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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2009 Energy Efficiency Incentive and Funding Requests.

Application 11-06-027
(Filed June 27, 2011)

And Related Matters.

Application 11-06-028
Application 11-06-031
Application 11-06-032

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

Introduction

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure, this ruling confirms the category for this proceeding, sets a preliminary schedule, and also provides the Scoping Memo confirming the issues for this consolidated proceeding.

Categorization and Need for Hearings

On June 27, 2011, Southern California Edison Company (Edison) and Pacific Gas and Electric Company (PG&E) filed applications for approval of their 2009 Energy Efficiency Incentive and Funding Requests. On June 30, 2011, San Diego Gas & Electric Company and Southern California Gas Company (SDG&E/SoCalGas) filed related applications for approval of Electric and Natural Gas Energy Efficiency Shareholder Incentive Earnings for Program Year 2009.

By Chief Administrative Law Judge's (ALJ) Ruling dated July 12, 2011, these four applications were consolidated since they raise similar issues. The Chief ALJ preliminarily categorized the applications as ratesetting as defined in Rule 1.3(e) of the Commission's Rules of Practice and Procedure, with hearings necessary. No party disagrees with the ratesetting categorization, which categorization is confirmed. This ruling as to categorization is appealable pursuant to Rule 7.6. Resolution ALJ-3277 preliminarily found hearings are necessary, and this ruling finds that hearings may be necessary as discussed below. A final determination as to the need for hearings will be made in a subsequent scoping memo or proposed decision.

Ex Parte Communication and Reporting Rules

The Commission's ex parte communication and reporting rules set forth in Rule 8.2 and 8.3(c) shall apply in this proceeding. The category of individuals subject to our ex parte rules is defined in Pub. Util. Code § 1701.1(c)(4) and Rule 8.1(c) and (d).

Scoping Memo

The scope of this consolidated proceeding involves the review of the above-captioned applications of PG&E, Edison, and SDG&E/SoCalGas, each requesting an award of incentive earnings for calendar year 2009 program activities, pursuant to the Commission's Energy Efficiency Risk/Reward Incentive Mechanism (RRIM). Incentives for energy efficiency activities administered are subject to these consolidated applications.

The RRIM was initially adopted in Decision (D.) 07-09-043 to provide both shareholder earnings and a return on ratepayers' investment in energy efficiency as the utilities reach towards – and attempt to exceed – the adopted energy savings goals. D.07-09-043 also provides an appropriate risk to shareholders,

including penalties, if they fail to meet their savings goals. In D.10-12-049, the Commission made provision for the above-referenced utilities each to file an application for award of incentive earnings for calendar-year 2009 program activity.

The Commission's Division of Ratepayer Advocates (DRA) filed the only protest to the applications on August 5, 2011. DRA recommends the following issues be considered in addressing the consolidated applications:

1. The reasonableness and prudence of awarding incentives based on utility-reported savings that have not been independently evaluated, measured, or verified;
2. The reasonableness and prudence of adding further ratepayer expenses on portfolios for which the true cost effectiveness is unknown;
3. The applicability of energy efficiency assumptions derived from 2005 and 1990 field studies to determine 2009 savings;
4. The reasonableness and prudence of spending ratepayer dollars on a policy which DRA believes to be a failure in function; and
5. Whether stakeholders, the Commission, and Commission staff should spend more time on a 2009 interim year issue within the Commission's Energy Efficiency program.

Each of the applicants filed a consolidated response on August 15, 2011, to the DRA protest. No other responses to the protests were filed. In their response, the utilities argue that DRA's Protest is deficient and fails to raise any legal or factual issues that call into question the authority by which the utilities submitted their respective applications for approval of 2009 energy efficiency incentives. The utilities argue that the Commission specifically considered and rejected DRA's recommendation to rely upon the 2006-2008 Energy Efficiency Evaluation Report as a basis for the incentive applications.

The appropriate scope of issues in this proceeding is to review the 2009 incentive claims, including whether the applications for 2009 incentive earnings have appropriately complied with directives in D.10-12-049. In that decision, the Commission concluded that “the modifications to the incentive mechanism adopted herein” should apply to the 2009 energy efficiency program year (D.10-12-049, Conclusion of Law 9). The Commission set forth specific directives concerning how the calculations of incentive earnings for 2009 were to be developed and submitted. (*Id.*, Ordering Paragraph 4). Accordingly, while D.10-12-049 recognized that the future of the mechanism for 2010 and beyond must be subject to subsequent proceedings in Rulemaking 09-01-019, the methodology for calculating calendar-year 2009 incentive awards was prescribed. Additional issues are beyond the scope of this consolidated proceeding.

Designation of Presiding Officer

These applications are assigned to Commissioner Mark J. Ferron and ALJ Thomas R. Pulsifer. The presiding officer is ALJ Thomas R. Pulsifer.

Schedule

In D.10-12-049, the Commission directed the utilities to submit their respective applications for award of calendar-year 2009 earnings by June 30, 2011, to allow for consideration and disposition by December 31, 2011. (D.10-12-049, Ordering Paragraph 4). In compliance with this directive, the following schedule is adopted.

Protests and responses thereto have already been filed; no party has requested hearings on the applications. As set forth below, hearings may be necessary. At this time, no prehearing conference in this proceeding will be scheduled.

The Commission's Energy Division is directed to review the calculation of 2009 incentive awards proposed in the applications and to ascertain that the awards are calculated in compliance with D.10-12-049. Energy Division shall prepare a report on the results of their findings in a report to the ALJ to be served and filed in this proceeding by September 23, 2011. Parties are authorized to file one round of comments on the Energy Division report by October 7, 2011. If parties believe hearings are necessary on the report, they shall so state in their comments and they shall identify the disputed issues of material fact for which hearings are necessary.

Assuming no further proceedings are necessary, a proposed decision on the disposition of the applications will be issued in early November 2011, to allow for the Commission to consider the proposed decision before the end of calendar year 2011. In any event, pursuant to Pub. Util. Code § 1701.5, this proceeding is anticipated to conclude within 18 months of the date of this scoping memo.

IT IS RULED that:

1. This proceeding is categorized as "ratesetting" as defined in Rule 1.3(e) of the Commission's Rules of Practice and Procedure. This rule as to categorization is appealable pursuant to Rule 7.6.
2. The Commission's *ex parte* communication and reporting rules set forth in Rule 8.2(c) and 8.3 shall apply in this proceeding. The category of individuals subject to our *ex parte* rules is defined in Pub. Util. Code § 1701.1(c)(4) and Rule 8.1(c) and (d).
3. Hearings may be necessary. This issue will be resolved in a subsequent scoping memo or proposed decision.

4. The *ex parte* rules as set forth in Rule 8.2 and 8.3(c) apply to this proceeding.
5. The scope of this proceeding, as set forth above is affirmed.
6. The schedule for this consolidated proceeding set forth above is adopted.
7. The Commission's Energy Division is directed to review the 2009 incentive claims, including the calculations of 2009 incentive earnings in the applications for compliance with the directives of Decision 10-12-049, and to report on the results of their findings in a report to the Administrative Law Judge. This report is to be served and filed in this proceeding by September 23, 2011.
8. Parties are authorized to file one round of comments on the Energy Division report by October 7, 2011. If hearings are necessary on the Energy Division report, parties shall so state in their comments and identify the disputed issues of material fact for which hearings are necessary.

Dated September 12, 2011, at San Francisco, California.

 /s/ MARK J. FERRON
Mark J. Ferron
Assigned Commissioner