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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities.

Rulemaking 08-11-005
(Filed November 6, 2008)

**ASSIGNED COMMISSIONER'S RULING AND
SCOPING MEMO FOR PHASE 3 OF THIS PROCEEDING**

This ruling and scoping memo (Scoping Memo) sets forth the scope, schedule, and the need for hearings in Phase 3 of this proceeding pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules).

1. Background

The purpose of this rulemaking proceeding is to consider and adopt measures to reduce the fire hazards associated with (1) overhead power-line facilities, and (2) aerial communication infrastructure provider (CIP) facilities in close proximity to overhead power lines. The scoping memo dated January 6, 2009, divided this proceeding into two phases. The purpose of Phase 1 was to adopt measures that could be implemented in time for the 2009 autumn fire season in Southern California. Phase 1 concluded with the issuance of Decision (D.) 09-08-029. The purpose of Phase 2 was to adopt measures that required more time to consider and implement. Phase 2 concluded with the issuance of D.12-01-032 (the Phase 2 Decision).

The Phase 2 Decision established a new Phase 3 of this proceeding to consider the issues that are enumerated in Ordering Paragraph 8 of the decision. Prehearing conference statements regarding the scope, schedule, and other matters pertaining to Phase 3 were filed on April 18, 2012.¹ A prehearing conference (PHC) for Phase 3 was held on April 23, 2012.

2. The Scope of Phase 3

The scope of Phase 3 is limited to the following issues identified in Ordering Paragraph (OP) 8 of D.12-01-032 and this Scoping Memo:

1. Revising Section IV of General Order (GO) 95 to reflect modern materials and practices, with the goal of improving fire safety. The scope of this topic is limited to revising materials and practices that are directly related to Items 2 and 3 below.
2. Revising Section IV of GO 95 to incorporate standards for wood structures and materials that (i) provide electric utilities and CIPs with clear guidance for reliably obtaining prescribed safety factors when using wood products with inherent variability, and (ii) can be enforced by the Commission and CPSD.
3. Revising Section IV of GO 95 to incorporate (i) a new High Fire-Threat District, (ii) one or more maps of the High Fire-Threat District, and (iii) fire-safety standards for the design and construction of electric utility and CIP structures in the High Fire-Threat District.

¹ The following parties filed PHC statements: (i) the California Department of Forestry and Fire Protection (Cal Fire); (ii) the CIP Coalition; (iii) the California Municipal Utilities Association; (iv) the Consumer Protection and Safety Division (CPSD); (v) Hans Laetz; (vi) Los Angeles County; (vii) Mussey Grade Road Alliance (MGRA); (viii) Placer County Air Pollution Control District; (ix) the Joint Utilities consisting of PacifiCorp, Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (SCE); (x) San Diego Gas & Electric Company (SDG&E); and (xi) The Utility Reform Network.

4. Assessing whether any of the new fire-safety standards developed pursuant to the previous Item 3.iii should apply to existing facilities in the High Fire-Threat District based on considerations and Rule 12 of GO 95 and, if so, developing a plan, timeline, and cost estimate for upgrading existing facilities in the High Fire-Threat District to meet the new standards.
5. Developing a plan for investor-owned electric utilities (IOUs) to report data to CPSD regarding power-line fires and for CPSD to use such data to (i) identify and assess systemic fire-safety risks associated with overhead power-line facilities and aerial communications facilities in close proximity to power lines, and (ii) formulate cost-effective measures to reduce systemic fire risks.
6. Preparing a detailed work plan for the development, expert review, adoption, implementation, and funding of fire-threat map(s) for the purposes identified in Item 7 below.
7. Developing and adopting fire-threat map(s) in conformance with the work plan prepared pursuant to Item 6 above.
 - i. The adopted fire-threat maps must be capable of being used for the following purposes:
 - A. In conjunction with the fire-prevention measures adopted by D.09-08-029 and D.12-01-032 that rely on fire-threat maps for their implementation.
 - B. In conjunction with fire-prevention measures that may be adopted in Phase 3 of this proceeding that rely on fire-threat maps for their implementation, including those measures identified in Item 3 above.
 - C. Identifying the boundaries of the High Fire-Threat District identified in Item 3 above.
 - ii. The adopted fire-threat map(s) must provide the following information:
 - A. Identify areas on a statewide basis where there is an elevated risk of power-line fires occurring and spreading rapidly.

- B. Identify the types and locations of overhead power-line facilities in areas where there is an elevated risk of power-line fires occurring and spreading rapidly.
 - C. Identify the types and locations of aerial telecommunications facilities in close proximity to overhead power-line facilities identified in Item 7.ii.B above.
 - D. Identify areas on a statewide basis where vegetation biomass poses a significant fire hazard to power-line facilities and communications infrastructure.
- iii. The adopted fire-threat map(s) must be available to Commission staff.
 - iv. The adopted fire-threat map(s) must be available to the public, while at the same time protecting information about critical infrastructure or which may be proprietary.
8. Implementation issues associated with any rules and requirements adopted in Phase 3, including cost recovery and the timeframe for implementing the new rules and requirements.

The scope of Phase 3 excludes (i) matters that are focused on reducing utilities' legal liability; (ii) the procurement of electric generation resources of any type; and (iii) replacing GO 95's design methodology for structures and facilities.

2.1. Environmental Review

The proposed rules and regulations considered in Phase 3 could require an environmental review under the California Environmental Quality Act (CEQA) before such measures are adopted by the Commission. The need for an environmental review will be assessed, as necessary, after proposals are submitted by the parties in Phase 3. Any proposed measure that requires an environmental review may be deferred to a new phase of this proceeding or handled in other ways.

2.2. Priority Consideration of Proposals Submitted by CPSD

As contemplated by Order Instituting Rulemaking (OIR) 08-11-005, proposals submitted by CPSD will receive priority consideration in the Phase 3 workshops described below.² Proposals from other parties will be considered in the Phase 3 workshops to the extent there is time to do so after CPSD's proposals have been considered.

3. Workshop Process for Phase 3 Issues

The Phase 2 Decision anticipates that Phase 3 of this rulemaking proceeding will be conducted primarily through workshops. Consistent with the Phase 2 Decision, this Scoping Memo establishes a three-track workshop process, with each track focusing on a specific set of issues. The three tracks are:

Track 1: GO 95 Rule Changes. This track will focus on proposed revisions to Section IV of GO 95 identified in Items 1 – 4 above.³

Track 2: Fire Data. This track will develop a plan for IOUs to report data to CPSD regarding fires associated with overhead power-line facilities, and the use of the data by CPSD, as set forth in Item 5 above. The reporting requirement shall be developed in consultation with IOUs, CIPs, MGRA, Cal Fire, and other interested parties in this proceeding.⁴

Track 3: Fire-Threat Maps. This track will first prepare a detailed work plan for the development, expert review, adoption, implementation, and funding of fire-threat maps, as set forth in Item 6 above. This track will then use

² OIR 08-11-005 at 4, 5, and 9.

³ D.12-01-032, OP 8.i and 8.ii at 177.

⁴ D.12-01-032, OP 8.v at 177.

the prepared work plan to guide the actual development, review, and adoption of fire-threat maps, consistent with Item 7 above.⁵

3.1. The Workshop Process for Tracks 1 and 2

Tracks 1 and 2 will be conducted in accordance with the two-stage workshop process that received general support at the PHC. Stage 1 will consist of technical panels to develop consensus recommendations (Technical Panels). Stage 2 will consist of facilitated all-party workshops where concerns regarding the Technical Panels' recommendations will be addressed and, hopefully, resolved. The two-stage process is described below.

3.1.1. Stage 1: Technical Panels

Stage 1 will consist of Technical Panels to develop consensus recommendations. There will be one Technical Panel for Track 1 (Panel 1) and second Technical Panel for Track 2 (Panel 2). The members of each panel are expected to (a) identify the specific issues that will be considered by the panel; (b) determine the order in which the issues will be considered; (c) evaluate alternative proposals; (d) present their preliminary views to all parties in an informal meeting; and (e) prepare, file, and serve a final written report of their consensus recommendations and alternative proposals.

The date, time, and place for the first meeting of each Technical Panel is set forth in Appendix B of this Scoping Memo. The first meeting for Panel 1 will be chaired by the Joint Utilities.⁶ The first meeting for Panel 2 will be chaired by CPSD. The first meeting of each panel should elect a permanent Chair and

⁵ D.12-01-032, OP 8.vi at 177 - 178.

⁶ The Joint Utilities consist of PacifiCorp, PG&E, and SCE.

Vice Chair. The Chairs and Vice Chairs will be responsible for organizing the work of their panels and scheduling panel meetings.⁷ The panel members should also discuss at the first meeting, to the extent time is available, the scope of work they should pursue, the order in which the issues should be addressed, and other matters relevant to the panel's work.

A party may have more than one representative attend panel meetings. However, the parties are strongly encouraged to limit their active participation in the Technical Panels to persons who can perform the duties of the panel in a timely and competent manner.

Each panel shall prepare and serve (but not file) a draft report on its consensus recommendations and alternate proposals, if any, within the time frame specified in Appendix B of this Scoping Memo. The panel shall present its draft report at one or more informal meetings with the parties that are scheduled, noticed, organized, and led by the panel Chairs and/or Vice Chairs. During these meetings, interested parties may discuss the consensus recommendations and alternate proposals, question the panel members, provide relevant information related to the draft report, suggest edits, and propose alternatives for the panel's final deliberations.

After the informal meetings, each panel shall prepare, file, and serve its final written report within the time frame specified in Appendix B of this Scoping Memo. The written report shall present the panel's consensus recommendations and alternate proposals, provide a full explanation and rationale for each recommendation and proposal, and address concerns raised at

⁷ Technical Panels may conduct meetings by multi-party conference calling.

the informal meetings. Interested parties may file and serve comments and reply comments on the panel reports. These comments should present the positions of the filing party with respect to any matter in the panel reports and identify issues related to the panel reports the filing party would like to be considered at the facilitated all-party workshops discussed below. The filing of reply comments would mark the end of Stage 1 of the two-stage workshop process.

The members of each Technical Panel may determine for themselves how to fulfill their responsibilities. If either panel finds that it needs to adjust the proceeding schedule or make other changes related to the administration of its responsibilities, the panel members may file a motion, either individually or jointly, to modify the schedule or for such other relief they believe is appropriate.

3.1.2. Stage 2: Facilitated All-Party Workshops for Tracks 1 and 2

In Stage 2, the parties shall convene facilitated all-party workshops where the parties will have an opportunity to discuss and modify the recommendations in the Technical Panel reports, with the goal of resolving disagreements and concerns. This will fulfill the Commission's determination in D.12-01-032 that Phase 3 will include facilitated all-party workshops.⁸ The schedule for the Stage 2 workshops is in Appendix B of this Scoping Memo. The neutral facilitator(s) for the Stage 2 workshops will be announced in a future ruling.

3.1.2.1 Pre-Workshop Conference and Workshop Schedule

A pre-workshop conference will be held to (1) agree on the workshop process, (2) prioritize the issues to be considered during the workshops, and

⁸ D.12-01-032, OP 9 at 123 and 178.

(3) schedule the workshops. Each of these matters is addressed below. The facilitator(s) will prepare a draft agenda for the pre-workshop conference and distribute the agenda by an email to the service list for this rulemaking.

First, the participants at the pre-workshop conference should agree on the process for conducting the Stage 2 workshops. There was general agreement at the PHC that the Stage 2 workshops should use the same process as the workshops in Phase 2 of this proceeding. The process used in Phase 2 was based, in large part, on the process described in D.05-01-030, Appendix 1, at pages 16-21, a copy of which is attached to today's Scoping Memo.

Second, the participants at the pre-workshop conference should identify and rank the proposals in the Technical Panel Report that will be considered during the Stage 2 workshops, with priority given to proposals offered by CPSD. All proposals considered in the Stage 2 workshops must be within the scope of Phase 3, as set forth previously in this Scoping Memo. Proposals that are vague or excessively broad should be excluded from the Stage 2 workshops.

Finally, the pre-workshop conference should establish an initial schedule for the Stage 2 workshops, including the dates and locations for workshops. The facilitator(s) and workshop participants should discuss whether specific workshops might accommodate a phone bridge, internet access, or other means for workshop participants to participate remotely.

The workshop participants may schedule the Stage 2 workshops to suit their needs. All workshops should be noticed in the Commission's Daily Calendar by the facilitator(s).

3.1.2.2 Stage 2 Workshop Report and Briefs

The final product of the Stage 2 workshops will be a written report that presents recommendations for achieving the goals for Tracks 1 and 2. The Stage 2 workshop participants should decide who will draft, file, and serve the report. The report shall include the following:

- The final iteration of proposed rule changes (PRCs) that are (i) proposed by CPSD, (ii) proposed by other parties, and (iii) alternatives to (i) and (ii).
- For each PRC and alternative PRC, a list of the parties who support the rule and the parties who oppose the rule. Parties may explain their support/opposition in their briefs.
- Each PRC and alternate PRC shall be accompanied by a detailed description and justification that includes the following:
 - The specific electric utilities, CIPs, and others affected by the PRC.
 - The current text of the affected General Order(s), if any.
 - New and/or revised text for the affected General Order(s), if applicable, showing (i) proposed revisions in strikeout/underline form, and (ii) the final proposed rule.
 - The specific Track 1 goal and/or Track 2 goal addressed by the PRC and/or other objectives of the PRC.
 - How the PRC reduces or otherwise addresses fire hazard(s) and/or achieves other objectives.
 - The anticipated costs of the PRC, including, if available, costs incurred by IOUs, publicly owned utilities, CIPs, and customers.
 - Whether and how the costs will be recovered from customers.
 - Whether and how costs will be shared among electric utilities, CIPs, and others.

- Why it is in the public interest to adopt the PRC.
- If the PRC applies to electric transmission, why the rule does not conflict with other federal or state regulations.
- Whether the PRC is exempt from CEQA and/or the National Environmental Policy Act (NEPA) and, if so, why. Any assertion that CEQA and NEPA do not apply must cite the relevant statutes and/or regulations where the exemption is listed. Conversely, any assertion that CEQA and/or NEPA do apply must (1) cite the relevant statutes and/or regulations that show this, and (2) list the steps that need to occur under CEQA and/or NEPA before the PRC can be adopted.
- A detailed summary of any ancillary issues with a direct nexus to the PRCs and alternative PRCs. The workshop report shall list which parties support or oppose a particular ancillary issue. Parties may explain their support/opposition in their briefs.
- Any other matters the workshop participants deem appropriate.

The workshop participants shall: (1) file and serve a copy of the workshop report, and (2) provide to the assigned Administrative Law Judge (ALJ) both a hardcopy of the workshop report and an electronic copy of the workshop report in Microsoft Word format.

Parties will have an opportunity to file briefs regarding the workshop report. The briefs should follow a common outline that is agreed to at the Stage 2 workshops. The workshop report and briefs should together provide a comprehensive summary of each party's position on Track 1 and Track 2 issues. These documents will be used as a primary reference material for drafting the proposed decision. Parties should assume that if a particular fact, argument, position, etc., is not in (or is not cited in) the workshop report or briefs, it may not be considered in the proposed decision.

3.2. The Workshop Process for Track 3

Track 3 will first prepare a detailed work plan for the development, expert review, adoption, implementation, and funding of the fire-threat maps identified in Section 2, Item 6 of this Scoping Memo. After the work plan is prepared and approved, as appropriate, Track 3 will use the work plan to guide the actual development, expert review, and adoption of fire-threat maps consistent with Section 2, Item 7 of this Scoping Memo.

As contemplated by D.12-01-032, Track 3 will be conducted through a facilitated workshop process.⁹ However, because the Track 3 may involve issues that are highly technical and entail expert assistance, the workshop process for Track 3 will follow a separate path from Tracks 1 and 2.

It is anticipated that the Commission will contract with Lawrence Livermore National Laboratory (LLNL) to conduct facilitated workshops to prepare a work plan that contains the following pursuant to D.12-01-032.¹⁰

1. A detailed proposal for the development of high resolution fire-threat maps that cover the entire state. The detailed proposal shall address the option of reviewing and adopting for regional or statewide use the Reax Map and/or the fire-threat map developed by SDG&E.
2. Recommendations for obtaining assistance from Cal Fire, LLNL, and other neutral experts in the development and expert review of fire-threat maps, including the Reax Map and the SDG&E Map.
3. Estimated costs for the development, expert review, implementation, and maintenance of fire-threat maps.
4. Recommendations for funding the development, expert review, implementation, and maintenance of fire-threat maps.

⁹ D.12-01-032, OP 9 at 123 and 178.

¹⁰ D.12-01-032, OP 8.vi.

5. A proposed schedule and milestones for the development, expert review, adoption, and implementation of fire-threat maps.
6. Alternative recommendations if the workshop participants cannot reach a consensus.

The schedule, format, and other details regarding the anticipated LLNL-facilitated workshops will be provided in a future ruling. The schedule and procedures for implementing the work plan that is prepared by the LLNL-facilitated workshops will be determined after the work plan has been filed and served, and parties have had an opportunity to submit written comments on the work plan.

4. Need for Hearings

In OIR 08-11-005, the Commission preliminarily determined pursuant to Rule 7.1(d) that hearings are not needed in this proceeding. It does not appear at this time that evidentiary hearings will be needed in Phase 3. However, if contested factual issues arise during Phase 3 that require sworn testimony and cross examination, parties may file motions for evidentiary hearings. The due date for filing such motions for Tracks 1 and 2 is set forth in Appendix B of this Scoping Memo. The due date for Track 3 will be provided in a future ruling.

5. Schedule for Phase 3

The schedule for Tracks 1 and 2 is contained in Appendix B of this Scoping Memo. The schedule for Track 3 will be provided in a forthcoming ruling. The assigned Commissioner and the assigned ALJ may revise the schedule for Phase 3, as necessary.

6. Extension of the Proceeding

In quasi-legislative proceedings such as this one, the Commission is required by Pub. Util. Code § 1701.5(a) to resolve all issues raised in the scoping memo within 18 months from the date the scoping memo is issued. However, the Commission is authorized by § 1701.5(b) to specify in the scoping memo a resolution date later than 18 months, provided the scoping memo explains the necessity for a later date and the assigned Commissioner approves the later date.

There was general agreement at the PHC that Phase 3 will take a fair amount of time to complete because of the number and complexity of the issues in Phase 3, and because of the need for a lengthy workshop process. To provide the necessary time, today's Scoping Memo extends the proceeding schedule pursuant to § 1701.5(b). All issues within the scope of Phase 3 shall be resolved within 24 months from the date of today's Scoping Memo.

7. Proceeding Category

In OIR 08-11-005, the Commission preliminarily determined pursuant to Rule 7.1(d) that the category of this proceeding is quasi-legislative as defined by Rule 1.3(d). The Phase 1 scoping memo confirmed that the category for this proceeding is quasi-legislative. There was no appeal of the Phase 1 Scoping Memo's determination of category pursuant to Rule 7.6.

8. Notices of Intent to Claim Intervenor Compensation

Publ. Util. Code § 1804(a)(1) requires notices of intent (NOIs) to seek intervenor compensation to be filed no later than 30 days after the prehearing conference (PHC). The PHC for Phase 3 was held on April 23, 2012. Therefore,

the deadline for submitting NOIs was May 23, 2012, for intervenors who did not file an NOI previously.¹¹

All parties who intend to seek intervenor compensation must (1) coordinate with other parties to avoid duplication, and (2) maintain daily records for all hours claimed and a description for each time entry. The description must provide more detail than “review correspondence” or “attend meeting.” Intervenors must also track and report time by issue.

9. Ex Parte Communications

The category for this proceeding is quasi-legislative. Therefore, in accordance with Rule 8.2(a), *ex parte* communications are allowed without restrictions or reporting requirements.

10. Service List for this Proceeding

The official service list is available on the Commission’s website (http://docs.cpuc.ca.gov/published/service_lists/R0811005_77981.htm). Parties should confirm that their information on the service list is correct and notify the Commission’s Process Office (process_office@cpuc.ca.gov) of errors.

¹¹ Pursuant to Rule 17.2, any party who was previously found eligible for an award of compensation in this phased proceeding does not need to file a new NOI.

11. Ways to Monitor This Proceeding

Persons and entities that wish to monitor this proceeding may contact the Commission's Process Office to be placed on the service list under the category of "Information Only."¹² Requests to be placed on the service list can be sent by email (process_office@cpuc.ca.gov). All requests must include the following:

- Docket Number: Rulemaking 08-11-005
- Name and entity represented, if any
- Address
- Telephone number
- Email address
- Request for Information Only status

This proceeding can also be monitored by subscribing to electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the service list 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/>.

12. Service of Documents and Filing Documents

When serving documents, parties should use the most up-to-date service list on the Commission's website. Service of documents shall be done in accordance with Rules 1.9 and 1.10.

Electronic service is standard under Rule 1.10. All parties shall serve documents using electronic mail, whenever possible. If no email address has been provided, service should be made by United States mail or similar means.

¹² Information Only status is for those who wish to receive all documents that are filed in the proceeding, but who will not be participating actively.

Parties are reminded that the format of documents served by email must conform to the requirements in Rule 1.10(c). Parties shall provide paper copies of served documents upon request.

Rules 1.9 and 1.10 govern service of documents but not the filing of documents at the Commission. Parties can find information about electronic filing of documents at www.cpuc.ca.gov/PUC/efiling. All documents filed at the Commission's Docket Office must include the caption for this proceeding.

Parties serving documents shall provide the assigned ALJ with both a hard copy and an electronic copy of the documents. The electronic copy shall be in Microsoft Word and/or Excel formats to the extent practical.

13. Help with Commission Procedures

Any person who is unfamiliar with the Commission's procedures, including electronic filing, may contact the Commission's Public Advisor at (866) 849-8390, (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

Therefore **IT IS RULED** that:

1. The scope and schedule for Phase 3 of this proceeding are set forth in the body of this Scoping Memo and in Appendix B. The schedule may be revised by the assigned Commissioner or the assigned Administrative Law Judge (ALJ).
2. The first meeting for Technical Panel 1 will be chaired by the Joint Utilities. The first meeting for Technical Panel 2 will be chaired by the Commission's Consumer Protection and Safety Division.
3. The neutral facilitator(s) for the Stage 2 all-party workshops for Tracks 1 and 2 will be announced at a later time.
4. Evidentiary hearings are not needed at this time.

5. Pursuant to Pub. Util. Code § 1701.5(b), this proceeding will conclude within 24 months from the date of today's Scoping Memo.

6. *Ex parte* communications are allowed in this proceeding without restrictions or reporting requirements pursuant to Rule 8.2(a) of the Commission's Rules of Practice and Procedure (Rule).

7. Parties serving documents shall (i) comply with Rules 1.9 and 1.10, and (ii) provide the assigned ALJ with both a hard copy and an electronic copy of the documents. The electronic copy shall be in Microsoft Word and/or Excel format, to the extent practicable.

Dated June 1, 2012, at San Francisco, California.

/s/ TIMOTHY ALAN SIMON
Timothy Alan Simon
Assigned Commissioner

Appendix A

Decision 05-01-020, Appendix A, at. 16-21

Attached are the recommended protocols for conducting workshops contained in Decision 05-01-030, Appendix A, at. 16-21. These protocols are advisory, and are provided here to help the parties in the instant proceeding to agree on the appropriate process for the Stage 2 Workshops described in the preceding Scoping Memo.

Recommended Protocols for Workshops

1. PURPOSE OF WORKSHOP

The purpose of the workshop in [INSERT RULEMAKING DOCKET NUMBER] is to collaboratively explore the proposed rule changes (PRCs) relating to General Orders 95 and 128 previously filed in this proceeding, and to the extent possible to agree on specific PRCs to be recommended for adoption by the Commission.

2. WORKSHOP REPORT

The final product of the workshop will be a written workshop report that documents the agreed-upon PRCs and -- if necessary -- alternative PRCs. The workshop report will be filed with the - Commission or otherwise made a part of the official record in this proceeding as directed by the assigned Administrative Law Judge (ALJ).

- 2.1. Each agreed-upon PRC and alternative PRC will include specific text proposed to be added, deleted or modified, and a statement of supporting rationale.

3. WORKSHOP PARTICIPANTS

Workshop "Participant" is defined as any representative of a party to this proceeding who participates in discussing one or more of the PRCs during one or more scheduled workshop meetings. A party may bring as many representatives to participate in the workshop as it deems necessary to address the issues. A primary contact/spokesperson for each party shall be designated for purposes of notices and document distribution.

4. WORKSHOP AGENDA

An agenda for each workshop meeting will be developed by the Participants starting at the beginning of the first meeting, and will be updated through the workshop meetings as agreed by the Participants. The agenda will specify the date, time, location and host /contact person for the meeting and will list the PRCs to be addressed at the meeting.

- 4.1. To the extent possible, PRCs requiring the presence of Participants with special qualifications or expertise are to be scheduled for discussion on the same or consecutive days.
- 4.2. The Participants may agree to defer a PRC if, during discussion, it becomes apparent that participants with

special qualifications or expertise, not then present, are needed to adequately address the PRC.

- 4.3. A party represented by a single Participant may request that a PRC of particular interest to them not be addressed on a specific date if they cannot be present on that date. Such request should be made as soon as the party's scheduling constraint becomes known to them, and all reasonable efforts shall be made to accommodate such requests.

5. DISCUSSION PRINCIPLES

- 5.1. The discussion of PRCs will be governed by the following general principles:

- 5.1.1. Describe the current situation, the reason for the PRC, and identify all material issues associated with the PRC.

- 5.1.2. Identify and understand the Participants' respective points of view, interests and desired outcomes relative to the PRC.

- 5.1.3. Obtain (to the extent feasible) data that Participants believe is necessary to understand the issues and make an informed decision on the PRC.

- 5.1.4. Address all interests insofar as possible.

- 5.2. During meetings, opportunities will be allowed for a brief ongoing evaluation of progress and process ("process checks").

6. DECISION MAKING PROCESS

- 6.1. Agreement should be sought utilizing the "levels of agreement" process:

- 6.1.1. Agreement is defined as "all parties present when levels of agreement are called for being at level 4 or above on the levels of agreement scale."

- 6.1.2. Levels of agreement scale:

Level 1 - I am **enthusiastic** about this PRC. I am satisfied that this PRC is an expression of the wisdom of the group.

Level 2 - I find the PRC to be a **good choice**. It is the best of the options that we have available.

Level 3 - I can **live with** the PRC; I am not especially enthusiastic about it.

Level 4 - I will not block consensus on the PRC.

Level 5 - I do not agree with the PRC and I feel the need to block it from being agreed upon by the group.

Level 6 - I feel that we have no clear sense of unity in the group. We need to talk more before agreement can be reached.

6.1.3. Each party shall state a single level of agreement, regardless of how many Participants it has brought to the workshop meeting.

6.1.4. A “straw vote” to ascertain the level of support for, or opposition to, a PRC may be called for at any time.

6.1.5. Tentative working agreements may be reached on parts of complex PRCs, subject to final agreement on the entire PRC.

6.1.6. If no party gives the PRC a “5” or a “6”, the PRC is agreed upon as submitted. However, if it is blocked or held for further discussion, the PRC is either:

6.1.6.1. Submitted to a smaller working group or Committee to refine outside of the workshop process to be brought back for later consideration;

6.1.6.2. Assigned to a Multiple Alternatives Process (MAP) in which one or more parties, individually or in small working groups, return to a later workshop meeting with alternative PRCs; or

6.1.6.3. In the case of a level “6,” the Participants continue to work as a full group to address the parties’ concerns and reach agreement.

6.1.7. If a PRC is assigned to a MAP but does lead to agreement, the proponent(s) of each MAP

alternative may submit their alternative(s), with statement(s) of rationale, for inclusion in the Workshop Report (see section 11, below).

- 6.2. Parties are responsible to have a Participant at each meeting who has authority to decide on the topics to be addressed in that meeting, and who will seek management input prior to each meeting in order to expedite the work of the workshop.
- 6.3. Any party that, without prior notice to the other parties, is absent from a meeting at which a PRC is agreed upon, is deemed to have abstained from the determination of levels of agreement, and has waived the opportunity to challenge the PRC or propose an alternative PRC. This protocol may be waived by agreement of the parties at a subsequent meeting in the event the party's absence was due to circumstances beyond its control.
- 6.4. Agreed-upon PRCs will be placed on a consent agenda, to be addressed at the start of the subsequent meeting, in order to allow parties time to seek final approval of the PRCs by their respective managements, when such approval has been stated by parties to be necessary. Any party may remove any PRC from the consent calendar for further workshop consideration, based on their management's direction.
- 6.5. Each Participant is responsible to keep his or her organization/constituency group(s) informed of the progress of the workshops and to timely seek advice, comments and authorization as required.
- 6.6. Participation by Proxy
Parties represented by a single Participant may designate another Participant to serve as their proxy for purposes of expressing levels of agreement, if they are unable to attend a workshop meeting. In order to utilize a proxy, the party must satisfy the following requirements:
 - 6.6.1. The party shall notify the other parties by email or facsimile at least 1 business day prior to the meeting at which they expect to be absent;
 - 6.6.2. The party shall provide clear directions to the proxy regarding any limitations on the proxy's authority,

in the event the PRC is modified in the course of discussion; and

- 6.6.3. The proxy must inform the facilitator and Participants of their role at the beginning of the meeting.

7. COMMUNICATIONS AND PUBLIC NOTICE

- 7.1. Any or all Participants may meet or conference call among themselves between workshop meetings as desired or necessary to negotiate an advancement of their work.
- 7.2. Audio and video recording devices are not to be used in meetings for any purpose. Participants are encouraged to explore ideas freely and the only agreements are those explicitly reached.
- 7.3. A Participant shall be designated to keep the assigned ALJ informed of the dates, times, location and host contacts for upcoming workshop meetings, in time for that information to be posted on the Commission's website and to be periodically issued in rulings as the ALJ deems appropriate.

8. INFORMATION MANAGEMENT

- 8.1. A meeting summary will be prepared following each working group meeting stating:
 - 8.1.1. All Participants at the meeting, including their e-mail addresses and telephone and facsimile numbers;
 - 8.1.2. PRCs discussed;
 - 8.1.3. Agreements, if any, with supporting rationale; and
 - 8.1.4. MAP proposals, if any.
- 8.2. The meeting summary will be prepared by the facilitator (*see* Section 9, below). Meeting summaries will be available the following week and will be emailed or faxed to all Participants. The meeting summary will be reviewed for corrections by the Participants, preferably by email or teleconference between workshop meetings.
- 8.3. The Facilitator will maintain a file containing copies of all written information distributed by the Participants.

- 8.3.1. Workshop Participants, and the parties they represent, reserve all rights to preserve the confidentiality of information in their possession, and participation in the workshop shall not be implied or understood to constitute a waiver of such rights.

9. PARTICIPANT ROLES

9.1 The Facilitator

- 9.1.1. Works on behalf of the Participants under the direction of the participants;
- 9.1.2. Makes participation easier and encourages participation by all who wish to participate;
- 9.1.3. Reminds participants of the protocols as necessary;
- 9.1.4. Suggests strategies to move the discussion along, as appropriate;
- 9.1.5. Uses a computer as appropriate; and
- 9.1.6. Carries out such other supportive activities as agreed upon by the Participants or as directed by the ALJ.

9.2. The Secretary or Technographer assists the Facilitator and Participants by taking notes on a computer, flip charts or other media that serve as “workshop memory.”

9.3. The Participants:

- 9.3.1. Listen carefully, ask pertinent questions and educate themselves and others regarding the issues and interests that must be addressed, in a collaborative rather than confrontational manner.
- 9.3.2. Fully and thoughtfully explore the issues before forming conclusions.
- 9.3.3. Search for creative solutions that best serve the issues and interests that must be addressed.

10.WORKSHOP ACCESS AND ACCOMMODATIONS

Workshops shall be scheduled in locations that comply with the Americans with Disabilities Act.

(END OF APPENDIX A)

Appendix B

Schedule for Tracks 1 and 2

**This schedule may be revised by the
assigned Commissioner and/or the assigned Administrative Law Judge.**

Schedule for Tracks 1 and 2	Date
Stage 1 Technical Panels	
Any party who plans to participate on a Technical Panel e-mails notice of their participation to the service list.	June 7, 2012
Technical Panel 1 convenes, selects Panel Chair and Vice Chair, and discusses preliminary scope and schedule of the panel's work. State Office Building, Courtyard Training Room 505 Van Ness Avenue San Francisco, CA 94102	June 18, 2012 9:00 a.m. - 11:30 a.m.
Technical Panel 2 convenes, selects Panel Chair and Vice Chair, and discusses preliminary scope and schedule of the panel's work. State Office Building, Courtyard Training Room 505 Van Ness Avenue San Francisco, CA 94102	June 18, 2012 1:30 p.m. - 4:00 p.m.
Panel Chairs send email to service list announcing panel chair selections.	June 19, 2012
Meetings of the Track 1 and Track 2 Technical Panels to develop and review proposed rule changes.	Through August 2012
Preliminary Technical Panel Reports served (but not filed).	August 31, 2012
All-party meetings with the Panels to review Preliminary Technical Panel Reports, provide feedback, and suggest changes. State Office Building, Golden Gate Training Room 505 Van Ness Avenue San Francisco, CA 94102	September 12, 2012 9:30 a.m. - 4:00 p.m.
Final Technical Panel Reports filed and served.	September 28, 2012
Opening comments on Technical Panel Reports filed and served. Comments may include alternate proposals that were not accepted into the Final Technical Panel Reports. Factual assertions must be verified in accordance with Rule 1.11.	October 16, 2012
Reply comments on Technical Panel Reports. Factual assertions must be verified in accordance with Rule 1.11.	October 30, 2012

Schedule for Tracks 1 and 2	Date
Deadline for filing motions for evidentiary hearings. Any such motion must identify the specific contested factual issues, the need for discovery (if applicable), the witnesses to be presented, and a proposed schedule for hearings and briefs.	October 30, 2012
Evidentiary Hearings (if needed).	TBD
Stage 2 Facilitated All-Party Workshops	
Pre-Workshop Conference for Stage 2 facilitated all-party workshops. State Office Building, Courtyard Training Room 505 Van Ness Avenue San Francisco, CA 94102	November 13, 2012 9:30 a.m. - 4:00 p.m.
All-party facilitated workshops on Technical Panel Reports and associated comments and reply comments. The schedule for the workshops to be determined by the workshop participants.	Through January 2013
Stage 2 Workshop Report filed and served. Exact date to be determined by the workshop participants.	February 2013
Opening briefs on the Stage 2 Workshop Report due three (3) weeks after the workshop report is filed and served. (Note 1)	March 2013
Reply briefs on the Stage 2 Workshop Report due two (2) weeks after opening briefs are filed and served. (Note 1)	March - April 2013
Proposed Decision mailed.	August - September 2013
Proposed Decision Considered at Commission Meeting.	September - October 2013
Note 1: The briefs and reply briefs should follow a common outline agreed to by the parties at the Stage 2 workshops.	

(END OF APPENDIX B)