

Decision 11-12-047 December 15, 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). The Commission extended the statutory deadline three more times in D.11-06-028, D.11-08-008, and D.11-10-038. The current statutory deadline is January 6, 2012.

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 a final decision was not issued until the Commission meeting on December 1, 2011.

The Phase 2 decision establishes a new Phase 3 for this proceeding. A new statutory deadline for Phase 3 will be established in the assigned Commissioner's forthcoming scoping memo for Phase 3 pursuant to Pub. Util. Code § 1701.5(b). However, because the timing of the Phase 3 scoping memo is uncertain, it is possible that the current statutory deadline of January 6, 2012, will occur before the Phase 3 scoping memo is issued.

In light of the above, another 60-day extension is warranted. The new deadline shall be March 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.

**Findings of Fact**

1. The current 18-month deadline for this proceeding, as extended by D.11-05-006, D.11-06-028, D.11-08-008, and D.11-10-038 is January 6, 2012.
2. The Phase 2 decision issued on December 1, 2011, established a new Phase 3 of this proceeding. The assigned Commissioner's forthcoming scoping memo for Phase 3 will establish a new statutory deadline for Phase 3 pursuant to Pub. Util. Code § 1701.5(b). However, because the timing of the Phase 3 scoping memo is uncertain, it is possible that the current statutory deadline of January 6, 2012, will occur before the Phase 3 scoping memo is issued.

**Conclusions of Law**

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

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

This order is effective today.

Dated December 15, 2011, at San Francisco, California.

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