

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)

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PREHEARING CONFERENCE
STATEMENT OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 7.2 of the Commission's Rules of Practice and Procedure, and the July 12, 2007 "Administrative Law Judges' Ruling Regarding Comments on Staff Natural Gas Proposal and Notice of Prehearing Conference" (July 12 Ruling), the Division of Ratepayer Advocates (DRA) submits the following statement in advance of the prehearing conference set for August 1, 2007. The July 12 Ruling requested comments on "the scope, schedule and need for evidentiary hearings regarding the natural gas inquiry." The July 12 Ruling also provided the opportunity to comment on the "Preliminary Staff Recommendations for Treatment of Natural Gas Sector Greenhouse Gas Emissions" (Staff Report or Staff).¹

As explained below, DRA generally agrees with the Staff Report's recommendations regarding the structure of Phase II of the GHG proceeding as it relates to gas, as well as the Staff Report's preliminary recommendations regarding key components of a natural gas sector GHG emissions reduction framework.

¹ The Staff Report was appended as Attachment A to the July 12 Ruling.

II. DISCUSSION

A. **DRA agrees with the Staff Report's preliminary recommendations regarding the key components of a natural gas sector GHG emissions reduction framework.**

DRA agrees with most of Staff Report's preliminary recommendations regarding elements that should be included in the framework of a natural gas reduction framework, and looks forward to reviewing the prehearing conference statements of other parties to see if there are other key elements that should be included or potential problems with any of the recommendations. However, one recommendation appears unclear: "If a cap-and-trade regime is established for the California economy, the natural gas sector should be a capped sector under the regulations."² This implies that establishing a cap on greenhouse gas emissions from natural gas should be linked to California's adoption of a cap and trade regime. AB 32 does not require a cap and trade regime, but does require that emissions be capped beginning January 1, 2012.

Section 38550 of the Health and Safety Code requires the California Air Resource Board (CARB) to determine and approve a "statewide greenhouse gas emissions limit" equivalent to the 1990 level of greenhouse gases in the state. Section 38562 of the Health and Safety Code provides that CARB shall adopt "greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning January 1, 2012." Section 38750 of the Health and Safety Code allows but does not require CARB to include "market-based compliance mechanisms" as a means of complying with its regulations but does not mandate their adoption.

While it appears that there is support for adoption of a cap and trade regime, as evidenced by support of the Market Assessment Committee report and other commentators, CARB must establish an emissions cap regardless of whether there is a cap and trade regime, and the natural gas sector should be a capped sector under the statewide emissions cap.

² Staff Report, p. 15.

B. DRA agrees with the Staff Report's recommendation that the Commission not include a separate track for natural gas reporting and tracking.

The Staff Report pointed out that the California Climate Action Registry (CCAR) is developing a reporting protocol for GHG emission from the transportation, distribution, and storage of natural gas, and that the Staff has recommended expansion of the protocol to include end users. The Staff Report further noted that the "ARB has ultimate responsibility to adopt mandatory reporting regulations for the natural gas sector."³ The Staff Report therefore recommends relying on these processes as the "primary vehicles for addressing reporting requirements in the natural gas sector." This approach is consistent with an earlier DRA recommendation.

DRA's November 15, 2006 pre-hearing conference statement filed in advance of the initial pre-hearing conference in Phase 2 of this proceeding recognized CARB's primary responsibility for adopting reporting requirements and recommended that:

"the Commission defer the discussion of general reporting requirements to CARB, since the electric and natural gas sectors are a subset of the larger set of industries that will be subject to the reporting and compliance rules to be adopted by CARB. This will avoid duplication of efforts and ensure that compliance rules apply consistently across the sectors."⁴

At the November 28, 2006 prehearing conference, Deputy Executive Officer Scheible of CARB recognized the Commission's "great head start" in addressing GHG reductions and pointed out the Commission was the "logical lead in the areas in many areas where it has already demonstrated its expertise."⁵ Consequently, the Commission has moved forward in conjunction with the California Energy Commission (CEC) with developing recommendations for reporting requirements for the electric sector that will be provided to CARB for consideration and possible adoption.

³ Staff Report, p. 17.

⁴ DRA November 15, 2006 Pre-hearing conference statement.

⁵ Reporter's Transcript from November 28, 2006 PHC in R.06-04-009, p. 71.

The Commission's work to develop recommended reporting requirements for the electric sector does not dictate an identical approach for the gas sector. In light of ongoing work by the CCAR and CARB to develop reporting requirements for the natural gas sector, DRA believes that the Staff Report recommendation to leave responsibility for development of reporting requirements with CARB makes sense

C. DRA agrees with Staff's recommendation that the CARB process should be the primary place to address concerns related to the 1990 emissions inventory for the natural gas sector.

The Staff Report notes that the Staff plans to issue a data request to obtain natural gas entities current emission data, and recommends that concerns regarding the 1990 emissions inventory, required by Section 38550 of the Health and Safety Code, be addressed at CARB. Section 38550 requires CARB to determine and approve a "statewide greenhouse gas emissions limit" equivalent to the 1990 level of greenhouse gases in the state. Given CARB's responsibility to determine these levels, DRA agrees with the Staff Report recommendation that CARB is the appropriate agency to address concerns related to the 1990 emissions level.

D. DRA agrees with Staff's procedural recommendations for consideration of issues in this phase of the proceeding.

The Staff Report recommends that the Commission consider emissions reductions measures, annual sector emissions caps, flexible compliance mechanisms, and entity specific allowance allocations in the same phase of this proceeding as electric issues. DRA supports this recommendation, particularly in view of the compressed schedule in this proceeding.

In addition, the Staff Report further recommends establishing a separate track for considering issues related to components of a natural gas reduction framework. If this is necessary, it is possible that the issues could be developed adequately through submission of written comments

E. Other procedural issues

It appears that hearings on issues related to key components of a natural gas reduction framework will be unnecessary. DRA has no preliminary schedule recommendations, but will comment on the schedule proposals of other parties.

III. CONCLUSION

DRA respectfully recommends that the Commission consider the recommendations summarized in this pre-hearing conference statement.

Respectfully submitted,

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July 26, 2007

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I hereby certify that I have this day served a copy of **PRE-HEARING
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Executed on July 26, 2007 at San Francisco, California.

/s/ NANCY SALYER

NANCY SALYER

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Rulemaking 06-04-00

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