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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 JUDGES'
JOINT SCOPING MEMO AND RULING**

Table of Contents

Title	Page
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES’ JOINT SCOPING MEMO AND RULING	2
1. Overview.....	2
2. Background.....	2
3. Overlap with Long Term Procurement Planning Proceeding.....	5
4. Scope of the Proceeding.....	6
4.1. Track 1: Allocation of Revenues from the Auction of Greenhouse Gas Allowances.....	6
4.2. Track 2: Allocation of Revenues from the Sale of Low Carbon Fuel Credits.....	7
4.3. Track 3: GHG Product Procurement and Revenue Allocation for Gas Utilities.....	7
4.4. GHG Revenues and Costs in 2012.....	8
5. Policy Objectives for GHG Allowance Auction Revenues.....	8
5.1. Preserve the Carbon Price Signal.....	9
5.2. Prevent Economic Leakage.....	10
5.3. Distribute Revenues Equitably Recognizing the “Public Asset” Nature of the Atmospheric Carbon Sink.....	10
5.4. Reduce Adverse Outcomes to Low Income Households	10
5.5. Correct for Market Failures that Lead to Ongoing Underinvestment in Carbon Mitigation Activities and Technologies	11
5.6. Maintain Competitive Neutrality Across Load Serving Entities.....	11
5.7. Achieve Administrative Simplicity and Understandability	11
6. Proposals Regarding the Use of GHG Allowance Revenue	11
7. Development of a Rate Impact Model.....	13
8. Evidentiary Hearings	15
9. Schedule	16
10. Discovery	18
11. Motions for Party Status	19
12. Filing, Service and Service List.....	19
13. Categorization, <i>Ex Parte</i> Rules, and Designation of Presiding Officer.....	20
14. Assignment of Proceeding	21
15. Intervenor Compensation	21

Table of Contents (cont.)

Title	Page
Attachment A – Basis for Comparing the Tradeoffs of Different Proposals Regarding the Use of Allowance Revenues	
Attachment B – Text of ALJ Hecht’s June 24, 2011 Electronic Mail Ruling to Parties in R.11-03-012	
Attachment C – Text of ALJ Semcer’s June 30, 2011 Electronic Mail Ruling to Parties in R.11-03-012	
Attachment D – Text of ALJ Semcer’s July 8, 2011 Electronic Mail Ruling to Parties in R.11-03-012	

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES'
JOINT SCOPING MEMO AND RULING**

1. Overview

Pursuant to Rule 7.3(a)¹ of the Commission's Rules of Practice and Procedure, and following prehearing conferences held on June 2, 2011 and August 1, 2011, this scoping memo and ruling affirms the preliminary categorization of this proceeding as "ratesetting," sets forth the scope and procedural schedule for the proceeding, and assigns Administrative Law Judges Jessica T. Hecht and Melissa K. Semcer as the presiding officers. Parties can appeal this ruling only as to the category of this proceeding under the procedures in Rule 7.6.

2. Background

On March 30, 2011, the Commission issued an Order Instituting Rulemaking (OIR) to address the use of revenues 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 (AB) 32,² 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.

In the OIR, the Commission acknowledged the inherent uncertainty in this proceeding given that San Francisco Superior Court enjoined ARB from implementing aspects of its GHG regulatory program. Despite the uncertainty,

¹ Unless otherwise stated, all references to a "Rule" or to "Rules" are to the Commission's Rules of Practice and Procedure.

² Stats. 2006, ch. 488.

in the OIR, the Commission found it prudent to open this rulemaking to ensure that we are prepared to timely address the issues within our jurisdiction when and if the problems identified by the Superior Court are resolved. Although the San Francisco Superior Court has now lifted its order enjoining ARB, until the Court releases a final opinion, the status of the ARB regulatory program is somewhat uncertain. As discussed in the OIR, to the extent ARB changes its regulatory program, the scope and schedule of this rulemaking may also change.

As provided in the OIR, numerous parties filed opening prehearing conference (PHC) statements and replies on April 21, 2011 and May 5, 2011, respectively, creating a broad record to inform our initial discussion of schedule and scope at the June 2, 2011 PHC. On May 11, 2011, Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company (together, the Joint Utilities) filed a Joint Motion requesting that the Commission issue an interim decision to address the use of allowance revenues to compensate ratepayers for GHG costs that at the time of filing were anticipated to be reflected in rates beginning in 2012. The Joint Motion also included a specific interim GHG revenue allocation proposal for 2012. In comments, parties broadly supported the need for an interim decision on the use of GHG allowance revenues for 2012, but several parties objected to the specific interim GHG revenue allocation proposal presented by the Joint Utilities.

During the June 2, 2011 PHC, the assigned Administrative Law Judge (ALJ) suggested that the Commission bifurcate this proceeding. This approach involved focusing our initial efforts towards the adoption of an interim mechanism to distribute or otherwise utilize GHG auction revenues in 2012. This first phase of the proceeding would be followed by a more thorough

evaluation of the use of allowance revenues for 2013 and beyond, as well as addressing other issues such as revenues from the sale of LCFS credits.

During the June 2, 2011 PHC, many parties asked for more detailed information on the Joint Utilities' revenue allocation proposal and ALJ Hecht ruled that the Joint Utilities should provide more information to parties. In response, on June 20, 2011, the Joint Utilities filed a Joint Exhibit containing more detailed information about their proposal. On June 24, 2011, ALJ Hecht issued a ruling by electronic mail (reproduced as Attachment B to this ruling) directing parties to submit by July 13, 2011, alternative proposals to the one contained in the Joint Utilities' Motion, as well as comments on the policy and legal implications of other possible allocations.

On June 29, 2011, ARB Chairwoman Mary Nichols announced a one-year delay in the enforcement of the cap-and-trade program, until 2013. On June 30, 2011, ALJ Melissa K. Semcer issued an electronic mail ruling (reproduced here as Attachment C) directing parties to continue to operate under the deadlines imposed in ALJ Hecht's June 24, 2011 ruling while the Commission worked with ARB to fully understand the implications of the announced delay.

On July 8, 2011, ALJ Semcer sent an additional electronic mail ruling (reproduced here as Attachment D) to all parties stating that it is the Commission's understanding that while ARB may distribute allowances and hold auctions in 2012, compliance obligations would not begin until 2013. In light of this, ALJ Semcer ruled that an interim decision adopting a revenue allocation mechanism for 2012 by January 1, 2012 was no longer needed as the costs of the cap-and-trade program would not be reflected in rates until 2013. Furthermore, the ruling suspended the deadline for submission of alternate proposals and comments previously set for July 13, 2011. Finally, the ruling set a

second prehearing conference for August 1, 2011 and announced a workshop immediately following the PHC to discuss policy objectives for GHG allowance revenue and LCFS credit revenue use. On July 22, 2011, ALJ Semcer issued a ruling officially denying the Joint Utilities' Motion for an interim decision, confirming the previous electronic mail rulings suspending the comment schedule, and setting a tentative scope and schedule for the proceeding. The July 22, 2011 ruling further denied the Joint Utilities' 2012 GHG allowance auction revenue use proposal without prejudice. Taking into account all the information gathered from the June 2, 2011 and August 1, 2011 PHCs, the PHC statements and replies, and the August 1, 2011 workshop, this scoping memo sets forth the scope and schedule of this proceeding.

3. Overlap with Long Term Procurement Planning Proceeding

The OIR left it to the discretion of the assigned Commissioner and assigned ALJs to refine the scope of this proceeding, but suggested that the rulemaking could also address other issues affecting electric and/or natural gas utility costs and revenues related to GHG emission regulations and statutory requirements. Furthermore, the preliminary scoping memo in the OIR recognized the potential overlap of some issues in this proceeding with Rulemaking (R.) 10-05-006, the rulemaking addressing long-term procurement policy (LTPP), as well as considering the electric LTPP plans proposed by the investor-owned utilities (IOUs). On August 4, 2011, the assigned ALJ in R.10-05-006, Peter V. Allen, along with the assigned ALJs in this proceeding issued a joint ruling clarifying that issues related to GHG risk management, procurement and compliance costs would remain within the scope of R.10-05-006.

4. Scope of the Proceeding

Based upon the discussion at the August 1, 2011 PHC, we determine that this proceeding should be divided into at least two tracks. The first track will focus on the use of allowance revenues generated from the auction of emission allowances allocated to the electric utilities pursuant to the ARB's cap-and-trade program, and the second track will address the allocation of revenues from the sale of LCFS credits. A possible third track of the proceeding may address other issues relating to the procurement of GHG compliance products and possible revenues from the auction of GHG allowances for the gas utilities should ARB adopt a similar approach to allowance allocation for the gas utilities as it has for the electric utilities. The third track will be further developed at a later time, if necessary, when there is additional clarity on the manner in which the gas utilities will be incorporated into ARB's cap-and-trade regime.

4.1. Track 1: Allocation of Revenues from the Auction of Greenhouse Gas Allowances

The scope of Track 1 of this proceeding is set forth as follows:

1. How should the electric utilities under Commission jurisdiction allocate the revenues from the auction of GHG emission allowances received from ARB?
 - a. What portion, if any, of revenues should be returned directly to customers to offset GHG compliance costs versus held for use for other purposes?
 - b. To the degree a portion of the revenues is to be returned directly to customers to offset GHG compliance costs, how should that value be returned?
 - c. To the degree a portion of the revenues should be used for other purposes, how specifically should it be used, beyond broad categories of potential use?

As is discussed in more detail below, parties will have the opportunity to submit proposals for Commission consideration detailing various possible uses of GHG revenues. The July 22, 2011 ALJ Ruling provided initial guidance on policy objectives that should be considered in the development of proposals. The policy objectives are meant to address the various policy considerations of both ARB and the Commission in the usage of GHG allowance auction revenues. Detailed guidance on development of proposals as well as a detailed discussion of the various policy objectives for consideration is provided below.

4.2. Track 2: Allocation of Revenues from the Sale of Low Carbon Fuel Credits

The scope of Track 2 of this proceeding is set forth as follows:

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 emissions allowances allocated to the electric utilities by ARB?

Further detail on the development and submission of proposals addressing the use of revenues from the sale of LCFS credits will be forthcoming according to the schedule in this scoping memo.

4.3. Track 3: GHG Product Procurement and Revenue Allocation for Gas Utilities

As discussed at the June 2, 2011 and August 1, 2011 PHCs, gas utilities may need approved procurement and revenue allocation mechanisms in place in order to operate under a cap-and-trade program depending upon the rules ultimately adopted by ARB. However, natural gas utilities are not expected to be covered under the ARB carbon cap until 2015 and therefore should have no

compliance obligations under cap-and-trade until that time. Furthermore, ARB has not released the regulation governing those sectors that come under cap-and-trade in 2015. As such, it is premature to address issues related to GHG compliance market procurement authority and use of allowance revenue value at this juncture. In fact, it may be more appropriate to address such issues in different or subsequent proceedings. However, we find it appropriate to hold these issues as a placeholder in the scope of this proceeding. We will discuss how to address these issues at a later time.

The preliminary scope of Track 3 of this proceeding is as follows:

1. What are the appropriate procurement authorities, standards, and cost recovery mechanisms for gas utilities under Commission jurisdiction to procure GHG compliance products (e.g. allowances and offsets) and conduct other procurement activities?
2. What is the appropriate use of GHG allowance auction revenues should ARB allocate allowances to the gas utilities?

4.4. GHG Revenues and Costs in 2012

It is possible that ARB may hold GHG allowance auctions in 2012 for 2013 and other future vintage allowances; thus, utilities may incur costs in 2012 related to procurement of allowances for future compliance. If this occurs, the utilities may wish to request that the Commission approve the creation of a memorandum account to track costs incurred in 2012, among other options, in the LTPP proceeding, or other appropriate proceedings.

5. Policy Objectives for GHG Allowance Auction Revenues

To help inform the development of party proposals addressing the use of auction revenues, as well as our evaluation of those proposals, we believe it is important to identify key policy objectives against which the different proposals

can be assessed. We have considered the policy objectives that have been offered through various decisions and advisory materials developed over the course of AB 32 implementation, as those materials relate to the use of auction revenues, as well as the discussion at the August 1, 2011 workshop in which staff provided an overview of the policy objectives included in ALJ Semcer's July 22, 2011 ruling and answered clarifying questions. Based on our review of these materials, we offer seven objectives, described below, that parties should consider in developing their respective proposals. These are not the only objectives that may be considered, and parties are encouraged to suggest others in their proposals.

- 1) Preserve the Carbon Price Signal
- 2) Prevent Economic Leakage
- 3) Distribute Revenues Equitably Recognizing the Public Asset Nature of the Atmospheric Carbon Sink
- 4) Reduce Adverse Impacts on Low Income Households
- 5) Correct for Market Failures that Lead to Underinvestment in Carbon Mitigation Activities and Technologies.
- 6) Maintain Competitive Neutrality Across Load Serving Entities
- 7) Achieve Administrative Simplicity and Understandability

A brief description of each of the above policy objectives is provided below. Detailed explanations can be found in Attachment A to this ruling.

5.1. Preserve the Carbon Price Signal

This policy objective refers to the extent to which, under a given proposal, the cost of carbon is reflected in rates, net of any allowance or allowance revenue allocation that might be used to directly offset those cost impacts.

5.2. Prevent Economic Leakage

This policy objective refers to the extent to which a given proposal addresses concerns regarding Emission Intensive Trade Exposed industries shifting production to jurisdictions outside of the cap-and-trade regime to avoid carbon costs, that, owing to the regional or global nature of the market in which they are operate, they are unable to pass on to customers.

5.3. Distribute Revenues Equitably Recognizing the “Public Asset” Nature of the Atmospheric Carbon Sink

This objective refers to the degree to which the revenues or the value created from the use of those revenues under a given proposal are allocated in a manner consistent with the notion that the atmosphere is a global commons to which all individuals have an equal claim.

5.4. Reduce Adverse Outcomes to Low Income Households

This policy objective refers to a given proposal’s recognition of the potentially disproportionate impact of cap-and-trade in terms of the cost burden borne by low-income households as a share of total household income. Such cost burden is not necessarily limited to the direct impacts of cap-and-trade on household energy bills, but also includes the impacts felt through the prices of other goods and services low income households consume which may increase as a result of the cap-and-trade regime. Additionally, this objective includes consideration of the potentially disproportionate impacts on low income households and communities resulting from climate change itself, given the relatively limited capacity these households and communities may have to adapt to changing climactic conditions and associated effects.

5.5. Correct for Market Failures that Lead to Ongoing Underinvestment in Carbon Mitigation Activities and Technologies

This policy objective refers to the degree to which the proposed use of auction revenues addresses market failures that are likely to continue to inhibit or prevent investment in carbon mitigation activities and technologies, irrespective of emissions pricing. Examples may include energy efficiency as well as research, development, and demonstration activities that relate to emerging clean technologies.

5.6. Maintain Competitive Neutrality Across Load Serving Entities

This policy objective refers to the degree to which a given proposal does not alter the relative competitive position of utilities, energy service providers, community choice aggregators and publicly owned utilities in the provision of energy services.

5.7. Achieve Administrative Simplicity and Understandability

This policy objective refers to the relative simplicity of a given proposal from the standpoint of implementation, as well as the ability of consumers to comprehend the approach being proposed.

6. Proposals Regarding the Use of GHG Allowance Revenue

The first track of this proceeding will address the use of revenues generated from the auctioning of GHG allowances allocated to the electric utilities pursuant to ARB's cap-and-trade program. All parties to this proceeding will have an opportunity to submit proposals setting forth recommendations for the use of GHG allowance revenues. In order to ensure that initial proposals are

as robust as possible, proposals should include, to the extent possible, the level of detail set forth below in this section.

We acknowledge concerns raised by several parties about the differences in the various parties' abilities to provide detailed rate analysis (to the extent that such analysis is warranted). We welcome a broad array of proposals and encourage parties to provide as much detail as possible. Detailed rate analyses are not required, but we highly encourage parties to work together to leverage the expertise some parties possess in order to develop robust and thorough proposals. We envision a process whereby we are able to explore a smaller number of robust proposals developed by multiple parties rather than a large number of high-level proposals.

Parties should include the following in their GHG revenue allocation proposals:

- 1) A description of other policy objectives in addition to those identified in Section 5 that the Commission should consider when evaluating proposals, including a discussion of how proposals should be evaluated against the proposed new policy objectives;
- 2) A ranking of the policy objectives, including newly proposed policy objectives, from most important to least important according to the perspective of the party submitting the proposal;
 - i. An explanation regarding why a party ranked each policy objective in the manner that it did.
- 3) A detailed description of the proposed use or uses of the allowance revenues generated from the sale of emissions allowances including:
 - i. A table showing the percentage of revenues that should be allocated toward each element of the proposal, to the extent that a party recommends using revenues for multiple purposes.

- ii. If parties are proposing new programs or using allowance revenues to further existing programs, a detailed explanation regarding how those monies will be specifically used and why the proposed funding is necessary.
 - 1. Related to the above, a list of any proceedings that may be impacted by parties' proposals and anticipated coordination that may be required across proceedings.
 - iii. An explanation, and, to the extent practical, quantification of the anticipated, or likely rate impacts of the proposal by customer class.
 - iv. The need for Commission-approved accounts to facilitate the accrual of revenues, if necessary.
 - v. Existing statutory or Commission mandates that may affect/limit the implementation of the proposal.
- 4) A discussion of how the proposal does or does not meet each of the policy objectives identified in Section 5, as well as how the proposal does or does not advance any other policy objectives the party may have identified; and
 - 5) A discussion of how the proposal meets previous guidance set forth by ARB and the CPUC along with a discussion of any jurisdictional limitations of either agency that may affect implementation of the proposal.

7. Development of a Rate Impact Model

We recognize that different proposals regarding the use of allowance revenues will have different impacts on rates. Furthermore, we recognize that many parties are limited in their ability to develop and run rate impact models, and indeed parties would need information from the utilities to do so. In order to ensure comparability across proposals we think this proceeding would be best served by the development of a rate impact model that parties and the

Commission can use in quantifying the rate impacts across different proposals by customer class and/or customer type.

In order to achieve this goal, we direct the utilities to develop a joint rate impact model in consultation with Energy Division and other stakeholders. The model should, at a minimum, allow parties to input the following assumptions:

- 1) the utilities' annual GHG compliance costs;
- 2) the annual revenue value being returned to the utilities;
- 3) the share of revenue value under each party's respective proposal being returned to each customer class through rates;
and
- 4) the rate component or components through which any revenue value being returned to customers should flow.

The model should use these inputs to calculate the resulting rates by customer class and allow for relatively straightforward comparisons between proposals in terms of their respective rate impacts by customer class. We note that for the residential customer class, it will be important that the model not only indicate the rate impact for the residential class as a whole, but also by rate tier, recognizing the statutory limitations on raising tier 1 and 2 rates pursuant to Senate Bill 695.³ Similarly the impact on California Alternate Rates for Energy customers should also be separately identified and calculated.

The utilities should file and serve their proposals on the service list in this proceeding no later than September 27, 2011. Energy Division will host a workshop on November 1, 2011 to publicly vet the rate impact model and solicit feedback from stakeholders. Upon conclusion of the November 1, 2011

³ Stats. 2009, ch. 337.

workshop, we will determine next steps to facilitate completion of the rate impact model and its adoption into the record as an evaluation tool, by November 18, 2011.

8. Evidentiary Hearings

In the OIR, the Commission anticipated that the issues in this proceeding could be resolved through a combination of workshops and filed comments, and initially determined that hearings would not be necessary. In prehearing conference statements, several parties articulated that hearings may be needed as issues of material fact may arise upon evaluation of the various proposals. We decline to formally schedule hearings at this time.

If, after review of the proposals and attendance at workshops, any party contends that evidentiary hearings are still needed in Track 1 or 2 of this proceeding to address any issues within the scope of this case, it shall, no later than the dates outlined in the schedule below, file a motion requesting evidentiary hearings. The motion shall:

- (1) Identify each area of relevant factual inquiry that has not been addressed;
- (2) Identify each material contested issue of fact on which hearings should be held (explaining, as necessary, why the issue is material); and
- (3) State why a hearing is legally required.

These requests shall also contain requests for briefing, if any, along with an explanation of what issues the party believe are appropriate for briefing and why. If any party formally requests evidentiary hearings and/or briefing as specified here, we will consider that request and inform parties of whether such hearings or briefing will be scheduled, and, if so, the dates for those activities.

9. Schedule

Tracks 1 and 2 of this proceeding will stand submitted upon the filing of reply comments following the second set of workshops in each track, unless a hearing request is made per the process outlined above. We anticipate this proceeding to conclude as set forth below. However, the assigned Commissioner or ALJs may modify the schedule and scope as required to promote the efficient and fair resolution of the matter. If we proceed with Track 3 in this OIR, a subsequent scoping memo will issue.

Pursuant to the authorization conferred by Pub. Util. Code § 1701.5(b), we conclude that Tracks 1 and 2 of this proceeding should extend for 24 months beyond the date of this scoping memo. The OIR presents many complex issues and may require extensive coordination across multiple proceedings. It is therefore reasonable to adopt a 24-month timeframe for this proceeding.

Track 1: Greenhouse Gas Allowance Revenue Allocation

Date	Item
August 1, 2011	Second prehearing conference (complete)
August 1, 2011	Workshop to discuss revenue allocation mechanism policy objectives and status/policy objectives of LCFS (complete)
September 27, 2011	Utilities file and serve initial rate impact model
October 5, 2011	Parties file and serve concurrent proposals regarding the use of cap-and-trade emission allowance revenues for 2013 and beyond
November 1, 2011	Workshop to discuss utility rate impact model
November 2-3, 2011	Workshop to discuss cap-and-trade revenue allocation proposals
November 16, 2011	Parties file and serve revised cap-and-trade revenue allocation proposals, if desired
November 18, 2011	Utilities file and serve final rate impact model
December 6-7, 2011	Workshop to discuss revised cap-and-trade revenue allocation proposals

January 10, 2012	Concurrent opening comments on cap-and-trade revenue allocation proposals filed and served
January 24, 2012	Concurrent reply comments on cap-and-trade revenue allocation proposals filed and served
January 24, 2012	Deadline for requests for hearings on cap-and-trade revenue allocation
February 7, 2012	Ruling on requests for hearings on cap-and-trade revenue allocation
May, 2012	Proposed Decision on cap-and-trade revenue allocation proposals (assuming hearings and briefing are not required)

Track 2: Low Carbon Fuel Standard Credit Revenue Allocation⁴

Date	Item
January 12, 2012	Staff policy objectives for LCFS credit revenue allocation proposals released
February 15, 2012	Parties file and serve LCFS credit revenue allocation proposals
March 7-8, 2012	Workshop to discuss LCFS credit revenue allocation proposals
March 21, 2012	Parties file and serve revised LCFS credit revenue allocation proposals
April 4-5, 2012	Workshop to discuss LCFS credit revenue allocation proposals
April 26, 2012	Concurrent opening comments filed and served on LCFS credit revenue allocation proposals
May 23, 2012	Concurrent reply comments filed and served on LCFS credit revenue allocation proposals

⁴ We note that the ARB is anticipated to consider changes in December 2011 to the LCFS regulation. Modifications to the regulation may further address the manner in which LCFS credits are allocated, thus impacting the magnitude of potential revenues utilities, electric vehicle service providers and vehicle owners may receive through the sale of LCFS credits, and the Commission deliberations on the appropriate use of these revenues.

May 23, 2012	Deadline for requests for hearings on LCFS credit revenue allocation proposals
June 5, 2012	Ruling on requests for hearings on LCFS credit revenue allocation proposals
September, 2012	Proposed Decision on LCFS credit revenue allocation proposals (assuming hearings and briefing are not required)

Track 3: Greenhouse Gas Procurement and Revenue Allocation for Gas Utilities

Date	Item
Summer, 2012	PHC to discuss process to address GHG procurement and revenue issues for gas utilities

10. Discovery

To the extent that discovery is needed in this proceeding, the following rules shall apply:

A party issuing a discovery request shall simultaneously provide a copy of that request to all other parties. A responding party shall provide a copy of its discovery response to all parties in this proceeding. Electronic copies of discovery requests and discovery responses are sufficient unless the receiving party requests a paper copy. We decline to set a specific deadline for responses to data requests at this time, and we encourage parties to work together to address all data requests in a timely manner.

Parties shall undertake a “meet and confer” process in a good faith effort to resolve any discovery dispute. The meeting may occur telephonically if that is more convenient than an in-person meeting. If that attempt does not resolve the dispute, the parties shall so inform the assigned ALJs. If necessary, the disputing parties may send an e-mail to the assigned ALJs regarding the dispute. The assigned ALJs may schedule a conference call, ask for written motions, refer the

discovery dispute to the Law and Motion ALJs, or take other steps as deemed appropriate.

11. Motions for Party Status

Several parties filed motions for party status that have been granted informally thus far. TAMCO, California League of Food Processors, and Alliance for Retail Energy Markets filed motions for party status on May 16, 2011, May 23, 2011, and May 25, 2011, respectively. These requests were granted informally via an email ruling and formally at the June 2, 2011 PHC. Those rulings are confirmed here. California Housing Partnership and Solar Alliance requested and were granted party status at the June 2, 2011 PHC, and we confirm those rulings here. Union of Concerned Scientists filed a motion requesting party status on June 15, 2011 and California Farm Bureau Federation filed a motion requesting party status on July 13, 2011. Both requests were informally granted via an email ruling on July 13, 2011, and those rulings are confirmed here.

Parties should note that the maintenance of party status requires active participation in the proceeding, e.g. submitting formal filings, participating in hearings and workshops, etc. The assigned ALJs may remove party status if a party is not actively participating in the proceeding.

12. 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 e-mail address for the official service list may serve documents by e-mail in accordance with Rule 1.10 (and must nevertheless serve a paper copy of all documents on the assigned Commissioner and assigned ALJs, pursuant to Rule 1.10(e)), and are deemed to consent to e-mail service by other

parties. If no e-mail address was provided, service should be made by United States mail.

Parties are encouraged to electronically file pleadings pursuant to Rule 1.13(b) as it speeds their processing and allows them to be posted on the Commission's website. More information about electronic filing is available at www.cpuc.ca.gov/puc/efiling.

Any person interested in participating 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 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

13. Categorization, *Ex Parte* Rules, and Designation of Presiding Officer

Pursuant to Rule 7.1(d), the Commission preliminarily categorized this proceeding to be ratesetting, as that term is defined in Rule 1.3(e). In its prehearing conference statement reply, Sierra Club raised concern with this categorization stating that this proceeding will consider "important policy matters regarding the expenditure of allowance values by the class of regulated utilities." Sierra Club requests that we acknowledge that this proceeding will establish policy matters, beyond merely setting rates. We affirm our initial categorization here; this proceeding shall be categorized as ratesetting in light of the potential direct or indirect impact the Commission's determinations in the proceeding may have on rates. However, we do acknowledge, as requested by Sierra Club, that the policy implications of this proceeding go beyond setting rates. This ruling, as to category, is appealable pursuant to Rule 7.6.

Pursuant to Rule 8.2 and 8.3(c), ex parte communications will be allowed in this ratesetting proceeding subject to the restrictions in Rule 8.3(c) and the reporting requirements in Rule 8.4.

Pursuant to Rule 13.2(b), Jessica T. Hecht and Melissa K. Semcer are the assigned Presiding Officers in this proceeding.

14. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner, and Jessica T. Hecht and Melissa K. Semcer are the co-assigned ALJs in this proceeding.

15. Intervenor Compensation

As discussed during the August 2, 2011 PHC, several parties timely filed notices of intent (NOI) to claim intervenor compensation in this proceeding; however, many of the NOIs focused on what was initially to be Phase 1 of the proceeding addressing an interim decision to put in place a GHG allowance auction revenue mechanism by January 1, 2012. Given that the schedule of the proceeding has changed, and we will be addressing a broader scope than originally anticipated after the last prehearing conference, parties may file amended NOIs no later than 30 days after the August 1, 2011 PHC. If a party does not wish to amend its NOI, the party is requested to send an e-mail stating such to the assigned ALJs as soon as possible so that they may begin ruling on the NOIs.

To the extent a party who has not filed for intervenor compensation wishes to do so pursuant to Pub. Util. Code §§ 1801-1812, especially if the party has requested party status after the June 2, 2011 PHC, such party should file and serve an NOI to claim compensation no later than 30 days after the August 1, 2011 PHC. (Pub. Util. Code § 1804(a)(1)). In one or more separate ruling(s), 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.

IT IS RULED that:

1. This ruling confirms the Commission’s preliminary finding that the category for this proceeding is ratesetting and finds that hearings may not be necessary. A final resolution on the need for hearings will be made at a later date. The ruling, only as to category, is appealable under Rule 7.6.
2. Administrative Law Judges Jessica T. Hecht and Melissa K. Semcer are the presiding officers for this proceeding.
3. The duration of this proceeding is 24 months from the date of this scoping memo.
4. The scope of this proceeding is set forth in Section 4 above.
5. Parties must evaluate their greenhouse gas allowance auction revenue allocation proposals against the policy objectives set forth in Section 5 above.
6. Parties must develop greenhouse gas allowance auction revenue allocation proposals according to the guidelines set forth in Section 6 above.
7. The utilities must file and serve an initial rate impact model proposal on the service list in this proceeding pursuant to Section 7 above.
8. To the extent parties wish to request evidentiary hearings, such requests shall be made according to the guidelines set forth in Section 8 above.
9. The schedule for this proceeding is set forth in Section 9 of this ruling.

10. The assigned Administrative Law Judges 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 full and complete development of the record.

11. The Administrative Law Judges may modify the schedule adopted herein as necessary for the reasonable and efficient conduct of this proceeding.

12. Parties must serve all data requests and responses on all parties to this proceeding as set forth in Section 10 above.

13. Any party wishing to submit a new or updated notice of intent to receive intervenor compensation shall do so within 30 days of the August 1, 2011 prehearing conference.

Dated September 1, 2011, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ JESSICA T. HECHT

Jessica T. Hecht
Administrative Law Judge

/s/ MELISSA K. SEMCER

Melissa K. Semcer
Administrative Law Judge