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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for Adoption of its Smart Grid Deployment Plan.

Application 11-06-006
(Filed June 6, 2011)

And Related Matters.

Application 11-06-029
Application 11-07-001

SCOPING MEMO AND RULING OF THE ASSIGNED COMMISSIONER

Summary

This scoping memo sets the issues to be addressed in considering applications by San Diego Gas & Electric Company (SDG&E) (Application (A.) 11-06-006), Pacific Gas and Electric Company (PG&E) (A.11-06-029), and Southern California Edison Company (SCE) (A.11-07-001) for Commission approval of each utility's Smart Grid Deployment Plan. In addition, this scoping memo sets the schedule for the initial steps in this proceeding and the milestones required for concluding this proceeding by July 1, 2012.

The scope of this proceeding is set in Decision (D.) 10-06-047, which adopted requirements for Smart Grid Deployment Plans pursuant to Senate Bill (SB) 17.¹ This scoping memo establishes that the scope of this proceeding does

¹ Chapter 327, Statutes of 2009.

not include consideration of the health consequences of the deployment of smart meters. The scoping memo also clarifies that the utilities' Smart Grid Deployment Plans are guidance documents only, and approval of a Smart Grid Deployment Plan does not constitute a determination of the reasonableness of a specific plan.

The Smart Grid Deployment Plans should be considered much like California's Energy Action Plans. The Energy Action Plans establish shared goals and proposed specific actions to ensure that adequate, reliable, and reasonably priced electrical power and natural gas supplies are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers. Much like the Energy Action Plans, the Smart Grid Deployment Plans should establish goals and specific actions to meet the Smart Grid policy goals outlined in SB 17.

Furthermore, the Smart Grid Deployment Plans do not require review under the California Environmental Quality Act (CEQA) since the plans themselves are guidance documents only, not specific projects for the purposes of CEQA.

This ruling invites parties to file an analysis of how each of the Deployment Plans either meets or fails to meet the eleven Smart Grid policy goals consistent with the initiatives and policies of SB 17 and outlined in D.10-06-047 and how well each of the Smart Grid Deployment Plans addresses strategic objectives linked to the Smart Customer, Smart Market, and Smart Utility concepts. The analysis should be focused on the internal and external barriers to implementation of Smart Grid as discussed at the prehearing conference (PHC), including customer, regulatory, technological, organizational, and other considerations depending on the expertise of a particular party. The

parties are advised to follow, to the extent feasible and useful, the structure presented by representatives of the Energy Division at the PHC.

In addition, parties should address any issues related to the number of workshops needed, the schedule for the workshops, and proposals for the structure of workshops. The ruling invites parties to propose a schedule for this proceeding that enables the Commission to adopt a decision by July 1, 2012. Parties' filings addressing the Smart Grid Deployment Plans, workshops, and the proceeding schedule are due October 24, 2011.

Background

D.10-06-047 directed that PG&E, SCE, and SDG&E to each file an application with its Smart Grid Deployment Plan for the Commission to review for consistency with SB 17 and the requirements that the Commission adopted in D.10-06-047 for Smart Grid Deployment Plans.

On June 6, 2011, SDG&E filed A.11-06-006 with its Smart Grid Deployment Plan. On June 23, 2011, Resolution ALJ 176-3276 reached a preliminary determination that A.11-06-006 was a quasi-legislative proceeding and that no hearings would be necessary.

On June 30, 2011, PG&E filed A.11-06-029 with its Smart Grid Deployment Plan.

On July 1, 2011, SCE filed A.11-07-001 with its Smart Grid Deployment Plan. On July 6, 2011, the Division of Ratepayer Advocates (DRA) filed motions for party status in each of the three proceedings. The Administrative Law Judge (ALJ) granted these motions on July 7, 2011.

On July 6, 2011, Southern Californians for Wired Solutions to Smart Meters (SCWSSM) filed a motion for an extension of time for filing protests as well as a separate motion for party status in A.11-06-006.

On July 7, 2011, DRA filed motions in each proceeding to consolidate all three applications into a single proceeding and to set a single date for the filing of protests. DRA also filed a separate motion in each proceeding requesting an immediate ruling on its motion for consolidation. On July 7, 2011, via an e-mail ruling, the ALJ granted DRA's requests.²

On July 7, 2011, the Black Economic Council, Latino Business Chamber of Greater Los Angeles, and the National Asian American Coalition (Joint Parties) filed a motion for party status in A.11-06-006.³

On July 14, 2011, Resolution ALJ 176-3277 reached a preliminary determination that A.11-06-026 and A.11-07-001 were quasi-legislative proceedings and that no hearings would be necessary.

On July 25, 2011, the ALJ issued a Ruling memorializing the consolidation of the applications and set a date for protests and responses, permitting replies to the protests and responses, and setting a date for a PHC.

By August 4, 2011, the Commission received protests from the Center for Electrosmog Prevention (CEP), DRA, the Utility Consumers' Action Network (UCAN), the Direct Access Customer Coalition and the Alliance for Retail Energy Markets, Californians for Renewable Energy (CARE), the Peoples Initiative Foundation (PIF), The Utility Reform Network (TURN), SCWSSM, the Greenlining Institute Marin Energy Authority, and (filing jointly) the County of

² This action rendered moot the matters in SCWSSM's motion for an extension of time for filing protests. There was no formal action taken on SCWSSM's motion for extension of time.

³ The Joint Parties became a party to this proceeding through an appearance at the PHC.

Marin, Town of Fairfax, City of Marina, City of Seaside, Consumers Power Alliance, Public Citizen, Marin Association of Realtors, Alliance for Human and Environmental Health, Coalition of Energy Users, Eagle Forum of California, Santa Barbara Tea Party, Concerned Citizens of La Quinta, Palm Springs Patriots Coalition Desert Valley Tea Party, Menifee Tea Party - Hemet Tea Party - Temecula Tea Party, Rove Enterprises, Inc., Schooner Enterprises, Inc., and Eagle Forum of San Diego (Joint Protestants). In addition, the Commission received responses from the Environmental Defense Fund (EDF) and Joint Parties.

On August 8, 2011, CARE amended its protest.

On August 11, 2011, PG&E, SCE, and SDG&E each filed a Reply.

On September 1, 2011, EDF served a PHC Statement on the service list.

On September 6, 2011, EnerNOC filed a motion for party status.

On September 7, 2011, a PHC took place at the Commission offices in San Francisco to take appearances in the proceeding, to refine the scope of the proceeding, and to develop a procedural timetable for the management of this proceeding.

Scope of Proceeding

Section 8364(a) of the Public Utilities Code requires that "By July 1, 2011, each electrical corporation shall develop and submit a Smart Grid Deployment Plan to the commission for approval."

D.10-06-047 adopted standards that a Smart Grid Deployment Plan must meet in order to gain Commission approval and set in place a process for securing that approval. Specifically, Ordering Paragraph 1 stated:

1. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company each shall file an application no later than July 1, 2011,

submitting its Smart Grid Deployment Plan, consistent with SB 17 (Padilla), Chapter 327, Statutes of 2009, and the requirements in this decision....⁴

Thus, the law and D.10-06-047 set the basic scope for this proceeding.

Positions of Parties

At the PHC, SCWSSM, PIF, CEP, CARE, and Wilner and Associates (Wilner) requested that the Commission expand the scope of this proceeding to include an examination of whether the electromagnetic field radio transmissions associated with the implementation of smart meters by PG&E, SCE and SDG&E produce adverse health impacts.

In addition, PIF asked to “have this whole Smart Grid scrapped, basically.”⁵ CEP desired to have “the wireless feature removed from the Smart Grid.”⁶ Wilner argued “that there’s a need for PG&E to establish funding for a public health program with remediation as part of the Smart Grid deployment.”⁷

CARE, in addition to raising health issues, objected that the smart meters are being deployed “before the CEQA analysis has been conducted.”⁸

Joint Protestants also argued that their position differed from the Applicant’s position on “whether or not a CEQA analysis is required by law...”⁹

⁴ D.10-06-047 at 138.

⁵ PHC transcript (TR) at 10.

⁶ *Id.* at 12.

⁷ *Id.* at 20.

⁸ *Id.* at 16.

⁹ *Id.* at 18.

In response, PG&E argued that “this is not the proceeding in which those substantive claims are appropriately made.”¹⁰ More specifically, PG&E argued that “issues related to the radio-off option are already being considered in other Commission proceedings.”¹¹ PG&E made the same argument concerning health issues, or indeed any issues associated with smart meter deployment.

Regarding the issue of CEQA, PG&E argues that “because the Smart Grid plans in this proceeding do not involve discretionary projects – in fact, they don’t involve projects at all – we don’t believe that CEQA review is required.”¹² In addition, PG&E argued that concerning particular Smart Grid projects “it’s premature for the CEQA issue to be dealt with on those specific projects because those projects will be in front of the Commission in specific proceedings in the future through specific applications.”¹³

SCE and SDG&E concurred with PG&E’s arguments.

EnerNOC argued that “an open issue is whether the utility will act as a provider of after-the-meter services or a facilitator of third party services ... we hope that it will also be addressed.”¹⁴

Discussion

The scope of the proceeding remains as set forth in Pub. Util. Code § 8364(a) and D.10-06-047.

¹⁰ *Id.* at 22.

¹¹ *Id.*

¹² *Id.* at 23.

¹³ *Id.* at 21.

¹⁴ *Id.* at 29.

Concerning the broad health issues raised by certain parties, an application for rehearing of D.10-12-001 (in A.10-04-018) places these issues currently before the Commission. Inclusion of those issues in this proceeding would duplicate that work.

Concerning the alleged health issues arising from the activation of radio transmitters in smart meters, this issue is before the Commission in A.11-03-014, PG&E's application to offer an "opt-out" option for those who prefer meters without wireless communication functions.¹⁵

Concerning the issue of whether the proposed Deployment Plans should include a CEQA analysis, PG&E's arguments are persuasive. There are no specific projects before the Commission at this time. All specific Smart Grid projects that require Commission approval must come before the Commission in an application or a general rate case filing that contains detailed information concerning the proposal. Those forums are the appropriate ones for determining the costs and benefits associated with a specific Smart Grid project and for determining whether a specific project requires a CEQA review.

Concerning the issue raised by EnerNOC – whether the utility will act as a provider of after-the-meter services – this ruling notes that in D.10-06-047 the Commission stated:

The Commission declines to adopt a demarcation point at this time. The Commission is certainly aware of the concerns raised by parties advocating for a demarcation point, but this is not the proper vehicle to address those concerns. The Commission does not have a sufficient record to make a decision on this topic at this time. The Commission will

¹⁵ This is the position of SCWSSM. See PHC TR at 5.

re-consider this determination during its review of the Smart Grid Deployment Plans.¹⁶

The Commission will evaluate the need to make a decision on this issue as part of review and analysis of Smart Grid Deployment Plans or whether such a determination should await the proposal of a specific project that presents this issue to the Commission in a fact-driven context.

Concerning the issue pertaining to Smart Grid Deployment Plan updates raised in D.10-06-047, the Commission will make a determination how updates to Smart Grid Deployment Plans should be filed in this proceeding.

Proceeding Category, Ex Parte Rules, and Need for Hearing

The Commission preliminarily categorized this application as quasi-legislative as defined in the Commission's Rules of Practice and Procedure at Rule 1.3(d) and anticipated that this proceeding would not require evidentiary hearings.

Positions of Parties

The Joint Protestants argued that evidentiary hearings will be necessary.¹⁷ SCWSSM argued that potential health effects require hearings.¹⁸ UCAN also argued that hearings are necessary to resolve deficiencies in the Deployment Plan of SDG&E.¹⁹

¹⁶ D.19-06-047 at 109.

¹⁷ Joint Parties Protest at 10.

¹⁸ SCWSSM Protest at 5-6.

¹⁹ UCAN Protest at 3.

DRA suggested that a determination of the necessity of hearings should await until the conclusion of workshops.²⁰

TURN's Protest argued that if the adoption of a Smart Grid Deployment Plan carries a presumption of reasonableness, then hearings will be necessary.²¹ Otherwise, no hearings would be needed. At the PHC, TURN asked that the Commission reaffirm that this proceeding will not result in actions that require a change in rates.

UCAN's Protest identified "failures" of SDG&E's deployment plan and argued that "hearings may be necessary."²²

In its reply, SCE stated that it supported TURN's position that "hearings are unnecessary."²³

In its reply, SDG&E expressed opposition to UCAN's positions. Most specifically, SDG&E argued that it "does not believe that evidentiary hearings are necessary."²⁴

In its reply, PG&E also argued that "the issues can be considered and resolved through informal collaboration, discovery and workshops without the need for formal hearings."²⁵

²⁰ DRA Protest at 2.

²¹ TURN Protest at 9.

²² UCAN Protest at 3.

²³ SCE Reply at 3.

²⁴ SDG&E Reply at 5.

²⁵ PG&E Reply at 1.

Discussion

There is no need to revise our determination that this proceeding is quasi-legislative because this proceeding will not affect rates. There is no need for evidentiary hearings since the scope of this proceeding, which is limited to the determination of whether the Smart Grid Deployment Plans meet the requirements of SB 17 and of D.10-06-047, is a policy matter that does not entail factual disputes.

TURN is correct in reminding us that the Smart Grid Deployment Plans are guidance documents. D.10-06-047 stated that “it would be wiser to view the Smart Grid Deployment Plans as a policy guide for utility investment, not as a determination that certain investments are reasonable.”²⁶ More broadly, D.10-06-047 stated:

... the best uses of the Deployment Plans is to set a baseline indicating the current deployment of Smart Grid technologies and as a document for guiding future Smart Grid investments. We also conclude that Deployment Plans are not a substitute for a Commission review of specific infrastructure investments that will take place just prior to the time of deployment.²⁷

This ruling reaffirms that this proceeding will not result in actions that directly require a change in rates. The Smart Grid Deployment Plans adopted by the Commission will provide guidance, not a presumption of reasonableness. The Smart Grid Deployment Plans will provide guidance and coordination for

²⁶ D.10-06-047 at 22.

²⁷ *Id.* at 21-22.

infrastructure investments much as California's Energy Action Plan helps coordinate regulatory and utility programs to meet California's energy needs.

Consistent with Rule 7.3(a), this scoping memo determines that there is no necessity for evidentiary hearings in this proceeding. As the discussion in the section of this ruling concerning the scope of the proceeding makes clear, the determination that a Smart Grid Deployment Plan meets the requirements set forth in D.10-06-047 is a policy matter that does not entail factual disputes.

Pursuant to Rule 8.3(a), a quasi-legislative proceeding does not have any *ex parte* restrictions or reporting requirements.

Workshop Topics and Tentative Schedule

At the PHC, the ALJ proposed that the Smart Grid Deployment Plan proceeding could accomplish five things:

1. Meet statutory requirements of SB 17 that the Commission examine and approve Smart Grid Deployment Plans;
2. Ensure through an examination of the Deployment Plans that the Deployment Plans are not developed by employees working in "silos" who are unaware of the synergistic opportunities offered by this transformative infrastructure;
3. Provide a forum to ensure that each utility is taking a "best professional practices" approach to developing a Smart Grid Deployment Plan;
4. Facilitate participation by third-party firms and others with interests in in the development and deployment of Smart Grid infrastructure; and
5. Provide guidance that will help shape future filings of projects tied to specific aspects of the Smart Grid.²⁸

²⁸ See PHC TR at 32-34.

The ALJ also ventured that there were several different ways to organize the workshops in order to determine whether the Smart Grid Deployment Plans filed by the utilities met the statutory requirements and practical goals. He indicated that one could simply follow the outline of the Deployment Plans and identify strengths and weaknesses in each plan. In another approach, the workshops could be organized around a set of questions that would seek to determine whether a Smart Grid Deployment Plan would yield the Smart Customer, Smart Market, and Smart Utility identified as goals for the Smart Grid in D.10-06-046.

Positions of Parties

EDF argued that it had applied an evaluative framework to the Smart Grid Deployment Plans and that this offered a constructive approach that demonstrated the need for workshops on certain topics.²⁹ EDF explained how it had both developed and applied its evaluative framework to the Smart Grid Deployment Plans filed in this proceeding. EDF said that it found that the Deployment Plans had weaknesses and recommended “specific workshops on metrics and the road map sections.”³⁰ EDF stated that:

To the extent that we identified weaknesses or deficiencies in these plans for making sure that the plans achieve the benefits, we would ask that the Commission instruct the utilities to supplement their filings with the material that we believe is necessary to achieve those wide ranging benefits. In particular and with specificity, in the roadmap section, we are

²⁹ EDF moved that its PHC Statement be accepted into the record of the proceeding. The ALJ granted EDF’s request (PHC TR at 45).

³⁰ PHC TR at 44.

prepared to ask the Commission to instruct the utilities to augment and supplement the proposals with specific regard to providing concrete expected deliverables by which we can track their progress in deploying the Smart Grid, things that can serve as guideposts to know that we are on the right path toward deployment in 2020 that will achieve those wide ranging benefits and things by which the Commission can tell utilities, look, you said you were likely to achieve this result, we are tracking your progress...³¹

Thus, EDF strongly supports the Commission's proposal to hold workshops concerning the Smart Grid Deployment Plans.

The Commission's Energy Division made a presentation at the PHC that presented a matrix of questions to query whether the Smart Grid Deployment Plans addressed the strategic objectives of Smart Customer (customers are aware, motivated and enabled to manage their energy use and costs), Smart Market (grid is able to utilize and integrate diverse resources efficiently), and Smart Utility (safety and reliability are improved through enhanced responsiveness). In addition, the matrix proposed to identify key factors for achieving the sought after outcomes and to identify the existing barriers to producing the 2020 Smart Grid outcomes. Finally, the matrix sought to investigate whether the proposed Smart Grid Deployment Plans included a strategy that will enable the utility to overcome any barriers and achieve the 2020 strategic outcomes.³² By addressing the Smart Grid Deployment Plans through this matrix of questions one could determine the strengths and weaknesses of the proposed plans.

³¹ *Id.* at 50-51.

³² The presentation slides were bound into the PHC transcript for reference.

Following this technical discussion, SCE asked that parties be given an opportunity to “comment on whether there should be workshops, the number of workshops, and, if necessary, the content of the workshops.”³³ PG&E supported SCE’s approach.

In response to SCE’s suggestion that scheduling workshops was premature, Commission staff expressed the view that workshops were needed.³⁴

Discussion

The major purpose of a PHC is to provide the information needed for the management of a proceeding. In part because of the larger number of issues raised concerning the scope of this proceeding and in part because of the complexity of the issues faced, the information provided at the PHC does not enable the development of a full case management plan at this time.

To develop a record that promotes the efficient resolution of the matters before the Commission in this proceeding, the Commission Staff may contact the utilities to request more information pertaining to the deficiencies in the plans furnished by PG&E, SCE, and SDG&E.

In addition, the Commission invites filings by all parties to address several topics. First, the Commission invites parties to provide comments concerning the strengths and weaknesses of the Deployment Plans. The Commission recommends that the parties in their review consider assumptions, issues, risks, and barriers to adoption of Smart Grid, related to a comprehensive set of considerations that includes among others:

³³ PHC TR at 68.

³⁴ *Id.* at 72.

- Customer awareness and acceptance;
- Technology maturity (including testing & certification);
- Industry standards (including NIST Smart Grid Interoperability Framework and Roadmap);
- Security considerations (including Risk Management best practices);
- Organizational and process transformation;
- Benefits analysis and quantification;
- Cost estimation; and
- Regulatory policy

The Commission suggests that the parties follow, to the extent that it is helpful, the framework proposed by the Energy Division to assess whether the proposed Smart Grid Deployment Plans meet the Smart Grid strategic goals. Where a party identifies a potential weakness, the party should identify how the Deployment Plans could be amended or revised to address a particular issue.

Second, parties may also include in the filing a schedule proposing a schedule for workshops that addresses the topics for the workshops, the number of workshops, and the timing of the workshops. In addition, parties should also propose a schedule for comments and replies following the workshops and a schedule that would lead to a Commission vote on the Smart Grid Deployment Plans by July 1, 2012.

This filing is due October 24, 2011. Following a review of the comments, a subsequent ruling will set a schedule for workshops and the remainder of the proceeding.

Event	Date
Filing assessing Deployment Plans and recommending the number and structure of	October 24, 2011

workshops	
Ruling setting schedule for workshops and subsequent filings	November 14, 2011
Workshops	To be determined in November 14, 2011 ruling
Comments	To be determined in the November 14, 2011 ruling
Projected Proposed Decision	June 2012
Projected Final Decision	July 2012

In any event, this proceeding is expected to conclude no later than 18 months after the date of this scoping memo and ruling.

Notice of Intent to Claim Compensation

We remind parties to this proceeding that pursuant to Rule 17.1 of the Commission’s Rules of Practice and Procedure, a notice of intent to claim compensation may be filed until 30 days after the PHC in this matter. Since the PHC in this proceeding took place on September 7, 2011, the deadline for filing a notice is October 7, 2011.

Final Oral Argument

Since no evidentiary hearings are scheduled, no final oral argument is anticipated.

Presiding Officer

Since no evidentiary hearings are scheduled, no designation of presiding officer is necessary. However, pursuant to Rule 13.2(c), if evidentiary hearings are held, the presiding officer shall be the assigned Commissioner.

Service List/Filing and Service of Documents

The official service list for this proceeding is attached to this ruling. The parties shall notify the Commission's Process Office of any address, telephone, or electronic mail (e-mail) change to the service list.

Parties shall file and serve all pleadings as set forth in Article 1 of the Rules. All documents shall be served electronically, as set forth in Rule 1.10. Testimony, if later determined to be necessary, shall be served but not filed.

IT IS RULED that:

1. The scope of the proceeding is as set forth above.
2. The final categorization of this proceeding is quasi-legislative. Hearings are not required.
3. The initial schedule for issues related to the review of the Smart Grid Deployment Plans is as set forth above unless further amended by the assigned Commissioner or Administrative Law Judge.
4. Consistent with the discussion above, parties may file comments on the Smart Grid Deployment Plans. Comments, due October 24, 2011, may also address whether workshops are needed and, if needed, the topics for the workshops. Comments may also address a schedule for workshops and a schedule that leads to a proposed decision by July 1, 2012.
5. The deadline for filing a Notice of Intent to Claim Compensation in this proceeding is October 7, 2011.
6. Since there are no planned evidentiary hearings in this quasi-legislative proceeding, then consistent with Rule 13.13(b) we make no provisions for oral arguments.
7. Since there are no planned evidentiary hearings in this quasi-legislative proceeding, there will be no presiding officer.

8. The service list for filing and service of documents and service of testimony in this proceeding as set forth above.

Dated October 3, 2011, at San Francisco, California.

s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner