

Decision 11-10-038 October 20, 2011

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities.

Rulemaking 08-11-005  
(Filed November 6, 2008)

**ORDER EXTENDING STATUTORY DEADLINE  
FOR RESOLVING RULEMAKING PROCEEDING**

The purpose of this proceeding is to consider and adopt measures to reduce the fire hazards associated with overhead powerline facilities and communications lines located in close proximity to overhead power lines. Pub. Util. Code § 1701.5(a) requires quasi-legislative proceedings such as this one to be resolved no later than 18 months after the scoping memo is issued unless the scoping memo sets a later date. Pub. Util. Code § 1701.5(a) also authorizes the Commission to issue an order extending the deadline by 60 days. Any such order must include a written determination that the deadline cannot be met.

This proceeding was initiated on November 6, 2008, with the issuance of Order Instituting Rulemaking 08-11-005. The scoping memo issued on January 6, 2009, divided this proceeding into two phases. Phase 1 was completed on August 20, 2009, with the issuance of Decision (D.) 09-08-029.

The scoping memo for Phase 2 was issued on November 5, 2009. As permitted by Pub. Util. Code § 1701.5(b), the Phase 2 scoping memo set a new 18-month deadline of May 5, 2011, for resolving Phase 2 issues. In D.11-05-006, the Commission extended the 18-month deadline by 60 days to July 5, 2011,

pursuant to § 1701.5(a). In D.11-06-028, the Commission extended the deadline a second time to September 6, 2011. In D.11-08-008, the Commission extended the statutory deadline a third time to November 7, 2011.

A proposed decision (PD) regarding Phase 2 issues was mailed on June 10, 2011. The PD is approximately 170 pages (excluding appendices) and addresses numerous complex and contested issues. The PD was initially scheduled to be considered at the Commission meeting on July 14, 2011, but has been held to the Commission meeting on October 20, 2011. If the PD is held again, the current statutory deadline of November 7, 2011, will be breached.<sup>1</sup>

In light of the current status of the proceeding, and in an abundance of caution, another 60-day extension is warranted. The new deadline shall be January 6, 2012, consistent with § 1701.5(a).

### **Waiver of Comment Period**

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving quasi-legislative proceedings. Therefore, as allowed by Rule 14.6(c)(4), the otherwise applicable period for public review and comment is waived.

### **Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and Timothy Kenney is the assigned Administrative Law Judge for this proceeding.

---

<sup>1</sup> The first Commission meeting after October 20, 2011, is November 10, 2011.

**Findings of Fact**

1. The 18-month deadline for Phase 2 of this proceeding, as extended by D.11-05-006, D.11-06-028, and D.11-08-008 is November 7, 2011.
2. There are numerous complex and contested issues in the PD that was mailed to the service list on June 10, 2011, and which is currently scheduled to be considered at the Commission meeting on October 20, 2011. If the PD is held, the current statutory deadline of November 7, 2011, will be breached.

**Conclusions of Law**

1. The statutory deadline of November 7, 2011, should be extended by 60 days pursuant to Pub. Util. Code § 1701.5(a). The new deadline is January 6, 2012.
2. The comment period should be waived pursuant to Rule 14.6(c)(4).

**IT IS ORDERED** that the deadline for resolving issues in Phase 2 of this quasi-legislative rulemaking proceeding is extended to January 6, 2012.

This order is effective today.

Dated October 20, 2011, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners