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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Energy Commission for Approval of Electric Program Investment Charge Proposed 2015 through 2017 Triennial Investment Plan.

Application 14-04-034
(Filed April 29, 2014)

And Related Matters.

Application 14-05-003
Application 14-05-004
Application 14-05-005

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

Summary

This ruling determines the scope, schedule, categorization and need for hearing in this proceeding, in accordance with Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules), and designates a presiding officer in accordance with Rule 13.2.

1. Background

Decision (D.) 11-12-035, in Phase 1 of Rulemaking (R.) 11-10-003, established the Electric Program Investment Charge (EPIC) to fund public interest investments in applied research and development, technology demonstration and deployment, market support, and market facilitation of clean energy technologies and approaches for the benefit of electricity ratepayers of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), the three large

investor-owned utilities (IOUs). D.11-12-035 ordered that the EPIC program be funded by a surcharge beginning January 1, 2012 on an interim basis, subject to refund, until the Commission issued its final decision at the conclusion of Phase 2 of R.11-10-003 on policy, programmatic, governance, and allocation issues.

D.12-05-037, in Phase 2 of R.11-10-003, determined that the EPIC funding would continue from 2012 through 2020, and established the framework for Commission oversight of the EPIC program. Pursuant to D.12-05-037, the Commission maintains overall policy oversight of the EPIC program, and program funds are administered under the oversight and control of the Commission. D.12-05-037 designated the California Energy Commission (CEC), PG&E, SCE, and SDG&E, as administrators of the EPIC program, and authorized these administrators to operate within parameters set by the Commission and further delineated in each investment plan approved by the Commission.

D.12-05-037 requires the Commission to conduct a public proceeding every three years to consider investment plans presented by the administrators for coordinated public interest investment in clean energy technologies and approaches. D.13-11-025 approved the administrators' investment plans for the period 2012 through 2014.

Pursuant to D.12-05-037, CEC filed Application (A.) 14-04-037 on April 28, 2014. Similarly, PG&E filed A.14-05-003, SDG&E filed A.14-05-004, and SCE filed A.14-05-005 on May 1, 2014. Each administrator seeks approval of their proposed EPIC triennial investment plans for the period 2015 through 2017.

On June 2, 2014, the Office of Ratepayer Advocates (ORA) filed a protest to the CEC application. On June 6, 2014, ORA filed protests to each of the other

three applications. On June 6, 2014, ChargePoint, Inc. filed responses to the PG&E, SDG&E and SCE applications.

A prehearing conference (PHC) was held on June 23, 2014.

2. Consolidation of the Applications

The assigned Administrative Law Judge (ALJ) consolidated all four applications via a ruling issued on June 12, 2014 because the applications concern identical or closely-related questions of law or fact.

3. Categorization of the Proceeding

This ruling confirms the Commission's preliminary categorization of this proceeding as "ratesetting" (Resolution ALJ 176-3336, May 15, 2014). This categorization is appealable under the provisions of Rule 7.6.

4. Scope of the Proceeding

Our review of the triennial investment plans is primarily guided by the requirements of D.12-05-037. In addition, we have considered the protests and response to the applications and the June 23, 2014 PHC to determine the scope of this proceeding.

D.12-05-037 requires the Applicants' triennial investment plans to include certain specified information, and imposes additional requirements on the IOUs' investment plans.¹ This proceeding will review whether each triennial investment plan adequately complies with the requirements of D.12-05-037, and will approve the investment plans, with modifications if merited and warranted.

The issues to be addressed in this proceeding are as follows:

¹ Ordering Paragraph Nos. 12 and 13, respectively.

1. Does each investment plan include an accurate and adequate mapping of the planned investments to the electricity system value chain (including grid operations/market design, generation, transmission, distribution, and demand-side management)?
2. Does each investment plan sufficiently identify:
 - a. The amount of funds to be devoted to particular program areas (applied research and development, technology demonstration and deployment, and market facilitation);
 - b. The policy justification for the proposed funding allocation;
 - c. The type of funding mechanisms (grants, loans, pay-for-output, etc.) to be used for each investment area;
 - d. The eligibility criteria for award of funds in particular areas;
 - e. Any suggested limitations for funding (e.g., per-project, per-awardee, matching funding requirements, etc.);
 - f. Other eligibility requirements (e.g., technologies, approaches, program area, etc.); and
 - g. A summary of stakeholder comments received during the development of the investment plan and the administrator's response to the comments?
3. Do the proposals in each investment plan offer a reasonable probability of providing electricity ratepayer benefits by promoting greater reliability, lowering costs, and increasing safety? If not, how should each investment plan be modified to best provide electricity ratepayer benefits?
4. Does each IOU investment plan include an adequate informational summary of the research, development, and demonstration activities the IOUs are undertaking as part of their approved energy efficiency and demand response portfolios?

5. Does each investment plan include reasonable and adequate metrics against which the investment plan's success may be judged, including:
 - a. Quantification of estimated benefits to ratepayers and to the state, such as potential energy and cost savings, job creation, economic benefits, environmental benefits, and other benefits;
 - b. Identification of barriers or issues resolved that prevented widespread deployment of technology or strategy;
 - c. Effectiveness of information dissemination;
 - d. Adoption of technology, strategy, and research data by others; and
 - e. Funding support from other entities for EPIC-funded research on technologies or strategies?
6. Does each investment plan recommend a reasonable approach to intellectual property rights for the specific types of projects and funding proposed?
7. Does each investment plan adequately address the principles articulated in Pub. Util. Code §§ 740.1² and 8360?³

² Section 740.1 states:

The commission shall consider the following guidelines in evaluating the research, development, and demonstration projects proposed by electrical and gas corporations:

- (a) Projects should offer a reasonable probability of providing benefits to ratepayers.
- (b) Expenditures on projects which have a low probability for success should be minimized.
- (c) Projects should be consistent with the corporation's resource plan.
- (d) Projects should not unnecessarily duplicate research currently, previously, or imminently undertaken by other electrical or gas corporations or research organizations.

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- (e) Each project should also support one or more of the following objectives:
1. Environmental improvement.
 2. Public and employee safety.
 3. Conservation by efficient resource use or by reducing or shifting system load.
 4. Development of new resources and processes, particularly renewables resources and processes which further supply technologies.
 5. Improve operating efficiency and reliability or otherwise reduce operating costs.

³ Section 8360 states:

It is the policy of the state to modernize the state's electrical transmission and distribution system to maintain safe, reliable, efficient, and secure electrical service, with infrastructure that can meet future growth in demand and achieve all of the following, which together characterize a smart grid:

- (a) Increased use of cost-effective digital information and control technology to improve reliability, security, and efficiency of the electric grid.
- (b) Dynamic optimization of grid operations and resources, including appropriate consideration for asset management and utilization of related grid operations and resources, with cost-effective full cyber security.
- (c) Deployment and integration of cost-effective distributed resources and generation, including renewable resources.
- (d) Development and incorporation of cost-effective demand response, demand-side resources, and energy-efficient resources.
- (e) Deployment of cost-effective smart technologies, including real time, automated, interactive technologies that optimize the physical operation of appliances and consumer devices for metering, communications concerning grid operations and status, and distribution automation.
- (f) Integration of cost-effective smart appliances and consumer devices.
- (g) Deployment and integration of cost-effective advanced electricity storage and peak-shaving technologies, including plug-in electric and hybrid electric vehicles, and thermal-storage air-conditioning.
- (h) Provide consumers with timely information and control options.

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8. Do any of the IOU investment plans include proposals to fund electricity generation-only projects that contravene the prohibition of IOUs using EPIC funding for such projects?
9. Does each investment plan adequately address how the administrators will avoid duplicative efforts?
10. What is the appropriate method for calculating the 10 percent administrative cap?
11. Are proposed projects related to electric vehicles appropriately coordinated with efforts in R.13-11-007⁴ and any other applicable Commission proceedings?
12. What are the key safety and resiliency questions that should be answered in the review of the investment plans?

5. Need for Hearings

The identified issues for this proceeding are primarily issues of policy and do not implicate reasonably contested material issues of fact. Therefore, this ruling modifies the Commission's preliminary determination in Resolution ALJ 176-3336, issued May 15, 2014, by determining that hearings are not necessary.

6. Workshop, Investment Plan Meetings, and Comments

As discussed at the PHC, a workshop will be an effective way to further refine the metrics for reporting investment plan results. In addition, a forum to

(i) Develop standards for communication and interoperability of appliances and equipment connected to the electric grid, including the infrastructure serving the grid.

(j) Identification and lowering of unreasonable or unnecessary barriers to adoption of smart grid technologies, practices, and services.

⁴ This is the Commission's November 14, 2013 "Rulemaking to Consider Alternative-Fueled Vehicle Programs, Tariffs, and Policies."

discuss the investment plans, in general, facilitated by the Energy Division, will provide an opportunity for parties to clarify the investment plans and help narrow any issues that may require evidentiary hearings. The workshop and meetings are not intended to repeat the administrators' pre-filing collaboration or supplant the ongoing collaboration required by D.12-05-037.⁵

The Energy Division will convene and facilitate a publicly-noticed workshop and informal meetings of parties to discuss the investment plans on July 31, 2014, at the State Office Building, 505 Van Ness Avenue, San Francisco, CA.

Parties are directed to prepare and file a comparison exhibit. Ahead of the workshop, the ALJ at the PHC discussed the need for a comparison exhibit (or matrix) to provide, to the extent possible, an apples-to-apples comparison of each administrators' proposals, at a similar level of detail. This exhibit will facilitate discussion at the workshop, and provide useful information on the record ahead of parties' comments. This comparison exhibit is due July 28, 2014.

7. Schedule

The schedule for this proceeding is as follows:

Event	Date
Comparison Exhibit Filed	July 28, 2014
Energy Division Workshop State Office Building 505 Van Ness Avenue San Francisco, CA.	July 31, 2014

⁵ D.12-05-037 (Ordering Paragraph No. 15).

Opening Comments on Applications	September 17, 2014
Reply Comments on Applications	October 6, 2014
Proposed Decision	November 2014
First Commission Meeting to Consider Decision.	December 2014

The schedule may be adjusted, as necessary, by the ALJ or the assigned Commissioner.

8. Discovery/Law and Motion Matters

Discovery will be conducted pursuant to the provisions of Article 10 of the Rules and Rule 11.3. Rule 11.3 requires parties to meet and confer before bringing a motion to compel or limit discovery. Parties are expected to engage in timely discovery well before deadlines and are expected to raise discovery issues in a timely fashion to avoid adverse impacts on the schedule.

9. Assistance in Participation in Commission Proceedings

The Commission’s Public Advisor can assist persons who have questions about the Commission’s procedures and how to participate in the Commission’s proceedings. Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission’s procedures should contact the Commission’s Public Advisor’s Office in San Francisco by telephone at (415) 703-2074 or (866) 849-8390, or by e-mail at public.advisor@cpuc.ca.gov. The TTY number is (866) 836-7825. Written communication may be sent to Public Advisor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102. A calendar of hearing dates, the Commission Rules, and other helpful information is also available on our website at <http://www.cpuc.ca.gov>.

10. Intervenor Compensation

A party who intends to seek an award of compensation pursuant to Pub. Util. Code §§ 1801-1812 must file and serve a notice of intent to claim compensation no later than 30 days after the June 23, 2014 PHC.⁶ Under the Commission's Rules, future opportunities may arise for such filings but such an opportunity is not guaranteed.

11. Rules Governing *Ex Parte* Communications

Because there is no need for hearings in this proceeding, there are no restrictions on *ex parte* contacts or need to report *ex parte* contacts in this proceeding.

Therefore, **IT IS RULED** that:

1. The scope and schedule of this proceeding are set forth in this ruling.
2. This ruling modifies the Commission's preliminary finding in Resolution ALJ 176-3336, issued May 15, 2014, and determines that the category for this proceeding is ratesetting and that hearings are not necessary. This ruling, only as to category, is appealable under the procedures in Rule 7.6 of the Commission's Rules of Practice and Procedure.

Dated July 28, 2014, at San Francisco, California.

 /s/ MICHAEL PICKER
Michael Picker
Commissioner

 /s/ DAVID M. GAMSON
David M. Gamson
Administrative Law Judge

⁶ Section 1804(a)(1).