

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-5015

August 15, 2019

RESOLUTION

Resolution E-5015. Southern California Edison Company's proposed implementation plan for the Low Carbon Fuel Standard-funded statewide point-of-purchase Clean Fuel Reward program.

PROPOSED OUTCOME:

- Adopts with modifications Southern California Edison's (SCE) Advice Letter 3982-E, which requests authorization for SCE to serve as the interim administrator for the statewide utility-run Low Carbon Fuel Standard (LCFS)-funded Clean Fuel Reward (CFR) point-of-purchase program for electric vehicles (EVs), and changes the existing SCE-run LCFS customer rebate program to comply with updates to California Air Resources Board's (CARB) revised LCFS regulation.

SAFETY CONSIDERATIONS:

- There is no direct impact on safety.

ESTIMATED COST:

- There is no cost impact to ratepayers. The Clean Fuel Reward program will be funded entirely by utilities' Low Carbon Fuel Standard (LCFS) credit revenue, both investor-owned utilities (IOUs) and publicly owned utilities (POUs). SCE, along with Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E), will each contribute 67% of the credit revenue they generate from the residential EV charging base credits they receive from CARB. The large POUs will contribute 35% of their residential EV charging base credits, the medium POUs will contribute 20%, and the small POUs

will not contribute. SCE does not propose to recover any costs from ratepayers, and this resolution does not authorize any additional costs.

By Advice Letter 3982-E, Filed on April 2, 2019.

SUMMARY

This Resolution approves with modifications Southern California Edison Company's (SCE) implementation plan for the Low Carbon Fuel Standard (LCFS)-funded statewide electric vehicle (EV) point-of-purchase Clean Fuel Reward (CFR) program. This Resolution is in response to changes in the California Air Resources Board's (CARB) LCFS regulation, aimed at increasing benefits to future EV drivers and providing Californians with a statewide EV incentive policy. CARB directed the publicly-owned utilities (POUs) and investor-owned utilities (IOUs) to establish an EV incentive program where customers receive an upfront reward upon purchase of an EV, funded exclusively by contributions from each participating utility's LCFS credit revenue.

This Resolution finds it reasonable for SCE to administer the CFR program for the limited program initiation period of three years.

This Resolution also finds it reasonable to add additional safeguards to improve program oversight, accountability, and transparency. While AL 3982-E describes efforts that CARB, the utilities, and a stakeholder group are undertaking to develop a governance structure, SCE's proposal would allow the utilities and stakeholders to develop the program's governance structure without further review or approval from the CPUC. To ensure the governance structure aligns with this Resolution and CPUC policy goals, and is executed responsibly and in the interest of all Californians, this Resolution requires SCE to submit any Governance Agreement(s) to receive approval from the CPUC via Tier 2 Advice Letter prior to SCE signing. The Resolution also outlines several other requirements for SCE's role as CFR program administrator, including additional

reporting and Advice Letter requirements to report on administrative spending and requirements on rate education.

BACKGROUND

CARB Regulatory History

Pursuant to Assembly Bill (AB 32), the Global Warming Solutions Act of 2006, CARB developed the LCFS regulation. CARB adopted the LCFS regulation in 2009 and has amended it a few times, most recently in 2018. The purpose of the regulation is to transform and diversify the transportation fuel pool, reduce petroleum dependency, and reduce emissions of air pollutants and greenhouse gases (GHGs) in California.

The LCFS regulation establishes declining annual performance standards from 2011 through 2030, measured as the average carbon intensity (CI) of fuels. It applies to fuel that is sold, supplied, or offered for sale in California, and to any person responsible for that transportation fuel. Regulated entities must meet these standards by reducing the CI of their fuels and/or retiring LCFS credits.

Providers of clean fuels that are below the CI for any given year, like electric utilities, may voluntarily opt-in to the LCFS program to generate credits. The large IOUs—Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric (SDG&E)—have opted into LCFS to earn residential EV charging base credits for supplying electricity for residential charging of EVs.

The LCFS regulation requires utilities, as opt-in regulated credit generators for residential EV charging, to (1) use all credit proceeds from residential charging to benefit current or future EV customers in California; (2) educate the public and customers on the benefits of EV transportation (including the environmental costs and benefits of EV charging or total cost of ownership as compared to gasoline); and (3) provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid.

On April 27, 2018, CARB approved Resolution 18-17, which directed CARB staff to work with stakeholders to explore ways to increase the size of rewards funded

with LCFS credits, including through a statewide point-of-purchase rebate program, and harmonizing with other EV rebate programs.

On September 27, 2018, CARB approved Resolution 18-34, adopting amendments to the LCFS regulation, including initiating a statewide electric utility-run point-of-vehicle-purchase CFR program funded with LCFS credit revenue.¹

The adopted LCFS regulation states that upon CPUC approval of PG&E's, SCE's, and SDG&E's filing(s) to initiate a statewide point-of-purchase rebate, all opt-in utilities² must contribute a minimum percent of base credits for residential EV charging to provide a statewide point-of-purchase rebate funded exclusively by LCFS credit proceeds.³ Thus, the point-of-purchase CFR program cannot materialize until all three large electric IOUs obtain approval from the CPUC to initiate the rebate program.

All types of utilities in the state must contribute a minimum percentage of residential EV charging base credits to the program. From 2019 through 2022, the minimum contribution requirement for IOUs is 67%, for Large POUs it is 35%, for medium POUs it is 20%, and small POUs are not required to contribute.⁴

CARB's regulation states that CARB will retain involvement of the program in the following ways: (1) by determining the quantity of credits utilities receives;⁵ (2) by CARB staff "reviewing the implementation of any statewide point of purchase rebate program, including the actual credit value contribution of each utility to the program, and present a report to the Board by January 1, 2025 with recommendations for further increasing utility contributions..."⁶ (3) by directing CARB staff to provide notification at least two years prior to the effective date of

¹ See September 27, 2018 CARB Resolution 18-34 available at:

<https://www.arb.ca.gov/regact/2018/lcfs18/finalres18-34.pdf>

² CARB's LCFS regulation references "Electric Distribution Utilities" specifically.

³ 17 Cal. Code Regulation (CCR) § 95483(c)(1)(A)(1)-(2), available at:

<https://www.arb.ca.gov/regact/2018/lcfs18/fro.pdf>

⁴ Id.

⁵ 17 CFR § 95486.1(c).

⁶ Id.

any CARB staff proposal that would eliminate the statewide program;⁷ (4) by establishing a formula for a sliding scale point-of-purchase CFR based on battery size;⁸(5) by working with stakeholders to establish an equity-based framework;⁹ (6) by hearing a staff update on the proposed statewide rebate design prior to entering into any Governance Agreement among the opt-in entities;¹⁰ (7) by continuing to require quarterly and annual reporting by all opt-in utilities;¹¹ (8) by implementing CARB auditing and recordkeeping requirements;¹² and (9) by potentially amending the LCFS regulation as needed.

CPUC Regulatory History & Program Implementation

The CPUC is involved in LCFS because the selling of credits and allocation of revenue affect IOU customers, gas and electric rates, and IOU programs related to transportation electrification.

A May 2014 Decision (D.14-05-021, as corrected by D.14-07-003) authorized the IOUs to sell LCFS credits and established criteria and reporting requirements for the sale of the LCFS credits, pursuant to California Public Utilities Code (PUC) Section 853(b).¹³ The Commission used its authority under PUC Section 701 to authorize the utilities to sell LCFS credits on behalf of their customers.

The reporting requirements in D.14-05-021 direct utilities with Procurement Review Groups to report sales of LCFS credits to these groups quarterly, and those without must report sales of credits to the CPUC Energy Division and the Public Advocates Office.¹⁴ It directs the IOUs to file a confidential report with the Energy Division by April 30 of each year containing information about LCFS

⁷ CARB Board Resolution 18-34 at p. 9.

⁸ 17 CCR (§95483. (c)(1)(A)(2).

⁹ Id

¹⁰ Id

¹¹ 17 CCR § 95491.

¹² 17 CCR § 95491.1.

¹³ Public Utilities Code Section 853(b) provides for the CPUC to exempt a utility from the requirements of Public Utilities Section 851, which prohibits utilities from selling, leasing, assigning, or otherwise disposing of its property necessary to the performance of its duties to the public, and to place terms, conditions, rules and/or requirements upon any such exemption.

¹⁴ Previously called the Office of Ratepayer Advocates.

credit sales from the prior year.¹⁵ Each of the participating IOUs have complied with these reporting requirements.

D.14-05-021 also ordered the IOUs that have opted-in to the LCFS program and wish to sell credits to file a Tier 2 Advice Letter proposing an implementation plan for doing so in accordance with the direction provided in the decision, and adopting policies for the return of LCFS revenue to customers.

The CPUC issued another Decision in December of 2014, D.14-12-083, adopting a methodology for the electric and natural gas utilities to allocate revenue they generated from the sale of LCFS credits.

Decision (D.)14-12-083 directed the electric utilities to educate the public on the benefits of transportation electrification, and to provide rate options that encourage off-peak charging and minimize adverse impacts to the electric grid. The Decision also directed the large IOUs to receive credits for the electricity sold as fuel to customers that drive plug-in hybrid, fully-electric, or natural gas-fueled vehicles.

The Commission provided several options to the electric IOUs for how to return the value of the LCFS credit revenue back to customers. D.14-12-083 directed the electric IOUs to return the value of the LCFS credit revenue either by (1) reducing the purchase costs of plug-in EVs through rebates or other incentives, or (2) providing an annual credit on electric bills of customers with plug-in EVs.

Regardless of the methodology selected, D.14-12-083 required that the following policy objectives guide the IOUs' plans for returning revenue to customers: (1) compliance with CARB's LCFS regulation, (2) encourage Alternative Fuel Vehicle (AFV) adoption, (3) equitable return to AFV drivers; (4) encourage prompt utility notification on the location of AFVs to minimize grid impacts; and (5) administrative simplicity.

D.14-12-083 directed that "[i]f a utility wishes to change its selected method for returning LCFS revenue to customers, it should do so through a subsequent Tier 2 Advice Filing."¹⁶

¹⁵ D.14-05-021, Appendix C outlines the reporting requirements for the sale of LCFS credits.

Regarding the Advice Letters that D.14-05-021 ordered, D.14-12-083 further clarified that the utilities should file revenue return implementation plans within 90 days of the adoption of the Decision.¹⁷ It also directs the IOUs to submit Advice Letters by September 30 of each year starting in 2015, containing forecasts of LCFS credits and revenues for the following calendar year, as well as balancing account true-ups.¹⁸ D.14-05-021 authorized the IOUs selling LCFS credits to establish balancing accounts to track LCFS credit revenue.

In March 2015, each of the large IOUs submitted its implementation plan, with SCE submitting AL 3194-E.¹⁹ SCE's AL 3194-E proposed the revenue return as the SCE-specific Clean Fuel Reward Program (CFRP) to return LCFS revenue by rebates to its residential EV customers. AL 3194-E was approved without modification on August 5, 2015, with an effective date of July 30, 2015.

The CFRP, established by AL 3194-E, is available to SCE's residential customers who own or lease eligible plug-in EVs. Up to three owners of the same vehicle are eligible to receive the rebate.

In December of 2018, the CPUC opened a new rulemaking, R.18-12-006, into which LCFS is scoped. Within the Scoping Ruling for this proceeding, issued on May 2, 2019, the IOUs are directed to file a Tier 3 Implementation Advice Letter with the Commission's Energy Division within 30 days from the date CARB adopts regulatory changes to the current LCFS program that would require the IOUs to modify their program funding with their LCFS credit revenues.

Stakeholder Collaborative Efforts

Starting in May 2018, SCE and the other electric IOUs conducted numerous collaborative meetings with the other utilities opting into the program, the automakers, CARB and CPUC representatives and staff, and others. These stakeholders participated in the development of the proposal set forth in SCE's AL 3982-E. SCE has stated in AL 3982-E that all the utilities that participated in

¹⁶ D.14-12-083 at p. 33

¹⁷ Outlined in Appendix A of D.14-12-083.

¹⁸ Outlined in Appendix C of D.14-12-083.

¹⁹ <https://www.sce.com/NR/sc3/tm2/pdf/3194-E.pdf>

these conversations, as well as CARB, agree to the framework proposed in AL 3982-E.

SCE's AL 3982-E

While D.14-12-083 authorizes SCE to submit a Tier 2 Advice Letter, SCE states that it submitted AL 3982-E with a Tier 3 designation for determination by the Commission because the action requested within AL 3982-E requires more than a ministerial act.

Timeline and Overview

Through AL 3982-E, SCE offers to be the administrator of the statewide CFR program in the short term, and to implement the program through third parties selected through a competitive solicitation. These third party implementers would include a financial institution to receive and hold the opt-in utilities' LCFS revenues and distribute to EV dealers the reimbursements for the reward, an independent accounting firm to perform regular audits of all aspects of the program, as well as other program implementers to engage in marketing, education, and outreach (ME&O) for the statewide CFR program, establish an online tool for EV dealers to request reimbursement of a reward, and perform other administrative and ME&O functions.

SCE states that it anticipates that EV dealers would pay (or credit) the reward amount upfront to allow EV purchasers to receive an instant reduction in the sale or lease price of the vehicle at the point-of-purchase. The dealer would then request reimbursement from the Program Implementer along with proof of an EV sale or lease and other required documentation.

SCE proposes to act as administrator "for the purposes of 'initiating' the program," which it defines as the first three years of the program.²⁰ After the three year program initiation, SCE proposes that its role as administrator will automatically terminate unless SCE files an Advice Letter requesting authority to administer the program long-term. If SCE files a request to continue to administer the program long-term, SCE proposes that "its administration

²⁰ SCE defines "initiating" as acting as the administrator for the first three years of the program, commencing with the launch of the competitive solicitation for third-party contractors.

[would] continue while the CPUC considers the appropriate disposition of the advice letter..."

Guiding Principles

SCE's AL 3982-E cites guiding principles that SCE states that it developed with the other participating stakeholders. These principles are:

1. Accelerate the sale of [EVs] with an instant reduction in price to all [EV] purchasers in California at the point-of-sale or lease;
2. Mitigate the risk of a waitlist or program insolvency;
3. Maximize the CFR, including by stacking the CFR with other state, local, and federal incentives, while minimizing the amount of LCFS revenue expended on administration and marketing;
4. Implement the program consistent with an equity-based framework, consistent with CARB direction;
5. Provide continuity, certainty, and simplicity in the CFR program for California's [EV] purchasers and minimize changes to the CFR amount;
6. Maximize dealer participation;
7. Launch the program as soon as possible by ensuring sufficient, fair, and timely contributions for start-up costs using existing LCFS funds;
8. Facilitate the collection of data on [EV] sales in the state for grid planning, rate enrollment, and other good utility practices;
9. Promote transparency to all vested stakeholders by, among other things, publishing the CFR amount at the time of sale;
10. Create a steering committee of utilities with appropriate decision-making authority and create a supporting advisory committee comprised of stakeholders;
11. Develop robust risk mitigation and fraud management policies; and
12. Support utility co-branding and marketing of the statewide program, as well as complementary utility-specific programs.

Risk Mitigation

SCE's AL 3982-E makes it clear that the utility's offer and proposal to administer the CFR program for the initiation period is contingent upon the CPUC approving risk mitigation measures, including, but not limited to:

1. SCE's CPUC authorized administrator role is short term;

2. All statewide CFR program costs, losses, and liabilities are funded by LCFS credit proceeds;
3. SCE will attempt to procure insurance to cover its administrative activities, and, if possible, the program itself and the other opt-in utilities;
4. The Governance Agreement, described in more detail below, will require the maintenance of a minimum reserve, which the steering committee, also described in more detail below, can adjust upward, from the CFR funds to immediately cover liabilities as SCE awaits future CFR fund streams;
5. All opt-in utilities:
 - a. Must enter into a pro forma co-funding agreement with SCE with the release/covenant not to sue indemnification/liability cap protective provisions discussed in AL 3982-E, and
 - b. May also be required by the Governance Agreement to enter into individual agreements with the third-party Implementers, including Program Implementers, Financial Institution(s), and/or Program Auditors;
6. All opt-in utilities will deposit their contribution of LCFS revenues into an account with the Financial Institution;
7. SCE may hire separate and independent entities to perform certain functions, a Financial Institution, one or more Program Implementers, and a third-party Independent Auditor;
8. Third parties must have the characteristics below that are applicable to the scope of work, as determined by SCE:
 - a. Demonstrate that they have or will be able to procure sufficient insurance to cover any negligence, errors or omissions, or mismanagement of the CFR funds, LCFS revenues or CFR program;
 - b. Demonstrate creditworthiness and indemnify, defend, and hold each of the opt-in utilities, their affiliates, and each of their respective officers, directors, employees, agents, and representatives harmless for and from any claims, liabilities, and losses arising from or in connection with any negligent or intentional acts/omissions or mismanagement of the LCFS revenues;
 - c. Have experience managing large-scale programs with funding in excess of \$100 million;
 - d. Have technological experience creating web-based programs;

- e. Require all agreements with subcontractors include terms for the protection of the opt-in utilities;
 - f. Have practices and procedures to prevent and prosecute fraud by dealerships seeking CFRs, such as through carefully crafted Terms and Conditions to which EV purchasers and point-of-sale entities must agree to receive the CFR for the EV purchaser;
9. SCE will not pay any invoices except in accordance with the agreed upon procedures therefor contained in the Governance Agreement;
 10. All program-related costs and liabilities are funded by CFR funds or other LCFS revenues, if necessary;
 11. Dealerships must advance the reward at the time of the EV lease or purchase and provide proof of the EV sale or lease and advance reward to the Implementer(s) before the implementer authorizes the Financial Institution to reimburse the dealership for the reward with CFR funds.

SCE also states it is, if possible, going to procure an insurance policy to cover its administration of the program, as well as the program itself and the opt-in utilities participating in the CFR program. If it can procure an insurance policy, this cost would be covered through the CFR program's administrative cost budget, described below.²¹

SCE states that if it is unable to procure an insurance policy, or if it is only able to procure an insurance policy that does not cover all indemnification or defense amount, "then the remaining amounts will come from existing CFR funds or future revenue from the sale of LCFS credits to fund the CFR program. Only if those funds are insufficient or exhausted would [participating utilities], including SCE, be required to contribute their *pro rata* share of any Liabilities[.]"

The Advice Letter mentions an additional risk mitigation measure, a minimum reserve from the CFR funds that the program would need to maintain to immediately cover any liabilities as SCE awaits future CFR fund streams. SCE proposes that the structure and quantity of this reserve would be determined through the Governance Agreement, which is discussed in more detail below.

²¹ SCE AL 3982-E page 10 states that "SCE's initial assessment is that it is unlikely that a policy is available to either cover SCE's administrative conduct, the program, or the other opt-in utilities."

SCE's Advice Letter makes clear that it will not initiate this program without all of the recommended risk mitigation features outlined in AL 3982-E.

Governance

SCE proposes that there would be one or more agreements setting forth the terms and conditions for the governance of the program, that SCE anticipates all opt-in utilities, or their respective representatives would sign.

AL 3982-E states that the Governance Agreement(s) may be submitted to CARB, CARB may also be a party to such agreement(s)", or certain portions thereof, or may separately enter into a memorandum of understanding (MOU) or other document memorializing its cooperation with the CFR program. SCE refers to all of these documents together as the "Governance Agreement," the terms of which have not yet been determined, negotiated, or finalized.

AL 3982-E states that "SCE anticipates that the terms of any Governance Agreement will include provisions to clarify program administration and would also cover matters not addressed in this advice letter and with respect to which the CPUC lacks oversight, including, but not limited to regulation of POU participation in the program." The Advice Letter also proposes that the Governance Agreement would establish one or more committees to be engaged in the creation, implementation, administration, and oversight of the program, including, but not limited to:

1. a steering committee with program oversight/structuring responsibility comprised of POU and IOU representatives,²² and
2. an advisory committee designed to solicit the views and feedback of a broad range of stakeholders.

Contracting

SCE's AL 3982-E recommends that the competitive solicitation for third-party contractors "should have the input and scrutiny of a 'procurement review group (PRG)''-like steering committee." SCE further states that SCE would have ultimate

²² SCE AL 3982-E page 15 "SCE anticipates that the steering committee would serve additional key functions, which may include reviewing the performance of the program, reviewing/approving the program's budget, determining the process for approving payment of invoices for administrative and marketing functions and recommending the initial CFR amounts, and recommending any required adjustments thereto."

selection and contracting authority, but the PRG steering committee would "make recommendations regarding the competitive solicitation, selection of offers, and negotiations of third-party contracts."

SCE states that it will solicit third party entities that (1) can demonstrate that they have or will be able to procure sufficient insurance to cover any errors or omissions, or mismanagement of the LCFS revenues or program; (2) will provide protection for the opt-in utilities by indemnifying, defending, and holding them harmless from and against any liabilities arising from or in connection with any negligent or intentional acts/omissions or mismanagement; (3) have experience managing large-scale programs with funding in excess of \$100 million; (4) have technological experience creating web-based programs; (5) ensure that all agreements with subcontractors include terms for the protection of the opt-in utilities; (6) have practices and procedures to prevent and prosecute fraud by dealerships seeking CFRs, such as through carefully crafted terms and conditions to which EV purchasers and point-of-sale entities must agree to receive the CFR for the EV purchaser.

Sale of LCFS Credits

SCE's AL 3982-E proposes that it and the other opt-in utilities will only contribute revenue, rather than LCFS credits, to the program. SCE requests authority to continue to transact all of its LCFS credit sales using the upfront standards the Commission approved in AL 3194-E. SCE also requests that the Commission afford that same option to all IOUs.

Administrative and ME&O Proposal and Costs

SCE proposes that the Commission authorize SCE as administrator to pay ME&O and administrative costs, as overseen by the steering committee, at an amount not to exceed 10% of the total annual LCFS statewide CFR program revenue. SCE proposes a stipulation that this be the cap the Commission authorizes unless the steering committee approves a larger percentage.²³ SCE proposes that this cap would include, but not be limited to, fees that the third-

²³ SCE cites start-up costs as an example of a reason why the steering committee would potentially approve a larger percentage of the budget go to administrative and ME&O costs.

party implementer(s) charge, funds to cover dealerships' carrying costs for advancing the CFR to EV purchasers, and SCE's program administration costs.²⁴ SCE states that the deployment details and final costs of the ME&O approach will be determined through a competitive solicitation process, with a focus on activity placed on dealerships and outreach to environmental and social justice organizations, environmental groups, and other community-based organizations.

AL 3982-E states that as part of ME&O, SCE and the other utilities will co-brand ME&O materials with CARB information, in part to offer an opportunity to engage customers and further educate them to take actions that minimize grid impacts of EVs.

SCE states that it expects administrative costs to be highest in early years of the program, but to decline once the program is in full operation.

Revenue Return

AL 3982-E states that "SCE proposes no changes in how it or the other IOUs' remaining 33% of base residential charging LCFS credit revenue is returned to their respective customers, except that once the statewide CFR is operational, SCE will cease offering its CFR to those who purchase or lease new EVs. However, it will continue to offer that CFR to subsequent EV owners as currently approved by advice letter 3194-E."

SCE requests that the Commission cap its and the other IOUs' contributions to the CFR at the minimum requirement from the CARB LCFS regulation of 67%.

SCE also requests that the Commission clarify that no non-CFR funds, whether from customers, shareholders, or otherwise, will be available for any part of SCE's participation in the statewide program, whether as an opt-in utility or as a program administrator. It further requests that its contribution to all program costs, liabilities, expenses, and losses is capped at 67% of its LCFS residential EV charging base credit sales revenue.

²⁴ Some examples that SCE cites as possible SCE-specific program administrator costs would be associated with designing the implementation plan, conducting the solicitation for contractors, drafting the agreements with all opt-in entities and third parties, any outside counsel attorney's fees, hiring additional labor, and managing the various third-parties and engaging with auditors.

SCE cites that the utilities, working with CARB, developed a cash flow model for the program to examine the credits generated and sold, the revenues contributed to the program, rewards issued, administrative costs, and reserves. SCE proposes that the Steering Committee and third-party implementer will select the CFR amount, and will inform the advisory committee prior to changes in the CFR amount.

Equity

SCE requests authority to “require the Program Implementer to add or impose equity provisions” to the CFR program only if CARB makes a formal written request that SCE do so or if a Governance Agreement requires it.

Data Collection

SCE states that it “anticipates the third-party Program Implementer’s contract will require it to collect data from customers similar to that collected in the current California Vehicle Rebate Program.” SCE proposes that it will report this data to the utility that serves the customer.

Annual Reports to Energy Division

SCE proposes to retain the current LCFS program annual reports in September and April each year.

SCE proposes that its LCFS Revenue Balancing Account will track credit sales, funds disbursed to the statewide CFR program, administrative and ME&O costs, and any reimbursement from the statewide CFR funds or other opt-in utilities.

Rate Treatment

SCE recommends that the Commission not require CFR recipients to be on default or optional TOU rates. SCE argues that a requirement of this sort would be unmanageable for the third-party to implement and impracticable for dealers at the point-of-purchase to require.

NOTICE

Notice of AL 3982-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

AL 3982-E was protested and received responses.

Responses of Support for AL 3982-E

Responses of support were received from: CARB, Tesla, Union of Concerned Scientists (UCS), Center for Sustainable Energy (CSE), Pacific Gas and Electric Company (PG&E), The Alliance of Automobile Manufacturers and Association of Global Automakers, Inc.,²⁵ California New Car Dealers Association (CNCDA), CALSTART, Sacramento Municipal Utility District (SMUD), California Municipal Utilities Association (CMUA), Northern California Power Agency (NCPA),²⁶ Los Angeles Department of Water and Power (LADWP), Natural Resources Defense Council, Inc. (NRDC), and Southern California Public Power Authority (SCPPA).²⁷

Many of these stakeholders have been active participants in the collaborative effort to develop a statewide CFR program. All of these stakeholders support SCE's proposed administration of the CFR.

²⁵ The Alliance of Automobile Manufacturers and Association of Global Automakers, Inc. state that they represent automakers that collectively produce over 99% of the new cars and light trucks in the United States.

²⁶ NCPA is a nonprofit, California joint powers agency with 16 member communities, which include: the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, the Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District.

²⁷ SCPPA is a joint powers authority whose membership consists of eleven cities and one irrigation district, which supply electric energy within Southern California, including the municipal utilities of the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District.

Risk Mitigation Measures

Several of the stakeholders specifically mention their support for the risk mitigation measures. PG&E states that it “supports in concept the framework for mitigating and spreading SCE’s liability risks as outlined in SCE’s advice letter. However, the scope, authorization and detailed legal and governance agreements to support SCE’s ‘risk mitigation’ measures are still largely unknown and to be negotiated. In particular, potentially hundreds of millions of dollars of LCFS base credit revenues that will have been generated by PG&E customers would be transferred under the direction of SCE and to yet-unknown third-party implementing entities under yet-unknown governance and other agreements...”

Protest of SCE AL 3982-E

The Public Advocates Office submitted a protest to AL 3982-E, which included suggested changes to SCE’s proposal. The protest states that the Public Advocates Office “supports SCE’s proposed provisions to limit the risk of liability to its ratepayers, but protests SCE’s proposed Implementation Plan because it lacks transparency regarding oversight of the proposed governance agreements and the proposed administrative costs.” For these reasons, and to “limit the potential risks of liability and cost-shifting to SCE’s ratepayers,” Public Advocates Office recommends the Commission implement the following requirements as a condition of approving AL 3982-E:

1. Require SCE to file an annual Tier 1 Advice Letter reporting the annual administration costs, beginning 12 months after the CFR program begins.

Its request for a required annual Tier 1 Advice Letter, would include a breakdown of the annual administrative costs, including ME&O. Public Advocates Office states that this would allow stakeholders to review administrative costs and if appropriate request that CARB revise the cap on administrative expenses.

2. Require SCE to file a Tier 1 Advice Letter to submit all Governance Agreements that it executes to ensure they are consistent with the Commission's authorization of SCE's CFR Implementation Plan.
3. Require SCE to include provisions within the Governance Agreements to protect ratepayers from liability risks and to ensure that administrative costs are funded solely through LCFS credits, and not ratepayer funds or SCE LCFS credits that it retains.

Response to Protest

SCE, SDG&E, and CARB submitted a joint response (collectively, the Joint Respondents) to Public Advocates Office's protest. The Joint Respondents generally disagree that the Commission should utilize the Tier 1 Advice Letter procedure to approve the administrative costs and the governance structure. The Joint Respondents cite reasons for this as: (1) this a CARB program; (2) it is exclusively funded by LCFS revenues; and (3) it is structured to disseminate rewards to many individuals who are not customers of any IOU.

DISCUSSION

The Commission has reviewed the Advice Letter, the protest, the responses, and finds that SCE's request is reasonable and in compliance with D.14-05-021 and D.14-12-083 if implemented with modifications. SCE's proposed revenue return implementation plan complies with the option in D.14-12-083 to reduce the purchase cost of an EV through rebates or other incentives. It also complies with the directive in D.14-12-083 to submit proposed changes to a selected method of revenue return through a subsequent Tier 2 Advice Filing, although SCE provides justification for why it elevated this particular filing to a Tier 3. Further, SCE's proposed reporting schedule, modified within this Resolution, complies with D.14-05-021. However, SCE's proposal to act as the administrator for the utility-run statewide EV rebate program for the initial three years of the program is reasonable only with additional oversight, as discussed in this section.

Risk Mitigation

Most of the stakeholders that responded to the Advice Letter offered support for the risk mitigation measures that SCE proposed, and which SCE stated it developed with the collaborative stakeholder group.²⁸ Public Advocates Office's protest includes a recommendation to adopt SCE's proposed risk mitigation features along with two modifications. (1) Public Advocates Office first recommends limiting SCE's authority to pay invoices for CFR program expenditures to invoices that the CFR Steering Committee or CARB has approved. Specifically, they suggest changing SCE's risk mitigation number nine to read:

SCE will not pay any invoices except in accordance with the agreed upon procedures contained in the Governance Agreement, which at a minimum must require approval of the CARB or the CFR Steering Committee.²⁹

(2) Public Advocates Office also suggests a modification to measure number 10 so SCE customers are not required to fund more than their proportionate share of administrative costs for the CFR program:

All program-related costs, including SCE's internal administrative costs for starting and implementing the CFR program, and liabilities are funded by CFR funds or other LCFS revenues, if necessary.³⁰

The Joint Respondents' state that they are okay with the suggestion for number nine, but are concerned that "invoices" should not include the reimbursements to the vehicle dealerships for providing the reward to EV drivers. The Joint Respondents agree with Public Advocates Office that administrative costs incurred solely for the benefit of the CFR program should be funded exclusively by LCFS revenues, but state that AL 3982-E and CARB's interpretation of the regulatory requirements is consistent with this perspective.

²⁸ The respondents to SCE's Advice Letter that mentioned support for the proposed Risk Mitigation measures were: The Alliance of Automobile Manufacturers and Association of Global Automakers, Inc.; California New Car Dealers Association; Union of Concerned Scientists; Natural Resources Defense Council; Sacramento Municipal Utility District; and CALSTART.

²⁹ AL 3982-E, p. 25, with additions suggested by Public Advocates Office's in underline.

³⁰ AL 3982-E, p. 25

Public Advocates Office's two recommended changes to SCE's proposed risk mitigation measures clarify program funding sources and provide additional oversight of the use of program funds. For these reasons, the Commission finds Public Advocates Office's two recommended changes to be reasonable. SCE should modify the risk mitigation measures within the Governance Agreement per Public Advocates Office's recommendations, and should not include the vehicle dealership reimbursements within this definition of "invoices."

In addition, SCE has stated that it will try to obtain an insurance policy but that it may not be possible. In the event there is no insurance policy and there are liabilities for which LCFS funds are not sufficient to cover, the Commission has concern about how this would be managed. Both SCE's Advice Letter and Public Advocates Office's protest state that this program should be funded solely with the CFR LCFS funds. The Commission agrees with this, and finds that there is no appropriate time at which IOU ratepayer funds could be used to cover liabilities related to this program, or used for any other reason. While the Commission understand that there may not be an insurance policy available to fully cover the program, we urge SCE to obtain an insurance policy or performance bond if possible.

The Commission finds that with the addition of Public Advocates Office's proposed language for the risk mitigation measures, and ideally with the procurement of an insurance policy, SCE's proposed risk mitigation measures mitigate potential exposure to liability risks associated with administering this statewide rebate program, and thus should be adopted.

CFR Governance Structure

SCE's proposal requests the authority to establish a Steering Committee and adopt Governance Agreement(s) that would define the governance structure and many other critical aspects of the CFR program. SCE's request would allow the participating utilities and stakeholders to develop a governance structure that the parties decide upon without Commission review or approval.

Governance Agreements

The Public Advocates Office's protest includes the suggestion that the Commission should require SCE to submit the Governance Agreements that SCE

executes, in its role as short-term administrator of the CFR program, in Tier 1 Advice Letters to ensure they comply with the Commission's authorization of their role as program administrator. The Joint Respondents' disagree with this suggestion. In their response they state that approval of the Governance Agreement(s) via Advice Letter is not an "appropriate use of the Commission's time and resources given the funding and jurisdictional aspects of the [program]..." The Joint Respondents instead suggest that the Commission utilize the data request process rather than requiring an Advice Letter filing.

The Commission disagrees with the Joint Respondents' suggestion to utilize the data request process rather than requiring an Advice Letter submission. This is an inappropriate mechanism for several reasons: (1) a data request would allow CPUC staff to review the information in the Governance Agreement(s), but would not provide oversight or approval of SCE's execution of the agreement; (2) the data request process puts the onus on CPUC staff to request the documents, rather than SCE, the regulated utility; and (3) an Advice Letter filing allows the CPUC to review the Governance Agreement(s) to ensure SCE is acting in the best interest of its customers.

Given the many program details yet to be determined, the Commission finds that there needs to be further oversight of the Governance Agreement(s).

Therefore, the Commission agrees with Public Advocates Office's suggestion that the Commission should require SCE to submit the Governance Agreements via Advice Letters. SCE is participating in the CFR program and administering this program with the CPUC's authorization, and thus it is reasonable and within the Commission's jurisdiction to review and approve any agreement SCE enters into for this program, including the Governance Agreement(s).

SCE should submit the Governance Agreement(s) SCE enters into as program administrator as a Tier 2 Advice Letter filings rather than as Tier 1 filings as Public Advocates Office suggested. According to GO 96-B, a Tier 1 Advice Letter is generally to implement routine changes to tariffs that have already been authorized by the Commission. These Advice Letters must be routine or simple. A Tier 2 Advice Letter, however, can include minor proposals made on a utility's own initiative, or may involve more complicated or difficult matters that have

already been approved by the Commission, but have not been completely spelled out in a decision. The issues associated with the Governance Agreement(s) more closely align with the definition of a Tier 2 Advice Letter, given the Governance Agreement will involve the establishment of a new statewide program.

SCE's Advice Letter includes mention of many program details and agreements that it expects will be included in the Governance Agreement. The Commission agrees that it is appropriate for SCE to include these topics within the Governance Agreement. The Commission has also identified additional program details that SCE should include in a future Governance Agreement submitted to the CPUC via Tier 2 Advice Letter. These include:

- Definition of the role of the Steering Committee's responsibility, and list of its membership;
- Definition of the role of the Advisory Committee's responsibility, and list of its membership;
- Clarification of CARB's role on the Steering Committee;
- Discussion of the minimum reserve of CFR funds that would be maintained to immediately cover liabilities, as described in AL 3982-E;
- Discussion of the audit schedule and plan for publicizing the audit report(s);
- Discussion of the proposed costs and how the administrative budget is proposed to cover dealerships' "carrying" costs or fees for advanced payment of the reward, while remaining cognizant that these aforementioned fees will come directly from funds that would otherwise go to drivers;
- Confidential treatment of data and data sharing guidelines;
- Proposed implementation plan for required rate education for each consumer receiving the CFR, if this is the appropriate location for implementing this requirement, as discussed below;
- Proposed data collection template, as discussed below;
- Rules on voting power on the Steering Committee; and
- Criteria and process for competitive solicitation, as discussed below.

SCE must submit these Governance Agreement(s), covering at minimum the outlined program details in AL 3982-E and in this section, to the CPUC for approval prior to signing via Tier 2 Advice Letter.

Contracting

The Commission finds the risk mitigation measures for contracting with third parties to be appropriate and will help minimize risk to SCE and the other program participants. The Commission generally finds SCE's proposed approach to contracting to be appropriate, assuming the contracting is conducted competitively.

Administrative and ME&O Costs and Reporting

SCE proposes that administrative and ME&O costs be capped at 10% of the overall program budget. SCE however does not provide a dollar amount for the overall program budget, so there is no proposal for the dollar amount of the administrative and ME&O budget provided to the Commission. The Public Advocates Office's protest recommends that the Commission should require SCE to file annual Tier 1 Advice Letters reporting the costs of administering the CFR program.

The Joint Respondents disagree with Public Advocates Office's suggestion for a required Tier 1 Advice Letter filing given concern over potentially confidential and market sensitive information that the filings could contain. Further, they state in their response that submitting separate confidential and public versions of the report would not promote greater transparency, as Public Advocates Office aims to do.

At this point, the Commission does not know the size of this administrative and ME&O budget.

The Commission disagrees with the Joint Respondents' claim that a Tier 1 filing would not promote transparency. While some information may be considered confidential, there should be sufficient cost data to share with the public to show how much the CFR program is spending on administration and ME&O. This report can be submitted annually along with the existing requirement for the IOUs to submit annual LCFS reports each April.

Thus, the Commission agrees with Public Advocates Office's recommendation that the Commission should require SCE to file annual Advice Letters reporting the costs of administering the CFR program. SCE should do this concurrently with its annual April LCFS report filing, and may submit a public and confidential version, provided there is a valid basis to claim the information is confidential. SCE should publicize this report on the CFR program's website. SCE should work with Energy Division to ensure SCE is reporting this cost data in sufficient detail.

Further, the Commission finds it reasonable to require SCE to, along with the existing requirement for annual LCFS forecasts each September, submit forecasts of the administrative and ME&O spending it plans to administer in its role as administrator of the CFR program. As SCE is already required to submit its LCFS forecasts each September via a Tier 2 Advice Letter, the additional reporting can also be included in this Tier 2 Advice Letter.

As referenced in SCE's comments to the Draft Resolution, D.14-05-021 determined that "administrative costs should be kept sufficiently low so as not to materially impact the amount of LCFS revenue returned to customers." In pursuit of aligning with this guidance, Energy Division staff will evaluate the proposed costs based on the following:

- (1) Staff reviews of SCE's documentation of overhead costs; and
- (2) Staff assessment of whether duplicate work was performed.

SCE's AL 3982-E also proposes that the cap on administrative and ME&O spending will be 10% of the total annual LCFS statewide CFR program revenue, unless the steering committee approves a larger percentage. A 10% cap of administrative funds is generally within the range of spending for other customer programs the utilities implement. The Commission understands that CARB intends to amend the LCFS regulation to ensure that a 10% cap on administrative costs is enforceable and that there will be a public annual report to CARB and the CPUC with a summary, detailed list, and explanation of administrative costs incurred. Until CARB authorizes this requirement, we find it appropriate that SCE receive regulatory approval before administering the raising of this cap. If SCE finds it necessary to raise this spending cap, and after

the Steering Committee has approved this increased spending cap, SCE should submit a Tier 2 Advice Letter to the CPUC's Energy Division to both notify the Commission and seek authorization. In reference to comments on the Draft Resolution from Public Advocates Office, the Commission sees value in providing Energy Division staff guidance on when it should authorize such a request, and to ensure that staff is only making objective determinations. Energy Division staff may approve of a requested increase in the spending cap above 10% (1) if SCE provides sufficient rationale for the need for higher administrative costs to serve the startup of the program, or (2) if the allowable 10% budget has been fully and reasonably allocated, based on the criteria mentioned above.³¹ Once CARB amends the LCFS regulation to enforce a cap on administrative spending, this Advice Letter requirement will no longer apply.

Further, SCE's proposal states that this 10% administrative spending cap includes all administrative and ME&O costs associated with the CFR program. The Commission understands this to include all of the individual utilities' administrative costs, including the costs for selling credits and coordinating with the statewide program, its contractors, and SCE. With this understanding, the Commission finds the 10% cap on administrative costs to be reasonable.

ME&O Coordination

Consistent with the third guiding principle SCE proposes in AL 3982-E, to "[m]aximize the CFR, including by stacking the CFR with other state, local and federal incentives, while minimizing the amount of LCFS revenue expended on administration and marketing[,]" the Commission expects ME&O to be well coordinated with other incentive programs for EVs and EV charging. This includes CARB's CVRP. SCE should also include reporting of the program's efforts to coordinate ME&O with CVRP and other EV and EV charging incentive programs within its fall and spring filings.

Rate Treatment and Education

SCE's Advice Letter discusses the potential for the Commission to require the IOUs to require anyone receiving the CFR to enroll on a TOU rate in order to be

³¹ (1) Staff reviews of documentation of overhead costs; and (2) Staff assessment of whether duplicate work was performed.

eligible. SCE is concerned that requiring this as an eligibility requirement would be unmanageable.

However, CARB's LCFS regulation directs the opt-in utilities to educate the public on the benefits of EVs and provide rate options that encourage off-peak charging.

The Commission agrees with SCE's concerns around requiring TOU enrollment as an eligibility requirement for receiving the CFR. This is a reasonable argument given the complexity of the CFR program's interaction with dealerships, the span of the program across utility service territories, and the challenges associated with enrolling customers on TOU.

While the Commission does not want TOU enrollment to be a condition of receiving the CFR, the Commission does find that rate education should be a requirement for the CFR recipients within IOU territories. This aligns with CARB's LCFS regulation and with CPUC goals around managed EV charging. At minimum, SCE and the IOUs must reach out to customers who receive the CFR after purchasing an EV to provide education on different rate options, including EV TOU rates.

SCE and the IOUs should also consider providing educational materials and pamphlets to dealerships in the IOU territories to inform customers about rate options upon purchase.

SCE and the other IOUs should work with Energy Division staff to develop rate education outreach, and to ensure these efforts are aligned with other IOU efforts around EV rates and residential TOU roll-out. The Commission expects SCE to include a plan for rate education within the Governance Agreement or as a contract requirement for the third-party implementer, whichever venue is most appropriate.

EV Driver Reward

SCE proposes that SCE and the Steering Committee, working with the third-party implementer, and using the cash flow model developed with CARB staff, will determine the CFR reward amount for drivers. SCE proposes that the

Advisory Committee will be informed prior to changes in the CFR reward amount.

The Commission finds this to be a reasonable so long as CARB approves this reward amount and/or the methodology and model behind the proposed reward amount, and that SCE is mindful of the total funds available. Additionally, SCE should also notify Energy Division staff of any changes in the CFR reward amount in addition to the Advisory Committee to ensure staff are aware of the changes. SCE can do this informally.

Length of SCE's Administration of CFR

SCE proposes to act as the administrator of the CFR program for the first three years to "initiate" the program. SCE also proposes that it could submit a request to extend its role as administrator after that period of time, and would continue to administer the program while the CPUC disposes of the Advice Letter.

While the Commission, like SCE, expects that this administrator role is temporary, the Commission finds it reasonable for SCE to file a Tier 2 Advice Letter in the instance that after three years it is necessary for SCE to continue to administer the CFR program.

Equity Provisions

Center for Sustainable Energy and CARB both stated in their responses to the Advice Letter their support for the incorporation of equity provisions or an "equity-based framework" proposal from CARB. SCE in its Advice Letter also mentions the potential to include equity provisions if CARB directs it do so. The details of such a proposal have not yet been shared with the Commission, however the Commission supports SCE collaborating with CARB and other stakeholders to implement equity provisions for this program. If the program chooses to move forward with incorporating equity provisions, SCE should either include a description of this within the Governance Agreement or inform Energy Division staff informally.

Data Collection

Staff across California's state agencies working on Transportation Electrification, including CARB staff and the CPUC's Energy Division, have been collaborating

to share data. Data collection is a critical component of the CFR program, and SCE should collaborate with CARB and CPUC Energy Division staff, along with the Steering Committee and Advisory Committee, to ensure the CFR program is collecting all necessary and relevant data.

Contribution

Per CARB's amended LCFS regulation, the IOUs are already required to contribute a significantly greater proportion of their LCFS credit revenue to the CFR program compared to the POUs. Both SCE in its proposal in AL 3982-E and Public Advocates Office in its protest, request that the Commission cap SCE's contribution to the CFR at the minimum requirement of 67%. The Commission finds this to be reasonable. However, the Commission retains the authority to remove this cap in the event of a policy change, or if the IOUs are not effectively administering the remainder of their LCFS credit revenue.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Please note that comments were due 20 days from the mailing date of this Resolution.

Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this Resolution was neither waived nor reduced. Accordingly, this draft Resolution was mailed to parties for comments, and was placed on the Commission's agenda no earlier than 30 days from the mailing date of this draft Resolution.

Several comments were received for Draft Resolution E-5015. Any changes pursuant to the comments are addressed within the Resolution language.

SCE provided several suggested changes to the Draft Resolution.

- (1) The Commission should adopt a different process for its review of the Governance Agreement to avoid delaying the program implementation. SCE reiterates that in the interest of expediency the Commission and

Public Advocates Office can utilize the data request procedure to review the Governance Agreement(s). If the Commission believes it must review the Governance Agreement(s) for conformity with the final Resolution, SCE requests it utilize the Tier 1 process. If the Commission's final Resolution "deviates from GO 96-B by requiring SCE to submit a Tier 2 Advice Letter, SCE respectfully requests that it also deviate from the timing set forth in GO 96-B by accelerating the traditional 20 day time for protests and responses to 10 days and not issue any suspensions."

- (2) The Commission should not adopt a Tier 2 reasonableness review process for the administrative and ME&O forecast or of a Steering Committee decision to increase the cost cap. SCE's comments state that this is inappropriate because they are not consistent with the Commission's existing decisions. SCE states that the LCFS decisions do not authorize Energy Division to review and approve or reject the forecast of the existing LCFS programs' costs based on reasonableness, but they are reporting Advice Letters (D.14-12-083 at OP 4). D.14-05-021 determined that it is reasonable for the utilities to recover those costs if they are sufficiently low so as not to materially impact the amount of LCFS revenues returned to utility customers. SCE further states that the requirement for a Tier 2 Advice Letter to raise the administrative and ME&O cost cap above 10% frustrates the efficient operation of the program and the steering committee process by introducing delays.
- (3) The Resolution should be modified so that it states: "All incremental costs incurred for the sole benefit of the CFR program, including SCE's internal administrative costs for starting and implementing the CFR program, and liability are funded by CFR funds or other LCFS revenues, if necessary." SCE makes this suggestions because there will be some activities in which the IOUs engage that may provide an ancillary benefit to the program but are normal business activities in which the IOUs would otherwise engage, notwithstanding the existence of the program.
- (4) SCE suggests that instead of including rate education in the Governance Agreement(s), the Commission should require that SCE include it as a contract requirement for the third-party implementer. SCE makes this suggestion because it anticipates the Governance Agreement(s) will establish the rights and obligation of the participating utilities toward one

another, and the agreement with the implementer will establish the implementers' duties.

The Joint POU³² provided comments stating “[r]evisions that add requirements for Commission approval of critical components of the proposed implementation plan could weaken the cooperative process that participating utilities have engaged in and jeopardize the strength of a new CFR program.” The Joint POU^s also provided several suggested modifications to the Draft Resolution.

(1) The Joint POU^s state that annual planning and approval of administrative costs should not be subject to Commission action because administrative costs are not ratepayer funds and do not affect gas and electric rates, so does not fall within the parameters of the Commission’s stated basis for involvement in program oversight. Further, they state that any Commission oversight of the CFR program that would constitute Commission approval for POU related activities would violate the authority of the participating POU^s’ respective governing boards. The Joint POU^s suggest that administrative cost approval remains with the CFR Steering Committee.

(2) The Joint POU^s also suggest that the Governance Agreement “should not be subject to unilateral amendment by the Commission.” The POU^s are concerned with the Commission dictating the terms and conditions of the Governance Agreement that will be negotiated among all participating parties, including POU^s.

CARB provided comments to the Draft Resolution, expressing that the draft Resolution E-5015 are consistent with the shared goals of CARB and the CPUC to expeditiously establish this program. CARB provides one suggested modification to OP 4, the requirement that SCE file a Tier 2 Advice Letter prior to signing the CFR Governance Agreement. “CARB believes a Tier 1 Advice Letter would allow the CPUC sufficient oversight and confirmation, without risking further delays in the launch of the CFR program.”

³² The Joint POU^s include the California Municipal Utilities Association, Los Angeles Department of Water and Power, the Northern Californian Power Agency, Sacramento Municipal Utility District, the Southern California Public Power Authority, and the Turlock Irrigation District.

In CARB's comments, the agency also provides information that CARB, per conversations with Energy Division staff and the other CFR stakeholders, will have a non-voting membership role for a CARB representative on the CFR governance Steering Committee.

Public Advocates Office submitted comments to the Draft Resolution, stating that it supports the Draft Resolution, with modifications. Specifically, Public Advocates Office states that the Draft Resolution does not provide enough guidance for Energy Division to authorize requests to raise the 10% spending cap on administration and ME&O through a Tier 2 Advice Letter. "Because there is not enough guidance for the Energy Division to raise the cap on ME&O as a ministerial action, authority to raise the spending cap should be requested by filing a Tier 3 AL. Public Advocates Office recommends the following modification to OP 7:

"If Southern California Edison and the Clean Fuel Reward Steering Committee find it necessary to raise the cap on administrative and marketing, education, & outreach spending above the approved 10% cap, Southern California Edison must submit a Tier 23 Advice Letter to the CPUC's Energy Division to both notify the Commission and seek authorization to administer the raising of the spending cap."

FINDINGS AND CONCLUSIONS

1. The Low Carbon Fuel Standard (LCFS) regulation requires utilities, as opt-in regulated LCFS credit generators for residential electric vehicle (EV) charging, to (1) use all credit proceeds from residential charging to benefit current or future EV customers in California; (2) educate the public and customers on the benefits of EV transportation; and (3) provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid.
2. On September 27, 2018, the California Air Resources Board (CARB) approved Resolution 18-34, adopting amendments to the LCFS regulation, including initiating a statewide electric utility-run point-of-vehicle-purchase Clean Fuel Reward (CFR) program funded with LCFS credit value.

3. According to the CARB regulation language, upon CPUC approval of Pacific Gas and Electric Company's (PG&E), Southern California Electric Company's (SCE), and San Diego Gas & Electric Company's (SDG&E) filing(s) to initiate a statewide point-of-purchase rebate, the program goes into effect.
4. Decision (D.)14-05-021 ordered the investor-owned utilities (IOUs) to file a confidential report with the Energy Division by April 30 of each year containing information about LCFS credit sales from the prior year.
5. D.14-12-083 further ordered the IOUs to submit Advice Letters by September 30 of each year starting in 2015, containing forecasts of LCFS credits and revenues for the following calendar year, as well as balancing account true-ups.
6. D.14-05-021 ordered the IOUs that have opted-in to the LCFS program to file a Tier 2 Advice Letter proposing an implementation plan for selling credits.
7. D.14-12-083 directed the electric IOUs to educate the public on the benefits of transportation electrification, and to provide rate options that encourage off-peak charging.
8. D.14-12-083 directed the electric IOUs to return the value of the LCFS credit revenue either by (1) reducing the purchase cost of plug-in EVs through rebates or other incentives, or (2) providing an annual credit on electric bills of customers with plug-in EVs.
9. D.14-12-083 directed that if a utility wishes to change its selected method for returning LCFS revenue to customers, it should do so through a subsequent Tier 2 Advice Filing.
10. SCE's proposal to administer the CFR program is contingent upon the CPUC approving the risk mitigation measures outlined in SCE's AL 3982-E.
11. SCE via SCE AL 3982-E proposes that the Governance Agreement(s) will include provisions to clarify program administration and would cover matters not addressed in AL 3982-E and with respect to which the CPUC lacks oversight, including, but not limited to regulation of POUs.
12. SCE AL 3982-E requests that the Commission not require CFR recipients to be on default or optional TOU rates.
13. The CFR program will be entirely funded by the LCFS EV base credit revenue that each opt-in utility, POU and IOU, will contribute. No ratepayer or IOU shareholder funds will be used.
14. There is no appropriate time at which ratepayer funds could be used within the CFR program, including to cover liabilities related to the program.

15. With the additions of Public Advocates Office's proposed modifications of two of SCE's proposed risk mitigation measures, the risk mitigation measures SCE outlines in AL 3982-E are reasonable.
16. It is reasonable to require additional reporting of CFR program administrative and marketing, education, & outreach (ME&O) costs.
17. CARB intends to amend the LCFS regulation to ensure that a 10 percent cap on administrative costs is enforceable and that there will be a public annual report to CARB and the CPUC with a summary, detailed list, and explanation of administrative costs incurred.
18. SCE is participating in the CFR program and administering this program with the CPUC's authority, and thus it is reasonable and within the Commission's jurisdiction to require SCE to file by Tier 2 Advice Letter any agreement SCE enters into for this program, including the Governance Agreement(s) for Energy Division review.
19. SCE's proposed approach to contracting is appropriate, assuming the contracting is conducted competitively.
20. A 10% program budget cap on administrative and ME&O spending is reasonable if it includes all IOU administrative costs related to the CFR program.
21. SCE is participating in the CFR program with the CPUC's authority, and thus it is reasonable to require SCE to submit a Tier 2 Advice Letter to the CPUC's Energy Division if SCE requests to continue administering the CFR program beyond the authorized three-year program initiation period.
22. It is reasonable for SCE to align the CFR ME&O efforts with the other state and IOU efforts around EV rates and residential TOU roll-out.
23. Given CARB's focus on rate education, the Commission finds it reasonable to require rate education for all IOU customers who receive the CFR.
24. It is reasonable for SCE to collaborate with CARB and the CPUC Energy Division to ensure the CFR program is collecting all necessary and relevant data.
25. It is reasonable for SCE's contribution to the CFR to be capped at CARB's minimum required contribution, unless otherwise notified by the Commission.

THEREFORE, IT IS ORDERED THAT:

1. The request of Southern California Edison to administer the statewide utility-run Low Carbon Fuel Standard-funded Clean Fuel Reward program, as requested in Advice Letter 3982-E is approved with the modification listed in the following Ordering Paragraphs.
2. Southern California Edison must not utilize ratepayer funds in relation to the Clean Fuel Reward program, including for covering liabilities related to the Clean Fuel Reward.
3. Southern California Edison must modify the risk mitigation measures outlined in AL 3982-E as follows:
 - 3a. Risk mitigation measure number 9 shall read: Southern California Edison will not pay any invoices except in accordance with the agreed upon procedures contained in the Governance Agreement, which at a minimum must require approval of the California Air Resources Board or the Clean Fuel Reward Steering Committee.
 - 3b. Risk mitigation measure number 10 shall read: All program-related costs, including Southern California Edison's internal administrative costs for starting and implementing the Clean Fuel Reward program, and liabilities are funded by Clean Fuel Reward funds or other Low Carbon Fuel Standard revenues, if necessary.
4. Southern California Edison must submit for review and approval any and all Governance Agreements associated with the Clean Fuel Reward program via a Tier 2 Advice Letter. Southern California Edison must submit the Tier 2 Advice Letter prior to signing onto the Governance Agreement(s). The Governance Agreement at minimum must include the information described in AL 3982-E and the following information:
 - 4a. Definition of the role of the Steering Committee's responsibility, and list of its membership;
 - 4b. Definition of the role of the Advisory Committee's responsibility, and list of its membership;
 - 4c. Clarification of CARB's role on the Steering Committee;
 - 4d. Discussion of the minimum reserve of CFR funds that would be maintained to immediately cover liabilities, as described in AL 3982-E;
 - 4e. Discussion of the audit schedule and plan for publicizing the audit report(s);

- 4f. Discussion of the proposed costs and how the administrative budget is proposed to cover dealerships' "carrying costs" or fees for advanced payment of the reward, while remaining cognizant that these aforementioned fees will come directly from funds that would otherwise go to drivers;
 - 4g. Confidential treatment of data and data sharing guidelines;
 - 4h. Proposed implementation plan for required rate education for each investor-owned utility customer receiving the Clean Fuel Reward, if this is the appropriate location for implementing this requirement;
 - 4i. Proposed data collection template;
 - 4j. Rules on voting power on the Steering Committee; and
 - 4k. Criteria and process for competitive solicitation.
5. Southern California Edison must continue to comply with the existing Low Carbon Fuel Standard reporting requirements, but Southern California Edison must also modify the requirement as follows:
- 5a. Concurrently with the report due in April of each year, Southern California Edison must file a Tier 1 Advice Letter with a detailed breakdown of both the administrative and marketing, education, & outreach spending for the Clean Fuel Reward program from the previous year. Southern California Edison must work with CPUC Energy Division staff to ensure the report provides sufficient detail of these costs. Southern California Edison may submit both a public and confidential version of this report, provided there is a valid basis to claim the information is confidential. The portion of this report detailing administrative and marketing, education, & outreach spending shall be made public on the Clean Fuel Reward program website.
 - 5b. The Tier 2 Advice Letter due in September of each year, forecasting Low Carbon Fuel Standard data for the following year, will now allow the CPUC's Energy Division to review of the proposed administrative and marketing, education, & outreach spending based on:
 - (1) SCE's documentation of overhead costs; and
 - (2) Staff assessment of whether duplicate work was performed;This review will be limited to marketing, education, and outreach (ME&O) and utility overhead costs.

6. Southern California Edison shall administer no more than 10% of the total Clean Fuel Reward program budget on administrative and marketing, education, & outreach spending, which must include all administrative spending related to the Clean Fuel Rewards program.
7. If Southern California Edison and the Clean Fuel Reward Steering Committee find it necessary to raise the cap on administrative and marketing, education, & outreach spending above the approved 10% cap, Southern California Edison must submit a Tier 2 Advice Letter to the CPUC's Energy Division to both notify the Commission and seek authorization to administer the raising of the spending cap. However, if the California Air Resources Board amends the Low Carbon Fuel Standard regulation to ensure that the 10 percent cap on administrative costs is enforceable, as is the Commission's understanding, this Advice Letter requirement will no longer be enforced.
8. Southern California Edison must work with Energy Division staff to ensure marketing, education, & outreach efforts are aligned with other state and investor-owned utility efforts around EV rates and residential TOU roll-out.
9. Southern California Edison must ensure that all Clean Fuel Reward recipients located in an IOU territory receive rate education.
10. Southern California Edison must ensure that CARB has formally approved the Clean Fuel Reward amount and/or the methodology and model behind the amount prior to implementing the program.
11. If Southern California Edison deems it necessary to continue its administration of the Clean Fuel Reward program beyond the three-year initiation period, it must submit a Tier 2 Advice Letter to CPUC's Energy Division to receive approval before committing to this role.
12. Southern California Edison must collaborate with California Air Resources Board and CPUC Energy Division staff, along with the Clean Fuel Reward Steering Committee and Advisory Committee, to ensure the Clean Fuel Reward program is collecting all necessary and relevant customer, vehicle, and vehicle dealership data.
13. Southern California Edison must contribute the minimum required Clean Fuel Reward contribution of Low Carbon Fuel Standard credits and/or credit revenue, as defined by the California Air Resources Board, unless otherwise notified by the Commission.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 15, 2019; the following Commissioners voting favorably thereon:

/s/Alice Stebbins

ALICE STEBBINS
Executive Director

MICHAEL PICKER

President

LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA

Commissioners