

Decision 07-07-018 July 12, 2007

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)

THIRD ORDER AMENDING ORDER INSTITUTING RULEMAKING

1. Summary

The California Public Utilities Commission (Public Utilities Commission) amends the April 13, 2006 Order Instituting Rulemaking (OIR) to provide for consideration of issues raised by the Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California," regarding a market-based program to achieve statutorily mandated reductions in greenhouse gas (GHG) emissions.

Consideration of issues raised by and alternatives considered in the Market Advisory Committee report will assist the Public Utilities Commission and the California Energy Commission (Energy Commission) as the two agencies develop joint recommendations to the California Air Resources Board (ARB) regarding GHG emissions policies for the electricity and natural gas sectors in California. If appropriate, the Public Utilities Commission may modify policies adopted in Decision (D.) 06-02-032 regarding the type of GHG emissions cap that is appropriate for the electricity sector.

2. Background

In D.06-02-032, in Rulemaking (R.) 04-04-003, the Public Utilities Commission concluded that a load-based GHG emissions cap should be developed for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and non-utility load serving entities (LSEs) that provide electric power to customers within the PG&E, SCE, or SDG&E service territories. Under the planned load-based cap, LSEs would be subject to GHG emissions limits for all resources procured to serve their load, no matter from what source, including imports.

In the OIR, we provided that Phase 2 of this proceeding would be used to implement a load-based GHG emissions cap for the LSEs identified in D.06-02-032, and to take steps to incorporate GHG emissions associated with customers' direct use of natural gas into a procurement incentive framework, as also contemplated by D.06-02-032.

Before Phase 2 commenced, Governor Schwarzenegger signed into law Assembly Bill (AB) 32, which requires ARB to adopt a statewide GHG emissions limit equivalent to the statewide GHG emissions levels in 1990, with that limit to be achieved by 2020. In D.07-05-059 modifying the OIR,¹ the Public Utilities Commission specified that Phase 2 should be used for development of guidelines for a load-based GHG emissions cap for the entire electricity sector, and

¹ D.07-05-059 is the second order amending the OIR. D.06-10-020 previously amended the OIR to designate Phase 1 as the procedural forum for implementation of Senate Bill 1368, which directed the Public Utilities Commission to establish a GHG emission performance standard. In D.07-01-039, we adopted a GHG emission performance standard for all new long-term financial commitments to baseload electric generation undertaken by LSEs in California.

recommendations to ARB regarding a statewide GHG emissions limit as it pertains to the electricity and natural gas sectors. We also expanded the issues to be considered in Phase 2 related to GHG emissions in the natural gas sector, to be consistent with the economy-wide scope of AB 32.

In Executive Order S-20-06, Governor Schwarzenegger directed the Secretary for Environmental Protection to create a Market Advisory Committee of national and international experts to make recommendations to ARB on the design of a market-based compliance program to achieve the emissions cap in the most cost-effective and technologically feasible manner, with the least impact on California consumers and business. The Market Advisory Committee submitted its recommendations to ARB on June 30, 2007.

As described in the February 2, 2007 scoping memo for Phase 2 and in D.07-05-059, Phase 2 is being undertaken in collaboration with the Energy Commission. The two agencies plan to develop joint recommendations to ARB regarding GHG emissions policies for the electricity and natural gas sectors in California.

3. Amendment to Scope of Phase 2

In order to allow the Public Utilities Commission and the Energy Commission to provide comprehensive recommendations to ARB, it is reasonable to modify the scope of Phase 2 to allow consideration of all issues raised by the Market Advisory Committee report, including issues that are not within the existing scope of Phase 2. In particular, we will consider alternatives to the load-based cap for LSEs adopted in D.06-02-032.

The Market Advisory Committee considers several alternatives regarding the scope and type of GHG emissions policies for the California economy. Its report to ARB describes four options for defining the scope of a GHG emissions

cap-and-trade program, which “differ in their coverage of CO₂ emissions from fossil fuel combustion in California, proposed points of regulation, and the infrastructure required for program administration.”² While the Market Advisory Committee assessed a load-based approach for the electricity sector comparable to that adopted in D.06-04-032, it recommends a “first-seller” approach, which would place the legal obligation for compliance on the first seller of power into California electricity markets.³

The Market Advisory Committee report assesses various elements of a potential GHG cap-and-trade system, including structure of a cap, GHG emissions allowances, allowance trading, and program monitoring and enforcement. We are already considering these issues in Phase 2.

The assigned Commissioner will modify the Phase 2 scoping memo to specify the manner in which the issues and alternatives addressed in the Market Advisory Committee report will be considered in Phase 2. The scope of Phase 2 may be refined in that ruling, consistent with this order.

4. Phase 2 Schedule

Consideration of the issues raised by the Market Advisory Committee report should not affect the timing of completion of this rulemaking. As specified in D.07-05-059, it is the Commission’s intention to complete this rulemaking within 24 months of the date of the assigned Commissioner’s

² Market Advisory Committee report, at 28.

³ *Id.*, at 42. The Market Advisory Committee considered and rejected an in-state generator based approach and also a hybrid approach that would provide a load-based cap for electricity consumed in the state and a source-based cap for electricity generated in the state and exported.

scoping memo to be issued regarding natural gas issues in Phase 2, rather than the 18 months specified in Public Utilities Code Section 1701.5.

5. 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.

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 and D.07-05-059 that amended the OIR, Phase 2 of this rulemaking shall consider issues raised by and alternatives considered in the June 30, 2007 Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California," including a "first-seller" approach, to the extent they are not already within the scope of Phase 2.
2. The OIR is amended as set forth herein.

3. The Executive Director shall cause today's order to be served on the service list for this rulemaking; the publicly-owned natural gas utilities, interstate pipeline companies, and other natural gas entities listed in Attachment B to D.07-05-059; and the service lists for Rulemaking 04-01-025, Application (A.) 04-12-004, and A.07-03-012.

This order is effective today.

Dated July 12, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners