

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

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

Rulemaking 12-03-014
(Filed March 22, 2012)

**MOTION TO ESTABLISH AN ISSUANCE DATE OF APRIL 24, 2014 FOR
DECISION 14-03-004**

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May 22, 2014

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Pursuant to Rule 11.1 of the Commission’s Rules of Practice and Procedure and Pub. U. Code Section 1731, the Protect Our Communities Foundation (“POC”) hereby submits the following Motion to Set Issuance Date for Commission Decision 14-03-004, which resolved Track IV of Proceeding R.12-03-014.

The Commission did not serve POC a copy of the decision when it date stamped the original issuance date as March 14, 2014. It served POC on April 24, 2014. POC relies on the Commission’s service of its decisions through the Commission’s established procedures. The issuance date for POC, therefore, should be established as April 24, 2014, to comply with the service requirements of Section 1731 and to harmonize the direction and intent of the service requirements with the discretion granted to the Commission to set the issuance date. POC requests the Commission modify the issuance date for POC to the date of actual service, April 24, 2014. POC also requests that the Commission accept the attached Application for rehearing, which is filed within 30 days from April 24, 2014, the corrected issuance date.

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I. POC WAS NOT PROVIDED NOTICE OF D.14-03-004 UNTIL APRIL 24, 2014

POC is a small public interest organization based in San Diego, California.¹ Because of the significant cost and burden of traveling to the Commission in San Francisco, POC practices before the Commission by electronic means as much as possible, and is not often physically present at the Commission.² POC instead relies on the Commission's service of its Decisions for notification as to when a Decision has been issued.³

POC has been an active party in Track 4 of R.12-03-014, and has participated in all aspects of the proceeding, including submitting comments on the Proposed Decision.⁴ Although the Final Decision in Track 4 (D.14-03-004) is date-stamped March 14, 2014, POC was not provided with any form of notification of the Decision after the decision was voted on.⁵ POC did not become aware of the Decision until April 22, 2014.⁶ POC did not receive any form of notification of the Decision from the Commission until April 24, 2014.⁷

II. THE COMMISSION IS REQUIRED BY STATUTE TO PROVIDE NOTICE TO PARTIES OF THE ISSUANCE OF THE DECISION

Public Utilities Code Section 1731(b)(2) requires that the Commission notify the parties to a proceeding when a Decision in that proceeding is issued. This section further requires that the Commission provide this notice in one of three ways:

- (A) By mailing the order or decision to the parties to the action or proceeding;
- (B) By emailing an electronic copy of the official version of the order or decision to the party;
- (C) Or by emailing a link to an Internet Web site where the official version of the order or decision is readily available to the party.

¹ Attachment A (Peffer Declaration) at p. 1, Para. 1
² Attachment A at p. 1, Para. 1
³ Attachment A at p. 2, Para. 4
⁴ Attachment A at p. 1, Para. 2
⁵ Attachment A at p. 8, Para. 6
⁶ Attachment A at p. 3, Para. 10
⁷ Attachment A at p. 8, Para. 6

POC did not receive notice of the Decision as required by Section 1731(b)(2) until April 24, 2014.⁸ Prior to that date, POC had not received notice of the decision in the form of a hard copy of the Decision sent by mail as provided by Section 1731(b)(2)(A).⁹ POC also did not receive notice of the Decision by email containing a full electronic copy of the Decision as provided by Section 1731(b)(2)(B),¹⁰ nor did POC receive notice of the Decision by an email containing a link to the Decision as provided by Section 1731(b)(2)(C).¹¹ POC has also not received notice of the decision from the Commission in the form of a “Notice of Availability” mailing.¹²

POC believes that the Commission inadvertently failed to provide official service of the Decision to the parties. POC discovered by happenstance on April 22nd that Decision had been voted on at the Commission’s March 13, 2014 meeting and that the Decision had been date-stamped as issued on March 14, 2014. On April 23rd POC sent an email to the Legal Support Supervisor for the ALJ Division (Star Unit) who had previously served D.14-02-040 to the service list for R.12-03-014, informing her that POC had not received official e-mail service of D.14-03-004 and asking when POC should expect service.¹³ On April 24th POC received an email from the Commission containing a link to D.14-03-004 with no other information as to whether service had been effected.¹⁴ This email link was the first, and only, service of the Decision that POC has received from the Commission.

On April 25, 2014, in response to POC’s repeated requests for a copy of any official service email for D.14-03-004, POC received an email from an ALJ Star Division Supervisor stating that she “did not have any luck” in finding the email providing notice of D.14-03-004 to the service list.¹⁵ POC has subsequently confirmed that at least four other parties to R.12-03-014 – Sierra Club, California Environmental Justice Alliance, TURN, and the Office of Ratepayer Advocates –were unable to locate any record of having received an email providing official service of D.14-03-004.¹⁶

⁸ [REDACTED] at [REDACTED] § [REDACTED] 2, [REDACTED] Para. [REDACTED] 6
⁹ [REDACTED] at [REDACTED] § [REDACTED] 2, [REDACTED] Para. [REDACTED] 6
¹⁰ [REDACTED] at [REDACTED] § [REDACTED] 2, [REDACTED] Para. [REDACTED] 7
¹¹ Id. [REDACTED] at [REDACTED] § [REDACTED] 2, [REDACTED] Para. [REDACTED] 8
¹² [REDACTED] at [REDACTED] § [REDACTED] 3, [REDACTED] Para. [REDACTED] 9
¹³ [REDACTED] at [REDACTED] § [REDACTED] 3, [REDACTED] Para. [REDACTED] 11
¹⁴ [REDACTED] at [REDACTED] § [REDACTED] 3, [REDACTED]
¹⁵ [REDACTED] at [REDACTED] § [REDACTED] 1
¹⁶ [REDACTED] at [REDACTED] § [REDACTED]

III. THE DATE OF ISSUANCE FOR D.14-03-004 SHOULD BE SET AS APRIL 24, 2014

Public Utilities Code Section 1731(b)(3) defines “date of issuance” as follows: “For the purposes of this article, “date of issuance” means *the mailing or electronic transmission date* that is stamped on the official version of the order or decision.” (*Emphasis added*). The use of the phrase “for the purposes of this article” makes clear that Section 1731(b)(3) is intended to be read in the context of the other provisions of the article. Read in the context of the Section 1731(b)(2) requirement that official notice be provided to the parties in the form of mailing pursuant to Section 1731(b)(2)(A), or electronic transmission pursuant to Sections 1731(b)(2)(B) and 1731(b)(2)(C), it is clear that Section the “mailing or electronic date” referenced in Section 1731(b)(3) refers to the date that the Decision is mailed or electronically transmitted to the parties in conformity with Section 1731(b)(2). To interpret it otherwise would defeat the clear intent and the language of the service and date of issuance statutes, when read in harmony. It is in the public interest and consistent with the intent and language of Section 1731 to set the issuance date of D.14-03-004 as April 24th, the date that POC was served with notice of the Decision by the Commission.¹⁷

Further, POC moves that the Commission accept the attached Application for Rehearing of D.14-03-004. Pursuant to Pub. U. Code Section 1731 and Commission Rule of Practice and Procedure 16.1(a), POC may file an Application for Rehearing within 30 days after a Decision’s date of issuance. POC’s Application for Rehearing is thus submitted within 30 days of the Decision’s corrected issuance date and is timely filed.

Respectfully Submitted,

Dated: May 22, 2014

/S/
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¹⁷ [www.puc.ca.gov](#) at [www.puc.ca.gov](#) 3, [www.puc.ca.gov](#) Para. [www.puc.ca.gov](#)