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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 14-03-003
(Filed March 13, 2014)

**ASSIGNED COMMISSIONER'S AND ADMINISTRATIVE LAW JUDGE'S
RULING AND SCOPING MEMO FOR PHASE TWO**

Pursuant to Pub. Util. Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules),¹ this Ruling and Scoping Memo addresses the scope and sets forth the procedural schedule for Phase Two of this rulemaking.

Phase One of this proceeding was resolved with Decision (D.) 14-12-040, in which the Commission approved, with modifications, a Settlement between Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company, and Southwest Gas Company concerning certain policies and rules necessary for natural gas utilities to comply with the California Cap and Greenhouse Gas Emissions and Market-Based Compliance Mechanisms² ("Cap-and-Trade Program") adopted by California Air Resources Board (ARB) pursuant to

¹ All subsequent references to "Rules" are to the Commission's Rules of Practice and Procedure, Chapter 1, Division 1 or Title 20 of the California Code of Regulations.

² Title 17, California Code of Regulations, Sections 95801-96022.

Assembly Bill (AB) 32.³ D.14-12-040 granted the natural gas utilities request to procure Greenhouse Gas (GHG) compliance instruments under ARB's rules, adopted procurement rules, and approved balancing and memorandum accounts for tracking and recording costs associated with compliance with the ARB's rules.

Phase Two will address the remaining issues of the use of GHG revenue and GHG outreach and education.

1. Background

On March 13, 2014, the Commission initiated this rulemaking to establish the policy, programs, rules and tariffs necessary for natural gas investor-owned utilities (natural gas corporations) to comply with the Cap-and-Trade Program.

Natural gas suppliers became covered entities beginning on January 1, 2015, and their compliance obligation is equal to the GHG emissions that would result from full combustion or oxidation of the natural gas they deliver to California end-use customers, less the emissions from natural gas delivered to entities that are separately regulated as covered entities.⁴ Like all covered entities, natural gas suppliers must fulfill their compliance obligations under the Cap-and-Trade program by surrendering to ARB an amount of compliance instruments – emission allowances and offsets – equal to their regulated emissions during each compliance period. The natural gas suppliers' compliance obligation began coincident with the beginning of ARB's second compliance

³ Stats 2006, Ch. 32.

⁴ Cap-and-Trade Regulation § 95852(c).

period, including the year 2015 through 2017.⁵ The third compliance period includes 2018 through 2020.

On July 7, 2014, the assigned Commissioner and Administrative Law Judge (ALJ) jointly issued a Ruling and Scoping Memo (Scoping Memo) that set forth the procedural schedule and scope of issues. The Scoping Memo determined that proceeding should be bifurcated into two phases with Phase One focused on the priority issues necessary to allow natural gas utilities to begin compliance implementation by January 1, 2015, and Phase Two addressing the remaining issues. The Scoping Memo further established the full scope of issues for Phase One and determined that the scope of Phase Two would be determined in a later ruling.

On December 18, 2014, the Commission adopted D.14-12-040. The Decision granted the natural gas utilities authority to purchase compliance instruments, and adopted balancing and memorandum accounts for the costs of compliance instruments and administrative costs, respectively. Although the proposed Settlement included provisions regarding the minimum consignment percent, cost forecasting and cost recovery, the Commission declined to approve those elements of the Settlement. The Commission found that there was insufficient information to approve the utilities' cost forecasts for 2015, or the proposed cost recovery mechanism.

2. Scope of Issues for Phase Two

To determine the issues for consideration in Phase Two, we review the Scoping Memo, the comments on the Scoping Memo, and the Commission's

⁵ The first compliance period, the years 2013 and 2014, preceded the natural gas suppliers' compliance obligation.

findings in D.14-12-040. At a minimum, the issues that were initially reserved for consideration in Phase Two are included. Those issues included the use of revenues derived from the sale of allowances delivered to covered natural gas corporations, the minimum consignment percentages of allowances allocated for ratepayer protection and the scope of any natural gas GHG outreach and education.

D.14-12-040 authorized each utility to establish a two-way balancing account and a memorandum account to track and record costs incurred to comply with the Cap-and-Trade Program. As noted above, while the proposed Settlement included provisions regarding cost recovery, 2015 cost forecasts, and the minimum consignment percentage, the Commission rejected these provisions, finding that the cost forecasts and cost recovery processes proposed in the Settlement lacked sufficient detail to evaluate their reasonableness. The Commission also determined that the Settlement proposal addressing ARB's minimum consignment percentage limited the Commission's flexibility.

D.14-12-040 directed that each of these issues should be considered in Phase Two. D.14-12-040 further directed the utilities to file preliminary statements providing data and supporting information regarding 2015 GHG costs for our consideration. Review of these filings is within the scope of Phase Two.

D.14-12-040 also approved a formula to limit the quantity of compliance instruments that the natural gas utilities purchase in any year, but did not address the need for or timing of an advice letter from the utilities to update their procurement limit and/or provide a procurement plan similar to those required for electric utilities. Parties should comment on the need for an advice letter or periodic procurement plan to update the procurement limit.

The scope of Phase Two of this proceeding shall include:

1. The methodology, format and procedural mechanism the natural gas corporations should use to forecast and reconcile annual Cap-and-Trade-related costs, allowance revenue and administrative expenses.
2. Whether the natural gas corporations can rely on public, non-confidential data to report forecasts publicly without violating ARB confidentiality rules that prevent disclosure of market sensitive information.
3. How Cap-and-Trade costs should be allocated between core and noncore customers.
4. Any tariff changes or new tariffs the natural gas utilities should use to recover GHG costs.
5. How GHG costs should be reflected on customer bills.
6. Detailed utility proposals regarding how utilities will identify customers that should be excluded from having GHG costs in rates and how to ensure, in tariffs, that these customers' rates exclude GHG costs.
7. How utilities should address instances when customers that are not covered entities when ARB issues its annual covered entity exclusion, become covered entities in the subsequent year, and thus have a Cap-and-Trade compliance obligation for emissions incurred during a period when they may also have GHG costs in their natural gas rates. Customers in this circumstance should be referred to as "newly covered entities."
8. Describe how the utilities should address "newly excluded entities." Newly excluded entities are customers whose emissions were greater than the 25,000 MTCO₂e/year threshold at any time during 2009 through 2012 and were therefore covered entities during the first Cap-and-Trade compliance period, but who may not have a compliance obligation during the second compliance period, 2015-2017, because their emissions did not exceed the 25,000 MTCO₂e/year threshold in 2013 and 2014.

9. The minimum quantity of directly allocated allowances the natural gas utilities should consign to auction and why, if at all, this should be different from ARB's requirements.
10. Whether it is reasonable to return all allowance revenue on an equal, non-volumetric basis to each residential gas customer, similar to the California Climate Credit allocated to each residential electricity customer as authorized in D.12-12-033.
11. The scope and objectives of any marketing and outreach necessary to inform customers about the natural gas Cap-and-Trade allowance revenue and revenue allocation.
12. Whether the Commission should authorize the natural gas corporations to track and record outreach costs in memorandum accounts.
13. Whether any marketing and outreach activities necessary to inform customers about the natural gas Cap-and-Trade allowance revenue and revenue allocation should be consolidated with the electric GHG marketing and outreach activities under consideration in Application 13-08-026, et al.
14. Whether each natural gas corporation should annually publish the Cap-and-Trade-related costs that may be present in natural gas rates and tariffs, and whether the natural gas corporations can publish such costs without violating ARB confidentiality rules regarding disclosure of market sensitive information.
15. Whether there are any safety issues raised by this proceeding.
16. Whether evidentiary hearings are necessary to resolve any of the issues identified above (*see* the schedule section below regarding any such requests that may be made).

3. Schedule

The schedule for Phase Two of this proceeding is set forth below. The assigned Commissioner or ALJ may change the schedule and scope as necessary

to provide full and fair development of the record. To the extent ARB modifies its regulations, the scope and schedule of this rulemaking may also change. Consistent with Pub. Util. Code § 1701.5, we expect this proceeding to be concluded within 18 months of the date of this scoping memo.

Item	Date
Preliminary Statements Filed	January 20, 2015
Advice Letters Filed as required by D.14-12-040	January 20, 2015
Comments on Phase Two Issues and Preliminary Statements Filed; Requests for Evidentiary Hearings, if any	February 27, 2015
Reply Comments on Phase Two Issues and Preliminary Statements Filed	March 13, 2015
Proposed Decision on Phase Two Issues	June, 2015

4. Category and Need for Hearing

In the assigned Commissioner and ALJ’s Ruling and Scoping Memo dated July 7, 2014 confirmed the categorization of this proceeding as ratesetting, as that term is defined in Rule 1.3(e).

Today’s scoping memo adopts a procedural schedule that does not include formal hearings for Phase Two. It is anticipated that the record will be comprised of all documents filed and served on parties; however, this ruling requests comment on the need for hearings. The final resolution of the need for hearings will be made following receipt of reply comments addressing scope and schedule for Phase Two of this proceeding. If any party believes hearings are necessary on any Phase Two issue, they should so state in their comments on Phase Two issues and Preliminary Statements, currently due on February 27,

2015. This request should also set forth the specific disputed issues of material fact for which hearings are required.

5. Motion for Party Status

Parties should note that the maintenance of party status requires active participation in the proceeding, e.g. submitting formal filings, participating in workshops, etc. The assigned ALJ may remove a party from party status to the information only section if a party is not actively participating in the proceeding.

6. Filing, Service and Service List

All formally filed documents in this proceeding must be filed with the Commission's Docket Office and served on the service list for this proceeding. Parties who provide an email address for the official service list may serve documents by email in accordance with Rule 1.10 (and must also serve a paper copy of all documents on the assigned Commissioner and assigned ALJ, pursuant to Rule 1.10(e)), and are deemed to consent to email service by other parties. If no email address is provided, service should be made by United States mail.

Parties are encouraged to electronically file pleadings pursuant to Rule 1.13(b). Any person interested in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 (TTY), or send an email to public.advisor@cpuc.ca.gov.

7. Intervenor Compensation

Several parties timely filed notices of intent (NOI) to claim intervenor compensation in this proceeding. In one or more separate rulings, the ALJ will address eligibility to claim compensation for the pending NOIs. Parties intending to seek an award of intervenor compensation must maintain daily

record keeping for all hours charged and a sufficient description for each time of entry. Sufficient means more detail than just “review correspondence” or “research” or “attend meeting.” In addition, intervenors must classify time by issues. When submitting requests for compensation, the hourly data should be presented in an Excel spreadsheet.

8. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner, and Julie Halligan is the assigned ALJ in this proceeding. ALJ Julie M. Halligan is the presiding officer for this proceeding.

9. Ex Parte Communications

Pursuant to Rule 8.2, *ex parte* communications will be allowed in this ratesetting proceeding subject to the restrictions in Rule 8.2, and in Rule 8.3(c), and the reporting requirements in Rule 8.4. Additionally, PG&E is subject to the *ex parte* restrictions adopted in D.14-11-041.

IT IS RULED that:

1. This ruling confirms the Commission’s prior finding that the category for this proceeding is ratesetting and finds that hearings may not be necessary. A final resolution on the need for hearing for Phase Two of this proceeding will be made at a later date.

2. Pursuant to Rule 13.2 of the Commission’s Rules of Practice and Procedure, Administrative Law Judge Julie Halligan is the presiding officer for this proceeding.

3. The scope of Phase Two of this proceeding is set forth above.

4. The schedule for Phase Two of this proceeding is set forth above.

5. The assigned Administrative Law Judge may make revisions or provide further direction regarding the scope of this proceeding and the manner in which

issues shall be addressed, as may be necessary for the full and complete development of the record.

6. The Administrative Law Judge may modify the schedule adopted herein as necessary for the reasonable and efficient conduct of the proceeding.

7. Parties served documents in this proceeding shall comply with Rule 1.10 of the Commission's Rule of Practice and Procedure regarding electronic mail service.

8. *Ex parte* communications will be allowed in this ratesetting proceeding subject to the restrictions in Rules 8.2 and 8.3(c) and the reporting requirements in Rule 8.4 (all of the Commission's Rules of Practice and Procedure).

9. Additionally, Pacific Gas and Electric Company is subject to the *ex parte* restrictions adopted in Decision 14-11-041.

Dated January 29, 2015, at San Francisco, California.

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

/s/ JULIE M. HALLIGAN
Julie M. Halligan
Administrative Law Judge