**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

OPENING COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) TO ADMINISTRATIVE LAW JUDGE'S PROPOSED DECISION ADDRESSING ENERGY EFFICIENCY THIRD-PARTY PROCESSES AND OTHER ISSUES

Siobhán E. Murillo
Attorney for:
SAN DIEGO GAS & ELECTRIC COMPANY
8330 Century Park Court, CP32D
San Diego, CA 92123-1530
Telephone: (619) 616-0624
Email: smurill1@sdge.com

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SUBJECT INDEX – SUMMARY OF RECOMMENDED CHANGES

Pursuant to Rule 14.3(b) of the California Public Utilities Commission (Commission or CPUC) Rules of Practice and Procedure (Rule), San Diego Gas & Electric Company (SDG&E) provides the following recommended changes to the Proposed Decision (PD) addressing energy efficiency (EE) third-party processes and other issues, issued on December 20, 2022:

A. SDG&E recommends revisions to the Data Sharing section of the PD;
    - SDG&E disagrees that requesters should have the ability to request data beyond what is required by the Decision;
    - SDG&E recommends implementing the customary 10 business-day response time for data requests, as opposed to a one-day turnaround, as proposed in the PD; and
    - SDG&E requests that all entities that will be requesting data be identified in advance to ensure completion of required internal risk mitigation procedures.

B. SDG&E argues that the Commission has not established a sufficient record to adopt an EE confidentiality matrix;
    - SDG&E disagrees with, and recommends changes to, Section I of Attachment C;
    - SDG&E recommends revisions to Section II of Attachment C; and
    - SDG&E disagrees with inclusion of Section III.(B) in Attachment C.

C. SDG&E disagrees that contract extensions and the success of existing programs should be presented to the procurement review group (PRG);

D. SDG&E seeks clarification on certain accounting methods;
    - SDG&E seeks clarification of the term portfolio administration costs; and
    - SDG&E requests clarification of direct implementation costs and argues that the PD errs in classifying third-party solicitation costs as administrative costs, as opposed to direct implementation costs.

E. SDG&E recommends adding ordering paragraphs to formalize the proposed language in Section 4 of the PD regarding the funding and hiring of a project coordinator to support management and oversight of database tools and the potential increase to the total EM&V budget;

F. SDG&E argues that the Commission should increase the Evaluation, Measurement and Verification (EM&V) budget cap to 50% to accommodate the Commission's guidance for investor-owned utilities (IOUs) to fund electronic technical resource manual (eTRM) enhancements and the California Energy Data and Reporting System (CEDARS)/Cost-Effectiveness Tool (CET) database; and

G. To facilitate transition of responsibility for deployment and ongoing management of the California Analysis Tool for Locational Energy Assessment (CATALENA) project tool to the California Energy Commission (CEC), SDG&E proposes filing the Tier 1 Advice Letter (AL) 90 days from the effective date of the final decision.

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Pursuant to Rule 14.3, SDG&E submits these Opening Comments on the PD addressing EE third-party processes and other issues.[1] SDG&E agrees with several points in the PD, including that it should have the option to hold a one-stage solicitation and going forward, it will inform the PRG on the schedule and the rationale for selecting a specific solicitation type. Additionally, SDG&E agrees that certain components of EE solicitation information should be entirely public, or alternatively, entirely confidential. However, SDG&E disagrees with the PD, on the points described above in its subject index.

I. DISCUSSION

A. SDG&E Recommends Revisions to the Data Sharing Section of the PD

The PD states "[t]o the extent an entity requests data at a greater frequency than provided by this decision, or beyond the scope of program functions or associated data types identified in this decision, the entity requesting the data will bear responsibility for such costs."[2] While SDG&E agrees with the PD's proposed cost recovery, SDG&E disagrees that requesters should have the ability to request data beyond what is required by the Decision. SDG&E instead recommends clarifying that data sharing must comply with applicable CPUC decisions and IOU tariff rules governing customer privacy. Additionally, OP 14 states that investor-owned utilities (IOUs) must share data, "within one day after notifying the requestor that the requestor meets the following requirements."[3] Agreeing to a one-day turnaround for submitting data, without

[1] Rule 14.3 requires comments be filed on a PD within 20 days of the date of its service on the parties. However, SDG&E notes that the PD specifically grants a slightly longer deadline given the holidays, with Opening Comments due on January 13, 2023 and Reply Comments due no later than January 18, 2023.

[2] PD at 62.

[3] *Id.* at 73.

knowing the extent of the request, type of data, or confidentiality status is not conducive to ensuring the integrity, quality, or protection of the data. SDG&E recommends implementing the customary 10 business-day response time for data requests.[4] Additionally, SDG&E requests that all entities that will be requesting data are identified in advance to ensure that SDG&E is able to work through their established risk mitigation procedures before the potential release of sensitive customer data elements.

B. SDG&E Believes the CPUC Has Not Established a Sufficient Record to Adopt an EE Confidentiality Matrix

SDG&E argues that the CPUC should not adopt Attachment C of the PD at this time, the proposed confidentiality matrix (Attachment C), and that the CPUC commits legal error by not developing an appropriate or robust record to support the adoption thereof. The PD incorrectly states that "almost all parties support the idea of preemptively determining certain third-party energy efficiency information confidential."[5] On August 9, 2022, five Parties commented on the confidentiality matrix, and while SDG&E agrees it would reduce burden, it did not support the adoption of the confidentiality declaration, and instead recommends that the CPUC develop a proper record, with ample stakeholder input, by hosting workshops to address the specifics of certain data elements to avoid the potential harmful release of confidential information. To date, these details have not been explored in earnest. After input is received, and risks are evaluated, and if deemed appropriate, the CPUC should pursue adopting a confidentiality matrix at that time.

The PD notes that Attachment C is based on, "the format of the Commission's overall supply-side confidentiality framework originally adopted in D.06-06-066, but specific to energy efficiency purposes."[6] As PG&E pointed out in their comments:

> The resource confidentiality matrix established in D.06-06-066, and revised in D.21-11-029, was both in reaction to and anticipating potential issues with market manipulation and gaming, and contained terms tailored to resource procurement and lead times associated with such resources. Similar conditions are not currently observed for EE

[4] *See* the Commission's General Discovery Custom and Practice, *available at* https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/general-discovery-custom-and-practice-11-20b.pdf.

[5] *Id.* at 25.

[6] PD at 25.

> procurement, however, there could be issues with market manipulation and gaming if certain information is made publicly available.[7]

In discussing the modeling of the matrix after Decision (D.) 06-06-066, and revised in D.21-11-029, the CPUC does not acknowledge the stark differences between the types of solicitations and the nature of resulting contracts. The solicitations corresponding to D.06-06-066 and D.21-11-029, are energy contracts including generating resources with quantities of megawatts that are purchased or sold. Power Purchase Agreements, resulting from energy supply solicitations are also, in many cases, over 10 years in duration. In the EE space, the contracts are typically significantly shorter. SDG&E maintains that it has ongoing contracts with certain confidentiality requirements that must be upheld, as a matter of law, regardless of adoption of this PD or Attachment C. If the CPUC does not honor the integrity of existing contracts, that can potentially cause harm to the market, as bidders may distrust the IOUs if agreed-upon contract terms are not upheld.

Additionally, the nature of EE solicitations concerns third-party intellectual property and business practices. Among other things, releasing confidential information while bidders are constantly beginning and sunsetting third-party EE contracts could cause market issues that have not been explored, given limited stakeholder review and participation. As noted, SDG&E believes the CPUC should host workshops, which include the Energy Division, the IOUs, intervenors, third parties, and the Independent Evaluator (IE) to establish a better record.

SDG&E believes that Attachment C will require certain changes to protect the EE market, prior to adoption, as discussed further below. If the CPUC determines that adoption of the matrix, without stakeholder input, is necessary at this time, SDG&E believes that the PD needs to be revised to clearly state specific instances in which the matrix should be utilized (i.e., PRG material, PRG meeting minutes, etc.). Lastly, SDG&E recommends a form declaration be adopted for IE confidentiality declarations, to ensure efficiency and alignment across IEs. The IE Report, filed on a semi-annual basis and in Advice Letter filings, is marked for confidentiality by the IE and the IE provides a corresponding confidentiality declaration. As such, SDG&E does not attest to confidentiality, on behalf of the IE. Previously, the IEs have sought guidance

[7] Comments of Pacific Gas and Electric Company (PG&E) on Administrative Law Judge's Ruling Seeking Comments on Third Party and Other Issues (August 9, 2022) at 24.

from SDG&E, as it relates to confidentiality. Thus, SDG&E recommends the creation of a form declaration to be utilized by IEs and included in confidential submittals.

1. SDG&E Disagrees with Certain Components of Section I of Attachment C

SDG&E disagrees with components of the CPUC's proposed treatment of Attachment C, Section I, Public: Contract Summaries. "Contract summaries include counterparty, contract budget, length of contract, timing, Diverse Business Enterprise spend targets for prime contract and each subcontract, and all content of Table A."[8]

Specifically, SDG&E disagrees with the clause that allows certain confidential contract details to be released after "three years, or [ ] one year following original contract duration expiration."[9] SDG&E argues that this is ill advised given the shorter duration of EE contracts, some of which are only for a period of one year, thus it is possible that three years or one year following original contract duration expiration is not long enough to allow the information to become "stale" and prevent disruption to the EE market. As noted above, SDG&E does not believe there has been a record to substantiate implementation of the confidentiality matrix to apply to EE solicitations.

If the CPUC adopts Attachment C, SDG&E believes that the CPUC should eliminate the clause that allows release of information "one year following original contract duration expiration, whichever comes first,"[10] until more analysis can be done to determine whether this allows enough time to pass before making the information public.

Beyond the potential premature timing of the release of confidential information, Section I suggests the following information become public after three years or one year following the original contract duration expiration: "the savings (all metrics for savings used in CPUC established energy efficiency goals), timing, and pricing terms of the contracts. Other terms include, e.g., payment terms (compensation to implementer)."[11] SDG&E maintains that a general reference to payment terms is acceptable, however, specific payment terms included in Schedule C (compensation to implementer) should never be made public, and should remain

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[8] PD, Attachment C at 1.

[9] *Id.*

[10] *Id.*

[11] *Id.*

confidential in perpetuity. For example, by releasing detailed compensation information bidders will have an advantage when it comes to contract negotiations. If potential bidders are able to see what SDG&E paid contractors for other programs, which could include the percentage breakdown, upfront payments made to the contractor, etc., the information could be used to the detriment of ratepayers.

2. SDG&E Recommends Revisions to Section II of Attachment C

In Section II of Attachment C, the CPUC segregates periods of time for which confidentiality protections apply, into four categories; (i) public, (ii) confidential, (iii) public after contracts submitted to CPUC for approval, and (iv) Confidential for limited period: Confidential for three years, or until one year following original contract duration expiration, whichever comes first.[12]

First, within Section II.(A), Bid Information, SDG&E takes issue with information being made "[p]ublic after final contracts submitted to CPUC for approval."[13] Instead, this should be revised to state, "Public after final contract approval is received by the CPUC." This is reasonable given that the contract may not be approved by the CPUC, and a re-solicitation may be necessary. If SDG&E needs to go back to the market, the availability of certain sensitive information could be used to get a more favorable arrangement that the bidder may not have otherwise thought of, to the detriment of ratepayers.

Additionally, within Section II.(A), the "proposed total number of projects and savings (megawatts; kilowatt-hours; therms; total system benefit);" is miscategorized as "Public after final contracts submitted to CPUC for approval" which should instead be categorized as "confidential" because this information gives insight into program design. Similarly, innovation and quantity information should be kept confidential in perpetuity (until more analysis can be done on potential release), as making this information public too soon can cause potential harm to a third-party. A counterparty's detailed information is their intellectual property, and its release may negatively and inadvertently impact the third-party.

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[12] *Id.* at 1 – 2.

[13] *Id.* at 1.

3. SDG&E Disagrees with the Inclusion of Section III.(B) in Attachment C

SDG&E disagrees with the inclusion of Section III.(B), "selection and training of bid evaluators, including calibration sessions to ensure fairness"[14] as these details may reflect SDG&E's process for scoring. For example, a training presentation made public could give insight into how a bidder might score better in certain areas because weights and scoring details are discussed, among other potentially confidential information. While weights and scoring is identified as confidential without time constraints in Section II.(A), training information is identified in Section III.(B) and may include similar details, therefore, as "selection and training of bid evaluators, including calibration sessions to ensure fairness" may contain confidential information that may harm the market or ratepayers, SDG&E disagrees it should be made public; instead, this information should be classified as confidential.

C. SDG&E Disagrees That Contract Extensions and Success of Existing Programs Should Be Presented to the PRG

Ordering Paragraph (OP) 7 of the PD states that the IOUs should, "disclose to their procurement review group and independent evaluator when they plan to make contract extensions and shall provide an overview of their long-term plans to continue contract extensions . . . along with information about the success of the existing programs or contracts."[15] SDG&E disagrees with this directive given that PRG and IE oversight concludes when the contract with the implementer is executed, and the Implementation Plan (IP) is uploaded to CEDARS. Performance information pertaining to the success of the specific program could be publicly tracked by interested parties. Additionally, the IOUs provide monthly, quarterly and annual reports that contain program data, including savings achieved and program spend etc., which indicates the success of the program. Further, D.21-05-031 requires the Program Administrators (PAs) to file a Tier 2 AL, once every two years in the odd years, in September, to ensure stakeholders can weigh in on changes to the portfolio and updated technical inputs and forecasts timely, with CPUC approval if there are any controversial aspects, without requiring a full CPUC review in the form of an application.[16] Any changes to contracts will be included in this AL and

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[14] *Id.* at 2.

[15] PD at OP 7.

[16] D.21-05-031 at 42.

subject to public comment.[17] Lastly, specific IE agreements for each solicitation concludes once the IP webinar concludes, therefore SDG&E notes that there is no mechanism in place to reimburse the IE for services beyond the IP webinar.

D. SDG&E Seeks Clarification on Certain Accounting Methods

1. SDG&E Seeks Clarification of the Term Portfolio Administration Costs

The PD states "[f]irst, calculation of the total resource cost (TRC) test for the resource acquisition segment of the portfolio should include portfolio administration costs allocated to the segment."[18] SDG&E concurs that only portfolio administration costs allocated to the resource acquisition segment should be used for the TRC of the segment. However, the term "portfolio administration costs" has not otherwise been defined, which can cause confusion and misinterpretation of its use. For example, portfolio administration costs can be interpreted to mean all costs associated with the PA's responsibility to administer its entire portfolio, which would include administrative, marketing and outreach, and direct implementation activities, depending on the type of activity. The alternative interpretation would be more limited to the PA's administrative activities in the management of its portfolio, consistent with utility administrative costs as defined in the EE Policy Manual.[19] SDG&E recommends the CPUC provide a specific definition and more specifically recommends the CPUC adopt the first interpretation, i.e., the PA's Portfolio Administration costs, which includes costs that are classified as administration, marketing and outreach, and Direct Implementation Non-Incentive costs, consistent with D.09-09-047 and articulated in the EE Policy Manual.[20] This recommended definition is currently what PAs use in discussions with Staff for the purpose of reporting portfolio costs in CEDARS.

2. SDG&E Requests Clarification of Direct Implementation Costs

The PD states:

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[17] *Id.* at 42 and OP 10.

[18] PD at 35.

[19] CPUC, Energy Efficiency Policy Manual, Version 6 (April 2020) (EE Policy Manual), Appendix C at 77-79.

[20] *Id.* at 77-81.

> Third, we will continue to rely on the definition of "direct implementation costs" from D.09-09-047, which states that direct implementation costs are defined as "costs associated with activities that are a direct interface with the customer or program participant or recipient (e.g., contractor receiving training)." This means that there is no such thing as portfolio administration costs that are "direct implementation non-incentive" costs.[21]

SDG&E disagrees with this statement, maintains that the PD errs in its interpretation of it, and recommends deleting the last sentence. After defining Administrative Costs, D.09-09-047 goes on to describe what are not considered administrative costs and states:

> These Administrative Costs categories do not include EM&V or Marketing and Outreach. Direct Implementation costs for delivering programs, which are defined as 'costs associated with activities that are a direct interface with the customer or program participant or recipient (i.e., contractor receiving training),' are also excluded. Direct Implementation includes non-resource programs such as Emerging Technologies, WE&T, Lighting Market Transformation, Zero Net Energy Pilots, local & statewide DSM integration and On-Bill Financing. Also included are direct implementation non-incentive costs associated with incentive-based programs. These costs include engineering project management, customer support, certain sub-programs (e.g., Energy Audits and Continuous Energy Improvement), market transformation and long-term strategic plan support.[22]

SDG&E undertakes direct implementation non-incentive (DINI) costs in its administration of its third-party programs and provides a list of its non-administrative activities that fall into this category in every approved third-party solicitation AL it has filed. For example, SDG&E's local agricultural third-party program AL 4045-E states:

> In addition to its administration and oversight functions listed above, SDG&E plans to continue using SDG&E staff to ensure a successful delivery of the Ag-STAR program. SDG&E delivery functions and Direct Implementation Costs for Local Agriculture include, but are not limited to the following Engineering EM&V, system support, marketing.[23]

The CPUC acknowledges that administrative costs are necessary to well-functioning programs and therefore should be limited to those overhead and labor costs that are required for quality programs. SDG&E believes that if the CPUC determines that valid DINI costs should be classified as administrative costs, it would create upward pressure on the utility administrative cost cap of 10% and may have unintended consequences, resulting in poor quality programs.

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[21] PD at 36 (citation omitted).

[22] D.09-09-047 at 50 – 51 (citation omitted).

[23] SDG&E Advice Letter 4045-E at 11 – 12, approved August 31, 2022 and effective August 30, 2022.

The transition to third-party designed and implemented programs requires several IOU activities to support portfolio strategic objectives and accurate reporting. Furthermore, many of these activities are "fixed cost," meaning their cost and effort do not directly scale with program budgets. For example, the amount of effort and cost to develop a statewide measure package is not related to portfolio budget, but rather the complexity and scope of the proposed EE measure. As such, SDG&E's portfolio budget, being the smallest among the IOUs, would be significantly challenged to remain within the 10% utility administrative cost cap and therefore make it more challenging for SDG&E to implement its portfolio administration responsibilities effectively.

3. The PD Errs in Classifying Third-Party Solicitation Costs as Administrative Costs" and not "Direct Implementation" Costs

SDG&E disagrees with characterizing solicitation costs as administrative costs rather than direct implementation non-incentive costs. The PD states, "[i]n addition, third-party solicitation costs are also administrative costs and not 'direct implementation' costs."[24] However, D.09-09-047 states:

> Our review finds that utilities have included program design, development, planning and program/project management costs in direct implementation non-incentive costs in their applications. While this is not consistent with all details of our previous guidance on this matter, we find the utility approach consistent with that taken in other localities and discussed below, as well as consistent with the increased costs of program design/project management work associated with implementing programs that produce long term lasting savings as called for in the Strategic Plan.[25]

In previous program cycles, the IOUs were the program implementers for the majority of their portfolio and the CPUC supported the classification of program design, development, planning and program/project management costs as direct implementation non-incentive costs for the IOU-implemented programs. Since reassigning most of program implementation to third-parties, program design, development, planning and program/project management costs are still incurred by the utility because these costs are still required to "program plan and project manage" for the new program implemented by a third-party. Specifically, the costs incurred for program design, planning and acquiring a new third-party include, but are not limited to, the

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[24] *Id.*

[25] D.09-09-047 at 56 – 57.

following: (1) Development costs of the Request for Information/Request for Proposal, (2) Independent Evaluator costs, (3) PRG meeting costs, (4) utility personnel costs for reviewing and scoring proposals for the best program design, (5) IOU engineering costs for review and approval of relevant measure packages; and (6) negotiating contracts for the new third-party program. Therefore, SDG&E maintains the CPUC should approve extending the definition of DINI costs to solicitation costs for selecting and contracting third-party programs that will deliver term lasting savings as this activities are equivalent to the approved DINI costs of (1) Project management activities (i.e., Planning Scope of Work, working with contractors and customers, setting goals, reviewing goals, reacting to market conditions, and responding to customer inquiries (i.e., calls, emails, letters); and (2) Program planning, development and design.[26] A potential unintended consequence of considering solicitation costs as administrative costs, would be effectively minimizing activities and reducing the entire solicitation timeframe, to ensure that the costs remain under the 10 percent cap.[27]

E. SDG&E Recommends Clarification Regarding Guidance in Section 4

SDG&E recommends modifying OP 11 to formalize the guidance outlined in Section 4 of the PD. Specifically, the discussion directs the IOUs (and not all PAs) to fund and hire a project coordinator to support management and oversight of the CPUC's database tools, including CEDARS and CET, which SDG&E acknowledges.[28] Additionally, the discussion directs the IOUs to fund this work from its portion of EM&V budgets, potentially increasing the IOU portion of the total EM&V budget.[29] However, SDG&E notes that this language is not directed in a corresponding OP and as such, recommends an additional OP 17 in the Appendix.

F. SDG&E Believes the CPUC Should Increase the EM&V Budget Cap to 50% to Accommodate the CPUC Guidance for IOUs to fund eTRM enhancements and CEDARS/CET Database

This PD, and recent CPUC guidance in Resolution (Res.) E-5221 regarding eTRM funding, have transferred EM&V funding responsibilities to IOUs, which may require an

[26] EE Policy Manual, Appendix C at 80 of 84.

[27] D.09-09-047 at 63.

[28] PD at 46 – 47.

[29] *Id.* at 50.

adjustment to the 40% EM&V budget cap ordered in D.18-05-041.[30] Res. E-5152 directed IOUs to fund 2022 and 2023 eTRM enhancement activities and the California Technical Forum (CalTF) from 2022 and 2023 EM&V budgets or EE program budgets.[31] However, Res. E-5152 states:

> The IOUs may pass financial responsibility for ongoing eTRM maintenance and development to the CPUC when the CPUC's IT procured contracts to fund and support the platform are underway in 2022. At this point, the Energy Division will manage the eTRM indefinitely, including vendor contracting, funding, development and maintenance.[32]

Based on this guidance, and the expectation that CPUC would assume funding responsibility for eTRM, SDG&E's 2024-2027 Business Plan filing accounted for CalTF funding in the 2024-2027 EM&V budget, but did not include funding for eTRM enhancements.

However, Res. E-5221 provides updated guidance for eTRM funding. It states that IOU eTRM "contracting and funding model has been demonstrated to be effective and should continue, and if the IOUs did not budget for eTRM in their Business Plan applications, they may update their 2024-2027 budget applications in the 2023 True-up Advice Letter"[33] and directs "[t]he IOUs will continue to fund and administer the eTRM from the IOU portion of the EM&V budgets and will address support activities for eTRM and CalTF in their 2024-2027 Business Plans."[34]

The transfer of funding responsibility for CPUC Database Tools to IOUs creates an additional funding requirement for IOU EM&V budgets. The PD states, "[w]hile the IOU EM&V portion is not currently reaching the 40 percent cap, the addition of the funding of the database tools is one of the reasons the IOU proportion could rise."[35] Given the changes in this PD and because the CPUC will not require as much EM&V funding once the IOUs take over funding requirements, SDG&E recommends that the EM&V cap be increased to at least 50%. These budgets can be revisited once historical costs associated with CEDARS/CET and eTRM

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[30] *See* Res. E-5152 at OP 9 (stating the IOUs shall not exceed budget caps ordered in D.18-05-041 to fund eTRM development). *See e.g.,* D.16-08-019 at OP 68.

[31] Res. E-5152 at OP 7.

[32] *Id.* at 9.

[33] Res. E-5221 at 6.

[34] *Id.* at OP 1.

[35] PD at 50.

are available and the IOUs better understand the financial impacts of implementing this decision, and the upcoming 2023 True-up AL for the 2024-2027 Business Plan will include updated analysis. However, to ensure adequate funding to now include CEDARS/CET, eTRM, and primary EM&V objectives, SDG&E recommends raising the budget cap to at least 50% or, at a minimum, provide a mechanism to adjust the 40% cap to at least 50% as part of the approval of the 2023 True-up AL for the 2024-2027 Business Plan. If approved, SDG&E intends to update its 2024-2027 budget applications in the 2023 True-up AL to account for such changes to the EM&V budget.

G. SDG&E Requests Revisions to Certain Procedural Requirements in the PD

OP 12 of the PD, states that no later than March 1, 2023, IOUs must submit a joint Tier 1 AL to fund and facilitate implementation of the CATALENA project in accordance with Section 5 of the decision.[36] In addition, OP 13 states that within 15 days after CPUC staff provides notice to the service list that CPUC and CEC staff have executed a memorandum of understanding or other agreement, SDG&E and the other IOUs "must transfer the full amount in the accounting mechanism required by Ordering Paragraph 12 to the CEC."[37] SDG&E does not object to the PD's language, which reassigns responsibility for deployment and ongoing management of the CATALENA tool to the CEC. However, to ensure a unified transition and allow time to update accounting mechanisms, SDG&E proposes a revised filing date from March 1, 2023 to 90 days from the effective date of the final decision. SDG&E believes the additional time will ensure the joint collaboration needed to facilitate the transition.

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[36] *Id.* at 72.

[37] *Id.*

II. CONCLUSION

SDG&E appreciates the opportunity to provide these Opening Comments and looks forward to further participation in this proceeding.

Respectfully submitted this 13th day of January, 2023.

Respectfully submitted,

By: * /s/ Siobhán E. Murillo*

Siobhán E. Murillo
San Diego Gas & Electric Company
8330 Century Park Court, CP32D
San Diego, CA 92123-1530
Telephone: (619) 616-0624
Fax: (619) 699-5027
Email: smurill1@sdge.com

Attorney for:
SAN DIEGO GAS & ELECTRIC COMPANY

January 13, 2023

APPENDIX

PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS

APPENDIX

PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS

Dicta

Page 36: ~~This means that there is no such thing as portfolio administration costs that are "direct implementation non-incentive" costs.~~

Conclusions of Law

18. The definition of direct implementation costs from D.09-09-047 (and as further operationalized in the Energy Efficiency Policy Manual Version 6) remains appropriate.

Ordering Paragraphs

~~6. The confidentiality matrix in Attachment C to this decision shall be used for purposes of energy efficiency programs and solicitations.~~

7. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company shall disclose to their procurement review group and independent evaluator when they plan to ~~make contract extensions, and shall provide an overview of their long-term plans to continue contract extensions or~~ re-issue solicitations in the targeted sector or area~~, along with information about the success of the existing programs or contracts~~.

11. All portfolio administrators shall be members of the Reporting Project Coordination Group (PCG). One ~~portfolio administrator~~ IOU selected by the IOUs ~~from among~~ on the Reporting PCG membership shall solicit and hire, by no later than the end of the first quarter of 2024, a project coordinator, to develop a governance document and an annual development plan for the California Energy Data and Reporting System, Cost-Effectiveness Tool, and other associated tools and calculators. The lead ~~portfolio~~ IOU shall file a Tier 2 Advice Letter by no later than June 30, 2023 describing the impacts to the evaluation, measurement, and verifications budgets and a scope of work for both the project coordinator and the development and maintenance of the various reporting tools.

12. No later than ~~March 1, 2023~~ 90 days from the effective date of the final decision Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company must submit a joint Tier 1 Advice Letter to

fund and facilitate implementation of the California Analysis Tool for Locational Energy Assessment project in accordance with Section 5 of this decision.

14. Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Southern California Gas Company (SoCalGas) must share data requested by regional energy networks and third-party implementers and/or their authorized agents, as described in Section 6 of this decision, within ~~one day~~ <u>ten business days</u> after notifying the requestor that the requestor meets the following requirements:

• A current cyber security review by each investor-owned utility (IOU) supplying confidential information.

• A non-disclosure agreement directly with each IOU supplying confidential information.

• The ability to receive secure data transmissions from the IOU. For some data sharing platforms, this may include the ability to access IOU systems via an application programming interface.

• A current contract for the program, either as the program administrator or as prime or sub-contractor with a statement of work that requires all the confidential data received. PG&E, SDG&E, SCE, and SoCalGas must file and serve a copy of any such notice in Rulemaking 13-11-005 or a successor proceeding. PG&E, SDG&E, SCE, and SoCalGas may be relieved of this requirement if they identify and enable an alternative pathway for regional energy networks, third-party implementers and/or their authorized agents to access needed data for program implementation and evaluation purpose.

<u>Requested data must comply with applicable Commission decisions and IOU tariff rules governing customer privacy.</u>

17. <u>IOUs shall fund the database tool contracts from their portion of EM&V budgets. To accommodate this traditionally CPUC-funded expense, the 40% cap on the IOUs' portion of the EM&V established in D.16-08-019 shall be changed to at least 50%, allowing IOUs to submit an increased EM&V budget proposal as part of the upcoming 2024-2027 Business Plan True Up advice letter.</u>