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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2012-2014 California Alternate Rates for Energy (CARE) and Energy Savings Assistance Programs and Budgets.

Application 11-05-017
(Filed May 16, 2011)

And Related Matters.

Application 11-05-018
Application 11-05-019
Application 11-05-020

**ADMINISTRATIVE LAW JUDGE'S
RULING SETTING TENTATIVE EVIDENTIARY HEARING DATES AND
PROCEEDING SCHEDULE AND DIRECTING PARTIES TO FILE STATEMENT
OF MATERIAL AND CONTESTED FACTS**

The above-captioned applications (Consolidated Proceeding) relate to the 2012–2014 Energy Saving Assistance Program (formerly referred to as Low Income Energy Efficiency) and California Alternate Rates for Energy Program budget applications of Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company.

For the Consolidated Proceeding, this ruling sets a briefing schedule and directs any party that believes an evidentiary hearing is required to file a clear and concise Itemized Statement of Material Contested Facts, requiring evidentiary hearing. This ruling also provides general overview, guidance and

hearing ground rules to parties in preparation for the tentatively set evidentiary hearing, in the event that one is proven necessary, based upon review of the record and the parties' Itemized Statement of Material Contested Facts ordered in this ruling.

This ruling and the attached hearing ground rules are not intended to substitute the parties' responsibilities under the rules set forth in the Commission's Rules of Practice and Procedure (Rules), Chapter 1, Division 1 of Title 20 of the California Code of Regulations. The current version of the Rules is available on the Commission's website: www.cpuc.ca.gov.

1. Background

Since the filing of the applications in May 2011 in the Consolidated Proceeding, evidentiary hearing date, time and place have been held as a placeholder in the event that there proves to be material disputed factual issues raised in the Consolidated Proceeding. Parties since have appeared before me in two prehearing conferences and there has been ample time for formal and informal discovery, including time to examine all of the filings to date, and eight separate public workshops which have been held in the Consolidated Proceeding with parties exploring, debating and discussing many of the issues that are within the scope of and integral to the Consolidated Proceeding.

2. Itemized Statement of Material Disputed Facts

If any party still believes that there are material disputed factual issues in this proceeding requiring evidentiary hearing, by November 21, 2011, you are hereby ordered to file a Statement of Material Disputed Facts which details the following:

- Itemized Listing of Disputed Factual Issues;

- Summary and explanation as to why such issue(s) is/are material in the Consolidated Proceeding;
- References to the sources of the asserted disputed facts and parties asserting such disputed facts; and
- Description of all reasonable and diligent meet and confer efforts undertaken by and between the parties in this proceeding without evidentiary hearing.

As noted in the schedule below, an early-December 2011 ruling should be expected and will determine whether evidentiary hearing is justified and, if so, on what issue or issues, based on the filings in the Commission’s Consolidated Proceeding, including the parties’ Itemized Statement of Material Issues of Disputed Facts ordered in this ruling. If I determine that no evidentiary hearing is necessary, the tentative January 2012 hearing dates will be off-calendared, at that time.

3. Schedule

As a follow-up to the Scoping Ruling dated September 26, 2011, below is the prospective proceeding schedule for the Consolidated Proceeding:

Date(s)	Event
November 10, 2011	<i>Projected</i> Adoption of Proposed Decision on Bridge Funding
November 18, 2011	Intervenors’ Testimony
Mid-November 2011	Ruling Ordering Filing of Statement of Material Disputed Facts, Setting Tentative January Evidentiary Hearing (EH) and Briefing Schedule As Necessary.
November 21, 2011	Itemized Statement of Material Issues of Disputed Facts Due
December 9, 2011	Reply Testimony
Early-December 2011	Ruling Confirming or Off-Calendaring Tentatively Set EH Dates.

Date(s) IF NO EH HELD / IF EH HELD	Event
December 14, 2011 / December 14, 2011	Motion(s) for Compel Due
December 16, 2011 / December 16, 2011	Discovery Cut-off (all discovery, including data requests, completed and responses served)
Not applicable (NA) / December 20, 2011	Joint Case Management Statement Due
NA / December 27, 2011	Exchange of Witness and Exhibit Lists
NA / December 28, 2011	In Limine Motion(s) Due
NA / January 3- 6, 2012	Tentatively Set EH Dates (Commission Hearing Room is reserved)
January 11, 2012 / January 20, 2012	Opening Briefs
January 25, 2012 / January 31, 2012	Reply Briefs
January 31, 2012 / January 31, 2012	Request for Final Oral Argument
January 31, 2012 / January 31, 2012	Submission Date
March 2012	<i>Projected</i> Mailing of Proposed Decision
April 2012	<i>Projected</i> Adoption Date of Final Decision

As needed for efficiency or other proceeding related needs, the assigned ALJ and Commissioner may alter this schedule as they see fit.

4. Discovery

As a reminder, the parties shall follow the general rule of 10 working days to respond to discovery or data requests, unless a particular discovery or data request requires additional time. If a longer response time is required, the party preparing the response shall so notify the requesting party and indicate when the response will be sent. Such notice should be provided as soon as practicable, but no later than 10 days after receipt of the request. If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Rule 11.3. Motions to compel are due as noted in the above schedule.

5. Pre-EH Filings

If I find that an EH is needed for one or more material and contested factual issues in the Consolidated Proceeding, all parties that served or intend to serve written testimony or intend to cross-examine witnesses at the evidentiary hearing on those material and contested factual issues will be ordered to meet and confer, and by dates set forth in the above schedule, said parties will be ordered to exchange witness and exhibit lists, as well as file a detailed Case Management Statement and *in limine* motions.

6. Briefs

Before filing briefs, by dates set forth in this ruling, all parties shall meet and confer and make a good faith effort to reach an agreement on the general framework and outline of disputed issues and use the same for opening briefs and reply briefs. Parties shall prepare and attach updated summary of recommendations as an attachment to their opening briefs. This update should include:

- a. a summary of the party's position on each issue;
- b. further references as appropriate to exhibits, transcript pages, or other documents; and
- c. any other information the party considers necessary and useful to present its position.

7. Final Oral Argument

Pursuant to Rule 13.13(b), a party in a ratesetting proceeding has the right to make a final oral argument before the Commission if the final oral argument is requested within the time and manner specified in the scoping memo or later ruling. In this proceeding, any party seeking to present a final oral argument shall file and serve a motion by January 31, 2012.

The motion shall state the request, the subjects to be addressed at oral argument, the amount of time requested, any recommended procedure and order of presentations, and all other relevant matters. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion and to provide an efficient, fair, equitable, and reasonable final oral argument. If more than one party seeks the opportunity for final oral argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. Responses to the motion may be filed.

IT IS RULED that:

1. The schedule for the Consolidated Proceeding, the 2012–2014 Energy Saving Assistance Program (formerly referred to as Low Income Energy Efficiency) and California Alternate Rates for Energy Program budget applications of Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company, going forward is adopted, as set forth below, unless further modified by assigned Commissioner or assigned Administrative Law Judge subsequent directive:

Date(s)	Event
November 10, 2011	<i>Projected</i> Adoption of Proposed Decision on Bridge Funding
November 18, 2011	Intervenors' Testimony
Mid-November 2011	Ruling Ordering Filing of Statement of Material Disputed Facts, Setting Tentative January Evidentiary Hearing (EH) and Briefing Schedule As Necessary.
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January 31, 2012 / January 31, 2012	Submission Date
March 2012	<i>Projected</i> Mailing of Proposed Decision
April 2012	<i>Projected</i> Adoption Date of Final Decision

2. If any party believes that there are material disputed factual issues in this proceeding requiring evidentiary hearing, by November 21, 2011, such party

shall prepare and file a Statement of Material Disputed Facts which details the following:

- a. Itemized Listing of Disputed Factual Issues;
 - b. Summary and explanation as to why such issue(s) is/are material in the Consolidated Proceeding;
 - c. References to the sources of the asserted disputed facts and parties asserting such disputed facts; and
 - d. Description of all reasonable and diligent meet and confer efforts undertaken by and between the parties in this proceeding without evidentiary hearing.
3. Evidentiary hearing dates are tentatively set for January 3, 2012 through and including January 6, 2012.
4. Parties shall follow the general rule of 10 working days to respond to discovery or data requests, unless a particular discovery or data request requires additional time. If a longer response time is required, the party preparing the response shall so notify the requesting party and indicate when the response will be sent. Such notice should be provided as soon as practicable, but no later than 10 days after receipt of the request. If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Rule 11.3. Motions to compel are due as noted in the above schedule.
5. Parties shall comply with all deadlines set forth in this ruling.
6. Before filing briefs, by dates set forth in this ruling, all parties shall meet and confer and make a good faith effort to reach an agreement on the general framework and outline of disputed issues and use the same for opening briefs and reply briefs. Parties shall prepare and attach updated summary of

recommendations as an attachment to their opening briefs. This update should include:

- a. a summary of the party's position on each issue;
- b. further references as appropriate to exhibits, transcript pages, or other documents; and
- c. any other information the party considers necessary and useful to present its position.

Dated November 9, 2011, at San Francisco, California.

/s/ KIMBERLY H. KIM
Kimberly H. Kim
Administrative Law Judge

APPENDIX A
General Hearing Room Ground Rules for Evidentiary Hearing
ALJ Kimberly Kim

1. Written Testimony:

- a. Testimony-Summary of Recommendations:** All parties serving testimony in this proceeding shall include testimony in the form of a clearly organized table summarizing all proposed recommendations on each disputed issue with citations to the proposed exhibits or workpapers. Parties shall meet and confer and coordinate, to the fullest extent practicable, to achieve consistency in the format of these summaries. In separate columns, parties shall include, at a minimum, the following:
- (1) Number each recommendation in sequential order;
 - (2) A short caption of the recommendation; and
 - (3) Exhibit page citations for the primary discussion of the recommendation.
- b. Direct Testimony:** Each party shall make its case in its direct testimony.
- c. Rebuttal Testimony:** Rebuttal testimony shall include specific references to the testimony being rebutted. It is inappropriate, and potentially a ground for striking, for any party to hold back direct presentations for introduction in rebuttal testimony.
- d. Service of Written Testimony:** All prepared written testimony shall be served electronically on all individuals on the Appearance, State Service, and Information Only sections of the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. A hard copy of prepared testimony shall be served on the ALJ and the assigned Commissioner. Prepared written testimony shall not be filed with the Commission's Docket Office. Prepared testimony shall be prepared in conformance with Rule 13.8.
- e. Copies of Written Testimony at Hearing:** If testimony has been previously served, each party sponsoring such testimony shall, in the

hearing room, provide one copy each to the ALJ, Commissioner, and reporter. Parties shall bring sufficient copies for distribution to all other parties present in the hearing room.

2. Hearing Exhibits:

- a. Exhibit Numbering.** Parties shall meet, confer and agree on an exhibit numbering scheme in advance of hearing. For instance, one party may use exhibits 1-100, the next party may use 101-200, and so on. All exhibits shall be pre-marked with their number and the name of the sponsoring party.
- b. Number of Copies.** Exhibits produced at the hearing, but not previously served require two copies for the ALJ and Commissioner, one copy for the reporter, and sufficient copies for distribution to each of the parties.
- c. Format.** Exhibits shall be prepared consistent with the requirements of Rule 13.7. The upper right-hand corner of the exhibit cover sheet shall be blank for the ALJ's exhibit stamp. If there is not sufficient room in the upper right hand corner for an exhibit stamp, the sponsoring party shall prepare a cover sheet for the exhibit. The common practice of pre-printing the docket number, a blank line for the exhibit number, and witness names(s) is acceptable, but it is not a substitute for the required blank space to accommodate the exhibit stamp. In addition, all exhibits should be bound on the left side or upper left-hand corner. Rubber bands and paper clips are unacceptable.
- d. Bound Testimony.** Individual chapters of large, bound volumes of testimony may be marked with separate exhibit numbers, as convenient.
- e. Partial Document.** Partial documents or excerpts from documents must include a title page or first page from the source document; excerpts from lengthy documents shall include a table of contents page covering the excerpted material.
- f. Providing Exhibit(s) to Witness and Witness' Counsel.** If a party intends to introduce an exhibit in the course of cross-examination, the party shall provide a copy of the exhibit to the witness and the witness'

counsel before the witness takes the stand on the day the exhibit is to be introduced. A party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction.

- g. Correction(s) to Exhibit(s).** Corrections to an exhibit shall be made in advance and not orally from the witness stand. Corrections shall be made by providing new exhibit pages on which corrections appear. The original text to be deleted shall be lined out with the substitute or added text shown above or inserted. Each correction page shall be marked with the word "revised" and the revision date.
- h. Confidential Exhibit(s).** In general, confidential exhibits are discouraged. If parties believe that confidential exhibits are required, these exhibits shall bear the appropriate exhibit number and be followed by the letter "C." A redacted copy of such an exhibit shall also be provided for the public record. Thus, the confidential version of Exhibit 1 will be marked Exhibit 1-C, and the redacted (public) version of the document will be marked Exhibit 1. The ALJ will determine whether an exhibit will receive confidential treatment.

3. Cross-Examination:

- a. Duration.** As set forth in Rule 13.5, it may be necessary to limit and allocate cross-examination time as well as time for redirect and recross-examination.
- b. Cross-Examination Exhibits.** Each party intending to introduce an exhibit in the course of cross-examination should provide a copy to the witness and the witness' counsel before the witness takes the stand with sufficient time for reasonable review of the document. Documents in excess of two pages should be provided the day before. Generally, parties need not provide advance copies of a document to be used for impeachment or to obtain a spontaneous reaction from the witness (although this practice is not encouraged).

4. Miscellaneous Rules:

- a. Reference Items.** Notices, compliance filings, or other documents may be marked as reference items. They need not be served on all parties.

Reference items will be marked using letters, not numbers (e.g., Reference Item A).

- b. Running Exhibit List.** During the hearing, the ALJ may direct one party to create a running exhibit list (with designation of the sponsoring party, the name of the document, whether exhibits are in evidence, and the date on which they were identified and received in evidence) and furnish it to the ALJ and all other parties.

- c. Daily hearing schedule.** Unless otherwise modified by the ALJ, the hearings will begin at 10:00 a.m. each day. Witnesses must speak clearly and deliberately to allow the hearing reporters to record every word of testimony. The audience at the hearing shall remain quiet and respectful. No food is allowed in the hearing room. All electronic devices including laptops and cell-phones shall be placed on silent mode.

END OF APPENDIX A