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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues.

Rulemaking 09-11-014
(Filed November 20, 2009)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO REGARDING CONTINUATION OF FUNDING FOR ENERGY EFFICIENCY PROGRAMS

This ruling and scoping memo adds an additional issue to the scope of Phase III of this proceeding to address the fact that authorization to collect the Public Goods Charge (PGC) from energy utility customers in all probability will end on December 31, 2011. The PGC funds a portion of the state's electric Energy Efficiency (EE) programs this Commission oversees; a charge known as the Procurement Energy Efficiency Balancing Account (PEEBA) funds the remainder.¹ The PEEBA funds EE at a rate of approximately \$575 million per year.

¹ The gas Public Purpose Program (PPP) surcharge funds the gas portion of EE, and is the subject of separate proposed decisions in this proceeding. This ruling deals with the electric program EE funding only. The gas PPP has funded about 18% (\$175 million per year) of the total efficiency budget (not counting low income efficiency programs that are funded in a separate mechanism) prior to legislative action earlier this year to transfer up to \$155 million of these funds to balance the state budget. Further, the PGC also funds programs carried out by the California Energy Commission (CEC) – the

Footnote continued on next page

The statute authorizing collection in rates of the PGC only allowed collections for a 10-year period, starting January 1, 2002 and ending January 1, 2012. Cal. Pub. Util. Code § 399.8(c)(1). Because the Legislature did not extend the January 1, 2012 deadline before the close of the 2011 legislative session, without further legislative action the PGC revenues available to EE programs will no longer be available after December 31 of this year.

The Commission is required to ensure that electric corporations under its jurisdiction first meet their "unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible."² In order to carry out this statutory obligation, the Commission has adopted the Energy Action Plan, which establishes EE as "first in the loading order" – that is, the top priority resource for meeting the state's energy needs. This ruling seeks to ensure that EE continues to have adequate funding to fulfill the foregoing statutory and policy mandates.

Currently, the PGC funds approximately \$250 million in annual EE program spending. Without passing judgment on whether EE programs will require this total level of funding going forward, I wish to ensure that – if necessary – the current level of EE spending may be maintained. In order to ensure such funding availability, and avoid retroactive ratemaking, it is necessary to make sure that the PEEBA is augmented to cover EE revenues lost from the PGC funding mechanism. The actual amounts of funding authorized

Public Interest Energy Research (PIER) and Emerging Renewables programs. This ruling does not address those CEC programs.

² Pub. Util. Code § 454.5(b)(9)(C).

for EE are and will be set by Commission decision; this ruling simply expands the scope of the proceeding to assure that EE funding remains available going forward at contemplated levels, if needed.

This ruling therefore proposes that the Commission make additional PEEBA funds available to backfill the PGC funding so that electric EE is funded in 2012 at the same level as currently authorized for such programs in Decision (D.) 09-09-047.

1. Background

For three decades California has been a national leader in designing and delivering EE programs to its residents. The EE programs are essential to this Commission's effort to carry out various statutory mandates, including long-term energy resource procurement, where EE is viewed as "first in the loading order," and greenhouse gas (GHG) amelioration pursuant to Assembly Bill (AB) 32.³ Losing almost a quarter of available funding could disrupt programs, harm customers, lead to job loss and have serious adverse impacts on the environment.

The current EE programs are on a three-year cycle, extending from 2010-2012. The Commission is also currently considering future EE funding for 2013 and beyond. Those programs, too, may require spending that would have necessitated revenues from the PGC.

³ Stats. 2006, Ch. 488.

The PGC was established in the wake of the 2000-2001 California Energy Crisis. Section 399.8(a), which remains law, continues to emphasize the importance of EE to the state's energy customers:⁴

In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature *that prudent investments in energy efficiency...shall continue to be made.* (Emphasis added.)

Section 399.8(c)(1) provides for actual collection of the PGC:

The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency ... authorized pursuant to this section beginning January 1, 2002, and ending January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

As noted above, the Commission is required, in overseeing utility procurement of energy resources sufficient to meet customer demand, to prioritize cost-effective EE resources:

The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.⁵

The Commission established the PEEBA in D.03-12-062, after it had identified EE in D.02-10-062 as a priority resource for California and ordered the Investor Owned Utilities (IOUs) to include all cost effective EE in their energy

⁴ While authorization in § 399.8 to collect the surcharge ends on January 1, 2012, the statute does not sunset, and all if its provisions remain on the books.

⁵ Pub. Util. Code § 454.5(b)(9)(C).

procurement portfolios "regardless of the limitations of the ... PGC mechanism."⁶ The Commission therefore authorized procurement EE budget levels for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric (SDG&E). Unlike the PGC, which is collected "on the basis of usage,"⁷ the PEEBA is collected in accordance with each IOU's rate design, established in their individual General Rate Cases (GRCs). GRCs occur only every three years, and on a staggered basis among the regulated utilities. Thus to address the immediate need to augment funds in 2012, I propose taking action on an equal basis of usage and not within the individual GRC proceedings.

The 2011 electric EE PGC collections were \$255.6 million. Legislation proposed to extend the January 1, 2012 end to authorization to collect PGC funds would have authorized PGC for EE in the amount of \$250 million.⁸ Those levels have increased slightly since 2001 based on utility electric sales as set forth in the escalator clause in § 399.8(d)(2).⁹ The IOUs file an Advice Letter (AL) each year to specify how the escalation factor translates into annual EE fund collections.

The Commission authorized a 2010-2012 three-year EE budget of \$3.1 billion in D.09-09-047. Approximately a quarter of the total efficiency budgets,

⁶ D.03-12-062, *mimeo.*, at 61, quoting D.02-10-062.

⁷ Pub. Util. Code § 399.8(c)(1).

⁸ AB 724 (Bradford), did not receive the required 2/3 vote during the 2011 legislative session.

⁹ "The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation as defined by the gross domestic product deflator."

therefore, were covered by the PGC. The gas IOUs allocated approximately a total of 18% of the efficiency budgets to gas PPP funds, and the remainder by electric utilities to their respective PEEBA balancing accounts.

As noted above, the PGC is collected on the basis of usage, while PEEBA is collected in accordance with each IOU's GRC rate design. For 2012, to avoid rate increases to any IOU customers related to EE, I propose that the portion of the PEEBA to replace the PGC be recovered just as the PGC would have been – on the basis of usage. Parties may comment on the wisdom and mechanics of this proposal. With their comments on this ruling, the IOUs shall explain the mechanics of the PEEBA backfill mechanism, show the impact on their PEEBA collections of the PGC backfill, and provide sample bill impacts for each customer class.

2. Revised Scope of Phase III

I revise the scope of Phase III of this proceeding to consider the issue raised in this ruling – namely, the use of the PEEBA to backfill funding that otherwise would have been collected in the PGC.

3. Comments and Responses

Within 14 days of this ruling, parties are asked to serve and file comments on the approach set forth above, and/or provide any alternative proposals they advocate. If they do not object to the approach set forth above, they need not file comments, but if they object to all or part of the proposal, or have alternative proposals, they shall file comments no longer than 10 pages in length. Reply comments will be allowed 7 days after opening comments are due.

IT IS RULED that:

1. The scope of Phase III of this proceeding is modified as described herein.

