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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

AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE REGARDING ISSUES REMAINING FROM THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FUNDING AUTHORITY MARCH 9, 2015 LETTER REQUESTING CHANGES TO DECISION 13-09-044

1. Introduction

This ruling amends the scope and schedule of this proceeding in accordance with Rule 7.3 of the Commission's Rules of Practice and Procedure.¹

2. Background

Decision (D.) 13-09-044 allocated \$65.9 million² to launch implementation of pilot programs that use ratepayer funds to attract private capital to energy efficiency investments. The pilots are to develop scalable financing products,

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

² The balance of authorized funds are held in reserve until after a mid-point review of the implementation efforts and costs. D.13-09-044, at 2.

which in turn should stimulate deeper EE projects than achieved through traditional program approaches (e.g., audits, rebates, and education).

On March 9, 2015, the California Alternative Energy and Advanced Transportation Funding Authority (CAEATFA) sent the Energy Division Director a letter (March 9 letter) in which CAEATFA asked for clarifications of and changes to Decision (D.) 13-09-044 and the related Advice Letter E-4680. The Commission treated the March 9 letter as a petition to modify. On June 19, 2015 the Commission issued Decision (D.) 15-06-008 Partially Modifying D.13-09-044 and Resolution E-4680 Implementing Energy Efficiency Financing Pilot Programs.

D.15-06-008 deferred resolution of some issues from the March 9 letter. The deferred issues are: (1) Broadened Scope of Eligible Energy Efficiency Measures (EEEMs);³ (2) Removal of requirements to competitively select lease providers for small business pilots; and, (3) Expansion of eligible financial products and credit enhancement (CE) support structures.

In a June 16, 2015 ruling, we noticed a Prehearing Conference (PHC) for July 6, 2015 at 10:00 a.m. and requested PHC statements. On July 1, 2015, Pacific Gas and Electric Company (PG&E), Southern California Edison, San Diego Gas and Electric Company (SDG&E) jointly with Southern California Gas Company (SoCal Gas) (collectively, IOUs), the Office of Ratepayer Advocates, and Joule Assets, Inc. filed PHC statements. CAEATFA, which is not a party, transmitted a letter to the service list with comments as well.

³ This issue has two separate components, as outlined below.

3. Amendment of Scoping Memorandum

A Scoping Memorandum issued August 27, 2012 set out the initial 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.” We amended the scope of the proceeding on October 29, 2014 to include issues Southern California Edison Company raised with aspects of a Utility Audit, Finance, and Compliance Branch, Energy Efficiency Financial Compliance Examination Report of SCE for the period January through December 31, 2011, dated September 27, 2013 (2011 Audit Report).

Issues relating to financing of energy efficiency programs are within the initial scope of the proceeding. Based on the issues addressed in the March 9, 2015 letter and the discussion at the PHC, we identify the issues that the Commission will consider in this proceeding and the issues that the Commission defers to later.

1. Broadened Scope of Eligible Energy Efficiency Measures (EEEMs)
 - a. Whether to make EEEMs that are only eligible as part of package measures individually eligible for financing.

In D.13-09-044, the Commission defined EEEMs as “measures that have been approved by the Commission for a utility’s energy efficiency rebate and incentive program, although the customer need not get an incentive or rebate to qualify for the loan.”⁴ Some measures are eligible for a rebate and incentive

⁴ D.13-09-044 at 40.

program only when bundled with other measures. Accordingly, they are financeable as EEEMs only when bundled with other measures.⁵

At the PHC, parties provided windows as an example of such a measure. According to the parties, we have elsewhere decided that these are not eligible for rebates/incentives standing alone.

CAEATFA proposes eligibility for financing of such measures as stand-alone measures. The question CAEATFA's proposal invites is this: given that the Commission has decided these measures do not warrant ratepayer funding on their own in the form of rebates/incentives, why should they be eligible on their own for EE financing? No party appeared ready to explain why finance warrants a different take on the propriety of ratepayer funding for these measures compared with other measures.

We will defer consideration of this issue without prejudice until after the pilots have run, as SCE requests. Exploring the current treatment for such measures will add more time/uncertainty into an already delayed and complicated process. Acting quickly means staying with the status quo. Measures not eligible for rebates/incentives as stand-alone measures likewise are not eligible for ratepayer-subsidized financing as stand-alone measures.

b. Single list of EEEMs

CAEATFA asks that we adopt a single list of EEEMs statewide. D.13-09-044 does not address the issue of universal EEEMs across all IOUs.

We appreciate CAEATFA's position on the desirability of a single statewide list of EEEMs. CAEATFA's request dovetails with the broader

⁵ D. 13-09-044, p. 31.

problem we have taken up in R.13-11-005 around standardizing statewide programs. Moreover, for the financing pilots we purposely chose to have a statewide administrator to establish a common platform that could attract lenders to participate in EE financing markets across the state.

That said, we are concerned that developing a single list, as with other areas where we want to standardize energy efficiency statewide, could be a drawn out process. Further, it potentially introduces another layer of vintaging/grandfathering of loans. CAEATFA asserts they are already prepared to handle vintaging/grandfathering, but nonetheless we are hesitant to add further complexity to these pilots under color of simplification.

We do not want to risk further delaying the start of the pilots. We note that SoCal Gas stated at the PHC that it has placed the various IOU EEEM lists on a single website, which is helpful. We will defer consideration of whether to mandate use of a single list without prejudice until after the pilots have run. On balance it seems (as the Commission concluded implicitly in D.13-09-044) that lenders can manage the administrative inconvenience of multiple lists, and that leaving them to do so is a lesser harm than the Commission taking on a process of trying to standardize a list across the IOUs and so potentially further delaying the pilots.

While we will not take up now whether to mandate a single list, Resolution E- 4663 specifies that CAEATFA and CPUC staff can provide direction to the IOUs on the creation and improvement of the EEEMs list.⁶ If

⁶ Resolution E-4663, Submitted for approval by the Commission as amended seven energy efficiency finance pilot program implementation plans (PIPs) to comply with OP 7.a and 7.b of D.13-09-044, page 5, and Ordering Paragraph 5, p. 38, June 26, 2014.

CAEATFA is not satisfied with the current state of the list it should exercise its authority to provide clear direction to the IOUs that will lead to a more user friendly tool. CAEATFA is positioned to propose solutions to administration challenges, including a universal list of EEEMs to simplify communication with the financial community. CAEATFA could, for example, take what might be a relatively uncontroversial approach and develop a two-part list of eligible measures including (i) all measures that are common across the utilities and, (ii) measures that refer the participating lender, contractor, and/or potential borrower to a single website that provides more specification as to what geographical or technical factors determine the eligibility of the indicated additional EE measures. Certainly nothing here should discourage CAEATFA and the IOUs if they can quickly and collaboratively develop a single list.

2. Removal of Requirement to Competitively Select Lease Providers for Small Business Pilots.

In D.13-09-044 we concluded that only a limited number of entities should be eligible to finance leasing of energy-saving equipment:

HBC^[7] recommended a limited number (up to four) lease originators be selected by competitive RFP to participate in the pilot. Limiting the number of originators may provide confidence of sufficient deal flow to warrant up-front costs while also creating competition. The financing products and terms for HBC's proposed small business lease pilot would be subject to the competitive proposals, with an LLR [Loan Loss Reserve] as the preferred CE [Credit Enhancement].⁸

⁷ The reference here is to the "Report to the California Investor-Owned Utilities submitted by Harcourt Brown & Carey (HBC) for the California Energy Efficiency Finance Project, dated October 19, 2012." (HBC report).

⁸ D.13-09-044 at 62 (referencing the following from the HBC Report : "Up to four (4) lease originators should be selected by competitive RFP to participate in the pilot. The consultant

Footnote continued on next page

Parties were unanimous that we ought to drop the request for proposal requirement for lease providers. HBC has apparently shifted its position and no longer recommends an RFP. We will take this proposed change up now. We will need to supplement the record. To that end, SoCal Gas has provided to us a revised set of HBC recommendations. We will put these recommendations out for a comment period in a separate ruling.

3. Expansion of Eligible Financial Products and Credit Enhancement Support Structures

a. Financing for Efficiency Service Agreements (ESAs).

D.13-09-044 does not expressly speak to whether ESAs are eligible for ratepayer subsidized financing. Neither does it oppose the recommendation in the HBC report that ESAs be eligible for finance.⁹ CAEATFA requests that we explicitly state that ESAs are eligible for financing through the pilot programs.

team initially recommended a single lease originator, but extensive stakeholder feedback convinced us that allowing a limited number of lease originators during the pilot period will: (a) provide lease originators with enough confidence that deal flow will be sufficient to warrant the up-front costs of participating in the initiative while (b) creating competition amongst originators to propose lower rates, thinner spreads or access to deeper credits. If the program is deemed successful at the end of the two year pilot, we recommend allowing all lease companies be eligible to participate if they meet certain requirements.” (HBC Report at 65)).

⁹ The HBC report at 61, recommends that the following form the basis of credit-enhanced OBR: “Financial Product Options: Projects may be delivered through a range of energy efficiency services delivery models, *including* leases, loans, and *efficiency service agreements*.” (Emphasis added).

Footnote 56 states: “A range of models are fall into this category including Energy Service Agreements (ESA) and Managed Energy Service Agreements (MESA). They are characterized by a third party (the service provider) leveraging equity and debt financing to deliver no-cost energy improvements to a building owner in exchange for periodic payments for verified energy savings. We recommend that OBR and credit enhancement be made available to support these models.”

In light of the HBC report, we have a record on which to address this issue. We will take up now the eligibility of ESAs, on the basis of the existing record.

That said, CAEATFA indicated at the PHC that ESA providers might want some credit enhancement type other than the DSRF (Debt Service Reserve Fund) and LLR mechanisms the Commission authorized in D.13-09-044. This is addressed by the next issue below.

- b. Flexibility to offer different types of financial support or credit enhancements may be beneficial to designing programs that meet market needs.

In D.13-09-044, the Commission expressly authorized “two types of CEs: Loan Loss Reserve, and Debt Service Reserve Fund.” The Commission also gave CAEATFA “flexibility” to change CE terms: “In addition, the CHEEF is given flexibility to structure CEs differently among [financial servicers] with the goal of maximizing the number of customers who qualify for financing and meeting other programs.”

CAEATFA’s concern is that the permitted “flexibility” is insufficient to allow CAEATFA to design credit programs that will attract participation from ESA providers. CAEATFA is particularly concerned about structuring financing for ESAs for low-income master-metered multifamily housing.

At this point, CAEATFA’s request is too unformed for action on our part. We would expect more clarity on this issue over the course of CAEATFA’s own rulemaking proceedings. For now, we will not take up whether to expand the universe of eligible CEs. If/when CAEATFA has a more fully formed request, CAEATFA may send us another letter raising the issue for our consideration.

This amended scoping memorandum raises no safety issues.

3. Procedural Schedule

Event	Date
Ruling requesting comment on revised HBC recommendations	July 23, 2015
Comments due on HBC recommendations	August 3, 2015
Proposed Decision	October 2015

If we conduct any other events in this proceeding in addition to those identified above (e.g. workshops; webinars), notices of such events will be posted on the Commission’s Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

IT IS RULED that:

1. The procedural schedule in this proceeding is adopted as set forth above.
2. This proceeding will be completed within 18 months of the date of this Scoping Memorandum.

Dated July 23, 2015, at San Francisco, California.

/s/ CARLA J. PETERMAN
Carla J. Peterman
Assigned Commissioner

/s/ TODD O. EDMISTER
Todd O. Edmister
Administrative Law Judge