



FILED
12-27-11
12:43 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local Procurement Obligations.

Rulemaking 11-10-023
(Filed October 20, 2011)

**PHASE 1 SCOPING MEMO AND RULING OF
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

This ruling determines this proceeding's scope, schedule, and need for hearing in accordance with Rule 7.3(a) of the Commission's Rules of Practice and Procedure (Rules).¹

Background

The October 20, 2011 Order Instituting Rulemaking (OIR) in this proceeding summarized the procedural and substantive background of this proceeding. The OIR also discussed potential issues to be addressed in this proceeding.

Scope of Phase 1 of the Proceeding

As directed by the OIR, parties filed comments on Phase 1 issues on November 7, 2011. Replies were filed on November 21, 2011. This Scoping Memo

¹ Rule 7.3(a) requires the assigned Commissioner to determine the scope and schedule of a proceeding.

addresses the scope of issues within Phase 1 of this proceeding. The issues with the scope of Phase 1 are as follows:

1. Review the yearly Local Capacity Requirements recommended by the California Independent System Operator

In recent years the California Independent System Operator (CAISO) has performed an annual Local Capacity Requirements (LCR) study. This study is used to adopt local Resource Adequacy (RA) procurement requirements for the next year (for this phase of the proceeding, starting in 2013). This study is submitted to the Commission in the annual RA proceeding, which is now this docket. The LCR study will be submitted approximately May 1, 2012. Parties will have the opportunity to comment on the LCR study. The Commission needs to vote out a decision on this matter by the end of June 2012 so that load-serving entities (LSEs) can have sufficient time to obtain the resources to meet their local RA procurement requirements for 2013.

2. Refinements to the Resource Adequacy program

The following sub-issues related to refinements of the RA program will be within the scope of Phase 1 of this proceeding:

a. Standard Capacity Product (SCP) implementation for demand response resources

In order for the SCP to be fully functional, it must be implemented for all resource types. In previous RA proceedings, we have adopted mandatory SCP availability and performance provisions for RA contracts with conventional thermal generators as well as intermittent resources. This phase of the SCP process will develop availability and performance provisions for demand response resources.

b. Maximum cumulative capacity (MCC) buckets for demand response resources

Phase 1 of this proceeding will consider a reevaluation of the MCC buckets to include demand response resources

as a supply resource, as well as other policy and implementation improvements to the MCC construct. The current MCC buckets were last evaluated in 2005, using data from 2003 through 2005. The shape of loads may have changed since then, necessitating a review of the percentages that have been used. In addition, the original MCC buckets were created to accommodate the existing types of energy contracts used at the time. Since the RA program was developed, the market has changed, and different contracts are used now. Now it is common to transact in RA capacity only, without energy. This means that different types of contracts may be common now, and it may be possible that the existing buckets can be rearranged, aggregated, or otherwise redistributed. Finally, Phase 1 will consider the impact of use limits arising from intermittent resources, hydro run limits, and emissions permits, and the correct placement of these resources within MCC buckets.

c. Adjustments to the RA coincidence adjustments

Currently, all RA obligations are computed partially with the use of a coincidence adjustment factor that is identical for all LSEs, regardless of type of customer profile that the LSE serves. It may be appropriate to modify this approach. While there was helpful discussion on this issue during RA workshops in 2011, there was not sufficient information on the record to make a decision on this issue. Phase I will provide an opportunity to develop a robust record on this topic.

d. Development of qualifying capacity (QC) rules for dynamically scheduled and pseudo-tie resources

Consistent with CAISO development of rules to transition resources to dynamic schedules and potentially add more pseudo tie resources, clarification of the QC rules for these types of resources will be more important. While many of the current dynamically scheduled resources are conventional fossil units, more intermittent

resources outside the CAISO may elect to become dynamically scheduled as a means to give the CAISO greater control of their operation. In Phase 1, we will develop a means to determine the QC of intermittent resources that is appropriate to their operation and use in CAISO markets.

- e. Allocation of Resource Adequacy credit for third-party demand response providers who participate in Reliability demand response programs

In previous RA proceedings, some parties have asked the Commission to determine for RA compliance purposes who “owns” and can sell the RA credit associated with third party demand response programs not directly funded or operated by the utilities. The Commission has traditionally viewed RA credit as belonging to the entity that is funding the development of the RA resource. In Phase 1, we will consider whether this approach is appropriate in the context of third party demand response programs.

- f. CAISO Flexible Capacity Procurement Requirement

Reports published by the CAISO have highlighted how added intermittent generation in the CAISO has created some additional operational challenges. The CAISO continues to study the type of resources and number of resources needed to manage the grid given the likely future of increased penetration of intermittent resources. In Phase 1, we will consider any recommendations from the CAISO regarding the type of resources needed to manage the grid, and how to provide such resources to the CAISO within the RA program.

- g. Update Resource Adequacy rules to account for differences in procurement due to the 33% Renewable Portfolio Standard requirement, the electrical system's operational needs, and related issues

Parties have identified several areas of overlap between the RA rules and procurement rules within the Commission's Long-term Procurement Planning (LTPP) proceeding and Renewables Portfolio Standard (RPS) proceeding. These issues, for example, relate to the value of RA, the cost-effectiveness of various options to procure RA, and modifications to RA rules to account for the electrical system's operational needs as renewable energy procurement increases. Parties have also stated that RA rules should be updated to address the CAISO's new partial deliverability option for generation projects.² We request more detailed comment on which issues should be addressed in the near term and which can be addressed in the longer-term. For nearer-term matters, provide detailed implementation proposals. For longer-term issues, discuss the coordination and analysis necessary for them to be resolved. In addition, since the resolution of some matters may require decisions in other proceedings, please explain what determinations fit in this proceeding and in other proceedings.

- h. Staff implementation proposals

Energy Division staff will prepare and issue a staff proposal to improve implementation of the RA Program, and issue this proposal to parties on January 13, 2012.

² See CAISO Tariff, Section 40.4.6.
<http://www.aiso.com/Documents/Sections36-44-FifthReplacementCAISOTariff.pdf>

Energy Division's proposal will include, at minimum, the following topics:

- QC rules for dynamically scheduled or pseudo tie resources
- Revisions to the MCC bucket percentages and some policy changes to refine and clarify additional policies
- Changes to the rounding convention as adopted in Decision (D.) 07-06-029

These proposals will be generated by Energy Division staff in order to promote discussion of these topics at the scheduled workshops and allow subsequent comment by parties as per the schedule below.

Workshop issues and opportunity to comment

Energy Division will be holding workshops on RA requirements during Phase 1 of this proceeding in order to assist parties in clarifying issues and narrowing differences. Parties will be able to discuss proposals by parties ahead of the workshops, as well as Energy Division proposals. Summaries of these workshops will be transcribed and included in the record of the proceeding. Energy Division will also provide a summary of the workshop discussions to parties. Parties will have subsequent opportunities to comment on workshop discussions and refine their proposals. The schedule below lays out the specific dates for each of these activities.

To the extent that parties reach agreement on any issues not listed as within the scope of Phase 1, parties may file a Motion to include such agreement within the Phase 1 decision. Parties may file a Motion if a settlement is reached on additional issues. Any such Motion must be filed by May 17, 2012, which is the date opening comments are due on the CAISO's filed LCR study. However, because of the time constraint created by the necessity for the Commission to

resolve Phase 1 by June 2012, any such Motion will not be considered within the Phase 1 decision if there is any opposition to the Motion.

Anticipated Issues for Phase 2

We anticipate the following issues will be considered in Phase 2 of this proceeding. A Phase 2 Scoping Memo will be issued in late 2012.

1. Review the yearly Local Capacity Requirements recommended by the CAISO for 2014;
2. Determination of RA rules for generation interconnected at the distribution level;
3. RA rules for resources which provide flexible grid attributes, such as energy storage devices; and
4. Preparation and review of new studies of the effective load carrying capacity of wind and solar resources on California.

Need for Evidentiary Hearings

The OIR stated that the issues may be resolved through comments and workshops without the need for evidentiary hearings. At this time we do not foresee that evidentiary hearings are required to resolve Phase 1. This Ruling confirms the preliminary determination in the OIR that issues in Phase 1 of this proceeding may be resolved through a series of workshops and filed comments. It is incumbent upon any party arguing for evidentiary hearings to file a motion no later than March 7, 2012, that identifies specifically any disputed material issues of fact that the party asserts require evidentiary hearings.

Procedural Schedule

The schedule below is adopted, subject to modification by the assigned Commissioner or Administrative Law Judge (ALJ).

Phase 1 Schedule

October 20, 2011	OIR issued by Commission
January 13, 2012	Parties file proposals on Phase 1 issues; Energy Division issues staff proposals on Phase 1 issues
January 26 and 27, 2012	Energy Division workshops (summaries to be transcribed). Agenda to be provided by Energy Division in advance.
January 2012*	LCR base cases submitted to California Independent System Operator (CAISO) by participating transmission owners
January, 2012*	CAISO publishes LCR base cases
January 2012*	Stakeholders submit comments on LCR base cases to CAISO
February 22, 2012	Energy Division workshop report
March 7, 2012	Parties file comments based on Energy Division workshop report, except for LCR study issues. Deadline for requesting evidentiary hearing.
March 21, 2012	Parties file reply comments based on Energy Division workshop report, except for LCR study issues
March 2012*	CAISO publishes preliminary LCR study results and solicits operating procedures
March 2012	2011 Year in Review RA Report issued by Energy Division
April 2012*	CAISO publishes draft 2013 LCR report
April 2012*	Stakeholder comments on draft LCR report submitted to CAISO
May 2012*	CAISO publishes final 2013 LCR Report
May 7, 2012	Comments on final 2013 LCR Report filed with Commission
May 14, 2012	Reply comments on final 2013 LCR Report filed with Commission
May 2012	Proposed decision issued by ALJ
June 2012	Comments on proposed decision filed with Commission
June 2012	Reply comments on proposed decision filed with Commission
June, 2012	Final Decision on Phase 1 issues issued by Commission
*Note: Dates for those components of the LCR study and review process that are administered by the CAISO will be determined by the CAISO in consultation with the Commission's Energy Division.	

We anticipate Phase 1 will be resolved as set forth above. It is possible that issues other than the LCR will be resolved after June, 2012. In any event, we anticipate that Phase 1 of this proceeding will be resolved within 18 months of the date of the issuance of this Scoping Memo pursuant to Public Utilities Code Sections 1701.5.

Alternative Dispute Resolution

The Commission strongly encourages all parties to every proceeding to consider whether a means other than litigation can more efficiently and effectively resolve the matter. As set forth in the schedule herein, workshops are scheduled to narrow issues in dispute and to work toward consensus. Issues which are not resolved in the workshop process may be able to be resolved or narrowed through an alternative dispute resolution process.

The Administrative Law Judge Division has ALJs trained in all Alternative Dispute Resolution techniques, as well as extensive subject matter experience, available to assist parties in resolving disputes. Requests for appointment of an ALJ to assist with Alternative Dispute Resolution should be made to ALJ Jean Vieth (xjv@cpuc.ca.gov).

Categorization

This Phase 1 Scoping Memo confirms the preliminary determination in Rulemaking 11-10-023 that this proceeding is “ratesetting,” as defined by Rule 1.3(e).

Presiding Officer

The assigned ALJ is David M. Gamson, who will act as the presiding officer in this proceeding.

Ex Parte Communications

In accordance with Rule 8.2, *ex parte* communications in this ratesetting proceeding are allowed subject to the reporting requirements in Rule 8.3 and the restrictions in Rule 8.2.

IT IS HEREBY RULED that:

1. Evidentiary hearings are not needed for Phase 1 of this proceeding, subject to a Motion filed according to the schedule adopted by this Ruling.
2. Workshops are scheduled on January 26 and January 27, 2012 from 9:30 am to 4:30 pm at the Commission Offices at 505 Van Ness Avenue, San Francisco, CA. Summaries of these workshops shall be transcribed and placed in the record of this proceeding
3. The scope of Phase 1 of this proceeding is as stated herein.
4. The schedule for the Phase 1 of this proceeding is as stated herein.
5. Administrative Law Judge David M. Gamson shall be the presiding officer in this proceeding.
6. The preliminary determination in Rulemaking 11-10-023 that this proceeding is categorized as ratesetting is confirmed.
7. Attachment A is adopted as the current list of respondents for this proceeding.

Dated December 27, 2011, at San Francisco, California.

 /s/ MARK J FERRON
Mark J Ferron
Assigned Commissioner

 /s/ DAVID M. GAMSON
David M. Gamson
Administrative Law Judge

ATTACHMENT A

Load-Serving Entities as Defined in Public Utilities Code Section 380(j)

Electrical Corporations

Gloria Britton
Regulatory Affairs Manager
Anza Electric Co-Operative, Inc. (909)
58470 Highway 371
Anza, CA 92539-1909
gloriab@anzaelectric.org

Wayne Amer
President
Mountain Utilities (906)
P.O. Box 205
Kirkwood, CA 95646
wamer@kirkwood.com

Brian Cherry
Director, Regulatory Relations
Pacific Gas and Electric Company (39)
P.O. Box 770000, B10C
San Francisco, CA 94177
bkc7@pge.com

Cathie Allen
Director Regulatory Affairs
PacifiCorp (901)
825 NE Multnomah, Suite 300
Portland, OR 97232
cathie.allen@pacificorp.com

Robert Marshall, General Manager
Plumas Sierra Rural Electric Coop. (908)
73233 State Route 70
Portola, CA 96122
bmarshall@psrec.coop

Steve Rahon
Director, Tariff & Regulatory Accounts
San Diego Gas & Electric Company (902)
8330 Century Park Court, CP32C
San Diego, CA 92123-1548
SRahon@SempraUtilities.com

NV Energy/Sierra Pacific Power Company (903)
c/o Andy Brown
Ellison, Schneider & Harris, LLP
2600 Capital Avenue, Suite 400
Sacramento, CA 95816-5931
abb@eslawfirm.com

Akbar Jazayeyri (338)
Director of Revenue & Tariffs
Southern California Edison Company
P.O. Box 800
2241 Walnut Grove Avenue
Rosemead, CA 91770
akbar.jazayeri@sce.com

Ronald Moore (133)
Golden State Water Company/Bear Valley Electric
630 East Foothill Blvd.
San Dimas, CA 91773
rkmoore@scwater.com

Daniel Silveria
General Manager
Surprise Valley Electric Corporation (926)
P.O. Box 691
Alturas, CA 96101
Dansvec@Hdo.Net

Brian Fickett (928)
Valley Electric Association
800 E. Hwy 372
Pahrump, NV 89048

Brianf@Vea.Coop

Electric Service Providers

Inger Goodman
Commerce Energy, Inc. (1092)
575 Anton Boulevard, Suite 650
Costa Mesa, CA 92626
igoodman@commerceenergy.com

Andrea Morrison
Market Development Regional Director
Direct Energy Services, LLC (1341)
415 Dixon Street
Arroyo Grande, CA 93420
andrea.morrison@directenergy.com

Katherine Krause
Director of Wholesale Compliance, U.S.
Direct Energy Business (1351)
12 Greenway Plaza Ste. 600
Houston, TX Carlsbad, CA 77046
Katherine.Krause@directenergy.com

Andrew B. Brown
Constellation NewEnergy, Inc. (1359)
Ellison, Schneider & Harris, L.L.P.
2600 Capital Avenue, Ste. 400
Sacramento, CA 95816
abb@eslawfirm.com

Eric Osborn
Calpine PowerAmerica-CA, LLC (1362)
717 Texas Avenue, Ste 100
Houston, TX 77002
CPACC@calpine.com

Greg Bass
Sempra Energy Solutions (1364)
401 West A Street, Suite 500

R.11-10-023 FER/DMG/acr

San Diego, CA 92101-3017
Gbass@semprasolutions.com

Thomas Darton
Pilot Power Group, Inc. (1365)
8910 University Center Lane, Suite 520
San Diego, CA 92122
tdarton@pilotpowergroup.com

Rick C. Noger
Praxair Plainfield, Inc. (1370)
2711 Centerville Road, Suite 400
Wilmington, DE 19808
rick_noger@praxair.com

Jenny Zyak
Liberty Power Holdings LLC (1371)
1901 W. Cypress Creek Road, Suite 600
Fort Lauderdale, FL 33309
jzyak@libertypowercorp.com

Jenny Zyak
Liberty Power Delaware LLC (1372)
1901 W. Cypress Creek Road, Suite 600
Fort Lauderdale, FL 33309
jzak@libertypowercorp.com

Michael Mazur
3 Phases Electrical Consulting (1373)
2100 Sepulveda Blvd., Suite 37
Manhattan Beach, CA 90266
energy@3phasesrenewables.com

Marcie Milner
Shell Energy (1374)
4445 Eastgate Mall, Suite 100
San Diego, CA 92121
marcie.Milner@shell.com

William Lyons
Tiger Natural Gas (1376)
9450 Grogans Mill, Suite 105
The Woodlands, TX 77380
blyons@tigernaturalgas.com

Andrew Luszcz
Glacial Energy of California (1377)
5326 Yacht Haven Grande Box 36
St. Thomas VI 00802
Andrew.luszcz@glacialenergy.com

Patrick VanBeek
Commercial Energy of California (1378)
7677 Oakport Street, Ste. 525
Oakland, CA 94621
patrick.vanbeek@commercialenergy.net

John Casadont
General Counsel
Blue Star Energy (1379)
363 West Erie St. Suite 700
Chicago, IL 60654
jcasadont@bluestarenergy.com

Any electric service provider that, subsequent to the date of the order instituting this rulemaking, becomes registered to provide services within the service territory of one or more of the respondent electrical corporations through direct access transactions shall, upon such registration, become a respondent to this proceeding. Any electric service provider respondent whose registration is cancelled during the course of this proceeding shall, upon confirmation of such cancellation by the Energy Division, cease to be a respondent to this proceeding.

Community Choice Aggregators

Dawn Weisz
Interim Executive Director
Marin Energy Authority
3100 Zinfandel Drive, Suite 600
Rancho Cordova, CA 95670
dweisz@co.marin.ca.us

David Orth
San Joaquin Valley Power Authority
Administrative Offices at Kings River Conservation District
4886 East Jensen Avenue
Fresno, CA 93725
dorth@krcd.org

Mike Campbell
Community Choice Aggregation Director
City and County of San Francisco
1155 Market Street, 4th Floor
San Francisco, CA 94103
mcampbell@sfwater.org

Any community choice aggregator that, subsequent to the date of the order instituting this rulemaking, files an implementation plan or becomes registered to provide services within the service territory of one or more of the respondent electrical corporations through community choice aggregation transactions shall, upon such filing or registration, become a respondent to this proceeding. Any community choice aggregator respondent that withdraws its implementation plan or whose registration is cancelled during the course of this proceeding shall, upon confirmation of such withdrawal or cancellation by the Energy Division, cease to be a respondent to this proceeding.

(END OF ATTACHMENT A)