STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

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

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

December 20, 2019

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

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

Energy Division approves Marin Clean Energy's (MCE) Annual Budget Advice Letter (ABAL) 37-E, pursuant to the ABAL review criteria laid out in Decision (D.)18-05-041, which addressed the energy efficiency business plans. Accordingly, the California Public Utilities Commission (CPUC) approves a budget of $6,908,519[1] effective January 1, 2020, for MCE in 2020 to administer energy efficiency (EE) programs. MCE must file a Tier 1 compliance filing within 45 days (see section 2.3).

1. Background

On September 3, 2019, MCE filed its Annual Budget Advice Letter (ABAL) 37-E. On September 23, 2019, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) filed its protest of MCE's ABAL 37-E. On September 30, 2019, MCE filed its reply to Cal Advocates' protest of ABAL 37-E.

2. Cal Advocates Protest and MCE Reply Comments

Cal Advocates' protest included 16 "recommendations" for the CPUC regarding program administrators' (PAs) 2020 ABALs. These recommendations include an overarching theme that the entire statewide energy efficiency portfolio, including the portfolio of Regional Energy Networks (RENs), should be cost-effective. The 6 recommendations relevant to MCE are addressed in the 3 sections that follow.

2.1. Issues Regarding Cost Effectiveness

This section addresses the following recommendations from Cal Advocates:

- *The Commission must ensure that the statewide EE portfolio is cost-effective*

[1] MCE's budget spending request of $6,908,519, is approved, as is MCE's budget recovery request of $3,569,819.

- *The Commission cannot approve the PAs' proposed budgets because they will not produce a statewide portfolio that is cost-effective*
- *The Commission must adopt remedies to improve the cost-effectiveness of all PAs' EE portfolios*
- *The Commission should require each PA to improve the net benefits of its portfolio*

In its protest filed September 23, 2019, Cal Advocates argues that Public Utilities (PU) Code Section 381 (b)(1) "directs the Commission to allocate public purpose funds to cost-effective energy efficiency and conservation activities."[2] Cal Advocates also argues that prior CPUC Decisions, including D.09-09-047[3], D.12-11-015[4], and D.14-10-046[5], state that:

- the CPUC may only allocate funds to activities that are cost-effective;
- EE portfolios must be cost-effective on both a forecast and evaluated basis;
- the CPUC may only approve an EE portfolio, including both utility and REN proposals, that is cost-effective overall.[6]

Cal Advocates concludes by stating that, in light of the PU Code as well as prior CPUC decisions, the CPUC may not in this instance approve any of the 2020 ABALs, as doing so would produce a statewide portfolio that is not cost-effective.[7] Instead, Cal Advocates recommends that the CPUC should require all PAs to collectively submit revised supplemental 2020 ABALs that "constitute a cost-effective statewide portfolio."[8]

In its reply, MCE believes there is no legal basis for Cal Advocates' arguments, which contradict previous CPUC decisions which have stated that each PA's EE portfolio must be cost-effective at the portfolio level.[9] MCE believes the PAs' ABAL are not the appropriate venue to propose and implement any policy changes.[10] MCE adds that these issues were and continue to be more appropriately litigated through Rulemaking 13-11-005.[11] Finally, MCE states that Cal Advocates' proposal inequitably affects PAs that have met the CPUC's Total Resource Cost (TRC) requirements.[12]

MCE asks that the CPUC reject Cal Advocates' request to require each PA to improve its portfolio net benefits in proportion to its share of the statewide budget to achieve a statewide cost-effective EE portfolio.[13]

---

[2] See *The Public Advocates Office Protest of Energy Efficiency Annual Budget Advice Letters for Program year 2020 (September 3, 2019)*, p. 3, (hereafter referred to as "Cal Advocates Protest").
[3] D. 09-09-047 approved 2010 to 2012 Energy Efficiency Portfolios and Budgets.
[4] D. 12-11-015 approved 2013-2014 Energy Efficiency Programs and Budgets.
[5] D. 14-10-046 Established EE Savings Goals and Approved 2015 EE Programs and Budgets.
[6] See Cal Advocates Protest, p. 4.
[7] The 2020 portfolio, including budgets and savings from the Investor Owned Utilities (IOUs), RENs, and Marin Clean Energy (MCE), but excluding budgets and savings from ESA programs and Codes and Standards, has a TRC of 0.89. Portfolio cost-effectiveness information available at https://cedars.sound-data.com/filings/list/.
[8] See Cal Advocates Protest, p. 46.
[9] *MCE's Reply The Public Advocates Office's Protest of Marin Clean Energy's Advice Letter 37-E (September 3, 2019)*, p. 1, (hereafter referred to as "MCE's Reply").
[10] Ibid.
[11] Ibid.
[12] Ibid.
[13] Ibid.

Discussion

The CPUC is approving MCE's 2020 ABAL on the grounds that it meets the ABAL review criteria laid out in D. 18-05-041, which addressed energy efficiency business plans. Specifically, D. 18-05-041 states that MCE's ABAL must meet energy savings targets, be cost-effective with a Total Resource Cost (TRC) ratio equal to or greater than 1.0 and propose a budget that is less than or equal to the previously authorized amount for the program year.

MCE's 2020 ABAL meets all three of the approval criteria. Specifically, it forecasts a benefit/cost ratio (as measured by the TRC test) of 1.01 (excluding codes and standards[14]), savings that exceed MCE's targets, and proposes a spending budget of $6.9 million, which is below MCE's authorized budget cap.[15]

In citing D.12-11-015, which states that "the Commission may only approve an EE portfolio, including both utility and REN proposals, that is cost-effective overall," Cal Advocates relies on general CPUC guidance provided prior to the onset of the Rolling Portfolio, the advent of expanded third-party administration designed to produce higher savings at lower cost, and lower energy efficiency goals reflecting reduced potential. Regardless, D. 18-05-041, which is the more recent decision than the 2012 decision cited by Cal Advocates, provided very clear and limited criteria under which Energy Division staff should review a PA's ABALs. Those limited ABAL review criteria do not include policy considerations from D. 12-11-015, as cited by Cal Advocates.

Furthermore, Cal Advocates' claim that a PA's ABAL could only be approved if the proposals from all PAs, together, demonstrate cost-effectiveness overall, is out of scope of Energy Division's ABAL review process. Energy Division's review process was conceived as ministerial, in which CPUC staff would narrowly address whether or not an ABAL meets the review criteria laid out in D.18-05-041, rather than broader policy questions more suited for consideration in a proceeding.[16]

Additionally, while D. 12-11-015 stated the CPUC's general intent for portfolio approval *at that time* when energy efficiency was defined by limited-term, multi-year program cycle applications, D. 18-05-041 provided specific guidance for portfolio approval as it exists under the new Rolling Portfolio framework and the Annual Budget Advice Letter review process. Specifically, in D. 18-05-041, the CPUC acknowledged its concern regarding the cost-effectiveness of the PAs' respective portfolios in 2018, noting the "non-trivial amount of uncertainty regarding third-party programs and, relatedly, the IOUs reorienting their focus toward prudent portfolio management." Therefore, the CPUC opted to treat program years 2018-2022 as "ramp years," i.e. an *interim time* during which individual

---

14 At this time CPUC policy requires portfolio cost-effectiveness to be measured in the absence of savings from Codes and Standards programs, regardless of their magnitude as a percentage of total portfolio savings.

15 D.18-05-041, p. 112 authorized a budget cap of $12,404,000 for 2020 for MCE.

16 D.15-10-028, p. 62: "'The question for [CPUC] Staff in reviewing a budget advice letter should be "does this conform to the approved business plan?"'

PA ABALs would be evaluated on their respective abilities to meet energy savings goals, be cost-effective, and stay within an authorized budget cap.[17]

Lastly, Energy Division agrees that additional CPUC guidance is needed regarding whether and how all eight PAs would work together to create a single-statewide portfolio that is cost-effective. CPUC staff will review PA ABALs according to the criteria established in D. 18-05-041, which include meeting individual energy savings goals, individual portfolio cost-effectiveness, and staying within the individual authorized budget cap(s). Larger questions related to collective portfolio cost-effectiveness among portfolios administered separately by different administrators, as cited by Cal Advocates in its protest, will be taken up in the rulemaking as the CPUC examines overall cost-effectiveness policy topics.[18]

The CPUC has acknowledged diminished portfolio cost-effectiveness of PA portfolios as well as the need to achieve savings goals. For example, recent CPUC actions set in place the support needed to improve PA portfolio cost-effectiveness, including:

- adopting updated energy efficiency savings goals that reflect changes to measures' cost effectiveness;
- allowing the IOU PAs to pursue greater third-party program administration with the intent to achieve higher savings at lower cost; and,
- opening a discussion on issues related to additional RENs.

The CPUC supports these actions to ensure that at the conclusion of the ramp years, IOU portfolios are cost-effective.

In summary, Energy Division approves MCE's annual budget advice letter pursuant to the ABAL review criteria identified in D. 18-05-041 which provided a limited scope under which Energy Division staff was to review the ABALs.

2.2. MCE Should Substantiate its ABAL Forecast

This section addresses the following recommendation from Cal Advocates:

- *The Commission should require SDG&E, SoCalGas, and MCE to submit supplemental advice letters that substantiate their forecasts.*

According to Cal Advocates, SDG&E, SoCalGas, and MCE have submitted implausible and unsubstantiated forecasts.[19] Cal Advocates believes these PAs make unreasonably optimistic assumptions about the cost-effectiveness, longevity, or volume of installations for various measures.[20] Cal Advocates adds that the CPUC cannot accept implausible forecasts that are unsupported by evidence, and that doing so is contrary to the rules established by the CPUC in D.18-05-041, which requires PAs to submit sufficient factual evidence to support their forecasts that

[17] See. D. 18-05-041, p. 71.
[18] See D. 19-12-021, p. 40 ("Decision Regarding Frameworks for Energy Efficiency Regional Energy Networks and Market Transformation," approved by the CPUC on December 5, 2019).
[19] Cal Advocates Protest, p. 17.
[20] Ibid.

"an energy efficiency expert would reasonably conclude that the forecast will be achieved."[21] Therefore, Cal Advocates asks the CPUC to direct SDG&E, SoCalGas, and MCE to submit supplemental advice letters that provide clear evidence that their respective energy savings and cost-effectiveness forecasts will be achieved."[22]

Cal Advocates points out that MCE forecasts a marginally cost-effective portfolio, with a TRC ratio of 1.01 that relies heavily on unsupported forecasts for a single cost-effective residential program, the residential Single-Family Comprehensive program.[23] MCE forecasts that this program will have a TRC of 1.57 and will yield 35.6 percent of MCE's electricity savings while spending just eight percent of MCE's budget.[24]

Cal Advocates believes that in light of the available evidence, a reasonable energy efficiency expert would have strong reasons to doubt MCE's forecast of savings from the residential Single-Family Comprehensive program.[25] Cal Advocates adds that MCE does not describe the type of savings this program will target or the measures it will offer.[26]

In its reply, MCE states that its residential Single-Family Comprehensive program is a yet to be launched third-party implemented program.[27] MCE claims the program is expected to offer home energy reports and energy savings recommendations to single-family residential customers, leveraging Normalized Metered Energy Consumption ("NMEC") and hourly load profiles.

MCE disagrees with Cal Advocates' claim that MCE's forecast for the residential Single-Family Comprehensive program contributes disproportionally to the cost effectiveness of MCE's overall EE portfolio.[28] MCE also points out that its portfolio TRC, excluding the Single-Family Comprehensive Program would result in a portfolio TRC of 0.96, a 5 percent decrease from MCE's portfolio TRC forecast of 1.01.[29]

Discussion

Cal Advocates states that "a reasonable energy efficiency expert would have strong reasons to doubt MCE's forecast of savings from its residential NMEC program." However, having doubts about a program's or portfolio's ability to achieve forecast savings or cost-effectiveness is not grounds for rejecting an ABAL per D.18-05-041, Section 7.3. Instead the decision states that "verification of a PAs ability to meet their TRC or saving shall include review of actual evaluated TRC for two previous years and analysis of provided program / portfolio information so an energy efficiency expert would reasonably conclude the forecast will not be achieved."[30]

---

[21] Cal Advocates Protest, p. 18.
[22] Ibid.
[23] Cal Advocates Protest, p. 36.
[24] Cal Advocates Protest, p. 37.
[25] Cal Advocates Protest, p. 38.
[26] Ibid.
[27] MCE Reply, p. 2.
[28] MCE Reply, p. 3.
[29] Ibid.
[30] D.18-05-041, p. 134.

Energy Division believes that MCE's forecasts for its residential Single-Family Comprehensive program do not meet D.18-05-041, Section 7.3's criteria for rejecting a PA's ABAL. To meet the threshold for rejecting an ABAL per D.18-05-041, Section 7.3, we would need verify that a PA is unable to meet their TRC or savings based on the review of evaluated TRC for two previous years.[31] Currently, we only have evaluated savings from the PAs for 2017, but would need evaluated savings for two years to confirm a trend. Also, to be relevant to the decision to reject based on reasonableness, the evaluation years would need include the programs/portfolio makeup in question. MCE's portfolio greatly changed and expanded with the adoption of D.18-05-041.

Because we lack evaluated results from program years with data relevant to the program in question, Energy Division is will not reject the MCE ABAL. Instead, Energy Division will closely monitor and evaluate the program and MCE's portfolio to see if MCE is able to realize forecasted savings. Energy Division may heavily scrutinize or reject subsequent ABALs if evaluated results of their programs or portfolios fall short of MCE's forecasts.

In addition, since MCE is below a 1.25 TRC they are required to undertake the steps in the workshop process and seek stakeholder feedback on their programs and portfolio as outlined on pages 135-6 of D.18-05-041. In addition, Energy Division expects that MCE use the workshop to:

- Discuss any challenges for 2020 that MCE believes could make their eventual claimed and evaluated TRC fall short of forecasted TRC;
- What strategies MCE might use to still achieve a claimed TRC of 1.0 should early progress indicators show portfolio will not reach that threshold;
- Discuss any safeguards MCE built into their forecasting assumptions that it believes will help them achieve an evaluated TRC of over 1.0.

2.3. MCE is Prohibited From Offering Rebates that Exceed Measure Costs

This section addresses the following recommendation from Cal Advocates:

- *Commission policy generally prohibits MCE from offering rebates that exceed measure costs*

Cal Advocates points out that for several measures, MCE proposes to offer rebates that exceed the cost of the measure even though CPUC policy generally prohibits PAs from offering rebates that exceed the incremental cost of a measure.[32,]

Cal Advocates argues that the discrepancies between rebate levels and measure costs may contribute to an overly optimistic forecast of MCE's portfolio results.[33] For instance, Cal Advocates emphasizes that if MCE's estimates of incremental measure costs are low, that would improve the cost-effectiveness forecast. Meanwhile, including high rebates could lead to an unreasonably high forecast of customer participation and energy savings.[34]

[31] Ibid.
[32] Cal Advocates Protest, p. 39.
[33] Cal Advocates Protest, p. 40.
[34] Ibid.

Cal Advocates recommends that the CPUC should direct MCE to file a supplemental that reflects adjusted and lower rebates, corrects or substantiates its forecasts for measure costs, and substantiates its forecasted net-to-gross ratios.[35]

MCE claims that the measures identified by Cal Advocates are Strategic Energy Management ("SEM") measures, where it is plausible to have an incentive cost that exceeds the measure cost due to the structure of incentive payments and behavioral and retro-commissioning measures.[36] MCE adds that SEM's focus is on low-cost or no-cost measures that are influenced by the coaching and continuous feedback on performance that these platforms provide, and incentives come in the form of milestone payments as well as performance-based rates.[37]

Secondly, MCE highlights that there is some nuance regarding requirements for rebates and measure costs based on previous CPUC guidance. As Cal Advocates states, CPUC policy generally prohibits PAs from offering rebates that exceed the incremental cost of a measure.[38] However, according to MCE, Cal Advocates stops short in explaining that D.06-06-063 provides for exceptions where the incentive can exceed the measure costs. D.06-06-063 states:

> "We recognize that there may be limited instances for program design purposes where the cash rebate to the customer exceeds the measure installation cost… It was precisely to address these types of circumstances that we adopted the "Dual Test" of cost-effectiveness in our policy rules. Those rules recognize that both the TRC and PAC tests of cost effectiveness need to be considered when evaluating program proposals, in order to ensure that program administrators and implementers do not spend more on rebates/cash incentives than absolutely necessary to achieve TRC net benefits."[39]

Discussion

After reviewing the 2020 filings record for MCE, Energy Division agrees with Cal Advocates that the rebates for some of the measures offered by MCE exceed the gross measure costs. Energy Division expects MCE to make corrections to incentive and measure costs or provide a rationale for the rebate amounts through a Tier 1 compliance filing within 45 days of the disposition of MCE's ABAL.

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

35 Ibid.
36 MCE Reply, p. 4-5.
37 Ibid.
38 D.06-06-063 at p. 72.
39 D.06-06-063 at p. 72.

Sincerely,

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

Cc: Service Lists R. 13-11-005 and A.17-01-013
Pete Skala, Energy Division
Jennifer Kalafut, Energy Division
Alison LaBonte, Energy Division
Nils Strindberg, Energy Division
Michael Campbell, The Public Advocates Office
Daniel Buch, The Public Advocates Office
Henry Burton, The Public Advocates Office