

Decision 23-09-014 September 21, 2023

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Revise General Order 156 to Include Certain Electric Service Providers and Community Choice Aggregators and Encourage Voluntary Participation by Other Non-Utility Entities Pursuant to Senate Bill 255; Consider LGBT Business Enterprise Voluntary Target Procurement Percentage Goals; Incorporate Disabled Business Enterprises; Modify the Required Reports and Audits; and Update Other Related Matters.

Rulemaking 21-03-010

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding from September 17, 2023 to September 17, 2024.

1. Background and Justification

On March 23, 2021, the California Public Utilities Commission (Commission) filed Order Instituting Rulemaking (R.) 21-03-010 to update the Supplier Diversity Program set forth in General Order (GO) 156. The Commission opened this rulemaking as the forum for considering revisions to GO 156 consistent with the requirements of Senate Bill (SB) 255 (Bradford,

Stat. 2019, Ch. 407)¹, which, among other things, extended the parameters of the Commission's Supplier Diversity Program to include two non-utility entities, community choice aggregators (CCAs) and electric service providers (ESPs), and encouraged participation by exempt wholesale electric generators, distributed energy resource contractors, and energy storage system companies.

On April 7, 2022, the Commission issued Decision (D.) 22-04-035 in Phase 1 of this rulemaking.² Consistent with the June 25, 2021, Assigned Commissioner's Scoping Memo and Ruling for Phase 1 of this proceeding, D.22-04-035 adopted revisions to GO 156 and implemented SB 255, which extended the parameters of the Commission's Supplier Diversity Program to include CCAs and ESPs. The decision also incorporated a voluntary procurement goal for Lesbian, Gay, Bisexual, and Transgender (LGBT) business enterprises, added a new group of business enterprises to GO 156, i.e., those owned and controlled by persons with disabilities, adopted a workforce and board diversity reporting requirement, and made other program revisions to reflect Commission decisions on the Supplier Diversity Program.³

The Commission in D.22-04-035 indicated that additional issues pertaining to GO 156 may be considered in a Phase 2. The Commission suggested that proposals on the following issues be considered in Phase 2: (1) increase the percentages for the voluntary procurement goals for eligible business

¹ SB 255 is available as of this writing on the California Legislature's website at: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB255.

² D.22-04-035, *Decision Revising General Order 156 Supplier Diversity Program to Implement Senate Bill 255, Adopt a Voluntary Procurement Goal for LGBT Business Enterprises, Incorporate Persons with Disabilities Business Enterprises, and Other Updates* (April 7, 2022). This decision is available on the Commission's website under the Docket Card for Rulemaking 21-10-003.

³ Revised GO 156 from D.22-04-035 is available as of this writing on the Commission's website at: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M466/K761/466761945.pdf>.

enterprises; (2) update the definition of minority; (3) review the Supplier Clearinghouse “guidelines” used to determine certification as an eligible supplier; and (4) develop forms for workforce and board diversity reporting and consider public disclosure.⁴

On August 30, 2022, Commissioner Rechtschaffen issued an Assigned Commissioner’s Amended Scoping Memo and Ruling (Amended Scoping Memo) and set the issues for Phase 2. As the Commission sought to address the additional issues beyond the implementation of SB 255 in Phase 1, the Amended Scoping Memo extended the statutory deadline as authorized by Pub. Util. Code § 1701.5(a) by one year to September 17, 2023.⁵

On November 30, 2022, Administrative Law Judge (ALJ) Regina M. DeAngelis issued a Ruling setting forth several questions and seeking responses from parties to develop the record in Phase 2 of this proceeding. Through January 31, 2023, nineteen parties filed Opening Comments and Reply Comments. Per the schedule set in the Amended Scoping Memo, a Proposed Decision was to issue 90 days from the Reply Comments.⁶ A new Commissioner, Commissioner Karen Douglas, was reassigned to the proceeding on January 31, 2023.⁷ A new ALJ, ALJ Lena Afary, was reassigned to the proceeding on March 8, 2023.⁸

Given the additional issues considered by the Commission in Phase 2 and the staffing changes, and the need to give full and fair consideration to the

⁴ D.22-04-035 at 59.

⁵ Assigned Commissioner’s Amended Scoping Memo and Ruling (August 30, 2022) at 4.

⁶ *Id.* at 5.

⁷ R.21-03-010, *Notice of Reassignment* (January 31, 2023).

⁸ R.21-03-010, *Notice of Reassignment* (March 8, 2023).

parties' comments, it is reasonable to extend the statutory deadline for this proceeding until September 17, 2024.

2. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 18-month deadline set forth in Pub. Util. Code §1701.5(a). Under the circumstances of this proceeding, it is appropriate to waive the 30-day period for public review and comment.

3. Assignment of Proceeding

Karen Douglas is the assigned Commissioner and Lena Afary is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The current extended deadline for resolving this proceeding is September 17, 2023.
2. This proceeding cannot be completed by September 17, 2023.
3. An extension of the statutory deadline until September 17, 2024, is necessary to allow adequate time to complete this proceeding.

Conclusion of Law

Pursuant to the authority granted to the Commission under Pub. Util. Code § 1701.5(a), the statutory deadline should be extended to September 17, 2024.

IT IS ORDERED that the statutory deadline for completion of this proceeding is extended until September 17, 2024.

This order is effective today.

Dated September 21, 2023, at Sacramento, California.

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners