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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Agenda ID: 20489
RESOLUTION E-5197
May 5, 2022

R E S O L U T I O N

RESOLUTION E-5197: Certification of Peninsula Clean Energy's Energy Efficiency Program Administration Plan

PROPOSED OUTCOME:

- This Resolution certifies Peninsula Clean Energy's request in advice letter 20-E and supplemental advice letter 20-E-A to Elect to Administer its Energy Efficiency Program Administration Plan, submitted pursuant to Public Utilities Code Section 381.1(e) and (f) and California Public Utilities Commission direction in Decision 14-01-033.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this resolution.

ESTIMATED COST:

- The California Public Utilities Commission approves a budget for Peninsula Clean Energy of \$4,678,563 over the course of its three-year Energy Efficiency Program Plan. This funding will come from the Pacific Gas and Electric Company's Energy Efficiency Portfolio Budget.

By Advice Letter Peninsula Clean Energy 20-E filed on November 19, 2021 and supplemental Advice Letter 20-E-A was filed on January 28, 2022.

SUMMARY

Public Utilities Code Section (PU Code 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. Peninsula Clean Energy (PCE) submitted a three-year budget request of \$4,678,563 to the CPUC on November 19, 2021, via Tier 3 advice letter (AL) 20-E and supplemental AL 20-E-A on January 28, 2022.

This resolution approves PCE's request to elect to administer its EE plan according to the criteria set forth in PU Code Sections 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 PCE requested to receive to fund its EE plan is \$4,678,563. The Pacific Gas and Electric Company (PG&E) is ordered to transfer \$4,678,563 to PCE for its three-year EE Plan.

BACKGROUND

PU Code Sections 331.1, 366.2, and 381.1 enable cities and or counties to form a CCA. The legislation allows CCAs to offer procurement services to electric customers within their boundaries. Senate Bill 790 (Leno) modified PU Code Section 381.1(a) and added subsections (d)-(g). Subsections (a)-(d) authorize a CCA to "apply" to administer cost-effective 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."¹ CCAs pursuing this approach must file a formal application to administer EE, which complies with the CPUC's prior decisions and resolutions regarding the content of Investor-Owned Utility's (IOUs') applications to administer EE.² An alternative "elect to administer (ETA)" approach differs from the "apply to administer" approach in that PU Code Section 381.1(e) and (f) expressly limits EE offerings to customers served by the CCA. CCAs that pursue the "elect to administer" option do not need to file applications – they file their EE plans as Tier 3 ALs.³ PU Code Section 381.1(e) states:

¹ D.14-01-033, COL 4.

² D.14-01-033, OP 2.

³ D.14-01-033, OP 6.

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The impartial process established by the Commission 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 Commission, for cost-effective energy efficiency and conservation programs, *except those funds collected for broader statewide and regional programs authorized by the Commission.* (Emphasis added)

PU Code 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 Commission 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 Commission shall certify that the EE plan submitted does all the following:

1. Is consistent with the goals of the programs established pursuant to PU Code 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 Commission pursuant to this PU Code 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.

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 PU Code Section 381.1(a) – the application process to administer

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an EE program to all customers in their service territory – and through PU Code Section 381.1(e) and (f), the election process to administer EE programs only to the CCA’s customers. Then on January 23, 2014, the CPUC issued Decision (D.) 14-01-033 Enabling Community Choice Aggregators to Administer Energy Efficiency Programs which provides CCAs procedures for ETA EE programs.

Ordering Paragraph (OP) 6 of D.14-01-033 establishes that CCAs that elect to administer EE programs shall file their EE plan through a Tier 3 AL, which is not considered either effective or approved without a CPUC resolution.⁴ OP 7 of D.14-01-033 asserts the materials submitted by a CCA who elect to administer EE programs must contain sufficient information for the CPUC to certify the CCA’s EE plan meets the six requirements in PU Code Section 381.1(f).⁵ 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.⁶ Finally, D.14-01-033 set the formula for the maximum funding that a CCA who pursue the ETA route 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 IOU portfolio budget that was dedicated to statewide and regional programs in the most recently authorized program cycle).^{7,8}

On November 19, 2021, PCE filed their EE Plan via AL 20-E and later filed a supplemental 20-E-A on January 28, 2022. Their supplemental 20-E-A provided the CPUC program details on PCE’s proposed FLEXmarket program, as well as their estimated maximum funding based on a formula set forth in D.14-01-033.

⁴ D.14-01-033, OP 6.

⁵ D.14-01-033, OP 7.

⁶ D.14-01-033, OP 8.

⁷ ALJ’s June 20, 2012 Ruling on REN and CCA Administration of EE at pg 10.

⁸ D.14-01-033, pg 22.

PCE's Proposed EE Plan

PCE proposed a FLEXmarket⁹ offering with a budget of \$4,678,563 over three years, which is based on MCE's FLEXmarket. The program utilizes a market-based program structure for delivering EE and demand flexibility to support the grid needs.

The FLEXmarket structure allows: (a) for PCE to set a price-point for distributed energy services provided by implementers and (b) paying the implementers according to that price-point based on the implementers' actual performance yield, as measured by meter-based data analysis.

Through the program, PCE seeks to achieve the following outcomes:

- Peak load reduction benefits
- Avoided greenhouse gas (GHG) emissions
- Customer utility bill savings
- Energy savings

Under FLEXmarket, PCE would offer financial incentives in exchange for proven electricity usage reductions for PCE customers of all building types. Any eligible implementers would be allowed to enroll in the program. These implementers would then work with PCE customers to maximize the customers' overall EE improvements and peak load reduction. Implementers would receive an incentive payment for proven EE gains, calculated using the open-source CalTRACK methodology for population level Normalized Metered Energy Consumption ("NMEC")¹⁰ analysis for sites treated through the program. Using this methodology to measure saving, customers' current power usage is compared against a counterfactual (that is, the estimated consumption of energy if the EE improvements had not taken place).

According to PCE this methodology has several benefits. It is low-cost; it accounts for a range of factors, including weather, that affect power usage; and it normalizes the natural variability found from building to building. They add that since the program's incentive payments would only be offered for actual EE benefits provided (calculated

⁹ In PCE's first AL 20-E, they proposed and named the program "MAP" and subsequently updated it to "FLEXmarket" in their supplemental AL 20-E-A.

¹⁰ The CPUC guidance document on the use of NMEC is located here: [Microsoft Word - NMEC Rulebook2.0 CLEAN \(ca.gov\)](#).

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as reduced usage compared to this counterfactual), this program is inherently cost-effective.

Finally, PCE projects that over its 3-year program term, their FLEXmarket will create a net peak demand reduction impact of 831 kW, and gross energy savings of 5,658,165 kWh. They also forecast that the program's cost-effectiveness is a Total Resource Cost (TRC) of 1.02 and a Program Administrator Cost (PAC) of 1.39 over the three years of the program.

PCE's Compliance with Maximum Funding Request

PCE requested a total budget of \$4,678,563 to implement and evaluate their FLEXmarket over a three-year period. The formula established for the maximum funding 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.¹¹

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:

- "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.¹²
- "Regional Programs" – Programs offered to all eligible customers throughout an individual IOU's service territory in which a CCA

¹¹ D.14-01-033, pg 22.

¹² D.14-01-033, pg 25.

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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.¹³

In AL 20-E, PCE provides the following inputs to the formula for the maximum funding it can request. First, PCE estimates that the total electricity EE non-bypassable charge collections from the PCE's customers is \$46,276,590 annually.¹⁴ PCE estimates that \$7,444,580 out of PG&E's total budget of \$220,967,635 or 3.37% is dedicated to local programs.¹⁵ PCE then multiplied \$46,276,590, its total projected electricity EE non-bypassable charge collections, by 0.0337 to get a three-year cap of \$4,678,563.¹⁶

PCE's Compliance with Meeting Criteria Established in Public Utilities Code Section 381.1(f) (1) - (6)

Pursuant to PU Code Section 381.1(f), the CPUC must certify that a CCA's proposal to ETA a ratepayer funded EE Plan meet the six criteria, specified in paragraphs (1) - (6), which include:

1. Is consistent with the goals of the programs established pursuant to PU Code 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

¹³ Ibid.

¹⁴ PCE AL 20-E, Election to Administer Energy Efficiency Programs, filed November 19, 2021, pg 8.

¹⁵ Ibid.

¹⁶ Ibid.

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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.

PCE provided the following responses in AL 20-E and supplemental AL 20-E-A to justify its proposed EE Plan and compliance with the six criteria in PU Code Section 381.1(f).

Consistency with the Goals in Public Utilities Code Sections 381.1. and 399.4

PCE's claims that their FLEXmarket proposal is fully consistent with the CPUC's EE program goals. They add that the program will only provide payouts for actual measurable peak load reduction and EE savings. Finally, PCE claims their program will also result in GHG emissions reductions and improve electric system reliability.

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

PCE responds that its proposed FLEXmarket complies with cost-effectiveness requirements in PU Code Section 381.1, as the program has a forecasted portfolio TRC of 1.02 and forecasted PAC of 1.39.

Accommodation of Statewide and Regional Programs

PCE claims their FLEXmarket does not currently have any functional or geographic overlap with existing PG&E statewide and regional EE programs. PCE will only offer the program to their own customers and does not anticipate that this will have any impact on statewide and regional EE program efforts offered in PCE's territory. PCE adds that they intend to continue robust coordination with statewide and regional EE program administrators (PAs) to maximize the EE and peak load reduction benefits.

PCE states that in the instances with potential program overlap with existing regional programs (for example, BayREN Home+ and the PG&E commercial pay-for-performance program), they plan to work directly with program staff at each PA to develop systems for verifying that customers have not dual enrolled in programs (PCE

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notes that preliminary discussions have already been held with BayREN). These processes are expected to include the following:

1. **Provider Education and Certification:** In all cases, service providers will be educated on the range of available programs and must certify that their projects are not enrolled in or receiving incentives for multiple programs.
2. **Efficiency Customer Lists:** For single-family efficiency and electrification, processes are already in place to ensure dual enrollment is not occurring on potentially overlapping residential incentives. Specifically, PCE will leverage existing incentive processing system which is integrated with BayREN's Home+ program administrator's system to ensure the FLEXmarket does not pay incentives on projects that have already received incentives.

Auditing and Reporting

PCE claims they currently are, and will perform, annual financial audits using generally accepted accounting principles specific to government entities. These reports are publicly available and are currently accessible on PCE's website. Once PCE's EE Plan is certified and FLEXmarket launches, current auditing procedures will be extended to include program administration data. This will ensure appropriate accounting controls for program funds. In keeping with the requirements under the Governmental Accounting Standards Board Statement No. 34, the management's discussion and analysis will be included in the report to supplement the basic financial statements.

To evaluate the effective use of resources and management procedures, PCE 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 PCE, including adherence to cost-effectiveness requirements. Finally, PCE states they will take all necessary actions to remain compliant with additional auditing and reporting requirements.

Evaluation Measurement and Verification Protocols

PCE states that they will contract with an independent third-party to perform process evaluations or market studies to assess the effectiveness of their program

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implementation activities and evaluate challenges and opportunities in PCE's service territory. The studies will be performed according to the CPUC's oversight process of IOU Evaluation Measurement and Verification ("EM&V") projects as detailed in PCE's EM&V Plan. PCE acknowledges that they will be subject to the same protocol as all other PAs for CPUC-directed impact evaluations to determine actual energy savings, benefits and costs as directed in D.05-01-055.

The EM&V methods that PCE will utilize for FLEXmarket are open source and publicly available. Savings will be determined through the CalTRACK 2.04.¹⁷ PCE also states that their EM&V costs will be kept under 4% of the budget in accordance with D.14-01-033, which equates to an overall spending cap of \$187,143 over the 3-year program term.¹⁸ PCE will avoid duplication of EM&V efforts and build on existing efforts by referring to existing EM&V studies led by CPUC and PAs to:

- Compare PCE's program to other similar program offerings.
- Evaluate successes, failures, and replicability of the program.
- Evaluate the unique challenges and opportunities of the PCE market and determine viable solutions.
- Compare ex ante and ex post data.
- Assess value to supply-side planning and costs.

Performance Metrics

In addition to savings and demand metrics, PCE offers the following Performance Metrics to indicate progress toward meeting the goals and objectives of the CPUC and PCE's goals. The specific objective of PU Code Section 381.1(f) that each metric addresses (if applicable) is included in parenthesis, see below:

- Program energy savings (381.1(f)(2))
- Tracking the Program cost-effectiveness annually (381.1(f)(2))
- Number of projects referred to other EE or other Distributed Energy Resource ("DER") programs (381.1(f)(3))
- Total participating customers by segment (381.1(f)(4))

¹⁷ For more information on CalTRACK 2.04, see [CalTRACK - CalTRACK Methods](#).

¹⁸ PCE AL 20-E-A, pg 14.

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- Percentage of customers who receive electrification measures
- EM&V process, tracking, and incorporation into program design (381.1(f)(5))
- EM&V of project energy savings forecasts and energy savings realized (381.1(f)(5))
- Market penetration of FLEXmarket
- Supply-side generation cost reductions

NOTICE

PCE 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 PCE served these advice letters to the relevant parties on the R.13-11-005 service list.

PROTESTS, RESPONSES AND REPLIES

On December 9, 2021, PG&E filed a response to PCE's AL 20-E. On December 16, 2021, PCE filed a reply to the response. All were filed timely.

PG&E's Response

PG&E argues that PCE's proposed MAP¹⁹ as described their AL overlaps almost completely with the MAP approved by the CPUC in D.21-12-011. For example, PG&E mentions that both programs would use a population NMEC approach, pay incentives based on project total system benefit with a peak kicker, and be delivered by third party implementers. PG&E adds that D.21-12-011 allocates funds, incremental to EE portfolio budgets, to the electric IOUs and MCE to run the MAP in 2022 and 2023. Therefore, PG&E argues that at this time, PCE's request to administer MAP appears to be rendered moot by D.21-12-011.

¹⁹ When PCE filed their initial AL 20-E on November 19, the program was called MAP. This was later changed in PCE's supplemental AL 20-E-A, filed on January 28, 2022 which changed the name to FLEXmarket to more clearly reflect the program's similarities with an existing MCE program, and not the new program approved through CPUC D.21-12-011. Since both the protest and response were filed before the supplemental AL changed the name, for summarizing the protest and response we will refer to the program as MAP.

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In addition, PG&E argues that having two separate MAPs could cause confusion if the same program is administered by different entities in adjacent geographic areas. They claim this confusion could be exacerbated if the two programs had variations in program eligibility, requirements, or incentive levels for customers and implementers working across PA boundaries.

PG&E concludes that if the CPUC approves PCE's request to administer a MAP, PG&E requests that the CPUC provide clear guidance to ensure that there are not duplicative or competing programs operating in the same region.

PCE's Reply

In their reply, PCE claims that their MAP will operate cohesively with any Emergency Market Access Programs (EMAPs²⁰) administered in response to D.21-12-011. They add that D.21-12-011 does not preclude PCE's eligibility to implement a MAP through the ETA process. Rather, it merely speaks to the narrow question of which entities are eligible to request money from the EMAP funding pool. The fact that PCE is not eligible for EMAP funding bears no direct relation to PCE's eligibility to implement its own MAP using other funding sources, including ETA funds.

PCE states that they have a statutory right to implement its own MAP. Specifically, PU Code Section 381.1(e)-(f) gives PCE the right to elect to administer their EE Plan using ratepayer funds. This right is not limited to a specific type of program or programs, nor is it limited to program spaces that the IOUs have no interest in occupying. Rather, the right is limited only by the requirement that the CPUC certify the CCA's program plan as consistent with six specific statutory criteria set forth in PU Code Section 381.1 and elaborated upon in D.14-01-033.

PCE adds that the CPUC's "certification" role is limited to ensuring that the CCA's plan is consistent with the six specifically listed statutory criteria. They argue PG&E has not specifically challenged PCE's compliance with any of the criteria, and instead is suggesting that the plan is broadly inconsistent with D.21-12-011, a point that, even if true, would be irrelevant to the CPUC's certification review of EE plans under PU Code Section 381.1(e)-(f).

²⁰ PCE is referring to EMAP as the summer reliability or emergency MAP that was approved in D.12-12-011, with a budget of \$150M to be administered by MCE, PG&E, San Diego Gas & Electric and Southern California Edison.

Finally, PCE concludes that while a CCA's plan must "[accommodate] the need for broader statewide and regional programs," this criterion does not prohibit CCAs from offering programs similar to current or planned IOU EE program offerings. Rather, this requirement is that the CCA should "should include in its plan marketing and branding strategies to minimize customer confusion, and to otherwise distinguish between planned-for CCA programs and any similar statewide or regional programs that may also be ongoing during the time the proposed CCA programs will be in place if approved."²¹ PCE concludes that their plan includes specific strategies to avoid dual enrollment or claims and minimize customer confusion through ensuring programs are differentiated, and that customers are fully informed of all programs available to them.

DISCUSSION

Review of Funding Request

The formula for a CCA's maximum funding to ETA EE programs, is based on the applicable IOU portfolio budget funding from the most recently authorized program cycle. The last CPUC-approved EE budget for PG&E, when PCE filed their AL, was its 2021 Budget AL 4303-G/5436-E, with an approved a budget of \$220,967,635.²² To determine the percentage of the total amount of the non-bypassable funds for its EE plan that PCE 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.²³

For the purposes of this calculation, the CPUC considers the following EE programs as "statewide" or "regional": the Residential EE program; the Commercial EE program; the Industrial EE program; the Agricultural EE 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

²¹ D.14-01-033, pg 29.

²² PG&E budget as approved of in the non-standard disposition of PG&E AL 4303-G/5436-E.

²³ The formula for total amount to a CCA electing to administer is calculated using non-bypassable funds the CCA collects from their customer base. Approved funds for CCA to use to administer approved CCA programs however still pass through to the IOU as a non-bypassable charge, and the IOU allocates the portion as approved here back to the CCA to administer their EE programs

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and Training program; and the Institutional EE Partnerships. The total budget for these programs is \$213,523,055. Local or geographically restricted programs that are included for determining the percentage of PCE's non-bypassable funds that can be used for its EE Plan includes the Local Government Energy Action Resources²⁴ and the Public Local Government Partnership Third Party Programs.²⁵ These programs have a total budget of \$7,444,580.²⁶

To determine PCE'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 PCE customers which is \$46,276,590 to get the maximum funding that PCE can request of \$4,678,563 over the three-year period, based on sales forecasts provided by PCE. Thus, the CPUC will approve PCE's proposed budget.

Review of Compliance with Public Utilities Code Section 381.1 (f) Criteria*Consistency with Goals in Public Utilities Code Sections 381.1 and 399.4*

PU Code 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. PU Code Section 399.4 (a) states that prudent EE investments should continue to be made 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 PU Code Sections 381.1 and 399.4(a), the PCE's EE plan forecasts the achievement of cost-effective reductions in energy and demand, with a TRC of 1.02 and a PAC of 1.39.

²⁴ For more information on Local Government Energy Action Resources see: <https://cedars.sound-data.com/programs/PGE2110051/details/2021>.

²⁵ 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.

²⁶ 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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PU Code Section 399.4(b)(1) states that, in evaluating EE 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 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.

PCE states that it will comply with PU Code Section 399.4(b)(1) by requiring all installing contractors or non-residential customers who receive a rebate or incentive to certify that they have complied with Title 24.²⁷

PU Code Section 399.4(d) states that the CPUC, in a new or existing proceeding, shall review and update its policies governing EE 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 EE 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.

²⁷ PCE AL 20-E, Attachment A, pg 18.

4. Ensure that customers have certainty in the values and methodology used to determine energy efficiency incentives by basing the amount of any incentives provided by gas and electrical corporations on the values and methodology contained in the executed customer agreement. Incentive payments shall be based on measured results.

CPUC staff interprets PU Code Section 399.4(d) to refer to the ratepayer funded EE portfolio as offered throughout the state and not a requirement that all individual PAs EE offerings meet all the policies outlined in PU Code Section 399.4(d). The EE portfolios as offered by California's ratepayer funded PAs throughout the state meet these objectives and thus so would PCE's EE plan. Therefore, the CPUC certifies that PCE's EE plan has demonstrated compliance with the criteria set forth in PU Code Section 381.1(f)(1).

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

PCE forecasts their EE program has cost effectiveness of a 1.02 TRC and a 1.39 PAC which meets the minimum threshold for cost effectiveness of a CCA who elect to administer EE programs for the first three years. The CPUC certifies that PCE's EE plan has demonstrated compliance with the criteria set forth in PU Code Section 381.1(f)(2).

Accommodation of Statewide and Regional Programs

Accommodation of statewide and regional programs as defined in PU Code 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."²⁸

CPUC staff analyzed PCE's FLEXmarket as proposed, compared to the MAP effort that PG&E will administer as adopted in D.21-12-011 and we do not see functional overlap

²⁸ D.14-01-033, pg 29.

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between that program or any other programs that are offered statewide or regionally by PG&E. While there are certain similarities that are shared among PCE's FLEXmarket and the MAP offerings (i.e. both use NMEC, a pay-for-performance incentive, are implemented by third-party implementers, etc) that will be administered by MCE, PG&E, San Diego Gas & Electric and Southern California Edison, we see key and major differences.

First, PG&E does not currently offer a FLEXmarket or a program based on the FLEXmarket in their EE portfolio. Second, MAP as approved in D.21-12-021, is focused primarily on the summer months and is currently only a two-year effort, while PCE's FLEXmarket is not specifically focused on summer months and will run for up-to three years. Third, the payments in the MAP are based on adjusted avoided cost values, while the FLEXmarket payments will utilize standard avoided cost values. Fourth, MAP is not subject to a cost-effectiveness threshold. Whereas PCE's FLEXmarket program, because it is the only program they propose, must meet a TRC of 1.0. Finally, with PCE changing the name of the program from MAP to FLEXmarket in their supplemental and the fact that the program will only be offered to PCE customers we are less concerned about potential customer and implementer confusion.

PCE also states that they will provide the other PAs with similar program offerings information on their program so that they avoid duplication of efforts and marketing materials. In addition, PCE plans to work with the program staff at both PG&E and BayREN to share marketing material and avoid dual enrollment in similar programs, by tracking customers served by FLEXmarket.

In addition, while PCE addressed how they will coordinate with overlapping PAs on program implementation, they will also need robust coordination on marketing efforts. While the change of the proposed program's name from MAP to FLEXmarket is one step, PCE will need to work with BayREN and PG&E to clearly delineate the major program differences, including incentive levels, eligibility requirements for both implementers and customers, the duration of the program, etc. Before PCE launches the FLEXmarket, CPUC staff will request PCE's marketing materials and may provide feedback to avoid customer and implementer confusion. Finally, the CPUC may consider providing additional guidance should BayREN or PG&E wish to offer a program based on MCE's FLEXmarket.

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Thus, because of the clear differences in program design, the changing of the program name to FLEXmarket as proposed by PCE in their supplemental and the steps that PCE proposes to collaborate with overlapping PAs to avoid confusion, the CPUC certifies that PCE's EE plan has demonstrated compliance with the criteria set forth in PU Code Section 381.1(f)(3).

Auditing and Reporting

Decision 14-01-033 states that a "CCA should conduct financial and management audits of its EE 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 whether the statements are accurate, complete, and consistent with CPUC policy and standard accounting practices. The management audit will assess the CCA's management procedures and the effective use of resources in implementing its EE portfolio.²⁹

PCE states that it performs annual financial audits using generally accepted accounting principles specific to government entities. These reports are publicly available and will be provided to the CPUC upon request. As a CCA, once PCE's EE plan is certified and their FLEXmarket begins, its current auditing procedures will be extended to include EE program administration data. This will ensure appropriate accounting controls for EE program funds.

Per the 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, PCE 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 PCE, including adherence to cost-effectiveness requirements. Thus, the CPUC certifies that the PCE is compliant with the auditing and reporting requirements set forth in PU Code Section 381.1(f)(4).

²⁹ D.14-01-033, pg 29.

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EM&V Protocols

D.14-01-033 requires the CCA to establish its own EM&V protocols. However, the CPUC encourages CCAs to use the same EM&V requirements that apply to other EE PAs. The CPUC's role is to certify that a CCA's plan includes EM&V protocols and the various roles of the program administrator and CPUC in conducting evaluations. In its AL, the CCA should describe clearly and completely the EM&V protocols it will use.³⁰

PCE states that it 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. PCE-led studies will be performed according to the CPUC oversight process of IOU EM&V projects as detailed in the EE EM&V Plan. PCE 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.

In their AL, PCE explains that their Administration and EM&V costs are combined as part of a unified cost with their implementer. Their meter-based analysis that determines the payout is the same platform that generates the EM&V reports. However, PCE assures the CPUC that the total EM&V budget will not exceed \$187,143 over the three years that they request approval or 4% of their portfolio budget.³¹

It seems clear that PCE understands the different roles of CPUC, independent consultants and PAs, who are involved in the EM&V process. To ensure compliance with the CPUC approved cap on EM&V we may data request PCE and require that they break out EM&V costs in their annual reports. However, their AL does not raise any major concerns that they are out of compliance with the CPUC requirements. Thus, the CPUC certifies PCE's EM&V protocols as set forth in PU Code Section 381.1(f)(5).

Performance Metrics

³⁰ Ibid.

³¹ PCE AL 20-E-A, pg 14.

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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.”³² 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:

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

PCE provides the following Performance Metrics to indicate progress toward meeting the goals and objectives of PCE. The specific objective of PU Code Section 381.1(f) that each metric addresses (if applicable) is included in parenthesis.

- Program energy savings (381.1(f)(2))
- Tracking the Program cost-effectiveness annually (381.1(f)(2))
- Number of projects referred to other EE or other Distributed Energy Resource (“DER”) programs (381.1(f)(3))
- Total participating customers by segment (381.1(f)(4))
- Percentage of customers who receive electrification measures
- EM&V process, tracking, and incorporation into program design (381.1(f)(5))
- EM&V of project energy savings forecasts and energy savings realized (381.1(f)(5))
- Market penetration of the FLEXmarket program
- Supply-side generation cost reductions

³² D.14-01-033, pg 30.

PCE's list of metrics submitted could be improved, especially in providing clearer metrics 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, PCE's list does not have a performance metric for PU Code Section 381.1(f)(1), which requires that the CCA programs offered are consistent with the goals of PU Code Sections 381.1 and 399.4.

Resolutions E-4518, E-4917, E-5050 and E-5166, which approved other CCA requests for certification to elect to administer their 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.³³ 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."³⁴ Similarly, we determine that PCE's metrics could be improved upon, and expect PCE to continue to work with the CPUC to improve on metrics. But, as currently crafted, the metrics are sufficient enough to grant PCE's request for certification, as it has met the criteria set forth in Section 381.1(f)(6) and is certified. In addition, we encourage PCE to follow the metrics filed by all the PAs in their business plans on March 4, 2022 [and](#) the subsequent decision. Once there has been a decision on the PAs business plans, PCE should make any needed updates to its metrics in its annual reports.

Finally, we are seeking to continually improve the development of robust and clearly measurable metrics for all CCAs who pursue the ETA route to administering EE programs. In this instance, CPUC staff will continue to work with PCE to improve upon tracking metrics. For future ALs filed by CCAs who pursue the ETA route we expect metrics that are more like those required of the PAs, including units of measurement, market baselines and targets, methodology for collecting data to track progress towards a target. That being said, the CPUC certifies PCE's proposed metrics as set forth as compliant with PU Code Section 381.1(f)(6).

Analysis of PG&E's Comments and PCE Reply Comments

³³ Resolution E-4518, pg 18 and Resolution E-4917-E, pg 27.

³⁴ Resolution E-4518, pg 18.

PCE's proposed program as it relates to the MAP program approved in D.21-12-011

We disagree with PG&E that the FLEXmarket program as filed in supplemental AL 20-E-A is duplicative of PG&E's MAP as approved in D.21-12-011. In the section on "accommodating statewide and regional efforts", we list the reasons why we believe that PCE's FLEXmarket differs in program design from the MAP summer reliability effort. ~~From their protest, PG&E was primarily concerned with the proposed EMAP.~~³⁵

PG&E also argues that that the PCE effort would cause customer and implementer confusion with two entities administering different MAP efforts with possibly different rules. We are not convinced by this argument. We believe that the programs have significant differences in the program design, program rules around cost-effectiveness and the duration the programs will be offered. Also, PCE will have their own marketing materials that must clearly delineate the programs, which will also be reviewed by CPUC staff. Finally, since PCE renamed their effort to FLEXmarket in their supplemental we believe that these concerns by PG&E are addressed. In addition, MCE is also running their own FLEXmarket program in PG&E's territory and we encourage PCE to discuss with MCE staff how PCE can market their own FLEXmarket program from the MAP offering that both they and PG&E will administer.

Finally, we agree with PCE that D.21-12-011, did not preclude them from running any type of program with similarities to the MAP effort. PCE is also correct that the threshold of review for programs filed by CCAs through the ETA process is that the CCA must stay within their budget cap and comply with PU Code Section 381.1(e) and (f) (1) – (6) and direction, which is further discussed in D.14-01-033.

CPUC staff has determined that PCE meets the ETA requirements included in PU Code Section 381.1(e) and (f) (1) – (6). Thus, we will not direct any changes to PCE's FLEXmarket as filed in their supplemental AL 20-E-A based on PG&E's comments.

~~³⁵In PCE's first AL 20 E they proposed two programs, one MAP that they would utilize using funds from the ETA process and an EMAP program that would utilize funds from the summer reliability decision (D.21-12-011). After the final decision was voted out and PCE and other CCAs were not eligible for funds through D.21-12-011, PCE removed the proposal for EMAP with their supplemental AL filed on January 28, 2022.~~

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 and comment prior to a vote of the CPUC. Section 311(g)(2) provides that this 30-day 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 CPUC's agenda no earlier than 30 days from today.

On April 18, 2022, PG&E timely filed comments on draft resolution E-5197. PG&E clarified that their earlier comments on the PCE's AL 20-E apply to both PCE's EMAP and MAP. PG&E adds that they disagree with the statement in the draft resolution that CPUC staff do not see functional overlap between PCE's proposed FLEXmarket and PG&E's MAP and other programs offered by PG&E.

PG&E adds that their comments are concerned with clarifying how the CPUC assesses overlap between planned-for- CCA ETA programs and similar IOU statewide and regional programs. They conclude that while the issue of overlap remains a concern for them, the appropriate forum for such clarification may be the discussion of rules associated with ETA CCAs and Regional Energy Networks (RENs) that is scoped for the EE proceeding R.13-11-005 in the second half of 2022.³⁶

First, we now understand that PG&E's concerns were not limited to just PCE's proposed EMAP offering, but also PCE's proposed MAP or the program now known as FLEXmarket. We thank PG&E for the clarification and have deleted the sentence on page 22 of the draft resolution that indicates that PG&E's concerns were primarily with the EMAP proposal. However, ~~CPUC staff~~ we stand by ~~our~~ the statement that based on our analysis we do not see functional overlap between PCE's proposed FLEXmarket and any other programs that are offered statewide or regionally by PG&E. We add that the section on "accommodating statewide and regional efforts", on pages 17 and 18,

³⁶ Assigned Commissioner and Administrative Law Judges' Amended Scoping Ruling for R.13-11-005, December 23, 2021, pg. 6.

[lists several reasons why we believe that PCE's proposed FLEXmarket differs in program design from PG&E's MAP summer reliability effort.](#)

[Second, we agree with PG&E's comments that further discussion and clarifying of the rules on ETA CCAs and RENs offering overlapping programs is best to be discussed in the current EE proceeding \(R.13-11-005\), the EE application proceeding \(A.22-02-005\) or a subsequent EE proceeding. We look forward to PG&E's comments on their concerns with overlapping CCAs who ETA EE programs and RENs, when this topic is addressed in an EE proceeding.](#)

FINDINGS:

1. Peninsula Clean Energy exercised its election right under Public Utilities Code Section 381.1(e) and (f) (1) – (6) and Decision 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 proceeding R.13-11-005 on November 19, 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 Decision 14-01-033, the maximum amount of funds Peninsula Clean Energy is eligible to collect funds for the administration of their FLEXmarket program of up-to \$4,678,563.
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. Peninsula 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.

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6. To administer its Energy Efficiency Program Administration Plan, Peninsula Clean Energy seeks \$4,678,563 in funds collected by Pacific Gas and Electric from Peninsula 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. The California Public Utilities Commission directs Pacific Gas and Electric to transfer \$4,678,563 to Peninsula Clean Energy to implement its Energy Efficiency Program Administration Plan.
8. Peninsula 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 Decision 14-01-033 and meets the Public Utilities Code Section 381.1(f)(1) criteria.
9. Peninsula 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. Peninsula Clean Energy’s Energy Efficiency Program Administration Plan meets the Public Utilities Code Section 381.1(f)(3) criteria.
11. Peninsula Clean Energy ’s Energy Efficiency Program Administration Plan meets the Public Utilities Code Section 381.1(f)(4) criteria.
12. Peninsula Clean Energy’s Energy Efficiency Program Administration Plan includes evaluation, measurement, and verification protocols established by the Community Choice Aggregator. Peninsula Clean Energy’s efficiency evaluation, measurement, and verification proposal meet the Public Utilities Code Section 381.1(f)(5) criteria.
13. Peninsula Clean Energy ’s Energy Efficiency Program Administration Plan includes metrics that meets the minimal requirements set forth in the Public Utilities Code Section 381.1(f)(6) criteria.

THEREFORE, IT IS ORDERED THAT:

Peninsula Clean Energy AL 20-E and AL 20-E-A/NS2

1. Peninsula Clean Energy’s Energy Efficiency Program Administration Plan, as submitted in their supplemental advice letter on November 19, 2021, is certified pursuant to Public Utilities Code Section 381.1(e) and (f) (1) – (6)

2. Pacific Gas and Electric shall transfer to Peninsula Clean Energy \$4,678,563, which Peninsula Clean Energy requested utilizing the funding cap formula adopted in Decision 14-01-033.

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 May 5, 2022; the following Commissioners voting favorably thereon:

/s/Rachel Peterson
 RACHEL PETERSON
 Executive Director

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 PCE Maximum Funding

PCE Maximum Funding	Total Electricity EE Non-bypassable Charges from PCE Customers	Percentage of PG&E's Budget Not Dedicated to Statewide and Regional Programs
\$4,678,563	\$46,276,590	3.37%