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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)

AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE

1. Summary

Today's amended scoping memo and ruling (amended scoping ruling) addresses the scope of issues to be covered in the cost phase of this Order Instituting Rulemaking concerning the biomethane standards and requirements. This amended scoping ruling also sets forth the procedural schedule that will be followed for this cost phase.

2. Background

Assembly Bill (AB) 1900 was enacted into law in Chapter 602 of the Statutes of 2012. AB 1900 amended and added several code sections to the Public Utilities Code pertaining to biogas and biomethane. In order to address certain time-sensitive issues and actions in AB 1900, the California Public Utilities Commission (the Commission), with the assistance of other state agencies, took steps in the first phase of this proceeding to allow the injection of biomethane gas into the natural gas pipeline systems of the California gas utilities. These efforts resulted in the adoption of Decision (D.) 14-01-034, which provides that as long

as the biomethane meets the utility's existing gas quality requirements, and the concentration limits for 17 constituents of concern that may be found in biomethane, that biomethane is allowed to flow into the utility's gas pipeline system.

In the May 2, 2013 scoping memo and ruling at 6, we noted:

The Rulemaking, and the parties to the Rulemaking, have raised the issue of the cost of implementing the standards and requirements that the Commission will be adopting, and who should pay for the costs of these standards and requirements. This cost issue also involves whether the biomethane producers should have to absorb the costs of meeting the Commission-adopted standards or requirements, or whether there should be policy considerations, such as a subsidy to promote biomethane, that might shift some or all of these costs to customers of the gas utilities.

The May 2, 2013 scoping memo and ruling also stated at 7 that "the cost associated with meeting the Commission-adopted standards and requirements will be addressed in this proceeding, after the Commission has undertaken the work associated with adopting such standards and requirements..." and that "the cost-related issue may have to be addressed in a separate phase of this proceeding." (See D.14-01-034 at 136, Finding of Fact 66 at 147.)

The May 2, 2013 scoping memo and ruling at 8 also ruled that "the issue of any subsidy of the cost of complying with the Commission-adopted standards and requirements for biomethane should be addressed" in Rulemaking (R.) 11-05-005, where the Commission is addressing the policies and rules for procurement from renewable energy resources. The May 2, 2013 scoping memo and ruling also noted that "we remain open to revisiting whether additional work on biomethane promotion policies and related costs subsidies is needed, after more progress has been made in R.11-05-005."

3. Scope of Issues for Cost Phase

A second phase of this proceeding is being opened by this amended scoping ruling to consider who should bear the costs of meeting the standards and requirements that the Commission adopted in D.14-01-034.

In this second phase of this proceeding, the parties will have the opportunity to file comments and reply comments on who should bear the costs of complying with the Commission-adopted testing, monitoring, reporting, and recordkeeping requirements. This phase will only address these cost issues, and will not be revisiting the standards and requirements that were adopted in D.14-01-034.¹

In the comments and reply comments, the parties need to: (1) identify the costs that are at issue; and (2) describe the party's reasoning and justification for why the biogas supplier, the biomethane producer or supplier, the gas utility, or other entity or person, should bear that particular cost. Specifically, comments should address at least the following questions:

1. What costs are associated with the testing, monitoring, reporting, and recordkeeping requirements as adopted by D.14-01-034? Are these one-time or ongoing costs?
2. How do these costs compare to the total start-up and operational costs, as appropriate, of the biogas production facility?
3. Should the biogas supplier, biomethane producer or supplier, the gas utility or other entity or person bear particular costs and why? and

¹ The two cost issues that were previously decided in D.14-01-034 will not be revisited. Those two cost issues are: (1) that the cost of any retesting is to be borne by the entity requesting the retest; and (2) any additional monitoring beyond what is required in D.14-01-034 is to be borne by the utility. (See D.14-01-034 at 128, 150.)

4. Are there any other costs that should be considered, and the reasoning why those particular costs should be resolved by the Commission?

Since this proceeding was categorized as quasi-legislative in the May 2, 2013 scoping memo and ruling, and because the issue of who should bear cost responsibility for meeting the standards and requirements of injecting biomethane to the utilities' gas pipeline systems is a policy question to be addressed by the Commission, no evidentiary hearings are needed to decide this issue. Accordingly, the cost issues in this phase of this proceeding will be decided based on the comments and reply comments that are to be filed.

Opening comments on the above-described cost issues shall be filed with the Commission's Docket Office and served no later than May 23, 2014. The reply comments to the opening comments shall be filed and served no later than June 20, 2014.

4. Amended Procedural Schedule

The cost phase of this proceeding will be decided based on the opening and reply comments. Following the filing of those comments, a proposed decision will then be drafted on the cost issues identified in this amended scoping ruling.

The following is the procedural schedule that is adopted for the cost phase of this proceeding:

Opening comments on cost issues to be filed and served.	May 23, 2014
Reply comments to opening comments to be filed and served.	June 20, 2014
Proposed decision issued on cost issues.	Approximately September 2014
Comments and reply comments on proposed decision.	In accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure.
Decision adopted by the Commission on cost issues.	Approximately October 2014

We anticipate that this proceeding will be completed as set forth in the above schedule for the cost phase of this proceeding, and expect this proceeding to be completed within 18 months from the date this amended scoping ruling is issued pursuant to Public Utilities Code §1701.5.

IT IS RULED that:

1. The issues to be resolved in the cost phase of this proceeding are listed in section 3 of this amended scoping memo and ruling.
2. The procedural schedule will follow the schedule set forth in section 4 of this amended scoping memo and ruling.
3. Interested parties may file their opening and reply comments on the cost issues in this phase of the proceeding in accordance with the procedural schedule set forth in section 4 of this amended scoping memo and ruling.

Dated April 9, 2014, at San Francisco, California.

 /s/ CARLA J. PETERMAN
Carla J. Peterman
Assigned Commissioner

 /s/ JOHN S. WONG
John S. Wong
Administrative Law Judge