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5-11-17
08:39 AM

MGA/ek4 5/11/2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.

Rulemaking 13-09-011
(Filed September 19, 2013)

ASSIGNED COMMISSIONER'S AMENDED SCOPING MEMO

Summary

Pursuant to Public Utilities Code Section 1701.5(b), this Assigned Commissioner's Amended Scoping Memo (Amended Scoping Memo) extends the schedule of Rulemaking (R.) 13-09-011 in order to complete remaining issues and adds a new issue to the scope of phase four.

The Commission requires additional time to complete outstanding issues from phases two and three, including addressing the proposal to implement the cost causation competitive neutrality principle and whether to authorize an auction in 2018 for the Demand Response Auction Mechanism pilot, with 2019 deliveries. Furthermore, results of the 2015 Demand Response Potential Study and determinations made in Decision (D.) 16-09-056 have new issues related to the development of new models of demand response. Accordingly, this Amended Scoping Memo extends the schedule for the proceeding and expands the scope in order to establish a pathway to developing new models of demand response in this proceeding. The new issues will be addressed in the fourth phase of this proceeding, which will be categorized as quasi-legislative.

1. Procedural History

On September 19, 2013, the Commission initiated R.13-09-011 by approving the Order Instituting Rulemaking (OIR) to enhance the role of demand response in meeting the State's electric resource planning needs and operational requirements. The Commission initiated the rulemaking with the intention of retooling demand response to align with the grid's needs while enhancing the role of demand response in California's energy policies.¹

On November 14, 2013, the assigned Commissioner and Administrative Law Judge jointly issued a ruling and scoping memo.² The scope was laid out in four phases, with the first phase addressing bridge funding and the second phase addressing foundational issues, including cost allocation. Phase three would consider a competitive procurement mechanism and a fourth phase would entail the development of a demand response roadmap.³ On April 2, 2014, the assigned Commissioner and Administrative Law Judge issued an amended scoping memo that further defined the scope of phase three to include development of a Demand Response Auction Mechanism.

In December 2014, the Commission approved Decision (D.) 14-12-024, which required bifurcation of demand response programs and integration of supply side resources into the California Independent System Operator (CAISO) market by the year 2018; required end of year demand response program

¹ OIR at 15.

² Pursuant to Public Utilities Code Section 1701.5 (a), the November 14, 2013 Scoping Memo explained that the complexity of the case and the number of issues to be resolved required a time longer than the 18 months typical for rate setting cases and thus set a deadline of November 14, 2015 to complete this proceeding. *See* Joint Assigned Commission and Administrative Law Judge Ruling and Scoping Memo, November 14, 2013 at 10.

³ November 14, 2013 Scoping Memo at 2.

reviews; adopted two cost causation principles; and directed Commission staff to study the potential of demand response in California in order to assist the Commission in establishing a goal for the demand response program (Potential Study).⁴ Due to a delay of the Potential Study launch, the assigned Commissioner and Administrative Law Judge jointly issued an amended scoping memo on November 6, 2015, extending the schedule to March 14, 2017 for this proceeding. The Commission approved D.17-03-012, which extended the statutory deadline for this proceeding to May 13, 2017 in order to draft an amended scoping memo.

On April 1, 2016, Lawrence Berkeley National Laboratory (Contractors) delivered their interim report on Phase I results of the Potential Study to the parties of the proceeding.⁵ The interim results focused on meeting system and local peak capacity needs, *i.e.* existing programs. The Contractors stated that the second phase of the Potential Study would focus on newer models of demand response, targeting flexible resource adequacy, ancillary services, and reverse demand response. In D.16-09-056, the Commission established guidance to the demand response utilities⁶ regarding existing models of demand response programs for 2018 and beyond and determined that a second decision would focus on new models of demand response programs to be developed following the delivery of the second phase of the Potential Study. The Contractors provided the second phase of the Potential Study on March 1, 2017.

⁴ D.14-12-024 at 18.

⁵ The Interim Report on Phase I Results of the 2015 California Demand Response Potential Study, April 1, 2016, is available at: <http://www.cpuc.ca.gov/General.aspx?id=10622>.

⁶ The demand response utilities are Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company.

In early 2017, the Commission facilitated several workshops in this proceeding. On February 22, 2017, a workshop to discuss program year 2016 took place, during which time parties addressed several remaining barriers to the integration of demand response into the CAISO energy market.

On April 4, 2017, the assigned Administrative Law Judges facilitated a workshop to discuss the pathway toward development of new models of demand response. Lastly, on April 10, 2017, a workshop took place to discuss the implementation of the cost causation competitive neutrality principle.

On April 27, 2017, the Commission approved D.17-04-045, addressing a petition for modification of D.16-06-008, which among other things approved funding for a third Demand Response Auction Mechanism pilot with an auction in 2017 and deliveries in 2018 and 2019. D.17-04-045 determined that business opportunities for demand response providers could be limited under the previously approved \$27 million budget for the Demand Response Auction Mechanism pilot (an auction to be held in 2017 with deliveries in 2018) and directed parties to respond to questions regarding whether the Commission should approve an additional auction in 2018 for 2019 deliveries.⁷

2. Categorization

In the OIR, the Commission preliminarily categorized this matter as ratesetting. As pointed out in the November 14, 2013 scoping memo, several parties stated that the issues related to the demand response roadmap could be categorized as quasi-legislative and issues related to bridge funding and the

⁷ D.17-04-045 at Ordering Paragraph 6.

pilots could be categorized as ratesetting.⁸ Ultimately, the November 13, 2014 scoping memo determined the categorization as ratesetting and underscored that Commission Rules state, “when a proceeding does not clearly fit into any one of the categories, the proceeding will be conducted under the rules applicable to the ratesetting category.”⁹ Phases two and three of this proceeding remain open to consider:

- How to implement the cost causation net neutrality principle;
- How to address remaining CAISO integration issues; and
- Whether to approve a fourth Demand Response Auction Mechanism pilot with an auction in 2018 and delivery in 2019.

Phase two and three remain ratesetting.

The fourth phase of this proceeding will entail parties and the Commission working with the CAISO to develop new models of demand response that will either be included in the California Energy Commission forecast as load modifying resources or will be integrated into the CAISO markets. It is anticipated that the breadth of the work will not involve ratesetting elements or require hearings. As described in Public Utilities Code Section 1701.1, quasi-legislative proceedings are cases that establish policy, including, but not limited to, rulemakings which may establish rules affecting an entire industry. Hence, we categorize this fourth phase as quasi-legislative. This ruling may be appealed. Appeals of categorization must be filed and served within 10 days.¹⁰

⁸ November 14, 2013 Scoping Memo at 3-4.

⁹ Rule 7.1(e)(2)

¹⁰ Rule 7.6.

3. Ex Parte Communications

In a quasi-legislative proceeding such as phase four of this one, *ex parte* communications with the assigned Commissioner, other Commissioners, and their advisors are allowed without restriction or reporting requirements as described at Public Utilities Code Sections 1701.1 and 1701.4.

4. Need for Hearing

We do not anticipate holding an evidentiary hearing in the fourth phase of this proceeding. Workshops, comment rulings, and/or working groups will be employed to develop the record.

5. Scope

When the Commission embarked upon this rulemaking, the issue of developing newer models of demand response was not included in the scope. While the OIR stated the Commission's intention to retool demand response to align with the grid's needs, the increase in use of renewables in California over the past few years has necessitated a fresh look at demand response models and the results of the Potential Study indicate possible value for programs that go beyond the traditional shedding of peak load; *i.e.*, new models of demand response. The Potential Study contained several recommendations that provide an opportunity to take advantage of new models of demand response not currently captured by traditional models that are contained in the utilities' portfolios or provided by third party providers through the Demand Response Auction Mechanism.

The proposed new models of demand response represent value in helping the Commission meet the objectives of this proceeding: retooling demand response to align with the grid's needs while enhancing the role of demand response in achieving California's energy policies. Hence, it is reasonable to

expand the scope of this proceeding and add the following two issues to phase four:¹¹

- Pursue the steps necessary to resolve any barriers to new models of demand response; and
- Consider the design of new models.

Accordingly, the deadline of this proceeding is extended for an additional 18 months to November 11, 2018.

The scope of phases two and three remain as identified in prior scoping memos in this proceeding.

6. Coordination with the Distributed Energy Resources Action Plan

The Commission recently developed an action plan entitled, *California's Distributed Energy Resources Action Plan: Aligning Vision and Action* (Action Plan), which the Commission launched and endorsed on November 10, 2017.¹² The Action Plan aligns the Commission's vision and actions in shaping the future of California's distributed energy resources, including demand response resources. The Action Plan outlines a vision of distributed energy resources over the next several years, and serves as a roadmap in coordinating activities across multiple proceedings as California continues its commitment to greenhouse gas emissions reduction and reform of utility distribution planning, investment, and operations. Lastly, the Action Plan serves as a guide for decision-makers, staff, and stakeholders as they facilitate proactive and forward-thinking distributed

¹¹ Phase four originally entailed developing a roadmap for demand response. However, that work was completed, as determined in D.14-12-024.

¹² In endorsing the Action Plan, the Commission intends to guide development and implementation of policy related to distributed energy resources; it is *not* the Commission's intention to determine outcomes of individual proceedings.

energy resources policy. One element of the Action Plan is the enhancement of demand response products, including participation in ancillary services markets and the availability of “reverse” demand response, both of which require developing new models of demand response. Phase four of this proceeding will contribute to advancing new demand response products.

7. Schedule

We adopt the following near term schedule for this proceeding:

Date	Activity	Phase
May-June 2017	Post Workshop Ruling Issued	Phases II and III
June 2017	Ruling Issued: New Models of Demand Response	Phase IV
June 19, 2017	Opening Comments Filed to D.17-04-045 regarding the Demand Response Auction Mechanism	Phase III
July 5, 2017	Reply Comments Filed to D.17-04-045 regarding the Demand Response Auction Mechanism	Phase III
July 2017	Ruling Addressing Remaining Barriers to CAISO Market Integration	Phase III
July 2017	Ruling Providing Guidance Regarding New Models of Demand Response	Phase IV
August/September 2017	Proposed Decision Issued addressing the Competitive Neutrality Principle and the Demand Response Auction Mechanism	Phase II and III

It is the Commission’s intent to complete this proceeding within 18 months of the date this Scoping Memo is issued. This deadline may be extended by

order of the Commission.¹³ If there are any workshops in this proceeding, notice of such workshops will be posted on 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 shall check the Daily Calendar regularly for such notices.

IT IS RULED that:

1. The fourth phase of this proceeding is categorized as quasi-legislative; appeals of categorization must be filed and served within ten days of the issuance of this Amended Scoping Memo. Phases two and three remain categorized as ratesetting.
2. *Ex parte* communications with the assigned Commissioner, other Commissioners, and their advisors are allowed without restriction or reporting requirements.
3. A hearing is not required.
4. The fourth phase of this proceeding is opened and the scope is expanded to include determining the actions needed for resolving the barriers to developing new models of demand response and for considering the design of such new models.
5. The second and third phases of this proceeding remain open to determine the implementation of the cost causation competitive neutrality principle; to address any remaining issues with the integration of demand response into the CAISO market; and whether to approve a 2018 demand response auction with 2019 deliveries.

¹³ Public Utilities Code Section 1701.5(b).

6. The deadline for completing this proceeding is extended to November 11, 2018.

7. The schedule for this proceeding is adopted as indicated in Section 7 of this Amended Scoping Memo; the Presiding Officer may adjust this schedule as necessary for efficient management of this proceeding.

Dated May 11, 2017 at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES
Martha Guzman Aceves
Assigned Commissioner