

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

Order Instituting Rulemaking on the Commission's own motion to consider renewal of the Electric Program Investment Charge Program.

FILED  
PUBLIC UTILITIES COMMISSION  
OCTOBER 10, 2019  
SAN FRANCISCO, CALIFORNIA  
RULEMAKING 19-10-005

**ORDER INSTITUTING RULEMAKING**

**Summary**

The Electric Program Investment Charge (EPIC) program is an energy innovation funding program established in 2011 under the authority of the California Public Utilities Commission. Organized around three program areas – Applied Research and Development, Technology Demonstration and Deployment, and Market Facilitation – EPIC has successfully driven efficient, coordinated investment in new and emerging energy solutions. This Order institutes a rulemaking process to consider the level of program funding past 2020 and determine program improvements.

**1. Jurisdiction**

The Commission's authority to initiate this rulemaking is pursuant to Public Utilities (Pub. Util.) Code § 399.8, which reads in pertinent part as follows:

- (a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable

energy, and research, development and demonstration shall continue to be made.

(b)(1) Every customer of an electrical corporation shall pay a nonbypassable system benefits charge authorized pursuant to this article. The system benefits charge shall fund energy efficiency, renewable energy, and research, development and demonstration.

(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.

(c)(1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section...

EPIC is squarely within Pub. Util. Code § 399.8, in that it is expressly intended to advance “prudent investments in ... research, development and demonstration.” Also, EPIC ratepayer charges have been, and are contemplated to continue, as “nonbypassable system benefits charge[s] authorized pursuant to this article” under subsection (b)(1). Lastly, the Commission has been, and is contemplating to continue to, “require each electrical corporation to identify a separate rate component to collect revenues to fund [EPIC] pursuant to this section,” in accordance with subsection (c)(1).

## **2. Background**

EPIC is an energy innovation funding program established in 2011 under the authority of the California Public Utilities Commission. It is organized around three program areas: Applied Research and Development, Technology Demonstration and Deployment, and Market Facilitation. EPIC has successfully driven efficient, coordinated investment in new and emerging energy solutions.

EPIC was first authorized by the Commission in Decision (D.) 11-12-035. That Decision established EPIC as a program under Pub. Util. Code § 399.8. The

Decision identified EPIC's purposes, its funding mechanism and funding levels, and set forth certain program parameters.

In brief, D.11-12-035 instituted a new surcharge, but essentially maintained that surcharge "at the same levels as for the current public goods charge, after subtracting the energy efficiency component." (*Id.* at 2.) D.11-12-035 provided a history of the public goods charge (which was itself mandated by statute).<sup>1</sup> D.11-12-035 went on to identify and discuss the history, benefits, and expectations for EPIC's potential to advance, for public benefit, renewables programs, research and development programs, and demonstration programs. That Decision ordered Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively, the IOUs) to institute ratepayer surcharges for the year 2012 to pay for EPIC.

Following D.11-12-035 was D.12-05-037, which expressly established the EPIC funding mechanism and set out a more detailed framework for the program. That funding mechanism -- again, expressly applied to PG&E, SCE, and SDG&E -- was for three, three-year investment periods from 2012 through 2020, which have come to be known as EPIC I (investing funds collected from 2012-2014), EPIC II (2015-2017), and EPIC III (2018-2020). D.12-05-037 also made clear that the EPIC funds collected for 2012 pursuant to D.11-12-035 were allocated to EPIC I.

D.12-05-037 articulated EPIC's purpose, the amount of monies to be collected and how these were to be collected, and how these monies were to be

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<sup>1</sup> To date, public goods charges have totaled over \$8 billion.

administered. As to EPIC's purpose, D.12-05-037's Ordering Paragraphs 2-4 read as follows:

The primary and mandatory guiding principle of the Electric Program Investment Charge shall be to provide electricity ratepayer benefits, defined as promoting greater reliability, lower costs, and increased safety, with the following complementary guiding principles:

- a. Societal benefits;
- b. Greenhouse gas emissions mitigation and adaptation in the electricity sector at the lowest possible cost;
- c. The loading order;
- d. Low-emission vehicles/transportation;
- e. Economic development; and
- f. Efficient use of ratepayer monies.

The Electric Program Investment Charge program shall fund investments in the following defined areas:

- a. Applied research and development. Activities supporting pre-commercial technologies and approaches that are designed to solve specific problems in the electricity sector.
- b. Technology demonstration and deployment. The installation and operation of pre-commercial technologies or strategies at a scale sufficiently large and in conditions sufficiently reflective of anticipated actual operating environments to enable appraisal of the operational and performance characteristics and the financial risks.
- c. Market facilitation. A range of activities including program tracking, market research, education and outreach, regulatory assistance and streamlining, and workforce development to support clean energy technology and strategy deployment.

The Electric Program Investment Charge shall not fund investments in the following defined area, unless the Commission subsequently modifies this requirement during its consideration of an investment plan:

- a. Market support. Programs that seek to enhance the competitive position of certain preferred, commercially-proven technologies or approaches relative to incumbent technologies or approaches.

D.12-05-037 designated the California Energy Commission (CEC), PG&E, SCE, and SDG&E as the administrators of the EPIC program. It also provided that the Commission would conduct a public proceeding every three years to review and approve the investment plans of each EPIC administrator to ensure coordinated public interest investment in clean energy technologies. As to EPIC's funding mechanisms, D.12-05-037 specifies an annual total for each year of the program (\$162 million, plus an annual Consumer Price Index increase); the breakdown for each IOU's collection allocation (PG&E: 50.1%; SCE: 41.1%; SDG&E: 8.8%); the administrator budget allotments (CEC: 80%, IOUs: 20%); a maximum for administrative expenses (10%) and a budget for Commission oversight (0.5%); and, various additional administrative, budgetary, and investment element requirements.

Subsequently, in D.13-11-025, and then in companions D.15-09-005 and D.15-04-020, and then again in companions D.18-01-008 and D.18-10-052, the Commission approved and modified the administrators' triennial EPIC I, II, and III investment plans. To date, EPIC has funded over 550 projects across the four administrators. CEC projects alone have attracted an additional \$381 million in match funding.

As directed in D.12-05-037, a consultant under contract to the Commission conducted a comprehensive evaluation of EPIC in 2016 and 2017 to identify opportunities to improve program management and effectiveness in meeting its objectives. Two key high-level takeaways from the consultant's Evaluation Report include the following:

1. The EPIC program appears to be on track in achieving its program objectives of providing electric IOU ratepayer benefits,

producing energy innovations, and helping California meet its energy policy goals.

2. While they are in compliance with EPIC program requirements, IOU administrative practices are inconsistent with best practices of peer RD&D programs.

D.18-10-052 discussed the Evaluation Report and directed the implementation of several of its suggested program improvements. As a result, improvements are underway. One key example is the Policy + Innovation Coordination Group (PICG), which will be operational by early 2020. The PICG will support greater policy coordination between the Commission and EPIC investments; it will help alleviate the unique coordination challenges posed by the current multi-administrator model; and, it will enable a system of feedback and implementation to channel California's specific energy policy and planning needs into action.

The evaluation also proposed metrics for assessing the performance of EPIC moving forward.<sup>2</sup> By the time the three triennial investment cycles are concluded, over \$1.5 billion will have been spent in funding the Commission's energy innovation goals, including administration and oversight (excluding matching funds): we note that when the Evaluation Report examined EPIC's program practices and processes, only 11% of active projects had been completed, making infeasible a project-level evaluation of program benefits.

D.18-10-052 encouraged the future evaluation of EPIC.

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<sup>2</sup> "For a complex program such as EPIC, our evaluation team developed performance metrics for each activity, output and outcome to assess the extent to which major activities of EPIC have been successfully implemented and whether these activities led to or are likely to lead eventually to the expected short-, mid-, and long-term outcomes." (Evergreen Economics, 2017, at 1-3 - 1-4; also see Evergreen recommendation 7a.)

D.18-10-052 also directed implementation of consultant recommendations for IOU program administration improvements. These are currently being effected in Application (A.) 19-04-026, identified as the IOU Research Administration Plan (RAP) proceeding. The RAP proceeding will ensure IOU compliance with program administration improvements.

Importantly, in D.18-10-052 the Commission expressly stated as follows: “On the whole, we are pleased with the progress and achievements of the EPIC program to date, particularly in light of the fact that most investments only began several years ago – extremely recently in R&D terms.” The Commission concluded that “while more can and will be done to improve program administration and investment planning, a solid foundation has been created upon which we can build further.” D.18-10-052 discussed a future rulemaking for consideration of funding beyond 2020 and further program design improvement.

### **3. Purpose of Proceeding**

The purpose of this proceeding is to review the EPIC program, consider whether and how to continue funding the program, and to consider appropriate administrative and programmatic changes to improve the program.

As discussed above, EPIC has been found to be on track towards its goals and providing ratepayer benefits. It is our intent in this proceeding to carefully consider how and whether and under what terms continued program funding would benefit ratepayers and advance Commission goals. At the same time, we intend to consider and enact program improvements that are reasonable and necessary, particularly in light of the ongoing improvements being enacted through the RAP proceeding and the PICG implementation process. A number

of the issues we intend to consider were laid out in D.18-10-052, and are articulated under Issues below.

#### **4. Preliminary Scoping Memo**

This rulemaking will be conducted in accordance with Article 6 of the Commission's Rules of Practice and Procedure, "Rulemaking."<sup>3</sup> As required by Rule 7.1(d), this order instituting rulemaking (OIR) includes a preliminary scoping memo as set forth below, and preliminarily determines the category of this proceeding and the need for hearing.

##### **4.1. Issues**

The main issues to be addressed in this proceeding are consideration of whether and how to continue funding the EPIC program, and determination of appropriate administrative and programmatic changes to improve the program.

Issues include:

- Authorization of program funding and related issues;
- Program policy priorities and related issues;
- Programmatic administration improvements and related issues; and
- Program evaluation structure and related issues.

The precise issues to be addressed and the process for addressing those issues will be set forth in an Assigned Commissioner's Scoping Memo.

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<sup>3</sup> All references to "Rules" are to the Commission's Rules of Practice and Procedure unless otherwise indicated.



**4.2. Categorization; Ex Parte Communications; Need for Hearing**

The Commission’s Rules require that an Order Instituting Rulemaking preliminarily determine the category of the proceeding and the need for hearing.

As a preliminary matter, we determine that this proceeding is ratesetting because the past EPIC program and a future EPIC program necessarily requires the collection and expenditure of ratepayer monies. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Rule 8.1 et seq.

As a preliminary matter, we determine that hearings may be necessary. That assessment is subject to the further determination of the assigned Commissioner at the time of the issuance of the Scoping Memo.

**4.3. Preliminary Schedule**

The schedule is:

**SCHEDULE**

| EVENT  | DATE                         |
|--|------------------------------|
| Comments on OIR filed and served                 | 45 days from issuance of OIR |
| Reply comments on OIR filed and served           | 60 days from issuance of OIR |
| Prehearing Conference Statement filed and served | Quarter 4 of 2019            |
| Prehearing Conference                            | Quarter 4 of 2019            |
| Scoping Memo                                     | Quarter 1 of 2020            |
| Workshops  | Quarter 2 of 2020            |
| Opening Testimony filed and served, if needed    | Quarter 2 of 2020            |
| Reply Testimony filed and served, if needed      | Quarter 2 of 2020            |
| Evidentiary Hearing, if needed                   | Quarter 3 of 2020            |
| Opening Comments filed and served                | 30 days from EH              |
| Reply comments filed and served                  | 45 days from EH              |

| EVENT             | DATE              |
|-------------------|-------------------|
| Proposed Decision | Quarter 4 of 2020 |

The prehearing conference (PHC) will be held for the purposes of (1) taking appearances, (2) discussing schedule and process, and (3) informing the Scoping Memo. The PHC shall be scheduled after comments and reply comments on this OIR are submitted.

Today’s decision tentatively sets OIR comment filing dates, a PHC and related filing dates, an evidentiary hearing and related filing dates, and proceeding conclusion comment filing dates. The final schedule for the proceeding will be adopted in the Assigned Commissioner’s Scoping Memo. The assigned Commissioner or the assigned Administrative Law Judge (ALJ) may change the schedule to promote efficient and fair administration of this proceeding.

It is the Commission’s intent to complete this proceeding within 18 months of the date this decision is adopted. This deadline may be extended by order of the Commission. (Public Utilities Code Section 1701.5(a).)

Notice of workshops in this proceeding will be posted on the Commission’s Daily Calendar, and to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

**5. Respondents**

PG&E, SCE, and SDG&E are named as respondents to this proceeding. The CEC should participate as a party.

**6. Service of OIR**

This OIR shall be served on all respondents, and on the CEC.

In addition, in the interest of broad notice, this OIR will be served on the official service lists for the following proceedings: A.19-04-026; A.17-04-028; A.17-05-003; A.17-05-005; and A.17-05-009.

In addition, in the interest of broad notice, this OIR will be served on the state and local agencies and such additional entities as are identified in Appendix A.

Service of the OIR does not confer party status or place any person who has received such service on the Official Service List for this proceeding, other than respondents. Instructions for obtaining party status or being placed on the official service list are given below.

**7. Filing and Service of Comments and Other Documents**

Filing and service of comments and other documents in the proceeding are governed by the Commission's Rules of Practice and Procedure.

**8. Addition to Official Service List**

Addition to the official service list is governed by Rule 1.9(f) of the Commission's Rules of Practice and Procedure.

Respondents are parties to the proceeding (*see* Rule 1.4(d)) and will be immediately placed on the official service list.

Any person will be added to the "Information Only" category of the official service list upon request, for electronic service of all documents in the proceeding, and should do so promptly in order to ensure timely service of comments and other documents and correspondence in the proceeding. (*See* Rule 1.9(f).) The request must be sent to the Process Office by e-mail ([process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov)) or letter (Process Office, California Public Utilities

Commission, 505 Van Ness Avenue, San Francisco, California 94102). Please include the Docket Number of this rulemaking in the request.

Persons who file responsive comments thereby become parties to the proceeding (see Rule 1.4(a)(2)) and will be added to the “Parties” category of the official service list upon such filing. *In order to assure service of comments and other documents and correspondence in advance of obtaining party status, persons should promptly request addition to the “Information Only” category as described above; they will be removed from that category upon obtaining party status.*

#### **9. Subscription Service**

Persons may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission’s website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission’s website at <http://subscribecpuc.cpuc.ca.gov/>.

#### **10. Intervenor Compensation**

Intervenor Compensation is permitted in this proceeding.

Any party that expects to claim intervenor compensation for its participation in this Rulemaking must file a timely notice of intent to claim intervenor compensation. (*See* Rule 17.1(a).) Intervenor compensation rules are governed by Public Utilities Code Sections 1801 et seq. Parties new to participating in Commission proceedings may contact the Commission’s Public Advisor.

#### **11. 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](mailto:public.advisor@cpuc.ca.gov). The TTY number is (866) 836-7825.

## 12. Public Outreach

Public Utilities Code Section 1711(a) states:

Where feasible and appropriate, except for adjudication cases, before determining the scope of the proceeding, the commission shall seek the participation of those who are likely to be affected, including those who are likely to benefit from, and those who are potentially subject to, a decision in that proceeding. The commission shall demonstrate its efforts to comply with this section in the text of the initial scoping memo of the proceeding.

## **O R D E R**

**IT IS ORDERED** that:

1. This Order Instituting Rulemaking is adopted pursuant to Public Utilities Code Section 399.8 and Rule 6.1 of the Commission's Rules of Practice and Procedure.
2. The preliminary categorization is ratesetting.
3. The preliminary determination is that a hearing may be needed.
4. The preliminary scope of issues is as stated above in Section 4.1.
5. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are respondents to this Order Instituting Rulemaking.
6. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall, and any other person (including the California Energy Commission) may, file comments responding to this Order Instituting Rulemaking on the schedule set forth in Section 4.3. above.

7. The Executive Director will cause this Order Instituting Rulemaking (OIR) to be served on all respondents, the California Energy Commission, and on the service lists for the following Commission proceedings: Application (A.) 19-04-026; A.17-04-028; A.17-05-003; A.17-05-005; and A.17-05-009. In addition, the Executive Director will cause this OIR to be served on the agencies and entities listed in Appendix A.

This order is effective today.

Dated October 10, 2019, at San Francisco, California.

MARYBEL BATJER  
President  
LIANE M. RANDOLPH  
MARTHA GUZMAN ACEVES  
CLIFFORD RECHTSCHAFFEN  
GENEVIEVE SHIROMA  
Commissioners

## APPENDIX A - Organizations Not on Existing Service Lists

| Organization                                       | Contact          | Title  | Email  |
|--|------------------|--|--|
| BayREN   | Jennifer Berg    | Administrator  | jberg@bayareametro.gov   |
| CalCCA   | Irene Moosen     | Regulatory Affairs Director                              | irene@cal-cca.org  |
| California Council on Science & Technology         | Brie Lindsey     | Senior Program Associate                                 | blindsey@ccst.us   |
| CSAC   | Darby Kernan     | Deputy Executive Director,<br>Legislative Services       | dkernan@counties.org   |
| East Bay Energy Watch Strategic Advisory Committee | Jennifer West    | Administrator  | jwest@stopwaste.org  |
| Electric Power Research Institute                  | Arshad Mansoor   | Senior Vice President,<br>Research and Development       | amansoor@epri.com  |
| Greenlining Institute                              | Stephanie Chen   | Energy Equity Director                                   | <a href="mailto:stephaniec@greenlining.org">stephaniec@greenlining.org</a>         |
| Greenlining Institute                              | Carmelita Miller | Energy Equity Legal Counsel                              | carmelitam@greenlining.org   |
| GRID Alternatives                                  | Zach Franklin    | Chief Strategy Officer                                   | <a href="mailto:zfranklin@gridalternatives.org">zfranklin@gridalternatives.org</a> |
| Institute for Local Government                     | Karalee Browne   | Program Manager  | <a href="mailto:kbrowne@ca-ilg.org">kbrowne@ca-ilg.org</a>                         |
| LADWP  | Joseph Brajevich | General Counsel  | joseph.brajevich@ladwp.com   |
| League of CA Cities                                | Carolyn Coleman  | Executive Director                                       | ccoleman@cacities.org  |
| Local Government Commission                        | Kate Meis        | Executive Director                                       | kmeis@lgc.org  |
| Local Government Sustainable Energy Coalition      | Steven Moss      | Regulatory Consultant                                    | smoss@lgc.org  |
| San Francisco Bay Area REN (SFBAREN)               | Gerald Lahr      | Energy Programs Manager                                  | jerry@abag.ca.gov  |
| SFPUC  | Harlan Kelly     | General Manager  | hkelly@sfgwater.org  |
| SMUD   | Tim Tutt         | State Regulatory Manager                                 | timothy.tutt@smud.org  |
| SoCalREN   | Howard Choy      | General Manager, Office of Sustainability of Los Angeles | <a href="mailto:hchoy@isd.lacounty.gov">hchoy@isd.lacounty.gov</a>                 |
| Strategic Growth Council                           | Leah Fisher      | Senior Research Advisor                                  | leah.fisher@sgc.ca.gov   |

(End of Appendix A)