

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-5212

October 6, 2022

R E S O L U T I O N

Resolution E-5212. Approving with Modifications California Choice Energy Authority's and East Bay Community Energy's Petitions for Modification of Resolution E-4999.

PROPOSED OUTCOME:

- Approves, with modifications, two Petitions for Modification (PFM) of Resolution E-4999 to include CalEnviroScreen (CES) 3.0 Disadvantaged Communities (DACs) into the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) programs.
- Modifies DAC-GT and CSGT program eligibility to align with the California Environmental Protection Agency's (CalEPA's) May 2022 DAC Designation and applies the definition of tribal lands used in D.20-12-003 for the Disadvantaged Communities – Single-Family Solar Homes (DAC-SASH) program to DAC-GT and CSGT.
- Modifies CES DAC census tract eligibility to be “additive” starting from the time at which a Program Administrator's DAC-GT or CSGT implementation advice letter is approved.

SAFETY CONSIDERATIONS:

- There are no expected safety implications associated with approval of this Resolution.

ESTIMATED COST:

- The full costs to implement the DAC-GT and CSGT programs have yet to be determined. The impact on rates cannot be estimated at this time as these programs will be funded through greenhouse gas allowance proceeds and/or public purpose program funds.

By CalChoice Energy Authority's *Petition for Modification of Resolution E-4999* and East Bay Community Energy's *Petition for Modification of Resolution E-4999*.

SUMMARY

This Resolution approves, with modifications, California Choice Energy Authority's (CalChoice) and East Bay Community Energy's (EBCE) Petitions for Modification of Resolution E-4999, filed on February 23, 2022, and April 12, 2022, respectively. Both Community Choice Aggregators (CCAs) allege that the changeover from CalEnviroScreen (CES) 3.0 to 4.0 inadvertently caused eligibility and procurement challenges for DAC-GT and/or CSGT in their service territories and propose that the California Public Utilities Commission (CPUC) make eligible all Disadvantaged Community (DAC) census tracts previously-approved under CES 3.0, in addition to CES 4.0 census tracts.¹ CES 3.0 was the version that was in place when each currently participating Program Administrator's (PA) implementation plan was approved. This Resolution finds that the CCAs' proposed modifications are appropriate and makes additional modifications to prevent the issue from reoccurring in other PA areas, as well as to ensure equity in accordance with existing legislation and CPUC policy goals. Specifically, the Resolution allows "legacy" DACs under prior versions of CES, beginning from the time at which a PA's DAC-GT or CSGT implementation advice letter is approved by the CPUC, to remain eligible for the DAC-GT and CSGT programs. This direction applies both to those PAs with implementation advice letters that are already approved as well as any new PAs authorized to submit an implementation advice letter for the DAC-GT and/or CSGT program.

This Resolution finds CalChoice's and EBCE's requests to be reasonable based on the apparent unintended consequences highlighted by their Petitions. This Resolution also modifies DAC-GT and CSGT program eligibility to adopt an "additive" methodology, on an interim basis, by which prior versions of CES are added to new versions to identify eligible DACs for program participation for all Program Administrator areas.

This Resolution has also been modified in response to comments from PG&E that point to the challenges of using lands under the control of federally recognized Tribes as an eligibility pathway. Instead, this Resolution adopts PG&E's proposal to use the DAC-SASH eligibility criteria outlined in D.20-12-003 Ordering Paragraph 1. This

¹ CalEnviroScreen (CES) is a mapping tool that helps identify California communities that are most affected by many sources of pollution, and where people are often especially vulnerable to pollution's effects. The Office of Environmental Health Hazard Assessment, on behalf of the California Environmental Protection Agency (CalEPA) develops and updates the CalEnviroScreen tool pursuant to Public Resource Code § 71090.

approach provides necessary geographic specificity for DAC-GT and CSGT implementation purposes and a model for alignment across multiple customer programs.

BACKGROUND

In Decision (D.) 18-06-027, the CPUC established three new programs to promote the installation of renewable generation among residential customers in DACs, as directed by the California Legislature in Assembly Bill (AB) 327 (Stats. 2013, Ch. 611). Among these new programs, the DAC-GT and CSGT programs provide assistance to low-income customers in the form of a 20 percent discount on a customer's otherwise applicable tariff as part of their monthly utility bill. The DAC-GT and CSGT programs are available to low-income residents who reside in DACs and are eligible for either the California Alternative Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs. D.18-06-027 defines DACs as the 25 percent of census tracts statewide that have the highest CalEnviroScreen (CES) scores, as well as 22 census tracts that are in the highest five percent of the CES Pollution Burden index but that do not have an overall CES score because of unreliable socioeconomic or health data.

D.18-06-027 authorized both investor-owned utilities (IOUs) and CCAs to serve as Program Administrators (PAs) for the DAC-GT and CSGT programs, responsible for marketing and outreach, procurement, development of program materials and procedures, general program management, and data collection and reporting on program operation and outcomes. Pursuant to D.18-06-027 and Resolutions E-5124 and E-5130, EBCE and San Jacinto Power (SJP, which is a member of CalChoice), were approved to serve as Program Administrators for the DAC-GT and/or CSGT programs in April 2020 and September 2021, respectively.² EBCE is located in northern California in Pacific Gas & Electric's (PG&E) service territory and serves Alameda County and fourteen incorporated cities, including more than 1.7 million residential and commercial customers. SJP is located in southern California in Southern California Edison's (SCE) service territory and serves the City of San Jacinto, including over 14,000 residential and commercial customers.

² East Bay Community Energy's (EBCE) DAC-GT and CSGT programs were approved by the CPUC in Resolution E-5124, issued April 16, 2021. San Jacinto Power's (SJP) DAC-GT program was approved by the CPUC in Resolution E-5130, issued September 13, 2021. SJP is a member of CalChoice Energy Authority, which also includes Lancaster Clean Energy (LCE) and Pico Rivera Municipal Energy (PRIME).

A unique component of the CSGT program is that it provides incentives to non-profit community-based organizations and local governments to catalyze community involvement by assisting with outreach and recruitment of subscribers and project siting preferences.³ D.18-06-027 allows community sponsors to take service of up to 25% of a CSGT project's energy output (not to exceed the sponsor's energy needs) and receive a 20% overall bill credit.

Resolution E-4999 Ordering Paragraph (OP) 1(p) instructed DAC-GT and CSGT program administrators to update their DAC-GT and CSGT tariffs as soon as a new version of CES is released in order to reflect the latest program eligibility rules. Participating program administrators were directed to make such updates by filing a Tier 1 Advice Letter (AL) within 30 days of the release of the new CES version.⁴ E-4999 also discussed how to treat customers who are eligible under one version of CES, but are no longer eligible after a subsequent CES update. It specified that DAC-GT customers who are already enrolled and DAC-GT projects that are already serving customers at the time of the new CES version's release will continue to be eligible for the program.⁵

On October 13, 2021, the Office of Environmental Health Hazard Assessment (OEHHA), on behalf of the California Environmental Protection Agency, released an updated version of CES.

On November 12, 2021, EBCE submitted AL 30-E and CalChoice (on behalf of SJP) submitted AL 9-E in accordance with Resolution E-4999 OP 1(p). These ALs sought to update their DAC-GT and/or CSGT tariff(s) from CES 3.0 to CES 4.0. The ALs were approved on December 13, 2021.

On February 23, 2022, CalChoice, on behalf of SJP, filed a Petition for Modification (PFM) of Resolution E-4999 (CalChoice PFM). Subsequently, on April 12, 2022, EBCE filed a similar PFM (EBCE PFM). Both CalChoice and EBCE (collectively, petitioners) request that the DAC-GT and/or CSGT programs retain DAC census tracts identified under CES 3.0 for the purposes of establishing customer eligibility and project siting.

³ D.18-06-027 at 76. Per D.18-10-007, Decision Correcting and Clarifying D.18-06-027, DAC-GT and CSGT projects must be sited within a DAC and CSGT subscribers to the project must be in a DAC that is, in whole or in part, within five miles of the location of the CSGT project (not necessarily the same DAC).

⁴ Resolution E-4999 p. 64.

⁵ Resolution E-4999 p. 38.

CES 3.0 was the version that was in place when each currently participating PA's implementation plan was approved.

The CalChoice PFM describes the proposed modification as justified because its administration of the DAC-GT program was uniquely impacted by the changeover from CES 3.0 to CES 4.0 for the purposes of determining customer and project eligibility. This changeover left SJP without any eligible DAC census tracts in its service territory although it had been approved to administer the programs on September 9, 2021.⁶

CalChoice contends that the findings in the Draft 2021 DAC-GT and CSGT Independent Evaluation Report (Evaluation) support its PFM.⁷ According to CalChoice, the Evaluation findings support retaining DAC-GT and CSGT eligibility for all CES 3.0-qualified DACs in addition to new tracts identified by CES 4.0. CalChoice also highlights that the Evaluation finds that changes to CES census tract ranking create a "moving target" that may negatively impact program implementation. The Evaluation authors note that "the majority of the 291 tracts (93 percent) that were dropped in 4.0 are still close to the top 40 percent of impacted tracts" suggesting that while some DACs may drop from the top quartile of impacted communities, their on-the-ground social, environmental, and economic situations will not have likely improved dramatically.

EBCE's PFM argues that the changeover between CES versions has adversely impacted its DAC-GT and CSGT project development pipeline by rendering ineligible the most feasible census tracts for solar project development within its service area, and has unexpectedly left approximately 4,000 low-income customers in 7 census tracts ineligible for the program.⁸ EBCE states that it has also spent considerable time and resources to engage developers and customers located in the CES DAC areas, only to have the list of eligible customers changed before EBCE could effectively launch its DAC-GT and CSGT programs.

⁶ See Resolution E-5130 which approved, with modification, SJP's AL 6-E to create a joint DAC-GT program with Lancaster Choice Energy (LCE) and Pico River Municipal Energy (PRIME), which are members of CalChoice Energy Authority.

⁷ Pursuant to D.18-06-027, Energy Division is directed to conduct evaluations of the DAC-GT and CSGT programs every three years beginning in 2021. Evergreen Economics has been contracted by SDG&E on behalf of the CPUC to conduct a process evaluation of the programs.

⁸ EBCE states that "Under CES 3.0, EBCE had approximately 24,000 DAC customers in its service area located in 42 census tracts. With the transition to CES 4.0, EBCE has approximately 20,000 DAC customers located in 35 census tracts."

In accordance with Rule 16.4(b), both CalChoice and EBCE state that the proposed modifications are supported by new facts and that the timeliness of their PFMs are justified. They each state that these facts were not available at the time that Resolution E-4999 was first issued on June 3, 2019, and the PFMs could not be filed within one year of the Resolution's issuance as the impact on customers and project siting were not apparent until the release of CES 4.0 in October 2021.

CPUC Environmental Social Justice Action Plan & 2022 CalEPA DAC Designation

The California Air Resources Board (CARB) Cap-and-Trade Regulation requires that allocated allowance auction proceeds (auction proceeds) be used for the primary benefit of each utility's ratepayers and specifies the types of uses that are allowable but does not have specific spending requirements for priority communities.⁹ The CPUC has the authority to specify spending requirements for priority communities and to direct investor-owned utility (IOU) cap-and-trade proceeds to residential, small business, and emissions-intensive trade-exposed customers.¹⁰

Unlike IOU cap-and-trade allowance proceeds, the California Legislature governs the use of state-owned allowances. Through SB 535 (De León, 2012) and AB 1550 (Gomez, 2016), the Legislature mandated that certain percentages of the Greenhouse Gas Reduction Fund (GGRF) be invested in DACs and charged CalEPA with designating such communities.¹¹ While the CPUC does not receive state-owned allowances and is therefore not bound by the CalEPA designation, the CPUC took CalEPA's 2017 DAC designation (based on CES 3.0) into account when establishing eligibility rules for the DAC-GT and CSGT programs and when drafting other policy guidelines such as the Environmental Social Justice (ESJ) Action Plan.¹²

In May 2022, CalEPA finalized its geographic eligibility criteria based on this data to designate four categories as DACs:

- Census tracts receiving the highest 25 percent of overall scores in CES 4.0 (1,984 tracts);

⁹ <https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program>.

¹⁰ Public Utilities Code section 748.5, as amended by SB 1018 (2012). See also <http://cpuc.ca.gov/industries-and-topics/natural-gas/greenhouse-gas-cap-and-trade-program>.

¹¹ See California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund, Cal. Senate Bill 535 (2011-2012), Chapter 830 (Cal. Stat. 2012); Greenhouse Gases: Investment Plan: Disadvantaged Communities, Cal. Assembly Bill 1550 (2015-2016), Chapter 369 (Cal. Stat. 2016).

¹² D.18-06-027 at 12-14.

- Census tracts lacking overall scores in CES 4.0 due to data gaps, but receiving the highest 5 percent of CES 4.0 cumulative pollution burden scores (19 tracts);
- Census tracts identified in the highest 25 percent of overall scores in the 2017 DAC designation (CES 3.0), regardless of their scores in CES 4.0 (305 tracts);
- Lands under the control of federally recognized Tribes.¹³

NOTICE

Notice of CalChoice's and EBCE's PFMs were made by publication in the CPUC's Daily Calendar. CalChoice and EBCE state that copies of the PFMs were mailed and distributed in accordance with Section 4 of General Order 96-B.

RESPONSES

On March 25, EBCE, on behalf of Clean Power Alliance, MCE, Peninsula Clean Energy, San Diego Community Power, San José Clean Energy, and Sonoma Clean Energy (collectively with EBCE, Joint CCAs) filed a timely response to CalChoice's PFM and Southern California Edison (SCE) filed a timely response to CalChoice's PFM.¹⁴ On April 8, 2022, CalChoice submitted a timely reply to SCE's response. On May 11, 2022, PG&E filed a timely response to EBCE's PFM.

Joint CCAs' Response to CalChoice's PFM

The Joint CCAs filed a timely response to CalChoice's PFM on March 25, 2022. In their response, the Joint CCAs state that the CPUC should offer the narrowly tailored relief that SJP has requested via CalChoice's PFM. The Joint CCAs suggest that SJP has demonstrated that the current eligibility criteria are unworkable in its case, and a remedy is readily at hand. The Joint CCAs support allowing census tracts qualified as DACs under CES 3.0 to continue to qualify as DACs under CES 4.0 as proposed by CalEPA and mentioned in the 2021 DAC-GT and CSGT Evaluation Report. CES 3.0 was the version that was in place when each currently participating PA's implementation plan was approved. The Joint CCAs argue that this would alleviate the project siting and customer eligibility issues that many CCAs and their partners are currently experiencing, while still meeting program objectives to build renewables in DACs.

¹³ https://calepa.ca.gov/wp-content/uploads/sites/6/2022/05/Updated-Disadvantaged-Communities-Designation-DAC-May-2022-Eng.a.hp_-1.pdf.

¹⁴ The Joint CCAs used the term reply but we are treating it as a response.

SCE's Response to CalChoice's PFM

On March 25, 2022, Southern California Edison (SCE) submitted a timely response to CalChoice's PFM. In SCE's response, the utility stated that it opposes the modification requested in the PFM based on program fairness and administrative concerns. If the PFM is granted, SCE argues that customers in SJP's service area who are no longer in the top 25% DACs would become eligible to enroll in the program, displacing customers most in need as defined in CalEnviroScreen 4.0 due to the limited capacity of the DAC-GT programs. Second, SCE notes that the requested change could potentially create inequities between program administrators and confuse customers by allowing differing eligibility rules.

SCE offers an alternative and recommends that SJP transfer its allocated DAC-GT program capacity and budget to another CalChoice CCA member that has qualifying CES 4.0 census tracts within its service area, such as Pomona Choice Energy.

CalChoice's Reply to SCE's Response

On March 29, 2022, pursuant to Rule 16.4(g), CalChoice requested Energy Division's permission to reply to SCE's response. On March 30, 2022, Energy Division granted CalChoice's request. CalChoice submitted a timely reply to SCE's response on April 8, 2022. CalChoice asks the CPUC to reject SCE's proposal to transfer SJP's DAC-GT capacity allocation to another CalChoice member CCA.

CalChoice argues that SCE's statements are without merit and that the remedy proposed in its PFM would expand, not displace, customers who are eligible for the DAC-GT program. Further, in the final version of the 2021 DAC-GT and CSGT 2021 Evaluation Report, distributed on April 1, 2022, Evergreen Economics recommends the program retain all CES 3.0-qualified DACs and adding new tracts identified by CES 4.0 "given that this moving target impacts program implementation and because the majority of the 291 tracts (93 percent) that were dropped in 4.0 are still in the top 40 percent of impacted tracts." CalChoice notes that the adoption of the PFM would help meet the DAC-GT program's objective of ensuring low-income households in DACs have equal access to clean and innovative energy offerings as other residential customers.

PG&E's Response to EBCE's PFM

PG&E submitted a timely response to EBCE's PFM on May 11, 2022. PG&E requests that the CPUC analyze how updated CES versions are to be used by program implementors in its upcoming review of the DAC-GT and CS-GT programs, launched by the IOUs' Applications for Review submitted on May 31, 2022. PG&E notes that the

challenges created by updated CES versions are applicable program-wide and are not unique to EBCE. While PG&E does not oppose EBCE's PFM, it supports a broader consideration of the issues across all program administrators for the DAC-GT and CSGT programs.

PG&E notes that it will be addressing these issues in its upcoming Application¹⁵ and provides additional comments in its response for consideration. PG&E states that at the time that the DAC-GT and CSGT programs were developed, all program administrators were subject to the same CES 3.0 version. CES 4.0 resulted in the addition of some DAC census tracts, but also the removal of others. This created implementation challenges and limited access to renewable energy for members of those communities by rendering projects in the planning process (although not under contract) no longer eligible for program participation.

PG&E argues that the challenges created by the CES version changeover and how to address them should be analyzed more broadly in the upcoming Applications for Review¹⁶ and subsequent proceeding(s). PG&E suggests considering questions such as:

- Whether it is more appropriate to use only version 3.0 or whether new DACs identified in future CES versions should be added to that list; and
- How to ensure that any changes to eligibility criteria do not result in program participation shifting towards customers who are relatively better off than those that the CPUC intends to target with these programs.

DISCUSSION

Upon review of the PFMs, responses, replies of the parties, and comments received on the draft resolution, we determine that CalChoice's and EBCE's proposed modifications to the programs are appropriate and in accordance with the intent of AB 327 (Perea, 2013) and D.18-06-027 as well as CPUC policy goals such as those outlined in the ESJ Action Plan.¹⁷ We also recognize that the recently submitted Applications for Review are actively considering modifications to the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) programs, including eligibility criteria.

¹⁵ PG&E's Application was submitted on May 31, 2022. See A.22-05-022 at 10.

¹⁶ See PG&E A.22-05-022, SDG&E A.22-05-023, and SCE A.22-05-024.

¹⁷ California Renewables Portfolio Standard Program, Cal. Assembly Bill 327 (2013-2014), Chapter 611 (Cal. Stat. 2013).

We therefore modify DAC-GT and CSGT programs' eligibility rules as an interim measure to be "additive" starting from the time at which a Program Administrator's DAC-GT and CSGT implementation advice letter is approved, until the CPUC makes a determination on whether and how to modify DAC-GT and CSGT eligibility criteria in the IOUs' Applications for Review.¹⁸ We adopt EBCE and CalChoice's proposals to include DAC census tracts identified under CES 3.0 as well as CES 4.0 for the purposes establishing customer eligibility and project siting for any Program Administrator areas. We find it reasonable that the 305 census tracts that were in the highest scoring 25 percent in CES 3.0 but are not in the top 25 percent in CES 4.0 should continue to be considered disadvantaged and thus eligible for funding under these programs. As these PFMs demonstrate, the changeover from CES 3.0 to 4.0 caused disruption for Program Administrators, customers, and solar developers. This modification will allow for program continuity and more efficient and effective use of program resources. Given this modification, however, PAs should still make every effort to prioritize census tracts under the most recent version of CES, if possible.

We also approve, on an interim basis, expanding DAC-GT and CSGT program eligibility to include all eligible DACs from prior versions of CES, beginning from the time at which a Program Administrator's DAC-GT or CSGT implementation advice letter is approved. CES 3.0 was the version that was in place when each currently participating PA's implementation plan was approved. Our interim eligibility expansion applies to current PAs with implementation advice letters that are already approved as well as any new PAs authorized to submit an implementation advice letter for the DAC-GT and/or CSGT program. Any PA authorized to submit implementation plans for CPUC approval in the future should include eligible DACs beginning with the current CES version in place at that time plus any future versions.

CalEPA's May 2022 DAC designation update also included lands under the control of federally recognized Tribes as eligible DAC communities. PG&E's comments on the draft resolution contend that currently it may be infeasible to use CalEPA's tribal definition for DAC-GT and CSGT program eligibility. CalEPA's definition of federally recognized tribes does not specify whether it includes lands held in trust on behalf of tribal communities as well as fee lands which are owned by the tribes. PG&E also states that lands under the control of federally recognized tribes, whether they be trust lands or fee lands, do not exactly align to the borders of existing census tracts which may lead to additional challenges associated with updating its program management systems.

¹⁸ See PG&E A.22-05-022, SDG&E A.22-05-023, and SCE A.22-05-024.

In response to PG&E's comments, we find that the more feasible option is to use the DAC-SASH eligibility criteria for tribal communities outlined in D.20-12-003 Ordering Paragraph 1:

Program eligibility for tribes is as provided here, or as subsequently modified by the Commission for the Self-Generation Incentive Program Equity Resiliency budget. Eligibility to participate in the Disadvantaged Communities – Single Family Solar Homes program is expanded to all California Indian Country as defined in 18 United States Code Section 1151, with the exception of privately held in-holdings, which are defined as non-Indian owned fee land located within the exterior boundaries of California Indian Country; in the event of multiple owners, such land shall be considered Indian owned if at least one owner is a tribe or tribal member, regardless of the use of the land.

While not identical to the CalEPA designation, using this eligibility criterion brings our DAC-GT and CSGT programs into alignment with other CPUC clean energy programs (such as DAC-SASH and SGIP) and is more feasible to implement. Further, this eligibility expansion is in alignment with the goal of CalEPA's efforts to expand program access to vulnerable and deserving communities. We note that the CPUC can revisit this approach and other eligibility issues in the proceeding launched by the Applications for Review of the DAC-GT and CSGT programs.¹⁹

In order to comply with these interim eligibility requirements, Program Administrators are directed to update their DAC-GT and/or CSGT tariffs, solicitation protocols, and marketing plans to reflect the latest program eligibility rules outlined in this Resolution by filing a Tier 2 advice letter within 150 days of issuance of this Resolution. Program Administrators are also authorized to seek cost recovery associated with these updates to program eligibility through their respective balancing accounts, and to include such costs in their annual Energy Resources Recovery Account proceedings for reasonableness reviews set forth in Decision 18-06-027 and subsequent DAC-GT and CSGT resolutions.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review. Please note that comments are

¹⁹ See PG&E A.22-05-022, SDG&E A.22-05-023, and SCE A.22-05-024.

due 20 days from the mailing date of this resolution. 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.

Comments were timely filed on September 1, 2022, by three parties. The Joint CCAs (California Choice Energy Authority, Clean Power Alliance of Southern California, East Bay Community Energy, Marin Clean Energy, Peninsula Clean Energy Authority, San Diego Community Power, and San José Clean Energy) were largely supportive of the Draft Resolution and proposed no changes. Pacific Gas & Electric Company and Southern California Edison Company also filed comments which we address below.

Clarification of Required Updates to Program Eligibility

In its comments, PG&E requests clarification on whether the draft resolution orders the inclusion of tribal lands among the Disadvantaged Communities (DACs) eligible for the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CS-GT) programs, and if so, how those areas are to be defined. PG&E notes that while the Resolution narrative mentions tribal lands, the ordering paragraphs do not. If the CPUC intends for PAs to include lands under the control of federally recognized tribes by adopting CalEPA's definition of DACs, PG&E requests additional clarity on whether this means lands held in trust on behalf of tribal communities, or fee lands which are owned by tribes. PG&E notes that the CPUC adopted the following the definition of tribal lands for the Disadvantaged Communities – Single-Family Solar Homes (DAC-SASH) program in D.20-12-003 Ordering Paragraph 1, which provides specificity and a model for alignment across multiple customer programs:

Program eligibility for tribes is as provided here, or as subsequently modified by the Commission for the Self-Generation Incentive Program Equity Resiliency budget. Eligibility to participate in the Disadvantaged Communities – Single Family Solar Homes program is expanded to all California Indian Country as defined in 18 United States Code Section 1151, with the exception of privately held in-holdings, which are defined as non-Indian owned fee land located within the exterior boundaries of California Indian Country; in the event of multiple owners, such land shall be considered Indian owned if at least one owner is a tribe or tribal member, regardless of the use of the land.

Similarly, SCE requests clarification on the use of CES and lands under the control of federally recognized tribes in determining DAC-GT and CSGT program eligibility. Specifically, SCE requests clarification if it is the CPUC's intent that each of the Program Administrators (PAs) would need to update their respective DAC-GT and CSGT program eligibility requirements to include CES 3.0, CES 4.0 and lands under the control of federally recognized tribes. If so, SCE states these updates will require revisions to SCE's DAC-GT and CSGT tariffs, solicitation protocols, and marketing plans as outlined in the draft Resolution's Ordering Paragraph 5 as well as SCE's enrollment tool. SCE states that it will need to map lands under the control of federally recognized tribes to each of SCE's premises (site addresses), update their enrollment tool's logic to allow for this new eligibility criteria, and conduct a data refresh in order to reflect the most currently available information.

In order to align our CPUC DAC-focused customer programs and to provide further geographic specificity to DAC-GT and CSGT, we adopt PG&E's proposal to use the same definition of tribal lands outlined above for the DAC-SASH and SGIP program. We clarify that all DAC-GT and/or CSGT PAs should use this definition for the purposes of including tribal lands among eligible DACs. The resolution is modified accordingly.

Funding Reallocation and Additional Time

Both SCE and PG&E's comments request 150 days to implement the proposed changes from the date of approval of this resolution. PG&E specifies that this additional time will be required to adjust its program management system from one currently constructed around census tracts for determining eligibility, to one which includes lands under the control of federally recognized tribes, which do not exactly align to the borders of existing census tracts.

SCE requests discretion to allocate its unspent 2022, and/or 2023 DAC-GT and CSGT administrative or marketing program budget dollars to pay for the implementation of proposed changes given that some of the changes were not planned or accounted for in SCE's prior year 2022 and 2023 budget requests. PG&E states that it may request additional funding in a future budget advice letter to fund the implementation of any of the proposed changes since they were not part of prior budget requests.

We find it reasonable to grant the request for additional time to implement the proposed changes (up to 150 days from the date of approval of this resolution). We also find the requests to reallocate prior-year funding or request additional funding to pay

for the implementation of the proposed eligibility changes as reasonable. The resolution is modified accordingly.

FINDINGS AND CONCLUSIONS

1. It is reasonable to adopt an “additive” methodology for adding previous versions of CES to new versions to identify eligible DACs, beginning with the CES version that was in place when a Program Administrator’s implementation plan was approved by the CPUC as an interim measure, until the CPUC makes a determination on whether and how to modify DAC-GT and CSGT eligibility criteria in the Applications for Review.²⁰
2. It is reasonable to expand DAC-GT and CSGT program access to tribal areas and adopt PG&E’s proposal to use the DAC-SASH eligibility criteria outlined in D.20-12-003 to provide additional geographic specificity for implementation purposes and alignment across multiple clean energy programs.

THEREFORE IT IS ORDERED THAT:

1. The East Bay Community Energy and California Choice Energy Authority (CalChoice) petitions for modification of Resolution E-4999 are approved, as modified. The approved modifications include allowing any Program Administrator to use the CalEnviroScreen version in place when its plan was approved by the Commission in addition to updated versions, as an interim measure.
2. Eligibility for the Disadvantaged Communities Green Tariff (DAC-GT) or Community Solar Green Tariff (CSGT) programs is modified to be “additive” starting from the time at which a Program Administrator’s DAC-GT and CSGT implementation advice letter is approved.
3. Eligibility to participate in the Disadvantaged Communities Green Tariff or Community Solar Green Tariff program is expanded to all California Indian Country as defined in 18 United States Code Section 1151, with the exception of privately held in-holdings, which are defined as non-Indian owned fee land located within the exterior boundaries of California Indian Country; in the event of multiple owners, such land shall be considered Indian-owned if at least one owner is a tribe or tribal member, regardless of the use of the land.

²⁰ See PG&E A.22-05-022, SDG&E A.22-05-023, and SCE A.22-05-024.

/JSA

4. Disadvantaged Communities Green Tariff (DAC-GT) and/or Community Solar Green Tariff (CSGT) Program Administrators shall update their DAC-GT and CSGT tariffs, solicitation protocols, and marketing plans to reflect the latest program eligibility rules outlined in this Resolution by filing a Tier 2 advice letter within 150 days of issuance of this Resolution.
5. Disadvantaged Communities Green Tariff and/or Community Solar Green Tariff Program Administrators are authorized to seek cost recovery associated with the updates to program eligibility directed in this Resolution through their respective balancing accounts, and to include such costs in their annual Energy Resources Recovery Account proceedings for reasonableness reviews set forth in Decision 18-06-027 and subsequent resolutions.

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 October 6, 2022; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

ALICE REYNOLDS
President

CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE HOUCK
JOHN REYNOLDS
Commissioners