



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
SETTING A PREHEARING CONFERENCE AND DIRECTING
PARTIES TO FILE PREHEARING CONFERENCE STATEMENTS**

This ruling sets a prehearing conference (PHC) for April 17, 2013, to address the workshop process and schedule for developing fire-threat maps in accordance with Decision (D.) 12-01-032. Any party that plans to participate actively in the PHC shall file and serve a PHC statement by April 12, 2013.

1. Background

1.1 Decision 12-01-032

In D.12-01-032, at Ordering Paragraph 8, the Commission instituted Phase 3 of this proceeding to consider, develop, and adopt regulations regarding the following matters:

- i. Revising Section IV of General Order (GO) 95 to reflect modern materials and practices, with the goal of improving fire safety.
- ii. Revising Section IV of GO 95 to incorporate standards for wood structures and materials that (a) provide electric utilities and communications infrastructure providers (CIPs) with clear guidance for reliably obtaining prescribed

- safety factors when using wood products with inherent variability; and (b) can be enforced by the Commission and the Commission's Consumer Protection and Safety Division (CPSD).¹
- iii. Revising Section IV of GO 95 to incorporate (a) a new High Fire-Threat District; (b) one or more maps of the High Fire-Threat District; and (c) fire-safety standards for the design and construction electric utility and CIP structures in the High Fire-Threat District.
 - iv. Assessing whether any of the new fire-safety standards developed pursuant to the previous Item iii(c) should apply to existing facilities in the High Fire-Threat District in light of cost-benefit considerations and Rule 12 of GO 95 and, if so, developing a plan, timeline, and cost estimate for upgrading existing facilities to meet the new standards.
 - v. Requiring investor-owned electric utilities (IOUs) to report data to CPSD regarding power-line fires and requiring CPSD to use such data to (a) identify and assess systemic fire-safety risks associated with overhead power-line facilities and aerial communications facilities in close proximity to power-lines; and (b) formulate cost-effective measures to reduce systemic fire risks. This requirement must be developed in consultation with the IOUs, CIPs, the Mussey Grade Road Alliance, the California Department of Forestry and Fire Protection (Cal Fire), and other interested parties in this proceeding.
 - vi. Preparing a detailed work plan for the development, expert review, adoption, implementation, and funding of fire-threat maps that accurately identify areas where there is an elevated risk of catastrophic power-line fires occurring. Once adopted, these maps shall be used in conjunction with the fire-prevention measures adopted in this proceeding that rely on fire-threat maps for their

¹ Since D.12-01-032 was issued, CPSD has changed its name to the Safety and Enforcement Division. For ease of reference, this ruling will continue to use CPSD.

implementation. The IOUs and CIPs shall cooperate with CPSD and Cal Fire in the preparation of the work plan. The other parties in this proceeding and the Lawrence Livermore National Laboratory (LLNL) are invited to participate. The work plan shall contain the following:

- a. A detailed proposal for developing high resolution fire-threat maps that cover the entire state. The proposal must address the option of reviewing and adopting for regional or statewide use the Reax Map and/or the fire-threat map developed by San Diego Gas & Electric Company (SDG&E Map).
- b. Recommendations for obtaining assistance from Cal Fire, LLNL, and other neutral experts in the development and review of fire-threat maps, including the Reax Map and the SDG&E Map.
- c. Estimated costs for the development, expert review, implementation, and maintenance of fire-threat maps.
- d. Recommendations for funding the development, expert review, implementation, and maintenance of fire-threat maps.
- e. A proposed schedule and milestones for the development, adoption, and implementation of fire-threat maps.
- f. The work plan may include alternative proposals and recommendations if parties cannot reach a consensus.

Ordering Paragraph 9 of D.12-01-032 requires facilitated workshops to be held in Phase 3 regarding the matters identified above.

1.2 The Phase 3 Scoping Memo

The *Assigned Commissioner's Ruling and Scoping Memo for Phase 3 of this Proceeding*, dated June 1, 2012, (the Phase 3 Scoping Memo) established 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 GO 95 identified in Items i – iv above.

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 for CPSD to use the data, as set forth in Item v above.

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

The Phase 3 Scoping Memo established separate workshop processes and schedules for Tracks 1 and 2 versus Track 3, which are described below.

1.2.1 The Workshop Process for Tracks 1 and 2

The Phase 3 Scoping Memo established a two-stage workshop process for Tracks 1 and 2. Stage 1, which is now complete, consisted of self-directed technical panels to develop consensus recommendations (Technical Panels). There was one Technical Panel for Track 1 and a second Technical Panel for Track 2. Each Technical Panel filed a written report containing the participants' recommendations and alternate proposals. The parties then filed comments and reply comments regarding the Technical Panel reports.

Stage 2, which is currently in progress, consists of facilitated all-party workshops where each party's concerns regarding the Technical Panels' recommendations are being addressed. The product of the Stage 2 facilitated workshops will be a workshop report containing the parties' final recommendations and alternate proposals regarding the issues assigned to Tracks 1 and 2. The parties will have an opportunity to file briefs and reply

briefs regarding the workshop report's recommendations and alternate proposals. The Commission will then issue a decision.

Although the two-stage workshop process for Tracks 1 and 2 is working well, the parties were unable to develop final recommendations regarding the following key issues assigned to Track 1:

- Revising GO 95 to incorporate (a) a new High Fire-Threat District, (b) maps of the High Fire-Threat District, and (c) fire-safety standards for the design and construction electric utility and CIP structures in the High Fire-Threat District.
- Assessing whether any of the new fire-safety standards developed pursuant to the previous bullet should apply to existing facilities in the High Fire-Threat District in light of cost-benefit considerations and Rule 12 of GO 95 and, if so, developing a plan, timeline, and cost estimate for upgrading existing facilities to meet the new standards.

The parties state that coherent, implementable recommendations regarding the above matters cannot be formulated until after fire-threat maps have been developed and adopted in Track 3. They suggest that the Track 1 participants reconvene after fire-threat maps have been adopted.

1.2.2 The Workshop Process for Track 3

The Phase 3 Scoping Memo anticipated that the Commission would contract with LLNL to facilitate workshops where parties would prepare a work plan for the development of fire-threat maps in accordance with D.12-01-032.

The Phase 3 Scoping Memo stated that (1) the schedule, format, and other details regarding the anticipated LLNL-facilitated workshops would be provided in a future ruling; and (2) the schedule and procedures for implementing the work plan that is prepared by the LLNL-facilitated workshops would be

determined after the work plan is filed and served, and parties have had an opportunity to submit written comments on the work plan.

No formal steps have been taken thus far to contract with LLNL to conduct facilitated workshops for Track 3 as contemplated by the Phase 3 Scoping Memo. As set forth below, this ruling invites parties to comment on whether the Commission should proceed with the LLNL-facilitated workshops or, alternatively, use another workshop process.

2. Prehearing Conference

This ruling sets a PHC for April 17, 2013, at 10:00 a.m., in a Commission Courtroom, State Office Building at 505 Van Ness Avenue, San Francisco, CA 94102. The purpose of the PHC is to discuss the process and schedule for the Track 3 workshops.

3. Written Prehearing Conference Statements

Any party who intends to participate actively in the PHC shall file and serve a PHC statement.² Parties are encouraged to address the following matters in their PHC statements:

- A. Whether the Commission should proceed with LLNL-facilitated workshops for Track 3 in the manner contemplated by the Phase 3 Scoping Memo or, alternatively, use another workshop process for Track 3.³ One alternative is to convene a self-directed technical panel similar to the Technical Panels for Tracks 1 and 2. The Track 3 technical panel would be open to all parties, and would be tasked with preparing a detailed work plan for the development, expert review, adoption,

² Any party may file and serve a PHC statement.

³ The parties are encouraged to provide a detailed description of their preferred workshop process for Track 3.

implementation, and funding for fire-threat maps that cover the entire state.⁴ Next, the technical panel would file a report containing its recommendations and alternate proposals, and parties would have an opportunity to file comments and reply comments. Based on this record, the assigned Commissioner would decide how to proceed with the actual development and adoption of fire-threat maps.⁵ The development process could include facilitated workshops.

- B. A proposed schedule for conducting the Track 3 workshops that lists all major events, such as pre-workshop comments, workshops, workshop reports, hearings and/or briefs, and other milestones.
- C. The process, procedures, and schedule for addressing the deferred Track 1 issues are identified in Section 1.2.1 of this ruling.
- D. Whether any (or additional) discovery is needed, and the anticipated date that discovery will be completed.
- E. Whether an evidentiary hearing is needed regarding Track 3 issues. Any party who believes an evidentiary hearing is needed should (i) identify and describe the material factual issues that will be litigated; and (ii) provide a schedule for all hearing-related events.
- F. Any other matters that are relevant to the scope, schedule, and conduct of Track 3.

PHC statements shall be filed and served by April 12, 2013. Each party shall email a copy of its PHC statement in Microsoft Word format to the assigned Administrative Law Judge (timothy.kenney@cpuc.ca.gov).

⁴ The work plan would need to address, among other things, the option of reviewing and adopting, for regional or statewide use, the Reax Map and/or the SDG&E Map.

⁵ The assigned Commissioner may provide guidance for developing fire-threat maps through a ruling, scoping memo, or proposed decision, as appropriate.

4. Service List

The official service list is available on the Commission's website at: (http://www.cpuc.ca.gov/service_lists/R0811005_77981.htm). There is no need for persons and entities who are currently on the service list to take any action if they wish to remain on the service list. Parties should confirm that their information on the service list is current and correct, and notify the Commission's Process Office of any changes or errors.

5. Participation

The service list for this proceeding is divided into three categories. The Party category is reserved for those planning to participate actively in this proceeding by attending workshops, submitting written comments, etc. The State Service category is for employees of the State of California. The Information Only category is for those who wish to receive all documents filed in this proceeding, but who will not be participating actively.⁶

As set forth in Rule 1.4 of the Commission's Rules of Practice and Procedure, a person may request party status in this proceeding by:

- Making an oral motion to become a party at the PHC (Rule 1.4(a)(3)).
- Filing a written motion to become a party (Rule 1.4(a)(4)).

As required by Rule 1.4(b), a person seeking party status must:

- (1) Fully disclose the persons or entities in whose behalf the motion is being made, and the interest of such persons or entities in the proceeding.

⁶ A party may have only one person listed in the "Party" category of the service list. The same party may have multiple people listed in the "State Service" or "Information Only" categories of the service list.

- (2) State the factual and legal contentions the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented.

Persons who wish to monitor this proceeding may contact the Commission's Process Office to be placed on the service list in the State Service or Information Only category. Requests to be placed on the service list can be sent by email (Process_Office@cpuc.ca.gov). All such requests must include the following:

- Docket Number: Rulemaking 08-11-005
- Name of person or representative
- Name and entity represented, if any
- Address
- Telephone number
- Email address
- A request to be placed on the service list in the State Service category or the Information Only category.

6. Assistance with Commission Procedures

Any party who is unfamiliar with the Commission's procedures can obtain assistance from the Commission's Public Advisor at:

- (866) 849-8390 or (415) 703-2074
- (866) 836-7825 (TTY-toll free)
- public.advisor@cpuc.ca.gov

Therefore, **IT IS RULED** that:

1. A prehearing conference (PHC) will be held on April 17, 2013, at 10:00 a.m., in a Commission Courtroom, State Office Building at 505 Van Ness Avenue, San Francisco, CA 94102.

2. Any party that plans to participate actively in the PHC shall file and serve a PHC statement by April 12, 2013. Parties may submit PHC statements either individually or jointly with other parties. Parties are encouraged to address in their PHC statements the matters identified in the body of this Ruling. Each party shall email a copy of its PHC statement in Microsoft Word format to the assigned Administrative Law Judge (timothy.kenney@cpuc.ca.gov).

Dated March 12, 2013, at San Francisco, California.

/s/ TIMOTHY KENNEY

Timothy Kenney
Administrative Law Judge