

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.

FILED
PUBLIC UTILITIES COMMISSION
OCTOBER 7, 2021
SAN FRANCISCO, CALIFORNIA
RULEMAKING 21-10-002

ORDER INSTITUTING RULEMAKING

Summary

This rulemaking continues the Commission's oversight of the Resource Adequacy program, considers broader structural reforms to the program, and establishes forward Resource Adequacy procurement obligations applicable to load-serving entities beginning with the 2023 compliance year. This proceeding is the successor to Rulemaking (R.) 19-11-009, which addressed these topics over the past two years.

This order closes R.19-11-009 for purposes of Public Utilities Code Section 1701.5. R.19-11-009 remains open to consider a petition for modification filed by OhmConnect, Inc. filed on September 9, 2021. The record developed in R.19-11-009 is fully available for consideration in this proceeding.

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. Reply comments may be filed no later than 30 days after the issuance of this Order.

1. Background

The Commission first undertook the Resource Adequacy (RA) program in Rulemaking (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 (LCR) 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.¹

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.

¹ D.07-06-029 at 52.

R.17-09-020 served as the forum for RA decisions for the 2019 and 2020 RA compliance years. As part of R.17-09-020, the Commission issued D.19-02-022, which adopted three-year forward procurement obligations for local RA. In D.20-06-002, the Commission adopted a central procurement framework for the procurement of local RA resources in the Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) service territories.

R.19-11-009 served as the forum for RA decisions for the 2021 and 2022 RA compliance years, and the forum for local RA procurement obligations for the 2021-2024 compliance years.

This rulemaking will address the 2023 and 2024 RA compliance years, as well as the local RA procurement obligations for the 2023-2026 compliance years. This rulemaking will also consider reforms and refinements to the RA program, including consideration of broader structural reforms.

2. Preliminary Scoping Memo

As required by Rule 7.1(d) of the Commission's Rules of Practice and Procedure (Rules), this Order Instituting Rulemaking (OIR) includes a preliminary Scoping Memo. In this preliminary Scoping Memo, we describe the issues to be considered in this proceeding. In response to this OIR, parties will have an opportunity to provide comments on the issues raised. After a prehearing conference (PHC), an Assigned Commissioner's Scoping Memo and Ruling will be issued laying out the issues and procedural process in greater detail.

In R.19-11-009, the Assigned Commissioner's Amended Scoping Memo and Ruling established Track 3B.2, which was to cover examination of broader reforms to the RA program. In D.21-07-014, the Commission adopted a framework for a final restructuring proposal and a process and schedule for

developing the final proposal. For this successor proceeding, we separate these issues, previously referred to as Track 3B.2, into a “Reform Track.” All other issues relating to RA procurement obligations and program implementation details will be separated into an “Implementation Track.” The two tracks are described below.

2.1. Implementation Track

Similar to R.19-11-009, and prior rulemakings, the Commission will consider LCR and Flexible Capacity Requirements.

1. Adoption of Local Capacity Requirements

- a.** Establish the Local Capacity Requirements (LCR) for the respective load-serving entities (LSEs) for the 2023-2025 and the 2024-2026 RA compliance years. The starting point for this determination shall be the California Independent System Operator’s (CAISO) annual local capacity area technical study.
- 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 Flexible Capacity Requirements

- a.** Establish the Flexible Capacity Requirements (FCR) for the respective LSEs for the 2023 and 2024 RA compliance years. Similar to the LCR process, the starting point for this determination shall be the CAISO’s annual flexible capacity needs assessment study. This issue encompasses consideration of how the study’s process, parameters, methods, and assumptions might be improved.

3. **Central Procurement Entity (CPE) structure.** Consider potential modifications to the CPE structure and process, including implementation details of the “shown” resource component of the hybrid framework and changes to the CPE timeline.
4. **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.
5. **Qualifying Capacity (QC) Counting Conventions.** Consider potential modifications to QC counting conventions and requirements for third-party demand response resources, hybrid resources, wind and solar resources, and other resources. This issue encompasses proposals from: (a) the California Energy Commission’s Working Group to be submitted into the proceeding in March 2022, as directed in D.21-06-029; and (b) a behind-the-meter hybrid working group, as discussed in D.21-06-029.
6. **Effective Load Carrying Capability (ELCC).** Consider modifications to the ELCC values, including a biennial ELCC update, as directed in D.21-06-029.
7. **Refinements to the RA program.** As part of the ongoing implementation of the RA program, refinements to the RA program will be considered. To focus on the highest priority refinements, it is necessary to limit the number of refinements to be considered in this proceeding. In comments on this OIR, a party should identify no more than five (5) issues relating to refinements of RA program that it believes should be addressed in this proceeding. Based on comments and discussion at the PHC, the Scoping Memo will identify a limited number of issues to be addressed in this proceeding.

2.2. Reform Track (formerly Track 3B.2)

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.

This track encompasses consideration of a final proposed framework and the Workshop Report to be submitted into the RA proceeding in February 2022. When communicating with parties about the Track 3B.2 workshops, parties

should continue to serve the service list for R.19-11-009, as well as the service list for this OIR, until after the Scoping Memo for this OIR has been issued.

3. Status of Prior RA Rulemaking

This is the successor proceeding to R.19-11-009 and the record developed in that proceeding is fully available for consideration in this proceeding.

4. Initial 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. This schedule also incorporates the schedule adopted in D.21-07-014, relating to broader structural reforms to the RA program.

Based on comments, reply comments and discussion at the PHC, the Scoping Memo may add to or otherwise change the schedule. Accordingly, the preliminary schedule for the proceeding is as follows:

SCHEDULE	
EVENT	DATE
Comments on OIR filed	20 days from the issuance of OIR
Reply comments on OIR filed	30 days from the issuance of OIR
Prehearing Conference	November 16, 2021 10:00 a.m. Via WebEx
Scoping Memo issued	December 2021

IMPLEMENTATION TRACK	
EVENT	DATE
Party proposals filed ²	January 2022
Workshop(s) conducted by Energy Division	January/February 2022
Comments on proposals filed	February 2022
Reply comments filed	February/March 2022
CAISO publishes draft LCR and FCR Report	April 2022
CAISO publishes final LCR and FCR Report	May 2022
Comments on 2021 LCR and FCR Reports filed	May 2022
Proposed Decision	May 2022
Final Commission Decision	June 2022

**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 Energy Division.

REFORM TRACK	
EVENT	DATE
Workshops conducted by parties	September 2021 – January 2022
Workshop Report filed	February 2022
Comments/Reply comments on Workshop Report	February/March 2022
Proposed Decision	Summer 2022

The PHC will be held remotely on November 16, 2021 at 10:00 a.m.

² Energy Division may also serve a proposal, either prior to or concurrently with parties.

This is a preliminary schedule, and is subject to change. The assigned Commissioner and the assigned Administrative Law Judge (ALJ) have the authority to make any and all necessary changes to the schedule during the course of the proceeding to promote the efficient and fair resolution of the rulemaking. We authorize the assigned Commissioner and/or ALJ to organize issues within the proceeding, including creating additional tracks for organization. Because this proceeding is intended to address procurement for 2023 and 2024 (as well as local procurement for 2023 - 2026), we anticipate this proceeding will be resolved within 24 months from the issuance of this OIR.

There will likely be multiple workshops in this proceeding. Notice of such workshops or webinars will be noticed to the service list of this proceeding and posted on the Commission's Daily Calendar to inform the public that a decisionmaker or an advisor may be present at those meetings or workshops. Parties should check the Daily Calendar regularly for such notices.

5. Comments on Preliminary Determinations and Scoping Memo

This OIR serves as a solicitation for parties to comment on the preliminary determinations and Scoping Memo identified in this order. Parties should focus comments on the preliminary Scoping Memo and schedule, and any objections to the preliminary determinations.³ Parties should identify and prioritize no more than five (5) issues relating to refinements of RA program elements that they believe should be addressed in this proceeding. The Commission will utilize parties' comments and a PHC as a basis to identify areas that need clarification, and may consider the addition of specific issues or questions related to the scope of this proceeding.

³ See Rule 6.2.

Comments are due to be filed and served no later than 20 days after the issuance of this OIR. Reply comments may be filed and served not later than 30 days after the issuance of this OIR. Comments are limited to no more than 25 pages per party, with replies limited to 15 pages per party.

6. Category of Proceeding; *Ex Parte* Communications; Need for Hearing

The Rules of Practice and Procedure require that an OIR preliminarily determine the category of the proceeding and the need for hearing.⁴ 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.⁵

In the previous RA proceedings, R.11-10-023, R.14-10-010, R.17-09-020, and R.19-11-009, issues were addressed through a combination of formal 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 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.

⁴ Rule 7.1(a).

⁵ See Rules 7.3, 8.3 and 8.5.

7. Service of Order Instituting Rulemaking

This OIR shall be served on the Official Service List for the previous proceeding, R.19-11-009. 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. Addition to the official service list is governed by Rule 1.9(f) of the Commission's Rules of Practice and Procedure.

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.⁶ The request must be sent to the Process Office by e-mail (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.

⁶ *See* Rule 1.9(f).

8. 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>.

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 within 30 days after the filing of reply comments, except that notice may be filed within 30 days of a PHC as well. (*See* Rule 17.1(a)(2)). Intervenor compensation rules are governed by Section 1801 et seq. of the Public Utilities Code.

Parties who were previously found eligible to request compensation in R.19-11-009 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.19-11-009 to issues within the scope of this proceeding may be considered for compensation in this proceeding, if not already compensated in R.19-11-009.

10. 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 Public Advisor in San Francisco at (415) 703-2074 or 1-(866) 849-8390 or e-mail 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 to continue its efforts to ensure the availability of reliable and cost-effective electricity supply in California through implementation and administration of 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. This is a successor proceeding to Rulemaking 19-11-009 and the record developed in that proceeding is fully available for consideration in this proceeding.

3. The Executive Director shall cause this Order Instituting Rulemaking to be served on the service list for Rulemaking 19-11-009.

4. Comments on the preliminary determinations of category, need for hearing, scope of issues and schedule must be filed and served as stated in Section 5 of this Order Instituting Rulemaking.

5. A Prehearing Conference will be held remotely via WebEx on November 16, 2021.

6. The category of this rulemaking is preliminarily determined to be ratesetting and the rulemaking is subject to the *ex parte* communication rules stated in Article 8 of the Commission's Rules of Practice and Procedure.

7. Evidentiary hearings are preliminarily determined to be not needed.

8. All outstanding motions in Rulemaking 19-11-009 not ruled upon are deemed denied.

9. Rulemaking 19-11-009 is resolved for the purposes of Public Utilities Code Section 1701.5(a) requirements but will remain open to address a Petition for Modification filed on September 9, 2021 by OhmConnect, Inc.

10. The assigned Commissioner or Administrative Law Judge may make any revisions to the scheduling and filing determinations made herein as necessary to facilitate the efficient management of the proceeding.

This order is effective today.

Dated October 7, 2021, at San Francisco, California.

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners