

PUBLIC UTILITIES COMMISSION

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SAN FRANCISCO, CA 94102-3298



Jennifer Berg
Assistant Director – Energy Programs
San Francisco Bay Area Regional Energy Network
375 Beale Street, 7th Floor
San Francisco, CA 94105

December 20, 2019

Dear Ms. Berg:

Energy Division approves San Francisco Bay Area Regional Energy Network's (BayREN) Annual Budget Advice Letter (ABAL) 12-E pursuant to the ABAL review criteria laid out in Decision (D.)18-05-041, which addressed energy efficiency business plans. Accordingly, the BayREN budget spending request of \$23,053,150¹ to administer energy efficiency (EE) programs for 2020 is approved, effective January 1, 2020. BayREN must file a Tier 1 compliance filing within 45 days (see section 2.3).

Background

On September 3, 2019, BayREN filed its Annual Budget Advice Letter (ABAL) 12-E. On September 23, 2019, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) filed its protest of BayREN's ABAL 12-E. On September 27, 2019, Energy Division suspended BayREN's ABAL 12-E for 120 days for further review. On September 30, 2019, BayREN filed its reply to Cal Advocates' protest of ABAL 12-E and subsequently filed a late supplemental reply on October 4, 2019, which was rejected by Energy Division staff.²

2. Cal Advocates Protest and BayREN Reply Comments

Cal Advocates' protest included 16 "*recommendations*" for the California Public Utilities Commission (CPUC) regarding program all the energy efficiency program administrators' (PAs) 2020 ABALs. These recommendations include an overarching theme that the entire statewide energy efficiency portfolio, including the Regional Energy Networks (RENs), should be cost-effective. Of those 16 recommendations, the 6 relevant to BayREN are addressed below in 3 sections.

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 BayREN's budget spending request of \$23,053,150, is approved, as is BayREN's budget recovery request of \$21,853,150.

² See email from Energy Division staffer Nils Strindberg to BayREN, the Cal Advocates and the service list R.13-11-005 sent on October 9, 2019.

- *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.”³ Cal Advocates also argues that prior CPUC decisions, including D.09-09-047⁴, D.12-11-015⁵, and D.14-10-046⁶, 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.⁷

Cal Advocates concludes by stating that, in light of the PU Code as well as prior CPUC decisions, the CPUC may not approve any of the PAs 2020 ABALs, as doing so would produce a statewide portfolio that is not cost-effective.⁸ 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.”⁹

In its reply, BayREN objects to Cal Advocates’ protest on the grounds that it raises policy arguments that are not appropriate for reviewing an ABAL given that the CPUC has stated that ABAL review is ministerial.¹⁰

BayREN also argues that in subsequent “decisions following D.12-11-015, the cost effectiveness requirements have consistently applied to the *individual* PAs portfolio and have not discussed cost-effectiveness from a statewide perspective”.¹¹ BayREN adds that the REN portfolios should be considered outside of the Investor Owned Utilities’ (IOUs) portfolios and should be evaluated based on the current metrics established for the RENs, in line with meeting the state’s broader energy efficiency goals.¹²

Discussion

³ *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”).

⁴ D.09-09-047 approved 2010 to 2012 Energy Efficiency Portfolios and Budgets.

⁵ D.12-11-015 approved 2013-2014 Energy Efficiency Programs and Budgets.

⁶ D.14-10-046 Established EE Savings Goals and Approved 2015 EE Programs and Budgets.

⁷ Cal Advocates Protest, p. 4.

⁸ The 2020 portfolio, including budgets and savings from the IOUs, BayREN, SoCalREN, 3CREN, and Marin Clean Energy, but excluding budgets and savings from ESA programs and Codes and Standards, has a TRC of .89. Portfolio cost-effectiveness information available at <https://cedars.sound-data.com/filings/list/>.

⁹ Cal Advocates Protest, p. 46.

¹⁰ *Response of the Association of Bay Area Governments, on behalf of San Francisco Bay Area Regional Energy Network to the Public Advocates Office's Protest of Energy Efficiency Annual Budget Advice Letters for Program Year 2020 (September 30, 2019)*, p. 1, (hereafter referred to as “BayREN Reply”).

¹¹ BayREN Reply, p. 4.

¹² BayREN Reply, p. 5.

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 D.12-11-015, provided very clear and limited criteria under which Energy Division staff should review a PA’s ABAL. 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 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.¹³

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 PA ABALs would be evaluated on their respective abilities to meet energy savings goals, be cost-effective, and stay within an authorized budget cap.¹⁴

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.¹⁵

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,

¹³ 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?””

¹⁴ See D.18-05-041, p. 71.

¹⁵ 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).

- 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 BayREN's ABAL 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. Issues Related to BayREN Program Choices and Funding

This section addresses the following recommendation from Cal Advocates:

- *The Commission should not authorize REN funding for programs that utilities have discontinued due to poor performance*

In its protest, Cal Advocates notes that BayREN proposes to spend \$8.86 million in 2020¹⁶ on its Single Family residential program, a direct install program that targets low-to-middle income homeowners and renters, with a forecasted TRC ratio of 0.37.¹⁷ Cal Advocates argues this program effectively continues a program managed by the same implementer, through PG&E's local government partnerships, that PG&E recently cut from its portfolio.^{18, 19}

Cal Advocates argues that in implementing programs that utilities have discontinued due to poor performance, BayREN does not comport with the CPUC's criteria for REN programs.²⁰ Cal Advocates asserts that the CPUC directed RENs to pursue approaches that utilities cannot or do not pursue, or to pilot new approaches,²¹ and concludes the CPUC did not allow RENs to pursue efforts that utilities have already tried and found to be unsuccessful.²²

In its reply, BayREN states that D.15-10-028 expressly provided that the ABALs "are not designed to create a forum for debating the merits of how PAs implement particular programs..."²³ BayREN concludes that its Home + Single Family program was approved by the CPUC in its 2019 ABAL.²⁴ Consequently, BayREN states that since the program was already approved, Cal Advocate's argument that the Single Family residential should not be authorized is untimely.²⁵

Discussion

¹⁶ Cal Advocates Protest, p. 44.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ PG&E Advice 4011-G/5375-E (PG&E's 2019 ABAL), p. 25. PG&E cut funding for the California Youth Energy Services program, which had been funded through five local government partnerships and implemented by Rising Sun Energy Center.

²⁰ Cal Advocates Protest, p. 44.

²¹ D.12-11-015, p. 17.

²² Cal Advocates Protest, p. 44.

²³ D.15-10-028, p. 62 (emphasis in original).

²⁴ Ibid.

²⁵ BayREN Reply, p. 11.

Energy Division agrees with BayREN that D.15-10-028 did not intend for the ABALs to be a forum for debating the merits of programs, which was reaffirmed in D.18-05-041.²⁶

Consequently, Energy Division will not direct changes to BayREN's Single Family program or budget in this forum. Energy Division staff expects REN programs add unique value and contribute to the State's current and future energy efficiency goals.

2.3. BayREN Portfolio Measure Costs

This section addresses the following recommendation from Cal Advocates:

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

In its protest, Cal Advocates points out that BayREN offers rebates in excess of measure costs, which is prohibited by CPUC policy.²⁷ Cal Advocates highlights five measures in BayREN's Single Family program and argues that BayREN's Single Family residential program forecast is flawed because it relies on five rebates that exceed BayREN's forecast of the measure costs. Cal Advocates concludes that the CPUC should either direct BayREN to discontinue the Single Family program or file a supplemental ABAL that reflects adjusted rebates levels that are consistent with CPUC policy.²⁸

BayREN replies that it has never paid a participant an incentive that was greater than the measure cost(s).²⁹ BayREN adds that it provided the incremental measure costs found in the work papers for the measures in question per guidance from the Energy Efficiency Policy Manual. Furthermore, BayREN states that D.06-06-063, p. 72., which is cited by Cal Advocates in its protest, does not explicitly state that providing incentives greater than measure costs violates CPUC policy.

Discussion

After reviewing the 2020 budget filing appendix for BayREN, Energy Division agrees with Cal Advocates that the rebates for some of the measures offered by BayREN exceed the gross measure costs. Energy Division directs BayREN 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 BayREN's ABAL.

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

²⁶ D.18-05-041, p. 134.

²⁷ Cal Advocates Protest, p. 45.

²⁸ Cal Advocates Protest, p. 46.; See 18-05-041, p. 133 (requiring PAs to submit sufficient factual evidence to support their forecasts that "an energy efficiency expert would reasonably conclude that the forecast will be achieved").

²⁹ BayREN Reply, p. 13.

Sincerely,

A handwritten signature in black ink, appearing to read "ER" followed by "(F-21)" in parentheses.

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
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