BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

ORDER INSTITUTING RULEMAKING CONCERNING ENERGY EFFICIENCY ROLLING PORTFOLIOS, POLICIES, PROGRAMS, EVALUATION, AND RELATED ISSUES

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ORDER INSTITUTING RULEMAKING CONCERNING ENERGY EFFICIENCY ROLLING PORTFOLIOS, POLICIES, PROGRAMS, EVALUATION, AND RELATED ISSUES

1. Summary

With this Order Instituting Rulemaking (Rulemaking), we establish a proceeding in which to fund current energy efficiency portfolios through 2015, implement energy efficiency "Rolling Portfolios," and address various policy issues relating to energy efficiency.

A "Rolling Portfolio," as we use the phrase here, is a portfolio of energy efficiency programs[1] that has the following characteristics:

1. Commission-approved funding for a long term (*e.g.*, ten years);
2. administrators periodically adjust portfolios as circumstances warrant, rather than filing entire portfolios for Commission review on a fixed schedule; and,
3. the Commission renews funding well prior to the end of the funding period.

"Rolling Portfolios" should avoid the disruptions to programs that the "stop/start" nature of current portfolios causes. "Rolling Portfolios" should also reduce administrative burdens and other costs for the Commission, program administrators, and program implementers, compared to the current triennial

[1] For purposes of this Rulemaking, we will use the following simplified definitions. As used here, the phrase "energy efficiency" encompasses both energy efficiency and conservation. A "portfolio" is a collection of "programs." Programs, in turn, consist of "measures." "Administrators" design and administer portfolios. "Implementers" implement programs. We recognize that these terms and phrases have become terms of art, each with their own complexities, subtleties and nuances. For this decision, we are deliberately setting those complexities, subtleties and nuances aside to make this document more accessible to lay readers.

review process. Long term authorization and planning will facilitate administrator focus on longer-horizon projects and implementers' investments in long term business plans. "Rolling Portfolios" should also ensure full consideration of energy efficiency in planning and procurement processes.

In this proceeding, we will evaluate the implications of "Rolling Portfolios" for the post-2014 energy efficiency activities of Pacific Gas & Electric, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company, (collectively, the IOUs) and for Community Choice Aggregators and Regional Energy Networks.[2] Along with our consideration of "Rolling Portfolios," this Rulemaking will initiate the planning cycle for post-2014 energy efficiency program plans and funding levels, and will address related issues.

Since the scope of this rulemaking includes potentially radical changes in the structure and budget cycles of these programs, the Commission does not find it prudent for administrators to spend time and resources planning for programs that may not fit into a new structure. However, the Commission also recognizes that our review and analysis of all the issues we plan to scope into this Rulemaking will not be complete in time for the 2015 budget cycle. Thus, the Commission will move forward as an initial matter in this proceeding with extending funding through 2015 for administrators' existing portfolios.

[2] For the purpose of this Rulemaking, energy efficiency programs exclude low-income assistance activities, including the Energy Savings Assistance Program.

2. Background

Rulemaking (R.) 09-11-014 has been our forum for a broad inquiry into post-2008 energy efficiency policies, programs, evaluation, measurement and verification (EM&V), and related issues. Decision (D.) 12-05-015 in R.09-11-014 provides a comprehensive history of the major decisions issued in our prior Rulemakings related to energy efficiency.

Traditionally, we have approved energy efficiency portfolios on a three-year cycle basis. In addition to the standard triennial review, we previously approved a shorter 'bridge' in between cycles to allow for the regulatory process to be completed. And, in D.09-09-047, the Commission authorized an automatic month-to-month extension of a portfolio and funding so that the market would have some certainty.

Retrofits and deployment of efficiency programs often have long lead times. Consequently our requiring a "hard stop" to funding every three years, even with the prospect of bridge funding and/or a short-term funding extension, does not foster sufficient certainty for market or planning purposes. We have been aware of this for some time, as well as of other aspects of our approach to energy efficiency that warrant revision in light of market and regulatory developments, as we detail in the preliminary scoping memo below.

3. Preliminary Scoping Memo- Scope of the Proceeding

We plan to address the issues in this proceeding in three phases, since we have limited time to put energy efficiency portfolios in place by the end of 2014.

Phase I will address the issues that need to be resolved to ensure funding is in place for energy efficiency programs through 2015. We intend to issue a decision in Phase I by the end of April, 2014.

Phase II will address how we will put rolling portfolios in place for 2016 and beyond. Phase II will trail Phase I. We intend to resolve the issues in Phase II by the end of September, 2014.

Phase III will address policy issues that are not necessarily tied to the move to "Rolling Portfolios." Phase III will trail Phases I and II. We intend to resolve Phase III by the end of June, 2015.

Across all phases of this proceeding, the key objectives for this Rulemaking will be:

- greater funding stability for energy efficiency program administrators and implementers;
- reduced transaction costs for program implementation;
- coordination with demand forecast, procurement planning and transmission planning process;
- coordination with the Energy Savings Performance Incentive (ESPI) adopted in D.13-09-023,
- coordination with other existing Demand Side programs (i.e., Demand Response and Distributed Generation);
- addressing any safety concerns and obtaining any safety benefits associated with energy efficiency programs
- transparent and timely *ex ante* forecasts of program savings and use of those forecasts to optimize energy efficiency portfolios; and
- regulatory workload refocused onto key issues on an ongoing basis rather than a "soup-to-nuts" portfolio review every three years.

3.1. Phase I – Fund 2015 Energy efficiency Programs

We have approved the bulk of administrators' energy efficiency portfolios through 2013-2014.[3] We have yet to see or approve portfolios proposing energy efficiency programs and budgets for 2015 and beyond.

This rulemaking may radically change the structure and budget cycles of energy efficiency programs. The Commission does not find it prudent for administrators to spend time and resources planning for programs that may not fit into a new structure. The Commission also recognizes that our review and analysis of "Rolling Portfolios" will not be complete in time for the 2015 budget cycle. Thus, in this phase, we consider revisions to the 2015 funding for the slightly modified (as discussed below) versions of current energy efficiency portfolios.

We also address funding for 2015 portfolios in this phase. We plan to instruct administrators to file proposals in this proceeding for continuing funding for slightly modified versions of their current portfolios through 2015. We anticipate that the 2015 portfolios will largely carry forward the programs and budgets of the prior year's portfolios. But we will also consider the following portfolio changes:

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[3] D.12-11-015 approved a portfolio of energy efficiency programs and budgets to be implemented in 2013 and 2014 by Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company (collectively, the IOUs), as well as two regional energy networks (RENs) (San Francisco Bay Area Regional Energy Network and Southern California Regional Energy Network) and one community choice aggregator (CCA) (Marin Energy Authority (MEA)). However, not all programs face a 2014 sunset. D.13-09-044 separately approved individual pilot financing programs through 2015.

1. Administrators may need to adjust their portfolios to reflect our adoption of an updated energy efficiency goals and potentials study, and resulting energy efficiency targets. Commission staff has been developing a revised Goals and Potentials Study for use in the California Energy Commission's (CEC's) demand forecast and Integrated Energy Planning Report (IEPR). We will put that study and associated targets out for comment, and then adopt new goals and potentials and targets for use with 2015 portfolios. Many stakeholders have been involved in the IEPR process along with our staff, so we expect to adopt new goals and potentials and targets quickly and with a minimum of controversy.
2. In response to the decommissioning of San Onofre Nuclear Generating Station (SONGS) Southern California Edison and San Diego Gas and Electric Company should continue to adjust their energy efficiency portfolios to prioritize energy efficiency programs that will address the loss of SONGS output (e.g., measures targeting transmission constrained areas).[4]
3. Proposition 39 increased state corporate tax revenues and required that half of these revenues for a five-year period be used for energy efficiency and alternative energy projects. The Governor designated all energy-related Proposition 39 funds to schools ($400.5 million) and community colleges ($49.5 million) in 2013-14 and for the following four years. Administrators may need to adjust their portfolios to reflect this funding.

We plan to address the level of detail required in these administrator filings, and related procedural issues, in a scoping memorandum for Phase I following the pre-hearing conference in this matter. The procedural schedule for Phase I will incorporate an opportunity for public comment on the proposals,

[4] More broadly, in light of concerns various commenters have raised elsewhere about the impact on the transmission grid of changes in California's aggregate load profile, it may be appropriate for *all* energy efficiency program administrators to accelerate development of programs targeting particular regions or customer groups as well.

and further process as necessary, with a final Commission decision to issue in early 2014.

3.2. Phase II – Establish a Process for Implementing "Rolling Portfolios"

3.2.1. Why We Should Adopt "Rolling Portfolios"

As outlined above, we need to revise the current practice of three-year portfolio cycles. First and foremost, we want to eliminate the market barriers and transaction costs that the short term commitment and stop/start nature of the three-year portfolio cycles create. Increased adoption of energy efficiency measures requires confidence at all levels of the market that funding will be in place long enough for investments in technologies, training, and hardware to pay off. Even a "pin-hole" risk that Commission-mandated funding will evaporate can deter end-users, lenders and investors from participating in energy efficiency ventures; at minimum such risk increases borrowing and capital costs.

As a practical matter, the Commission's statutorily-mandated[5] commitment to funding energy efficiency programs has inevitably led to renewed funding after the end of each authorized funding period. In moving to "Rolling Portfolios" we simply make explicit what has long been implicit – that the Commission will continue funding energy efficiency programs for the foreseeable future. In so doing, we should lay to rest concerns that the Commission will walk away from funding energy efficiency programs.

In addition to addressing market participant concerns, we want to be sure that energy efficiency programs receive their proper due in resource planning

[5] Cal. Pub. Util. Code § 495. All statutory references are to the Public Utilities Code unless otherwise noted.

processes. Historically, CEC has not included unfunded energy efficiency (i.e., efficiency resources procured beyond the end of the current two or three year funding cycle) in its base-case demand forecast. Also, the California Independent System Operator Corporation (CAISO) has not fully accounted for energy efficiency in its long-term planning efforts.[6] This problem is further compounded as we try to integrate the CAISO or the CEC's forecasts back into our Long-Term Procurement Plans.[7] Moving to a longer-term funding horizon will facilitate appropriate CEC and CAISO recognition of energy efficiency.

"Rolling Portfolios" and their associated longer-term funding will require balancing many legitimate but competing objectives. These include balancing the need for regulatory certainty with the need for flexibility to terminate underperforming programs or retire measures as they reach market saturation, balancing the need for market certainty with the need to adjust subsidies to reflect best-available data, and balancing a desire to bring online new programs based on innovations in the market with the need to ensure that portfolios are cost-effective. We expect to address these concerns as this proceeding unfolds.

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[6] See Memorandum on Energy Efficiency Adjustments for a Managed Forecast: Estimates of Incremental Uncommitted Energy Saving Relative to the California Energy Demand Forecast 2012-2022, issued by CEC in the 2012 IEPR Demand Forecast Proceeding on September 14, 2012.

[7] We have historically had a higher level of confidence in using energy efficiency for resource planning without future funding commitments than have the CEC or the CAISO. See, *e.g.*, D.13-02-015 and D.13-03-029.

3.2.2. How We Should Transition to "Rolling Portfolios"

3.2.2.1. Our Overarching Process Goals

Moving to a "Rolling Portfolio" will require an overhaul of the Commission's portfolio review process. In revising that process, we seek to accomplish the following (sometimes competing) goals:

- Simplify the filing and review process for uncontroversial continuing programs with a longstanding track record of success;
- Build in flexibility to encourage innovative programs or measures (e.g., pilot projects), and to respond to major policy initiatives (e.g., new legislation) and/or new market developments;
- Spread regulatory filings (and the associated workload) across a longer time than is currently the case;
- Synchronize timing of portfolio planning and regulatory filings with the timing of other relevant activities such as incorporation of EM&V results into program revisions and updates to the Database for Energy Efficient Resources (DEER) (discussed in more detail in its own subsection below), and the ESPI, and with demand response and distributed generation programs;
- Use informal forums to reduce litigation in proceedings; and,
- Provide time for Commission-directed adjustment of portfolios.

We invite parties to make proposals that will achieve these goals. The Commission encourages parties to collaborate through informal stakeholder forums to submit a joint proposal or party proposals for a "Rolling Portfolio" filing and review process. Commission staff should participate in this dialogue and be prepared to submit a staff proposal for our consideration, if party proposals do not materialize.

We will establish a timeline for Phase II of this proceeding upon completion of Phase I.

3.2.2.2. Particular Considerations for the New Review Process

Perhaps the most critical process issue is how to simplify the portfolio review processes while still ensuring adequate Commission oversight (whether direct or delegated) and Commission discretion to adjust or otherwise redirect funding within a portfolio. We discuss additional particulars below.

Updating Goals and Potential Studies, and Targets

The Commission periodically adopts energy savings targets, based on "goals and potentials studies," pursuant to Public Utilities Code Sections 454.55 and 454.56[8] The targets accomplish a variety of objectives. They provide guidance for administrators' next energy efficiency portfolios. They update forecast savings for energy procurement planning, and dovetail into the CEC's IEPR demand forecasting process. And they set benchmarks for shareholder incentives.

A move to "Rolling Portfolios" will require us to decide when and how often we will revisit goals and potentials, and targets. And it will require us to decide how any revisions to targets will impact administrator portfolios.

Streamlining and Standardizing Administrator and Implementer Reporting Requirements and Administrator Budget Categories

In prior Decisions, we have required program administrators to categorize costs in a way that distinguishes between administrative costs, non-incentive/rebate costs, and other costs. In considering the budget requests by administrators for their 2010-2012 and 2013-2014 portfolios, we devoted

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[8] *See* D.04-09-060, D.07-10-032, D.08-07-047, D.09-09-047, and D.12-05-015.

considerable time to understanding the budget requests, and to developing authorized budget levels both at the program and portfolio level. We found that, for several categories, the budget submissions contained insufficient detail and/or justifications to allow appropriate analysis. Relatedly, in reviewing the 2013-14 portfolio budgets we noted in D. 12-11-015[9] that despite a 10% cap on administrative costs and a 6% cap on marketing and outreach expenses, the proportion of other non-incentive costs referred to as "Direct Implementation Non-Incentive" (or DINI) costs (the category called "Implementation – Customer Services" in the 2013-2014 budget templates) as a percent of the total budgets has been rising steadily. We called for better delineation of the types of costs that are covered in the DINI category, so that we could better understand what kinds of costs are increasing and for what reasons.[10] At issue then and now is whether administrative and ME&O costs in excess of capped levels are finding their way into the DINI category, and/or whether current DINI target levels are appropriate in light of trends in other states, and changing portfolio compositions.

We want to ensure that administrators take a uniform, transparent approach to budgeting for their energy efficiency portfolios. Accordingly, we will seek here to develop definitions for high level cost categories, and will review and modify the currently authorized "Allowable Costs" categories for energy efficiency activities. We also intend to devote more attention to better

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[9] Costs must reflect the caps and targets defined in D.09-09-047 and clarified in D.12-11-015. See Energy Efficiency Policy Manual v. 5 (July 2013) at 9-10.

[10] D.12-11-015 at 98.

defining the budget justification requirements so as to aid development and review of administrator submissions.

Ex Ante Estimate Integration with "Rolling Portfolios"

To guide portfolio development, administrators, the Commission develop estimates of the savings we expect energy efficiency measures will provide. These are the so-called "ex ante" estimates; "ex ante" because they precede actual implementation of the measures for which the savings are estimated. Administrators use these ex ante estimates to allocate funding within their portfolios.

Savings estimates appear in three primary places: (1) DEER; (2) non-DEER workpapers (including (a) initial workpapers filed with portfolio applications and (b) additional "mid-cycle' workpapers filed during portfolio implementation); and, (3) custom projects.

DEER contains information on selected common energy efficient technologies and measures. DEER provides a common set of standard estimates of the savings potential for these technologies in both residential and nonresidential applications. All program implementers and administrators use it. The database contains information such as cost and benefit data on typical measures – i.e., measures commonly installed in the marketplace.

Non-DEER workpapers include savings estimates from program administrators and implementers for specific measures or technologies not captured in DEER. Potential energy savings estimates are calculated based on best available information and extrapolation from DEER values or methods, as appropriate. Program administrators submit workpapers to the Commission staff for review on specific non-DEER measures and technologies. The

Commission staff reviews a sub-selection of the submissions and releases dispositions with values accepted and revised as needed.

Ex ante estimates for custom projects are, as the word "custom" implies, customized estimates for individual projects. Administrators develop custom estimates, subject to Commission staff review, on a project-by-project basis during portfolio implementation.

With the transition to "Rolling Portfolios" we will need to revisit how we update ex ante estimates. The frequency and scope of updates to DEER in particular will require careful consideration, since even seemingly small changes can have ripple effects that require changes to a broad swath of programs. A small change to an assumption or method in DEER may result in changes to energy savings and other cost-effectiveness parameters for large classes of technologies. [11] Updates require program administrators and implementers, to evaluate the impacts of the updates on their program activities, which may in turn lead them to change their program offerings. Customers, and businesses servicing customers, then need to re-evaluate their plans to account for changes to portfolio offerings.

Changes must be announced well in advance and trends must be anticipated in program planning, and the administrators' data systems must be designed to automatically update when there are changes to DEER values to allow orderly transition in measure offerings. Timing of updates also needs to be

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[11] For example, weather file updates change savings estimates for weather-sensitive energy efficiency measures such as chillers. Weather files used by building simulation models are incorporated as a part of DEER and have an impact on building heating and cooling energy use.

coordinated with our after-the-fact review of programs to incorporate the best data available when we update DEER.

We will also consider how to optimize our ongoing efforts to make DEER updates and ex ante approval of non-DEER workpapers and custom projects more transparent. An open issue going forward, and something to consider in any process proposal that parties put forward, is how to balance speed, cost, and transparency[12] in update processes.

Ex Post EM&V Integration with "Rolling Portfolios"

Moving to a rolling portfolio means the Commission's EM&V framework will need to be updated. Presently, evaluation is conducted on a portfolio basis. While this has the benefit of measuring the full impact of a program, it does not facilitate using EM&V information on a more incremental basis or using it during a portfolio cycle to inform program improvements. In considering updates to the framework, our guiding principle will be to have EM&V inform portfolio adjustments on a timely and transparent basis. We will consider shifting evaluation to a more frequent process, with a routinely updated evaluation plan to prioritize efforts based on the quality of available data, impact of the measure, and other factors as appropriate.

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[12] This is essentially a variant of the classic project management triangle (http://en.wikipedia.org/wiki/Project_management_triangle), more colloquially parsed as "fast, good, cheap -- pick two."

Revisions to the ESPI Mechanism to Reflect "Rolling Portfolios"

In R.12-01-005 we implemented reforms to the incentive mechanism for investor-owned utilities (IOUs) that administer energy efficiency programs. We adopted a mechanism for the 2013-14 program cycle and beyond in D.13-09-023.

The ESPI may require adjustments to reflect changes to 2015 portfolios, and to transition to "Rolling Portfolios" generally. We will consider such adjustments in this proceeding. We intend to otherwise leave the ESPI undisturbed.

Adapting Community Choice Aggregator (CCA) and Regional Energy Networks (REN) Policies to Reflect "Rolling Portfolios"

We will consider how to update our rules with respect to CCAs and RENs, as appropriate, to reflect adoption of "Rolling Portfolios." More broadly, we will continue examining issues related to implementation and administration of energy efficiency programs by Community Choice Aggregators, and we will consider alignment of CCA, REN, and IOU program administration of programs under § 381.1(a)-(d).

Identifying and Addressing Any Safety Issues

We will explore whether there are any safety issues, including safety benefits as well as risks, associated with energy efficiency. If we identify any safety issues, we will explore how to mitigate risks and maximize benefits.

3.3. Phase III – Address Policy Issues Not Necessarily Tied to the Transition to "Rolling Portfolios"

3.3.1. Long Term Energy Efficiency Strategic Plan (Strategic Plan) Revisions

On September 18, 2008, the Commission adopted California's first Long Term Energy Efficiency Strategic Plan, presenting a single roadmap to achieve maximum energy savings across all major groups and sectors in California. This comprehensive plan for 2009 to 2020 was the state's first roadmap and integrated framework of goals and strategies for saving energy, covering government, utility, and private sector actions.

Time has marched on, and we recognize a need to refine our strategic guidance in light of new and ongoing statewide policy initiatives. In particular, the Strategic Plan should incorporate relevant strategic direction from the CEC AB 758 Action Plan for energy efficiency retrofits of existing buildings and the California Air Resources Board's (CARB) AB 32 Scoping Plan Update. Both the CEC and CARB seek to obtain high levels of energy efficiency, and they expect to do so using a combination of utility ratepayer-funded programs and other complementary strategies.

The original Strategic Plan took months of work to develop. It drew staffing from throughout the CEC, CARB, and Commission, as well as the IOUs and other market actors. We recognize that this now five-year-old document may be due for updates. We anticipate that updating the strategic plan will be a much smaller time commitment than the initial effort since the basic structure and material is still the same and any update will build off of the current plan. Furthermore, to minimize the workload on staff and stakeholders, we will explore sharing resources across agencies and taking advantage of existing

collaborative efforts among stakeholders. The schedule and scope of Strategic Plan revisions will depend on priorities relative to other issues in this proceeding.

In any update of the Strategic Plan, in addition to coordinating across agencies, we may re-evaluate how to maximize adoption of all cost-effective energy efficiency measures. We would also expect to align the Strategic Plan with the introduction of "Rolling Portfolios."

3.3.2. Protecting Program Integrity

Ensuring that ratepayer dollars are well spent is a core regulatory function for this agency. Ensuring that energy efficiency programs are cost-effective is a statutory mandate.[13] Our ongoing EM&V efforts reflect our fulfillment of our ratepayer protection role. EM&V weeds out free riders, identifies overstatements of savings for custom projects, and generally verifies savings for resource (as opposed to non-resource) programs. EM&V provides important consumer protection, and should be recognized for doing so.

There are, however, structural limits to how much we can accomplish through EM&V alone. For instance, our EM&V work does not encompass non-resource programs, (e.g., job training), as there is no ready way to quantify savings from these programs. Another structural challenge is that EM&V for custom projects depends on data inputs from customers, implementers, and utilities, all of which have strong incentives to overstate savings and to remain quiet about underperforming projects or programs. In addition, we have been

[13] Section 381(b).

informally approached by would-be whistle-blowers raising concerns, but have yet to encounter anyone willing to speak on the record.

Given the roughly $1 billion of ratepayer money spent annually on energy efficiency programs, this Rulemaking provides the forum to discuss alleged waste, fraud and general issues relating to the cost effectiveness of portfolios/programs/measures. Some of these issues may already have a home in, e.g., an EM&V discussion, but we want to frame the discussion as broadly as possible to ensure that we address all related concerns.

3.3.3. Responses to Evolving Market and Regulatory Conditions

3.3.3.1. Increased Targeting of Energy Efficiency Programs

Recent experience suggests that we can get more "bang for the buck" by targeting energy efficiency programs to particular geographic areas, or to particular types of customers. For instance, we have observed highly variable results from whole house retrofits depending on climate zone, and also depending on a home's vintage. Programs can also be targeted at customers in transmission-or generation-constrained locations to maximize their value. We will provide the energy efficiency community (and in particular the program administrators) additional policy and cost-effectiveness calculation guidance to address these important program design issues, as well as to consider whether or what customer equity issues might arise from more granular targeting of programs.

3.3.3.2. Adapting Portfolios to Changing Markets, and Transforming Markets Through Portfolio Changes

The cost-effectiveness ratio of energy efficiency portfolios has declined in the past decade. There may be various reasons for this. Ever-more stringent codes and standards come into effect annually. They replace voluntary energy efficiency efforts (that ratepayers subsidize) with mandated activities (that ratepayers need no longer subsidize). Also, portfolios have grown larger, extending to encompass programs with lower – but still positive – marginal savings. We will continue to explore how to maximize ratepayer return in light of this evolving landscape.

Relatedly, we will continue to look into market transformation initiatives. As we explained in D.09-09-047 at 354:

> Market transformation is long-lasting, sustainable changes in the structure or functioning of a market achieved by reducing barriers to the adoption of energy efficiency measures to the point where the continuation of the same publicly-funded intervention is no longer appropriate in that specific market. Market transformation includes promoting one set of efficient technologies until they are adopted into codes and standards (or otherwise adopted by the market)."

Where market transformation has occurred, "publicly-funded intervention is no longer appropriate in that specific market."[14]

Our look at market transformation will be both retrospective and prospective. Where market transformation has occurred, "publicly-funded intervention is no longer appropriate in that specific market."[15] Our look

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[14] D.09-09-047 at 354.

[15] D.09-09-047 at 354.

backwards will identify efforts at market transformations both in California and elsewhere that can provide useful lessons for ongoing programs and for designing new programs.

Looking forward, we will consider whether to further refine the definition of "market transformation." We will also consider how to incorporate the lessons learned from prior market transformation efforts into ongoing and new programs.

3.3.3.3. Reviewing Non-IOU Participation in Energy Efficiency Implementation

We will review the role that private (as opposed to governmental) entities should play in energy efficiency going forward. Particular questions we expect to examine include, but are not limited to:

- Whether to continue to set aside a certain percentage of each administrator's portfolio for third party implementers (i.e., require each administrator to devote at least 20% of its portfolio budget to third party contracts)?
- If we continue such a set-aside, what should the set-aside amount be?
- Should we direct administrators to target particular program categories for greater third party involvement? Should we make non-IOUs the sole "implementers;" that is, should IOUs be barred from the "implementer" role?
- If we continue to allow IOUs to act as "implementers," should we give priority to non-IOU implementers?
- Should we allow for third-party aggregation and sale to IOUs of savings from energy efficiency measures? If so, how would this type of savings aggregation program comport with / be accounted for in the ESPI mechanism?

For governmental entities that are implementing programs (e.g., local governmental partnerships), we will explore their cost-effectiveness. As part of

that effort, we may benchmark their performance against that of other implementers of similar programs.

3.3.3.4. Financing Programs

As discussed in D.12-05-015, we intend to continue to explore new options for offering financing for energy efficiency. We recognize that energy efficiency finance is a complex area. We intend to build on the initial efforts required by D.12-05-015 and as expanded in D.13-09-044 to variously:

- overcome the high upfront cost problem associated with energy efficiency upgrades that are capital intensive but have a favorable return on investment;
- leverage ratepayer funds by bringing in private capital;
- increase sales of energy efficient products and services;
- reach a broader set of customers and market segments;
- encourage customers to invest in projects that will achieve deeper energy savings.

The challenge will be to consider how we can move forward effectively with a public-private approach to financing to enhance energy efficiency programs in a way that is equitable for all ratepayers. We will consider additional financing pilots, including financing via the Warehouse for Energy Efficiency Lending, as well as any potential reauthorization of statewide pilots, RENs' financing programs and/or continuing finance pilots previously funded by American Recovery and Reinvestment Act now funded in the utility portfolios.

3.3.3.5. Reviewing Custom Project Rules and Incentive Levels

Custom measures and projects are those for which site specific calculations are performed to establish estimated savings as well as incentive payments to

participating customers and in some cases third party implementers. These custom projects play an important role in the utilities energy efficiency portfolio, having accounted for 30-40% of utility electric savings claims and 75% of natural gas savings claims for the 2010-12 period. The utilities have projected a similarly important role in 2013-14 for these activities.

D.11-07-030 adopted a process for Commission staff to review selected custom projects, to better ensure the reliability of ex ante savings estimates for those activities. In D.12-05-015, we examined and made several clarifications to the custom project review process ordered in D.11-07-030. We also determined that the review process should be more fully implemented before considering changes. Commission staff has been working with stakeholders to refine the custom project review process. We will review progress in its implementation and consider additional refinements, as needed.

The custom review process examines projects and measures by using program rules developed by the program administrators. These program rules must be consistent with our adopted energy efficiency policies. We will examine these program rules and determine the appropriate level of Commission review and oversight going forward.

3.3.3.6. To-Code Compliance Programs

Bringing existing buildings into compliance with California's ever-more-stringent building codes presents unique challenges. Faced with the prospect of a capital improvement to a building triggering an expensive upgrade to full code compliance, many building owners may elect to indefinitely defer improvements and simply "soldier on" with inefficient structures and/or equipment. In

recognition of this issue, we authorized a residential Heating, Ventilation and Air Conditioning (HVAC) "to-code" incentive pilot program in D.12-11-015.[16] We plan to continue to examine potential opportunities to encourage building owners to bring their buildings up to code whether they otherwise would defer or avoid making improvements.

As part of this examination, we will look as well at the attendant issues (e.g., savings claims, cost-effectiveness, and free ridership), associated with encouraging to -code efficiency levels in existing buildings. We will also examine any interaction with savings claim methods in the codes and standards advocacy program to avoid any double counting. Our review will assess current research, market trends, and/or lessons learned from the HVAC "to-code" pilot as results from the pilot become available.

3.3.3.7. Examine Energy Upgrade California Fuel-Switching Rules

Fuel substitution programs substitute energy using equipment of one energy source with a competing energy source (e.g., switch from electric resistance heating to gas furnaces). We most recently modified the rules for fuel substitution programs in D.09-12-022. We have developed special rules governing the cost effectiveness requirements for fuel substitution programs, applicable to both retrofit and new construction applications. These rules may

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[16] "There is a low rate of code compliance in residential HVAC replacements. The CEC estimates that less than 10% of HVAC systems obtain legally required permits and up to 50% are not properly installed. We support further investigation of providing incentives for code compliance in the residential sector. The utilities should pilot 'to code' incentives in the hotter climate zones (climate zones 9 16) in 2013 and 2014." D.12-11-015 at 75-76.

be deterring implementation of cost-effective projects (or measures) in residential buildings, such as switching electric heating over to gas heating. This results from our rules requiring that a *program* be cost-effective overall before we will fund the fuel-switching portion of it. The Energy Upgrade California program is not presently cost-effective. The fuel-switching *measure* that is a part of the program, *may* be cost-effective standing alone, but is ineligible for funding because our rule looks at the *program* to determine the *measure*'s eligibility. This result, where a cost-effective measure is singled out as ineligible for funding, seems perverse if the measure is, in fact, cost effective. We will reexamine the rules relating to fuel switching and adjust them as appropriate.

3.3.3.8. Reviewing Marketing, Education, and Outreach (ME&O) Programs

While there is a separate application addressing statewide marketing, education, and outreach proposals for 2013-2014 in A.12-08-007 et al., will still need to address policy issues related to ME&O for individual programs, as well as the interaction between statewide campaign/brand and individual efforts, for 2015 and beyond. In 2014, we will complete a cross-cutting evaluation of utility marketing of their local programs (staff proposal in A.12-08-007). We are working on developing a template for the utilities to propose marketing plans for their programs that will require more specific details on planned activities, marketing concepts, and metrics. This will ensure consistent planning and reporting protocols for simpler evaluation of the effectiveness of program marketing.

We will also explore additional ways to reduce the number of customer "touchpoints" across multiple demand side programs (e.g., demand response and distributed generation). Ideally, customers would have a single point of

contact who could inform the customer of all demand-side programs for which they might be eligible and in which they might have an interest.

3.3.3.9. Data Accessibility and Confidentiality

R.08-12-009 is the primary forum for addressing data access issues. This Rulemaking will address access and dissemination issues unique to energy efficiency not otherwise addressed in R.08-12-009. In particular, since Commission staff is responsible for EM&V, we will address here how staff disseminates information associated with EM&V. We will also address how we comply with the requirements of Section 589. That section directs us to "require the [IOUs] to cooperate in establishing a single Internet Web site available to the public that provides up-to-date information, no less frequent than once every 30 days, regarding ratepayer-funded energy efficiency assistance programs" in a way that will not identify particular customers.

3.3.4. Revisions to Cost-Effectiveness Calculators

We will continue to refine our cost-effectiveness methods. Part of our refinement will involve reexamining the use of avoided cost calculations based on the "separate components" approach adopted in D.09-08-026 and D.10-12-024. We will coordinate with other demand-side proceedings to develop uniform avoided cost calculation methodologies across all demand-side programs by addressing issues such as the appropriate use of long- and short-term avoided generation capacity costs; developing local avoided costs; and determining the appropriate avoided greenhouse gas costs.

We will also examine other inputs and issues related to cost-effectiveness such as the appropriate use, if any, of non-energy benefits; when and how to update data inputs; the appropriateness of our current practice of applying a "resource balance year" calculus in estimating avoided generation capacity;

benefits related to spillover and market transformation; and discount rates. In addition, we will also consider the adoption of a cost-effectiveness framework for evaluating water-energy efficiency programs.

4. Schedule

The assigned Commissioner or Administrative Law Judge (ALJ) will schedule a Prehearing Conference (PHC) as soon as practicable. A preliminary schedule for this proceeding will be discussed at the first PHC. Following the PHC, the assigned Commissioner and ALJ in this proceeding will issue a scoping memo, including a schedule for the proceeding. This proceeding will conform to the statutory deadline for Ratesetting matters set forth in Section 1701.5. Consistent with Rule 6.2, of the Commission's Rules of Practice and Procedure (Rules), we expect this proceeding to be concluded within 24 months of the issuance of the assigned Commissioner's Scoping Memo Ruling. Based on prior experience, it is reasonable to anticipate that this new Rulemaking will require additional time to address complex policy issues related to post-2014 energy efficiency policies, programs, and evaluation protocols.

5. Category of Proceeding and Need for Hearing

Rule 7.1(d) provides that the Order Instituting Rulemaking shall preliminarily determine the category of the proceeding and the need for hearings. Our determination is that this Rulemaking is Ratesetting, as that term is defined in Rule 1.3. This determination of categorization is appealable under the provisions of Rule 7.1(c) and Rule 7.6.

We expect that the issues may be resolved through comments and workshops without the need for evidentiary hearings. However, we will make a final determination on the need for hearings in the assigned Commissioner's Scoping Memo Ruling.

6. Respondents

The Respondents to this Rulemaking are Pacific Gas &Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company.

7. Becoming a Party; Joining and Using the Service List

This Rulemaking will be served on the service list for R.09-11-014 (the predecessor energy efficiency Rulemaking proceeding), and on the service list for consolidated proceedings A.12-07-001 et al.[17] (the applications regarding the 2013-14 portfolios).

Receipt of service does not confer party status in this proceeding upon any person or entity, and does not result in that person or entity being placed on the service list for this proceeding. If you want to participate in the Rulemaking or simply to monitor it, follow the procedures set forth below. To ensure you receive all documents, send your request within 30 days after the Order Instituting Rulemaking is published. The Commission's Process Office will publish the official service list at the Commission's website (www.cpuc.ca.gov), and will update the list as necessary.

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[17] 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); Application of San Diego Gas & Electric Company (U902M) for Approval of Electric and Natural Gas Energy Efficiency Programs and Budgets for Years 2013 through 2014, Application 12-07-002 (Filed July 2, 2012); Application of Southern California Gas Company (U904G) for Approval of Natural Gas Energy Efficiency Programs and Budgets for Years 2013 through 2014, Application 12-07-003 (Filed July 2, 2012); Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency and Demand Response Integrated Demand Side Management Programs and Budgets for 2013-2014, Application 12-07-004 (filed July 2, 2012).

7.1. During the First 30 days

Within 30 days of the publication of this Rulemaking, any person may ask to be added to the official service list. Send your request to the Process Office. You may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102). Include the following information:

- Docket Number of this Rulemaking;
- Name (and party represented, if applicable);
- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).[18]

If the Rulemaking names you as respondent, you are already a party, but you or your representative must still ask to be added to the official service list.

7.2. After the First 30 Days

If you want to become a party after the first 30 days, you may do so by filing and serving timely comments in the Rulemaking (Rule 1.4(a)(2)), or by making an oral motion (Rule 1.4(a)(3)), or by filing a motion (Rule 1.4(a)(4)). If you make an oral motion or file a motion, you must also comply with Rule 1.4(b). These rules are in the Commission's Rules of Practice and Procedure, which you can read at the Commission's website.

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[18] If you want to file comments or otherwise actively participate, choose "Party" status. If you do not want to actively participate but want to follow events and filings as they occur, choose "State Service" status if you are an employee of the State of California; otherwise, choose "Information Only" status.

If you want to be added to the official service list as a non-party (that is, as State Service or Information Only), follow the instructions in Section 7.1 above.

7.3. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is current. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail to Process-office @cpuc.ca gov, and send a copy to everyone on the official service list.

7.4. Serving and Filing Documents

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office. If you use e-mail service, you must serve by e-mail any person (whether Party, State Service, or Information Only) on the official service list who has provided an e-mail address.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at http://www.cpuc.ca.gov/PUC/efiling. E-mail service is governed by Rule 1.10. However, if you use e-mail service, do not provide a paper copy to the assigned Commissioner or ALJ absent further instruction. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

8. Public Advisor

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 in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

9. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this Rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days after the date of the Prehearing Conference in this Rulemaking. (See Rule 17.1(a)(1).)

10. *Ex Parte* Communications

Communications with decision-makers and advisors in this Rulemaking are governed by Article 8 of the Rules of Practice and Procedure.

11. Moving R.09-11-014 Record to New OIR

We have made a great deal of progress in energy efficiency in R.09-11-014. Much of the work performed in that proceeding is foundational, and will be used as a starting point for the current proceeding. There is no need to duplicate work or backtrack and revisit matters that have already been resolved in R.09-11-014. Therefore, we provide notice that the record of R.09-11-014 will be incorporated into this proceeding, as necessary. In addition, in A.12-07-001 et al., we have developed extensive record on energy efficiency financing pilots. While specific disposition of the considered pilots is addressed in D.13-09-044, we transfer the record into this proceeding to avoid duplication of work.

O R D E R

Therefore **IT IS ORDERED** that:

1. In accordance with Rule 6.1 of the Commission's Rules of Practice and Procedure, (Rules) the Commission institutes this Order Instituting Rulemaking on its own motion to establish funding for 2015 energy efficiency portfolios, implement energy efficiency "Rolling Portfolios", policies, programs, evaluation, and related issues. As indicated in Rule 6.1, this proceeding may result in the adoption, repeal, or amendment of rules, regulations, and guidelines that constitute the energy efficiency program, and may modify prior Commission decisions pertaining to the energy efficiency program.

2. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company are Respondents to this proceeding.

3. Interested persons must follow the directions in this Order Instituting Rulemaking to become a party or to be placed on the official service list as a non-party.

4. The Commission's Process Office will publish the official service list on the Commission's website (www.cpuc.ca.gov) as soon as practicable after 30 days from publication of this Rulemaking.

5. Any party that expects to claim intervenor compensation for its participation in this Order Instituting Rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days from the date of the prehearing conference to be held in this proceeding.

6. The Executive Director will cause this Order Instituting Rulemaking to be served on Respondents, the California Energy Commission, and the service lists in Rulemaking (R.) 09-11-014 and consolidated Application (A.) 12-07-001,

A.12-07-002, A.12-07-003, and A.12-07-004, R. 07-01-041, R.10-12-007, R.10-05-004, R.08-12-009.

7. The category for this Order Instituting Rulemaking, as defined herein, is determined to be ratesetting as that term is defined in Rule 1.3 of the Commission's Rules of Practice and Procedure.

8. The Order Instituting Rulemaking opened today will now serve as the procedural forum for all issues or filings that would otherwise have been addressed or filed in Rulemaking 09-11-014. As to those matters, the record developed in that proceeding is available for consideration in this proceeding.

9. As soon as practicable, the assigned Commissioner or Administrative Law Judge will schedule a Prehearing Conference in this Order Instituting Rulemaking.

This order is effective today.

Dated _____, at San Francisco, California