#### PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE SAN FRANCISCO, CA 94102-3298

March 16, 2017



#### TO PARTIES OF RECORD IN RULEMAKING 13-11-005:

This is the proposed decision of Administrative Law Judge (ALJ) Julie A. Fitch and ALJ Valerie Kao. It will appear on the Commission's April 6, 2017 agenda. The Commission may act then, or it may postpone action until later. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Upon the request of any Commissioner, a Ratesetting Deliberative Meeting (RDM) may be held. If that occurs, the Commission will prepare and publish an agenda for the RDM 10 days beforehand. When the RDM is held, there is a related *ex parte* communications prohibition period. (See Rule 8.3(c)(4).)

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Pursuant to Rule 14.6(c)(2), comments on the proposed decision must be filed within 5 days of its mailing and reply comments must be filed within 8 days of its mailing.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Fitch at <a href="https://example.com/sepuc.ca.gov">IF2@cpuc.ca.gov</a> and ALJ Kao at <a href="https://example.com/vulk@cpuc.ca.gov">VUK@cpuc.ca.gov</a> and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at <a href="https://www.cpuc.ca.gov">www.cpuc.ca.gov</a>.

/s/ KAREN V. CLOPTON

Karen V. Clopton Chief Administrative Law Judge

**KVC**:avs

Attachment

# Decision PROPOSED DECISION OF ALJ FITCH and ALJ KAO (Mailed 3/16/2017)

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

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.

Rulemaking 13-11-005 (Filed November 14, 2013)

## Decision Granting Pacific Gas and Electric Company's Petition to Modify Decision 14-10-046

### **Summary**

This decision grants, with modification, Pacific Gas and Electric Company's (PG&E) August 30, 2016 petition to modify Decision 14-10-046. The petition requests that the Commission authorize PG&E to claim, toward its energy efficiency goals, energy savings achieved through efficiency improvements of utility-owned street lighting, pursuant to Assembly Bill 719 (2013). This decision grants the requested relief, as applicable, to each electric investor owned utility.

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### 1. Background

In 2013 the California legislature enacted Assembly Bill (AB) 719 (Stats. 2013, Chap. 616), which sought to facilitate local governments' pursuit of energy efficiency improvements for street lights owned by their local investor owned utility (IOU or utility). Specifically, AB 719 directed the Commission to order the electric IOUs to submit, by July 1, 2015, an optional tariff for local government customers to pursue energy efficiency improvements for utility-owned street lights. AB 719 further specified that any such improvements shall be eligible for any rebate or incentives available through ratepayer-funded energy efficiency programs. The March 3, 2014 Assigned Commissioner's Ruling Amending Scoping Memorandum and Providing Guidance on Energy Savings Goals for Program Year 2015 directed the electric IOUs to file optional tariffs pursuant to AB 719.

In Decision (D.) 14-10-046 the Commission established energy efficiency savings goals, and approved programs and budgets, for 2015. Of relevance to this decision, D.14-10-046 affirmed AB 719's requirements and further specified that "IOU owned street-lighting potential has been removed from the goals, and savings from compliance with AB 719 (2013) should not be counted toward [energy efficiency savings] goals."

On July 1, 2015, PG&E, Southern California Edison Company (SCE), and San Diego Gas & Electric (SDG&E) each filed an advice letter proposing street light tariff modifications pursuant to AB 719.<sup>2</sup> On December 29, 2015, the

<sup>&</sup>lt;sup>1</sup> D.14-10-046, at 20.

<sup>&</sup>lt;sup>2</sup> PG&E Advice No. 4661-E, effective January 1, 2016; SCE Advice Letter 3241-E-A, effective June 1, 2016; and SDG&E Advice Letter 2760-E, withdrawn on May 20, 2016.

Commission's Energy Division staff approved Pacific Gas and Electric Company's (PG&E) advice letter, with an effective date of January 1, 2016. Commission staff approved SCE's advice letter on May 19, 2016, to be effective June 1, 2016; SDG&E withdrew its advice letter on May 20, 2016, stating its intention to file a new advice letter after further analysis.

During the same timeframe as the IOUs' submission and Commission staff's review of the advice letters pursuant to AB 719, the Commission and parties to this rulemaking were considering the establishment of energy efficiency goals for 2016 and beyond. In D.15-10-028 the Commission adopted the 2015 potential and goals study, which incorporated savings potential from utility-owned street light efficiency improvements into the goals.<sup>3</sup> However, D.15-10-028 did not reverse the Commission's prior determination that IOUs may not count savings achieved from utility-owned street light improvements toward their goals.

## 2. PG&E's Request

On August 30, 2016, PG&E filed a petition to modify D.14-10-046 (Petition), requesting that the Commission allow PG&E to count savings from compliance with AB 719 toward its (PG&E's) energy savings goals. Specifically, the Petition requests that the Commission modify Section 2.4.4 (AB 719 and Street Lighting) of D.14-10-046 so as to acknowledge that utility-owned street-lighting potential is included in the energy efficiency goals, and that savings from compliance with AB 719 should count toward those goals.

<sup>&</sup>lt;sup>3</sup> D.15-10-028, Appendix 2 (Navigant. *Energy Efficiency Potential and Goals Study for 2015 and Beyond. Stage 1 Final Report.* September 25, 2015.)

In support of the Petition, PG&E states that "customers will bear the expense of giving local governments LED upgrade incentives without receiving credit toward their utility's energy efficiency goal...when IOU owned street-lighting potential is included in the IOUs' goals, savings from compliance with AB 719 should be counted toward the IOUs' energy savings targets."<sup>4</sup> PG&E notes further that "D.14-10-046 provides that the energy savings enabled by rebates and on-bill financing for LS-2 customer-owned streetlights will count toward utility savings. The energy savings achieved through rebates and financing by customers served under PG&E's LS-1 tariff likewise constitute system benefits that should be counted toward IOU energy efficiency goals."<sup>5</sup>

#### 3. Responses from Other Parties

On September 29, 2016, SCE filed a response to the Petition.<sup>6</sup> In its response, SCE "agrees that IOUs providing incentives for converting...streetlight fixtures as intended under AB 719 should also receive credit for savings associated with those savings."<sup>7</sup> SCE requests specifically that the Commission grant the same relief that PG&E requests, on its own behalf, to all of the electric IOUs.

#### 4. Discussion

Before we address whether to grant the relief that PG&E requests, two aspects of the Petition merit attention. First, at footnote 11, the Petition

<sup>&</sup>lt;sup>4</sup> Petition of Pacific Gas and Electric Company (U 39-M) for Modification of Decision 14-10-046, filed August 30, 2016 (Petition), at 4.

<sup>&</sup>lt;sup>5</sup> Petition, at 5.

<sup>&</sup>lt;sup>6</sup> The record shows no other party filed a response to the Petition.

<sup>&</sup>lt;sup>7</sup> Southern California Edison Company's (U338E) Response to Pacific Gas and Electric Company's Petition for Modification of Decision 14-10-046, filed September 29, 2016, at 5.

asserts "[i]n its comments on the proposed decision which was ultimately adopted as D.15-10-028, PG&E requested the Commission to acknowledge that savings from compliance with AB 719 should be counted toward goals. This detail was overlooked in the final decision." The Petition fails to provide a cite for this specific request, and we find no such request in either PG&E's opening or reply comments to the August 18, 2015 proposed decision. We do observe PG&E's request, in its September 8, 2015 opening comments to the proposed decision, to "reverse the prior direction in D.14-10-046 and allow the IOUs to pay incentives to customers pursuant to Section 384.5," which the Petition does not renew. We find this change unnecessary, since Public Utilities (Pub. Util.) Code Section 384.5 (added by AB 719) now expressly mandates funding pursuant to Pub. Util. Code Section 381(b)(1), as the Petition correctly states.

Second, the Petition fails to explain why PG&E did not seek modification of D.14-10-046 immediately after the Commission issued D.15-10-028. The record clearly shows, and the Petition adequately explains, why PG&E could not have sought modification of D.14-10-046 within one year of that decision's issuance: D.15-10-028, which incorporated utility-owned street light efficiency improvements into the savings goals, did not concomitantly lift the Commission's prior prohibition on counting those same improvements toward the savings goals.<sup>8</sup> Though the Commission's Rules of Practice and Procedure only require that a petition explain why it could not have been presented within one year of the effective date of the decision, which PG&E has done, further explanation as to why PG&E filed the Petition more than ten months after

<sup>&</sup>lt;sup>8</sup> Commission Rules of Practice and Procedure, California Code of Regulations Title 20, Division 1, Chapter 1, Rule 16.4(d).

D.15-10-028's issuance would have been helpful. It behooves any petitioner to cite specifically and completely, in furtherance of a transparent and complete record, the circumstances causing them to seek the relief in question.

Notwithstanding these issues, it is reasonable to grant the Petition, as modified by SCE so as to allow all electric IOUs to count savings from utility-owned street light improvements toward their goals. As a practical matter, the savings potential from these improvements constitutes a minimal percentage of the overall goals (savings potential from street lighting, both customer-owned and utility-owned, reaches a maximum of 2.1 percent of total market potential in 2018). As a policy matter, denying the Petition would effectively deny ratepayers the benefit, irrespective of proportion, of savings achieved through incentives that they paid for. Such an outcome is inconsistent with the requirement in Pub. Util. Code Section 451 that rates be just and reasonable, given that D.15-10-028 incorporated this savings potential into the utilities' energy efficiency goals.

PG&E requests this relief on its own behalf, but it is reasonable to extend the same relief to SCE and SDG&E insofar as the same situation applies to them. Therefore we will adopt the language modifications included in SCE's response to the Petition. We specify the modifications to D.14-10-046 that we adopt through this decision, as follows:

The Goals Ruling directed PG&E, SCE, and San Diego Gas & Electric Company (SDG&E) to file Advice Letters (ALs) with tariffs compliant with AB 719 by July 1, 2015. We repeat that directive here. This will mitigate the concerns that SCE expressed about the draft 2013 Study forecasting efficiency improvements in street lighting, by ensuring that funding is available (albeit outside of incentive programs) for these additional achievable savings. More directly to SCE's point, IOU owned street-lighting potential has been removed from is

<u>included in</u> the goals, and savings from compliance with AB 719 should <del>not</del> be counted toward goals.

The IOUs should count, toward their energy savings goals, the savings associated with incentives provided for LED street lighting upgrades as of the effective date of each IOU's tariff implementing AB 719. (D.14-10-046, p. 20.)

#### 5. Conclusion

We find it is reasonable and consistent with state law to grant the Petition, as modified by SCE so as to allow all electric IOUs to count savings from utility-owned street light improvements toward their goals.

#### 6. Reduction of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code Section 311(g)(2) and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, we reduce the period for public review and comment to 10 days.

## 7. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Julie A. Fitch and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding.

## **Findings of Fact**

- 1. AB 719 (Stats. 2013, Chap. 616) directs the Commission to order electric utilities to submit, on or before July 1, 2015, an optional tariff for local governments to fund energy efficiency improvements in street light poles owned by the utilities.
- 2. AB 719 also specifies that improvements pursuant to the optional tariff shall be eligible for any rebate or incentives available through ratepayer-funded programs intended to increase energy efficiency.
  - 3. D.14-10-046 affirmed AB 719's requirements.

- 4. D.14-10-046, which adopted energy efficiency goals for 2015, confirmed that the goals did not include savings potential from utility-owned street light improvements.
- 5. D.14-10-046 prohibited the utilities from counting, toward their goals, savings from compliance with AB 719.
- 6. D.15-10-028, which adopted energy efficiency goals for 2016 and beyond, incorporated savings potential from utility-owned street light improvements into the goals.
- 7. D.15-10-028 did not reverse the determination in D.14-10-046 that utilities may not count savings achieved from utility-owned street light improvements toward their goals.

#### **Conclusion of Law**

- 1. Because D.14-10-046 excluded savings from utility-owned street lighting, and prohibited utilities from counting those savings toward their energy efficiency goals, and subsequently D.15-10-028 included savings from utility-owned street lighting in the energy efficiency goals, it is reasonable that PG&E would seek to lift the prohibition on counting those savings toward their goals.
- 2. PG&E filed its petition for modification of D.14-10-046 in compliance with Rule 16.4 of the Commission's Rules of Practice and Procedure.
- 3. Pub. Util. Code Section 451 requires that all charges received by any public utility, for any product or commodity furnished or any service rendered, shall be just and reasonable.
- 4. AB 719 requires that electric investor owned utilities make ratepayer-funded energy efficiency rebates or incentives available for improvements in street light poles owned by the utilities.

- 5. Notwithstanding the prohibition on counting savings from utility-owned street lighting toward the utilities' energy efficiency goals, D.14-10-046 is otherwise valid and consistent with state law.
- 6. The electric investor owned utilities should be allowed to count savings achieved from utility-owned street light improvements toward their energy efficiency goals, given that the goals include savings potential from utility-owned street lights.

#### ORDER

#### IT IS ORDERED that:

- 1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are permitted to count savings associated with utility-owned streetlights toward their energy efficiency goals.
- 2. Decision 14-10-046 is modified to provide that utility-owned street-lighting potential is included in the energy efficiency savings goals, and that the electric investor owned utilities should count savings associated with incentives provided for street lighting upgrades toward their energy efficiency savings goals, as of the effective date of each utility's tariff implementing Assembly Bill 719.

| This order is effective today. |                             |
|--------------------------------|-----------------------------|
| Dated                          | , at Santa Rosa, California |