

**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.

FILED  
PUBLIC UTILITIES COMMISSION  
NOVEMBER 7, 2019  
SAN FRANCISCO, CALIFORNIA  
RULEMAKING 19-11-009

**ORDER INSTITUTING RULEMAKING**

**Summary**

We open this rulemaking to oversee the Resource Adequacy program, consider any changes and refinements to the program, and establish forward Resource Adequacy procurement obligations applicable to load-serving entities beginning with the 2021 compliance year. This proceeding is the successor to Rulemaking (R.)17-09-020, which addressed these topics over the past two years.

Comments on preliminary matters pertaining to the scope, schedule, and administration of the proceeding are due not later than 20 days after the issuance of this Order Instituting Rulemaking (OIR). Reply comments may be filed not later than 27 days after the issuance of this OIR.

## **1. Purpose of Proceeding**

The Commission first undertook the Resource Adequacy (RA) program in R.05-12-013, where we implemented “system” RA requirements for the 2006 compliance year and “local” RA procurement obligations for the 2007 compliance year. In that proceeding, we recognized the near and intermediate term need for annual proceedings to approve local capacity requirements and to consider modifications and improvements to the RA program:

While the nature of the future RA program and the associated procedural requirements cannot be fixed at this time, it is clear that there is an ongoing need for a procedural vehicle to address both modifications and improvements to the RA program as well as routine administrative (but not ministerial) matters that are not delegable to staff. Among other things, the Local RA program component requires annual approval of [local capacity requirements (LCRs)] based on the [California Independent System Operator’s (CAISO’s)] LCR studies. For the near and intermediate term, we see a need for annual proceedings for these purposes.<sup>1</sup>

Decision (D.)13-06-024 and D.14-06-050 adopted an interim flexible capacity requirement as an additional component of RA requirements. R.11-10-023 served as the forum for RA decisions for the 2013, 2014 and 2015 RA compliance years. R.14-10-010 served as the forum for RA decisions for the 2016, 2017 and 2018 RA compliance years.

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 the implementation details for a central procurement structure, as described in D.19-02-022. If necessary, issues

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<sup>1</sup> D.07-06-029 at 52.

relating to a central procurement structure may be moved into this proceeding for further consideration. We open this rulemaking to address the 2021 and 2022 RA compliance years, and consider any changes and refinements to the RA program, including consideration of larger structural changes that may be necessary to address increasing reliance on use-limited resources to meet reliability needs.

## **2. Status of Prior RA Rulemaking**

The record in R.17-09-020 is transferred to this successor proceeding. Various issues remaining in R.17-09-020 may be brought into this proceeding. As discussed above, R.17-09-020 is expected to close after concluding with a decision addressing the implementation details for a central procurement structure. Issues relating to a central procurement structure may also be moved into this proceeding for consideration as necessary.

## **3. Category**

The category of the proceeding is preliminarily determined to be ratesetting. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Rule 8.3(c) until and unless the assigned Commissioner's Scoping Memo changes the category of the proceeding and/or the determination of need for evidentiary hearing.<sup>2</sup>

## **4. Need for Hearing**

In the previous RA proceedings, R.11-10-023, R.14-10-010, and R.17-09-020, the issues were addressed through comments and workshops, without evidentiary hearings. We anticipate that issues in this proceeding may be resolved without evidentiary hearings but it is possible that hearings may be

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<sup>2</sup> See Rules 7.3, 8.3 and 8.5.

needed for some of the issues in this proceeding. We preliminarily determine that evidentiary hearings are not necessary. The assigned Commissioner will determine the need for hearing in the Scoping Memo.

## **5. Preliminary Scoping Memo**

The preliminary scope of issues and schedule of the proceeding are set forth below, and may be changed by the assigned Commissioner's Scoping Memo.<sup>3</sup>

## **6. Issues**

### **6.1. Local and Flexible Procurement Obligations**

- a. What are the Local Capacity Requirements for the respective load-serving entities (LSEs) for the 2021-2023 RA compliance years? The starting point for this determination shall be the CAISO's study of local area needs. This issue encompasses consideration of how the study's process, parameters, methods, and assumptions might be improved, including *e.g.*, whether local areas should be aggregated, the extent to which LSE procurement obligations should be adjusted or waived for local areas with resource deficiencies, and the reliability criteria targeted through procurement obligations.
- b. What are the Flexible Capacity Requirements for the respective LSEs for the 2021/2022 RA compliance years?
- c. Examination of the inputs, processes and results of the Local Capacity Requirements (LCR) and Flexible Capacity Requirements (FCR) studies, including past years, in order to improve the process for Commission approval of those studies.

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<sup>3</sup> See Rule 7.3.

## **6.2. Structural Changes to the RA Program**

Given the rapid changes occurring in California's energy markets, it may be necessary to re-examine the structure and processes of the Commission's RA program. In comments on this Order Instituting Rulemaking (OIR), parties should indicate what type of re-examination should occur, if any, and what processes (*e.g.* workshop, written comments, en banc meeting, working group, etc.) they believe would be helpful in conducting that re-examination. The assigned Commissioner and Administrative Law Judge (ALJ) will consider those recommendations in developing the scope and schedule of this proceeding. In comments on this OIR, parties may, but are not required to, identify specific changes they recommend be made to the RA program. As discussed above, the implementation details for a central procurement structure will remain in the previous rulemaking, R.17-09-020.

The Commission may specifically consider the following issues:

- a. Examination of the broader RA structure to address energy attributes or 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 year.
- b. Potential modifications to the maximum cumulative capacity buckets to address increasing reliance on use-limited resources to meet reliability and needs, and consideration of whether the Commission should cap quantities of imports and/or use-limited resources (such as demand response) consistent with monthly and/or annual load duration curves.
- c. Consideration of whether there is a benefit in expanding multi-year forward local RA

requirements to system and/or flexible resources and how to address market power with multi-year requirements.

### **6.3. Refinement of RA Program Elements**

As part of the ongoing implementation and improvement of the RA program, refinements to RA program elements will be considered. In order to provide focus on the highest priority refinements, we will limit the number of refinements to be considered in this proceeding. In comments on this OIR, parties should identify and prioritize no more than ten (10) issues relating to refinements of RA program elements that they believe should be addressed in this proceeding. Based on those comments, reply comments, and discussion at the pre-hearing conference, the Scoping Memo will identify a limited number of issues to be addressed in this proceeding for 2021/2022.

D.19-02-022 and D.19-06-026 identified a number of issues to be addressed in working groups or workshops, with the output of those processes to be incorporated in this proceeding. Additional issues were identified in R.17-09-020, but were not resolved in D.19-02-022 and D.19-06-026. Parties may include any of these issues in the 10 issues they identify and prioritize, but are not required to do so. The Commission's Energy Division may also identify additional issues via written staff proposals.

The Commission may specifically consider the following issues:

- a. Market power mitigation measures, including changes to the current penalty structure and waiver process for system, flexible and local RA.
- b. 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.

- c. Marginal effective load carrying capability counting conventions for solar, wind and hybrid resources.

**7. Schedule**

Since the local component of the RA program was first implemented, the Commission has determined that the annual compliance cycle should begin with issuance of a decision each June that establishes procurement obligations for the following calendar year. As a starting point, the schedule set forth below generally follows the previously-used schedule, but does not include processes to consider a re-examination of the RA program (*see* Section 6.2 above). Based on comments, reply comments and discussion at the pre-hearing conference, the Scoping Memo may add to or otherwise change the schedule to incorporate a re-examination of the RA program, and may incorporate multiple tracks or phases. Accordingly, the preliminary schedule for the proceeding is as follows:

EVENT	DATE
Comments on OIR filed	20 days from the issuance (mailing) of OIR
Reply comments on OIR filed	27 days from the issuance of OIR
Prehearing Conference	December 16, 2019 at 1:00 p.m. San Francisco
Scoping Memo issued	January 2020
Party proposals filed <sup>4</sup>	February 2020
Workshops conducted by Energy Division	February 2020
Comments on proposals filed	March 2020

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<sup>4</sup> Energy Division may also serve a proposal, either prior to or concurrently with the parties.

EVENT	DATE
Reply comments filed	March 2020
CAISO publishes draft 2021 LCR and FCR Report	April 1, 2020
CAISO publishes final 2021 LCR and FCR Report	May 1, 2020
Comments on 2021 LCR and FCR Reports filed	May 2020
Proposed Decision	May 2020
Final Commission Decision	June 2020

\*\*Dates for those components of the LCR and FCR studies and review process that are administered by the CAISO will be determined by the CAISO in consultation with the Commission’s Energy Division.

The Prehearing Conference (PHC) will be held at 1:00 p.m. on December 16, 2019 in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California.

This is a preliminary schedule, and is subject to change. The assigned Commissioner and the assigned ALJ (with the assigned Commissioner’s concurrence) may modify the schedule as necessary during the course of the proceeding to promote the efficient and fair resolution of the rulemaking. Because this proceeding is intended to address procurement for both 2021 and 2022, we anticipate this proceeding will be resolved within 24 months from the issuance of this OIR.

**8. Comments on Preliminary Determinations and Scoping Memo**

Comments may be filed and served not later than 20 days after the issuance of this OIR. Reply comments may be filed and served not later than 27 days after the issuance of this OIR.

Parties should focus comments on the issues set forth in the preliminary Scoping Memo, the preliminary schedule, any objections to the preliminary determinations, and issues to be considered.<sup>5</sup> As described above, parties should indicate what type of re-examination of the structure and processes of the Commission's RA program should occur, if any, and what processes they recommend for conducting that re-examination. Comments on the re-examination of the RA program should exclude implementation details relating to a central procurement structure. In addition, parties should identify and prioritize no more than ten issues relating to refinements of RA program elements that they believe should be addressed in this proceeding.

**9. Service of Order Instituting Rulemaking**

This OIR shall be served on the Official Service List for the predecessor proceeding, R.17-09-020. *Service of the OIR does not confer party status or place a person who has received such service on the Official Service List for this proceeding.*

**10. Addition to Official Service List**

Addition to the official service list is governed by Rule 1.9(f) of the Commission's Rules of Practice and Procedure.

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<sup>5</sup> See Rule 6.2.

Any person will be added to the “Information Only” category of the official service list upon request, for electronic service of all documents in the proceeding, and should do so promptly in order to ensure timely service of comments and other documents and correspondence in the proceeding.<sup>6</sup> The request must be sent to the Process Office by e-mail ([process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov)) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102). Please include the Docket Number of this rulemaking in the request.

Persons who file responsive comments become parties to the proceeding (*see* Rule 1.4(a)(2)) and will be added to the “Parties” category of the official service list upon such filing. In order to assure service of comments and other documents and correspondence in advance of obtaining party status, persons should promptly request addition to the “Information Only” category as described above; they will be removed from that category upon obtaining party status.

#### **11. Subscription Service**

Persons may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission’s website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission’s website at <http://subscribecpuc.cpuc.ca.gov>.

#### **12. Public Advisor**

Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission’s procedures should contact the Commission’s

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<sup>6</sup> *See* Rule 1.9(f).

Public Advisor in San Francisco at (415) 703-2074 or 1-(866) 849-8390 or e-mail [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov). The TTY number is 1-(866) 836-7825.

**IT IS ORDERED** that:

1. In accordance with Rule 6.1 of the Rules of Practice and Procedure, the Commission institutes this rulemaking on its own motion to continue its efforts to ensure the availability of reliable and cost-effective electricity supply in California through implementation and administration of, and refinements to, its Resource Adequacy program. As indicated in Rule 6.1, this proceeding may result in the adoption, repeal, or amendment of rules, regulations, and guidelines that constitute the Resource Adequacy program, and may modify prior Commission decisions pertaining to the Resource Adequacy program that were adopted by rulemaking.

2. A Prehearing Conference is set for Monday, December 16, 2019 at 1:00 p.m. in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California.

3. Comments on the preliminary determinations of category, need for hearing, scope of issues and schedule must be filed and served as stated in Section 8 of this Order Instituting Rulemaking.

4. The Executive Director shall cause this Order Instituting Rulemaking to be served on the service list for Rulemaking 17-09-020.

5. The record in Rulemaking 17-09-020 is transferred to this successor proceeding.

This order is effective today.

Dated November 7, 2019, at San Francisco, California.

MARYBEL BATJER  
President  
LIANE M. RANDOLPH  
MARTHA GUZMAN ACEVES  
CLIFFORD RECHTSCHAFFEN  
GENEVIEVE SHIROMA  
Commissioners