Decision 15-09-005 September 17, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Energy Commission for Approval of Electric Program Investment Charge Proposed 2015 through 2017 Triennial Investment Plan.	Application 14-04-034 (April 29, 2014)
And Related Matters.	Application 14-05-003 Application 14-05-004 Application 14-05-005

DECISION ADDRESSING ELECTRIC PROGRAM INVESTMENT CHARGE NEW PROJECTS

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DECISION ADDRESSING ELECTRIC PROGRAM INVESTMENT CHARGE NEW PROJECTS

Summary

This Decision authorizes Electric Program Investment Charge (EPIC) Administrators to file Tier 3 advice letters (or equivalent business letters for the California Energy Commission) to request approval of new EPIC projects between triennial funding cycles and material changes to approved EPIC projects.

1. Background

Rulemaking (R.) 11-10-003 was instituted to address funding and program issues related to utility research, development, and demonstration projects. Decision (D.) 11-12-035, in Phase 1 of R.11-10-003, established the Electric Program Investment Charge (EPIC) to fund public interest investments in applied research and development, technology demonstration and deployment, market support, and market facilitation of clean energy technologies and approaches for the benefit of electricity ratepayers of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), the three large investor-owned utilities (IOUs).

The Commission conducts a public proceeding every three years (known as the triennial review) to consider EPIC investment plans for coordinated public interest investment in clean energy technologies and approaches, pursuant to a schedule set in Decision (D.) 12-05-037. The decision directed the California Energy Commission (CEC) and the three large IOUs, as Administrators of the program, to present their investment plans for the triennial program periods for joint consideration by the Commission. The CEC's investment plan included

Strategic Objectives made up of Strategic Initiatives, and the IOUs' investment plans included projects under four Investment Areas.

D.13-11-025 (the 2013 EPIC Decision) capped the collection of EPIC funds at $162 million annually and approved the first triennial investment plans for the collection years 2012-2014. D.15-04-020 approved 2015-2017 EPIC budgets and resolved issues in connection with the implementation of the investment plans. Appendix A to that decision listed specific Commission modifications and requirements to EPIC investments for each Administrator.

D.15-04-020 deferred to this decision the question of whether administrators should have the flexibility to fund "new" investments –Strategic Initiatives or projects not included in their triennial investment plans—between application cycles.[1] The issues have been addressed in the record of this proceeding, but D.15-04-020 determined that a further workshop would be helpful.

The workshop was held on June 22, 2015. A Ruling issued June 24, 2015 provided an opportunity for parties to file further comments on the issue of flexibility to fund new investments between EPIC application cycles. Parties were directed to address topics discussed at the workshop, and Energy

[1] Throughout this proceeding, the term "project" has been used in various contexts. Comments on the Proposed Decision reflect a need for greater clarity about what we refer to as "new projects." As used by the administrators, "projects" usually refers to the individual investments proposed by the utility administrators in their investment plans. For the CEC, "projects" generally refers to the contracted projects administered by the CEC subsequent to its solicitations. CEC solicitations are usually based on specific Strategic Initiatives in its investment plans. We clarify here that for the purposes of this decision that we are considering utilities' flexibility to fund new projects and the CEC's flexibility to fund new Strategic Initiatives. In other words, we are considering administrative flexibility to fund new investments.

Division's slides from the workshop were attached to the Ruling. Specifically, parties were directed to include any recommendations about the process for approval of new projects (e.g., type of advice letter), limits on number of requests in a given time period, limits on dollar amounts available for new projects in a given time period (e.g., x% of total administrator yearly EPIC funds) and other criteria and requirements that should apply to new project proposals. Comments were filed on July 13, 2015 by the four Administrators and the Office of Ratepayer Advocates (ORA). Reply comments were filed on July 21, 2015.

2. Unresolved Issues Regarding Administrator Flexibility

In SDG&E's September 17, 2014 opening comments, SDG&E identified six scenarios that could emerge during the EPIC program in which Administrators may require flexibility to efficiently administer their EPIC portfolios. As SDG&E pointed out, some of these scenarios were addressed by previous Commission decision.[2] The three scenarios which SDG&E cited a need for further explanation at that time were: (1) widening or narrowing the scope (and possibly the budget) of Commission-approved EPIC projects; (2) commencing new projects using EPIC funds; and (3) new project developed through a CEC EPIC solicitation.

The Commission addressed the third scenario –- new projects developed through an CEC EPIC solicitation –- in D.15-04-020 when it stated at 51-53 that the EPIC IOU administrators must be "administrators" first and foremost, and ordered the IOU Administrators to "provide input on CEC EPIC solicitations" as requested. The Commission also stated that such a requirement "effectively and

[2] The scenarios that SDG&E identified as already having been addressed by the Commission were: (1) Moving funds between authorized funding categories, (2) using EPIC funds from one EPIC planning cycle during a later planning cycle, and (3) starting a new project that will not use EPIC funds.

intentionally prevents them from bidding on those solicitations [on which the IOUs provided assistance to the CEC] under the CEC's rules." The other two issues identified by SDG&E are addressed in this decision.

3. Change of Scope of Projects

SDG&E stated in its September 2014 opening comments that the "path a research project takes and its final outcome cannot be fully predicted. During project execution, SDG&E will be actively managing its EPIC projects' progress and will widen or narrow the scope of the project or redirect the project task activities according to any new findings and discoveries. This may also alter the budgetary needs of the project." Thus, SDG&E proposed that "assuming that the change in project scope (and any associated changes in budget) does not materially alter the project to the point of no longer resembling the original Commission-approved project, EPIC administrators should be allowed to make these changes without seeking Commission approval. SDG&E will explain any significant changes to a project's scope (and any associated change in budget) in its annual administrative report filing."

SDG&E recommends that this decision determine that Commission approval is not necessary when shifting EPIC funds among projects in the same funding category, such as from one Technology Development & Deployment project to another. SDG&E provides examples of such expansions as project extensions, an additional "use case," or additional tests within the approved scope.

Prior decisions have already provided ample guidance regarding fund shifting among projects: For example, D.12-05-037 Ordering Paragraph 14 states administrators may shift up to 5% of funds within funding categories without further approval. The nuance at issue here is the *shift in scope* of projects that

may or may not involve fund shifting. SDG&E's examples of scope shifting, should they fall within the 5% limits of fund shifting, are examples of flexibility the administrators already possess. But this Decision does not authorize administrators to shift scope of their projects beyond previously-authorized limits without further approval. D.12-05-037's discussion of flexibility signals that "material changes" to investment plans require our approval.

ORA provides an example about scope shifting: PG&E shifted the scope of an approved project to use new weather technology for renewables prediction to instead focus on storm damage prediction and response to storm events. The PG&E example does not appear to fall into the category of "minor scope adjustments as the project or R&D landscape evolves" but rather that of an administrator deciding to redirect funds to a materially different purpose. We clarify going forward that the barometer for whether scope changes are "material" is not simply whether the new project "resembles" the original project: material scope changes are changes to the approach taken towards a specific outcome, or a different outcome entirely.

In Section 4 below, we discuss new proposed EPIC projects between triennial cycles. The Tier 3 advice letter process we adopt applies equally to material changes to approved EPIC projects.

4. New Projects Between EPIC Triennial Reviews

The second scenario for which Commission clarity is needed is for when an administrator wishes to commence a new project using EPIC funds in between approval cycles.

4.1. Parties' Comments

SCE states that restricting Administrators' flexibility to initiate new projects poses a risk that the EPIC Program will not maximize its investment

potential through cost-sharing opportunities offered by outside agencies, (e.g., federal Departments of Energy or Defense), thereby limiting SCE's ability to further deliver value to customers. Moreover, SCE contends that such a restriction would be counter to the Commission's policy for the EPIC program, which encourages leveraging money whenever possible.

SCE states that all four Administrators agree that the most appropriate, effective and efficient process to initiate new projects for Commission review and approval is to offer an informal briefing with Commission staff, including Energy Division and ORA, coupled with a Tier 1 advice letter filing (or an equivalent business letter advice filing for the CEC).

SCE articulated this regulatory mechanism proposal in its opening comments filed on September 17, 2014:

> SCE recognizes the need to transparently inform the Commission and stakeholders of modifications to its EPIC portfolio on a timelier basis than the Annual Report filing currently provides. To ensure an appropriate and transparent review of new projects, SCE recommends the Commission require the Program Administrators to offer an informal briefing regarding the project to Energy Division, ORA and other interested Commission staff. Additionally, the Commission should require the Utilities to file a Tier 1 advice letter and the CEC to file a business letter advice filing.

SCE contends the Tier 1 advice letter filings will provide a means for the Commission and stakeholders to be timely notified of the Administrators' intended modifications to its EPIC portfolio. SCE claims this process will provide an opportunity for stakeholders to submit protests, if any, regarding the furtherance of a new project on the grounds that the new project does not meet the Commission's requirements for EPIC. Furthermore, SCE claims the Tier 1 advice letter process provides a quick and simplified review of the types of

utility requests that are expected neither to be controversial nor to raise important policy questions.

SDG&E supports SCE's proposal that an Administrator proposing a new mid-cycle EPIC project offer informational briefings about the project, and also file a Tier 1 advice letter. SDG&E suggests that new projects may include using EPIC funds to match a grant or contract award from a third party, such as the Department of Energy. SDG&E notes that in many of these match situations, the Administrator has only a short amount of time to respond to the match request.

In the alternative, if the Commission believes SCE's Tier 1 proposal is insufficient, SDG&E suggests that the Administrator proposing a new mid-cycle EPIC project still hold the informational briefing about the project, and file a Tier 2 advice letter. If the Administrator has certain time restrictions or upcoming deadlines (especially as they relate to match-funding opportunities), the Administrator can make that information clear at both the briefing and in the Tier 2 advice letter and request a shorter protest period and expedited consideration by staff.

PG&E recommends that the Commission clarify that EPIC Administrators may fund new projects between EPIC application cycles through a Tier 1 advice letter filing that demonstrates the following:

1. The new project is within the scope of EPIC investment areas approved for funding in the currently effective EPIC triennial plan.
2. The funding for the new project does not cause the overall EPIC funding to exceed the total funds authorized for EPIC funds in the currently effective EPIC triennial plan.
3. The advice filing contains the same level of detailed description and support for the project as the Commission has approved for other projects included in the currently effective EPIC triennial plan.

4. All other requirements applicable to EPIC projects under the currently effective EPIC triennial plan continue to apply to the new project.

PG&E contends there are minimal risks in allowing administrators this flexibility to fund new projects between cycles. Administrators will continue to operate within the approved EPIC program budget totals and will pursue investment areas put forward in the EPIC program applications to ensure alignment with California strategic energy and environmental goals. In fact, PG&E claims there is greater risk in not providing EPIC administrators the flexibility to pursue rapidly emerging technological innovations that could provide the most value to utility customers.

The CEC states that opportunities might arise between investment plans that provide more value to EPIC ratepayers than the approved activities in the EPIC investment plans. If such opportunities require a faster response time than can be obtained through a petition for modification, the CEC contends that a more flexible approach is needed to take advantage of the opportunities for EPIC ratepayers. The CEC anticipates needed flexibility in changed circumstances, new innovation, and opportunities to leverage funds.

The CEC seeks a business letter process instead of an advice letter process because the CEC is different than the IOUs. The CEC is not permitted to make advice letter filings pursuant to Commission General Order 96-B, which defines an "advice letter" to mean an "informal request by a **utility** for Commission approval, authorization, or other relief ...," and defines a "utility" to mean a "**public utility** that is a gas, electrical, telephone, water, sewer system, pipeline, or heat corporation, as defined in the California Public Utilities Code...." The CEC believes a business letter filing process for the CEC that is intended to be

similar to the advice filing for IOUs would balance the need for comment, due process, and careful review with expediency.

As with the other Administrators, the CEC supports a Tier 1 advice letter process, or a business letter equivalent, because it can be effective upon filing. This can be critical for receiving authority to be reimbursed with EPIC funds. For example, if the federal government publishes a solicitation with a great opportunity to leverage funds but with a short time to act, an EPIC Administrator can file a Tier 1 advice letter (or a business letter for the CEC) and then start working on the application. If the advice letter becomes effective, the Administrator can then apply its EPIC administrative funds to its work on the federal application starting 20 days from the filing date of the advice letter if there are no protests. Otherwise, if an Administrator can only receive reimbursement as of the approval date, then the Administrator is left with the choice of either waiting for advice letter approval before starting to work on the federal application or will work on the application in advance of the approval date and not be reimbursed for it.

ORA opposes the Administrators' request to use an advice letter process to review new EPIC projects between investment cycles. ORA states that the Commission explicitly stated that the triennial investment plan by each utility should be the primary venue for consideration of utility electric RD&D expenditures other than proposals made as part of the utilities' energy efficiency and demand response portfolios. However, should the Commission conclude that it is necessary to deviate from the application process, ORA recommends that a Tier 3 advice letter may serve as an alternative procedural vehicle to consider new projects between investment cycles because a Tier 3 advice letter

requires the Commission to render a decision on an Administrator's new project request by formal vote on a resolution.

4.2. Discussion

In D.12-05-037, the Commission rejected PG&E's request to continue funding in the research, development and demonstration programs in General Rate Cases, but granted the IOU Administrators the opportunity to file separate applications for such projects in the EPIC proceeding or elsewhere.[3] Specifically, the Commission stated at 29:

> We will not go so far as to prohibit any separate RD&D applications by the utilities, since it is impossible to completely anticipate future opportunities, but we put the utilities on notice that they will face a burden to show why a proposal outside of the EPIC process should be considered immediately and not simply included in the next cycle for EPIC funding consideration by the Commission.

Thus, new EPIC projects may be considered in either the Administrator's triennial EPIC applications, or in a separate application. In addition, in accordance with Ordering Paragraph 36 of D.13-11-025, EPIC Administrators may seek changes to their approved EPIC investment plans by filing a petition for modification.[4]

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[3] Note that the CEC does not file General Rate Cases at the Commission and thus this potential option was not applicable to it.

[4] SDG&E filed a Petition for Modification of D.13-11-025 on January 14, 2014 for the purposes of "clarifying that SDG&E's EPIC Plan, inclusive of the Plug-In Electric Vehicle Submetering Pilots, is approved by D.13-11-025, and that SDG&E is not required to execute all EPIC programs approved by D.13-11-025." This Petition is still pending.

D.15-04-020 stated that "the EPIC administrators do not currently have independent authority to approve proposals that may receive EPIC funds, that applications approved by the Commission represent the full scope of authorized investments, and that EPIC funds cannot be spent on unauthorized work."

There is no question that Administrators must seek and obtain authority from the Commission to undertake new EPIC projects between triennial reviews.[5] The question before us today is whether we should relax the current formal process requirements to allow consideration of new EPIC projects via an informal advice letter[6] process (and, if so, what type of advice letter process). On the one hand, informal advice letter processes have the advantage of generally (although not always) being more expeditious than formal application or petition processes. This can be important when there is a strict time element (such as a funding deadline), and can lead to any benefits of new EPIC projects being realized sooner. On the other hand, some informal advice letter processes have fewer due process safeguards, including less likelihood of review by the full Commission.

The first question is whether we have the authority to delegate review of new EPIC project proposals to staff via advice letter filings. ORA, in its July 2015 reply comments, claims that the Administrators' proposed Tier 1 advice letter filings constitutes an unlawful delegation of authority to staff because it confers

[5] ORA alleges that SCE included two new projects in its 2012-2014 EPIC Plan, and that PG&E expanded the scope of an approved project, both without Commission authorization. To the extent that we may determine that any Administrator has improperly initiated new projects without Commission review, we reserve the right to consider remedial actions separately from this decision.

[6] For simplicity, the term "advice letter" in this discussion encompasses the term "business letter."

unto staff the powers to make fundamental policy decisions or final discretionary decisions without statutory authorization. ORA argues that decisions concerning whether to fund a new EPIC project between investment cycles involve "powers conferred upon public agencies and officers which involve the exercise of judgment or discretion [that] are in the nature of a public trust and cannot be surrendered or delegated to subordinates in the absence of statutory authorization."[7]

We only need to address the question of whether ORA is correct in its analysis concerning the question of unlawful delegation if we wish to authorize the Administrators to seek authorization for new EPIC projects between program cycles via an advice letter filing which does not entail full Commission review. However, for the reasons discussed below, we will not authorize such a process.

It is not reasonable to conclude that review of proposed new EPIC projects which involve new and/or modified expenditures of funds can be considered as "ministerial" reviews amenable to Tier 1 or Tier 2 advice letter processes.[8] Review of proposed new EPIC projects must be consistent with our current standard of review of EPIC projects, as stated in D.13-11-025 at 76: "(I)nvestment proposals must demonstrate ratepayer benefits including quantified ratepayer benefits, be mapped to the electricity system value chain, have policy justification, not be duplicative of other RD&D efforts, and have a reasonable probability of providing benefits to ratepayers." This is a substantive review process, not a ministerial review.

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[7] D.06-06-069 at 10 (cite omitted).

[8] *See* D.12-12-031 at 16: "General Order 96-B identified Tier 1 or Tier 2 advice letters as an appropriate review process for those matters that can be resolved by Commission staff because the decisions required are ministerial."

There is little record that the current process for new EPIC projects (new application or petition for modification) is not working. There has only been one effort to change what has been authorized by a triennial EPIC program decision. While that effort (an SDG&E petition) has not resulted in a timely and certain outcome to date, the record does not clearly show that this will be true for any other applications or petitions. Further, there is little record to show that a significant number of new projects have not been pursued by Administrators, or that a different process would result in more potentially valuable new projects coming forward for review.

At the same time, we can determine from the record that some new project opportunities may arise between triennial reviews, even if we cannot know the specifics at this time. The record also shows that it is foreseeable that some of these potential new projects would have externally-imposed timeframes or deadlines that would require expeditious review by the Commission for them to come to fruition. Therefore, it is important to ensure that the review process for new EPIC projects does not present undue barriers to realizing the potential benefits of new EPIC projects.

Proposed new EPIC projects would either involve additional funding (if an Administrator is below the statutory cap) or funds shifted from other approved projects. The Commission approves a set of projects in the triennial EPIC applications after a thorough review. Any significant or contested modifications to the EPIC programs (beyond flexibility provided for in EPIC decisions) should also be reviewed by the Commission to ensure that Administrators continue to maintain an appropriate portfolio of projects as anticipated in the triennial review process. We conclude that an expedited process for new EPIC projects is

reasonable, as long as due process rights (including full Commission review) are provided.

Therefore, we find that it is reasonable to provide a Tier 3 advice letter review process for new EPIC projects. Tier 3 advice letters require a Commission resolution.[9] This process affords sufficient due process for parties, but also provides a potentially shorter review time than an application or petition.[10] In addition, a Tier 3 advice letter process is consistent with the direction in D.13-11-025 at Conclusion of Law 52 regarding potential concerns about Administrators' actions with regard to existing EPIC projects: "Parties or EPIC stakeholders with concerns that EPIC funds are being used inappropriately or contrary to the approved Investment Plans should bring their concerns to the attention of Energy Division, and the Energy Division should present recommendations in a resolution for Commission consideration, if appropriate."

In circumstances when it is important to act quickly regarding proposed new EPIC projects, staff can expeditiously prepare a resolution for Commission action. If there is no controversy, this process should be simpler. On the other hand, if there is controversy, the need for due process and deliberation may outweigh any need for expeditious resolution of the advice letter.

Therefore, we will authorize the Administrators to file Tier 3 advice letters (or the business letter equivalent for the CEC) to propose new EPIC projects between triennial EPIC applications. We will adopt PG&E's proposal for what the Administrators must show in their filings, with the additional requirement to

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[9] *See* General Order 96-B, Energy Industry Rule. Section 5.3. This Section includes "a new product or service" as appropriate for a Tier 3 advice letter.

[10] Energy Division or the Commission may refer a Tier 3 advice letter to an Administrative Law Judge for more detailed review and additional procedural steps if necessary.

show why the proposal "should be considered immediately and not simply included in the next cycle for EPIC funding consideration by the Commission," as already applies per D.12-05-037. In addition, we will require that the advice letter identify whether funding for the new project will result in any changes in funding for approved projects, and detail those changes.

5. Limits on New Project Requests

SDG&E contends that limits on requests to review and approve new EPIC projects during off-cycles are not necessary or advisable. SDG&E explains that the reasons why EPIC administrators may need to file for Commission approval are varied, ranging from unsuccessful (or successful) projects that demand project extensions or modifications, to match-funding opportunities. Limiting the number of requests would unnecessarily and arbitrarily limit the administrators' ability to try to leverage the most out of ratepayer EPIC funds. SDG&E expects that the Administrators will be cognizant and respectful of the Commission's limited time and resources and not unnecessarily burden the Commission with off-cycle requests unless they are necessary and cannot wait until the next planning cycle.

Similarly, SDG&E contends there should be no limits on the amount of project funds Administrators may seek to use for a new project.[11] SDG&E argues that any attempt to restrict the funds would be arbitrary and not result in any obvious benefit. SDG&E notes that the amount of funding available to use for

[11] SDG&E also proposed no limits on the ability of Administrators to propose changes regarding movement within program funding categories from project to project via an advice letter process. This decision does not address this issue, as it concerns only proposed new EPIC projects.

new projects will continue to decrease further into the EPIC cycle as funds are encumbered over time.

By providing for Tier 3 advice letters to request funding for new EPIC projects between triennial reviews, we allow a potentially more expedited mechanism for review of Administrators' proposals for such new projects. This mechanism ensures the due process rights of parties to review and comment upon Administrators' proposals, as well as review by staff and the Commission.

We find no basis on which to specify limitations to the use of the advice letter process here. However, we note that this process is established to promote the possibility for administrator responsiveness to high-value opportunities that align with the EPIC program's goals but not its triennial timeline. We expect this process to be used sparingly and as an addition to the administrator's planning options rather than a replacement for the formal application process. The investment plans and accompanying formal proceedings remain the primary venue for proposing main portfolio investments and overall program direction.

With these mechanisms and due process safeguards, there is no need to limit the amount of project funds administrators may seek to move within program funding categories from project to project, or to use for a new project. Similarly, there is no need to limit the number of advice letter filings.

6. Comments on Proposed Decision

The proposed decision in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on September 8, 2015 by CEC, ORA, PG&E and SCE, and reply comments were filed on September 14, 2015 by CEC, ORA and SCE.

SCE claims in comments that the proposed decision would run counter to the Commission's previous EPIC decision (D.12-05-037) which requires the same treatment for all administrators, because the CEC uses "strategic objectives made up of strategic initiatives instead of projects." SCE states:

> "If the proposed decision requires the IOUs as EPIC administrators to file a Tier 3 advice letter to initiate new projects or modify its potential projects, the Commission must also require the CEC to file a business letter…for every successful Potential Opportunity Notice applicant, because the actual projects funded under their strategic initiatives will have been selected subsequent to filing their investment plan application."

PG&E raises a similar point:

> "The proposed Tier 3 process suggested by the PD is inherently different then the CEC's process of filing a business letter to modify their initiatives, given that the CEC initially filed strategic objectives made up of strategic initiatives rather than potential projects."

We will not modify the proposed decision on this point. The current process for new or modified projects for all administrators (i.e., a new application or Petition for Modification) has the same underlying difference between administrators as the Tier 3 process, because of the way CEC programs are defined. We do add a footnote to this decision to clarify that there are differences in the way the utility administrators and the CEC refer to EPIC investments. To the extent that such differences are meaningful, the venue for addressing this issue was the underlying decision which created the differences, not here.

7. Assignment of Proceeding

This proceeding is assigned to Administrative Law Judge David Gamson and Commissioner Michael Picker.

Findings of Fact

1. EPIC Administrators currently may file an application or a petition for modification if they wish to propose new EPIC projects between triennial reviews.

2. Previous EPIC decisions delineated the standards of review for EPIC projects.

3. D.12-05-037 provides that Administrators may shift up to 5% of funds within funding categories without further Commission appeal.

4. Informal advice letter processes have the advantage of generally (although not always) being more expeditious than formal application or petition processes.

5. Advice letter processes have fewer due process safeguards than applications or petitions. However, unlike Tier 1 and Tier 2 advice letters, Tier 3 advice letters require a Commission resolution.

6. Some new EPIC project requests are likely to involve tight deadlines imposed by entities such as federal government agencies.

7. Some public benefits of potential new EPIC projects will accrue only if Commission approval occurs in a timely manner.

8. PG&E's proposal for what the Administrators must show in their filings for new EPIC projects is reasonable.

Conclusions of Law

1. Commission approval is not necessary when shifting EPIC funds among projects in the same funding category, as long as the change in project scope (and any associated changes in budget) does not materially alter the project.

2. Review of proposed new EPIC projects which involve new and/or modified expenditures of funds cannot be considered as "ministerial" reviews amenable to Tier 1 or Tier 2 advice letter processes.

3. Any proposed new EPIC projects should be reviewed by the full Commission.

4. The Tier 3 advice letter (or equivalent business letter) process provides sufficient due process protections for review of new proposed EPIC projects between triennial reviews, or (going forward) for material changes to existing approved EPIC projects.

5. With the due process safeguards in the adopted Tier 3 advice letter process, there is no need to limit the amount of EPIC project funds administrators may seek to use for a new project. Similarly, there is no need to limit the number of advice letter filings.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company are authorized to submit Tier 3 advice letters for new Electric Program Investment Charge (EPIC) projects between triennial EPIC applications and for material changes to existing approved projects.

2. The California Energy Commission is authorized to submit the business letter equivalent of Tier 3 advice letters for new Electric Program Investment Charge (EPIC) projects between triennial EPIC applications and for material changes to existing approved projects. Protests to such business letters shall be

considered on the same basis as protests to Tier 3 advice letters, and a Commission resolution shall be required to resolve such business letters.

3. Tier 3 advice letters (or the business letter equivalent for the California Energy Commission) for new Electric Program Investment Charge (EPIC) projects between triennial EPIC reviews shall make the following showings:

a. The new project is within the scope of EPIC investment areas approved for funding in the Administrator's applicable and effective EPIC triennial plan;

b. The funding for the new project does not cause the overall EPIC funding to exceed the total funds authorized for EPIC funds in the applicable and effective EPIC triennial plan;

c. The advice letter or business letter filing contains the same level of detailed description and support for the project as the Commission has approved for other projects included in the applicable and effective EPIC triennial plan;

d. Whether and to what extent funding for the new project will result in any changes in funding for other approved projects, specifying exact changes to all affected project budgets;

e. Why the proposal should be considered immediately and not simply included in the next cycle for EPIC funding consideration by the Commission; and

f. All other requirements applicable to EPIC projects under the currently effective EPIC triennial plan continue to apply to the new project.

4. Applications (A.) 14-04-034, A.14-05-003, A.14-05-004 and A.14-05-005 are closed.

This order is effective today.

Dated September 17, 2015, at San Francisco, California.

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners