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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)

AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This Amended Scoping Memo identifies the issues for consideration in the balance of this proceeding, adopts a procedural schedule, designates the presiding officers, affirms the categorization and need for hearing in this rulemaking, and sets the time of 24 months from the date of this ruling as the deadline for the conclusion of this proceeding, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

The Order Instituting Rulemaking (OIR) for this proceeding was adopted by the Commission on February 26, 2015. The Scoping Memo and Ruling of Assigned Commissioner (Scoping Memo) was issued May 22, 2015.

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 §§ 399.11-399.32.¹

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;² review and revision of analytic tools that can improve the value of the RPS program and streamline its administration; and 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.

3. Scope of Issues

The Scoping Memo sets out a number of tasks for this proceeding; some tasks having been carried over from Rulemaking (R.) 11-05-005, and some tasks having been newly developed. This Amended Scoping Memo carries forward the tasks remaining from the Scoping Memo, and adds tasks needed for the implementation of SB 350 (De Leon), Stats. 2015, ch. 547, and the Governor's recent Tree Mortality State of Emergency Proclamation (October 30, 2015) (Emergency Proclamation).³

¹ All further references to sections are to the Public Utilities Code, unless otherwise specified.

² "Retail sellers" include IOUs, community choice aggregators, and electric service providers. See Section 399.12(j).

³ The Emergency Proclamation may be found at http://gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf.

The new or non-recurring issues to be addressed in the balance of this proceeding are:

- Implementing the changes made to RPS procurement, compliance, and enforcement requirements by SB 350;
- Implementing those aspects of the Emergency Proclamation that are related to the RPS program;
- Revisiting and possibly revising the RPS feed-in tariff (also known as renewable market adjusting tariff (ReMAT)) program;
- Revising and further developing the functionality of the RPS Calculator;
- Revising and updating the least-cost best-fit (LCBF) methodology for evaluating RPS-eligible procurement, including revisions mandated by SB 2 (1X) (Simitian, Stats. 2011 ch.1), and SB 350;
- Completing work on a final methodology for calculating renewable integration cost adder(s);⁴
- Developing a methodology for determining values for effective load carrying capability (ELCC);
- Completing work on the procurement expenditure limitation methodology for the IOUs, required by Section 399.15(c);
- Coordinating with the new proceeding on integrated resource planning, mandated by SB 350;
- Considering impacts of transformation of Independent System Operation into regional organization; and
- Considering integrating goals and metrics for reducing the emission of greenhouse gases into RPS procurement processes and evaluation.

⁴ The Commission adopted a methodology that it denominated as “interim” in Decision (D.) 14-11-042.

There are also a number of specific issues and ongoing tasks, as well as those that are essentially permanent features of an RPS proceeding. They include:

- Specifying requirements for, reviewing, and approving RPS procurement plans;
- Monitoring and reviewing all RPS procurement methods and tariffs, including but not limited to: IOU solicitations, the renewable auction mechanism, the ReMAT, and the bioenergy feed-in tariff (BioMAT);
- Monitoring, reviewing, and improving RPS compliance reporting formats developed by Energy Division staff in consultation with parties;
- 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 any additional new statutory requirements as needed.

A summary of major tasks newly mandated by SB 350, as well as revised by SB 350, is given in the following table:

TASK	AUTHORITY
Adoption of excess procurement rules	Pub. Util. Code § 399.13(a)(4)(B)
Adoption of LCBF methodology	Pub. Util. Code §§ 399.13(a)(4)(A) and 399.13(a)(8)
Adoption of 2016 RPS procurement plans	Pub. Util. Code §§ 399.13(a)(1), 399.13(a)(5), and 399.13(c)

TASK	AUTHORITY
Authorization of long-term contracting requirements	Pub. Util. Code § 399.13(b)
Establishment of RPS standard requiring all retail sellers to procure a minimum quantity of electricity products from eligible renewable energy resources	Pub. Util. Code § 399.15
Compliance periods and procurement quantity requirements	Pub. Util. Code § 399.15(b)(1) and (b)(2)
Enforcement of requirements and the imposition of penalties	Pub. Util. Code § 399.15(b)(5) and (b)(8)

Because these tasks involve input from the 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 as this proceeding continues. 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.

4. Coordination with Other Proceedings

The Commission is beginning to implement SB 350's mandate for integrated resource planning (IRP) by, among other things, instituting a new OIR to develop an IRP framework and to coordinate and refine long-term planning requirements. The new IRP proceeding will be the primary Commission proceeding with which this RPS proceeding will connect. Although no formal coordination of scheduling or issues with the IRP proceeding is currently required, the Administrative Law Judges (ALJs) in this proceeding may make any arrangements for joint or simultaneous rulings with the presiding officer in

the IRP proceeding as are appropriate to the fair and efficient administration of this proceeding.

The Commission and its staff have a long-standing collaborative relationship with the CEC and its staff, throughout the various proceedings tied to RPS. This collaborative relationship is continued in this proceeding.

5. Categorization, Designation of Presiding Officers, and Need for Hearings

In the OIR, the Commission preliminarily categorized this matter as ratesetting and preliminarily determined that hearings are needed. The categorization of this proceeding was confirmed in the Scoping Memo in accordance with Rule 7.1, and was not appealed. The determination made in the Scoping Memo that hearings are needed is maintained in this Amended Scoping Memo.

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

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

6.1. 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. 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.

6.2. 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 ALJs. 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.

Following the direction in the Scoping Memo, 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.)

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 current status and projected steps necessary to continue the work of this proceeding. 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. 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. If there are any workshops in this proceeding, notices of such workshops will be posted in the Commission's Daily Calendar to inform the public that a decision-maker, or an advisor may be present at those meetings or workshops. Parties should check the Daily Calendar regularly for such notices.

In view of the many complex tasks to be addressed in the balance of this proceeding, both newly added and ongoing, 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.

To limit the number of entries in the schedule below, events that have already occurred are not shown.

EVENT	DATE
Ruling on revised staff guidelines for a multi-year marginal ELCC	First quarter 2016
Ruling on RPS Calculator 2016 portfolios	First quarter 2016
Staff proposal on BioMAT implementation for Emergency Proclamation	First quarter 2016
Ruling on updated variable integration adder	Second quarter 2016
Ruling on ReMAT revisit	Second quarter 2016
Energy Division staff workshop on LCBF updates	Second quarter 2016
Assigned Commissioner's Ruling for 2016 RPS	Second quarter 2016

EVENT	DATE
procurement plans	
Rulings seeking comment on new statutory requirements for compliance periods, procurement quantity requirements, long-term contracting, excess procurement, enforcement, and penalties	Second quarter 2016
Final verified compliance reports for first compliance period (2011-2013) due	30 days after transmittal of CEC Verification Report ⁵
Submission of 2016 RPS procurement plans	Third quarter 2016
Proposed decisions (PDs) on new statutory requirements for compliance periods, procurement quantity requirements, long-term contracting, excess procurement, enforcement, and penalties	Fourth quarter 2016
PD on 2016 RPS procurement plans ⁶	Fourth quarter 2016
Ruling seeking comment on LCBF methodology revisions	To be set by ALJ
Ruling seeking additional comment on procurement expenditure limitation	To be set by ALJ
PD on BioMAT implementation for Emergency Proclamation	To be set by ALJ
PD on LCBF revisions	To be set by ALJ
PD on procurement expenditure limitation	To be set by ALJ
Energy Division staff work on RPS Calculator uses, process alignment with other proceedings and agencies, etc.	Ongoing

⁵ Currently estimated by CEC to be second quarter 2016.

⁶ This PD may include adoption of final ELCC values, if appropriate.

EVENT	DATE
Evidentiary hearings, if needed	To be set by ALJ
Additional work, as needed	To be set by ALJ

IT IS RULED that:

1. The amended scope of issues and schedule set forth above are hereby adopted for the balance of 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 amended scoping memo and ruling.

3. Rulemaking 15-02-020 is categorized as ratesetting.

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

5. Hearings are determined to be needed.

6. 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 February 5, 2016, at San Francisco, California.

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