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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Forward Resource Adequacy Procurement Obligations.

Rulemaking 19-11-009

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This Scoping Memo and Ruling (Scoping Memo) sets forth the category, scope of issues to be addressed, need for hearing, 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. Background

The Order Instituting Rulemaking (OIR) in this proceeding summarized the procedural and substantive background of this proceeding. The Commission opened this Rulemaking to continue to address the 2021 - 2022 Resource Adequacy (RA) compliance years and consider any refinements to the RA program. Rulemaking (R.) 17-09-020, which is currently ongoing, served as the forum for RA decisions for the 2019 and 2020 RA compliance years. R.17-09-020 is expected to close after concluding with a decision addressing a central procurement structure, as described in Decision (D.) 19-02-022. If necessary, issues relating to a central procurement structure may be moved into this proceeding for further consideration.

The OIR discussed potential issues to be addressed in this proceeding, and allowed parties to file comments on the scope, schedule, and administration of

the proceeding. Comments were received on December 3, 2019 from: Alliance for Retail Energy Markets; American Wind Energy Association of California and Large-scale Solar Association; California Community Choice Association (CalCCA); California Independent System Operator (CAISO); California Efficiency + Demand Management Council; California Energy Storage Alliance (CESA); California Wind Energy Association; Calpine Corporation; Center for Energy Efficiency and Renewable Technologies (CEERT); City and County of San Francisco; Cogeneration Association of California; Independent Energy Producers Association (IEP); Enel X North America, Inc., Energy Hub, and CPower (collectively, the Joint Demand Response Parties); Form Energy, Inc.; Green Power Institute (GPI); Middle River Power, LLC (MRP); Morgan Stanley Capital Group Inc.; OhmConnect, Inc. (OhmConnect); Pacific Gas and Electric Company (PG&E); Powerex Corp. (Powerex); Public Advocates Office; San Diego Energy District; San Diego Gas & Electric Company; Shell Energy North America (US), L.P. (Shell); Solana Energy Alliance; Southern California Edison (SCE); Sunrun Inc.; Wellhead Electric Company, Inc.; and Western Power Trading Form (WPTF). Reply comments were filed on December 10, 2019 by: CEERT, CESA, GPI, IEP, MRP, OhmConnect, PG&E, SCE and The Utility Reform Network. A prehearing conference (PHC) was held on December 16, 2019 to discuss the scope, schedule and other procedural matters.

This Scoping Memo: (1) outlines the proceeding scope and schedule, (2) provides notice of forthcoming workshops and working groups, (3) provides notice of Energy Division Staff proposals, and (4) solicits party proposals for refinements to be considered for the 2021-2022 compliance years.

2. Scope

For the 2021 and 2022 RA program years, we will continue to assess RA in support of its original reliability purpose, while considering the need to modify the RA structure to ensure ratepayer value and secure a generation fleet to meet California's needs. This proceeding is divided into four tracks. Based on the OIR, comments from parties, and statements at the PHC, the scope of the proceeding is set forth below.

2.1. Track 1

Track 1 of this proceeding will consider revisions to the RA import rules. D.19-10-021, issued on October 17, 2019, provided background on the Commission's concerns related to speculative supply and the RA import rules, and affirmed the RA import requirements. D.19-12-064, issued on December 23, 2019, granted a stay of D.19-10-021. Energy Division is expected to issue a report on issues relating to the RA import rules in early February.

Following a discussion at the PHC, Powerex, CAISO, Shell, WPTF, and CalCCA jointly served a proposed schedule and process for an expedited track to consider revisions to the RA import rules, which included a workshop in late January 2020. Given the complexity of the RA import issues and to allow sufficient time for proposals and comments, we modify parties' proposed schedule and process.

We expect Track 1 to conclude in May 2020, with the caveat that any motions for evidentiary hearings or other scheduling issues will likely delay a final decision. If that occurs, Track 1 issues may be incorporated into the Track 2 schedule and June decision.

The issues within the scope of Track 1 are:

1. What types of import resources should be counted as RA (*e.g.*, resource-specific imports with a must-offer obligation, non-resource specific imports for firm energy, etc.)?
2. What rules should govern resource-specific RA imports, including what should be required by the Commission to demonstrate compliance?
3. What rules should govern non-resource specific RA imports, including what should be required by the Commission to demonstrate compliance?
4. Should the Commission consider allowing firm, fixed priced energy contracts paired with an import allocation to count for import RA? If, so, how?
5. Other issues raised by Energy Division or parties regarding import RA requirements and demonstrating compliance with these requirements may be considered in Track 1.

2.2. Track 2

Track 2 of this proceeding consists of the Commission's consideration of system and flexible capacity requirements for the following year, and local capacity requirements for the next three years. We also consider other time-sensitive refinements to the RA program. Track 2 is expected to conclude by the end of June 2020.

The issues within the scope of Track 2 are as follows:

1. Adoption of the 2021-2023 Local Capacity Requirements (LCR).
 - a. The CAISO performs an annual LCR study, which is submitted into the RA proceeding and used to adopt Local RA procurement requirements for the next three compliance years. For Track 2, this will be for the 2021-2023 compliance years. The draft CAISO LCR study will be submitted to the

Commission on approximately April 1, 2020 and the final LCR study will be submitted on approximately May 1, 2020. The schedule anticipates that the Commission will issue a decision by the end of June 2020 so that jurisdictional load-serving entities (LSEs) will have sufficient time to obtain the resources to meet their Local RA procurement requirements for 2021-2023.

2. Adoption of the 2021 Flexible Capacity Requirements (FCR).
 - a. Similar to the LCR process, the CAISO performs an annual FCR study, which is used to adopt Flexible RA requirements for the following compliance year. The final FCR study will be submitted by May 1, 2020. The schedule anticipates that the Commission will issue a decision by the end of June 2020 so that jurisdictional LSEs have sufficient time to obtain the resources to meet their Flexible RA procurement requirements for 2021.
3. Adoption of 2021 System RA Requirements. The Commission imposes a system requirement based on the California Energy Commission's (CEC) 1-in-2 monthly load forecast, plus a 15 percent planning reserve margin. Absent any alternative proposals, this framework is expected to continue for the 2021 RA program year.
4. Priority Refinements to the RA Program. The following issues related to refinements to the RA program will be within the scope of Track 2:

- a. Modifications to the maximum cumulative capacity (MCC) buckets to address increasing reliance on use-limited resources to meet reliability and needs. In particular:
 - i. Should the Commission impose a cap on quantities of imports and/or use-limited resources (such as demand response) consistent with monthly and/or annual load duration curves?
 - ii. How should be the MCC buckets be redefined (*e.g.*, number of hours, time of day)?
 - iii. How should availability of resources be determined for placement of resources in buckets (*e.g.*, operational limits of the resource)?
- b. Qualifying capacity counting conventions and requirements for hydro resources, hybrid resources, third-party demand response resources (including load impact protocols and contract provisions), and potentially other resources. In particular:
 - i. Should the Commission adopt a permanent methodology for counting of hybrid resources?
 - ii. What changes to counting conventions for hydro resources are needed?
 - iii. What rules should be required for 3rd party demand response (*e.g.*, operation, testing)?
 - iv. How should load-modifying demand response be counted?
 - v. Are modifications to the load impact protocols needed (*e.g.*, to ensure demand response resources provide local and system reliability benefits)?
 - vi. Should marginal rather than average effective load carrying capability (ELCC) values be used for wind and solar resources? If so, how should this transition be implemented, given that current practice is to adjust all wind and solar resources' ELCCs with each new ELCC study?

- c. Re-aggregation of the “PG&E Other” area. In D.19-02-022, the Commission disaggregated the “PG&E Other” local area and provided the background for this approach.
- d. Changes to the existing penalty structure and waiver process to address potential market power and other issues.
- e. Other time-sensitive issues identified by Energy Division or by parties in proposals.

Based on a discussion during the PHC, numerous parties supported establishing a working group to address Issue 4(b) - counting conventions and requirements for certain resources – and requested guidance on a process for a working group. In this Scoping Memo, we have set forth a schedule and process for such a working group in an effort to develop specific, implementable proposals for consideration by the Commission.

2.3. Track 3

Track 3 encompasses more complex and somewhat less time-sensitive structural changes and refinements to the RA program. Track 3 is expected to conclude in Q1 2021. The issues within the scope of Track 3 are as follows:

1. Examination of the broader RA capacity structure to address energy attributes and hourly capacity requirements, given the increasing penetration of use-limited resources, greater reliance on preferred resources, rolling off of a significant amount of long-term tolling contracts held by utilities, and material increases in energy and capacity prices experienced in California over the past years.
2. Other significant structural changes to the RA program identified during Track 1 or Track 2 that will require more process and time to develop and implement.

2.4. Track 4

Track 4 of this proceeding will consider the 2022 program year requirements for System and Flexible RA, and the 2022-2024 Local RA requirements. Other modifications and refinements to the Commission's RA program, as identified in proposals by parties or Energy Division may also be considered. The schedule and scope of issues for Track 4 will be established in a later Scoping Memo. Track 4 is expected to conclude by June 2021.

3. Schedule

The following schedules are established for Track 1, 2 and 3. The assigned Commissioner or Administrative Law Judge (ALJ) may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. Track 4 will be scheduled at a later time.

Due to the complexity and number of issues in this proceeding, it is the Commission's intent to complete this proceeding within 24 months from the date this proceeding was initiated. This deadline may be extended by order of this Commission.

If there are workshops in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that decision-maker or an advisor may be present at the workshop. Parties shall check the Daily Calendar regularly for such notices.

3.1. Schedule for Track 1

We modify the schedule proposed by Powerex, CAISO, Shell, WPTF, and CalCCA given the complexity of the RA import issues and to allow sufficient time for proposals and comments. Energy Division is expected to submit a report on import RA issues in early February.

Notice of the date and place of the workshop shall be sent to the service list as soon as practicable. Following the workshop, there will be an opportunity for party comments, in anticipation of a proposed decision in April.

Track 1 Schedule	
Energy Division report on import RA issues served	Early February 2020
Workshop facilitated by Energy Division in coordination with CAISO and others	Mid-February 2020
Workshop report and/or proposals filed	February 28, 2020
Comments on workshop report and/or proposals	March 6, 2020
Motions for Evidentiary Hearings due	March 6, 2020
Reply comments on workshop report and/or proposals	March 11, 2020
Proposed Decision on Track 1	April 2020
Final Decision on Track 1	May 2020

We note that should a party file a motion for evidentiary hearings, or should the above schedule become delayed by other motions or scheduling issues, a final decision will likely be delayed past May 2020 and may be incorporated into the Track 2 decision.

3.2. Schedule for Track 2

Below is the schedule for Track 2 issues. LCR and FCR issues are shown in a separate table for clarity, but will be addressed with other Track 2 issues.

As discussed above, we have set forth a schedule and process that allows for a Working Group to develop proposals on counting conventions in order for the Commission to timely consider this issue for a final decision in June 2020. The schedule includes a milestone for a progress report to notify of the status of the Working Group and to allow parties to inform the assigned Commissioner and ALJ of any encountered challenges.

Track 2 Schedule for All Proposals (Excluding FCR and LCR Issues)	
Energy Division proposal on MCC buckets served	February 7, 2020
Energy Division proposal on other Track 2 issues served	February 21, 2020
Track 2 proposals by parties filed	February 21, 2020
Workshop on Energy Division and party proposals	Early March 2020
Comments on workshop and all proposals filed	March 13, 2020
Reply comments on workshop and all proposals filed	March 20, 2020
Proposed Decision on Track 2	May 2020
Final Decision on Track 2	June 2020

Track 2 Schedule for Counting Convention Proposals	
Working Group begins to meet	Early February 2020
Service of progress report, including notice of designated Working Group leads	February 14, 2020
Working Group report on consensus and non-consensus items filed	March 2, 2020
Comments on Working Group report	March 13, 2020
Motions for Evidentiary Hearings due	March 13, 2020
Reply Comments on Working Group report	March 20, 2020
Proposed Decision on Track 2	May 2020
Final Decision on Track 2	June 2020

Track 2 Schedule for FCR and LCR Issues	
CAISO draft 2021 LCR Report filed	April 1, 2020
Comments on draft 2021 LCR Report filed	April 15, 2020
CAISO final 2021 LCR and FCR Report filed	May 1, 2020
Comments on final 2021 LCR and FCR Report	May 8, 2020
Reply Comments on 2021 LCR and FCR Report	May 13, 2020

3.1. Schedule for Track 3

Below is the schedule for Track 3.

Track 3 Calendar	
Track 3 proposals from parties and Energy Division submitted	July 10, 2020
Workshop on Energy Division and party proposals	Late August or September 2020
Comments on workshop and all proposals filed	TBD
Reply Comments on workshop and all proposals filed	TBD
Proposed Decision on Track 3	Q1 2021

4. Governance of Working Group and Ground Rules

The Working Group should be co-chaired by two representatives of parties in this proceeding – one investor-owned utility (IOU) and one non-IOU representative. Notice of the designated co-chairs shall be served on the service list as stated in the Working Group schedule. Energy Division Staff will attend Working Group sessions to understand the group’s work.

Designated co-chairs shall be responsible for the following tasks:

1. Scheduling Working Group meetings and handling associated logistics;
 - a. Pursuant to Rule 8.1(b)(3) of the Commission’s Rules of Practice and Procedure (Rules), meeting times, locations

and online access information, if applicable, should be noticed to the entire service list.

2. Leading the Working Group meetings;
3. Ensuring that the final report of the Working Group is finalized, filed and served according to the schedule adopted in this Scoping Memo.

Beyond these preliminary and logistical tasks, participants in the Working Group are left to develop more detailed agreement on addressing the designated issues.

Should a party believe the Working Group process is not proceeding efficiently, written contact with the assigned ALJ should be made via email with a copy concurrently sent to the service list.

5. Categorization

In the OIR, the Commission preliminarily determined that the category of the proceeding is ratesetting. This Scoping Memo confirms the categorization. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

6. Need for Hearing

In the OIR, the Commission preliminarily determined that hearings are not necessary. This Scoping Memo confirms that hearings are not necessary at this time with the caveat that hearings may be scheduled in the future as necessary.

Pursuant to Rule 11.1, any party may make a motion to request evidentiary hearings on matters within the scope of this proceeding. However, the Commission has discretion as to whether to grant such a request. In the context of this proceeding, the Commission could instead decide to: (1) leave in place the existing processes and requirements, (2) adopt a non-consensus recommendation submitted by one or more parties, or (3) adopt a process or requirement of its own design. In other words, the best opportunity for parties

to materially influence the outcome of an issue in this proceeding is to provide a consensus proposal to the Commission.

7. 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 comments on the proposed decision. The motion shall state the request, the subjects to be addressed at oral argument, the amount of time requested, any recommended procedure and order of presentations, and all other relevant matters. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion and to provide an efficient, fair, equitable, and reasonable final oral argument. If more than one party seeks the opportunity for final oral argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. Responses to the motion may be filed.

8. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission's Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the ALJ. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

9. 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.

In addition, the Commission served the OIR on the service list for R.17-09-020, the predecessor proceeding.

10. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a party who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by January 15, 2020, 30 days after the PHC.

11. 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 (TYT), or send an e-mail to public.advisor@cpuc.ca.gov.

12. 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, who must also be served a paper copy of all filed or served documents.

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.

13. Settlement and Alternative Dispute Resolution

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR

services is voluntary, confidential, and at no cost to the parties. Trained ALJ's serve as neutrals. The parties are encouraged to visit the Commissioner's ADR webpage at <http://www.cpuc.ca.gov/adr>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

14. Assignment of Proceeding

Liane Randolph is the assigned Commissioner and Debbie Chiv is the assigned Administrative Law Judge for the proceeding.

IT IS RULED that:

1. The scope and schedule of this proceeding is set forth in Section 2 and Section 3 above.
2. The assigned Commissioner or Administrative Law Judge may adjust the proceeding schedule as necessary for efficient management and fair resolution of this proceeding.
3. Evidentiary hearings are not required at this time.
4. The category of the proceeding is ratesetting.

Dated January 22, 2020, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph
Assigned Commissioner