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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.

Rulemaking 08-12-009
(Filed December 18, 2008)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

1. Summary

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling sets forth the procedural schedule, assigns the presiding officer, and addresses the scope of this proceeding and other procedural matters following the prehearing conference (PHC) held on March 27, 2009. This ruling is appealable only as to category of this proceeding under procedures in Rule 7.6. Please note that a separate amended scoping memo, if needed, will issue shortly to establish a procedural schedule to address issues concerning how the Commission should respond to the opportunities that arise from a \$4.5 billion appropriation in the American Recovery and

¹ All references to rules are to the Commission's Rules of Practice and Procedure. These rules are available on the Commission's website at http://docs.cpuc.ca.gov/word_pdf/RULES_PRAC_PROC/70731.pdf.

Reinvestment Act of 2009 (Recovery Act) targeted for Smart Grid projects and investments.²

2. Background

The Commission initiated this Order Instituting Rulemaking (OIR) to “consider setting policies, standards and protocols to guide the development of a smart grid system and facilitate integration of new technologies such as distributed generation, storage, demand-side technologies and electric vehicles.”³ The OIR further noted that as a consequence of the Energy Independence and Security Act of 2007 (EISA) amendments, the Public Utilities Regulatory Policy Act (PURPA) § 111(d)(16) requires that states “consider imposing certain requirements and authorizing certain expenditures”⁴ pertaining to the Smart Grid.

After the issuance of the OIR, the Recovery Act⁵ further amended PURPA, including provisions recently set in EISA pertaining to the Smart Grid.⁶ The Recovery Act appropriated \$4.5 billion for the implementation of EISA programs.⁷ In addition, the Recovery Act increased the percentage of federal support for EISA § 1304 and § 1306 programs to up to 50%.⁸

² Recovery Act, Pub. L. 111-5 [H.R. 1], 123 Stat. 115.

³ OIR at 2.

⁴ OIR at 8.

⁵ Recovery Act, Pub. L. 111-5 [H.R. 1], 123 Stat. 115.

⁶ *Id.* at Division A, Title IV.

⁷ The Recovery Act, Division A, Title IV, Energy and Water Development states: “For an additional amount for ‘Electricity Delivery and Energy Reliability,’ \$4,500,000,000:

Footnote continued on next page

Pursuant to the OIR, opening comments were filed on February 9, 2009, by Current Group, LLC (Current), California Energy Storage Alliance (CESSA), California Independent System Operator Corporation (CAISO), NRG Energy, Inc. (NRG), the Division of Ratepayer Advocates (DRA), Sierra Pacific Power Company (Sierra), the Consumer Federation of California (Consumer Federation), San Diego Gas & Electric Company (SDG&E), Technology Network (TechNet), CPower, Inc. (CPower), and California Association of Small and Multi-Jurisdictional Utilities (CASMU), Enspira Solutions, Inc. (Enspira), The Utility Reform Network (TURN), Western Power Trading Forum (WPTF), Center for Energy Efficiency and Renewable Technologies (CEERT), Southern California Edison Company (SCE), Wal-Mart Stores, Inc. (Wal-Mart) and Sam's West, Inc., filing jointly, Pacific Gas and Electric Company (PG&E), Google, Inc. (Google), and the California Large Energy Consumers Association (CLECA).

Reply comments were filed on March 9, 2009, by SCE, PG&E, CAISO, DRA, TURN, Current, the Community Environmental Council (Environmental Council), the Consumer Federation, SDG&E, the Green Power Institute (GPI), and CEERT.

Provided, That funds shall be available for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, to include demand responsive equipment, enhance security and reliability of the energy infrastructure, energy storage research, development, demonstration and deployment, and facilitate recovery from disruptions to the energy supply, and for implementation of programs authorized under Title XIII of the Energy Independence and Security Act of 2007 (EISA) (42 U.S.C. 17381 et seq.)....”

⁸ The Recovery Act, § 405.

On March 3, 2009, a ruling scheduled a PHC to develop a case management plan and a workshop to address steps that the Commission should undertake to facilitate efforts by investor-owned utilities to secure matching funds for Smart Grid activities pursuant to EISA and the Recovery Act.

PHC statements were filed on March 23 by GPI, PG&E and SDG&E (filing jointly), WPTF, CEERT, CAISO, Sierra, CLECA, and DRA.

On March 27, 2009, a PHC took place at the Commission offices in San Francisco to take appearances in the proceeding, to refine the scope of the proceeding, and to develop a procedural timetable for the management of this proceeding. At the PHC, the assigned Commissioner indicated her preferences for the management of the proceeding via two decisions, one addressing the issues raised by the Recovery Act, and one addressing the other issues set forth in the OIR.

The March 27, 2009 PHC engendered a lively discussion of the scope of the proceeding, the interrelationship between EISA and the Recovery Act, the overall goals of the proceeding, the topics for proposed workshops, and the schedule for the proceeding.

On the afternoon of March 27, 2009, a workshop took place to discuss opportunities created by the Recovery Act for California utilities and other companies to seek federal money for Smart Grid activities and consider what the Commission should do to support their efforts. Approximately 135 people attended the workshop and offered informal comments to the Commission on what should be done to maximize Smart Grid grants for California companies, consistent with the position of Governor Schwarzenegger and the energy commissions in the state.

On April 21, 2009, the Commission held a full day “Smart Grid Symposium” to hear the relevant and latest national information surrounding developments of Smart Grid systems for energy utilities. In addition to the assigned Commissioner, California Public Utilities Commission Commissioners Grueneich and Bohn, California Energy Commission (CEC) Commissioner Art Rosenfeld, and Walt Johnson from the CAISO attended the Symposium. Approximately 140 persons attended the Symposium, with 184 more listening in via the live webcast.

3. Scope of Proceeding

Rulemaking (R.) 08-12-009 set the preliminary scope and timetable for this proceeding, but permitted the assigned Commissioner or Administrative Law Judge (ALJ) to refine the scope of the proceeding and to adjust its schedule.⁹

The scope of this proceeding, as noted in R.08-12-009, is shaped by EISA:

...PURPA § 111(d)(16)(A) added by EISA § 1307(a) requires a state commission to consider whether to require an electric utility to make certain demonstrations prior to undertaking investments in nonadvanced grid technologies. In addition, PURPA § 111(d)(16)(B) requires that states consider authorizing utilities to recover Smart Grid investments and costs through rates, including a reasonable rate of return on capital expenditures for the deployment of a qualified Smart Grid system. Furthermore, PURPA § 111(d)(16)(C) requires that states consider authorizing utilities to recover the remaining book-value costs of equipment rendered obsolete by the deployment of a Smart Grid system.¹⁰

⁹ R.08-12-009, Ordering Paragraph 4, at 28.

¹⁰ *Id.* at 14.

In addition, R.08-12-009 also notes:

EISA § 1307(a) added paragraph (17) to PURPA § 111(d), which contains a new federal standard for the information that Smart Grid providers must provide to electricity purchasers and other interested persons, and the types of access that must be provided to this information.¹¹

Furthermore, R.08-12-009 stated:

We believe that it is important to set policies to ensure functionality and interoperability with technologies such as distributed generation, plug-in hybrid and electric vehicles, and distributed storage.¹²

More specifically, R.08-12-009 states that it “seeks to achieve” the following:

- Consider the principles and criteria that should guide the Commission’s Smart Grid policies;
- Address the specific provisions of EISA that relate to Smart Grid investments and information;
- Determine the characteristics and requirements of a Smart Grid in California that would support existing policies;
- Identify the IOUs’ existing activities and investments related to a Smart Grid;
- Consider whether standards and protocols are needed for the deployment of a Smart Grid in California and, if so, identify what the Commission’s role should be in standards development, if any;

¹¹ *Id.* at 15.

¹² *Id.*

- Determine how the Commission should assess the costs and benefits of Smart Grid-related expenditures that may be necessary to meet the state's future needs;
- Develop an appropriate regulatory approach to support the development of a cost-effective Smart Grid in California;
- Address other issues as needed to guide Commission policy in this area.¹³

Based on these considerations, R.08-12-009 proposed a series of questions that sought to elicit information that would enable the Commission to address the major issues falling into the broad scope of the proceeding.

As noted above, with the passage of the Recovery Act and the federal appropriation of \$4.5 billion to modernize the electric grid, the scope of this proceeding will change via a separate amended scoping memo to ensure that the Commission can address the policy issues concerning the Smart Grid that arise from the passage of the Recovery Act. While the Department of Energy has issued Notices of Availability of Funding, they will not become final until after comments are filed on May 6, 2009 and considered. That separate ruling, however, must await further federal action to clarify the role envisioned for state commissions, whether approvals for matching funds are required, and other issues.

The scope of this proceeding shall also include those issues pertaining to Smart Grid affected by the Recovery Act legislation. A separate ruling will propose a reporting process and will address how this Commission will fulfill its

¹³ R.08-12-009 at 16.

responsibilities concerning an investor-owned utility's contributions of ratepayer-backed funds to Recovery Act activities.

In general, neither the comments filed by parties nor the PHC statements took issue with the broad scope of this proceeding defined in the OIR.

Some parties, however, requested that the Commission, in addressing the issues that fall within the scope of the proceeding, reach specific findings on particular issues. CEERT, for example, identified five "priority issues" that it recommended that the Commission address. These included "principles, criteria and definitions," "cost recovery and federal funding," "smart grid 'roles,'" "standards" and "deployment."¹⁴

Similarly, SCE recommended that the Commission "adopt a set of criteria that drive the utilities towards a common vision and direction, but also permit flexibility to leverage and otherwise take into account technology innovation, and to address the immediacy of these nation's challenges."¹⁵ SCE further proposed:

that the Commission develop a defined set of year 2020 Smart Grid criteria, linked to enabling the various legislative and regulatory policies in place to promote a cleaner environment, adoption of distributed energy sources, reduced consumer consumption and demand, and use of plug-in electric vehicles by 2020, in a manner similar to the way that

¹⁴ *Prehearing Conference Statement of the Center for Energy Efficiency and Renewable Technologies*, March 23, 2009, at 3-4.

¹⁵ *Southern California Edison Company's (U 338-E) Response to OIR 08-12-009*, February 9, 2009, at 6.

the Commission adopted six key capability criteria in the AMI proceeding.¹⁶

DRA, in a similar vein, argued that the most productive approach to this proceeding would conduct an “inventory” of Smart Grid projects already in place and developing a Smart Grid “definition.”¹⁷

Comments such as those of CEERT, SCE or DRA do not call for a change in the scope of this proceeding; instead, they recommend the shape of an order that resolves the issues already identified by the R.08-12-009 as falling within the scope of this proceeding. There is no reason to decide on the shape of the final order at this time. The development of a robust record and a better understanding of the issues and matters relevant to the Smart Grid will both guide and inform the shape of a Smart Grid order.

Furthermore, although the scope of the proceeding is broad, it is not open-ended. An examination of residential and small business rate design, as suggested by WPTF, is beyond the scope of this Smart Grid proceeding.

4. Workshop Topics and Proceeding Schedule

This section will develop the topics for five workshops and an overall schedule for this proceeding.

4.1. Scope of Proceeding Warrants Five Workshops

R.08-12-009 stated that “workshops will be needed to establish a thorough record.”¹⁸ The order proposed “that the workshops be divided into four distinct

¹⁶ *Id.*

¹⁷ *Prehearing Conference Statement of the Division of Ratepayer Advocates, March 23, 2009, at 2.*

areas that make up a smart grid system: 1) Transmission; 2) Distribution; 3) Integration/Interoperability; and 4) Consumer issues.”¹⁹

PG&E and SDG&E in their joint PHC statement support the proposed workshops, but ask that the workshops be expanded to include specific topics on (1) renewables integration using Smart Grid technologies; and (2) integration of customer side technologies, such as home area networks and plug-in hybrid electric vehicles.²⁰

SCE takes a very different approach, and argues that the workshop series should focus on the development of a larger policy framework and proposes for major topics for workshops:

- Smart Grid capability criteria to be achieved by 2020;
- Business case framework methodology, including benefits analysis; and
- Smart Grid cost recovery mechanism/process; and EISA compliance.

This proposed series of workshops is designed to establish the Smart Grid timeline, help clarify the regulatory process across the utilities, and provide the appropriate level of guidance from the Commission to achieve agreed-upon goals (similar to the six key criteria the Commission set forth at the beginning of evaluating AMI).²¹

¹⁸ R-08-12-009 at 23.

¹⁹ *Id.*

²⁰ *Joint Prehearing Conference Statement of Pacific Gas and Electric Company and San Diego Gas and Electric Company in Smart Grid OIR, March 23, 2009, at 3.*

²¹ SCE Opening Comments at 66.

Similarly, CEERT argues that the Commission's regulatory "process will best be served by having the workshop on priority issues culminate in a Commission policy framework decision."²² Under CEERT's proposal, the Commission would address the issues set out in the OIR only after adopting a decision that set a policy framework for the Smart Grid.

CLECA argues that the Commission and the utilities should develop a list of initiatives that governmental entities or the utilities "have completed or underway which are related to a specified definition of and implementation strategy for 'Smart Grid.'"²³ Furthermore, CLECA argues that "[f]ollowing these filings, during the period between late May and the middle of June there should be one or more workshops to review the content of the Commission's list and of the utility filings."²⁴

Although DRA does not call for workshops devoted to developing a list of Smart Grid projects, it supports an initial focus in this proceeding on "conducting an inventory" and "developing a California 'Smart Grid' definition."²⁵ DRA requests that the Commission order "utilities to do an

²² *Prehearing Conference Statement of Center for Energy Efficiency and Renewable Technologies*, March 23, 2009, at 5.

²³ *Prehearing Conference Statement of the California Large Energy Consumers Association*, March 23, 2009, at 3.

²⁴ *Id.*

²⁵ *Prehearing Conference Statement of the Division of Ratepayer Advocates*, March 23, 2009, at 2.

inventory” in order to “provide a comprehensive ‘snapshot’ of the current status in California regarding implementation of the smart grid.”²⁶

The proceeding will not take this particular approach. The Commission’s focus in the OIR on the benefits and costs of a particular Smart Grid investment obviates the need for an overall inventory of projects already completed – existing projects (such as advanced metering infrastructure) will be reviewed only to the extent that they affect an evaluation of a proposed new investment.

The proceeding will not develop a “definition” of Smart Grid. A Smart Grid is not a policy destination, but a policy direction that subsumes a host of related activities that will evolve over time and as technology develops. A static definition of “Smart Grid” at this nascent stage may hinder the Commission’s ultimate efforts to craft policies. To this end, the functional definition of Smart Grid as contained in EISA seems a more prudent approach at this time when the concept is new and broad.

Turning now to the structure and sequencing of workshops, WPTF supports the structure of workshops proposed in R.08-12-009, but recommends that the workshops be held in a different order and should start with consumer related issues. WPTF states:

Therefore, the workshop schedule should start with consumer issues, followed in order by subsequent workshops on integration/interoperability, distribution and transmission. In

²⁶ *Prehearing Conference Statement of the Division of Ratepayer Advocates, March 23, 2009, at 2.*

other words, we recommend that the schedule should be the reverse of that identified in the OIR.²⁷

In addition, WPTF proposes a series of issues for each workshop. For the workshops on consumer issues and interoperability, WPTF proposes a series of questions that pertain to access to consumer information, cost sharing, competitive bidding, increased efficiency and demand responsiveness after the meter, and other things.²⁸ Concerning the transmission and distribution workshops, WPTF identifies issues concerning coordination with CAISO and FERC, the need for metrics, the need for public participation and the need for “the establishment of appropriate rate structures that send clear price signals to all customers and not merely to large commercial and industrial customers.”²⁹ WPTF also calls for a discussion of how “a Smart Grid should lead to the establishment of appropriate rate structures that send clear price signals to all customers and not merely to large commercial and industrial customers.”³⁰

The Green Power Institute requests that the proceeding pay special attention to make “sure that the multiple interests of renewables in the smart grid of the future are fully represented.”³¹

²⁷ *Prehearing Conference Statement of the Western Power Trading Forum*, March 23, 2009, at 3.

²⁸ *Id.* at 4.

²⁹ *Id.* at 5.

³⁰ *Id.*

³¹ *Prehearing Conference Statement of the Green Power Institute*, March 23, 2009, at 1.

There are merits to the arguments concerning the scope, structure, and sequencing of the workshops made by various parties. A review of the PHC statements and further deliberation leads to the refinement of the direction of this investigation and enables the setting of workshop topics and a sequence.

It is a goal of the proceeding to develop a regulatory policy that clearly delineates the policy direction the Commission wants utilities to take and states how this Commission will evaluate proposals that seek to advance these policies. Specifically, there are three overarching policy questions to answer: (1) What policy goals, if any, will the development of a Smart Grid in California advance?; (2) How should the Commission measure progress toward development of a Smart Grid, i.e. what are appropriate metrics?;³² and, (3) What regulatory approach should the Commission use to make progress toward developing a smarter grid in a manner that is in the public interest?

Five workshops will develop answers to these questions in order to meet the goal of this proceeding.

Workshop 1: Consumer Issues

As suggested by WPTF, the first workshop will focus on the point of contact between the Smart Grid and consumers, including residential, commercial, industrial, and agricultural consumers. This workshop will address the following areas:

³² For examples of metrics see “Metrics for Measuring Progress Toward Implementation of the Smart Grid,” Results of the Breakout Session Discussion at the Smart Grid Implementation Workshop, June 19-20, 2008, Washington, DC, prepared by Energetics, Incorporated, July 31, 2008 (<http://www.cpuc.ca.gov/puc/efiling>).

- Timely customer access to and use of the customer's electricity usage information and access to electricity prices;
- Interoperability of customer-owned distributed energy resources, including generation and storage;
- Interoperability of other consumer-owned devices, such as programmable communicating thermostats and energy management systems, with the grid through Home Area Networks and other means; and
- Cyber-security issues including policies to ensure customer privacy.

This workshop will identify ways in which individual consumers can benefit from a smarter electric grid and contribute to the achievement of policy goals such as greenhouse gas reduction and increased energy efficiency and demand response.

The workshop will elicit input on what policies the Commission should implement related to the interface of consumers with the Smart Grid. What unreasonable or unnecessary barriers should the Commission remove to support customer adoption of Smart Grid technologies, practices, and services? How can the Commission encourage innovation by utilities and developers of Smart Grid products and services focused on consumers? The workshop will also seek to develop metrics related to consumer end of the Smart Grid.

Workshop 2: Delivery System with Emphasis on Distribution

The second workshop will focus on Smart Grid issues most relevant at the distribution level. Issues will include:

- The integration of distributed energy resources, including generation and storage into the distribution system;
- Extending situational awareness from the transmission system into the distribution system;

- Distribution automation;
- Increasing the efficiency of the distribution system; and
- Cyber-security issues to protect the utility's systems and facilities.

This workshop will also consider appropriate policies related to distribution aspects of the Smart Grid, including metrics.

Workshop 3: Delivery System with Emphasis on Transmission

The third workshop will focus on Smart Grid issues that arise at the transmission level. This workshop will address those transmission issues related to the Smart Grid, such as cyber security, wide-area situational awareness, and interoperability. Please note that we will not be considering those transmission issues that are the subject of Rulemaking 08-03-009/Investigation 08-03-010, which address certain transmission issues related to renewable energy.

The workshop will identify ways modernizing the transmission system can further important policy goals and consider appropriate policies, including metrics.

As operators of the bulk transmission grid, the CAISO will be a key participant in this workshop.

Although the second workshop will focus on the distribution system and the third will focus on the transmission system, Smart Grid issues related to transmission and distribution overlap. Participants should note that this proceeding will not try to make a bright line distinction between the two workshops. Topics of relevance to both parts of the grid may be covered at each of these workshops.

Workshop 4: Integration of Plug-In Hybrid Electric Vehicles and Electric Vehicles

The fourth workshop will look toward the eventual proliferation of plug-in hybrid electric vehicles and electric vehicles. It will discuss interoperability, the potential for storage in such vehicles, battery charging, and other policy issues that would need to be addressed for the electric grid to interact with a significant number of electric vehicles.

Workshop 5: Regulatory Approach

The fifth workshop will focus on the development of a regulatory approach to develop a smarter grid in California in a manner that is in the public interest. For example, the utilities could be required to assess their status with regards to the metrics developed in the proceeding as a way of determining how “smart” each utility’s grid currently is. Periodic reports could then be required to assess progress as measured by the metrics.

The workshop will also address the appropriate approach for evaluating incremental Smart Grid-related investments. For example, should the utilities be directed to file special applications that meet minimum functionality requirements, should the utilities be directed to develop a Smart Grid “deployment plan” subject to Commission review, or should traditional General Rate Cases be the primary procedural vehicle for utilities to seek funding for Smart Grid investments? To what extent can the AMI regulatory process serve as a model for the review and ratemaking treatment of Smart Grid projects? What criteria should the Commission apply to Smart Grid-related investments? What ratemaking treatment should Smart Grid projects receive? Do the Commission’s depreciation rules need any revision due to Smart Grid-related investments that are primarily relating to communications systems and devices?

Workshops Can Provide Framework to Develop Policies

These five workshops can help the Commission develop a framework that permits the Commission to develop forward looking regulatory policies and address the questions raised by the commenting parties. Workshop Agendas will be sent to all parties in advance of each workshop to refine the agendas and to set workshop procedures. National developments on Smart Grid may impact this proceeding, as the Recovery Act did as to Smart Grid funding.

4.2. Phasing of Proceeding and Schedule

Concerning the question of whether to proceed through phases, this proceeding will not take this approach. Regulatory experience indicates that the issues associated with the Smart Grid already have a specificity and immediacy that permits and requires them to be addressed immediately, rather than through phases. In addition, although a decision responsive to the opportunities provided to investor-owned utilities and other entities by the Recovery Act, if appropriate, will issue as soon as possible, the regulatory agenda identified in the OIR that initiated this proceeding can proceed simultaneously.

Throughout this proceeding, the Commission will work collaboratively with the CEC. The CEC is conducting valuable research through its Public Interest Energy Research program which could inform the Commission and parties in the course of this proceeding. The proceeding will look for opportunities to draw upon the CEC's research as it becomes available. The CAISO, a party to the proceeding, will also be an important partner given its expertise in transmission system and wholesale power markets. This proceeding will also follow national developments closely.

The table below provides a schedule for the workshop. Following the completion of the workshops, the ALJ will issue a ruling inviting comments and

replies on issues that the workshops bring into focus. This cycle of comments and replies will lead to a proposed decision.

| Event | Date |
|--|-------------------|
| Workshop 1: Smart Grid – Consumer Issues Hearing Room A at 10 a.m. Commission Building 505 Van Ness Avenue San Francisco, CA | May 27, 2009 |
| Workshop 2: Smart Grid –Distribution Issues Commission Auditorium at 10 a.m. Commission Building 505 Van Ness Avenue San Francisco, CA | June 5, 2009 |
| Workshop 3: Smart Grid – Transmission Level Issues Hearing Room A at 10 a.m. Commission Building 505 Van Ness Avenue San Francisco, CA | June 26, 2009 |
| Workshop 4: Smart Grid – Plug in Hybrid Electric Vehicles Commission Auditorium at 10 a.m. Commission Building 505 Van Ness Avenue San Francisco, CA | July 15, 2009 |
| Workshop 5: Smart Grid – Regulatory Review and Evaluation Methodology Hearing Room A at 10 a.m. Commission Building 505 Van Ness Avenue San Francisco, CA | July 29, 2009 |
| Ruling Identifying Outstanding Issues and Eliciting Comments | August 17, 2009 |
| Opening Comments | September 7, 2009 |

| | |
|---------------------|--------------------|
| Reply Comments | September 21, 2009 |
| Proposed Decision | November 18, 2009 |
| Commission Decision | December 17, 2009 |

This schedule does not allot time for evidentiary hearings. As noted in the OIR, the decision as to the necessity of evidentiary hearings will be made following the conclusion of workshops. Accordingly, if any party contends that evidentiary hearings are needed to address specific issues, it shall, at the same time as the filing of opening comments (September 7, 2009), file a motion requesting evidentiary hearings. That motion shall:

- a. Identify each area of relevant factual inquiry that has not been addressed;
- b. Identify each material contested issue of fact on which hearings should be held (explaining, as necessary, why the issue is material); and
- c. State why a hearing is legally required.

Consistent with Pub. Util. Code § 1701.5, the Commission anticipates that this portion of the proceeding will be completed within 18-months of the date of this scoping memo, which is November 1, 2010. As stated above, an amended scoping memo, if necessary, will issue concerning Recovery Act issues.

5. Proceeding Category, Ex Parte Rules, and Need for Hearing

As noted in R.08-12-009, the Commission preliminarily categorized this Rulemaking as quasi-legislative. The parties did not oppose the Commission’s preliminary categorization. This ruling affirms the preliminary categorization of quasi-legislative.

Pursuant to Rule 8.2(a), a quasi-legislative proceeding does not have any ex parte restrictions or reporting requirements.

The OIR stated that a final determination on the need for hearings would follow the conclusion of projected workshops. No determination is therefore made at this time.

6. Motions

CASMU, in its comments, argues that “CASMU utilities’ customers do not need to be exposed to the expense of participating actively in this rulemaking as respondents being respondents.”³³ In support of this argument, CASMU notes that:

Mountain Utilities is not connected to any transmission system. Bear Valley Electric Service is physically connected to the distribution system of Southern California Edison Company. PacifiCorp owns a transmission grid spanning several states, and operates its own control area, which is not connected to the CAISO grid operationally. Sierra Pacific Power Company operates its own control area as well, and like PacifiCorp, Sierra Pacific’s grid is not connected operationally with the CAISO grid. All have in common the fact that they are not connected to the CAISO system.³⁴

No party has argued that the public interest would be served continuing to make these parties respondents in this proceeding.

Since that decision to make CASMU members respondents to this proceeding was made through the OIR and no discretion was delegated to the assigned Commissioner in this matter, changing the status of CASMU members should proceed through Commission decision, not through a ruling. As a result

³³ *Response of the California Association of Small and Multi-Jurisdictional Utilities on the Scope of the Smart Grid OIR* (February 9, 2009), at 4.

³⁴ *Id.* at 3.

of this consideration, it is most appropriate to deem the CASMU comments as a petition to modify R.08-12-009. Responses to CASMU's request to be excused from respondent status, if any, shall be filed and served on June 1, 2009. Replies to responses are permitted, and due June 11, 2009.

7. Intervenor Compensation

The PHC in this matter was held on March 27, 2009. Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation shall have filed and served a notice of intent to claim compensation by April 27, 2009.

8. Final Oral Argument

Since no evidentiary hearings are scheduled, no final oral argument is anticipated.

9. Presiding Officer

Pursuant to Rule 13.2(c), if evidentiary hearings are held, the presiding officer shall be the assigned Commissioner.

10. Filing, Service, and Service List

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Commission Rules of Practice and Procedure (Rules) or in response to rulings by either the assigned Commissioner or the assigned Administrative Law Judge (ALJ). All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements. Resolution ALJ-188 sets forth the interim rules for electronic filing, which replaces only the filing requirements, not the

service requirements. Parties are encouraged to file electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/efile/static.htm>.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an email address. If no email address was provided, service should be made by U.S. mail. In this proceeding, concurrent e-mail service to ALL persons on the service list for whom an email address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: R.08-12-009 Smart Grid. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Brief*. Paper format copies, in addition to electronic copies, shall be served on the assigned Commissioner and the ALJ.

The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

IT IS RULED that:

1. The final categorization of this proceeding is quasi-legislative. Hearings are not required, but a final determination on the need for hearings will follow the completion of the workshops ordered in Rulemaking (R.) 08-12-009.
2. The broad scope of the proceeding set out in R.08-12-009 is retained. This proceeding will, however, also address those Smart Grid related issues and financing opportunities that arise from the passage of the American Recovery and Reinvestment Act of 2009.
3. The schedule for issues related to Energy Independence and Security Act of 2007 (EISA) is as set forth herein unless further amended by the assigned Commissioner or assigned Administrative Law Judge. The schedule for issues related to the American Recovery and Reinvestment Act of 2009 will be set via a separate amended scoping memo and will result in a separate decision. Work on all issues will proceed simultaneously.
4. The schedule for the next steps in this proceeding is as identified herein.
5. Since there are no planned evidentiary hearings at this time, there will be no oral argument.
6. Pursuant to Rule 13.2(c), if evidentiary hearings are held, the presiding officer shall be the assigned Commissioner.

7. The request of Bear Valley Electric Service, PacifiCorp, Sierra Pacific Power Company and Mountain Utilities to no longer be respondents to this proceeding is deemed a petition to modify R.08-12-009. Responses to the petition are due June 1, 2009. Replies to the responses are permitted and due June 11, 2009.

8. The service list for filing and service of documents and service of testimony in this proceeding is as set forth above.

Dated May 1, 2009, at San Francisco, California.

/s/ RACHELLE B. CHONG

Rachelle B.Chong
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated May 1, 2009, at San Francisco, California.

/s/ OYIN MILON

Oyin Milon