

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Create the
Small Business Advisory Council.

FILED
PUBLIC UTILITIES COMMISSION
DECEMBER 16, 2010
SAN FRANCISCO OFFICE
RULEMAKING 10-12-009

**ORDER INSTITUTING RULEMAKING
TO CREATE THE SMALL BUSINESS ADVISORY COUNCIL****1. Summary**

The California Public Utilities Commission (Commission or CPUC) opens this Order Instituting Rulemaking (OIR or rulemaking) to create a Small Business Advisory Council. The purpose of the Small Business Advisory Council is to provide a forum for the Commission, the utilities and members of the small business community to discuss Commission policy and issues that affect small businesses. The Small Business Advisory Council shall serve as a liaison between small business ratepayers and their representatives and the Commission.

2. Background

The Commission has jurisdiction over all private electric, water, natural gas, and communications utilities in the State of California. As such, the Commission adopts policy in the areas of water, communications, electricity, natural gas, renewable energy, transportation and sewage that affects most Californians. The positions and interests of utilities, residential ratepayers, large commercial and industrial customers, non-CPUC-regulated companies, and

non-governmental organizations are often well-represented in proceedings before the Commission and these groups all have helped shaped Commission policy. As a general matter, however, small businesses and their advocates have not participated in most Commission proceedings. This lack of participation is certainly not due to small businesses' lack of interest in or relevance of Commission proceedings. Rather, small businesses do not, by and large, have the financial wherewithal or time to participate in Commission proceedings. As a result, Commission decisions often do not take into account the impact of Commission policies on small businesses. Of course, the converse is also true – because small businesses and their advocates often do not participate in Commission proceedings, the Commission does not benefit from the small business perspective.

During the last five-and-a-half years, this Commission, led by the efforts of Commissioner Bohn, has worked tirelessly to elevate the involvement of small businesses in the Commission's processes. Commissioner Bohn created the Commission's Small Business Expo program, which puts small business owners in touch with utility procurement representatives and also provides educational workshops to help small businesses become more successful. Commissioner Bohn also worked with President Peevey and Executive Director Clanon to create a new Small Business Group (now renamed the Business & Community Outreach Group) within the Commission.

The Business & Community Outreach Group has accomplished much in the few years since its formation. It runs the Commission's Small Business Expo program, it educates small businesses about Commission proceedings and decisions, and it educates the Commission about problems the small business community is facing. Recently, Commissioner Bohn and the Business &

Community Outreach Group spearheaded the Rulemaking to Consider Revising Energy Utility Tariff Rules Related to Deposits and Adjusting Bills as They Affect Small Business Customers, R.10-05-005. This proceeding resulted in Decision 10-07-048 which adopted changes to the energy utilities' backbilling and deposit rules for small business customers.

3. Purpose and Structure of the Small Business Advisory Council

Our objectives in issuing this OIR are to create a Small Business Advisory Council that will facilitate communication between small businesses and the Commission on how Commission policies impact small businesses and ensure that the perspective of the small business is taken into account. These objectives are focused to better serve the small business community. Consistent with these objectives, the Small Business Advisory Council should do all of the following to advise the Commission regarding the Commission's duties:

1. Provide input on how CPUC policy decisions affect small businesses, and provide advice and counsel on how Commission policies and procedures can be better adapted to the realities of small businesses in California.
2. Monitor and evaluate the implementation of all Commission programs provided to small business customers
3. Assist in the development and analysis of assessments of the needs of small business customers.
4. Encourage collaboration between State and utility programs to educate small business customers of CPUC-regulated utilities about energy efficiency programs, renewable energy policies, consumer protection initiatives and any other matters affecting small businesses.

In addition, the Commission, in conjunction with the Small Business Advisory Council, should work with interested parties, small business outreach groups and community-based organizations to increase participation in programs for small business customers. The Commission should also give technical support to the Council and should provide notice of Council meetings in the Commission's daily calendar.

We have examined the structure of other similar boards and determine that the structure of the Low Income Oversight Board (LIOB) is a good model for the Small Business Advisory Council.¹ While the staffing, travel, and administrative costs, costs of the members of the LIOB are covered by statute, reimbursement for the staffing, travel and administrative costs of the members of the Small Business Advisory Council, if any, will be determined in course of this proceeding. Additionally, this proceeding will consider whether this Council can effectively serve as a de facto proxy for small business interests. Since this new relationship between the Commission and small businesses will undoubtedly continue to evolve, we will establish the Small Business Advisory Council as a three-year pilot program to ensure that we retain the flexibility to modify it as necessary to carry out the goals set forth in this OIR. Also, given the focus of the Council on small-business issues, we conclude that a smaller Council is appropriate here. We determine that the Small Business Advisory Council shall be comprised of nine members, who will serve three-year terms, to be selected as follows:

¹ See Public Utilities Code section 382.1. See also Assigned Commissioner Wood's Ruling Regarding the Establishment of the Low Income Oversight Board and the

Footnote continued on next page

1. Three members selected by the Commission who are small business owners and who are not affiliated with any Commissioner, State agency or utility group, or otherwise involved in representation before this Commission. These members shall be selected in a manner to ensure an equitable geographic distribution throughout the State of California (“small business members”).
2. One member selected by the Commission who is a Commissioner or Commissioner designee.
3. One member selected by the Commission from the Commission’s Small Business & Community Outreach Group.
4. One member selected by the California Small Business Association.
5. One member selected by the California Chamber of Commerce.
6. One member selected by the Commission who is a representative of an electrical or gas corporation, as defined by the Public Utilities Code.
7. One member selected by the Commission who is a representative of a water or communications corporation, as defined by the Public Utilities Code.

The Small Business Advisory Council shall meet quarterly beginning in April 2011. In order to ensure fairness to all members, the Small Business Advisory Council will alternate meeting locations between northern, central, and southern California. Those members who are not able to participate in the quarterly meetings in person may participate remotely.

We take the following initial steps in establishing the Small Business Advisory Council by requesting that individuals interested in filling one of the

Implementation of other Provisions of Senate Bill X1 2, dated, issued on November 20, 2001 in R.01-08-027.

three small business member appointments submit a letter of interest and a résumé, including references, by February 15, 2011. Those representatives of electric and/or gas utilities interested in having a representative appointed to the respective Council positions also should submit letters of interest and a résumé of the candidate, including references. Upon receipt of this information, the Supervisor of the Commission's Business & Community Outreach Group will confer with the President of the Commission to select and propose to the Commission the members of the Council for a three-year term. The non-Commission members of the Small Business Advisory Council may not be reappointed to an additional term in order to ensure a fresh perspective on the Council.

4. Additional Items of Consideration

This rulemaking will also consider whether to reimburse the members of the Small Business Advisory Council for staffing, travel and administrative costs associated with their work on the Council. Additionally, this proceeding will consider whether this Council can effectively serve as a de facto proxy for small business interests. Lastly, this rulemaking may consider other relevant issues related to the creation of the Small Business Advisory Council.

The timetable for this proceeding will depend on the input we receive from the parties. We do not anticipate the need for a hearing. We preliminarily schedule a workshop to be held on February 20, 2011 and conducted by the Commission's Business & Community Outreach Group. We expect to issue a final Commission decision in this proceeding within one year.

5. Preliminary Scoping Memo

Rule 7.1(d) of the Commission's "Rules of Practice and Procedure" (Rule 7.1(d)) requires that an order instituting rulemaking preliminarily determine the category and need for hearing, and contain a preliminary scoping memo. This OIR is preliminarily categorized as a quasi-legislative proceeding, as that term is defined in Rule 1.3(d).²

The scope of this proceeding is to create a Small Business Advisory Council, to determine whether to reimburse the staffing, travel and/or administrative costs of the members of the Small Business Advisory Council for work associated with the Council and to consider any other rules, procedures and changes the Commission needs to make to ensure that the Small Business Advisory Council is effective. The scope of this proceeding also includes considering whether and how the Commission may reimburse the staffing, travel and administrative costs for members of the Small Business Advisory Council for their work associated with the Council. The respondents to this OIR are the large investor-owned utilities (including large electric and gas utilities, large communications utilities and Class-A water companies). All respondents are directed and other interested parties are invited to comment on the rulemaking by January 20, 2011. We are particularly interested in hearing comments from the Division of Ratepayer Advocates, The Utility Reform Network, the California Small Business Association and the California Chamber of Commerce.

² The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's Ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

At this time, we do not anticipate holding formal hearings. Any party that believes a hearing is required to receive testimony regarding adjudicative facts must make an explicit request in its filed comments. Such request must (1) identify the material disputed facts, (2) explain why a hearing must be held, and (3) describe the general nature of the evidence that would be introduced at a hearing.

The timetable for this proceeding will depend on the input we receive from the parties. We anticipate issuing a final Commission decision in this proceeding within one year of issuing this OIR.

For purposes of addressing the scoping memo requirements, we establish the following tentative schedule, which is subject to change by the assigned Commissioner or the assigned Administrative Law Judge (ALJ) after review of the comments:³

December 16, 2010	Order Instituting Rulemaking
January 20, 2011	Opening Comments on the OIR
February 3, 2011	Reply Comments to the OIR
February 20, 2011	Small Business Group Workshop
May 20, 2011	Proposed Decision mailed for comment
June 2011	Final Commission Decision issued

³ Any changes to the schedule will be by written ruling. Pursuant to Rule 7.3(b), the assigned Commissioner has the discretion not to issue a scoping memo if no timely request for hearing is filed.

6. Service of OIR, Filing Requirements, and Service List

The rules developed will affect the large California utilities, the California Business Association and the California Chamber of Commerce, DRA and TURN. We will also serve this rulemaking on the service list in Rulemaking 10-05-005, the Order Instituting Rulemaking on the Commission's Own Motion to Consider Revising Energy Utility Tariff Rules Related to Deposits and Adjusting Bills as They Affect Small Business Customers.

7. Parties and Creation of the Official Service List

The Commission will create an official service list for this proceeding, which will be available at http://www.cpuc.ca.gov/published/service_lists. We anticipate that the official service list will be posted before the first filing deadline in this proceeding. Before serving documents at any time during this proceeding, parties shall ensure they are using the most up-to-date official service list by checking the Commission's website prior to each service date.

If the OIR names you as a respondent, you are already a party, will be placed on the official service list using the information in Attachment A, and will be bound by the outcome of this proceeding. You or your representative should inform the Process Office of any needed changes to the official service list. All others seeking to be added to the service list shall inform the Commission's Process Office of the below noted information no later than 14 days after the issuance date of this rulemaking via electronic mail

(Process_Office@cpuc.ca.gov) or by postal mail (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102):

- Name and entity represented, if any
- Address
- Telephone number

- Email address
- Request for Party, State Service, or Information Only status.⁴
- Specify the docket number of this rulemaking in the subject line of the email or letter.

Upon receipt of your information, the Process Office will place your name on the official service list posted on the Commission's website as soon as practicable.

In addition, interested persons may be added to the official service list after this 14-day period, but will only receive service of documents that are filed subsequent to their addition to the service list. You may become a party beyond this 14-day period by filing comments in response to this rulemaking pursuant to Rule 1.4(a)(2) or by making a motion to become a party pursuant to Rule 1.4(a)(3) or (a)(4). A person seeking party status pursuant to Rule 1.4(a)(3) or (a)(4) shall comply with Rule 1.4(b). After the expiration of this 14-day period, you also may have your name added to the official service list, either as State Service or Information Only, upon request to the Process Office (Rule 1.9(e)). A person may change the mailing address or e-mail address for service or the designation of a person for service by sending a written notice to the Process Office and serving a copy of the notice on each person on the official service list (Rule 1.9(e)).

The Executive Director shall serve a copy of this OIR on each respondent (as listed in Attachment A) and on each person on the service list for R.10-05-005.

⁴ Party status is, in addition to respondents, for those planning to actively participate in this rulemaking through, at a minimum, submission of written comments on the questions raised herein. State Service status is for employees of the State of California who will not be submitting comments. Information Only status is for those who wish to follow the proceeding and receive electronic service of documents associated with it, but who will not be actively participating.

In addition, the Executive Director shall serve a copy of this OIR on the persons listed in Attachment B.

Service and receipt of this order does not confer party status on any person, other than respondents, and does not result in that person being placed on the official service list for this proceeding. You must follow the procedures explained above to become a party and/or have your name placed on the official service list.

8. Service of Documents

After the official service list is issued, parties must use the most up-to-date official service list on the Commission's website when serving documents. In addition, service of all documents filed with the Commission's Docket Office must be done consistent with Rule 1.9 and Rule 1.10. These rules permit electronic mail (e-mail) service of documents, in searchable format. In this proceeding, parties shall provide concurrent e-mail service to all persons on the official service list for whom an e-mail address is available, including "Party," "State Service," and "Information Only" designations.

We encourage electronic filing and e-mail service in this proceeding. Parties can find information about electronic filing of documents at <http://www.cpuc.ca.gov/PUC/efiling>. E-mail service should be made according to Rule 1.10. Parties providing e-mail service should also provide a paper copy to the assigned Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents should occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Commission's Docket Office.

9. Commission's Public Advisor's Office

Any person interested in participating in this rulemaking and who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor's Office in San Francisco at (866) 849-8390 or (415) 703-2074, (TTY-toll free) (866) 836-7825 or (TTY) (415) 703-5282, or in Los Angeles at (866) 849-8391 or (213) 649-4782, or send an e-mail to public_advisor@cpuc.ca.gov. More information about the Public Advisor's Office is available at the Commission's website, <http://www.cpuc.ca.gov>.

10. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this rulemaking in accordance with Rule 17.1 of the Commission's Rules and Practices and Procedure shall file its notice of intent to claim intervenor compensation no later than 30 days after the first prehearing conference or pursuant to a date set forth in a later ruling which may be issued by the assigned Commissioner or ALJ.

11. Ex Parte Communications

This proceeding is subject to Article 8 of the Rules of Practice and Procedure, which specifies standards for engaging in ex parte communications and the reporting of such communications. Pursuant to Rule 8.2(a), ex parte communications will be allowed in this proceeding without any restrictions or reporting requirements unless and until the Commission modifies this determination pursuant to Rule 7.6.

IT IS ORDERED that:

1. A rulemaking on the Commission's own motion is instituted to create a Small Business Advisory Council pursuant to this decision.

2. Establishment of the Small Business Advisory Council will be a three-year pilot program to ensure that we retain the flexibility to modify it as necessary to carry out the goals set forth in this OIR.

3. Individuals interested in being appointed as a small business owner member or utility member of the Small Business Advisory Council may submit a letter of interest and a résumé, including references, by no later than February 15, 2011 to:

Marzia Zafar
CPUC Small Business & Community Outreach Group
505 Van Ness Avenue
San Francisco, CA 94102

4. This rulemaking shall solicit comments and recommendations on the issue of reimbursing members of the Small Business Advisory Council for their staffing, administrative and travel costs associated with their work on the Council. This proceeding will consider whether this Council can effectively serve as a de facto proxy for small business interests.

5. The scope of issues and expected timetable for this proceeding are as set forth in the body of this order.

6. The assigned Commissioner or Administrative Law Judge may adjust the schedule identified herein and refine the scope of this proceeding as needed, consistent with the requirements of the Rules of Practice and Procedure.

7. The large investor-owned utilities listed in Attachment A are respondents. All respondents are directed, and other interested parties are invited, to comment on the Order Instituting Rulemaking by January 20, 2011.

8. The Executive Director shall cause this Order Instituting Rulemaking to be served on all respondents, as identified in Attachment A; the service list for

Rulemaking 10-05-005; and representatives of the California Chamber of Commerce as identified in Attachment B.

9. An official service list for this proceeding shall be created by the Commission's Process Office and posted on the Commission's website (www.cpuc.ca.gov) as soon as practicable. Parties may also obtain the official service list by contacting the Process Office at (415) 703-2021.

10. Interested persons shall follow the directions in Section 7 of this Order Instituting Rulemaking to become a party or be placed on the official service list.

11. The category of this rulemaking is preliminarily determined to be "quasi-legislative" as that term is defined in Rule 1.3(d) of the Commission's Rules of Practice and Procedure.

12. It is preliminarily determined that evidentiary hearings are not needed in this proceeding.

13. Parties serving documents in this proceeding shall comply with Rule 1.10 of the Commission's Rules of Practice and Procedure regarding electronic mail (e-mail) service. Parties providing e-mail service shall also provide a paper copy to the assigned Commissioner and Administrative Law Judge.

14. A party that expects to request intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days after the first prehearing conference or pursuant to a date set forth in a later ruling which may be issued by the assigned Commissioner or Administrative Law Judge.

15. Ex parte communications in this rulemaking are governed by Rule 8.2(a) of the Commission's Rules of Practice and Procedure.

16. Pursuant to Rule 6.2, parties shall include with their January 20, 2011, comments any objections to the preliminary scoping memo regarding the category, need for hearing, issues to be considered, or schedule.

17. The Commission's Business & Community Outreach Group will hold a workshop to discuss the role of the Small Business Advisory Group on February 20, 2011, unless a later date is specified in a ruling of the assigned Administrative Law Judge. The Workshop Notice will be issued at least 10 days prior to the date the workshop is held.

This order is effective today.

Dated December 16, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

ATTACHMENT A
LIST OF RESPONDENTS

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(END OF ATTACHMENT A)

ATTACHMENT B
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Last updated on 09-DEC-2010 by: RC4 *10025 NOPOST

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