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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Adopt Biomethane Standards and Requirements, Pipeline Open Access Rules, and Related Enforcement Provisions.

Rulemaking 13-02-008
(Filed February 13, 2013)

ADMINISTRATIVE LAW JUDGE'S RULING SETTING PREHEARING CONFERENCE AND INITIAL WORKSHOP

Summary

On February 13, 2013, the Commission initiated the above-captioned Order Instituting Rulemaking (OIR). This OIR was initiated to allow the Commission to take the necessary procedural steps to comply with Assembly Bill (AB) 1900 (Statutes of 2012, Chapter 602.).

Today's ruling confirms the e-mail ruling that was sent on March 1, 2013, advising persons interested in this proceeding that a prehearing conference (PHC) will be held on Wednesday, March 27, 2013 at 10:00 a.m., Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102. An Initial Workshop in this proceeding will follow the PHC, and will be held in the Commission's auditorium starting at approximately 12:30 p.m.

Background

AB 1900 amended and added several code sections that pertain to the constituents found in biogas, and for the development and adoption of standards that permit biomethane to be introduced into a natural gas pipeline owned by a

utility or a gas corporation, while ensuring that human health is protected, and without affecting the integrity and safety of pipeline facilities.

Among other things, AB 1900 requires the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with other state agencies to “compile a list of constituents of concern that could pose risks to human health and that are found in biogas at concentrations that significantly exceed the concentrations of those constituents in natural gas.” (Health and Safety Code § 25421(a)(1).) In addition, OEHHA is to determine the health protective levels for this list of constituents (Health and Safety Code § (a)(2)), the California Air Resources Board (CARB) is to “determine the appropriate concentrations of constituents of concern,” and CARB is to “identify reasonable and prudent monitoring, testing, reporting, and recordkeeping requirements... to ensure compliance with the health protective standards adopted” in subdivision (d) of Health and Safety Code § 25421. (Health and Safety Code § (25421(a)(4) and (a)(5).)

Subdivision (c) of Health and Safety Code § 25421 requires this Commission to adopt standards by December 31, 2013 for biomethane that is permitted to be injected into a gas conveyance pipeline that is owned or operated by a utility or gas corporation. In adopting such standards, the Commission is to specify the allowable concentrations of constituents that may be found in biomethane which ensures the protection of human health, and pipeline and pipeline facility integrity and safety. To ensure the protection of human health, the Commission is to give due deference to the determinations of the CARB as to the appropriate concentrations of constituents of concern. AB 1900 also requires that Commission to adopt “monitoring, testing, reporting, and recordkeeping requirements,” and to give due deference to CARB’s determinations. (Health

and Safety Code § 25421(d).) In addition, subdivision (f) of Health and Safety Code § 25421 requires the Commission to ensure that gas utilities have tariffs in place that require biomethane producers to meet the standards and requirements imposed by subdivisions (c) and (d) of Health and Safety Code § 25421.

Since AB 1900 requires OEHHA, CARB, and other state agencies to complete certain work by May 15, 2013, and for the Commission to adopt biomethane standards, and monitoring, testing, reporting, and recordkeeping requirements by December 31, 2013, the PHC is needed to discuss the scope of issues, the work effort needed, and the schedule for meeting these deadlines.

Similarly, the Initial Workshop is needed to discuss the status of OEHHA, CARB, and other state agencies in carrying out their respective responsibilities, and the role of the Commission in doing the following: development of the list of constituents of concern found in biogas that could pose risks to human health; development of the health protective levels, identifying realistic exposure scenarios; determining the appropriate concentrations of constituents of concern; and identifying reasonable and prudent monitoring, testing, reporting, and recordkeeping requirements.

Prehearing Conference and Initial Workshop

Today's ruling confirms the March 1, 2013 e-mail ruling, which advised interested persons that a PHC and an Initial Workshop will be held on Wednesday, March 27, 2013 at 505 Van Ness Avenue, San Francisco. The PHC will start at 10:00 a.m. in the Commission's Hearing Room.

The purpose of the PHC is to discuss, among other things, the scope of issues to be covered in this proceeding, the work effort that is needed, the schedule for the processing of these issues in order to meet the requirements of AB 1900, and whether there is a need for evidentiary issues.

As referenced in the OIR at 14, and in the March 1, 2013 e-mail ruling, interested parties may file a PHC statement with the Commission's Docket Office. Parties with similar positions are encouraged to file a joint PHC statement. The PHC statements shall be filed with the Docket Office, and served on the service list, by March 22, 2013.

As specified in the OIR, some interested parties are expected to file comments on the OIR by March 7, 2013, and reply comments by March 14, 2013. These comments, as well as the PHC statements, will be reviewed before the PHC to determine whether additional issues need to be discussed at the March 27, 2013 PHC.

In addition, the OIR provides for each respondent gas utility, and other parties, to serve "proposed testimony" which contains "preliminary information and recommendations" regarding the "standards, requirements, rules, and enforcement protocols" that should be considered. (OIR at 14-15.) This proposed testimony is to be served by March 25, 2013.

As noted in the March 1, 2013 e-mail ruling, there may be some persons or entities that have requested "party" status without providing sufficient justification for doing so. (See OIR at 20-21; Rules 1.4 and 1.9(f).) As provided for in the e-mail ruling, if a person or entity failed to provide information about the extent of their expected participation, and a brief statement of their interest, those persons or entities can include this additional information in a letter (or e-mail) addressed to the undersigned (john.wong@cpuc.ca.gov) by

Friday, March 22, 2013, and served on the service list.¹ If such persons or entities fail to provide that justification, that person or entity may be removed in a future ruling from this proceeding as a “party,” and will be listed as “information only” for the service list in this proceeding.

Today’s ruling also confirms that the Initial Workshop will be held following the March 27, 2013 PHC. The Initial Workshop is tentatively set to begin at 12:30 pm, and is expected to continue into the afternoon. The Initial Workshop is expected to be held in the Commission’s auditorium, and will be facilitated by Franz Cheng of the Commission’s Energy Division. This workshop will not be transcribed by the Commission’s hearing reporters.

The Energy Division has been in contact with OEHHA, the CARB, and some of the other state agencies, who have responsibilities under AB 1900. It is expected that the Initial Workshop will consist of presentations by OEHHA, CARB, and the Commission. It is expected that these presentations will discuss the process they are following to develop the list of constituents of concern, the appropriate concentration levels, and a status update of their efforts. This may be followed by a presentation by the gas utilities regarding their preliminary information about the list of constituents of concern, followed by a question and

¹ Alternatively, those persons or entities may include this additional information in their PHC statement, or comments or reply comments to the OIR, if they decide to file such a pleading.

answer session. Any questions regarding the Initial Workshop should be directed by e-mail to franz.cheng@cpuc.ca.gov, or by phone at (415) 703-1536.

Therefore, **IT IS RULED** that:

1. This ruling confirms the March 1, 2013 e-mail ruling, providing notice to the service list and persons that might be interested in this proceeding, that a prehearing conference (PHC) will be held at 10:00 a.m., on Wednesday, March 27, 2013, Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102.

2. a. The purpose of this prehearing conference (PHC) is to discuss the issues described in this ruling.

b. The Respondents and interested parties may file and serve PHC statements containing the type of information described in the Order Instituting Rulemaking (OIR), which shall be filed with the Docket Office and served by March 22, 2013.

c. As provided for in the OIR, the Respondents and other interested parties may also file opening and reply comments on the OIR, and to serve proposed testimony regarding their recommendations regarding the preliminary information that should be considered.

3. This ruling also confirms the March 1, 2013 e-mail ruling that an Initial Workshop will be held following the March 27, 2013 PHC. The Initial Workshop

