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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking To Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.

Rulemaking 18-07-003

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

The Order Instituting Rulemaking (OIR) for this proceeding was adopted by the Commission on July 12, 2018. Comments on the Preliminary Scoping Memo in the OIR were filed and served by American Wind Energy Association, California Energy Storage Alliance, California Public Advocates (Cal Advocates),¹ California Wind Energy Association, Green Power Institute, Independent Energy Producers, L. Jan Reid, Joint Community Choice Aggregation (CCA) Parties,² San Diego Gas & Electric Company,

¹ The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill (SB) No. 854, which the Governor approved on June 27, 2018.

² Apple Valley Choice Energy, Marin Clean Energy, Monterey Bay Community Power Authority, Peninsula Clean Energy Authority, Pioneer Community Energy, Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority, and Sonoma Clean Power Authority.

Southern California Edison Company, Pacific Gas and Electric Company (jointly; collectively, Utilities), Large Scale Solar Association, Shell Energy North America (US), L.P., The Utility Reform Network on August 13, 2018. Reply comments were filed and served by Cal Advocates, L. Jan Reid, and the Utilities on August 20, 2018.

A Prehearing Conference (PHC) was held on September 24, 2018 to determine the parties, discuss the scope of the proceeding, and address other matters.

2. Proceeding

The goal of this rulemaking is to continue implementation and administration of the California Renewables Portfolio Standard (RPS) program. The RPS program was instituted by SB 1078 (Sher), Stats. 2002, ch. 516. The Legislature has made numerous alterations, both major and minor, to the RPS program over the years. The RPS statute is currently codified at Pub. Util. Code § 399.11-399.32.³

Many elements of the RPS program are continuous, such as review and approval of RPS procurement plans; review of the contracts of investor-owned utilities (IOUs) for RPS procurement; review of retail sellers' compliance with their RPS procurement obligations;⁴ review and revision of analytic tools that can improve the value of the RPS program and streamline its administration; and coordination across Commission proceedings and with other agencies. Some elements of the program are addressed only intermittently, such as incorporation

³ All further references to sections are to the Public Utilities Code, unless otherwise specified.

⁴ "Retail sellers" include IOUs, community choice aggregators, and electric service providers. (See Section 399.12(j).)

of legislative changes to the RPS statute, or potential enforcement action when a retail seller does not comply with its RPS procurement obligations.

This proceeding provides a home for all the elements of the ongoing administration of the RPS program that require recognition or action in a formal Commission proceeding.

3. Scope of Issues

The OIR lists a number of tasks for this proceeding, some carried over from Rulemaking (R.) 15-02-020, and some newly developed. Many of these tasks are simple, but important, work necessary to keep the RPS program going. Other tasks are more conceptual or more analytic, or more long-term.

After considering the written comments on the OIR and discussion at the PHC, and factoring in the many ongoing tasks for this proceeding, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo. The issues to be determined can be grouped into three areas:

- Implementing existing and new statutory requirements that are mandated or may be mandated during the course of this proceeding;
- Continuing and completing specific tasks identified in R.15-02-020, but not completed prior to the issuance of this new OIR; and
- Continuing, monitoring, reviewing, and improving elements of the RPS program that have previously been put in place, including identifying additional program elements that could be developed.

Tasks under each group are further described below.

3.1 Implementing Statutory Requirements

On September 10, 2018, SB 100 (De Leon), Stats. 2018, ch. 312, was signed by Governor Edmund G. Brown. SB 100 advances and increases the RPS requirements to 60 percent by 2030 and adopts the state policy that 100 percent of California's electricity must come from renewable and zero-carbon resources by 2045. Given this change in the law, tasks needed to implement SB 100 will be identified and included in the scope of this proceeding.

If new statutory requirements are enacted for the RPS program during the life of this proceeding, actions will be taken to ensure that they are timely implemented.

3.2 Resolving Remaining Issues from R.15-02-020

- Coordinating with the integrated resource planning proceeding, or its successor proceeding, as mandated by SB 350, including mitigating administrative burden in due dates, filings, templates, etc., coordinating annual reporting requirements, and considering integration of integrated resource planning preferred system plans with the RPS procurement plans;
- Revisiting and possibly revising the RPS feed-in tariffs (also known as renewable market adjusting tariff (ReMAT) program and bioenergy market adjusting tariff (BioMAT) program), including revisions mandated by AB 1923 (Wood, Stats. 2016, ch. 663);
- Revising and updating the least-cost best-fit methodology for evaluating RPS-eligible procurement, including revisions mandated by SB 2 (1X) (Simitian, Stats. 2011, ch.1) and SB 350 and coordinating with other proceedings on procurement evaluation methodologies;
- Developing a methodology for determining values for effective load carrying capability (ELCC);

- Implementing the cost containment provisions for utility RPS procurement, pursuant to SB 2 (1X) (Simitian, Stats. 2011, ch.1) and SB 350; and
- Completing the waiver determinations from Compliance Period 1.

3.3 Continuing, Monitoring, Reviewing, and Improving the RPS Program

- Reviewing and approving RPS procurement plans;⁵
- Ongoing monitoring, reviewing and revising, as needed, all RPS procurement methods and tariffs, such as IOU solicitations, renewable auction mechanism, ReMAT, and BioMAT;⁶ 000
- Monitoring, reviewing, and improving RPS compliance reporting formats developed by Energy Division staff in consultation with parties;
- Reviewing compliance progress of retail sellers and taking enforcement action if required;
- Reviewing and revising, if needed, penalty rules applying to the RPS program;
- Reviewing and revising, as needed, analytical tools such as the RPS Database to improve the RPS program and streamline its administration;
- Identifying and addressing safety issues related to the RPS program, such as safety impacts related to RPS procurement and safety impacts connected with climate change;
- Reviewing and revising, if needed, confidentiality rules applying to the RPS program;

⁵ See Section 399.13(a)(5); D.14-11-042.

⁶ On May 10, 2018, California Governor Brown issued Executive Order B-52-18, which, among others, directs the Commission to review and update its procurement programs for small bioenergy renewable generators to ensure long-term programmatic certainty for investor-owned utilities and project developers, as well as benefits to ratepayers.

- Using the authority provided by § 399.15(b)(3) to explore increasing the RPS procurement percentage for later compliance periods;
- Considering the integration of greenhouse gas emissions (GHG) reduction goals and metrics into RPS procurement methods; and
- Using the authority provided by § 399.13(f), considering development of structure and rules that allow use of a procurement entity.

4. Modifications to Prior RPS Decisions

The issues for this proceeding may include changes to the RPS program, whether through statutory revisions or the Commission's own determinations. Parties to this rulemaking should be aware that, in order to implement necessary changes to the RPS program, the Commission may modify (on a present and going forward basis) some, all, or none of its prior RPS program decisions issued in R.11-05-005 and R.15-02-020.

5. Coordination Between This Rulemaking and Other Related Commission Proceedings

The Commission has begun to implement SB 350's mandate for integrated resource planning (IRP) by, among other things, instituting R.16-02-007 and adopting D.18-02-018 to develop an IRP framework and to coordinate and refine long-term planning requirements. R.16-12-007 is the primary Commission proceeding related to this RPS proceeding. Although no formal order of coordination of scheduling or issues with the IRP proceeding is required, the Administrative Law Judges (ALJs) in this proceeding may make arrangements for joint or simultaneous rulings with the Presiding Officer in the IRP proceeding as are appropriate to the fair and efficient administration of both proceedings.

In addition, there is interaction between the RPS program and many other Commission proceedings, such as Rule 21 interconnection (R.17-07-007),

resource adequacy (R.14-10-010), distributed generation (R.12-11-005), Integrated Distributed Energy Resources (R.14-10-003), Distribution Resources Plan (R.14-08-013), and energy storage (R.15-03-011). Formal coordination is not required among these proceedings, but Energy Division staff and parties to this rulemaking are encouraged to keep themselves apprised of developments in related proceedings.

6. Need for Evidentiary Hearing

In the OIR, the Commission preliminarily determined that hearing is needed. The preliminary determination that hearing is needed is confirmed.

7. Schedule

The schedule below reflects the feasible order and timing of tasks during 2018 and 2019. The Presiding Officers may add tasks to the schedule as necessary and appropriate to promote the fair and efficient adjudication of this proceeding.

Workshops led by Energy Division staff may be held as part of the consideration of some or all of these issues.

In view of the many complex tasks within the scope of this proceeding, and acknowledging the possibility that new legislation governing the RPS program may be enacted, it is reasonable to use the authority granted in Section 1701.5(b) to provide that this proceeding should be concluded within 24 months of the date of this ruling.

The following schedule is adopted here and may be modified by the ALJ as required to promote the efficient and fair resolution of the issues scoped in this proceeding.

Dates of events that have already occurred are shown in italics.

EVENT	DATE
Prehearing Conference	<i>September 24, 2018</i>
Comments on ALJ Ruling on ELCC, time of delivery factors, and project viability	<i>October 5, 2018</i>
Updates to 2018 RPS Procurement Plans	<i>October 8, 2018</i>
Proposed Decision Implementing Assembly Bill 1923 Provisions Related to Interconnection Rules	<i>October 8, 2018</i>
Reply Comments on ALJ Ruling on ELCC, time of delivery factors, and project viability	<i>October 15, 2018</i>
Comments on Updated 2018 RPS Procurement Plans	<i>October 18, 2018</i>
Commission Decision Implementing Assembly Bill 1923 Provisions Related to Interconnection Rules	[no sooner than 30 days after the proposed decision]
Proposed Decision on 2018 RPS Procurement Plans	Fourth quarter 2018
Commission Decision on 2018 RPS Procurement Plans	[no sooner than 30 days after the proposed decision]
Assigned Commissioner Ruling / Administrative Law Judge Ruling on 2019 RPS Procurement Plans	Second quarter 2019
Proposed Decision on ELCC, time of delivery factors, and project viability	2019
Implementing SB 100	2019
Workshop on RPS/IRP Coordination	To be determined
ALJ Rulings/ Commission Decision needed to coordinate with the integrated resource planning proceeding	2019

8. Category of Proceeding/*Ex Parte* Restrictions

This ruling confirms the Commission's preliminary determinations that this is a ratesetting proceeding. (OIR at 10.) Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

9. Oral Argument

Unless comment is waived pursuant to Rule 14.6(c)(2) for granting the uncontested relief requested, motion for oral argument shall be by no later than the time for filing comment on the proposed decision.

10. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

11. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by October 24, 2018, 30 days after the PHC.

12. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

13. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

14. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Robert M. Mason III and Nilgun Atamturk are the co-assigned ALJs in this proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearings are needed.
4. The Presiding Officers are ALJ Robert M. Mason III and ALJ Nilgun Atamturk.
5. The category of the proceeding is ratesetting.

Dated November 9, 2018, at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN

Clifford Rechtschaffen
Assigned Commissioner