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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission's Resource Adequacy Requirements Program.

Rulemaking 05-12-013
(Filed December 15, 2005)

**ASSIGNED COMMISSIONER'S RULING
AND SCOPING MEMO FOR PHASE 2**

1. Summary and Notice of Workshop

This ruling and scoping memo determines the issues to be considered in Phase 2 of the resource adequacy (RA) proceeding, taking into account the record of the Phase 2 prehearing conference (PHC) as well as 24 sets of post-PHC comments that were filed by parties and party coalitions. It also addresses the procedures, including workshop and comment opportunities, as well as the timetable for Phase 2. Additional workshops, hearings, and/or opportunities for comment may be set by the Administrative Law Judge (ALJ) during the course of the proceeding as appropriate. This ruling and scoping memo updates and in certain instances supersedes the ruling and scoping memo issued on March 1, 2006 (Phase 1 Scoping Memo).

NOTICE IS HEREBY GIVEN that workshops to address "Track 1 issues" as defined in this ruling are set for Thursday, February 8; Wednesday, February 21; Thursday, February 22, 2007; and Thursday, March 1, 2007, at 10:00 a.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

2. Scope of Phase 2: Issues and Sequence of Consideration

The attachment to the August 18, 2006 *Administrative Law Judge's Ruling Regarding Phase 2* (August Proposal) put forward for consideration and comment a discussion of potential Phase 2 topics. That discussion, prepared by advisory staff, was drawn from prior RA decisions, the Order Instituting Rulemaking (OIR), the Phase 1 Scoping Memo, and staff's experience with the operation of the RA program to date. The August Proposal suggested that a total of 26 topics be taken up in separate procedural tracks leading to four Commission decisions over the next 18 months.

The general approach of establishing separate procedural tracks that lead to a series of decisions over the next year is largely unopposed provided that concerns about the challenges of having such tracks run in parallel are adequately addressed. On the other hand, there are numerous requests to revise the sequencing of the various topics as well as their priorities. In the following discussion, I address the major themes in the parties' comments and then list the topics to be addressed in Phase 2, organized by three separate tracks. In the interests of procedural efficiency, I have determined that some of the 26 topics listed in the August Proposal, while generally worthy of future consideration, do not require resolution at this time and therefore should not be taken up in Phase 2. As one example, I have determined that development of a general order on RA should await further development of the RA program, and therefore be deferred to a future proceeding.

2.1. Expedited Track Targeting an Early 2007 Decision

The August Proposal suggested fast-track consideration of two topics whose resolution was perceived to be potentially critical for successful

implementation of the RA program for 2007. The proposal anticipated the use of expedited proceedings leading to the issuance of a Commission decision in January 2007. The first of these topics – updating RA requirements beginning with the 2007 compliance year to reflect any change in load forecasts that might be adopted by the California Energy Commission (CEC) – was the subject of widespread opposition. A primary concern was that it would be unworkable and unfair to load-serving entities (LSEs) to revise, after the fact, RA procurement obligations that have already been established for 2007.

The underlying concern about the extended timeline of issuing final load forecasts¹ that the Commission now uses to establish the LSEs' annual RA procurement obligations remains at issue. Nevertheless, I am persuaded that the Commission should not pursue an expedited process whose objective is to adjust the RA procurement obligations that have already been established for 2007. Improved coordination of the RA program and the CEC's load forecasting processes is instead an issue to be considered in the normal course of the proceeding, and possibly refined as appropriate in the implementation of the program. Any potential modification to the RA program that might be adopted would not be applicable to the RA program sooner than 2008.

The second topic for which the August Proposal suggested fast-track consideration is confidentiality. At this time, it appears that issues related to the confidentiality of data submitted by LSEs pursuant to this proceeding (as well as

¹ The extended timeline for developing load forecasts used in the RA program begins with filing of preliminary LSE load forecasts. It includes a comparison of aggregations of LSEs' forecasts with the CEC forecasts, and leads to final adjusted LSE load forecasts issued by the CEC that are used to establish LSEs' RA procurement obligations.

ongoing operation of the RA program) have been or will be resolved by a combination of Commission decisions in Rulemaking 05-06-040 and ALJ rulings in this proceeding.

I hereby determine that an expedited procedural track leading to an early 2007 Commission decision on load forecast coordination issues and confidentiality is not necessary and will not be adopted.

2.2. Local RA Requirements (Track 1)

Decision (D.) 06-06-064 took an important step towards carrying out the Commission's policy, adopted in D.05-10-042, to establish a local RA program component beginning with the 2007 procurement year. Because of the necessary lead time between issuance of the Local RA decision and the LSEs' compliance filings, that decision was targeted for issuance in June 2006. The Commission recognized, however, that the expedited workshop and comment process leading to D.06-06-064 left certain issues unresolved. It therefore adopted an interim Local RA program for 2007 only with the express intention of addressing these matters further before adopting a more durable Local RA program for 2008 and beyond.² In order to carry out explicit Commission directives, consideration

² "We find that it is reasonable to implement Local RAR for 2007 using the record before us, and, for 2008 and beyond, to address the remaining questions about Local RAR in Phase 2 of this proceeding." (D.06-06-064, p. 12.) Among the unresolved Local RAR issues identified in that decision are the following: (a) modifications and refinements to the local capacity requirements (LCR) study process; (b) whether to aggregate local areas as a market power mitigation measure, as was done for 2007; and (c) coordination of the RA program with the California Independent System Operator's (CAISO) Reliability Must-Run (RMR) process. (*Id.*, p. 3.) The Commission also stated its intention to address whether to allow a blanket waiver for generation deficiencies identified by the CAISO (*id.*, p. 22) and whether to continue use of 1-in-10 load forecasts to calculate LCRs (*id.*, p. 23). In addition, the Commission stated its willingness to

Footnote continued on next page

of the Local RA program issues that were left unresolved in Phase 1 is an important task for Phase 2 of this proceeding. Moreover, due to the timing concerns similar to those noted above, the Commission should issue a decision by June 2007 that defines the Local RA program for 2008 and beyond.

Some parties have suggested that the Local RA program to be adopted for 2008 and beyond can be developed by simply extending the 2007 program without further modification. This approach would presumably enable the Commission to have narrowly defined proceedings on Local RA issues that require little time or resources. In general, these are parties who do not want to see rapid progress towards establishment of a centralized capacity market thwarted by devoting significant time in Phase 2 to further development of the Local RA program.

I will not limit the consideration of Local RAR issues to this suggested approach as it would contravene Commission directives, set forth in D.06-06-064, to further explore certain unresolved Local RA issues. Also, as discussed below, full consideration of a centralized capacity market for California (along with alternative approaches) is a complex undertaking that requires careful consideration. It is not reasonable to constrain such consideration to a narrow window of just a few months, and I decline to do so. Thus, limiting the time and effort devoted to establishing a Local RAR program for 2008 and beyond is not

further consider the appropriate reliability option (*id.*, p. 21) and the use of effectiveness factors (*id.*, p. 57). Finally, the Commission indicated its willingness to explore whether the annual determination of LCRs that define local procurement obligations can be transformed into a ministerial process for 2009 and beyond (*id.*, p. 32) and to explore whether objective criteria for waiver requests and other refinements to the waiver process can be developed and implemented (*id.*, p. 74).

likely to enable accelerated resolution of market structure issues. It appears reasonable to continue progress towards consideration of broad market structure issues and long-term RA program improvements over the next year, while near-term focus is given to firming up the Local RA program as directed by the Commission in D.06-06-064. That is the approach I intend to pursue. The adopted Phase 2 schedule therefore starts the process of developing the record for consideration of market structure issues and other long-term RA questions while the Commission also carries out its intention to further refine the Local RA program beginning with the 2008 compliance period.

D.06-06-064 created 2007 local capacity requirements for jurisdictional LSEs by modifying the CAISO's 2007 LCR study results to segregate jurisdictional requirements from non-jurisdictional requirements using load shares developed by the CEC. The CAISO may now be contemplating one or more approaches to establishing local capacity requirements for non-jurisdictional entities within its control area. Two parallel sets of obligations may now emerge from a single LCR study. This example illustrates how Commission and CAISO programs need to be closely coordinated in establishing local capacity requirements for 2008 and beyond.

D.06-06-064 adopted a yearly Local RA obligation and declined to adopt a monthly compliance filing schedule for Local RA. (D.06-06-064, p. 42.) Parties representing electric service providers propose that the Commission revisit this determination and provide for monthly compliance filings that would allow LSEs to adjust their procurement obligations to reflect load migration while the aggregate Local RA obligation would remain constant for the whole year. Although the Commission did not explicitly provide for further consideration of this topic (as it did for various other topics that pertain to Local RA; see

Footnote 2, *supra*), I find that it is reasonable to receive proposals for a monthly compliance filing process for Local RA whereby LSEs would be permitted or required to reflect load migration impacts in their filings.

D.06-06-064 noted that using a probabilistic approach to the LCR study process rather than the deterministic approach now used could lead to more economically efficient decisions regarding the capacity that LSEs must procure at any particular location. However, the Commission also recognized the complexity of conducting a probabilistic LCR analysis. With this in mind, it asked the CAISO and interested parties to take all reasonable steps to implement a probabilistic approach as soon as practicable. (D.06-06-064, p. 29.) The post-PHC comments reveal divergent viewpoints on the priority of this topic. I am persuaded that it is not reasonable to direct the use of a probabilistic approach in LCR studies in the near term, but at the same time this issue should not languish indefinitely. Accordingly, I will provide that the June 2007 decision on Local RA topics should address proposals for future LCR study design and implementation that include provision for moving towards a probabilistic approach that is linked to the CAISO's grid planning process. I understand that one of the first steps towards moving to probabilistic approach is the establishment of data gathering procedures. As the Commission indicated in D.06-06-064, the CAISO will need to take a lead role in moving to a probabilistic approach for future LCR studies. However, the Commission is interested in maintaining an active role in supporting the CAISO's attempt to move in that direction. I therefore ask that the CAISO include with its 2008 LCR study report (a) a discussion of how probabilistic analysis can be incorporated into future LCR studies, (b) its recommendations on the steps it should take on this topic, and

(c) its recommendations as to the actions this Commission should take on this topic.

2.3. Other Near-Term RA Program Refinements (Track 1)

The policies and protocols for defining LSE procurement obligations, determining how resources count towards meeting those obligations, and establishing how LSEs demonstrate compliance have already been addressed, and largely resolved, in a series of decisions that date back to the issuance of D.04-10-035 in October 2004. Thus, since the general framework of the RA program has largely been settled, it should not be necessary to undertake a major effort to revise the System RA program in the near term. Moreover, as discussed above, completing the task of defining the Local RA program is a primary focus of the first track of Phase 2. However, the comments reveal significant interest in addressing a few RA matters at this time, and it appears that some program refinements are warranted. Also, prior decisions have determined that certain topics, such as Zonal RAR, warrant consideration now. Further, recent legislation, described below, requires that we allow physical generation capacity associated with procurement from public water and wastewater agencies to count for RA purposes. While several of the 26 topics that were listed in the August Proposal can and should be deferred at this time, I hereby determine that the following topics are within the scope of Phase 2 and should be targeted for decision in June 2007 along with the Local RA issues described above.

Zonal RAR. D.06-06-064 confirmed (at pp. 31-32) the Commission's intention to explore whether and how to establish zonal capacity procurement obligations in this proceeding. In light of ongoing reliability concerns that have been articulated by the CAISO, I am persuaded that this topic is appropriately

taken up in the first track of Phase 2. The CAISO has previously advocated for creation of a zonal procurement obligation to supplement system and local requirements. The CAISO provided an overview of its methodology for determining Zonal RA in its most recent LCR study. (See 2007 Local Capacity Technical Analysis Report and Study Results, April 21, 2006, pp. 17-19, available at <http://www.caiso.com/17e2/17e2851b23400.pdf>.) In that study, CAISO provided an estimate of zonal capacity requirements for 2007 of 22,178 MW in SP 26 and 19,830 MW in NP 26 (*id.*, p. 65). In order to consider a Zonal RA requirement as a feature of the Commission's RA program, the Commission needs information about zonal methodology, a sample of the zonal requirements as calculated by the CAISO, and proposals on how the Commission would translate the zonal requirement into a new Zonal RA program for Commission-jurisdictional LSEs.

For this proceeding, the CAISO and other parties should provide specific Zonal RA proposals that go beyond broad methodology. These proposals should (1) specifically describe how requirements would be computed for 2008 and future years; (2) calculate what the zonal requirements are in MWs by zone for 2008 (by zone, by month or season, and for future years if possible); (3) address how responsibilities for Zonal RA requirement would be segregated between Commission-jurisdictional LSEs and non-CPUC jurisdictional entities; (4) address how the Commission-jurisdictional Zonal RARs would be allocated to LSEs; and (5) address how LSEs would demonstrate compliance with a Zonal RAR. Parties should also consider and address whether the CAISO's zonal needs necessarily require a Commission-imposed Zonal RAR, analogous to System RAR and Local RAR, or whether the CAISO's zonal needs can be satisfied through an alternative structure.

Demand Response (DR) Impacts and DR Dispatch. There appears to be a need to address how DR programs should count for Local RAR for 2008 and beyond, as well as issues of DR program dispatch by the CAISO and/or investor-owned utilities that may affect the RA counting of DR generally. If there are any DR counting changes that need to be made for 2008 and beyond (Local RA or System RA), they should be addressed in this portion of the proceeding.

However, the method of allocating DR capacity for System RA purposes has already been decided; *i.e.*, DR programs are allocated by load ratio share to LSEs. Although some parties would like to revisit the issue of allocating DR for System RA compliance, reconsideration of this topic could unduly interfere with consideration of higher priority matters. I therefore determine that it is not within the scope of the proceeding.

CEC Load Forecast Coordination. As noted above, I have determined that establishing an expedited process leading to potential revision of 2007 RA procurement obligations based on any updated CEC load forecast should not be adopted. I will, however, allow proposals in Track 1 for improved coordination of the RA program and the CEC load forecasting process, beginning after the 2007 compliance year.

Backstop Procurement. Although it is the Commission's long-term policy objective that use of the Reliability Must Run (RMR) process should be minimized, D.06-06-064 acknowledged that this process would remain in place as a backstop reliability mechanism for 2007. (D.06-06-064, p. 47.) The Commission determined that for 2007, RMR contracts should count for RA purposes to avoid potentially unnecessary and costly over-procurement. (*Id.*)

The decision then set forth a detailed process and schedule for coordinating the RA program for 2007 with the RMR process. (*Id.*, pp. 47-53.)

While it is not yet clear what backstop mechanism or authority will be in place for 2008 and 2009, coordination of the RA program for 2008 and possibly beyond with any backstop procurement mechanism that may be in place warrants consideration in Track 1. The Commission may need to make decisions in light of the uncertain future of RMR procurement, the yet-to-be determined features of the Reliability Capacity Services Tariff (RCST), and any successor backstop mechanisms that may arise upon implementation of the CAISO's Market Redesign and Technology Update (MRTU).

As noted in D.06-06-064, there were major coordination and timing issues between the Local RA program and the RMR designation process for 2007. The Commission expects that the RCST settlement may provide an alternative backstop authority until the earlier of MRTU implementation or December 31, 2007. There is a need to carefully consider how RMR will be phased out in conjunction with the RA program requirements, and the applicability of the RCST settlement as it is developed in FERC proceedings. At this point, the RCST Settlement was only partially approved by the FERC order dated July 20, 2006, and RMR continues into 2007. The Commission needs to consider the extent to which it expects RMR continues into 2008 and/or how and if the CAISO is able to replacement RMR with some other form of backstop, how will this development require coordination between CAISO decisions and the Commission's RA program. In addition, the Commission will have gained some experience from the 2007 RA compliance and RMR coordination process that may lead to further recommendations of how the two should be coordinated.

Since a primary purpose of the RA program is to ensure that new capacity needed for reliability is developed if the market alone does not provide that capacity, the Commission may want to consider whether a new capacity backstop attribute or mechanism is a desirable addition to the RA program.

Assembly Bill 1969. This recent legislation, approved by the Governor on September 29, 2006 (Stats. 2006, Chapter 731), requires electrical corporations to file tariffs providing for the purchase of renewable power from public water and wastewater treatment agencies. AB 1969 adds Section 399.20 to the Public Utilities Code to define and establish this requirement. Section 399.20(g) provides that the physical generating capacity of an electric generation facility, as defined, shall count towards the electrical corporation's resource adequacy requirement for purposes of Section 380. Since the methodology to calculate the qualifying capacity for new facilities is already determined by prior RA decisions, it is not clear that the Commission needs to take any further action at this time for RA purposes.³ Nevertheless, provision will be made for consideration of this topic. Any party that believes there are implementation issues related to AB 1969 that need to be addressed by the Commission through modification of the RA program should put forward its proposal for such modification in accordance with the schedule for Track 1 proposals set forth below.

Minor Implementation Issues. It is possible that certain minor, desirable, and non-controversial modifications to the RA program rules can be identified and implemented in the June 2007 decision. For example, there may be some

³ The Commission may address other aspects of this legislation in other forums.

issues related to the implementation of the RA program that can be readily addressed through an Energy Division proposal and subsequent workshop. At this time Energy Division has preliminarily identified the following topics as candidates for such consideration: (1) changing from monthly to quarterly load forecast adjustments, (2) changing from annual to quarterly reporting of historic load, (3) minor changes to the 2007 Monthly RA Filing Template and Guide, (4) monthly qualifying capacity (QC) values for all resources, and (5) QC methodology for new resources. Also, while this ruling designates coordination of the RA program and the CAISO's MRTU as a Track 2 topic, it may be appropriate to consider in Track 1 any near-term coordination issues that require resolution for the 2008 compliance year.

The Energy Division may identify proposals on other such minor/non-controversial issues and present these proposals as part of the Track 1 workshop process. The Assigned Commissioner or ALJ may limit this process or call it to a halt if it appears that unforeseen controversy arises that could cause undue delay or disruption to Track 1.

2.4. Long-Term RA Program Development Including Market Design Proposals (Track 2)

I recognize that there is keen interest among many parties in considering and adopting a central capacity market approach to achieve RA program objectives as soon as possible. I further recognize that this topic has been raised and discussed for more than two years, and it is reasonable to have a plan in place for achieving closure on it. At the same time, however, it is apparent that this is a controversial matter that deserves very careful consideration.

Notwithstanding the promise that many parties believe that a centralized capacity market holds for achieving RA objectives, we must bear in mind that

California has had an extremely unfortunate and costly experience with electric market design mistakes. It is critical that a repeat of any such mistakes be avoided. In considering a centralized capacity market and alternative approaches to achieving long-term RA goals, we must learn from our own experience and the experience of market performance elsewhere, particularly in the eastern United States where capacity market approaches have been employed.

This means that great care must be taken in developing a complete, fully vetted record on centralized capacity markets and alternatives such as bilateral trading, as well as the related RA program issues that have been identified (including registration/tagging, multi-year forward commitments, and coordination of the RA program with the CAISO's MRTU process). This in turn means that adequate time must be provided to develop the record. While this can and should be accomplished over the next 12 to 14 months, it clearly cannot be done in the next six months. I will therefore establish a second procedural track for long-term RA program issues, including market structure issues. To state the obvious, parties should recognize that this means that something like the existing RA program will be in place through the end of 2008, and perhaps 2009. They should be making business decisions in light of compliance with something closely resembling current RA requirements through this period.

In addition to proposals for a centralized capacity market structure, bilateral trading, and alternative market structure approaches, Track 2 is designated to address several important and related RA program development issues that have been identified by the Commission. These include registration and tagging of RA capacity, coordination of the RA program with the CAISO's MRTU, multi-year forward commitments for RA, consideration of updating the

15-17% planning reserve margin, market power mitigation, LSE “opt-outs” from the cost allocation mechanism established pursuant to D.06-07-029, and potential expansion of RA obligations to address the CAISO’s need for a mix of generation services.⁴

The ALJ, in consultation with the undersigned, may provide further guidance regarding the scope of Track 2 issues to be considered.

2.5. Full Implementation of AB 380 (Track 3)

The RA program framework adopted in D.04-01-050 and implemented in a series of decisions since then is currently limited to the three largest California investor-owned utilities and the electric service providers and community choice aggregators that serve in the service territories of these utilities. In order to carry out the legislative mandate of AB 380 that it establish RAR for all LSEs, this Commission must design and adopt an RA program for all electrical corporations that serve retail (end-use) customers. This includes small and multi-jurisdictional utilities and electrical cooperatives.

Some of these entities are fully within the CAISO control area, and some may be comparable in size to several electric service providers that are already

⁴ See D.06-06-064, p. 74. The CAISO has expressed concern that the mix of resources provided by RA may not satisfy all reliability concerns. The CAISO has specifically identified the need for quick-start units that can be committed and dispatched in real time to satisfy contingencies. While quick-start units are included in the mix of RA resources, the RA program is not currently designed to ensure a sufficient amount of such resources is available at any specific time. Similarly, the CAISO entered into RMR contracts with some resources for 2007 in order to ensure procurement of specific ancillary services (*e.g.*, black-start and voltage support). A review of the resource mix provided by the RA program and any need for changes in the program rules to ensure that the mix adequately addresses operational needs will be undertaken in Track 2.

within our RA program. Others are multi-jurisdictional utilities whose California customers are part of larger control areas operated pursuant to broader regional considerations. One of the important questions to be explored in Track 3 is whether, and if so to what extent, any of these entities (or categories of such entities) should be subject to RA program requirements that are different from those that have been adopted to date.

Some of the issues associated with the design and implementation of an RA program for these LSEs appear to be somewhat distinct from those considered in Tracks 1 and 2. A third track is therefore established for this purpose. The adopted schedule provides for convergence of Tracks 2 and 3 in a single decision approximately 13 months from today.

A coalition of small and multi-jurisdictional LSEs filed comments indicating their willingness to work informally with the Energy Division in formulating appropriate RA program elements that take into account the needs and operating circumstances of these LSEs. I appreciate this offer and direct staff to pursue such collaboration well in advance of the date for proposals in the schedule set forth below.

2.6. Summary-Scope of Phase 2

The following table presents a summary of the issues to be addressed in Phase 2 and the sequence of their consideration by tracks. The description of Phase 2 issues in the table uses shorthand language for presentation purposes. In the event of any conflict between the table and the foregoing discussion, the discussion shall be determinative.

PHASE 2 ISSUES

TRACK 1: Near-Term RA Program Issues (for 2008 and 2009)
a. Local RA, including the following (see Footnote 2 of this Scoping Memo for a more complete description of the issues that D.06-06-064 reserved for future consideration): (i) Local RA based on CAISO 2008 LCR (ii) Review LCR study methodology (iii) Changes to Local RA program implementation, including monthly compliance filings
b. Probabilistic LCR assessment linked to grid planning process
c. Zonal RA Requirements
d. DR program impacts and dispatch
e. Coordination of the RA program with the CEC’s load forecasting processes, including whether to allow for or require changes to RAR if the CEC load forecast changes
f. Coordination of RA program and backstop mechanism
g. Implementation of AB 1969 for RA purposes (public water and wastewater facilities)
h. Minor implementation topics
TRACK 2: Long-Term RA Program Issues
a. Centralized capacity market, bilateral trading, and alternative market design
b. Registration/tagging for RA capacity
c. Multi-year forward commitment time horizons
d. LSE opt-out from cost allocation mechanism (D.06-07-029)
e. Coordination of RA program with MRTU as necessary
f. Procurement obligations for resource mix and ancillary services
g. Market power mitigation
h. Planning Reserve Margin
TRACK 3: Full Implementation of AB 380

RA requirements for small and multi-jurisdictional LSEs

3. Development of the Phase 2 Record

Parties' Proposals. The schedule set forth in the following section provides for the filing of proposals for each of the three tracks. This process starts with the filing of Track 1 proposals approximately one month from the date of this ruling. Proposals should of course be limited to the issues identified in this scoping memo. Because of the importance of developing a complete record on the market structure issues to be addressed in Track 2, advisory staff is preparing further guidance on the structure and content of Track 2 proposals that parties are to file. This guidance will be issued pursuant to an ALJ ruling according to the schedule set forth below.

Staff Reports. Energy Division and advisory staff, in consultation with representatives of the CEC and the CAISO, are preparing a study on the results of the initial months of operation of the RA program. The staff intends to issue a report on this study by the end of January 2007. This report may be instrumental in developing the record, particularly for Track 1. The staff may revise or update this Staff Report following workshop and/or comments, and the adopted schedule will provide for such revisions. The adopted schedule also provides for the issuance of Staff Reports in connection with Tracks 2 and 3 that will similarly inform the record for those portions of Phase 2. Finally, the Energy Division may also prepare and release staff proposals on minor implementation issues as noted in Section 2.3 above.

Evidentiary Hearings. As with earlier RA proceedings, it appears that Phase 2 can be resolved through workshops and written comments. I recognize that it is possible that hearings may be warranted for certain LCR topics. For the second track, hearings may be required in connection with market structure proposals. At this time, however, I am not persuaded that evidentiary hearings

will be required for Phase 2, and no hearing are currently scheduled. Still, it is prudent to leave the final determination of whether hearings are required for any portion of Phase 2 to the discretion of the ALJ in consultation with the undersigned. The adopted schedule sets forth dates on which any party requesting Track 1 hearings on the LCR study must file a motion for such hearings and the date for responses to any such motions.

4. Timetable

As indicated above, I am mindful of the challenges for parties and the Commission that can occur if separate procedural tracks are conducted concurrently. On the other hand, it does not appear reasonable to suspend all activity on the major RA program issues reserved for Track 2 until Track 1 is completed. The timetable set forth below, which I hereby adopt, attempts to balance these competing concerns by starting the process for developing the record for Tracks 2 and 3 during the first half of 2007 and reserving the more intense activities to the second half of the year. For the convenience of parties, this schedule incorporates the LCR/Local RAR implementation schedule for 2008 that was adopted by D.06-06-064 (at p. 31).

Pursuant to the OIR, the undersigned assigned Commissioner and/or the ALJ may establish appropriate revisions to the schedule.

Resource Adequacy Phase 2 Schedule

Track	Dates	Description
1	Jan. 5, 2007	PTOs submit base cases and load forecasts to the CAISO (per D.06-06-064)
1	Jan. 26, 2007	Parties may file proposals on Track 1 issues (including CAISO proposal on Zonal RAR)
2	Jan. 26, 2007	Estimated date of Ruling providing guidance and direction for Track 2 proposals
1	Jan. 31, 2007	Staff Report on 2006 RAR results, Staff proposal on minor implementation issues
1	Feb. 8, 2007	Workshops on Staff Report and Track 1 proposals begin
1	Mar. 1, 2007	Workshops on Staff Report and Track 1 proposals end
2	Mar. 9, 2007	Track 2 proposals filed
1	Mar. 9, 2007	CAISO releases 2008 LCR study (per D.06-06-064) and proposal for probabilistic analysis in future LCR studies
1	Mar. 16, 2007	Revised Track 1 Staff Report (if applicable)
1	Mar. 20, 2007	Deadline for CAISO to host meeting on LCR study (per D.06-06-064)
1	Mar. 23, 2007	Motions for Track 1 evidentiary hearings
1	Mar. 27, 2007	Replies to motions for Track 1 hearings
1	Mar. 28, 2007	Ruling on Track 1 hearings and any required schedule revisions for Track 1
3	Mar. 30, 2007	Proposals for RAR for small and multi-jurisdictional LSEs filed
1	Apr. 6, 2007	Comments filed on Track 1 issues (including LCR study per D.06-06-064)
1	Apr. 20, 2007	Reply comments on Track 1 issues filed
3	Apr. 25, 2007	Workshop on RAR for small and multi-jurisdictional LSEs
2	May 18, 2007	Pre-workshop comments on Track 2 proposals filed
1	May 22, 2007	Proposed decision on Track 1 issues (including LCR study and Local RAR for 2008 per D.06-06-064)
1	June 11, 2007	Comments on Track 1 proposed decision filed
1	June 18, 2007	Reply comments on Track 1 proposed decision filed
1	June 21, 2007	Final decision on Track 1 issues
	June 29, 2007	2008 Local RAR allocated to LSEs (D.06-06-064)
3	July 6, 2007	Staff Report on Track 3 Issues
2	July 13, 2007	Pre-workshop reply comments on Track 2 proposals filed
2	Aug. 15, 2007	Workshops on Track 2 Issues begin
3	Aug. 24, 2007	Comments on Track 3 Issues filed
2	Aug. 31, 2007	Workshops on Track 2 Issues end
2	Sept. 26, 2007	Staff Report on Track 2 Issues
3	Sept. 28, 2007	Reply Comments on Track 3 Issues filed
n/a	Oct. 1, 2007	LSEs file Local RAR showing and "Year-Ahead" System RAR (D.06-06-064)
3	Oct. 19, 2007	Comments on Staff Report on Track 2 Issues filed
2	Nov. 9, 2007	Reply Comments on Staff Report on Track 2 Issues filed
n/a	Nov. 1, 2007	CAISO analyzes demonstrations for "residual" needs due to effectiveness factors and reports back to LSEs (D.06-06-064)
n/a	Dec. 3, 2007	LSEs demonstrate any additional procurement of "residual" needs through revised Local RAR, year ahead System RAR, and December 2007 monthly System RAR, after which time the CAISO may engage in backstop procurement to resolve Local RAR deficiencies. (D.06-06-064)
2&3	Dec. 18, 2007	Proposed Decision on Tracks 2 and 3 Issues
2&3	Jan. 7, 2008	Comments on Tracks 2 & 3 proposed decision filed

Track	Dates	Description
2&3	Jan. 14, 2008	Reply comments on Tracks 2 & 3 proposed decision filed
2&3	Jan. 17, 2008	Final Decision on Tracks 2 & 3 Issues

In the OIR, the Commission stated its intention to resolve all matters in this proceeding within 18 months of the date of the scoping memo, consistent with Pub. Util. Code § 1701.5. The Phase 1 Scoping Memo stated an intent to resolve all issues in this proceeding within 18 months of the March 1, 2006 issuance of that ruling, *i.e.*, by September 1, 2007. It is apparent, however, that the complex RA program and market structure issues reserved for Phase 2 cannot reasonably be resolved in full by September 1, 2007. I therefore determine that it is the Commission's intent to resolve Phase 2 within 18 months of the date of this Phase 2 Scoping Memo, pursuant to § 1701.5(b).

5. Category of Proceeding

The OIR made a preliminary determination that this proceeding should be categorized as ratesetting, and the Phase 1 Scoping Memo categorized this proceeding as ratesetting. This determination remains applicable for Phase 2.

6. Principal Hearing Officer

ALJ Mark Wetzell remains the principal hearing officer in this proceeding.

7. Party Status

Those who are not already parties, but who wish to participate in this proceeding as full parties must make their request by written motion to intervene, or orally on the record during the proceeding. Others may request that their names be added to the service list (in the "information only" or "state service" category) by sending an e-mail note to the Commission's Process Office at process_office@cpuc.ca.gov.

A motion to intervene was filed by Reliant Energy Coolwater, Inc., Reliant Energy Ellwood, Inc., Reliant Energy Etiwanda, Inc., Reliant Energy Mandalay, Inc., and Reliant Energy Ormond Beach, Inc. (collectively, the Reliant Companies). The Reliant Companies participate in California markets and collectively own over 3,500 MW of generation located in the state. To date, the Reliant Companies have participated indirectly in this proceeding through the efforts of industry organizations. Since Phase 2 may determine specific provisions that are applicable to suppliers, the outcome of the proceeding will have a substantial impact on the Reliant Companies. This motion is granted for good cause shown.

8. Rules Governing *Ex Parte* Communications

As discussed in the OIR and as confirmed in the Phase 1 Scoping Memo, this is a ratesetting proceeding subject to Pub. Util. Code § 1701.3(c). This means that *ex parte* communications are prohibited unless certain statutory requirements are met. See also, Rules of Practice and Procedure (Rules), Rule 8.2(c).

9. Final Oral Argument

Pursuant to Public Utilities Code Section 1701.3(d) and Rule 13.13(b), and in the event that an evidentiary hearing has been held, any party requesting final oral argument before the Commission shall make such request by letter to the ALJ on the date set for filing of concurrent opening briefs.

IT IS RULED that:

1. The scope of and the timetable for Phase 2 of this proceeding are set forth in the foregoing discussion. As provided in the Order Instituting Rulemaking, the assigned Commissioner or Administrative Law Judge (ALJ) may make any

revisions to this schedule necessary to facilitate the fair and efficient management of the proceeding.

2. The motion of Reliant Energy Coolwater, Inc., Reliant Energy Ellwood, Inc., Reliant Energy Etiwanda, Inc., Reliant Energy Mandalay, Inc., and Reliant Energy Ormond Beach, Inc. to intervene is granted.

3. With respect to issues addressed in evidentiary hearings, if such hearings are held, any party requesting final oral argument before the Commission shall make such request by letter to the ALJ on the date set for filing of concurrent opening briefs.

Dated December 22, 2006, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated December 22, 2006, at San Francisco, California.

/s/ ELVIRA NIZ

Elvira Niz

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