



FILED

05-17-12

02:19 PM

MF1/DMG/sbf 5/17/2012

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)

**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 March 22, 2012 Order Instituting Rulemaking (OIR) in this proceeding summarized the procedural and substantive background of this proceeding. Overall, the purpose of this rulemaking is to ensure a reliable and cost-effective electricity supply in California through integration and refinement of a comprehensive set of procurement policies, practices and procedures underlying long-term procurement plans.²

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

² A core tenet is the concept of "least cost/best fit" portfolios as discussed in Decision (D.) 06-06-064.

This proceeding is the successor proceeding to rulemakings dating back to 2001 to ensure that California's major investor-owned utilities (IOUs) can maintain electric supply procurement responsibilities on behalf of their customers. The most recent predecessor to this proceeding was Rulemaking (R.) 10-05-006. As stated in this rulemaking in Ordering Paragraph 3, the record developed in R.10-05-006 is "fully available for consideration in this proceeding" and is therefore incorporated into the record of this proceeding.

In R.12-03-014, the Commission provided a preliminary scoping memo to be considered in this proceeding. On April 6, 2012, parties filed comments on their proposals for the scope and schedule for this proceeding. On April 18, 2012, a prehearing conference (PHC) was held to take appearances, and to consider the scope and schedule of this proceeding. In this scoping memo, we refine the preliminary scoping memo from R.12-03-014 pursuant to Rule 7.3(a).

Scope of the Proceeding

There will be three major tracks in this proceeding:

1. Local Reliability
2. System Needs
3. Procurement Rules and Bundled Procurement

We establish here a detailed scope and schedule for 2012 for the Local Reliability track and the System Needs track. We discuss in less detail the scope and schedule for the System Needs track in 2013 and the Procurement Rules and Bundled Procurement track. We intend to issue one or more further amended Scoping Memos or other Rulings at a later point in this proceeding to provide further detail on the scope and schedule for the remainder of this proceeding after 2012.

Track 1 -- Local Reliability Track

In recent years the California Independent System Operator (ISO) has performed an annual Local Capacity Requirements (LCR) study, which is filed in the Commission's Resource Adequacy (RA) proceeding (currently R.11-10-023). This study is used to adopt local RA procurement requirements for the next year (for example, requirements for 2013 will be adopted in R.11-10-023, the 2012 RA proceeding). The Commission should issue a decision on this matter by the end of June each year so that load-serving entities (LSEs) can have sufficient time to obtain the resources to meet their local RA procurement requirements for the next year.

In past RA decisions, the Commission has focused on LCR for local reliability for one forward year. In R.11-10-023, this would provide for meeting local reliability for 2013. In R.11-10-023, the Commission is currently considering proposals by the ISO, the Energy Division and other parties to provide specific guidance for flexible contracting for local reliability.³ Proposals include specific methods for including flexible capacity attributes for local reliability contracts, such as voltage support, regulation and other attributes of electricity which contribute to local reliability. A decision on these proposals is expected in June 2012.

In the Local Reliability track of this proceeding, we will consider authorizing procurement of new infrastructure for local reliability purposes. This proceeding will be informed by any Commission decisions in R.11-10-023. The end result of this proceeding should be that the IOUs and/or other LSEs will

³ Currently, IOUs have authority to enter into contracts for capacity, with Commission approval.

be authorized or required to contract for local reliability needs over the next several years, to the extent that the Commission finds there is such a need.

In a settlement agreement approved by the Commission in D.12-04-046 in R.10-05-006, parties to the agreement found that in the first quarter of 2012 the ISO would present a study of integration of renewable power plants into local transmission-constrained areas, along with a study of the effect of potential once-through cooling (OTC) plant retirements. A number of OTC plants may retire in the next several years in the local transmission-constrained areas of the Los Angeles Basin, Big Creek/Ventura and San Diego because of state water control board regulations.⁴ The ISO study referenced in the settlement agreement in D.12-04-046 was to be presented to the Commission in testimony, followed potentially by hearings. The settling parties recommended that the Commission issue a decision by the end of 2012 on the need for resources sufficient to integrate the number of renewable resources coming online to meet a 33% renewable portfolio standard by 2020 and the retirement of OTC plants.

At the PHC, the ISO stated that it has completed a study of local capacity requirements through 2016 in its Transmission Planning Process. The ISO has also completed a study of local capacity needs related to expected or potential retirements of OTC plants through 2021. These studies are consistent with the studies anticipated in the settlement agreement adopted in D.12-04-046. In its comments on the scope of this proceeding and at the PHC, the ISO maintained that it cannot evaluate any additional renewable portfolio scenarios beyond those

⁴ Issues related to infrastructure needs for the San Diego local area are being considered in Application 11-05-023 and will not be in the scope of this proceeding, except to the extent that any decisions in that proceeding inform the record.

already in the record of R.10-05-006 in time for a decision by the Commission by the end of 2012. Beyond any guidance which the Commission may provide in R.11-10-023, Track 1 of this proceeding will focus on the studies to be served in testimony by the ISO. However, parties will have the opportunity to present evidence that the ISO's studies should be modified, or that the Commission should consider additional factors beyond the ISO's studies, for the purposes of determining local reliability needs.

Issues in the scope of this phase of the proceeding are:

1. Whether additional capacity is required to meet local reliability needs in the Los Angeles Basin and Big Creek/Ventura area between 2014 and 2021, and, if so, how much;
2. Whether flexible capacity attributes should be incorporated into a decision regarding additional capacity required to meet local reliability needs between 2014 and 2021 and, if so, how;
3. How any relevant decisions in the Commission's RA docket R.11-10-023 regarding flexible capacity should be incorporated into a decision on procurement of additional local capacity;
4. What assumptions concerning retirements of OTC plants should be made for the purpose of determining future local reliability needs;
5. Whether the ISO's local capacity requirements and OTC studies should be adopted by the Commission as the basis for procurement of additional local capacity, and, if not, what should form the basis of a Commission decision;
6. How resources aside from conventional generation, such as uncommitted energy efficiency, demand response, energy storage and distributed generation resources should be considered in determining future local reliability needs;

7. Whether any additional local reliability procurement obligations should be met solely by IOUs or by all LSEs;
8. How the costs of any additional local reliability needs should be allocated among LSEs in light of the Commission's adopted cost allocation mechanism (CAM) per Senate Bill (SB) 695,⁵ SB 790⁶, D.11-05-005 and any relevant previous decisions;⁷
9. Whether the CAM should be modified at this time;
10. Whether LSEs should be able to opt-out of the CAM, and, if so, what the requirements should be to allow such opt-out;
11. What rules should govern procurement of additional local reliability needs not already covered by the Commission's RA rules.

Both the settlement agreement adopted in D.12-04-046 and a number of parties in their comments maintain that it is important for the Commission to finalize a decision allowing or requiring procurement of new resources in local areas to meet future capacity requirements (possibly including flexible attributes) by or near the end of 2012. A decision in this timeframe would allow any new capacity to be built in a timely manner to meet future local capacity area needs, including integrating system variability. For example, GenOn asserts that it can take seven to nine years to develop and construct a new generation project in

⁵ SB 695 (Stats. 2009, Ch. 337) required the Commission to impose non-bypassable charges associated with certain ISO procurement on direct access and community choice aggregator customers.

⁶ Stats. 2011, ch. 599. This statute regards the relationship between IOUs and Community Choice Aggregators.

⁷ Any CAM-related issues considered in R.12-02-009 related to implementation of SB 790 are not in the scope of this proceeding.

California. A Commission decision at or near the end of 2012 will allow the process to begin in 2013. We hereby set a schedule to allow for a decision at or near the end of 2012 by the Commission.

Consistent with the attached schedule, the ISO has committed to serve testimony including its local reliability studies by May 23, 2012. At the PHC, the ISO committed to providing parties access to these studies ahead of the filing date.⁸ We emphasize the need for transparency and timeliness on the part of all parties in order to attain the schedule advocated by many parties and adopted here. Parties will have the opportunity to provide testimony and replies consistent with the scope of this proceeding on local capacity requirements and the ISO studies. We anticipate that hearings will be necessary and accordingly provide for this in the schedule.

Schedule for Track 1 – Local Reliability

Workshop	Held on May 3, 2012
ISO testimony with studies served	May 23, 2012
Testimony by all other parties served	June 25, 2012
Further Workshop(s)	As needed
Second Prehearing Conference	July 9, 2012
Reply Testimony (including ISO) served	July 23, 2012
Evidentiary Hearings	August 7-10 and 13-17, 2012

⁸ As part of this process, a Commission workshop on these ISO studies was held on May 3, 2012.

Briefs/Reply Briefs filed	To be determined at close of hearings
Proposed Decision issued	November or December 2012

Track 2 -- System Reliability Track

A major purpose of this proceeding is to maintain and ensure reliability in CPUC-jurisdictional areas in California over a long-term planning horizon. This requires anticipation of changes in both supply and demand. To accomplish this, it is important to consider the potential retirement of existing plants, the likelihood of relicensing of nuclear power plants, changes in mandates for renewable power, development of energy storage facilities, increased energy efficiency and demand response resources, and the developing of distributed generation resources.

D.12-04-046 adopted a settlement among a number of parties in R.10-05-006, the precursor to this proceeding. In that settlement, parties agreed that no decision should be made in that docket about whether new resources would be needed to ensure system reliability through 2020.

In Track 2 of this proceeding we will consider the following issues related to system needs in order to determine if new infrastructure is needed:

1. What assumptions should be made about the availability of various supply resources and levels of electricity demand over the next 20 years. This may entail use of assumptions from other proceedings involving supply resources and electricity demand, including proceedings concerning energy efficiency, demand response, distributed generation, energy storage, the renewable portfolio standard, and greenhouse gas issues;
2. What assumptions from other organizations and agencies such as the ISO and the California Energy Commission should be incorporated into long-term electricity system needs forecasts in this proceeding;

3. How the development of renewable resources consistent with a 33% renewable portfolio standard will affect reliability;
4. Whether increased variability amongst load and generation may require changes in procurement of resources to meet reliability needs;
5. What rules should govern procurement of additional system reliability needs not already covered by the Commission's RA rules;
6. Determination of specific scenarios to be developed to analyze long-term system reliability needs; these scenarios will form the basis for the Commission's submittal to the ISO for its 2013-2014 Transmission Planning Process;
7. How the potential for shutdown of nuclear power plants in California would impact long-term system reliability needs;
8. What specific Commission authorization of IOUs and/or LSEs is required for them to procure to meet long-term system reliability needs;
9. What cost-effective resource strategies should be implemented to achieve greenhouse gas (GHG) goals;
10. How to inform other infrastructure planning processes, including the ISO Transmission Planning Process and other regional planning processes; and
11. Issues deferred to this proceeding from D.12-04-046.

We anticipate that this track will require at least two Commission decisions. First, we will develop standard planning assumptions leading to specific supply and demand scenarios for the next 20 years. This process will commence with a proposal by the Energy Division, with subsequent workshops. Out of necessity, the data for the first 10 years is likely to be much more detailed and robust than data for the second 10 years.

Second, we will consider issues related to system variability, such as renewable integration, into the state's energy future. We anticipate that the ISO, in conjunction with Energy Division staff, will hold workshops during 2012 to explain the methodologies associated with understanding and quantifying system variability. In 2013, we anticipate that updated studies will be performed using new scenarios from the 2012 Long Term Procurement Plans (LTPP), and that methodologies may be changed based on party input and comments. To the extent that new resources are authorized in Track 1 to meet local capacity needs, we expect that any modeling would incorporate this information.

Schedule for Track 2 – System Needs

Energy Division Standardized Planning Assumptions Proposal	Distributed May 10, 2012
Workshops on Energy Division Standardized Planning Assumption Proposal	May 17, 2012 and potentially others to be scheduled by Energy Division
Comments on Proposal filed	May 31, 2012
Reply Comments on Proposal filed	June 11, 2012
ACR on Planning Assumptions issued	June 21, 2012
Energy Division Draft Scenarios	August 1, 2012
Workshops	To be scheduled by Energy Division
Comments to Energy Division on Draft Scenarios (not filed)	September 1, 2012
Proposed Scenarios issued by Ruling	September 14, 2012
Comments on Proposed Scenarios filed	October 1, 2012
Proposed Decision on Scenarios issued	November 2012
Schedule to incorporate ISO updated Renewable Integration Report and determine system needs	To be determined in a future Ruling

Track 3 -- Procurement Rules and Bundled Procurement Plans

The LTPP proceedings generally operate on a two-year cycle with the IOUs responsible for submitting procurement plans that project their need, and their action plan for meeting that need, over a ten-year horizon. Pursuant to Assembly Bill (AB) 57,⁹ codified as Section 454.5, by approving procurement plans, the Commission establishes “up-front standards” for the IOUs’ procurement activities and cost recovery. This obviates the need for after-the-fact reasonableness review by the Commission of the resulting utility procurement decisions that are consistent with the approved plans.

Based on the record in R.10-05-006, we find it reasonable to continue to direct the IOUs’ filing of bundled LTPPs to be based on a limited set of planning standards using the best information available at that time. Our intent is to ensure that the IOUs’ plans can be more easily compared to each other and to maintain consistency, where appropriate, with Commission policy in other procurement-related proceedings.

There will be two portions of Track 3. First we will consider what changes should be made to current procurement rules, as well as what new procurement rules should be adopted. Second, and after a decision on procurement rules, we will require the IOU to file bundled procurement plans. In this Scoping Memo we preliminarily lay out the issues and schedule for this track of the proceeding. In a future amended Scoping Memo or Ruling, we intend to provide more detail and an updated schedule in this proceeding we expect to consider the following issues related to procurement rules:

⁹ AB 57 (Stats. 2002, ch. 850, Sec 3, Effective September 24, 2002), added Pub. Util. Code § 454.5., enabling utilities to resume procurement of electric resources.

1. Flexible resources procurement and contract policies;
2. Preserving competition in the resource adequacy market;
3. Ensuring utilities reduce their need to procure GHG compliance instruments by pursuing cost-effective GHG emissions reductions on a portfolio-wide basis;
4. Addressing any unresolved issues or issues that need to be revisited from the 2010 LTPP related to GHG compliance product procurement authority;
5. Establishing a fair standard under which to compare Utility-Owned Generation renewable applications to other recent renewable proposals and contracts;
6. Making enhancements to the Energy Resource Recovery Account compliance filing requirements;
7. OTC power procurement policies;
8. Nuclear fuel procurement policies;
9. Policies related to ISO new markets and market products, including flexi-ramp products and intra-hour products;
10. Refinements to the Procurement Review Group;
11. Refinements to the independent evaluator process;
12. Multi-year forward procurement requirements;
13. Long-term contract solicitation rules;
14. Changes to the Commission's adopted CAM per SB 695,¹⁰ SB 790, D.11-05-005 and any relevant previous decisions (beyond any changes considered in Track 1);¹¹

¹⁰ SB 695 required the Commission to impose non-bypassable charges associated with certain ISO procurement on direct access and community choice aggregator customers.

¹¹ Any CAM-related issued considered in R.12-02-009 related to implementation of SB 790 are not in the scope of this proceeding.

15. GHG procurement policies necessary to facilitate the implementation of the California Air Resources Board's cap-and-trade program.

In Track 3 of this proceeding we expect to consider the following issues related to bundled procurement plans:

1. Maximum and minimum limits on IOU forward purchasing of energy, capacity, fuel and hedges;
2. Specification of the products that the IOUs can purchase;
3. Specification of rules that, if followed, would exempt the IOUs from reasonableness review;
4. An integrated plan to comply with state policies, including the loading order.

Schedule for Track 3 – Bundled Procurement

Parties file proposed Rules	October 15, 2012
Reply comments to proposed rules	November 5, 2012
Proposed Decision on rules	January 2013
IOUs file Bundled Procurement Plans	March 2013 (tentative)
Remainder of schedule	To be determined in future Ruling

As noted above, this schedule is preliminary and subject to modification by a future Ruling or amended Scoping Memo. Depending on procedural needs, there may be workshops, hearings, briefs and/or other procedural activity in this track.

Need for Evidentiary Hearings

The OIR stated that the issues evidentiary hearings are anticipated in this proceeding. This Ruling confirms the preliminary determination in the OIR that factual issues in Tracks 1, 2 and 3 will require evidentiary hearings.

Procedural Schedule

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

We anticipate Tracks 1, 2 and 3 will be resolved as set forth herein and completed by January 2014. In any event, we anticipate that this proceeding will be resolved with 24 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).

Intervenor Compensation

The PHC in this matter was held on April 18, 2012. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation

should file and serve a notice of intent to claim compensation no later than May 18, 2012. Parties who were previously found eligible to request compensation in R.10-05-006 shall remain eligible in this proceeding and do not need to file a notice of intent within 30 days, provided there are no material changes in their by-laws or financial status. All others must comply with the statute. When filing requests for compensation, parties should cite to this ruling and any earlier rulings granting them eligibility in prior LTPP rulemakings.

Final Oral Argument

In Track 1, any party wishing to request Final Oral Argument before the full Commission per Rule 13.13 shall do so no later than the date of Opening Briefs in that track. In Tracks 2 and 3, any party wishing to request Final Oral Argument before the full Commission per Rule 13.13 shall do so no later than the date of reply comments or Opening Briefs (whichever comes later), or a date established by a subsequent Ruling in this proceeding.

Categorization

This Scoping Memo confirms the preliminary determination in R.12-03-014 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 RULED that:

1. Evidentiary hearings are needed for Tracks 1, 2 and 3 of this proceeding.
2. The scope of this proceeding is as stated herein.
3. The schedule for the Track 1 of this proceeding is as stated herein. The Schedules for Tracks 2 and 3 are preliminary set forth herein, and will be set forth in more detail in a future Ruling.
4. Administrative Law Judge David M. Gamson shall be the presiding officer in this proceeding.
5. The preliminary determination in Rulemaking 12-03-014 that this proceeding is categorized as ratesetting is confirmed.

Dated May 17, 2012, at San Francisco, California.

/s/ MICHEL PETER FLORIO

Michel Peter Florio
Assigned Commissioner

/s/ DAVID M. GAMSON

David M. Gamson
Administrative Law Judge