

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



Erik Jacobson
Director, Regulatory Relations
Pacific Gas and Electric Company
77 Beale St., Mail Code B13U
P.O. Box 770000
San Francisco, CA 94117

January 15, 2021

Advice 4269-G/5865-E
(Pacific Gas and Electric Company U 39 M)

Advice 2879-G/3564-E
(San Diego Gas & Electric Company U 902 M)

Advice 5655
(Southern California Gas Company U 904 G)

Advice 4238-E
(Southern California Edison Company U 338 E)

Advice 1137-G
(Southwest Gas Corporation U 905 G)

Advice 56-G
(Alpine Natural Gas Operating Company U 909 G)

Advice 395-E
(Bear Valley Electric Service U 913 E)

Advice 148-E
(Liberty Utilities LLC U 993 E)

Advice 620-E
(PacifiCorp d/b/a Pacific Power U 901 E)

Dear Mr. Jacobson:

Energy Division approves Pacific Gas and Electric Company's (PG&E) Joint Tier 1 AL supplement 4269-G-A/5865-E-A replacing AL 4269-G/5865-E in full, effective September 25, 2020. The Joint AL 4269-G-A/5865-E-A, filed on behalf of Pacific Gas and Electric Company PG&E, San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SCG), Southern California Edison Company (SCE), Southwest Gas Corporation (SoCalGas), Alpine Natural Gas Operating Company (ANG), Bear Valley Electric Service (BVES), Liberty Utilities LLC (Liberty CalPeco),

PacifiCorp d/b/a Pacific Power proposed a reporting template for Energy Savings Assistance (ESA) prime contractors in compliance with the ESA Contractor Advance, as authorized in Resolution E-5074. The Tier 1 AL and supplement addressed the reporting template for Prime Contractors to monitor the advance payment funds made to ESA Prime Contractors in response to impacts of the COVID-19 pandemic on the ESA workforce.

1. Background

On March 23, 2020, the California Public Utilities Commission (CPUC) released a letter requesting all four large Investor-owned Utilities (IOUs)¹ to provide specific assurance to help ensure the economic stability of the ESA program's workforce. This letter asked the IOUs to offer a 30-day advance payment to each eligible entity holding the agreement with the IOU (i.e. the Prime Contractor or "Prime") to cover the ESA labor costs plus costs critical to sustaining the ESA workforce.

On May 28, 2020, the CPUC adopted Resolution E-5074. Pursuant to Section 1.2.1 of Resolution E-5074, the IOUs created a reporting template to track the use of advance funds. Resolution E-5047 noted the template should include:

- The amount of funds advanced, by category broken down at least to
 - o employee salary and wages
 - o the employer costs for continuing the employees' benefits
 - o other employee costs deemed critical to sustaining the workforce
 - o remaining amount of funds advanced and associated costs (e.g. overhead);
- The calendar period for which the advance funds covered costs;
- The number of workers these funds sustained and for how long;
- At what salary/hourly rate (include data to show distribution, maximum, and minimum); and
- The description of employee benefits covered.

On July 19, 2020, the Energy Efficiency Council (EEC), filed a protest of Joint Tier 1 Advice Letter Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074. On July 20, 2020, La Cooperativa Campesina de California, MAROMA Energy, Proteus Inc. and FCI Management (Joint Parties) each filed protests of PG&E's Joint Tier 1 AL pursuant to Resolution 5074. On July 27, 2020, PG&E filed its response to the Energy Efficiency Council protest and the Joint Parties Protest to PG&E's Joint Tier 1 AL for Resolution 5074.

On September 2, 2020, at the direction of Energy Division staff, the IOUs held a teleconference with the protesting parties to discuss revisions to the reporting template to address the concerns raised in the EEC and Joint Parties' protest. After this meeting, the IOUs submitted a supplemental AL 4269-G-A/5865-E-A on September 25, 2020, stating that the IOUs believe the new proposed

¹ Pacific Gas and Electric, Southern California Edison, Southern California Gas, and San Diego Gas & Electric

reporting template is reasonable given the potential for future audits.² On September 25, 2020, PG&E filed supplemental 4269-G-A/5865-E-A. There were no additional protests received.

2. Energy Efficiency Council Protest and PG&E Reply Comments

EEC's protest included two items directed at PG&E's Tier 1 AL regarding:

- Flaws in the template format and the data requirements;
- Flaws in the template's basic assumptions.

2.1 Flaws in the AL's Template Format and Data Requirements

The EEC protest relating to the development of the ESA advance payment reporting template proposed by the IOUs in their Tier 1 AL focused on what the EEC contended was too much detail required in the reporting template.

Further, EEC argued that the template, which demands the provision of individual, proprietary data, is discriminatory against ESA contractors and their employees, because the data on payments to individual employees or even to types of employees is both confidential and proprietary. EEC argued that if the CPUC decides that it is necessary to have such employee-specific data at this time (or any later time), it can direct that it be submitted under a confidentiality restriction to the Energy Division and shared on a strict "need-to know" basis. Finally, EEC contended that supplying of confidential and proprietary individual employee data would be a significantly and unnecessarily burdensome.

EEC also stated that the template request for proprietary and confidential individual employee data was not authorized under the Resolution.

In its reply to EEC, the IOUs stated that they need detail in the reporting template for auditing purposes. The IOUs stated that they did not oppose working with EEC to balance competing needs and develop a simpler reporting template so long as it complied with the requirements outlined in Resolution. E-5074.³

On September 2, 2020, at the direction of Energy Division staff, the IOUs held a teleconference with the protesting parties to discuss revisions to the reporting template to address the concerns raised in the EEC's protest. After this meeting, the IOUs submitted a supplemental AL 4269-G-

² PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074
Compliance with Resolution E-5074

³ PG&E AL 4269-G/5865-E: Joint Reply to the Protest from the Energy Efficiency Council and Comments from Joint Parties to AL 4269-G/5865-E et al. Joint Tier 1 ALAL Proposing a reporting template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074.

A/5865-E-A on September 25, 2020, stating that the IOUs believed the new proposed template was reasonable given the potential for future audits.⁴

Discussion

The reporting template submitted through in AL 4269-G-A/5865-E-A incorporated revisions from discussions between the IOUs and protesting parties, based on Energy Division direction to provide “the amount of funds advanced, by category broken down at least to; employee salary and wages. Employer costs for continuing the employees’ benefits, other employee costs deemed critical to sustaining the workforce, and overhead.”⁵ Energy Division believes the proposed, updated template is reasonable given that the potential for future audits ensures that all necessary information will be documented by the contractors. As directed in Resolution E-5074, all ESA prime contractors and sub-contractors shall provide the needed information to the contract-holding IOUs and CPUC to inspect and audit the accounting books for a period of four years.⁶

Additionally, the IOUs noted in their supplemental that to “the extent auditing of the advanced funds requires further details on the intended use of the funds, all ESA Prime Contractors and Sub-Contractors shall provide the needed information to the contract-holding IOUs and CPUC to inspect and audit the accounting books for a period of four years, as directed in Resolution E-5074.”⁷

Consequently, Energy Division agrees with the IOUs’ assessment that the updated reporting template is reasonable and addresses the concerns raised by EEC and the Joint Parties in their protests, and therefore approves the IOUs revisions to the reporting template submitted in supplemental AL # 4269-G-A/5865-E-A filed on September 25, 2020.

2.2 Flaws in the Template’s Basic Assumptions

EEC’s protest raised additional issues related to the reporting template’s basic assumptions. The first protest was the timing of the program suspension period. Also protested was the length of the Post Pandemic Return to Service (PPRS) earning period. As stated in Resolution E-5074, this Tier 1 AL is intended to focus on creating a reporting template for use by the IOUs and contractors to track how the ESA advance payments were spent.

- The IOUs lack Authority to Allow ESA Contractors use of Advance Payment Funds Outside the Suspension Period;

⁴ PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074

⁵ RESOLUTION E-5074 Section Initial Disbursement Tracking

⁶ PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074

⁷ PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074

- The IOUs are bound by the resolution Language regarding the PPRS credit earning period.

In its reply, the IOUs stated that they lack the authority to allow ESA contractors use of advance payment funds outside the suspension period and that the IOUs are bound by the resolution Language regarding the PPRS credit earning period. Post-Pandemic Return to Service (PPRS) credit will only be available for six months after IOUs authorize a return to face-to-face service in the ESA program, and only used by Primes that accept this advance payment to pay back the eligible balance of the advance per their arrangement with the IOU.⁸

Discussion

Energy Division agrees with the IOUs assessment that they lack the authority to allow ESA contractors use of advance payment funds outside the suspension period and that the IOUs are bound by the resolution language regarding the PPRS credit earning period.

Further these two additional areas of protest from the EEC are not within the scope of the Tier 1 AL. Therefore, the CPUC will not respond on these two topics as requested by EEC in order to dispose of the template in scope of this AL. Resolution E-5074 is specific about the PPRS accrual period “The Prime shall only be able to generate PPRS credits through treatment of ESA-eligible households during the six months after the ESA program suspension of face-to-face activities is lifted by the IOUs.”⁹

3. LA COOPERATIVA CAMPESENA de CALIFORNIA, MAROMA ENERGY, PROTEUS INC. AND FCI MANAGEMENT (JOINT PARTIES)

The Joint Parties’ protest included two items directed at PG&E’s Tier 1 AL regarding:

- Flexibility of the PPRS credit accrual period;
- Template Reporting Details.

3.1 Flexibility of the PPRS Accrual Period

The Joint Parties’ protest took issue with the PPRS timelines, contending that the IOUs interpreted that the funds are available only during the suspension period but not during any ramp-up period.

In its reply, the IOUs stated that they lack the Authority to Allow ESA Contractors use of Advance Payment Funds Outside the Suspension Period and that the IOUs are bound by the resolution Language regarding the PPRS credit earning period.

Discussion

⁸ RESOLUTION E-5074 Section 2.6.4. Advance Payment Payback

⁹ RESOLUTION E-5074 Section 1.1.1

Energy Division agrees with the IOU assessment that they lack the authority to allow ESA contractors use of advance payment funds outside the suspension period and that the IOUs are bound by the resolution Language regarding the PPRS credit earning period.

Energy Division's position is the same as with the EEC protest discussion, this additional area of protest from the Joint Parties is not within the scope of the Tier 1 AL. RESOLUTION E-5074 is specific about the PPRS accrual period "The Prime shall only be able to generate PPRS credits through treatment of ESA-eligible households during the six months after the ESA program suspension of face-to-face activities is lifted by the IOUs."¹⁰

3.2 Template Reporting Details

The Joint Parties protested the practicality of the level of detail for employee reporting that they believe creates an unnecessary burden for contractors. Because the costs to contractors during COVID-19 is unpredictable, the Joint Parties believe that lessening this administrative cost is needed. They recommend creating more general categories of acceptable and eligible costs for the PPRS.¹¹

In its reply, the IOUs stated that they need detail in the reporting template for auditing purposes. Additionally, the IOUs reply to Joint Parties' protest states that they do not oppose working with EEC and Joint Parties to balance competing needs and develop a simpler reporting template so long as it complies with the requirements outlined in Resolution. E-5074.¹²

On September 2, 2020, at the direction of Energy Division staff, the IOUs held a teleconference with the protesting parties to discuss revisions to the reporting template to address the concerns raised in the EEC and Joint Parties' protest. After this meeting, the IOUs submitted a supplemental AL 4269-G-A/5865-E-A on September 25, 2020 stating that the IOUs believe the new proposed template is reasonable given the potential for future audits.¹³

Discussion

The reporting template submitted through the supplemental AL incorporates revisions from discussions between the IOUs and protesting parties, based on Energy Division direction. Energy Division believes the proposed, updated template is reasonable given the potential for future audits. All ESA Prime Contractors and Sub-Contractors shall provide the needed information to the

¹⁰ RESOLUTION E-5074 Section 1.1.1

¹¹ Joint Parties Comments to Resolution E-5074

¹² PG&E AL 4269-G/5865-E: Joint Reply to the Protest from the Energy Efficiency Council and Comments from Joint Parties to AL 4269-G/5865-E et al. Joint Tier 1 ALAL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074.

¹³ PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074

contract-holding IOUs and CPUC to inspect and audit the accounting books for a period of four years.¹⁴

Additionally, the IOUs note in their supplemental that to “the extent auditing of the advanced funds requires further details on the intended use of the funds, all ESA Prime Contractors and Sub-Contractors shall provide the needed information to the contract-holding IOUs and CPUC to inspect and audit the accounting books for a period of four years, as directed in Resolution E-5074.”¹⁵

Consequently, Energy Division agrees with the IOUs’ assessment that the updated reporting template is reasonable and addresses the concerns raised by EEC and the Joint Parties in their protests, and therefore approves the IOUs revisions to the reporting template submitted in supplemental AL # 4269-G-A/5865-E-A filed on September 25, 2020.

Further Energy Division agrees with the IOU assessment that they lack the authority to allow ESA contractors use of advance payment funds outside the suspension period and that the IOUs are bound by the resolution Language regarding the PPRS credit earning period.

Please direct any questions regarding Energy Division’s findings in this non-standard disposition to Erik Johnson (Erik.Johnson@cpuc.ca.gov).

Sincerely,



Edward Randolph,

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

Cc: Service List A.14-11-007, et al.

Pete Skala, Energy Division
Jennifer Kalafut, Energy Division
Alison LaBonte, Energy Division
Jason Symonds, Energy Division

¹⁴ PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074

¹⁵ PG&E Supplemental: Joint Tier 1 AL Proposing a Reporting Template for Energy Savings Assistance (ESA) Prime Contractors in Compliance with Resolution E-5074