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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)

ADMINISTRATIVE LAW JUDGE'S RULING REGARDING 2013 BRIDGE FUNDING AND MECHANICS OF PORTFOLIO EXTENSION

1. Introduction

This ruling seeks input from the parties on how to extend Energy Efficiency (EE) funding in 2013 and perhaps 2014. The original term of the existing EE program cycle was three years, from 2010-2012. The parties and Energy Division (ED) have concluded that an extra year or two of funding in 2013 and perhaps 2014 is necessary. Thus, this ruling seeks parties' comments on the attached ED White Paper on bridge year funding, as well as the schedule set forth in this ruling.

The Commission conducted a workshop regarding the extension of the 2010-2012 EE funding period on February 16, 2011. At that time, the parties to this proceeding had agreed to bridge funding in principle, and to propose a process for public input on such funding. The Division of Ratepayer Advocates organized an April 29, 2011 settlement meeting to discuss terms.

I ask the parties for three types of input in response to this ruling:

1) To present their agreement or partial agreement on the substance and process of bridge funding;
2) Where they do not agree, I ask for identification of the areas of disagreement and the parties' individual proposals; and
3) Comments on the questions below and on the attached White Paper.

Comments are due 20 days after mailing of this ruling.

2. Background

Decision (D.) 08-07-047 provided that the assigned Commissioner and/or Administrative Law Judge (ALJ) may "adjust the schedule for updating and establishing new energy savings goals for 2012 through 2020."[1] On November 17, 2010, the assigned Commissioner issued a ruling requesting comments on a staff proposal to extend the current portfolio cycle by one year. The previous Assigned Commissioner, Dian Grueneich, issued a ruling on December 23, 2010 (ACR) which adjusted the goals update and therefore effectively extended the portfolio cycle by at least one year. The ACR directed staff to develop guidance for the next Energy Efficiency (EE) portfolio.

On February 16, 2011, Energy Division (ED) held a workshop based on an earlier version of the White Paper that I attach to this ruling.[2] In the workshop, parties responded to the ED White Paper, which among other things, discussed

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[1] D.08-07-047, OP 5 at 39.

[2] The pre-workshop Energy Division White Paper contained three parts: (1) bridge funding mechanics, (2) proposal on bridge funding schedule, and (3) options analysis of one versus two-year extension. Attachment A to this ruling contains a modified version of the white paper containing parts (1) and (2) but not (3). The modified portfolio schedule discussed in section (3) will be addressed in a subsequent ruling.

bridge funding mechanics for a 2013 portfolio cycle extension. In the workshop, the Pacific Gas and Electric Company suggested that it, the Southern California Gas Company, the Southern California Edison Company, and the San Diego Gas & Electric Company (collectively, the Investor-Owned Utilities (IOUs)) work with the other parties to submit a joint bridge funding request, and ED had subsequent discussions with parties that supporting such an agreement.

3. Request for Comment

Parties should submit comments in response to the following questions:

1. What should annual budgets during the bridge period be based on?
   a. 2012 expenditures?
   b. 2010-2012 average expenditures?
   c. 2012 expenditures plus growth rate?
   d. Other?
2. Should unspent funds from 2010-2012 be applied to the bridge period, potentially reducing the level of new collections required? Why or why not? If so, what allocation methodology should apply to natural gas and electric revenue requirements from left over (a) natural gas Public Purpose Program surcharges, (b) electric Public Goods Charge, and (c) procurement funding sources?
3. What specific criteria should the Commission use to determine which programs to extend?
   a. Track record of performance?
   b. Cost-effectiveness?
   c. Energy savings?
   d. Other?
4. Do parties have any specific concerns or proposals with regard to extending bridge funding contracts for the following types of programs? Do these concerns or proposals require Commission action? If so, what action is required and why?

   a. Local Government Partnerships
   b. Other third-party programs

5. If the IOUs were to submit a bridge funding request, what key information should they include to facilitate parties' review, ensure transparency, and substantiate any adjustments to their portfolios?
6. Is it feasible to update utility 2010-12 cycle high impact measures ex-ante values that consider the most recently available Evaluation, Measurement and Verification (EM&V) results in the portfolio adjustments submitted in a bridge funding request?[3] Why or why not?
7. If most recently available EM&V results were to be used to inform changes to the program portfolios, what steps would be necessary to accomplish this task?
8. Is it feasible to update version 2008.2.05 of the 2008 Data Base for Energy Efficient Resources (DEER) with codes that are applicable in 2013, and with corrections to software errors identified by the DEER team?
9. Elaborate on the basis for attributing savings to goals during the bridge funding period.
10. Are there any other issues that have not been addressed regarding bridge year funding, mechanics, and the procedural schedule?

4. Schedule

Comments are due within 20 days of this ruling's mailing. After comments are filed, parties shall meet and confer in an attempt to come to agreement on as many issues as possible. Reply comments, which should identify any agreements reached, as well as areas of disagreement, are due

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[3] High Impact Measures are measures that contribute more than one percent of total portfolio energy savings.

15 days after comments are filed. After reviewing the reply comments, a ruling addressing the following will issue:

a. The information and template by which the IOU's bridge funding shall be filed.

b. Whether updated ex-ante DEER adjustments should be applied to the bridge period.

c. What goals and savings should be attributed to the bridge funding period?

d. The basis of the annual budget for the bridge funding period.

IOUs Bridge Funding Request: The IOUs shall file a bridge funding request in Rulemaking 09-11-014 no later than 21 days following issuance of the foregoing ruling. Comments on the request will be due 30 days thereafter, and reply comments 20 days after comments are due.[4]

IT IS RULED that:

1. Comments on the questions presented in section 4 above and the attached white paper are due within 20 days of this ruling's mailing.

2. After comments are filed, parties shall meet and confer in an attempt to come to agreement on as many issues as possible.

3. Reply comments are due 15 days after comments are filed.

4. The schedule set forth in section 4 above is adopted.

5. The Investor-Owned Utilities shall file a bridge funding request in Rulemaking 09-11-014 no later than 21 days following issuance a ruling on the issues identified in section 4 above.

[4] In the event that a due date falls on a weekend or holiday, the due date will be the following business day.

6. Comments on the bridge funding request will be due 30 days after the requests are filed, and reply comments on bridge funding 20 days after comments are due.

Dated May 27, 2011, at San Francisco, California.

/s/ DARWIN E. FARRAR
Darwin E. Farrar
Administrative Law Judge

ATTACHMENT A

Energy Division White Paper
Bridge Year Funding, Mechanics, and Procedural Schedule

White Paper Summary

In this paper, Energy Division staff further develop and analyze some of the issues raised in the November 17 and December 23, 2010 Assigned Commissioner's Rulings (ACR) regarding the extension of the 2010-2012 portfolio. The December 23, 2010 ACR determined that it was necessary to extend the 2010-2012 funding cycle by at least one year in order to update the adopted goals and to make changes to the energy efficiency policy framework before the IOUs plan the next portfolio. This paper describes the procedural history of the previous bridge funding period, summarizes parties' specific recommendations, and poses follow up questions on the following issues related to the portfolio extension:

- The public review process for mid-term portfolio adjustments (in Q1 of 2012 for 2013 adjustments).
- Whether to update of ex-ante values for bridge year(s).
- The appropriate budget level for any bridge year.
- Extension of IOU contracts with program deliverers and local government partnerships for the Pacific Gas and Electric Company (PG&E), the Southern California Gas Company (SoCalGas), the Southern California Edison Company (SCE), and the San Diego Gas Company (SDGC) (collectively, the IOUs).

Mechanics of the Portfolio Extension

The December 23, 2010 ACR determined that "the 2010-2012 portfolio cycle should be extended through 2013, but that a number of issues raised by the parties need to be further evaluated."[1] It was ruled that the Energy Division

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[1] December 23, 2010 Assigned Commissioner's Ruling, http://docs.cpuc.ca.gov/efile/RULINGS/128798.pdf

shall solicit input from parties in order to determine the appropriate length of the bridge funding period and how it should be structured.

2009 Bridge Funding Year

When considering the post-2012 extension, it is useful to review the 2009 bridge funding process, adopted in Decision (D.) 08-10-027, and discuss what improvements, if any, need to be made. On July 21, 2008 the IOUs filed applications in (A.08-07-021 et. al.) for the 2009-2011 portfolios in which they made proposals for bridge funding in the event that the portfolios were not adopted by the end of 2008. On August 11, 2008 the Administrative Law Judge (ALJ) directed the IOUs to submit a supplemental request by August 18, 2008, that included the following information:

- A statement of interest to seek bridge funding.
- Any exceptions to the energy efficiency policy manual or needed modifications to D.07-10-032 [the decision directing the utilities to prepare a single, comprehensive statewide long-term energy efficiency plan] or any other decision that would be required to effectuate a bridge funding decision.
- Information on monthly spending levels for 2006-2008 energy efficiency programs as requested by Energy Division in an August 7, 2008 data request.
- A proposal to continue identified current programs and only those programs into 2009 at current monthly spending levels and with current rates, with current monthly spending level clearly defined.
- A statement recognizing that program funds spent in 2009 would count for 2009 goals.
- Any proposals on use of pre-2009 unspent or unallocated funds to be used in 2009.
- A mechanism to ensure that approved programs continue on for three months at approved spending levels after a final 2009 – 2011 decision is reached.
- Any other information needed to implement the decision.

On August 18, 2008, the IOUs filed a Bridge Funding Request. In their request, the IOUs proposed to:[2]

- Fund all successful [3] 2006-2008 energy efficiency program operations (as listed in Attachment A of the Bridge Funding Request) until the California Public Utilities Commission (Commission or CPUC) acts upon their applications.
- Undertake 2009-2011 program planning activities during the bridge period.
- Conduct evaluation, measurement and verification (EM&V) related to 2009-2011 planning and activities.
- Record program planning activities and EM&V expenditures incurred from January 1, 2009 to the effective date of a final decision on the IOUs' applications in the currently authorized energy efficiency balancing accounts.
- Allow the annual revenue requirement at the levels shown for each IOU in Attachment C of the Bridge Funding Request to be included in rates effective January 1, 2009, through existing authorized mechanisms for energy efficiency.
- Count the energy and demand savings achieved through the bridge period toward the 2009 energy efficiency goals adopted by the Commission.

After an expedited period for parties' comments and replies, the ALJ approved the bridge funding request on October 16, 2008.

To determine how to proceed with the post-2012 portfolio extension and bridge funding, it is useful to consider the 2009 bridge year experience, parties' specific

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[2] D.08-10-027, pgs. 4-5, http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/92371.htm.

[3] In their 2008 bridge funding request, the IOUs provided a list of "successful" programs that they would maintain through 2009. The Commission took the position that these programs should be considered "transitional" rather than "successful" since no criteria was established to identify these programs as successful.

recommendations raised in comments to the November 17, 2010 ACR, and to identify any specific changes that may be necessary in order to improve upon the administration of a portfolio extension.

Parties' Positions on the Mechanics of the Portfolio Extension

In general, parties' views on the mechanics of portfolio extension addressed five categories of issues:

1. Public review process for mid-term portfolio adjustments.
2. Update of cost-effectiveness and ex-ante values.
3. Goals and savings attributions for bridge period.
4. Annual budget.
5. IOU contracts with program deliverers and local government programs.

A. Public review process for mid-term portfolio adjustments

Several parties' support for bridge funding depends on the establishment a mid-cycle review process.

- **Natural Resources Defense Council (NRDC)** recommends that the CPUC require the IOUs to hold an annual workshop to discuss the progress of the portfolio at a high level to give the CPUC and stakeholders insight into program achievements-to-date, and that the Commission set up a more comprehensive review and advisory body which would help monitor activities (e.g., progress towards market transformation and portfolio implementation) and advance the goals of the Commission (e.g., strategic planning goals).[4]
- **NRDC** recommends expanding the fund shifting rules to create a clearer process for Peer Review Groups (PRG) review and to facilitate third party programs. They also suggest creating a simple template for fund shifting requests and an interim progress report that includes a summary explanation of the shifted funds-to-date.[5]

[4] NRDC Comments to November 17, 2010 ACR, pg. 3.

[5] NRDC Comments to November 17, 2010 ACR, pg. 4.

- **The Utility Reform Network (TURN)** recommends that a public process should focus on how to realign the existing portfolios to increase the prospective cost-effectiveness based on the existing models.[6]
- **TURN** argues that review should also address Quality Assurance/Quality Control issues (such as program activity tracking, documentation and reporting) and the progress achieved to date in addressing those issues. TURN includes their response to the IOU's "60 day" report as an attachment to their comments citing the issues raised in their response as examples of those needing Commission attention in any mid-cycle review.[7]
- **Sempra Utilities (Sempra)** states that current oversight and reporting mechanisms are adequate.[8]
- **Division of Ratepayer Advocates (DRA)** asserts that periodic reviews of the portfolio would be helpful, but there is no need to establish a review body to monitor the progress of portfolio implementation.[9]
- **California Energy Efficiency Council (Efficiency Council)** contends that IOUs should make mid-cycle adjustments with minimal Commission approval requirements.[10]
- **Pacific Gas & Electric (PG&E)** asserts that a public process would distract parties from focusing on current program cycle implementation, resulting in a continuation of the debate regarding the controversial 2006-2008 evaluation results. They argue that this would take limited resources away from other critical path efforts needed to lock down statewide energy goals, cost effectiveness inputs, EM&V plans, and Strategic Plan updates.[11]

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[6] TURN Comments to November 17, 2010 ACR, pgs. 3-4.

[7] TURN Comments to the November 17, 2010 ACR, pg. 8.

[8] Sempra Comments to the November 17, 2010 ACR, pg. 4.

[9] DRA Reply Comments to the November 17, 2010 ACR, pg. 4.

[10] Efficiency Council Comments to the November 17, 2010 ACR, pg. 9.

[11] PG&E Comments to the November 17, 2010 ACR, pg. 3.

In sum, several parties expressed concerns that there should be a public review process to ensure that the portfolio was updated mid-cycle, and that a public review process should not become complex and onerous, diverting efforts from program implementation and portfolio planning. The EM&V Plan is expected to include targeted research to inform a mid cycle review, which is being explored as detailed project evaluation plans are developed. The key questions this research will address include the effectiveness of certain program strategies through process evaluation, the effectiveness of the portfolio design, and some information on key technologies' savings.

B. Update of Ex-Ante Values

The 2010-2012 portfolios were designed based on ex-ante values that date from the 2004-2005 cycle, and largely without consideration of 2006-2008 program evaluation results. The IOUs and parties are sharply divided on whether ex-ante values should be updated for the mid-cycle review.

- **DRA** only supports extending the current program cycle for an additional year on the condition that ex ante values are updated for mid-cycle portfolio corrections.[12] Otherwise, any gains in improved program planning and the development of updated goals would be negated by the use of inaccurate and overstated energy savings values.
- **Southern California Edison (SCE), PG&E, and Sempra** state that all ex-ante values should remain frozen for the 2010 portfolio and any portfolio extension period.[13]
- **PG&E** asserts that the Risk Reward Incentive Mechanism (RRIM) adopted for 2010-2012 should be extended to 2013.[14]

C. Goals and Savings Attributions for Bridge Period

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[12] DRA Reply Comments to the November 17, 2010 ACR, pg. 2.

[13] PG&E Reply Comments to the November 17, 2010 ACR, pg. 5-6, Comments to the November 17 ACR, SCE pg. 11, Sempra pg. 4.

[14] PG&E Comments to the November 17, 2010 ACR, pg. 3.

The 2010-2012 energy efficiency portfolios were filed and approved based on planned energy savings that achieve (or exceed) the utility gross goals established in D.08-07-047, as modified by D.09-05-037 and D.09-09-047. The 2012 - 2020 total market gross (TMG) goals established in D.08-07-047 were adopted on an "interim" basis, but utility-specific goals have yet to be adopted for 2013 and beyond.[15] Only the IOUs commented on goals and savings for the bridge period:

- **Sempra** recommends counting the energy and demand savings achieved through the bridge period toward the energy efficiency goals adopted in 2009 by the Commission.[16]
- **PG&E** states that the savings goals adopted for 2013 should be adjusted to be consistent with the adjustments applied to PG&E's 2010-2012 goals in D.09-09-047.[17]

D. Annual Budget

For the 2009 bridge year, the IOUs proposed to set the budget at the "current" monthly funding level. D.08-10-027 determined that 2009 bridge funding should be set using average monthly expenditures for the 2006-2008 period. In comments on the November 17, 2010 ACR, the IOU's identified necessary adjustments to the 2009 approach, stating that the previous cycle did not allow them to determine what the annual budget would be until the end of 2008. In addition, some EE program implementers have stated that the 2009 bridge funding approach resulted in a drop-off and scale-back of program activity because program spending had ramped up over the 2006-2008 period such that the 2006-2008 average was lower than the 2008 spending level.[18] In D.09-09-047 an automatic system for rolling budget authority was put into place, "so that the average monthly level of expenditures for the final year of a budget cycle may continue on a month-to-month basis until the next portfolio budget is approved

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[15] See D.08-07-047, OP 1.

[16] Sempra Comments to the November 17, 2010 ACR, pg.5.

[17] PG&E Comments to the November 17, 2010 ACR, pg. 7.

[18] For related comments, see for example, Efficiency Council Comments on November 17, 2010 ACR at pg. 7.

(or as specified in the Commission decision for the next portfolio budget cycle)."[19] Only the IOUs commented on how to set the annual budget for the bridge period:

- **PG&E** proposes that the total budget for 2013 be established upfront and set equal to one third of the current three-year portfolio budget. PG&E also requests that the Commission's fund-shifting rules be clarified to allow the IOUs to carry funds from a future cycle to the current cycle extended through 2013. The total portfolio budget for 2013 should be established upfront for ratemaking purposes and to allow PG&E and its partners to better plan its program implementation through 2013. PG&E suggest that the allocation of the 2014 budget and other mid-cycle funding adjustments, including the amount allocated for EM&V, could be revised by advice letter (consistent with existing fund shifting rules adopted in D.09-09-047) as needed to reflect program performance, cost effectiveness, and other market, policy or program considerations.[20]
- **SCE** states that the fourth-year funding authorization should be comparable to a year's worth of funding in the 2010-2012 cycle, or $409.3 Million. Those funds will come from SCE's ratepayers less any unspent, uncommitted funds that are available at the beginning of the fourth year.[21]
- **Sempra Utilities** contend that it is not as simple as proportionally increasing the budget when the goals have not been appropriately set. If updated goals have not been adopted by 2013, then the annual electric kWh goal will decline over the 2010-2012 but increase by 35% in 2013[22]. A simple proportional

[19] D.09-09-047, OP 45.

[20] PG&E Comments to the November 17, 2010 ACR, pg. 8.

[21] SCE Comments to the November 17, 2010 ACR, pg. 11.

[22] D.09-09-047 pg. 46.

allocation would not likely be sufficient to meet this goal.[23]

E. IOU Contracts with Program Deliverers and Local Government Programs:

For the 2009 bridge year, utilities continued "successful" third-party administered programs, but did not automatically extend 100% of the programs. In their comments on the November 17 ACR, Local Governments Sustainable Energy Coalition (LGSEC) made several recommendations to address the specific needs of the local government programs. While certain recommendations would enact long term changes to the portfolio rules, (thus outside the scope of this white paper), LGSEC seeks to ensure that there will not be a break in programs due to a drop off in funds. LGSEC recommends amending the bridge funding contracts to extend at least six months beyond the date the 2009 – 2011 applications are approved, and raise monthly allocations. This may provide sufficient flexibility to lift the constraints on local government partnerships and thereby allow local governments to deploy complimentary projects and programs to avoid lost opportunities.[24]

(END OF ATTACHMENT A)

[23] Sempra Reply Comments to the November 17, 2010 ACR, pg. 3.

[24] LGSEC Comments to the November 17 ACR, pg. 6.