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

Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development of, California Renewables Portfolio Standard Program.

Rulemaking 15-02-020  
(Filed February 26, 2015)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**Summary**

This ruling sets out the scope of the issues, adopts a procedural schedule, determines the categorization and need for hearing, and designates the Presiding Officers in the above-referenced rulemaking, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules).<sup>1</sup> This ruling is appealable only as to categorization, pursuant to Rule 7.6.

**1. Procedural Background**

The Order Instituting Rulemaking (OIR) for this proceeding was adopted by the Commission on February 26, 2015. Comments on the preliminary scoping memo in the OIR were filed and served on or before March 26, 2015, by 25 parties.<sup>2</sup> Reply comments were filed and served by 11 parties on April 6, 2015.<sup>3</sup>

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<sup>1</sup> All subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

<sup>2</sup> Six parties filed comments on March 18, 2015: Alliance for Desert Preservation; Basin and Range Watch; California Desert Coalition; Lucerne Valley Economic Development Association; Mojave Communities Conservation Collaborative; and Morongo Basin Conservation Association. Filing on March 26, 2015 were: Calpine Corporation (Calpine); California Energy Storage Alliance (CESA); California Wind Energy Association (CalWEA); Center for Biological

*Footnote continued on next page*

A Prehearing Conference (PHC) was held on April 16, 2015. Twenty PHC statements were filed and served by a total of 26 parties.<sup>4</sup>

## **2. This Proceeding**

This OIR is one of a series of proceedings implementing the California renewables portfolio standard (RPS) program. The RPS program was instituted by Senate Bill (SB) 1078 (Sher), Stats. 2002, ch. 516. The Legislature has made numerous alterations, both major and minor, to the RPS program over the years. The RPS statute is currently codified at Pub. Util. Code §§ 399.11-399.32.<sup>5</sup>

Many elements of the RPS program are continuous, such as review and approval of RPS procurement plans; review of the contracts of investor-owned utilities (IOUs) for RPS procurement; review of retail sellers' compliance with their RPS procurement obligations<sup>6</sup>; review and revision of analytic tools that can improve the value of the RPS program and streamline its administration; and

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Diversity (CBD); Center for Energy Efficiency and Renewable Technologies (CEERT); Clean Coalition; Green Power Institute; Large-Scale Solar Association (LSA); The Nature Conservancy, Defenders of Wildlife, and Natural Resources Defense Council (jointly); Noble Americas Energy Solutions LLC; Office of Ratepayer Advocates (ORA); Pacific Gas and Electric Company (PG&E); L. Jan Reid (Reid); San Diego Gas & Electric Company (SDG&E); Sierra Club; Southern California Edison Company (SCE); and Union of Concerned Scientists (UCS).

<sup>3</sup> They are: CalWEA; CBD; Imperial Irrigation District; Independent Energy Producers Association (IEP); PG&E; Reid; Sacramento Municipal Utility District (SMUD); Shell Energy North America (US), L.P.; Sierra Club; SCE; and Utility Consumers Action Network (UCAN).

<sup>4</sup> They are: Bay Area Municipal Transmission Group, and City and County of San Francisco (jointly); Bioenergy Association of California; Calpine; CalWEA; CEERT; CESA; Clean Coalition; IEP; LSA; Marin Clean Energy; The Nature Conservancy, Defenders of Wildlife (jointly); PG&E; Pacific Power, Bear Valley Electric Service, and Liberty Utilities (jointly); ORA; Reid; SCE; SDG&E; Sierra Club, UCS, and CBD (jointly); SMUD; and UCAN.

<sup>5</sup> All further references to sections are to the Public Utilities Code, unless otherwise specified.

<sup>6</sup> "Retail sellers" include IOUs, community choice aggregators, and electric service providers. See Section 399.12(j).

coordination across Commission proceedings and with other agencies. Some elements of the program are addressed only intermittently, such as incorporation of legislative changes to the RPS statute, or potential enforcement action when a retail seller does not comply with its RPS procurement obligations.

This proceeding provides a home for all the elements of the ongoing administration of the RPS program that require recognition or action in a formal Commission proceeding.<sup>7</sup> This proceeding is also the current vehicle for exploring additional development of the RPS program, including but not limited to:

- setting RPS procurement percentages greater than 33% of retail sales of RPS-obligated retail sellers;<sup>8</sup>
- considering whether and how to integrate greenhouse gas (GHG) reduction goals in the RPS program.

### **3. Scope of Issues**

The OIR lists a number of tasks for this proceeding, some carried over from Rulemaking (R.) 11-05-005, and some newly developed. Many of these tasks are simple, but important, work necessary to keep the RPS program going. Other tasks are more conceptual or more analytic, or more long-term. In order to help prioritize these more complex tasks, the Administrative Law Judges (ALJs) asked the parties to identify in their PHC Statements their highest priorities for the proceeding.

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<sup>7</sup> Energy Division staff maintain an informal but comprehensive compilation of all RPS program activities and documents on the Commission's web site, at <http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm>.

<sup>8</sup> See Assembly Bill (AB) 327 (Perea), Stats. 2013, ch. 611.

To make the process of identifying high priority items more manageable, the PHC focused on setting the “top five” priorities. After considering the parties’ written comments on the OIR and their PHC statements, as well as the discussion at the PHC, and factoring in the many ongoing tasks for this proceeding, I identify the following issues for the scope of this proceeding. The importance of an issue does not necessarily dictate its place in the schedule set out below, since some elements may depend in part on work done outside this proceeding.

The “top five” priorities identified by the parties are:

- Exercise (or not) the Commission’s authority under AB 327 to set RPS procurement requirements greater than 33% of retail sales of RPS-obligated retail sellers<sup>9</sup>;
- Revise and further develop the functionality of the RPS Calculator<sup>10</sup>;
- Revise and update the least-cost best-fit methodology for evaluating RPS-eligible procurement, including any revisions mandated by SB 2 (1X) (Simitian), Stats. 2011 ch.1, that have not yet been implemented;
- Complete work on a final methodology for calculating renewable integration cost adder(s)<sup>11</sup>; and

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<sup>9</sup> This topic will be addressed through the Assigned Commissioner's Ruling Requiring Submission of 2015 RPS Procurement Plans.

<sup>10</sup> For a recent review of the status of the RPS Calculator, see Administrative Law Judge's Ruling Seeking Post-Workshop Comments (April 13, 2015).

<sup>11</sup> The Commission adopted a methodology that it denominated as “interim” in Decision (D.) 14-11-042. That decision also identified a process for developing a final methodology, beginning with general work on integration costs in the LTPP proceeding, which could then be used to develop a final methodology that includes issues specific to RPS procurement, in this proceeding. (*See* D.14-11-042 at 63-65.)

- Begin consideration of integrating goals and metrics for reducing the emission of greenhouse gases into RPS procurement processes and evaluation.

Other significant issues identified by the parties include:

- Continue developing a methodology for determining values for effective load carrying capability (ELCC);
- Complete work on the procurement expenditure limitation methodology for IOUs, required by Section 399.15(c);
- Take further steps to coordinate processes in the RPS proceeding, including procurement determinations, with processes in the long term procurement planning proceeding (LTPP), currently R.13-12-010.

There are also a number of specific issues and tasks carried over from R.11-05-005, as well as those that are essentially permanent features of an RPS proceeding.<sup>12</sup> They include:

- Adopting tariff, standard contract, and additional supporting documents for implementing the bioenergy feed-in tariff set up by D.14-12-081;
- Specifying requirements for, reviewing, and approving RPS procurement plans;
- Ongoing monitoring and reviewing all RPS procurement methods and tariffs, including but not limited to IOU solicitations; renewable auction mechanism (RAM); general RPS feed-in tariff (ReMAT); bioenergy feed-in tariff;
- Monitoring, reviewing, and improving RPS compliance reporting formats developed by Energy Division staff in consultation with parties;

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<sup>12</sup> Most of these were identified in the OIR. Some omissions in the OIR are corrected here, and newly identified items are added.

- Reviewing compliance progress of retail sellers and taking enforcement action if required;
- Revising confidentiality rules applying to the RPS program;
- Identifying and addressing safety issues related to the RPS program, including but not limited to safety impacts related to RPS procurement, as well as impacts connected with climate change; and
- Implementing new statutory requirements if and as needed.

Because these tasks involve parties, Energy Division staff, and to some extent the actions of other agencies (e.g., the California Energy Commission (CEC)), the schedule set forth below may not be the last word on the timing of actions in this proceeding. The Presiding Officers may adjust the schedule as necessary and appropriate to allow the fair and efficient consideration of the issues identified in this ruling, even if at the time of this ruling, no specific timeframe for the consideration of a particular issue has been developed.

#### **4. Coordination with Other Proceedings**

Several other Commission proceedings address issues that are relevant to this proceeding. Although Energy Division staff working on the RPS program has historically worked closely with staff working on LTPP, parties to this proceeding suggested that this process be made more visible to parties. Such visibility will occur naturally in some circumstances, such as the final development of a renewable integration adder and the further development of the RPS Calculator, which involve staff in both proceedings. To the extent that increasing the visibility of cooperation between the two proceedings can be accomplished within the framework of the many tasks entrusted to these proceedings, I intend to do so. The ALJs may make any arrangements for joint or

simultaneous rulings with the presiding officer in the LTPP proceeding as are appropriate to the fair and efficient administration of this proceeding.

The Commission and its staff have another collaborative relationship of long standing, with the CEC and its staff, throughout the various RPS proceedings. This has promoted good communication between agencies sharing responsibilities for the RPS program. This collaborative relationship is continued in this proceeding.

## **5. Categorization and Need for Hearings**

In the OIR, the Commission preliminarily categorized this matter as ratesetting and preliminarily determined that hearing is needed. The categorization of this proceeding is confirmed as ratesetting in accordance with Rule 7.1, and is appealable pursuant to Rule 7.6. The preliminary determination that hearing is needed is also confirmed.

Rule 8.2 (c) and Rule 8.3 apply with respect to *ex parte* communications. In addition, PG&E is subject to the *ex parte* restrictions adopted in D.14-11-041.

Commissioner Carla J. Peterman is the assigned Commissioner for this proceeding. ALJs Robert M. Mason, III and Anne E. Simon are the Presiding Officers for this proceeding.

## **6. Service List and Documents**

### **Service List**

The most current service list for this proceeding is maintained by the Commission's Process Office and posted on the Commission's web page, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Parties are responsible for ensuring that the correct information is contained on the service list, including limiting the persons listed in the "Parties" category to one person per organization. Additional persons may be listed as "Information Only." Parties are required to notify the Process

Office and other parties of corrections or changes to the service list, in accordance with Rule 1.9(f).

Requests for party status must be made by motion, in accordance with Rule 1.4.

### **Documents**

All documents in this proceeding must be filed and served in accordance with the Commission's Rules. Documents should be served in the format in which they were filed (typically pdf), or in the format required by any ruling of the assigned ALJ. Parties should promptly provide documents in the underlying format (e.g., Microsoft Word) upon timely request by another party.

Commissioner Peterman should receive documents by e-mail only.

Paper copies of documents, in addition to electronic service, must be promptly provided to ALJs Mason and Simon. Paper copies for the ALJs should be printed on both sides of the page; be stapled; and include a copy of the certificate of service. Paper copies for the ALJs should not include a copy of the service list, a cover sheet, or copies for more than one person in the same envelope.

Consistent with the practice in prior RPS proceedings, all substantive documents (e.g., compliance reports, other reports, comments, briefs, motions) that are filed in this proceeding must be verified. (*See* Rule 1.11.) In the case of a corporation, verification 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 Rule 18.1.

## **7. Final Oral Argument**

A party in a ratesetting proceeding in which an evidentiary hearing was held has the right to make a Final Oral Argument (FOA) before the Commission, if the FOA is requested within the time and manner specified in the Scoping Memo or later ruling. (Rule 13.13.) If a hearing has been held, parties should use the following procedure for requesting FOA, unless a later ruling provides different instructions. If a hearing has not been held, these procedures do not apply.

Any party seeking to present FOA may file and serve a motion at any time that is reasonable, but no later than the last date that reply briefs are due. The motion must state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion must contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable FOA. If more than one party plans to move for FOA, parties must use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed within five days of the date of the motion.

If a final determination is made that no hearing is required, Rule 13.13 will cease to apply, along with a party's right to make an FOA.

## **8. Intervenor Compensation**

Any party that expects to request intervenor compensation for its participation in this rulemaking must file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 and Sections 1801-1812.

## **9. Schedule**

The schedule below reflects the highest priority tasks for this proceeding, with some judgments about the feasible order and timing of tasks during 2015 and 2016. Owing to the large number of issues that this proceeding addresses, the scheduling of some issues, though they are important, may wait until later in the proceeding. These include, without limitation, completion of work on reform of the confidentiality rules applying to RPS procurement and compliance; adoption of a final integration adder; considering whether the Commission should encourage particular resource attributes through RPS procurement to facilitate the effective integration of renewable resources; and developing methods to evaluate the GHG emissions impacts of RPS procurement. The presiding officers may add tasks to the schedule as necessary and appropriate to promote the fair and efficient adjudication of this proceeding.

Workshops led by Energy Division staff may be held as part of the consideration of some or all of these issues.

In view of the many complex tasks within the scope of this proceeding, and acknowledging the possibility that new legislation governing the RPS program may be enacted, it is reasonable to use the authority granted in Section 1701.5(b) to provide that this proceeding should be concluded within 24 months of the date of this ruling.

The following schedule is adopted. It 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 timeframe.

For ease of reference, dates of events that have already occurred are shown in italics.

<b>Event</b>	<b>Date</b>
ALJ ruling seeking post-workshop comments on RPS Calculator	<i>April 13, 2015</i>
Prehearing Conference	<i>April 16, 2015</i>
Post-workshop comments on RPS Calculator	<i>April 27, 2015</i>
Assigned Commissioner's Ruling requiring submission of 2015 RPS procurement plans	May 2015
Energy Division staff release of revised template for compliance reporting	Second quarter 2015
Ruling seeking comment on developing methodology for a multi-year marginal ELCC	Second quarter 2015
Proposed decision (PD) on tariffs, etc. for SB 1122 bioenergy feed-in tariff	Third quarter 2015
Energy Division staff release of Version 6.1 of RPS Calculator	Third quarter 2015
Final verified compliance reports for first compliance period (2011-2013) due	30 days after transmittal of CEC Verification Report <sup>13</sup>
PD on 2015 RPS procurement plans <sup>14</sup>	Fourth quarter 2015
PD on procurement expenditure limitation	Fourth quarter 2015
Ruling on updated variable integration adder	Fourth quarter 2015
Energy Division staff work on RPS Calculator uses, process alignment with other proceedings and agencies, etc.	Ongoing
Energy Division staff workshop on LCBF updates	First quarter 2016

<sup>13</sup> Currently estimated by CEC to be fourth quarter 2015.

<sup>14</sup> Including whether to increase the required RPS procurement percentage in steps, up to 40% of retail sales in the compliance period ending December 31, 2024.

ACR for 2016 RPS procurement plans	Second quarter 2016
Submission of 2016 RPS procurement plans and party comments	Third quarter 2016
PD on 2016 RPS procurement plans <sup>15</sup>	Fourth quarter 2016
Evidentiary hearings	To be set by ALJ, if needed
Implementation of any new legislation related to RPS program	To be set by ALJ, as needed

**IT IS RULED** that:

1. The scope of issues and schedule set forth above are hereby adopted for this proceeding, with the understanding that additional scheduling may be necessary to address any issues in this proceeding that are not currently scheduled.

2. The duration of this proceeding is 24 months from the date of this scoping memo and ruling.

3. This proceeding is categorized as ratesetting. This determination is appealable pursuant to Rule 7.6.

4. Rule 8.2 (c) and Rule 8.3 apply with respect to *ex parte* communications.

5. Pacific Gas and Electric Company is additionally subject to the *ex parte* restrictions adopted in Decision 14-11-041.

6. Hearing is determined to be needed.

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<sup>15</sup> This PD may include adoption of final ELCC values, if appropriate.

7. Commissioner Carla J. Peterman is the assigned Commissioner. Administrative Law Judges Robert M. Mason, III and Anne E. Simon are the Presiding Officers for this proceeding.

Dated May 22, 2015 at San Francisco, California.

/s/ CARLA J. PETERMAN  
Carla J. Peterman  
Assigned Commissioner