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**FILED**

05/11/23

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

02:14 PM

R1311005

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 MEMO AND RULING**

This ruling sets forth an amended scope and schedule for this proceeding to address new and outstanding issues concerning the California Public Utilities Commission's energy efficiency policy and programs.

**1. Procedural Background**

This rulemaking is the most recent in a series of ongoing proceedings conducted by the California Public Utilities Commission (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 (IOUs), community choice aggregators (CCAs), and regional energy networks (RENs), collectively known as the program or portfolio administrators (PAs).

On December 23, 2021, the assigned Commissioner and Administrative Law Judges (ALJs) issued the previous amended Scoping Memo. Since then, the Commission has addressed a number of energy efficiency matters, including:

- Decision (D.) 22-03-010, finding Southern California Gas Company (SoCalGas) in contempt, in violation of Rule 1.1 of the Commission's Rules of Practice and Procedure

(Rules), and ordering remedies for failure to comply with Commission D.18-05-041;

- D.22-04-034, Decision Different of Commissioner Rechtschaffen, finding SoCalGas' 2014-2017 codes and standards advocacy activities misaligned with Commission policy and ordering refunds and penalties;
- D.22-11-031, ordering remedies for Southern California Edison Company's (SCE's) mismanagement of the 2017-2019 energy efficiency upstream lighting program;
- D.23-02-002, addressing third-party process reforms, strategic energy management, governance of Commission database tools, and customer data access issues for non-IOU PAs; and
- D.23-04-009, approving a pilot for compensation to members of the California Energy Efficiency Coordinating Committee (CAEECC).

Work remains to address policy for other outstanding topics in this proceeding, including: updating the energy efficiency potential and goals in 2023, oversight of the CAEECC compensation pilot, continued work on the policy for offering incentives for natural gas measures (addressed recently in D.23-04-035), as well as oversight of the energy efficiency portfolios, once they are authorized in Application (A). 22-02-005 et. al. Work on these issues, 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. Issues**

We take this opportunity to update the scope of this proceeding to address issues that remain pending, and new issues arising since the last Scoping Memo was issued.

## **2.1. Biennial Update to the Energy Efficiency Potential and Goals**

Every two years, the Commission undertakes an updated study to determine the energy efficiency potential that should be included by the California Energy Commission (CEC) as part of its Integrated Energy Policy Report (IEPR) demand forecast. This study also determines the goals that the energy efficiency PAs should be expected to meet in overseeing and implementing their programs. An ALJ ruling was issued April 17, 2023 seeking comment on the draft study for this year. Parties' comments will help us determine how the potential and goals analysis should be adopted and flow through to the portfolios. A proposed decision adopting the potential and goals is anticipated in the Summer of 2023. Another study will be developed for our consideration in 2025.

## **2.2. CAEECC Compensation Issues**

On November 29, 2022, a motion in this proceeding was filed by Southern California REN (SoCalREN) on behalf of the CAEECC, proposing a pilot program to compensate members of the CAEECC from program funds in order to encourage more robust and diverse participation in the forum. As summarized earlier, D.23-04-009 approved the pilot program and we anticipate conducting ongoing monitoring and oversight, as well as potential modifications, to the approach, in this proceeding.

## **2.3. Potential Policy Modifications for Natural Gas Energy Efficiency Measures**

In the PAs' 2024-2027 portfolio applications being considered in A.22-02-005 et. al., we are addressing policy with respect to incentives offered for certain measures that save natural gas. The Commission recently adopted D.23-04-035 addressing some issues related to this policy and directing

additional process. Ongoing policy development associated with this natural gas measure policy, in the context of the broader state policy toward building decarbonization, will likely be needed. That additional work will take place within this rulemaking proceeding.

#### **2.4. Policy or Procedural Matters Arising During Oversight of the 2024-2027 Portfolios**

In A.22-02-005 et. al, the Commission is considering the portfolio applications from nine PAs for the 2024-2027 period. Once the portfolios are authorized, we anticipate conducting ongoing oversight of the portfolios in this proceeding.

#### **2.5. Other Issues**

Some other issues are already within the scope of this proceeding with work ongoing. Those issues include, but are not limited to:

- Potential consideration of opportunities for electric and natural gas utility shareholders to earn financial incentives for delivering successful energy efficiency programs and energy savings (*see* D.20-11-013);
- Implementation of the market transformation framework adopted in D.19-12-021;
- 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, as well as the February 3, 2023 motion filed by San Diego Gas & Electric Company (SDG&E) seeking deviations from confidentiality rules for certain data requests;
- Consideration of the Association of Bay Area Governments' July 20, 2022 Motion Requesting Clarification Regarding Custom Project Review Process;

- Modifications to the review and tracking of expected energy savings from energy efficiency measures, either through workpapers, the Custom Project Review process, the California Technical Forum, the electronic Technical Reference Manual, or otherwise;
- Coordination with the CEC on the goals articulated in Senate Bill 350 (DeLeon, 2015) for doubling of energy efficiency in buildings by 2030;
- Implementation and close-out of process surrounding Assembly Bill 841 (Ting, 2020) and the School Energy Efficiency Stimulus Program;
- Oversight and continual development of the statewide administration of energy efficiency programs;
- Coordination with the integrated distributed energy resource Rulemaking (R.) 14-10-003 related to cost-effectiveness and locational targeting of energy efficiency; and
- Impacts on environmental and social justice communities, including the extent to which energy efficiency policy and programs impact achievement of any of the nine goals of the Commission's Environmental and Social Justice Action Plan.

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 expected. 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 for 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.

Topic/Event	Date
Potential and Goals Updates	2 <sup>nd</sup> and 3 <sup>rd</sup> Quarters of 2023
CAEECC Compensation Issues	3 <sup>rd</sup> and 4 <sup>th</sup> Quarters 2023
Natural Gas Incentive Issues	3 <sup>rd</sup> and 4 <sup>th</sup> Quarters 2023
2024-2027 Portfolio Oversight	1 <sup>st</sup> Quarter 2024 and ongoing
Other issues	Ongoing/as needed

The assigned Commissioner or assigned ALJs may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. Particular activities, including likely rulings and comments, will be scheduled for the above issues, and as additional issues within the scope are raised that must be addressed or decided. It is our intent to complete this proceeding within 24 months of the date this Scoping Memo is issued. This deadline may be extended by order of the Commission.

**4. Categorization and Need for Evidentiary Hearing**

As in previous phases of this proceeding, we confirm that the categorization of this rulemaking is ratesetting, because the previous orders to show cause addressed within this proceeding have been resolved. We also confirm that hearings are not required for the main part of the proceeding, unless otherwise determined during the course of examination of the issues.

**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.

**6. Alternative Dispute Resolution (ADR) Program and Settlements**

The Commission's ADR program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJs can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.<sup>1</sup>

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Commission's Rules and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

**7. Response to Public Comments**

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the online docket card for the proceeding.

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<sup>1</sup> See D.07-05-062, Appendix A, § IV.O.

## **8. 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 1-866-849-8390 or 1-866-836-7825 (TTY), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

## **9. 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 ALJs. 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).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

**10. Receiving Electronic Service from the Commission**

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your e-mail safe sender list and update your e-mail screening practices, settings and filters to ensure receipt of e-mails from the Commission.

**11. Assignment of Proceeding**

Genevieve Shiroma 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.

**IT IS RULED** that:

1. The scope of this proceeding is described above in Section 2 and is adopted.

2. The schedule of this proceeding is set forth above in Section 3 and is adopted.

3. Further evidentiary hearing is not needed.

4. The presiding officers are Administrative Law Judges Fitch and Kao.

5. The category of the proceeding is ratesetting.

This order is effective today.

Dated May 11, 2023, at San Francisco, California.

/s/ GENEVIEVE SHIROMA

Genevieve Shiroma  
Assigned Commissioner

/s/ JULIE A FITCH

Julie A. Fitch  
Administrative Law Judge

/s/ VALERIE U KAO

Valerie U. Kao  
Administrative Law Judge