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April 16, 2021

**Agenda ID #19409**  
**Ratesetting**

TO PARTIES OF RECORD IN RULEMAKING 13-11-005:

This is the proposed decision of Administrative Law Judges Fitch and Kao. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's May 20, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:mph

Attachment

Decision PROPOSED DECISION OF ALJs FITCH AND KAO  
(Mailed 4/16/2021)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking  
Concerning Energy Efficiency Rolling  
Portfolios, Policies, Program,  
Evaluation, and Related Issues.

Rulemaking 13-11-005

**ASSESSMENT OF ENERGY EFFICIENCY POTENTIAL AND GOALS AND  
MODIFICATION OF PORTFOLIO APPROVAL AND OVERSIGHT PROCESS**

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**ASSESSMENT OF ENERGY EFFICIENCY POTENTIAL AND GOALS AND  
MODIFICATION OF PORTFOLIO APPROVAL AND OVERSIGHT PROCESS****Summary**

This decision addresses policy issues surrounding the identification of energy efficiency potential and the setting of goals for program administrators to achieve in the design and implementation of energy efficiency programs.

First, the decision adopts a new metric, called Total System Benefit, which combines and optimizes the energy and peak demand savings goals, along with greenhouse gas benefits of energy efficiency, into one metric that can be forecasted and tracked. Program administrators will continue to track individual electricity and natural gas savings as well.

Next, the decision adopts a new approach to segmenting the energy efficiency program portfolios, into programs whose primary purposes are resource acquisition, market support, or equity. A cost-effectiveness threshold will be applied to the resource acquisition programs, since those have readily identifiable costs and benefits that can be quantified. Program administrators will also continue to track the cost-effectiveness of the overall portfolio. The budget amount devoted to the market support and equity programs will be limited to 30% of the total budgets, except in the case of the regional energy network program administrators, who will not be subject to these limits because of the different nature of their portfolios. The evaluation, measurement, and verification budget will remain unchanged at 4% of the total portfolio.

Further, this decision addresses changes to the rolling portfolio framework and regulatory processes as proposed by stakeholders in the context of the California Energy Efficiency Coordinating Committee (CAEECC) and submitted to the Commission. The current rolling portfolio process originally adopted in Decision (D.) 15-10-028 is modified to require an eight-year business plan filing

and four-year program portfolio filing, with updates to the potential and goals, as well as technical inputs and avoided costs, every two years.

In the transition to the new process, program administrators are required to file a budget advice letter covering program years 2022 and 2023 by September 1, 2021. A new energy efficiency business plan (covering 2024-2031) and program portfolio filing (covering 2024-2027) will then be due by February 15, 2022.

This decision also includes direction for how energy efficiency budgets interact with the requirements of Assembly Bill 841 related to school energy efficiency COVID-19 improvements. Finally, policy direction is included on the inclusion of refrigerants with low global-warming potential in the energy efficiency portfolios.

This proceeding remains open.

## **1. Procedural Background**

As indicated in the most recent Scoping Memo issued in this proceeding on July 3, 2020, this decision addresses a number of policy issues that have been pending in the proceeding for the past year. These include the impact of the COVID-19 pandemic, potential and goal setting, and changes to the rolling portfolio and budget approval process as proposed by the California Energy Efficiency Coordinating Committee (CAEECC) process working group. Ultimately, this decision will set the stage and give policy direction for the filing of new business plans and/or portfolios from the energy efficiency program administrators.

### **1.1. Potential and Goals Policy Questions**

On March 12, 2020, a ruling was issued titled “Administrative Law Judge’s (ALJ’s) Ruling Inviting Responses to Potential and Goals Policy Questions”

(Potential and Goals Policy Ruling). The Potential and Goals Policy Ruling sought responses to a series of questions about how energy efficiency potential and goals should be identified and set, as well as how the portfolio should be assessed for cost-effectiveness. The comment deadline was extended and comments and reply comments were ultimately due by May 22, 2020 and June 5, 2020, respectively.

The following parties filed timely comments in response to the Potential and Goals Policy Ruling: County of Los Angeles on behalf of the Southern California Regional Energy Network (SoCalREN), County of Ventura on behalf of the Tri-County Regional Energy Network (3CREN), and the Association of Bay Area Governments (ABAG) on behalf of the Bay Area Regional Energy Network (BayREN), jointly (the Joint RENs); California Efficiency and Demand Management Council (CEDMC); Natural Resources Defense Council (NRDC); Oracle Utilities (Oracle); Pacific Gas and Electric Company (PG&E); Public Advocates Office (Cal Advocates); Recurve Analytics, Inc. (Recurve); Redwood Coast Energy Authority (RCEA), Marin Clean Energy (MCE, and City of Lancaster (Lancaster), jointly; San Diego Gas & Electric Company (SDG&E); Southern California Edison Company (SCE); Southern California Gas Company (SoCalGas); and The Utility Reform Network (TURN).

The following parties filed timely reply comments in response to the Potential and Goals Policy Ruling: CEDMC; Joint RENs; Enervee; NRDC; PG&E; Recurve; SDG&E; Small Business Utility Advocates (SBUA); SCE; SoCalGas; and TURN.

## **1.2. Portfolio Filing Processes**

On July 31, 2020, a ruling was issued titled “Administrative Law Judge’s Ruling Seeking Comments Regarding Natural Resources Defense Council

Motion” (Portfolio Filing Process Ruling). This ruling sought comment on a motion filed by NRDC regarding the CAEECC Energy Efficiency Portfolio Processes Working Group Report (CAEECC Proposal). The CAEECC Proposal suggested a number of changes or improvements to the rolling portfolio process, related to the length of each program cycle, budget authorization process, setting of savings goals and targets for program administrators, flexibility to make program changes, cost-effectiveness, and technical inputs. Comments in response to the Portfolio Filing Process Ruling were due September 1, 2020, with reply comments due September 15, 2020.

The following parties filed timely comments responsive to the Portfolio Filing Process Ruling: Cal Advocates; CEDMC; County of Los Angeles on behalf of SoCalREN; MCE and BayREN, jointly; NRDC; PG&E; SBUA; SCE; and SDG&E and SoCalGas, jointly.

The following parties filed timely reply comments responsive to the Portfolio Filing Process Ruling: 3CREN; NRDC; Recurve; SBUA; SCE; and SDG&E and SoCalGas, jointly.

### **1.3. Processes for Program Changes**

On February 17, 2021, an assigned ALJ Ruling was issued that, among other things, invited comments from parties on requirements for program changes. Comments in response to the February 17, 2021 ALJ ruling were filed by Cal Advocates, CEDMC, PG&E, SCE, SDG&E, Sierra Club, and SoCalGas.

Reply comments were filed by Cal Advocates, CEDMC, PG&E, SCE, SDG&E, and SoCalGas.

### **1.4. Assembly Bill 841**

On October 7, 2020, an assigned ALJ Ruling was issued seeking comments on the implementation of Assembly Bill (AB) 841 (Ting, 2020), which established



the School Energy Efficiency Stimulus Program (Stimulus Program). The Stimulus Program Ruling sought party comments on certain funding, reporting, and other implementation details.

The following parties filed comments in response to the Stimulus Program Ruling on October 30, 2020: Cal Advocates; CEDMC; Local Government Sustainable Energy Coalition (LGSEC); NRDC; PG&E; SBUA; SCE; SDG&E; SoCalGas; and TURN.

The following parties filed reply comments in response to the Stimulus Program Ruling on November 6, 2020: Cal Advocates; CEDMC; the Rural Hard to Reach Working Group (RHTRWG); SCE; SoCalGas; and TURN.

## **2. Potential and Goals Metrics**

The first policy topic to be addressed related to the Potential and Goals Policy Ruling questions is whether and how to amend the manner in which the Commission sets the energy efficiency goals and potential for program administrators to achieve with their energy efficiency program portfolios. To date, the Commission has set energy efficiency goals in terms of electricity, peak demand, and natural gas savings, defined by kilowatt-hours (kWh), kilowatts (kW) or megawatts (MW), and therms, respectively. Parties were asked to address whether a greenhouse gas (GHG), energy savings, bill savings, avoided grid cost, resiliency, or other metric is the most appropriate as the primary objective of the Commission's energy efficiency programs.

### **2.1. Parties' Comments**

Several parties, including SoCalGas, CEDMC, and Oracle, advocated for keeping the energy efficiency policy metrics primarily measured in terms of kWh, kW, and therms, because they help achieve state policy goals, match the position of energy efficiency in the Energy Action Plan "loading order" (which

prioritizes the energy efficiency resource first), and deliver avoided cost benefits to ratepayers.

In contrast, SCE, and to some extent the Joint RENs, recommended that GHG reduction should become the primary objective for energy efficiency, and that using a single metric of GHG reductions would be a proxy for other objectives. SCE also argued that a GHG reduction goal would be simpler compared to the current three-objective metrics.

The majority of parties advocated for a more nuanced mix of metrics for identification of energy efficiency potential and goal-setting. NRDC, PG&E, Recurve, SDG&E, and TURN stressed the value of energy system needs, but recommended including GHG reduction as a key additional policy objective. Cal Advocates, Joint CCAs, Joint RENs, SBUA, and SDG&E led with GHG reduction but argued that energy system needs are also important. SBUA also highlighted resiliency objectives, PG&E and SBUA recommended adding bill reductions, and the Joint RENs would prefer to include economic development metrics.

NRDC, in its comments, introduced a proposal to combine energy savings/system needs objectives with GHG reduction, by replacing the current goals metrics with one new metric defined as total lifetime benefits in dollars, calculated using the hourly avoided costs produced by the avoided cost calculator (ACC) and measure-specific inputs from the cost-effectiveness tool (CET). NRDC's comments termed this a total economic benefit calculation. NRDC argued that the ACC assigns value to the benefits that energy efficiency provides (energy and capacity savings, as well as GHG reduction), and that this metric would provide flexibility to the program administrators to deliver energy efficiency with high value to ratepayers. In reply comments, this proposal was

endorsed or referenced as a potential approach by Recurve, Joint RENS, PG&E, and TURN.

## **2.2. Discussion**

All parties seem to agree that the current focus on first-year energy savings only, in the form of kWh, kW, and therm savings, does not capture all of the policy goals and benefits of energy efficiency. We agree. The value of energy efficiency varies significantly based on the hour, season, GHG benefits, climate zone, and lifecycle savings of each measure. While these values are captured in the cost-effectiveness calculations, they do not come together to represent a single goal for the program administrators to optimize around.

Of particular concern is that the current first-year savings goals do not adequately encourage longer-duration energy savings. This potentially creates a policy misalignment that encourages optimization of portfolios to meet or exceed forecasted net annual first-year energy savings, regardless of potential longer-term benefits to the system. For example, it could create over-investment in behavioral programs where savings may or may not persist over a longer duration.

At the same time, it is important to maintain continuity with measurement of energy and peak demand savings on an annual basis, both for forward-looking forecasting purposes and to allow trend comparisons with past performance.

Fortunately, it is possible to capture the full stream of benefits within the estimates already embedded in the calculations currently conducted to determine cost-effectiveness, using the ACC and the CET. Building off of the proposal by NRDC, in this decision we are adopting a new single metric that we will call the Total System Benefit (TSB), which is an expression, in dollar terms,

of the lifecycle energy, capacity, and GHG benefits, expressed on an annual basis. The length of the portfolio is discussed later in this decision.

Use of a single, lifecycle TSB metric, expressed annually, will tie the goals for the program administrators directly to the avoided cost value of energy efficiency savings, which should encourage achievement of savings that deliver high value. Another advantage of this single metric is that it is agnostic as to fuel, which facilitates fuel substitution as an option, without the need to convert savings from one fuel to the other.

The intent of the TSB is to use the savings and load shape of an energy efficiency resource and apply the hourly values for energy, capacity, and GHG compliance costs from the ACC to understand the total net system benefits from the energy efficiency resource.

Along with this new single TSB metric, forecasted savings in the traditional kWh, kW, and therm format will still be tracked and reported, facilitating demand forecasting, as well as historical comparison, while still encouraging the program administrators to optimize across benefits. While the energy efficiency portfolios will be better optimized to capture all of the benefits of energy efficiency with a TSB metric, we will still also be achieving all cost-effective energy efficiency, as required by statute.

One challenge for stakeholders with the adoption of a new single TSB metric is that it may not be as intuitive or familiar. However, all of the values necessary to produce the single TSB metric are already included in the current studies of energy efficiency potential, so stakeholders should be able to calculate it without much increased complexity, while still reporting on energy and peak demand savings at the same time.

In the upcoming potential and goals study that will be released later this year, Commission staff and consultants will include analysis of all scenarios both in terms of the traditional energy and peak demand targets, as well as the single TSB metric, so that stakeholders can become more familiar with the TSB metric expressed in dollars for the portfolio period.

The potential and goals study will include a proposed definition and calculation of the TSB metric we adopt herein. If necessary, Commission staff may convene a workshop or working group to further discuss the TSB metric, as well as how it may affect optimization of and transition to the new portfolios of the program administrators. The program administrators will be required to submit their new portfolio applications designed to meet a TSB goal that will be adopted in this proceeding later this year. However, for the program years between now and the beginning of the new portfolios (2024), the program administrators will still be held accountable to existing energy savings goals and metrics, which will be updated in this proceeding later this year. This will allow adequate time to realign portfolios towards the new TSB metric beginning in 2024.

### **3. Portfolio Segmentation**

Commission staff and most parties acknowledge that the energy efficiency program administrators in recent years have faced increasing pressures to maintain the cost-effectiveness of their portfolios while also delivering a balanced portfolio that meets all of the Commission's numerous policy objectives. As we have noted in decisions over the past few years, highly cost-effective opportunities are becoming more scarce, as many of those low-cost measures with high benefits have become standard practice and have been adopted into building codes or appliance standards, leaving fewer low-

cost/high-benefit opportunities as time goes on. This leaves administrators in the position of needing to identify more cost-effective energy savings or risk needing to scale back or eliminate programs that provide support to the portfolio or equity benefits, but without significant near-term energy savings to quantify.

The traditional definition of resource programs, or programs which deliver energy efficiency savings, neglects the nuance that certain programs that deliver some energy savings have other primary objectives, such as supporting equity goals or long-term market success. These programs serve an important function, but because of their high costs, tend to weigh down portfolio-level cost-effectiveness calculations.

The Potential and Goals Policy Ruling also asked parties to discuss how energy efficiency goals might be set or influenced by the Commission's integrated resource planning (IRP) process, where certain types of energy efficiency programs may be able to be optimized within the IRP framework.

This section addresses how we intend to address segmentation or categories of programs in the portfolio, for purposes of determining budgets and cost-effectiveness of the energy efficiency portfolio as a whole. We also address coordination with the IRP process.

### **3.1. Parties' Comments**

All parties that commented on the categories of programs agreed that resource and non-resource programs are both important and serve different policy objectives. SDG&E recommended that the non-resource program activities and budgets be rolled into the budgets of resource programs that they support, with the two analyzed collectively. SCE, on the other hand, recommended that non-resource program budgets be capped at 15% of the total budget.

Many parties, including NRDC, CEDMC, Joint CCAs, Joint RENs, SDG&E, PG&E, SCE, and Recurve commented that the Commission should prioritize consideration of alternative portfolio segmentation approaches such as resource, non-resource, and/or equity. NRDC and Enervee also suggested consideration of a market transformation aspect for non-resource programs. NRDC recommended that the portfolio be divided into resource, market transformation, and equity programs. CEDMC recommended that the portfolio be divided into programs optimized in the IRP process, non-resource programs, market transformation, and equity programs.

NRDC, SCE, Joint CCAs, SDG&E, PG&E, Joint RENs, and Recurve all also requested that the Commission develop multiple screens for different types of energy efficiency, including optimizable programs within the IRP process, non-optimizable, equity, etc. tied to the segmentation of the portfolio.

Joint CCAs, NRDC, PG&E, SDG&E, and Recurve all argued that the IRP proceeding should actually be used to set the energy efficiency goals, and not just inform them, as soon as possible, at least for all resources that can be optimized. NRDC commented that segmenting the portfolio based on the ACC is the second-best alternative. SCE stated that the potential and goals study should continue to be used until the IRP process includes optimizable energy efficiency buckets, and then a least-cost best-fit approach should be used to design the energy efficiency portfolios thereafter, with the IRP process informing goals.

PG&E commented that program administrators with codes and standards (C&S) programs should be allowed to include savings and benefits from C&S to estimate resource cost-effectiveness.

### 3.2. Discussion

For several years, the Commission has been moving in the direction of segmenting the energy efficiency portfolios into programs designed for specific purposes. Since at least 2012, C&S programs have been considered separately from the rest of the portfolio, for purposes of assessing cost-effectiveness.<sup>1</sup> In 2019, the Commission formally created the separate category of market transformation initiatives, to be assessed independently from the rest of the portfolio and given their own program budgets and cost-effectiveness treatment.<sup>2</sup>

Thus, these approaches have already begun the process of segmenting the portfolio based on categories of programs identified by their primary purpose.

There is also increasing evidence that the program administrators, particularly the investor-owned utilities (IOUs), tasked with maintaining balanced portfolios, are struggling to do so as the opportunities for highly cost-effective programs are declining. This creates a situation where the equity and market support activities, many created and valued by the Commission, are at risk of being cut from the portfolios due to pressure on overall portfolio cost-effectiveness.

Overall, we find it important to reduce the conflict between cost-effectiveness and other equally or more important policy objectives such as equity and support for the energy efficiency market. Furthermore, we acknowledge that while a TRC ratio appropriately compares the benefits and costs of a program targeted primarily at delivering grid benefits, it may not be

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<sup>1</sup> See, for example, D.12-11-015.

<sup>2</sup> See D.19-12-021.



the most appropriate tool for judging whether energy efficiency funding was prudently spent on programs which support equity or market support goals. The benefits delivered by these types of programs are not assessed using the CET or ACC, and therefore other methods are necessary.

Therefore, with this decision, we direct the program administrators to further segment their portfolios based on the primary program purpose, into the following three segments, defined as follows:

- **Resource Acquisition**: Programs with a primary purpose of, and a short-term ability to, deliver cost-effective avoided cost benefits to the electricity system. Short-term is defined as during the approved budget period for the portfolio, which will be discussed further later in this decision. This segment should make up the bulk of savings to achieve TSB goals.
- **Market Support**: Programs with a primary objective of supporting the long-term success of the energy efficiency market by educating customers, training contractors, building partnerships, or moving beneficial technologies towards greater cost-effectiveness.
- **Equity**: Programs with a primary purpose of serving hard-to-reach or underserved customers and disadvantaged communities in advancement of the Commission's Environmental and Social Justice Action Plan;<sup>3</sup> the objectives of such programs may include increasing customer safety, comfort, resiliency, and/or reducing customers' energy bills.

This categorization is consistent with our past approach to resource and non-resource programs, where the resource acquisition category above would be classified as resource programs, while the market support and equity categories would largely be considered non-resource program types, while including some

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<sup>3</sup> For more information, see the following link: <https://www.cpuc.ca.gov/esjactionplan/>

programs which deliver energy savings. For example, some equity programs may install cost-effective high-energy-saving technologies in customer homes, but the cost-effectiveness ratio of the program is decreased by serving traditionally-harder-to-reach customers, which cost more per unit to serve.

We are also aware that the CAEECC has a working group devoted to further defining underserved or hard-to-reach customers. To take advantage of this work, we ask that the program administrators consult with the CAEECC on this topic prior to filing their portfolio applications.

In addition, the above-defined categories are not meant to be mutually exclusive. For example, some programs categorized as market support or equity may be able to deliver quantifiable short-term energy savings in the first few years of operation or after a long period of operation, but perhaps not in enough quantity to support a calculation of cost-effectiveness for the program on a standalone basis. Similarly, some resource acquisition programs may have equity or market support aspects (for example, a marketing budget that accompanies a direct install program), but the primary purpose of the program would still be delivery of energy savings in the near term, leading to a categorization as a resource acquisition program. However, for purposes of portfolio reporting and tracking, an individual program may only be assigned to one segment at a given time.

In general, if a program is designed to achieve measurable energy savings during the portfolio period, it should be categorized as resource acquisition, unless the program administrator can demonstrate in its application and program implementation plans that the program instead primarily fulfills either market support or equity functions.

For the next round of portfolio filings (to begin in 2024) and for the interim filings discussed in Section 6 below (to cover 2022 and 2023), we will require that all program administrators categorize all of the programs in their portfolios into either resource acquisition, market support, or equity programs, based on the primary objective of the program. C&S programs will remain separate as well, as previously defined in D.12-05-015. The reasonableness of the program administrators' portfolio segmentation proposals will be assessed during Commission review.

We also encourage the program administrators, to the extent there are gray areas or uncertainty about the appropriate segmentation, to consult with the CAEECC for input, as needed. Program administrators should also consider if the program is appropriately tailored to achieve an objective of the energy efficiency portfolios, as defined by the Commission, or whether the program should be removed from the portfolio entirely.

This approach to portfolio segmentation is also intended to set up the portfolio for the option, advocated by a number of parties, to have the resource acquisition programs further optimized within the Commission's IRP process in the future. While in the short term the energy efficiency goals will still be determined by the potential and goals process conducted in this proceeding, segmenting the portfolio may allow future buckets of energy efficiency programs with known costs and benefits (most likely resource acquisition programs) to be analyzed as supply resources in the IRP modeling process. It is likely that most equity or market support programs would remain as load modifiers due to their primary objectives.

Finally, because programs in all categories may lead to measurable energy savings, we clarify that the claimed energy savings from all categories of

programs may be used to show progress towards achievement of energy efficiency goals for the program administrators.

#### **4. Cost Effectiveness Requirements and Budget Limitations**

Once we require the program administrators to segment the portfolio as explained in the last section, we need to clarify how we will assess the cost-effectiveness of the budgets for each segment of the portfolio. Portfolio segmentation is inherently intertwined with how we assess the cost-effectiveness of the portfolios, the latter of which is covered in this section of the decision.

##### **4.1. Parties' Comments**

In response to the Potential and Goals Policy Ruling, numerous parties commented on how cost-effectiveness showings should be required or modified if the portfolio is segmented into different categories of programs. The vast majority of parties agree that groups of programs should be assessed together, rather than evaluating cost-effectiveness of individual programs. SoCalGas, Joint CCAs, Oracle, SDG&E, PG&E, TURN, Joint RENs, and Recurve also argued, in various ways, that a portfolio approach allows for flexibility to meet other objectives in addition to cost-effectiveness, and also better allows program administrators to manage programs ramping up and down, or program variations over time.

NRDC and CEDMC both further argued that a portfolio approach should be used, but that the portfolio should be divided into segments, as discussed in Section 3 above. SCE and Envervee both recommended a portfolio approach, but that different considerations be given to resource and non-resource programs. SCE recommended that there be a cost-effectiveness benefit-cost ratio threshold using the Total Resource Cost (TRC) test of 1.0 for resource programs and for the portfolio as a whole. Envervee recommended a 1.0 TRC requirement for resource

programs only, as those are the only programs with measurable primary benefits.

Cal Advocates argued for more granular treatment of programs, for cost-effectiveness purposes. Cal Advocates argued that all of the following types of programs should be cost-effective, including RENs, the entire portfolio overall of all program administrators, as well as each resource program individually.

SBUA argued that a program level approach could be beneficial, as long as the goals were individually tailored to each program.

#### **4.2. Discussion**

Now that we have determined that we will divide the energy efficiency portfolios of all of the program administrators into segments defined in Section 3 above, we also must determine how the portfolios will be assessed for cost-effectiveness.

First, we address the question of whether the energy efficiency portfolios of all program administrators, taken together, are legally required to be cost-effective to be approved by the Commission. In the past, Cal Advocates, as distinct from most other parties, has argued that the portfolio as a whole is required to be cost-effective, according to the requirements of Public Utilities Code Section 381. Cal Advocates has advocated that the portfolios should be considered by utility service territory, including REN and CCA programs as part of the overall portfolio in a given territory, for purposes of assessing cost-effectiveness and limiting portfolio expenditures. While the Commission may have stated similar intentions in the past, we consider those the Commission's policy considerations and not legal requirements.

The exact language of § 381(b)(1) states that "the Commission shall allocate funds...to cost-effective energy efficiency and conservation activities." This

language does not prohibit the Commission from allocating funds to other energy efficiency and conservation activities beyond the cost-effective level, if they are appropriate and provide value. While the Commission historically has not gone beyond the minimum requirements to fund cost-effective energy efficiency and conservation, it does not mean that the law prohibits going beyond that level.

Due to the success of energy efficiency programs and advancing building codes/appliance standards, cost-effectiveness is becoming much more difficult to achieve, and the Commission must grapple with how to balance the competing demands for energy efficiency funds to achieve the multitude of goals we have for these programs. Therefore, we clarify that the provisions of § 381(b)(1) represent a budget “floor,” requiring that the Commission must ensure that all cost-effective energy efficiency receives investment, but not that this is a limitation on the Commission requiring additional energy efficiency expenditures, where warranted.

Given that our cost-effectiveness tests embed the costs of achieving the State’s clean energy goals, they have generally represented a reasonable proxy for determining the appropriate level of energy efficiency spending, since by definition, spending on efficiency in excess of cost-effective levels suggests that there is a lower-cost path to achieving the state’s clean energy goals. However, the Commission must weigh a number of factors and other goals in determining appropriate levels of spending on energy programs, and energy efficiency is no different. The Commission is still free to exercise its judgement and fund energy efficiency and conservation investments that go beyond the budget “floor” required by the cost-effectiveness standard in § 381(b)(1) if they provide value to ratepayers, even if the costs may sometimes exceed the measurable benefits.

In recent years, in part because of the success of the Commission's energy efficiency investments over the past several decades in California and the California Energy Commission's aggressive adoption of codes and standards, there is less cost-effective energy efficiency available, at least by the current and long-term definitions of cost-effectiveness, than has been historically available. While the Commission is continuously evaluating whether or not to modify its measures of cost-effectiveness, for example by piloting the use of a Societal Cost Test, it remains useful to have an ongoing metric by which to notice shifts in costs and benefits over time, using the traditional TRC measures. We do not believe, however, that the Legislature's intent was to limit the Commission from requiring investment in energy efficiency and conservation activities that provide benefits, even if those benefits do not necessarily exceed costs, especially by short-term measures.

Having determined that the Commission may legally consider portfolios where cost-effectiveness is among the considerations, but not the sole consideration, we turn to how to operationalize our discretion for purposes of assessing the reasonableness of program administrator proposed portfolio budgets, in light of the segmentation of the portfolio we are undertaking with this decision.

The most straightforward portion of the portfolio to assess on cost-effectiveness grounds will be the energy efficiency resource or resource acquisition programs. The costs and energy system benefits of the resource acquisition programs should be readily identifiable using existing tools. In addition, because the primary purpose of resource acquisition programs is to produce energy savings, the ratepayer investment or costs of the program should be less than the ratepayer benefits or energy savings. Therefore, we will require

that all program administrators with energy efficiency resource acquisition programs, excluding RENs whose portfolios have different rules, to show that the resource acquisition segment of their portfolio, with all resource acquisition programs' costs and benefits combined together, is cost-effective on an ex ante basis, with a TRC ratio of at least 1.0 or greater.

This does not mean that each individual resource acquisition program must be cost-effective on its own. Program administrators may balance their resource acquisition programs within the resource acquisition segment of their portfolios to ensure that the segment overall meets the 1.0 criteria.

We will also require the program administrators to show the TRC and program administrator cost (PAC) ratios for all segments of the portfolio, separately and combined, including separately showing the portfolio cost-effectiveness with and without the C&S segment of the portfolio. Finally, as already determined in D.19-12-021, the market transformation portion of the portfolio will be treated completely separately and on a different track.

That leaves the question of how to assess the reasonableness of the budgets for the market support and equity segments of the portfolios. In the past, combining all of the program segments into one portfolio with a test for cost-effectiveness caused there to be a natural limitation on the amount of budget that could be spent on market support or equity type objectives, since the overall portfolio still had to have benefits that exceeded costs. Now that we are applying the TRC limitation only to the resource acquisition segment of the portfolio, we will need to ensure reasonable costs for market support and equity segments in another manner.

Based on a review of the budgets approved by the Commission on similar program types in the past, beginning with this decision we will limit the funds



that may be spent on market support and equity programs to 30 percent of the overall budget of each program administrator, with the exception of the RENs. Currently, non-resource programs comprise approximately 20% of total expenditures, so a 30% cap leaves a reasonable budget available to market support and equity programs which also produce some grid benefits. The RENs are exempted from this requirement because of the nature of their portfolios, which is already different from the other program administrators. RENs, by their nature and primary purposes, are more likely to have a greater share of their portfolio devoted to market support and/or equity programs. Therefore, those portions of their budgets will not be subjected to an up-front limitation.

However, all program administrators, including the RENs, should focus on developing metrics and criteria for evaluating progress of those market support and equity programs, in the absence of strict cost-effectiveness limitations. The Commission will evaluate those metrics when deciding whether to approve the portfolio proposals from all administrators. Furthermore, in the future, the Commission may consider whether or how to transition to an evaluation of non-energy benefits when considering the reasonableness of costs related to market support and equity programs.

Finally, the budget limitation of no more than 30 percent on equity and market support programs is a percentage of the program administrator's own portfolio budget, meaning that IOUs who forward funds to other non-IOU administrators such as CCAs or RENs do not need to count those funds as part of their budget limitation for this particular purpose. Statewide programs, however, should be considered as part of the budget when calculating this limitation.

## 5. Portfolio Process

Our most recent portfolio consideration and approval process, adopted in D.15-10-028, was designed to have the rolling portfolio of energy efficiency programs approved for a ten-year period, though the initial rolling portfolio was approved for eight years.<sup>4</sup> The CAEECC Proposal, submitted by NRDC on behalf of the CAEECC, seeks to convert the process into a four-year budget cycle, instead of ten years. Table 1 below is taken from the executive summary of the CAEECC Proposal, summarizing the changes sought to the portfolio approval process.

**Table 1. Comparison Between Current and CAEECC Proposal Processes**

<b>Subject</b>	<b>10-Yr Rolling Portfolio</b>	<b>4-Yr Portfolio and Budget Application</b>
<b>Application</b>		
Timeline	10-yr cycle (ending 2025)	4-yr cycles (e.g., 2026-2029)
Next Filing Date	2026	2026 (except for PAs filing business plans before 2026)
Budget	Set for 10 years with Annual Budget Advice Letters (ABALs)	Set for 4 years
Cost-effectiveness	Annual	Measured over 4 years
Savings Goals	Annual	Annual targets, measured over 4 years
REN-specific savings targets and non-energy related metrics	Annual	Annual targets, measured over 4 years
Level of Detail	High-level overview	Detailed activities and budgets

<sup>4</sup> See D.18-05-041.

Stakeholder Engagement	CAEECC review of full business plans before submission	CAEECC to work through key issues before submission and receive orientation after submission
<b>Implementation</b>		
Reporting	Annual Report	Enhanced Annual Report
Interim Filings	ABALs	Trigger-based filings
Stakeholder Engagement	CAEECC, trigger-based	CAEECC
<b>Policy changes</b>		
Potential and Goals	Biennial updates	Biennial updates
Avoided Costs	Biennial major updates with minor updates in between	Biennial adoption of ACC major updates when potential and goals are updated
Engineering	Generally adopted annually (bus stop approach)	Adopt engineering updates when potential and goals are updated (biennially)

Overall, the CAEECC Proposal recommends:

1. A four-year portfolio cycle with four-year cumulative total of “first year net” portfolio energy savings goals and a four-year cost-effectiveness threshold requirement,
2. An energy efficiency application process that includes a robust full-cycle budget and cost-effectiveness showing for program implementation and portfolio administration costs with supporting testimony, and for the RENs, a showing of projected energy savings targets and non-energy related metrics,
3. An updated energy efficiency reporting structure that uses program administrators’ energy efficiency annual reports as the main vehicle by which to assess on-going portfolio and program performance against Commission-approved metrics and indicators, and

4. Other interim filings only on a limited basis, if certain pre-specified triggers occur.

The CAEECC Proposal describes the portfolio plan as follows:

“The portfolio plan focuses on long-term and short-term strategic objectives by sector (e.g., Residential, Commercial, Public, Industrial, Agricultural, Cross-Cutting), with associated tactics (i.e., programs or intervention strategies) designed to achieve the strategic objectives... [Included are] the metrics and indicators, including energy savings goals and GHG targets, and milestones for each strategic objective and programmatic activity. Implementation Plans (IPs) will not be included as part of the formal application process. Rather, program administrators will continue the IP process described in D.15-10-028.”<sup>5</sup>

### **5.1. Parties’ General Comments**

Generally, all parties commenting on the CAEECC Proposal support it overall, with some parties offering particular refinements. MCE/BayREN, SoCalREN, CEDMC, Cal Advocates, PG&E, NRDC, SoCalGas/SDG&E, SCE, and SBUA all offered basic support for the CAEECC Proposal’s framework shift from ten-year business plan with annual ABALs to a four-year portfolio approval process.

Several parties pointed to the fact that current experience with disputes around the ABALs has led to so much uncertainty that the process has turned into a de facto one-year portfolio approval process, instead of a ten-year portfolio. Parties commenting along these lines included SBUA, SoCalREN, and CEDMC.

Several parties, including SoCalREN and NRDC, spent time in their comments addressing the outstanding question in the CAEECC Proposal of how

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<sup>5</sup> CAEECC Proposal at 7-8, attached to the April 24, 2020 Motion of NRDC.

to determine whether a program administrator's portfolio is "on target" or not, and what to do if it is determined that the portfolio is not "on target."

Some parties also raised other specific issues with the CAEECC Proposal while endorsing it overall. We will discuss the particular issues in the sections below, along with parties' specific comments on those issues, including the alignment between technical assumptions in the ACC, CET, and the Database for Energy Efficiency Resources (DEER), as well as how program administrators should go about making program changes (including completing program closure).

## **5.2. Discussion**

In general, we agree with the CAEECC Proposal that the ten-year rolling portfolio cycle, with an annual cost recovery authorization, has not provided as many benefits to our oversight process as we expected when it was approved. Experience approving the first rolling portfolio cycle in 2018 involved reviewing very high-level sector strategies, but not necessarily specific programmatic strategies or program budgets. This left the more detailed level of review to the ABALs, including budget and savings forecast issues on an annual basis.

In essence, this meant that the level of scrutiny that would occur in the three-year portfolio application review process, which the ten-year business plan was intended to reduce, was essentially being performed in the annual ABAL filings, without an effective means for addressing the many complex issues in a process that is meant for ministerial implementation of prior Commission direction. The rolling portfolio business plan approval having been conducted at a high policy level did not provide enough granular direction to resolve the annual conflicts that have been regularly arising.

In addition, assessing cost-effectiveness and goal-setting on an annual basis is one of the key processes the Commission was trying to avoid by adopting a rolling portfolio process. Having contentious annual ABALs that set program budgets effectively creates year-to-year uncertainty for program administrators and implementers, caused by the regulatory process, which undermines confidence and impedes market uptake of energy efficiency measures.

At the same time, having certainty about energy efficiency funding ten years into the future provides certainty for planning purposes, both for the Commission's IRP process, as well as for the California Energy Commission's (CEC's) demand forecast and the California Independent System Operator's (CAISO's) transmission planning process. Having the rolling portfolio budget approved for a decade allows certainty for all of those long-term planning processes and minimizes the chances that ratepayers end up investing in unnecessary supply-side resources when energy efficiency can almost always provide demand reduction at a lower cost.

In short, it appears as though the ten-year rolling portfolio approval process is too long to be meaningful, and the one-year ABAL process is too short, raising all of the same issues and more, compared to the previous two-year or three-year portfolio cycle process.

To address these issues, we will adopt a hybrid approach, keeping a high-level rolling portfolio with a business plan, while also adopting many elements from the CAEECC Proposal for a four-year portfolio filing, as further discussed in the subsections below.

### 5.2.1. Business Plan

The CAEECC Proposal eliminated the Business Plan filing in favor of the four-year portfolio filing. However, we are reluctant to jettison the high-level strategic parts of the business plan, which should help ground the shorter portfolios in longer-term strategic goals. Thus, we will maintain a high-level business plan filing, but instead of ten-years, the business plan will cover eight years, to accommodate two four-year portfolio filings within its time coverage. The purpose of this 8-year business plan is essentially to serve as a high-level strategic plan, guiding energy efficiency portfolio and program focus over the coming near-decade. The business plan shall contain high-level sector strategies, metrics, and a proposed budget for each year of the eight-year period. Once approved, this budget will set the annual cap for spending within the eight-year period. We will also maintain the “triggers,”<sup>6</sup> for the filing of a new business plan, which include if the program administrator is unable to stay within the previously-approved budget cap, unable to meet its energy savings goals or cost-effectiveness requirements, or if the Commission itself calls for a new business plan for policy or other reasons.

We will also ask Commission staff to develop a template for the business plan filings, in consultation with stakeholders. The basic content required is included as Attachment A to this decision. However, Commission staff may revise and develop further details by no later than September 30, 2021, to facilitate application review by the Commission and stakeholders. The template will be made available on the Commission’s web site and provided to CAEECC as well for public posting.

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<sup>6</sup> The “triggers” for the required filing of a new business plan are covered in D.15-10-028 at 56-57.

### **5.2.2. Program Portfolio**

Alongside the business plans, we will also require a detailed four-year portfolio filing, which will include within it a more detailed sector and program-by-program strategy, budget, cost-effectiveness showing, and all other elements included in the CAEECC Proposal. The intention here is that cost recovery will be approved up front for a program administrator on a four-year basis, eliminating the need for annual cost recovery authorization through the ABALs, while approving an eight-year overall budget, to provide assurance of the Commission's continued intention to fund energy efficiency programs over the longer-term.

Furthermore, we will allow the annual budget forecasts to be fungible within the four-year application cycle. In other words, the program administrators are not limited to annual budgets, but can consider the budget to be spent at any time during the four-year period. At the end of each four-year period, the administrators will still need to account for any unspent/uncommitted funding that can be used in future funding authorizations.

We therefore adopt the four-year portfolio filing process as described by the CAEECC, with one exception. To the extent that a program is being implemented by the program administrator itself or already included in an approved or operating third-party contract, we will require the IPs to be included in the four-year portfolio application itself, and not handled in the manner outlined in D.15-10-028. In other words, the IPs must be included in the applications. This is similar to the approach the Commission took in two- or three-year portfolio periods prior to the institution of the rolling portfolio approach. This will allow the Commission and stakeholders to review, as much



as possible, the program approaches and theories in a comprehensive manner when evaluating the four-year portfolio, as well as determine if a program is correctly classified in the market support or equity segments, based on proposed objectives.

The initial business plan and portfolio application filing will happen at the same time, with the second of the four-year portfolio filings filed part-way through the business plan period. A detailed schedule is included later in this decision in Section 9.

Commission staff will also maintain a template for the portfolio applications. Attachment B to this decision contains the required content and a draft template. Any further details necessary to facilitate effective applications and review may be added by Commission staff, after consultation with stakeholders. The final template will be posted to the Commission web site and provided to the CAEECC for public posting by no later than September 30, 2021 for the first portfolio filing. Thereafter, Commission staff will maintain and update the template as necessary.

We also note that this does not remove other aspects of required preparation for filings, including the Joint Cooperation Memoranda, to be negotiated and filed by program administrators that serve overlapping geographies.<sup>7</sup>

### **5.2.3. Budget and Cost-Effectiveness Showings**

The CAEECC Proposal addresses budget and cost-effectiveness showings by first defining two types of costs: program implementation costs and program

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<sup>7</sup> See Joint Cooperation Memorandum requirements in D.18-05-041.

administration costs. The CAEECC Proposal defines the two types of costs as follows:

**“Program Implementation Costs:** All costs associated with delivering a program. With the use of 3<sup>rd</sup> party implementers, this is very straightforward; all costs associated with contracts for efficiency programs is program implementation. Should the PA [program administrator] be in the role of implementation, the PA should clearly identify all costs associated with that program. This should NOT be some level of “rule of thumb” allocations. PA employee time (including account reps) should be booked directly to a specific program being implemented in a manner that can be audited for accuracy. The PA could propose methods for tracking things like traditional “overhead” (such as rent, or IT [information technology] services) in a manner that appropriately links to employee charged time.

**Portfolio Administration (i.e., Overhead):** Everything else not in Program Implementation. Costs for things like managing a solicitation, negotiating a contract, and reviewing/paying invoices all are part of Administration (this should not be put into the “implementation” bucket).”<sup>8</sup>

CAEECC proposes that for all program implementation costs and portfolio administration costs, the program administrators will provide a detailed showing and justification for each year of the four-year portfolio cycle.

We agree with this approach and will adopt it with one clarification, as follows: implementation costs associated with competitively-solicited third-party contracts will be considered per se reasonable, if the third-party contract is approved through the established advice letter process.

In addition, the current cap of ten percent on administrative costs will continue to be applied to the “portfolio administration” costs of the program

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<sup>8</sup> CAEECC Proposal at 8, attached to the April 24, 2020 Motion of NRDC.

administrators, as defined by the CAEECC Proposal above. Likewise, other existing Commission budget cost caps or targets for direct-implementation non-incentive costs, administrative costs, and marketing, education, and outreach costs remain unchanged.

CAEECC also proposes that the portfolio budget proposal be zero-based, meaning that all expenses must be justified for each year of the new four-year period, after analyzing each function within the budget for its needs and costs. Every party supported this proposal and we will approve it. The program administrators will be required to provide funding proposals for program implementation and portfolio administration costs based on detailed budget testimony and supporting workpapers and exhibits covering all years in the four-year application.

The CAEECC Proposal further refers to the concern of many stakeholders about the potential for funding cliffs at the end of a four-year application cycle. To mitigate this risk, the CAEECC Proposal suggested that if there is a delay in regulatory approval of the subsequent application cycle, the program administrators would continue to implement their programs with the currently-approved budgets at the average yearly budget of the currently-approved four-year cycle until the Commission decides on the application. We will adopt this recommendation as well, as described below.

When the Commission approves an eight-year business plan, as described in Section 5.2.1 above, the Commission will approve an eight-year budget cap, under the assumption that there will be two four-year portfolio cycles within the business plan period. For the first four-year cycle of an eight-year business plan, the Commission will approve the budgets concurrent with the business plan budget cap. Should the Commission not act on the second four-year portfolio

application (for example, 2028-2031), each program administrator will have authority to continue its budget at the average annual budget level of the previous approved four-year portfolio (for example, 2024-2027), until such time as the Commission approves the second portfolio application during the period.

If the Commission fails to timely approve a new business plan and four-year portfolio at the end of an eight-year business plan period (for example, for 2032-2035), then the four-year average budget will be based on the prior approved four-year budget (for example, 2028-2031).

We will also use the CAEECC average annual budget proposal if there is a situation where a new business plan or portfolio application is filed before the expiration of a business plan period, because of one of the triggers (such as the inability to meet goals, etc.).

For the period until Commission approval of the first four-year portfolio (beginning 2024), if the Commission failed to approve the portfolio prior to 2024, the program budget for 2024 will be the average of the approved budgets for 2022 and 2023. Finally, if the Commission fails to act on an advice letter at the mid-cycle point, then the budget previously approved by the Commission in response to the four-year portfolio will remain in effect unless and until the Commission modifies the budget in response to the mid-cycle advice letter.

#### **5.2.4. Potential and Goals, Avoided Costs, and Technical Inputs Framework**

The CAEECC Proposal suggests that the Commission adopt cumulative energy savings goals for a four-year period, with a two-year refresh of the portfolio to incorporate updated avoided costs and engineering values.

According to the CAEECC Proposal, the energy efficiency portfolio applications

would be designed to meet and/or exceed four-year cumulative portfolio energy savings goals and portfolio cost-effectiveness thresholds.

The CAEECC Proposal also suggests that the energy efficiency potential and goals continue to be updated every two years, to align with the needs of the CEC as part of the Integrated Energy Policy Report (IEPR) and the Commission's IRP process.

Finally, the CAEECC Proposal would utilize a biennial process of incorporating new avoided costs and updating the engineering estimates and DEER values, to ensure that the DEER and avoided costs are aligned with the two-year goals period.

Most parties generally endorsed this approach of aligning technical and avoided cost inputs with the potential and goals identification, and keeping those items static during at least the two-year period. SDG&E/SoCalGas pointed out that the change to a biennial update process will affect the necessary inputs to the efficiency savings and performance incentive (ESPI) process.

We agree that it is sensible to update these technical inputs every two years. We will adopt a biennial update schedule within the energy efficiency rulemaking for the ACC, CET, workpapers, and DEER, all of which will feed into the biennial potential and goals update. Commission staff may conduct ACC minor updates annually, as needed by other resource proceedings and as desired to keep pace with industry information, but the program administrators will not be required to update their portfolios to adjust to the annual technical updates. DEER and workpaper updates are discussed in more detail in the next section.

Commission staff has provided a detailed schedule and process for updating technical inputs as Attachment C to this decision. This schedule will be

kept on the Commission's web site and may be periodically updated by Commission staff.

On the ESPI point, since program is currently subject to a moratorium,<sup>9</sup> we will address any necessary updates to the technical update processes at such time should we decide to reinitiate the ESPI process.

We also note that one of the challenges to the vintaging of technical data is that an application must be filed and considered during a period when new data is simultaneously being developed and adopted. In addition, each set of data inputs will be updated a second time during a four-year portfolio period.

To deal with these issues in a manageable way, keeping in mind the CAEECC recommendation for biennial updates instead of annual ones, we will institute an advice letter requirement to true-up the portfolios at the beginning of the portfolio period, after Commission approval of the portfolio, and also at the mid-point of the four-year period. These requirements are described further in the Section 5.2.6.

Finally, we emphasize that none of these changes apply to the existing process and timing for the evaluation, measurement, and verification (EM&V) activities. Those processes will remain annual.

#### **5.2.5. DEER and workpaper updates**

There have been a number of changes to the DEER and workpaper updating processes over the past few years that require rationalization to conform with the new biennial process. Additional updates may be needed, and we explicitly delegate to Commission staff to make those updates via the

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<sup>9</sup> See D.20-11-013.

Commission resolution process to update the DEER. However, there are some changes and clarifications we can make now.

First, we address the distinction between DEER and non-DEER values for deemed measures. Various past decisions have acknowledged a distinction between DEER values, or values that have undergone EM&V and are stored in the DEER database, and non-DEER values, stored in separate workpapers.<sup>10</sup> Over the years, due to past practices of freezing values, changes in scope of the DEER database, and/or difficulties with information technology infrastructure (resulting in some measures stored in temporary databases for long period until they could be transferred into DEER), this distinction has become muddled. As Resolution E-5082 has initiated the transition of existing DEER systems to the Electronic Technical Reference Manual (eTRM), which will eventually house all deemed ex ante values, including approved methods and other approved DEER documentation in a single repository and allow for greater functionality to manage deemed values, we believe this legacy DEER and non-DEER reference is no longer relevant. We therefore eliminate the DEER and non-DEER distinction and clarify that all deemed ex ante values approved by staff and housed in the existing DEER systems, and ultimately in the eTRM, are considered DEER values. Still, we direct staff to update DEER values, as appropriate, with the most recent, best-available information and to reflect the EM&V status in the eTRM of the measure cost-effectiveness determination parameters. Measure developers should continue to prioritize the use of DEER methods when developing savings parameters.

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<sup>10</sup> See discussions in D.09-09-047, D.10-12-054, D.12-05-015, and D.15-10-028.

Second, going forward, we revise the scope of the DEER Resolution process to have a central role in the approval of deemed ex ante values, research needs, and process management. Currently, the DEER Resolution process primarily adopts updates to DEER and directs updates to workpapers.<sup>11</sup> We are expanding the scope of the DEER Resolution process to also lock in the values that will be used in the development of the potential and goals, as well as savings claims. Therefore, the DEER Resolution will adopt the vintage of deemed values to be used in forecasting, portfolio planning, and savings claims biennially, until a new set of updated values is adopted in the subsequent DEER Resolution update.

We also acknowledge the need for mid-cycle corrections to values and documentation.<sup>12</sup> New measures will also need to be proposed and added to the locked version of DEER to allow for progress and innovation. Therefore, it is not reasonable to require that all values be locked down for two years, though the exceptions should be clearly defined and understood. Therefore, we will ask Commission staff to further explore and define what constitutes reasonable corrections and new measures in the DEER Resolution that will take effect no later than program year 2024. This will explicitly allow Commission staff to develop a process to adjust deemed values outside of the DEER Resolution, if necessary, and to create a process for stakeholder notification of these types of modifications.

Third, the process for the development of the DEER Resolution will be the main vehicle to direct and manage the deemed ex ante workpaper submission,

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<sup>11</sup> See additional discussion in D.15-10-028.

<sup>12</sup> Ibid.



review, and approval process, including the timeline for Commission staff review and schedule for submission of workpapers by the program administrators. We direct staff to propose changes to the current workpaper submission, review, and approval process outlined in Table 2 below, including relevant DEER “bus stops” and review “clocks.” The current processes in Table 2 will be replaced with new processes developed in the DEER resolution process. Commission staff will continuously manage this process, including instituting the necessary changes, through the DEER resolution process from now on.

Table 2. Current Workpaper Submission, Review, and Approval Processes

<b>Item</b>	<b>Reference</b>
Workpapers reflecting changes in DEER	D.15-10-028 at 84.
New measures/updates that do more than just update values to conform with revised DEER values	D.15-10-028 at 84.
Workpaper review “clock”	D.15-10-028 at 103.
Workpaper submissions	D.15-10-028 at 103.
Interim approval and dispute resolution	D.12-05-015 at 334-335.
Workpaper plan	D.15-10-028 at 103.

The new process initiated by Commission staff in a DEER Resolution should be scheduled to take effect no later than program year 2024. Existing processes will remain in place until the new processes are adopted via a DEER Resolution.

In addition, to allow more time for review and approval of deemed values, we modify the DEER Resolution “bus stop” from every September 1 to November 1 of each even-numbered year. The Commission will issue resolutions for program years 2023 and 2024 and then every even year after that. Additional detail on the DEER, workpaper, and ex ante review process will be kept updated by Commission staff and available on our web site. We also note

that none of the changes in this section impact the established Custom Review Process as described in D.11-07-030, Attachment B.

Finally, we clarify the vintages/versions of the technical inputs that should be used to develop the applications due next year for the business plan and four-year portfolio, in Table 3 below.

Table 3. Versions or Vintages of Technical Inputs to be used in Applications filed February 15, 2022

Technical Input	Version/Vintage
DEER	Up to and including DEER PY 2022 (Resolution E-5082) <sup>13</sup> and updates adopted in the upcoming DEER resolution, expected to be adopted later this year and effective in program year 2022.
Workpapers	All approved workpapers and staff-approved exceptions <sup>14</sup> to approved workpapers by December 31, 2021
Avoided Cost Calculator	2020 ACC (Resolution E-5077) <sup>15</sup>
Savings Goals	2022-2031 <sup>16</sup>

### **5.2.6. Portfolio True-Up and Mid-Cycle Review Advice Letters**

As recommended by the CAEECC Proposal and as required by the various CEC and Commission planning processes, we will continue to update the energy efficiency goals and potential every two years, in the odd years. We will then require that the DEER and workpapers (described in further detail in the next

<sup>13</sup> Available at:

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M346/K161/346161639.PDF>

<sup>14</sup> Any remaining draft statewide workpapers that may or may not receive staff approval in time for preparing the application will be handled in a case-by-case basis; consequently, the program administrators shall use existing savings values for these workpapers in their forecasting.

<sup>15</sup> <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M334/K734/334734544.PDF>

<sup>16</sup> Under development and scheduled to be adopted in this proceeding later this year.

section) and major CET updates be conducted in the even years, to be ready to be incorporated into the odd-year potential and goals updates. Minor updates to the ACC will continue to occur in odd years, while major updates will occur in even years. However, for purposes of the energy efficiency portfolios, ACC values will be incorporated only in even years with the major updates.

Further we will require the filing of a Tier 2 advice letter, once every two years in the odd years, in September, after the potential and goals have been adopted by the Commission. In this way, program administrators and the Commission will have the opportunity to either true-up the portfolio and budgets to the new goals if a portfolio has just been approved, or modify the portfolio in the middle of a cycle to take into account updated goals. A Tier 2 advice letter will ensure that stakeholders can weigh in on the changes to the portfolio in a timely manner, with Commission approval required if there are any controversial aspects, without requiring a full Commission review in the form of an application. See Section 5.2.9 below for more discussion of the required stakeholder process associated with these advice letter filings.

The following will be the general criteria for Commission staff reviewing the true-up or mid-cycle advice letters:

- The program administrator's portfolio must meet the TSB for the four years, adjusted by the revised goals.
- The portfolio must meet or exceed a forecasted TRC ratio of 1.0 for the resource acquisition segment of the portfolio (with the exception of RENs).
- The equity and market support segments of the portfolio, combined, must not exceed 30% of the total budget (with the exception of RENs).
- For IOUs: the statewide and third-party contribution percentage requirements must be met.

- The advice letters also must include a report on the progress against metrics relevant for each segment of the portfolio.

### **5.2.7. Reporting Requirements**

The CAEECC Proposal suggests that the program administrators continue to file quarterly reports via the California Energy Data and Reporting System (CEDARS) platform. In addition, program administrators would also file Annual Reports due every May, including sufficient detail on portfolio, sector, and program-level annual and cumulative accomplishments, including data on savings, budget, cost-effectiveness and other approved metrics to ensure accountability and public input on the progress of portfolio performance.

The CAEECC Proposal also includes the recommendation that the Annual Reports present a prospective overview, in narrative format, that will include future plans to meet and/or exceed the cumulative four-year savings goals and the four-year cost-effectiveness requirement, plus other Commission-approved REN-specific goals. The CAEECC Proposal suggests that the prospective overview include any program adaptations, additional solicitations, or other strategies that may be necessary to ensure attainment of the four-year goals and cost-effectiveness requirements.

All of these requirements are reasonable and no party objects to them. Therefore, we will adopt them.

### **5.2.8. Process for Program Changes**

One issue that remains is how to address the inevitable changes that program administrators will need to make to their portfolios during portfolio implementation, when unanticipated situations arise. One such scenario is when a program administrator decides to close a program. The CAEECC Proposal suggests keeping a Tier 2 advice letter in that instance.

Several parties, in their comments, objected to this requirement, including MCE/BayREN. Their main objection is that waiting to close a program during the pendency of the advice letter would exacerbate inefficiencies if the program is not advancing portfolio goals. Instead, MCE/BayREN suggest an advice letter requirement for program closure only when it exceeds 20% of the program administrator's energy efficiency portfolio. If a program is under that threshold, MCE/BayREN suggest giving flexibility to close the program without an advice letter, and instead require the program administrator to include information about smaller closed programs in their Annual Reports. In contrast, PG&E suggests in comments that the Tier 2 advice letter process for program closure is working fine now, so there should be no need to change it.

Further comments on these topics were filed in response to a February 17, 2021 ALJ ruling inviting comments on requirements for program changes. In response to that ruling, all of the utilities filed comments, plus Cal Advocates, Sierra Club, and CEDMC. The current rules require the filing of a Tier 2 advice letter for the opening or closing of a program, but addenda to implementation plans if there are program changes during implementation.<sup>17</sup>

In general, most of the IOU comments expressed the view that the existing requirements are sufficient and no changes are necessary. However, PG&E suggested that the Commission staff work with the program administrators to further specify when a program change is of sufficient magnitude that it should be considered a "new" program. On the other hand, PG&E cautioned that trying

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<sup>17</sup> D.05-09-043 required advice letter filings for new programs. D.09-09-047 required advice letters for cancellation of programs. D.15-10-028 removed the requirement for advice letters for fund-shifting between programs, and created triggers for the need to file addenda to implementation plans.

to differentiate minor from major changes is difficult and could lead to problems. CEDMC also pointed out that some flexibility in program changes is reasonable, especially during the first year of program implementation, to allow change in program design.

CEDMC also supported having advice letter requirements in two circumstances: 1) when the Commission directed a change that requires substantial modifications to a program or portfolio of programs or 2) where a program administrator is submitting a new program, including cases where the IOU makes a case for a new statewide program or requests a change of lead administrator for a statewide program.

SDG&E suggested that the only time an advice letter should be required is if a program start or closure is done outside of the ABAL. SDG&E also suggested that changes to existing programs could require an advice letter filing as a “new” program if any of the following three conditions are present: 1) a change in market sector, 2) a change in implementation/delivery strategy (*e.g.*, downstream to upstream rebates), or 3) a new third party program that exceeds the budget and three-year duration threshold.

Cal Advocates suggested that the Commission should require an advice letter when the proposed program changes: 1) result in reductions to energy savings, cost-effectiveness, or greenhouse gas reductions cumulatively by 20% or more; 2) change eligibility rules across sectors, building types, or construction types; or 3) significant changes to a program budget over 20%.

Cal Advocates also suggested that if a program has a different target audience and market channel, it should be considered “new.” Finally, Cal Advocates suggested that the Commission set up an enforcement mechanism to

ensure adherence to the suggested criteria and suggested shareholder fines for non-compliance.

Finally, Sierra Club suggested that any changes to gas appliance energy efficiency programs should require advice letters for extra scrutiny, given the potential of these particular programs to undermine California's decarbonization and climate objectives.

After consideration of all parties' comments on this topic, we will maintain the Tier 2 advice letter filing requirement for the opening of new programs or the closure of programs, and decline to set a budget threshold. Included in the opening of a new program would be the situation referenced by CEDMC, where an IOU program administrator is making a case for a new statewide program elevated from a regional or local program, or where there is a change in the lead administrator for a statewide program.

Advice letter filings provide important transparency and oversight. As in the past, program administrators may include the program opening or closing proposals within their upcoming ABALs for program years 2022 and 2023, or they may include them within the budget true-up advice letters or mid-cycle update advice letters. Finally, each individual program does not require an individual advice letter; program administrators may combine or batch advice letter filings for more than one program, if it makes sense to do so.

Before program administrators file advice letters for program changes, they will be required to follow steps for notification and vetting of proposed program changes with stakeholders. Program administrators should make proposed implementation plan updates and host a webinar or workshop that lays out timelines and milestones for the ramping down of an existing program or the ramping up of a new one. Commission staff will develop a process and

content checklist of these requirements and post them to our website prior to December 31, 2021. Therefore, once the advice letters are filed, the review criteria for Commission staff disposition of the advice letters will include checking to ensure that the program administrator has followed all of the appropriate planning and notification steps prior to its filing.

We also agree with SDG&E's suggested refinements for what constitutes a significant enough change to an existing program that it becomes defined as "new." Namely, if a program is making a change in a market sector or a change in implementation or delivery strategy, then that program change constitutes a new program and the program administrator shall be required to file a new Tier 2 advice letter for approval of the program. We agree with SDG&E that the Commission has already determined that a new third-party program with a contract that has a value of \$5 million or greater and/or a term of more than three years should be approved through an advice letter,<sup>18</sup> and this rule will remain in effect.

We decline to adopt special rules for natural gas appliance programs or institute a special enforcement mechanism, as suggested by Sierra Club and Cal Advocates, respectively. Until such time as the Commission addresses broader policy questions related to natural gas efficiency, we find no current rationale for treating natural gas efficiency programs differently. This could change, however, depending on the evolution of overall state policy with regard to building decarbonization. Thus, we encourage the natural gas utilities, in particular, to err on the side of transparency in program changes since these issues are quickly evolving. We also do not find it necessary to create special

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<sup>18</sup> See D.18-01-004, Ordering Paragraph 2, at 61.



enforcement procedures for these program change rules, though remind utilities that failure to follow any Commission requirements is subject to potential penalties and enforcement action for non-compliance.

### **5.2.9. Stakeholder Engagement Minimum Requirements**

The CAEECC Proposal includes an extensive set of recommendations for how program administrators should engage with stakeholders, including the CAEECC itself, before, during, and after application filings, during program implementation, and as part of regular reporting and monitoring activities. The CAEECC Proposal includes a great deal of thoughtful planning about the best way to engage stakeholders, especially through the CAEECC. While we are reluctant to include in this decision explicit and rigid requirement about how the CAEECC should do its work, we endorse the general strategic approach laid out in the CAEECC Proposal and encourage the program administrators and stakeholders to adhere to it as closely as possible.

In addition, there are two times where we will make formal CAEECC consultation by the program administrators mandatory prior to formal filing with the Commission. The first is prior to the filing of business plans and program portfolio applications. All program administrators are required to provide a draft version of their business plan and program portfolio filings to the CAEECC for review prior to formal filing at the Commission. We further encourage the program administrators to consult early and often with stakeholders even prior to the preparation of draft filings, to understand stakeholder priorities and concerns, taking them into account when developing their draft filings.

A second place where stakeholder engagement will be critical is during the mid-cycle review period, which covers the period after the filing of the first program year annual report of the portfolio period, during the development of new potential and goals, and prior to the mid-cycle review advice letter filing. During this period, program administrators will be required to present annual report findings to the CAEECC and seek input on any planned adjustments to the portfolio prior to the filing of the mid-cycle update advice letter in September of the same year. As described in the CAEECC proposal, stakeholders may engage in a process to reach consensus around portfolio changes to better align with goals and cost-effectiveness requirements. The results of this process should be included in the mid-cycle advice letters.

## **6. Interim/Transition Process**

The CAEECC Proposal recommends that new portfolio applications be filed to start in 2026 to accommodate the end of the existing Rolling Portfolio and Business Plan cycle. This would provide the program administrators the opportunity to ramp up to majority third-party design and delivery of energy efficiency activities.

In parallel, the latest Scoping Memo in this proceeding<sup>19</sup> tentatively scheduled new business plans/applications to be filed after the issuance of this decision, setting them for September 2021. This was due to a combination of the impacts of COVID-19, expected potential and goals updates in Summer 2021, the fact that PG&E and SCE have been struggling or unable to meet their portfolio cost-effectiveness requirements in their 2020 ABALs and PG&E's 2021 ABAL, and consideration of the CAEECC Proposal in this decision.

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<sup>19</sup> See the Amended Scoping Memo Addressing the Impacts of COVID-19, issued July 3, 2020, available at: [342189331.PDF \(ca.gov\)](#)

The CAEECC Proposal suggests that program administrators who need to file portfolios prior to 2026 make their filings cover the program years up to 2025, and then also continue to file ABALs during the transition period.

Finally, the CAEECC Proposal suggests that program administrators will need at least nine months to prepare portfolio filings after the Commission issues a guidance decision requiring them to do so.

### **6.1. Parties' Comments**

Most parties supported the CAEECC Proposal's timing suggestions. MCE/BayREN, however, did not support the idea of having all program administrators file new Business Plans in September 2021. MCE/BayREN argue that additional consideration is needed to cost-effectiveness reform and reassessment of the potential and goals methodology prior to requiring program administrators to re-file business plans. MCE/BayREN also point out that the filing of business plans is time-consuming and expensive for the program administrators to undertake, at ratepayer expense.

### **6.2. Discussion**

In this section, we set the timing for new business plan and portfolio filings, and discuss how annual budgets will be set during the interim period between now and the start of the new portfolio period, and while the new applications are under consideration.

#### **6.2.1. Timing of New Portfolio Filing**

Though our latest scoping memo in this proceeding, which triggered the need for all program administrators to file new business plans, suggested that new business plans and/or program portfolios should be filed in September 2021, we agree with most parties that there is not enough time between consideration of this decision and that date. However, we also think that

beginning new business plans and/or program portfolios in 2026 is too late. Too much of the program landscape has changed since approval of the existing business plans in 2018, and the annual budget and cost-effectiveness advice letter process has not been working effectively since then. Further, the portfolio segmentation policy included in this decision will have a large impact on program administrators' ability to meet their cost-effectiveness thresholds, which has been a challenge in recent years.

In addition, PG&E and SCE, the two program administrators with the largest budgets, were already required to file new portfolios by virtue of the direction from previous decisions and ABAL results. Their portfolios interact with the majority of other program administrators as well. This all leads us to conclude that new business plans and program portfolios should be filed soon, but not as soon as September 2021. Instead, we will require the new business plans and program portfolios from all program administrators to be filed by February 15, 2022, for programs to start in the year 2024. This should allow the program administrators to take into account new potential and goals adopted later this year, the impacts of COVID-19, plus all of the other changes included in this decision. Planning a start of the portfolios in 2024 will also give the Commission time to consider the new portfolio filings thoughtfully.

### **6.2.2. Setting Budgets Prior to Adoption of New Portfolio**

Next we turn to the question of how budgets should be set between now and 2024, when the new portfolio period will begin. The CAEECC Proposal, and most parties, suggest that we should continue the ABAL process until the new portfolios are approved and begin to be implemented.

We note that due to the impacts and challenges of COVID-19 and its impacts on the energy efficiency portfolios, the requirements for program year 2021 were eased. Most parties, in response to the Potential and Goals Policy Ruling, commented that a TRC threshold of 1.25 was not a realistic objective to be met, and that is especially true during the pandemic. According to the terms of D.18-05-041, the 1.25 TRC ratio threshold was required to be met by program year 2023. However, this requirement no longer makes sense to be applied in that timeframe given that new portfolios will now begin in 2024.

In addition, for 2021, most of the IOUs filed portfolios that exceeded a 1.0 TRC ratio threshold but only one IOU exceeded a 1.25 threshold. The traditional remedy for program administrators who are not able to meet the TRC threshold is to file new business plans. Since that step will already be occurring in 2022, there is no already-identified remedy for program years 2022 and 2023, while the new business plan and portfolio filings are being evaluated.

Therefore, we need to make some changes to the ABAL process for 2022 and 2023, as well as the review criteria to be used by Commission staff in processing the ABALs. The next two program years will also give program administrators and stakeholders a chance to test out the portfolio segmentation approach discussed in Section 3 of this decision to become familiar with how it will impact cost-effectiveness of the portfolios, among other things. Similarly, we can also begin to understand how the TSB metric discussed in Section 2 of this decision can best be achieved. Finally, since we do not expect any major policy-level direction from the Commission affecting the portfolios between now and 2024, which will begin the next business plan and portfolio implementation, it seems unnecessarily duplicative to have ABALs in both 2021 and 2022 for program years 2022 and 2023.

Instead, we will have the program administrators combine both program years (2022 and 2023) into one ABAL, to be filed on September 1, 2021, covering both years. The review criteria for RENs will remain unchanged, since they do not independently have a cost-effectiveness threshold. However, the RENs shall still include the new information requirements of this decision, including segmenting of their portfolios and an estimate of the TSB metric. For the IOUs and CCAs who are program administrators, the review criteria will be as follows:

- Forecasted energy savings in ABALs for 2022 and 2023 shall meet the annual energy savings goals that will be adopted in Summer 2021 for those program years.
- Budget requests must stay under the cap authorized for the current business plan period, unchanged from D.18-05-041.
- The TSB metric of the portfolio shall be included, but will not be considered a basis for the rejection of the ABALs.
- Cost-effectiveness ratios, for both the TRC and PAC, shall be included for the entire portfolio, but these overall portfolio TRC and PAC ratios will not be a basis for rejection of the ABALs.
- Cost-effectiveness ratios shall also be calculated on only the resource acquisition portion of the portfolio, and must exceed 1.0 on a forecast basis.
- The cost-effectiveness requirements of D.18-05-041 for ABALs are otherwise removed and no longer in effect.
- The budget of programs classified as market support or equity programs, as discussed in Section 3 of this decision, shall not exceed 30 percent of the overall budget.
- Reasonableness of the program segmentation itself will not be a criterion for rejection of the ABAL, since the segmentation will be addressed more fully in the evaluation of the business plan and portfolio filings in 2022.

- EM&V budgets should still be set at 4% of the overall portfolio budget.

## **7. AB 841 Interface with Portfolio Process**

This section addresses implementation of AB 841, which established the School Energy Efficiency Stimulus Program. D.21-01-004 already provided direction to the IOUs for collecting and transferring funds to the CEC, and indicated a likely need to provide further guidance regarding potential impacts of the Stimulus Program on the IOUs' third-party compliance requirements (*i.e.*, the targets established in D.16-08-019 and D.18-01-004 for the proportion of portfolio budgets that fund third-party designed and delivered programs), and other implementation details as necessary. This section provides further guidance for AB 841 as it relates to third-party compliance and other necessary details.

### **7.1. Parties' Comments**

Regarding third-party compliance, as D.21-01-004 noted, several parties raised a concern over the fact that AB 841 specifies that the Stimulus Program shall be considered a third-party program for purposes of complying with D.16-08-019. These parties note that, given the amount of Stimulus Program funding required by AB 841, the IOUs might meet or exceed their current third-party compliance requirements simply as a result of AB 841, and without conducting any further solicitations.

Regarding whether and how to account for Stimulus Program expenditures and savings in calculating portfolio cost-effectiveness, AB 841 requires that "[e]xpenditures on the School Energy Efficiency Stimulus Program shall be found to be cost effective and shall not be considered by the commission when calculating the overall cost-effectiveness of energy efficiency portfolios of electrical corporations or gas corporations." Parties addressing this requirement

generally agree that Stimulus Program expenditures should, thus, not be incorporated into portfolio cost-effectiveness calculations. But SoCalGas and LGSEC recommend including the savings from the Stimulus Program into the portfolio cost-effectiveness calculation, whereas most other parties (NRDC, PG&E, SDG&E, TURN, SBUA, JCEEP, CEDMC, SCE, and Cal Advocates) recommend keeping both costs and benefits of the Stimulus Program out of portfolio cost-effectiveness calculations.

Regarding tracking and verifying GHG emissions reductions and energy savings, SoCalGas and PG&E suggest that the Commission follow established ex ante and ex post policy for verification. CEDMC, SCE, and SDG&E argue that tracking and verifying Stimulus Program energy savings and GHG emissions reductions is not the Commission's role. TURN notes that importance, and consistency with Commission policy, of accounting for both positive and negative energy savings from the Stimulus Program, whereas SBUA, LGSEC, and JCEEP argue that the negative energy impacts from improved ventilation should not be counted as negative savings and should not impact the IOUs' portfolios.

## **7.2. Discussion**

### **7.2.1. Third Party Requirements**

With respect to the third-party compliance targets adopted in D.16-08-019 and modified in D.18-01-004, we agree with parties that state that the Stimulus Program projects should count towards these targets. We also emphasize that the third-party compliance target of 60 percent, required by December 31, 2022, continues beyond 2023, until such time as the Commission modifies this requirement, whereas all funds allocated to the Stimulus Program must either be spent or returned to the IOUs by December 1, 2026. In other words, the IOUs



must continue to maintain compliance with the 60 percent target long after funding for the Stimulus Program ceases to be required. Thus, while Stimulus Program funding will certainly have an effect on the IOUs' compliance with third-party requirements during the 2021-2026 timeframe, we do not expect it to materially affect the IOUs' solicitation plans such that we would need to modify the Commission's third-party targets or requirements at this time. We will revisit this determination if and when we observe an impact from AB 841 funding on the IOUs' solicitation efforts.

### **7.2.2. AB 841 Costs and Benefits, including GHG Emissions Reductions and Energy Savings**

This decision determines that the IOUs should track and report expenditures (costs) and energy savings (benefits) from the Stimulus Program separately from their portfolio cost-effectiveness calculations. The IOUs should continue to identify AB 841 funding amounts as a separate item in their ABALs. Because AB 841 specifies that Stimulus Program expenditures shall not be considered when calculating portfolio cost-effectiveness, the IOUs should not include these expenditures as costs in their portfolio cost-effectiveness calculations. Savings from the Stimulus Program, so long as they are tracked and reported, can always be incorporated into portfolio cost-effectiveness calculations, if and as deemed necessary in the future. Further, because Stimulus Program expenditures shall not be considered in portfolio cost-effectiveness, there is no need for the IOUs to estimate energy savings on an ex-ante basis.

Regarding tracking and verifying GHG emissions reductions and energy savings, because the Stimulus Program is funded by ratepayer funds that were budgeted for energy efficiency, it is reasonable for the Commission to verify the GHG reductions and energy savings from the program, including tracking both

negative and positive energy savings impacts. Again, such measurement will not be on an ex-ante basis; Commission staff may conduct ex post reviews to calculate the impacts and to attribute savings to the relevant IOU according to their service territory. Once these reviews are completed, the IOUs need only track and report energy savings from AB 841 activity on an ex post basis.

## **8. Policy Guidance to Program Administrators for Business Plans and Program Portfolios**

The CAEECC Proposal included a provision for the Commission to provide policy guidance in advance of the program administrators filing program portfolios. The CAEECC Proposal anticipated those filings in 2025, which would have given more time for such policy guidance. Given the short timeframe here between this decision and the filing of the business plans and program portfolios in early 2022, there is only one topic where near-term policy guidance is needed to make sure policy is reflected in the upcoming filings. This issue is with respect to energy efficiency measures which use refrigerants with global warming potential (GWP).

### **8.1. Treatment of Refrigerants**

SB 1013 (Lara, 2018) directed the Commission to consider developing a strategy for including low-GWP refrigerants in the energy efficiency portfolios.<sup>20</sup> In April 2020, in the Integrated Distributed Energy Resources (IDER) rulemaking (R.14-10-003), the Commission adopted a set of policy updates to the ACC affecting all distributed energy resources,<sup>21</sup> including energy efficiency. The

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<sup>20</sup> SB 1013 (Lara, 2018) added Section 76002 to the Public Resources Code, which reads: “The Public Utilities Commission shall consider developing a strategy for including low-GWP refrigerants in equipment funded by the energy efficiency programs overseen by the Public Utilities Commission.”

<sup>21</sup> See D.20-04-010.

policy updates require the program administrators to account for the avoided costs of high-GWP gases in the energy efficiency portfolio, including refrigerant emissions and methane. The new avoided costs apply to:

- Fuel substitution measures, where the benefits are lowered methane emissions and the costs are associated refrigerant emissions,
- Natural gas efficiency measures, where methane emissions are reduced through lower natural gas consumption, and
- Programs that encourage the use of lower-GWP refrigerants than current “standard practice” or regulation.

Although the current energy efficiency portfolio does not have programs or measures focusing on the use of low-GWP refrigerants, there is now an opportunity to develop such options under the auspices of the new avoided costs. Equipment using low-GWP refrigerants may have different cost, performance, and maintenance requirements than equipment using standard refrigerants, but such equipment offers significant additional value in the form of lower emissions.

As part of the 2020 ACC Update, the Commission developed a Refrigerant ACC, which calculates the net present dollar value of lifecycle emissions for different refrigerant and equipment-type configurations.<sup>22</sup> The calculator is designed to assist program administrators, third parties, and other stakeholders in assessing the avoided cost impact of the use of refrigerants (for fuel substitution) or selection of lower-GWP refrigerant compared to standard practice. Currently, the output from the Refrigerant ACC must be added

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<sup>22</sup> [ftp://ftp.cpuc.ca.gov/gopher-data/energy\\_division/EnergyEfficiency/CostEffectiveness/Refrigerant%20Calculator.xlsx](ftp://ftp.cpuc.ca.gov/gopher-data/energy_division/EnergyEfficiency/CostEffectiveness/Refrigerant%20Calculator.xlsx)

manually to the CET output outside of the Commission's tools to yield an adjusted TRC. To address this, Commission staff is adding a new field to the CET to accommodate new refrigerants, which is expected to be available by mid-summer-2021, to support 2022 portfolio planning.

The California Air Resource Boards (CARB) is in the process of rolling out new regulations restricting the use of high-GWP refrigerants.<sup>23</sup> These regulations vary by system size and type and are expected to lead to changes in building codes, manufacturing specifications, and product offerings. For these reasons, the refrigeration and heating, ventilation, and air conditioning (HVAC) markets are expected to experience a period of more rapid change. This evolving environment presents both challenges and opportunities for including low-GWP refrigerants in energy efficiency programs. The challenges include determining the right standard practice baseline, as well as finding viable low-GWP alternatives that go beyond regulations. Opportunities arise from the higher volume of retrofits that will occur as a result of required changes to larger systems, and the building decarbonization programs designed to encourage adoption of electric heat pumps, among other measures. In addition, as manufacturers consider options for re-tooling, it may be a good time to push demand for options that go beyond regulatory requirements.

To simplify the determination of an appropriate normal replacement baseline for refrigerants in an environment of tightening regulations, we will set normal replacement baseline to be either the current regulation, or the refrigerant typically used for similar applications in program years 2020-2021, whichever

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<sup>23</sup> See <https://ww2.arb.ca.gov/news/california-introduces-groundbreaking-program-reduce-climate-super-pollutants>

has lower refrigerant emissions. Given the market uncertainty, we will revisit this baseline policy in 2025.

There are some refrigerant-related policy questions that we do not address here because they require more focused stakeholder input and discussion. These include determining the appropriate circumstances where program benefits can appropriately reflect the effects of responsible disposal of used refrigerant, refrigerant recycling, or reduced refrigerant leakage. These topics require additional consideration.

Given the pending regulations and anticipated changes to the refrigeration and HVAC markets, the best-suited intervention program may be one that is developed under the Market Transformation Framework, adopted in D.19-12-021. In general, it is difficult to know exactly what opportunities exist or will arise in the future for the deployment of low-GWP refrigerants in the energy efficiency portfolio. As CARB and the Commission continue to explore these more complex topics, we believe the program administrators can make some progress now to begin to encourage the use of more low-GWP refrigerants in energy efficiency equipment.

In accordance with SB 1013, we direct the program administrators to use the Refrigerant ACC for portfolio forecasts and filings, and to submit new and updated workpapers for low-GWP refrigerant measures, beginning in program year 2022. We also direct the program administrators to consider and incorporate strategies to support the use of low-GWP refrigerants in the upcoming business plan filings. In general, we encourage the program administrators to seek out all cost-effective opportunities to incorporate low-GWP measures in the energy efficiency portfolios.

Additional issues and considerations may arise as program administrators, Commission staff, and stakeholders engage more deeply with workpaper development, program planning, and other aspects of low-GWP measure deployment. If, during this process, Commission staff determines more guidance is needed, then staff may develop and publish a refrigerant guidance document on the Commission's web site and take stakeholder input on it, from parties to this or a successor proceeding, before finalizing further guidance.

### 9. Next Steps and Timing

The determinations made in the previous sections of this decision result in a schedule that is summarized in Table 4 below. As with all schedule elements of the energy efficiency rulemaking, the assigned Commission and/or ALJs may make changes to this schedule to manage the proceeding effectively should additional issues arise. However, this is the scheduled approach for the foreseeable future, absent any unexpected developments or extenuating circumstances.

Table 4. Adopted Schedule for Business Plans, Program Portfolios, Potential and Goals, and Technical Updates

Item	Filing Date	Approval Date	Time Period Covered
Potential and Goals Update	NA	Summer 2021	2022-2031
CAEECC Formal Consultation	NA	Summer 2021	NA
Advice Letter filing for Program Years 2022 and 2023	September 1, 2021	End of 2021	2022-2023
CAEECC Formal Consultation	NA	Summer-Fall 2021	NA

<b>Item</b>	<b>Filing Date</b>	<b>Approval Date</b>	<b>Time Period Covered</b>
Business Plan Filing	February 15, 2022	Mid 2023	2024-2031
Portfolio Filing	February 15, 2022	Mid 2023	2024-2027
Engineering and Avoided Costs Updates	NA	Mid 2022	NA
Potential and Goals Update	NA	Summer 2023	2024-2033
True-Up Advice Letter	September 1, 2023	End of 2023	2024-2027
Engineering and Avoided Costs Updates	NA	Mid 2024	NA
Potential and Goals Update	NA	Summer 2025	2026-2035
CAEECC Formal Consultation	NA	Summer 2025	NA
Mid-Cycle Update Advice Letter	September 1, 2025	End of 2025	2026-2027
CAEECC Formal Consultation	NA	Summer-Fall 2025	NA
Portfolio Filing	February 15, 2026	Mid 2027	2028-2031
Engineering and Avoided Costs Updates	NA	Mid 2026	NA
Potential and Goals Update	NA	Summer 2027	2028-2037
True-Up Advice Letter	September 1, 2027	End of 2027	2028-2031
Engineering and Avoided Costs Updates	NA	Mid 2028	NA
Potential and Goals Update	NA	Summer 2029	2030-2039
CAEECC Formal Consultation	NA	Summer 2029	NA

Item	Filing Date	Approval Date	Time Period Covered
Mid-Cycle Update Advice Letter	September 1, 2029	End of 2029	2030-2031
CAEECC Formal Consultation	NA	Summer-Fall 2029	NA
Business Plan Filing	February 15, 2030	Mid 2031	2032-2040
Portfolio Filing	February 15, 2030	Mid 2031	2032-2035
Engineering and Avoided Costs Updates	NA	Mid 2030	NA
Potential and Goals Update	NA	Summer 2031	2032-2041
True-Up Advice Letter	September 1, 2031	End of 2031	2032-2035
Engineering and Avoided Costs Updates	NA	Mid 2032	NA
Potential and Goals Update	NA	Summer 2033	2034-2043
CAEECC Formal Consultation	NA	Summer 2033	NA
Mid-Cycle Update Advice Letter	September 1, 2033	End of 2033	2034-2035
And so on...			

#### 10. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Julie A. Fitch and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding.

#### 11. Comments on Proposed Decision

The proposed decision of the ALJs in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.



Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

### **Findings of Fact**

1. Energy savings goals alone, while important, do not capture the full set of policy goals and benefits of energy efficiency.

2. A TSB metric can capture more benefits of the energy efficiency programs, including GHG emissions reductions and long-term savings goals.

3. A TSB metric is inherently better at capturing benefits of fuel switching than single fuel kWh or therm goals.

4. The Commission has a history of segmenting the energy efficiency portfolios under its purview into categories depending on their primary purpose, including, but not limited to, codes and standards programs and market transformation initiatives.

5. While the purpose of the majority of energy efficiency programs is to produce energy savings, there are certain programs that may have a primary purpose other than direct savings, including market support and equity. These programs, while they may not produce (or may produce negligible) measurable energy savings, are crucial to supporting other programs that do produce savings and/or ensuring that all communities have access to energy efficiency program benefits.

6. Currently, non-resource programs, which are similar to the market support and equity categories defined in this decision, comprise an average of approximately 20% of most program administrators' portfolios.

7. In the past, the Commission has limited expenditures on energy efficiency to cost-effective portfolios, as measured by the TRC and PAC tests, and has

stated requirements that program administrators' portfolios should have at least a 1.0, or in some cases, a 1.25 TRC ratio.

8. Energy efficiency programs with the primary purpose of resource acquisition are likely programs where it is easiest and most reasonable to measure costs and benefits.

9. The rolling portfolio process with ten-year business plans containing high-level strategies and one-year ABALs has not served as intended, to reduce conflict and remove regulatory uncertainty for the program administrators.

10. The CEC, CAISO, and the Commission rely on the long-term rolling portfolio budget approval process to include energy efficiency impacts in the demand forecast, for planning purposes.

11. Approval of long-term funding for energy efficiency avoids unnecessary investments in supply-side resources.

12. Zero-based budgeting requires analyzing each function for its contribution and costs before including in a budget, and does not allow expenses to continue just because they were approved in the past, if they no longer serve an important function.

13. Funding "cliffs" created by regulatory delays are detrimental to the energy efficiency market and can potentially thwart long-term gains in energy efficiency.

14. Having energy efficiency goals and cost-effectiveness targets set on a cumulative basis for a four-year portfolio period will facilitate orderly entry and exit of programs from the market and allows flexibility for program administrators to maximize the effectiveness of their programs.

15. Aligning technical inputs, including DEER values, workpapers, and avoided costs, to feed into the development of potential and goals, on a biennial

basis, will rationalize the updating of all of these factors supporting the energy efficiency portfolios.

16. Biennial updates to the energy efficiency potential and goals are important to assist program administrators in continuing to focus and tailor their portfolios.

17. Tier 2 advice letter filings for programs opening or closing allow for transparency and Commission oversight.

18. Meaningful engagement of stakeholders in the development and implementation of the energy efficiency portfolios improves program delivery and Commission oversight.

19. ABALs were required by D.18-05-041 for the setting of annual budgets, and that requirement is not logical to change until the Commission approves a new business plan and program portfolio.

20. Quarterly and annual reporting, via the CEDAR platform, assists the Commission and stakeholders in tracking progress of the energy efficiency portfolios and programs.

21. It will be administratively more efficient to combine ABALs for 2022 and 2023 into one filing on September 1, 2021.

### **Conclusions of Law**

1. The commission should adopt a new TSB energy efficiency goals metric that captures as many of the benefits of energy efficiency as possible while also encouraging longer-duration energy savings.

2. Energy savings and peak demand savings goals in the form of kWh, kW, and therms, should continue to be tracked for energy efficiency programs and portfolios, in addition to the TSB metric.

3. A TSB metric is consistent with achieving all cost-effective energy efficiency, as required by PU Code Section 454.5.

4. The Commission should continue to require all program administrators to report their energy efficiency total portfolio cost-effectiveness ratios using both the TRC and PAC tests.

5. Program administrators should be required, starting with program year 2022, to segment their programs into categories with the following three primary purposes: resource acquisition, market support, and equity, as defined in this decision.

6. Segmentation of the energy efficiency portfolios may help facilitate the Commission's integrated resource planning process, in the future, to use bundles of programs from the resource acquisition segment of the portfolio to be optimized in modeling analyses.

7. Public Utilities Code Section 381 requires that the Commission fund all cost-effective energy efficiency, but does not limit the Commission to only funding that amount of energy efficiency. The Commission may find merit in funding energy efficiency programs where costs exceed the measurable energy savings benefits.

8. Program administrators, with the exception of RENs, should be required to ensure that their energy efficiency resource acquisition programs exceed a 1.0 TRC on a forecasted basis, in order for the Commission to approve the programs.

9. The market support and equity categories of programs, when combined, should not exceed 30% of a program administrator's budget. RENs should be exempted from this limit because of the different nature of their portfolios.

10. All energy efficiency program administrators should be required to develop metrics and criteria for evaluating progress of all programs, with particular focus on market support and equity programs that may not have measurable energy savings.

11. The Commission should maintain a requirement for program administrators to develop, for Commission approval, a high-level business plan, containing sector strategies, metrics, and an eight-year budget. The triggers for when a program administrator should file a new business plan, included in D.15-10-028, should be maintained.

12. The CAEECC Proposal for a four-year portfolio filing, including detailed sector and program strategies, budgets, and four-year cost-effectiveness showings, is reasonable and should be approved by the Commission.

13. One major modification should be made to the CAEECC Proposal for four-year portfolios, which is that implementation plans should be required to be submitted with the portfolio application, with the exception of third-party programs for which there is not yet a contract.

14. Commission staff should maintain templates for the business plan and four-year portfolio filings, in consultation with the program administrators and stakeholders, and post the templates on the Commission's web site and make them available for posting by the CAEECC.

15. The requirements contained in D.18-05-041 for Joint Cooperation Memoranda for program administrators with programs covering overlapping geography should be maintained.

16. The CAEECC Proposal makes a reasonable distinction between program implementation costs and portfolio administration costs, as detailed in this decision.

17. Administration costs should continue to be capped at ten percent of the program administrator's portfolio; all other budget caps or targets, including for direct-implementation non-incentive costs and marketing and outreach costs, should remain unchanged.

18. The zero-based budgeting included in the CAEECC Proposal is a reasonable approach.

19. Implementation costs associated with competitively-solicited third-party contracts shall be considered per se reasonable, without the program administrator needing to justify the costs using a zero-based approach.

20. The Commission should require zero-based budgeting for the funding proposals in the eight-year business plans and four-year portfolio applications, so that program administrators must justify the need for the expenditures included.

21. The Commission should avoid regulatory uncertainty and funding “cliffs” in the event of delayed approvals by allowing program administrators to continue budgets at the four-year average from the previous approved four-year energy efficiency portfolio, until such time as the Commission approves a new portfolio and budgets.

22. Energy efficiency budgets, goals, and cost-effectiveness forecasts should be cumulative during each four-year portfolio period.

23. Energy efficiency potential and goals should continue to be analyzed and set every two years, in order to align with the CEC’s IEPR demand forecast and the Commission’s IRP activities.

24. Avoided costs, DEER updates, and other technical inputs should also follow a biennial update schedule, in order to feed into the potential and goals analyses, and should be kept static during the two-year period.

25. The distinction between DEER and non-DEER values has become confusing and should be eliminated.

26. To accommodate changes, the DEER resolution “bus stop” included in D.15-10-028 should be moved from every September 1 to November 1 of each even-numbered year.

27. When an energy efficiency goals update occurs in the same year that a portfolio has been approved, program administrators should be required to file a Tier 2 advice letter on September 1 following the adoption of the new goals, to true up their budgets and portfolio approaches to the new adopted goals.

28. When an energy efficiency goals update occurs during the four-year portfolio period, program administrators should be required to file a Tier 2 advice letter with a mid-cycle update to their portfolios and budgets, on September 1 of the second year of the portfolio period.

29. Commission staff should review true-up and mid-cycle advice letters according to the criteria included in Section 5.2.6 of this decision.

30. The program administrators should be required to continue quarterly and annual reporting via the CEDAR platform. The other reporting requirements in the CAEECC Proposal are reasonable and should be adopted.

31. Tier 2 advice letter filings should continue to be required from program administrators who are opening or closing particular programs. Program openings include situations where a regional or local program is being elevated to a statewide program or where the lead administrator for the statewide program is changing. A program should also be considered new if there is a change in market sector, implementation or delivery strategy; if it is a new third-party program the requirements of D.18-01-004 should be followed.

32. Commission staff should create and post a checklist for required notification and vetting steps prior to the filing of a Tier 2 advice letter for the opening or closing of programs by no later than December 31, 2021.

33. The program administrators should be encouraged to conduct meaningful stakeholder engagement before, during, and after application filings, during program implementation, and as part of regular reporting and monitoring activities.

34. The program administrators should be required to consult with CAEECC formally at two points: prior to the filing of business plans and program portfolio applications, and during the mid-cycle review period, prior to the mid-cycle advice letter filings.

35. In the interim prior to Commission approval of new program portfolios, the ABAL process should continue to be utilized to set annual budgets for 2022 and 2023.

36. Because AB 841 specifies that Stimulus Program expenditures shall not be considered when calculating portfolio cost-effectiveness, the IOUs should not include these expenditures as costs in their portfolio cost-effectiveness calculations. The IOUs should track and report expenditures and energy savings benefits from the Stimulus Program separately from their portfolio cost-effectiveness calculations, and the IOUs should continue to identify AB 841 funding amounts as a separate item in their ABALs and subsequently in their portfolio applications.

37. Because the Stimulus Program is funded by ratepayer dollars that were budgeted for energy efficiency, it is reasonable for the Commission to verify the GHG reductions and energy savings from the program, including tracking both negative and positive energy savings. The IOUs should track and report energy savings from AB 841 activity on an ex post basis.

38. Because SB 1013 directs the Commission to consider developing a strategy for including low-GWP refrigerants in the energy efficiency portfolios it



oversees, it is reasonable to direct the program administrators to start accounting for low-GWP refrigerant measures in their portfolio forecasts, filings, and business plan strategies.

## **O R D E R**

**IT IS ORDERED** that:

1. Beginning with the energy efficiency potential and goals study being conducted in 2021, energy efficiency goals for program administrators shall be expressed in terms of a Total System Benefit (TSB) metric. Beginning in program year 2022, the TSB metric shall be reported by each energy efficiency program administrator. Beginning in program year 2024, the TSB metric will replace the energy and peak demand savings goals as the single goals metric, but portfolio outcomes will continue to be reported in terms of energy and peak demand savings, in addition to TSB.
2. Beginning in program year 2022, all energy efficiency program administrators shall segment their portfolios into three categories, with the primary purposes of resource acquisition, market support, and equity, as defined in this decision.
3. Beginning in program year 2022, energy efficiency program administrators who are investor-owned utilities or community choice aggregators shall ensure that the forecasted benefits exceed the costs of the resource acquisition segments of their portfolios, as measured by the Total Resource Cost test.
4. Beginning in program year 2022, energy efficiency program administrators who are investor-owned utilities or community choice aggregators shall limit the expenditures in their portfolios on market support and equity programs, combined, to a total of no more than 30 percent of their total budget, including

statewide programs, but excluding funds forwarded to other energy efficiency program administrators.

5. All current energy efficiency program administrators shall file energy efficiency business plan applications on February 15, 2022, to cover an eight-year period beginning with program year 2024. The business plans shall serve as a strategic plan for the energy efficiency efforts of the program administrator, and shall contain sector-level strategies, metrics, and an eight-year budget.

6. All current energy efficiency program administrators shall file four-year energy efficiency portfolio applications, which shall be combined with the business plan applications in Ordering Paragraph 5, on February 15, 2022, to cover a four-year period beginning with program year 2024. The portfolio applications shall contain detailed sector and program strategies, budgets, cost-effectiveness showings over the four-year period, and implementation plans for all programs that are currently operating or planned to operate during the portfolio period, with the exception of third-party programs where the contract has not yet been awarded. The portfolio applications shall utilize the technical inputs included in Table 2 of this decision.

7. All current energy efficiency program administrators shall utilize the business plan and portfolio templates that will be developed and maintained by Commission staff, in coordination with stakeholders, and posted to the Commission's web site by no later than September 30, 2021, for the next business plan and portfolio filings due February 15, 2022. Drafts of the templates are Attachments A and B to this decision; Commission staff may update the templates, as needed, in the future.

8. All program administrators shall continue to prepare and submit Joint Cooperation Memoranda, according to the existing requirements contained in Decision 18-05-041.

9. When all program administrators file business plan and four-year portfolio applications, the funding proposals shall be zero-based, justifying all expenses for each year of the four-year period, after analyzing each function within the budget for its needs and costs.

10. Funding for energy efficiency shall not lapse unless the Commission explicitly orders funding to cease. If an application for energy efficiency funding and programs is pending at the end of an approved budget period, each program administrator shall continue the next year's funding at the four-year average budget of the previous approved portfolio, until such time as the Commission issues an order approving a different budget. Once budgets are approved for 2022 and 2023 program years, if the Commission fails to approve a budget for 2024 prior to the start of 2024, the 2024 budgets for each program administrator shall be the average of their 2022 and 2023 approved budgets, until such time as the Commission approves a new budget.

11. Each year on September 1 in the odd years when the energy efficiency potential and goals have been adopted by the Commission, each energy efficiency program administrator shall file either a portfolio true-up (prior to the start of a four-year portfolio) or a mid-cycle review (in year two of a four-year portfolio) Tier 2 advice letter adjusting its portfolio and budgets to account for the changes in energy efficiency potential and goals.

12. All energy efficiency program administrators with approved portfolios shall file quarterly and annual (in May) updates in the California Energy Data and Reporting System platform. The annual reports shall include, at a minimum:

- (a) Detailed portfolio-, sector-, and program-level annual and cumulative (over the portfolio period) accomplishments, including data on energy savings, budget, cost-effectiveness, and metrics
- (b) A prospective overview, in narrative format, that includes future plans to meet and/or exceed the cumulative four-year goals and cost-effectiveness requirements, and any other program-administrator-specific goals or metrics.

13. All energy efficiency program administrators shall file a Tier 2 advice letter when opening a new program or closing an existing program. A program is considered new if it makes a change in the market sector, a change in implementation or delivery strategy, or meet already-existing triggers for third-party contract approvals given in Decision 18-01-004, Ordering Paragraph 2. A Tier 2 advice letter is also required when an existing program is being elevated from a local or regional program to a proposed statewide program or when the lead administrator for a statewide program is proposed to change. Program administrators may include multiple such program updates in one advice letter (in a batch) or include such proposals in other Tier 2 advice letters that may be filed for other reasons such as budget requests. An individual advice letter is not required for each program action. Program administrators shall follow the checklist of steps provided by Commission staff on our website by no later than December 31, 2021.

14. All energy efficiency program administrators shall consult with the California Energy Efficiency Coordinating Committee (CAEECC) prior to the filing of business plan and program portfolio applications, as well as prior to the filing of the mid-cycle advice letter in the second year of a four-year portfolio cycle. Program administrators are encouraged to consult with CAEECC at as

many other points as possible during the development and administration of the energy efficiency portfolios.

15. All energy efficiency program administrators shall file a Tier 2 advice letter no later than September 1, 2021 following the requirement for the Annual Budget Advice Letters outlined in Decision 18-05-041, covering both program years 2022 and 2023. The criteria for review of these advice letters shall be as given in Section 6.2.2 of this decision. A Total System Benefit metric calculation and portfolio segmentation proposal shall be included in each advice letter.

16. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company shall track and report expenditures and energy savings from the School Energy Efficiency Stimulus Program separately from their portfolio cost-effectiveness calculations. Tracking and reporting of energy savings from the School Energy Efficiency Stimulus Program shall only be on an ex post basis.

17. All energy efficiency program administrators shall use the Commission's Refrigerant Avoided Cost Calculator for low-global-warming-potential refrigerant measures in portfolio forecasts and filings, and to submit new and updated work papers, beginning with program year 2022.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.