

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Regarding Continued Implementation
of the Public Utility Regulatory
Policies Act and Related Matters.

Rulemaking 18-07-017

ORDER EXTENDING STATUTORY DEADLINE**Summary**

This decision extends the statutory deadline in this proceeding to August 15, 2023.

1. Background

Public Utilities (Pub. Util.) Code Section 1701.5(a), amended effective January 1, 2017, requires that quasi-legislative and ratesetting proceedings filed on or after January 1, 2017, must be resolved within 18 months from the date the proceeding is initiated unless the California Public Utilities Commission (Commission or CPUC) makes a written determination explaining why that deadline cannot be met. This proceeding was filed on July 26, 2018, and is subject to the 18-month-from-filing statutory deadline of January 25, 2020.

On July 26, 2018, the Commission opened this Order Instituting Rulemaking (OIR) to continue the implementation of the Public Utility Regulatory Policies Act (PURPA) and related matters. Parties filed comments to

the OIR on August 31, 2018, and September 12, 2018. Reply comments were filed on September 24, 2018.

On September 27, 2018, a Prehearing Conference (PHC) was held to discuss the issues and to address the procedures and schedule for this proceeding. At the parties' request, a workshop was held on October 18, 2018.

On November 2, 2018, the assigned Commissioner issued the Scoping Memo and Ruling. Parties filed their comments on November 14, 2018, and reply comments on November 28, 2018.

On September 19, 2019, the Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (FERC Rulemaking)¹ which proposes significant and far-reaching changes to the PURPA regulations. The CPUC filed comments in the FERC Rulemaking on December 3, 2019.

On May 7, 2020, the Commission issued D.20-05-006, adopting a new standard offer contract available to any Qualifying Facility (QF) of 20 megawatts or less seeking to sell electricity and capacity to electric utilities under PURPA.

On July 16, 2020, the Commission issued D.20-07-033, extending the statutory deadline of this proceeding for a second time to January 25, 2021.

On July 16, 2020, FERC issued Order No. 872, revising the PURPA rules to take effect on December 31, 2020.² On August 17, 2020, FERC received requests for rehearing and/or clarification of the order from various stakeholders.

¹ *Qualifying Facility Rates and Requirements; Implementation Issues Under the Public Utility Regulatory Policies Act of 1978*, 84 Fed. Reg. 53,246 (October 4, 2019) ("FERC Rulemaking").

² *Qualifying Facility Rates and Requirements Implementation Issues Under the Public Utility Regulatory Policies Act of 1978*, Order No. 872, 85 FR 54638 (Sep. 2, 2020), 172 FERC 61,041 (2020) (Order 872).

On November 19, 2020, FERC issued Order No. 872-A, an order denying rehearing and clarifying portions of Order No. 872.³ The effective date of the rehearing order is February 16, 2021. On November 19, 2020, two petitions for review of FERC Order No. 872 were filed at the Ninth Circuit Court of Appeals.

On January 11, 2021, the assigned Commissioner issued a revised scoping memo and ruling to address the results from events at FERC and the parties' comments in this proceeding. The revised scoping memo extended the statutory deadline of the proceeding from January 31, 2021, to December 2, 2021. Comments on the revised scoping memo were filed on February 10, 2021.

On November 18, 2021, the Commission extended the statutory deadline to December 15, 2022.⁴

On June 2, 2022, in D.22-06-003, the Commission authorized the investor-owned utilities to offer the New Qualifying Facilities Standard Offer Contract to storage-paired Qualifying Facilities (QFs), including storage configurations with a combined nameplate capacity above 20 megawatts.

On December 6, 2022, in D.22-12-008, the Commission extended the statutory deadline to June 15, 2023.

On May 11, 2023, the Commission issued a proposed decision closing the proceeding. The proposed decision may be heard, at the earliest, at the Commission's June 29, 2023 Voting Meeting.

It will not be possible to complete this proceeding by the previously scheduled deadline. The proposed decision addressing the issues in this proceeding will be heard after the June 15, 2023 statutory deadline of this

³ Order Addressing Arguments Raised on Rehearing and Clarifying Order 872 in Part. 173 FERC 61,158.

⁴ See D.21-11-033.

proceeding. We find that an extension of the statutory deadline to August 15, 2023, is necessary to afford the Commission additional time to thoughtfully deliberate and issue its final decision. The statutory deadline for this proceeding is therefore extended to August 15, 2023. This will give sufficient time for the Commission to consider the proposed decision resolving any outstanding issues, for the Commission to consider party comments, and for a final decision to be issued in this proceeding.

2. Waiver of Comment Period

Pursuant to Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving ratesetting proceedings. Accordingly, the otherwise applicable period for public review and comment on an extension order issued pursuant to Pub. Util. Code § 1701.5(a) is being waived.

3. Assignment of Proceeding

Karen Douglas is the assigned Commissioner, and Manisha Lakhanpal is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. This proceeding was filed on July 26, 2018.
2. A revised scoping memo was issued on January 11, 2021.
3. The current statutory deadline is June 15, 2023.
4. A proposed decision closing the proceeding was issued on May 11, 2023.
5. There is good cause to extend the statutory deadline to August 15, 2023, to allow for the Commission to consider party comments and issue a final decision.

Conclusion of Law

Pursuant to the Commission's authority under Pub. Util. Code § 1701.5(a), the statutory deadline should be extended until August 15, 2023.

IT IS ORDERED that the statutory deadline in this proceeding is extended until August 15, 2023.

This order is effective today.

Dated _____, at San Francisco, California.