTIES-1, Smart Charge and Save Settlement Agreement, Section 14, p. 12.
included in the SCE and SDG&E settlements, and as required by the Commission in its decisions on those settlements.

F. Site Selection Criteria and Participation Payments

In selecting site hosts, Charge Smart and Save requires PG&E to aim to achieve a non-binding goal of installing 7,500 Level 2 EV charging ports and 100 DC Fast Chargers (DCFC) at MUDs, workplaces and other public locations.\textsuperscript{115} PG&E will commit to 20 percent of deployment sites serving MUDs, with a non-binding target of 50 percent for MUDs.\textsuperscript{116} PG&E also will seek to align its site selection and program planning to the extent possible with state and regional transportation planning efforts through engagement with parties such as Caltrans, regional transportation organizations such as the Metropolitan Transportation Commission, regional Councils of Governments and Air Districts, the California Energy Commission, and local Plug-in Electric Vehicle Coordinating Councils.\textsuperscript{117}

PG&E is required to assess participation payments on EV Facility Site Hosts that elect to participate in Charge Smart and Save. Based on percentage of the cost of the EV Charger, the participation payment will be 10 percent for MUDs and 20 percent for private, for-profit entities.\textsuperscript{118} The participation payment will be waived for EV Facilities at sites located in Disadvantaged Communities as identified in Appendix D of the Settlement Agreement and at sites owned or leased by school districts, government agencies or non-profit entities.\textsuperscript{119} After consultation with the Program Advisory Council, PG&E may file for modification of the

\textsuperscript{115} Exh. JOINT SETTLING PARTIES-1, \textit{Smart Charge and Save Settlement Agreement}, Section 5, p. 9.

\textsuperscript{116} \textit{Id.}

\textsuperscript{117} Exh. JOINT SETTLING PARTIES-1, \textit{Smart Charge and Save Settlement Agreement}, Section 7, p. 10.

\textsuperscript{118} Exh. JOINT SETTLING PARTIES-1, \textit{Smart Charge and Save Settlement Agreement}, Section 8, pp. 10- 11.

\textsuperscript{119} \textit{Id.}
participation payment by way of a Tier 2 advice letter, subject to protest by any party.\footnote{120}{Id.} Consistent with D.16-01-045, the revenue collected from participation payments will be credited against Operations and Maintenance (O&M) costs incurred for EV charging stations under Charge Smart and Save.\footnote{121}{Id.}

As also discussed in Section I, below, Charge Smart and Save also provides that at least 15 percent of EV charging stations will be installed in Disadvantaged Communities and PG&E will pursue an additional 5 percent stretch goal that can be met with a combination of the same areas that qualify for the 15 percent minimum requirement and areas identified in the settlement that have a high concentration of customers eligible for PG&E’s CARE program.\footnote{122}{Exh. JOINT SETTLING PARTIES-1, Smart Charge and Save Settlement Agreement, Section 15, pp. 12-13.}

Again, the Charge Smart and Save site selection and participation payment requirements meet and in many cases exceed the requirements of the SCE and SDG&E programs as approved by the Commission.

G. Load Management, Time of Use Rates, Pricing to EV Drivers

The Settling Parties agree with the Commission’s SCE decision that load management is not only critical to materializing grid benefits of EV charging, but also necessary to avoid any negative impacts on the grid.\footnote{123}{D.16-01-023, Conclusion of Law 19, p. 57.} The Settling Parties also agree with the Commission’s reasoning in the SCE decision that utility EV programs should provide data on EV services to the MUD segment to determine whether the proposed demand response capabilities, TOU pricing for customer participants, and customer education components are enough to incentivize prudent load management by MUD customers.\footnote{124}{D.16-01-023, pp. 34-35.}
Like the SDG&E program, Charge Smart and Save will allow EV drivers to realize the potential fuel cost savings of electric vehicles, and will support load management and renewables integration objectives.\textsuperscript{125/} Charge Smart and Save provides for a “TOU Rate-to-Driver” option, under which EV drivers will pay prices based on CPUC-approved TOU rates that encourage charging when there is spare capacity in the grid and provide the opportunity to realize fuel savings relative to gasoline.\textsuperscript{126/} Consistent with the Commission’s SCE and SDG&E decisions, Charge Smart and Save also provides for a “TOU-Rate-to-Host” option coupled with site host load management plans consistent with the Guiding Principles.\textsuperscript{127/} Charge Smart and Save also specifies that PG&E will aim to leverage existing or planned load management pilots and enabling programs, such as the Electric Power Research Institute’s “Open Vehicle Grid Integration Platform” and the PG&E/BMW “iChargeForward” pilot to facilitate the integration of variable renewables and supporting the electric distribution system. PG&E agrees to create or have identified and adopted an “Advanced EV Grid Support” program, at the end of Phase 1, to be deployed in Phase 2. PG&E will aim to leverage existing or planned load management pilots and programs, such as the Electric Power Research Institute’s “Open Vehicle Grid Integration Platform” and the PG&E/BMW “iChargeForward” pilot to facilitate the integration of variable renewables and supporting the electric distribution system in development of the “Advanced EV Grid Support” program.\textsuperscript{128/} Consistent with the SCE decision, Charge Smart and Save’s load management and TOU pricing elements will allow PG&E to work with the Program Advisory Committee to determine metrics needed to evaluate the effectiveness of the Load Management strategies in achieving the Guiding Principles of the settlement.\textsuperscript{129/}

\textsuperscript{125/} Exh. JOINT SETTLING PARTIES-1, \textit{Smart Charge and Save Settlement Agreement}, Section 6, pp. 9-10.

\textsuperscript{126/} \textit{Id}.

\textsuperscript{127/} \textit{Id}.

\textsuperscript{128/} \textit{Id}.

\textsuperscript{129/} D.16-01-023, pp. 36-37.
In essence, the Settling Parties have incorporated into Charge Smart and Save the “best practices” and approved elements for load management, TOU pricing and pricing flexibility to EV drivers from both the approved SCE and SDG&E EV programs.

H. Targeting of Market Segments

Workplaces, MUDs and Disadvantaged Communities. Consistent with the Commission’s findings in its SCE and SDG&E decisions, Charge Smart and Save targets the underserved EV market segments of workplaces, MUDs and Disadvantaged Communities.130/ (The Disadvantaged Communities element of Charge Smart and Save is discussed in section I, below.) Charge Smart and Save is intended to ensure adequate deployment of EV charging stations and equipment at MUDs, without hindering program implementation in other targeted segments that will remain demand driven. To this end, Charge Smart and Save requires PG&E to aim for 50 percent of sites at MUDs, and to commit to deploy at least 20 percent of EV sites at MUDs. The remainder of PG&E’s sites will be at workplaces, fleet locations and public facilities such as government buildings and community destinations.131/

Charge Smart and Save’s targeting of these underserved market segments will allow development of a sample of EV pilot data that will help inform the targeting of market segments in Phase 2 of PG&E’s program. At the same time, however, the Settling Parties intend that Charge Smart and Save provide PG&E with sufficient flexibility in these underserved markets so that charging stations are deployed based on actual market demand and needs and maximize the potential utilization and promotion of EV deployment.

DC Fast Charging Stations. Unique among the three Phase 1 program proposed by the IOUs, PG&E’s Phase 1 program includes a pilot deployment of 100 DC Fast Charging stations (DCFCs) in PG&E’s service territory.132/

130/ Exh. JOINT SETTLING PARTIES-1, Smart Charge and Save Settlement Agreement, p. 4 (“Targeting of Multi-Unit Dwellings (MUDs) and Workplaces.”)
131/ Id.
132/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement, p. 4 and Section 5, p.
DCFCs’ faster charging capabilities can provide significant benefits to EV drivers that are not currently being provided by other providers. PG&E’s DCFCs will be co-located with a Level 2 station, allowing these stations to serve all EV drivers, but particularly Battery Electric Vehicle (BEV) drivers and those without residential charging capability (e.g., in MUDs). Charge Smart and Save provides that PG&E will competitively procure and deploy an initial number of 100 DCFCs in its Phase 1 Program at reasonable cost in order to meet this gap in current EVSE markets and provide significant benefits to BEV drivers, MUD residents, and EV market participants.\(^{133/}\)

Benefits to BEV Drivers: BEV drivers now comprise a majority of EV drivers across PG&E’s service territory. Many of these drivers, unlike Plug-In Hybrid Electric Vehicle drivers who rely on gasoline backup to extend their range, need a regional fast charging network separate from home charging in order to overcome BEV range anxiety. As of late 2015, 62 percent of EV drivers throughout PG&E’s service territory have purchased or leased BEVs. Sales data for 2015 suggest that the market is moving more heavily towards BEVs. Furthermore, automotive manufacturers continue to announce new fast-charge capable models. Importantly, DCFCs may significantly reduce the range anxiety of BEV drivers toward longer inter-regional trips that would otherwise require a several-hour stop at a location with an L2 charging station.\(^{134/}\)

Benefits to MUD Residents: In addition, DCFCs may serve a unique piece of the MUD market that L2 chargers may not. DCFCs allow faster chargers for more drivers in the same space, compared to multiple parking spaces needed for L2 chargers to support multiple drivers with much longer charging times. DCFCs thus are a promising option for MUDs that have limited parking for MUD residents. The more rapid charging capability of DCFCs provides an

\(^{9/}\)

\(^{133/}\) Exh. PGE-3, p. 27 (Corey).

\(^{134/}\) Exh. PGE-3, pp. 27-28 (Corey)
opportunity to significantly increase the availability and utilization of stations deployed in or near MUDs. Additionally, DCFCs placed in public locations within close proximity to residential areas have the potential to support customers who may not have access to residential charging, which is critical to increasing vehicle adoption and overcoming range anxiety in these areas.\footnote{Exh. PGE-3, p. 28 (Corey).}

\textit{Existing Market Participants Need Additional Support for DCFC Deployment:} Although providing significant benefits to BEV drivers and MUD residents, DCFCs are relatively more expensive to install than L2 chargers. As a result, DCFC deployment has been severely limited in California.\footnote{Id.} This overall benefit to EV market participants was reinforced by testimony at the hearings in this proceeding, in which Judge Farrar asked Ryan Harty, representing American Honda Motor Co., Inc. why the automakers were supporting Charge Smart and Save’s pilot deployment of DCFCs:

\begin{quote}
Judge Farrar: Let me ask your opinion on why the automakers support PG&E's direct DC fast charge program particularly in consideration of the automakers' existing DC fast charger investments?

Harty: So there is several barriers to selling a plug-in electric vehicle. You could kind of think about it in terms of chickens and chicken feed. If you want robust healthy chickens, you've got to feed them, right? That is access to electricity for the vehicle drivers, and if you don't have that access to electricity you don't have those vehicle miles travelled on electricity.

DC fast charging, it sells cars. In the same way that workplace charging and charging at home sells cars. When a customer hears about electric vehicle, they want to understand can that vehicle work for me. And at some point in their consideration a light bulb goes off. They realize aha, I can charge at home or, aha, I can charge at work, or when I have been driving and I've exceeded the range of my battery, I can stop at a DC fast charger and I can have enough range to get home. So removing those anxieties from the purchase decision of a vehicle, which is a very complicated purchase decision, but removing those anxieties allows people to consider an electric vehicle when they may not have otherwise.
\end{quote}
And so, frankly, we were very happy to see that PG&E was planning to install DC fast charging as part of their program, because it sells cars.\(^{137}\)

Charge Smart and Save’s pilot deployment of DCFCs is reasonable and will enhance the data and evidence available to assess and update the Commission and stakeholders on the needs of EV market participants for Phase 2 IOU programs.

I. Disadvantaged Communities

Compared to PG&E’s original proposal, Charge Smart and Save requires PG&E to increase its commitment to require a minimum of 15 percent of charging station deployment to be located in the top quartile of Disadvantaged Communities identified by CalEnviroScreen 2.0 on a PG&E service territory basis.\(^{138}\) PG&E must seek to meet an additional 5 percent stretch goal in a combination of the same areas that qualify for the 15 percent commitment and areas identified that have a high concentration of low-income PG&E customers eligible for PG&E’s California Alternate Rates for Energy (CARE) program.\(^{139}\)

To improve the effectiveness of the program, PG&E will work with the Program Advisory Council to identify priority areas of focus for EV infrastructure deployment, education and outreach (e.g., EV ride and drive events, etc.) and related activities. DCFC charging stations located outside of Disadvantaged Communities may count towards the 15 percent minimum deployment if they demonstrate co-benefits to the disadvantaged communities.\(^{140}\)

Further, $5 million of the Charge Smart and Save budget will be set aside for additional equity programs increasing access to clean vehicles in Disadvantaged Communities.\(^{141}\) The

\(^{137}\) Tr. Vol.4, April 27, 2016, 458:24 to 460:7 (Honda/Harty).

\(^{138}\) Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement, p. 5 and Section 15, pp. 12-13.

\(^{139}\) Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement, Section 15.

\(^{140}\) Id.

\(^{141}\) Id.
Disadvantaged Communities elements in Charge Smart and Save should be implemented in a manner that complements statewide low-income programs being implemented under SB 1275 (2014, De León).\textsuperscript{142/}

By including these enhanced Disadvantage Communities programs in Charge Smart and Save, the Settling Parties are committed to supporting EV adoption for PG&E customers living in low and moderate income communities throughout the service territory. As a result, Charge Smart sets an ambitious target of installing a minimum of 15\% of site hosts located in Disadvantaged Communities. Unlike SCE and SDG&E, PG&E’s service territory includes five of the top ten most polluted regions with respect to air quality.\textsuperscript{143/} In addition, approximately 26 percent, or 3.9 million of PG&E customers live in Disadvantaged Communities, as defined by the CalEnviroScreen2.0.\textsuperscript{144/}

While the deployment goals included in the Charge Smart and Save settlement for Disadvantaged Communities are significantly greater than those adopted for SCE or SDG&E, the Settling Parties believe they are achievable in light of the size of PG&E’s service territory and the absolute number of PG&E customers who live in Disadvantaged Communities. PG&E’s Charge Smart and Save Program will help to support transportation electrification, which is critical to improving air quality throughout California, especially in the Central Valley.

The Charge Smart and Save settlement also specifies that the strategies employed by PG&E will “complement and coordinate with federal, state and locally funded Programs, such as those being developed by the Air Resources Board pursuant to SB 1275, that are expected to grow the demand for EVs in Disadvantaged Communities (e.g., EFMP Plus Up, Low and Moderate Income Clean Vehicle Rebate Project rebates, Financing Assistance, EV car-sharing

\textsuperscript{142/} Id.

\textsuperscript{143/} \url{www.stateoftheair.org/2015/assets/ALA_State_of_the_Air_2015.pdf}.

\textsuperscript{144/} \textit{Joint Response of Settling Parties to Administrative Law Judge’s Ruling Directing Joint Settling Parties to Respond to Various Questions}, April 12, 2016, p. 6.
services, etc.)."\textsuperscript{145/} In sum, there will be a collaborative relationship between programs that accelerate the deployment of plug-in electric vehicles in Disadvantaged Communities and the Charge Smart and Save program which will help provide the charging stations for those vehicles, thereby further accelerating vehicle adoption in those communities.

\textbf{All} Charge Smart and Save contractors will be required to use their best efforts to reflect the communities PG&E serves in their hiring practices, including utilizing best practices to ensure maximum outreach and opportunities to disadvantaged communities to increase the pool of eligible candidates for employment for EV projects, including considering first-source hiring for projects in Disadvantaged Communities.\textsuperscript{146/} The Program Advisory Council will also monitor and provide recommendations to contractors or subcontractors associated with the increase of hiring from Disadvantaged Communities, including best practices for hiring in Disadvantaged Communities.\textsuperscript{147/}

The Settling Parties agree with the Commission in its SCE decision that PG&E should coordinate its Disadvantaged Communities EV program with other low-income rate, demand-side management, or distributed generation programs, and engage local organizations to support outreach to the Disadvantaged Communities.\textsuperscript{148/}

The Disadvantaged Communities elements of Charge Smart and Save are exciting and significant improvements on the pilot programs approved for SDG&E and SCE. The Settling Parties intend and expected Charge Smart and Save to break new ground on new methods for expanding the availability of clean vehicles to underserved low and moderate income

\begin{itemize}
\item \textsuperscript{145/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Section 15, pp. 12-13.
\item \textsuperscript{146/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Section 16, p. 13.
\item \textsuperscript{147/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Section 15, pp. 12-13.
\item \textsuperscript{148/} D.16-01-023, pp. 40-41.
\end{itemize}
communities, where the costs and risks of pollution are great and the benefits of clean transportation are most needed and widespread.

J. Coordination with Distribution Resource Plans

Consistent with the guidelines in D.16-01-045, PG&E in its site selection criteria will coordinate with and leverage the utility’s Distribution Resources Plan (DRP) and related programs, including PG&E’s DRP Integration Capacity Analysis, for integrating distributed energy resources onto PG&E’s grid at optimal locations. Further, PG&E will leverage the results of its EPIC 1.22 DC Fast Charging Siting Research, conducted in partnership with researchers from UC Davis, to inform site selection of DCFCs. As discussed above, PG&E also will seek to align program planning to the extent possible with state and regional transportation planning efforts through engagement with parties such as CalTrans, regional transportation organizations such as the Metropolitan Transportation Commission, the California Energy Commission, regional Councils of Governments and Air Districts, and local Plug-in Electric Vehicle Coordinating Councils.

K. Education and Outreach

Similar to the approved SCE and SDG&E programs, Charge Smart and Save allocates significant resources to marketing, education and outreach (ME&O) to not only Disadvantaged Communities, but also to all the targeted segments for siting and customer support related to installation and operation of EV charging stations and infrastructure. These ME&O activities are required to be coordinated with the recommendations of the Program Advisory Council and

149/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 7, p. 10.

150/ Id.

151/ Id.

152/ Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Appendix E.
other EV stakeholders, including community based organizations, state and local agencies, EV market participants, and Community Choice Aggregators (CCAs).\textsuperscript{153/}

More specifically, third party EV charging equipment and service providers pre-qualified by PG&E for Charge Smart and Save, in coordination with PG&E customer contact personnel and CCAs (where applicable), will market and sign up potential EV Site Hosts to participate in Charge Smart and Save in the targeted customer segments, and in any other customer sub-segments identified by Charge Smart and Save, e.g., Disadvantaged Communities.\textsuperscript{154/} Competitively neutral descriptions of Charge Smart and Save will be prepared by PG&E and shall be used by third parties; third parties shall be permitted to develop and utilize their own marketing materials at their own expense, consistent with and subject to PG&E’s Co-branding Policy and approval process.\textsuperscript{155/}

Although Charge Smart and Save’s ME&O activities and goals are similar to those approved by the Commission for SCE and SDG&E, the higher priority for promoting and deploying EVs in Disadvantaged Communities means that Charge Smart and Save is likely to provide the Commission and stakeholders with unique and valuable data on different methods and options for incentivizing much broader deployment of EVs to low and moderate income communities and customers.

L. \textbf{Coordination and Collaboration with Community Choice Aggregators}

Charge Smart and Save includes unique and new initiatives providing for collaboration among PG&E and CCAs in the promotion and deployment of EVs in northern and central California.\textsuperscript{156/} Charge Smart and Save requires that marketing conducted for the Charge Smart

\begin{itemize}
  \item \textsuperscript{153/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Section 12, pp. 11-12.
  \item \textsuperscript{154/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Sections 11 and 12, pp. 11-12.
  \item \textsuperscript{155/} \textit{Id}.
  \item \textsuperscript{156/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Sections 12 and 17, pp. 11-12, 13.
\end{itemize}
and Save program, whether by PG&E or any third party, will not discriminate against or adversely impact CCA programs or their customers pursuant to CCA rules and regulations. CCAs will provide generation services for EV Facilities in CCA jurisdictions, subject to the ability of Site Host to opt-out consistent with CCA rules and regulations. In order to create and maintain a positive customer experience with the EV Program, the third parties will be required to describe how they will share the initial and ongoing customer relationships with PG&E, the resident CCA (where applicable) and the EV Facility site host, operator and EV driver. Vendors will be permitted to contract directly with site hosts for services as long as these services do not interfere with the objectives of Charge Smart and Save. For EV charging equipment and service deployment efforts within communities participating in CCA programs, PG&E staff will collaborate and coordinate with the corresponding CCA to further enhance these deployment efforts within these communities, and CCAs will work with PG&E to market and sign up potential EV Site Hosts to participate in Charge Smart and Save in the targeted customer segments. Furthermore, any marketing efforts to promote Charge Smart and Save within such communities will be presented in a manner that highlights the collaborative efforts of PG&E and the resident CCA.\textsuperscript{157/}

Given the growth of CCA programs in PGE’s service area, PG&E and the CCAs among the Settling Parties are pleased that this unique and innovative approach to utility-CCA collaboration and cooperation for the commonly-shared goal of EV deployment and GHG reduction is included in Charge Smart and Save.

\textbf{M. Monitoring, Data Collection and Reporting}

In order to provide an assessment of Charge Smart and Save consistent with the Guiding Principles and the Commission decisions approving the SCE and SDG&E programs, after Charge Smart and Save begins installation of EV Facilities, PG&E must file quarterly progress

\textsuperscript{157/} Exh. JOINT SETTLING PARTIES-1, \textit{Charge Smart and Save Settlement Agreement}, Section 12, pp. 11-12.
reports with the Commission and the Program Advisory Council, and serve the reports on all parties to A.15-02-009 and R.13-11-007, as described in PG&E’s supplemental testimony.\(^{158/}\) PG&E also will file and serve an Interim Progress Report at the end of the second year following the beginning of construction.\(^{159/}\) The progress reports will include data as described in PG&E’s supplemental testimony and the Settlement Agreement and a description of any programmatic changes implemented by PG&E prior to the date of the report. Parties will be permitted to file informal comments and reply comments on the progress reports.\(^{160/}\)

These monitoring, data collection and reporting mirror the similar requirements adopted by the Commission in its SDG&E and SCE decisions, and have not been opposed by any parties. This provision of the Settlement Agreement should be approved without change.

**N. Advisory Council**

Charge Smart and Save requires a Program Advisory Council with members and duties virtually identical to the similar advisory boards approved by the Commission for SDG&E and SCE.\(^{161/}\) No parties opposed this provision of the Settlement Agreement, and it should be approved without change.

**O. Cost Recovery, Cost Allocation, Management, and Transition Mechanism**

The costs of Charge Smart and Save will be recovered in accordance with the cost recovery, rate design and cost allocation proposal in PG&E’s prepared testimony.\(^{162/}\) These

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\(^{159/}\) Exh. JOINT SETTLING PARTIES-1, *Charge Smart and Save Settlement Agreement*, Sections 17, 18, 20, pp. 13-14 and Appendices A and B.


\(^{161/}\) Exh. JOINT SETTLING PARTIES-1, *Charge Smart and Save Settlement Agreement*, Section 17, p. 13 and Appendix A.

\(^{162/}\) Exh. JOINT SETTLING PARTIES-1, *Charge Smart and Save Settlement Agreement*, Section 4, p. 9.
include a cap on overall costs of $160,324,000 as provided in the Settlement Agreement, as well as a balancing account consistent with traditional Commission ratemaking principles.\textsuperscript{163/}

In addition, the September 4, 2015, \textit{Joint Assigned Commissioner and Administrative Law Judge’s Scoping Memo and Ruling} in this proceeding required PG&E to provide supplemental testimony recommending what transition mechanisms should be established between the initial phase and potential second phase of PG&E’s EV program to allow adequate time for regulatory review of the initial phase while also minimizing market uncertainty and discontinuity during the review.\textsuperscript{164/} Exhibit PGE-3 (pp. 32- 24) recommended a transition mechanism that includes a bridge funding mechanism to avoid interruption, customer confusion or market uncertainty or discontinuity if the event that the Commission for whatever reason has not issued a decision on PG&E’s Phase 2 proposal before the end of PG&E’s Phase 1 deployment.\textsuperscript{165/} Accordingly, Charge Smart and Save includes a bridge funding mechanism which modifies PG&E’s original transition proposal to restrict the bridge funding to the average monthly cost and deployment rate of the Charge Smart and Save program for the previous 12 months, less any unspent funds from the budget at the end of the third year.\textsuperscript{166/}

PG&E customers will benefit from this bridge funding because it will lessen the incremental costs of re-mobilizing and re-starting Charge Smart and Save deployment activities in the event that there is a significant gap between end of Phase 1 deployment and beginning of Phase 2 deployment. For example, once the construction and installation crews have been assembled and are experienced, it would be wasteful to have them stop working for so long that the crews are forced to find other work. When the program is restarted, the efficiency of the

\textsuperscript{163/} Id.

\textsuperscript{164/} Joint Assigned Commissioner and Administrative Law Judge’s Scoping Memo and Ruling, A.15-02-009, September 4, 2015, p. 9.

\textsuperscript{165/} Exh. PGE- 3, p. 34 (Corey).

\textsuperscript{166/} Exh. JOINT SETTLING PARTIES-1, Charge Smart and Save Settlement Agreement, Section 19, pp. 13- 14.
experienced workers would be lost and would have to be reestablished with new crews at potentially higher cost.

P. **Safety**

As required by the SCE and SDG&E decisions, Charge Smart and Save also requires safety and quality assurance for the work performed under the program.\textsuperscript{167/} Construction, installation and maintenance contractors will have Electric Vehicle Infrastructure Training Program (EVITP) certification, and PG&E will require that all construction, installation and maintenance of EV Facilities that is not performed by employees of PG&E shall be performed by contractors signatory to the IBEW who hold a valid C-10 contractor’s license, as defined in the governing labor agreement between PG&E and the IBEW.\textsuperscript{168/} Consistent with D.16-01-045, requiring that, “all of the construction and installation of the EV charging infrastructure will be performed safely, and to code, by licensed electrical contractors with EV infrastructure training certification” meets the interest of ratepayers as defined by Public Utilities Code 740.8.\textsuperscript{169/}

V. **OTHER ISSUES**

N/A.

VI. **CONCLUSION**

The Settling Parties appreciate the compromises and good faith negotiation that have led to the Charge Smart and Save Settlement Agreement. The Settling Parties respectfully request that the Commission find that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. The Settling Parties request that the Settlement Agreement be approved by the Commission.

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\textsuperscript{167/} Exh. JOINT SETTLING PARTIES-1, *Charge Smart and Save Settlement Agreement*, Section 13, p. 12.

\textsuperscript{168/} Id.

\textsuperscript{169/} Id.
Respectfully submitted,

CHRISTOPHER J. WARNER

By: /s/ CHRISTOPHER J. WARNER

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Attorney for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: June 17, 2016
### APPENDIX –
**COMPARISON BETWEEN CHARGE SMART AND SAVE AND PRIOR PG&E PROPOSALS**

<table>
<thead>
<tr>
<th>Guiding Principles</th>
<th>General</th>
<th>General</th>
<th>13 Guiding Principles added from D. 16-01-045</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size</td>
<td>25,000 L2, 100 DCFC</td>
<td>7,430 L2, 100 DCFC</td>
<td>7,500 L2 ports, 100 DCFC</td>
</tr>
<tr>
<td>Cost</td>
<td>$654 million</td>
<td>$222 million</td>
<td>$160 million (4% less average annual rate impact than approved in D. 16-01-045)</td>
</tr>
<tr>
<td>Duration</td>
<td>7 years</td>
<td>3 years after initial construction</td>
<td>3 years after initial construction</td>
</tr>
<tr>
<td>Segment Targets</td>
<td>None</td>
<td>None</td>
<td>20% minimum at MUDs; 50% MUD stretch goal</td>
</tr>
<tr>
<td>Renewables Integration, Load Management, and Integration with Distributed Energy Resources</td>
<td>TOU rates</td>
<td>TOU rates</td>
<td>TOU rates; site host load management plans; site selection informed by Distributed Resource Plan Integration Capacity Analysis; and commitment to evaluate more sophisticated forms of load management during Phase 1, such as the Electric Power Research Institute’s “Open Vehicle Grid Integration Platform” and the PG&amp;E/BMW “iChargeForward” pilot, to identify an “Advanced EV Grid Support” program to be deployed in Phase</td>
</tr>
<tr>
<td>Site Host Flexibility in Rate Plans</td>
<td>No</td>
<td>No</td>
<td>Yes, site host flexibility to choose “Rate to Host” or “Rate to Driver” options, consistent with D.16-01-045</td>
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<tr>
<td>------------------------------------</td>
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<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Site Host Participation Payments</td>
<td>No</td>
<td>No</td>
<td>Yes, 10% of EVSE cost for MUDs; 20% of EVSE cost for private entities; waived for disadvantaged communities, school districts, public agencies, non-profit agencies</td>
</tr>
<tr>
<td>Site Host Choice of Charging Technology</td>
<td>No</td>
<td>No</td>
<td>Yes, consistent with D.16-01-045</td>
</tr>
<tr>
<td>Improving Cost Effectiveness and Efficiency through Dual Port EVSE and Site Specific DCFC Deployment</td>
<td>No</td>
<td>No</td>
<td>Yes, use of dual port L2 EVSE where appropriate and varying the number of DCFC per site to account for likely use cases</td>
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<tr>
<td>Disadvantaged Communities Deployment and Support</td>
<td>10%, plus $5 million for additional programs in disadvantaged communities</td>
<td>10%, budget for additional programs in disadvantaged communities reduced to $3.7 million</td>
<td>15% minimum in disadvantaged communities, plus additional 5% stretch goal in CARE communities, plus $5 million for additional programs in disadvantaged communities, plus vendor and contractor diversity provisions, plus coordination with federal, state and local EV programs in disadvantaged communities</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>No</td>
<td>Yes</td>
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<td>------------------------------------------</td>
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<tr>
<td>Coordination with CCAs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customer Education and Outreach</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Express Competitive Procurement Criteria</td>
<td>No</td>
<td>No</td>
<td>Yes, same as SDG&amp;E/D.16-01-045</td>
</tr>
<tr>
<td>Program Advisory Council</td>
<td>No</td>
<td>Yes</td>
<td>Yes, including specific duties and responsibilities approved in D.16-01-045</td>
</tr>
<tr>
<td>Independent Review of EVSE Procurement</td>
<td>No</td>
<td>No</td>
<td>Yes, similar to “Procurement Review Groups” for utility energy procurement, non-market participants in PAC will review EVSE procurement</td>
</tr>
<tr>
<td>Data Collection, Monitoring and Reporting</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, modified to be comparable to D.16-01-045</td>
</tr>
<tr>
<td>Supplier Diversity</td>
<td>Not specific</td>
<td>Not specific</td>
<td>Specific, consistent with D.16-01-045</td>
</tr>
<tr>
<td>Safety Considerations</td>
<td>Not specific</td>
<td>Not specific</td>
<td>Specific, consistent with D.16-01-045</td>
</tr>
<tr>
<td>Phasing</td>
<td>None</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2016 and 2017 Compliance Years.

R.14-10-010
(Filed October 16, 2014)

COMMENTS OF SONOMA CLEAN POWER AUTHORITY, THE CITY OF LANCASTER, AND MARIN CLEAN ENERGY ON THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE DUDNEY

Steven S. Shupe
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Counsel for the City of Lancaster

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Dated: June 9, 2016
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   B. The Commission Should Remove Language in the PD on Allocation Issues that May Hinder a Full and Fair Review of Allocation Issues in Track 2 and Departs from Practice in Past Decisions in this Proceeding ................................. 3
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<table>
<thead>
<tr>
<th>Decision</th>
<th>Page(s)</th>
</tr>
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<tr>
<td>15-06-063</td>
<td>2,3</td>
</tr>
<tr>
<td>14-06-050</td>
<td>2</td>
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</tbody>
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2016 and 2017 Compliance Years.

R.14-10-010 (Filed October 16, 2014)

COMMENTS OF SONOMA CLEAN POWER AUTHORITY,
THE CITY OF LANCASTER, AND MARIN CLEAN ENERGY ON THE PROPOSED DECISION
OF ADMINISTRATIVE LAW JUDGE DUDNEY


I. COMMENTS ON THE PROPOSED DECISION

A. The Commission Should Maintain the Proposed Decision’s Movement of Flexible Resource Adequacy Requirement Allocation Issues to Track 2 of this Proceeding in Order to Ensure Consistency with Decision 15-06-063

The CCA Parties support the PD’s movement of Flexible Resource Adequacy Requirement Allocation issues (“Allocation Issues”) to Track 2 in this proceeding, as well as the PD’s encouragement of the review and improvement of party proposals on this issue “at another point in the future.”¹ The PD’s determination to defer Allocation Issues to a Track 2 in this

¹ PD at 48-49.
proceeding is consistent with Decision ("D.") 15-06-063, where the Commission decided to “make no change to the allocation of flex RA,” concluding that, “[i]t would be more appropriate and effective to address the allocation of flexible capacity requirements in conjunction with or following the development of a durable flexible product.”\(^2\) Under the Phase 2 Scoping Memo in this proceeding, the development of a durable flexible product in this proceeding is scoped for Track 2 of Phase 2.\(^3\) Thus, the PD is correct that Allocation Issues are to be addressed “in conjunction with or following”\(^4\) Track 2.

B. The Commission Should Remove Language in the PD on Allocation Issues that May Hinder a Full and Fair Review of Allocation Issues in Track 2 and Departs from Practice in Past Decisions in this Proceeding

After deferring Allocation Issues to Track 2, this PD for Track 1 then proceeds with a substantive discussion on party proposals on these Allocation Issues.\(^5\) The CCA Parties are concerned that this discussion would hinder a full and fair review of Allocation Issues in Track 2 of the proceeding. The Commission cannot “remain open”\(^6\) to party proposals and potential improvements to Allocation Issues in Track 2 when it proceeds to weigh the benefits of party proposals on these very issues. An important concern in the comments of the CCA Parties was that there was insufficient time to review and respond to party proposals on these Allocation Issues.\(^7\) The CCA Parties request that the Commission in this PD remained focused on Track 1 issues and allow for a full discussion of Allocation Issues in Track 2 prior to making a determination on any party proposals.

\(^2\) D.15-06-063 at 45.
\(^3\) See Phase 2 Scoping Memo at 2-5 (for proceeding track scoping).
\(^4\) D.15-06-063 at 45.
\(^5\) PD at 48-50.
\(^6\) PD at 49.
\(^7\) CCA Parties Reply Comments at 2-4.
Further, the CCA Parties note that the Commission, at other points in this PD, defer discussion on other issues without weighing in on the merits of party proposals.\(^8\) In the following Section (Section 8.2), the PD discusses Effective Flexible Capacity bundling with Net Qualifying Capacity, and concludes with a simple, “We will again defer this issue until Track 2 or a later time.”\(^9\) The PD similarly addresses the Maximum Cumulative Capacity Bucket System, concluding that, “the situation has not materially changed since we deferred this proposal in D.15-06-063, and we must do so again.”\(^10\) Similar short treatment has occurred in past decisions deferring issues in this proceeding, including Cost Allocation Mechanism refinements,\(^11\) Net Qualifying Capacity requirements,\(^12\) and the Demand Response test window.\(^13\) Thus, the CCA Parties respectfully request that the PD not depart from practice in past decisions in this proceeding, and limit substantive discussion on party proposals for Allocation Issues prior to Track 2.

At a minimum, the CCA Parties request that discussion specific to CCA Parties in Section 8.1 of the PD be revised. Presently the PD “reject[s]” the CCA Parties’ arguments on renewables impacts related to the Allocation Issues.\(^14\) Since Allocation Issues are deferred to Track 2, there has not yet been a record developed on which to reject an argument, and the CCA Parties would not want this PD to be wrongly misconstrued. Indeed, the CCA Parties’ statement in reply comments “merely note[d] a few infirmities or concerns with PG&E’s proposal,

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\(^8\) PD at 45-46, 51.
\(^9\) PD at 51.
\(^10\) PD at 45-46.
\(^12\) D.15-06-063 at 62.
\(^13\) D.14-06-050 at 31-32.
\(^14\) PD at 49.
warranting further consideration in Track 2,\textsuperscript{15} and was not intended as an argument on Track 2 issues. The Commission should consider replacing the word “reject” with “question,” which would allow the CCA Parties to present arguments or proposals on Allocation Issues in Track 2 without any misconstrued presumption against those arguments.

II. CONCLUSION

The CCA Parties thank the Commission for the opportunity to provide these comments on the Proposed Decision in this proceeding.

Dated: June 9, 2016

Respectfully submitted,

/s/ Steven S. Shupe

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Counsel for the City of Lancaster

/s/ Jeremy Waen

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\textsuperscript{15} CCA Parties Reply Comments at 3.
| BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA |

**NOTICE OF AVAILABILITY:**

APPENDICES A-B TO MARIN CLEAN ENERGY ADVICE LETTER 16-E

Michael Callahan-Dudley  
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Telephone: (415) 464-6044  
Facsimile: (415) 459-8095  
E-Mail: mcallahan-dudley@mceCleanEnergy.org

July 19, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


NOTICE OF AVAILABILITY

APPENDICES A-H TO MARIN CLEAN ENERGY ADVICE LETTER 16-E

To All Parties of the abovementioned proceeding:


Appendix A - MCE-PFM-E3Adjustment-Commercial-ValuesOnly-2016_0713
Appendix B - MCE-PFM-E3Adjustment-Multifamily-ValuesOnly-2016_0713

The MCE Attachments are available at the following URL:

https://www.mcecleanenergy.org/regulatorydocuments under the section for Advice Letter 16-E.

To receive hard copies of the MCE Attachments, direct your request in writing to:

MARSHA SERIANZ
REGULATORY ASSISTANT
MARIN CLEAN ENERGY
1125 Tamalpais Ave.
San Rafael, CA 94901
Telephone: (415) 464-6010
Facsimile: (415) 459-8095
E-Mail: regulatory@mceCleanEnergy.org
The MCE Attachments are available pursuant to this Notice of Availability as of today, July 19, 2016.

Respectfully submitted,

Michael Callahan-Dudley
Regulatory Counsel

By: /s/ Michael Callahan-Dudley
MICHAEL CALLAHAN-DUDLEY

For:

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July 19, 2016
July 19, 2016

CA Public Utilities Commission
Energy Division
Attention: Energy Efficiency Branch
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298

Advice Letter 16-E

Re: Planned Program Activities, Expenditures, and Cost-Effectiveness Analysis for Increased Energy Efficiency Budget

In compliance with the California Public Utilities Commission’s (“Commission”) Decision (“D.”) 16-05-004, Ordering Paragraph (“OP”) 5, issued on May 20, 2016, Marin Clean Energy (“MCE”) submits this filing to detail planned program activities, expenditures, and cost-effectiveness analysis associated with its increased budget authorized in D.16-05-004.

Effective Date: August 18, 2016

Tier Designation: Tier 1

Pursuant to General Order 96-B, Energy Industry Rule 5.1 and D.16-05-004 this advice letter is submitted with a Tier 1 designation.

Purpose

The purpose of this filing is to comply with D.16-05-004 and provide details about the planned program activities, expenditures, and cost-effectiveness analysis associated with the budget increase granted in that decision.

Background

MCE filed a Petition for Modification of D.14-10-046 (“PFM”) on January 25, 2016. The PFM requested a 30% increase in MCE’s energy efficiency (“EE”) budget to account for a growing service area. In 2015, Unincorporated Napa County and the cities of San Pablo, Benicia, and El Cerrito joined MCE’s service area which represents a 30% increase in customer accounts. The Commission granted MCE’s PFM in part with a slight modification in D.16-05-004. The Commission authorized a 30% budget increase for both gas and electric funds and ordered MCE

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1 D.16-05-004, OP 5 at p. 13.
2 D.16-05-004, OP 2 at p. 13.
to file a Tier 1 advice letter detailing the planned program activities, expenditures, and cost-effectiveness analysis associated with its increased budget.3

Since filing the PFM, MCE welcomed additional communities that will enroll in MCE service in 2016. These communities include the cities of Calistoga, St. Helena, Napa, American Canyon, Yountville, Lafayette, and Walnut Creek and represent an approximately 40% increase in customer accounts relative to 2015. While the additional budget under the PFM is not sufficient to meet the needs of these new communities, MCE will devote a portion of the additional funds to activities in these communities as discussed below.

**Planned Program Activities and Expenditures**

As a result of D.16-05-004, MCE received an additional $300,380 in electric funding and $65,700 in gas funding for a total increase of $366,080.4 The funds will be used primarily in MCE’s new communities, including those that will enroll in MCE service in 2016. The funds will be divided evenly between MCE’s Small Commercial Program and MCE’s Multifamily Program to support the activities discussed below. Table 1 provides a detailed budget, by budget category, for each of the programs receiving additional funding under the PFM.

**Table 1: Program Budget Impact**

<table>
<thead>
<tr>
<th>Program and Budget Category</th>
<th>2016 Budget Approved in AL 15-E</th>
<th>%</th>
<th>Additional Budget from PFM Dollars</th>
<th>New 2016 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Multifamily Program</strong></td>
<td>$484,515</td>
<td></td>
<td>$183,040</td>
<td>$667,555</td>
</tr>
<tr>
<td>Admin</td>
<td>$30,408</td>
<td>0%</td>
<td>-</td>
<td>$30,408</td>
</tr>
<tr>
<td>Direct Implementation</td>
<td>$284,837</td>
<td>60%</td>
<td>$107,699</td>
<td>$392,536</td>
</tr>
<tr>
<td>Incentive</td>
<td>$159,520</td>
<td>40%</td>
<td>$75,341</td>
<td>$234,861</td>
</tr>
<tr>
<td>Marketing &amp; Outreach</td>
<td>$9,750</td>
<td>0%</td>
<td>-</td>
<td>$9,750</td>
</tr>
<tr>
<td><strong>Small Commercial Program</strong></td>
<td>$475,671</td>
<td></td>
<td>$183,040</td>
<td>$658,711</td>
</tr>
<tr>
<td>Admin</td>
<td>$31,538</td>
<td>7%</td>
<td>$12,136</td>
<td>$43,674</td>
</tr>
<tr>
<td>Direct Implementation</td>
<td>$210,692</td>
<td>44%</td>
<td>$79,179</td>
<td>$289,871</td>
</tr>
<tr>
<td>Incentive</td>
<td>$204,441</td>
<td>43%</td>
<td>$80,566</td>
<td>$285,007</td>
</tr>
<tr>
<td>Marketing &amp; Outreach</td>
<td>$29,000</td>
<td>6%</td>
<td>$11,159</td>
<td>$40,159</td>
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</table>

Table 2 provides MCE’s updated portfolio budget by program to demonstrate the allocation of additional funding authorized by the PFM.

---

3 D.16-05-004, OP 5 at p. 13.  
4 D.16-05-004 at p. 7.
Table 2: Portfolio Budget Impact

<table>
<thead>
<tr>
<th>Program</th>
<th>2016 Budget Approved in AL 15-E</th>
<th>Additional Budget from PFM</th>
<th>New 2016 Budget</th>
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</thead>
<tbody>
<tr>
<td>Multifamily</td>
<td>$484,515</td>
<td>$183,040</td>
<td>$667,555</td>
</tr>
<tr>
<td>Small Commercial</td>
<td>$475,671</td>
<td>$183,040</td>
<td>$658,711</td>
</tr>
<tr>
<td>Single Family</td>
<td>$233,050</td>
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<td>$233,050</td>
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<tr>
<td>Financing</td>
<td>$27,031</td>
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<td>$27,031</td>
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<tr>
<td><strong>Total</strong></td>
<td>$1,220,267</td>
<td>$366,080</td>
<td>$1,586,347</td>
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Multifamily Program

MCE’s Multifamily Program will receive the remaining $183,040 of the additional funds. The majority of the funds will be used to support three new program strategies with the remainder going to support incentives for new and existing communities. These strategies were developed based on findings MCE made about the multifamily sector including: (1) multifamily EE projects take 1-3 years to complete; (2) there are no multifamily properties in Unincorporated Napa County; and (3) Benicia tends to have smaller multifamily buildings (*i.e.* 2-8 units). MCE’s strategies focus on providing technical assistance to properties in new communities (to develop a project pipeline) and allocating additional incentives for projects throughout the service territory.

The three strategies supported with the additional funds are designed to (1) develop a pipeline of projects in MCE’s new communities, (2) target smaller properties and projects that are not a good fit for other programs, and (3) offer a stand-alone direct install service as a means of generating referrals for the more comprehensive program offerings.

MCE will conduct general outreach and provide technical assistance to develop the multifamily project pipeline. MCE has also identified a class of properties that are not well served by other multifamily programs due to lack of eligibility (*e.g.* smaller projects that do not meet minimum savings requirements of other programs). MCE will target outreach and technical assistance to these properties to fill gaps in existing programs.

As part of the general outreach strategy, MCE will partner with Rising Sun to expand the scope of their Green House Call program. This offering is a standalone service to generate interest and awareness of MCE’s comprehensive multifamily program while also providing energy and financial savings to support the community. The Green House calls will be focused initially on San Pablo and El Cerrito. This strategy includes providing training for youths that conduct assessments and perform direct installations of energy and water-saving measures at no cost to residents.

Any additional funds will be directed to incentives for projects throughout MCE’s service territory. The incentives for EE measures in new and existing communities will help MCE continue to achieve savings concurrently with building a project pipeline.

The strategies of developing a pipeline and targeting underserved properties will focus on the cities of San Pablo, El Cerrito, Benicia, Calistoga, St. Helena, Napa, American Canyon,
Yountville, Walnut Creek, and Lafayette. MCE will coordinate with its implementer and the Bay Area Regional Energy Network (“BayREN”) to conduct outreach and provide technical assistance.

Table 3 below provides the specific budget allocations and the anticipated program impacts for each Multifamily Program strategy.

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Budget</th>
<th>Program Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green House Calls</td>
<td>$85,000</td>
<td>- 200 units served&lt;br&gt;- 500 units contacted&lt;br&gt;- 30,000 kWh&lt;br&gt;- 3,000 therms&lt;br&gt;- 8 youths trained&lt;br&gt;- 27 hours paid training per youth&lt;br&gt;- 96 hours paid for Green House Calls</td>
</tr>
<tr>
<td>Identify Properties Not Eligible for Other Multifamily Programs</td>
<td>$22,699</td>
<td>5 properties receive technical assistance</td>
</tr>
<tr>
<td>Conduct Outreach to Build Multifamily Project Pipeline and Relationships</td>
<td>$22,699</td>
<td>10-20 presentations, meeting, calls to homeowners associations, property managers, developers, and local government staff with collateral</td>
</tr>
<tr>
<td>Incentives to New and Existing Communities</td>
<td>$75,341</td>
<td>2-4 projects</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$183,040</strong></td>
<td><strong>-</strong></td>
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</table>

**Small Commercial Program**

MCE’s Small Commercial Program will receive $183,040 of the additional funds. These funds will be used on three program strategies. First, MCE will expand the budget and scope for MCE’s current Small Commercial Program to broaden and deepen its reach in the cities of San Pablo, Benicia and El Cerrito. Second, MCE will leverage normalized metered energy savings to evaluate opportunities for streamlining the current small commercial program measurement and verification (“M&V”) protocols. This effort will focus initially in MCE’s new communities and may provide useful information to the Commission in implementing AB 802 (2015). Third, MCE will deepen its focus on HVAC to address the challenge of motivating small and medium-sized business (“SMB”) customers to pursue comprehensive projects. MCE will offer incentives for retrofit controls and the replacement of inefficient HVAC units with high-efficiency upgrades, while leveraging operations and maintenance (“O&M”) service contractors as the lead source. Table 4 below provides the specific budget allocations and the anticipated program impacts for each small commercial program strategy.
Table 4: Small Commercial Program Activities and Expenditures

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Budget</th>
<th>Program Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continue Commercial Efforts in New Communities</td>
<td>$98,040</td>
<td>350,000 kWh</td>
</tr>
<tr>
<td>Leverage Normalized Metered Savings</td>
<td>$25,000</td>
<td>M&amp;V protocol in support of AB802</td>
</tr>
<tr>
<td>Target Comprehensive SMB projects</td>
<td>$60,000</td>
<td>Program Development⁵</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$183,040</strong></td>
<td></td>
</tr>
</tbody>
</table>

Cost-Effectiveness Showing

As directed in D.16-05-004,⁶ MCE conducted a cost-effectiveness analysis which included updating the Energy and Environmental Economics Inc. (“E3”) calculators for the two programs which will receive funding under the PFM: (1) the Multifamily Program and (2) the Small Commercial Program. The analysis is based on the entire budget for each program, including the additional funds authorized in the PFM. The results of the analysis reflect that the Multifamily Program will achieve additional savings from direct install activity. However, much of the funding is associated with technical assistance and pipeline development which is anticipated to yield savings in 2017. The results for the Small Commercial Program reflect that additional savings are anticipated in 2016 due to similar project types in existing and new MCE communities, while some program expenditures will likely yield savings in 2017 (e.g. efforts to capture more comprehensive small commercial projects.) The results of the E3 analysis are provided below in Table 5.

Table 5: Cost-Effectiveness Results for 2016

<table>
<thead>
<tr>
<th>Program</th>
<th>Total Resource Cost Ratio (“TRC”)</th>
<th>Program Administrator Cost Ratio (“PAC”)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multifamily Program</td>
<td>0.81</td>
<td>0.91</td>
</tr>
<tr>
<td>Small Commercial Program</td>
<td>1.14</td>
<td>1.46</td>
</tr>
</tbody>
</table>

Appendices

The E3 calculators developed to provide the results in Table 5 are included as appendices to this advice letter:

Appendix A - MCE-PFM-E3Adjustment-Commercial-ValuesOnly-2016_0713
Appendix B - MCE-PFM-E3Adjustment-Multifamily-ValuesOnly-2016_0713

⁵ MCE anticipates spending this initial budget on program development, including pipeline development, and expects to see program impacts in early 2017.

Due to the size of these appendices, they have been made available at: https://www.mcecleanenergy.org/regulatorydocuments under the section for Advice Letter 16-E. This information is also provided in a separate Notice of Availability.

**Notice**

Anyone wishing to protest this advice filing may do so by letter via U.S. Mail, facsimile, or electronically, any of which must be received no later than 20 days after the date of this advice filing. Protests should be mailed to:

CPUC, Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, California 94102  
E-mail: EDTariffUnit@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4004 (same address above).

In addition, protests and all other correspondence regarding this advice letter should also be sent by letter and transmitted via facsimile or electronically to the attention of:

Michael Callahan-Dudley  
Regulatory Counsel  
MARIN CLEAN ENERGY  
1125 Tamalpais Avenue  
San Rafael, CA 94901  
Phone: (415) 464-6045  
Facsimile: (415) 459-8095  
E-mail: mcallahan-dudley@mceCleanEnergy.org

and

Beckie Menten  
Director of Customer Programs  
MARIN CLEAN ENERGY  
1125 Tamalpais Avenue  
San Rafael, CA 94901  
Phone: (415) 464-6034  
Facsimile: (415) 459-8095  
E-mail: bmenten@mceCleanEnergy.org

There are no restrictions on who may file a protest, but the protest shall set forth specifically the grounds upon which it is based and shall be submitted expeditiously.
MCE is serving copies of this advice filing to the relevant parties shown on the R.13-11-005 service list. For changes to this service list, please contact the Commission’s Process Office at (415) 703-2021 or by electronic mail at Process_Office@cpuc.ca.gov.

**Correspondence**

For questions, please contact Michael Callahan-Dudley at (415) 464-6045 or by electronic mail at mcallahan-dudley@mceCleanEnergy.org.

/s/ Michael Callahan-Dudley

Michael Callahan-Dudley  
Regulatory Counsel  
MARIN CLEAN ENERGY

cc: Service List R.13-11-005
**CALIFORNIA PUBLIC UTILITIES COMMISSION**

**ADVICE LETTER FILING SUMMARY**

**ENERGY UTILITY**

**MUST BE COMPLETED BY LSE (Attach additional pages as needed)**

<table>
<thead>
<tr>
<th>Marin Clean Energy</th>
</tr>
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<tbody>
<tr>
<td><strong>Utility type:</strong></td>
</tr>
<tr>
<td>☑ ELC</td>
</tr>
<tr>
<td>☐ PLC</td>
</tr>
<tr>
<td>Phone #: 415-464-6045</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:mcallahan-dudley@mceCleanEnergy.org">mcallahan-dudley@mceCleanEnergy.org</a></td>
</tr>
</tbody>
</table>

**EXPLANATION OF UTILITY TYPE**

| ELC = Electric | GAS = Gas |
| PLC = Pipeline | HEAT = Heat | WATER = Water |

**Advice Letter (AL): 16-E**

Subject of AL: Planned Program Activity, Expenditures, and Cost-Effectiveness Analysis for Increased Energy Efficiency Budget

**Tier Designation:** ☑ 1 ☐ 2 ☐ 3

Keywords (choose from CPUC listing):

- ☑ 1
- ☐ 2
- ☐ 3

**AL filing type:** ☑ Monthly ☐ Quarterly ☐ Annual ☐ One-Time ☐ Other _____________________________

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution: D.16-05-004

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL ____________________________

Summarize differences between the AL and the prior withdrawn or rejected AL: ____________________

Resolution Required? ☐ Yes ☑ No

Requested effective date: August 18, 2016

No. of tariff sheets: ____________________

Estimated system annual revenue effect: (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

**Tariff schedules affected:**

Service affected and changes proposed:

Pending advice letters that revise the same tariff sheets:

---

**Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:**

<table>
<thead>
<tr>
<th>CPUC, Energy Division</th>
<th>Utility Info (including e-mail)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attention: Tariff Unit</td>
<td>Marin Clean Energy</td>
</tr>
<tr>
<td>505 Van Ness Ave., San Francisco, CA 94102</td>
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1 Discuss in AL if more space is needed.
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Contracts Resulting From Its 2014 Energy Storage Request for Offers (ES RFO).


Application 15-12-003
(Filed December 1, 2015)

Application 15-12-004
(Filed December 1, 2015)

NOTICE OF EX PARTE COMMUNICATION BY MARIN CLEAN ENERGY, SONOMA CLEAN POWER, AND LANCASTER ENERGY

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July 8, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of Contracts Resulting From Its 2014 Energy Storage Request for Offers (ES RFO).

Application 15-12-003
(Filed December 1, 2015)


Application 15-12-004
(Filed December 1, 2015)

NOTICE OF EX PARTE COMMUNICATION BY MARIN CLEAN ENERGY, SONOMA CLEAN POWER, AND LANCASTER ENERGY

Pursuant to Rule 8.4 of the Commission’s Rules of Practice and Procedure, Marin Clean Energy (“MCE”), Sonoma Clean Power (“SCP”) and Lancaster Clean Energy (“LCE”) hereby give notice of the following ex parte communication. Jeremy Waen, MCE Senior Regulatory Analyst, and CC Song, MCE Regulatory Analyst, met in-person at the California Public Utilities Commission offices with Ehren Seybert, Energy Advisor to Commissioner Peterman. John Dalessi of Pacific Energy Advisors, a consultant to MCE, and Ty Tosdal, Attorney representing the interests of SCP and LCE, were also in attendance, by telephone. The meeting occurred at 11:30 am on July 8, 2016 and lasted approximately 15 minutes. A handout was presented during the meeting and is included in this notice as Attachment A.

During this meeting, MCE, SCP, and LCE addressed questions that Ehren had about CCA and DA parties' joint PCIA calculation methodology proposal. The calculation

1
MCE Notice of Ex Parte
methodology handout, included as Attachment A, was presented which has been updated to reflect the clarifications the joint CCA parties provided in their reply brief.

Respectfully submitted,

/s/ Catalina Murphy

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July 8, 2016
ATTACHMENT A
Proposed Formula to Calculate the Market Price Benchmark

Revised MPB for year \( n \) and Vintage Total Portfolio \( v \) = \( \{ (1 - \text{RPS\%}_V) \times \text{BROWN} + \text{RPS\%}_V \times \text{GREEN} + \text{CAP ADDER}_V + \text{STORAGE ADDER}_V \} \times (\text{LOSSSES}) \)

Where:

- \( n = \) year covered by the calculation, e.g. \( n=2012 \) for the MPB for 2012.
- \( v = \) PCIA vintage year
- \( \text{RPS\%}_V = \) The fraction of RPS compliant electric energy in the URG [Utility Resource Generation] Total Portfolio for PCIA Vintage year \( v \) in year \( n \).
- \( \text{BROWN} = \) Weighted average of peak and off-peak forward prices for year \( n \), weighting based on, for each IOU, the IOU bundled load profile data for the most recent year that is publicly available. Peak and off-peak forward prices based on published data for NP15/SP15 as per D.06-07-030. ($/MWh)
- \( \text{GREEN} = \) \( 0.68 \times \text{URGgreen} + 0.32 \times (\text{BROWN} + \text{DOEadder}) \)

Where:

- \( \text{URGgreen} = \) \{[Forecasted cost in year \( n \) of RPS power contracts and IOU-owned projects starting deliveries in year \( n \) and \( n-1 \)] - [NQC of those contracts/projects*CAP VALUE]/[Total forecasted deliveries from those contracts in year \( n \)] ($/MWh) The forecasted cost of all Renewable Energy Credit (REC)-only contracts will also include the cost of energy associated with those REC-only contracts, equal to \( \text{BROWN} \times \) forecasted deliveries from those REC-only contracts in year \( n \).
- \( \text{DOEadder} = \) Simple average of the premiums of the renewable programs in states within Western Electricity Coordinating Council (WECC), as identified in the database compiled by the National Renewable Energy Laboratory for the US Department of Energy. If multiple premiums are identified for the same utility and/or program, all shall be included in the average. ($/MWh)
- \( \text{CAP ADDER}_V = \) \{Sum of NQC for all resources in the URG Total Portfolio for PCIA Vintage year \( v \) * CAP VALUE)/forecast of the sum of MWh supplied by URG Total Portfolio for PCIA Vintage year \( v \}\}

Where:

- The NQC of storage resources would be excluded from the Total Portfolio.

- \( \text{CAP VALUE} = \) the going forward cost (sum of insurance, ad valorem and fixed operations and maintenance costs) of a combustion turbine as determined per the most recent California Energy Commission (CEC) Comparative Costs of California Central Station Electricity Generation Report for a small simple cycle merchant plant. Per Table 4 of 2010 CEC report:
Insurance: $9.63 per kW-year
Ad Valorem: $13.09 per kW-year
Fixed O&M: $27.45 per kW-year
Total Going Forward Costs (CAP VALUE): $50.17 per kW-year

**STORAGE ADDER** = \{\text{Sum of installed capacity for all storage resources in the URG Total Portfolio for PCIA Vintage year } v \times \text{STORAGE VALUE}} / \text{forecast of the sum of MWh supplied by URG Total Portfolio for PCIA Vintage year } v\}\}

*Where:*

**STORAGE VALUE** = \{\text{Forecasted cost in year } n \text{ of storage power contracts and IOU-owned projects starting deliveries in year } n \text{ and } n-1} / \text{Total installed capacity from those contracts in year } n \} ($/MW))

**LOSSES** = Line loss factors per D.07-01-030: PG&E 1.06; SCE 1.053; SDG&E 1.043

The Energy Division would calculate the **BROWN, GREEN and STORAGE** elements to the formula, based on inputs provided by each IOU. The IOUs would calculate the Market Price Benchmarks for each Vintage, based upon the **GREEN, BROWN, and STORAGE** values provided by Energy Division, the **CAP VALUE** above, and the RPS percentages, NQCs, storage capacity and energy of each URG Total Portfolio. These calculations would be provided to Energy Division for verification. If there are insufficient storage contracts to update the Market Price Benchmark, then the previously calculated storage benchmark would continue to apply.

For purposes of calculating above market costs and the PCIA, the cost of energy associated with charging storage projects would not be included in the Total Portfolio Cost and the discharge energy from storage projects would not be included in the MWh supplied by the URG Total Portfolio.
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission’s Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities’ Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

NOTICE OF EX PARTE COMMUNICATION BY MARIN CLEAN ENERGY

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July 19, 2016

MCE Notice of Ex Parte Communication
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission’s Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities’ Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

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NOTICE OF EX PARTE COMMUNICATION BY MARIN CLEAN ENERGY

Pursuant to Rule 8.4 of the Commission’s Rules of Practice and Procedure, Marin Clean Energy (“MCE”) hereby gives notice of the following ex parte communication. The communication was initiated by Scott Murtishaw, Energy Advisor to President Michael Picker on July 18, 2016 with MCE at approximately 4:30pm via the telephone. The communication was between Scott Murtishaw, Energy Advisor to President Michael Picker, and Elizabeth Kelly, MCE General Counsel and lasted approximately 15 minutes. This was an oral communication that took place over the phone.

In the meeting, Ms. Kelly described MCE's approach to time-of-use (TOU rates). First, Ms. Kelly described MCE's existing TOU rates and how they mirror PG&E's TOU rate structures. This is to ensure that MCE customers can do an apples-to-apples comparison of rates between PG&E and MCE. Also, this ensures consistency across TOU periods so that the TOU period applicable to a MCE customer's distribution rate would be consistent with the TOU period applicable generation rate. MCE’s Res-7 rate schedule reflects the same TOU periods as PG&E's E-7 rate schedule. The rates themselves are similar, but reflect MCE's procurement costs and policy goals. For example, MCE's net energy metering rates are more generous than PG&E's as a result of
MCE's policy priorities to support renewables and reduce GHGs. Ms. Kelly noted that it is very important for rates to reflect cost of service and not become too skewed.

Second, Ms. Kelly described MCE's approach to default TOU rates. Consistent with MCE's current approach to rate design, MCE will reflect a consistent rate design with default TOU rates. This is to make clear and simple rates for customers so that they can easily compare rates between MCE and PG&E. Again Ms. Kelly noted that it is very important for rates to reflect cost of service and not become too skewed.

Respectfully submitted,

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July 19, 2016
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Assess Peak Electricity Usage Patterns and Consider Appropriate Time Periods for Future Time-of-Use Rates and Energy Resource Contract Payments.

Rulemaking 15-12-012
(Filed December 17, 2015)

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July 19, 2016
July 25, 2016

California Energy Commission
Dockets Unit
Re: Docket No. 16-IEPR-05
1516 Ninth Street, MS 4
Sacramento, CA 95814-5512

Re: IEPR Joint Agency Workshop on Energy Demand Forecast & Doubling of Energy Efficiency - Data & Analytical Needs

Marin Clean Energy (“MCE”) hereby submits its comments on the July 11, 2016 workshop that examined data and analytical needs for the energy demand forecast and doubling of energy efficiency under Senate Bill (“SB”) 350 (2015), held at the California Energy Commission (“CEC”). MCE respectfully recommends the CEC consider the general impacts of Community Choice Aggregators (“CCAs”) on the demand forecast and the specific CCA contributions to achieving energy efficiency savings.

Introduction

MCE is a not-for-profit public agency and is the first operational CCA within California. MCE customers receive electric generation services from MCE, and electric transmission, distribution, and billing services from PG&E. MCE currently provides generation services to approximately 170,000 customer accounts throughout Marin County; unincorporated Napa County; and the cities of Richmond, El Cerrito, and Benicia. By 2017, MCE will also serve the cities of Lafayette, Walnut Creek, Calistoga, St. Helena, Napa, American Canyon, and Yountville. These communities will represent an approximately 40% increase in customer accounts relative to 2015. MCE is also an energy efficiency (“EE”) program administrator approved by the California Public Utilities Commission (“CPUC”) to implement ratepayer funded EE programs.

MCE supports the work of the CEC in preparing to double energy efficiency and developing a useful demand forecast. However, MCE is concerned that stakeholders are not adequately considering the impacts of CCAs in procuring renewable electricity or contributing to energy efficiency savings. CCAs were virtually absent from the discussion at the workshop. This is concerning because CCAs are empowered to achieve savings that count toward state targets under SB 350 through energy
efficiency and demand reduction programs. The CEC should include data collection and analysis of the potential impacts of CCAs.

The CEC should consider the impact of CCAs in the demand forecast and in the doubling of energy efficiency as a result of: (1) the potential growth in CCAs within California; (2) the statutory authority for CCAs to achieve energy savings; and (3) the trend of CCAs voluntarily exceeding the Renewable Portfolio Standard (“RPS”). The confluence of these factors could result in a dramatic departure from the status quo in California.

The CEC should also investigate the feasibility of providing the demand forecast at sufficient granularity to inform potential analyses of CCAs.

Jurisdictions Throughout California are Pursuing CCA

Since MCE’s launch in 2010, many other jurisdictions throughout California have taken action to form or join a CCA. Currently, there are four active CCAs: Sonoma Clean Power, Lancaster Energy Choice, CleanPowerSF (San Francisco), and MCE. San Mateo County and Santa Clara County are each planning to launch a CCA within the next year. Los Angeles County is planning to launch a CCA as early as January 1, 2017 that could include 1.5 million customers (approximately 30% of Southern California Edison’s customers) when fully enrolled. There are sixteen other counties throughout California that have either taken official action or invested resources to explore a CCA. The potential growth of CCAs and the corresponding number of customers served is worth examining as it may change how energy is procured and used in California. The rapid development of CCAs throughout California indicates a need for consideration of CCA data.

CCA Energy Savings will Help California Double Energy Efficiency

CCAs have a statutory right to administer energy efficiency programs. SB 350 explicitly called for the energy savings from CCA energy efficiency programs and from CCA operational, behavioral, and retrocommissioning activities to count toward achieving statewide energy efficiency targets. Depending on the growth of CCAs, the achievements in saving energy may substantially assist California in doubling energy efficiency. The CEC, at a minimum, should collect data and analyze the impact of CCAs in saving energy.

CCAs Tend to Exceed the RPS and Prioritize Carbon-Free Electricity

CCAs have jurisdictional authority over procurement targets. CCA governing boards, comprised of local elected officials, tend to adopt targets that exceed the RPS requirement and focus on carbon-free resources. Many jurisdictions are pursuing CCA because it was included as

a proven strategy for reducing greenhouse gas (“GHG”) emissions and is reflected in their climate action plans.

In fact, community choice aggregation is one of the most effective strategies for a city or county to reduce GHG emissions: Marin County achieved its climate goals eight years ahead of schedule due in large part to the GHG savings resulting from MCE’s procurement. MCE currently provides all customers electricity that is 52% renewable energy (i.e. Light Green service) with an option for customers to pay a modest premium for 100% renewable electricity (i.e. Deep Green service). MCE’s Board has adopted additional targets to transition the Light Green service to be 80% renewable electricity and 95% carbon-free electricity by 2025. All active CCAs have generally followed this trend as a way to implement their climate action plans and differentiate themselves from electricity generation service provided by an investor-owned utility (“IOU”). The CEC should consider CCA adopted targets as articulated in their respective Integrated Resource Plans as a data source.

The Demand Forecast Should Accommodate Potential Analysis for CCAs

The existing demand forecast and resulting energy efficiency potential is conducted at IOU planning levels. This does not provide sufficient granularity to determine the additionally achievable energy efficiency (“AAEE”) potential in a CCA service area. If a CCA wishes to establish goals and targets for its ratepayer funded energy efficiency programs, it must pay for such an analysis out of pocket, thereby causing its ratepayers to pay twice, once for the IOU forecast and once for the CCA forecast. The CEC acknowledged that a lack of data precludes the CPUC from developing goals for CCAs in the 2015 update to the Integrated Energy Policy Report (“IEPR”). The CEC also described that additional data made available under Assembly Bill 802 (2015) provides “significant building blocks for improving and localizing projections of energy efficiency savings within Energy Commission forecasts.” The CEC should investigate the feasibility of providing the demand forecast at sufficient granularity for a CCA to extrapolate the AAEE in its service area.

Conclusion

MCE respectfully requests that the CEC consider the impact of CCAs in the demand forecast and in the doubling of energy efficiency. The potential growth of CCAs within California could change how the state uses and procures energy. CCAs possess statutory authority to administer energy efficiency programs with statutory direction to count savings toward statewide targets. CCAs hold great potential to help California double energy efficiency. CCAs tend to voluntarily exceed the RPS, which may lead to large portions of the state receiving a greater share of renewable energy. The CEC should attempt to provide a demand forecast that

9 2015 IEPR, CEC, at p. 31.
enable CCAs to discern the AAEE in their service areas. The CEC should consider these details when determining the data and analytical needs to develop an appropriate demand forecast and double energy efficiency. MCE looks forward to continued participation and thanks CEC staff for addressing these important issues.

Sincerely,

Michael Callahan-Dudley
Regulatory Counsel