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06-17-08

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

Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission's Resource Adequacy Requirements Program.

Rulemaking 05-12-013  
(Filed December 15, 2005)

**AMENDED SCOPING MEMO AND RULING OF  
ASSIGNED COMMISSIONER FOR PHASE 2**

**1. Summary**

This amended scoping memo and ruling reviews the status of this resource adequacy proceeding, grants two motions to supplement the record, restates the issues remaining to be considered in Phase 2, and revises the timetable for their consideration.

**2. Status of Proceeding**

Phase 1 issues were resolved by Decision (D.) 06-06-064 and D.06-07-031. The Phase 2 Scoping Memo<sup>1</sup> established three procedural tracks for Phase 2. Track 1 of Phase 2 was resolved by D.07-06-029. Track 2 ("Long-Term Resource Adequacy (RA) Program Development Including Market Design Proposals") and Track 3 ("Full Implementation of [Assembly Bill (AB)] 380") remain open and are the subject of this ruling.

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<sup>1</sup> *Assigned Commissioner's Ruling and Scoping Memo for Phase 2*, issued December 22, 2006.

The record for Track 2 has been developed through the filing of initial proposals, a stakeholder meeting facilitated by the Energy Division, pre-workshop comments and replies, supplemental opportunity for filing new and updated proposals, Energy Division-facilitated workshops, a comprehensive staff report issued in coordination with the California Independent System Operator (CAISO), and post workshop comments and replies. With this ruling's grant of two pending motions to supplement the record (*See below*), the Track 2 record is complete and ready for decision.

The record for Track 3 has been developed through the filing of initial proposals, a workshop, and the filing of supplemental showings based on workshop discussions. The next procedural step is issuance of the Staff Report on Track 3 Issues. Following issuance of that report, a schedule for post-workshop comments and replies will be set by further ruling.

The Phase 2 Scoping Memo determined that the record would be developed through a combination of parties' filed proposals, workshops, staff reports, and post-workshop comments and replies. No change to this procedural approach appears necessary or appropriate.

### **3. Motions to Supplement the Record**

On May 6, 2008, the Bilateral Trading Group (BTG) filed a motion to supplement the record with a document entitled "RPM Buyers' Motion for Technical Conference." That document was filed with the Federal Energy Regulatory Commission (FERC) on March 19, 2008 in FERC's proceeding regarding the "PJM Interconnection, L.L.C." (Docket ER05-1410-000,

EL05-148-000).<sup>2</sup> RPM Buyers are a coalition of state regulatory commissions, municipal electric utilities, joint power agencies, a rural electric cooperative, end-use customers, state consumer advocate offices, and load-serving entities participating in the PJM central capacity market known as the Reliability Pricing Model (RPM). RPM Buyers requested that FERC convene a technical conference to address the assertion that the RPM market is not working as expected, has burdened consumers with \$26 billion in gross capacity costs, and has resulted in little increased capacity or reliability. BTG contends that the RPM Buyers' motion and the study attached to it are relevant to the matters at issue in Track 2.

On May 21, 2008, the California Forward Capacity Market Advocates (CFCMA), Constellation Energy, Dynegy, and Mirant (collectively, CFCMA et al.) filed a motion to supplement the record with the following three documents:

A report prepared for the PJM Power Providers by CRA International entitled "Reliability at Stake: PJM's Reliability Pricing Model," dated May 5, 2008.

A PJM news release dated May 15, 2008 entitled "PJM Capacity Auction Results: Power Supplies Up, Prices Down."

A PJM report entitled "2011/2012 RPM Base Residual Auction Results," dated May 15, 2008.

CFCMA et al. contend that these documents are relevant to our investigation of centralized capacity markets and would serve to provide

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<sup>2</sup> PJM Interconnection, L.L.C., PJM is the regional electricity transmission organization that coordinates the movement of electricity and administers wholesale electricity markets in an area that extends from New Jersey and Pennsylvania in the northeast, south to parts of North Carolina and Kentucky, and west to parts of Illinois.

appropriate balance to what it considers to be one-sided documents in the BTG motion.

No response to either the BTG motion or the CFCMA et al. motion has been filed. Each of the documents appears to be relevant to the Commission's consideration of the issues in Track 2. I note that the Phase 2 Scoping Memo provided that:

In considering a centralized capacity market and alternative approaches to achieving long-term RA goals, we must learn from our own experience and the experience of market performance elsewhere, particularly in the eastern United States where capacity market approaches have been employed. (Phase 2 Scoping Memo, p. 14.)

In keeping with this earlier pronouncement on the importance of considering market performance elsewhere, I find that both motions should be granted.

#### **4. Scope of Phase 2 – Remaining Issues**

##### **4.1. Track 2**

The Phase 2 Scoping Memo identified the following long-term RA program topics for consideration in Track 2: (1) proposals for a centralized capacity market structure, bilateral trading, and alternative market structure approaches; (2) registration and tagging of RA capacity; (3) coordination of the RA program with the CAISO's Market Redesign and Technology Upgrade; (4) multi-year forward commitments for RA; (5) consideration of updating the 15-17% planning reserve margin; (6) market power mitigation; (7) load-serving entity "opt-outs" from the cost allocation mechanism established pursuant to D.06-07-029; and (8) expansion of RA obligations to address the CAISO's need for a mix of generation services.

Topic 5 in this list – the planning reserve margin – has been transferred to a separate proceeding (Rulemaking (R.) 08-04-012). The Track 2 decision will address those topics in the foregoing list for which proposals were timely submitted.

#### **4.2. Track 3**

Pursuant to AB 380, this Commission must design and adopt an RA program for all electrical corporations that serve retail (end-use) customers. Track 3 was therefore established to adopt RA program requirements appropriate for small and multi-jurisdictional utilities and electrical cooperatives. The scope of Track 3 should remain as stated in the Phase 2 Scoping Memo.

#### **5. Revised Timetables for Tracks 2 and 3**

Since the Phase 2 Scoping Memo was issued, it has been necessary and appropriate to revise the schedule for Track 2 on several occasions.<sup>3</sup> These actions have been taken in furtherance of the Phase 2 Scoping Memo’s mandate that “great care must be taken in developing a complete, fully vetted record on centralized capacity markets and alternatives such as bilateral trading....” (Phase 2 Scoping Memo, p. 14.) It has also been necessary to revise the Track 3 schedule.<sup>4</sup> I find that it is appropriate at this time to re-set the Track 2 timetable

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<sup>3</sup> For example, an Assigned Commissioner’s ruling (ACR) issued on May 25, 2007 modified the Track 2 schedule to facilitate collaboration between the CAISO and the Energy Division on certain capacity market design issues. An ACR issued on October 25, 2007 further modified the Track 2 schedule to facilitate coordination with a CAISO stakeholder process. A ruling by the Administrative Law Judge (ALJ) on February 13, 2008 granted an extension of time to file comments on the Track 2 staff report to provide parties an opportunity to negotiate on certain capacity market issues.

<sup>4</sup> An ALJ’s ruling issued on April 6, 2007 granted a motion by several small utilities for an extension of time to file their Track 3 proposals. An ALJ’s ruling issued on

*Footnote continued on next page*

as set forth below. The Track 3 timetable will be reset by further ruling when the Energy Division's Track 3 report is issued.

**Revised Timetable for Track 2**

Motions to supplement the Track 2 record granted	June 2008
Proposed decision (PD)	3 <sup>rd</sup> quarter 2008
Comments on proposed decision filed	20 days after PD
Reply comments on proposed decision filed	5 days after comments
Final Decision	4 <sup>th</sup> quarter 2008

I anticipate that both Track 2 and Track 3 will be completed this year, and, in any event, it is the Commission's intent to resolve all remaining Phase 2 issues within 12 months of the date of this amended Scoping Memo and Ruling, pursuant to § 1701.5(b). The assigned ALJ may issue any rulings necessary to set specific dates for any activities necessary to resolve the issues identified in this amended scoping memo.

**6. Category of Proceeding**

The Phase 2 Scoping Memo determined that this proceeding should remain categorized as ratesetting. No change in categorization is warranted at this time.

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July 5, 2007 further revised the Track 3 schedule in light of workshop discussions. An ALJ's e-mail ruling on October 17, 2007 reported that the Energy Division had determined it was necessary to revise the Track 3 schedule due to competing time demands upon the responsible staff. That ruling deferred the date for submission of the Track 3 Staff Report to a date to be set by further ruling.

## **7. Presiding Officer**

ALJ Mark Wetzell remains the presiding officer in this proceeding.

## **8. Rules Governing *Ex Parte* Communications**

As this is a ratesetting proceeding subject to Pub. Util. Code § 1701.3(c), *ex parte* communications are prohibited unless certain statutory requirements are met. See also, Rules of Practice and Procedure (Rules), Rule 8.2(c). With respect to Track 2, a determination has previously been made that an evidentiary hearing is not required.<sup>5</sup> I hereby determine that an evidentiary hearing is not required for Track 3. Accordingly, pursuant to Rule 8.2(d), certain rules regarding *ex parte* communications shall cease to apply.

**IT IS RULED** that:

1. The May 6, 2008 motion of the Bilateral Trading Group to supplement the record and the May 21, 2008 motion of the California Forward Capacity Markets Advocates, Constellation Energy, Dynegy, and Mirant to supplement the record are granted.

2. The timetable for Phase 2 of this proceeding is revised as set forth in the foregoing discussion. As provided in the Order Instituting Rulemaking, the assigned Commissioner or Administrative Law Judge may make any revisions to this schedule necessary to facilitate the fair and efficient management of the proceeding.

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<sup>5</sup> See ALJ ruling by e-mail dated April 2, 2008, confirmed by written ruling filed on April 7, 2008.

3. A hearing is not needed in Phase 2 of this proceeding.

Dated June 17, 2008, 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 June 17, 2008, at San Francisco, California.

/s/ LILLIAN LI

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Lillian Li