

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking for Oversight of Energy Efficiency Portfolios, Policies, Programs, and Evaluation.

R. _____

ORDER INSTITUTING RULEMAKING**Summary**

This Order Instituting Rulemaking is established as the forum for regulatory issues related to the ongoing oversight and administration of energy efficiency programs by the Commission. This will be the primary venue for all issues relating to the energy efficiency policies, programs, and evaluation efforts for oversight of the portfolio administrators conducting and implementing energy efficiency programs under the Commission's jurisdiction. This rulemaking does not include in scope the Energy Savings Assistance Program or any of the energy efficiency programs administered by the small and/or multi-jurisdictional utilities. This rulemaking is the successor proceeding to Rulemaking 13-11-005, which was closed in January 2025. The Commission welcomes comments on the preliminary scope of issues and schedule identified in this rulemaking.

1. Background

This proceeding is a successor to a set of energy efficiency rulemaking proceedings dating back several decades, including most recently Rulemaking

(R.) 13-11-005, with the prior rulemakings being R.09-11-014, R.06-04-010, and R.01-08-028. Now, as in the past, there is a need for a procedural home for all matters involved in setting policy for and overseeing the administration and implementation of energy efficiency portfolios and programs.

The immediate predecessor proceeding (R.13-11-005) resulted in numerous changes to the energy efficiency portfolios, including, but not limited to, the following:

- Adding several new Regional Energy Networks (RENs) as portfolio administrators;
- Overseeing a shift toward statewide program implementation of at least 25 percent of the portfolio;
- Overseeing a shift toward the majority of the portfolios being designed and implemented by third parties;
- Setting out a schedule for portfolio filings and mid-cycle improvements and milestones;
- Setting Total System Benefit as the primary goal for the portfolios;
- Modifying fuel substitution policy to remove barriers to adoption of energy efficiency measures that save both energy and emissions;
- Imposing a moratorium on any shareholder earnings by investor-owned utilities from successful energy efficiency efforts;
- Launching emergency efforts to assist with electric reliability in the summers of 2022 and 2023; and
- Launching a statewide market transformation portfolio, with a new third-party administrator and five-year portfolio.

2. Preliminary Scoping Memo

This order instituting rulemaking (OIR) will be conducted in accordance with Article 6 of the Commission's Rules of Practice and Procedure, "Rules."¹ As required by Rule 7.1(d), this OIR includes a preliminary scoping memo as set forth below, and preliminarily determines the category of this proceeding and the need for hearing.

We expect this proceeding, like its predecessors, will evolve as issues arise with respect to energy efficiency programs and implementation. As a preliminary structure, we have divided the issues expected to be addressed in this proceeding into two main categories: policy issues and implementation issues, both associated with our focus on cost-effective energy efficiency portfolios.

2.1. Policy Issues**2.1.1. Natural Gas Measure Policy and Definition of Viable Electric Alternatives**

In the Portfolio Administrators' 2024-2027 portfolio application proceeding (Application (A.) 22-02-005 et al.), the Commission addressed policy with respect to incentives offered for certain measures that save natural gas, in light of California's aggressive clean energy goals. Decision (D.) 23-04-035 addressed some issues related to this policy and directed additional processes, including a working group to, among other things, define and identify "viable electric alternatives" (VEA) to gas measures. A staff proposal is expected to be issued in

¹ All references to "Rules" are to the Commission's Rules of Practice and Procedure unless otherwise indicated.

2025 for stakeholder input. Ongoing policy development associated with this natural gas measure policy, in the context of the broader state policy toward building decarbonization, will be needed.

2.1.2. Community Choice Aggregator Oversight

Following modifications to Public Utilities Code Section² 381.1, D.14-01-033 was adopted providing guidance to community choice aggregators (CCAs) who wish to either apply to administer energy efficiency programs in their geographic area, or elect to administer programs only for their own electricity customers. Now that numerous CCAs have elected to administer energy efficiency programs under the provisions of Section 381.1(e)-(f), the Commission has more experience with the implementation of that policy. In particular, we are aware that the budget formula for CCAs that elect to administer energy efficiency programs may need to be modified or refined. There may also be other aspects of CCA portfolio and/or program administration rules that require refinement. A staff proposal is expected to be issued in 2025 for stakeholder input.

2.1.3. Policy Guidance for 2026 Portfolio Applications

All current portfolio administrators are expected to file applications in 2026 for new portfolios to begin implementation in 2028. In advance of those applications, the Commission may want to provide additional policy guidance

² All references to “Section” are to the Public Utilities Code Section unless otherwise indicated.

on the contents of the applications. An Administrative Law Judge (ALJ) ruling with staff recommendations is expected to be issued in 2025.

2.1.4. Portfolio Oversight and Cost-Effectiveness

This proceeding will provide a venue for the Commission to review energy efficiency portfolios for consistency with policy objectives, including affordability, decarbonization, and reliability, and to establish processes for continued Commission oversight. The proceeding is consistent with the March 2025 California State Auditor report, which included recommendations on how the Commission can improve its oversight of energy efficiency portfolios.³ In addition, this proceeding aligns with the Commission's response to Governor Newsom's Executive Order N-5-24 regarding electricity affordability, which notes plans to "open a new rulemaking on energy efficiency in 2025" with "a focus on cost-effectiveness."⁴

2.1.4.1. Portfolio Oversight

The last energy efficiency rulemaking (R.13-11-005) resulted in numerous changes to the energy efficiency portfolios, such as establishing portfolio segments for programs depending on their primary objectives and setting specific requirements by segment. This proceeding plans to build on that work to consider enhancements to the Commission's oversight of the energy efficiency

³ See the Auditor's report 2023-127 at the following link:

<https://www.auditor.ca.gov/reports/2023-127/>

⁴ See "CPUC Response to Executive Order N-5-24," February 18, 2025, at 18, available at the following link: <https://www.cpuc.ca.gov/-/media/cpuc-website/industries-and-topics/reports/cpuc-response-to-executive-order-n-5-24.pdf>

portfolios and programs to ensure they provide maximum benefits to ratepayers. This will include (among other related issues) actions to identify and improve or conclude programs that consistently underperform.

2.1.4.2. Cost-Effectiveness

Cost-effectiveness policy is critical to the design and evaluation of energy efficiency portfolios which, like several other public benefit programs, are funded by ratepayers. Work to refine the Avoided Cost Calculator, which underpins much of the cost-effectiveness analysis, is ongoing in R.22-11-013. As part of a process of continual improvement of energy efficiency programs, adjustments may be needed to cost-effectiveness policies and their application within energy efficiency portfolios and programs. In addition, energy-efficiency-specific cost-effectiveness policy should be coordinated with the broader distributed resource cost-effectiveness work being undertaken in R.22-11-013. This proceeding may also evaluate actions that could improve the efficacy of energy efficiency portfolios and explore ways to reduce ratepayer funding for programs.

2.1.5. Treatment of Multifamily Buildings and Programs

In D.25-01-006, the decision which closed the predecessor proceeding (R.13-11-005), the Commission denied a motion by Bay Area Regional Energy Network (BayREN) and Tri-County Regional Energy Network (3CREN) on the treatment of multifamily buildings, for purposes of the custom project review process and some other aspects of energy efficiency policy. While the particular solution proposed by BayREN and 3CREN was rejected, we recognize there is a

need to address the needs of the multifamily sector more directly and potentially craft new approaches to address this sector that is complex and challenging to serve. We expect this issue to receive attention in this proceeding in 2025, and Commission staff will likely begin by hosting a workshop to solicit ideas on the best approaches.

2.1.6. Other Policy Issues

Though we do not intend to schedule specific activities related to other policy issues, it is possible that during our oversight of this proceeding, issues may arise related to the following topics: modifications or refinements to third-party solicitation requirements; modifications or refinements to statewide program rollout or policy; modifications or refinements to REN requirements and continued oversight; guidance related to financing programs (coordinated with R.20-08-022); and Normalized Metered Energy Consumption Rulebook modifications.

2.2. Implementation Issues

2.2.1. 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 as part of its Integrated Energy Policy Report demand forecast. This study also determines the goals that the energy efficiency portfolio administrators should be expected to meet in overseeing and implementing their programs. The next potential and goals study is expected to be completed in early 2025. Parties will have an opportunity to comment on the

draft study prior to a proposed decision being issued proposing its adoption by the Commission no later than August 2025.

2.2.2. Oversight of 2024-2027 Portfolios

The Commission authorized the energy efficiency portfolios for the period 2024-2027 in D.23-06-055. Any ongoing oversight of these approved portfolios will be conducted in this rulemaking.

2.2.3. Other Implementation Issues

Though we do not intend to schedule specific activities related to other program or portfolio implementation issues at this time, it is possible that in the course of our oversight of this proceeding, issues may arise related to the following topics: market transformation program rollout and oversight (coordinated with A.24-12-009); integrated demand-side management (coordinated with R.22-11-013 and/or R.21-06-017); strategic energy management program updates; emerging technology program updates; oversight and improvements to the Database for Energy Efficiency Resources; program evaluation oversight, conducted by Energy Division, and implications of evaluation outcomes for programs going forward; and program synergies and duplication, among different types of administrators (CCAs, RENs, utilities) and/or program categories (resource acquisition, equity, and market support).

3. Preliminary Schedule

Section 2 above lays out the expected priorities in this proceeding, which include: VEA policy; potential and goals activities; guidance on 2026 portfolio applications; multifamily policy; and the budget formula for CCAs who elect to administer energy efficiency programs for their own retail customers.

The preliminary schedule for those items is as follows in the table below, with categories for the above near-term priorities. Activities related to the other topics will be scheduled, as needed, after these items or in parallel.

PRELIMINARY SCHEDULE

EVENT	DATE
Comments on OIR filed and served	20 days from issuance of OIR
Reply comments on OIR filed and served	30 days from issuance of OIR
Prehearing conference	To be scheduled, ~45 days from issuance of OIR
Scoping memo	~60 days from issuance of OIR
Energy Efficiency Potential and Goals	
ALJ Ruling issued with consultant report for party comments	2 nd Quarter 2025
Opening comments filed and served	2 nd Quarter 2025
Reply comments filed and served	2 nd Quarter 2025
Proposed Decision	3 rd Quarter 2025
Commission Decision	No sooner than 30 days after the PD
VEA Policy	
ALJ Ruling issued with staff proposal for party comments	3 rd Quarter 2025
Opening comments filed and served	3 rd Quarter 2025
Reply comments filed and served	3 rd Quarter 2025
Proposed Decision (PD)	4 th Quarter 2025
Commission Decision	No sooner than 30 days after the PD
Multifamily Programs and Policy	

EVENT	DATE
Workshop	3 rd Quarter 2025
ALJ Ruling issued with staff proposal for party comments	3 rd Quarter 2025
Opening comments filed and served	4 th Quarter 2025
Reply comments filed and served	4 th Quarter 2025
Proposed Decision	4 th Quarter 2025
Commission Decision	No sooner than 30 days after the PD
CCA Elect-to-Administer Budgets and Policy	
ALJ Ruling issued with staff proposal for party comments	4 th Quarter 2025
Opening comments filed and served	4 th Quarter 2025
Reply comments filed and served	4 th Quarter 2025
Proposed Decision	1 st Quarter 2026
Commission Decision	No sooner than 30 days after the PD
Guidance for 2026 Portfolio Applications (if needed)	
ALJ ruling with staff recommendations	2 nd Quarter 2025
Opening comments filed and served	2 nd Quarter 2025
Reply comments filed and served	2 nd Quarter 2025
Proposed Decision	3 rd Quarter 2025
Commission Decision	No sooner than 30 days after the PD

A 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 will be scheduled after the adoption of the OIR and notice will be served on the service list.

The assigned Commissioner or the assigned ALJ may change the schedule to promote efficient and fair administration of this proceeding. Today's decision sets the due date for comments on the OIR. The schedule for the remainder of the proceeding will be adopted in the Assigned Commissioner's Scoping Memo following the PHC.

Due to the complexity and number of issues in this proceeding, it is the Commission's intent to complete this proceeding within 24 months of the date this OIR is adopted. (Public Utilities Code § 1701.5(b).)

If there are any workshops in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar 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.

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

The Commission's Rules of Practice and Procedure require that an OIR preliminarily determine the category of the proceeding and the need for hearing. As a preliminary matter, we determine that this proceeding is ratesetting, similar to its predecessor R.13-11-005, because the policy and programmatic issues within the scope are likely to result in revenue requirement changes and ratepayer costs and savings. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8.

We are also required to preliminarily determine if hearings are necessary. We preliminarily determine that hearings may be necessary. If issues arise where parties raise disputed issues of fact, we will make a provision for parties to request evidentiary hearings. Initially, we have not provided for evidentiary hearings in the preliminary schedule, since no issues have yet been identified that would require hearings.

5. Respondents

Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company are the utilities named as respondents to this proceeding. The other energy efficiency portfolio administrators are named as respondents as well, including: Marin Clean Energy, BayREN, Inland Regional Energy Network, Southern California Regional Energy Network, Central California Rural Regional Energy Network, Northern California Rural Regional Energy Network, San Diego Regional Energy Network, and 3CREN.

6. 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) 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.

7. Service of OIR

This OIR shall be served on all respondents.

In addition, in the interest of broad notice, this OIR will be served on the official service lists for the following proceedings:

- R.13-11-005 (previous energy efficiency rulemaking);
- A.22-05-002 et al. (2024-2027 energy efficiency portfolio applications); and
- A.24-12-009 (market transformation initiatives application).

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 in Section 6 above.

8. 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. Rule 1.10 requires only electronic service on any person on the official service list. When serving documents on the ALJs, 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, their personal advisors, or the ALJs unless specifically instructed to do so. Parties should also pay particular attention to Rule 13.7(f) governing the treatment of prepared testimony and exhibits.

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. 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. The TTY number is (866) 836-7825.

11. Intervenor Compensation

Intervenor Compensation is permitted in this proceeding.

Pursuant to Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by 30 days after the prehearing conference. Parties new to participating in Commission proceedings may contact the Commission's Public Advisor, described in Section 10 above, for more information.

12. Public Outreach

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 this proceeding."

Public outreach will be described in the scoping memo of the assigned Commissioner.

O R D E R

IT IS ORDERED that:

1. This Order Instituting Rulemaking is adopted pursuant to Rule 6.1 of the Commission's Rules of Practice and Procedure.
2. The preliminary categorization is ratesetting.
3. The preliminary determination is that hearings may be needed.
4. The preliminary scope of issues is as stated above in Section 2.
5. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company are respondents to this Order Instituting Rulemaking.

6. Marin Clean Energy, Bay Area Regional Energy Network, Inland Regional Energy Network, Southern California Regional Energy Network, Central California Rural Regional Energy Network, Northern California Rural Regional Energy Network, San Diego Regional Energy Network, and Tri-County Regional Energy Network are respondents to this Order Instituting Rulemaking.

7. Respondents shall, and any other person may, file comments responding to this Order Instituting Rulemaking (OIR) by no later than 20 days after the issuance date of the OIR. Reply comments may be filed no later than 30 days after the issuance date of the OIR.

8. The Executive Director will cause this Order Instituting Rulemaking to be served on all respondents and on the service lists for the following Commission proceedings: Rulemaking 13-11-005, Application (A.) 22-02-005 et. al., and A.24-12-009.

9. Any party that expects to claim intervenor compensation for its participation in this Order Instituting Rulemaking must file its notice of intent to claim intervenor compensation any time after the start of the proceeding until no later than 30 days after the prehearing conference is held. (*See* Rule 17.1(a)(2).)

This order is effective today.

Dated _____, at Sacramento, California.