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

Order Instituting Rulemaking to Examine  
the Commission's Energy Efficiency  
Risk/Reward Incentive Mechanism.

Rulemaking 09-01-019  
(Filed January 29, 2009)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S  
AMENDED SCOPING MEMO AND RULING**

**Summary**

Pursuant to Rule 7.3(a),<sup>1</sup> this Amended Scoping Memorandum and Ruling sets forth the procedural schedule, assigns a presiding officer, and addresses the scope of the proceeding.

**1. Background**

Decision (D.) 15-09-026 grants applications for rehearing of D.08-12-059, D.09-12-045, and D.10-12-049 and describes the procedural background of those decisions and associated applications for rehearing. Rule 16.1(c) states that the "purpose of an application for rehearing is to alert the [California Public Utilities Commission (Commission)] to a legal error, so that the Commission may correct it expeditiously."

D.15-09-026 also directs the Administrative Law Judge (ALJ) to hold a prehearing conference on the consolidated rehearing of the three decisions. Several parties submitted prehearing conference statements on

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure.

December 4, 2015 and the conference was held on December 11, 2015. Parties commented on the scope, schedule, and process for resolving the rehearing.

## **2. Scope**

The scope of this proceeding is delineated in Ordering Paragraph 6 of D.15-09-026, which reads in pertinent part:

The rehearing proceeding shall ensure that all money awarded by Decision 08-12-059, Decision 09-12-045, and D.10-12-049, to Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company and Southern California Gas Company are just and reasonable and based on calculations verified by the Commission, via its Energy Division, pursuant to the directives and process adopted in Rulemaking 06-04-010 and Rulemaking 09-10-019 as modified. The rehearing proceeding shall also consider whether refunds if any, of awards based on unverified claims are due and, if so, how such refunds, if any, shall be conducted.

The primary relevant directives of the Commission are the ordering paragraphs of D.07-09-043 which specify the mechanics of the Risk/Reward Incentive Mechanism (RRIM). The ordering paragraphs of that decision implement its overarching goals for RRIM, for example: “Ratepayers will only be required to share net benefits with shareholders to the extent that those net benefits actually materialize, based on Energy Division’s [Evaluation Monitoring & Verification (EM&V)] results.”<sup>2</sup> D.07-09-043 also finds that *ex post* information would be used to true-up assumptions and that such a true-up does not “represent unforeseen evaluation risk.”<sup>3</sup>

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<sup>2</sup> D.07-09-043 at 12.

<sup>3</sup> D.07-09-043, Finding of Fact 158.

We divide the scope articulated by Ordering Paragraph 6 of D.15-09-026 into the following components:

1. Did the Energy Division's "2006-2008 Energy Efficiency Evaluation Report" or a scenario in the "2006-2008 Energy Division Scenario Analysis Report" correctly implement the relevant directives of the Commission? Are there additional relevant documents in which Energy Division has verified calculations that implement these directives?
2. Are incentive payments based on the calculations in the Energy Division's "2006-2008 Energy Efficiency Evaluation Report," a scenario in the "2006-2008 Energy Division Scenario Analysis Report," or other document identified in response to Question 1, just and reasonable? If not, how and why should they be adjusted to a just and reasonable level?
3. If the just and reasonable incentive payments determined in Question 2 require a refund, how should that refund be implemented?

No party proposed any safety issues for the scope of this proceeding.

### **3. Schedule**

The Commission intends to complete this proceeding within 18 months of this scoping memo. The following schedule is adopted here and may be modified by the ALJ as required to promote the efficient and fair resolution of the matter.

As suggested by The Utility Reform Network and Office of Ratepayer Advocates, we will adopt a process of party proposals and comments to resolve the issues of this proceeding. In their proposals, parties should focus on the total incentive level for each utility in light of the scope articulated above.

Date	Event
Friday, February 19, 2016	Proposals to Resolve Issues in Scope
Friday, March 11, 2016	Opening Comments on Proposals Deadline to Request Evidentiary Hearings
Monday, April 18 to Friday, April 22, 2016	Evidentiary Hearings, if necessary

**4. Alternative Dispute Resolution and Settlement**

At the prehearing conference, we encouraged the parties to consider settlement of the disputed issues in this proceeding, and reiterate that encouragement in this scoping memo. Given the passage of time and changes in energy efficiency programs since the underlying decisions occurred, as well as the age of documentation involved, we encourage the parties to seek expeditious resolution of this matter via settlement.

The Commission offers a free Alternative Dispute Resolution (ADR) program to assist parties in resolving disputed issues in a formal Commission proceeding. The use of ADR is voluntary. Parties are encouraged to continue to assess the desirability and feasibility of ADR. If ADR appears more suitable as this proceeding continues, one or more of the parties shall so inform the assigned ALJ and/or the ADR Coordinator. Additional information regarding the ADR program is available at: [www.cpuc.ca.gov/PUC/ADR/](http://www.cpuc.ca.gov/PUC/ADR/).

**5. Categorization, Need for Hearing and *Ex Parte* Rules**

This proceeding remains categorized as Ratesetting and the *ex parte* rules and reporting requirements (see Article 8) remain in effect.

Although this scoping memo does not determine that evidentiary hearings are or are not necessary, certain parties have asserted that evidentiary hearings may be necessary. At this time, we do not believe that evidentiary hearings will be needed. However, parties are permitted to request evidentiary hearings by written motion at or before the time of reply comments. The ALJ is authorized to

call evidentiary hearings if appropriate for the fair and efficient resolution of this rehearing. Therefore, for purposes of Rule 8.3(d), this scoping memo does not determine that hearings are not needed. The *ex parte* restrictions and reporting requirements of Rules 8.3 and 8.4 apply.

**6. Assignment of Presiding Officer**

Pursuant to Rule 13.2(b), ALJ Kevin Dudney will be the presiding officer for this proceeding.

**7. Workshops**

If there are any workshops in this proceeding, notices of such workshops 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. Commission staff or the ALJ will provide, by e-mail, courtesy notices of workshops to the service list of this proceeding.

**IT IS RULED that:**

1. The scope and schedule of this proceeding are set forth above.
2. Pursuant to Rule 13.2, the presiding officer is Administrative Law Judge Kevin Dudney.
3. The *ex parte* restrictions and reporting requirements of Rules 8.3 and 8.4 apply.

4. If there are any workshops in this proceeding, notices of such workshops 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.

Dated January 22, 2016, at San Francisco, California.

/s/ CARL J. PETERMAN

Carla J. Peterman  
Assigned Commissioner

/s/ DOROTHY DUDA for

Kevin Dudney  
Administrative Law Judge