Decision_____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Electric Procurement Policy Refinements pursuant to the Joint Reliability Plan.	Rulemaking_____

ORDER INSTITUTING RULEMAKING

Table of Contents

Title **Page**

ORDER INSTITUTING RULEMAKING 1
1. Summary 2
2. Background 2
3. Preliminary Scoping Memo 7
3.1. Multi-Year Resource Adequacy Requirements 8
3.2. Development of Unified Long Term Reliability Planning Assessment 11
3.3. Commission Policy Positions and Rules Regarding CAISO Development of a Market-Based Backstop Procurement Tariff to the Resource Adequacy Program 12
4. Relationship to Other Proceedings 16
5. Interagency Consideration 17
6. Category of Proceeding and Need for Hearing 18
7. Schedule 19
8. Invitation to Comment on Preliminary Scoping Memo and Schedule 21
9. Becoming a Party: Joining and Using the Service List 22
9.1. During the First 30 Days 23
9.2. After the First 30 Days 23
9.3. Updating Information 24
9.4. Serving and Filing Documents 24
9.5. Format and Service 25
10. Public Advisor 25
11. Intervenor Compensation 26
12. *Ex Parte* Communications 26

ORDER INSTITUTING RULEMAKING

1. Summary

We open this rulemaking to consider policy proposals to refine California's existing reliability framework for electricity procurement. "Reliability framework" as we use the phrase here means California's electric resource and transmission planning and procurement processes. It includes the Commission's Resource Adequacy program and Long-Term Procurement Planning proceeding as well as the California Independent System Operator Corporation's (CAISO) Capacity Procurement Mechanism and transmission planning processes. This is the forum in which we shall execute on our commitment to consider proposed modifications to three aspects of California's electric reliability framework pursuant to the Joint Reliability Plan adopted by the Commission and the CAISO Board of Governors.

2. Background

This Rulemaking originates from our commitment in adopting the Joint Reliability Plan to consider certain issues, which we will take up under the three tracks in this proceeding.[1] These issues are:

1. Two and three-year forward-looking resource adequacy procurement requirements.
2. Implementing a long term joint reliability planning assessment with the California Independent System Operator Corporation's (CAISO) and California Energy Commission (CEC).

---

[1] *See* Appendix A, The Joint Reliability Plan adopted on Nov. 14, 2013, available at http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=81666376.

3. Determining rules and Commission policy positions with respect to the CAISO's development of a market-based backstop procurement mechanism to replace its existing Capacity Procurement Mechanism which expires in 2016.[2]

The Joint Reliability Plan resulted from extensive cooperation between Commission and CAISO staff following long-term resource adequacy summit jointly hosted by the Commission and the CAISO in February 2013.[3] Following the summit, staff discussed a range of policy options to respond to California's emerging reliability challenges while accommodating the unique history and structure of California's energy and capacity markets. The overall objective for this proceeding is to ensure that California's electric reliability framework continues to adapt as needed to meet the changing requirements of the electric grid while facilitating the achievement of California's environmental policies at just and reasonable rates.

The current reliability framework has provided for reliable operation of the transmission grid over the past decade. Yet, fundamental changes are expected as unprecedented levels of renewable resources reach commercial operation to meet California's environmental laws, including required reductions in greenhouse gas emissions, the renewable portfolio standard, and retiring gas-fired power plants that use once through cooling technology. This

---

[2] We shall also consider additional rule and policy issues, as needed, to ensure successful implementation of any changes to the electric reliability framework that are adopted in this proceeding

[3] California Public Utilities Commission and CAISO Long-Term Resource Adequacy Summit, February 26, 2014, briefing documents and presentations available http://www.caiso.com/Documents/Public%20forums%20archive/Long-term%20resource%20adequacy%20summit%20-%20Feb%2026,%202013 .

Commission has been anticipating these changes and taking steps to prepare for them in the last several cycles of the Long-Term Procurement Planning (LTPP) and Resource Adequacy (RA) proceedings, but as new operational and market challenges emerge we recognize the need to remain aware and responsive in order to ensure reliable electricity supplies.

In the discussions leading to the development of the three initiatives we agreed to undertake by adopting the Joint Reliability Plan, the CAISO staff reiterated its opinion that California should institute a three to five-year forward capacity market.[4] But we have previously considered and rejected proposals to institute a centralized capacity auction in California, and we will not revisit our decision rejecting a centralized capacity market in this proceeding.[5] We found that the bilateral trading approach sufficiently met our objectives for the RA program and rejected a centralized auction due in large part to concerns that it would require a shift to "some degree of mandatory [Load Serving Entity] LSE participation in the centralized auction."[6] We recognized that although the centralized auction approach had been in place in the eastern United States markets for several years, we did not find that it was a "proven, long-term success story."[7] We expressed concern that "the underlying premise of a

---

[4] *See* Joint Reliability Framework to Develop Multi-Year Resource Adequacy Obligations with a Market-Based ISO Backstop Capacity Procurement Mechanism at 2, available at http://www.caiso.com/informed/Pages/StakeholderProcesses/Multi-YearReliabilityFramework.aspx.

[5] Decision (D.) 10-06-018 at 43.

[6] *Id*. at 44, 62.

[7] *Id*. at 62-63 (describing state regulatory commission concerns and experiences in the PJM centralized capacity market).

centralized auction is to promote investment in, and development of, generic RA capacity" and we were not persuaded that renewable and low-Greenhouse Gas resources could be prioritized in a capacity auction mechanism.[8]

We remain concerned today that the approaches taken in the eastern centralized capacity market construct do not provide a secure regulatory environment for state regulatory commissions to ensure achievement of environmental or reliability-based procurement goals, without posing risks of over-procuring generic capacity. Accordingly, we will not consider proposal for a mandatory centralized capacity auction for California at this time.

We will, however, consider alternative proposals for policy changes that may be necessary to ensure long-term resource adequacy, such as supporting a limited form of an organized capacity auction to fulfill CAISO backstop procurement needs, should they arise. Our decision will be considered against the Commission's concerns expressed in D.10-06-018.

In the discussions leading to the development of the Joint Reliability Plan's three initiatives, the Commission and CAISO staff agreed that establishing three-year forward capacity procurement obligations may provide a number of benefits if properly designed.[9] We have previously considered but rejected proposals to require Load Serving Entities (LSEs) to commit demonstrate commitments with supply resources multiple years in advance of the resource

---

[8] *Id*. at 60.

[9] *See* Joint Reliability Framework to Develop Multi-Year Resource Adequacy Obligations with a Market-Based ISO Backstop Capacity Procurement Mechanism at 8-9.

adequacy delivery year.[10] We found that the proposals presented did not conform to our stated metrics for resource adequacy and determined that the RA program should continue as a year-ahead procurement framework. But although we were not ready to implement such a feature at the time, we remained open to considering the issue in the future and directed the Energy Division to study and report on the potential of a forward procurement obligation.[11]

Accordingly, proposals for extending the existing RA program to encompass two- and three-year forward procurement requirements will be considered against the Commission's policies for the RA program described in D.10-06-018. For example, if forward obligations are adopted as a procurement requirement we will also consider how to implement the obligation for all LSEs. Any new policies will be adopted to ensure reliability, at least cost, with equitable cost allocation, and to structure the program in coordination with policies and laws described above that could be impacted by the RA program.

We anticipate that all proposed refinements and to the Reliability Framework and related issues undertaken in this proceeding will also be considered in the context of the guiding principles adopted in the Joint Reliability Plan; the Energy Action Plan II (EAP II);[12] the Commission's Loading

---

[10] D.10-06-018 at 68.

[11] *Id*.

[12] EAP I was issued jointly on May 8, 2003, by the Commission, the CEC and the California Consumer Power and Conservation Financing Authority. EAP I was updated with the adoption of EAP II, as a joint policy plan of the California Public Utilities Commission and the CEC, in October 2005, and was also updated again in 2008.

Order policies which prioritize certain preferred resources;[13] other state energy procurement laws and policies, such as Assembly Bill (AB) 32 greenhouse gas,[14] once-through-cooling policies'[15] and Commission decisions issued from other procurement-related proceedings such as the Long Term Procurement Planning,[16] Resource Adequacy,[17] Demand Response,[18] Energy Efficiency,[19] and Energy Storage proceedings.[20]

Finally, we recognize that the LTPP and RA proceedings have consistently attempted improve safety through increased reliability and other actions directly related to the procurement of electric resources. In this proceeding we will continue to ensure that utilities are making procurement decisions that are consistent with otherwise applicable safety standards.

3. Preliminary Scoping Memo

As required by Rule 7.1(d)[21] of the Commission's Rules of Practice and Procedure (Rules), this Order includes a preliminary scoping memo. In this

---

[13] As articulated in EAP I and II, preferred resources include energy efficiency, demand response, and distributed generation including combined heat and power.

[14] Stats. 2006, Chapter 488.

[15] Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters Used for Power Plant Cooling.

[16] Rulemaking (R.) 12-03-014 and successors.

[17] R.05-12-013, R.11-10-023 and successors.

[18] R.13-09-011.

[19] R.13-11-005.

[20] R.10-12-007.

[21] "An order instituting rulemaking shall preliminarily determine the category and need for hearing, and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changes by assigned

Footnote continued on next page

Preliminary Scoping Memo, we describe the issues to be considered in this proceeding and the timetable for resolving the proceeding.

3.1. Multi-Year Resource Adequacy Requirements

Under Track 1 of the proceeding we will consider expanding the Commission's current resource adequacy program by adopting procurement requirements for LSEs to demonstrate that they have acquired (through ownership or contract) resources to meet a certain percentage of forecasted system, local, and/or flexible capacity needs two- and three-years prior to the resource adequacy compliance delivery year. We will examine and seek party input on the following issues:

1. **Determining need for proposed new policy.**
   a. Do reliability needs justify adopting forward resource adequacy obligations? The Commission must determine whether new rules requiring forward procurement of resources are needed to support grid reliability.
   b. Do safety considerations justify adopting forward resource adequacy obligations? As safety is a top priority for the California Public Utilities Commission (CPUC), we may consider how our commitment to public safety and health weighs in our consideration of forward procurement requirements.
2. **Review of costs and benefits of proposed new policy**.
   a. Would forward procurement requirements contribute positively to reliability, and if so, how?

Commissioner's ruling pursuant to Rule 7.3, and such ruling as to category is subject to appeal under Rule 7.6." (Rule 7.1(d)).

b. Would forward procurement requirements reduce risks that existing resources may seek to retire prematurely, or address other systemic challenges to reliability such as those identified in the February 2013 briefing paper on long-term resource adequacy prepared by Commission staff?[22]

c. What are the expected additional costs to implement new forward procurement requirements?

d. Should the Commission consider other proposals to achieve cost effective retention of resources that will be needed for grid reliability needs, and if so, what proposals?

e. Are forward procurement requirements likely to promote the development of additional preferred resources based on their funding and procurement cycles and processes?

f. Is three-years forward an appropriate time-frame for forward procurement requirements, or should there be a longer compliance horizon?

3. **Design of multi-year forward resource adequacy requirements in the context of preferred resources and resource characteristics**.

a. What kinds of capacity should be subjected to forward procurement requirements (*e.g.*, system, local, or flexible capacity)?

b. What percentage of resources should we require LSEs to procure two- or three- years ahead of the resource adequacy delivery year for each kind of capacity?

---

[22] *See* The CPUC Energy Division February 2013 staff briefing paper on long-term resource adequacy, available at http://www.cpuc.ca.gov/NR/rdonlyres/E2A36B6A-977E-4130-A83F-61E66C5FD059/0/CPUCBriefingPaperonLongTermResourceAdequacyBriefingPaperFebrua.pdf .

c. How and when should the Commission determine forecasted capacity needs and set forward procurement requirements for LSEs, and what topics should we consider regarding the Commission's use of CAISO studies to establish such requirements?

d. Will the existence of forward capacity obligations be likely to have a positive or negative impact on the development of preferred resources in the state?

e. Should two- or three- year forward procurement requirements be based on monthly, seasonal, annual, or some other duration for resource adequacy products?

f. What design elements should we consider to ensure that forward procurement requirements will be consistent with the loading order and will further the state's environmental goals?

g. How should the Commission address load migration or load shifting among LSEs between the three-year forward compliance showing and the resource adequacy delivery year?

h. How should the Commission mitigate potential over-procurement in the event expected load decreases between the three-year forward compliance requirements and the resource adequacy delivery year?

4. **Forward resource adequacy obligation program requirements and rules.** If adopted, the Commission must establish program rules that are needed for program implementation.

a. What rules are needed for the Commission to verify compliance filings and determine if a deficiency exists in the resource adequacy compliance filings and, if so, when such deficiencies may trigger backstop procurement events by the CAISO?

b. Should the Commission require LSEs to submit data in their compliance filings showing all resources they own or have under contract, even for resources above the minimum procurement requirements?

c. Should the Commission adopt a policy of applying sanctions for an LSE's failure to meet forward resource adequacy compliance requirements?

d. What issues, if any, should the Commission consider regarding the allocation of capacity or costs for resources subject to the Cost Allocation Mechanism?

e. Should the Commission establish or modify standardized capacity product definitions and minimum performance obligations required for resource adequacy contracts for multi-year forward requirements?

f. How should we determine the capacity value two- and three-years ahead for resources such as renewable and preferred generation, or new conventional generation expected to come online within the forward compliance horizon?

These and other issues whose resolution is necessary for establishing appropriate multi-year forward procurement requirements may be taken up in this track of the proceeding.

3.2. Development of Unified Long Term Reliability Planning Assessment

Track 2 of this rulemaking will establish a methodology and process for conducting joint long-term reliability assessments with the CAISO and in collaboration with CEC. This Track of the rulemaking will examine and seek stakeholder input on issues relevant to conducting a reliability planning assessment that looks out over a planning horizon of up to ten years into the future. The assessment will seek to compare expected resource needs against two views of supply: the installed fleet (including expected additions minus expected retirements) and the already procured fleet (resources that are owned by the utilities or are under long-term contracts). This portion of the proceeding will coordinate closely with the LTPP, which has periodically conducted

assessments for the primary purpose of determining whether there is a need for procurement of additional system resources. The LTPP, has not, however, reviewed or prepared the assessment for other purposes, nor on a consistent time-frame basis.

Issues we expect to consider include the following:

1. What process should we adopt for developing jointly-agreed input assumptions or scenarios, methods for collecting data on forward contracts or ownership of units?
2. What methodology should we establish for completing forward planning assessments?
3. Could establishing a procurement database could enhance the efficiency of regularly conducting such assessments, the timing and time periods covered by such assessments, and confidentiality rules.
4. Should we establish a process for the State to conduct this type of planning assessment on a regular basis, and if so on what time interval?

These and other issues whose resolution is necessary for establishing an ongoing process for conducting such assessments may be taken up in this track of the proceeding.

3.3. Commission Policy Positions and Rules Regarding CAISO Development of a Market-Based Backstop Procurement Tariff to the Resource Adequacy Program

In Track 3 of this rulemaking we will consider issues necessary to determine the Commission's policy position on a proposed replacement of the existing Capacity Procurement Mechanism (CPM), which expires in 2016. We will also consider adopting rules relating to the extent to which CPUC-jurisdictional LSEs are authorized to utilize the market-based mechanism

to procure capacity to satisfy minimum resource adequacy procurement requirements. Further, we will consider how such participation in a CAISO-run capacity market will affect or relate to procurement authorized through existing Commission policy mandates (in particular preferred resources). In considering these issues we will especially look to receive legal analyses from parties on the viability of maintaining a residual role for a market-based procurement mechanism, in light of the extensive litigation over the Federal Energy Regulatory Commission's (FERC) administration of market rules and legal challenges to state procurement programs in regions subject to FERC-regulated organized capacity markets.

The CAISO has initiated a stakeholder process to develop a proposal to replace the CPM with another market-based backstop procurement mechanism, such as a Reliability Services Auction.[23] The CAISO will develop the proposed design details for the replacement backstop procurement mechanism, but we expect to receive the CAISO's proposal in this proceeding. Once we have the proposal the Commission will seek party input through workshops and comments and we may solicit the advice of expert consultants. We expect this process to ultimately result in a Commission policy determination on whether it supports or opposes implementation of the proposed backstop procurement mechanism, including any potential modifications the Commission would endorse. The determination will be made on a time frame that is coordinated

[23] *See* CAISO Stakeholder Processes page for Reliability Services, available at http://www.caiso.com/informed/Pages/StakeholderProcesses/ReliabilityServices.aspx.

with the CAISO stakeholder process, and accordingly can inform a CAISO decision on whether (and how) to submit the proposal for approval by the FERC.

Issues we expect to consider in this track of the proceeding include the following:

1. **Issues related to determining the economic viability of the proposed backstop procurement mechanism**. The Commission will consider if the proposed design of the market-based backstop procurement mechanism is economically viable if used solely as a backstop procurement tool. This includes considering the following sub-issues:

    a. Is a minimum amount of procurement for demand (*i.e*. minimum liquidity) through the mechanism necessary to prevent the exercise of market power or achieve just and reasonable prices?

    b. How could the existence of the proposed market-based backstop mechanism affect outcomes in California's existing bilateral capacity market?

    c. Would resources opt out of the bilateral capacity market in favor of the backstop procurement method, and if so, are there risks that the backstop market would become a *de facto* primary procurement market?

    d. If the backstop market becomes a *de facto* primary procurement market, what are the risks to the state's preferred resource policies?

    e. What are the likely market impacts and/or the sufficiency of any proposed design elements or rules to mitigate the exercise of market power in the market-based backstop mechanism?

2. **Issues related to determining the legal viability of maintaining a limited role for the proposed backstop procurement mechanism.** The Commission will consider

the legal risks associated with the establishment of a CAISO-administered, FERC-jurisdictional organized capacity market. This includes considering of the following sub-issues:

a. The LTPP is the forum through which we ensure sufficient investment in new resources by authorizing utilities to enter into bilaterally-negotiated contract to finance the construction of new generation. Would our support for the proposed backstop procurement mechanism create risks that FERC or the courts will overturn rules limiting the amount or type or procurement that may be conducted using the proposed mechanism?

b. How should a proposed tariff amendment for a market-based backstop procurement mechanism be structured in order to prevent material design modifications or rule changes in the future, either by FERC or in responses to legal challenges initiated by third parties?

c. How might existence of the market-based backstop mechanism affect the Commission's ability to ensure that resources procured pursuant to Commission authorization, including preferred resources or new generation, are fully recognized in meeting minimum capacity requirements?

3. What are the likely costs to implement the proposed market-based backstop mechanism and the potential benefits for ratepayers? Are the costs justified in light of the expected benefits?

These and other issues whose resolution is necessary for a decision on the Commission's ultimate policy position on the CAISO's proposal may be taken up in this track of the proceeding.

4. Relationship to Other Proceedings

We recognize that this proceeding may consider issues that have been encompassed within the scope of other proceedings in the past,[24] and that could be considered as now falling within the scope of ongoing proceedings. We emphasize that beyond the scope of issues identified in this Order Instituting Rulemaking (OIR) or in the final Scoping Memo, related issues that are under consideration in the other procurement-related dockets are not within the scope of this proceeding.

Specifically, the Commission's adoption of resource plans and any resulting procurement authorized for the Investor Owned Utilities for the ten-year or longer planning horizon are outside of the scope of this proceeding and remain within the ambit of the LTPP. Planning assumptions and scenarios adopted by the LTPP will likely be considered in the development of a long-term joint reliability assessment under this proceeding; however, the determination of needs, authorization for new resource additions, and rules for conducting procurement solicitations remains within the scope of the LTPP and other procurement-related proceedings.[25] The LTPP expressly remains the forum in which California performs integrated long-term resource planning and ensures that sufficient investment is made in new resources in California to meet expected future demand of the Investor Owned Utilities' bundled and unbundled customers.

---

[24] R.05-12-013 considered multi-year forward resource adequacy requirements and capacity markets and the scope of R.12-03-014 included consideration of multi-year flexible capacity procurement rules.

[25] *See* R.13-12-010, R.12-03-014, R.10-05-006, and successors.

Similarly, rules or refinements adopted for the Commission's existing (one-year ahead) resource adequacy requirements program also remain within the scope of the RA proceedings and outside of the scope of this proceeding. This includes, for example, the amount of local or flexible capacity requirements and capacity counting rules adopted by the Commission for LSEs as defined by Public Utilities Code Section 380(j).[26] In this proceeding, we will adopt rules, if necessary, to extend the one-year ahead resource adequacy program to a two and three-year ahead time frame.

Finally, we will also not re-open policy decisions established in commission decisions on resource adequacy, long-term procurement planning, or in other procurement-related proceedings. For example, we will not re-visit Capacity Allocation Mechanism policy issues established by D.06-07-029 as re-affirmed or modified in other decisions including D.07-09-044, D.08-09-012, D.11-05-005, or other decisions finding resource procurement authorizations to be subject to the Capacity Allocation Mechanism.

5. Interagency Consideration

The Joint Reliability Plan resulted from extensive cooperation between Commission and CAISO staff, which we expect will continue as we develop the record of this proceeding and throughout the CAISO processes to develop proposed tariff changes. We also encourage the CAISO to secure authorizations to review confidential utility data on the amount of forward procurement that occurs relative to forecast reliability needs in the absence of express forward resource adequacy procurement requirements. We expect that CAISO access to

---

[26] *See* R.05-12-013, R.09-10-032, R.11-10-023, and successors.

such information will be critical to allowing the CAISO to understand the potential reliability and cost-related impacts of any staff or party proposals to set forward procurement requirements.

We also recognize that the reliability planning assessment considered under Track 2 of this proceeding will overlap with, and will require coordination with the state's demand forecast produced by the CEC. We fully expect to coordinate our efforts in this proceeding with the CEC, including determining if the CEC's existing processes may offer an efficient platform for collecting data needed to complete the supply assessments. To that end we invite the CEC join us in Track 2 of this proceeding through the collaborative approach that both agencies pursued in the development of procurement policy since R.05-12-013.

6. Category of Proceeding and Need for Hearing

The Commission's Rules of Practice and Procedure require that an OIR preliminarily determine the category of the proceeding and the need for hearing. When a proceeding may fit more than one category, the Commission may divide the subject matter of the proceeding into different phases.[27] We determine that it is appropriate to divide the proceeding into three tracks, which shall be categorized as follows:

Track 1 of this proceeding relates to the consideration of multi-year forward resource adequacy requirements. As a preliminary matter, we determine Track 1 to be ratesetting as defined in Rule 1.3(e). Track 2 of this proceeding relates to the consideration of the long-term reliability planning assessment. As a preliminary matter, we determine Track 2 to be

[27] Rule 7.1.

quasi-legislative as defined in Rule 1.3(d). Track 3 of this proceeding relates to the consideration of the Commission's policy position regarding the CAISO proposal for a market-based backstop procurement mechanism such as the Reliability Services Auction. As a preliminary matter, we determine Track 3 to be quasi-legislative as defined in Rule 1.3(d).

Although we expect to conduct a pre hearing conference on the scope and schedule of issues to be decided in this proceeding, we expect that the issues in each of the tracks may be resolved through comments and workshops without the need for evidentiary hearings. A final determination on the need for hearings will be made in the assigned Commissioner's scoping memo.

Any person who objects to the preliminary categorization of the three tracks of this rulemaking as shall state their objections in the comments on the Preliminary Scoping Memo. After considering the comments, the assigned Commissioner will issue a scoping ruling making a final category determination; this final category determination is subject to appeal as specified in Rule 7.6.

7. Schedule

The preliminary schedule is set forth below. Each of the three tracks outlined in the Preliminary Scoping Memo will likely require different types and degrees of public participation. At the same time, the issues to be considered in each of the three tracks are highly inter-related and decisions made in one track will affect the consideration of issues in other tracks. For example, a Commission decision that establishes two- and three-year forward multi-year resource adequacy and the specific rules and requirements that are adopted may affect the form of the CAISO's proposed backstop procurement mechanism, which in turn may affect the Commission's policy determinations on the CAISO proposal. We delegate further definition of procedure and schedule for each issue area to the

assigned Commissioner and Administrative Law Judge (ALJ) as determined in the Scoping Memo or later ruling, but initially we propose for the three tracks to run concurrently with the following schedule and milestones for each track:

Proceeding Milestone	Date
Commission opens Rulemaking	February 5, 2014
Comments due on Preliminary Scoping Memo	February 20, 2014
Pre-Hearing Conference	Early March 2014
Assigned Commissioner's Ruling and Scoping Memo	April 2014
Workshop on Track 1 and Track 3 issues	April-May 2014
Comments on workshop	May 2014
Track 1 – Multi-year resource adequacy	
CPUC Staff proposal on multiyear resource adequacy	June 2014
Workshop	June 2014
Comments and replies	June 2014
Revised proposals and workshops	TBD as needed
Proposed Decision on Multiyear RA	January 2015
Decision on Multiyear RA	February 2015
Track 2 – Long-term reliability planning assessment	
Staff proposal on methodology, assumptions, and rules for joint reliability planning assessments	July 2014
Workshop	September 2014
Comments and replies	September - October 2014
Assigned Commissioner rulings or Commission decisions on confidentiality, data collection, publication, methodology, assumptions, impact of assessments on ongoing CPUC proceedings, or other issues (as needed).	November-December 2014
Publish first assessment	First quarter 2015
Track 3 – Commission policy decisions on CAISO proposal for replacement to CPM (backstop procurement mechanism)	
CAISO expected to issue first draft straw proposal for backstop procurement mechanism	Late March 2014

Proceeding Milestone	Date
Workshop to consider CAISO proposal under development for backstop procurement mechanism	May-June 2014
Comments and replies	June 2014
Proposed Decision on issues re: CAISO backstop procurement mechanism (as needed)	August 2014
Decision on issues re: CAISO backstop procurement mechanism (as needed)	September 2014

We leave open the possibility that issue areas may be decided upon individually in interim decisions, if necessary. In addition, we authorize the assigned Commissioner and ALJ to organize issues within the proceeding, including moving issues between phases. The assigned Commissioner or ALJ has the authority to make changes to the above schedule.

The schedule for resolving this proceeding will conform to the statutory case management deadline for ratesetting and quasi-legislative matters set forth in § 1701.5. While it is our intention to resolve all relevant issues within 18 months of the date of the assigned Commissioner's Scoping Memo for all three tracks, we also anticipate that it may be feasible and necessary to resolve certain issues sooner than required due to their inter-relation with proposed tariff amendments the CAISO intends to submit to the FERC in early 2015.

8. Invitation to Comment on Preliminary Scoping Memo and Schedule

This OIR serves as a solicitation for parties to comment on the Preliminary Scoping Memo. Comments are due on February 20, 2014.

We direct parties to limit their comments to the schedule, the issues set forth in the preliminary scoping memo, and to objections to the preliminary determinations below. Comments directed to the issues identified may include whether to amend the issues and how to prioritize the issues to be resolved; how

to procedurally address these issues; the proposed separation of certain issues into different tracks; and the proposed timeline for resolving the issues identified. Comments are limited to 10 pages per party. After comments are received and reviewed, the Assigned Commissioner's Scoping Ruling will lay out the issues and procedural path in more detail.

9. Becoming a Party: Joining and Using the Service List

Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and all CPUC-jurisdictional entities as defined under Section 380 (j) shall be respondents to this proceeding and shall therefore be parties. These entities are listed in Appendix A. Within 15 days of mailing of this rulemaking, each respondent shall inform the Commission's Process Office of the contact information for a single representative, although other representatives and persons affiliated with the respondents may be placed on the Information Only service list.

We will provide for service of this order on the service list for the LTPP proceeding (R.12-03-014 or its successor), as well the RA (R.11-10-023), Energy Efficiency (R.09-11-014), Demand Response (R.07-01-041) and Energy Storage (R.10-12-007) proceedings. Such service does not confer party status in this proceeding upon any person or entity, and does not result in that person or entity being placed on the service list for this proceeding. If you want to participate in the rulemaking or simply to monitor it, follow the procedures set forth below. To ensure you receive all documents, send your request within 30 days after the OIR is published. The Commission's Process Office will publish the official service list at the Commission's website (www.cpuc.ca.gov), and will update the list as necessary.

9.1. During the First 30 Days

Within 30 days of the service of this OIR, any person may ask to be added to the official service list. Send your request to the Process Office. You may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102). Include the following information:

- Docket Number of this Rulemaking;
- Name (and party represented, if applicable);
- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).[28]

If the OIR names you as respondent, you are already a party, but you or your representative must still ask to be added to the official service list.

Party status will be granted to any party to R. 12-03-014 or R.11-10-023 upon receipt of the above information.

9.2. After the First 30 Days

If you want to become a party after the first 30 days, you may do so by filing and serving timely comments in the rulemaking (Rule 1.4(a)(2)), or by making an oral motion at the prehearing conference (PHC) (Rule 1.4(a)(3)), or by filing a motion (Rule 1.4(a)(4)). If you file a motion, you must also comply with

[28] If you want to file comments or otherwise actively participate, choose "Party" status. If you do not want to actively participate but want to follow events and filings as they occur, choose "State Service" status if you are an employee of the State of California; otherwise, choose "Information Only" status.

Rule 1.4(b). These rules are in the Commission's Rules of Practice and Procedure, which you can read at the Commission's website.

If you want to be added to the official service list as a non-party (that is, as State Service or Information Only), follow the instructions in Section 9.1 above.

9.3. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail, and send a copy to everyone on the official service list.

9.4. Serving and Filing Documents

Until the official service list is published, the official service lists for R.12-03-014 and R.11-10-023 shall be used as the temporary official service list.

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office. If you are a party to this Rulemaking, you must serve by e-mail any person (whether Party, State Service, or Information Only) on the official service list who has provided an e-mail address.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at http://www.cpuc.ca.gov/PUC/efiling.

E-mail service is governed by Rule 1.10. The subject line for e-mail communications should include the proceeding number, and where the filing is related to a specific track, the track number for the filing. In addition, the party sending the e-mail should briefly describe the attached communication, for

example, *Brief*. If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

9.5. 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 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 (printed on both sides of the paper) must be provided to the assigned ALJs unless an ALJ expressly requests that no paper copies be provided.

10. Public Advisor

Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

11. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this rulemaking shall file its notice of intent (NOI) to claim intervenor compensation no later than 30 days after the PHC (Rule 17.1(a)(1)).

12. *Ex Parte* Communications

Communications with decision makers and advisors in this rulemaking are subject to the rules on *ex parte* communications set forth in Article 8 of the Rules of Practice and Procedure. (See Rule 8.4(b), Rule 8.2(c), Rule 8.3 and 8.5.)

Therefore, **IT IS ORDERED** that:

1. The Commission institutes this rulemaking on its own motion to consider policy proposals to refine to California's existing electric procurement reliability framework, pursuant to our agreement in the Joint Reliability Plan adopted by the Commission and the California Independent System Operator Corporation Board of Governors.

2. The category of this rulemaking is preliminarily determined to be as follows: Track 1 is ratesetting and is subject to the *ex parte* communication rules stated in Article 8 of the Rules of Practice and Procedure, Tracks 2 and 3 are quasi-legislative.

3. Evidentiary hearings are not anticipated at this time.

4. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and all other load serving entities as defined in Public Utilities Code Section 380(j) are respondents to this proceeding. Appendix A lists such entities as reflected in the Commission's records. Any error or omission in Appendix A shall not excuse any load-serving entity from respondent status.

5. The Executive Director shall cause this Order Instituting Rulemaking to be served on the respondents listed in Ordering Paragraph 2 above, and on the service lists for Rulemaking (R.) 12-03-014 and R.11-10-023.

6. Interested persons must follow the directions in Section 10 of this order instituting rulemaking to become a party or to be placed on the official service list as a non-party.

7. Initial comments on the issues identified in the foregoing discussion may be filed and are due February 20, 2014. Any person who objects to this order's determination regarding categorization of the tracks of the proceeding as ratesetting and quasi-legislative, the need for hearings, issues to be considered, or scheduling shall state such objections in their comments. (*See* Rule 6.2 of the Rules of Practice and Procedure.) Replies to such comments may be filed and are due February 27, 2014.

8. Any party that expects to claim intervenor compensation for its participation in this rulemaking shall file its notice of intent (NOI) to claim intervenor compensation no later than 30 days from the PHC (Rule 17.1(a)(1) or (if no PHC is held within 90 days of the issue date of this Rulemaking) the first due date for filing comments (Rule 17.1(a)(2)).

9. The assigned Commissioner or Administrative Law Judge may make any revisions to the scheduling and filing determinations made herein as necessary to facilitate the efficient management of the proceeding, including reorganization of issues between the separate tracks of the proceeding.

This order is effective today.

Dated _____, at San Francisco, California.

Appendix A

State of California **Public Utilities Commission**
San Francisco

M E M O R A N D U M

Date : November 8, 2013

To : The Commission
(Meeting of November 14, 2013)

From : Ed Randolph
Director, Energy Division

Subject: The Joint Reliability Plan

The attached Joint Reliability Plan is an agreement of the California Public Utilities Commission (CPUC) and the California Independent System Operator (ISO) to continue inter-organizational cooperation for future resource and reliability planning. The Joint Reliability Plan sets out a joint work plan that adopts guiding principles and that commits the CPUC and ISO to consider three inter-related initiatives on a proposed timeline. It does not commit to specific policy outcomes but does plan for consideration of the following initiatives through appropriate CPUC proceedings and ISO stakeholder processes: (1) multi-year resource adequacy requirements, (2) development of a unified long term reliability planning assessment, and (3) development of a market-based replacement to the ISO's existing backstop procurement tariff. Staff request the Commission adopt the Joint Reliability Plan.

JOINT RELIABILITY PLAN OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

NOVEMBER 8, 2013

I. EXECUTIVE SUMMARY

The California Public Utilities Commission (CPUC) and California Independent System Operator Corporation (ISO) present this Joint Reliability Plan[29] describing steps the two entities plan to take to ensure long-term electric reliability in California. Inter-organizational cooperation between the CPUC and ISO on resource and reliability planning has always been critical, but expected changes over the next decade merit the two organizations renewing their joint commitment to providing a reliable electric supply, at just and reasonable rates, while supporting the achievement of California's environmental policies.

The regulations as well as the planning and contracting processes that currently guide resource procurement in California have provided for reliable electricity service over the past decade. But California's electric system is undergoing fundamental changes as unprecedented levels of renewable resources reach commercial operation to meet California's renewable portfolio standard. California has also adopted a policy to retire, repower, or replace tens of thousands of megawatts of gas-fired power plants that use once through cooling technology in order to protect marine life. These transformations pose new operational and market challenges that resource planners and transmission operators must be aware of, and responsive to, in order to ensure reliable electricity supplies.

[29] The Joint Reliability Plan is distinct from the CPUC-ISO staff document issued on July 10, 2013 called the Joint Reliability Framework. This Plan commits to work on the issues and policy options identified in the Joint Reliability Framework but does not commit to specific policy outcomes.

Accordingly, the CPUC and ISO agree on the guiding principles described herein and to consider three proposed initiatives set forth in this Joint Reliability Plan. This Joint Reliability Plan does not commit the CPUC or ISO to reach specific policy outcomes for the three proposed initiatives, but it commits the CPUC and ISO to consider their design and implementation through appropriate CPUC proceedings and ISO stakeholder processes. The CPUC and ISO will use the Joint Reliability Plan to give their efforts direction, focus, and precision to ensure that proposed changes to procurement requirements and processes satisfy their shared guiding principles.

While the Joint Reliability Plan does not predict future policy outcomes, it does present a vision for a future with an enhanced reliability framework. This work plan is expected to launch coordinated and interdependent initiatives. The Plan envisions assiduous inter-organizational cooperation to develop an adequate informational record upon which decision-makers can choose to act. Both organizations recognize that the changes under consideration to California's approach to energy policy are significant and require thorough vetting—with significant stakeholder input and analyses—prior to adopting decisions on policy outcomes that would bring these initiatives to a conclusion.

II. EXISTING RELIABILITY FRAMEWORK

The CPUC and ISO have provided for adequate reserves to support electric grid reliability for the past decade under a reliability framework with the following key elements:

> **One year-ahead resource adequacy program.** Each October load serving entities (LSEs) must demonstrate that they have acquired sufficient resources to satisfy local capacity requirements and ninety percent of system capacity needs in the next calendar year. In 2013, the CPUC adopted flexible capacity requirements commencing with the 2015 resource adequacy compliance year.
>
> **Short-Term Procurement Planning.** The CPUC approves short term procurement plans (bundled plans) demonstrating the investor-owned utilities (IOUs) plan to procure sufficient energy to meet customer demand.
>
> **Long-Term Procurement Planning.** The CPUC ensures that there is sufficient investment in new generation resources to meet long-term future

energy and capacity needs for all customers of CPUC-jurisdictional entities (including bundled and unbundled customers).

Capacity Procurement Mechanism. The ISO's tariff allows for backstop procurement of capacity by the ISO in the event a deficiency exists after accounting for the resource adequacy showings (including to respond to short-term reliability needs) or if the ISO determines that a resource is at risk of retirement and will be needed by the end of the next calendar year following the current resource adequacy compliance year. Compensation is based on an administratively-determined price that resulted from a settlement approved by the Federal Energy Regulatory Commission (FERC).

Transmission Planning Process. The ISO conducts long-term reliability assessments that are used for planning purposes and to approve new transmission elements to help ensure reliability. Transmission enhancements to ensure reliability are frequently built after receiving a siting permit from the CPUC.

Although this existing reliability framework has generally provided for reliable operation of the transmission grid over at least the past decade, the CPUC and ISO agree to undertake the three initiatives described herein with the goal of improving and enhancing the existing reliability framework's procurement requirements and processes.

III. GUIDING PRINCIPLES FOR THE JOINT RELIABILITY PLAN

The overall objective of the Joint Reliability Plan is to evolve California's reliability framework as needed to adapt to the changing requirements of the electric grid by considering three specific initiatives. The CPUC and ISO agree to consider the following common guiding principles when assessing any proposed policy modifications that are taken up through the Joint Reliability Plan's proposed initiatives.

Principle 1: Provide the ISO balancing authority with sufficient capacity resources to satisfy system, local and flexible capacity needs.

Preserving grid reliability while meeting the State's renewable and once through cooling policy objectives will require the orderly retirement of resources that are no longer needed and the retention of resources that will be needed to meet emerging operational needs. This principle emphasizes that the ISO must have sufficient

resources offered into the energy and ancillary services markets, in the right locations and with the right capabilities, to maintain reliable grid operations.

<u>Principle 2</u>: Fully accommodate resource procurement undertaken to meet California's policy mandates by counting capacity from resources procured pursuant to CPUC decisions in reliability assessments.

California's loading order describes the priority sequence for procurement to address the State's energy needs. After meeting energy needs to the extent possible with energy efficiency, demand response, renewable resources, distributed generation, and storage, California supports the development of clean and efficient fossil-fired generation. California implements the loading order under the existing reliability framework through CPUC procurement decisions and directives. This principle emphasizes that the reliability framework must fully accommodate the loading order and other state policy mandates. In doing so, the reliability framework must recognize and appropriately count capacity based on resources' contribution to reliability needs. The framework must accommodate all resources, including preferred resources that are procured pursuant to CPUC decisions.

<u>Principle 3</u>: Enhance participation by preferred resources in energy and capacity markets.

Preferred resources are authorized by the CPUC through a resource planning model and procured under specified directives from the CPUC, but participation by preferred resources in capacity and energy markets—and in direct competition with conventional resources—has been minimal to date. This principle emphasizes that achieving California's ambitious environmental goals while maintaining grid reliability should provide an opportunity that allows for greater participation by demand response, storage, and other preferred resources in both capacity markets for resource adequacy (for reliability planning purposes in advance of the delivery year) and in energy markets (to meet daily energy and operational needs). The CPUC and ISO share the principle that revisions to the existing reliability framework must ensure preferred resources have an equal opportunity to support grid reliability.

<u>Principle 4</u>: Minimize the risk that resources will seek to retire due to market failures, rather than environmental or design life limitations.

There is some risk that investments will fail in competitive markets, and some resources are expected to retire either because the resource has reached the end of its design life or to comply with environmental regulations. This principle emphasizes that the CPUC and ISO will seek to minimize the risk of an unexpected (disorderly) resource retirement that result from the resource receiving insufficient revenues to continue operations even when the resource will be needed to meet reliability needs. The CPUC and ISO are particularly concerned with mitigating the risk of unexpected retirements by resources that the ISO anticipates California will need in the future for local or flexible capacity attributes.

IV. COMMITMENT TO BEGIN THREE INITIATIVES

In adopting this Joint Reliability Plan the CPUC and ISO agree to undertake three interdependent initiatives at the CPUC and ISO through appropriate CPUC proceedings and ISO stakeholder processes. The CPUC will institute a rulemaking, and the ISO will institute appropriate stakeholder processes, to consider policy modification proposals relevant to the three initiatives that may enhance the existing reliability framework. The proposed initiatives are intended to enhance—not replace—the existing Resource Adequacy, Long-Term Procurement Planning, and Short-Term Procurement Planning Proceedings. The ISO and CPUC expect each of their respective assigned staff to work cooperatively to ensure that the initiatives proceed in a manner consistent with this Joint Reliability Plan, but both organizations recognize that stakeholder input and additional analyses may ultimately modify the initial proposals in each initiative.

<u>Initiative 1 – Multi-Year Resource Adequacy Requirements:</u> Consider adopting procurement obligations two and three years-ahead of the resource delivery year by extending the CPUC's resource adequacy program and extending ISO tariff rules.

The CPUC's new rulemaking will consider expanding the current resource adequacy requirements to include two- and three-year forward resource adequacy

requirements for system, flexible, and/or local capacity. In connection with this effort, the ISO will explore developing forward resource adequacy requirements for all local regulatory authorities (LRAs). The ISO and CPUC will need to continue to coordinate their respective resource adequacy procurement rules.

Under the current reliability framework, LSEs engage in forward procurement beyond the current resource adequacy compliance year, in order to maintain a portfolio of resources to hedge price risks and ensure their ability to satisfy resource adequacy requirements in future compliance years. But information specifying the resources (and their capabilities) under contract for future years is not publicly available, and the amount or characteristics of resources procured is not enforceable as a multi-year forward reliability requirement on all LSEs in the ISO's balancing authority. This has raised concerns that un-contracted resources needed to meet future reliability needs could unexpectedly seek to retire. Retirement decisions could occur if a resource's short-term costs are not sufficiently covered by energy and ancillary service market revenues or by a resource adequacy or other capacity or energy contract. Providing information regarding the amount of forward contracting to the ISO may help alleviate concerns from a planning perspective, but it does not affect the possibility that resources may seek to retire unexpectedly.

In considering multi-year forward resource adequacy procurement obligations for jurisdictional LSEs, the CPUC will determine whether such obligations are appropriate and, if so, what percentage of each type of capacity to secure in advance of the resource adequacy delivery year. The CPUC will take into account the guiding principles including minimizing the risk of unexpected resource retirements.

As part of the CPUC proceeding for considering multi-year resource adequacy, the CPUC will also consider requiring jurisdictional LSEs to submit data to the ISO identifying all resources they have secured throughout the entire three-year forward time period, even for resources in excess of minimum compliance requirements. Having such information could facilitate ISO planning decisions and determinations of future grid requirements. The CPUC will also consider how to allocate forward resource adequacy procurement obligations among its jurisdictional LSEs in light of potential load

migration, and the minimum performance obligations required for resource adequacy contracts.

The ISO will consider the development of tariff-based resource adequacy requirements for all LRAs. The ISO will also need to consider tariff rules to establish performance requirements and must offer obligations aligned with operational needs for the applicable resource adequacy delivery year.

Initiative 2 – Unified Long Term Reliability Planning Assessment: Conduct a joint CPUC-ISO resource adequacy planning assessment up to ten years into the future.

Under the second initiative of the Joint Reliability Plan, the CPUC and ISO will coordinate develop and publish, either on an annual or biennial basis, a joint long-term reliability planning assessment. The assessment would identify local, flexible, and system needs and would evaluate needs against both the installed fleet and resources that are already-owned or under contract.

The CPUC considers these types of assessments in its Long-Term Procurement Planning proceedings and in the Resource Adequacy proceedings, and the ISO considers these types of assessments in its Transmission Planning Process. But a unified assessment of load and resources in California has never been produced on a forward basis across all three capacity parameters, on a regular schedule, or using standardized methodologies for assessing data.

In considering this initiative, the CPUC and ISO staff will seek additional authority, if needed from their respective governing bodies, to compile and analyze data required to complete long-term forward reliability planning assessments and publish the results (or a subset of results determined to be appropriate to be publicly released). The CPUC would consider such issues in the new rulemaking established pursuant to the Joint Reliability Plan. The assessment would cover the four- to ten-year forward planning horizon, although the CPUC and ISO staff may reduce the number of years analyzed or published to reduce administrative burden or to maintain the confidentiality of market sensitive information. Given the overlap and coordination needed with the state's demand forecast produced by the California Energy Commission (CEC), the

CPUC and ISO would coordinate with the CEC to assist in developing these assessments. The CEC's existing Integrated Energy Policy Report (IEPR) process may offer a platform to collect data needed for portions of the supply assessment. Finally, the CPUC and ISO staff may elect to submit the resulting assessment as appropriate for adoption or approval by the Commission, the ISO Board of Governors, and/or the CEC.

The reliability planning assessment would build upon existing planning processes, to develop a common forecast of system, local, and flexible capacity resource needs. This assessment will be helpful for system resource planners and market participants to understand what resources will be needed to meet emerging operational needs. The assessment would be conducted for information purposes only and would not create any additional procurement obligations, procurement authority, or ISO backstop procurement authority.

Initiative 3 – Replace ISO's Backstop Procurement Tariff:
Develop a market-based ISO mechanism to replace the ISO's Capacity Procurement Mechanism (CPM) backstop procurement authority.

Under the third initiative the ISO, in cooperation with the CPUC, will consider through an ISO stakeholder process how to develop and design a market-based ISO backstop procurement mechanism to replace or augment the existing CPM mechanism, which compensates resources using an administrative price. The ISO will require authority from FERC to replace or augment the CPM mechanism with a market-based backstop. The ISO will conduct a stakeholder process to consider design elements for a CPM replacement, such as a proposal for a Reliability Services Auction or other market-based mechanism, to serve as the primary backstop procurement mechanism for the ISO to cure deficiencies in the resource adequacy program. In addition to providing a backstop procurement mechanism to replace the CPM, the ISO will consider allowing LSEs to utilize the auction to clear voluntary bids to buy, and for resources to sell, forward capacity in excess of any forward capacity procurement requirements. It will also be important to consider appropriate market power mitigation rules that should be incorporated into the design of any Reliability Services Auction. The ISO may also

propose retaining some existing authority for backstop procurement on short time-frames, such as for exceptional dispatch or to mitigate significant events.

It is likely that LSE participation in a Reliability Services Auction or other market-based backstop mechanism to procure capacity to meet minimum resource adequacy requirements would be voluntary, because LSEs may achieve compliance with forward resource adequacy obligations by demonstrating resources they own or have under contract. A Reliability Services Auction may also have a mandatory component to the extent that backstop procurement is necessary for the ISO to cure confirmed deficiencies in the resource adequacy compliance showings submitted by LSEs. Participation in a Reliability Services Auction will be subject to all existing laws and regulations that govern existing procurement obligations on LSEs. For the CPUC jurisdictional utilities, participation would be subject to any limitations or authority provided through the CPUC-approved bundled procurement plans or otherwise applicable decisions that issue from the CPUC. Further, a Reliability Services Auction, if adopted, would not preclude or exempt the utilities from satisfying resource needs identified and authorized through the CPUC's Long Term Procurement Planning or other proceedings.

Concurrent with the ISO stakeholder process, the new rulemaking instituted by the CPUC to consider the Joint Reliability Plan's initiatives will also consider issues relevant to developing a Commission position on any proposed Reliability Services Auction. The CPUC rulemaking will also determine the extent to which CPUC-jurisdictional utilities may be authorized to participate in a Reliability Services Auction to meet forward resource adequacy compliance requirements and how such participation will affect or relate to procurement authorized through existing CPUC policy mandates (in particular preferred resources). Issues relevant to such determinations will be identified in the scope of the new CPUC rulemaking but may include, for example, considering interdependencies between the proposed design of any Reliability Services Auction, proposed (or adopted) multi-year resource adequacy requirements, and existing bilateral and other procurement processes. The CPUC proceeding will provide a procedural forum in which stakeholders may submit, and the CPUC may consider,

analyses and other evidence on how the ISO's proposed backstop mechanism could affect or interact with CPUC procurement and resource planning policy decisions. The CPUC proceeding, however, will not develop the design of the ISO backstop mechanism. The ISO will develop the design details of the proposed backstop mechanism through an ISO stakeholder process conducted in close coordination with the CPUC.

While the CPUC and ISO recognize that the CPUC proceedings and ISO stakeholder processes are interdependent, a CPUC decision is not a condition precedent to the ISO completing its stakeholder process concerning a market-based replacement backstop mechanism such as a Reliability Services Auction. The details of the proposed design will, however, be significant to any CPUC decisions to modify the existing reliability framework, including supporting or opposing the ultimate form of the backstop as it is designed by the ISO, and the CPUC expressly reserves the right to oppose an ISO filing seeking FERC authority to institute a Reliability Services Auction.

The ISO currently has authority to procure resources to meet reliability needs under the existing CPM tariff, which compensates resources based on an administratively-determined price. Market participants have expressed concerns that the existence of a fixed CPM price may be distorting bilaterally-negotiated contracted prices in today's market, particularly in transmission-constrained areas where resources may negotiate for a bilateral payment at or near the fixed price CPM payment. A recent order issued by FERC also encouraged the ISO to develop a market-based mechanism to ensure that the resources the ISO requires for their operational characteristics or location remain available to meet reliability needs.[30] At the same time, the design of a market-based backstop procurement mechanism must fully accommodate resource procurement undertaken pursuant to CPUC decisions. Any CPM replacement mechanism should not inappropriately distort the prices or volume of bilaterally-negotiated capacity contracts or fail to fully recognize resources (preferred or new

[30] *California Indep. Sys. Operator Corp.,* 142 FERC ¶ 61,248 (2013).

conventional) that have been procured as a result of or through state policy mandated programs. Any CPM replacement mechanism should also not be designed to be or become the primary forward capacity procurement mechanism for LSEs.

The ISO and CPUC staff will also coordinate on a process to ensure that the format of a backstop procurement market mechanism is durable. The ISO and CPUC staff will seek to engage FERC staff early and often throughout the development of this mechanism, especially in light of the unique nature of the proposals under consideration. If the CPUC and ISO agree on the detailed design elements, the ISO and CPUC envision that the ISO would submit a settlement to FERC. Such a process should provide the ISO with authority to make appropriate revisions to enhance or improve a Reliability Service Auction based on its operating experience pursuant to a defined process involving the CPUC and other stakeholders. To the extent filing a settlement is not achievable but the CPUC and the ISO have still reached agreement on the detailed design elements, the ISO would expect to file tariff provisions that are otherwise consistent with the Joint Reliability Plan. Either approach should give durability to the design elements of a Reliability Services Auction. Notwithstanding the above, if the CPUC and ISO cannot reach agreement on the detailed design elements of a Reliability Services Auction, the ISO reserves its right to seek FERC authority to implement a Reliability Services Auction or other backstop procurement mechanism to ensure reliable operation of the electric grid.

V. KEY STEPS FOR IMPLEMENTING THE JOINT RELIABILITY PLAN

The CPUC will open a new rulemaking to establish a procedural forum and timeline for considering multi-year resource adequacy requirements for jurisdictional LSEs and related issues arising in the initiatives addressing unified long-term reliability planning and replacing the ISO's backstop procurement tariff. The ISO will commence a stakeholder process to consider replacing its backstop procurement tariff and will institute other stakeholder processes as needed to implement tariff changes related to issues arising in the initiatives addressing unified long-term reliability planning and multi-year resource adequacy requirements. The CPUC and ISO staff will work together to coordinate the timelines of the proceedings based on interdependencies that require

staging or coordination of policy or program or tariff design decisions. By adopting the Joint Reliability Plan both organizations also commit to provide staff resources to engage in the processes established at each organization for consideration of the Joint Reliability Plan's initiatives.

Key Steps for Initiative 1: Multi-year Resource Adequacy

- CPUC opens a proceeding by January 2014 that details the scope and procedural schedule for considering proposals for the aspects of the three proposed initiatives in the Joint Reliability Plan.
- CPUC staff proposal and workshops on multi-year resource adequacy requirements in Q1 2014.
- CPUC Decision on multi-year resource adequacy (subject to scope determined in the proceeding) by early 2015.
- ISO initiative to consider multi-year resource adequacy procurement requirements for all local regulatory authorities.

Key Steps for Initiative 2: Joint Reliability Planning Assessment

- Determine scope of Joint Reliability Planning Assessment and develop a CPUC-ISO work plan to determine data needs and approach to conducting the assessment, in coordination with CEC.
- Publish draft paper describing methodology and format of assessment.
- CPUC rulings on confidentiality and methodology as needed.
- ISO technical studies or workshops as necessary.
- CEC data collection through IEPR, if appropriate.
- Coordinate process and publication timelines with demand forecast process in IEPR.
- Publish first assessment in draft and final form, and adopted formally by CPUC, ISO, and possibly CEC.

Key Steps for Initiative 3: Replace ISO's Backstop Procurement Tariff

- ISO commences stakeholder process in the fourth quarter of 2013 for developing replacement to CPM backstop procurement mechanism, such as design elements for a Reliability Services Auction.
- CPUC scoping of issues and timeline for Commission policy decisions in rulemaking proceeding needed to support ISO tariff filing to replace or supplement CPM.
- ISO Board decision on new tariff design in the third quarter of 2014. The ISO may consider sequencing the implementation of a replacement backstop mechanism for the existing one-year forward resource adequacy requirements ahead of the implementation of a backstop replacement for two-and three-year forward resource adequacy requirements.
- CPUC takes a position, at an appropriate time relative to an ISO Board decision, on the proposed structure of mechanism to replace or supplement CPM, which may be concurrent with or after CPUC decision on multi-year resource adequacy.
- ISO FERC filing in the first quarter of 2015.
- Implementation in advance of a specified resource adequacy compliance year with a goal of implementation for the 2016 resource adequacy compliance year.

VI. CONCLUSION

The CPUC and ISO are launching a process to consider the three proposed initiatives because it is prudent to review options to ensure that the state is on track to maintain resource adequacy in the near- and long-term. Now is the right time to endorse a plan that commits the necessary resources to developing the information that is essential for understanding and determining appropriate actions on the three initiatives.

(End of Appendix A)