Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local Procurement Obligations.	R._____

ORDER INSTITUTING RULEMAKING

1. Summary

We open this rulemaking to oversee the resource adequacy program, make necessary and appropriate refinements to the program, and establish local procurement obligations beginning with the 2013 compliance year. We do so in continuation of our efforts to ensure the availability of reliable, cost-effective electricity service in California through capacity procurement obligations applicable to load-serving entities as defined in Public Utilities Code Section 380(j). This proceeding is the successor to Rulemaking 09-10-032, which addressed these topics over the past two years.

We provide for the filing of comments on preliminary matters pertaining to the scope, schedule, and administration of the proceeding. These initial comments are due November 7, 2011. Replies are due November 21, 2011.

2. Purpose of Proceeding

The resource adequacy (RA) program was first implemented with the 2006 compliance year for "system" RA requirements. "Local" RA procurement

obligations were first implemented the following year. Even though several decisions over the past several years have largely defined the RA program, it remains necessary and appropriate to have a procedural mechanism in place to address the ongoing needs of the program. As the Commission stated in a June 2007 RA decision:

> While the nature of the future RA program and the associated procedural requirements cannot be fixed at this time, it is clear that there is an ongoing need for a procedural vehicle to address both modifications and improvements to the RA program as well as routine administrative (but not ministerial) matters that are not delegable to staff. Among other things, the Local RA program component requires annual approval of [local capacity requirements (LCRs)] based on the [California Independent System Operator's (CAISO's)] LCR studies. For the near and intermediate term, we see a need for annual proceedings for these purposes." (Decision (D.) 07-06-029 at 52.)

Rulemaking (R.) 09-10-032 served as the forum for RA decisions in 2010 (for the 2011 RA year) and 2011 (for the 2012 RA year). The most recent decision, D. ----------, closed R.09-10-032. Therefore, there is a need for a successor rulemaking proceeding both to oversee the RA program and to establish local procurement obligations for 2013 and, possibly, future years.

3. Preliminary Scoping Memo

In this Preliminary Scoping Memo, we briefly describe the issues to be considered in this proceeding. The timetable is set forth in Section 5 of this order.

3.1. Local Capacity Requirements (LCRs)

D.06-06-064 determined that a study of local electric capacity requirements performed by the CAISO would form the basis for this Commission's RA

Program. Establishing local procurement obligations for the first time, the Commission stated that the CAISO's LCR study:

> . . . is the foundation for our establishment of local procurement obligations, the costs of which are borne by the [load-serving-entities (LSEs)] and their retail customers. Therefore, this Commission must be reasonably assured that the LCRs it uses to establish those procurement obligations are reasonable. This requires consideration of the LCR study process as well as the study outcomes." (D.06-06-064 at 13.)

As noted above, the Commission has found that there is a need for an annual proceeding to review the LCRs determined in the CAISO's study of local area needs. This proceeding is designated for this purpose, beginning with the LCR study for 2013. This proceeding is also designated as the Commission's forum for considering how the LCR study process, parameters, methods, and assumptions might be improved over time.

3.2. Local Procurement Obligations

Upon reviewing the annual LCR study, the Commission uses the approved LCRs to establish local procurement obligations that are to be met by Commission-jurisdictional LSEs for the applicable compliance period. In the past, this has involved such topics as whether local areas should be aggregated, the extent to which LSE procurement obligations should be adjusted or waived for local areas with CAISO-identified resource deficiencies, and the reliability criteria targeted through procurement obligations. These, and other issues whose resolution is necessary for establishing local procurement obligations, may be taken up in this proceeding.

3.3. Refinement of RA Program Elements

RA program refinement topics for 2013 and 2014 are preliminarily listed in Appendix A. These include the following, subject to final determination by the assigned Commissioner in the scoping memo:

- Issues that were referred to this rulemaking by D.-------, regarding RA for demand response resources;
- Issues deferred to this proceeding by D.11-06-022, the Commission's decision regarding 2012 LCRs and refining the RA program;
- Issues deferred to this proceeding by a September 7, 2011 Ruling in R.09-10-032;
- Any issue that is explicitly or implicitly referred to this proceeding by an order issued in another proceeding during the course of this proceeding;
- Issues proposed by our Energy Division and by parties in initial comments called for by this ruling that the assigned Commissioner deems appropriate for inclusion in this proceeding; and
- Related matters as determined by the assigned Commissioner's scoping memo.

While it is a straightforward matter to define the purpose of this proceeding, we do not attempt to draw a bright line separating refinements to the existing program from the fundamental program changes that are beyond the scope of the proceeding. Instead, the final determination of specific topics to be addressed will be left to the assigned Commissioner's discretion in the scoping memo.

4. Proceeding Category and Need for Hearing

Rule 7.1(d) of the Commission's Rules of Practice and Procedure (Rules) specifies that an Order Instituting Rulemaking (OIR) will preliminarily determine the category of the proceeding and the need for hearing. Pursuant to Rule 7.1(e), and as with earlier RA proceedings, we determine that this proceeding is ratesetting as defined in Rule 1.3(e). While we expect that the issues may be resolved through comments and workshops without the need for evidentiary hearings, a final determination on the need for hearings will be made in the assigned Commissioner's scoping memo.

5. Schedule, Initial Comments

Since the local component of the RA program was first implemented, the Commission has determined that the annual compliance cycle should begin with issuance of a decision each June that establishes local procurement obligations for the following calendar year. Although the Commission may consider changes to the RA compliance calendar in this proceeding, prudence dictates that we plan at least initially to continue with the existing calendar. Accordingly, we establish Phase 1 of this proceeding to address LCRs and establish local procurement obligations for 2013 and to consider those RA program refinement issues that the assigned Commissioner deems appropriate for inclusion in Phase 1. Subject to further order of the Commission or determination by the assigned Commissioner, the target date for issuance of a decision that concludes Phase 1 is June 2012.[1] We expect Phase 2 to address LCRs and establish local procurement obligations for 2014 and to consider those RA program refinement issues that the

[1] It may be appropriate to establish an expedited procedural track within Phase 1 to address standard capacity product integration issues.

assigned Commissioner deems appropriate for inclusion in Phase 2. Subject to further order of the Commission or determination by the assigned Commissioner, the target date for issuance of a decision that concludes Phase 2 is June 2013. We anticipate that the Phase 2 decision will make a determination whether to continue or close the proceeding.

To assist the assigned Commissioner in preparation of the scoping memo, we will provide for the filing of initial comments and replies per the schedule below. Comments should address the following:

- Identification of the party and interest of the party in this proceeding. (*See* Rule 1.4(b).)
- Any objections to or recommendations regarding this order's determinations as to categorization of the proceeding as ratesetting, the need for hearing, issues to be considered, or scheduling. (*See* Rule 6.2.)
- Priorities of issues to be considered, including recommendations for which issues should be taken up in Phase 1 (June 2012 target date for Commission decision) and which issues should be considered in Phase 2 (June 2013 target date for Commission decision).
- Scheduling issues and concerns.

The preliminary Phase 1 schedule, set forth below, is adapted from previous RA proceedings. It will be further developed and modified as determined to be necessary and appropriate by the assigned Commissioner, based upon initial comments.

Phase 1 Schedule

Oct. 20, 2011	Order instituting rulemaking (OIR) issued by Commission
Nov. 7, 2011	Initial comments on OIR filed with Commission
Nov. 21, 2011	Reply Comments on OIR filed with Commission
Nov. 2011	Phase 1 scoping memo issued by assigned Commissioner
Nov. 2011	Phase 1 workshop and comment process begins
Jan. 2012*	LCR base cases submitted to CAISO by participating transmission owners
Jan. 2012*	CAISO publishes LCR base cases
Jan. 2012*	Stakeholders submit comments on LCR base cases to CAISO
March 2012*	CAISO publishes preliminary LCR study results and solicits operating procedures
March 2012	2011 Year in Review RA Report issued by Energy Division
March 2012	Phase 1 workshop and comment process ends except for LCR study issues
April 2012*	CAISO publishes draft 2013 LCR report
April 2012*	Stakeholder comments on draft LCR report submitted to CAISO
May 2012*	CAISO publishes final 2013 LCR Report
May 2012	Comments on final 2013 LCR Report filed with Commission
May 2012	Reply comments on final 2013 LCR Report filed with Commission
May 2012	Proposed decision issued by Administrative Law Judge
June 2012	Comments on proposed decision filed with Commission
June 2012	Reply comments on proposed decision filed with Commission
June 2012	Final Decision on Phase 1 issues issued by Commission
3rd quarter 2012	Phase 2 scoping memo issued by assigned Commissioner

* Dates for those components of the LCR study and review process that are administered by the CAISO will be determined by the CAISO in consultation with the Commission's Energy Division.

This proceeding will conform to the statutory case management deadline for ratesetting matters set forth in Pub. Util. Code § 1701.5. In particular, it is our intention to resolve all relevant issues within 24 months of the date of the assigned Commissioner's Scoping Memo for each phase. In using the authority granted in § 1701.5(b) to set a time longer than 18 months, we consider the number and complexity of the tasks, the need to coordinate with other proceedings, and the need to coordinate with the processes and role of the California Energy Commission and the CAISO.

6. Becoming a Party; Joining and Using the Service List

We will provide for service of this order on the service list for R.09-10-032, the predecessor RA proceeding. Such service does not confer party status in this proceeding upon any person or entity, and does not result in that person or entity being placed on the service list for this proceeding. If you want to participate in the rulemaking or simply to monitor it, follow the procedures set forth below. To ensure you receive all documents, send your request within 30 days after the OIR is published. The Commission's Process Office will publish the official service list at the Commission's website (www.cpuc.ca.gov), and will update the list as necessary.

6.1. During the First 30 days

Within 30 days of the publication of this OIR, any person may ask to be added to the official service list. Send your request to the Process Office. You may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102). Include the following information:

- Docket Number of this Rulemaking;
- Name (and party represented, if applicable);

- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).[2]

If the OIR names you as respondent, you are already a party, but you or your representative must still ask to be added to the official service list.

6.2. After the First 30 Days

If you want to become a party after the first 30 days, you may do so by filing and serving timely comments in the rulemaking (Rule 1.4(a)(2)), or by making an oral motion (Rule 1.4(a)(3)), or by filing a motion (Rule 1.4(a)(4)). If you file a motion, you must also comply with Rule 1.4(b). These rules are in the Commission's Rules of Practice and Procedure, which you can read at the Commission's website.

If you want to be added to the official service list as a non-party (that is, as State Service or Information Only), follow the instructions in Section 6.1 above.

6.3. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail, and send a copy to everyone on the official service list.

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[2] If you want to file comments or otherwise actively participate, choose "Party" status. If you do not want to actively participate but want to follow events and filings as they occur, choose "State Service" status if you are an employee of the State of California; otherwise, choose "Information Only" status.

6.4. Serving and Filing Documents

We anticipate that the Process Office will not publish the official service list before the first filing deadline in this Rulemaking. Until the official service list is published, the official service list for R.09-10-032 shall be used as the temporary official service list.

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office. If you are a party to this Rulemaking, you must serve by e-mail any person (whether Party, State Service, or Information Only) on the official service list who has provided an e-mail address.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at http://www.cpuc.ca.gov/PUC/efiling. E-mail service is governed by Rule 1.10. If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and Administrative Law Judge. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

7. Public Advisor

Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or

(866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

8. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days after the date of this order.

9. *Ex Parte* Communications

Communications with decisionmakers and advisors in this rulemaking are governed by Article 8 of the Rules of Practice and Procedure. (*See* Rule 8.4(b), Rule 8.2(c), and Rule 8.3.)

IT IS ORDERED that:

1. In accordance with Rule 6.1 of the Rules of Practice and Procedure, the Commission institutes this rulemaking on its own motion to continue its efforts to ensure the availability of reliable and cost-effective electricity supply in California through implementation and administration of, and refinements to, its resource adequacy program. As indicated in Rule 6.1, this proceeding may result in the adoption, repeal, or amendment of rules, regulations, and guidelines that constitute the resource adequacy program, and may modify prior Commission decisions pertaining to the resource adequacy program that were adopted by rulemaking.

2. This is the successor proceeding to Rulemaking 09-10-032 with respect to implementation and administration of, and refinements to, the existing resource adequacy program. As to those matters, the record developed in that proceeding is available for consideration in this proceeding.

3. All load-serving entities as defined in Public Utilities Code Section 380(j) are named as respondents and are parties to this proceeding pursuant to

Rule 1.4(d). Appendix B lists such entities as reflected in the Commission's records. Any error or omission in Appendix B shall not excuse any load-serving entity from respondent status.

4. Interested persons must follow the directions in Section 6 of this order instituting rulemaking to become a party or to be placed on the official service list as a non-party.

5. Initial comments on the issues identified in the foregoing discussion may be filed and are due November 7, 2011. Any person who objects to this order's determinations regarding categorization of the proceeding as ratesetting, the need for hearing, issues to be considered, or scheduling shall state such objections in their comments. (*See* Rule 6.2 of the Rules of Practice and Procedure.) Replies to such comments may be filed and are due November 21, 2011.

6. Any party that expects to claim intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days from the date of this order.

7. The Executive Director shall cause this Order Instituting Rulemaking to be served on respondents and on the service list for Rulemaking 09-10-032.

8. The Phase 1 Schedule set forth in the foregoing discussion is hereby approved. The assigned Commissioner or the Administrative Law Judge may make any revisions to the scheduling determinations made herein as necessary to facilitate the efficient management of the proceeding.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

Candidate Issues and Topics Identified by the Energy Division

1. Local Capacity Requirements (LCR) and associated local procurement obligations – This proceeding will establish the LCR for 2013 and 2014.

2. Standard Capacity Product (SCP) – D.09-06-028 deferred final consideration of the SCP to this proceeding. Further, the Federal Energy Regulatory Commission has directed the California Independent System Operator (CAISO) to work toward extending the SCP to currently exempted resources. This proceeding will consider adoption of the SCP and any associated changes to the RA program.

3. Maximum Cumulative Capacity (MCC buckets) – In D.11-06-022 the Commission deferred discussion of the MCC buckets until this year's RA proceeding. The MCC buckets are currently based on load curves dating back to 2005. Further, D.---------- created a new MCC bucket for Demand Response resources, to be determined in this proceeding.

4. Adjustments to the coincidence adjustment – In D.11-06-022, the Commission deferred to this proceeding consideration of a proposal by the Alliance for Retail Energy Markets, in order to study the issue more.

5. Review the plan for a non-generic capacity procurement requirement process to add resource operational characteristics such as regulation and ramping "load following" capabilities into the resource adequacy procurement requirements. CAISO will provide an annual cycle of studies and reports to inform load-serving entities' resource adequacy procurement. In addition, CAISO proposes that the Commission expand the five month year-ahead showing to a full years showing for the year-ahead procurement to support the evaluations and assessments of needed non-generic capacity.

6. On June 21, 2011, a Petition for Modification of D.10-06-036 (the Commission's Order adopting local procurement obligations for 2011 and further refining the RA program) was filed seeking a modification to the system peak demand definition to exclude weekends and holidays from the hours used to calculate the qualifying capacity of combined heat and power resources. This issue has been deferred to this proceeding

7. Qualifying Capacity rules for dynamically scheduled and pseudo tie resources are relatively unused classifications for resources that sell into the CAISO under specific market arrangements in CAISO tariff. It is necessary to nail down what the rules will be for this type of CAISO participating arrangement. Energy Division staff will present a staff proposal on this issue in this proceeding.

8. The Commission has initiated several recent policy activities that concentrate on Distributed Generation. These programs include, but are not limited to, the Renewable Auction Mechanism, the renewable Feed-in Tariff authorized under PU Code 399.20, and the AB 1613 CHP Feed-in Tariff. In light of the increased focus on distributed generation, the Commission recently launched R.11-09-011, to streamline the rules about distribution level interconnection. In light of the activity that docket, this Rulemaking will consider potential modifications to the qualifying capacity rules and deliverability guidelines.

9. In light of the passage of SB 2 1X which establishes a 33% Renewable Portfolio Standard, up to 20,000 MW of new renewable generation could be needed to be added to the system by 2020. The rules and implementation of 33% RPS will remain in R.11-05-005. Because a very large percentage of new generation procurement will need to be renewable, this docket will consider any updates to the RA rules or practices in order to account for differences in renewable procurement.

10. With the passage of AB 2514, the Commission opened R.10-12-007 to consider policies to promote the adoption of viable and cost-effective energy storage systems. In coordination with the policy developments in R.10-12-007, we will consider any technical updates to our RA rules such that flexible grid operational attributes (such as those provided by energy storage technologies) may receive accurate and correct placement within our RA program.

(END OF APPENDIX A)

APPENDIX B

Load-Serving Entities as Defined in Section 380(j)

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Any electric service provider that, subsequent to the date of the order instituting this rulemaking, becomes registered to provide services within the service territory of one or more of the respondent electrical corporations through direct

access transactions shall, upon such registration, become a respondent to this proceeding. Any electric service provider respondent whose registration is cancelled during the course of this proceeding shall, upon confirmation of such cancellation by the Energy Division, cease to be a respondent to this proceeding.

Community Choice Aggregators

None

Any community choice aggregator that, subsequent to the date of the order instituting this rulemaking, files an implementation plan or becomes registered to provide services within the service territory of one or more of the respondent electrical corporations through community choice aggregation transactions shall, upon such filing or registration, become a respondent to this proceeding. Any community choice aggregator respondent that withdraws its implementation plan or whose registration is cancelled during the course of this proceeding shall, upon confirmation of such withdrawal or cancellation by the Energy Division, cease to be a respondent to this proceeding.

(END OF APPENDIX B)