

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**

03/03/23

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R1311005

March 3, 2023

**Agenda ID #21424**  
**Ratesetting**

TO PARTIES OF RECORD IN RULEMAKING 13-11-005:

This is the proposed decision of Administrative Law Judge Valerie U. Kao and Administrative Law Judge Julie A. Fitch. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's April 6, 2023, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties to the proceeding may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief Administrative Law Judge

MLC:mef

Attachment

Decision PROPOSED DECISION OF ALJ VALERIE U. KAO AND  
ALJ JULIE A. FITCH (Mailed 3/3/2023)

**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

**DECISION GRANTING SOUTHERN CALIFORNIA REGIONAL ENERGY  
NETWORK'S MOTION TO AUTHORIZE USE OF UNSPENT ENERGY  
EFFICIENCY FUNDING FOR CALIFORNIA ENERGY EFFICIENCY  
COORDINATING COMMITTEE COMPENSATION PILOT**

**DECISION GRANTING SOUTHERN CALIFORNIA REGIONAL ENERGY NETWORK'S MOTION TO AUTHORIZE USE OF UNSPENT ENERGY EFFICIENCY FUNDING FOR CALIFORNIA ENERGY EFFICIENCY COORDINATING COMMITTEE COMPENSATION PILOT**

**Summary**

This decision grants the motion of Southern California Regional Energy Network, on behalf of the California Energy Efficiency Coordinating Committee (CAEECC), requesting authorization for the energy efficiency program administrators to use unspent and uncommitted energy efficiency funds up to \$185,000 to fund a compensation pilot recommended in the Final Report of the CAEECC Compensation Task Force.

Rulemaking 13-11-005 remains open.

**1. Background**

On November 29, 2022, the Southern California Regional Energy Network (SoCalREN) filed a motion on behalf of the CAEECC requesting the California Public Utilities Commission (Commission) authorize the current energy efficiency program administrators to collectively use up to \$185,000 of unspent and uncommitted energy efficiency funds for a compensation pilot (Compensation Pilot).<sup>1</sup> The motion describes the background leading up to its filing and the activities to which the requested funding would be dedicated.

In summary, the CAEECC formed a Composition, Diversity, Equity, and Inclusion Working Group (CDEI WG) to focus on membership composition and,

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<sup>1</sup> *Southern California Regional Energy Network's (CPUC #940) Motion Seeking Authorization for the Compensation Pilot Presented in the California Energy Efficiency Coordinating Committee Compensation Task Force Final Report*, filed November 29, 2022 (Motion), at 1. While the Motion refers only to unspent energy efficiency funds, this decision identifies unspent and uncommitted funds (i.e., authorized energy efficiency funds that have been collected from ratepayers but not yet spent or committed to a particular project) as the funding source under consideration to fund the proposed pilot.

in consideration of the Commission's Environmental and Social Justice (ESJ) Action Plan goals, to develop a pathway for marginalized people and communities to participate in CAEECC activities, and to inform the future of energy efficiency programs. The CDEI WG recommended convening a task force to explore a pilot compensation process for a successor CAEECC working group that would take up further consideration of CAEECC's role and capacity to advance more equitable energy efficiency program implementation. The motion included the Final Report of the Compensation Task Force (Final Report) as an attachment.

On December 14, 2022, the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) timely filed a response to the motion. Cal Advocates asserts the proposed pilot requires criteria that candidates must meet to qualify as underrepresented, noting the risk that better-resourced entities could use the pilot to amplify their views rather than expand the diversity of viewpoints. Cal Advocates further recommends that CAEECC members be advised of rules governing conflicts of roles and interest, cautioning that CAEECC membership may impede an individual's or organization's eligibility for intervenor compensation where (1) there is a financial conflict of interest in the decision to make funding available to third parties, (2) participants are funded by utilities for work on the CAEECC or energy efficiency proceeding, or (3) reimbursement is sought for duplicative purposes.

The Commission did not receive other responses to the motion, or a reply to Cal Advocates' response.

## **2. The Motion is Granted Without Modification**

This decision grants SoCalREN's motion without modification. As the motion describes, the purpose of the Compensation Pilot is to address a financial

barrier that prevents historically underrepresented groups from participating in CAEECC activities. The motion anticipates that selected entities will participate in the successor CAEECC working group that will take up further consideration of CAEECC's role and capacity to advance more equitable energy efficiency program implementation. The Commission supports this endeavor and recognizes that activities proposed in the motion are intended to address and correct for systemic marginalization of communities, which requires a considerable, deliberate and consistent effort.

The Commission acknowledges and agrees with Cal Advocates' concern regarding the potential for better-resourced entities to participate in the Compensation Pilot and thereby amplify their views rather than expand the diversity of viewpoints. However, we find the proposed recruitment and application processes, as described in the Final Report, reasonably adequate to minimize such risk. Further, we note that the Final Report recommends a pilot evaluation that would report on the diversity of perspectives included in the successor CAEECC working group, including more specifically the percentage of this working group that represents an ESJ community. Although the motion does not seek Commission approval of the Final Report and this decision does not provide such approval, in favor of affording flexibility to the Pilot Administrator, we anticipate one outcome of the pilot will be to identify the entities that were selected and received funds as part of the pilot. We also anticipate another outcome will be to identify more sustainable funding options for any potential similar activities that may subsequently be proposed.

With respect to Cal Advocates' concern regarding distinguishing between advisory and potential intervenor roles, this decision confirms that all parties bear responsibility to fully understand the statutory requirements of the

Commission's intervenor compensation program, including conflicts of interest that would disqualify a party from receiving intervenor compensation.

No party raises concern with authorizing the use of unspent and uncommitted energy efficiency funds for the Compensation Pilot, and the Commission has not identified explicit constraints placed on current authorized, unspent and uncommitted energy efficiency funds that would preclude their use for the Compensation Pilot.<sup>2</sup> This decision must nevertheless address the appropriateness of utilizing ratepayer funds that were authorized for energy efficiency programs for purposes of the Compensation Pilot. Pursuant to Assembly Bill 841 (Stats. 2020, Ch. 372), ratepayer funds that were authorized for the investor-owned utilities' (IOU) program years 2020-2022 energy efficiency portfolios and were unspent and uncommitted as of the end of each of those program years must be transferred to the California Energy Commission for the California Schools Healthy Air, Plumbing, and Efficiency Program. According to their approved 2022-2023 budget advice letters and most recent quarterly reports, SoCalREN, Bay Area Regional Energy Network (BayREN), Tri-County Regional Energy Network (3C-REN) and Marin Clean Energy (MCE) have approximately \$188 million in unspent funds from their 2022-2023 budgets.<sup>3</sup> Also, the IOUs have funds authorized for program year 2023 that they may

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<sup>2</sup> See Decision (D.) 18-05-041 *Decision Addressing Energy Efficiency Business Plans*, issued June 5, 2018, addressing energy efficiency business plans for 2018-2025.

<sup>3</sup> Source of unspent/uncommitted funds for program years 2022-2023 is from California Energy Data and Reporting System and BayREN's, SoCalREN's, 3C-REN's and MCE's Confirmed 2022 Quarter Three Claims, available at <https://cedars.sound-data.com/upload/confirmed-dashboard/BAY/2022/>, <https://cedars.sound-data.com/upload/confirmed-dashboard/SCR/2022/>, <https://cedars.sound-data.com/upload/confirmed-dashboard/TCR/2022/>, and <https://cedars.sound-data.com/upload/confirmed-dashboard/MCE/2022/>.

contribute towards the Compensation Pilot, if we find here that the Compensation Pilot activities are within scope of the IOUs' currently authorized energy efficiency programs.

This decision finds that the activities to be undertaken as part of the Compensation Pilot are within scope of current authorized energy efficiency programs and associated activities. In D.21-05-031 the Commission directed the energy efficiency program administrators to segment their portfolios according to the primary program purpose, and identified a new equity segment that consists of 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 ESJ Action Plan. The stated purpose of the Compensation Pilot is to create an accessible, accepting environment that better includes and considers the perspectives of underrepresented communities in the work of the CAEECC.<sup>4</sup> This effort is integral to both designing and developing successful equity segment programs, as well as to achieving Goals 1, 2 and 5 of the ESJ Action Plan because it will seek to include the perspectives of communities that these goals serve:

- Goal 1: Consistently integrate equity and access considerations throughout CPUC proceedings and other efforts;
- Goal 2: Increase investment in clean energy resources to benefit ESJ communities, especially to improve local air quality and public health; and
- Goal 5: Enhance outreach and public participation opportunities for ESJ communities to meaningfully participate in the CPUC's decision-making process and benefit from CPUC programs.

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<sup>4</sup> Motion, Attachment A (Compensation Task Force Final Report) at 3.

We further find that the Final Report provides sufficient detail and transparency to ensure the reasonable stewardship of ratepayer funds. Section C of the Final Report details the recommended administration and oversight elements, including documentation and status updates to the full CAEECC, data collection and evaluations for a Mid-Pilot Report and Final Pilot Report, and consultation with the CAEECC and Energy Division on any executive decisions about the pilot.

We therefore find it reasonable and appropriate to permit and direct the RENs and MCE to use unspent funds for the Compensation Pilot. The IOUs may also contribute funds from their authorized program year 2023 budgets to help fund the Compensation Pilot. The RENs, MCE and the IOUs may work out a fund sharing agreement and should do so as soon as possible (if needed). We do not require that all program administrators contribute to funding the Compensation Pilot. The total amount of funding authorized for the Compensation Pilot is \$185,000.

### **3. Summary of Public Comments**

Rule 1.18 of the Commission's Rules of Practice and Procedure allows any member of the public to submit written comments in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comments submitted in a proceeding be summarized in the final decision issued in that proceeding.

### **4. Comments on Proposed Decision**

The proposed decision of Administrative Law Judge (ALJ) Valerie U. Kao and ALJ Julie A. Fitch in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under



Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

#### **5. Assignment of Proceeding**

Genevieve Shiroma is the assigned Commissioner and Valerie U. Kao and Julie A. Fitch are the assigned ALJs in this proceeding.

#### **Findings of Fact**

1. D.21-05-031 directed the energy efficiency program administrators to segment their portfolios according to the primary program purpose, and identified a new equity segment that consists of 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 ESJ Action Plan.

2. The Commission's ESJ Action Plan includes goals to consistently integrate equity and access considerations through Commission regulatory activities, and to enhance opportunities for ESJ communities to meaningfully participate in the Commission's decision-making process and benefit from Commission programs.

3. SoCalREN's motion seeks authorization for energy efficiency program administrators to use already authorized energy efficiency funds totaling up to \$185,000 to fund a Compensation Pilot that would address a financial barrier to historically underrepresented groups from participating in CAEECC activities.

4. SoCalREN, BayREN, 3C-REN and MCE have approximately \$188 million in unspent funds from their 2022-2023 budgets.

5. The IOUs have funds authorized for program year 2023 that they can contribute toward the Compensation Pilot.

6. The activities to be undertaken as part of the Compensation Pilot are within scope of current energy efficiency programs.

**Conclusions of Law**

1. It is reasonable to grant SoCalREN's motion.
2. It is reasonable to permit the RENs and MCE to use unspent and uncommitted funds for the Compensation Pilot, and for the IOUs to contribute funds from their authorized program year 2023 budgets toward the Compensation Pilot.

**O R D E R**

**IT IS ORDERED** that:

1. The November 29, 2022, *Southern California Regional Energy Network's Motion Seeking Authorization for the Compensation Pilot Presented in the California Energy Efficiency Coordinating Committee Compensation Task Force Final Report* is granted without modification.
2. Rulemaking 13-11-005 remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California