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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 Reforms
and Refinements, and Establish
Forward Resource Adequacy
Procurement Obligations.

Rulemaking 21-10-002

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This Scoping Memo and Ruling (Scoping Memo) sets forth the category, 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 forward procurement obligations applicable to load-serving entities (LSEs) beginning with the 2023 Resource Adequacy (RA) compliance year, and to consider broader structural reforms and refinements to the RA program. Rulemaking (R.) 19-11-009, which is currently open, served as the forum for RA decisions for the 2021 and 2022 RA compliance years. R.19-11-009 is expected to close after addressing a petition for modification filed by OhmConnect, Inc.

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

proceeding. Comments were received on November 1, 2021 from: Brookfield Renewable Trading and Marketing LP (BRTM); California Community Choice Association (CalCCA); California Efficiency + Demand Management Council, OhmConnect, Inc., Olivine, Inc., and Oracle (collectively, DR Coalition); California Energy Storage Alliance (CESA); California Environmental Justice Alliance and Union of Concerned Scientists (collectively, CEJA/UCS); California Independent System Operator Corporation (CAISO); California Large Energy Consumers Association (CLECA); Calpine Corporation (Calpine); Center for Energy Efficiency and Renewable Technologies (CEERT); CPower and Enel X North America, Inc. (collectively, the Joint DR Parties); Independent Energy Producers Association (IEP); Form Energy, Inc. (Form Energy); Green Power Institute (GPI); Large-scale Solar Association, the Solar Energy Industries Association, the California Solar & Storage Association, and Vote Solar (collectively, Joint Solar Parties); Leapfrog Power, Inc. (Leap); Long Duration Energy Storage Association of California (LDESAC); LS Power Development, LLC (LS Power); MegaWatt Storage Farms, Inc. (MegaWatt); Middle River Power, LLC (MRP); Natural Resources Defense Council (NRDC); Pacific Gas and Electric Company (PG&E); Protect Our Communities Foundation (PCF); Public Advocates Office (Cal Advocates); REV Renewables, LLC (REV); San Diego Gas & Electric Company (SDG&E); Southern California Edison (SCE); Sunrun Inc. (Sunrun); Southwestern Power Group II, LLC (SWPG); and the Utility Reform Network (TURN).

Reply comments were filed on November 10, 2021 by: CAISO, CalCCA, CESA, IEP, Joint Solar Parties, MRP, PCF, PG&E, REV, SCE, and Western Power Trading Forum (WPTF). A prehearing conference (PHC) was held on November 16, 2021 to discuss the scope, schedule and other procedural matters.

We appreciate parties' comments and input about scope and priorities in this proceeding. After thoroughly considering the numerous written comments and comments at the PHC, we have determined the scope of issues and schedule of this proceeding as set forth in this Scoping Memo.

2. Scope

For the 2023 and 2024 RA program years, we will continue to assess the RA program in support of its original reliability purpose, while also considering broader structural reforms to the RA program. This proceeding is divided into an Implementation Track and Reform Track. The Implementation Track is sub-divided into Phases 1, 2, and 3.

2.1. Implementation Track – Phase 1

Phase 1 of the Implementation Track will consider critical modifications to the Central Procurement Entity (CPE) structure. Phase 1 is expected to conclude by March 2022, with the caveat that if there are scheduling delays or issues that cannot be addressed in a March 2022 final decision, those issues may be incorporated into Phase 2 of the Implementation Track.

Specifically, the issues within the scope of Phase 1 are to consider modifications to the CPE structure and process, including:

1. Implementation details of the “shown” resource component of the hybrid framework;
2. Whether the CPE should be permitted to procure local resources outside of the annual all-source solicitation process set forth in Decision (D.) 20-06-002;
3. Changes to the CPE timeline; and
4. Whether modifications are needed to the requirements that SCE and PG&E (acting on behalf of their bundled load) bid their utility-owned generation and contracted resources into the CPE solicitation at their levelized fixed costs.

2.2. Implementation Track – Phase 2

Phase 2 consists of the Commission’s consideration of flexible capacity requirements for the following year, local capacity requirements for the next three years, and the highest priority refinements to the RA program.

Parties raise numerous topics that they believe should be considered priority issues to be addressed in the Implementation Track. Because the Commission will be simultaneously evaluating proposals put forth in the Reform Track and in the Implementation Track for Commission decisions in Summer 2022, it is necessary to limit Phase 2 of the Implementation Track to the highest priority issues. Issues that are not included in Phase 2 may be added to the scope of issues in a later phase of this proceeding. Phase 2 is expected to conclude in June 2022.

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

1. Adoption of 2023-2025 Local Capacity Requirements (LCR).
 - a. 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 Phase 2, this will be for the 2023-2025 RA compliance years. The draft CAISO LCR study will be submitted to the Commission in April 2022 and the final LCR study will be submitted in May 2022. The schedule anticipates that the Commission will issue a decision by the end of June 2022 so that jurisdictional LSEs and the CPE will have sufficient time to obtain the resources to meet local RA procurement requirements.
 - b. This issue encompasses consideration of how the study’s process, parameters, methods, assumptions, and timeline might be improved, including consideration of an LCR Working Group Report to be submitted in February 2022, as directed in D.21-06-029.

2. Adoption of the 2023 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 2022. The schedule anticipates that the Commission will issue a decision by the end of June 2022 so that jurisdictional LSEs have sufficient time to obtain the resources to meet their flexible RA procurement requirements for 2023.
3. Modifications to the Planning Reserve Margin (PRM). Consider modifications to the PRM, including Energy Division's loss of load expectation study and proposal to be submitted into this proceeding.
4. Qualifying Capacity (QC) Counting Conventions. Consider QC proposals from:
 - a. The California Energy Commission's (CEC) demand response (DR) Working Group report, as directed in D.21-06-029;
 - b. The behind-the-meter hybrid Working Group, as discussed in D.21-06-029;
 - c. The Supply Side DR Working Group, addressing enhancements to the Load Impact Protocols methodology and process, as directed in D.20-06-031; and
 - d. Energy Division's biennial update to the Effective Load Carrying Capability (ELCC) values for wind and solar resources, including the development of regional values for wind resources, as directed in D.21-06-029.

2.3. Reform Track

In R.19-11-009, the Assigned Commissioner's Amended Scoping Memo and Ruling set forth the following issue for Track 3B.2:

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.

Specifically, address the direction the Commission intends to move in with respect to larger structural changes (*e.g.*, capacity construct addressing energy attributes and reliance on resource use-limitations, forward energy requirement construct). Set forth the necessary milestones and additional details that must be determined in order to implement the adopted direction for a compliance year no earlier than 2023.

In D.21-07-014, the Commission established a process and timeline for developing a final restructuring proposal based on PG&E's "slice-of-day" proposal. Parties were directed to undertake a minimum of five workshops through 2021 to early 2022 to develop implementation details for: (1) Structural Elements; (2) Resource Counting; (3) Need Determination and Allocation; (4) Hedging Component; and (5) Unforced Capacity Evaluation (UCAP) and Multi-Year Requirement Proposals.

In addition to consideration of UCAP, parties should consider modifications to the RA product that would penalize LSEs if their contracted RA capacity underperforms or is not available for CAISO dispatch due to forced outage.

This track encompasses consideration of a final proposed framework and the Workshop Report to be submitted into the RA proceeding in February 2022.

2.4. Implementation Track – Phase 3

Phase 3 of this proceeding will consider the 2024 program year requirements for flexible RA, and the 2024-2026 local RA requirements. Other modifications and refinements to the RA program, as identified in proposals by parties or by Energy Division may also be considered. The schedule for Phase 3 will be established in a later Scoping Memo. Phase 3 is expected to conclude by June 2023.

3. Schedule

The following schedules are established for Implementation Track Phase 1 and Phase 2, and the Reform Track. 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. Implementation Track Phase 3 will be scheduled at a later date.

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 a 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 Implementation Track Phase 1

Several parties propose an expedited schedule for addressing critical CPE issues in order to implement any necessary changes to the CPE framework prior to the next CPE solicitation. We adopt an expedited schedule for Phase 1 of the Implementation Track with the caveat that if the below schedule is delayed by

motions or other scheduling issues, a final decision may be delayed past March 2022 or some issues may be incorporated into Phase 2.

| Phase 1 Schedule | |
|--|-------------------|
| Phase 1 proposals filed ¹ | December 13, 2021 |
| Workshop on proposals facilitated by Energy Division | December 14, 2021 |
| Comments on proposals and workshop | January 4, 2022 |
| Reply comments on proposals and workshop | January 13, 2022 |
| Proposed Decision on Phase 1 | February 2022 |
| Final Decision on Phase 1 | March 2022 |

3.2. Schedule for Implementation Track Phase 2

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

Numerous parties commented that the Commission should evaluate certain proposals in parallel or in a specific order. In particular, parties expressed that Reform Track proposals should be considered alongside or before certain Implementation Track proposals that may be impacted, such as counting methodologies. We acknowledge that several issues in the Implementation Track and Reform Track are connected and proposals should ideally be aligned. However, the Commission cannot anticipate how developed party proposals and/or Working Group proposals may be, and whether additional details may require further development.

That said, we recognize the benefit in aligning consideration of the Reform Track proposals and the CEC’s Working Group report on the demand response

¹ Energy Division may also serve a proposal, either prior to or concurrently with parties.

QC counting methodology, as directed in D.21-06-029. D.21-06-029 directed a CEC Working Group report to be submitted into the proceeding by March 18, 2022. For the Commission to timely consider the CEC’s Working Group report in parallel with Reform Track proposals, we respectfully request that the CEC submit its DR Working Group report into the proceeding in February 2022.

Lastly, several parties propose a later deadline for a behind-the-meter (BTM) Working Group proposal. To allow sufficient opportunity for party comments and workshops on any proposal, and to allow the Commission to thoroughly vet any proposal given the numerous priority issues in this proceeding, a BTM Working Group proposal should be filed with other Implementation Track proposals.²

| Phase 2 Schedule for All Proposals (Excluding FCR and LCR Issues) | |
|--|---------------------|
| Party and Energy Division proposals filed | January 21, 2022 |
| Workshop on Energy Division and party proposals | Early February 2022 |
| Comments on workshop and all proposals filed | February 14, 2022 |
| Reply comments on workshop and all proposals filed | February 24, 2022 |
| Proposed Decision on Phase 2 | May 2022 |
| Final Decision on Phase 2 | June 2022 |

² While late-filed proposals may be accepted at the discretion of the ALJ and assigned Commissioner, we cannot guarantee timely consideration of late-filed proposals in advance of a Commission decision.

| Phase 2 Schedule for FCR and LCR Issues | |
|---|----------------|
| CAISO draft 2023 LCR Report filed | April 15, 2022 |
| Comments on draft 2023 LCR Report filed | April 15, 2022 |
| CAISO final 2023 LCR and FCR Report filed | April 29, 2022 |
| Comments on final 2023 LCR and FCR Report | May 6, 2022 |
| Reply comments on 2023 LCR and FCR Report | May 13, 2022 |

3.3. Schedule for Reform Track

Below is the schedule for the Reform Track.

| Reform Track Schedule | |
|-----------------------------------|-------------------------------|
| Workshops conducted by parties | September 2021 – January 2022 |
| Workshop Report filed | February 2022 |
| Comments on Workshop Report | TBD |
| Reply Comments on Workshop Report | TBD |
| Proposed Decision on Reform Track | Summer 2022 |

4. 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.

5. 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 any Working Group or Workshop process is to provide a consensus proposal to the Commission.

6. 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.

7. 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.

8. 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.19-11-009, the predecessor proceeding.

9. 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 December 16, 30 days after the PHC.

10. 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.

11. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list. When serving documents on the ALJ, 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, their personal advisors, or the ALJ unless specifically instructed to do so.

12. Settlement and Alternative Dispute Resolution (ADR)

The Commission offers 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 ALJs 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.

13. Assignment of Proceeding

Marybel Batjer is the assigned Commissioner and Debbie Chiv is the assigned ALJ 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 December 2, 2021, at San Francisco, California.

/s/ MARYBEL BATJER

Marybel Batjer
Assigned Commissioner