

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION E-5166
September 9, 2021**

R E S O L U T I O N

RESOLUTION E-5166: Certification of San Jose Clean Energy's Energy Efficiency Program Administration Plan

PROPOSED OUTCOME:

- This Resolution certifies San Jose Clean Energy's request in Advice Letter 17-E and supplemental AL 17-E-A to Elect to Administer their Energy Efficiency Program Administration Plan, submitted pursuant to Public Utilities Code Section 381.1(e) and (f) and California Public Utilities Commission direction in D.14-01-033.

SAFETY CONSIDERATIONS:

- San Jose Clean Energy's Energy Efficiency Program Administration Plan will likely have limited, but positive impact on safety by improving customer health and safety through the installation of more efficient equipment that should improve in-door air quality and provide safer operation than the replaced equipment.

ESTIMATED COST:

- The California Public Utilities Commission approves a budget for San Jose Clean Energy of \$5,066,776.20 over the course of their three-year Energy Efficiency Program Plan. This funding will come from Pacific Gas and Electric's Energy Efficiency Portfolio Budget.

By Advice Letter 17-E filed on April 7, 2021 and supplemental 17-E-A on May 25, 2021.

SUMMARY

Public Utilities Code Section (Section) 381.1, gives Community Choice Aggregators (CCAs) the option to elect to become an administrator of cost-effective energy efficiency (EE) programs, subject to California Public Utilities Commission (CPUC) adoption of a CCA's EE Program Administration Plan (EE plan) that has been approved by the CCA's governing board. San Jose Clean Energy (SJCE) submitted a three-year budget request of \$5,066,776.20 to the CPUC on April 7, 2021, via Tier 3 Advice Letter (AL) 17-E and later in supplemental AL 17-E-A filed on May 25, 2021.

This resolution approves SJCE's request to elect to administer their EE plan according to the criteria set forth in the Section 381.1(e) and (f)(1)-(6) and CPUC direction in Decision (D.)14-01-033, on enabling CCAs to administer EE programs. The budget that SJCE requested to receive to fund their EE plan is \$5,066,776.20. Pacific Gas and Electric (PG&E) is ordered to transfer \$5,066,776.20 to SJCE for their three-year EE Plan.

BACKGROUND

Public Utilities Code Sections¹ 331.1, 366.2, and 381.1 enable cities and or counties to form a Community Choice Aggregators (CCA). The legislation allows CCAs to offer procurement services to electric customers within their boundaries. Senate Bill 790 (Leno) modified Section 381.1(a) and added subsections (d)-(g). Subsections (a)-(d) authorize a CCA to "apply" to administer cost-effective energy efficiency (EE) and conservation programs by "allow[ing] CCAs to access EE funds from, and provide EE programs to, both their customers *and* other utilities' customers."² CCAs pursuing this approach must file a formal application to administer EE, which complies with the California Public Utilities Commission's (CPUC) prior decisions and resolutions regarding the content of the investor-owned utilities' (IOU) applications to administer EE.³ An alternative "elect" approach differs from the "apply" approach in that Section 381.1(e) and (f) expressly limits CCAs' EE offerings to only customers who are served by the CCA. CCAs that pursue the "elect to administer" option do not need to file

¹ All statutory references are to the Public Utilities Code unless otherwise noted will be referred to as "Section."

² D.14-01-033, COL 4.

³ D.14-01-033, OP 2.

applications – they file their EE Program Administration Plans (EE plans) as Tier 3 ALs.⁴

Section 381.1(e) states:

The impartial process established by the CPUC shall allow a registered community choice aggregator to elect to become the administrator of funds collected from the aggregator’s electric service customers and collected through a non-bypassable charge authorized by the CPUC, for cost-effective energy efficiency and conservation programs, *except those funds collected for broader statewide and regional programs authorized by the CPUC*. (Emphasis added)

Section 381.1(f) states:

A community choice aggregator electing to become an administrator of energy efficiency shall submit an EE plan, approved by its governing board, to the CPUC for the administration of cost-effective energy efficiency and conservation programs for the aggregator’s electric service customers that includes funding requirements, a program description, a cost-effectiveness analysis, and the duration of the program. The CPUC shall certify that the EE plan submitted does all the following:

1. Is consistent with the goals of the programs established pursuant to Sections 381.1 and 399.4;
2. Advances the public interest in maximizing cost-effective electricity savings and related benefits;
3. Accommodates the need for broader statewide or regional programs;
4. Includes audit and reporting requirements consistent with the audit and reporting requirements established by the CPUC pursuant to this Section;
5. Includes evaluation, measurement, and verification protocols established by the community choice aggregator; and

⁴ D.14-01-033, OP 6.

6. Includes performance metrics regarding the community choice aggregator's achievement of the objectives listed in paragraphs (1) to (5), inclusive, and in any previous plan.

On June 20, 2012, the assigned Administrative Law Judge issued a ruling in Rulemaking (R.) 09-11-014 regarding procedures for CCAs to become administrators of EE programs through Section 381.1(a) – the application process to administer an EE program to all customers in their service territory – and through Section 381.1(e) and (f) – the election process to administer EE programs only to the CCA's customers.

Ordering Paragraph (OP) 6 of D.14-01-033, the decision regarding procedures for CCAs electing to become administrators of EE programs, establishes that CCAs that elect to administer EE programs shall file their EE plan through a Tier 3 advice letter, which is not considered either effective or approved without a CPUC resolution.⁵ OP 7 of D.14-01-033 asserts the materials submitted by a CCA who elects to administer EE programs must contain sufficient information for the CPUC to certify the CCA's EE plan meets the six requirements in Section 381.1(f).⁶ OP 8 of D.14-01-033 directs the CCAs to also conduct financial and management audits of its EE programs and provide a copy of the audits to the CPUC.⁷ Finally, D.14-01-033 set the formula for the maximum funding that a CCA who elects to administer can request when establishing a budget:

CCA maximum funding = Total electricity energy efficiency non-bypassable charge collections from the CCA's customers – (total electricity EE non-bypassable charge collections from the CCA's customers * % of the applicable Investor Owned Utility (IOU) portfolio budget that was dedicated to statewide and regional programs in the most recently authorized program cycle).^{8,9}

On April 7, 2021, San Jose Clean Energy (SJCE) filed their EE plan via a Tier 3 Advice Letter (AL) 17-E and a supplemental AL 17-E-A on May 25, 2021, which provided the CPUC their proposed programs, as well as their estimate of the formula set forth in D.

⁵ D.14-01-033, OP 6.

⁶ D.14-01-033, OP 7.

⁷ D.14-01-033, OP 8.

⁸ ALJ's June 20, 2012 Ruling on REN and CCA Administration of EE at pg 10.

⁹ D.14-01-033, pg 22.

14-01-033 for the maximum funding that they could request as a CCA who elects to administer EE programs.

SJCE's Proposed EE Plan

SJCE proposed two programs with a combined budget of \$5,066,776.20 over three years to implement, market and evaluate their EE programs. The two programs are a Single-Family Residential Program and a Commercial + Schools Program. SJCE's EE plan has a forecasted cost effectiveness of 1.11 for their Total Resource Cost (TRC) and a 1.27 Program Administrator Cost (PAC).¹⁰

SJCE's Single-Family Residential Program will provide discounts and incentives to low to moderate-income SJCE residential customers in single-family homes for replacing older, less efficient appliances with new energy efficient electric appliances. The program will center its focus on serving two classes of customers:

1. Residents of disadvantaged communities ("DACs");¹¹
2. Families whose household income exceeds California Alternate Rates for Energy ("CARE") Program eligibility guidelines and within the moderate-income thresholds defined by the CPUC (200-400% of the Federal Poverty Guidelines).

SJCE expects that first-year gross energy savings for the program will be 80,824 kWh, with demand savings of 3.92 kW. Additional measures of success will include, but not be limited to, services to hard-to-reach (HTR) customers exceed 20% of all rendered services; project conversion rates are sustained at or above 50%.

The program's forecasts a TRC of 0.21 and a PAC of 0.21.¹² The three-year budget request for the Single-Family Residential Program is \$760,016.¹³

SJCE's Commercial + Schools Program will incentivize energy-efficient upgrades to heating, ventilation and air conditioning ("HVAC"); refrigeration; and hot water distribution systems for SJCE commercial customers in market segments including

¹⁰ SJCE AL 17-E-A, pg 3.

¹¹ Note, that the CPUC's current definition for DACs is based on CalEnviroScreen 3.0, for more information visit:<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

¹² SJCE AL 17-E-A, pg 3.

¹³ Ibid.

office, retail, food service, light commercial services, and schools. SJCE proposes a contractor-driven program delivery approach to provide cost-effective, high performing, and commonly installed measures that lower electric (and water heating-related gas) load and can be bundled by contractors for easy installation. Program outreach will focus on identifying and supporting commercial sites and schools aligned with SJCE's equity and customer service interest goals, for example, local businesses and schools located in DACs.

SJCE expects that first-year gross energy savings for the program will be 4,958,935 kWh, with demand savings of 724 kW. Additional measures of success will include, but not be limited to, services to HTR customers exceed 15% of all rendered services; project conversion rates are sustained at or above 50%; and number of distributed energy resource services from multiple funding streams.

The program's forecasts a TRC of 1.25 and a PAC of 1.46.¹⁴ The three-year budget request for the Commercial + Schools Program is \$4,306,760.¹⁵

SJCE's Compliance with Maximum Funding Request

SJCE requested a total budget of \$5,066,776.20 to implement and evaluate their two EE programs over a three-year period. The formula established for the maximum funding a CCA can request who elects to administer an EE Program Administration Plan is as follows:

CCA maximum funding = Total electricity energy efficiency non-bypassable charge collections from the CCA's customers – (total electricity EE non-bypassable charge collections from the CCA's customers * % of the applicable IOU portfolio budget that was dedicated to statewide and regional programs in the most recently authorized program cycle.¹⁶

D.14-01-033 adopted the definitions for "regional" and "statewide" programs to be excluded from the maximum funding a CCA can request as follows:

¹⁴ SJCE AL 17-E-A, pg 4.

¹⁵ SJCE AL 17-E-A, pg 5.

¹⁶ D.14-01-033, pg 22.

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- “Statewide Programs” – Programs, as defined and designated by the CPUC, that are offered throughout the four IOU service territories on a generally consistent basis. Evaluation, Measurement and Verification budgets are included in statewide programs, as these budgets are overseen by CPUC staff across all four IOUs on a consistent basis.¹⁷
- “Regional Programs” – Programs offered to all eligible customers throughout an individual IOU’s service territory in which a CCA is offering service, but not necessarily offered in other IOU service territories. This includes state and institutional government partnerships. This does not include any programs that are offered only in a geographic subset of an IOU territory.¹⁸

In SJCE’s AL 17-E and 17-E-A, SJCE provides the following inputs to the formula for the maximum funding they can request. First, SJCE estimates that the total electricity energy efficiency non-bypassable charge collections from the SJCE’s customers is \$50,130,138 annually.¹⁹ SJCE estimates that \$7,444,580 out of a total budget of \$220,967,635 or 3.37% of Pacific Gas and Electric’s (PG&E) total budget is dedicated to local programs.²⁰ SJCE then multiplied \$50,130,138, their total projected electricity energy efficiency non-bypassable charge collections, by 0.0337 to get a three-year cap of \$5,066,776.^{20,21}

SJCE’s Compliance with Meeting Criteria Established in Section 381.1(f)(1) - (6)

Pursuant to Section 381.1(f), the CPUC must certify that a CCA proposal to elect to administer a ratepayer funded EE Program Administration Plan meet the six criteria, specified in paragraphs (1) - (6), which include:

¹⁷ D.14-01-033, pg 25.

¹⁸ Ibid.

¹⁹ SJCE AL 17-E-A, pg 7.

²⁰ Ibid.

²¹ Ibid.

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1. Is consistent with the goals of the programs established pursuant to Sections 381.1 and 399.4;
2. Advances the public interest in maximizing cost-effective electricity savings and related benefits;
3. Accommodates the need for broader statewide or regional programs.
4. Includes audit and reporting requirements consistent with the audit and reporting requirements established by the CPUC pursuant to this section;
5. Includes evaluation, measurement, and verification protocols established by the community choice aggregator; and
6. Includes performance metrics regarding the community choice aggregator's achievement of the objectives listed in paragraphs (1) to (5), inclusive, and in any previous plan.

SJCE provided the following responses in AL 17-E and 17-E-A to justify their proposed EE Plan and compliance with the six criteria in Section 381.1(f).

Consistency with the Goals in Sections 381.1. and 399.4

SJCE states that their programs will deliver cost-effective energy savings to their customers while remaining consistent with CPUC goals. SJCE believes their programs are consistent with broader regional and statewide energy efficiency programs and are designed to integrate demand side management activities in a way that will add value to the deployment of distributed energy resources. SJCE adds that the programs will also support relevant rulings and decisions such as, but not limited to, D.07-10-032, which provided direction on issues relating to future savings goals and program planning for 2009-2011 and beyond and D.12-11-015, which approved 2013-2014 EE programs and budgets.²²

Finally, by acting as point of contact for SJCE customers, SJCE will simplify the goals set forth in Section 381.1.²³ This will ensure that local and statewide goals are met, such as those associated with SB 350.²⁴

²² SJCE AL 17-E-A, pg 8.

²³ Ibid.

²⁴ Ibid.

Advances the public interest in maximizing cost-effective electricity savings and related benefits

SJCE responds that their proposed EE plan complies with cost-effectiveness requirements in 381.1, as the programs have a combined forecasted portfolio TRC of 1.11 and forecasted portfolio Program Administrator Cost (“PAC”) of 1.27.²⁵

Accommodation of Statewide and Regional Programs

As detailed in their EE Plan, SJCE claims their programs will offer tailored measuring to specific customer segments.²⁶ SJCE adds that they have crafted these programs to be distinct from Statewide and Regional Programs.²⁷ SJCE will brand and market these programs as unique from PG&E and BayREN programs. SJCE will leverage direct relationships with its customers to effectively communicate all appropriate energy efficiency program opportunities available and refer customers to the best applicable services.²⁸ SJCE will also refer eligible customers to PG&E’s Energy Savings Assistance program, BayREN’s single-family program, and/or other PG&E programs.²⁹

Auditing and Reporting

SJCE states that they perform annual financial audits using generally accepted accounting principles (“GAAP”) specific to government entities. These reports are publicly available and will be provided to the CPUC on request.³⁰ As a municipal CCA, once SJCE’s Energy Efficiency Plan is certified and SJCE’s programs begin, energy efficiency program administration data will be audited and reported in conformance with the Plan.³¹ This will ensure appropriate accounting controls for energy efficiency program funds.

They add that per the requirement of the Governmental Accounting Standards Board, the program’s management discussion and analysis will be included to supplement SJCE’s basic financial statements.³² To evaluate the effective use of resources and management procedures, SJCE will also complete all regulatory filings and reports as

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ SJCE AL 17-E-A, pg 22.

³⁰ SJCE AL 17-E-A, pg 9.

³¹ Ibid

³² Ibid.

directed by CPUC staff.³³ These documents will provide the results of program efforts that can be evaluated against the performance metrics identified by SJCE, including adherence to cost-effectiveness requirements.

EM&V Protocols

SJCE will contract with an independent third-party to perform process evaluation or market studies to determine the effectiveness and needs for the successful implementation of the program and future improvements. SJCE-led studies will be performed according to the Commission oversight process of IOU Evaluation Measurement and Verification (“EM&V”) projects as detailed in the Energy Efficiency EM&V Plan.³⁴ SJCE will be subject to the same protocol as the IOUs for CPUC-directed impact evaluations to determine actual energy savings, benefits, costs, and goal achievement as directed in D.05-01-055, which adopted an administrative structure for EE.³⁵ SJCE expects to dedicate no more than 1.2% of total program budget during the three-year program to evaluate the program and market.³⁶

Performance Metrics

The following Performance Metrics will indicate progress toward meeting the goals and objectives of the CPUC Energy Efficiency Strategic Plan and SJCE goals, including:

- Program energy savings;
- Tracking and serving underserved and disadvantaged communities, including HTR customers;
- Percentage of customers audited who install at least one program measure; and
- Percentage of recommended measures installed by customers.³⁷

NOTICE

SJCE states this advice letter and related supplements were mailed and distributed in accordance with General Order 96-B, Section IV. As required by General Order 96-B, Section IV SJCE served these advice letters to the relevant parties on the R.13-11-005 and A.17-01-013 service lists.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ SJCE AL 17-E-A, pg 40.

PROTESTS, COMMENTS AND REPLIES

None.

DISCUSSION

Review of Funding Request

First, we note that in the formula for a CCA's maximum funding to elect to administer EE programs, the applicable IOU portfolio budget should include funding from the most recently authorized program cycle. The last CPUC-approved EE budget for PG&E was included in their 2021 Budget AL 4303-G/5436-E, and approved a budget of \$220,967,635.³⁸ To determine the percentage of the total amount of the non-bypassable funds for their EE plan that SJCE is eligible for, CPUC staff categorized what programs and budgets in PG&E 2021 Budget AL are considered "statewide" or "regional" programs and excluded these programs from the calculation for a CCAs' maximum funding.

For the purposes of this calculation, the CPUC considers the following EE programs as "statewide" or "regional": the Residential Energy Efficiency program; the Commercial Energy Efficiency program; the Industrial Energy Efficiency program; the Agricultural Energy Efficiency program; the Lighting program; the Integrated Demand Side Management program; the Finance program; the Codes and Standards program; the Emerging Technology program and the Workforce Education and Training program; Third-Party programs that serve PG&E's entire service territory; and the Institutional Energy Efficiency Partnerships. The total budget for these programs is \$213,523,055. Local or geographically restricted programs that are included for determining the percentage of SJCE's non-bypassable funds that can be used for their EE Plan includes the Local Government Energy Action Resources (LGEAR)³⁹ and the Public Local

³⁸ PG&E budget as approved of in the non-standard disposition of PG&E AL 4303-G/5436-E.

³⁹ For more information on LGEAR see: <https://cedars.sound-data.com/programs/PGE2110051/details/2021>.

Government Partnership Third Party Programs.⁴⁰ These programs have a total budget of \$7,444,580.⁴¹

To determine SJCE's maximum EE funding the CPUC divided the total budget of the programs that are not categorized as "statewide" or "regional" by PG&E's total EE budget or \$7,444,580 divided by \$220,967,635, to get a percentage of the budget not categorized as "statewide" or "regional", which is 3.37%. Finally, we multiplied 3.37% by the total electricity EE non-bypassable charge from SJCE customers which is \$50,130,138 to get the maximum funding that SJCE can request of \$1,688,925 annually and \$5,066,776.20 over the three-year period, based on sales forecasts provided by SJCE. Thus, the CPUC will approve SJCE's budget request of \$5,066,776.20.

Review of Compliance with Section 381.1 (f) Criteria

Consistency with Goals in Sections 381.1 and 399.4

Section 381.1 encourages the procurement of cost-effective EE and conservation programs by CCAs that advance the public interest and accommodate the need for broader statewide and regional programs. Section 399.4 (a) states that prudent EE investments should continue to be made in order to "produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric distribution grid."

Consistent with the guidance on cost-effectiveness in Sections 381.1 and 399.4(a), the SJCE EE plan forecasts the achievement of cost-effective reductions in energy and demand, with a TRC of 1.11 and a PAC of 1.27.

Section 399.4(b)(1) states that, in evaluating energy efficiency investments, the CPUC shall require that:

If a customer or contractor is the recipient of a rebate or incentive offered by a public utility for an energy efficiency improvement or installation of

⁴⁰ For more information on the Third Party Placeholder for LGPs see: New 3P Placeholder - Public LGP see: https://cedars.sound-data.com/programs/PGE_3P_Pub/details/2021.

⁴¹ See Appendix A Table 1 "PG&E Total Portfolio Budget Breakdown by Funding Category" for a breakdown of how the CPUC categorized PG&E's EE programs.

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energy efficient components, equipment, or appliances in a building, the public utility shall provide the rebate or incentive only if the customer or contractor certifies that the improvement or installation has complied with any applicable permitting requirements, including any applicable specifications or requirements set forth in the California Building Standards Code (Title 24 of the California Code of Regulations). If a contractor performed the installation or improvement, that the contractor holds the appropriate license for the work performed.

SJCE states that they will comply with Section 399.4(b)(1) by requiring all installing contractors or non-residential and residential customers who receive a rebate or incentive to certify that they have complied with Title 24.⁴²

Section 399.4(d)(2) states that the CPUC, in a new or existing proceeding, shall review and update its policies governing energy efficiency programs funded by utility customers. In updating its policies, the CPUC shall, at a minimum do all the following:

1. Authorize market transformation programs with appropriate levels of funding to achieve deeper energy efficiency savings.
2. Authorize pay for performance programs that link incentives directly to measured energy savings. As part of pay for performance programs authorized by the CPUC, customers should be reasonably compensated for developing and implementing an energy efficiency plan, with a portion of their incentive reserved pending post project measurement results.
3. Authorize programs to achieve deeper savings through operational, behavioral and retrocommissioning activities.

CPUC staff interprets Section 399.4(d)(2) to refer to the ratepayer funded EE portfolio as offered throughout the state and not require every individual Program Administrator's (PA's) EE offerings meet all the policies outlined in Section 399.4(d)(2). The EE portfolios as offered by California's ratepayer funded PAs throughout the state meet these objectives and thus so would SJCE's EE plan.

⁴² SJCE AL 17-E-A, pg 38.

Therefore, the CPUC certifies that SJCE's EE plan has demonstrated compliance with the criteria set forth in Section 381.1(f)(1).

Advances the Public Interest in Maximizing Cost-Effective Electricity Savings and Related Benefits

SJCE's forecasts a TRC of 1.11 and PAC test of 1.27 for SJCE's EE plan as filed meets the minimum threshold for cost effectiveness of a CCA who elects to administer EE programs for the first three years. Therefore, the CPUC certifies that SJCE's EE plan has demonstrated compliance with the criteria set forth in Section 381.1(f)(2).

Accommodation of Statewide and Regional Programs

Accommodation of statewide and regional programs as defined in Section 381.1(f)(3) and D.14-01-033 includes the clear requirement that "a CCA should include in its plan marketing and branding strategies to minimize customer confusion, and to otherwise distinguish between CCA programs and any similar statewide or regional programs that may also be ongoing."⁴³

SJCE states that they are well-known within the local community and will provide their targeted programs to only SJCE customers to upgrade underperforming and outdated electric appliances and building systems. SJCE adds that their proposed programs have been designed to provide value-add and complementary services within existing local and regional energy programs, leveraging SJCE's position as the customer's electricity provider to ensure SJCE programs are clearly distinguished as unique programs offered exclusively to SJCE customers by SJCE. Program marketing will also be targeted to SJCE customers and will clearly describe which ratepayers will be eligible to participate.

It is SJCE's intent to clearly brand its services while marketing, promoting and otherwise accommodating regional and statewide programs. SJCE will consistently recommend leveraging statewide and regional programs when and where they are staged to provide the best service to its customer base. Statewide and regional program qualification will be made part of the prequalification process. This will

⁴³ D.14-01-033, pg 19.

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ensure that customers are channeled to the appropriate service. In addition, SJCE will effectively identify the pertinent program implementers to customers and will coordinate with PG&E, BayREN and third-party programs to ensure that SJCE customers have the most accurate, up-to-date materials on available programs.

The CPUC believes that SJCE has provided sufficient information showing that their marketing materials will clearly distinguish their two EE programs from other PAs' programs and will target only SJCE customers. SJCE ALs indicate that they also plan to work with PG&E, BayREN and Third-Party Implementers in their region to ensure that the customers have access to all available opportunities. In addition, SJCE states that customers eligible for PG&E's Energy Savings Assistance program, eligible and interested in BayREN's single-family program and or other PG&E programs will be referred accordingly.⁴⁴

Finally, we note that the SJCE's Schools Program could overlap with AB 841, which established the Schools Energy Efficiency Stimulus Program, especially as it relates to funding sources for eligible schools. Decision 21-01-004 requires the four Investor-Owned Utilities (IOUs) to fund the program, which is administered by the California Energy Commission (CEC). The CEC requires participating local educational agencies to disclose other funding received as part of the application process. To alleviate this risk, SJCE should check with the CEC/AB 841 rules in place at the time SJCE is implementing their school program and keep a record of the schools targeted and the definition used for DACs.

Thus, SJCE in the CPUC's view has complied with the requirement to "Accommodate Statewide and Regional Programs" and certifies that SJCE's EE plan has demonstrated compliance with the criteria set forth in Section 381.1(f)(3).

Auditing and Reporting

Decision 14-01-033 states that a "CCA should conduct financial and management audits of its energy efficiency programs and provide a copy of the audits to the CPUC upon request." The financial audit will consist of a review of the financial statements of the CCA's EE operations to determine that the statements are accurate, complete, and consistent with CPUC policy and standard accounting practices. The management

⁴⁴ SJCE AL 17-E-A, pg 22.

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audit will assess the CCA's management procedures and the effective use of resources in implementing their EE portfolio."⁴⁵

SJCE states that they perform annual financial audits using GAAP specific to government entities. These reports are publicly available and will be provided to the CPUC upon request. As a Community Choice Aggregator, once SJCE's energy efficiency plan is certified and programs begin, their current auditing procedures will be extended to include energy efficiency program administration data. This will ensure appropriate accounting controls for energy efficiency program funds.

Per requirement of the Governmental Accounting Standards Board Statement No. 34, the management's discussion and analysis will be included to supplement the basic financial statements. To evaluate the effective use of resources and management procedures, SJCE will also complete all regulatory filings and reports as directed by CPUC staff. These documents will provide the results of program efforts that can be evaluated against the performance metrics identified by SJCE, including adherence to cost-effectiveness requirements.

SJCE concludes that they will take all necessary actions to remain compliant with additional auditing and reporting requirements. Thus, the CPUC certifies that the SJCE is compliant with the auditing and reporting requirements set forth in Section 381.1(f)(4).

EM&V Protocols

D.14-01-033 requires the CCA to establish its own EM&V protocols. The CPUC's role is to certify that a CCA's plan includes EM&V protocols. Although, the CPUC encourages CCAs to use the same EM&V requirements that apply to other energy efficiency PAs. In their AL, the CCA should describe clearly and completely the EM&V protocols it will use.⁴⁶

SJCE states that they will contract with an independent third-party to perform process evaluation or market studies to determine the effectiveness and needs for the successful implementation of the program and future improvements. SJCE-led studies will be performed according to the Commission oversight process of IOU Evaluation

⁴⁵ D.14-01-033, pg 29.

⁴⁶ Ibid.

Measurement and Verification (“EM&V”) projects as detailed in the Energy Efficiency EM&V Plan. SJCE will be subject to the same protocol as IOUs for CPUC-directed impact evaluations to determine actual energy savings, benefits, costs, and goal achievement as directed in D. 05-01-055. SJCE projects that they will dedicate no more than 1.2% of total program budget during the three-year program to evaluate their programs and the EE market. The amount requested is appropriate as it is under the 4% cap for EM&V considering SJCE’s requested budget. The CPUC certifies SJCE’s EM&V protocols as set forth in Section 381.1(f)(5).

Performance Metrics

D.14-01-033 states that “the CCA should provide reports that meets the requirements and format the CPUC has established for IOUs and RENs, as set forth in the Policy Manual Version V.”⁴⁷ The process for developing Program Performance Metrics (performance metrics) is described in Appendix 2 of D.09-09-047, which approved 2010-2012 EE portfolios and budget. The proposed performance metrics shall comply with the following principles:

1. The metrics shall be designed for simplicity and cost effectiveness when considering data collection and reporting requirements.
2. Integrated metrics shall be developed for programs that employ more than one technology or approach, such as whole building programs.
3. Program models and logic should be dynamic and change in response to external, e.g., market conditions, and internal conditions.
4. The metrics shall link short-term and long-term strategic planning goals and objectives to identified program logic models.
5. Performance metrics shall be maintained and tracked in the EEGA database (or a similar database to be determined under the guidance of CPUC staff).

SJCE provides the following Performance Metrics will indicate progress toward meeting the goals and objectives of the CPUC Energy Efficiency Strategic Plan and SJCE goals. The specific objective of Section 381.1(f) that each metric addresses (if applicable) is included in parenthesis.

- Program energy savings (381.1(f)(2)).

⁴⁷ D.14-01-033, pg 30.

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- Tracking and serving underserved and disadvantaged communities, including HTR customers (381.1(f)(1)).
- Cost-effectiveness tool (“CET”) output.
- Tracking the Program cost-effectiveness quarterly (381.1(f)(2)).
- Percentage of customers audited who install at least one program measure. (381.1(f)(4)).
- Percentage of recommended measures installed by customers. (381.1(f)(4)).

SJCE’s list of metrics submitted could be improved, especially in providing a clearer metric that states how “the metrics shall link their short-term and long-term strategic planning goals and objectives to identified program logic models.” In addition, SJCE’s list does not appear to CPUC staff to have at least one performance metric for each of the five objectives listed in paragraphs (1) to (5) of Section 381.1(f).

However, resolutions E-4518, E-4917 and E-5050, which approved Marin Clean Energy’s, Lancaster Choice Energy’s and Redwood Coast Energy Authority’s requests for certification to elect to administer its EE plans also found similar problems with a lack of clarity for the proposed metrics. These resolutions suggested that the metrics could have been improved by identifying the units of measurement that will be used to determine them.⁴⁸ Resolution E-4518 concluded that these “subtle changes do not lead us to deny MCE’s request for certification of its plan; while recognizing that improvements could be made.”⁴⁹ Similarly, we determine that SJCE’s metrics could be improved upon, but are sufficient enough to grant SJCE’s request for certification, as it has met the criteria set forth in Section 381.1(f)(6) and is certified. However, we encourage SJCE to also participate in the California Energy Efficiency Coordinating Council’s (CAEECC) efforts to come up with Equity and Market Support metrics through CAEECC facilitated working groups and utilize what comes out of these working groups in their reporting.⁵⁰ Finally, we strongly encourage other CCAs who pursue the elect-to-administer path in the future to work with Energy Division and other stakeholders to have more robust metrics before they file their advice letters.

⁴⁸ Resolution E-4518, pg 18 and Resolution E-4917-E, pg 27.

⁴⁹ Resolution E-4518, pg 18.

⁵⁰ For more information about the CAEECC working groups use the following link: [WORKING GROUP / SUBCOMMITTEE MEETINGS | caeecc](#).

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. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. 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 will be placed on the Commission's agenda no earlier than 30 days from today.

On August 18, 2021, PG&E timely filed comments, which focused on three areas. First, PG&E states that the draft resolution approves SJCE's 3-year budget of \$5,066,776.20, and states "[t]his funding will come from Pacific Gas and Electric's Energy Efficiency Portfolio Budget and thus not result in any incremental costs for Pacific Gas and Electric's ratepayers. PG&E claims that this is incorrect as they did not account for SJCE's budget into PG&E's current rates and thus the funds are not being collected. Second, PG&E requests that the draft resolution should align the timelines for filing for all PAs, so that all PAs plan their programs and funding on the same schedules. They request for PAs that propose to begin administering energy efficiency programs prior to 2024, this would mean considering their current portfolio plans and funding requests are only approved through the end of 2023 only. Finally, PG&E asks that the Commission clarify that the requirements of the Joint Cooperation Memos (JCMs)⁵¹ apply to all PAs.

First, with regards to PG&E's comments that the budget to fund SJCE will result in incremental costs because PG&E has not accounted for the budget of SJCE in their current rates and collections, we note that a resolution cannot increase the current budgets as approved in D.18-05-041. These budgets are in place until 2024, when a decision will be made on the PAs applications to be filed in February 2022. However,

⁵¹ See Ordering Paragraph 38 of D.18-05-041.

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we will strike part of the language under the estimated cost heading on page one to remove that this resolution will not lead to incremental additional costs. While we are confident that SJCE's budget can be absorbed with unspent/uncommitted funds, this may not always be the case as future CCAs elect-to-administer ratepayer funded EE programs.

PG&E also asks that this draft resolution require that all PAs timelines for their budget and program filings are aligned, and thus if approved SJCE's authorized budget and programs would last until the end of 2023. In addition, PG&E requests that the draft resolution clarify that JCMs need to be filed by all PAs. To PG&E's first point we note that nothing in D.14-01-033 states that CCAs who pursue the elect-to-administer route required that they are on the same timeline as the other PAs. In addition, the CCAs who pursue this route, were specifically excluded from the requirements of the PAs who are required to file applications. Thus, we reject PG&E's comments and suggested edits. Finally, we note that in D.18-05-041, OP 38 the Commission did not require Lancaster Choice Energy to file a JCM and they had been approved before the decision. In addition, we also think that it is more appropriate for requiring all PAs to file JCMs to be decided in a decision where CCAs and other parties can comment on the reasonableness of this suggestion, rather than comments on a draft resolution, where parties cannot reply. Thus, we reject PG&E's suggestion to require all PAs file JCMs.

FINDINGS:

1. San Jose Clean Energy exercised its election right under Public Utilities Code Section 381.1(e) and (f) and D.14-01-033 by submitting its Energy Efficiency Program Administration Plan as a Tier 3 advice letter to the California Public Utilities Commission and serving it on all parties on the R.13-11-005 and A.17-01-013 service lists on April 7, 2021, and a supplemental filed on May 25, 2021.
2. Decision 14-01-033 adopted a methodology and definition of terms to determine the maximum amount of eligible funding Community Choice Aggregators may elect to administer.
3. Using the adopted methodology from D.14-01-033, the maximum amount of funds San Jose Clean Energy would be eligible to collect funds for the administration of its Energy Efficiency Program Administration Plan is \$5,066,776.20.

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4. Decision 14-01-033 provided further guidance to Community Choice Aggregators who elect to administer energy efficiency programs on how to seek California Public Utilities Commission approval to elect to administer ratepayer funded energy efficiency programs without filing a formal application. The decision adopted the processes in Public Utilities Code Section 381.1(e) – (g) and the June 20, 2012, Administrative Law Judge’s ruling in R.09-11-014.
5. San Jose Clean Energy’s Energy Efficiency Program Administration Plan was approved by its governing board and contains the plan’s funding requirements, a program description, a cost-effectiveness analysis, and the duration of the program.
6. To administer their Energy Efficiency Program Administration Plan, San Jose Clean Energy seeks \$5,066,776.20 in funds collected by Pacific Gas and Electric from San Jose Clean Energy’s customers through non-bypassable charges (specifically, the Procurement Energy Efficiency Revenue Adjustment Mechanism and the Public Purpose Program Revenue Adjustment Mechanism).
7. San Jose Clean Energy’s requested funding has been approved, and the California Public Utilities Commission directs Pacific Gas and Electric to transfer \$5,066,776.20 to San Jose Clean Energy to implement their Energy Efficiency Program Administration Plan.
8. San Jose Clean Energy’s Energy Efficiency Program Administration Plan is consistent with the goals of the programs established pursuant to Public Utilities Code Sections 381.1 and 399.4 and D.14-01-033 and meets the Public Utilities Code Section 381.1(f)(1) criteria.
9. San Jose Clean Energy’s Energy Efficiency Program Administration Plan meets the cost-effectiveness requirements and thus meet Public Utilities Code Section 381.1(f)(2) criteria.
10. San Jose Clean Energy’s Energy Efficiency Program Administration Plan meets the Public Utilities Code Section 381.1(f)(3) criteria.
11. San Jose Clean Energy’s Energy Efficiency Program Administration Plan meets the Public Utilities Code Section 381.1(f)(4) criteria.

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12. San Jose Clean Energy's Energy Efficiency Program Administration Plan includes evaluation, measurement, and verification protocols established by the Community Choice Aggregator. San Jose Clean Energy's efficiency evaluation, measurement, and verification proposal therefore meets the Public Utilities Code Section 381.1(f)(5) criteria.
13. San Jose Clean Energy's Energy Efficiency Program Administration Plan includes metrics that meet the Public Utilities Code Section 381.1(f)(6) criteria.
14. San Jose Clean Energy Efficiency Program Administration Plan's metrics could be improved upon, and we encourage San Jose Clean Energy to participate in the California Energy Efficiency Coordinating Council's efforts to come up with Equity and Market Support metrics through the California Energy Efficiency Coordinating Council's facilitated working groups and utilize what comes out of these working groups in their reporting to the California Public Utilities Commission.

THEREFORE, IT IS ORDERED THAT:

1. San Jose Clean Energy's Energy Efficiency Program Administration Plan, as submitted on May 25, 2021, is certified pursuant to Public Utilities Code Section 381.1(f).
2. Pacific Gas and Electric shall transfer to San Jose Clean Energy \$5,066,776.20.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities CPUC of the State of California held on September 9, 2021; the following Commissioners voting favorably thereon:

/s/ Rachel Peterson

RACHEL PETERSON

Executive Director

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioner

APPENDIX A

Table 1. PG&E Total Portfolio Budget Breakdown by Funding Category

	PG&E’s approved budget request in AL 4303-G/5436-E or the 2021 Annual Budget AL	PG&E’s approved budget request in AL 4303-G/5436-E or the 2021 Annual Budget AL
Program Category	Budget Excluded	Budget Included
Statewide and Regional	\$213,523,055	\$0
Local	\$0	\$7,444,580
Total Included	\$7,444,580	
Total Portfolio	\$220,967,635	
% Included	3.37	
% Excluded	96.63	

Table 2. Calculation of SJCE Maximum Funding

SJCE Maximum Funding	Total Electricity EE Non-bypassable Charges from SJCE Customers	% of PG&E’s Budget Not Dedicated to Statewide and Regional Programs
\$5,066,776.20	\$50,130,138	3.37%