

**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 12, 2023  
STOCKTON, CALIFORNIA  
RULEMAKING 23-10-011

**ORDER INSTITUTING RULEMAKING****Summary**

This rulemaking continues the California Public Utilities Commission's oversight of the Resource Adequacy (RA) program, establishes forward RA procurement obligations applicable to load-serving entities beginning with the 2025 compliance year, and considers structural reforms to the program. This proceeding is the successor to Rulemaking 21-10-002, 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 no 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 California Public Utilities Commission (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 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 interim Flexible Capacity Requirements (FCR) as an additional component of the 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 served as the forum for RA decisions for the 2019 and 2020 RA compliance years. R.19-11-009 served as the forum for RA decisions for the 2021 and 2022 RA compliance years, and for local RA procurement obligations for the 2021-2024 compliance years. R.21-10-002 served as the forum for RA decisions for the 2023 and 2024 RA compliance years, for local RA procurement obligations for the 2023-2026 compliance years, and for development of the 24-hour Slice-of-Day (SOD) RA reform framework.

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

This rulemaking will address the 2025 and 2026 RA compliance years, local RA procurement obligations for the 2025-2028 compliance years, and further development of the 24-hour SOD framework.

## **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.21-10-002, the Assigned Commissioner's Scoping Memo and Ruling established a "Reform Track" that addressed issues related to the 24-hour SOD framework and an "Implementation Track" that addressed all other RA issues related to RA procurement obligations and program implementation details. For this successor proceeding, we anticipate combining the two tracks into one, as many of the RA refinement issues relate to the 24-hour SOD framework. Similar to R.21-10-002, and prior rulemakings, the Commission will consider the LCR and FCR.

In D.22-06-050, the Commission considered proposals on the structural reform framework and determined that Southern California Edison Company's 24-hour SOD proposal, if developed, best satisfied the principles and objectives identified in D.21-07-014. The Commission provided guidance on the elements of an SOD framework and determined that a 2024 test year would provide time for implementation and adjustments, with full implementation in the 2025 RA

year. In D.23-04-010, the Commission adopted further implementation details for the SOD framework, including compliance tools and resource counting rules. This proceeding will continue to address modifications and implementation details of the 24-hour SOD framework.

The preliminary scope of issues is as follows:

1. **Adoption of Local Capacity Requirements.** Establish the LCR for respective load-serving entities (LSE) for the 2025-2027 and the 2026-2028 RA compliance years. The starting point for this determination will be the California Independent System Operator's (CAISO) annual local capacity area technical study.
2. **Adoption of Flexible Capacity Requirements.** Establish the FCR for the respective LSEs for the 2025 and 2026 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.
3. **Loss of Load Expectation Study and Planning Reserve Margin.** Consider modifications to the Planning Reserve Margin for compliance years 2026 and 2027, including the results of Energy Division's annual Loss of Load Expectation study to be published in February, as authorized in D.23-06-029, and other proposals submitted into this proceeding.
4. **24-Hour Slice-of-Day Framework.** Consider 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, and other proposals submitted into this proceeding.
5. **Unforced Capacity Methodology (UCAP).** In 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.

- 6. Qualifying Capacity (QC) Counting Conventions.** Consider potential modifications to the QC counting conventions and requirements for demand response (DR) and other resources. This issue encompasses proposals from (a) Energy Division's load impact protocol simplification process, as discussed in D.23-06-029, and (b) Energy Division's Working Group to refine elements of the California Energy Commission's incentive-based supply-side DR QC proposal to be submitted in December 2024, as authorized in D.23-06-029. Elements to be considered include testing requirements and requirements to market integrate investor-owned utility DR programs.
- 7. Resource Adequacy Compliance and Penalties.** Consider modifications to the RA penalty structure and other ways to incent compliance with RA requirements. Identify potential opportunities to increase the availability of RA resources.
- 8. Coordination with the Integrated Resource Planning (IRP) Proceeding.** Coordination with IRP planning, including the appropriate planning reserve margin requirements for short-term planning compared with the longer timeframe for the IRP proceeding.
- 9. Refinements to the Resource Adequacy 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 the 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.

**3. Status of Prior Resource Adequacy Rulemaking**

This is the successor proceeding to R.21-10-002 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.

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:

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 17, 2023 10:00 a.m. via Webex
Scoping Memo issued	December 2023
Energy Division Report on SOD Framework	By February 1, 2024
Party proposals filed <sup>2</sup>	January 19, 2024
Workshop(s) conducted by Energy Division	Early February 2024
Comments on proposals filed	February 23, 2024
Reply comments filed	March 8, 2024
CAISO publishes draft LCR and FCR Report	April 2024

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

EVENT	DATE
CAISO publishes final LCR and FCR Report	May 2024
Comments on LCR and FCR Reports filed	May 2024
Proposed Decision	May 2024
Final Commission Decision	June 2024

\*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.

The PHC will be held remotely on November 17, 2023, at 10:00 a.m. via Webex.

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 2025 and 2026 (as well as local procurement for 2025-2028), 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.<sup>3</sup> 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.

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 Commission's Rules of Practice and Procedure require that an OIR preliminarily determine the category of the proceeding and the need for hearing.<sup>4</sup> 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.<sup>5</sup>

In the previous RA proceedings, R.11-10-023, R.14-10-010, R.17-09-020, R.19-11-009, and R.21-10-002, 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

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<sup>3</sup> See Rule 6.2.

<sup>4</sup> See Rule 7.1(a).

<sup>5</sup> See Rule 7.3, Rule 8.3, and Rule 8.5.



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.

## **7. Service of Order Instituting Rulemaking**

This OIR shall be served on the Official Service List for the previous proceeding, R.21-10-002. 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.<sup>6</sup> The request must be sent to the Process Office by email ([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

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

described above; they will be removed from that category upon obtaining party status.

## **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.<sup>7</sup> 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.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 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>7</sup> See Rule 17.1(a)(2).

Public Advisor in San Francisco at (415) 703-2074 or 1-(866) 849-8390 or email [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 Commission's Rules of Practice and Procedure (Rules), 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 (RA) 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 RA program, and may modify prior Commission decisions pertaining to the RA program that were adopted by rulemaking.

2. This is a successor proceeding to Rulemaking 21-10-002 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 21-10-002.

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 17, 2023.

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. 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 12, 2023, at Stockton, California.

ALICE REYNOLDS

President

GENEVIEVE SHIROMA

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Darcie L. Houck, being necessarily absent, did not participate.