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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R2310011

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

Rulemaking 23-10-011

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 2025 Resource Adequacy (RA) compliance year, and to consider structural reforms and refinements to the RA program. Rulemaking (R.) 21-10-002 served as the forum for RA decisions for the 2023 and 2024 RA compliance years.

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 8, 2023 from: American

Clean Power – California (ACP); Alliance for Retail Energy Markets (AReM); Bonneville Power Administration (BPA); California Independent System Operator Corporation (CAISO); California Community Choice Association (CalCCA); Calpine Corporation (Calpine); Center for Energy Efficiency and Renewable Technologies (CEERT); California Energy Storage Alliance (CESA); California Efficiency + Demand Management Council (Council) and OhmConnect, Inc. (OhmConnect) (jointly, Council/OhmConnect); Form Energy, Inc. (Form Energy); Hydrostor, Inc. (Hydrostor); Independent Energy Producers Association (IEP); Leapfrog Power, Inc. (Leap); the Solar Energy Industries Association; Microsoft Corp. (Microsoft); Natural Resources Defense Council and Union of Concerned Scientists (collectively, NRDC/UCS); Orange County Power Authority (OCPA); Pattern Energy Group LP (Pattern); Public Advocates Office (Cal Advocates); REV Renewables, LLC (REV); Southern California Edison (SCE); Solar Energy Industries Association (SEIA); and Western Power Trading Forum (WPTF). Opening comments were late-filed by Middle River Power, LLC (MRP) and Pacific Gas and Electric Company (PG&E).

Reply comments were filed on November 20, 2023 by: AReM; CAISO; CalCCA; CEERT; CESA; Hydrostor; Council, Leap, OhmConnect (collectively, Joint Parties); Large-Scale Solar Association (LSA); MRP; PG&E; SCE; and Shell Energy North America (US), L.P (Shell Energy). A prehearing conference (PHC) was held on November 21, 2023 to discuss the scope, schedule and other procedural matters.

We appreciate the parties' comments and input about the scope and priorities in this proceeding. After considering the numerous written comments and statements 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 2025 and 2026 RA program years, we will focus on the implementation and tracking of RA program reforms that are currently underway, as well as further refinements to the RA program. This proceeding is divided into three 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

Parties raise numerous topics that they believe should be considered priority issues to be addressed in Track 1. Due to the time-sensitive issues that must be addressed in Track 1, including refinements to the Slice-of-Day framework for the 2025 RA compliance year, it is necessary to limit Track 1 to the highest priority issues. Therefore, Track 1 will consider system and flexible capacity requirements for 2025, local capacity requirements for the next three years, and the highest-priority refinements to the RA program. Issues that are not included in Track 1 may be added to the scope of issues in a later phase of this proceeding.

Track 1 is expected to conclude by the end of June 2024, with the caveat that if there are scheduling delays or scoped issues that cannot be addressed in a June 2024 final decision, those issues may be incorporated into a later track of this proceeding.

The issues within the scope of Track 1 are as follows:

- 1. Adoption of 2025-2027 Local Capacity Requirements (LCR).** 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 1, this will be for the 2025-2027 RA compliance years. The draft CAISO LCR study will be submitted in April 2024 and the final LCR

- study will be submitted in May 2024. The schedule anticipates that the Commission will issue a decision by the end of June 2024 so that jurisdictional LSEs and the central procurement entities will have sufficient time to obtain the resources to meet local RA procurement requirements.
2. **Adoption of the 2025 Flexible Capacity Requirements (FCR).** Similar to the LCR process, 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 in May 2024. The schedule anticipates that the Commission will issue a decision by the end of June 2024 so that jurisdictional LSEs have sufficient time to obtain the resources to meet their flexible RA procurement requirements for 2025.
 3. **24-Hour Slice-of-Day (SOD) Framework.** The Commission will consider priority modifications to the SOD framework, including issues identified in the Energy Division report summarizing party comments after the Year-Ahead test showings (to be submitted by February 1, 2024), as well as other proposals submitted into this proceeding.
 - a. **SOD Planning Reserve Margin (PRM).** The Commission will consider the translation of the adopted 17 percent PRM for the 2025 RA compliance year to the SOD framework. Parties may submit proposals on a calibration methodology to determine how the adopted 17 percent PRM can be translated into the SOD framework for 2025, as well as proposals to refine the SOD PRM calibration tool for use in the translation of future Loss of Load Expectation (LOLE) studies.
 4. **Unforced Capacity Methodology (UCAP).** In Decision (D.) 23-04-010, the Commission expressed interest in exploring comprehensive application of a UCAP for resource counting that would account for ambient derates and forced outages. 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.

5. **Demand response (DR) Load Impact Protocols (LIP).** The Commission will consider potential simplifications to LIPs, as discussed in D.23-06-029, with consideration for the LIP Simplification Working Group's report to be filed in January 2024.
6. **Resource Adequacy Compliance and Penalties.** The Commission will consider modifications to the RA penalty structure and other ways to incent compliance with RA requirements, as well as to identify potential opportunities to increase the availability of RA resources.
7. Other time-sensitive issues identified by Energy Division or by parties in proposals.
 - a. While structural changes to the central procurement entity (CPE) structure will be addressed in Track 2, parties and Energy Division may raise proposals in Track 1 on time-sensitive refinements to the CPE process that can be implemented in sufficient time to impact 2025 CPE procurement process.

2.2. Track 2

Given the timing of the issuance of Energy Division's CPE Framework report and the large number of time-sensitive topics in Track 1, issues related to the CPE framework will be addressed in Track 2 to give parties and the Commission more time to develop and consider proposals. Track 2 will also include consideration of a revised LOLE Study and PRM for the 2026 and 2027 RA compliance years, as discussed in D.23-06-029. Addressing these issues in Track 2 will provide the Commission and parties more time and process in the development and vetting of a revised RA LOLE study. Lastly, topics related to coordination with the Integrated Resource Planning (IRP) proceeding will also be addressed in Track 2 to better align with the IRP proceeding's work on the Reliable and Clean Power Procurement Program (RCPPP).

Track 2 is expected to conclude by December 2024, with the caveat that if there are scheduling delays or issues that cannot be addressed in a December 2024 final decision, those issues may be incorporated into a later track of this proceeding.

Specifically, the issues within the scope of Track 2 are as follows:

1. **Structural modifications and/or refinements to the CPE framework.** Energy Division will issue a report on the CPE framework in the 1st Quarter of 2024, as directed by D.22-03-034. The Commission will consider proposals on structural modifications and/or refinements to the CPE framework.
2. **LOLE Study and PRM.** The Commission will consider modifications to the PRM for compliance years 2026 and 2027, including the results of Energy Division's annual LOLE study to be published in June 2024. The Commission will consider party input in developing the study inputs and assumptions, including consideration of Path 26 and the treatment of Diablo Canyon Nuclear Generating Facility pending the outcome of R.23-01-007.
3. **Coordination with the IRP Proceeding.** This will include the appropriate PRM requirements for short-term planning compared with the longer timeframe for the IRP proceeding, and coordination with the IRP proceeding's development of a programmatic approach to procurement being considered in the IRP proceeding as the RCPPP.

2.3. Track 3

Track 3 of this proceeding will consider system and flexible capacity requirements for the 2026 and 2027 program years and the 2026-2028 local RA requirements. Track 3 will also consider refinements to the California Energy Commission's incentive-based supply-side DR qualifying capacity proposal to be submitted in December 2024, as authorized in D.23-06-029, including testing

requirements and requirements to market integrate investor-owned utility DR programs.

Other modifications and refinements to the RA program, as identified in proposals by parties or by Energy Division may also be considered. The schedule and scope for Track 3 will be established in a later Scoping Memo. Track 3 is expected to conclude by June 2025.

3. Schedule

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

Track 1 Schedule (Excluding FCR and LCR Issues)	
Track 1 party proposals filed ¹	January 19, 2024
LIP Simplification Working Group Report issued	January 2024
Energy Division Report on SOD Framework issued	By February 1, 2024
Workshop on Energy Division and party proposals ²	February 14, 2024
Revised SOD proposals filed	February 23, 2024
Opening comments on all proposals filed	March 8, 2024
Reply comments on all proposals filed ³	March 22, 2024
Proposed Decision on Track 1	May 2024
Final Decision on Track 1	June 2024

¹ An Energy Division staff proposal may be added to the record before or concurrently with party proposals.

² Additional workshops on proposals may be scheduled, as needed.

³ The proceeding will be submitted for the May 2024 proposed decision upon the submission of the final set of reply comments.

Track 1 Schedule for FCR and LCR Issues	
CAISO submits draft 2025 LCR Report	April 4, 2024
Comments on draft 2025 LCR Report filed	April 19, 2024
CAISO submits final 2025 LCR Report	May 1, 2024
Comments on final 2025 LCR Report	May 8, 2024
Reply comments on final 2025 LCR Report	May 13, 2024
CAISO submits final 2025 FCR Report	TBD - early May 2024
Comments and reply comments on final 2025 FCR Report filed	TBD

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.

We adopt the following Track 1 and Track 2 schedule with the caveat that if the below schedule is delayed by motions or other scheduling issues, some issues may be incorporated into a later track. LCR and FCR issues are shown in a separate table for clarity but will be addressed with other Track 1 issues.

Track 2 Schedule	
Energy Division Report on CPE Framework	By 1 st Quarter 2024
Energy Division's Inputs and Assumptions to be used in RA Loss of Load Expectation (LOLE) Study published	March 15, 2024
Comments on Inputs and Assumptions to be used in RA LOLE Study filed	April 1, 2024
Proposals on CPE Framework and IRP Coordination filed ⁴	May 13, 2024
Energy Division's RA LOLE Study published	June 3, 2024
Workshop on Track 2 proposals and LOLE Study	June 28, 2024
Opening comments on all proposals filed	July 29, 2024
Reply comments on all proposals filed	August 19, 2024
Proposed Decision on Track 2	November 2024
Final Decision on Track 2	December 2024

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.

⁴ An Energy Division staff proposal may be added to the record before or concurrently with party proposals.

Pursuant to Rule 11.1, any party may make a motion to request evidentiary hearings on matters within the scope of this proceeding. The Commission has discretion as to whether to grant such a request.

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.21-10-002, the predecessor proceeding.

9. Intervenor Compensation

Intervenor Compensation is permitted in this proceeding. Any party that expects to claim intervenor compensation for its participation in this rulemaking shall file its notice of intent (NOI) to claim intervenor compensation by December 21, 30 days after the PHC.

Parties who were previously found eligible to request compensation in R.21-10-002 shall remain eligible in this proceeding and do not need to file an NOI within 30 days, provided there are no material changes in their by-laws or financial status. Contributions made during the pendency of R.21-10-002 to issues within the scope of this proceeding may be considered for compensation in this proceeding, if not already compensated in R.21-10-002.

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 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. The 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

Alice Reynolds 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 needed at this time.

4. The category of the proceeding is ratesetting.

Dated December 18, 2023, at San Francisco, California.

/s/ ALICE REYNOLDS

Alice Reynolds
Assigned Commissioner