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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance
the Role of Demand Response in Meeting
the State's Resource Planning Needs and
Operational Requirements.

Rulemaking 13-09-011
(Filed September 19, 2013)

E-MAIL RULING REVISING SCHEDULE

Dated July 31, 2014, at San Francisco, California.

/s/ KELLY H. HYMES
Kelly H. Hymes
Administrative Law Judge

From: Hymes, Kelly A.

Sent: Thursday, July 31, 2014 12:42 PM

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Cc: ALJ_Support ID; ALJ Process; ALJ Docket Office
Subject: R1309011 Email Ruling Revising Schedule

On Tuesday, July 29, 2014, the Administrative Law Judge held a prehearing conference (PHC) to discuss the following items: a) the status of the settlement discussions between the parties; b) whether evidentiary hearings scheduled for August 7 and 11, 2014 are necessary; c) how to address testimony if hearings are not held; d) the remaining scope and schedule.

The parties participating in the settlement discussions selected two representatives to provide a status of the settlement discussions. The two representatives announced that a settlement addressing all but one Phase Three issue is nearing completion with an anticipated filing date of August 1, 2014. A potential delay could occur as a result of attempting to get all signatures on the agreement but it only would be a minor delay. Parties recommend that Phase Two issues be addressed in briefs, except for the issue of revisions to the cost-effectiveness protocols. A new issue, but one related to a Phase Three issue,

has appeared that also will be addressed in briefs. Parties contend this issue is in the scope of the proceeding.

The two representatives stated that to their knowledge hearings should not be necessary. However, they noted that, if a non-settling party contests the settlement, the party could request a hearing. Commission Rules of Practice and Procedure (Rule) 12.3 require a hearing if there are material contested issues of fact. The two representatives stated that if no hearing is requested, the “settling parties would also be willing to waive cross-examination and stipulate to the admission of all exhibits.” (See PHC Transcript at 101, lines 11-16.) The representatives discussed the other requirements of Rule 12 including the comment period for the Motion to Adopt the Settlement, which is addressed below.

In a discussion regarding the schedule for the remainder of Phases Two and Three, the two representatives requested that the cost effectiveness protocols be addressed at a later date. Specifically, the representatives requested to hold a workshop prior to the required filing of the protocol comments; thus also requesting a delay on the comments. The representatives noted, and other parties echoed agreement, that the protocols might not necessarily need to be part of the decision on Phase Three and Phase Two issues (TR at 105, lines 19-23).

With that in mind, the representatives proposed a schedule that cancels the currently scheduled hearing but does not include a hearing for a contested settlement, and requests a shortened response time for reply briefs and replies to comments on the motion to adopt the settlement. The shortened response time for replies assists the Commission in moving toward an end of year decision. Furthermore, the parties suggested that the currently scheduled placeholder for an August 11, 2014 evidentiary hearing be used as an opportunity for the parties to present an overview of the settlement and for the Judge to ask questions. The following schedule was suggested by the parties:

Event	Date
Filing of Motion to Adopt Settlement with Attached Settlement	August 1, 2014
Settlement Overview Panel	August 11, 2014
Comments to Motion to Adopt Settlement	August 25, 2014

Briefs on Remaining Phase Two and New Phase Three Issues	August 25, 2014
Replies to Comments to Motion to Adopt Settlement	September 8, 2014
Reply Briefs	September 8, 2014

After review of the PHC discussion with the assigned office, I find that the hearings scheduled for August 7 and 11 should be cancelled. Given that we will not know until August 25, 2014 or later whether the settlement is contested, I will not schedule any further hearing dates at this time. I agree with the recommendation to provide an overview of the settlement to the Judge. This will be referred to as a Status Conference. It will be held on August 11, 2014 and will be transcribed by court reporter. At a later date, I will provide further guidance regarding the testimony and the need for any additional hearings.

Parties to the settlement are reminded that the settlement should comply with Rule 12.1. Because of the breadth of the issues, the settlement document should also contain a comparison exhibit that provides a list of the issues from the April 2, 2014 Ruling and Revised Scoping Memo, parties original positions from testimony, and the outcome as agreed upon in the settlement.

Rule 12.2 allows parties to file comments on a settlement within 30 days of the filing of the motion for adoption of settlement. As described above, the representatives have requested a shortened comment and reply period. No later than Monday, August 4, 2014, any party objecting to the shortened comment period shall contact the Judge via email with a carbon copy sent to the entire service list. The email shall fully describe the reason for the objection. If no objection is received by 5:00 pm on Monday, August 4, 2014, I will consider the shortened comment period to be reasonable.

Regarding the issue of the proposed revised cost-effectiveness protocols, the comment dates of August 15, 2014 and August 22, 2015 are suspended until further notice. A future ruling will be issued to procedurally address this remaining Phase Two issue.

The following schedule is adopted:

Event	Date
Filing of Motion to Adopt Settlement with Attached Settlement and Comparison Document	August 4, 2014
Status Conference (Transcribed)	August 11, 2014

If no party files an objection to the shortened comment period for the settlement, then the following schedule is adopted:

Event	Date
Comments to Motion to Adopt Settlement	August 25, 2014
Briefs on Remaining Phase Two Issues & New but related Phase Three Issue	
Replies to Comments to Motion to Adopt Settlement	September 8, 2014
Reply Briefs	

The Docket Office shall formally file this Ruling.

Kelly A. Hymes
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Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence. -- John Adams