

PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco CA 94102-3298



**Bear Valley Electric Service, Inc.
ELC (Corp ID 913)
Status of Advice Letter 473E
As of June 27, 2023**

Subject: Bear Valley Electric Service, Inc.'s Request to Establish Infrastructure Investment and Jobs Act Memorandum Account, pursuant to Resolution E-5254

Division Assigned: Energy

Date Filed: 05-25-2023

Date to Calendar: 06-02-2023

Authorizing Documents: None

Disposition:	Accepted
Effective Date:	04-06-2023

Resolution Required: No

Resolution Number: None

Commission Meeting Date: None

CPUC Contact Information:

edtariffunit@cpuc.ca.gov

AL Certificate Contact Information:

Jeff Linam

(909) 394-3600 X664

RegulatoryAffairs@bvesinc.com

PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco CA 94102-3298



To: Energy Company Filing Advice Letter

From: Energy Division PAL Coordinator

Subject: Your Advice Letter Filing

The Energy Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.

The AL status certificate indicates:

- Advice Letter Number
- Name of Filer
- CPUC Corporate ID number of Filer
- Subject of Filing
- Date Filed
- Disposition of Filing (Accepted, Rejected, Withdrawn, etc.)
- Effective Date of Filing
- Other Miscellaneous Information (e.g., Resolution, if applicable, etc.)

The Energy Division has made no changes to your copy of the Advice Letter Filing; please review your Advice Letter Filing with the information contained in the AL status certificate, and update your Advice Letter and tariff records accordingly.

All inquiries to the California Public Utilities Commission on the status of your Advice Letter Filing will be answered by Energy Division staff based on the information contained in the Energy Division's PAL database from which the AL status certificate is generated. If you have any questions on this matter please contact the:

Energy Division's Tariff Unit by e-mail to
edtariffunit@cpuc.ca.gov



ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Bear Valley Electric Service, Inc. (913-E)

Utility type:

- ELC GAS WATER
 PLC HEAT

Contact Person: Jeff Linam

Phone #: (909) 394-3600 x664

E-mail: RegulatoryAffairs@bvesinc.com

E-mail Disposition Notice to: RegulatoryAffairs@bvesinc.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas WATER = Water
 PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 473-E

Tier Designation: Tier 2

Subject of AL: Bear Valley Electric Service, Inc.'s Request to Establish Infrastructure Investment and Jobs Act Memorandum Account, pursuant to Resolution E-5254

Keywords (choose from CPUC listing): Compliance, Memorandum Account, Tariffs

AL Type: Monthly Quarterly Annual One-Time Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date: 4/6/23

No. of tariff sheets: 3

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: Preliminary Statement EEE, page 1 & 2 and Table of Content p.1

Service affected and changes proposed¹: N/A

Pending advice letters that revise the same tariff sheets: N/A

¹Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name: Jeff Linam
Title: Regulatory Affairs Manger
Utility Name: Bear Valley Electric Service, Inc.
Address: 630 E. Foothill Blvd
City: San Dimas State: California
Telephone (xxx) xxx-xxxx: (909) 394-3600 x664
Facsimile (xxx) xxx-xxxx:
Email: RegulatoryAffairs@bvesinc.com; Jeff.Linam@gswater.com

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Title: Senior Regulatory Analyst
Utility Name: Bear Valley Electric Service, Inc.
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Email: RegulatoryAffairs@bvesinc.com; ronald.moore@gswater.com



Bear Valley Electric Service, Inc.
P.O. Box 9028
San Dimas, CA 91773-9028
A Subsidiary of American States Water Company

May 25, 2023

Advice Letter No. 473-E

(913 E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SUBJECT

Request to establishment the Infrastructure Investment and Jobs Act Memorandum Account.

PURPOSE

In compliance with California Public Utilities Commission (Commission) Resolution E-5254 (Resolution), Bear Valley Electric Service, Inc. (BVES) hereby submits this Tier 2 Advice Letter to establish the Infrastructure Investment and Jobs Act Memorandum Account (IIJAMA) to track costs for projects seeking and/or awarded federal funding. Specifically, Ordering Paragraph (OP) No. 1 states,

- Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and Southwest Gas Company (SWGAs), are each directed to file a Tier 2 advice letter to establish a single Infrastructure Investment and Jobs Act (IIJA) Memorandum Account within 60 days of the issuance of this Resolution. The requested effective date shall be the effective date of this resolution. Alpine Natural Gas and West Coast Gas Company may file a Tier 2 advice letter at any point over the duration of the IIJA to establish an IIJA Memorandum Account, with an appropriate effective date, if they choose to seek IIJA funding.*

BACKGROUND

The 2021 IIJA appropriated more than \$62 billion to the U.S. DOE to create and fund 60 new programs, including 16 demonstration and 32 deployment programs. The federal legislation also expands funding for 12 existing Research, Development, Demonstration, and Deployment (RDD&D) programs. For most programs, funding will be available annually through the federal government's FY 2026 (i.e., the fiscal year ending September 30, 2026). This newly available federal funding aligns with the Commission's

goals of improving energy infrastructure to support zero carbon emissions, grid reliability, safety, and bill affordability for electric and gas customers by potentially displacing the need for future ratepayer dollars for electric infrastructure, grid hardening, and resiliency projects.

To gather additional information on how California's IOUs plan to seek and utilize matching funds of non-ratepayer funding, the Commission's President Reynolds sent two letters to the IOUs on January 24, 2022 and November 28, 2022. In response, the IOUs provided information on potential hurdles to accessing federal IIJA grants, offered suggestions on how to best position California IOUs for maximum grant capture, and identified specific grant programs, projects, and strategies each IOU was considering for potential advancement.

Congress passed two other major pieces of energy-related federal legislation in 2022 after the passage of the IIJA in 2021 – the Inflation Reduction Act (IRA) and the Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS). Unlike the IIJA, the IRA and CHIPS rely less heavily on grants to utility providers. The IRA's principal climate and energy-related tools are tax rebates and consumer credits or incentives, while CHIPS invests in research and development to catalyze commercialization of new clean energy technologies faster and at cheaper price points. However, like the IIJA, specific programs and details of the IRA and CHIPS require matching funds (although not necessarily from IOU ratepayers) while others are still under development, allowing for grant or other utility-focused opportunities to be announced at a future time.

On April 10, 2023, pursuant to Article XII Section 6 of the California Constitution and the Public Utilities Code, the Commission issued Resolution E-5254 which adopted a procedural venue for the electric and gas investor-owned utilities (IOUs) to request cost recovery for match funding and tax liabilities pursuant to any funds received from the federal Infrastructure Investment and Jobs Act (IIJA) Clean Energy Infrastructure Grant Programs administered by the United States Department of Energy (DOE), the federal Inflation Reduction Act (IRA), and the federal Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS). The Resolution also adopted an advice letter process for IOUs to track and report costs and grant project progress.

OP 1 of the Resolution ordered BVES to submit a Tier 2 advice letter within 60 days of issuance of the Resolution to modify its electric preliminary statements to establish the IJAMA.

As directed by OPs 2 and 3, the IJAMA will track the cost of any projects that are seeking and/or awarded federal funding, including incremental costs incurred during the preparation of applications, to inform oversight and evaluation of future match funding cost recovery requests, and a sub-account within the IJAMA will track the tax impacts of the federal grant awards. While the IJAMA will track any costs associated

with match funding, the actual spending requests for projects will be addressed in future BVES General Rate Cases or in separate project applications.

REQUEST

BVES requests to establish a Preliminary Statement for the IJAMA, pursuant to OP 1 of the Resolution. The IJAMA will record incremental costs associated with match funding for any projects seeking and/or awarded federal funding, including incremental costs incurred during the development and preparation of applications for such funding. In addition, the IJAMA will record the tax impacts of the federal grant awards, which should include not only the tax liabilities related to federal grant awards, but also any related tax benefits such as the impact of depreciation.

The IJAMA shall consist of two subaccounts:

- 1) IJJA Cost Subaccount – This Subaccount will record incremental costs associated with match funding for any projects seeking and/or awarded federal funding.
- 2) IJJA Tax Subaccount – This Subaccount will record the tax impacts – both federal and state – of the federal grant awards funding and any related tax benefits.

The disposition of the balances in these accounts will be addressed in a future General Rate Case proceeding, or a standalone project application if earlier cost recovery is needed.

EFFECTIVE DATE

BVES requests this advice letter become effective April 6, 2023, which is the effective date of Resolution E-5254.

PROTESTS

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the CPUC in acting on the request.

A protest must be mailed within 20 days of the date the CPUC accepts the advice letter for filing. The Calendar is available on the CPUC's website at www.cpuc.ca.gov.

A protest must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at

an evidentiary hearing to support its request for whole or partial denial of the advice letter. Protests and responses should be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4004 (same address above).

In addition, protest and all other correspondence regarding this advice letter should also be sent by letter or electronically to the attention of:

Bear Valley Electric Service, Inc.
Attn: Jeff Linam
630 E. Foothill Blvd
San Dimas, CA 91773-1207
Email: RegulatoryAffairs@bvesinc.com

NOTICE

A copy of this submittal has been served on the utilities and interested parties shown on the attached list, and to service lists A2106021; A1908013; A2205016; A2205015; A1908015; A2009002; A2205006; A2105017; A2208010; R1909009; R1804019; R1901011; A2111021; R1807006; R2202002, R1812006; A2212009; A2206003; A2107017 and A2202007 by providing a copy either electronically or via U.S. mail.

In accordance with Public Utilities Code Section 491, notice to the public is hereby given by filing and keeping the advice letter filing open for public inspection at Bear Valley Electric Service, Inc.

Sincerely,

/s/ Jeff Linam
Manager, Regulatory Affairs
Bear Valley Electric Service, Inc.

cc: Laura Martin, Energy Division
R. Mark Pocta, California Public Advocates Office
BVES General Order 96-B Service List

Cal P.U.C. Sheet No.	Title of Sheet	Cancelling Cal P.U.C. Sheet No.
3377-E	PRELIMINARY STATEMENT Infrastructure Investment and Jobs Act Memorandum Account Sheet 1	
3378-E	PRELIMINARY STATEMENT Infrastructure Investment and Jobs Act Memorandum Account Sheet 2	
3379-E	Table of Contents Sheet 1	3376-E

PRELIMINARY STATEMENT
Infrastructure Investment and Jobs Act Memorandum Account

EEE. Infrastructure Investment and Jobs Act Memorandum Account (IIJAMA)

(N)

1. **Purpose**

The IIJAMA is an interest-bearing memorandum account that is recorded on the Utility's financial statements. Pursuant to Resolution E-5254, dated April 6, 2023, the California Public Utilities Commission (Commission) authorized the framework and procedures as to how the Electric and Gas Investor-Owned Utility (IOUs) should seek cost recovery for match funding and tax liabilities pursuant to any funds received from the federal Infrastructure Investment and Jobs Act (IIJA) Clean Energy Infrastructure Grants Programs administered by the US department of Energy (DOE), the federal Inflation Reduction Act (IRA), and the federal Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS).

The purpose of the IIJAMA is to record incremental costs associated with match funding for any projects seeking and/or awarded federal funding, including incremental costs incurred during the development and preparation of applications for such funding. In addition, the IIJAMA will record the tax impacts of the federal grant awards, which should include not only the tax liabilities related to federal grant awards, but also related tax benefits such as the impact of depreciation.

The IIJAMA shall consist of two subaccounts as follows:

- 1) IIJA Cost Subaccount - This Subaccount will record incremental costs associated with match funding for any projects seeking and/or awarded federal funding.
- 2) IIJA Tax Subaccount - This Subaccount will record the tax impacts of the federal grant awards funding and any related tax benefits such as the impacts of depreciation.

2. **Applicability**

The IIJAMA shall apply to all customers.

3. **Rates**

The IIJAMA to all customer classes.

4. **Accounting Procedures - IIJA Cost Subaccount**

BVES shall maintain the IIJA Cost Subaccount by recording entries, subject to the applicable net-to-gross (NTG) multiplier, at the end of each month as follows:

- a) A debit entry equal to costs associated with actual operation and maintenance (O&M) costs and capital-related costs (e.g. depreciation and non-income taxes) associated with match funding for any projects seeking and/or awarded federal funding, including incremental costs incurred for the development and preparation of applications for such funding;
- b) An entry equal to reflect any transfers to other regulatory accounts for recovery in rates, as authorized by the Commission; and
- c) An entry to record the interest on the average balance at the beginning of the month and the balance after the entries above, at a rate equal to one-twelfth of the interest rate on three-month Commercial Paper for the previous month, as reported in the Federal Reserve Statistical Release, H.15, or its successor publication.

(N)

(Continued)

Advice Letter No. 473-E
Decision No. _____

Issued By
Paul Marconi
President

Date Filed May 25, 2023
Effective April 6, 2023
Resolution No. E-5254

PRELIMINARY STATEMENT
Infrastructure Investment and Jobs Act Memorandum Account

EEE. Infrastructure Investment and Jobs Act Memorandum Account (IIJAMA)

(N)

5. **Accounting Procedures - IIJA Tax Subaccount**

BVES shall maintain the IIJA Tax Subaccount by recording entries, subject to the applicable NTG multiplier, at the end of each month as follows:

- a) A debit entry or credit entry equal to the tax impacts of the federal grant awards, including any related tax benefits;
- b) An entry to amortize and/or transfer the balance in this subaccount in conformity with federal normalization requirements, and as authorized by the Commission; and
- c) An entry to record the interest on the average balance at the beginning of the month and the balance after the entries above, at a rate equal to one-twelfth of the interest rate on three-month Commercial Paper for the previous month, as reported in the Federal Reserve Statistical Release, H.15, or its successor publication.

6. **Disposition**

The disposition of the balance in the IIJAMA will be reviewed in BVES next General Rate Case or via a separate stand-alone application, if earlier cost recovery is needed.

(N)

Table of Contents

The following tariff sheets contain all effective rates and rules affecting rates and service of the utility, together with information relating thereto:

<u>Subject Matter of Sheet</u>	Sheet No.
Title Page	2845-E
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Preliminary Statements	935-E, 1590-E*, 1591-E*, 2381-E*, 2382-E*, 1594-E*, 1595-E*, 1596-E*, 1597-E*, 3209-E, 2177-E, 3259-E, 2985-E, 2986-E, 2602-E, 2603-E*, 1604-E*, 1605-E*, 1606-E*, 1611-E*, 1650-E, 2201-E, 2715-E, 2716-E, 2865-E, 1928-E, 1929-E, 1946-W, 2028-E, 2032-E, 2034-E, 2817-E, 2818-E, 2483-E, 2484-E, 2485-E, 2486-E, 2487-E, 2174-E, 2175-E, 2443-E, 2444-E, 2463-E, 2554-E, 2565-E, 2768-E, 2612-E, 2633-E, 2651-E, 2653-E, 2662-E, 2866-E, 2800-E*, 2863-E, 3134-E, 3091-E, 3092-E, 3093-E, 3095-E*, 3224-E, 3343-E, 3364-E, 3365-E, 3367-E, 3368-E
Tariff Area Map	1140-E
Rate Schedules:	
No. A-1 General Service	3348-E, 3319-E
No. A-2 General Service	3349-E, 1838-E
No. A-3 General Service	3350-E, 1840-E
No. A-4 General Service- TOU	3351-E, 1842-E, 1843-E
No. A-5 TOU Primary	3352-E, 3297-E, 1846-E
No. A-5 TOU Secondary	3353-E, 3299-E, 1849-E
No. D Domestic Service - Single-family Accommodation	3354-E, 3321-E, 3322-E
No. DE Domestic Service to Company Employees	3355-E, 3324-E
No. DLI Domestic Service - CARE Rate	3356-E, 3372-E, 1857-E, 3284-E
No. DM Domestic Service - Multi-family Accommodation	3357-E, 3328-E, 3286-E
No. DMS Domestic Service -Multi-family Accommodation Sub-metered	3358-E, 3359-E, 3331-E
No. DO Domestic Service – Other	3360-E, 3290-E
No. NEM-L Net Energy Metering- Large	1931-E, 1932-W, 1933-E, 1934-E, 1935-E
No. NEM-S Net Energy Metering- Small	1936-E, 1937-E, 1938-E, 1939-E, 1940-E
No. GSD General Service Demand – Camp Oaks	3361-E, 1868-E
No. SL Street Lighting Service	3362-E, 2709-E
No. SSC Special Service Charges	3241-E, 2711-E
No. S Standby Standby Service	3068-E, 2160-E, 2161-E
No. SMO Smart Meter Opt-Out Residential Service	2445-E
No. PPC-LI Public Purpose Charge - Low Income	3273-E
No. PPC-OLI Public Purpose Charge - Other Than Low Income	3274-E
No. UF-E Surcharge to Fund PUC Utilities Reimbursement Account Fee	2861-E
No. TOU-EV-1 General Service Time of Use Electric Vehicle Charging	3334-E, 2606-E
No. TOU-EV-2 General Service Time of Use Electric Vehicle Charging	3335-E, 3336-E
No. TOU-EV-3 General Service Time of Use Electric Vehicle Charging	3337-E, 3338-E
No. DGS Distributed Generation Service Program	3375-E, 2789-E, 2790-E
No. DGS NEM-L Distributed Generation Service Net Energy Metering-Large	2833-E, 2834-E, 2835-E
No. DGS NEM-S Distributed Generation Service Net Energy Metering-Small	2836-E, 2837-E, 2838-E

(Continued)

Advice Letter No. 473-E
 Decision No. _____

Issued By
Paul Marconi
President

Date Filed May 25, 2023
 Effective April 6, 2023
 Resolution No. E-5254

BEAR VALLEY ELECTRIC SERVICE, INC.

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Service List

A.2106021
A.1908013
A.2205016
A.2205015
A.1908015
A.2009002
A.2205006
A.2105017
A.2208010
R.1909009

R.1804019
R.1901011
A.2111021
R.1807006
R.2202002
R.1812006
A.2212009
A.2206003
A.2107017
A.2202007

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-5254

April 6, 2023

RESOLUTION

Resolution E-5254: Adopts Procedural Mechanisms for Review and Approval of Electric and Gas Investor-Owned Utility Cost Recovery Requests for Infrastructure Investment and Jobs Act¹ and Other Federal Grant Programs.

PROPOSED OUTCOME:

- Describes process by which the investor-owned utilities (IOUs) should seek to recover costs associated with matching funds and other costs associated with participation in the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA)², and the Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS)³.
- Provides direction on how IOUs should track project costs and taxes associated with grants awarded under the IIJA, IRA, and CHIPS.
- Establishes a tracking mechanism for IOUs to regularly report to Energy Division on planning, seeking, and implementation of IIJA, IRA, and CHIPS awards.

SAFETY CONSIDERATIONS:

- The Commission has broad authority to protect public health and safety and to ensure affordable and reliable electric service. There are no safety considerations with the implementation of this resolution. The dispersion of federal funding described herein should support enhanced resiliency for utility power systems in a time of extreme weather and worsening climate impacts.

¹ Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, November 15, 2021 (Bipartisan Infrastructure Law).

² Inflation Reduction Act (IRA), Pub. L. No. 117-169, August 16, 2022.

³ Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS), Pub. L. No. 117-167, August 9, 2022.

Bipartisan Infrastructure Law Federal Grant Programs Review/ADK

ESTIMATED COST:

- Costs are unknown at this time as the IIJA grant programs are currently expected to accept applications through 2026. It is expected that federal funding may partially displace or delay the need for future ratepayer funding, which could lead to long-term ratepayer costs savings on projects that otherwise would be fully ratepayer funded. IRA and CHIPS funding levels also remain unknown.
-

SUMMARY

Pursuant to Article XII Section 6 of the California Constitution and the Public Utilities Code, the California Public Utilities Commission (Commission) may adopt reasonable regulations for the oversight of costs passed on to the ratepayers of California. This resolution adopts a procedural venue for the electric and gas investor-owned utilities (IOUs) to request cost recovery for match funding and tax liabilities pursuant to any funds received from the federal Infrastructure Investment and Jobs Act (IIJA) Clean Energy Infrastructure Grant Programs administered by the United States Department of Energy (DOE), the federal Inflation Reduction Act (IRA), and the federal Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS). This resolution also adopts an advice letter process for IOUs to track and report costs and grant project progress.

BACKGROUND**Overview of the Infrastructure Investment and Jobs Act (IIJA) Clean Energy Grant Programs**

The 2021 IIJA appropriated more than \$62 billion to the U.S. DOE to create and fund 60 new programs, including 16 demonstration and 32 deployment programs. The federal legislation also expands funding for 12 existing Research, Development, Demonstration, and Deployment (RDD&D) programs.⁴ Based on currently available guidance, for most programs funding will be available annually through fiscal year (FY) 2026.

⁴ See U.S. Department of Energy IIJA Overview website here: <https://www.energy.gov/gdo/bipartisan-infrastructure-law>

Bipartisan Infrastructure Law Federal Grant Programs Review/ADK

This newly available federal funding aligns with the Commission’s goals of improving energy infrastructure to support zero carbon emissions, grid reliability, safety, and bill affordability for electric and gas customers by potentially displacing the need for future ratepayer dollars for electric infrastructure, grid hardening, and resiliency projects.

California’s electric and gas IOUs can directly apply to the U.S. DOE for funding through various competitive grant solicitations. The California Energy Commission (CEC) will also be the State coordinating entity applying to relevant formulaic and competitive funding solicitations open to state entities with much of this funding eventually flowing to the electric and gas IOUs, as well as other project developers and eligible entities. Table 1 below provides details on some of the federal grant programs for which the IOUs are eligible to apply under the IIJA. The IOUs may potentially apply to other programs as needs evolve or as DOE modifies criteria in future years.

Table 1: Summary of Selected DOE Programs & Application Timelines			
<i>Grant Program</i>	<i>Funding Amount</i>	<i>Cost Share (per application amount)</i>	<i>Milestones</i>
<i>Grid Resilience Industry Grants Preventing Outages and Enhancing the Resilience of the Electric Grid / Hazard Hardening (Sec. 40101(c))</i>	\$2.5 billion (\$500 million/year FY 2022-2026)	100%	Funding solicitation released December 2022 for FY2022 and FY2023 funding (~\$4.2 billion) First round applications due in Spring 2023 (April/May 2023)
<i>Smart Grid Grants Deployment of Technologies to Enhance Grid Flexibility (Sec. 40107)</i>	\$3 billion (\$600 million/year FY2022-FY2026)	50% minimum	
<i>Grid Innovation Program Upgrading Our Electric Grid and Ensuring Reliability</i>	\$5 billion	50% minimum	

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and Resiliency (Sec. 40103(b))			
Non-Lithium Based Energy Storage Systems (Sec. 41001)	\$505 million FY2022- FY2025	50% minimum	
Regional Clean Hydrogen Hubs (Sec. 40314)	\$7 billion		First round applications due April 2023
Carbon Capture Technology Program, Front-End Engineering Design for CO2 Transport (Sec. 40303)	\$92 million		First round applications due December 2022
Regional Direct Air Capture (DAC) Hubs (Sec. 40308)	\$3.5 billion FY2022- FY2026		First round applications due March 2023
Clean Hydrogen Electrolysis Program (Sec. 40314)	\$1 billion		TBD

Through its various Funding Opportunity Announcements,⁵ the U.S. DOE has clarified the application requirements and procedures the electric and gas IOUs will need to include in their applications. As a result, the electric and gas IOUs and Commission staff have identified numerous questions that need to be resolved consistently across the utilities on a short timeline to meet DOE deadlines. Resolving these questions and related issues will better position the electric and gas IOUs to submit successful applications to receive available federal funding through the IIJA.

To gather additional information on how California's IOUs plan to seek and utilize matching funds of non-ratepayer funding, the Commission's President Reynolds sent

⁵ See Funding Opportunity Announcements here - https://www.fedconnect.net/FedConnect/PublicPages/PublicSearch/Public_OpportunitySummary.aspx?ReturnUrl=%2ffedconnect%2f%3fdoc%3dDE-FOA-0002740%26agency%3dDOE&doc=DE-FOA-0002740&agency=DOE

two letters to the IOUs⁶ on January 24, 2022 and November 28, 2022.⁷ In response, the IOUs provided information on potential hurdles to accessing federal IIJA grants, offered suggestions on how to best position California IOUs for maximum grant capture, and identified specific grant programs, projects, and strategies each IOU was considering for potential advancement.

Overview of the Inflation Reduction Act (IRA) and Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS)

Congress passed two other major pieces of energy-related federal legislation in 2022 after the passage of the IIJA in 2021 – the Inflation Reduction Act (IRA) and the Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS). Unlike the IIJA, the IRA and CHIPS rely less heavily on grants to utility providers. The IRA’s principal climate and energy-related tools are tax rebates and consumer credits or incentives, while CHIPS invests in research and development to catalyze commercialization of new clean energy technologies faster and at cheaper price points. However, like the IIJA, specific programs and details of the IRA and CHIPS require matching funds (although not necessarily from IOU ratepayers) while others are still under development, allowing for grant or other utility-focused opportunities to be announced at a future time.

DISCUSSION

This resolution provides a guiding framework and set of rules for how the IOUs should seek cost recovery, track costs, and report to the Commission on IIJA, IRA, and CHIPS grant activities. Each of these Acts contains many grant and loan programs and subprograms; this framework applies to all opportunities offered under each Act. The Cost Recovery section below describes a process by which the IOUs may establish memorandum accounts for these federal opportunities. This includes instructions on how electric and gas IOUs shall track match funding and other costs associated with tax liability and revenue requirement offsets. The Grant Reporting section will discuss how the electric and gas IOUs are to submit regular informational advice letters detailing the

⁶ In alphabetical order: Alpine Natural Gas Operating Company, Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), Southwest Gas Company (SWGAs), West Coast Gas Company Inc. (WCG)

⁷ Letters and responses available at: <https://www.cpuc.ca.gov/about-cpuc/divisions/office-of-governmental-affairs/federal-funding>.

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information on grant planning and progress (e.g., taxes, matching funding requirements, etc.) before and after the initial award.

Cost Recovery*Infrastructure Investment and Jobs Act (IIJA) Memorandum Account*

The electric and gas IOUs⁸, listed below in alphabetical order, are each directed to file a Tier 2 advice letter to establish an IIJA Memorandum Account within 60 days of the issuance of this Resolution:

- Bear Valley Electric Service, Inc. (BVES)
- Liberty Utilities (CalPeco Electric) LLC (Liberty)
- Pacific Gas and Electric Company (PG&E)
- PacifiCorp d.b.a. Pacific Power (PacifiCorp)
- San Diego Gas & Electric Company (SDG&E)
- Southern California Edison Company (SCE)
- Southern California Gas Company (SoCalGas)
- Southwest Gas Company (SWGAs)

Alpine Natural Gas and West Coast Gas Company may file a Tier 2 advice letter at any point over the duration of the IIJA to establish an IIJA Memorandum Account if they choose to seek IIJA funding. The IIJA Memorandum Account will track the costs for projects that are awarded federal funding to inform oversight and evaluation of future match funding cost recovery requests. While the IIJA Memorandum Account will track any costs associated with match funding, the actual spending requests for projects will be addressed in the IOUs' General Rate Cases or separate project applications.

In addition, the IOUs should establish a sub-account within the IIJA Memorandum Account to track the tax impacts of the federal grant awards. The sub-account should include not only tracking of tax liabilities related to IIJA federal grant awards, but also any related tax benefits such as the impact on depreciation. Similar to cost recovery treatment for match funding amounts, requests for cost recovery of tax impacts from the IIJA federal grant awards will be considered by the Commission during IOU GRCs or other cost recovery applications.

⁸ Alpine Natural Gas Operating Company and West Coast Gas Company Inc., while recipients of Pres. Reynolds' January 24, 2022 and November 28, 2022 letters, are excluded from these requirements.

If IOUs are eligible to apply for federal funding, loans, or other programs through the IRA or CHIPS, IOUs may also use this account to track costs and taxes for those awards.⁹

Tax Treatment

In the December 2022 letters to the Commission, the IOUs' recommendations varied regarding the treatment of tax liability stemming from federal grant funding related to the IIJA.¹⁰

- PG&E stated that it believes the grants will be considered taxable income for federal purposes but may not be taxable for California state tax purposes.¹¹
- In contrast, SCE stated that the grants would be taxable income for both federal and state purposes and proposed a ratemaking treatment for grants that is similar to Contributions-In-Aid of Construction (CIAC).¹² SDG&E agreed that the grants would be taxable for both federal and state income tax purposes and proposed a memorandum account process that would be used to track and recover or refund any taxes.¹³
- SoCalGas requested Commission guidance on whether it could recover taxes incurred through a regulatory mechanism such as a memorandum account.¹⁴
- Southwest Gas proposed regulatory accounting treatment for tax recovery¹⁵ and Bear Valley Electric Service proposed allowing the IOUs to establish memorandum accounts to track federal grant-related tax liabilities with recovery via Tier 2 advice letter filing.¹⁶ PacifiCorp and Liberty Utilities did not submit any proposal for treatment of potential tax liabilities stemming from IIJA federal grants.

Barring specific guidance from the Internal Revenue Service (IRS) indicating otherwise, we find it likely that federal IIJA grants received by an IOU will be considered taxable income at the federal level. Internal Revenue Code (IRC) Sec. 118¹⁷ governs federal

⁹ The benefits of IRA provisions related to investment tax credits, production tax credits, and new tax credits to promote climate goals should be included in utility GRC applications.

¹⁰ Commission President Reynolds Letter and IOU responses are available at:

<https://www.cpuc.ca.gov/about-cpuc/divisions/office-of-governmental-affairs/federal-funding>.

¹¹ PG&E letter to Alice Reynolds dated December 23, 2022, p. 2.

¹² SCE letter to Alice Reynolds dated December 22, 2022, p. 3.

¹³ SDG&E letter to Alice Reynolds dated December 20, 2022, p. 2.

¹⁴ SoCalGas letter to Alice Reynolds dated December 23, 2022, p. 2.

¹⁵ Southwest Gas letter to the Commission dated December 23, 2022, p. 2.

¹⁶ Bear Valley Electric Service letter to Alice Reynolds dated December 20, 2022, p. 1.

¹⁷ 26 U.S. Code §118.

income tax treatment for contributions to the capital of a corporation. IRC Sec. 118(a) states that “In the case of a corporation, gross income does not include any contribution to the capital of the taxpayer.” (*Emphasis added*). However, the Tax Cuts and Jobs Act of 2017¹⁸ added to IRC Sec. 118(b)(2) made an exception to include in gross income “any contribution by any governmental entity or civic group.” Thus, it appears at this time, any federal grants stemming from the IIJA will be taxable income at the federal level.

Regarding potential California state income tax liability, as mentioned above, PG&E’s December 2022 letter to the Commission stated that the grants may not be considered taxable income for state tax purposes since California has not conformed to the Tax Cuts and Jobs Act of 2017. The California Franchise Tax Board (FTB) Summary of Federal Income Tax Changes 2017 report discusses how California tax law only conforms to federal rules related to contributions as of January 1, 2015, specifically stating that:

“California does not conform to the federal modifications related to certain contributions in aid of construction by customers or potential customers or contributions by governmental entities that are not treated as contributions to capital.”^{19,20}

As a result, barring specific guidance from the FTB stating otherwise, we agree with PG&E that federal grants related to the 2021 IIJA are not likely to be considered taxable income for State of California tax purposes, although there is a small degree of uncertainty at this time.

It should be noted that future guidance or action by taxation authorities could alter these findings regarding federal or state tax treatment of IIJA grants. It is the Commission’s expectation that the IOUs will comply with applicable tax laws while the tax impacts reflected in ratemaking from the IIJA should also follow applicable tax laws.

Several of the IOUs’ December 2022 letters suggested memorandum account treatment to track the potential tax liabilities associated with IIJA grants.²¹ Because we find there will likely be income tax liabilities associated with IIJA grants, and because we intend the 2021 IIJA grant funding to be used to fund utility infrastructure that provides

¹⁸ Tax Cuts and Jobs Act, Pub. L. No. 115-97 (2017).

¹⁹ <https://www.ftb.ca.gov/about-ftb/data-reports-plans/Summary-of-Federal-Income-Tax-Changes/2017.pdf>. See pages 201-202 for discussion of California non-conformity with federal changes to IRC Sec. 118.

²⁰ See also: California Revenue and Taxation Code RTC Sec. 23051.5 and Sec. 17024.5(a)(1)(P).

²¹ SDG&E letter to Alice Reynolds dated December 20, p.2, SoCalGas letter to Alice Reynolds dated December 23, 2022, p.2, Bear Valley Electric Service letter the Commission, dated December 20, 2022, p. 1.

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customer benefits, we agree that there is a need for a mechanism, such as a memorandum account, to capture the impacts of tax liabilities associated with the federal grants. In addition, memorandum account treatment provides the ability to make adjustments to reflect compliance with any future tax law changes or guidance from taxing authorities related to the IIJA grants, if necessary.

As described above, we, therefore direct the IOUs to submit Tier 2 advice letters to establish a single IIJA Memorandum Accounts for all applicable projects within 60 days of the issuance of this Resolution. Establishing a sub-account within this memorandum account will allow the IOUs to track the tax impacts associated with IIJA federal grants and provide a measure of certainty, albeit with a final cost recovery determination contingent upon a future application reasonableness review.

Reasonableness Review of Infrastructure Investment and Jobs Act (IIJA) Grant Related Costs

The Commission recognizes that developing competitive applications to IIJA grant opportunities requires a significant investment of time and resources. The Commission also recognizes that the IOUs seek certainty in cost recovery for associated costs and matching funds incurred to meet IIJA grant award requirements. In their responses to Commission President Reynolds' November 28, 2022 letter, the IOUs proposed various mechanisms for how projects that receive IIJA Grant funding should be treated regarding approval for cost recovery:

- SCE requested authority to recover costs through a Tier 3 advice letter for projects not already included in their General Rate Case (GRC). SCE cited prior Commission practice in the case of the American Recovery and Reinvestment Act (ARRA) of 2009 where the Commission directed SCE to use a Tier 3 advice letter in the Smart Grid Rulemaking to apply for incremental funding to meet DOE cost share obligations for ARRA funding.²²
- Bear Valley Electric Service requested a memorandum account with approval and recovery through a Tier 2 advice letter process.²³
- SDG&E noted, generally, that "...there must be a process in place that will allow SDG&E to recover its match amount from ratepayers, including standard cost-of-service ratemaking elements (i.e., O&M, taxes, depreciation, and return)" and stated more specifically that "Timing of DOE funding opportunities is unlikely to coincide with the normal GRC cycle, nor will there be enough time to follow the standard process for submitting projects

²² SCE letter to Alice Reynolds dated December 22, 2022, p. 2.

²³ Bear Valley Electric letter to Alice Reynolds dated December 20, 2022, p.1.

for CPUC review and approval.” SDG&E pointed to DOE short timelines and recommended that the Commission “...issue an order directing advice letter filing to establish a memorandum account prior to submitting any application to DOE for IJJA funding. The advice letter will include a project description and as many details as are available at the time of DOE submission, as well as a proposal for future disposition of the memorandum account (i.e., how the final balance would be collected in rates). Approval to include any balance in rates, however, would be subject to a reasonableness review prior to any rate recovery. Such review would be limited to a determination of whether costs were reasonably incurred and accounted for, but not whether it was prudent to pursue the project in the first place. Objections to the prudence of projects would be considered as part of the advice letter process.”²⁴

We agree with the need for the Commission to identify a clear process the IOUs will utilize when applying for cost recovery of IJJA related costs. Furthermore, in cases where projects are not already included within an IOU’s GRC, the GRC cycle may not optimally align with the IJJA grant cycle. However, we disagree with the IOUs’ recommendations that the advice letter process is an appropriate procedural vehicle for approving the use of ratepayer funds.

Evaluation of ratepayer costs for projects receiving IJJA, IRA, or CHIPS grant funding must be consistent with existing Commission practice and directives in other relevant regulatory proceedings. Therefore, we adopt two procedural options through which the IOUs may request project funding: 1) a utility can seek prospective ratemaking treatment through its GRC, which occurs every three to four years; or 2) via a separate project stand-alone application if earlier cost recovery is needed.

Regardless of which pathway is taken, the Commission’s statutory responsibility is to examine the reasonableness of the proposed or incurred costs. The application process provides the appropriate forum to assess the reasonableness of IOU IJJA, IRA, or CHIPS project costs presented to the Commission because it is litigated in a public proceeding initiated by the requesting utility and includes robust public participation from stakeholders. These stakeholders propound discovery, review the details of the costs, submit briefs and testimony, cross-examine witnesses in evidentiary hearings, and may or may not propose settlements. Together, this information forms the evidentiary record on which the Commission will base its determination of whether costs are reasonable and therefore should be borne by ratepayers.

²⁴ SDG&E letter to Alice Reynolds dated December 20, 2022, p.2.

Thus, we find that these two processes are the most appropriate procedural vehicles by which the IOUs can pursue cost recovery requests related to federal funding awards. Where projects are not already included within the GRC, or within another formal regulatory proceeding or process, the IOUs should file a formal application with the Commission requesting approval for project spending and cost recovery. The cost recovery application should align with Commission directives in other relevant regulatory proceedings, as applicable.

Given the potential for the complex nature of many of the projects likely to be proposed and awarded, the application process provides the optimal and most appropriate forum for scrutiny in compliance with the Commission's rules. Further, a separate project application allows for a rigorous review process, on a flexible schedule that can adapt to the IJJA, IRA, or CHIPS grant award timeline, which can be streamlined or expanded depending on the record of the proceeding. To further aid in expedited review and minimize redundant work by the IOUs, parties, and the Commission, the IOUs may bundle multiple proposals into a single application when requesting cost recovery outside of the GRC.

IOUs should utilize these same options for IJJA, IRA, or CHIPS projects in partnership or as an awardee from other State agencies.

We also acknowledge SCE's comment that the "CPUC should provide guidance confirming that IOUs may consider joint projects in the event that such projects would provide broad regional benefits within the state that otherwise might be less achievable through only individually sponsored projects."²⁵ Many projects that may be attractive for IJJA grant consideration require regional solutions and creative, collaborative thinking. The Commission encourages the IOUs to work together to apply for and implement collaborative IJJA grant projects. In cases where multiple IOUs work together on a single project, applications for cost recovery may be filed jointly.

Grant Reporting

In order to ensure transparency and oversight, the Commission and public must remain informed on how the IOUs are utilizing IJJA, IRA, or CHIPS grants and match funding. Commission President Reynolds' November 28, 2022 letter to the IOUs requested

²⁵ SCE letter to Alice Reynolds dated December 22, 2022, p. 4.

comment on “tracking and oversight of awarded funding to ensure reductions in costs to utility customers.”

Most utilities that replied interpreted the question to mean tracking of monetary receipts for recovery. Two IOUs, Southwest Gas and Bear Valley Electric Service, responded with suggestions for informational tracking via an advice letter. Southwest Gas suggested that the Commission could require “...the IOUs to report, either through an advice letter or other compliance report, on any funding received and demonstrate how project costs will be offset by the funding and reduce cost impact to customers.”²⁶ Bear Valley Electric Service suggested a similar approach: “The advice letter would detail the actual federal funding and how the funding was utilized as well as provide full accounting of the project expenses incurred. This process would provide transparency on how funds were utilized to the Commission and other interested parties.”²⁷

We agree with the IOUs that providing regular updates on federal funding through the advice letter process would keep the Commission and the public informed on the tracking and prudent use of IJJA, IRA, and CHIPS grants and ratepayer matching funds to comply with DOE requirements and demonstrate benefits to ratepayers. As the DOE’s grant award schedule is not known, starting in Q3 of 2023, the IOUs shall each submit quarterly Tier 1 Information-Only advice letters containing, at a minimum, the following information:

Table 2: Quarterly Advice Letter Requirements
<ul style="list-style-type: none"> • For applications: <ul style="list-style-type: none"> ○ Status of applications submitted to DOE (under review, not awarded, awarded, etc.) including timeframe, the grant section number, and project name ○ Descriptions of projects proposed in grant applications, or anticipated use of funding, requested grant level (and commensurate ratepayer matching funds) ○ Identify partners on the applications (other IOUs or POU, State agencies, Tribes, etc.) ○ Assessment of future award opportunities including match requirements and the expected source(s) for any match funding

²⁶ Southwest Gas letter to Alice Reynolds dated December 23, 2022, p.2.

²⁷ Bear Valley Electric Service letter to Alice Reynolds dated December 22, 2022, p.2.

- For awards:
 - A description of each project awarded by the Department of Energy under IIJA (or IRA or CHIPS, as applicable)
 - Project timeline and development status
 - Total award, funds expended and remaining, amount of ratepayer funding contributed, related match funding from other grants or programs, and grant or funding expiration date for any awards or matching awards
 - Related proceedings (i.e., GRCs, wildfire mitigation, or other forums) where the project may be reviewed or may be used to meet other criteria
 - An explanation of how the proposed project(s) maps to existing State priorities, including electric and gas customer rate and bill reductions, safety improvements, reliability enhancements and greenhouse gas emission reductions
 - Project status including any delays, challenges, or lessons learned
 - A narrative of costs incurred in alignment with the IIJA Memorandum Account
 - Identify if any projects are in State-designated disadvantaged communities or on Tribal lands

In addition to grants received directly from the DOE, IOUs should also report on grants received through State agencies, even if these grants do not require a match component from ratepayers. One project may complement another, or a future project may be created as an additional phase. The Commission and parties should be aware of these connections in order to efficiently assess any requests that may request a ratepayer match component.

Reporting should continue until at least all grant money and matching funds have been expended and the Energy Division has notified the IOU that further reporting is no longer needed.

IOUs should follow established Commission process for requesting confidential treatment. If confidential treatment is requested, IOUs should also submit a redacted copy of their advice letter filing. This will facilitate transparency and help expedite information sharing when considering other IIJA requests.

If, at a future time, IOUs are eligible to apply for federal funding through the IRA or CHIPS, IOUs should follow the same process described here for IJA grants to report on grant progress for projects accessing IRA or CHIPS funding starting in the quarter that funding is applied for. The IOUs should consolidate all relevant federal grant reporting in the same quarterly advice letter report.

As Energy Division and IOUs gain experience with the IJA and other federal programs, IOUs and the Commission will learn what types of information are available and helpful to report. Accordingly, the Energy Division may modify reporting requirements at a future time.

Disadvantaged Communities Considerations

The State has disadvantaged communities advancement goals aimed at improving public health, quality of life, and economic opportunity in California's most burdened communities, and at the same time, reducing pollution that causes climate change. The Commission developed an Environmental and Social Justice (ESJ) Action Plan to guide its decisions and make sure its broad regulatory authority continues to advance equity throughout the state.²⁸

In decision (D.) 20-08-046, the Commission defined disadvantaged vulnerable communities (DVC) as: 1) Communities in the 25% highest scoring census tracts according to the most current versions of the California Communities Environmental Health Screening Tool (CalEnviroScreen),²⁹ 2) all California tribal lands, 3) census tracts that score in the highest 5% of Pollution Burden within CalEnviroScreen, but do not receive an overall CalEnviroScreen score due to unreliable public health and socioeconomic data, and 4) census tracts with median household incomes less than 60% of state median income.³⁰ The California Environmental Protection Agency (CalEPA) CalEnviroScreen tool identifies California communities by census tract that are disproportionately burdened by, and vulnerable to, multiple sources of pollution.

D.20-08-046 orders the IOUs to submit vulnerability assessments of climate risks to utility operations and services, as well as to utility assets the IOUs have direct control

²⁸ The ESJ Action Plan is available on the Commission's website: <https://www.cpuc.ca.gov/esjactionplan>

²⁹ Current CalEnviroScreen version 4.0 can be accessed here:

<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

³⁰ D.20-08-046, Decision on Energy Utility Climate Vulnerability Assessments and Climate Adaptation in Disadvantaged Communities. Filed in R.18-04-019 (Sep. 2020). Accessible at:

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M346/K285/346285534.PDF>

over. D.20-08-046 further ordered the IOUs to develop Community Engagement Plans for working directly with DVCs to provide foundational input to informing the IOUs vulnerability assessments. These strategies are reflected in the ESJ Action Plan which calls for improved climate resiliency,³¹ air quality,³² and economic conditions³³ in disadvantaged communities. These strategies and goals are consistent with the Commission's interest in the IOUs seeking IIIA grants in investments that advance equity and directly benefit disadvantaged communities.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and was placed on the Commission's agenda no earlier than 30 days from mailing.

This Resolution was mailed on March 1, 2023. Comments were timely filed by the PG&E, SCE, and jointly by SDG&E and SoCalGas (SDG&E/SoCalGas).

Reporting Requirements

PG&E and SDG&E/SoCalGas provided comments on reporting requirements for projects proposed or receiving grant funding.

PG&E requested that reporting occur on an annual, rather than quarterly basis, and that the resolution provide guidance on the handling of potentially confidential information, guidance on Justice40 requirements, and additional clarity on how to report grants where the IOU is in partnership or has other involvement. SDG&E/SoCalGas requested that in place of Tier 1 information-only advice letters, the IOUs could submit DOE reports with Tier 1 information-only advice letters as supplemental if any necessary

³¹ ESJ Action Item 4.1, p. 24.

³² ESJ Action Items 2.1-2.5, p. 23-24.

³³ ESJ Action Items 7.1-7.3, p. 25.

information was not included within the DOE report. They also request that the resolution incorporate flexibility to modify the reporting requirements at a future date.

The resolution preserves the requirement for quarterly reporting. At this point it is unclear how many projects may be funded through federal grants and what their potential impact on spend/rates may be to utility customers. If many projects are awarded or proposed, it may become important for parties to consider the cumulative and marginal impact of a project with the most updated information. Quarterly reporting will allow for parties to understand the impact of projects in a timely fashion in the context of other ongoing and proposed projects and ensure that applications move forward swiftly. To account for this uncertainty in project types, cost, and scope the resolution is modified to allow for future flexibility in reporting requirements. As the IJJA and other grant programs rollout IOUs, parties, and the Commission will learn more about what types of information are useful and available to report.

The resolution declines to implement SDG&E/SoCalGas's suggestion to use DOE reporting supplemented with a Tier 1 as needed in place of the reporting required herein. Similar to the reasoning to preserve quarterly reporting given above, IOUs, parties, and the Commission will need easily accessible information for potentially numerous projects in order to assess how additional projects may incrementally impact consumer rates and deliver on Commission and State climate goals. Dedicated advice letters will provide a consistent format that allows for easy navigation without the need to sort through other DOE-specific information. The need for publicly accessible information dovetails with PG&E's request for guidance on how to handle confidential information. The Commission recognizes that some confidential information may fall within the scope of the request. IOUs should use established Commission procedures to request confidentiality. IOUs should also provide a redacted version of any advice letter with confidential information to facilitate sharing of non-confidential information and decrease any potential roadblocks for project approval.

Justice40 is a federal initiative. IOUs should follow federal guidance on how to meet Justice40 requirements. Similarly, PG&E should seek clarity from DOE on specific requirements of the IJJA as the Commission is not responsible for the creation and implementation of IJJA opportunities.

Cost Recovery

PG&E, SCE and SDG&E/SoCalGas discussed the need for increased certainty on several points related to cost recovery for both successful and unsuccessful federal applications.

PG&E and SDG&E/SoCalGas requested clarity on cost recovery for grant application expenses, with PG&E also desiring clarity on work performed toward unsuccessful projects and for work performed in support of applications submitted by other parties. The Commission recognizes that significant resources will be involved in developing competitive grant applications, and that not every application will be successful. These costs may be considered reasonable as long as they are treated as an expense and not a regulatory asset and should be booked to the memorandum account and proposed for recovery elsewhere.

PG&E, SCE and SDG&E/SoCalGas also requested that the resolution provide a rebuttable presumption that projects that are awarded federal funding are reasonable for cost recovery purposes. SDG&E/SoCalGas contends that without this presumption, IOUs will have to note that their commitment is contingent on Commission approval for cost recovery. They contend this will decrease the competitiveness of the application and potentially disqualify some projects if approvals cannot be obtained within the timeline required for the match to be confirmed. Furthermore, SDG&E/SoCalGas asserts that "...this approach to cost recovery is justified in this context because by virtue of being awarded a federal grant, these projects by definition are likely to be cost effective for customers."³⁴ SDG&E/SoCalGas further contends that the existing federal funding process requires commitment to match funds as part of the process of executing a grant funding agreement, prior to Commission approval of cost recovery for such matching. Furthermore, SDG&E/SoCalGas requests that all standalone applications for projects with IJJA grant funding have an expedited timeline with approval no more than four months after the filing date. For projects that are identical or similar to previously approved projects, SDG&E/SoCalGas requests cost recovery through a Tier 2 Advice Letter

The Commission declines the requests for a rebuttal presumption or expediting timeline for review. As mentioned above, the Commission's statutory responsibility is to examine the reasonableness of the proposed or incurred costs.³⁵ At this juncture, the total amount of grant funding that may be awarded and the specifics of which projects

³⁴ Comments of Southern California Gas Company and San Diego Gas & Electric Company on Energy Division's Draft Resolution E-5254, March 21, 2023, p.5.

³⁵ Public Utilities Code §§ 451 and 454.

will be accepted are not known. Therefore, we cannot shift the burden of proof to stakeholders. At this point, the proposed or incurred costs may range into the hundreds of millions or even billions of dollars per IOU over the multiyear lifespan of the federal programs. Granting this request would expose ratepayers to significant risk to contribute significant match in a relatively short period of time at a time of historically high electric and natural gas rates, which warrants robust public participation from stakeholders. While SDG&E/SoCalGas is correct that the presence of a grant component does improve the cost-benefit metric and will be considered, it does not automatically deem a project reasonable for cost recovery. Likewise, accelerating the timeline for consideration of projects of unknown scope and size may not allow for robust and meaningful participation and review from stakeholders.

Tax Liability

PG&E, SCE and SDG&E/SoCalGas discussed the language concerning the treatment of possible state income tax liabilities stemming from IIJA grant funding. Language has been modified to clarify that the IIJA Memorandum Account should track impacts related to federal and state income taxes incurred by the IOUs as a result of IIJA grant funding.

FINDINGS

1. The Infrastructure Investment and Jobs Act (IIJA) presents a significant opportunity to attract federal funding to finance IOU infrastructure needed in California to support zero carbon emissions, grid reliability, safety, and bill affordability for electric and gas customers.
2. The Inflation Reduction Act (IRA) and Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS) also offer federal funding to increase energy efficiency and support clean energy infrastructure.
3. California's electric and gas IOUs requested guidance on numerous regulatory issues in order to develop competitive grant proposals.
4. Electric and gas IOUs requested regulatory guidance on a cost recovery mechanism for projects funded with IIJA grants.
5. Electric and gas IOUs requested clarification on how to track costs for IIJA grant projects.
6. Electric and natural gas IOUs have requested clarification on how to treat tax implications of IIJA grant funding.

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7. Barring specific guidance from the Internal Revenue Service (IRS) indicating otherwise, we find it likely that federal IIJA grants received by an IOU will be considered taxable income at the federal level.
8. An application process is the appropriate procedural vehicle for IOUs to seek cost recovery for matching funds and other costs related to federal IIJA grants.
9. The IOUs may seek ratemaking treatment for IIJA related costs through its General Rate Case (GRC).
10. The IOUs may submit a stand-alone project application separate from the GRC process to seek cost recovery for IIJA related costs.
11. The IOUs may collaborate with each other to jointly apply for IIJA grants.
12. In cases where the IOUs work together on a single project, applications for cost recovery may be filed jointly.
13. IOUs should follow the same process for IRA or CHIPS and for projects in partnership or granted through State agencies.

THEREFORE, IT IS ORDERED THAT:

1. Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and Southwest Gas Company (SWGAs), are each directed to file a Tier 2 advice letter to establish a single Infrastructure Investment and Jobs Act (IIJA) Memorandum Account within 60 days of the issuance of this Resolution. The requested effective date shall be the effective date of this resolution. Alpine Natural Gas and West Coast Gas Company may file a Tier 2 advice letter at any point over the duration of the IIJA to establish an IIJA Memorandum Account, with an appropriate effective date, if they choose to seek IIJA funding.
2. The IIJA Memorandum Account will track the costs for any projects seeking and/or awarded federal funding, including incremental costs incurred during the preparation of applications. Awarded projects are those that are selected to begin negotiations toward a grant funding agreement.

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3. Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and Southwest Gas Company (SWGAS) should establish a sub-account within the IJJA Memorandum Account to track the tax impacts of the federal grant awards. The sub-account should include not only tracking of tax liabilities related to federal grant awards, but also any related tax benefits such as the impact of depreciation. Alpine Natural Gas and West Coast Gas Company should follow the same process if they establish an IJJA Memorandum Account.
4. Alpine Natural Gas, Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), Southwest Gas Company (SWGAS), and West Coast Gas Company may request cost recovery through one of two procedural vehicles: 1) General Rate Case applications or 2) standalone project applications. These options are consistent with existing Commission practice for cost recovery of ratepayer funds.
5. Starting in Q3 of 2023 until all projects funded with IJJA grants are completed and implemented or Energy Division has notified the IOU that further reporting is no longer needed, Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), Pacific Gas and Electric Company (PG&E), PacifiCorp d.b.a. Pacific Power (PacifiCorp), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and Southwest Gas Company (SWGAS) shall submit quarterly Tier 1 Information-Only advice letters containing, at a minimum, the information requested in Table 2 of this Resolution. Alpine Natural Gas and West Coast Gas Company should begin reporting in the quarter following approval of their Tier 2 Advice Letter in Ordering Paragraph 1.
6. If funding to IOUs becomes available through the IRA or CHIPS, IOUs should follow the same processes outlined in this resolution for IJJA grants when seeking cost recovery or tax treatment of federal funds received under those programs.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 6, 2023; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

ALICE REYNOLDS

President

GENEVIEVE SHIROMA

DARCIE HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners