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

Order Instituting Investigation on the Commission's Own Motion to actively promote the development of transmission infrastructure to provide access to renewable energy resources for California.

Investigation 08-03-010  
(Filed March 13, 2008)

And Related Matter.

Rulemaking 08-03-009

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**1. Introduction**

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure,<sup>1</sup> following a prehearing conference held on February 26, 2009, this ruling (Scoping Memo) assigns a principal hearing officer, sets a schedule, and addresses the scope of these proceedings.

**2. Background**

The Commission initiated this Order Instituting Investigation (OII) and Order Instituting Rulemaking (OIR), to consider how to improve transmission access to renewable energy generation through additional streamlining and coordination of existing regulatory processes, and to serve as a forum for

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<sup>1</sup> Unless otherwise stated, all references to a "Rule" or to "Rules" are to the Commission's Rules of Practice and Procedure.

addressing issues identified in the Renewable Energy Transmission Initiative (RETI) that may require Commission investigation or formal decision.

This OII/OIR builds upon, and is coordinated with, the progress made in Investigation (I.) 05-09-005,<sup>2</sup> our prior proceeding devoted to promoting the development of transmission infrastructure to renewable resource areas, as well as other transmission and renewable-related proceedings, including, without limitation, I.00-11-001, Rulemaking (R.) 04-04-026, R.06-02-012, R.06-05-027, and R.08-08-009.

Aggressive renewable energy procurement targets have been established by California's RPS legislation.<sup>3</sup> More recently, the Governor's Executive Order (EO) S-21-09 (September 15, 2009) directed the Air Resources Board (ARB) to implement a program requiring that 33% of the electricity sold at retail in California in 2020 be from renewable generation resources. These goals make adequate transmission for renewable energy an issue of critical importance.

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<sup>2</sup> That proceeding resulted in several important advances, including: adoption of a backstop cost recovery mechanism for renewable resource transmission projects; permit streamlining directives issued by the Commission's Executive Director on July 13, 2006; increased internal coordination leading to the tracking of the transmission status of each renewables portfolio standard (RPS) generation project; and identification of certain kinds of transmission system upgrades that facilitate delivery of renewable resources and do not require formal Commission approval. The Investigation also provided the framework for the Commission to work with the California Independent System Operator Corporation (CAISO) to gain approval from the Federal Energy Regulatory Commission on April 19, 2007 for the CAISO to establish a wholesale rate financing mechanism in its tariff to encourage proactive development of renewable transmission projects.

<sup>3</sup> Senate Bill (SB) 1078 (Sher), Stats. 2002, ch. 516, established an RPS of 20% by 2017. The Energy Action Plan, adopted by the Commission and the California Energy Commission (CEC) in May 2003, accelerated the completion date to 2010. SB 107 (Simitian), Stats. 2006, ch. 464, codified that policy.

## **2.1. Procedural History**

The Commission initiated the present proceedings on March 17, 2008. Timely initial comments were received from the Commission's Division of Ratepayer Advocates (DRA); the California Wind Energy Association (CalWEA) and Concentrated Solar Power Companies, jointly; the Center for Energy Efficiency and Renewable Technologies; the Green Power Institute (GPI); Pacific Gas and Electric Company (PG&E); PacifiCorp; San Diego Gas & Electric Company (SDG&E); and Southern California Edison Company (SCE).

On May 28, 2008, DRA filed a motion to supplement the record by including two quantitative analyses created under the auspices of the Transmission Research Program of the Public Interest Energy Research Program of the CEC related to the strategic benefits of transmission planning. No objections were filed to this request.

A prehearing conference (PHC) was held on February 26, 2009, at the Commission's Auditorium in San Francisco, followed by a workshop, as set forth in the ruling of assigned Administrative Law Judge (ALJ) Victoria S. Kolakowski issued February 5, 2009. PHC and workshop comments were filed by the CAISO, CalWEA, GPI, PG&E, SDG&E, and SCE.

On August 26, 2009, ALJ Anne E. Simon was co-assigned to these proceedings.

## **3. Scope of the Proceedings**

After reviewing the various comments of the parties and the arguments made at the PHC, this Scoping Memo sets forth the scope of the proceedings as stated below, in conjunction with the preliminary scope identified in the OII/OIR.

Since the initiation of these proceedings, several important developments have occurred regarding transmission siting to access renewable generation. In June 2009, the Commission's Energy Division issued a report entitled "33% Renewables Portfolio Standard Implementation Analysis Preliminary Results."<sup>4</sup> In August 2009, RETI finalized its Phase 2A Report,<sup>5</sup> including a statewide conceptual transmission plan for achieving a 33% RPS. In September, the CAISO initiated a stakeholder process to consider a far-reaching new proposal for planning transmission for renewables.<sup>6</sup> Meanwhile, the CAISO, investor-owned utilities, and publicly-owned utilities this year formed the California Transmission Planning Group (CTPG), a joint planning forum proposing to build on RETI's work.<sup>7</sup> Under the most recent draft proposal,<sup>8</sup> the CAISO's new process would rely substantially on CTPG for planning the transmission needed to achieve a 33% RPS in California.

Because so much work is being undertaken by many different agencies and groups, these proceedings will need to respond to a variety of new issues and information over time. Therefore, this scoping memo will identify four major issues; aspects of three of these issues will be addressed initially. It is

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<sup>4</sup> Available at <http://www.cpuc.ca.gov/NR/rdonlyres/1865C207-FEB5-43CF-99EB-A212B78467F6/0/33PercentRPSImplementationAnalysisInterimReport.pdf>.

<sup>5</sup> Available at <http://www.energy.ca.gov/reti/documents/index.html>.

<sup>6</sup> Available at <http://www.caiso.com/242a/242abe1517440.html>.

<sup>7</sup> <http://www.ctpg.us>.

<sup>8</sup> <http://www.caiso.com/2478/2478f34d3a6d0.pdf>.

my expectation that work on additional issues will be scheduled later, through an amended scoping memo and/or assigned Commissioner's ruling or rulings.

### **3.1. Backstop Cost Recovery**

These proceedings will consider not only which projects are eligible for backstop cost recovery under § 399.2.5, but also which costs incurred should be eligible for such cost recovery. Initially, some legal issues related to § 399.2.5 will be the subject of briefing in accordance with the schedule set forth below.

### **3.2. Obligation to Study Demand Side Resources Pursuant to Pub. Util. Code § 1002.3**

Pursuant to § 1002.3, the Commission is required to consider “cost-effective” alternatives to transmission facilities, including specific demand-side alternatives. We will consider in these proceedings how to accomplish compliance with § 1002.3 consistent with California’s RPS goals and the associated need for additional renewable transmission, and the process by which the Commission should comply with § 1002.3 going forward.

The Commission seeks input on whether, on a going forward basis, to continue to address § 1002.3 provisions solely in the environmental phase of our review of transmission lines, or whether some other method, such as use of § 399.2.5, may replace the need to perform this analysis.<sup>9</sup> The Commission also seeks comment on what factors need to be taken into consideration to meet the statutory requirements. Initially, these proceedings will consider under what circumstances, going forward, § 399.2.5 may supersede § 1002.3 review.

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<sup>9</sup> This is the approach which the Commission recently took regarding SCE’s Tehachapi Renewable Transmission Project in D.09-12-044, particularly Section 3.3.

### **3.3. Designation of Energy Resource Areas**

In its PHC statement, CAISO requested that these proceedings include the designation of the Energy Resource Areas required by CAISO's Location-Constrained Resource Interconnection tariff. Such a designation must be made jointly by this Commission and the CEC. Because this designation is necessary for the implementation of the CAISO tariff, it should be part of these proceedings.

### **3.4. Coordination and Streamlining of Certificate of Public Convenience and Necessity (CPCN) Process**

The OII/OIR identified a number of respects in which the Commission has already made the CPCN process for transmission lines more efficient. It also identified several areas for further consideration. In light of the CAISO's intention to revise its processes for planning transmission for renewable generation and the recent formation of the CTPG, these proceedings should also include consideration of coordination with these new initiatives, as well as RETI, in the Commission's transmission permitting process. Because the CAISO's revised process and CTPG's role are still in development, these topics will be considered later in these proceedings than the initial tasks identified below.

### **3.5. Initial tasks**

Significant questions regarding the issues in these proceedings should initially be addressed in briefs. Respondents must and other parties may file briefs and/or reply briefs addressing two different scenarios:

1. The present RPS framework; and
2. A renewable energy program with a goal of 33% renewable energy by 2020 under the ARB's aegis, as directed in EO S-21-09.

Briefs, and any reply briefs, should address for each scenario listed above:

- (a) under what circumstances the results of the RETI process may be used under § 399.2.5 to guarantee cost recovery, including but not limited to:
  - 1) the extent to which a RETI-identified Competitive Renewable Energy Zone should impact the ability to obtain cost recovery under § 399.2.5;
  - 2) the extent to which the fact that a line or line segment is identified in the RETI conceptual transmission plan should impact the ability to obtain cost recovery under § 399.2.5;
- (b) whether the Commission has the authority to issue blanket authorization for automatic recovery of certain types of costs pursuant to § 399.2.5;
- (c) the appropriate process and legal basis for guaranteeing cost recovery for pre-CPCN filing costs;
- (d) the extent to which, going forward, § 399.2.5 supersedes the obligation to study demand side resources established under § 1002.3; and
- (e) any other issues related to § 399.2.5 that a party believes should be the subject of briefing at this time.

Briefs may not exceed 40 pages. Reply briefs may not exceed 20 pages.

Opening briefs shall be filed and served by February 17, 2010. Reply briefs shall be filed and served by March 4, 2010.

Separately, Energy Division staff should provide a format for developing the designation of Energy Resource Areas for purposes of the CAISO tariff. This format could be workshops, questions for comments, or other appropriate method of developing the designation.

**4. Schedule**

The schedule for the initial tasks in these proceedings is as follows:

Opening Briefs	February 17, 2010
Reply Briefs	March 4, 2010
Proposed Decision on Legal Issues Mailed	Second Quarter 2010
Energy Resource Areas designation process	Second Quarter 2010

Section 1701.5 (b) allows the Commission to specify a date for resolution of the issues in the scoping memo more than the 18 months from the issuance of the scoping memo required by § 1701.5(a). Because these proceedings will address a number of issues on which the actions and input of other agencies and groups, such as RETI, CAISO, and CTPG, may be relevant, it is prudent to allow 24 months from the date of this scoping memo for the resolution of these proceedings. However, if changes to this time period are necessary, pursuant to § 1701.5 (b), a subsequent amended scoping memo may be issued.

**5. Establishment of the Service List**

The OII/OIR specified a process for interested parties to seek to be added to the temporary service list. Nevertheless, we used a broader service list in these proceedings up to the PHC to encourage greater participation.

We have compiled a final service list including those who have: (1) complied with the instructions in the OII/OIR; (2) entered a formal appearance at the PHC; or (3) have specifically requested addition to the service list as described in the February 5, 2009 Ruling.

## 6. Categorization, Need for Hearings, *Ex Parte* Rules, and Designation of Presiding Officer

The Commission preliminarily categorized these proceedings in the OII/OIR as “quasi-legislative” as defined in Rule 1.3(e).<sup>10</sup> The categorization is affirmed and subject to appeal pursuant to Rule 7.6(a). (*See* Rule 7.1.)

In a quasi-legislative proceeding, Rule 13.2 defines the presiding officer as the assigned Commissioner. The assigned ALJs are Victoria S. Kolakowski and Anne E. Simon, and they shall act as assistants to the assigned Commissioner. (*See* § 1701.4(a).) The applicable *ex parte* rules are set forth in Rule 8.2(a): *ex parte* communications are allowed without restriction or reporting requirement.

The OII/OIR stated that no hearing was necessary, and this finding has not been formally challenged by any party.

Therefore, **IT IS RULED** that:

1. The scope of the proceedings is as set forth herein.
2. The schedule of these proceedings is as set forth herein. The Administrative Law Judges may issue subsequent rulings providing specific times, schedule changes, and locations for workshops and conferences, as appropriate.
3. The categorization of the proceedings is quasi-legislative. This categorization is subject to appeal pursuant to Rule 7.6(a).
4. The presiding officer is the assigned Commissioner, and the assigned Administrative Law Judges shall act as assistants to the assigned Commissioner.
5. No hearing is necessary.

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<sup>10</sup> OII/OIR at 9.

6. The *ex parte* rules as set forth in Rule 8.2(a) of the Commission Rules of Practice and Procedure and Pub. Util. Code § 1701.3(c) apply to these proceedings: *ex parte* communications are allowed without restriction or reporting requirement.

Dated January 12, 2010, at San Francisco, California.

/s/ MICHAEL R. PEEVEY  
Michael R. Peevey  
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 January 12, 2010, at San Francisco, California.

/s/ LILLIAN LI  
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Lillian Li

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.