

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of Pacific Gas and Electric
Company for Approval of 2024-2031 Energy
Efficiency Business Plan and 2024-2027
Portfolio Plan U39M.

Application 22-02-005

And Related Matters.

Application 22-03-003
Application 22-03-004
Application 22-03-005
Application 22-03-007
Application 22-03-008
Application 22-03-011
Application 22-03-012

**PROTEST OF THE PUBLIC ADVOCATES OFFICE
OF UTILITY PROGRAM ADMINISTRATOR, REGIONAL ENERGY NETWORK,
AND REGIONAL/MUNICIPAL GOVERNMENT APPLICATIONS FOR ENERGY
EFFICIENCY 2024-2027 PORTFOLIOS
AND 2024-2031 BUSINESS PLANS**

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I. INTRODUCTION

Pursuant to California Public Utilities Commission’s (CPUC or Commission) Rule of Practice and Procedure 2.6(a), the Public Advocates Office (Cal Advocates) submits this Protest to the applications of energy efficiency (EE) Program Administrators for approval of their 2024-2027 portfolios and 2024-2031 business plans pursuant to Decision (D.) 21-05-031.¹ This Protest addresses the following Program Administrators’ applications:

- Application (A.) 22-02-005: Application of Pacific Gas and Electric Company for Approval of 2024-2031 Energy Efficiency Business Plan and 2024-2027 Portfolio Plan (U39M) (PG&E EE Application).
- A.22-03-007: Application of Southern California Edison Company (U338E) for Approval of its 2024-2031 Energy Efficiency Business Plan and 2024-2027 Portfolio Plan (SCE EE Application).
- A.22-03-005: Application of San Diego Gas & Electric Company (U902M) to Adopt 2024-2031 Energy Efficiency Rolling Portfolio Business Plan Pursuant to D.21-05-031 (SDG&E EE Application).
- A.22-03-008: Application of Southern California Gas Company (U904G) for Approval of 2024-2031 Energy Efficiency Business Plan and 2024-2027 Portfolio Plan (SoCalGas EE Application).
- A.22-03-003: Application of Association of Bay Area Governments for Approval of 2024-2031 Strategic Business Plan, 2024-2027 Portfolio Plan, and Budget.
- A.22-03-012: Application of Marin Clean Energy for Approval of 2024-2031 Energy Efficiency Business Plan and 2024-2027 Energy Efficiency Portfolio Plan.
- A.22-03-011: Application of Southern California Regional Energy Network for Approval of 2024-2031 Energy Efficiency Business Plan and 4-Year Portfolio Plan. (#940).
- A.22-03-004: Application of County of Ventura for Approval of 2024-2031 Strategic Business Plan, 2024-2027 Portfolio Plan, and Budget.

¹ Pursuant to the March 17, 2022, Chief Administrative Law Judge’s Ruling Consolidating Proceedings; Preliminary Determining Category, Need for Hearings, and Agreement; and Setting Protest and Response Deadlines, parties may file and serve protests by April 15, 2022; and replies to protests by April 25, 2022, pp. 2-3.

- Motion of Redwood Coast Energy Authority (RCEA) on Behalf of Rural Regional Energy Network for Approval of Energy Efficiency Portfolio Application.²

On March 17, 2022, the Chief Administrative Law Judge (ALJ) issued a ruling that consolidated the applications of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), Marin Clean Energy (MCE), Bay Area Regional Energy Network (BayREN), Southern California Regional Energy Network (SoCalREN), Redwood Coastal Energy Authority (RCEA), and County of Ventura. In that same ruling, the ALJ issued an April 15, 2022 deadline for filing protests to the applications.

The 2024-2027 EE Program Administrators’ proposed revenue requirements total approximately \$4 billion. The investor-owned utilities’ (IOUs) budget accounts for about 87% of this total.³ BayREN, SoCalREN and MCE budgets account for the remaining 13% of the requested EE budget.⁴

A. Background

The Commission opened Rulemaking (R.) 13-11-005 to implement long-term EE rolling portfolios and business plans, as well as to address funding and other EE-related issues.⁵ The goals of the rolling portfolios are to “eliminate the market barriers and transaction costs that the short-term commitment and stop/start nature of the three-year portfolio cycles create” and “to facilitate appropriate inclusion of EE into resource planning processes.”⁶

In D.21-05-031, the Commission ordered EE Program Administrators to file detailed applications for program years 2024-27 as well as eight-year business plans covering the years

² Ruling Consolidating Proceedings. Preliminary Determining Category, need for Hearings, And Assignment; and Setting Protest and Response Deadlines. Mar. 17, 2022, p. 2.

³ The breakdown of the total proposed revenue requirement by IOUs is as follows: SCE: 37.5%; PG&E: 26.1%; SCG: 15.1%; and SDG&E: 8.2%.

⁴ The breakdown of the total proposed revenue requirement by the BayREN, SocCalREN and MCE is as follows: SoCalREN: 5.4%; BayREN: 4%; MCE: 1.9%; and 3C-REN: 1.8%.

⁵ R.13-11-005, Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation and Related Issues, issued November 21, 2013.

⁶ R.13-11-005, Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, And Related Issues, pp. 8-9.

2024-2031.⁷ The business plans are intended to serve as strategic plans for the Program Administrators' EE efforts with sector-level strategies, metrics, and budgets.⁸ In addition, the Commission ordered Program Administrators to file four-year program portfolios containing annual budgets, revenue requirements, cost-effectiveness showing, and implementation plans for all programs.⁹

The Commission also require that the Program Administrators file implementation plans (IPs) in the four-year portfolio applications for programs that are being implemented by a Program Administrator itself or already included in an approved third-party contract.¹⁰ The Commission stated that the IPs will allow “the Commission and stakeholders to review, as much as possible, the program approaches and theories in a comprehensive manner when evaluating the four-year portfolio, as well as determine if a program is correctly classified in the market support or equity segments, based on proposed objectives.”¹¹

Pursuant to Senate Bill (SB) 1013¹², the Commission directed the Program Administrators to consider and incorporate strategies to support the use of low- global warming potential (GWP) refrigerants in the upcoming business plan filings, as stated “[i]n general, we encourage the program administrators to seek out all cost-effective opportunities to incorporate low-GWP measures in the energy efficiency portfolios.”¹³

1. Portfolios and Segmentation

The Commission requires the Program Administrators to divide their portfolios into three segments: Resource Acquisition, Market Support, and Equity.¹⁴ This is consistent with past

⁷ D.21-05-031, p. 81.

⁸ D.21-05-031, p. 81.

⁹ D.21-05-031, p. 81.

¹⁰ D.21-05-031, p. 31.

¹¹ D.21-05-031, p. 31.

¹² Senate Bill (SB) 1013 (Lara) Stats. 2018, Ch 375 “The California Cooling Act” aims to cut “super-pollutant” hydrofluorocarbons (HFCs) and allocate funding for replacement of HFCs with natural refrigerants systems.

¹³ D.21-05-031, p. 60.

¹⁴ “Resource Acquisition: Programs with a primary purpose of, and a short-term ability to, deliver cost-effective avoided cost benefits to the electricity and natural gas systems. Short-term is defined as during

approaches to categorizing programs as resource programs, which deliver most of measurable energy savings during the portfolio period, versus non-resource programs which could also deliver savings over the long-term. The Commission directed that the Codes and Standards programs remain in a separate category as defined in D.12-05-015.¹⁵

2. Potential and Goals

The Commission requires that the Program Administrators design their portfolio applications to meet Total System Benefits (TSB) goals, as adopted in D.21-09-037.¹⁶ TSB goals apply to incentive programs within the Resource Acquisition, Market Support, and Equity segments but not Codes and Standards programs. Program Administrators are still required to report energy and peak demand savings for all segments¹⁷ and meet the energy and peak demand savings goals for their Codes and Standards programs pursuant to D.21-09-037.

3. Budget Caps and Cost Effectiveness

The Commission requires that the Program Administrators provide a detailed showing and justification for their proposed four-year portfolio cycle, including program implementation costs and portfolio administration costs.¹⁸

the approved budget period for the portfolio, which will be discussed further later in this decision. This segment should make up the bulk of savings to achieve TSB goals. Market Support: Programs with a primary objective of supporting the long-term success of the energy efficiency market by educating customers, training contractors, building partnerships, or moving beneficial technologies towards greater cost-effectiveness. Equity: Programs with a primary purpose of providing energy efficiency to hard-to-reach or underserved customers and disadvantaged communities in advancement of the Commission's Environmental and Social Justice (ESJ) Action Plan; Improving access to energy efficiency for ESJ communities, as defined in the ESJ Action Plan, may provide corollary benefits such as increased comfort and safety, improved indoor air quality, and more affordable utility bills, consistent with Goals 1, 2, and 5 in the ESJ Action Plan." D.21-05-031, pp. 14-15. Note: access ESJ Action Plan: <https://www.cpuc.ca.gov/esjactionplan/>

¹⁵ D.21-05-031, p. 16.

¹⁶ TSB is defined as "the sum of the benefit that a measure provides to the electric and natural gas systems." D.21-09-037, Conclusion of Law 6, p.28. TSB is an expression, in dollar terms, of the lifecycle energy, capacity, and GHG benefits, expressed on an annual basis. The intent of the TSB is to use the savings and load shape of an energy efficiency resource and apply the hourly values for energy, capacity, and GHG compliance costs from the ACC to understand the total net system benefits from the energy efficiency resource. D.21-09-037, p. 9.

¹⁷ D.21-05-031, p. 10.

¹⁸ The Commission adopted the following definition costs definitions based on the California Energy Efficiency Coordinating Committee (CAEECC) proposal: "Program Implementation Costs: All costs

The Commission requires all Program Administrators with EE Resource Acquisition programs, excluding RENs, to show that the Resource Acquisition segment of their portfolio, with all resource acquisition programs’ costs and benefits combined, is cost-effective on an ex-ante basis. This equates to a Total Resource Cost (TRC) ratio of 1.0 or greater. The Commission directs the Program Administrators to exclude Codes and Standards programs from meeting the cost-effectiveness requirement.¹⁹

See Table 1 for a summary of the Commission’s budget caps and targets requirements.

Table 1: Summary of Commission’s budget caps and targets requirements.

Budget Category	Requirement
Administrative Costs applies to IOUs only (Excluding Target Exempt Programs are Non-Resource Programs, and Codes & Standards programs (except Building Codes Advocacy, Appliance Standards Advocacy and National Standards Advocacy).	10% Cap of total EE budget, ²⁰ Pursuant to D. 09-09-047
Marketing and Outreach Costs (Excluding SW ME&O)	6% Target of total EE budget, ²¹ Pursuant to D. 09-09-047
Non-Incentive & Non-Rebates Direct Implementation Costs	20% Target of total EE budget, ²² Pursuant to D. 09-09-047

associated with delivering a program. With the use of 3rd party implementers, this is very straightforward; all costs associated with contracts for efficiency programs is program implementation. Should the PA [program administrator] be in the role of implementation, the PA should clearly identify all costs associated with that program. This should NOT be some level of “rule of thumb” allocations. PA employee time (including account reps) should be booked directly to a specific program being implemented in a manner that can be audited for accuracy. The PA could propose methods for tracking things like traditional “overhead” (such as rent, or IT [information technology] services) in a manner that appropriately links to employee charged time. Portfolio Administration (i.e., Overhead): Everything else not in Program Implementation. Costs for things like managing a solicitation, negotiating a contract, and reviewing/paying invoices all are part of Administration (this should not be put into the “implementation” bucket.)” The Commission added the following clarification: “implementation costs associated with competitively-solicited third-party contracts will be considered per se reasonable, if the third-party contract is approved through the established advice letter process.” D.21-05-031, p. 33.

¹⁹ D.21-05-031, p. 22.

²⁰ D.09-09-047, Ordering Paragraph 13 (a), p. 369.

²¹ D.09-09-047, Ordering Paragraph 13 (b), p. 369.

²² D.09-09-047, Ordering Paragraph 13 (c), p. 369.

Budget Category	Requirement
EM&V (Excluding SW ME&O, RENS, CCAs and CEC AB 841 evaluation)	4% Cap of total EE budget, ²³ Pursuant to D.09-09-047
IOUs' Third-Party designed and implemented programs	60% minimum Target of total EE budget, ²⁴ Pursuant to D.18-01-004.

B. DISCUSSION

Cal Advocates has started its discovery effort and will conduct further discovery and review of Program Administrators' applications, supporting testimony, and documents.

1. SUMMARY OF ANTICIPATED ISSUES

Based on its initial review, Cal Advocates anticipates the following issues to be within the scope of this proceeding:

- 1) Whether the Commission should approve the Program Administrators' 2024-2027 portfolio revenue requirements; including but not limited to assessing whether the following budgets are just and reasonable:
 - a) Program Implementation,
 - b) Portfolio Administration, and
 - c) Evaluation, Measurement and Verification.
- 2) Whether the Program Administrators' strategic plans, portfolio and program plans complies with the state policy goals and Commission decisions, especially D.21-05-031, including but not limited to the following issues:
 - a) Whether the Program Administrators' program classifications into Resource Acquisition, Market Support and Equity segments are reasonable;
 - b) Whether Program Administrators maintain and/or achieved the Commission's budget caps and targets requirements, including statewide and third-party contribution percentage requirements;
 - c) Whether particular programs are tailored to achieve the objectives of the Commission's energy efficiency portfolios, or whether the program should be removed from the portfolio entirely;
 - d) Whether the Program Administrators' forecasts of energy and demand savings are reasonable;

²³ D.09-09-047, Ordering Paragraph 50, p. 390.

²⁴ D.18-01-004, Ordering Paragraph 1 (c.), p. 61.

- e) Whether budget allocations to fuel substitution programs are reasonable, given fuel substitution TSB forecasts from the Potential and Goals Study;²⁵
 - f) Whether the Program Administrators proposed metrics for programs in the Equity and Market Support segments are reasonable;²⁶ and
 - g) Whether the IOUs' third-party solicitation process and targets are reasonable.
- 3) Whether the Program Administrators' TSB forecasts are reasonable and meet the Commission's goals.
 - 4) Whether the Program Administrators' proposed Resource Acquisition segment meets the Commission's cost-effectiveness requirements.
 - 5) Whether the Program Administrators proposed policy changes provided in their applications are just and reasonable and complies with state law and the Commission directives.
 - 6) Whether the Program Administrators address the requirements for the treatment of low-GWP refrigerants in their EE portfolios.
 - 7) Whether EE portfolios and business plans align with Commission directives for customer-facing programs, including evaluation of synergies with demand response programs and other customer programs that address equity and energy usage.
 - 8) Whether the current practice of allowing IOU third party contract amendments to occur after the approval of the program advice letter is reasonable or should be revised.
 - 9) Whether the proposed Equity segment programs targeting non-residential hard-to-reach or underserved customers and disadvantaged communities, per Decision 21-05-031, reasonably advance equity for non-residential customers in targeted communities.

Cal Advocates recommends inclusion of these issues in the scope of this proceeding. Cal Advocates anticipates that other issues may arise as discovery continues. Therefore, Cal Advocates may amend this protest and/or seek other relief as appropriate.

²⁵ D.21-09-037 Attachment 1 (2021 Energy Efficiency Potential and Goals Study), pp. xix-xx. .

²⁶ D.21-05-031, Ordering Paragraph 14.

II. CATEGORIZATION, NEED FOR HEARINGS, AND SCHEDULE

A. Proposed Ratesetting Categorization

The consolidated applications are preliminarily categorized as “Ratesetting.”²⁷ Rule 1.3 (e) of the Commission’s practice and procedure describes “Ratesetting” proceedings in which the commission sets or investigates rates for specifically named utilities or establishes a mechanism that in turn sets the rates for specifically named utilities. These consolidated applications seek the Commission’s approval of energy efficiency portfolios that will dictate a four-year (2024-2027) revenue requirements of approximately \$4 billion of ratepayer funds. Because these expenditures will be funded by ratepayer dollars, Cal Advocates agrees that the proceedings should be categorized as Ratesetting.

B. Hearings May Be Necessary

Cal Advocates supports the determination that hearings are likely necessary.²⁸ It is important to establish means of accountability that ensure ratepayers receive the benefits of nearly \$4 billion dollars in revenue returns requested by the Program Administrators for EE programs, \$1.3 billion of which is dedicated to Market Support and Equity programs and is not subject to cost-effectiveness requirements. In addition, about \$2.3 billion is requested to fund Resource Acquisition programs, where the cost-effectiveness requirement is set at the segment, but not program, level. The following factual matters are examples of topics to review at evidentiary hearings: proper segmentation of programs by Program Administrators is necessary to determine the standard of review by which expenditures are scrutinized; the cost-effectiveness of Resource Acquisition programs must be measured to ensure ratepayer funds are optimized to produce greater benefits than costs; and target customers must be properly identified to ensure broad coverage and prevent duplicate spending.

Cal Advocates requests that the Commission set a schedule that provides adequate opportunity for discovery, analysis, preparation of testimony, and preparation for evidentiary hearings. In addition, Cal Advocates would not oppose the Commission’s consideration of

²⁷ Ruling Consolidating Proceedings; Preliminary Determining Category, need for Hearings, And Assignment; and Setting Protest and Response Deadlines. Mar. 17, 2022, p. 2.

²⁸ Ruling Consolidating Proceedings; Preliminary Determining Category, need for Hearings, And Assignment; and Setting Protest and Response Deadlines. Mar. 17, 2022, p. 2.

limited, time-sensitive subset of issues related to the interim/transition period (2022-2023) through an interim decision.

C. Proposed Schedule

Cal Advocates recommends the following schedule for addressing the Program Administrator’s 2024-27 portfolios and 2024-31 business plan applications:

APPLICATION MILESTONE	PROPOSED DATE
Applications	March 4, 2022
Daily Calendar Notices	March 18, 2022
Protests	April 15, 2022
Replies/Responses to Protest (Rule 2.1 (e) w/in 10 days)	April 25, 2022
Prehearing Conference (Rule 7.2 (a) 45-60 d after initiation of proceeding) (expected)	May 17, 2022
Scoping Memo	May 2022
Comments on Scoping Memo	July 1, 2022
Workshops	Summer 2022
Intervenor Testimony	September 30, 2022
Rebuttal Testimony	November 30, 2022
Meet & Confer (Rule 13.9)	January 9, 2023
Hearings on Applications	Weeks of February 6 & February 13, 2023
Mandatory Status Conference	February 23, 2023
Opening Briefs	April 6, 2023
Reply Briefs	April 27, 2023
Proposed Decision	June 2023
Comments on Proposed Decision (20D post-PD)	July 2023
Reply to Comments (5D post-comments)	July 2023
Final Decision	August 2023

Due to the voluminous pages of documents, including testimony, supporting documents, and work-papers, along with ongoing discovery efforts Cal Advocates may seek a schedule change, if necessary.

III. CONCLUSION

For the reasons stated above, Cal Advocates requests that the Commission adopt the issues identified and the schedule proposed herein.

Respectfully submitted,

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