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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)

ADMINISTRATIVE LAW JUDGE'S RULING REGARDING THE PRE-WORKSHOP CONFERENCE AND WORKSHOP FACILITATORS

The *Assigned Commissioner's Ruling and Scoping Memo for Phase 3 of this Proceeding*, dated June 1, 2012 (hereafter, "the Phase 3 Scoping Memo") set a Pre-Workshop Conference on November 13, 2012. This ruling provides further details regarding the Pre-Workshop Conference.

Date, Time, and Location

The date, time, and location of the Pre-Workshop Conference are as follows:

November 13, 2012
9:30 a.m. – 4:00 p.m.
State Office Building,
Courtyard Training Room
505 Van Ness Avenue
San Francisco, CA 94102

Neutral Facilitators for Workshops

Administrative Law Judge (ALJ) Jean Vieth and ALJ Angela Minkin will serve as neutral co-facilitators for Phase 3 workshops, Tracks 1 and 2. The facilitators may decide how to divide tasks and responsibilities between themselves, including whether one or both facilitators will attend the Pre-Workshop Conference and any particular workshop session. The facilitators will be available for up to four workshop days in San Francisco.

Purpose of the Pre-Workshop Conference

The Phase 3 Scoping Memo established facilitated all-party workshops where the parties will have an opportunity to discuss and modify the recommendations in the Technical Panel 1 Report and the Technical Panel 2 Report that were filed on October 12 and September 28, 2012, respectively, with the goal of resolving disagreements and concerns regarding the recommendations contained in these reports.[1]

In accordance with the Phase 3 Scoping Memo, the purpose of the Pre-Workshop Conference is as follows.[2] First, the participants at the Pre-Workshop Conference should discuss the process for conducting the facilitated workshops. As noted in the Phase 3 Scoping Memo, there is general agreement among the parties that the facilitated workshops should use the same process as the workshops in Phase 2 of this proceeding. The process used in

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[1] Parties should also decide during the workshops who will draft the workshop report that addresses the matters identified in the Phase 3 Scoping Memo at 10 - 11; when the workshop report will be filed and served; and the common outline for opening and reply briefs regarding the workshop report.

[2] 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 proceeding.

Phase 2 was based on the process described in Decision 05-01-030, Appendix 1, at 16-21, a copy of which is attached to this ruling.

Second, the participants at the Pre-Workshop Conference should identify and rank the proposals in the Technical Panel Reports that will be considered during the facilitated workshops, with priority given to proposals from the Commission's Consumer Protection and Safety Division.

Finally, the participants should discuss the schedule for the facilitated workshops, including the dates and locations for workshops and the topics to be addressed at each workshop.[3] The Pre-Workshop Conference should also consider if it is desirable (and practical) to arrange for conference calling or other means to participate in the workshops remotely.

Due to resource constraints, the facilitators can only attend workshops that are held in San Francisco. When scheduling the workshops, the parties must accommodate the dates and times that the facilitators are available.

Therefore, **IT IS RULED** that:

1. The date, time, location, and purpose of the Pre-Workshop Conference are set forth in the body of this ruling.

2. Administrative Law Judges Jean Vieth and Angela Minkin will serve as neutral co-facilitators for Phase 3 workshops, Tracks 1 and 2. The facilitators may decide how to divide tasks and responsibilities between themselves.

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[3] It is possible that motions for evidentiary hearings may be filed on October 30, 2012. If this occurs, parties should assume that facilitated workshops will be held on matters for which a hearing is not requested.

3. 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 proceeding.

Dated October 24, 2012, at San Francisco, California.

/s/ PHILIP WEISMEHL for
Timothy Kenney
Administrative Law Judge

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 an appropriate process for the facilitated workshops described in the Phase 3 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.

5.14 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)