

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy
and Program Coordination and Integration in
Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING SCHEDULING WORKSHOPS
ON PROCUREMENT INCENTIVE FRAMEWORK**

The purpose of today's ruling is to notify respondents and all interested parties in this proceeding and in Rulemaking (R.) 04-01-025 that workshops on a procurement incentive framework will be held in San Francisco on March 7-9, 2005. The precise location and agenda will be announced at a later date. Today's ruling also sets forth the schedule for pre-workshop and post-workshop comments, as well as the anticipated date for a draft decision on threshold policy issues.

Background

In Decision (D.) 02-10-062, D.03-12-062 and D.04-01-050, the Commission expressed its intent to adopt a uniform incentive mechanism that would provide an opportunity for investor-owned utilities (IOUs) to balance risk and reward in the long-term procurement process. On April 1, 2004, the Commission clarified its expectations, as follows:

“The goal of this effort is to motivate the IOUs to procure least-cost supply-side resources and make cost-effective demand-side investments, taking into account the environmental costs (or benefits) of various resource options. Our challenge will be to create an overall procurement incentive framework that aligns the interest of utility investors, management and ratepayers such that the proper

balancing of these preferred resources occurs in the procurement of power from existing and new resources.

“We believe that a workshop process is the best forum for encouraging productive dialogue among interested parties on this issue and, in turn, informing the Commission. To facilitate this process, we attach a concept paper prepared by Commission staff that outlines an incentive framework for utility procurement modeled after the cap-and-trade principles of the Sky Trust [Appendix B]. It is intended to illustrate one approach to procurement incentives to initiate the workshop discussions. The assigned Administrative Law Judge (ALJ) will issue a ruling soliciting pre-workshop comments and scheduling a series of workshops on the topic of procurement incentives, at which the proposal described in the attached concept paper and other alternatives can be explored. We recognize the need to coordinate our consideration of procurement incentives in this proceeding with our consideration of new ratemaking policies for natural gas procurement. [footnote omitted.] Accordingly, the assigned ALJ shall notice all parties in R.04-01-025 when soliciting comments [on Appendix B] and scheduling workshops on the issue of procurement incentives.

“As discussed in D.03-12-062 and D.04-01-050, any incentive mechanisms being considered in resource-specific proceedings (e.g., energy efficiency) must be consistent with the overall procurement incentive framework we adopt in this proceeding. [footnote omitted.] Accordingly, we intend to adopt an overall framework for procurement incentives *before* we make our final determinations on resource-specific incentive mechanisms. Nonetheless, some work on resource-specific mechanisms may proceed concurrently, since several key aspects of those mechanisms (e.g., performance basis and measurement protocols for energy efficiency) will need to be developed irrespective of the overall procurement incentive structure. We will also consider, on a case-by-case basis, issuing interim decisions in resource-specific proceedings on aspects of incentive design, as long as doing so will not prejudice our determinations in this proceeding.

“In sum, the initial focus of our efforts on performance incentives will be to establish an overall procurement incentive framework in this proceeding, consistent with the goals of the Energy Action Plan. This, in turn, will provide a context for resource-specific incentive mechanisms we may consider in other proceedings. Any discussion of incentive mechanisms, whether supply-side or demand-side, will be carefully coordinated by the assigned ALJs and Commissioners in rulemaking proceedings relevant to particular resources (for example, energy efficiency incentives in R.01-08-028 or demand response incentives in R.02-06-001) and the assigned ALJ and Commissioner in this rulemaking using the Case Management Conference mechanism previously described.”¹

At the April 30, 2004 prehearing conference, and in the subsequent scoping memo, the issue of procurement incentives was deferred pending the resolution of other priority issues in this proceeding, including resource adequacy and long-term procurement plans.² The time is now ripe to schedule the workshops anticipated by the Commission, so that a procurement incentive framework can be put in place by the end of 2005 or in early 2006, at the latest. To this end, I have scheduled workshops for March 7-9, 2005, as described further below. For ease of reference, I have attached to this ruling both Appendix A (Electronic Service Protocols) and Appendix B (“An Incentive Framework for Utility Procurement of Energy Resources Modeled After Cap-and-Trade Principles of the Sky Trust”) from the April 1, 2004 OIR.

¹ Order Instituting Rulemaking (OIR) R.04-04-003, April 1, 2004, pp. 15-18. Note that the OIR text refers to “Attachment B”, but the staff proposal is actually appended to that document as “Appendix B.”

² See Assigned Commissioner’s Ruling and Scoping Memo dated June 4, 2004.

Workshop Purpose and Schedule

Up to three days of workshops will be held on March 7, 8 and 9, 2005 in San Francisco to address the staff proposal presented in Appendix B and any alternative incentive frameworks presented in pre-workshop comments. The precise location and agenda will be announced at a later date. We have hired Mr. David Olsen to facilitate the workshop discussion and prepare a written summary of the workshop discussion, with recommended next steps.

Commission staff will also participate in the workshops, and I plan to attend and observe some or all of the workshop sessions. Respondents and interested parties will have an opportunity to submit both pre- and post-workshop written comments, as indicated below.

The workshops will serve as a forum for rigorous dialog over a procurement incentive framework that is consistent with the Energy Action Plan and Legislative mandates. That dialog will begin with a discussion of the cap-and-trade framework proposed in Appendix B. Respondents and interested parties should begin now to carefully review and consider this proposal, including the implementation issues raised in the paper. They should also develop any alternative incentive frameworks that they believe will achieve the Commission's goals for energy procurement, and be prepared to thoughtfully explore the relative advantages and disadvantages of each approach in their comments and at the workshops. The question/response section of Appendix B sets out some alternatives that respondents and interested parties might consider, including a pure "cap" approach to fossil fuel procurement (without any allowances), a CO₂ per energy production unit (KWh/therm) standard for the IOUs entire procurement portfolio, among others.

I am issuing this ruling now, several months in advance of the workshops, so that respondents and interested parties have ample notice and time to prepare. For the workshop dialog to be most productive, all workshop participants are expected to be very familiar with the material presented in Appendix B, and review the references, so that they can move quickly to a discussion of substantive issues and questions during the morning of the first workshop day. In developing alternative incentive frameworks for Commission consideration, parties should use the level of detail in Appendix B as a guide for their own written proposal. In other words, I expect a lot of advance thinking and research on these issues, so that parties can engage in meaningful discussions at the workshops and prepare comprehensive written comments to develop the record.

More specifically, the purpose of the workshop report and pre- and post-workshop comments will be to inform the Commission on the following issues:

- (1) What procurement incentive frameworks should the Commission consider in this proceeding? How do they meet the Commission's expectations that such a framework: "motivates the IOUs to procure least-cost supply-side resources and make cost-effective demand-side investments, taking into account the environmental costs (or benefits) of various resource options....[and] aligns the interest of utility investors, management and ratepayers such that the proper balancing of these preferred resources occurs in the procurement of power from existing and new resources."³
- (2) What are the advantages and disadvantages of each proposed procurement incentive framework, relative to the goals for resource procurement, as reflected in the Energy Action Plan and Commission decisions?

³ OIR, p. 16.

- (3) What are the key implementation issues associated with each proposal?

This information should enable the Commission to decide the threshold policy issues in this phase of the proceeding, e.g., the broad parameters of a unifying procurement incentive framework for further development. I therefore anticipate that a draft decision laying out the broad concepts of such a framework will follow after completion of the workshop process. However, filling in the general concept of a procurement incentive framework with implementation details will require further workshops, evidentiary hearings or a combination of both. Those will be scheduled at a later date.

In sum, the workshop process will be an important forum for respondents and interested parties to present and discuss procurement incentive frameworks for Commission consideration. The written comments will provide all interested parties the opportunity to propose alternatives for the Commission to consider, as well as to present their views on the advantages and disadvantages of each. Based on the record developed during the workshop process—the workshop report and pre-and post-workshop written comments, the Commission will provide further direction on the type of incentive framework it envisions for procurement, and what implementation issues will need to be addressed later in this proceeding. The schedule is as follows:

Pre-workshop opening comments on procurement incentive framework:	February 11, 2005
Pre-workshop reply comments on procurement incentive framework:	February 25, 2005
Workshops on procurement incentive framework (San Francisco, specific location and time to be announced later):	March 7, 8 and 9, 2005
Workshop report:	March 21, 2005

Post-workshop opening comments on workshop report and positions of the parties:	April 8, 2005
Post-workshop reply comments:	April 18, 2005
Draft Decision on Threshold Policy Issues:	To be Scheduled
Implementation Issues:	To be Scheduled

Service Procedures

Per the Commission's direction in the OIR, all comments and other filings on procurement incentive-related issues should be served on both the service list in this proceeding and the service list in the Commission's rulemaking on ratemaking policies for natural gas procurement, R. 04-01-025. All filings on these issues should also be sent electronically to our workshop facilitator, David Olsen, at olsen@avenuecable.com. We will continue to use the electronic service protocols established for this proceeding, a copy of which is attached to this ruling.

IT IS RULED that the schedule and service procedures for the Commission's consideration of a procurement incentive framework is as set forth herein.

Dated November 23, 2004, at San Francisco, California.

/s/ MEG GOTTSEIN
by LYNN T. CAREW

Meg Gottstein
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties in this proceeding and in Rulemaking 04-01-025 to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Scheduling Workshops on Procurement Incentive Framework on all parties of record in this proceeding or their attorneys of record.

Dated November 23, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR
Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

APPENDIX B

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