

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.

FILED
PUBLIC UTILITIES COMMISSION
MARCH 13, 2008
SAN FRANCISCO OFFICE
INVESTIGATION 08-03-010

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ORDER INSTITUTING INVESTIGATION AND RULEMAKING

1. Overview

Through this Order Instituting Investigation (OII) and Rulemaking (OIR), we will continue our efforts to facilitate the development of adequate transmission infrastructure to provide access to renewable resources for California. This Investigation and Rulemaking will seek to improve transmission access to renewable energy generation, consider additional streamlining of existing regulatory processes, and serve as a forum for addressing issues identified in the California Renewable Energy Transmission Initiative (RETI) that may require Commission investigation or formal decision. This Investigation and Rulemaking will build upon and coordinate with the progress made in

Investigation (I.) 05-09-005, 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 and R.06-05-027.

The aggressive renewable energy procurement targets established by California's Renewables Portfolio Standard (RPS) legislation,¹ included in the Governor's strategies to achieve California's greenhouse gas emission reduction goals,² and required to meet the mandates in California's Global Warming Solutions Act,³ make adequate transmission for renewable energy an issue of critical importance.

Given the various entities involved in developing and approving plans to bring transmission to renewable resource areas, their respective areas of expertise and jurisdiction, and the complexity of these issues, we envision a collaborative approach in this Investigation and Rulemaking. The participation of the California Independent System Operator (CAISO) and the California Energy Commission will be important, given their respective roles in transmission planning and identifying renewable resource potential in the state.

¹ SB 1078 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, passed in 2006, codified that policy.

² Executive Order S-3-05, signed by the Governor on June 1, 2005, establishes greenhouse gas emission reduction goals for California and identifies acceleration of the renewable energy goals to 33% of energy sales by 2020 as one strategy to meet those goals. See "Strategies Underway in California That Reduce Greenhouse Gas Emissions" at http://www.climatechange.ca.gov/climate_action_team/factsheets/2005-06_GHG_STRATEGIES_FS.PDF

³ Assembly Bill 32, Ch. 488, Stats. 2006.

We also intend to reach out to the United States Department of Energy (DOE), the Federal Energy Regulatory Commission (FERC), and state and federal land use management agencies for their input and assistance in efforts to further streamline the transmission permitting process.

2. Background

2.1. I.05-09-005

This Investigation and Rulemaking will build on the progress made in I.05-09-005. That proceeding resulted in several important advances. In response to the consensus view expressed in workshops, the California Public Utilities Commission (CPUC or Commission) adopted a backstop cost recovery mechanism for renewable resource transmission projects as a key component of California's effort to meet its RPS goals.⁴ In response to requests in those same workshops that the Commission streamline its transmission permitting processes, the Commission's Executive Director issued streamlining directives July 13, 2006.⁵ These directives have thus far been quite effective in speeding the transmission permitting process of the Commission.⁶

⁴ Decision (D.) 06-06-034 (June 15, 2006).

⁵ The Streamlining Directives are available at www.cpuc.ca.gov/puc/energy/environment/060713_transmissionprojectreviewstreamliningdirective.pdf.

⁶ The CPUC's transmission line permitting process was recently evaluated by the Bureau of State Audits and found to take less time than both the Energy Commission's generation permitting process and the ISO's interconnection approval process. See California State Auditor, "Solar Energy: As the Cost of This Resource Becomes More Competitive With Other Renewable Resources, Applications to Construct New Solar Power Plants Should Increase," January 2008 Report 2007-119 at 37, Figure 7.

Additionally, through collaboration between the Commission's transmission and RPS staff, with information provided by the investor owned utilities (IOUs), the Commission now tracks the transmission status of each RPS project under contract. This helps identify RPS projects that may be at risk for lack of identified transmission.

I.05-09-005 also identified certain kinds of transmission system upgrades that do not require formal Commission approval to facilitate delivery of renewable resources. The Investigation also provided the framework for the Commission to work with the CAISO to gain FERC approval 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.

The Commission and the CAISO have continued to work collaboratively to implement California's RPS goals. This is evidenced by approval of the above wholesale rate financing mechanism,⁷ the CAISO's approval of the Tehachapi Renewable Transmission Project plan of service, and most recently, a concerted coordinated effort to address reform of the CAISO interconnection process and queue.

Like I.05-09-005, this Investigation and Rulemaking will not be business as usual. To the extent available to us, we will rely on informal processes, including filed comments and workshops, to learn about and take action on issues hindering the development of transmission to renewable resources. Among other things, we will explore possible improvements to the CPUC's already-

⁷ Order Granting Petition for Declaratory Order, 119 FERC ¶ 61,061 (2007).

streamlined transmission permitting procedures, and the potential for adopting environmental siting guidelines.

2.2. The Renewable Energy Transmission Initiative

Despite the successes of I.05-09-005 and earlier Commission proceedings, work remains to be done to meet California's ambitious renewable energy goals. The Commission initiated the formation of RETI in the summer of 2007 to create a statewide focus on these goals. RETI is a collaborative study effort among California stakeholders seeking to develop renewable generation and associated transmission. The RETI effort is overseen by a Coordinating Committee composed of the Commission, the CEC, the CAISO, the Southern California Public Power Authority, the Northern California Power Agency, and the Sacramento Municipal Utility District. The Stakeholder Steering Committee is comprised of investor-owned utilities, publicly-owned utilities, renewable developers, federal land use agencies, environmental organizations, consumer organizations, local government organizations, and others. The RETI effort will identify renewable resource areas in California and neighboring areas, and the cost of the generation and transmission needed to develop those areas. RETI will then identify the "competitive renewable energy zones" (CREZs) that it determines can be developed in the most cost-effective and environmentally benign manner. RETI will rely on existing transmission planning processes to identify the transmission infrastructure necessary to deliver the generation output from the highest-ranked CREZs to load centers. The goal of RETI is to ensure that transmission plans of service are produced that have collaborative input and support from virtually all stakeholders – contributing to a more streamlined transmission siting process, among other benefits.

While we do not currently anticipate the need for any specific Commission action or decision with regard to the work of the RETI effort, this Investigation and Rulemaking will serve as a forum for such actions or decisions in the event they become necessary.

2.3. Obligation to Study Demand Side Resources Pursuant to Pub. Util. Code § 1002.3

Pursuant to California Pub. Util. Code § 1002.3,⁸ this Commission is required to consider “cost-effective” alternatives to transmission facilities, including specific demand-side alternatives. That section provides:

In considering an application for a certificate for an electric transmission facility pursuant to Section 1001, the commission shall consider cost-effective alternatives to transmission facilities that meet the need for an efficient, reliable, and affordable supply of electricity, including, but not limited to, demand-side alternatives such as targeted energy efficiency, ultraclean distributed generation, as defined in Section 353.2, and other demand reduction resources.

Since adoption of Section 1002.3, the Commission has complied with this provision through its environmental analysis of a proposed transmission project. However, these analyses primarily address environmental impacts, not cost-effectiveness, and typically do not evaluate an explicit demand-side alternative. The Commission seeks input in this Investigation and Rulemaking as to how to accomplish compliance with Section 1002.3 consistent with California’s RPS goals and the need for

⁸ Added by Stats. 2005, Ch. 366, Sec. 5. Effective January 1, 2006. All future statutory references shall be to the California Public Utilities Code unless specifically stated otherwise.

renewable transmission, and input regarding the process by which the Commission should comply with § 1002.3 going forward.

The Commission seeks input on whether it is appropriate to continue addressing Section 1002.3 provisions in the environmental phase of our review of transmission lines, and what factors need to be taken into consideration to meet the statutory requirements. For example, should applicants be required to submit a demand-side alternative, and if so, should these analyses explicitly address cost-effectiveness? If Section 1002.3 provisions are instead addressed in the need determination or other phase of the Commission's review, should such analyses take into consideration the environmental impacts as well as economic impacts of the alternatives?

3. Preliminary Scoping Memo

Rule 7.1(c) of the Commission's Rules of Practice and Procedure⁹ provides that an order instituting an investigation (OII) shall attach a preliminary scoping memo. Rule 7.1(d) imposes the same requirement on an order instituting rulemaking (OIR).

The goal of this combined Investigation and Rulemaking is to support California's RPS and emission reduction goals by identifying and undertaking improvements in the planning, permitting and development of transmission in California. Among other things, this Investigation and Rulemaking will consider changes to the CPUC's Streamlining Directives, including modifying the pre-filing procedures that were implemented in response to the Directives, and possibly making them mandatory for IOU applicants. It will also consider the

⁹ All citations to Rules refer to the Commission's Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

development and adoption of environmental criteria for siting transmission projects to guide both the planners and permittees of transmission projects. This Investigation and Rulemaking will also address issues relevant to renewable energy transmission identified by parties to this proceeding or through RETI. Finally, this Investigation and Rulemaking will examine how best to meet the requirements of Public Utilities Code Section 1002.3.

The scope of this proceeding may include, but will not be limited to, the following areas and issues:

Improvements to the Planning and Permitting of Renewable Transmission

- What factors are currently slowing down the planning or permitting of transmission to support the development of renewable resources for California?
- What needs to be done to address those factors?
- What CPUC processes should be changed and how?
- Would it be advisable to amend the CPUC's pre-filing requirements in the Streamlining Directives and make them mandatory?¹⁰
- Do other agencies need to change any of their processes, and if so, how?
- Has the CPUC cost recovery regime been effective in supporting transmission to renewable resource areas?
- How could it be improved?
- Would adoption of environmental criteria, such as an explicit policy favoring use of existing rights of way, be useful to the siting and permitting of transmission projects?
- If so, please propose such criteria or policies.

¹⁰ See footnote 5, above.

California Renewable Energy Transmission Initiative (RETI)

- How, and to what extent, should RETI findings/information be incorporated into CPUC transmission application proceedings?
- Should RETI findings/information be incorporated into other CPUC proceedings, and if so, which ones and why?

Compliance with § 1002.3

- How should the Commission demonstrate compliance with § 1002.3 going forward, other than through the Commission's environmental analysis of a proposed transmission project?

We invite parties to comment on the range of issues identified above as well as make recommendations regarding additional issues to be included in this proceeding. In their comments, parties may state any objections to the order regarding the need for hearing, issues to be considered, or the proposed schedule.

4. Category of Proceeding

Rules 7.1(c) and (d) respectively provide that an OII and OIR shall determine the category of the proceeding and make a preliminary determination regarding the need for hearing. This Investigation and Rulemaking is categorized as a quasi-legislative proceeding, as that term is defined in Rule 1.3(d). It is not expected to require a hearing.

An OII is appealable, only as to the category of the proceeding; an OIR's preliminary determination of category is not appealable, "but shall be confirmed or changed by assigned Commissioner's ruling ... and such ruling as to the category is subject to appeal ..." Rule 7.1(d). For purposes of simplicity, this combined Investigation and Rulemaking, only as to category, is appealable no later than 10 days after the date of this order.

5. Schedule

Parties are directed to file and serve comments on the scope and issues of this proceeding as proposed in the preliminary scoping memo within 30 days of issuance of this investigation. A prehearing conference (PHC) will be scheduled shortly after receipt of comments on the preliminary scoping memo. We expect that the assigned Commissioner may refine the issues to be addressed when ruling on the final scoping memo.

Comments on scope and issues in Preliminary Scoping Memo due	30 days after issuance of this OIR
Prehearing Conference	To be scheduled by the ALJ
Commission Decision issued	To be determined in the final scoping memo

This proceeding will conform to the statutory case management deadline for quasi-legislative 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 Section 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 CEC and the CAISO.

6. Parties and Service List

In this investigation we may adopt principles that bear on the transmission investment decisions of the IOUs. In light of this, we name as Respondents all load-serving entities as defined in Pub. Util. Code § 380(j). These entities are

parties to the proceeding pursuant to Rule 1.4(d) and are listed in Attachment B. Both the CAISO and the CEC's participation will be important in evaluating the transmission planning, permitting, and development issues raised by this Investigation and Rulemaking. Thus, we encourage both entities to participate. We will also seek input from federal agency staff when appropriate.

The temporary service list for this proceeding is set forth in Attachments A and B. The service lists for I.05-09-005, R.06-02-012, R.06-05-027 and A.07-06-031 are appended to this order as Attachment A, and a list of respondents is appended as Attachment B, and these lists shall be used for service until a service list for this proceeding is established following the PHC.

The temporary service list will be replaced after the PHC; all respondents shall be parties to the proceeding. All other persons or entities wanting to be included in the service list should take additional steps even if their names are on the temporary service list. Persons who seek party status or wish to monitor this proceeding may do so by informing the Commission's Process Office (process_office@cpuc.ca.gov) of his or her intent to participate and providing the following information no later than April 14, 2008:

1. Name and organization represented, if any;
2. Address;
3. Telephone number;
4. E-mail address; and
5. Assignment to the party, state service, or information only category. If requesting party status, the request should include a description of the nature of the expected participation.

The Process Office shall develop a service list based on the appearances at the first PHC and other requests received by the time of the PHC. This service

list shall be posted on the Commission's Website, www.cpuc.ca.gov, as soon as practicable. Parties should notify the Process Office of any address changes or if they wish to be removed from the service list. Any other problems or questions about the service list after it is posted on the Commission's Website should be brought to the attention of the assigned ALJ. The service list will be updated in accordance with the described procedures, consistent with Rule 1.9.

All filings in this proceeding may be made electronically according to Resolution ALJ-188 and served consistent with Rule 1.10. Consistent with those rules, a hard copy of all pleadings shall be concurrently served on the assigned ALJ.

7. Public Advisor

Any person or entity interested in participating in this investigation who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor's Office in San Francisco at (415) 703-2074, (866) 849-8390, or email public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055, (866) 849-8391, or email public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

8. Intervenor Compensation

A party that expects to request intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 of the Commission's Rules of Practice and Procedure.

9. Ex Parte Communications

Pursuant to Rule 8.2(a) *ex parte* communications in this investigation are allowed without restriction or reporting requirement.

Therefore, **IT IS ORDERED** that:

1. The Commission hereby institutes this Investigation and Rulemaking on its own motion to examine and improve its transmission planning, permitting, and development processes as they relate to renewable energy development.

2. All load-serving entities as defined in Pub. Util. Code § 380(j) are named as respondents and are parties to this proceeding pursuant to Rule 1.4(d).

Attachment B lists such entities as reflected in the Commission records. Any error or omission in Attachment B shall not excuse any load-serving entity from respondent status.

3. This proceeding is classified as quasi-legislative, as that term is defined in Rule 1.3(d) of the Commission Rules of Practice and Procedure (Rules). This order, only as to category, is appealable no later than 10 days after the date of this order, under the provisions of Rule 7.6.

4. Parties shall file comments on the scope and issues identified in the preliminary scoping memo within 30 days of the date this order is issued.

5. This proceeding does not require a hearing. In response to this order, parties may state any objections to the order regarding the need for hearing, issues to be considered, or the proposed schedule.

6. The assigned Commissioner or Administrative Law Judge (ALJ) may adjust the schedule identified herein.

7. The Executive Director shall cause this Order Instituting Investigation (OII) and Order Instituting Rulemaking (OIR) to be served on the Respondents, the California Energy Commission, the California Independent System Operator, and the service list for Investigation 05-09-005, Rulemaking (R.) 06-02-012, R.06-05-027 and Application 07-06-031.

8. The temporary service list is appended as Attachments A and B to this OII and shall be used for service of all pleadings until a new service list for this proceeding is established. An initial service list for this proceeding shall be created by the Commission's Process Office and posted on the Commission's Website (www.cpuc.ca.gov) as soon as it is practicable after the first prehearing conference. Parties may also obtain the service list by contacting the Process Office at (415) 703-2021.

9. Parties serving documents in this proceeding shall comply with Rule 1.10 regarding electronic service. Any documents served on the assigned Commissioner and ALJ shall be both by e-mail and by delivery or mailing a paper format copy of the document.

10. All respondents shall be parties to this proceeding. All other persons interested in this proceeding shall follow the procedures described in this OII to get on the service list.

11. A party that expects to request intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 of the Rules.

12. *Ex parte* communications in this investigation are governed by Rule 8.2(a).

This order is effective today.

Dated March 13, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG

TIMOTHY ALAN SIMON
Commissioners

[Grueneich Attachments A and B](#)