



**FILED**  
07/03/20  
11:22 AM

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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

Rulemaking 13-11-005

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES' AMENDED SCOPING RULING ADDRESSING IMPACTS OF COVID-19**

**Summary**

This ruling sets forth an amended scope and schedule for this proceeding to address the unprecedented impacts of the COVID-19 virus pandemic on the energy efficiency industry in California. In so doing, the ruling also sets a schedule for addressing the following additional items: the April 24, 2020 motion of the Natural Resources Defense Council (NRDC) seeking comment on a California Energy Efficiency Coordinating Committee (CAEECC) proposal for improvements to the portfolio and budget approval process; updated policies on the setting of energy efficiency potential and program administrator goals; and several other issues already ongoing in the proceeding.

This ruling also requires the filing of Annual Budget Advice Letters (ABALs) for program year 2021 on September 1, 2020, utilizing best-available estimates of energy savings, cost-effectiveness, and program budgets, while acknowledging that program administrators face a significantly changed landscape compared to several months ago. Therefore, in addition to new business plan filings already expected from Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE), with this ruling, we

notify all program administrators that we will require new portfolio filings by September 1, 2021. This schedule is intended to allow time to develop thoughtful portfolios based on a number of significant policy and real-world changes to the energy efficiency landscape in the next year.

## **1. Procedural Background**

This rulemaking is the most recent in a series of ongoing proceedings conducted by the Commission, providing a venue for policy changes and regulatory oversight associated with the energy efficiency programs of the large investor-owned electric and natural gas utilities, community choice aggregators (CCAs), and regional energy networks (RENs).

The most recent scoping memo was issued March 2, 2020 addressing the scope and schedule for the adjudicatory portion of the proceeding, concerning the Order to Show Cause Against Southern California Gas Company (SoCalGas). The most recent scoping memo for the overall policy portion of the proceeding, previously referred to as Phase III, was issued April 26, 2018.

A great deal has happened in the intervening two years, including addressing major portions of the topics included in that previous scoping memo. Decision (D.) 19-08-009 was adopted, modifying the three-prong test related to fuel substitution. D.19-08-034 adopted energy savings goals for 2020 through 2030. And D.19-12-021 addressed policies related to market transformation and RENs.

Work remains to address policy for other outstanding topics including financing programs, workpaper process reform, energy savings performance incentives (ESPI) reform, custom projects and industrial program review processes, as well as ongoing accounting and funding issues. Work on these topics, along with the long list of ongoing policy issues in energy efficiency, is

either already underway or may still be addressed in the scope of this proceeding, as issues arise.

## **2. Scope**

We take this opportunity to update the scope of this proceeding to address new issues arising in the past two years since the last scoping memo was issued.

### **2.1. Impacts of COVID-19**

The most recent and unexpected new issue to arise in the course of this proceeding is the unprecedented impact that the COVID-19 pandemic has had on public health and the economy, which has also hampered the energy efficiency industry in California. On March 19, 2020, California issued a shelter-in-place order, which resulted in the program administrators suspending their energy efficiency programs requiring face-to-face interactions with customers. Along with the associated shelter-in-place orders, the pandemic has led to an unprecedented reduction in the ability of energy efficiency implementers and contractors to deliver certain types of energy savings projects in the homes and businesses of California electricity and natural gas consumers. In addition, the pandemic and resulting economic impact has resulted in a decline in customer demand for many of the program administrators' equipment rebate programs, causing uncertainty for the administrators and their third-party implementers about energy savings forecasts.

According to a letter from the California Efficiency and Demand Management Council sent to the Commissioners in April 2020, the energy efficiency industry in California employs approximately 300,000 people directly or indirectly, and many energy efficiency companies have been furloughing staff and shutting down their activities to comply with shelter-in-place orders at the state and local levels.

In addition, many Californians are in greater need than ever to reduce their utility bills and save energy. Residential energy consumption has increased with shelter-in-place orders due to COVID-19,<sup>1</sup> while at the same time the pandemic has disrupted the economy overall, resulting in job losses and reductions in individual paychecks.

In response, the Commission and energy efficiency program administrators have taken several steps to mitigate the impacts and adapt programs during the pandemic. On April 24, 2020, the Commission held a workshop on the impact of COVID-19 on customer-facing clean energy programs. This was followed by a series of meetings between Commission staff and energy efficiency program administrators' management teams. Options for adjustments to programs to better serve customers during the COVID-19 pandemic include moving towards virtual inspections and audits of projects, increased virtual workforce, education, and training, and enhancing customer programs that have high cost-effectiveness and do not require face-to-face interaction, such as home energy reports (HERs).<sup>2</sup> Program administrators are also considering offering higher incentives for projects, expanding programs in buildings that are currently unoccupied, increasing marketing and outreach, and expanding financing opportunities to help the energy efficiency industry recover.

While most program administrators resumed energy efficiency program operations in early June, the pandemic has and likely will continue to have an

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<sup>1</sup> Early evidence suggests that as Californians are sheltering at home, residential electric usage has increased 15 to 20 percent in recent weeks, compared to the same period last year. See: <https://www.cpuc.ca.gov/covid/>

<sup>2</sup> In addition, program administrators who offer HERs programs plan to adjust their message to reflect changes in customer consumption patterns due to the shelter-in-place order.

impact on the amount of energy efficiency that we can expect to be delivered using current strategies. The pandemic has had such far-reaching effects that it seems prudent to step back and take another look at how we are designing and managing our energy efficiency portfolios, in light of the shifting demands from customers and reduced opportunity to deliver some types of projects using current rules and policies.

In recognition of this situation, we are taking this opportunity to notify the program administrators and the energy efficiency community that with this ruling we are triggering the requirement to file new energy efficiency portfolio filings from all program administrators, consistent with the structure adopted in D.15-10-028, which allows the Commission to call for new portfolio filings at any time.<sup>3</sup>

However, we will not require the portfolio filings immediately, in order to allow time for quality development of both policy underpinnings from the Commission that are currently underway, as well as planning adjustments by the program administrators to account for new circumstances and energy savings goals. Furthermore, in order to align all program administrator portfolio filings, with this ruling we postpone the filing deadline for PG&E and SCE to file new business plans by September 2020. Instead, PG&E and SCE should provide new portfolio filings at the same time as the other program administrators, by September 1, 2021.

The rest of this section of the scoping memo describes how we will manage this proceeding to lead up to the filing of new portfolios from the program administrators by September 1, 2021.

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<sup>3</sup> See D.15-10-028, at 57, and Ordering Paragraph 2.

## **2.2. NRDC Motion to Address CAEECC Proposal**

The first question that arises when contemplating requiring new portfolio filings from program administrators is the form that the applications will take. Currently, we are operating under the rules of the rolling portfolio process, as originally laid out in D.15-10-028. However, on April 24, 2020, NRDC filed a motion seeking to have the Commission address a proposal from CAEECC for a four-year portfolio filing process (CAEECC proposal), in place of the ten-year rolling portfolio process. While the CAEECC proposal contemplates changing the rules for the portfolio filing process at the end of the current rolling portfolio period (program changes at the end of 2025, with a filing coming in earlier to be vetted in time for the transition), we find merit in considering the CAEECC portfolio process proposal sooner, since we see a need to consider widespread portfolio changes more immediately.

Therefore, we will consider the April 24, 2020 NRDC motion as part of the scope of this proceeding, and will issue a ruling seeking stakeholder comments on the CAEECC proposal in the near future. As part of the scope of the review of the CAEECC proposal, we will consider the following issues:

- Energy efficiency portfolio application process;
- The need for guidance decisions from the Commission ahead of portfolio filings;
- Alignment of technical inputs and portfolio planning activities;
- Annual report and other reporting requirements, including information to demonstrate compliance with

percent of portfolio that is third-party designed and implemented;

- Ongoing ABAL requirements and criteria;
- Cost-effectiveness requirements;
- Budget requirements;
- Stakeholder input and review processes for the portfolios;
- Commission review process and timing; and
- Program implementation process and timing.

Our intent is to take comments from stakeholders on the CAEECC proposal and issue a Commission decision prior to taking new portfolio applications from the program administrators, as triggered in response to the COVID-19 pandemic. However, should a Commission decision on the CAEECC proposal be delayed, our intent now is that program administrators will still be required to file updated portfolios by September 1, 2021.

### **2.3. Energy Efficiency Potential and Goal Setting**

As already included in an Administrative Law Judge (ALJ) ruling issued March 12, 2020, we are considering comments from parties on numerous policy issues related to the identification of energy efficiency potential, as well as the setting of energy savings goals for program administrators. Included in this set of issues are a number of questions related to how to define cost-effectiveness requirements, and how they should be applied in the setting of potential and goals and budget approval. In addition, interactions between the Commission's integrated resource planning process and the energy efficiency goal-setting process are also set to be further considered by the Commission.

Besides the policy questions related to energy efficiency potential and goals, the biennial study to determine energy efficiency potential is underway currently, being conducted by consultants to the Commission. Within the scope of the study are a range of methodological updates, including assessment of COVID-19 impacts on energy efficiency potential in 2022 and beyond. The study results are expected to be published by Spring 2021, and goals will be adopted by the Commission in Summer 2021. These goals will then inform the California Energy Commission's (CEC's) Integrated Energy Policy Report, and its load forecast, in particular, which is used by the Commission and the California Independent System Operator in system planning.

These are important questions for the program administrators to consider while designing the next energy efficiency portfolio to be filed for the Commission's consideration and approval.

#### **2.4. Annual Budget Advice Letter Filings**

While all of the policy questions above are being considered and resolved by the Commission over the course of the next 18 months of this proceeding, and the program administrators are planning their next portfolio filings, we will still need energy efficiency programs to continue being implemented and we will need to determine 2021 and 2022 program year budgets for the current program administrators. At this stage, we can only accept the 2021 ABAL filings based on current rules in place, since the ABALs are due on September 1, 2020. While we recognize that the landscape for energy efficiency is changing on a policy basis and on the ground in reality, we ask the program administrators to make their best efforts to include accurate and good faith estimates of energy efficiency costs and benefits, as well as budgets, that are necessary to address the current goals and strategies.



We recognize that it was already difficult, prior to the onset of the COVID-19 pandemic, for the administrators to show cost-effective portfolios, for a variety of reasons we have detailed earlier in the course of this proceeding, including the transformation of the lighting market, increasing costs of deeper energy efficiency measures beyond lighting, the transition of many energy efficiency measures into building codes and appliance standards, and numerous other factors. Thus, as outlined in Section 2.3 above, we will be reevaluating a number of these factors in order to make portfolio design and implementation more realistic and effective.

The COVID-19 pandemic introduces additional uncertainty to forecasted achievable savings and costs for program years 2021 and 2022, which will make objective and data-driven evaluation of the reasonableness of ABAL filing forecasts difficult.

However, since in this ruling we are requiring all program administrators to file new energy efficiency portfolio plans by September 1, 2021, the 2021 and 2022 ABALs will serve a narrower purpose, to notify the Commission and stakeholders of the budget and cost recovery requests and expenditures that each program administrator forecasts for 2021 and 2022. Consequently, program administrator budget recovery requests, energy savings forecasts, and program changes will be reviewed and approved or modified by either Commission staff disposition or resolution, whether or not they meet all of the criteria originally laid out in D.18-05-041. This is necessary to sustain energy efficiency program funding and continue program operations through 2022, with reasonable budgets, while the Commission, program administrators, and stakeholders consider new portfolio changes.

While D.18-05-041 states that approval of ABALs is contingent on a program administrator meeting specific criteria tied to energy savings goals, cost-effectiveness, and budget caps, we understand that these may be difficult criteria to meet fully in the 2021 and 2022 ABALs; Commission staff will take these challenges into consideration when reviewing the ABALs.

### **2.5. Energy Efficiency Portfolio Filings**

In order to consider full portfolio filings from all energy efficiency program administrators in Fall 2021, the Commission may need to offer further policy guidance. So far, we contemplate addressing the CAEECC process proposal and policy questions in the portion of the proceeding related to potential and goals, and in so doing, will give any additional guidance to the program administrators in a decision. However, we recognize that the energy efficiency marketplace is even more fluid than usual during the COVID-19 pandemic, and other issues may arise during the course of this proceeding. If so, the Commission may give further guidance in advance of the filing of complete energy efficiency portfolio applications due by September 1, 2021.

### **2.6. Other Issues**

Some other issues are already being addressed within the scope of this proceeding, with work already underway for those issues to be addressed.

Those issues include, but are not limited to:

- Reform or elimination of the ESPI mechanism that provides opportunities for electric and natural gas utility shareholders to earn financial incentives for delivering successful energy efficiency programs and energy savings (*See* ALJ ruling issued March 19, 2020 and associated comments and replies from parties);
- Issues related to the upstream lighting programs of 2017 and 2018 (*See* ALJ rulings issued January 9, 2020 and April 3, 2020 in this proceeding);

- Implementation of the market transformation framework adopted in D.19-12-021;
- Work of the “Track 2 Working Group” formed to address issues on custom projects and industrial sector programs;
- Accounting and funding issues, including budgets and revenue requirement issues, expenditures, unspent funds, commitments, allowable expenses, budgets caps and targets, and fund shifting rules;
- Evaluation, measurement, and verification issues, including normalized metered energy consumption rules;
- Modifications to the workpaper process and the Database for Energy Efficiency Resources;
- Commission oversight of CCA energy efficiency programs and budgets;
- Coordination with the CEC on the goals articulated in Senate Bill 350 (DeLeon, 2015) for doubling of energy efficiency in buildings by 2030;
- Coordination with the statewide marketing, education, and outreach efforts under the Energy Upgrade California brand;
- Financing programs, including those overseen by the California Alternative Energy and Advanced Transportation Financing Authority;
- Coordination with the integrated distributed energy resource rulemaking (R.14-10-003) related to cost-effectiveness and locational targeting of energy efficiency; and
- Work with the California Technical Forum.

We do not include a specific schedule for the above items at this time. We may issue additional rulings and/or decisions at a later date to clarify whether and how work on these items will proceed.

### 3. Schedule

The table below outlines a basic schedule that we intend to follow for the remaining issues in this proceeding for which activities are currently planned. The table is divided into areas for each of the topics covered in Section 2 above related to the scope of the proceeding. Additional dates or activities for topics for which there are no tasks currently scheduled may be added at a later date.

In addition, workshops may be scheduled later on some of the topics. Notice of such workshops will be posted on the Commission's Daily Calendar and noticed to the service list for this proceeding, to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties should check the Daily Calendar regularly for such notices.

<b>Event</b>	<b>Date</b>
<b>CAEECC Rolling Portfolio Reform Proposal</b>	
Ruling seeking comments on CAEECC proposal	August or September 2020
Party comments/replies on CAEECC proposal	October 2020
Decision addressing portfolio application process	February or March 2021
<b>2021 ABAL filings</b>	
Program administrators file ABALs under current rules	September 1, 2020
Commission/staff address funding and programs for 2021 program year via disposition and/or resolution process	End of 2020
<b>Potential and Goals Issues</b>	
Decision addressing policy issues	February or March 2021
Study on new potential and goals issued for comment	April 2021
Party comments/replies on potential and goals study	May 2021
Decision setting new potential and goals	July 2021

<b>New energy efficiency portfolio filings from Program Administrators</b>	
New application filings from all PAs, taking into account COVID-19 impacts, new potential and goals, and Commission process requirements emanating from disposition of the CAEECC proposal	September 2021
Decision addressing new portfolios	Mid 2022

The assigned Commissioner or assigned ALJs may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. Additional dates may be scheduled as additional issues within the scope are raised that must be addressed or decided.

It is our intent to complete this proceeding within 18 months of the date this Scoping Memo is issued. This deadline may be extended by order of the Commission.

#### **4. Categorization, Need for Hearing, and Presiding Officer**

As in previous Phases of this proceeding, we confirm that the categorization of this rulemaking is ratesetting, except for the portion related to the Order to Show Cause Against SoCalGas, which is categorized as adjudicatory. We also confirm that hearings are not required for the main part of the proceeding.

Liane M. Randolph is the Assigned Commissioner and Julie A. Fitch and Valerie U. Kao are the assigned ALJs. Pursuant to Public Utilities Code Section 1701.3 and Rule 13.2, Julie A. Fitch and Valerie U. Kao will continue to serve as the Presiding Officers.

#### **5. Ex Parte Communications**

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors, and the ALJs

are restricted and must be reported as described in Article 8 of the Commission's Rules of Practice and Procedure.

## **6. Filing, Service, and Service List**

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents; however, the ALJs in this proceeding do not require paper copies and request only electronic service. When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov) to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

## **7. Public Advisor**

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the

electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 866-836-7825 (TYT), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

**IT IS RULED** that:

1. The remaining scope of this proceeding is as described herein in Section 2 and the proceeding remains categorized as ratesetting, except for the adjudicatory portion of this proceeding, which is separately described in the Scoping Memo issued March 2, 2020.

2. This proceeding will be completed within 18 months of the date of this amended Scoping Memo.

3. Hearings are determined not to be needed for the remainder of this proceeding, with the exception of the adjudicatory portion.

4. The schedule for this proceeding is set as described herein in Section 3.

5. Program administrators shall make their best efforts to meet the requirements of Decision 18-05-041 in the filing of their annual budget advice letters on September 1, 2020 and September 1, 2021 for the 2021 and 2022 program years. Commission staff shall take current events into consideration, including the COVID-19 pandemic, in reviewing and setting budgets for program years 2021 and 2022, while new energy efficiency portfolio filings of the program administrators are being reviewed by the Commission and stakeholders.

6. All program administrators shall file new energy efficiency portfolios by September 1, 2021. Further direction on the contents of these filings will be determined by the Commission in the course of this proceeding.

7. The assigned Commissioner and/or Administrative Law Judges may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.

8. *Ex parte* communications are restricted and must be reported as described in Article 8 of the Commission's Rules of Practice and Procedure.

Dated July 3, 2020, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph  
Assigned Commissioner

/s/ JULIE A. FITCH

Julie A. Fitch  
Administrative Law Judge

/s/ VALERIE U. KAO

Valerie U. Kao  
Administrative Law Judge