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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**SECOND AMENDED SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER**

1. Summary

This second amended scoping ruling identifies additional issues for consideration in the balance of this proceeding resulting from recently-enacted legislation, and adopts a procedural schedule. The previously designated presiding officers, categorization and need for hearing remain unchanged. The time of 24 months from the date of this ruling is set as the deadline for the conclusion of this proceeding.

2. Procedural Background

The Order Instituting Rulemaking (OIR) for this proceeding was adopted by the Commission on May 5, 2011. A prehearing conference was held on June 13, 2011. The Scoping Memo and Ruling of Assigned Commissioner was issued July 8, 2011. The Amended Scoping Memo and Ruling of Assigned Commissioner (Amended Scoping Memo) was issued September 12, 2012.

3. This Proceeding

This OIR is the vehicle for the Commission's continuing administration and oversight of the renewables portfolio standard (RPS) program, whose history is summarized in the OIR at 2-7.¹ Through this proceeding the Commission is implementing major changes in the RPS program resulting from the enactment of Senate Bill (SB) 2 (1X) (Simitian), Stats. 2011, ch. 1. As part of the task of ongoing administration, this proceeding also addresses other new legislative mandates, such as the statutory enactments prompting this second amended scoping memo.

4. Scope of Issues

The issues identified in the Amended Scoping Memo continue to be the issues to be addressed in this proceeding. I now add to the scope of this proceeding consideration of changes to the RPS program that may be needed as we implement four new statutes that are effective January 1, 2013. The statutes are:

1. SB 1122 (Rubio), Stats. 2012, ch. 612;
2. SB 2196 (Chesbro), Stats. 2012, ch. 605;
3. Assembly Bill (AB) 1900 (Gatto), Stats. 2012, ch. 602; and
4. AB 2187 (Bradford), Stats. 2012, ch. 604.

Not all issues and requirements set out in these statutory enactments are relevant to this proceeding. Only those issues that fall within the ambit of this rulemaking are identified and included here. Other aspects of these statutes may be addressed in other proceedings and/or agencies.

¹ The RPS statute is codified at Public Utilities Code §§ 399.11-399.30. All further references to sections are to the Public Utilities Code, unless otherwise noted.

5. Bioenergy Enactments

Three of the new laws affect the role of bioenergy in the RPS program. SB 1122² directs the Commission to require investor-owned utilities (IOUs) to procure at least 250 megawatts of generation from bioenergy projects that commence operation on or after June 1, 2013. The statute also sets requirements for the allocation of the procurement among IOUs and among types of bioenergy generation resources.

SB 2196³ makes various changes to the treatment of biomethane fuel in RPS procurement. Most of the changes will be implemented by the California Energy Commission, but some of the requirements may impact the RPS compliance of all retail sellers, and thus will be considered in this proceeding.

AB 1900⁴ instructs the Commission to “adopt policies and programs that promote the in-state production and distribution of biomethane [as defined].”

The most efficient way to manage implementing these enactments related to RPS procurement from bioenergy resources is to integrate them into the existing framework of this proceeding. Based on the Amended Scoping Memo, it is reasonable to include implementation of SB 1122 with other feed-in tariff work. SB 2196 fits most readily with other compliance and enforcement issues.

² Codified at Section 399.20(f).

³ Codified at Pub. Res. Code § 25741 and Pub. Util. Code § 399.12.6

⁴ Codified at Health and Safety Code §§ 25420-21; Pub. Util. Code § 399.24. This proceeding will address new Section 399.24.

AB 1900 touches all the areas in which this proceeding addresses RPS procurement from bioenergy resources.

6. Portfolio Content Categories for ESPs' Contracts

AB 2187⁵ changes Pub. Util. Code § 399.16 to allow certain contracts for RPS procurement signed by electric service providers (ESPs) prior to January 14, 2011 to be counted for RPS compliance without regard to the portfolio content categories set by Section 399.16 and implemented by Decision (D.) 11-12-052. Because implementing this new rule may affect portions of D.11-12-052 and D.12-06-038, it should be taken up with the work on compliance and enforcement.

7. Categorization, Designation of Presiding Officers, Need for Hearings

The determinations on these matters made in the Amended Scoping Memo are continued: this proceeding is categorized as ratesetting and hearings are needed.

Commissioner Mark J. Ferron is the assigned Commissioner for this proceeding. Administrative Law Judges (ALJ) Regina DeAngelis and Anne E. Simon are the presiding officers for this proceeding.

8. Documents

8.1. Format and Service

All paper documents filed with the Commission or served in this proceeding must be printed on both sides, unless doing so is infeasible or will confuse the reader of the document. All documents must be served on the

⁵ Codified at Section 399.16(c)(4).

assigned ALJs and the office of the Assigned Commissioner by electronic mail in accordance with Rule 1.10 of the Commission's Rules of Practice and Procedure.

Paper copies of documents should not be provided to the office of the assigned Commissioner. Paper copies of documents must be provided to the assigned ALJs unless an ALJ expressly requests that no paper copies be provided.

8.2. Verification

Consistent with requirements in previous RPS proceedings, all compliance reports, other reports, comments, briefs, motions, or other substantive documents filed in this proceeding must be verified. (*See* Rule 1.11.) In the case of a corporation, verification for the purposes of Rule 1.11 may be in the form of a declaration under penalty of perjury and adopted by an employee or agent at the manager level or above. The employee or agent shall be knowledgeable of the involved matters, such as the employee or agent who would adopt the contents of the filing as testimony in the event of an evidentiary hearing. The declaration may be in a form substantially as provided by Commission Rule 18.1.

9. Schedule

The schedule below reflects the addition of the implementation of the new statutes to the schedule previously set in the Amended Scoping Memo.⁶ It includes some adjustments to the prior schedule both to take account of the new tasks and to better balance the work involved in this proceeding. With respect to each issue or group of issues, ALJ rulings or Assigned Commissioner's Rulings

⁶ Two items in the schedule set in the Amended Scoping Memo have been completed and are not included in the schedule below: Assigned Commissioner's ruling on further procurement reform issues, and proposed decision on 2012 procurement plans.

may be issued requesting comments on particular topics. Workshops may be held by Energy Division staff as part of the consideration of these issues.

Pursuant to the authorization conferred by Pub. Util. Code § 1701.5(b), I conclude that this proceeding should extend for 24 months beyond the date of this second amended scoping memo. This will allow the proceeding to be open through the end of 2014, which should provide enough time to develop and resolve all the issues identified in this proceeding, with the possibility of incorporating new issues in RPS administration if they arise.

The following schedule reasonably identifies the work ongoing in this proceeding, including the tasks related to the four new statutes, and is adopted. The schedule below may be adjusted by the presiding officers as necessary to promote the fair and efficient adjudication of this proceeding, so long as the proceeding is concluded within the 24-month time frame from the date of this second amended scoping memo.

Issue	Estimated timing
ALJ ruling seeking comment on possible refinement of confidentiality rules applied to RPS	First quarter 2013
ALJ ruling seeking comment on further enforcement issues, including AB 2187 and SB 2196	First quarter 2013
PD on standard contracts and other feed-in tariff issues	First quarter 2013
PD on initial procurement process improvements	First quarter 2013
Staff proposal and ALJ ruling seeking comment on implementation of SB 1122	First quarter 2013
Staff proposal and ALJ ruling seeking comment on procurement expenditure limitations	First quarter 2013
PD on SB 1122 and any related bioenergy issues	Second quarter 2013

ACR requesting submission of 2013 RPS procurement plans	Second quarter 2013
PD on RPS enforcement rules, including SB 2187 and SB 2196	Third quarter 2013
ALJ ruling seeking comment on new compliance spreadsheet	Third quarter 2013
PD on procurement expenditure limitations	Third quarter 2013
PD on 2013 procurement plans	Fourth quarter 2013
PD on Least cost best fit reform	Fourth quarter 2013
PD on RPS confidentiality rules refinement	Fourth quarter 2013
PD on further procurement process improvements	First quarter 2014
Additional work as needed	As determined by ALJs

IT IS RULED that:

1. The scope of issues and the schedule set forth above are hereby adopted for the balance of this proceeding, with the understanding that additional issues may need to be addressed and additional scheduling may be necessary to conclude this proceeding.
2. The duration of this proceeding is 24 months from the date of this amended scoping memo and ruling.
3. Rulemaking 11-05-005 is categorized as ratesetting.
4. Hearing is determined to be needed.

5. Commissioner Mark J. Ferron is the assigned Commissioner. Administrative Law Judge (ALJ) Regina DeAngelis and ALJ Anne E. Simon are the presiding officers for this proceeding.

Dated January 9, 2013, at San Francisco, California.

/s/ MARK J. FERRON

Mark J. Ferron
Assigned Commissioner