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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 13-11-005
(Filed November 14, 2013)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
RULING AND AMENDED SCOPING MEMORANDUM REGARDING
IMPLEMENTATION OF ENERGY EFFICIENCY "ROLLING PORTFOLIOS"
(PHASES IIB AND IIIA OF R.13-11-005)**

Summary

This ruling and amended scoping memo establishes the scope for the next portion of Phase II of Rulemaking (R.) 13-11-005 (Phase IIb), pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure. It also establishes the procedural schedule for the initial portion of Phase III of this proceeding (Phase IIIa), which we will begin concurrently with Phase IIb.

1 Discussion

1.1 Procedural History

We concluded Phase I of this proceeding with D.14-10-046.

The assigned Commissioner and Administrative Law Judge's (ALJ) Ruling and Scoping Memorandum Regarding Implementation of Energy Efficiency "Rolling Portfolios" (Phase II of R.13-11-005) (Phase IIa Scoping Memo) established the scope of Phase II of this proceeding. Specifically, we determined three broad categories of items to address in Phase II: (1) developing a "Rolling Portfolio" review processes; (2) providing guidance on changes for 2016

portfolios; and, (3) updating various portfolio metrics (e.g., Database for Energy Efficiency Resources (DEER) values) to keep portfolios on course through 2016 and beyond. We concluded the first portion of Phase II (Phase IIa) in Decision (D.) 15-10-028.

Since we issued the Phase IIa Scoping Memo, events have overtaken the Phase IIa Scoping Memo's scope and schedule. Most saliently, on October 7, 2015 and October 8, 2015, the Governor signed Senate Bill (SB) 350¹ and Assembly Bill (AB) 802,² respectively. These bills materially amend portions of the Public Utilities Code governing ratepayer-funded energy efficiency (EE) programs. The bills also impose deadlines for certain Commission actions relating to EE. We amplify on the bills' impacts below. We will factor implementation of the bills into our proceeding schedule, and into Commission staff's work plans, making changes as needed to the scope and schedule we had previously established. Along with revising the process for completing Phase II, we will also start work concurrently on elements of Phase III.

1.2 Summary of Issues

Generally speaking, we will take on the following issues over the next twelve months.

1. High opportunity programs or projects, pursuant to AB 802;
2. Remaining "Rolling Portfolio Cycle" implementation issues; and

¹ https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201520160SB350

² https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201520160AB802

3. Interpretation and implementation of AB 802 generally and support for implementation of SB 350.

We provide additional detail on these items below.

1.3 “High Opportunity Projects and Programs” Per AB 802

AB 802 provides that “Effective January 1, 2016, electrical corporations and gas corporations are authorized to implement the provisions of [Cal. Pub Util. Code § 381.2(b)] for high opportunity EE projects or programs.”³ Accordingly, our most pressing task is to provide “expedited authorization of high opportunity projects or programs” that flow from “apply[ing] the savings baseline provisions of [Section 381.2(b)].”⁴

Section 381.2(b) requires, in pertinent part, that the Commission shall:

authorize electrical corporations or gas corporations to provide financial incentives, rebates, technical assistance, and support to their customers to increase the energy efficiency of existing buildings based on all estimated energy savings and energy usage reductions, taking into consideration the overall reduction in normalized metered energy consumption as a measure of energy savings.

Those programs shall include:

- Energy usage reductions resulting from the adoption of a measure or installation of equipment required for modifications to existing buildings to bring them into conformity with, or exceed, the requirements of Title 24 of the California Code of Regulations, as well as

³ Cal. Pub. Util. Code § 381.2(c). All statutory references are to the Public Utilities Code unless noted otherwise.

⁴ Cal. Pub. Util. Code § 381.2(c).

- Operational, behavioral, and retrocommissioning activities reasonably expected to produce multi-year savings.
- Electrical corporations and gas corporations shall be permitted to recover in rates the reasonable costs of these programs. The commission shall authorize an electrical corporation and gas corporation to count all energy savings achieved through the authorized programs created by this subdivision, unless determined otherwise, toward overall energy efficiency goals or targets established by the commission.⁵

In sum, we must expeditiously authorize “high opportunity programs or projects” that implement the provisions of Section 381.2(b). This requires a preliminary Commission interpretation of the phrase “estimated energy savings and energy usage reductions, taking into consideration the overall reduction in normalized metered energy consumption as a measure of energy savings.” In order to conform with the January 1, 2016 target in AB 802, we will be defining “high opportunity programs or projects” that will be as nearly certain as possible to fall under whatever full definition(s) we ultimately adopt in implementing Section 381.2(b), to be determined later in 2016. Without identifying *everything* that meets the requirements under Section 381.2(b), we expect to be able to conclude before January that *some things* are unquestionably within its ambit, and also provide “high opportunities.” We can more fully flesh out what Section 381.2(b) means throughout the course of the proceeding in 2016.

In addition to determining what “high opportunity programs and projects” are, and how to authorize them, we will have to decide several ancillary issues, including:

1. How to determine the cost-effectiveness of such programs and projects;
2. How to evaluate, measure, and verify savings from such programs and projects ex post; and
3. How to set shareholder incentives for such programs and projects.

In light of the timing constraints we face, we conclude that the best way to meet the Commission’s statutory deadline is for Commission Staff to issue a white paper, followed by a short comment period. The assigned Commissioner and ALJ will then release a ruling per the schedule below to provide guidance to utilities on implementation of the “high opportunity programs and projects” pursuant to AB 802.

The procedural schedule for implementing AB 802 “high opportunity programs or projects” is as follows:

Date	Event
11/6/15	Ruling issues with a Commission Staff white paper regarding “high opportunity programs or projects”
11/20/15	Formal comments due on Commission Staff white paper regarding “high opportunity programs or projects”
12/31/15	Joint Assigned Commissioner and ALJ Ruling on “high opportunity programs or projects”

1.4 Remaining Rolling Portfolio Cycle Implementation Issues (Phase IIb)

AB 802 also requires the Commission to more generally⁶ authorize EE “financial incentives, rebates, technical assistance, and support to [utility]

⁵ Section 381.2(b)(bullets and paragraph breaks added for clarity).

⁶ As opposed to just for “high opportunity programs.”

customers under Section 381.2(b) by September 1, 2016.”⁷ We note that September 1, 2016 is also the last date D. 15-10-028 set for Program Administrators (PAs) to file their initial business plans. Thus, we need to both wrap up remaining issues around the business plan filing process and guidance, *and* provide guidance to PAs on implementation of Section 381.2(b) in sufficient time to inform September 1, 2016 business plan filings. In that regard, we intend to provide a proposed decision to close Phase II of this proceeding in the second quarter (Q2) of 2016. This should provide stakeholders and program administrators adequate time to prepare and file business plans by the September 1, 2016 deadline.

In addition to further guidance on business plan filings, Phase IIb will also address ongoing issues related to: the review of Regional Energy Networks (RENs); changes to statewide and third-party program; and revisions to the accounting and reporting requirements. A schedule for each of the Phase IIb issues is included below.

Finally, Phase IIb will provide Strategic Guidance for the PAs to use in proposing programs in their business plans. This Guidance may be in lieu of a completed Strategic Plan Update scheduled for 2016, given the competing priorities and a revised EE franchise that may result from AB 802 and SB 350 implementation.

⁷ Section 381.2(b)(emphasis added).

1.4.1 Further Guidance on Process for Business Plan Filings

Date	Event
11/16/15	Cost Effectiveness Tool Released; enables users access to CET V.1.0
January 2016	Online Filing Tool Workshop 1: User Requirements for Formatting Business Plans and Annual Filings
June 2016	Commission Staff Issues Filing Data Specifications for Business Plans and Annual Budget Filings
June 2016	Online Filing Tool Workshop2 and Test Phase
August 2016	Online Filing Tool Release

1.4.2 Review of Regional Energy Networks (RENs)

Date	Event
11/20/15	REN Process Evaluation and REN/CCA Impact Assessment report drafts circulated for public comment
12/3/15	Webinar to address the REN/CCA Impact Assessment and the Process Evaluation report drafts
12/7/15	Public Comment Period for REN/CCA Impact Assessment report draft closes
12/11/15	Public Comment Period for Process REN/CCA Evaluation report draft closes
1/8/16	REN/CCA Impact Assessment final report issued for formal comment
1/22/16	REN/CCA Process Evaluation final report issued for formal comment
1/22/16	“What’s Next for the RENs?” Public workshop to review the findings of the REN/CCA Impact Assessment and RENs Process Evaluation to consider appropriate next steps for the future of the RENs
2/26/16	Formal comment due on REN/CCA Impact Assessment and Process Evaluation

1.4.3 Changes to Statewide Programs

Date	Event
Early Q1 2016	Assigned Commissioner Ruling regarding Statewide and Third-Party Program Changes
Q1 or early Q2 2016	Party comments

1.4.4 Revisions to Accounting and Reporting Requirements

We will issue via ruling a State Controller’s Office (SCO) report making recommendations on EE financial accounting and reporting requirements. We will conduct an associated workshop, after which there will be a public comment period. Commission Staff may prepare a whitepaper in response to the workshop and comments, in which case there will be a round of comments on the Commission Staff whitepaper.

Date	Event
11/16/15	SCO presentation of recommendations on EE financial accounting and reporting requirements
12/8/15	Informal comments to SCO and Commission Staff on SCO recommendations
1/6/16	Final SCO report issued via ruling for formal party comment
1/25/16	Formal party comments on SCO report

1.5 Broader AB 802 and SB 350 Issues (Phase IIIa)

1.5.1 Baseline, and Meter-based Measurement of Savings

R.13-11-005 preliminarily placed in Phase III a review of our practices for setting the baseline for measuring savings.

As discussed above, AB 802 contemplates changes to how we measure savings from EE programs generally, not just for “high opportunity programs

and projects.” Here is the schedule for addressing the broader set of baseline and evaluation measurement and verification (EM&V) issues that flow from AB 802.

Date	Event
11/6/15	Staff workshop on technical analysis for existing baseline conditions savings potential
11/20/15	Comments due on staff workshop on technical analysis for existing baseline conditions savings potential
1/26/16	Staff workshop on policy considerations in implementing existing conditions baseline
1/27/16	Staff workshop on EM&V protocols
2/10/16	Informal comments due on staff workshops regarding existing conditions baseline and EM&V protocols
3/18/16	Staff white paper, technical analysis and EM&V protocols issued via ruling
4/8/16	Formal comments due on staff white paper, technical analysis and EM&V protocols

We expect the Coordinating Committee authorized in D.15-10-028 to work with PAs on portfolio revisions (e.g., business plans, budgets, and implementation plans) relating to these issues, once we address them in a decision. We will not reschedule the cancelled Workshop 5 (2016 changes, part 2; further guidance on 2016 portfolios in response to new goals and DEER updates). We expect the Coordinating Committee to work with PAs on these issues.

1.5.2 Ex Ante Review Process Changes

R.13-11-005 preliminarily placed changes to *ex ante* review in the scope of Phase III. SB 350 changes Public Utilities Code Section 394.4 to require that the Commission review policies related to, among other things, ensuring certainty in the values and methodologies used to determine customer incentives.

D.15-10-028 invited stakeholders to propose changes to the *ex ante* review process. Consistent with D.15-10-028, we will establish a schedule relating to changes to the *ex ante* review process when and if stakeholders submit a change proposal as invited in that decision.

1.5.3 EM&V Stakeholder Meetings

Date	Event
3/8/16	Q1 EM&V Stakeholder Meeting
6/14/16	Q2 EM&V Stakeholder Meeting
9/13/16	Q3 EM&V Stakeholder Meeting
12/13/16	Q4 EM&V Stakeholder Meeting

1.5.4 Possible Additional Workshops

If there are any additional workshops in this proceeding beyond those listed above, notices 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.

2 Master Calendar

For parties’ convenience, here is a master calendar:

Date	Event
11/6/15	Ruling issues with a Commission Staff white paper regarding “high opportunity programs or projects”
11/6/15	Staff workshop on technical analysis for existing baseline conditions savings potential
11/16/15	Cost Effectiveness Tool and Workshop Report Released; enables users access to CET V.1.0
11/16/15	SCO presentation of recommendations on EE financial accounting and reporting requirements

Date	Event
11/20/15	Formal comments due on Commission Staff white paper regarding “high opportunity programs or projects”
11/20/16	Comments due on staff workshop regarding technical analysis for existing baseline conditions savings potential
11/20/15	REN/CCA Process Evaluation and REN/CCA Impact Assessment report drafts circulated for informal public comment
11/30/15	Online Claims Processing Tool - First user test phase begins (Q3/15 claims)
12/3/15	Webinars to address the REN/CCA Impact Assessment and the Process Evaluation report drafts
12/7/15	Informal Public Comment Period for REN/CCA Impact Assessment report draft closes
12/8/15	Informal comments to SCO and Commission Staff on SCO recommendations
12/11/15	Public Comment Period for REN/CCA Process Evaluation report draft closes
12/31/15	Joint Assigned Commissioner and ALJ Ruling on “high opportunity programs or projects”
January 2016	Online Filing Tool: User Requirements Workshop1
Q1 2016	Assigned Commissioner Ruling regarding Statewide and Third-Party Program Changes
1/6/16	Final SCO report issued via ruling for formal party comment
1/8/16	REN/CCA Impact Assessment final report issued for formal comment
1/22/16	REN/CCA Process Evaluation final report issued for formal comment
1/22/16	“What’s Next for the RENs?” Public workshop to review the findings of the REN/CCA Impact Assessment and RENs Process Evaluation to consider appropriate next steps for the future of the RENs

Date	Event
1/25/16	Formal party comments on SCO report
1/26/16	Staff workshop on policy considerations in implementing existing conditions baseline
1/27/16	Staff workshop on EM&V protocols
2/10/16	Informal comments due on staff workshops regarding existing conditions baseline and EM&V protocols
2/26/16	Formal comments due on REN/CCA impact and process evaluations
3/8/16	Q1 EM&V Stakeholder Meeting
3/18/16	Staff whitepaper, technical analysis and EM&V protocols issued via ruling
Q2 2016	Comments on Statewide and Third-Party Program Changes
Q2 2016	Proposed Decision on Phase IIb and IIIa issues
4/8/16	Formal comments due on staff white paper, technical analysis and EM&V protocols
6/1/16	Online Claims Processing Tool - Final user test phase (Q4/15 claims)
6/16	Commission Staff Issues Filing Data Specifications for Business Plans and Annual Budget Filings
June 2016	Online Filing Tool Workshop2 and Test Phase
August 2016	Online Filing Tool Release
6/14/16	Q2 EM&V Stakeholder Meeting
9/13/16	Q3 EM&V Stakeholder Meeting
12/13/16	Q4 EM&V Stakeholder Meeting

IT IS RULED that:

1. The scope of Phase IIb and Phase IIIa of this proceeding is amended as described herein.
2. This proceeding will be completed within 18 months of the date of this amended Scoping Memo.

Dated October 30, 2015, at San Francisco, California.

/s/ CARLA J. PETERMAN
Carla J. Peterman
Assigned Commissioner

/s/ TODD O. EDMISTER
Todd O. Edmister
Administrative Law Judge