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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Address
Utility Cost and Revenue Issues Associated
with Greenhouse Gas Emissions.

Rulemaking 11-03-012
(Filed March 24, 2011)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S RULING
AMENDING SCOPING MEMO AND REQUESTING COMMENT
ON LOW CARBON FUEL STANDARD CREDITS**

1. Summary

This ruling further amends the Scoping Memo and Ruling issued on September 1, 2011 (and amended on August 2, 2012) in Rulemaking (R.) 11-03-012.

Through this ruling, we expand the scope of Track 2 of this proceeding, which addresses the distribution of revenues received by the electric and gas utilities from the sale of Low Carbon Fuel Standard (LCFS) credits. The scope of Track 2 is expanded to include consideration of any requirements or restrictions the Commission should place on the sale of LCFS credits by investor-owned utilities.

In addition, given that a significant period of time has passed since parties filed their proposals on the use of LCFS credits, parties that filed proposals are invited to provide updates and modifications to those proposals according to the parameters set forth herein. The scope and schedule of this proceeding are modified as established below.

2. Background

The Commission initiated R.11-03-012 on March 24, 2011 to address the use of revenue generated from the sale of greenhouse gas (GHG) emissions allowances allocated to the electric utilities by the California Air Resources Board (ARB) pursuant to Assembly Bill 32,¹ as well as the use of revenues the electric utilities may receive from the sale of Low Carbon Fuel Standard (LCFS) credits, and the treatment of potential GHG compliance costs associated with electricity procurement. Pursuant to an August 4, 2011 joint ruling issued by the Administrative Law Judges (ALJs) assigned to this proceeding and the then-current Long-Term Procurement Proceeding, it was determined that issues related to GHG costs, including procurement authority, would be addressed in the LTPP proceeding. Decision (D.) 12-04-046 adopted requirements related to the procurement of various GHG instruments.

2.1 Background Related to LCFS

On September 1, 2011, the Commission released a Scoping Memo that established three tracks for this proceeding: allocation of revenue from the auction of greenhouse gas allowances (Track 1); allocation of revenues from the sale of LCFS credits (Track 2); and GHG product procurement and revenue allocation for gas utilities (Track 3). On February 8, 2012, the assigned ALJs issued a ruling requesting proposals on the use of revenues from the sale of LCFS credits and proposing policy objectives by which the Commission could evaluate party proposals. The ruling also set forth deadlines for parties to submit initial and revised proposals, provide comments on the proposals, and file reply

¹ Stats. 2006, ch. 488.

comments, which were further modified in a March 14, 2012 ruling. A May 1, 2012 ALJ ruling requested additional information from the investor-owned utilities to supplement the record and set a new deadline for parties to submit revised LCFS allocation proposals to May 14, 2012.

In December 2011, ARB finalized its LCFS regulation.² Under the current LCFS regulation, regulated entities earn credits for using transportation fuels with lower levels of carbon intensity. According to the regulation, utilities will receive credits generated by their residential customers when those customers charge electric vehicles through their home electric service or purchase alternative fuel from utility-owned fueling stations. In addition, the utilities could receive LCFS credits in other charging and alternative fuel scenarios where another entity did not claim the credits. Utilities may then sell those credits, regardless of how those credits are received, generating revenues that they may use in accordance with the requirements set by ARB for the use of LCFS credits, which are:

1. LCFS value must be used to the benefit of current plug-in electric vehicle (PEV) drivers;
2. The utility must administer PEV adoption education/outreach programs; and
3. The utility must provide rate options that encourage off-peak charging.

Recently, the Commission's Energy Division conducted an evaluation of the Commission's implementation of the LCFS and determined that, while the utilities have been receiving LCFS credits, they may lack the appropriate authority to sell those credits in the marketplace. Included in consideration of

² <http://www.arb.ca.gov/regact/2011/lcfs2011/froolapp.pdf>.

the appropriate authority, the Commission will need to evaluate any requirements or restrictions that should be placed on the sale of LCFS credits by investor-owned utilities.

3. Revised Scope

The September 1, 2011 Scoping Memo in this proceeding determined the scope of Track 2 to be focused on resolution of the following questions:

- 1) How should the electric and gas utilities under Commission jurisdiction use revenues from the sale of LCFS credits received from ARB?
 - a) Should the revenues from the sale of LCFS credits be used for different purposes than the revenues generated from the sale of GHG allowances allocated to the electric utilities by ARB?

To address the amended scope, this Scoping Ruling expands the scope of Track 2 to address the following questions:

- 1) Is any Commission-specific authority outside of the authority granted in D.12-12-046 to procure GHG compliance products,³ required for the utilities to sell LCFS credits?
- 2) What requirements or restrictions, if any, should the Commission place on the sale of LCFS credits by investor-owned utilities?
 - a) Should the requirements to sell LCFS credits differ from the requirements related to GHG allowance procurement as established in D.12-04-046 in R.10-05-006?⁴

³ See D.12-04-046 beginning at page 40 for a discussion of the Commission's approval to procure GHG compliance instruments.

⁴ R.10-05-006 was established to determine procurement rules and requirements for utility energy-related products, including GHG products. Section 3.5 of D.12-04-046 in

Footnote continued on next page

4. Amended LCFS Proposals

On May 14, 2012, parties submitted final LCFS allocation proposals. Given the length of time that has passed since these proposals were submitted, parties are invited update their recommendations based on any new information or conditions that have arisen in the past year. Updated proposals will only be accepted from parties that previously submitted proposals.

5. Revised Procedural Schedule for Track 2

Parties are invited to submit comments on the expanded Track 2 scope according to the schedule set forth below. It is anticipated that comments will be sufficient to resolve the issues set forth in the expanded scope; however, parties may request additional mechanisms to ensure the just and expeditious resolution of these issues. The Commission may resolve the issues of Track 2 in one or more decisions as is necessary to ensure the efficient resolution of Track 2.

Track 2 Revised Schedule

Item	Date
Comments on Authority to Sell LCFS Credits (Revised Track 2 Scope)	December 18, 2013
Reply Comments on Authority to Sell LCFS Credits	January 6, 2014
Revised LCFS Proposals	January 8, 2014
Opening Comments on Revised LCFS Proposals	January 22, 2014
Reply Comments on Revised LCFS Proposals	January 29, 2014
Proposed Decision(s) on LCFS matters	Second Quarter, 2014 (anticipated)

R.10-05-006 set forth the procurement requirements for the utilities to purchase and sell different types of GHG products.

It is anticipated that Track 2 of R.11-03-012 will be resolved according to the schedule set forth above; however pursuant to Public Utilities Code Section 1701.5(b), it is expected that this proceeding will be completed within 18 months from the date of issuance of this scoping memo.

If additional phases or tracks of this Order Instituting Rulemaking prove necessary, a subsequent amended scoping memo may establish the scope and schedule of those phases or tracks and/or the Commission may consider such issues in a subsequent rulemaking.

The assigned Commissioner and/or ALJ may modify the scope and schedule provided herein as necessary for the reasonable and efficient conduct of this proceeding.

6. Additional Procedural Issues

The assignment, categorization, service procedures, ex parte rules, and other procedural concerns not directly addressed in this ruling remain as established in the OIR and original scoping memo.

IT IS RULED that:

1. The amended scope of Track 2 of the proceeding is expanded as set forth in Section 3 herein.
2. The amended schedule for Track 2 of the proceeding is set forth in Section 5 herein.
3. The statutory deadline for this proceeding set forth in Public Utilities Code Section 1701.5 is extended for 18 months from the date of the issuance of this amended scoping memo.
4. Parties may submit comments on expanded issues in Track 2 in accordance with the schedule in Section 5.

5. Parties may submit amended Low Carbon Fuel Standard (LCFS) revenue proposals according to the parameters set forth in Section 4 and the schedule in Section 5. Parties may file comments on amended LCFS proposals in accordance with the schedule in Section 5.

Dated November 25, 2013, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ MELISSA K. SEMCER

Melissa K. Semcer
Administrative Law Judge