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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Energy Efficiency Programs and Budget (U39M).

Application 12-07-001  
(Filed July 2, 2012)

And Related Matters.

Application 12-07-002  
Application 12-07-003  
Application 12-07-004

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

This ruling determines the scope, schedule, and need for hearing in this proceeding in accordance with Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules).<sup>1</sup> In addition, this ruling seeks supplemental information from all proponents of energy efficiency programs for the 2013-2014 period, including investor-owned utilities, regional energy networks, and community choice aggregators. Finally, the ruling invites responses to the supplemental information and additional comments on issues of concern from all interested parties.

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

## **Background**

In May 2012, the Commission adopted Decision (D.) 12-05-015, which provided guidance on policies and programs for energy efficiency in the 2013-2014 portfolio cycle. In addition to requiring portfolio applications from the four large electric and natural gas investor-owned utilities (IOUs) by July 2, 2012, the Commission also invited proposals for regional energy networks (RENs) from local government entities.

An administrative law judge (ALJ) ruling issued June 20, 2012 in the energy efficiency Rulemaking (R.) 09-11-014, related to the REN proposals and opportunities for community choice aggregators (CCAs) to administer energy efficiency programs, set a date of July 16, 2012 for motions to be filed in this proceeding for approval of RENs and CCA program proposals.

On July 2, 2012, Pacific Gas and Electric (PG&E), San Diego Gas & Electric (SDG&E), Southern California Gas (SoCalGas), and Southern California Edison (SCE) filed Applications (A.) 12-007-001 through A.12-07-004, respectively, for approval of their energy efficiency portfolios, both programs and budgets, for 2013 and 2014.

On July 16, 2012, motions for four RENs and one CCA program portfolio were filed by BayREN, SoCalREN (one for electric and one for natural gas programs), the CRHMFA Homebuyers Fund (CHF), and Marin Energy Authority (MEA).

On July 13, 2012, an ALJ ruling consolidated these applications and set a date for protests/responses to the applications and to the REN and CCA motions of August 3, 2012, with August 13, 2012 for replies. On August 16, 2012 a prehearing conference (PHC) was held.

### **Scope of the Proceeding**

In general, the scope of this proceeding is to evaluate the reasonableness of the utility, REN, and CCA proposals for energy efficiency programs and budgets for 2013 and 2014. This includes analyzing the reasonableness of the programmatic aspects of the proposals, as well as the budgets, savings estimates, and cost-effectiveness calculations. Proposals of all program proponents will also be evaluated for compliance with the directives of D.12-05-015.

Also included are the utility proposals utilizing their demand response budgets for integrated demand-side management programs for 2013 and 2014. In addition, the scope of this proceeding includes identification of the appropriate funding sources to support the adopted activities, including unspent and uncommitted energy efficiency (both procurement and public goods charge funds from prior program cycles, natural gas public purpose program funding, and new collections from ratepayers in 2013 and 2014, as necessary.

Implicit in the above scope is analysis of the need for coordination between programs ultimately selected for funding to be administered by the IOUs, RENs, and CCAs.

All aspects of the applications and testimony filed and served by the IOUs, RENs, and MEA are included in the scope of this proceeding, with two exceptions summarized below, which were raised by the utilities in comments on the proposed version of D.12-05-015 and explicitly rejected in the final version issued by the Commission May 18, 2012. Thus, these specific issues have already been raised in exactly the same form and resolved by the full Commission; they will not be revisited in this proceeding. The Commission is not required to continually reevaluate the same proposals and arguments.

However, other aspects of the utilities' alternative portfolio proposals, while they may not be directly in compliance with D.12-05-015, represent new or somewhat different proposals that may not have been considered before by the Commission. This was contemplated by Ordering Paragraph 171 of D.12-05-015. Accordingly, those alternate proposals, beyond the two issue areas specifically excluded below, are within the scope of this proceeding.

***Issues Not Within the Scope of the Proceeding***

1. Financing Budget and Timetable

In their alternative portfolio proposal authorized by Ordering Paragraph 171 of D.12-05-015, the utilities all proposed a statewide budget lower than \$200 million over 2013-2014 for energy efficiency financing activities.

However, this is precisely the same argument that was rejected in D.12-05-015.

Section 5.3.4.2 of D.12-05-015 states:

In comments on the proposed decision, the utilities all asserted that the requirement for \$200 million in funding of energy efficiency financing programs in 2013-2014 is too high. However, their comments imply that this requirement is only for new financing programs. That is not the case. This suggested budget was for the entire portfolio of financing programs, including the continuation of existing OBF programs as well as the previously-ARRA-funded financing programs implemented by local governments. We do not order specific budgets for each of these categories.<sup>2</sup>

Ordering Paragraph 22 therefore states that the utilities "shall propose a statewide portfolio of financing programs funded at a level of at least \$200 million statewide over the two-year period, consisting of the following

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<sup>2</sup> D.12-05-015 at 135.

components...” which included on-bill financing, programs that were previously funded by federal stimulus funding, and new pilot financing programs.

In addition, the utilities also argue, in their 2013-2014 portfolio applications and testimony, that rather than piloting new financing programs in 2013 and launching larger scale efforts in 2014, the entire 2013-2014 period should be a pilot phase, with full-scale efforts waiting until at least 2015. Here, too, this argument was explicitly rejected in Section 5.3.3 of D.12-05-015:

In comments on the proposed decision, a number of parties, including all of the utilities, expressed concern that the timeline we have identified is too accelerated to allow for meaningful program, design, pilot testing, evaluation, and then full-scale launch of new programs. We cannot emphasize enough the level of priority we place on moving forward with new financing programs.

In the same section, D.12-05-015 also states: “We are selecting a few promising market segments for which we require the utilities and the consultant hired by SDG&E/SoCalGas pursue the design and development of financing program options to be piloted in 2013 and scaled up in 2014.”<sup>3</sup>

Thus, the minimum financing budget requirement and the timeframe of new pilots in 2013 and larger-scale roll-out in 2014, are not being revisited in this proceeding. However, more detailed aspects of the financing proposals and pilot program designs within this timeframe and budget framework as informed by the statewide consultant on financing will still be within the scope of this proceeding.

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<sup>3</sup> Ibid. at 114.

2. Statewide Marketing, Education, and Outreach (ME&O) Implementation

In their alternative portfolio proposal, the utilities propose to conduct a competitive solicitation for a statewide overseer and implementer for the statewide ME&O campaign. However, this, too, was proposed and explicitly rejected by the Commission in Section 15.2 of D.12-05-015, which states: “In comments on the proposed decision, the utilities raised concerns about its recommendation not to conduct a competitive solicitation for this function.”<sup>4</sup> However, the final decision contains a lengthy discussion of why a competitive solicitation is not necessary or desirable in this particular circumstance, including a detailed list of the unique qualifications of the California Center for Sustainable Energy (CCSE) to perform the functions required, as designated by the Commission. The requirement culminates in Ordering Paragraph 123 of D.12-05-015, which requires a contract with CCSE beginning in 2012 and continuing through the end of 2014.

Since the Commission has already explicitly considered and rejected these arguments in D.12-05-015, CCSE’s role to oversee delivery of the statewide ME&O campaign will not be within the scope of this proceeding. While coordination issues between program or implementer marketing efforts and the statewide marketing campaign may be addressed in this proceeding, the majority of the statewide marketing efforts authorized in D.12-05-015 will be

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<sup>4</sup> D.12-05-015 at 298.

considered in separate applications,<sup>5</sup> and thus will also not be included in the scoping of this proceeding.

### ***Implementation Issues***

As noted above, the main scope of this proceeding is the consideration of programmatic and budgetary requirements of the 2013-2014 portfolios. There may also be many other aspects of the utility, REN, or CCA proposals that are more relevant to the implementation of the programs and portfolios rather than threshold policy or funding issues required for the Commission to determine prior to the adoption of the approved portfolios and programs. In those cases, follow-on activities may be required after Commission issuance of an initial decision authorizing the portfolios for utilities, RENs, and CCAs.

These issues may require more time to consider or may require more stakeholder input in the form of workshops, hearings, and/or additional written comments. Examples of such issues may be, but may not be limited to, the following issues raised by the applications, the REN and CCA motions, or by the parties in initial protests and responses:

- Utility workforce, education, and training objectives and activities
- Utility proposals for revisions to the *ex ante* and custom project review process
- Proposals for *new* pilot energy efficiency financing activities beyond those existing efforts already conducted in the past with ratepayer and/or federal stimulus funding

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<sup>5</sup> See Applications (A.) 12-08-007 through A.12-08-010 for additional details on the statewide marketing applications filed by the IOUs.

- Whole house strategies in the residential market, particularly for multifamily buildings
- Cost-effectiveness modifications, including for the residential whole house programs
- Software issues, particularly around audits in residential settings.

We expect that some, if not all, of the issues listed above may require additional work in this proceeding after the Commission issues a decision authorizing utility, REN, and/or CCA programs beginning in 2013. If the Commission decides that it needs additional time to consider these issues, we will issue an amended scoping memo outlining the 2013 activities.

### **Request for Filing of Supplemental Information**

As discussed at the PHC, Commission staff have identified a number of issues on which more detailed information is necessary from program proponents for the Commission's review. The missing information ranges from the need for correct *ex ante* energy savings assumptions from all program proponents to more detailed explanations for how the proposals meet the objectives identified in D.12-05-015 in specific circumstances.

Therefore, this ruling has several attachments containing a series of questions to which utilities are required, and RENs and MEA are requested, to respond. Parties are also invited to respond to a separate set of questions. The details of the attachments are as follows:

- A. Questions for All Utilities
  - i. Specific Questions for PG&E
  - ii. Specific Questions for SDG&E
  - iii. Specific Questions for SoCalGas
  - iv. Specific Questions for SCE

B. Questions for all RENs

- i. Specific Questions for BayREN
- ii. Specific Questions for SoCalREN
- iii. Specific Questions for CHF

C. Questions for MEA

D. Questions for All Interested Parties (any party may respond to these questions)

The supplemental information above should be filed and served by the responding parties. Other parties will have an opportunity to respond to the supplemental information, as well as raise other issues of concern in this proceeding, in their comments and reply comments to follow.

Parties should also be aware that Commission staff are in the process of having an updated Potential and Goals Study analysis completed to account for changes in the Codes and Standards savings estimates associated with lower new construction rates expected during 2013-2014. These updated calculations, which comport with adjustments made by the California Energy Commission in their most recent load forecast, will be made available to the service lists as soon as possible. Parties are invited to comment on these modifications in their comments and reply comments.

We then anticipate issuance of an initial decision on the utility, REN, and CCA proposals together.

**Categorization and Need for Evidentiary Hearings**

Resolution ALJ 176-3297, issued on July 12, 2012, preliminarily determined that this proceeding is categorized as ratesetting, as defined by Rule 1.3(e). This determination is subject to appeal as specified in Rule 7.6.

Resolution ALJ 176-3297 also determined that evidentiary hearings may be necessary. At this time, evidentiary hearings are not being scheduled. However, it is possible that some issues may be identified as appropriate for hearings at a later date.

Thus, this scoping memo affirms the preliminary determinations that the proceeding is categorized as ratesetting and may require hearings.

### **Procedural Schedule**

The schedule below is adopted, and may be modified by the assigned Commissioner or ALJ.

#### **Schedule**

July 2, 2012	IOU energy efficiency portfolio applications for 2013-2014 filed
July 16, 2012	Motions for RENs and CCA programs filed
August 3, 2012	Protests/Responses filed on IOU applications and REN and CCA motions
August 13, 2012	Replies filed on IOU applications and REN and CCA motions
August 16, 2012	PHC held
August 27, 2012	Scoping Memo issued
September 5, 2012	Deadline for filing of Supplemental Information as requested in Attachments to Scoping Memo
September 14, 2012	Deadline for parties' filing of comments on Supplemental Information filed September 5, 2012, plus raising any additional comments or concerns on any matters within the scope of this proceeding
September 21, 2012	Deadline for parties filing of reply comments on Supplemental Information filed September 5, 2012
October 9, 2012	Anticipated Proposed Decision issued by ALJ on portfolio budgets and programs for 2013-2014
November 8, 2012	Anticipated Proposed Decision on portfolio budgets and programs on Commission Agenda
December 2012 - February 2013	Implementation-related workshops scheduled on particular issues identified in portfolio decision and/or follow-on rulings
TBD	Additional decision addressing implementation and program design issues

We anticipate that this proceeding will conclude within 18 months of the issuance of this Scoping Memo, pursuant to Pub. Util. Code § 1701.5.

### **Presiding Officer**

The assigned ALJ is Julie A. Fitch, who will act as the presiding officer in this proceeding. Mark J. Ferron is the assigned Commissioner.

### ***Ex Parte* Communications**

In accordance with Rule 8.2, *ex parte* communications in this ratesetting proceeding are allowed subject to the reporting requirements in Rule 8.3 and the restrictions contained in Rule 8.2.

### **Service List and Service of Documents**

The official service list was finalized at the August 16, 2012 PHC and is now available on the Commission's web page. Service of documents is covered by Rule 1.9. Electronic service is covered by Rule 1.10. Commissioner Ferron's office requests only electronic service. One hard copy of each document should still be served on the assigned ALJ, consistent with Rule 1.10 (e).

### **Intervenor Compensation**

A party who intends to seek an award of compensation pursuant to Public Utilities Code 1801-1812 should file and serve a notice of intent to claim compensation no later than 30 days after the August 16, 2012 PHC. Under the Commission's Rules of Practice and Procedure, future opportunities may arise for such filings but such an opportunity is not guaranteed.

Parties intending to seek an award of intervenor compensation must maintain daily records for all hours charged and a sufficient description for each time entry. Sufficient means more detail than just "review correspondence" or

“research” or “attend meeting.” In addition, intervenors must classify time by issue. When submitting a request for compensation, the hourly data should be presented in an Excel spreadsheet.

As reflected in the provisions set forth in Public Utilities Code Section 1801.3(f) and 1802.4, all parties seeking an award of intervenor compensation must coordinate their analysis and presentation with other parties to avoid duplication.

**IT IS RULED** that:

1. The scope of this proceeding is as stated above. The minimum total budget for financing programs of \$200 million, the pilot timetable of 2013 with larger-scale rollout for financing programs in 2014, and the conduct of a competitive solicitation for statewide marketing, education, and outreach oversight and implementation by the California Center for Sustainable Energy are explicitly excluded from the scope of this proceeding, as changes to these issues were already addressed and rejected in the final version of Decision 12-05-015.
2. Administrative Law Judge (ALJ) Julie A. Fitch shall be the presiding officer in this proceeding.
3. The schedule for this proceeding is as stated herein and may be amended by the Assigned Commissioner or ALJ in this proceeding.
4. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company shall file and serve responses to the questions in Attachment A no later than September 5, 2012.

5. The Bay Area Regional Energy Network, the Southern California Regional Energy Network, and the CRHMFA Homebuyers Fund, are requested to file and serve responses to the questions in Attachment B no later than September 5, 2012.

6. The Marin Energy Authority is requested to file and serve responses to the questions in Attachment C no later than September 5, 2012.

7. All interested parties may file and serve responses to the questions in Attachment D no later than September 5, 2012.

8. All interested parties may respond to any material filed by any other party on or before September 5, 2012, related to ordering paragraphs 4-7 above, by filing and serving comments no later than September 14, 2012. These comments may also raise additional issues on any aspect of the scope of this proceeding, other than issues specifically excluded from the scope, as identified in this Scoping Memo. These comments may also respond to any new information or analysis published by Commission staff and/or consultants on the potential for updated Codes and Standards goals.

9. All interested parties may reply to any comments filed by September 14, 2012 in accordance with ordering paragraph 8 above, by filing and serving reply comments no later than September 21, 2012.

10. Parties shall comply with *ex parte* rules set forth in Rule 8.2 and 8.3 and Public Utilities Code Section 1701.3(c).

11. Parties serving documents in this proceeding shall serve one hard copy on the assigned ALJ consistent with Rule 1.10 (e) but provide only electronic service to Commissioner Ferron's office.

12. Parties intending to seek an award of compensation pursuant to Public Utilities Code Sections 1801-1812 should file and serve a notice of intent to claim

compensation no later than 30 days after the August 16, 2012 prehearing conference.

Dated August 27, 2012, at San Francisco, California.

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

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