Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	Rulemaking 06-04-009 (Filed April 13, 2006)

SECOND ORDER AMENDING ORDER INSTITUTING RULEMAKING

1. Summary

In today's order, the California Public Utilities Commission (the Commission) amends the April 13, 2006 Order Instituting Rulemaking (OIR) to modify the scope of Phase 2 of this proceeding regarding consideration of greenhouse gas (GHG) emission policies for the natural gas sector. The natural gas inquiry is expanded to address GHG emissions associated with the transmission, storage, and distribution of natural gas in California, in addition to the combustion of natural gas by non-electricity generator end-use customers. This modification is made to reflect provisions of Assembly Bill (AB) 32, which requires development of a statewide GHG emissions limit encompassing the entire California economy.

In addition, we amend the list of respondents to this proceeding to include all investor-owned gas utilities, as discussed below.

2. Background

The OIR established two major issue areas in this rulemaking. In Phase 1, the Commission addressed policy and implementation issues associated with a

GHG performance standard for new generation and long-term procurement contracts undertaken by electric utilities and other load-serving entities (LSEs). In Phase 2, we are addressing implementation of a load-based GHG emissions cap for the electricity sector, as the cornerstone of the procurement incentive framework adopted in Decision (D.) 06-02-032 in Rulemaking (R.) 04-04-003. The Commission provided in D.06-02-032 that the load-based cap would apply initially to the GHG emissions of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and non-utility LSEs that provide electric power to customers in the PG&E, SCE, or SDG&E service territories. The OIR provided that Phase 2 also would define steps to take to ensure that GHG emissions associated with customers' direct use of natural gas, i.e., for purposes other than electricity generation, are incorporated into a procurement incentive framework, as contemplated by D.06-02-032.[1] The OIR named as respondents PG&E, SCE, SDG&E, Southern California Gas Company (SoCalGas), and the non-utility load-serving entities (electric service providers and community choice aggregators) that provide electricity to customers within the service territories of PG&E, SCE, and SDG&E.

In D.06-10-020, the Commission amended the OIR to designate Phase 1 of this rulemaking as the procedural forum for the Commission's implementation of Senate Bill (SB) 1368 (codified in Public Utilities Code Sections (§§) 8340 *et*

[1] OIR, *mimeo.*, p. 13, citing Ordering Paragraph 5 of D.06-02-032. See also D.06-02-032, *mimeo.*, pp. 50-52.

seq.[2]). SB 1368 required the Commission, on or before February 1, 2007, to establish and apply a GHG performance standard to "every electrical corporation, electric service provider, or community choice aggregator serving end-use customers in the State."[3] In D.06-10-020, we amended the list of respondents in this proceeding to encompass the classes of LSEs addressed by SB 1368, i.e., all electrical corporations (as defined in § 218), electric service providers (as defined in § 218.3), and community choice aggregators (as defined in § 331.1). In D.07-01-039 culminating Phase 1, the Commission adopted a GHG emissions performance standard for all new long-term financial commitments to baseload electric generation undertaken by LSEs in California.

Meanwhile, on September 27, 2006, Governor Schwarzenegger signed into law AB 32, entitled "The California Global Warming Solutions Act of 2006" and codified in Health and Safety Code §§ 38500 *et seq.* This legislation requires the California Air Resources Board (CARB) to adopt a GHG emissions limit equivalent to the statewide GHG emissions levels in 1990, to be achieved by 2020.

The February 2, 2007 Assigned Commissioner's Ruling and Phase 2 Scoping Memo (Phase 2 Scoping Memo) addressed implementation of a load-based GHG emissions cap program for the electricity sector. It stated that a later scoping memo would establish procedures for consideration in Phase 2 of GHG emissions cap policies for customer use of natural gas, as directed by the OIR.

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[2] All section cites in this decision refer to the Public Utilities Code unless specified otherwise.

[3] § 8340(h).

The Phase 2 Scoping Memo also specified that, in light of AB 32, Phase 2 should develop guidelines for a load-based emissions cap for the electricity sector that CARB can consider as it develops a GHG emissions limit for the California economy. Consistent with the Phase 2 Scoping Memo, Phase 2 of this rulemaking is the appropriate procedural forum for development of recommendations to CARB regarding a statewide GHG emissions limit as it pertains to the electricity and natural gas sectors.

The Phase 2 Scoping Memo recognized that, because D.06-02-032 was adopted prior to passage of AB 32, changes to the policies adopted in that order may be necessary. It placed the parties on notice that, in the course of Phase 2, the Commission may adopt policies that may modify portions of D.06-02-032 as a result of passage of AB 32, subsequent rulemakings by CARB, or any other record developed in the course of this proceeding.

As provided in the Phase 2 Scoping Memo, Phase 2 is being undertaken in collaboration with the California Energy Commission (CEC). The Commission will collaborate with the CEC in the development of joint recommendations regarding the electricity and natural gas sectors, for CARB's consideration as it implements AB 32. This interagency effort will utilize the CEC's expertise related to GHG regulation and mitigation for the publicly-owned utilities (POUs), including its current efforts to adopt an emissions performance standard for POUs and its ongoing work with the POUs on a number of initiatives relevant to GHG reduction such as energy efficiency and renewables programs. We will also continue to work closely with the California Climate Action Registry, the Governor's Climate Action Team, the California Independent System Operator, and other entities involved in the implementation of AB 32.

3. Amended Scope of Phase 2

3.1. Breadth of Natural Gas Inquiry in Phase 2

It is appropriate to expand the issues to be considered in Phase 2 related to GHG emissions in the natural gas sector. Because CARB must determine statewide GHG emissions limits, consistent with AB 32, we believe it would be helpful for the Commission, in collaboration with the CEC, to provide recommendations to CARB regarding appropriate GHG emission policies for a broader portion of the natural gas sector than specified in the OIR.

The natural gas sector in California includes production, gathering, processing, transmission, storage, and distribution of natural gas, in addition to the end use of natural gas by residential, commercial, and industrial (including electricity generation) customers. GHG emissions from customer use of natural gas for electricity generation will be considered in the load-based GHG emissions cap for the electricity sector, as specified in the Phase 2 Scoping Memo.[4]

In the natural gas inquiry in Phase 2, we will consider GHG emissions from customer use of natural gas for non-electricity generation purposes, as contemplated in D.06-02-032, the OIR, and the Phase 2 Scoping Memo. In order to provide CARB with recommendations regarding treatment of GHG emissions

[4] The load-based GHG emissions cap being developed in Phase 2 for the electricity sector would apply at this time only to emissions occurring during the production, transmission, and distribution of electricity. It would not encompass GHG emissions associated with production or transportation of fuels used in electricity generation, construction of electricity generation facilities, or other activities not directly involved in the production, transmission, and distribution of electricity. Consistent with the Phase 2 Scoping Memo, the Commission may consider analysis of lifecycle GHG emissions during a later proceeding.

from a broader portion of the natural gas sector, we expand the natural gas inquiry in Phase 2 to also consider GHG emissions due to the transmission, storage, and distribution of natural gas delivered to all end-use customers in California, including natural gas delivered for use in electricity generation.

California's electricity sector operates physically and financially as a single, integrated market that includes electrical corporations, other LSEs, and POUs. Because of this, the Phase 2 Scoping Memo specified that Phase 2 will provide CARB with recommended guidelines for the electricity sector that could be applied both to LSEs and to POUs.

Most end users in California are served similarly via a single, integrated natural gas market, which includes investor-owned utilities (IOUs), POUs, and interstate pipeline companies selling directly to end-use customers. However, some consumers receive natural gas through other means, for example, proprietary natural gas pipeline operations or their own facilities and natural gas supplies. Phase 2 will develop guidelines and recommendations, to the extent practicable, regarding GHG emissions in the natural gas sector that CARB could apply both to natural gas IOUs, which we regulate, and to natural gas entities that we do not regulate.

In summary, the natural gas inquiry in Phase 2 will address GHG emissions associated with (1) combustion of natural gas by non-electricity generator end-use customers and (2) all transmission, storage, and distribution of natural gas within California.

We encourage the electricity and natural gas POUs, other natural gas entitles that we do not regulate, and/or their representatives to participate in Phase 2, to help identify potential impacts to them of policies under consideration and to ensure that the guidelines we develop for CARB's

consideration address their specific concerns. The breadth of the Commission's consideration in this rulemaking of GHG emission policies for the electricity and natural gas sectors, and our encouragement that electricity and natural gas POUs and other natural gas entities that we do not regulate participate in this proceeding, does not indicate any assertion of regulatory authority (real or implied) over them. Any requirements that the Commission may adopt would not apply to the entities that we do not regulate, although CARB has been granted authority under AB 32 to impose similar requirements on these entities.

3.2. Issues to be Considered in Natural Gas Inquiry in Phase 2

We expect that there are many issues in common and that the electricity and natural gas inquiries in Phase 2 may be similar in many respects. In D.06-02-032, the Commission focused on developing policies regarding a load-based GHG emission cap for the electricity sector. While concluding that a comprehensive procurement incentive framework should address GHG emissions associated with customer use of natural gas,[5] we did not determine the manner in which limits should be set on GHG emissions from the natural gas sector, other than natural gas used for electricity generation. In Phase 2 of this rulemaking, we will determine if the policies established in D.06-02-032 are appropriate for the natural gas sector. Our initial recommendations to CARB regarding GHG emissions policies for the natural gas sector may be less comprehensive and detailed than our recommendations regarding the electricity

[5] D.06-02-032, Ordering Paragraph 5.

sector. However, we anticipate coordinated recommendations to CARB regarding GHG emissions policies for the electricity and natural gas sectors.

The Phase 2 Scoping Memo identified six issues related to development of guidelines for a load-based GHG emissions cap for the electricity sector:

(1) reporting requirements;

(2) development of 1990 electricity sector baseline and current entity-specific GHG emissions levels;

(3) GHG emissions reduction measures and annual emissions caps;

(4) flexible compliance mechanisms;

(5) entity-specific allowance allocation; and

(6) modeling to support policy design and evaluation of costs.

Many, if not all, of these issues will also need to be addressed when considering GHG emissions policies for the natural gas sector.

There are areas of potential overlap between the electricity and natural gas sectors. In particular, the treatment of distributed generation and combined heat and power facilities requires close examination and coordination as we consider GHG emission policies for the electricity and natural gas sectors.

As specified in the Phase 2 Scoping Memo, Phase 2 will address whether the electricity load-based GHG emissions cap should apply to the additional respondents added by D.06-10-020, as described above.

With today's expansion of the scope of the rulemaking, Phase 2 will address whether GHG emissions cap(s) should be applied in the natural gas sector, in the context of the statewide GHG emissions limits required by AB 32, and, if so, the form of such caps. Among other issues, Phase 2 will consider the appropriate form of GHG emissions caps for the natural gas sector if adopted, e.g., load-based or source-based.

As noted in the Phase 2 Scoping Memo, while a primary outcome of Phase 2 will be the submission of guidelines for CARB's consideration, the Commission may also adopt regulations to address GHG emissions of entities subject to our regulation.

The Assigned Commissioner will issue an additional scoping memo in Phase 2 specifying the issues to be considered regarding the natural gas sector after a prehearing conference, and may further refine this scope in that ruling.

4. Respondents and Service List

Because AB 32 applies to the entire natural gas sector, we amend the list of respondents to encompass all investor-owned gas utilities, including those that provide wholesale or retail sales, distribution, transmission, and/or storage of natural gas. The natural gas IOUs added as respondents include Alpine Natural Gas Operating Company; Avista Corporation; Lodi Gas Storage, LLC; Pacific Power and Light Company; Southwest Gas Corporation; West Coast Gas Company; and Wild Goose Storage, Inc. The amended service list that reflects the addition of these new respondents is in Attachment A to this order.

We will serve today's order amending the OIR on the natural gas POUs, the interstate pipeline companies doing business in California, and other natural gas entities, as listed in Attachment B to this order. We will also serve the order on the service lists (appearances, state service list, and information-only category) in the following proceedings:

- R.04-01-025, regarding natural gas supplies and infrastructure;
- Application (A.) 04-12-004, regarding integration of the natural gas operations of SDG&E and SoCalGas; and
- A.07-03-012, regarding PG&E natural gas transmission and storage services.

5. Phase 2 Schedule

The Assigned Commissioner or Administrative Law Judge (ALJ) should schedule a prehearing conference as soon as practicable to address the scope and procedures for consideration in Phase 2 of GHG emission issues related to the natural gas sector consistent with this order. The schedule for consideration of these issues will be discussed at the prehearing conference.

The Phase 2 Scoping Memo established a schedule for consideration in Phase 2 of GHG emission issues related to the electricity sector, which will permit development of timely recommendations for CARB's consideration as it implements AB 32. A similar schedule is likely to be appropriate for our consideration of natural gas issues in Phase 2.

The schedule in the Phase 2 Scoping Memo established four key dates:

- September 2007: an Assigned Commissioner's Ruling with recommendations to CARB regarding electricity sector reporting;
- October 2007: an Assigned Commissioner's Ruling with recommendations to CARB regarding the 1990 electricity GHG baseline;
- January 2008: Issuance of a staff report, as a basis for further workshops, comments, additional modeling, and hearings if needed.
- September 2008: A Commission decision which will include recommendations about a load-based GHG emission cap for the electricity sector.

Consistent with these four milestones, a preliminary schedule for development of guidelines regarding GHG emissions policies for the natural gas sector follows:

Ruling scheduling prehearing conference and providing for the filing of prehearing conference statements on natural gas issues	June 2007

Prehearing conference on natural gas issues	June 2007
Additional Phase 2 scoping memo to address natural gas sector	July 2007
Assigned Commissioner's Ruling with natural gas reporting recommendations to CARB	September 2007
Assigned Commissioner's Ruling with recommendations to CARB for 1990 GHG baseline for the natural gas sector	October 2007
Staff Report	January 2008
Commission Decision	September 2008

The additional scoping memo addressing natural gas issues may modify the preliminary schedule set forth above and may include further details as determined by the Assigned Commissioner.

It is the Commission's intention to complete this rulemaking within 24 months of the date of the Assigned Commissioner's scoping memo to be issued regarding natural gas issues in Phase 2, rather than the 18 months specified in § 1701.5. In using the authority granted by § 1701(b) to set a time longer than 18 months for this proceeding, we consider that the scope of Phase 2 encompasses numerous complex and unique tasks and requires extensive consultations and coordination with the CEC, CARB, and other entities.

6. Exemption from Comments

This is an order amending an OIR. Accordingly, as provided by Rule 14.7 of the Commission Rules of Practice and Procedure, the 30-day period for public review and comment does not apply.

O R D E R

Therefore, **IT IS ORDERED** that:

1. In addition to the purposes set forth in the April 13, 2006 Order Instituting Rulemaking (OIR) that initiated this proceeding and in Decision (D.) 06-10-020 that amended the OIR, Phase 2 of this rulemaking shall serve as the procedural forum for development of recommendations to the California Air Resources Board regarding a statewide greenhouse gas (GHG) emissions limit as it pertains to the electricity and natural gas sectors.

2. The OIR is amended as set forth herein to expand the natural gas inquiry in Phase 2 to address GHG emissions associated with (a) the combustion of natural gas by non-electricity generator end-use customers and (b) all physical operations associated with the transmission, storage, and distribution of pipeline-quality natural gas in California.

3. This rulemaking shall be completed within 24 months of the date of the Assigned Commissioner's scoping memo to be issued in Phase 2 following a prehearing conference addressing the natural gas sector issues identified herein.

4. All investor-owned natural gas utilities not previously respondents to this proceeding are made respondents, as follows: Alpine Natural Gas Operating Company; Avista Corporation; Lodi Gas Storage, LLC; Pacific Power and Light Company; Southwest Gas Corporation; West Coast Gas Company; and Wild Goose Storage, Inc.

5. Attachment A is the amended service list for this proceeding that reflects the addition of these new respondents. This list supersedes the list of respondents attached to D.06-10-020 and updates the current service list.

6. The schedule for Phase 2 of this proceeding is amended as set forth herein.

7. The schedule may be changed, as needed, by ruling of the Assigned Commissioner or Administrative Law Judge.

8. The Executive Director shall cause today's order to be served on the amended service list in Attachment A; the publicly-owned natural gas utilities, interstate pipeline companies, and other natural gas entities listed in Attachment B; and the service lists for Rulemaking 04-01-025, Application (A.) 04-12-004, and A.07-03-012.

9. The Assigned Commissioner or Administrative Law Judge shall schedule a second prehearing conference in Phase 2 of this rulemaking as soon as practicable to address the scope and procedures for consideration of GHG emission issues related to the natural gas sector consistent with this order.

This order is effective today.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

DRAFT

ATTACHMENT A

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Last Update on 09-MAY-2007 by: SMJ
R0604009 LIST

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