

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-5339

August 22, 2024

R E S O L U T I O N

Resolution E-5339: Modifications to the Small Business California Climate Credit Distribution Methodology

PROPOSED OUTCOME:

- Changes the eligibility criteria used by the investor-owned utilities (IOUs) to ensure prudence in the distribution of the Small Business California Climate Credit.
- Recipients with 100 or more eligible accounts under the existing usage criteria are no longer eligible to receive the Small Business California Climate Credit on any account.
- Establishes notification requirements by IOUs to newly ineligible recipients.
- Establishes notification requirements by IOUs to Energy Division for eligibility changes.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this resolution.

ESTIMATED COST:

- Only minor administrative and outreach costs are expected for (1) eligibility determination by the IOUs and (2) notification of impacted recipients.
 - Residential and remaining small business recipients will receive an estimated increase of 1.2% in the value of future California Climate Credits.
 - If implemented in time for the October 2024 distribution, remaining Residential and Small Business California Climate Credit recipients will receive an additional \$11.1 million in a future distribution.
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SUMMARY

This Resolution modifies the eligibility criteria used by all electric California investor-owned utilities (IOUs)¹ when distributing the Small Business California Climate Credit by imposing a 100 account cap on the number of eligible accounts a single entity can control. For businesses that operate across IOU territories, the cap applies separately in each IOU territory. Entities with a total number of eligible accounts in excess of the cap are ineligible for the credit and receive no Small Business California Climate Credit applied to any account. The per-account usage criteria established in D.13-12-002 remain unchanged.² The methodology to calculate the amount of credit remains unchanged.

Methodological changes to the Small Business California Climate Credit are needed to align the outcomes with the plain-language intent of Public Utilities Code 748.5³ as envisioned in D.12-12-033 and D.13-12-002 to design a credit that:

“...comports with the Legislature’s apparent intent, serves to promote, rather than defeat, the statute’s general purpose, and avoids a statutory construction that would lead to any absurd consequences.”⁴

Remaining eligible small businesses and residential customers of the IOUs will benefit from these eligibility changes through larger Residential and Small Business California Climate Credits. The total amount of allocated allowance auction proceeds distributed each year by the IOUs to their ratepayers under both credits will remain the same.

The IOUs are directed to implement these eligibility changes as soon as possible after notifying impacted recipients and no later than April 1, 2025. IOUs are directed to notify impacted recipients before changes in eligibility are effective and reassess

¹ In alphabetical order: Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE)

² D.21-08-026 modified the distribution methodology from a volumetric return to a flat-credit but did not alter the eligibility criteria.

³ California Public Utilities Code Section 748.5:

(a) Except as provided in subdivision (c), the commission shall require revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electric utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporation.

⁴ D.12-12-033 @ 73.

eligibility at least once per California Air Resources Board (CARB) Cap-and-Trade Program compliance period.

BACKGROUND

Authority to Implement Methodological Changes

This resolution was initiated by the Commission on its own motion. The resolution was prompted upon discovery by Energy Division staff as part of routine oversight of Commission programs that distribute IOU Cap-and-Trade allocated allowance auction proceeds.

Conclusion of Law 9 in D.13-12-002 provides that:

As set forth in D.12-12-033, Energy Division may make minor updates to the adopted small business GHG revenue allocation formula as necessary through the issuance of a resolution with opportunity for stakeholder input and comment. This authority to make minor modifications should be extended to include minor updates and changes to the adopted distribution methodologies of the small business GHG revenue return. The Energy Division must make these revisions through the issuance of a resolution to be considered by the full Commission.

This resolution, which was issued with a full 20-day comment period, is consistent with this authority.

Existing Small Business Definition

In 2006, California passed Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. As part of the implementation of AB 32, the California Air Resources Board (CARB) created the Cap-and-Trade Program. As part of the Cap-and-Trade Program, each year IOUs are allocated allowances (permits to emit greenhouse gases (GHGs) into the atmosphere) that they must sell at CARB auctions in the year they are allocated for the benefit of their ratepayers. In 2011, the CPUC opened rulemaking R.11-03-012 to determine how the proceeds would be distributed among ratepayer classes. While the rulemaking was open, Senate Bill (SB) 1018 (2012) adopted changes to Public Utilities Code (PUC) Section 748.5, specifying that proceeds realized by the IOUs from the consignment to auction of allowances granted to the IOUs by CARB "...be credited directly to the residential, small business, and emissions-intensive trade-exposed retail

customers of the electrical corporation.”⁵ However, the legislation did not specify the definition of a “small business.” In decision D.12-12-033, the Commission modified an existing definition of “small business” found in D.10-10-032 (“Decision Revising Tariff Rules for Small Business Customers”), defining for Cap-and-Trade crediting purposes a “small business” to be:

Any non-residential customer on a General Service or Agricultural tariff with demand not exceeding 20 kW in more than three months in the previous 12-month period is considered to be a small business ⁶

In D.12-12-033, the Commission relied on a previous definition because the Commission believed it:

“...comports with the Legislature’s apparent intent, serves to promote, rather than defeat, the statute’s general purpose, and avoids a statutory construction that would lead to any absurd consequences.”⁷

Additionally, as the definition was usage-based, implementation of the credit did not require an attestation process or data collection/storage process, reducing potential administrative costs and removing a potential barrier to small business participation in the program. Alternative definitions for “small businesses” used elsewhere in state and federal government rely on the number of employees, ownership status, or the gross revenue of a firm over a period of years, information which is not readily available to IOUs.

Existing Small Business California Climate Crediting Method

From 2014 to 2021 the value of the Small Business California Climate Credit was calculated using a volumetric formula. In D.21-08-026 the crediting formula was changed to a flat credit equal in value to the Residential California Climate Credit in order to conform to CARB rule changes. An unintended consequence of this modification was that it magnified the impact of credit aggregation. Credit aggregation occurs when the same entity controls multiple accounts. As the Small Business California Climate Credit became a flat per-account credit, a single entity could now accrue a significant amount of assistance if it were configured to have numerous qualifying utility accounts.

⁵ See footnote 3.

⁶ D.12-12-033 Finding of Fact 50.

⁷ D.12-12-033 @ 73.

Large IOU Data on Small Business California Climate Credit Account Aggregation

In 2024, as part of routine implementation and oversight of CA Industry Assistance, a related program that aims to reduce emissions leakage by providing Emission-Intensive and Trade-Exposed entities with allocated allowance auction proceeds for costs associated with the Cap-and-Trade Program embedded in electricity purchases, Energy Division staff became aware that some entities controlled significant numbers of qualifying Small Business California Climate Credit accounts. In May and June 2024, Energy Division contacted the large IOUs (PG&E, SCE, and SDG&E) requesting – to the extent possible – that each of the three IOUs provide a complete list of the 2024 Small Business California Climate Credit recipients, aggregated by recipient. The data revealed that many of the State’s large telecommunications companies, numerous municipalities, and various governmental organizations at the federal, state, and local levels had thousands or hundreds of qualifying small business accounts. Tables 1 and 2, below, aggregate the data available:

Small Business California Climate Credit Distribution Modifications /ADK

Table 1: Small Business California Climate Credits Distributed to Recipients with ≥ 100 Eligible Accounts

2024 Spring Data

	Number of Eligible Accounts			Number of Recipients			Value of Credit		
	PG&E	SCE	SDG&E	PG&E	SCE	SDG&E	PG&E	SCE	SDG&E
Telecom	39,036	31,681	9,918	47	31	11	\$4,307,232	\$ 5,449,132	\$ 1,551,572
Government ⁸	17,048	18,763	7,664	79	72	20	\$1,881,076	\$ 3,227,236	\$ 1,198,956
Real Estate ⁹	193	10,634	955	1	42	5	\$21,296	\$ 1,829,048	\$ 149,400
Other	4,727	3,059	516	26	20	4	\$521,577	\$ 526,148	\$ 80,723
Utilities	1,301	2,716	100	7	8	1	\$143,552	\$ 467,152	\$ 15,644
Transport	2,175	685	1,520	7	3	3	\$239,990	\$ 117,820	\$ 237,789
Agriculture	1,940	296	0	13	1	0	\$214,060	\$ 50,912	\$ 0
≥ 100 Subtotal	66,420	67,834	20,673	180	177	44	\$7,328,782	\$ 11,667,448	\$ 3,234,084
≥ 100 Total		154,927			401			\$ 22,230,314	
Program Subtotal	444,890	542,231	129,984	211,108	262,406	58,996	\$ 53,032,604	\$ 93,220,904	\$ 14,738,212
Program Total		1,117,105			532,510			\$ 160,991,720	

Table 2: Largest Single Small Business California Climate Credit Aggregator

2024 Spring Data

	Number of Eligible Accounts				Value of Credit		
	PG&E	SCE	SDG&E		PG&E	SCE	SDG&E
Telecom	6,068	10,406	3,851		\$669,543	\$1,789,832	\$602,450
Government ⁸	2,316	2,102	2,917		\$225,547	\$361,544	\$456,335
Real Estate ⁹	193	1,798	273		\$21,296	\$309,256	\$42,708
Other	887	342	188		\$97,872	\$58,824	\$29,411
Utilities	310	1,243	100		\$34,205	\$213,796	\$15,644
Transport	1,320	339	1,093		\$145,649	\$58,308	\$170,989
Agriculture	251	296	0		\$27,695	\$50,912	\$ 0

⁸ Government includes Federal, State, Tribal, Country, and local governments as well as universities, school districts, departments, and agencies.⁹ Real Estate includes property managers, developers, HOAs, and other cooperative housing.

Small Business California Climate Credit Distribution Modifications /ADK

Example - Reading Tables 1 and 2:

In SCE territory, there are 31 telecom companies with more than 100 eligible accounts each that in total will receive \$5,449,132 in Small Business California Climate Credits from a total of 31,681 eligible accounts. The single largest aggregator controls 10,406 eligible accounts and will receive 2024 Small Business California Climate Credits worth \$1,789,832.

Tables 1 and 2 contain several notable aspects:

- The total number of recipients with more than 100 eligible accounts is very small (401) relative to the total number of recipients of the Small Business California Climate Credit (532,510).
- The total number of eligible accounts controlled by those 401 recipients (154,927) is a notable percentage of the total number of eligible accounts (1,117,105).
- Taken together, these data points combine to reveal that the top <0.1% of recipients receive 14% of the value from the Small Business California Climate Credit.

Impact of Credit Aggregation on the Value of the California Climate Credit

Reducing the number of small business and residential California Climate Credit recipients increases the value of the credit for the remaining recipients. The Small Business California Climate Credit and the Residential California Climate Credit are the final sink each year for an IOU's allocated allowance auction proceeds. Each year, all remaining allocated allowance auction proceeds not used for administrative/outreach costs, to fund approved clean energy and energy efficiency projects, or for the CA Industry Assistance are divided among the qualifying small business and residential customers of an IOU equally.

Table 3 summarizes the impact to remaining Small Business and Residential California Climate Credit recipients if existing recipients with greater than or equal to 100 eligible accounts were rendered ineligible for the credit.

Table 3: Per-Year Impact of Aggregation on California Climate Credit

2024 Spring Data

	PG&E	SCE	SDG&E
2024 Total California Climate Credit	\$110.34	\$172.00	\$156.44
Number of Residential Credits	5,392,335	4,685,196	1,392,484
Number of Current Small Business Credits	444,890	542,231	129,984
Added 2024 Credit value from Removing ≥ 100	\$1.26	\$ 2.26	\$ 2.15
Subtotal Increase to residential recipients	\$6.8M	\$10.6M	\$3.0M
Subtotal Increase to remaining small business recipients	\$0.5M	\$1.1M	\$0.2M
Subtotal Increase to all remaining recipients	\$7.3M	\$11.7M	\$3.2M
Total shift in credit value		\$22.2M	

Example - Reading Table 3:

In SCE territory, removing all recipients who have 100 or more individually eligible accounts from receiving any Small Business California Climate Credit on any account would have resulted in an increase in the \$172 value in the 2024 credit by \$2.26. The total shift in value would have been an increase of \$11.7M, with \$10.6M more to residential ratepayers and \$1.1M more to remaining qualifying small businesses.

DISCUSSION

The Commission recognizes the diversity of California's small business community. The Commission must also ensure that Cap-and-Trade proceeds are prudently administered as the State intended. Therefore, there is merit in acting quickly to protect small businesses and residential ratepayers by reducing the amount of aggregation from certain recipients. The data discovery summarized in Tables 1 and 2 reveal that the existing eligibility criteria for the Small Business California Climate Credit have resulted in an outcome contrary to the stated intent of the Commission in D.12-12-033¹⁰ and the Legislature in SB 1018 to provide assistance to small businesses. Tables 1 & 2 demonstrate that the issue of credit aggregation is not confined to one IOU or one sector of the economy, while Table 3 demonstrates that the impact is materially felt by other residential and small business ratepayers through a reduction in the value of their California Climate Credits.

¹⁰ "Therefore, we rely upon previous Commission direction in adopting a definition of small business that we believe comports with the Legislature's apparent intent, serves to promote, rather than defeat, the statute's general purpose, and avoids a statutory construction that would lead to any absurd consequences." D.12-12-33 @ 73.

This resolution makes minor alterations to Small Business California Climate Credit eligibility to better align with the State's policy guidance while seeking to avoid any harm to small businesses. As found in previous Commission decisions (See D.12-12-033, D.13-12-002, and D.21-08-026), IOUs have limited access to information about their customers' businesses beyond the energy usage of each account. The Commission previously rejected an attestation process for the Small Business California Climate Credit finding a verification or attestation step would likely result in more harm than good, acting as a barrier preventing small businesses from participating.¹¹ Accordingly, we adopt Energy Division Staff's recommendation to make minor updates to the attestation process to impose a cap on the number of eligible accounts a single entity can aggregate while retaining the existing automatic energy usage eligibility criteria. More extensive program modifications, which may result in further improved identification of small businesses, are reserved for a future proceeding or Commission action as the varied nature of California's small business ecosystem requires input from an array of stakeholders in order to make informed program design decisions.

Recipient Aggregation Standard

The amount of information known by an IOU regarding an account is often extremely limited. Often, only the name, address, billing information, tariff type, and energy usage are available. Different IOUs will have access to different customer information based on their billing systems. Accordingly, IOUs will aggregate accounts based on a reasonable method available to each IOU based on the information available to the IOU.

IOU accounts can exhibit significant name variation, even for the same business. For example, California Café/California Café Incorporated/California Café Inc/ CA Café Inc. and its various permutations may be used on different accounts depending on the IOU account manager defaults or company naming preferences at the time the account was established. Additionally, larger companies may purposefully organize themselves into distinct sub-units for a variety of reasons (tax, liability, etc.). For example, CA Café – Sacramento / California Café – San Diego / California Café – SF may all be used for different divisions or branches of the same company.

In D.12-12-033, the Commission considered criteria for defining small businesses for crediting purposes. The Commission referenced the California Department of General Services definition of a small business, which in Government Code Section 14837 defines a small business in California as:

¹¹ D.12-12-033 @ 78.

“Small business” means an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 100 or fewer employees. Commencing January 1, 2019, the average annual gross receipts threshold shall be fifteen million dollars (\$15,000,000).

This definition was not adopted by the Commission as D.12-12-033 found that IOUs do not have access to gross receipts or staffing information for small businesses. However, in making minor revisions here, we once again look to the Department of General Services and find that for the purpose of determining aggregation a California “small business” should be construed to include its affiliates. Thus, no later than April 1, 2025, the IOUs will aggregate their count of Small Business California Climate Credit recipients based on a reasonable method available to each IOU based on the information available to the IOU where it can be reasonably construed by the IOU that the businesses are affiliated.

Costs expected to be incurred by the IOUs for eligibility determination are expected to be minor.

Recipient Account Cap/Limit

Small Business California Climate Credit eligibility rules will be modified to limit credit aggregation and redirect those proceeds to remaining small business and residential climate credit recipients.

We implement the proposal of Energy Division Staff to cap Small Business California Climate Credit eligibility to recipients with fewer than 100 qualifying accounts under the existing criteria, as determined by the aggregated account count. Recipients with 100 or more eligible accounts under the existing Small Business California Climate Credit criteria are no longer eligible to receive the Small Business California Climate Credit on any account. In the case of businesses that operate across IOU territories, the cap applies to each IOU territory independently.

Appendix A contains additional detail on Energy Division Staff’s analysis in determining the appropriateness of this cap.

The Commission recognizes that this approach creates a crediting “cliff” after 99 accounts. A future rulemaking or other procedural forum is needed to build a record about whether different thresholds are needed for different sectors based on the typical electric set-ups of small businesses in different sectors.

Small and Multijurisdictional Investor Owned Utilities

California’s small and multijurisdictional investor owned electric utilities (SMJUs) are PacifiCorp (Pacific Power), Liberty Utilities (Liberty), and Bear Valley Electric Service (Bear Valley). Like the large IOUs, the SMJUs are required to distribute both the residential California Climate Credit and the Small Business California Climate Credit.

Energy Division Staff did not seek small business account data from the SMJUs. As a result this resolution does not include detailed impact analysis for the SMJUs regarding the proposed aggregation eligibility cap. Based on Energy Division Staff’s analysis of the three large IOUs, we find that the trend would be similar for the SMJUs given the three largest areas experiencing aggregation issues – telecommunications, homeowners associations, and city/county/state governmental agencies – can also be found within the service territories of the SMJUs. Accordingly, the less than 100 eligible account per recipient cap shall also be applied to SMJUs to determine small business eligibility for the climate credit.

Frequency of Eligibility Review

Businesses evolve and change over time. These changes may result in the opening or closure of utility accounts that could shift a business over or under any set account number eligibility threshold. As a result, IOUs should periodically revisit eligibility for the Small Business California Climate Credit.

In 2015, the Commission in Resolution E-4716 established attestation periods for CA Industry Assistance, the industrial analog to the Small Business California Climate Credit, as once-per-compliance period. Compliance periods are determined by CARB and typically span three years. We adopt the same frequency for Small Business California Climate Credit eligibility review for consistency. IOUs should at a minimum reexamine eligibility at the start of each CARB compliance period. IOUs may choose to reexamine eligibility more often if they desire. IOUs must provide a list of any eligibility changes to Energy Division resulting from an eligibility review via a Tier 1 advice letter within 60 days of a change in eligibility.

Implementation Timeline

The IOUs are directed to implement these eligibility changes as soon as possible after notifying impacted recipients (see following section) and no later than April 1, 2025. The account cap approach eliminates the need for IOUs to determine the nature of the business/economic sector for each recipient when making eligibility determinations and should result in a speedier process. Implementing eligibility in time for the October 2024 California Climate Credit distribution would direct approximately an additional \$11.1M to remaining eligible residential and small businesses recipients in a future California Climate Credit distribution.

IOUs may need to update tariffs if they include a description of the Small Business California Climate Credit or eligibility requirements in order to implement the changes in this resolution. Tariff changes can be made through the filing of a Tier 1 advice letter.

Notification of Ineligible Accounts

Small Business California Climate Credit recipients shall be notified of changes in crediting eligibility when the IOU makes an eligibility determination and in advance of when changes in the distribution of the Small Business California Climate Credit take effect. When the eligibility cap is first applied, some of the largest recipients may see a significant loss in the small business credit (see Table 2). Notification must include the eligibility threshold, the number of accounts determined by the utility to be aggregated, and contact information for a representative at the utility familiar with the Small Business California Climate Credit. Additionally, the outreach must include notice that, if requested, the utility will provide the account numbers or other appropriate identifying information of the accounts aggregated so that the recipient can, if they chose, verify that the accounts attributed to the customer are in fact affiliated to the same recipient.

IOUs may conduct other outreach related to the Small Business California Climate Credit if approved by Energy Division Staff through informal review. This may include outreach to customers nearing the eligibility threshold.

Costs associated with outreach to impacted recipients are expected to be minor.

Error Handling

If a recipient is denied the Small Business California Climate Credit due to an error by the IOU, the IOU must issue the recipient a corrected credit as soon as the error is resolved. The lookback period for error correction is limited to the current and prior CARB Cap-and-Trade Program compliance period.

Future Revisions to Eligibility Rules for Small Business

In order to prudently exercise authority over funds derived from the Cap-and-Trade Program and ensure that the program designed by the Commission comports with the legislative intent to credit small businesses, this resolution uses the authority provided in Conclusion of Law 9 in D.13-12-002 to make minor updates to the adopted small business greenhouse gas revenue allocation formula as necessary through a resolution process.

While these changes are welcome improvements, staff analysis identified numerous other opportunities for program improvement. The eligibility changes in this resolution take a first-do-no-harm approach. With greater input from stakeholders and a forum for discussion, the Commission may realize other ways to continue to improve the Small Business California Climate Credit while avoiding any adverse impacts to California's small businesses. The Commission may consider continued improvements to the Small Business California Climate credit including alternative methods for demonstrating eligibility, handling of independently owned-franchises, businesses which operate in multiple IOU territories, and other issues not addressed by this resolution when an appropriate procedural forum to receive input on these topics is available.

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 was placed on the Commission's agenda no earlier than 30 days from mailing.

On August 6, 2024 four parties filed comments on the draft resolution: all three large electric IOUs (PG&E, SCE, and SDG&E) as well as the California Farm Bureau. All three large IOUs agreed that the purpose of the resolution was to ensure the prudent use of allocated allowance auction proceeds. SCE and SDG&E noted that the proposed modifications would result in larger California Climate Credits for remaining residential and small business recipients. We address specific party comments below.

Implementing Methodological Changes

SCE commented that to effectuate changes proposed by the resolution, its tariffs would need to be updated as their tariff describes eligibility requirements for the Small Business California Climate Credit. To ensure that the changes to the Small Business California Climate Credit methodology can be executed as soon as possible, this resolution implements SCE's suggestion to include an ordering paragraph authorizing tariff sheet changes to implement the methodological changes to the Small Business California Climate Credit.

PG&E and SCE commented on the proposed timeline for implementing Small Business California Climate Credit methodological changes. PG&E does not support an October 2024 implementation due to the limited time available to notify customers in advance of any eligibility changes. SCE's comments note that the effective date in a Tier 1 advice letter filing for tariff sheet updates could be used to signal an April 2025 implementation. This resolution does not require an October 2024 implementation; it requires implementation by April 2025 at the latest. Accordingly, the Commission has not modified the implementation timeline. The Commission, however, urges IOUs to implement changes as soon as possible in order to direct a larger share of Cap-and-Trade program benefits to residential customers.

Identification of Associated Accounts

PG&E and SDG&E requested changes to the process used to identify and aggregate associated accounts. SDG&E's comments request flexibility, broadly, in identifying customers for purposes of account number determination. PG&E requested authority to identify customers based on an account's numeric ID, or "PERSON ID" as named by PG&E, rather than by account name. At their core, both SDG&E and PG&E are

concerned about variations in customer names between accounts. PG&E further commented that:

... the optimal method to identify customers may vary by IOU, and each IOU should be provided the flexibility to effectively identify customers impacted by the Final Resolution's eligibility changes.¹²

The Commission agrees with SDG&E's and PG&E's assessments. Furthermore, while the small and multijurisdictional investor-owned utilities (Bear Valley, Liberty, and PacifiCorp (Pacific Power)) did not comment, the Commission recognizes that they may have unique billing systems that may require individualized solutions, not discussed here, in order to optimally implement the intent of this resolution.

The resolution is amended to provide flexibility to IOUs in determining how to identify and aggregate small business customer accounts in order to harness all of the information at an IOUs disposal.

These changes also address the California Farm Bureau's concerns that farm accounts may be misidentified and incorrectly aggregated by allowing the IOUs to take the greatest advantage of the customer information available to them to correctly aggregate accounts. Additionally, the California Farm Bureau comments it is concerned that customers should remain eligible until they have had time to review a "...potential ineligibility notice and receive further detail from the IOU regarding their determination as well as an opportunity to protest their conclusions."¹³ The Commission agrees and clarifies that IOUs must notify customers of eligibility changes before implementing them. The Commission notes that the resolution already directs the IOUs to provide impacted recipients with the basis for an eligibility determination so that they can independently verify or protest the determination. Additionally, the resolution also requires IOUs to provide a list of eligibility changes to Energy Division so that staff can monitor eligibility changes and provide an additional level of oversight.

Lookback Period

The California Farm Bureau comments that the lookback period for error identification, currently provided as the current and prior Cap-and-Trade Program compliance period, is not aligned with Electric Rule 17.1, which provides a customer three years for identifying billing errors resulting in overcharges. The Commission declines to make

¹² Pacific Gas and Electric Comments on draft resolution E-5339 Page 3. August 6, 2024.

¹³ California Farm Bureau Comments on draft resolution E-5339 page 7. August 6, 2024.

any change and notes that the current CARB compliance periods are three years. Therefore, the lookback period for error correction defined by this resolution is somewhere between 3 and 6 years under current CARB Cap-and-Trade regulations.

An Eligibility Threshold Versus an Eligibility Cap

The California Farm Bureau commented they prefer a one hundred account eligibility maximum rather than an eligibility threshold. Under the California Farm Bureau's proposal, qualifying small business customers would remain eligible for up to one hundred Small Business California Climate Credits, but no more, regardless of the total number of eligible accounts associated with the customer. The California Farm Bureau is especially concerned for farms with a number of accounts just over the cap.

The Commission declines to make this change. The California Farm Bureau proposal is unduly punitive to remaining residential and commercial ratepayers. While the California Farm Bureau's comments correctly assert that Table 1 shows that the recipients identified as agriculture are small in number (14 across all three large IOUs) and do not receive a significant amount of the crediting currently going to recipients with over 100 eligible accounts, the proposal of the California Farm Bureau would have a significant effect because it would impact all sectors. According to Table 1, the California Farm Bureau proposal for a 100-credit limit would retain 38,700 eligible accounts across the remaining non-farm sectors for the benefit of only 14 agricultural entities.¹⁴ The credit value from those 38,700 accounts (approx. \$5.6M in 2024)¹⁵ would have been distributed to all remaining residential and small businesses California Climate Credit recipients under the existing proposal. \$5.6M represents nearly a quarter¹⁶ of the total 2024 annual estimated benefits to remaining customers from eligibility changes.

The Commission agrees that further refinement of the Small Business California Climate Credit methodology may be needed to address the wide variety of businesses, both farm and non-farm, that operate in California. As discussed below under "Future Workshops" the Commission awaits CARB's updated Cap-and-Trade Program regulations and will assess appropriate procedural vehicles to gather stakeholder input and may make further adjustments to all uses of electric and gas allocated allowance auctions proceeds at that time.

¹⁴ Based on the "Agriculture" and "≥ 100 Subtotal" lines in Table 1: $((180-13)+(177-1)+(44))*100 = 38,700$

¹⁵ PG&E+SCE+SDG&E: $((180-13)*\$55.17)+((177-1)*\$86)+((44)*\$78.22)*2*100 = \$5,558,214$

¹⁶ See Table 1, "≥ 100 total" of \$22.23M.

Future Workshops

PG&E's comments recommended informal workshops on matters related to the distribution of electric allowance proceeds, including California Climate Credit distribution timing. The Commission declines to order additional workshops at this time. The California Air Resources Board is currently in the process of amending Cap-and-Trade Regulations. Changes made by the California Air Resources Board to regulations may impact how the CPUC is able to distribute electric and gas allocated allowance auction proceeds. The Commission finds it is prudent to wait for finalized regulations from the California Air Resources Board in order to assess the best procedural vehicle and the scope needed to address potential future changes to the distribution of allocated allowance auction proceeds.

FINDINGS

1. For purposes of complying with Public Utilities Code section 748.5 the Commission established a per account usage-based definition of a small business in D.12-12-022 and D.13-12-002.
2. Small Business California Climate Credit aggregation occurs when one recipient benefits from multiple accounts that are each individually eligible for the Small Business California Climate Credit.
3. In early 2024 Energy Division Staff became aware that some recipients controlled significant amounts of accounts eligible for the Small Business California Climate Credit.
4. The total number of recipients with more than 100 eligible accounts is very small (401) relative to the total number of recipients of the Small Business California Climate Credit (532,510).
5. The total number of eligible accounts controlled by those 401 recipients (154,927) is a notable percentage of the total number of eligible accounts (1,117,105).
6. Reducing the number of accounts eligible for the Small Business California Climate Credit increases the value of the credit for the remaining small businesses and residential recipients.

7. The existing eligibility criteria are leading to outcomes that do not comport with the Legislature's apparent intent in SB 1018, defeat rather than promotes the statute's general purpose, and arrive at absurd consequences (such as a single small business recipient qualifying over 10,000 accounts).
8. Imposing a cap on the number of eligible accounts a recipient can benefit from is an option to limit aggregation that does not involve the creation of an attestation process to collect additional information on recipients.
9. IOUs have limited information on account owners. IOU systems differ from each other in the type and quantity of information available on customers.
10. IOUs should aggregate based on a reasonable method available to each IOU based on the information available to the IOU where it can be reasonably construed by the IOU that the businesses are affiliated.
11. An eligibility cap of less than 100 accounts is reasonable in that it impacts only a small number of recipients, while delivering tangible financial benefits to remaining recipients in the form of a larger credit.
12. An eligibility cap based solely on the number of accounts is less administratively burdensome than a cap based on economic sector or other qualifier.
13. Energy Division Staff do not believe there is any reason why the credit aggregation issues found in SMJUs customer bases would differ from those of the large IOUs to any significant degree as the three largest areas experiencing aggregation issues – telecommunications, homeowners associations, and city/county/state governmental agencies – can also be found within the service territories of the SMJUs.
14. SMJUs should also implement an eligibility cap identical to the large IOUs for the Small Business California Climate Credit.
15. Other credits funded from the same source as the Small Business Climate Credit require the IOUs to reexamine eligibility on set intervals.
16. CA Industry Assistance requires eligibility examination once per CARB Cap-and-Trade compliance period.
17. It is reasonable to require IOUs to notify Small Business California Climate Credit recipients of changes to eligibility requirements in advance of any eligibility changes going into effect.
18. As IOUs may make misattributions when aggregating accounts, customers should have the opportunity to examine which accounts were attributed to them.
19. IOU tariff sheets may describe the Small Business California Climate Credit.

THEREFORE IT IS ORDERED THAT:

1. IOUs will develop an aggregate count of Small Businesses California Climate Credit eligible accounts based on a reasonable method available to each IOU based on the information available to the IOU where it can be reasonably construed by the IOU that the businesses are affiliated.
2. Any recipient with 100 or more accounts in an IOU territory individually eligible for the Small Business California Climate Credit is ineligible to receive the Small Business California Climate Credit applied to any account in that territory.
3. The IOUs are directed to implement changes to eligibility for the Small Business California Climate Credit as soon as possible and no later than April 1, 2025 following notification to Small Business California Climate Credit recipients outlining changes to eligibility requirements.
4. Small Business California Climate Credit recipients should be notified of changes in eligibility when an IOU makes an eligibility determination and as far in advance prior to the distribution of the Small Business California Climate Credit as possible.
5. IOUs are directed to reassess eligibility at minimum at the start of each California Air Resources Board (CARB) Cap-and-Trade Program compliance period. IOUs may choose to reexamine eligibility more often if they desire. IOUs must provide a list of any eligibility changes to Energy Division resulting from an eligibility review via a Tier 1 Advice Letter within 60 days of a change in eligibility.
6. Customer outreach eligibility notifications must include the eligibility threshold, the number of accounts determined by the utility to be aggregated to the same recipient, and contact information for a representative at the utility familiar with the Small Business California Climate Credit. Additionally, the outreach must include notice that, if requested, the utility will provide the account numbers or other appropriate identifying information of the accounts aggregated so that the recipient can, if they chose, verify that the accounts attributed to the customer are in fact affiliated to the same recipient.
7. If a recipient misses a credit distribution due to an error by the IOU, the IOU must issue the recipient a corrected Small Business California Climate Credit as soon as the error is resolved. The lookback period for error correction is limited to the current and prior CARB Cap-and-Trade Program compliance period.
8. As needed IOUs may update their tariffs through a Tier 1 advice letter to change definitions related to the Small Business California Climate Credit or make other changes needed to comply with this Resolution.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 22, 2024; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

ALICE REYNOLDS
President

DARCIE HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
MATTHEW BAKER
Commissioners

APPENDIX A

Energy Division Staff Analysis in Support of the Cap Determination

Energy Division staff analyzed data from the large IOUs (PG&E, SCE, and SDG&E) on the Spring 2024 recipients of the Small Business California Climate Credit to determine an account cap that would:

1. “First do no harm”/Reduce Type 1 Error (False Positives). This cap selection seeks to avoid errors in which small businesses are rendered ineligible even if that means some large aggregators remain eligible for the time being.
2. Result in tangible benefits to remaining program recipients. The principal goal in acting quickly via resolution is to ensure that Cap-and-Trade Program benefits flow to the intended groups of ratepayers. The potential risk of a Type 1 error should be offset by material gain to remaining ratepayers.
3. Minimize administrative burden. Any solution must be implementable on a short timeframe by the IOUs in order to maximize the tangible benefits to ratepayers.
4. Maintain the legislative and Commission intent to credit small businesses.

Table 4, below, demonstrates that the 100 or more account eligibility cap is an appropriate threshold to balance the above criteria. The selected cap impacts a small number of recipients, 401 recipients (out of a total of more than 532K recipients, see Table 1).¹ While the exact number of impacted recipients may change when IOUs implement eligibility changes, the total number is expected to remain small. Maintaining a low number of impacted recipients reduces the number of opportunities for Type 1 error. Additionally, this threshold results in a tangible impact to ratepayers with an average total 2024 increase in Residential and Small Business California Climate Credit value of \$1.87. The construction of the cap is also administratively simple; IOUs do not have to gather any additional information about customers in order to determine eligibility. For example, governmental accounts are not small businesses, but an IOU distinguishing between the “Department of Parks and Recreation” and a hypothetical store called “The Parks Department” that sells outdoor gear could face an incredibly administratively complex situation. This problem is exacerbated given there are over half-a-million unique recipients across the three large IOUs. Implementing a number-only cap avoids this burden and associated room for error.

¹ The number of newly ineligible recipients is likely lower as the data submitted by the IOUs still contains many entries which could be reasonably assumed to be affiliated businesses. For example, “Business – West Bay,” “Business – Central Valley”, etc.

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In contrast, choosing a threshold lower than 100 accounts quickly ensnares significantly more recipients, greatly increasing the risk that some of these recipients are in fact small businesses. Lowering the cap does not also notably increase the benefit to remaining recipients. For example, reading Table 4, lowering the cap from 100 to 50 more than doubles the number of impacted recipients from 401 to 928 but only adds an additional \$0.44 (\$2.31-\$1.87) of benefit of remaining recipients.

Table 4: Recipients Impacted Under Various Cap Limits

2024 Spring Data

Cap - Max Number of Accounts	Marginal Impact			Cumulative Impact		
	\$ redistribute d	# Ineligible Recipients	\$/Ineligibl e Recipient	\$ redistribute d	# Ineligible Recipient s	Climate Credit Impact*
≥ 500	\$12,849,826	56	\$229,461	\$12,849,826	56	\$1.08
≥ 400	\$1,052,263	15	\$70,151	\$13,902,089	71	\$1.17
≥ 300	\$1,157,497	23	\$50,326	\$15,059,586	94	\$1.26
≥ 200	\$2,638,117	75	\$35,175	\$17,697,703	169	\$1.49
≥ 100	\$4,534,611	232	\$19,546	\$22,232,314	401	\$1.87
≥ 50	\$5,142,911	527	\$9,759	\$27,375,225	928	\$2.31
≥ 25	\$7,550,013	1,499	\$5,037	\$34,925,238	2427	\$2.96
≥ 10	\$14,087,248	6,714	\$2,098	\$49,012,486	9141	\$4.19

*Total for all of 2024, average across all three large IOUs. Impact larger for SCE/SDG&E customers than PG&E customers.

End of Appendix A