



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE **FILED**

STATE OF CALIFORNIA

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Order Instituting Rulemaking on the)
Commission's own motion to determine the) Rulemaking 11-10-003
impact on public benefits associated with the) (Filed October 6, 2011)
expiration of ratepayer charges pursuant to Public)
Utilities Code Section 399.8.)
_____)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) REPLY COMMENTS ON
THE PROPOSED PHASE 2 DECISION ESTABLISHING PURPOSES AND
GOVERNANCE FOR ELECTRIC PROGRAM INVESTMENT CHARGE AND
ESTABLISHING FUNDING COLLECTIONS FOR 2013-2020

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 PROPOSED PHASE 2 DECISION ESTABLISHING PURPOSES AND GOVERNANCE FOR
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TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
I.	THE COMMISSION SHOULD DEFER MAKING ANY FUNDING DECISION FOR PARTICULAR TYPES OF RD&D, ADMINISTRATORS, PROJECTS, OR TECHNOLOGIES UNTIL THE PARTIES’ APPLICATIONS ARE ADJUDICATED.....	1
II.	ALL UNUSED FUNDS SHOULD BE REFUNDED TO CUSTOMERS	3
III.	SOCIETAL BENEFITS ARE NOT APPROPRIATE GUIDING PRINCIPLES	3
IV.	IOUS SHOULD BE ENTITLED TO ACCESS EPIC FUNDS FOR PROGRAM ADMINISTRATION.....	4
V.	IOUS SHOULD BE PERMITTED TO FUND PROGRAMS CONDUCTED OUTSIDE THEIR SERVICE AREAS.....	5

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Edison Company (“SCE”) respectfully submits these reply comments on the Proposed Phase 2 Decision Establishing Purposes and Governance for Electric Program Investment Charge (“EPIC”) and Establishing Funding Collections for 2013-2020 (“PD”).

**I. THE COMMISSION SHOULD DEFER MAKING ANY FUNDING DECISION FOR
PARTICULAR TYPES OF RD&D, ADMINISTRATORS, PROJECTS, OR
TECHNOLOGIES UNTIL THE PARTIES’ APPLICATIONS ARE ADJUDICATED**

Setting aside the illegality of collecting any charge from the investor owned utilities’ (“IOUs”) customers to provide revenue to the California Energy Commission (“CEC”), SCE agrees with Pacific Gas & Electric Company (“PG&E”) and Silicon Valley Leadership Group (“SVLG”) that the Commission should reserve judgment and be entity and technology neutral

pending assessment of the merits of the parties' respective applications.¹ There is no basis for establishing an arbitrary 80/20 division of funding between the CEC and the IOUs prior to the conclusion of the application process.² Instead, SCE agrees with SVLG that to best ensure that the most innovative and promising projects receive adequate funding, the CEC should be required to compete with the IOUs for EPIC funds, and that funds should be awarded based on the merits of the projects and programs presented for consideration.³

In fact, if any ratio were to be set at this time, the presumption should be in favor of awarding the IOUs the vast majority of EPIC deployment and demonstration funds because demonstration and deployment is the most expensive type of RD&D and the IOUs are best situated to administer such projects.⁴ Likewise, the IOUs should not be restricted from engaging in applied research, generation-related research, or market facilitation activities, such as plug-in electric vehicle programs, provided that the proposed projects have merit and will directly benefit customers.⁵ As discussed in SCE's prior filings, the IOUs have demonstrated success in all aspects of RD&D.⁶ Moreover, only the IOUs are lawfully eligible to receive EPIC funds.

SCE also agrees with SVLG, PG&E and SDG&E that IOUs should not be precluded from continuing to seek funding in addition to EPIC funds for important existing programs and projects, including, but not limited to, energy efficiency and demand response projects, in the proceedings in which they have already been approved and fully vetted, including the General Rate Case ("GRC").⁷ The PD, as currently drafted, essentially eliminates the IOUs investments in these programs. Indeed, the PD would reduce the total amount of Commission-authorized

¹ SVLG Comments at p. 3; PG&E Comments at pp. 3-4.

² SVLG Comments at p. 3, PG&E Comments at p.4.

³ *Id.*

⁴ *See* San Diego Gas and Electric Company ("SDG&E") Comments at pp. 3, 7-8 (correctly asserting that IOUs deserve a greater share of funding because they are uniquely able to provide direct benefits to electric customers.)

⁵ *See* PG&E Comments at p. 4; SDG&E Comments at p. 3.

⁶ SCE Reply Comments on the Phase 2 Scoping Memo and Staff Proposal at pp. 11-14; SCE Comments at p. 17.

⁷ SVLG Comments at p. 6; SDG&E Comments at pp. 4-6; PG&E Comments at pp. 4-7.

funding for the IOU's RD&D programs. The PD should therefore be modified to eliminate the arbitrary cap on the IOU's RD&D funding and to allow funding determinations for existing programs to be set in the proceedings in which they originated. Alternatively, if all IOU's RD&D activities are to be funded through the EPIC, any determination regarding the IOUs' percentage of EPIC funds should be made during the application process to ensure that all of these RD&D projects are adequately funded.

Finally, many parties advocate that funding should be set aside for particular technologies or projects at this stage of the proceeding.⁸ SCE agrees with SVLG that the PD should adopt a technology neutral market-based approach that would require technologies to compete for grants during the investment and application process. Awards for particular technologies at this juncture, such as the 20% carve-out for bioenergy, imprudently pick a technology winner for an indefinite period "in a rapidly changing technology environment."⁹

II. ALL UNUSED FUNDS SHOULD BE REFUNDED TO CUSTOMERS

SCE has consistently maintained, like SDG&E,¹⁰ that it is reasonable to require that all unused EPIC funds, regardless of the identity of the administrator, be refunded to customers at the end of each program cycle. Administrators should thus maintain balancing accounts to determine the amount of excess funds that accumulate during each program cycle.¹¹

III. SOCIETAL BENEFITS ARE NOT APPROPRIATE GUIDING PRINCIPLES

SCE disagrees with the Natural Resources Defense Council, *et al.* ("NRDC")¹² that general benefits to society, including economic growth, are appropriate guiding principles that

⁸ See generally Comments of the California Farm Bureau (biomass), Black Economic Counsel, et al. ("LEDs"), Altery (rebates for hydrogen fuel cells), California Building Industry Association (NSHP), Sustainable Conservation (biogas demonstration), Agriculture Energy Consumers Association (same), Green Power Institute, et al. (biomass), and Waste Management (biomass).

⁹ SVLG Comments at p. 5.

¹⁰ SDG&E Comments at pp. 13-14.

¹¹ *Id.*

¹² NRDC Comments, et al. at p. 3.

should not be subordinate to customer benefits. Rather, as the Consumer Federation of California (“CFC”) advocates, the EPIC should fund projects that promote the safe and reliable provision of electricity at just and reasonable rates.¹³ The PD’s vague definition of ratepayer and societal benefits in the context of the “provision of energy services,” as opposed to electric service, is too broad. As the Legislative Analyst Office (“LAO”) concluded, policy considerations and projects unrelated to electric service are too attenuated from direct electric utility customer benefits to be properly considered as guiding principles.¹⁴ SCE’s customers are solely electric ratepayers. Accordingly, no funds collected from SCE’s customers should be used to fund projects unrelated to electricity. For instance, the 20% set aside for bioenergy, which is principally a gas technology, should not be funded through this proceeding. Instead, such projects should be funded and administered under the auspices of the CEC’s existing Natural Gas Public Interest Research, Development and Demonstration Fund.

IV. IOUS SHOULD BE ENTITLED TO ACCESS EPIC FUNDS FOR PROGRAM ADMINISTRATION

The PD requires the IOUs to remit the first installment of the CEC’s administrative budget on July 1, 2012, but is silent as to when the IOUs will be entitled to access their administrative funding.¹⁵ Like the CEC, IOUs will almost immediately begin incurring administrative costs associated with, among other things, evaluating requests for funding, developing and drafting investment plans and applications, and establishing internal policies and procedures for transferring funds to the CEC, and therefore should be entitled to access EPIC

¹³ CFC Comments at pp. 4-7.

¹⁴ Analyst Mac Taylor, LAO’s, Letter to Senator Alex Padilla, January 18, 2011, available at: http://www.lao.ca.gov/reports/2011/rsrc/cec_pier/cec_pier_011811.pdf at pp. 1-9 (finding that although the statute that created PIER required that the program “provide tangible benefits to electric utility customers,” “the CEC has not demonstrated that there has been a substantial payoff to date from the state’s investment of more than \$700 million in ratepayer funds,” which the LAO attributed, at least in part, to projects with a tenuous connection to electricity such as “research on . . . deforestation in California, groundwater recharge, the potential impact of climate change on bird distribution, and salmon habitat restoration.”)

¹⁵ See PD at Ordering Paragraph 9, p. 85.

funds for reimbursement for such costs as they are incurred. IOUs, however, should not be required to transfer non-administrative funding to the CEC until costs are actually incurred, not just “encumbered.”¹⁶ Any other methodology leaves EPIC funds vulnerable to diversion.

**V. IOUS SHOULD BE PERMITTED TO FUND PROGRAMS CONDUCTED
OUTSIDE THEIR SERVICE AREAS**

While SCE agrees that publicly owned utilities (“POUs”) should not be entitled to administer, receive or benefit from EPIC funds, SCE disagrees with The Utility Reform Network (“TURN”) that entities located outside the IOUs respective service areas should be ineligible for grants.¹⁷ Such a limitation is not in the best interest of customers or the program because it frustrates the administrators’ ability to select the most meritorious projects with demonstrable customer benefits and prevents them from working with the finest institutions across the nation and from leveraging EPIC funding with funding from other research entities, such as the Department of Energy and the Electric Power Research Institute.

Respectfully submitted,
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¹⁶ *Id.*

¹⁷ *See* PG&E Comments at p. 13; TURN Comments at p. 3

