

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company  
for Approval of 2024-2031 Energy Efficiency  
Business Plan and 2024-2027 Portfolio Plan.  
U 39 M.

Application 22-02-005  
(Filed February 15, 2022)

And Related Matters.

A.22-03-003  
A.22-03-004  
A.22-03-005  
A.22-03-007  
A.22-03-011  
A.22-03-012

**JOINT PETITION FOR MODIFICATION OF DECISION 23-06-055**

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Date: January 22, 2024

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**JOINT PETITION FOR MODIFICATION OF DECISION 23-06-055**

In accordance with Rule 16.4 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, the County of San Luis Obispo (SLO), San Joaquin Valley Clean Energy Organization (SJVCEO), the Association of Monterey Bay Area Governments (AMBAG), the High Sierra Energy Foundation, and the County of Ventura,<sup>1</sup> each in their capacity as Leadership Team members (together, the Joint Petitioners) submit this joint Petition for Modification (PFM) of Decision (D.) 23-06-055.

In light of changed facts since the issuance of D.23-06-055, and the December 19, 2023 ruling from the Assigned Administrative Law Judge (ALJ) directing that a PFM be filed to effectuate the change in RuralREN’s designated Administrator, the Joint Petitioners respectfully submit this PFM proposing discrete revisions to remove the decision’s reference to Redwood Coast Energy Authority (RCEA) as the internal Administrator of RuralREN, and related clarifications. Joint Petitioners hope that the RuralREN established under D.23-06-055 will remain unchanged

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<sup>1</sup> County of Ventura joins this PFM in its role as a RuralREN Leadership Team member; the County of Ventura is not a county that RuralREN will serve.

in all other respects.

## I. INTRODUCTION

The Commission authorized the establishment of RuralREN based on its finding that the entity “is strategically designed to serve areas that have been traditionally underserved due to their rural nature and other structural barriers such as socioeconomic factors and the high cost of providing services in rural areas.”<sup>2</sup> The communities served by RuralREN “face significant equity and development challenges compared to the rest of the state,” and RuralREN is “uniquely positioned” to overcome these challenges because of its local focus and connection to the communities it serves.<sup>3</sup> These facts remain unchanged.

Since the adoption of D.23-06-055, however, a majority of RuralREN members voted to reassign the role of internal Administrator from RCEA to SLO, consistent with the oversight framework established under RuralREN’s Memorandum of Understanding (MOU).<sup>4</sup> The undersigned Joint Petitioners submit this PFM to effectuate this change, consistent with ALJ Fitch’s December 19, 2023 email ruling. As described herein and in the attached Appendix, Joint Petitioners identified one reference in D.23-06-055 wherein RCEA is specifically identified as the portfolio administrator on behalf of RuralREN and seek to remove this reference. Joint Petitioners further propose one clarifying addition to the decision to make clear that, on a going-forward basis, a PFM or other Commission authorization is not required if a regional energy network’s (REN)

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<sup>2</sup> D.23-06-055, Finding of Fact 9. RuralREN had also complied with the Commission’s requirements for forming a new REN. *Id.* at Conclusion of Law 16.

<sup>3</sup> *Id.* at Findings of Fact 8 and 24.

<sup>4</sup> See Exhibit A (Declaration of Amaury Bertaud); Exhibit B (Memorandum of Understanding (MOU), dated May 13, 2021), at Section 4(i) (providing that the governing Leadership Team retains “ongoing authority to assess and review Administrator performance and delegate the associated responsibility to an eligible local government Party,” and that such actions can be achieved through an agenda notice or action item with the affirmative vote of two-thirds of the Leadership Team members).

governing board determines that an internal change in leadership is merited.

## II. FACTUAL BACKGROUND

### A. Creation of the Rural REN

The RuralREN is the product of a years-long collaborative process undertaken by the Rural and Hard to Reach Working Group, which was comprised of many of the current RuralREN members; the purpose of the RuralREN is to benefit ratepayers in rural California communities within each party's respective service territories.<sup>5</sup> The RuralREN members are: AMBAG, the High Sierra Energy Foundation, RCEA, SJVCEO, SLO, the County of Ventura, and the Sierra Business Council.<sup>6</sup> As described in the RuralREN's original Business Plan and Portfolio Application (Portfolio Application), cost-effectiveness metrics and other constraints had led to diminished opportunities for energy efficiency programming in rural communities, and the REN framework would bring the programmatic flexibility needed to meet the diverse needs of rural California communities.<sup>7</sup> The RuralREN's governance structure is memorialized in a Memorandum of Understanding, which provides for both an internal Administrator and a Leadership Team, with the Leadership Team functioning as the "governing board."<sup>8</sup> The MOU details the administrative functions and responsibilities of both roles but, in multiple instances,

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<sup>5</sup> Exhibit B (MOU, dated May 13, 2021); see R.13-11-005, *Motion of RCEA for Approval of Energy Efficiency Portfolio Application* ("Portfolio Application") (filed Mar. 4, 2022).

<sup>6</sup> While not joining this petition, the Sierra Business Council has contacted the Joint Petitioners to convey the following: "We recognize that the Leadership Team voted on September 12th to appoint SLO as the Administrator. We stated at that meeting that we are bound by the decision of the Leadership Team and are fully committed to working in good faith with SLO to develop [the documents] necessary to begin implementing the RuralREN program." With the express permission of Sierra Business Council, Joint Petitioners reproduce a copy of this clarifying correspondence as Exhibit D.

<sup>7</sup> Portfolio Application at 3.

<sup>8</sup> The Leadership Team is comprised of one representative from each party to the MOU. Two thirds of Leadership Team members must vote affirmatively to take a certain action. (Portfolio Application at 8 ("RuralREN will be led by a governing board, or Leadership Team, with membership composed of one representative from each of the Rural and Hard To Reach Working Group Partners.").)

makes clear that RuralREN’s Leadership Team provides the governing oversight and retains “ongoing authority to assess and review Administrator performance and delegate the associated responsibility to an eligible local government Party.”<sup>9</sup> The Portfolio Application also clearly states that the RuralREN is led by a governing board, the Leadership Team, which oversees the defined executive functions of the internal Administrator.<sup>10</sup>

On March 4, 2022, having complied with the requisite presentation to the California Energy Efficiency Coordinating Committee (CAEECC)<sup>11</sup> and including the letters of commitment to cooperate, RCEA filed a motion for approval of the RuralREN’s Portfolio Application.<sup>12</sup> The motion explained that RuralREN would serve as “an equity-focused REN that addresses the specific needs of rural communities by offering [energy efficiency (EE)] programs that ‘fill the gaps’ left when existing EE programs don’t fully reach rural communities or aren’t tailored to meet the specific needs of rural communities.”<sup>13</sup> Rural communities have historically been underserved by EE programming and have among the lowest EE program participation rates in California, receiving less than \$5,000 per 1,000 people, the lowest 20% within the state.<sup>14</sup> More than 90% of the RuralREN counties meet the statutory definition of “low-income communities,”<sup>15</sup> and nearly

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<sup>9</sup> *Id.* at 6.

<sup>10</sup> Portfolio Application at 7-8; *see also* Exhibit C (RuralREN Governance Flowchart).

<sup>11</sup> *See* D.19-12-021, p. 21 (requiring that “any new REN business plan proposal must be vetted during at least one meeting of the CAEECC”). RuralREN presented to the CAEECC on February 16, 2022. *See* presentation materials, available here:

<https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3A05eef53c-91f6-4cad-92e3-e503fe1a607> (last accessed Jan. 19, 2024).

<sup>12</sup> *See* Portfolio Application; *see also* D.19-12-021 at 20-23 (establishing the requirements for submitting a request to launch a new REN).

<sup>13</sup> Portfolio Application at 4.

<sup>14</sup> *Id.* at 4 (citing to Exhibit 1 (Business Plan) at 33).

<sup>15</sup> *Id.* at 5.



80% of the RuralREN budget is allocated toward equity-based programs.<sup>16</sup>

As described in the motion, and consistent with D.19-12-021's requirement that REN governance structure reflect a minimum of two local government entities,<sup>17</sup> RuralREN put forward a governance structure that would fairly represent a large and diverse service area through its Leadership Team, comprised of a representative from each signatory party, to provide governing oversight.<sup>18</sup> The motion correctly stated: "RuralREN will be governed by the RuralREN Partners, a diverse group of local government agencies and advocacy organizations...[with] over 88 years of [collective] EE implementation experience."<sup>19</sup> The diverse mix of leadership experience "will ensure that a broader range of perspectives and expertise are brought to RuralREN's governance"<sup>20</sup> and is reflective of RuralREN's strategic preference for a "bottom up" rather than "top down" approach.<sup>21</sup>

Through D.23-06-055, issued on July 3, 2023, the Commission approved the proposal to establish RuralREN on the basis that "R-REN's program proposals, budgets, and funding authorizations...are reasonable, in the public interest, and make a unique contribution to the state's

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<sup>16</sup> *Id.* at 10.

<sup>17</sup> *See* D.19-12-021, p. 22 ("[B]ased on initial analysis of REN best practices from existing RENs, we will require that new RENs represent at least two local government entities within their governance structure, though one local government entity may propose to take the lead, at least initially. This is intended to effectuate our preference that RENs be at least somewhat regional in nature.")

<sup>18</sup> *See, e.g.*, Portfolio Application at 7-8.

<sup>19</sup> *Id.* at 9.

<sup>20</sup> *Id.*

<sup>21</sup> *See* RuralREN Portfolio Application at 8; *see also* RuralREN Stakeholder Presentation for CAEECC: Meeting Recording (Feb. 16, 2022), available at <https://www.youtube.com/watch?v=u5u8CQgyumw>, and presentation materials, available at <https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3A05eef53c-91f6-4cad-92e3-e503fea1a607> (last accessed Jan. 19, 2024). As shown in the Governance Structure provided on p. 9 of the presentation materials and p. 8 of the Portfolio Application, the Program Administrator is overseen by the RuralREN Leadership Team, in partnership with the Leadership Team's advisory committees. The governance structure is reproduced here as Exhibit C.

energy efficiency goals.”<sup>22</sup>

**B. Delegation of RuralREN’s Administrative Authority to SLO**

Over the course of the summer of 2023, several RuralREN members began to reconsider RCEA’s role as administrative lead for RuralREN due to increasing concerns about its ability to lead and/or to achieve critical milestones necessary to implement the RuralREN programming as authorized by this Commission.<sup>23</sup> On August 22, 2023, the RuralREN Leadership Team unanimously agreed to engage a consultant to conduct an impartial assessment of RCEA’s performance as administrative lead through a bidirectional review of RCEA’s performance to date in the role as Administrator. The consultant’s evaluation was summarized in a “Bidirectional Review Evaluation,” dated September 11, 2023,<sup>24</sup> and was noticed for discussion and associated action items on the September 12, 2023 meeting agenda.<sup>25</sup> Following the consultant’s presentation of its evaluation during the September 12, 2023 Leadership Team meeting, a motion was made by Ventura County to delegate RuralREN’s PA role from RCEA to SLO.<sup>26</sup> A substitute motion was presented by SBC that RCEA be removed and the Leadership Team enter into discussions with SLO to undertake the administrator responsibilities, pending further discussion and delineation of

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<sup>22</sup> D.23-06-055, Conclusion of Law 16.

<sup>23</sup> The episodes giving rise to these concerns are thoroughly detailed in the *RuralREN Supermajority’s Response to RCEA’s PFM*, concurrently filed in A.22-02-005, *et al.* The factual accounting and detailed concerns are not restated herein because they are not directly relevant to the pending request that the Commission modify D.23-06-055 to effectuate an administrative change carried out by the RuralREN governing board in accordance with its governing framework.

<sup>24</sup> Exhibit A, Declaration of Amaury Bertaud, ¶ 8 and Attachment 2. (Joint Petitioners note that, while Attachment 2 bears the “Confidential” marking as it was first distributed internally to the Leadership Team, the document has since entered the public domain via *RCEA’s Petition for Modification of D.23-06-055*, filed December 15, 2023 in A.22-02-005 *et al.* and is no longer confidential.)

<sup>25</sup> Exhibit A, Declaration of Amaury Bertaud, ¶¶ 7-8 and Attachment 3.

<sup>26</sup> *Id.* at ¶ 9.

the administrator’s roles and responsibilities.<sup>27</sup> After further discussion of the substitute motion, SBC withdrew its substitute motion and a vote was taken on the motion of Ventura County.<sup>28</sup> The vote passed by a vote of 5-2,<sup>29</sup> which satisfies the requisite two-thirds majority to carry out a change under the RuralREN MOU.<sup>30</sup> Following the vote, the Leadership Team unanimously agreed that discussions should follow regarding the roles and responsibilities of the new internal Administrator, to ensure a smooth transition.<sup>31</sup>

Because the Commission issued D.23-06-055 under the premise that RCEA would serve the administrative role for RuralREN, the undersigned Joint Petitioners propose the following revisions to that decision to reflect the reassignment of responsibilities under RuralREN’s governing team.

### **III. REQUESTED RELIEF**

Joint Petitioners make two requests: (1) that D.23-06-055 be modified to remove references to RCEA as the Administrator of RuralREN; and (2) the Commission clarify that matters of internal REN governance do not generally require Commission approval, such that, on a prospective basis, a change in a REN-administrator’s role does not require a petition for modification or other form of approval from the Commission. Instead, Joint Petitioners propose that the Commission accept a filed “Notice of Change in Status” as the proper form to apprise the Commission and stakeholders of a change in the REN’s internal Lead Administrator.<sup>32</sup>

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<sup>27</sup> *Id*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*; see also Exhibit B (MOU, dated May 13, 2021), section 4(i).

<sup>31</sup> Exhibit A, Declaration of Amaury Bertaud, ¶ 10.

<sup>32</sup> Because a Notice filed with the Commission is subject to the Commission’s Rule 1 requirements, the Notice must comply with the ethical and legal requirements of representations made to the Commission.

Since Joint Petitioners only seek to confirm the administrative reassignment of internal roles and responsibilities, the substance of the RuralREN proposals, funding, and geographic boundaries authorized under D.23-06-055 should otherwise remain the same as they were approved in that decision. To the extent the Commission determines that that RuralREN requires modification, organizational or otherwise, Joint Petitioners respectfully request the opportunity to submit the necessary modifications via an Advice Letter to be filed within 30 days of the Commission's issuance of a final decision on this PFM.

**A. Removal of Reference to RCEA as the Administrator of RuralREN**

To effectuate the first of its requests, Joint Petitioners propose modification of the following language on page 24 of the body of D.23-06-055:

Still, because of the diversity and size of the R-REN geography and overlap with other PAs, we will require ~~RCEA (on behalf of R-REN)~~ to submit three separate joint cooperation memoranda (JCMs) [footnote omitted] to ensure strong coordination. ~~RCEA~~R-REN should submit three separate JCMs as follows....

The Commission might also consider including a new Finding of Fact, as proposed in the Appendix hereto, to reflect the recent change in circumstances since the issuance of D.23-06-055 and the fact that RCEA will no longer serve as the RuralREN's internal Administrator; however, as described below, Joint Petitioners hope the Commission will make clear that a Petition for Modification is not required every time a REN implements a change in internal governance.

Since no Ordering Paragraph, Conclusion of Law, or other text in D.23-06-055 names RCEA as RuralREN's internal Administrator, or otherwise specifies an immovable role of the RuralREN Administrator, Joint Petitioners do not believe any further modification of the decision is required. In fact, the critical language of D.23-06-055 correctly refers to actions that must be taken by *RuralREN*, irrespective of the acting internal Administrator. Ordering Paragraph No. 8 specifically provides that "R-REN shall submit" the three separate JCMs. The decision only

specifically calls out RCEA with regard to its role in filing the motion to establish the RuralREN—which it did on behalf of all RuralREN entities—or as taking positions on behalf of the RuralREN. Because it is true that RCEA did file the original motion to establish the RuralREN and did take the stated positions on behalf of the RuralREN, it would not be appropriate to modify that text. Joint Petitioners have identified no other language or directive in D.23-06-055 that could credibly be revised to address RCEA’s past or current role within the REN’s internal governance structure. As such, we propose only the discrete modification to page 24 of the decision, as identified above and in the attached Appendix, to remove any implication that RCEA (alone) may submit the JCMs or otherwise carry out the administrative role of RuralREN.

**B. Clarification of REN Governing Autonomy**

Because the Commission has not historically identified specific REN member entities to serve as the REN’s internal Administrator—as opposed to the Commission’s routine designation of the REN itself as the Program or Portfolio Administrator—Joint Petitioners do not propose that the Commission enshrine the RuralREN’s new internal Administrator in the modified decision.

To our knowledge, the Commission has not previously weighed in on internal REN governance matters, and it is not clear that requiring a petition for modification for all future changes of internal Administrators would be an effective use of Commission resources.<sup>33</sup> For example, in D.12-11-015, the Commission noted that “RENs will have the independent ability, within the confines of the approvals of their proposals granted by the Commission, to manage, deliver, and oversee their own programs independently, without utility interference or direction as

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<sup>33</sup> To the contrary, Joint Petitioners believe that the filing of a Notice would provide sufficient notice to the Commission (and stakeholders) of the change in leading representation, while affording the REN governing team the requisite deference and control over its internal administration.

it relates to the design and delivery of their programs.”<sup>34</sup> In D.19-12-021, the Commission required new RENs to include a detailed description of their governance structure and explain how they will operate as a *regional* entity to deliver authorized programs, but the Commission did not go so far as to require Commission approval of specific roles or responsibilities within a designated REN.<sup>35</sup> In fact, it is Joint Petitioners’ understanding that REN governance structures tend to include leadership votes for specific roles and that these elections may be made on a recurring basis, or may be implemented as needed, such as for cause.

In sum, RuralREN’s challenges in designating a new internal Administrator have been unfortunate, but they have also been unique to the parties involved and they are unlikely to persist after the petitions for modification are resolved. As such, Joint Petitioners propose a new conclusion of law be added to D.23-06-055 to eliminate any confusion as to each REN’s authority to self-govern and/or appoint a change in internal administrative functions, and to eliminate the administrative burden that would be associated with a requirement to seek Commission approval each time a REN rotates or otherwise changes its Administrator.

**C. The RuralREN Should Remain Intact, Though if the Commission Believes Modification Is Required, RuralREN Requests an Opportunity to Submit via the Advice Letter Process**

Joint Petitioners continue to believe the original REN service territory would maximize the programs and benefits available to some of California’s most underserved communities, and the RuralREN’s territory should therefore be preserved to the fullest extent possible. The RuralREN, as originally conceived, provides unique opportunities for community-based organizations (CBO) to be formal participants, which the Commission has supported as a matter of policy.<sup>36</sup> For

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<sup>34</sup> D.12-11-015 at 11.

<sup>35</sup> D.19-12-021 at 22.

<sup>36</sup> *See, e.g.*, D.12-05-015, pp. 146-50; D.19-12-021, pp. 16-19 (discussing the unique benefits

example, RuralREN proposes to implement several equity-forward programs, including (1) a finance offering to equitably support rural communities through zero-interest loans, including bridge loans and micro-loans, that will address access to capital and other barriers in rural California communities; (2) workforce education and training programs to upskill existing workers and train new workers on energy efficiency and electrification careers; and (3) the provision of EE installation measures for hard-to-reach, disadvantaged, and underserved residents within RuralREN's communities.<sup>37</sup>

If the Commission determines that modification of the RuralREN is necessary, then Joint Petitioners request the Commission allow 30 days from the date of issuing its decision on this PFM for Joint Petitioners to submit an Advice Letter implementing the necessary modifications to RuralREN such as identifying new partners so that RuralREN can continue its important mission of serving hard-to-reach, disadvantaged, and generally underserved communities.

#### **IV. CONCLUSION**

For the foregoing reasons, Joint Petitioners respectfully request the Commission grant this limited Petition for Modification and implement the changes and clarifications requested herein so that RuralREN can proceed in expeditiously carrying out the important programming authorized on behalf of rural customers under D.23-06-055.

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RENs can provide in bringing EE measures to their communities).

<sup>37</sup> See D.23-06-055 at 20 (citing Portfolio Application).

DATED: January 22, 2024.

Respectfully submitted,

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## APPENDIX

### Proposed Changes to D.23-06-055

Proposed additions are provided in underlined text. Proposed deletions are provided in ~~strikethrough~~ text.

#### THE BODY OF D.23-06-055 SHOULD BE REVISED AS FOLLOWS:

Still, because of the diversity and size of the R-REN geography and overlap with other PAs, we will require ~~RCEA (on behalf of R-REN)~~ to submit three separate joint cooperation memoranda (JCMs) [footnote omitted] to ensure strong coordination. ~~RCEA~~ R-REN should submit three separate JCMs as follows...

#### PROPOSED NEW FINDING OF FACT:

X. RuralREN is governed by a Leadership Team that assigns and oversees the role of the RuralREN's internal administrator.

XX. On September 12, 2023, consistent with the oversight framework established under RuralREN's Memorandum of Understanding (MOU) and the RuralREN governance structure outlined in its Portfolio Application, the RuralREN Leadership Team voted to delegate the responsibility of its internal Administrator from RCEA to another eligible public agency, and two thirds of the members voted in favor of the delegation.

#### PROPOSED NEW CONCLUSION OF LAW:

X. It is reasonable to permit RENs, which are generally comprised of local government entities, to be afforded deference as it relates to matters of internal governance. RENs need not seek Commission approval to implement internal changes in administrative functions of the REN. If there is a change in a REN's internal Administrator lead, the filing of a Notice of Change in Status on the Energy Efficiency docket that is open at the time of filing will be sufficient to alert utilities, contracting parties, and other relevant stakeholders of the change in status.