

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Implement the Commission's
Procurement Incentive Framework and
to Examine the Integration of
Greenhouse Gas Emissions Standards
into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

ORDER AMENDING ORDER INSTITUTING RULEMAKING**I. Summary¹**

Today's order amends the Commission's April 13, 2006 Order Instituting Rulemaking (OIR) in light of the recent passage of Senate Bill (SB) 1368. In particular, we designate this rulemaking as the procedural forum for the Commission's implementation of that new law. We also modify the schedule of Phase 1 to recognize the statutory deadline of February 1, 2007 for the establishment of a greenhouse gas (GHG) performance standard, and establish a completion date for this proceeding within 24 months of the date of the Assigned Commissioner's scoping memo to be issued in Phase 2. In addition, we amend the list of respondents to this proceeding, as discussed below.

II. Background and Amended Scope

In Phase 1 of this proceeding, we are addressing the policy and implementation issues associated with a GHG performance standard for new

¹ Attachment 1 describes the abbreviations and acronyms used in this decision.

generation and long-term procurement contracts undertaken by electric utilities and other load-serving entities. That phase is well underway. Pre-workshop comments on policy and implementation issues were submitted and a three-day workshop was held this summer. An interim workshop report was distributed for comment on August 21, 2006 and comments on that report have been submitted.

On September 29, 2006, Governor Schwarzenegger signed SB 1368 into law. Among other things, SB 1368 directs the Commission to establish a GHG emission performance standard through a rulemaking proceeding. It directs that the Commission establish this standard on or before February 1, 2007 in consultation with the California Energy Commission (CEC) and the California Air Resources Board (CARB). This new law also requires the Commission to consider the effects of the standard on system reliability and overall costs to electricity customers, in consultation with the Independent System Operator (ISO). The provisions of SB 1368 also specify certain design elements of the GHG performance standard and associated definitions.

By today's order, we amend the scope of our OIR to explicitly identify this rulemaking as the Commission's procedural forum for implementing the provisions of SB 1368. As described in SB 1368, we will consult with the CEC, CARB and the ISO in establishing the GHG performance standard.

III. Respondents and Service List

Currently, the respondents to this OIR are Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas) and the non-utility load-serving entities (energy service providers and community choice aggregators) that provide electric power to customers *within the service*

territories of PG&E, SCE, and SDG&E. However, SB 1368 requires us to apply the GHG performance standard to “every electrical corporation, electric service provider, or community choice aggregator serving end-use customers in the state.” (Public Utilities Code § 8340(h)).² Each of the terms contained in subdivision (h) is in turn defined by reference to a specific section of the Public Utilities Code. (§ 8340(c), (d) and (e).) Each of those terms is somewhat broader than the classes of respondents named in the OIR.

Accordingly, we will need to broaden the kinds of entities named as respondents in this proceeding to fully encompass the classes of entities contained in SB 1368. More specifically in the original OIR we did not identify as respondents certain electrical corporations, such as small and multi-jurisdictional electric utilities that the Commission regulates with respect to California operations³ or electrical cooperatives. We also limited the energy service providers and community choice aggregators made respondents to this proceeding to those operating within the service territories of PG&E, SCE and SDG&E, while SB 1368 does not so limit them. Accordingly, in this order we will amend the classes of respondents to include all electrical corporations (as defined in § 218), community choice aggregators as defined in § 331.1 and electric service providers as defined in § 218.3.

Attachment 2 to this Order is the amended service list for this proceeding that reflects the addition of these new respondents. We will serve today’s order

² All section references in this decision refer to the Public Utilities Code.

³ Some of these other utilities (e.g., PacifiCorp) have actively participated as interested parties in Phase 1 of this proceeding.

amending the OIR on the parties listed in Attachment 2.⁴ Any new respondent who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in Los Angeles at (213) 649-4782 or in San Francisco at (415) 703-7074, (866) 836-7875 (TTY – toll free), or (415) 703-5282 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

Service of documents in this proceeding shall be made by electronic service pursuant to the Electronic Service Protocols contained in Attachment 4 of the April 13, 2006 OIR and consistent with the Commission's Rules of Practice and Procedure 1.9 and 1.10. In addition, a hard copy of all documents shall be mailed to the Assigned Administrative Law Judges (ALJs) and Commissioner.

IV. Amended Schedule

Pursuant to the requirements of SB 1368, we will establish a GHG performance standard on or before February 1, 2007 in Phase 1 of this proceeding, while moving forward expeditiously with key Phase 2 issues. We leave it to the Assigned Commissioner and/or Assigned ALJ to establish a schedule that sequences the issues most appropriately for this purpose.

It is our intention to complete this rulemaking within 24 months of the date of the Assigned Commissioner's scoping memo to be issued in Phase 2. In using the authority granted by § 1701.5(b) to set a time longer than 18 months for this proceeding, we are considering both the number and complexity of the tasks and the unique aspects of this proceeding, including the need for consultation with the CEC, CARB and ISO and coordination with other Commission proceedings.

⁴ Those organizations and individuals listed under the state service list and information-only categories will be served electronically only.

V. Exemption from Comments

This is a decision amending an OIR. Accordingly, as provided by Rule 14.7 of the Commissions Rules of Practice and Procedure, the 30-day period for public review and comment does not apply.

Therefore, **IT IS ORDERED** that:

1. In addition to the purposes set forth in the April 13, 2006 Order Instituting Rulemaking (OIR), this rulemaking will also serve as the Commission's procedural forum for implementing the provisions of Senate Bill 1368.
2. The schedule for this proceeding is amended to comply with the statutory deadline of February 1, 2007 for establishing of a greenhouse gas performance standard.
3. This rulemaking will be completed within 24 months of the date of the Assigned Commissioner's scoping memo to be issued in Phase 2.
4. All of the following are made respondents to this proceeding: (1) all electrical corporations as defined in Public Utilities Code Section 218, (including, without limitation, electrical cooperatives and small and multi-jurisdictional electric utilities that the Commission regulates with respect to California operations); (2) community choice aggregators as defined in Public Utilities Code Section 331.1; and (3) and electric service providers as defined in Public Utilities Code Section 218.3. Any other party previously made a respondent to this proceeding remains a respondent.
5. Attachment 2 is the amended service list for this proceeding that reflects the addition of these new respondents. This list supercedes the list of respondents attached to the April 13, 2006 OIR and updates the current service list.

6. The Executive Director shall cause this Order Amending OIR to be served on the amended service list in Attachment 2. Those organizations and individuals listed under the state service list and information-only categories will be served electronically only.

7. Any electric service provider that, subsequent to the date of the OIR becomes registered to provide services through direct access transactions shall, upon such registration, become a respondent to this proceeding. Any respondent electric service provider whose registration is cancelled shall, upon confirmation of the Energy Division, cease to be a respondent.

8. Any community choice aggregator that, subsequent to the date of the OIR becomes registered to provide services within the service through community choice aggregation transactions shall, upon such registration, become a respondent to this proceeding.

9. Service of documents in this proceeding shall be made by electronic service pursuant to the Electronic Service Protocols contained in Attachment 4 of the April 13, 2006 OIR and consistent with the Commission's Rules of Practice and Procedure 1.9 and 1.10. In addition, a hard copy of all documents shall be mailed to the Assigned Administrative Law Judges and Assigned Commissioner.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT 1

LIST OF ACRONYMS AND ABBREVIATIONS

Administrative Law Judge(s)	ALJ(s)
California Air Resources Board	CARB
California Energy Commission	CEC
Greenhouse Gas	GHG
Independent System Operator	ISO
Order Instituting Rulemaking	OIR
Pacific Gas and Electric Company	PG&E
San Diego Gas & Electric Company	SDG&E
Senate Bill	SB
Southern California Edison Company	SCE
Southern California Gas Company	SoCalGas

(END OF ATTACHMENT 1)

ATTACHMENT 2

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