

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.

FILED
PUBLIC UTILITIES COMMISSION
NOVEMBER 20, 2009
SAN FRANCISCO, CALIFORNIA
RULEMAKING 09-11-014

ORDER INSTITUTING RULEMAKING**1. Summary**

This Order Instituting Rulemaking (OIR or Rulemaking) will address the Commission's policies, programs and evaluation, measurement and verification activities related to the post-2008 energy efficiency activities of Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company.¹ This Rulemaking is the successor to Rulemaking (R.) 06-04-010, our post-2005 rulemaking on Policies, Programs, Evaluation, Measurement and Verification, and Related Issues. With the issuance of this new energy efficiency Rulemaking, we leave R.06-04-010 open only for limited purposes.

In this Rulemaking, the Commission will address updates to our energy efficiency savings goals based on further studies of energy efficiency potential and consideration of other energy resource and climate action strategies. We will also use this Rulemaking as the forum for our continued implementation of the

¹ For the purpose of this Rulemaking, energy efficiency programs exclude low-income assistance activities, including the Low-Income Energy Efficiency Program.

California Energy Efficiency Strategic Plan (Strategic Plan), as well as to consider adjustments to the methodologies used to inform decision-making on investments and budgets, in light of the Strategic Plan and other factors. This Rulemaking, or its successor proceeding, will also be the forum for initiating the next planning cycle for 2013-2015 energy efficiency program plans, funding levels, and related issues.

2. Background

Rulemaking (R.) 06-04-010 has been our forum for a broad inquiry into post-2005 energy efficiency policies, programs, evaluation, measurement and verification (EM&V), and related issues. A number of significant decisions have been issued in R.06-04-010, including Decision (D.) 07-09-043 adopting a shareholder incentive mechanism, D.07-10-032 adopting policies and rules for post-2008 programs, and D.08-07-043 adopting savings goals for 2014 through 2020. We subsequently opened R.09-01-019 to consider issues related to the shareholder risk/reward incentive mechanism (RRIM).

In addition, on September 18, 2008, the Commission adopted the California Energy Efficiency Strategic Plan in D.08-09-040. This landmark decision set forth a roadmap for energy efficiency in California through 2020 and beyond, by articulating a long-term vision and goals for each economic sector and identifying specific near-term, mid-term and long-term strategies to achieve the goals. This decision also ordered Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company (the Utilities) to file amendments to their 2009-2011 energy efficiency portfolio applications to incorporate elements of the adopted Strategic Plan.

The statutory deadline for closing R.06-04-010 has been extended several times pending approval of the 2010 to 2012 energy efficiency program portfolios and other outstanding issues.² With the adoption of D.09-09-047, it is now appropriate to move toward closure of R.06-04-010 and open a new rulemaking to consider post-2008 energy efficiency policies and programs. We will keep R.06-04-010 open for the limited purposes of resolving an outstanding Motion filed by Pacific Gas and Electric Company on July 29, 2009 and a Petition for Modification of D.05-05-041 filed by Pacific Gas and Electric Company on July 30, 2009.

3. Preliminary Scoping Memo

The following major categories of energy efficiency issues are within the scope of this Rulemaking:

- 1) Review and streamlining of our EM&V protocols and processes to determine savings achieved through the utilities' energy efficiency programs for the post-2008 period, including but not limited to the Database for Energy Efficient Resources (DEER) updates and methodologies;
- 2) Review of our total resource and program administrator cost tests as established in the Commission's Standard Practice Manual;
- 3) Review and development of policy rules and reporting requirements;
- 4) Review of issues related to the effectiveness of utility administration, third-party programs and government partnership programs;

² The most recent extension order was D.09-10-050.

- 5) Updates to energy efficiency potential studies and savings goals;
- 6) Implementation of D.09-09-047 and the 2010-2012 Portfolio Plans including, but not limited to,
 - a. statewide marketing, education and outreach program and branding efforts;
 - b. development and implementation of the California Statewide Programs for Residential Energy Efficiency;
 - c. program performance and market transformation metrics;
 - d. energy efficiency web portal; and
 - e. budget caps/targets.
- 7) Planning for the 2013-2015 Program Cycle;
- 8) Strategic Plan implementation and updates;
- 9) Coordination with Assembly Bill (AB) 32 implementation and with the American Recovery and Reinvestment Act as they relate to the Commission's energy efficiency programs;
- 10) Coordination with related Commission proceedings, including the RRIM proceeding (R.09-01-019) and ongoing or new proceedings covering Low-Income Energy Efficiency Programs, Long-term Procurement Plans, Avoided Costs, and Demand Response;
- 11) Investigation of financing mechanisms for energy efficiency retrofits and new construction;
- 12) Transition issues and filings related to any outstanding issues for pre-2010 programs, with the exception of RRIM issues; and
- 13) Review of issues related to implementation of energy efficiency programs by Community Choice Aggregators.

In October 2009, Governor Schwarzenegger signed AB 758. AB 758 adds Section 381.2 to the Public Utilities Code which requires the Commission to open a new proceeding or amend an existing proceeding by March 1, 2010 to investigate the ability of the utilities to provide energy efficiency financing

options to their customers for existing buildings. This Rulemaking is the forum for implementation of AB 758.

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. Those who wish to file comments on the issues identified in this Order Instituting Rulemaking (OIR) shall submit and serve their comments in accordance with the schedule identified at the first PHC, or as established by assigned Commissioner or ALJ ruling.

Consistent with Rule 6.2, of the Commission's Rules of Practice and Procedure (Rules) we expect this proceeding to be concluded within 18 months of the issuance of the Scoping Memo.

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 preliminary determination is that this Rulemaking is quasi-legislative, as that term is defined in Rule 1.3. While we expect that the issues may be resolved through comments and workshops without the need for evidentiary hearings, a final determination on the need for hearings will be made in the assigned Commissioner's Scoping Memo.

6. Respondents

The Respondents to this Rulemaking are Pacific Gas and 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

We will provide for service of this order on the service list for R.06-04-010, the predecessor energy efficiency proceeding. Such 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 OIR 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.

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).³

³ 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 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.

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 up-to-date. 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, 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.

If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and ALJ. 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 Scoping Memo.

10. Ex Parte Communications

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

(See Rule 8.4(b), Rule 8.2(c), and Rule 8.3.)

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 examine post-2008 energy efficiency policies, programs, evaluation, measurement and verification, 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 that were adopted by this Order Instituting Rulemaking.

2. 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.

3. The Commission's Process Office will publish the official service list on the Commission's website (www.cpuc.ca.gov) as soon as practicable. Parties may also obtain the service list by contacting the Process Office at (415) 703-2021.

4. 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 Scoping Memo in this proceeding.

5. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company are Respondents to this proceeding and are parties to this proceeding pursuant to Rule 1.4(d) of the Commission's Rules of Practice and Procedure.

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 06-04-010 and consolidated Application (A.) 08-07-021, A. 08-07-022, A. 08-07-023 and A. 08-07-031.

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

8. Rulemaking 06-04-010 remains open for the purposes of resolving an outstanding Motion filed by Pacific Gas and Electric Company on July 29, 2009 and a Petition for Modification of Decision 05-05-041 filed by Pacific Gas and Electric Company on July 30, 2009. The Order Instituting Rulemaking opened today will now serve as the procedural forum for all other transition issues or filings related to pre-2009 energy efficiency programs that would otherwise have been addressed or filed in Rulemaking 06-04-010. 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 November 20, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners