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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)

ADMINISTRATIVE LAW JUDGE'S RULING ON MOTION OF CALIFORNIA FORWARD CAPACITY MARKET ADVOCATES TO FILE A NEW PROPOSAL

1. Summary

The motion of California Forward Capacity Market Advocates (CFCMA) to file a new proposal is granted in part and denied in part as set forth below.¹

2. Background

The December 22, 2006 Assigned Commissioner's Ruling and Scoping Memo for Phase 2 (Phase 2 Scoping Memo) identified issues to be addressed in Track 2 of Phase 2. It also established a procedural schedule for submission of proposals regarding Track 2 issues and for comments and workshops regarding those proposals. A ruling issued on February 28, 2007 provided further guidance regarding the Track 2 proposals, and it extended the date for filing Track 2 proposals to March 30, 2007.

¹ The CFCMA consists of FPL Energy, NRG Energy, Reliant Energy, San Diego Gas & Electric Company, and Southern California Edison Company.

Pursuant to those rulings, 18 parties and party coalitions filed Track 2 proposals on March 30, 2007. Of those 18 sets of proposals, eight addressed positions favoring adoption of a centralized capacity market (CCM) approach to resource adequacy. These CCM proposals included an overarching joint proposal by a coalition of eight parties (the Capacity Market Advocacy Group or CMAG) as well as proposals of varying degrees of specificity by seven parties, several of which were also parties to the more general CMAG proposal (and some of which are also parties to the CFCMA motion).

The various Track 2 proposals were the subject of an Energy Division-led stakeholder meeting on April 25, 2007, pre-workshop comments filed on May 18, 2007, and replies to those comments filed on July 13, 2007. Workshops are scheduled to begin on or about August 15, 2007, and post-workshop comments and replies are due later this year.²

In reply comments filed on July 13, CFCMA announced that the CFCMA companies have been working on a joint forward capacity market proposal and expect to reach consensus regarding such a proposal. The CFCMA also announced that it would seek permission to file the joint proposal on or about July 23, 2007. The CFCMA made such a request by e-mail to the undersigned on July 13, 2007. In an e-mail ruling issued on July 13, I deemed the request to be a motion and provided that responses to the motion may be filed on July 17, 2007. Responses were filed by Aglet Consumer Alliance, the Division of Ratepayer Advocates, Pacific Gas and Electric Company (PG&E), and jointly by

² The Phase 2 Scoping Memo provides that Track 2 workshops will be held between August 15 and August 31, 2007. The Energy Division will announce specific workshop dates and agendas in the near future.

Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc., Constellation Generation Group, and the Alliance for Retail Energy Markets.

3. Discussion

CFCMA indicates that the CFCMA companies have been working to develop a joint proposal “in an effort to streamline the [Commission’s] decision-making process.” I concur that this is an important objective. As stated in the February 28, 2007 ruling, parties are encouraged to align and present joint proposals in light of the “myriad issues and numerous parties” in this proceeding. If the anticipated CFCMA joint proposal leads to a focus on one consolidated proposal rather than several individual proposals by the parties represented by CFCMA, the proceeding could potentially be streamlined.

Parties opposing the CFCMA motion are correct in noting that CFCMA’s joint proposal would arrive long after the March 30, 2007 due date for submission of proposals. However, it is not unusual for various parties in multi-party Commission proceedings to align and present joint proposals during the course of a proceeding.³

In determining whether to approve the CFCMA motion, the assigned Commissioner’s statements in the Phase 2 Scoping Memo (at p. 14.) appear relevant:

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

³ Additionally, the Commission’s settlement rules (Article 12 of the Rules of Practice and Procedure) effectively recognize that during the course of a proceeding, parties can agree upon and propose an outcome that may be different from any of the original proposals in a proceeding.

elsewhere, particularly in the eastern United States where capacity market approaches have been employed.

* * *

This means that great care must be taken in developing a complete, fully vetted record on centralized capacity markets and alternatives such as bilateral trading, as well as the related RA program issues that have been identified (including registration/tagging, multi-year forward commitments, and coordination of the RA program with the CAISO's MRTU process). This in turn means that adequate time must be provided to develop the record.

Pursuant to the assigned Commissioner's directive to take great care to develop a complete and fully vetted record, I conclude that it is reasonable to accept the CFCMA proposal to file a joint CCM proposal. The CFCMA motion will therefore be granted to the extent described below.

PG&E suggested that all parties, not just CFCMA, should be allowed to submit new or updated proposals, and that such proposals be filed on August 3 rather than "on or about" July 23. This approach appears both fair and reasonable, and is hereby adopted.⁴

CFCMA proposes that parties be permitted to file comments regarding the new CCM proposal prior to the workshops that are scheduled for August. Upon review of the responses to the CFCMA request, I find that there does not appear to be adequate time for parties to fully review and respond to the filings before the workshops begin. I will therefore deny the request to permit an additional

⁴ On July 18, 2007 the California Independent System Operator served notice of the posting of two documents related to Track 2 issues: "Capacity Market Issue Identification Paper" and "Evaluation Criteria Matrix." Parties submitting new/revised proposals pursuant to this ruling are encouraged to review these documents and respond as appropriate in making their filings.

round of written comments at this time. I am informed that Energy Division plans to provide an opportunity for parties to comment on the record during the August workshops. I also note that all parties will have an opportunity to file written post-workshop comments (and replies) pursuant to the procedure established by the Phase 2 Scoping Memo.

IT IS RULED that new and updated proposals regarding Track 2 issues may be filed on August 3, 2007.

Dated July 20, 2007, at San Francisco, California.

/s/ MARK S. WETZELL by BWM
Mark S. Wetzell
Administrative Law Judge

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 July 20, 2007, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis