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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

23-12-010

In the Matter of the Application of Bear Valley Electric Service, Inc. (U 913 E), for Preapproval of Power Purchase Agreements and Benchmark Price Process; Authority to Recover Costs; and Authority to Establish Memorandum Account.

Application 23-12-010

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This Scoping Memo and Ruling (Scoping Memo) 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 (Rules).

1. Background

On December 15, 2023, Bear Valley Electric Service, Inc. (Bear Valley) filed Application (A.) 23-12-010 for preapproval of the forms of certain power purchase agreements (PPA), preapproval of a benchmark price process for an energy product, authority to recover costs to an executed PPA, and establishment of a memorandum account to track unrealized gains and losses with respect to an executed PPA.

On December 20, 2023, Bear Valley filed a motion for leave to file confidential testimony under seal.

On January 22, 2024, a Protest to the application was filed by the Public Advocates Office at the California Public Utilities Commission (Cal Advocates).

Bear Valley filed a Reply on January 26, 2024.

On March 4, 2024, a prehearing conference (PHC) was held to gather information about the scope, schedule, and other procedural matters.

2. Scope

Based on the application, the Protest filed by Cal Advocates, and discussions during the PHC, the scope of issues to be addressed is as follows:

1. Whether the application is consistent with the requirements of D.17-04-033 and D.19-08-030;
2. Whether the terms and conditions of the Master Power Sales Agreements and associated collateral annexes of Constellation and Morgan Stanley should be approved;
3. Whether the terms and conditions (excluding prices) of the confirmations for Constellation, Morgan Stanley and Shell Energy should be pre-approved;
4. Whether the process to establish a benchmark price and recovery of costs for the Energy Product and Revised Energy Product should be preapproved;
5. Whether Bear Valley should be authorized to track unrealized gains and/or losses in a memorandum account; and
6. Whether the application is consistent with Bear Valley's 2020 and 2022 Integrated Resource Plan.

3. Schedule

The following schedule is adopted but may be modified by the assigned Commissioner or Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of this proceeding.

Event	Date
Intervenor Testimony served	April 8, 2024
Rebuttal Testimony served	April 22, 2024
Parties will inform if hearing is necessary and identify the specific disputed issues of material fact, witness lists, and cross-examination estimates	April 26, 2024
Hearing (if necessary)	May 2, 2024
Opening Briefs	May 13, 2024
Reply Briefs	May 28, 2024
Proposed Decision	June 24, 2024
Comments to Proposed Decision	July 8, 2024
Reply Comments	July 15, 2024
Final Decision	July to August 2024

The proceeding will be submitted upon the filing of Reply Briefs, unless the assigned Commissioner or the ALJ directs further evidence or argument. It is the Commission's intent to complete this proceeding within 18 months of the date this proceeding was initiated. This deadline may be extended by order of the Commission [Pub. Util. Code Section 1701.5(a)].

The Commission notes Bear Valley's request to complete the proceeding as soon as possible in view of an expiring agreement with Morgan Stanley. The above schedule incorporates this request. The schedule includes an agreement by parties to a shortened period for Comments and Reply Comments to the Proposed Decision after discussions during the PHC.

4. Category of Proceeding, Hearings, and Ex-Parte Restrictions

The proceeding was preliminarily categorized as ratesetting, and there were no objections to the category during discussions at the PHC. This ruling affirms that this is a ratesetting proceeding. Accordingly, *ex-parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules.

An evidentiary hearing is scheduled for May 2, 2024. The hearing shall be conducted via WebEx and shall begin at 10:30 am. Details on how to access the remote hearing as well as further instructions shall be provided in a separate ruling.

5. 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. The newsletter is served on communities and businesses that subscribe to it and is posted on the Commission's website.

6. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), an intervenor who intends to seek an award of compensation must have filed and served a notice of intent to claim compensation by April 3, 2024, or 30 days after the PHC.

7. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. *See* Pub. Util Code § 1701.1(g). Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the docket card for the proceeding.

8. 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 1-866-849-8390 or 1-415-703-2074 or 1-866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

9. Filing, Service, and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of 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.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at

process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

10. Receiving Electronic Service from the Commission

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your e-mail safe sender list and update your e-mail screening practices, settings and filters to ensure receipt of e-mails from the Commission.

11. Assignment of Proceeding

Commissioner John Reynolds is the assigned Commissioner and Rafael Lirag is the assigned Administrative Law Judge for the proceeding.

IT IS ORDERED that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of the proceeding is set forth above and is adopted.

3. An evidentiary hearing via WebEx is scheduled for May 2, 2024 at 10:30 am. Details and how to access the remote hearing shall be set forth in a separate ruling.

4. The category of the proceeding shall be ratesetting.

5. *Ex-Parte* rules as set forth in Rules 8.1-8.5 of the Commission's Rules of Practice and Procedure, and Public Utilities Code § 1701.3(c) apply.

6. The assigned Commissioner or assigned Administrative Law Judge may modify the schedule, as required to promote the efficient and fair resolution of the proceedings.

This order is effective today.

Dated April 26, 2024, at San Francisco, California.

/s/ JOHN REYNOLDS

John Reynolds
Assigned Commissioner