

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

Order Instituting Investigation to facilitate proactive development of transmission infrastructure to access renewable energy resources for California.

Investigation 05-09-005  
(Filed September 8, 2005)

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

**1. Summary**

Today's ruling addresses the scope of the proceeding, sets forth the procedural schedule, and assigns a principal hearing officer. This ruling follows a prehearing conference (PHC) held on November 7, 2005, pursuant to Rules 6(a) and 6.3 of the Commission's Rules of Practice and Procedure (Rules).

In the recently adopted Energy Action Plan II (EAP II),<sup>1</sup> this Commission, along with California Energy Commission (CEC), reiterated its commitment to accelerating from 2017 to 2010 the Renewable Portfolio Standard (RPS) goal of providing 20 percent of investor-owned utility (IOU) electricity from renewable sources. Clearly, California will not achieve this goal if we pursue it with a "business as usual" approach. The goal of this proceeding is to ensure that California has the necessary transmission infrastructure in place in order to meet the RPS goals.

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<sup>1</sup> See <http://www.cpuc.ca.gov/PUBLISHED/REPORT/51604.htm>.

My intent for this proceeding is to be proactive and to hold formal hearings when necessary, but my goal is to keep them to a minimum. I will work with the Administrative Law Judge to ensure that we act within Commission procedures but many of the issues raised in this proceeding can best be addressed through informal means, outside the Commission's hearing rooms. I plan to work with parties and to encourage them to work together to resolve many of the issues raised in this investigation.

## **2. Scope and Initial Schedule of Proceeding**

On September 8, 2005, the Commission issued an Order Instituting Investigation (OII), in which it articulated the following scope of inquiry:

“This investigation will assess how the current transmission planning, project development, and cost recovery processes can be modified to accommodate the unique dispersed, market-driven characteristics of renewable energy and thus facilitate the near and long-term goals of the RPS, as well as continue to refine the methodology by which the transmission impacts of renewable projects are reflected in the bid-ranking and selection process used by the investor-owned utilities for renewables procurement.”  
(OII, p.2)

The OII set forth a list of issues and areas to be covered and invited parties to comment on the issues identified and recommend additional issues or state objections to the identified issues. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), the Independent Energy Producers Association (IEP), the California Wind Energy Association (CalWEA), and the Center for Energy Efficiency and Renewable Technologies (CEERT) filed comments. PG&E, SDG&E, SCE, CalWEA, and the California Independent System Operator (CAISO) filed reply comments on the preliminary scoping memo.

Based on these comments, it became clear that it would be necessary to prioritize the many issues in the proceeding so that the Commission could focus on a few, high priority issues early in 2006, and avoided getting bogged down procedurally by the sheer volume of issues inherent in this arena. To this end, I requested that parties supplement their initial responses to the OII with comments identifying the “Top Six” issues that they think need to be addressed in 2006 to facilitate renewable transmission in California, following which, the Commission’s Strategic Planning and Energy Divisions would conduct a workshop to further discuss and attempt to reach consensus on the highest priority issues. My intention was to determine what issues could be pursued in the first six months or so of 2006 and which are critical to meeting the 2010 RPS goals. This approach should allow us to focus our immediate attention on those issues that can relieve potential transmission constraints in the short term. Parties filed comments on the “Top Six” issues on November 15, 2005,<sup>2</sup> and workshops were held on December 6 and 7, 2005.

The comments and discussion at the workshop indicate that, in the near term, the focus of this investigation should be on addressing the following four high-priority areas:

- 1) Cost recovery issues raised by Public Utilities Code §399.25,<sup>3</sup>
- 2) Streamlining the transmission permitting process where possible,

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<sup>2</sup> Comments were received from the CAISO, SCE, PG&E, SDG&E, the Green Power Institute, CEERT, the Community Environmental Council, Stirling Energy Systems, the IEP, Vulcan Power Company (Vulcan), California Energy Oversight Board (EOB), CalWEA, and the Office of Ratepayer Advocates.

<sup>3</sup> All statutory references are to the Public Utilities Code unless otherwise stated.

- 3) Coordinating RPS Procurement with Transmission Planning generally,
- 4) Identifying “low-hanging fruit,” or transmission infrastructure investments by the IOUs that do not require Certificate of Public Convenience and Necessity (CPCN) or Permit to Construct (PTC) review by the Commission, and which would facilitate renewable resource development without large-scale, long-term transmission upgrades.

The comments and discussion also reinforce my belief that this investigation will require the concerted effort of the Commission, the CAISO, and the CEC. While this Commission cannot control the actions and decisions of the other agencies involved, the purpose of looking broadly at these interrelated issues is to attempt to work with the other agencies as the record is developed in this proceeding and to participate actively in the other agencies’ related proceedings, so that all decisions made by the agencies are fully informed and integrated. I look forward to the active participation of the CEC and the CAISO in this investigation, and I intend to make sure that the Commission participates actively in any related proceedings conducted by the CEC and CAISO.

#### **A. Cost Recovery**

All parties agree that the success of the Commission’s efforts to proactively develop transmission infrastructure to access renewable resources will depend on the Commission’s timely resolution of certain cost recovery issues. Parties recommend that as a first priority in this investigation, the Commission should implement and establish the ratemaking mechanisms under Public Utilities Code §399.25. Based on the comments and discussion at the PHC and the workshops, the issues raised under this category appear to require consideration of legal and policy issues, rather than issues of material fact. Therefore, the following

schedule requires parties to file opening and reply briefs on the cost recovery issues, to be followed by a Commission decision in the second quarter of 2006.

<b>Action</b>	<b>Date</b>
Opening Briefs on Cost Recovery Issues	January 27, 2006
Reply Briefs on Cost Recovery Issues	February 17, 2006
Draft Decision on Cost Recovery Issues	April, 2006
Final Commission Decision	May, 2006

The briefs should provide concrete guidance to the Commission on how to implement the backstop ratemaking authority conveyed in Section 399.25, and I encourage parties to work together in advance of these filing dates to present a unified proposal, if and where possible. The briefs should include, at a minimum, a response to the questions raised in the preliminary scoping memo regarding cost recovery as well as the following questions:

- 1) How should the Commission make findings of network benefits, pursuant to Section 399.25, and how should information or findings regarding network benefits affect the Commission's pursuit of cost recovery pursuant to Section 399.25 and through other means;
- 2) What basis should the Commission use in determining whether transmission facilities are "necessary" to facilitate achievement of the RPS goals;

- 3) Should the cost of facilities that link a renewable generator to the first point of interconnection with the existing grid facilities be allocated solely to developers or should the costs be allocated on a rolled-in basis;
- 4) If costs should be allocated on a rolled-in basis, should they be recovered through FERC-approved transmission rates or Commission approved retail rates;
- 5) What triggers should be developed for the staged permitting and construction of large-scale projects that might be necessary to ensure the success of the RPS program;
- 6) For transmission built in advance of energy projects coming on-line, how should the costs associated with under-utilized capacity be borne (i.e., should developers/IOU ratepayers/TAC fund carrying charges bear the cost of unutilized capacity; should cost recovery by IOUs be limited to carrying charges or should IOUs be permitted to recover rate base on unutilized transmission capacity);
- 7) For transmission facilities, permitted subject to cost recovery under Section 399.25, is it necessary or appropriate to ensure access on these facilities for renewable resources, or how do FERC's open access rules affect the ability of the state to ensure that facilities intended for renewable resources are available to those resources; and
- 8) How should cost allocation among IOU service territories be conducted for this backstop ratemaking authority?

The briefs should also include a discussion of additional policies and methods for recovering transmission costs, such as working with the other

agencies to develop an amendment to the CAISO tariff to place non-network, high-voltage, transmission gen-tie lines needed to accommodate renewable resources under the CAISO's operational control and making them eligible for cost recovery under the CAISO's transmission access charge (TAC). Another possibility might include parties and the Commission working with CAISO and others to revise or clarify criteria for what constitutes network upgrades for purposes of seeking federal cost recovery.

### **B. Streamlining Transmission Permitting**

A second, high priority issue for many parties involved examining ways that the Commission can expedite the processing of Certificate of Public Convenience and Necessity (CPCN) and Permit to Construct (PTC) applications where possible. I agree that there is room for improvement in our processing of CPCN and PTC applications and that permit streamlining is an area worthy of our review in this investigation.

Parties have offered several suggested modifications for our consideration, and it is reasonable to consider these suggestions on an expedited basis. Since this is a review of our internal processes, however, it will not require hearings or briefing. Instead, the Commission's Energy Division CEQA staff will meet with utility staff and other interested parties in a workshop setting to discuss potential methods of streamlining the CPCN/PTC process to make it more simple and efficient, including, among other things, potential agreements from utilities to facilitate bringing consultants on board prior to the receipt of a CPCN/PTC application, increased coordination with other affected agencies, particular federal agencies, and allowing the Commission's consultants and Energy Division staff to review preliminary drafts of a Proponent's Environmental Assessment (PEA) for completeness where possible and appropriate prior to

filing to eliminate the need for lengthy deficiency notices. I intend for this internal review process to proceed quickly with the support of senior management at the Commission, and to share the results of these efforts with parties in the second quarter of 2006.

To the extent changes in Commission General Order 131-D are recommended or needed, the Commission will need to open a separate proceeding to address those recommendations, since the transmission siting process applies to all CPCN/PTC applications and is not limited to transmission access to renewable resources. I intend to work with Commission staff so that, if as I suspect, a new proceeding is needed, we can open that proceeding in early 2006.

### **C. Coordination of RPS Procurement with Transmission Planning**

The next high priority issue area consists of a number of sub-issues, each of which is essential to achieving the State's RPS goals. Together, these sub-issues represent the primary objective of this proceeding; to coordinate transmission planning with RPS procurement to facilitate achievement of the RPS goals. Sub-issues in this category include: 1) identifying and resolving transmission barriers to RPS projects with signed contracts; 2) improving the Transmission Ranking Cost Reports (TRCRs), and the resulting bid adders, utilized by the utilities in RPS solicitations and generation procurement; 3) encouraging the CAISO to include renewable goals in its planning efforts; and, 4) using the results of the RPS solicitations to guide a more comprehensive and collaborative process to address areas in need of transmission upgrades and transmission project development.

The CAISO is currently in the process of working with the Commission and the CEC to improve its planning process generally, and, as part of that

process, I intend to consider how the Commission can provide suggestions as to how the CAISO's procedures and authority can or should be modified to facilitate compliance with RPS goals. As ORA suggests, part of this Commission's focus in this collaborative effort is to ensure that the processes adopted are aligned with ratepayer interests. In particular, ORA suggests that one goal of increased collaboration between the agencies should be to make the planning processes more transparent. I agree.

We expect that in their grid expansion plans, the investor-owned utilities (IOUs) will have considered their transmission needs for renewables. Coordination between agencies is clearly important here, and this proceeding should serve as the catalyst in pushing that coordination effort. Many parties have questioned how, and at what point, renewables enter the IOU's (and the CAISO's) transmission plans. That is a question that warrants review. The RPS Procurement Plans filed in March 2005, in R.04-04-026, provided little to no information on the transmission needs associated with meeting the 2010 RPS goals. As directed by the Commission in D.05-10-014, the Supplemental RPS Procurement Plans filed by the IOUs on December 7, 2005, provide more information regarding transmission needs associated with RPS procurement, but even these plans are limited. However, it is worth noting that in its latest plans, SCE has indicated that there are substantial transmission constraints affecting several of the projects with which it has signed RPS contracts.<sup>4</sup> SCE also expresses concern that many of the projects for which it has signed contracts are far back in the CAISO interconnection queue, drawing into question whether

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<sup>4</sup> SCE Supplement to Renewable Procurement Plan, December 7, 2005.

Segments 1, 2, and 3 of the Antelope Transmission Project<sup>5</sup> will be sufficient to accommodate the projects with which SCE has contracts. Clearly the fact that these projects face transmission constraints should not come as a surprise to SCE, however, I believe it will be useful, and inform our investigation, if SCE, as well as PG&E and SDG&E, provide a report on the permitting status, interconnection queue status, and transmission requirements of the projects with which they have RPS contracts.

Therefore, as an initial step in this effort, I will require each utility to provide a detailed project-by project report on the permitting status of the projects for which RPS contracts have been executed, identifying if there have been any delays in the project schedule, and the reason for those delays. Depending upon the information received in this first filing, I may adopt Vulcan Power's recommendation requiring monthly reports, or some other regular reporting requirement, from the IOUs regarding problems or progress made regarding transmission constraint issues for RPS projects with signed contracts. These reports should be filed by January 25, 2006, and also served on R.04-04-026.

In addition, both PG&E and the CAISO have indicated their belief that there are renewable projects that can be implemented without new, long-term transmission infrastructure investments. The CAISO also questions whether there are refinements to the solicitation process and resulting cost ranking methodology that might ensure least cost/best fit resources. Therefore, I direct PG&E, SCE, and SDG&E each to file a report identifying any renewable projects

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<sup>5</sup> SCE's request for CPCNs for Segments 1,2 and 3 of the Antelope Transmission Project are under consideration in A.04-12-007 and A.04-12-008.

that can be implemented without new, long-term transmission infrastructure investments, including, but not limited to, the information available to them from projects that have bid in the IOUs solicitations, but which have not received contracts. Similarly, the CAISO should also provide a listing of those transmission upgrades that are capable of fostering the development of renewable resources without requiring large-scale transmission construction projects that trigger siting permits. These reports should be filed by January 25, 2006, and also served on R.04-04-026.

I intend to coordinate closely this proceeding and R.04-04-026, or any successor proceeding. The existence of I.05-09-005 does not relieve the utilities of the responsibility of analyzing transmission issues and identifying appropriate steps to deal with them in both their short-term and long-term RPS procurement plans, currently being addressed in R.04-04-026.

The steps identified above represent only the first steps in this process. As I mentioned at the All-Party Meeting on November 7, 2005, I intend to meet with the IOUs and the other agencies regularly as we work through the issues identified in this investigation. Additional filings and workshops will be scheduled following the receipt of the information requested herein. In particular, the CEC is conducting several studies that we believe will be useful in our effort here. The first is a study to examine the statewide impacts of integrating higher levels of intermittent resources on the efficient and reliable operation of California's transmission system. We intend to work with the CEC to ensure that any information it needs to advance the state's RPS goals is produced as part of this study. The results of this study may be helpful in

revising the utilities' TRCRs and RPS bid adders. The CEC has also conducted a 2005 Strategic Value Analysis Report<sup>6</sup> that should be helpful in identifying the areas where smaller transmission upgrades might economically facilitate access to renewable resources.

The issues raised in this category thus far seem to require consideration of policy issues, rather than strictly factual questions. Therefore, the primary approach I intend to take regarding issues in this category is to first gather the data discussed above, and then schedule workshops on specific issues. No hearings are currently scheduled; however, hearings may be required at a later date in this proceeding.

#### **D. Additional Issues**

Several parties suggested additional issues for consideration in this investigation. First, IEP requests that we clarify that a renewable generator's responsibility does not include upgrades that should have been made previously to maintain the reliability of the transmission system. Second, IEP requests that the Commission include the treatment of line losses for renewables in this investigation; to ensure that the treatment of line losses for renewable power is nondiscriminatory and consistent with the treatment of line losses for other resources.

CEERT requests that the scope of the OII should also include reviewing the CAISO's current and proposed congestion management schemes with the goal of identifying the impacts of current and proposed congestion management schemes on renewable resources.

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<sup>6</sup> Report CEC-500-2005-106, June 2005.

PG&E requests that the Commission confirm the use of portfolio management or Renewable Energy Credits (RECs) as an adjunct to any transmission upgrades or process reforms under consideration in this investigation.

ORA suggests that a legal analysis should be conducted to address the question of whether transmission developers can construct transmission facilities in California without the permission of the Commission. This issue arises from the Transbay Cable Project, a transmission project resulting from the CAISO's new transmission planning process.

Finally, numerous parties have raised the issue of the status of the two renewable resource study groups, the Imperial Valley Study Group (IVSG) and the Tehachapi Collaborative Study Group (TCSG). These efforts have and will result in numerous CPCN applications before the Commission, and other non-jurisdictional transmission projects being pursued by irrigation districts and municipal utilities. These study groups have performed an essential service in the area of transmission development for renewable resources by conducting the technical studies necessary in advance of concrete infrastructure development proposals. I applaud these efforts and believe they should continue. The IVSG has proceeded well so far without direct Commission involvement or coordination and numerous projects are under consideration as a result of this process and we encourage parties to continue these efforts.<sup>7</sup> The TCSG is continuing its work on further phases of transmission development for the

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<sup>7</sup> See the September 30, 2005, report of the IVSG, "Development Plan for the Phased Expansion of Transmission to Access Renewable Resources in the Imperial Valley," at [http://www.energy.ca.gov/ivsg/documents/2005-09-30\\_IVSG\\_REPORT.PDF](http://www.energy.ca.gov/ivsg/documents/2005-09-30_IVSG_REPORT.PDF).

Tehachapi region and I look forward to their report in March on the options for further expansion of transmission in this region. Once the Commission receives this report, I will consider how next to develop these proposals and to convert this planning process into actual applications for new transmission projects.

With the exception of the question of line losses, a review of the effect of congestion management schemes on renewable resources, and the authority for constructing transmission facilities generally, which we will include among the list of “secondary” issues to be addressed in this investigation, these issues are beyond the scope of this investigation. The question of cost responsibility for certain upgrades belongs at the CAISO, and REC policy is being addressed in the Commission’s RPS docket (R.04-04-026) and we will not duplicate this effort here. We will consider within the scope of this investigation the question of authority to construct transmission facilities.

**E. Summary**

The following table summarizes the upcoming milestones in this investigation:

<b>Action</b>	<b>Date</b>
IOU & CAISO Transmission Status Reports for Signed RPS Contracts	January 25, 2006
IOU & CAISO Transmission Status Reports for Potential RPS Resources	January 25, 2006
Opening Briefs on Cost Recovery Issues	January 27, 2006
Reply Briefs on Cost Recovery Issues	February 17, 2006
TCSG Report	March, 2006
Draft Decision on Cost Recovery Issues	April, 2006
Final Commission Decision	May, 2006

Commission Release of Internal Recommendations for Streamlining and Improving Transmission Permitting Process	April-June, 2006
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**3. Category of Proceeding, Ex Parte Rules and Need for Hearing**

This ruling confirms the categorization of this proceeding as quasi-legislative, as determined by the Commission in D.05-12-034. In any quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement. (Rule 7(d)) This proceeding may require a hearing.

**4. Presiding Officer**

Pursuant to Rule 5(k)(3), the Assigned Commissioner is the Presiding Officer for any formal hearings in a quasi-legislative proceeding.

**5. Service List and Electronic Distribution of Pleadings**

The current service list for this proceeding is attached to this ruling. A current service list for this proceeding is also available on the Commission's website at <http://www.cpuc.ca.gov>.

**IT IS RULED that:**

1. This proceeding is categorized as quasi-legislative.
2. The scope and schedule for this investigation is set forth in Section 2 of this ruling.
3. Additional scoping for this proceeding, as necessary, will be addressed after the cost recovery and streamlining transmission permitting phases are underway and the Commission has had the opportunity to examine the status reports filed by the IOUs and CAISO on January 25, 2005, in the coordination of RPS procurement with transmission planning phase.

Dated December 21, 2005, at San Francisco, California.

/s/ DIAN M. GRUENEICH

Dian M. Grueneich  
Assigned Commissioner

