Date of Issuance: February 4, 2025

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-5366**
January 30, 2025

R E S O L U T I O N

Resolution E-5366. Guidance to rectify miscalculated budgets of Energy Efficiency Programs administered by Community Choice Aggregators.

PROPOSED OUTCOME:

- Finds the Community Choice Aggregators listed below made incorrect calculations of budgets for energy efficiency programs approved by Resolutions E-4518, E-4917, E-5050, E-5166, E-5197, E-5180, and E-5198, pursuant to Decision 14-01-033.
- Provides guidance to rectify the miscalculated budgets of the "elect to administer" energy efficiency programs administered by Lancaster Choice Energy (LCE), Redwood Coast Energy Authority (RCEA), San Jose Clean Energy (SJCE), Sonoma Clean Power Authority (SCP), Peninsula Clean Energy (PCE), Ava Community Energy (Ava), and CleanPowerSF (CPSF).

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this resolution.

ESTIMATED COST:

- Approximately $16,213,531 of unspent funds will be returned to bundled and unbundled customers in the PG&E service territory.

SUMMARY

Pursuant to D.14-01-033, three-year budgets for energy efficiency programs were approved for Lancaster Choice Energy (LCE), Redwood Coast Energy Authority (RCEA), San Jose Clean Energy (SJCE), Peninsula Clean Energy (PCE), Sonoma Clean Power Authority (SCP), Ava Community Energy (Ava)[1], and CleanPowerSF (CPSF)

[1] Ava Community Energy was previously East Bay Community Energy.

through resolutions between 2018 and 2022.[2] The CCAs included the total electrical public purpose program nonbypassable charge collections in their budget calculations, but later discovered that the amounts were overstated based on a misunderstanding by the CCAs of the calculation formula in D.14-01-033. The CCAs brought this calculation issue to staff's attention and sought guidance on the correct way to determine the budgets for their energy efficiency programs in August 2024.

The approved amounts for three-year periods were $1,174,976 for LCE, $1,896,704 for RCEA, $5,066,776 for SJCE, $4,678,563 for PCE, $3,074,682 for SCP, $13,463,049 for Ava, and $4,579,056 for CPSF. Using PG&E's eight-year average of annual electrical energy efficiency public purpose program nonbypassable charge collections in the formula, the correct amounts should have been $585,016, $788,099, $2,095,683, $1,934,586, $1,271,381, $5,568,488, and $1,893,957, respectively. Five of the seven CCAs have ended or will end their programs soon. They will return unspent funds. Two CCAs plan to continue for the remainder of their three years. This resolution takes no action on the expended funds for programs that were within the approved budgets, even if they were above the corrected budget; however, unspent funds above the corrected budget must be returned. The total to be returned to ratepayers is about $16 million.

In this resolution, the process is set for CCAs to file a Tier 1 advice letter for the return of unspent funds from an "elect to administer" program. If a CCA applies for a renewal of their program and wants to carry forward unspent funds, they must submit a Tier 3 renewal advice letter at least six months before their current program ends.[3] Furthermore, this resolution orders Ava to revert to the corrected budget, whereby there is $4,725,986 remaining. PCE must revert to the corrected budget, of $1,934,586, pro-rated for the remainder of their 3-year program, for a total amount of $322,431.

BACKGROUND

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 Section 381.1(a) and added subsections (d)-(g). Subsections (a)-(d) authorize a CCA to "apply" to administer cost-effective energy efficiency (EE) and conservation programs by "allow[ing] CCAs to access EE funds from, and provide EE programs to, both their customers and other

[2] Resolutions E-4917, E-5050, E-5166, E-5180, E-5197, E-5198, and E-5215.
[3] D.24-04-007, OP4.

utilities' customers."[4] 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 IOUs' applications to administer EE.[5] An alternative "elect" approach differs from the "apply" approach in that Section 381.1(e) and (f) expressly limits, for CCAs who "elect to administer," EE offerings to only customers who are served by the CCA. CCAs that pursue the "elect to administer" option do not need to file applications. Instead, they file their EE plans as Tier 3 ALs.[6]

In 2012, Marin Energy Authority (MEA; later changed to Marin Clean Energy (MCE)) became the first CCA authorized by the CPUC to administer an EE program using ratepayer funds. Resolution E-4518 approved the MEA EE program to be funded from nonbypassable charges (specifically, the Procurement Energy Efficiency Revenue Adjustment Mechanism and the Public Purpose Program Revenue Adjustment Mechanism).[7]

Several decisions have sought to clarify the funding sources for CCAs' EE programs. There is an added layer of complexity because the IOUs, not the CCAs, collect the nonbypassable charges from all customers, including those of the CCAs. D.14-01-033 clarified that CCAs can only use nonbypassable electrical revenues, as opposed to those charges for gas, to fund EE programs. D.14-01-033 provides the formula for a CCA to calculate its budget for a three-year EE program:

> CCA maximum funding = Total electricity energy efficiency nonbypassable charge collections from the CCA's customers - (total electricity EE nonbypassable 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).[8]

Energy efficiency is only a portion of the total nonbypassable charge collections. In addition to energy efficiency, the nonbypassable charges from ratepayers fund programs such as the Energy Savings Assistance Program and other programs that are outside of EE. These programs have changed over time, and they can change year to year, making it challenging to calculate collections intended for energy efficiency programs.

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[4] D.14-01-033, COL 4.
[5] D.14-01-033, OP2.
[6] D.14-01-033, OP6.
[7] Resolution E-4518 at 7, footnote 6.
[8] D.14-01-033 at 22.

Recognizing this challenge, D.14-01-033 directs the CCA to coordinate with the relevant IOU "to determine… the actual and forecasted amounts of nonbypassable charges likely to be collected from the CCA's Customers over a reasonable collection period to fund energy efficiency programs".[9]

Due to miscalculations, the approved three-year "elect to administer" EE budgets for the seven CCAs identified in this resolution were higher than they should have been. As a result, in the course of administering their programs, LCE, RCEA, PCE, SCP, and SJCE expended approximately $4,843,150 more than the energy efficiency portion of the actual nonbypassable charge collections from their retail customers. All of these CCAs have ended or will end their programs except PCE and Ava. All except RCEA have or will have unspent funds remaining from their approved budgets. LCE, whose EE program ran from 2018-2021, already returned $311,411 to SCE, which, in turn, returned the funds to ratepayers in 2021. In total, as set forth in this resolution, approximately $16,213,531 of unspent funds will be returned to ratepayers as follows:

- PCE: $893,217
- SCP[10]: $743,324
- SJCE[11]: $2,103,373
- Ava: $7,894,561
- CPSF: $4,579,056

This resolution clarifies the process for the return of unspent funds from a CCA that is ending its "elect to administer" program, which we previously described in D.14-01-033:

> If a CCA has money left over after a portfolio cycle, it must either use that money in the next cycle, or give it back to the relevant IOU. If returned, then the IOU must then return the funds to ratepayers. If not returned, however, treatment of the carry-forward by the CCA should be symmetric with how an IOU treats it analogous carry-forwards. i.e., if an IOU would decrease its revenue requirement to account for a carry forward of funds for programs it administers, it could do so for a CCA remittance too.

[9] D.14-01-033 at 22-23.

[10] The amount for SCP to return will be determined upon submittal of their 2024 Annual Report and might vary from this amount.

[11] The amount for SJCE to return will be determined upon submittal their 2024 Annual Report and might vary from this amount.

> We are not prescribing any particular formula, timing, or process here, just establishing a general guideline. Exactly how this plays out is something we will have to resolve in practice.[12]

NOTICE

Notice of this proposed resolution was made by publication in the Commission's Daily Calendar.

DISCUSSION

The Elect to Administer Pathway

Public Utilities Code Section 381.1 (e) set out to describe the funding mechanism for Community Choice Aggregators electing to administer energy efficiency programs. The statute reads: "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 nonbypassable 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." Pursuant to Commission Decision (D.) 14-01-033, Community Choice Aggregators (CCAs) can elect to administer an energy efficiency program using the electrical energy efficiency nonbypassable charge collections from their customers.

D.14-01-033 directs the CCA to coordinate with the relevant investor-owned utility (IOU) "to determine… the actual and forecasted amounts of nonbypassable charges likely to be collected from the CCA's Customers over a reasonable collection period to fund energy efficiency programs".[13] There can be much variation in the amount collected from year to year, and there is ambiguity in which nonbypassable charge collections are for energy efficiency.

Past and Current Budget Calculations

In August 2024, RCEA, PCE, SCP, SJCE, and Ava notified Energy Division staff that they had miscalculated their elect to administer EE program budgets when they filed advice letters for their elect to administer EE programs. Those programs and budgets, as well as those of LCE and CPSF, were authorized by Resolutions E-4518, E-4917,

[12] D.14-01-033 at 39.
[13] D.140-01-033 at 22-23.

E-5050, E-5166, E-5197, E-5180, and E-5198, which ordered the IOU to transfer the approved budget to the CCA. Instead of using only the portion of electrical public purpose program nonbypassable charge collections set aside for energy efficiency programs, CCAs used the total electrical public purpose program nonbypassable charges in their calculations. The elements to calculate the energy efficiency portion are variable from year to year, and the percentage of the total collections can vary greatly, for example, from 16% to 70% over the period 2017-2024 (Table 1).

Table 1. PG&E's annual percentage of electrical public purpose program nonbypassable charge collection revenue requirements for EE 2017-2024[14]

Year	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**Average**
EE	70%	67%	59%	31%	16%	26%	38%	23%	**41%**

For this instance, we use the annual average from the years 2017-2024 of 41% to recalculate the electrical energy efficiency nonbypassble charge collections (Table 2). As a result of this recalculation, the CCAs must revert to the corrected budgets for the remainder of their three-year EE programs, if applicable. Finally, since the recalculated budgets result in a net return to ratepayers of unspent funds and are within the approved budgets, we determine that no action needs be taken on expended funds, and expended funds that have exceeded the recalculated budgets do not need to be returned.

Table 2. Budget recalculations based on PG&E's electrical energy efficiency nonbypassable charge collections

CCA	**Electrical nonbypassable charge collections for the CCA's customers**	**IOU collections not dedicated to statewide or regional programs**	**PG&E's annual average collections for EE**	**Recalculated budget**
LCE	$23,979,513	5.90%	41.35%[a]	$585,016
RCEA	$21,658,209	8.80%	41.35%	$788,099
SJCE	$150,390,416	3.37%	41.35%	$2,095,683
PCE	$138,829,770	3.37%	41.35%	$1,934,586

[14] Based on the revenue requirements listed in PG&E's electric true-ups (PG&E ALs 5135-E, 5231-E, 5376-E-A, 5661-E, 6004-E-C, 6408-E-B, 6805-E, and 7116-E).

SCP	$91,236,849	3.37%	41.35%	$1,271,381
Ava	$399,605,862	3.37%	41.35%	$5,568,488
CPSF	$135,914,150	3.37%	41.35%	$1,893,957
Total				**$14,137,209**
[a] LCE is in Southern California Edison's (SCE's) territory. The annual average for SCE is approximated based on the PG&E average for illustrative purposes.				

In a comment letter to the draft resolution, PG&E requests that the correct budgets for the past and current elect to administer EE programs be based on the specific year that aligns with the timing of the CCA's advice letter. This would reduce the corrected budgets for all the elect to administer CCAs except RCEA, which elected to administer in a year with a higher percentage of funds than the average forecast for EE. The Commission disagrees with PG&E because the wide variance of percentages used in the calculation (see Table 1) have led to much uncertainty in the budget calculation formula. The staff-initiated draft resolution set out to correct the elect to administer CCA budgets because it was brought to our attention that the approved budgets included monies from the nonbypassable charge collections that are intended to be used for programs that are not energy efficiency, and the CCAs asked for guidance from CPUC on the correct elements to include in the calculation formula. The Commission believes that absent another method for budget calculations, taking the average of the 8-year period is reasonable.

Unspent funds

Two CCAs, LCE and RCEA, have completed and closed their three-year programs. Four of the five remaining CCAs have spent a portion of their budgets. Two would like to continue operation: PCE and Ava. SCP and SJCE are wrapping up this year and do not plan to have any additional claims. As pointed out in the comment letter from SJCE, the amount of funds remaining for SJCE and SCP will be determined in their 2024 Annual Reports, which have not been filed yet. CPSF has not expended any of its budget.[15]

Several options were considered to correct the spending in excess of the re-calculated budgets (Table 3). If the CCAs were ordered to repay the amount spent above the corrected budgets, these funds would have to come from some other source, for example, the CCA's generation funds which are paid by their customers. Also,

[15] CPSF filed a Tier 3 advice letter, CPSF AL 34-E, on December 6, 2024.

requiring repayment could likely prevent a CCA from having funds to administer EE programs for years to come.

Table 3. Unspent funds to be returned to ratepayers

CCA	Commission authorized budget	Re-calculated budget	Spent funds	Return to ratepayers
LCE	$1,174,976	$585,016	$863,535	$311,441[a]
RCEA	$1,896,705	$788,099	$1,896,704	$0
SJCE	$5,066,776	$2,095,683	$2,963,403[b]	$2,103,373[c]
PCE	$4,678,563	$1,934,586	$3,462,915	$893,217
SCP	$3,074,682	$1,271,381	$2,331,358[b]	$743,324[c]
Ava	$13,463,049	$5,568,488	$956,043	$7,894,561
CPSF	$4,579,056	$1,893,957	$0	$4,579,056
Total	**$33,933,807**	**$14,137,209**	**$12,473,958**	**$16,524,972**

[a] LCE returned unspent funds to SCE in 2021.
[b] Placeholders for SJCE and SCP are based on monthly reporting of expenditures in CEDARS.
[c] Exact amounts for SJCE and SCP will be determined upon their true-ups of 2024 expenditures in their 2024 Annual Reports.

A consideration is that the EE programs were approved with the intention of achieving Total Resource Cost (TRC) goals. Due to normal challenges in the initial phase of implementation of EE programs it is typical to see goal attainment on the tail end of the program. Reduction in funding for PCE, SCP, SJCE, and Ava towards the end of their timeframe could prevent them from reaching those goals. Nevertheless, the Commission finds it appropriate to correct the budgets for continuing programs.
This resolution directs Ava and PCE to revert to the corrected budget if they wish to continue their three-year programs. Ava has $4,725,986 remaining of the corrected budget amount. PCE's corrected budget of $1,934,586 has already been spent, although the amount spent is less than the budget approved in Resolution PCE E-5197. Therefore, this resolution pro-rates PCE's corrected budget for the remainder of their 3-year program for an amount of $322,431 above the corrected budget. A consideration for these ongoing EE programs is that implementation contracts are in place. Reducing funding for these CCAs could impact those contracts. Nevertheless, as stated above, the Commission finds it appropriate to correct the budgets for continuing programs.

<u>Future energy efficiency elect to administer budget calculations</u>
This resolution does not address the formula for calculating budgets that have not yet been approved. The methodology presented in this resolution is intended for the purpose of the existing EE elect to administer programs and is not meant to be used for future EE elect to administer programs.

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 placed on the Commission's agenda no later than 30 days prior to a vote of the Commission.

Five parties filed comments: CalChoice, CPSF, PCE, PG&E, and SJCE. PG&E commented regarding the method used to recalculate the ETA EE program budgets, but we make no changes to the Resolution based on the comment because of the wide variance of percentages used in the calculation that have led to much uncertainty in the budget calculation formula, which this Resolution sets out to rectify. SJCE filed a comment regarding the possibility of a need to adjust the final amount of unspent funds based on the true-up of expenditures in the 2024 Annual Reports for SJCE and SCP. We also make a few edits to the Resolution for clarity.

FINDINGS

1. Resolutions E-4917, E-5050, E-5166, E-5180, E-5197, E-5198, and E-5215 approved energy efficiency program budgets for Lancaster Choice Energy (LCE), Redwood Coast Energy Authority (RCEA), San Jose Clean Energy (SJCE), Peninsula Clean Energy (PCE), Sonoma Clean Power Authority (SCP), Ava Community Energy (Ava) , and CleanPowerSF (CPSF).

2. In August 2024, RCEA, PCE, SCP, SJCE, and Ava notified Energy Division staff that they had miscalculated their elect to administer EE program budgets when they filed advice letters for their elect to administer EE programs.

3. Energy Division staff used Pacific Gas and Electric Company's (PG&E's) annual average of 41% of electrical EE nonbypassable charge collections from the years 2017-2024 to recalculate budgets for their EE programs. Use of PG&E's annual average for purposes of recalculating budgets in this resolution, and use of other elements shown in Table 2, is not intended to set a formula or methodology for the calculation of future Energy Efficiency elect to administer program budgets.

4. It is reasonable to require a return of unspent funds to ratepayers beyond corrected budget amounts.

5. It is reasonable to not require that spent funds be returned.

THEREFORE IT IS ORDERED THAT:

1. Ava Community Energy shall return $7,894,561 to Pacific Gas & Electric (PG&E) ratepayers.

2. Peninsula Clean Energy shall return $893,217 to PG&E ratepayers.

3. Sonoma Clean Power Authority shall return unspent funds, as determined by their 2024 Annual Report, to PG&E ratepayers.

4. San Jose Clean Energy shall return unspent funds, as determined by their 2024 Annual Report, to PG&E ratepayers.

5. CleanPowerSF shall return $4,579,056 to PG&E ratepayers.

6. A Community Choice Aggregator must file a Tier 1 advice letter and notice the service list when they return unspent funds to the IOU, and the corresponding IOU shall return the funds to ratepayers.

7. Ava Community Energy may expend up to the corrected budget amount of $5,568,488.

8. Peninsula Clean Energy may expend an additional amount of $322,431 for the remaining time in their three-year program, which is the corrected budget of $1,934,586 pro-rated for six months.

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 January 30, 2025, 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