

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

Order Instituting Rulemaking to Integrate  
Procurement Policies and Consider Long-Term  
Procurement Plans.

Rulemaking 06-02-013  
(Filed February 16, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING  
SETTING PREHEARING CONFERENCE AND  
SETTING WORKSHOP ON REVIEW OF POLICY PROPOSALS  
TO SUPPORT NEW GENERATION**

**Summary**

This ruling schedules a Prehearing Conference (PHC) for February 28, 2006, at 10:00 a.m. and a workshop for March 14, 2006, at 9:30 a.m. The PHC and the workshop will address new generation policy issues. Parties are asked to submit pre-workshop proposals for new policies needed to support new generation by March 2, 2006. The PHC and the workshop will be held at the Commission's Courtroom, 505 Van Ness Avenue, San Francisco, California.

**1. Prehearing Conference**

The PHC scheduled for Tuesday, February 28, 2006, at 10 a.m. will take appearances for the establishment of a service list for the proceeding and will address the following topics:

- Whether there is a need for evidentiary hearings in addition to workshop(s) for the new generation policy issues;
- Scheduling; and
- Any related matters.

Parties are not requested to submit pre-hearing conference statements.

## **2. Workshop to Review Proposals**

A one-day workshop on proposals for new policies needed to support new generation will be held on Tuesday, March 14, 2006, at 9:30 a.m. In preparation for the workshop, parties are asked to submit proposals on additional policies to support new generation issues and long-term contracting by March 2, 2006.

The workshop is being held to promote a better understanding of the proposals submitted by parties on March 2. The workshop will include discussions of possible alternatives to, and variations of, the proposals. It will also include a more in-depth discussion of need for evidentiary hearings.

The contact person regarding this workshop is Molly Sterkel of the Commission's Energy Division. Her telephone number is (415) 703-1873 and her e-mail address is mts@cpuc.ca.gov. The Energy Division will issue an agenda to the service list and instructions for participation in the workshop. Due to the fact that this is a new proceeding, the agenda will be issued to the new service list in this proceeding, and it will be cross-posted to R.04-04-003.

## **3. Proposals on the need for additional policies that support new generation and long-term contracts in California**

In the order instituting rulemaking (OIR) issued February 16, 2006, the Commission invited parties and respondents to submit proposals on additional policies to support new generation issues and long-term contracting by March 2. This ruling is intended to provide additional clarification for parties that wish to submit proposals in this rulemaking.

As noted in the OIR, "The first order of business for this proceeding will be to examine the need for additional policies that support new generation and long-term contracts in California, including consideration of transitional and/or permanent mechanisms (e.g., cost allocation and benefit sharing, or some other

alternative) which can ensure construction of and investment in new generation in a timely fashion.<sup>1</sup>

To facilitate the submission of proposals related to this aspect of the OIR, parties are asked to consider the questions identified below when preparing their proposals. The Commission has stated its intention to consider a decision on these proposals by mid-year, so parties are encouraged to focus on proposals that can be adopted within the time frame provided.

Parties should make proposals on policy decisions that urgently need to be decided by the Commission before new generation contracting can proceed in a timely fashion. Policy questions which can be decided in the other part of this proceeding, i.e., the review of long-term plans and all policies related to procurement practices – should be left to the latter part of this proceeding.

#### **4. Questions for Consideration by the Proposals<sup>2</sup>**

- (1) Is there a need for the State to adopt additional policies to support the development of new generation and long-term contracts in California? If so, describe a policy proposal that serves that goal, such as the consideration of a transitional and/or permanent cost allocation or alternative mechanisms that would serve the same goal.<sup>3</sup> Proposals

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<sup>1</sup> Capacity markets is currently slated to be considered in Phase 2 of Rulemaking (R.) 05-12-013, and this long-term plan proceeding will be carefully coordinated with that review.

<sup>2</sup> These questions are not meant to be exhaustive and parties may expand the topics they cover in their proposals.

<sup>3</sup> It is expected that The Coalition for California Energy Policy Reform “Coalition” parties would submit a cost-allocation proposal. Other mechanisms might include: (1) revisions to the Commission’s departing load rule adopted in Decision (D.) 04-12-048 (*slip op.* at 61); (2) a requirement that non-utility load serving entities (LSE) file Long Term Procurement Plans; (3) a rule requiring some portion of each LSEs’ Resource Adequacy (RA) requirements to be obtained from new resources; (4) implementation of RA penalties at levels adequate to support development of new generation (e.g., such

*Footnote continued on next page*

should include detailed information about how costs and benefits of new generation contracts will be allocated and shared, how the policy will be implemented, over what timeframe, and with what safeguards.

- (2) Is there a need for the Commission to act on the proposal urgently? What are the relevant timelines that will be affected by the Commission's action on this proposal? Are there new generation projects or solicitations that will be delayed if this proposal is not acted upon?
- (3) Why is the existing regulatory authority insufficient to ensure that contracting for new generation occurs?
- (4) How will ratepayers be affected by adoption or rejection of the policies proposed?
- (5) How much new generation would the new policies apply to? If the policies apply to all contracts for new generation, on what date would application begin, and until what date/event would it continue?
- (6) How does the proposal apply to the need determinations made by the Commission for Pacific Gas and Electric Company and Southern California Edison Company in Ordering Paragraphs (OP) 4 and 5 in D.04-12-048? Does the proposal apply only to the amount of new generation authorized in D.04-12-048? Does the proposal apply to a larger amount of new generation? If so, how much and how is that larger amount determined?
- (7) How will the proposal affect the Commission's ability to consider capacity markets in a R.05-12-013? Are there steps the Commission can take to ensure that new policies do not foreclose the possibility of capacity markets?

When feasible, proposers should follow the outline of questions posed above as they prepare their proposals. Proposers should be prepared to give a brief

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that the economics of contracting new generation would be comparable to the penalty); (5) a requirement that Investor Owned Utilities (IOU) contract for a specified quantity of new generation without assurance of cost-allocation to customers of other LSEs. This list is not intended to be comprehensive.

summary of their proposal and answer questions on their proposal at the staff workshop on March 14, 2006.

## **5. OIR Scoping Memo**

Parties that wish to make comments on the OIR and its scope may do so at the prehearing conference. Numerous parties have already submitted comments on the December 2<sup>nd</sup> Assigned Commissioner's Ruling in R.04-04-003 and the subsequent workshop that took place on December 14, 2005. Those comments, along with the comments made at the PHC, the pre-workshop written proposals and the workshop comments will be considered by the assigned Commissioner and Administrative Law Judge (ALJ) in the preparation of the scoping memo that will issue after the March 14, 2006, workshop.

Any named respondent to this proceeding shall remain a respondent and be obligated to participate in the proceeding in accordance with any order or ruling entered in this proceeding by the Commission, the Assigned Commissioner, the assigned ALJ or the Law and Motion ALJ. Such participation may include, but not necessarily be limited to, the obligation to respond to data requests from the Commission or its staff.

### **IT IS RULED that:**

1. A prehearing conference and a workshop are set as set forth above.
2. Those respondents and other parties who consent to e-mail service but have not provided an e-mail address to the Commission's Process Office should do so as soon as practicable.



**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge’s Ruling Setting Prehearing Conference and Setting Workshop on Review of Policy Proposals to Support New Generation on all parties of record in this proceeding or their attorneys of record.

Dated February 23, 2006, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**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.

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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.