PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

December 15, 2020

Alice Havenar-Daughton
Director of Customer Programs
Marin Clean Energy
1125 Tamalpais Ave
San Rafael CA, 94901

Jana Kopyciok-Lande
Senior Policy Analyst
Marin Clean Energy
1125 Tamalpais Ave
San Rafael CA, 94901

Dear Ms. Havenar-Daughton and Ms. Kopyciok-Lande:

Energy Division rejects Marin Clean Energy's (MCE) Annual Budget Advice Letter (ABAL) 45-E, pursuant to the ABAL review criteria laid out in Decision (D.) 18-05-041, which addressed the energy efficiency business plans, but for reasons explained herein, we approve MCE's proposed budget request of $7,563,643 for 2021 to administer energy efficiency programs.

MCE's ABAL is rejected because it failed to meet its savings targets[1] from its 2019 "true-up" ABAL.[2] However, the Assigned Commissioner and Administrative Law Judges' Amended Scoping Ruling Addressing Impacts of COVID-19 (July Ruling) acknowledged that program administrators (PAs) face a significantly changed landscape in 2020 and asked the PAs to include "accurate and good faith estimates of energy efficiency costs and benefits, as well as budgets, that are necessary to address the current goals and strategies" in their respective program year 2021 ABAL.

The July Ruling also stated that "the 2021 and 2022 ABALs will serve a narrower purpose, to notify the Commission and stakeholders of the budget and cost recovery requests and expenditures that each PA forecasts for 2021 and 2022…and be reviewed or approved or modified by Commission staff disposition or resolution, whether or not it meets all of the criteria laid originally laid out in D. 18-05-041."[3] This narrower purpose allows for energy efficiency program activity to continue in advance of and throughout the new business plan applications to be filed by all PAs in September 2021, as called for in the July Ruling.[4]

Consequently, much like how D. 19-08-034 granted California Public Utilities Commission (CPUC) staff the authority to approve annual budgets for energy efficiency PA's ABAL which are aligned

[1] See MCE ABAL 45-E: Table 1: MCE Forecasted 2021 Budget, Cost-Effectiveness, and Savings (Net) which notes that MCE does not forecast achieving its demand or therm goals from its program year 2019 ABAL.
[2] D.19-08-034, p. 28, states "Because RENs and CCAs do not have explicit energy efficiency savings goals as the IOUs do (through this decision), for each year that non-IOU program administrators request energy efficiency funding authorization via an ABAL, they shall meet or exceed the annual savings forecasts presented in their true-up tables as submitted in their PY 2019 ABALs (and subsequently approved in Energy Division's advice letter dispositions)."
[3] See Ruling, p. 9, at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M342/K189/342189331.PDF
[4] Ibid.

with the new energy savings goals or targets even in the event that a PA's ABAL is rejected, we rely here on the July Ruling to approve MCE's spending budget and cost recovery request.

Accordingly, MCE's total spending budget request of $7,563,643 for 2021 to administer energy efficiency programs, effective January 1, 2021, is approved.[5]

Lastly, on September 30, 2020, the Governor signed AB 841, authorizing energy efficiency portfolio funding for the Schools Energy Efficiency Stimulus Program (SEESP) beginning in year 2021. Subsequently, on October 7, 2020, the CPUC issued a ruling in Rulemaking 13-11-005 seeking comments on the budget for the SEESP, indicating that the CPUC will decide through the formal proceeding AB 841 related budget issues. Given this, Energy Division will not delay authorization of the 2021 ABALs while the CPUC determines additional guidance on the SEESP budget pursuant to AB 841.

1. Background

On September 1, 2020, MCE filed its Annual Budget Advice Letter (ABAL) 45-E. On October 1, 2020, the Public Advocates Office at the CPUC (Cal Advocates) and the Small Business Utility Advocates (SBUA) each filed their respective protests of MCE's ABAL 45-E. On October 8, 2020, MCE filed its response to Cal Advocates and SBUA protests of ABAL 45-E.

2. Cal Advocates Protest and MCE Reply Comments

Cal Advocates' protest included three items directed at MCE's 2021 ABAL that ask the CPUC to:

- Require MCE file supplemental ABALs substantiating its cost effectiveness forecast and to ensure that its portfolios will be cost-effective on an evaluated basis, pursuant to D.18-05-041.
- Mandate that all PAs improve cost-effectiveness and reduce risk in their portfolios to respond to COVID-19-related uncertainties, including:
    - Requiring PAs to reduce spending on sectors with low cost-effectiveness; and
    - Requiring PAs to reallocate this spending to the Residential sector.
- Require PAs to standardize their accounting and reporting practices for unspent, uncommitted funds.

2.1. Substantiate Forecast due to Persistent Underperformance

In their protest filed on October 1, 2020, Cal Advocates pointed out that in recent years MCE's forecasted energy savings and cost-effectiveness in its ABALs have been significantly higher than its eventual claims.[6] Based on the historic underperformance of MCE's portfolio, Cal Advocates believes that it is unreasonable for the CPUC to approve its 2021 ABAL as filed.[7] Cal Advocates requested that the CPUC reject MCE's portfolio and require them to file a supplemental ABAL

---

[5] MCEs total proposed spending budget for 2021 is $7,563,643, less unspent and uncommitted funds from 2020 and prior of $4,000,000 resulting in a total budget recovery request of $3,563,643.
[6] See *The Public Advocates Office's Protest of Energy Efficiency Annual Budget Advice Letters for Program Year 2021* (Cal Advocates Protest), September 1, 2020, Pp. 4-5.
[7] See Cal Advocates Protest, p. 5.

justifying its forecasts and modifying its portfolio to better support long-term cost effectiveness. Finally, they requested that the supplemental ABAL should have a new protest period of 20 days.[8]

In its reply, MCE stated that the primary reason that MCE has fallen short in the past years of realizing its forecasted savings is because MCE has been in the process of significantly ramping up both existing and new programs.[9] MCE added that its 2021 ABAL sets forth multiple strategies to increase cost-effectiveness in 2021, including ramping up of current programs, the adoption of advanced implementation strategies, including the use of advanced metering infrastructure (AMI) for targeting and optimizing program delivery and accountability, and increasing the deployment of Strategic Energy Management (SEM) and Behavior, Retrocommissioning and Operational (BROs) programs.[10] MCE added that this is the first year that it will not be launching a new program or programs, which requires a lot of upfront investment and lowers a PA's TRC.[11] MCE concluded that Cal Advocates contention that MCE's forecast for 2021 is not credible rests on the false assumption that past performance dictates future performance and adds that since the adoption of D.18-05-041, MCE has launched five new programs in 2019 and 2020 that it believes will generate cost-effective energy savings.[12]

Finally, MCE opposed the suggestion by Cal Advocates that the CPUC should reject its ABAL and require a supplemental ABAL justifying its forecasts and modifying its portfolio. MCE pointed to Energy Division's non-standard disposition of its 2020 ABAL, which stated in response to a similar protest by Cal Advocates that "having doubts about a program or portfolio's ability to achieve forecasted savings or cost effectiveness is not grounds for rejecting an ABAL per D.18-05-041."[13] MCE added that it has fully substantiated its forecasts for its 2021 ABAL and documented the strategies and steps it is taking to improve its portfolio cost-effectiveness and thus there is no need for a supplemental.[14]

Discussion

Energy Division agrees with Cal Advocates that MCE has struggled in the past to achieve its forecasted claims in its ABALs. However, we do not find that MCE's past struggles are a good indicator of MCE's performance in 2021 for the following reasons. First, before the CPUC adopted MCE's Business Plan in D.18-05-041, MCE had a capped budget of a little over $1.8 million and only a few programs in the Residential and Commercial sectors. With the adoption of D.18-05-041, MCE was allowed to expand its current program offerings and the CPUC approved MCE's request for programs to serve the Agriculture and Industrial sectors. As MCE noted it has launched five new programs in 2019 and 2020 that it expects to generate cost-effective savings in the future. MCE also has started to offer promising new program design approaches into its portfolio including the use on Normalized Metered Energy Consumption (NMEC), BROs and SEM, which should improve its portfolio performance.

---

[8] Ibid.
[9] See Marin Clean Energy Reply to Protest of MCE Advice Letter 45-E (MCE Reply), September 8, 2020, p. 2.
[10] See MCE Reply, p. 3.
[11] Ibid.
[12] See MCE Reply, pp. 3-4.
[13] See Energy Division Letter approving MCE's 2020 ABAL, December 20, 2019, p. 5.
[14] See MCE Reply, p. 4.

Thus, we think that Cal Advocates request to reject MCE's ABAL and require that it file a supplemental based on past performance is unwarranted at this time. Consequently, we reject the request by Cal Advocates for MCE to file a supplemental ABAL to further substantiate its cost-effectiveness forecast. Instead, Energy Division will closely monitor MCE's progress going forward and any relevant evaluation results between now and when it files its 2022 ABAL. If this trend continues Energy Division may reject MCE's ABAL and its budget request for 2022 as we believe that by 2021 MCE will have had sufficient time for its new programs to mature and start delivering on its forecasted savings.

2.2. COVID-19 Impacts

In its protest, Cal Advocates argued that the COVID-19 pandemic requires:

- robust portfolios with minimal risks, and
- the CPUC to have all PAs to modify their respective portfolios to improve cost-effectiveness by reducing spending on sectors with low cost-effectiveness and allocating more resources to the Residential sector.[15]

Cal Advocates' protest argued that the economic hardship created by COVID-19 for California ratepayers has led to a significant increase in residential energy consumption. They suggested that the PAs and CPUC should ensure portfolio cost-effectiveness and maximize benefits for every dollar spent to ensure more residential customers realize energy savings and lower bills. Cal Advocates' protest also stated that the July Ruling "should not be interpreted as an invitation for leniency in meeting cost-effectiveness requirements."[16] Lastly, the protest stated that the CPUC should protect ratepayers by requiring modifications to create more robust energy efficiency portfolios and minimize the risk of underperformance during uncertain times and ratepayer funds being wasted on programs that deliver few benefits.[17]

In addition, Cal Advocates made a general recommendation that the PAs be required to reallocate funds away from the Agricultural, Commercial, Industrial, and Public sector energy efficiency programs in order to redirect funds to Residential energy efficiency programs.[18] In their protest, Cal Advocates did not make any recommendations for reallocating budgets for MCE. However, in response MCE stated that to the extent Cal Advocates intends that this recommendation apply to MCE, the CPUC should disregard their recommendations.[19] MCE argued that ABALs are intended to be ministerial in nature rather than policy-focused.[20] The policy question of whether to re-focus the state's energy efficiency programs in new directions as a result of COVID-19 is not an appropriate subject for a protest to an ABAL.[21]

[15] See Cal Advocates Protest, pp. 6-7.
[16] Ibid.
[17] Ibid.
[18] See MCE Reply, p. 5.
[19] See MCE Reply, pp. 5-6.
[20] See MCE Reply, p. 6.
[21] Ibid.

Discussion

In its July Ruling, the CPUC acknowledged that PAs face a significantly changed landscape due to COVID-19 and asked PAs to include "accurate and good faith estimates of energy efficiency costs and benefits, as well as budgets, that are necessary to address the current goals and strategies" in their respective program year 2021 ABALs. The CPUC also recognized the challenges that affect and diminish portfolio cost-effectiveness, including "how to define cost-effectiveness requirements, and how they should be applied in the setting of potential and goals and budget approval," all of which are affected by the economic challenges caused by the COVID-19 pandemic.

Furthermore, the CPUC recognizes that, in its role as a PA and manager of its respective portfolio, MCE's 2021 Residential sector budget of approximately $3 million is suitable and designed to address the needs of their customers at this time. MCE's 2021 Residential sector budget is about 35 percent of MCE's total 2021 portfolio budget. The $500,000 increase in forecasted budget for the sector compared to 2020 is consistent with the slight budget increase MCE requested to administer their 2021 energy efficiency portfolio and we would expect a higher budget as the state lifted the COVID-19 shelter in place orders. While Cal Advocates argues that the CPUC should require MCE to reallocate certain non-cost-effective sector-level budgets to the Residential sector, MCE is the entity best suited to develop a "good faith" 2021 portfolio forecast that addresses competing needs of cost effectiveness requirement and customers and sectors as they are affected by these ongoing challenges.

Consequently, MCE is not required to file a supplemental ABAL that reallocates budgets from non-Residential sectors to the Residential sector and approves MCE's 2021 budget as filed.

Finally, in the near term, MCE must host a stakeholder workshop, as stated in D. 18-05-041, "…to explain why it failed to meet the approval criteria." At that workshop, MCE shall share its budget development process with stakeholders, including how it determines which programs receive specific funding amounts, portfolio cost-effectiveness targets, and why programs with high TRC values did not receive additional budget to drive cost-effective savings. MCE may additionally share its portfolio performance to date, as impacted by COVID-19.

2.3. Standardized Accounting For Unspent and Uncommitted Funds

In its protest, Cal Advocates argued that the CPUC should require PAs to file a supplemental ABAL to standardize accounting and reporting of unspent and uncommitted funds and use of ABAL templates. Cal Advocates pointed specifically to discrepancies in Pacific Gas and Electric (PG&E), San Diego Gas & Electric (SDG&E), Southern California Edison (SCE) and Southern California Gas (SoCalGas) approach in completing Table 3a of ABAL Appendix.

Discussion

Energy Division finds that Table 3a and Table 9 in Appendix that accompanies MCE's PY 2021 ABAL adhere to current accounting and reporting practices and CPUC-issued templates as they relate to unspent and uncommitted funds. Consequently, MCE is not required to file a supplemental ABAL.

3. SBUA Protest and MCE Reply Comments

SBUA's protest raised eight issues, two of which are pertinent to MCE's 2021 ABAL:

- MCE has not provided sufficient information to justify more than doubling its budget for its Commercial Upgrade Program; and
- PAs should breakdown data by customer subclasses.

3.1 Commercial Upgrade Program budget

SBUA noted that MCE has requested a budget of over $3 million for their Commercial Upgrade Program, which is double MCE's request for in 2020. MCE justified the budget increase with their expectation of expanding the program and adding new implementers. However, according to SBUA this does not adequately explain why the budget request has increased so drastically from the amount authorized in 2020, particularly given that MCE significantly underspent on the program in 2018 and 2019.[22] SBUA added that the PAs carry the burden of demonstrating that budgetary requests are just and reasonable and simply stating that MCE expects additional program participation fails to meet this burden.[23]

Furthermore, MCE indicated that its Commercial Upgrade Program "is open to nearly any non-residential customer" and is "not restricted to a deemed measure list, or program mandated business size or load requirements."[24] SBUA finds these eligibility rules concerning because larger, wealthier businesses may end up benefiting the most from the program because the larger the customer the more retrofits it is likely to receive from a program that aims to maximize upgrades for individual customers.[25] While, SBUA acknowledged that the CPUC does not require MCE to target HTR customers as RENs are expected to, SBUA believes PAs should promote equity by targeting customers that have historically been left out of EE programs.[26] SBUA asked that Energy Division should require MCE to provide a supplemental filing with more granular data and a breakdown of how many small, medium, and large customers participated in the Commercial Upgrade Program in previous years so that it may determine if the funding requests are reasonable.[27]

In its reply, MCE stated that is has long been working toward a substantial ramp-up of their Commercial Upgrade Program which will come to fruition in 2021. As for the program having unspent budgets in 2018 and 2019, MCE stated these funds were unspent as a result of the gradual nature of the ramp-up that took place in those two years.[28] MCE added that in 2018, their commercial program activities were limited as MCE was working with a single implementer primarily to install deemed lighting for small commercial customers.[29] While in 2019, MCE contracted with a second implementer and then invested the remainder of the year in developing a pipeline to deliver cost-effective savings in subsequent years. In 2021, MCE's Commercial Upgrade

[22] See "Protest of Small Business Utility Advocates to the Energy Efficiency Annual Budget Advice Letters for Program Year 2021", October 8, 2020, p. 6.
[23] See SBUA Protest, p. 6.
[24] See MCE ABAL 45-E, October 1, 2020, p. 13.
[25] See SBUA Protest, p. 7.
[26] Ibid.
[27] Ibid.
[28] See MCE Reply, p. 7.
[29] Ibid.

Program will feature three implementers and four participation platforms: custom, deemed, SEM, and NMEC.[30]

MCE stated that it appreciates SBUA's concern for equity and agrees that equity between program participants is important, and would be glad to follow up separately with SBUA on this question.[31] However, MCE believes an ABAL protest is not the appropriate venue to address this concern.[32] It added that level of detail requested by SBUA is not required in an ABAL, and ABALs are intended to be ministerial in nature rather than policy focused and this sector level metrics and data would be included in their annual report.[33]

Discussion

We agree with MCE that the level of detail requested is not required to be filed in their ABAL. Per Section 7.3 of D.18-05-041 on ABAL review criteria, the CPUC is clear that the "Standard of review for staff disposition of the ABALs does not include review of PA's decisions on reducing, cancelling, expanding or adding individual programs or program areas."[34] However, while this information is not appropriate for the ABAL, MCE submits its energy efficiency Annual Report in May, which should include the details that SBUA is requesting on the participants who enroll in MCE's Commercial Upgrade Program. Additionally, we suggest that SBUA engage MCE should it further develop its Commercial Upgrade Program Implementation Plan, which is permitted per D.15-10-028, Ordering Paragraph 8.

Thus, we reject SBUA's request to require MCE to file a supplemental with additional data forecasting the customer segments MCE expects to enroll in its Commercial Upgrade Program.

Finally, we note that in the near term, MCE must host a stakeholder workshop, as stated in D. 18-05-041, "…to explain why it failed to meet the approval criteria." At that workshop, MCE shall share its budget development process with stakeholders, including how it determines which programs receive specific funding amounts, portfolio cost-effectiveness targets, and why programs with high TRC values did not receive additional budget to drive cost-effective savings. MCE may additionally share its portfolio performance to date, as impacted by COVID-19. We will require that MCE provide additional details on MCE's forecasts for the Commercial Upgrade Program at that workshop and encourage SBUA to participate.

3.2 Customer Sub-class Data

In its protest, SBUA described how PA report on funding requests, savings, etc., by general customer class, including residential, commercial, industrial, and agricultural. SBUA asked the CPUC to require PAs to break down data for residential and commercial customers into subgroups:

- res-single-family;

[30] Ibid.
[31] See MCE Reply, p. 8.
[32] Ibid.
[33] Ibid.
[34] See D.18-05-041, p. 134.

- res-multi-family;
- small commercial;
- medium; and,
- large commercial.

In addition, SBUA recommended that the PAs should adopt SDG&E's approach and present information on rate impacts for each customer sub-class, which SBUA argues would improve stakeholder and CPUC staff understanding of whether and how PA program activities are targeting customer classes that face significant participation barriers.[35]

Discussion

Energy Division notes that the ABAL process, which is explicitly envisioned as a "ministerial,"[36] sector-level budget recovery request exercise tied to review criteria laid out in D. 18-05-041, is not the proper forum for issues better suited to PA data collection and reporting. Consequently, Energy Division will not ask MCE to break down customer data by sub-class as part of the ABAL review. Instead, Energy Division will work with stakeholders and the PA to determine the most feasible manner in which this revised data reporting provision may be achieved.

Please direct any questions regarding Energy Division's findings in this non-standard disposition to Nils Strindberg (nils.strindberg@cpuc.ca.gov).

Sincerely,

(for)

Edward Randolph

Deputy Executive Director for Energy and Climate Policy/
Director, Energy Division

Cc: Service Lists R. 13-11-005 and A.17-01-013
Pete Skala, Energy Division
Jennifer Kalafut, Energy Division
Alison LaBonte, Energy Division
Nils Strindberg, Energy Division
Michael Campbell, The Public Advocates Office
Shelly Lyser, The Public Advocates Office
Ivan Jimenez, Small Business Utility Advocates

[35] See SBUA Protest, pp. 7-8.
[36] See D. 15-10-028, p. 60