



FILED
02-10-12
11:20 AM

MP1/JF2/eam 2/10/2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to determine the impact on public benefits associated with the expiration of ratepayer charges pursuant to Public Utilities Code Section 399.8.

Rulemaking 11-10-003
(Filed October 6, 2011)

**PHASE 2 SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

This ruling determines the scope, schedule, and need for hearing for Phase 2 of this proceeding in accordance with Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules).¹ In addition, this ruling seeks comments from parties on the Staff Proposal in Attachment A, related to the programmatic and governance issues for the Energy Program Investment Charge (EPIC) program established in Phase 1 in Decision (D.) 11-12-035.

Background

The Order Instituting Rulemaking (OIR) summarized the procedural and substantive background of this proceeding. The OIR also discussed potential issues to be addressed in this proceeding and included a preliminary scoping memo. The OIR then provided for the filing of initial comments and reply

¹ Rule 7.3 requires the assigned Commissioner to determine the scope and schedule of a proceeding.

comments on the proposed scope, detailed questions, schedule, and other procedural issues included in Sections 3, 4, and 5 of the OIR. Initial comments were filed on October 20, 2011. Replies were filed on October 25, 2011. A prehearing conference (PHC) was held on October 27, 2011. The Phase 1 Scoping Memo was issued November 8, 2011. A Phase 1 decision was issued for comment on November 16, 2011 and adopted by the Commission on December 15, 2011.²

Scope of the Proceeding

The Phase 1 Scoping Memo affirmed the preliminary determination in the OIR to handle this proceeding in two phases. Phase 1, addressing the Commission's authority for ordering collection of funding for EPIC, as well as the amounts, duration, and general purposes of the funding, was completed with the issuance of D.11-12-035.

In Phase 2, consistent with the Phase 1 Scoping Memo, we will address more detailed program design, oversight, and administrative questions related to how the funding will be allocated, for what specific purposes, and by whom.

Staff Proposal

Attachment A to this ruling contains a Staff Proposal for the EPIC program from Energy Division, informed by input from staff of the California Energy Commission (CEC). The Staff Proposal examines the policy case for continued support of public interest investments in energy policy areas. Also proposed are some guiding principles and suggested areas for ongoing support. In addition, the Staff Proposal discusses governance and logistical issues and lays out

² D.11-12-035.

Commission and CEC roles and responsibilities in policy oversight and program administration, respectively. Finally, the Staff Proposal suggests a structure for evaluating utility proposals for applied research and technology demonstration or deployment alongside EPIC investments, in a coordinated fashion.

All interested parties are invited to comment on Attachment A. In general, we request that comments be organized according to the general outline of the Staff Proposal, addressing topics generally as follows:

- Policy case/rationale for ratepayer support of activities
- Suggested guiding principles
- Areas suggested for investment
- Recommended funding levels in each suggested area
- Administrative costs
- Fund shifting
- Allocation of costs by utility
- Investment Plan process and schedule
- Governance issues, related to CPUC policy oversight and/or CEC administration
- Intellectual property issues
- Stakeholder consultation
- Funding flow logistics
- Utility activities related to applied research and technology demonstration/deployment

In addition, we request specific comment on any legal concerns parties may identify in the course of their review of the Staff Proposal in Attachment A. Parties may also comment on any other aspects of the Staff Proposal not listed above. Finally, if parties identify any issues not covered in the Staff Proposal, they are free to point them out in comments and/or reply comments.

Categorization and Need for Evidentiary Hearings

The Phase 1 Scoping Memo in this proceeding determined that this proceeding is ratesetting, as defined by Rule 1.3(e). There is no need to disturb this determination for Phase 2.

This ruling also confirms that issues in Phase 2 of this proceeding may be resolved through filed comments and possibly workshops. No party has requested evidentiary hearings. Therefore, scheduling evidentiary hearings will not be necessary in Phase 2.

Procedural Schedule

The schedule below is adopted, and may be modified by the assigned Commissioner or Administrative Law Judge (ALJ).

Phase 2 Schedule

| | |
|---------------|-------------------------------------------------------------------|
| Feb. 10, 2012 | Phase 2 Scoping Memo and Ruling Seeking Comment on Staff Proposal |
| Feb. 29, 2012 | Initial party comments on Staff Proposal |
| Mar. 9, 2012 | Reply comments on Staff Proposal |
| Apr. 24, 2012 | Phase 2 Proposed Decision issued by ALJ |
| May 24, 2012 | Phase 2 Proposed Decision on Commission Agenda |

In any event, we anticipate that Phase 2 will conclude within 18 months of the issuance of this Scoping Memo, pursuant to Pub. Util. Code § 1701.5.

Other Matters

The assigned ALJ in Phase 2 is Julie A. Fitch, who will act as the presiding officer in this proceeding going forward. Other procedural determinations in the Phase 1 Scoping Memo (e.g., rules on *ex parte* communications, filing of notices of intent to claim compensation, etc.) are not modified by this ruling.

IT IS RULED that:

1. Evidentiary hearings are not needed for Phase 2.
2. The scope of Phase 2 of this proceeding is as stated above.
3. Julie A. Fitch shall be the Presiding Officer in Phase 2 in this proceeding.
4. The schedule for Phase 2 of this proceeding is as stated above.
5. Interested parties may file comments on the Staff Proposal in Attachment A no later than February 29, 2012.
6. Interested parties may file reply comments on the Staff Proposal in Attachment A no later than March 9, 2012.

Dated February 10, 2012, at San Francisco, California.

 /s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

 /s/ JULIE A. FITCH
Julie A. Fitch
Administrative Law Judge