



## MEMORANDUM

**TO:** Local Government Sustainable Energy Coalition Membership

**FROM:** Jody London, Regulatory Consultant

**DATE:** December 2, 2013

**SUBJECT:** New Energy Efficiency Proceeding

### Introduction

On November 21, 2013, the California Public Utilities Commission (“CPUC” or “Commission”) opened a [new rulemaking on energy efficiency](#) rolling portfolios, policies, programs, evaluation, and related issues. This memo provides an overview of the issues and timelines in R.13-11-005, as well as an update on two memos released just before Thanksgiving which catapult the proceeding into high gear. Key short-term deadlines and events identified in the rulings, and described in further detail below, include:

Date	Event
Friday, December 6, 2013	Prehearing Conference Statement (6 page limit)
Wednesday, December 11, 2013	Prehearing Conference (scheduling conference)
Friday, December 20, 2013	Comments on draft 2013 Energy Efficiency Goals and Potential Study
Tuesday, February 18, 2014	Administrators file for 2015 Energy Efficiency funding

A more complete schedule of all the deadlines is provided in Attachment A.

### Scope of New Rulemaking

R.13-11-005 will replace R.09-11-014, the longstanding docket in which energy efficiency policy issues have been addressed. The record from the prior docket will be incorporated into the current proceeding. R.13-11-005 states as its primary purpose to implement energy efficiency “Rolling Portfolios,” by which the CPUC means a portfolio of energy efficiency programs that has the following characteristics:

1. Commission-approved funding for a long term (*e.g.*, 10 years);

2. Administrators periodically adjust portfolios as circumstances warrant, rather than filing entire portfolios for Commission review on a fixed schedule; and,
3. The Commission renews funding well prior to the end of the funding period.

A key reason provided for moving to Rolling Portfolios is to avoid the disruptions that are created by three year (or shorter) cycles. This is also expected to reduce administrative burdens and other costs. The LGSEC has long advocated for a rolling cycle, so this move alone should be viewed as a victory.

### **Phase 1: 2015 Extension**

The Rulemaking anticipates that the CPUC will not be able to resolve the “potentially radical changes in the structure and budget cycles of these [energy efficiency] programs” by the end of 2014, and therefore states that funding for the existing portfolios will be extended through 2015. This will be Phase 1 of the Rulemaking. In a ruling released the day before Thanksgiving, the CPUC directed that Administrators file for 2015 funding by February 15, 2014.<sup>1</sup> The Rulemaking anticipates that the 2015 portfolios will be mainly the same programs and budgets as currently, with some possible modifications to:

- Reflect an updated energy efficiency goals and potential study, and associated targets;
- Respond to the shutdown of the San Onofre Nuclear Generating Station with more energy efficiency; and
- Allow administrators to reflect possible changes that may be needed because of additional funds for energy efficiency from the 2013 Proposition 39.

The CPUC will issue a Scoping Memo for Phase 1 by December 23 that provides more detail on the above. The schedule will include opportunities for public comment on the 2015 proposals. The CPUC expects to issue a decision on Phase 1, and the 2015 portfolio, by early May.

### **Phase 2: Process for Rolling Portfolios**

R.13-11-005 provides rationale for moving to Rolling Portfolios. It then moves to the practical issues associated with how to transition to this new model. The Rulemaking tacitly acknowledges the ongoing work of a large collaboration of stakeholders on this topic, in which the LGSEC has been active. In Phase 2, the CPUC will invite parties to bring forward concrete proposals that will result in a simplified, flexible process, which can still accommodate regulatory oversight, review cycles, and technical updates, while relying more on informal forums to resolve issues, rather than litigious regulatory proceedings.

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<sup>1</sup> Because February 15 is a Saturday, the due date will move to the next business day. In this case, because Monday, February 17 is a State holiday, the due date will be Tuesday, February 18.

Phase 2 will commence when Phase 1 is complete. Issues identified for Phase 2 in the OIR include:

- Updating goals and potential studies and targets
- Streamlining and standardizing administrator and implementer reporting requirements and administrator budget categories
- Integrating ex ante estimates of energy savings with the rolling portfolio
- Integrating ex post evaluation, measurement, and verification information to inform portfolio composition
- Revising the recently adopted shareholder incentive mechanism (“ESPI”) to reflect changes in the portfolio in 2015 and going forward
- Adapting Community Choice Aggregation and Regional Energy Network policies to reflect Rolling Portfolios, including issues related to implementation and administration of energy efficiency programs
- Safety issues

Phase 2 is expected to be completed by the end of September 2014.

### **Phase 3: Policy Issues Not Tied to the Transition to Rolling Portfolios**

In Phase 3, the CPUC will address other policy issues. These include an update of the *Long Term Energy Efficiency Strategic Plan*; providing a forum to discuss alleged waste, fraud, and general issues relating to the cost-effectiveness of portfolios/ programs/measures; responding to evolving market and regulatory conditions; revising participation by entities besides the utilities in energy efficiency implementation; financing programs; reviewing custom project rules and incentive levels; code compliance programs; fuel switching rules; marketing, education, and outreach programs; data access associated with EM&V<sup>2</sup>; and revisions to the cost-effectiveness calculators. Phase 3 is expected to be resolved by the end of June 2015.

Local governments will likely be interested in many of these topics, particularly those associated with program administration. These include:

- Whether to continue to set aside a certain percentage of each administrator’s portfolio for third party implementers (i.e., require each administrator to devote at least 20% of its portfolio budget to third party contracts)?
- If such a set-aside is continued, what should the set-aside amount be?
- Should the CPUC direct administrators to target particular program categories for greater third party involvement? Should the CPUC make non-IOUs the sole “implementers;” that is, should IOUs be barred from the “implementer” role?
- If the CPUC continues to allow IOUs to act as “implementers,” should it give

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<sup>2</sup> R.13-11-005 states that the Smart Grid Proceeding, R.08-12-009, will continue to be the primary docket for issues related to energy usage data. The LGSEC has been pursuing this issue for a long time. Senior CPUC staff tell us that a Proposed Decision, which was originally expected over the summer, is forthcoming.

- priority to non-IOU implementers?
- Should the CPUC allow for third-party aggregation and sale to IOUs of savings from energy efficiency measures? If so, how would this type of savings aggregation program comport with / be accounted for in the ESPI mechanism?
  - For governmental entities that are implementing programs (e.g., local governmental partnerships), the OIR states that the CPUC will explore their cost-effectiveness. As part of that effort, the CPUC may benchmark their performance against that of other implementers of similar programs.

### **Administrative Matters: How to Stay on the Service List**

Those who want to receive documents, notices, and other information directly from the CPUC and the parties in this case should send an e-mail to the CPUC Process Office, [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov), indicating that you wish to be placed on the service list for this proceeding in the “Information Only” category. Under CPUC rules, each participating party is allowed one official appearance. This is the person who is the primary contact for a party that will be submitting filings and pleadings, etc. For the LGSEC, this person is Jody London.

### **Procedural Issues**

Last week, just before Thanksgiving, the CPUC issued two rulings that move the proceeding ahead quickly. On November 26, the CPUC issued a ruling requesting comments by December 20 on a draft 2013 Goals and Potential study. You can find the [Ruling here](#), and the [Study here](#). The LGSEC will likely provide comments on this, working through our energy efficiency policy committee. If you would like to assist with this effort, please notify Jody London and Demetra McBride.

On November 27, the CPUC issued a [ruling announcing a Prehearing Conference](#) on Wednesday, December 11, 9 a.m. at the CPUC headquarters in San Francisco. This is where many of the procedural issues for Phase 1 will be addressed. The Ruling asks parties to submit by Friday, December 6, prehearing conference statements of no more than 6 pages that address the following questions:

1. Any objection to this proceeding being categorized as Ratesetting (this means the stringent *ex parte* rules that require reporting any contact with a decision maker will apply);
2. Whether the CPUC should adopt or modify the proposed schedule for Phase 1; and
3. The form of administrator filings for 2015 portfolio funding.

The LGSEC will likely submit a brief statement agreeing with questions 1 and 2. We welcome your ideas on question 3, and will likely discuss this on the Energy Efficiency Policy Committee call Thursday afternoon, December 5, 3:30 – 4:30.<sup>3</sup>

Please contact me with any questions or comments.

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<sup>3</sup> Please let Jody London know if you would like to join the call.

**ATTACHMENT A  
COMPLETE PROCEDURAL SCHEDULE**

(note: dates may change!)

Date	Event
Friday, December 6, 2013	Prehearing Conference Statement (6 page limit)
Wednesday, December 11, 2013	Prehearing Conference (scheduling conference)
Friday, December 20, 2013	Comments on draft 2013 energy efficiency goals and potentials Study
Monday, December 23, 2013	CPUC issues Phase 1 Scoping Memo
Monday, January 27, 2014	CPUC issues Assigned Commissioner's Ruling on goals and potentials
Tuesday, February 18, 2014	Administrators file for 2015 Energy Efficiency funding
Week of February 17, 2014	CPUC workshop re administrator filings
Friday, March 7, 2014	Comments on administrator filings for 2015
Friday, March 14, 2014	Reply comments on administrator filings for 2015
Friday, April 4, 2014	CPUC issues Proposed Decision on 2015 portfolio funding
Thursday, April 24, 2014	Comments on Proposed Decision re 2015 portfolio*
Tuesday, April 29, 2014	Reply Comments on Proposed Decision
Monday, May 5, 2014	CPUC votes on 2015 portfolio funding
May – September 2014	Phase 2 – issues to be resolved by end of September
October 2015 – June 2015	Phase 3 – issues to be resolved by end of June

\* Assuming Proposed Decision is issued April 4