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Energy Division Tariff
California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
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Re: PG&E's Comments on Draft Resolution E-4518

Pacific Gas and Electric Company ("PG&E") submits the following comments on Draft Resolution E-4518 ("Draft Resolution"). The Draft Resolution would approve Marin Energy Authority's ("MEA's") 2012 Energy Efficiency ("EE") Program Administration Plan ("MEA Plan").

MEA requests up to $428,270 in ratepayer EE funds to conduct a five-month program from August through December, 2012, including approximately $125,000 to provide direct financial EE incentives (primarily new refrigerators, kitchen appliances and lighting retrofits) for 50 units of low-income multi-family housing occupied by MEA customers. MEA also requests approximately $300,000 for planning, overhead, installation, marketing and contractor costs.[1] The Draft Resolution concludes that MEA's 5-month EE program will not be cost-effective, with a Total Resource Cost (TRC) result of 0.82 and a Program Administrator Cost (PAC) result of 1.73. MEA forecasts that its Plan will achieve a reduction of 719,474 kWh and 45 kW of peak demand savings during the period August- December, 2012.

1. The Draft Resolution fails to take into account that statutory funding for EE programs under Public Utilities Code Section 399.8(c) has expired and therefore there are no EE funds available for MEA to elect to administer under Public Utilities Code Sections 381 and 381.1.

As a threshold matter, the Draft Resolution fails to take into account that the statutory authorization of funds subject to "election" by CCAs under Public Utilities Code Section 381.1(f) has expired. Sections 381(c) and 381.1(a), (e) and (f) reference EE funds authorized under the "public goods charge" ("PGC") authorized to be collected under Section 399.8(c). However, the PGC expired by its own terms on January 1, 2012, and thus PG&E is no longer collecting any PGC or EE funds that are subject to "election" by CCAs under Sections 381.1(e) and (f).[2]

However, CCAs are eligible to apply to administer EE funds and programs beginning 2013- 2014 under the same criteria applicable to Regional Energy Networks (RENs) in pending R.09-11-014, as outlined in the June 20, 2012, ALJ Ruling and consolidated in A.12-07-001 et al in the ALJ ruling dated July 13, 2012. MEA filed its 2013- 2014 EE proposal for consideration in R.09-11-014 and A.12-07-001 on July 16, 2012. For these reasons, the Draft Resolution should reject the MEA Plan without prejudice to Commission consideration of MEA's 2013- 2014 EE proposal in the pending R.09-11-014 and A.12-07-001 consolidated proceeding.

2. The Draft Resolution fails to take into account that Public Utilities Code Section 327 prohibits third-parties from administering low-income energy efficiency programs.

[1] 15% of staff time associated with MEA's 2012 program funding will be associated with planning for MEA's 2013 EE program, which has not been approved by the Commission.
[2] D.11-12-038, December 15, 2011.

Public Utilities Code Section 327(a) requires that investor-owned utilities administer low-income energy efficiency programs, and prohibits third parties such as MEA from administering such programs.[3] Contrary to this prohibition, MEA proposes to administer a program that would treat 50 units in low income housing in 2012 at a total program cost of $8,500/home. If only the direct incentive portion of the budget is considered, the cost per home would be $2,500. PG&E's spending Energy Savings Assistance program for 2012-2014 proposed a program budget of $487,992,000 to treat 375,000 low income homes, an all-in cost of about $1300 per home treated. Although PG&E has had little time to review MEA's proposal, it appears to provide a considerably higher incentive per home than would be offered to low income customers in the rest of PG&E's service area. This lack of coordination and consistency is a reason why Section 327 requires utility administration of low-income energy efficiency programs.

3. The Draft Resolution raises issues of procedural due process, prejudgment and unfairness to utility customers, alternative EE providers, and PG&E.

MEA submitted its EE Plan for 2012 to the Energy Division on June 22, 2012 and served it the same day on the R.09-11-014 service list, only two days after an ALJ Ruling in R.09-11-014 requesting comments by August 10 and 17, 2012 from interested parties on the specific procedures and funding formulas the Commission should adopt for evaluating CCA EE plans such as the MEA Plan.

The ALJ Ruling referenced prior Commission proceedings on CCA administration of EE programs, and suggested that CCA proposals such as the MEA Plan should be submitted at the same time as utility EE applications, "to facilitate concurrent review and assist the Commission in making various determinations required by [Public Utilities Code] section 381.1." The ALJ Ruling then, without explanation, stated that CCAs such as MEA wishing to elect to administer EE programs for 2012 or 2013-2014 funding, should send their request to the Energy Division, rather than filing it in the ongoing R.09-11-014 proceeding where other third-party and local government EE proposals are being considered.

The Energy Division did not request public comments on the MEA Plan, but instead issued the Draft Resolution on July 3, 2012. The Draft Resolution also disclosed for the first time that MEA had submitted an earlier multi-year EE Plan to Energy Division on February 3, 2012 without service or notice to interested parties and that Energy Division had been advising MEA in non-public meetings on the content of its multi-year Plan since that time. No notice to interested parties was provided for MEA's February 3, 2012, EE Plan or its subsequent interactions with Energy Division, either in R.09-11-014 or in the CCA docket where SB 790 implementation issues are being considered by the Commission.

Finally, notwithstanding that the Commission's overall approach to coordination of local government and CCA proposals for EE administration is being considered in R.09-11-014 and A.12-07-001 et al, including a formal request for comments on the procedures the Commission should adopt for CCA administration of EE programs under SB 790, the Draft Resolution is scheduled for consideration by the full Commission on August 2, 2012, more than two weeks before the Commission receives comments on what procedures it should use to consider plans such as the MEA Plan.

The Draft Resolution's rush to approve a sole-source grant of EE funds to MEA, before the Commission adopts its procedures for evaluating such sole-source proposals, is troubling. No matter how meritorious MEA's EE Plan ultimately may prove to be, the Commission has yet to determine the criteria to apply in order to evaluate CCA EE plans concurrently with other local government EE proposals. Just as importantly, when the Commission evaluated SB 790, it opposed the bill unless it was amended to ensure that the CPUC retains sufficient oversight authority over CCA-administered EE programs such as the MEA Plan.[4] As enacted, SB 790 includes the following specific statutory criteria:

[3] Public Utilities Code Section 327(a); see also, D.05-01-055, January 27, 2005, p.36.
[4] Memorandum, CPUC Office of Governmental Affairs to Comm SB 790 (Leno) – Electricity: community

(1) A requirement that the Commission establish an "impartial process" for reviewing a CCA's election to administer an EE program (Public Utilities Code Section 381.1(d) and (e));

(2) A requirement that the amount of funds allocated to a CCA EE plan exclude "funds collected for broader statewide and regional [EE] programs authorized by the Commission (Section 381.1(e)); and

(3) Commission discretion to review and not certify the CCA EE plan if it does not meet certain statutory criteria, including, inter alia, demonstrating that the CCA EE plan includes audit and reporting requirements consistent with those established by the Commission for all third party EE administrators under Section 381.1 and "performance metrics" to determine if the CCA has achieved the statutory performance criteria for CCA EE plans (Section 381.1(f)(4) and (6); (g)).

The Draft Resolution appears to ignore these key Commission goals and requirements:

- The Draft Resolution would approve MEA's EE Plan prior to the Commission establishing an "impartial process" for evaluating and considering CCA EE plans;
- The Draft Resolution would approve MEA's EE Plan even though the Commission has not found that the Plan "Is consistent with the goals of the [other EE] programs established pursuant to [Section 381.1] and Section 399.4" and the Commission has not determined that the Plan is "maximizing cost-effective electricity savings and related benefits."
- The Draft Resolution would approve MEA's EE Plan without reserving any enforcement ability by the Commission to directly audit or evaluate, measure and verify that the Plan actually achieves the results it commits to achieve, particularly as compared to other alternative providers of EE programs and services.

PG&E recommends that the Commission defer consideration of the MEA EE Plan until the Commission has determined its overall process for considering and coordinating local government proposals for EE funding in R.09-11-014 and A.12-07-001 et al, including MEA's 2013- 2014 EE proposal under Public Utilities Code Section 381.1 as provided in the ALJ's June 20, 2012, ruling requesting comments. This would ensure that the Commission has the ability to coordinate EE planning for statewide, regional and local programs, while at the same time not prejudging the merits of MEA's 2013- 2014 EE Plan.

4. The Draft Resolution would approve an EE program and funding level proposed by MEA that do not meet the statutory criteria for approval and ongoing CPUC oversight of the performance of such a program under the Public Utilities Code and recently enacted Senate Bill (SB) 790.

The rushed review of MEA's 2012 EE Plan also appears to have resulted in several errors in the Draft Resolution's review of the Plan. These errors are discussed below.

A. State and Regional Funds Calculation Error

The Draft Resolution indicates that 15% of PG&E's 2010-2012 energy efficiency portfolio funding that is not supporting statewide or regional programs, and therefore recommends that MEA be allocated 15% of its customers' energy efficiency collections.[5] As discussed below, the Draft Resolution errs in classifying some programs as not statewide or regional. The correct calculation indicates that 10% of PG&E's 2010-2012 portfolio funding does not support statewide or regional programs.

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choice aggregation. As amended: May 11, 2011 and May 23, 2011, pp. 4- 5.

[5] Draft Resolution, at p. 10.

Specifically, PG&E's ZNE pilots and local demand side management coordination and integration programs are regional programs in accordance with the ALJ's June 20, 2012, ruling.[6] PG&E offers these programs throughout its service territory without geographic limitation. Therefore, the Draft Resolution's calculation in Appendix C should exclude an additional $12.1 million from the "not statewide or regional" classification.

Additionally, the Draft Resolution classifies $55 million of PG&E's third party program funding as not statewide or regional.[7] The Draft Resolution erroneously identifies these programs as being offered in specific geographic areas and not across the PG&E service territory. All of PG&Es' non-government third party implemented programs are regional programs. The non-government program implementers offer their services across the entire PG&E service territory and are only limited at the request of a local government partnership to reduce confusion, avoid duplication and increase funding efficiencies. These programs are competitively bid, and by their nature provide services to fill technology, geographic or other gaps in the energy efficiency portfolio in order to meet customer needs. Categorizing all third party programs as "regional" is consistent with the Commission's requirement that these entities should work in collaboration with the IOUs and local governments while still being able to offer their services throughout PG&E's service territory, as needed.[8]

The Draft Resolution also erroneously calculates MEA's 2012 share of funds as based on the period February 3, 2012 through December, 2012, rather than the August through December, 2012, time period covered by MEA's 2012 program and subsequent to the Commission's expected approval of the program. The Draft Resolution reasons that this "back-dating" of MEA's share of EE funds is reasonable because MEA filed an EE Plan in February and MEA should not be responsible for the subsequent changes in the EE Plan. However, MEA did not file or serve its 2012 EE Plan until June 22, and its February plan covered the period 2012- 2015 and was never served on interested parties and in any event primarily covered other EE programs and activities intended for the 2013- 2015 period, not 2012 alone.

As a result of correcting these three errors, the Draft Resolution should reduce MEA's EE funding allocation from 15% to 10% and should apply that calculation to the months August- December, 2012 rather than February- December. The correct calculation is $186,180 for the period August-December, 2012, rather than $403,744 as proposed by the Draft Resolution.[9]

B. Evaluation, Measurement and Verification of Savings Error

MEA's Plan lays out its own methods of accounting for the energy reductions attributable to their program, rather than indicating that MEA will utilize the Evaluation, Measurement and Verification (EM&V) protocols specified and used by the CPUC's Energy Division for evaluating EE savings. The Draft Resolution erroneously approves MEA's performance protocols without any justification by MEA for departing from the CPUC's EM&V protocols. The Draft Resolution should be corrected to require MEA's energy efficiency savings to be evaluated using the same CPUC EM&V requirements that apply to other EE programs. Specifically, for all deemed measures, MEA should utilize established 2011 DEER v4.0 values exactly as exported from 2011 DEER v4.0 and further adjusted for all CPUC applied factors, including Gross Service Installation Adjustments (GSIA), Net To Gross adjustment factors (NTG), and Installation Rate adjustment factors (IR). MEA should use the values associated with the relevant climate zone and should include all interactive effects associated with the measures according to the CPUC's EM&V protocols. For all deemed measures not included in the current DEER

[6] These programs were called "local" in PG&E's Application 09-07-031 as they were offered in PG&E service territory only and were not statewide program offerings.
[7] Draft Resolution, Appendix C
[8] Commission Decision 12-05-015, at p. 154
[9] In addition to erroneously using the period prior to MEA's June 22 submittal to measure MEA's funding sha the Draft Resolution also erroneously would allocate an additional $25,000 to MEA over and above the 15% amount.

database, MEA should use either CPUC-approved workpaper values or submit their own non-DEER workpapers to the Energy Division for approval prior to use.

C. The Draft Resolution Errs in Approving MEA's Plan Without Details on How MEA will Verify Eligibility and Avoid Duplication

The Draft Resolution approves MEA's Plan, even though it is unclear how MEA will avoid duplication of existing efforts or verify eligibility of customers. Verification of customer eligibility is necessary to e that MEA is only serving its own customers and that customers have not already been treated by PG&E's Energy Savings Assistance program. The Draft Resolution should be revised to require more information on how MEA plans to verify the eligibility of the 50 units referenced in the MEA Plan[10] that MEA verify and document eligibility and non-duplication prior to beginning its program in August.

5. If Adopted, PG&E Requests Changes to the Payment Schedule

The Draft Resolution adopts a payment schedule that requires PG&E to make payments to MEA for its customer collections between the 9th and 11th of the month following the collection month. If the Draft Resolution is approved, the payment schedule should be revised to allow PG&E to make payments by the end of the month. The payments will be determined from monthly customer usage by rate schedule through a manual process completed after PG&E's monthly accounting close. The payment schedule per the Draft Resolution makes the payments due at about the same time as the monthly close. PG&E requests that the draft Resolution be revised to make the MEA payments due by the end of the month to allow additional time for PG&E to process these manual transactions.

6. Conclusion

PG&E respectfully requests that the Draft Resolution be revised for the reasons discussed above, without prejudice to consideration of MEA's 2013- 2014 EE proposal in R.09-11-014.

Very truly yours,

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cc: President Michael R. Peevey
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Service List for Draft Resolution E-4518 (R.09-11-014, R.03-10-003)

[10] MEA Plan, p. 6