

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Application of the California Energy  
Commission for Approval of Electric  
Program Investment Charge Proposed  
2012 through 2014 Triennial  
Investment Plan.

And Related Matters.

Application 12-11-001  
(Filed November 1, 2012)

Application 12-11-002  
Application 12-11-003  
Application 12-11-004

**OPENING BRIEF  
OF THE DIVISION OF RATEPAYER ADVOCATES**

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March 15, 2013

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**I. INTRODUCTION**

Pursuant to Rule 13.11 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure (“Rules”) and in accordance with *Administrative Law Judge’s Ruling Cancelling Evidentiary Hearings and Amending Proceeding Schedule* (“Ruling”) of February 22, 2013, the Division of Ratepayer Advocates (“DRA”) hereby submits this opening brief on the California Energy Commission (“CEC”), Pacific Gas and Electric Company (“PG&E”), San Diego Gas & Electric Company (“SDG&E”), and Southern California Edison Company’s (“SCE”) (collectively referred to herein as “Administrators”) proposed Electric Program Investment Charge (“EPIC”) 2012-2014 Triennial Investment Plans (“Plans”).

DRA previously submitted Opening and Reply Comments on issues in this proceeding in accordance with the *Administrative Law Judge’s Ruling Amending Proceeding Schedule and Directing Applicants to Clarify Investment Plans* (ALJ Ruling) issued January 28, 2013. Rather than reiterating all of those issues in this brief, DRA incorporates by reference those comments filed on February 11, 2013 and February 18, 2013.

In this brief, DRA addresses the following issues:

- The Commission should establish technical working groups to help evaluate and review projects proposed by the IOUs.
- The Commission should institute oversight mechanisms to allow Energy Division to temporarily suspend or terminate projects if it deems those projects inappropriate.

## II. DISCUSSION

### A. **The Commission should establish technical working groups to help review future proposed projects and to evaluate the status of ongoing projects.**

The Commission should establish Technical Working Groups to help review future EPIC proposals and to evaluate the status of any ongoing activities. Creating Technical Working Groups is important to the success and effectiveness of the EPIC program going forward. The Administrators' Plans are still largely at the conceptual stage which makes them difficult to evaluate. Specific projects have not been fully developed and there is no guarantee any particular concept will materialize into an actual project proposal. Accordingly, there is a significant opportunity for the Commission to assemble Technical Working Groups comprised of knowledgeable industry experts, researchers, and other stakeholders to develop evaluation criteria, and use those criteria to review future proposed EPIC projects.

One of the issues that DRA identified early in this proceeding was the need for the Commission to require the investor-owned utilities' ("IOUs") administrators to detail their proposed EPIC evaluation and scoring criteria before they are allowed to select and fund EPIC projects.<sup>1</sup> While DRA encourages the Commission to further examine the merits of and need to impose a threshold scoring criteria similar to the CEC's program for evaluating EPIC programs, the establishment of a Technical Working Group would provide the Commission with a better evaluation of each project.

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<sup>1</sup> See, e.g., DRA Opening Comments on the Workshop, investments plan meetings, and administrators' responses to ALJ Ruling in A.12-11-001 and Related Matters, pp. 9-10, filed February 11, 2013.

The IOUs allege that it is not possible to create standardized scoring criteria because individual projects have unique characteristics which are incompatible with a one-size fits all approach.<sup>2</sup> DRA appreciates the difficulties with establishing standardized scoring criteria that would address all the projects the IOUs are contemplating, but maintains that while each project may have different weighting and not use the same criteria, the criteria used and general approach to scoring each project should be explained prior to the selection and funding of EPIC projects.

Balancing these views, DRA believes establishing Technical Working Groups will provide the review and evaluation processes that are absent from the current EPIC program. In this manner DRA believes that the Commission can fulfill its obligation to ensure that the IOUs' future projects are just and reasonable, and consistent with state policy.

The Technical Working Groups would allow the Commission the opportunity to review proposed projects on a more granular scale, and based upon common project characteristics. The Commission should determine the number of Technical Working Groups needed based upon the different program areas and/or investment categories. For example, the Commission could form Technical Working Groups with knowledge and expertise in Distributed Generation ("DG"), electric vehicles ("EV"), Energy Storage ("Storage"), or transmission and distribution ("T&D") to name a few. This approach allows a single Technical Working Group to take on many projects, but still focus on a specific issue such as Storage. The Technical Working Groups should draft evaluation criteria applicable to the specific issues and use those evaluation criteria to review the many related projects. This process provides the Commission more oversight, but is not a "one-size fits all" approach.

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<sup>2</sup> PG&E Reply Comments, p. 3.

DRA also recommends that an IOU technical representative participate in the Technical Working Groups. Consistent with D.12-05-037, an IOU representative would bring detailed understanding and knowledge of their systems and current needs.<sup>3</sup> Therefore, it is appropriate for IOU technical representatives to provide IOU specific information to the Technical Working Groups to facilitate the evaluation processes. DRA recommends that the Technical Working Groups meet quarterly and report their findings to the Commission during the biannual consultation meetings as directed in Ordering Paragraph 15 of D.12-05-037. DRA believes that creating Technical Working Groups is important to the success and effectiveness of the EPIC program going forward. The Technical Working Groups will help facilitate discussion amongst the IOUs by requiring their representatives to meet quarterly, review projects collectively, and learn from each other's findings and experiences. For the reasons stated above, DRA recommends the Commission establish Technical Working Groups.

**B. The Commission should institute oversight mechanisms allowing Energy Division to temporarily suspend or terminate projects if they deem those projects inappropriate.**

In D.12-05-037, the Commission ordered the EPIC Administrators to submit their Plans outlining areas of investment in applied research and development (“R&D”), technology demonstration and deployment (TD&D”), and market facilitation. The Administrators’ Plans contain project concepts that are still, at this time, illustrative in nature and lacking specific project scope, budget, timeline, and overall reasonableness.

Although the EPIC program includes after-the-fact oversight, such as the biannual consultation meetings and annual report, and requires upfront reasonableness review of the Administrators’ *Plans*, it does not include a procedural vehicle to address any project-specific concerns once it has approved the Plans. Without any upfront evaluation criteria of proposed projects, similar to what the CEC proposed, the IOUs generally have discretion to spend the funds as they see fit once the Commission adopts the Plans. DRA

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<sup>3</sup> D.12-05-037, p. 27.

disagrees with this approach as it leaves ratepayer funds vulnerable to misuse and waste, and believes that upfront evaluation of projects will more likely lead to a successful EPIC program. DRA accepts that Administrators should have a degree of discretion, and that oversight should not become burdensome; however, the Commission still has a statutory duty to ensure all expenditures are “just and reasonable” pursuant to Public Utilities Code Section 451.<sup>4</sup> Thus, DRA recommends that the Commission introduce oversight mechanisms into the EPIC program that allow the Energy Division to temporarily suspend or terminate any project that it deems inappropriate.

Specifically, DRA recommends that the Commission grant the Commission’s Energy Division Director (“Director”) the ability to temporarily suspend or terminate any future IOU EPIC project if he/she or Energy Division staff determines that a project is inappropriate and contrary to the public interest.<sup>5</sup> DRA believes this recommendation is reasonable and provides the Commission with a level of enforcement and oversight absent from the current EPIC program.

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<sup>4</sup> D. 12-05-037, Conclusion of Law (“COL”) 3, p. 95.

<sup>5</sup> D. 12-12-031, OP 6, p. 95.

### III. CONCLUSION

DRA appreciates the opportunity to brief the Commission on these matters. For the reasons stated above, DRA urges the Commission to adopt its recommendations.

Respectfully submitted,

/s/ ROBERT HAGA

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