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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	Rulemaking 08-08-009 (Filed August 21, 2008)

SECOND AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This Second Amended Scoping Memo identifies several issues that are new to this proceeding, which is the vehicle for ongoing implementation and administration of the renewables portfolio standard (RPS) program. It also extends the deadline for the conclusion of the proceeding to March 31, 2011, and sets an initial schedule for addressing the issues identified.

Discussion of Amended Scope

The Scoping Memo and Ruling of Assigned Commissioner (September 26, 2008) (Scoping Memo) identified a range of issues "necessary to continue oversight of RPS procurement, reporting, compliance, enforcement, and other elements of ongoing implementation and administration." (Scoping Memo at 2). The Amended Scoping Memo and Ruling of Assigned Commissioner Regarding 2010 RPS Procurement Plans (November 2, 2009) (Amended Scoping Memo) established the scope and schedule for Commission consideration of utilities' 2010 RPS procurement plans.

Several developments—statutory, executive, and administrative— have an impact on the scope of this proceeding beyond the specific issues identified in the Scoping Memo and Amended Scoping Memo. SB 695 (Kehoe), Stats. 2009, ch. 337, adds Pub. Util. Code § 365.1.[1] This section provides, among other things, that as part of a limited and phased reopening of direct access transactions, the Commission must review and equalize RPS requirements as between the state's three large electric utilities[2] and the state's energy service providers (ESPs).

Governor Schwarzenegger's Executive Order (EO) S-21-09 (September 15, 2009) instructs the state Air Resources Board (ARB), as part of the implementation of Assembly Bill 32 (Núñez/Pavley), Stats. 2006, ch. 488, to issue regulations to require that 33% of the electricity sold at retail in California in 2020 be generated by renewable resources.

The Assigned Commissioner's Ruling Transferring Consideration of Certain Issues from Rulemaking (R.) 06-02-012 to R.08-08-009 (April 3, 2009) transfers three issues to this proceeding.[3] Decision (D.)10-03-021, authorizing the

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[1] All subsequent references to sections are to the Public Utilities Code unless otherwise noted.

[2] Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company.

[3] The transferred issues are:

a. The revision of utilities' least-cost best-fit methodologies to include evaluation of contracts for renewable energy credits (RECs) only;

b. The process of approval of utilities' bundled energy and REC-only short-term contracts (whether bilateral or the result of solicitations) and long-term bilateral contracts; and

c. The development of price benchmarks for evaluating the reasonableness of utilities' short-term bundled contracts (whether bilateral or the result of solicitations) and long-term bilateral bundled contracts.

Footnote continued on next page

use of tradable renewable energy credits (TRECs) for RPS compliance, requires utilities to file amendments to their 2010 RPS procurement plans, provides additional direction on review of utilities' least-cost best-fit (LCBF) methodology, and expresses the Commission's intention to undertake review of RPS requirements pursuant to SB 695 in this proceeding.

These developments require that the scope of this proceeding be expanded, and the deadline for its completion be correspondingly extended. Several complex issues are being added or elaborated in this proceeding. Therefore, while I intend to address the issues in the order and timeframe presented in the initial schedule below, the assigned Administrative Law Judge (ALJ) is authorized to make any changes to the order and scheduling that are needed to promote the fair and expeditious management of this proceeding.

The Commission began implementation of SB 695 by issuing D.10-03-022. As provided in § 365.1(c)(1), issuance of that decision triggers the Commission's review of RPS requirements to ensure that ESPs are subject to the same RPS requirements that are applicable to the three large utilities. The details and schedule for that review should be set by the assigned ALJ, though I intend that it should begin promptly with the filing of briefs in April 2010.

A comprehensive review of LCBF methodology will have a number of elements. This review should include, but not be limited to, the use of REC-only procurement transactions, lessons learned from RPS procurement to date, and consideration of whether and how to include in LCBF methods the Commission's preference for RPS procurement contracts that are likely to result in the

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The latter two issues were resolved in D.09-06-050, with the exception of REC-only contracts.

construction of new RPS-eligible generation capacity. Because this review process is likely to require substantial input from parties, it should be initiated as soon as practicable, as scheduled by the assigned ALJ.

Integration of REC-only contracts into the RPS contract review and approval process will benefit from the experience of parties and Energy Division staff, including experience with the fast-track process for short-term bundled contracts established by D.09-06-050. This task should include not only full integration of REC-only contracts into the existing RPS contract review process, but also consideration of streamlining the processes for TREC contract review and approval.

The review of utilities' RPS procurement plans for 2010, set out in the Amended Scoping Memo, may be affected by the direction in D.10-03-021 that utilities file amendments to their procurement plans to provide information about their intended use of procurement of TRECs. The assigned ALJ may make any revisions to the schedule for review of the 2010 procurement plans that are appropriate to accommodate the additional direction provided by D.10-03-021.

The recurring tasks related to submission and review of utilities' RPS procurement plans should be scheduled by the assigned ALJ.

In authorizing the use of TRECs for RPS compliance, D.10-03-021 identified a range of tasks for integrating the use of TRECs into the RPS program. It is also likely that other issues related to TRECs will arise in the course of implementing D.10-03-021. Issues related to the use of TRECs will be addressed in this proceeding as they arise.

Finally, EO S-21-09 directed that ARB's regulations for a 33% renewable energy standard should be issued by July 31, 2010. There may or may not be any need to address the relationship of those regulations to RPS implementation. In

order to provide a place within the RPS framework, however, I include integration of RPS requirements and any potential requirements in the ARB regulations within the scope of this proceeding.

In sum, the following tasks are now added to the scope of this proceeding:

1 Review and revision of RPS requirements to equalize requirements for ESPs and the three large utilities;
2. Review and revision of LCBF methodology, including use of TRECs and consideration of the Commission's preference for contracts likely to lead to new RPS-eligible generation;
3. Integration of REC-only contracts into RPS contract review and approval processes, including consideration of streamlining of TREC contract review processes;
4. Amendment and review of utilities' 2010 procurement plans to include the use of TRECs;
5. Other issues arising from the integration of TRECs into the RPS program; and
6. Issues related to the coordination of the RPS program with the renewable energy standard regulations under development by the ARB.

All issues previously identified in the Scoping Memo and Amended Scoping Memo remain in the scope of this proceeding.

Schedule

The initial schedule set out below indicates when a number of complex tasks should be commenced. It is not possible at this time to predict exactly how quickly any one task will be completed, particularly because a variety of tasks will proceed roughly simultaneously. I therefore expect the assigned ALJ to manage the schedule to allow for the completion of the tasks in this proceeding as expeditiously as possible.

Because several new tasks or elaborations of existing tasks have been added to this proceeding, the deadline for completion of the proceeding should be extended to March 31, 2011. I anticipate that this will allow enough time for the issues identified in the Scoping Memo, Amended Scoping Memo, and this Second Amended Scoping Memo to be resolved. The assigned ALJ may adjust the schedule as required, so long as the proceeding is completed by March 31, 2011.

Briefs on SB 695 implementation	April 2010
Workshop or other initial steps on LCBF review	Second quarter 2010
Proposed decision on 2010 RPS procurement plans	Third quarter 2010
Staff proposal on review and approval of TREC contracts	Third quarter 2010
Further tasks related to integration of use of TRECs in RPS program	As needed
Submission of 2011 RPS procurement plans	To be determined
Comments/briefs on issues related to integration of RPS and ARB RES program per EO S-21-09	As needed

IT IS RULED that:

1. The presiding officers are Administrative Law Judges Burton W. Mattson and Anne E. Simon.

2. The categorization of this proceeding remains as set forth in the Scoping Memo.

3. The deadline for concluding this proceeding is extended to March 31, 2011.

4. The issues that have been identified in the Scoping Memo and Amended Scoping Memo remain in the scope of this proceeding. The issues identified in this Second Amended Scoping Memo are added to the scope of this proceeding.

5. The initial schedule for this proceeding for the remainder of 2010 is as set forth above.

6. The assigned Administrative Law Judges or the assigned Commissioner may vary the schedule set forth in this Scoping Memo if necessary for the fair and expeditious management of this proceeding.

Dated March 25, 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 March 25, 2010, at San Francisco, California.

/s/ JEANNIE CHANG
Jeannie Chang

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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