

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.

FILED
PUBLIC UTILITIES COMMISSION
MAY 6, 2010
SAN FRANCISCO, CALIFORNIA
RULEMAKING 10-05-006

ORDER INSTITUTING RULEMAKING

Table of Contents

Title	Page
ORDER INSTITUTING RULEMAKING.....	1
1. Summary	2
2. Background.....	3
3. Three-Track Procurement Planning Proceeding	9
4. Interagency Considerations.....	10
5. Preliminary Scoping Memo	11
5.1. Track I – Long-Term System and Local Reliability Resource Plan	12
5.2. Track II – IOU Section 494.5 Bundled Plans	13
5.3. Track III – Rule and Policy Issues.....	14
5.4. Issues Not Within the Scope of this Proceeding.....	17
6. Invitation to Comment on Preliminary Scoping Memo and Schedule.....	19
7. Category of Proceeding and Need for Hearing.....	20
8. Schedule.....	20
9. Becoming a Party; Joining and Using the Service List.....	23
9.1. During the First 30 Days	24
9.2. After the First 30 Days.....	24
9.3. Updating Information.....	25
9.4. Serving and Filing Documents.....	25
10. Public Advisor.....	26
11. Intervenor Compensation	26
12. Ex Parte Communications.....	27
Appendix A - Load-Serving Entities as Defined in Section 380(j)	

ORDER INSTITUTING RULEMAKING

1. Summary

We open this rulemaking to continue our efforts to ensure a reliable and cost-effective electricity supply in California through integration and refinement of a comprehensive set of procurement policies, practices and procedures underlying long-term procurement plans. This is the forum in which we shall consider the Commission's electric resource procurement policies and programs and how to implement them.

This Order establishes a multi-track proceeding separately addressing several issues. In one track, we shall consider adoption of "bundled" procurement plans¹ pursuant to AB 57 (Stats. 202, ch. 83, Sec. 3) (codified as Pub. Util. Code §454.5.)² for the three major electric IOUs (Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison) to authorize their procurement needs for their bundled customers.

In a separate but concurrent track of the proceeding, we shall consider issues related to the overall long-term need for new system and local reliability resources, including adoption of "system" resource plans³ for each of these three

¹ We define "bundled" as pertaining to an investor-owned utility's (IOU's) load and resources in its role as a Load Serving Entity (LSE). To distinguish filings related to bundled Assembly Bill (AB) 57 obligations from separate filings related to system reliability needs, we will refer to these as "procurement plans."

² Unless otherwise stated, all references to code sections are to the Public Utilities Code.

³ We define "system" as pertaining to the loads and resources in each IOUs' service area. "Service area" generally corresponds to the IOUs' respective distribution service territories, inclusive of bundled, direct access, and community choice aggregator loads, but exclusive of embedded publicly-owned utility loads. To distinguish filings related

Footnote continued on next page

utilities' service area that will inform the next available cycle of bundled procurement plans. These resource plans will allow the Commission to comprehensively consider the impacts of state energy policies on the need for new resources.

Lastly, we shall also consider a number of rule and policy issues related to procurement plans within a third track.

While the three tracks shall be conducted concurrently, any interim decisions and rulings from one track may inform future activities in the other tracks as described below.

All resource and procurement planning in this proceeding will be done in the context of the Energy Action Plan II (EAP II)⁴ and other state energy policies.

2. Background

This long-term procurement proceeding (LTPP) is the successor to Rulemaking (R.) 08-02-007,⁵ R.06-02-013,⁶ R.04-04-003,⁷ and R.01-10-024,⁸ the

to system reliability needs from bundled AB 57 procurement plans, we will refer to these as "resource plans."

⁴ EAP I was issued jointly on May 8, 2003, by the Commission, the California Energy Commission and the California Consumer Power and Conservation Financing Authority. EAP I was updated with the adoption of EAP II, as a joint policy plan of the CPUC and the CEC, in October 2005. *See* www.energy.ca.gov/energy_action_plan/2005-09-21_EAP2_FINAL.PDF.

⁵ *Order Instituting Rulemaking to Integrate and Refine Procurement Policies Underlying Long-Term Procurement Plans*, dated February 14, 2008.

⁶ *Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long-Term Procurement Plans*, dated February 16, 2006.

⁷ *Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning*, dated April 1, 2004.

rulemakings initiated by the Commission to ensure that California's major investor-owned utilities (IOUs)⁹ could resume and maintain procurement responsibilities on behalf of their customers.

The LTPP proceedings generally operate on a two-year cycle with the IOUs responsible for submitting procurement plans that project their need, and their action plan for meeting that need, over a ten-year horizon. Pursuant to AB 57,¹⁰ codified as Section 454.5, by approving procurement plans, the Commission establishes "up-front standards" for the IOUs' procurement activities and cost recovery. This obviates the need for after-the-fact reasonableness review by the Commission of the resulting utility procurement decisions that are consistent with the approved plans.

In Decision (D.) 04-01-050, the Commission established that each load serving entity (LSE) has an obligation to acquire sufficient reserves for its customer loads, endorsed a hybrid market structure, and extended utilities' procurement authority into 2005. In D.04-12-048, the Commission approved the IOUs' long-term procurement plans and gave the IOUs procurement authority for short-, medium-, and long-term contracts for the planning period 2005 through 2014. D.07-12-052 approved, with modifications and compliance filings, the LTPPs for PG&E, SDG&E and SCE for 2007-2016.

⁸ *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development*, dated October 29, 2001.

⁹ Unless otherwise specified, IOUs shall refer to Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison (SCE).

¹⁰ AB 57 (Stats. 2002, ch. 850, Sec 3, Effective September 24, 2002), added Pub. Util. Code § 454.5., enabling utilities to resume procurement of electric resources.

After the 2006 LTPP proceeding was initiated, the legislature also passed AB 32¹¹ and Senate Bill (SB) 1368,¹² California's Climate Change laws, providing further guidance to the Commission. In addition to the "upfront standards" established in Section 454.5, procurement decisions must now consider carbon risk when filling net short positions with fossil resources, so as not to "crowd out" preferred resources¹³ or incur stranded costs by purchasing technology that may soon become obsolete.

R.08-02-007 differed significantly from the prior LTPP proceedings. Because the 2006 process had just concluded with D.07-12-052 immediately before the opening of R.08-02-007, the Commission determined that rather than requiring the IOUs to file new 2008 LTPPs, the new proceeding would address a series of policy proposals to refine technical practices used to develop resource and procurement plans, and consider other procedural matters. The primary focus of this effort was to lay the groundwork to evaluate, side-by-side, the cost effectiveness of different resource portfolios. Any new policies, practices and procedures adopted in R.08-02-007 were anticipated to be incorporated into the present proceeding. R.08-02-007 was split into two phases.

The scope of Phase I of R.08-02-007 included:

- Standardized resource planning practices, assumptions and analytic techniques applied in long-term procurement plans,

¹¹ AB 32 (Stats. 2006, ch. 488, effective September 27, 2006).

¹² SB 1368 (Stats. 2006, ch. 598, effective September 29, 2006).

¹³ Preferred resources are defined by EAP II. EAP II ranks the preferred resources as follows: Cost effective Energy Efficiency and Demand Response, renewable resources, distributed generation, and clean and efficient fossil generation

based on an integrated resource planning framework (“planning standards”);

- Interim standards and practices to evaluate the uncertain cost of future greenhouse gas (GHG) regulations during AB 32 implementation and in anticipation of possible federal legislation;
- Preparation of a report which provides specific information on each of the relevant programs either under the Commission’s purview or funded by utility ratepayers that contribute to a reduction in GHG;
- A methodology to quantify energy efficiency in the California Energy Commission’s (CEC’s) load forecast;
- Methodologies to estimate firm capacity from demand-side resources for long-term planning and procurement purposes;
- A customer risk preference study; and
- Other identified LTPP program implementation issues, including congestion revenue rights (CRRs); virtual bidding, now known as convergence bidding; and other wholesale energy market concerns.

The scope of Phase II of R.08-02-007 included:

- Considering whether and to what extent to adopt refinements to policies distinguishing system versus bundled resource needs, including a methodology that allocates the cost of new generation to system and bundled customers; and
- Evaluating whether and how refinements can be made to the bid evaluation process to ensure fair competition between power purchase agreements and utility-owned generation bids, and alternatives to the competitive market approach where competition cannot be used to reach equitable and efficient outcomes.

An initial Assigned Commissioner Ruling and Scoping Memo for Phase I was issued on August 28, 2008, which was modified by an Amended Assigned

Commissioner Ruling and Scoping Memo (Amended Phase I Scoping Memo) on July 1, 2009. No activity was taken on Phase II.

The Amended Phase I Scoping Memo was accompanied by two documents.¹⁴ The first, *Survey of Utility Resource Planning and Procurement Practices for Application to Long-Term Procurement Planning in California*, was drafted by a technical support consulting team of Aspen Environmental Group and Environmental Economics, Inc. (Consultant). The second was a *Staff Proposal on Resource Planning Standards* (Staff Proposal) drafted by Energy Division staff with technical assistance from the Consultant.

The Staff Proposal recommended adoption of a series of Guiding Principles and Working Principles as a theoretical framework for the development of proposed planning standards. The Staff Proposal further recommended an integrated portfolio approach to resource planning for each of the IOUs, wherein the resource needs for the service areas of the IOUs would be considered comprehensively in light of the loading order in the Energy Action Plan and other state energy policies. Indicative portfolios representing overall system need would be developed and these portfolios would inform the development of bundled plans.

A workshop was held on the Staff Proposal on August 6-7, 2009.¹⁵ An alternative joint proposal was offered by SDG&E and SCE (Joint Alternative),

¹⁴ The Amended Phase I Scoping Memo also incorporated in the record of the proceeding an Energy Division Staff Report based upon the Consultant's analysis entitled *33% Renewable Portfolio Standard Implementation Analysis Preliminary Results* (Preliminary 33% RPS Report), which was issued on June 12, 2009.

¹⁵ Pre-workshop questions and comments were offered by the Alliance for Retail Energy Markets (AREM), the California Large Energy Consumers Association (CLECA),

Footnote continued on next page

and a variation of the Staff Proposal was offered by L. Jan Reid, both of which were considered in the workshop. Comments and reply comments were filed by parties.¹⁶

The Joint Alternative recommended focusing on adoption of bundled procurement plans for the individual IOUs in a straight-forward and expeditious manner, while considering system-level portfolios in a separate “integrated resource planning” proceeding.

An Assigned Commissioner Ruling (ACR) was issued on December 3, 2009 suspending the schedule in R.08-02-007.¹⁷ R.08-02-007 is being closed herein. We recognize that much of the groundwork needed to develop system plans was achieved through the workshops, filings, and negotiations in R.08-02-007. We feel the work performed in that proceeding is foundational, and will be used as a starting point for the current proceeding. Though the Commission will not issue a final ruling in R.08-02-007, we do not wish to

the Division of Ratepayer Advocates (DRA), the Green Power Institute (GPI), L. Jan Reid (Reid), PG&E, SDG&E, SCE, The Utility Reform Network (TURN) and the Western Power Trading Forum (WPTF).

¹⁶ Comments were filed on or before August 21, 2009 by AReM, Calpine Corporation, the Center for Energy Efficiency and Renewable Technologies (CEERT), CLECA, DRA, jointly by Energy Producers and Users Coalition (EPUC) and the Cogeneration Association of California (CAC), the Independent Energy Producers (IEP), the Large-Scale Solar Association (LSA), PG&E, Reid, SDG&E, SCE, TURN, jointly by the Union of Concerned Scientists and GPI, Women Energy Matters (WEM), and WPTF. Reply Comments were filed on or before August 31, 2009 by AReM, EPUC/CAC, CEERT, CLECA, DRA, IEP, LSA, PG&E, Reid, SDG&E, SCE, TURN, WEM and WPTF.

¹⁷ The December 3, 2009 ACR also proposed bifurcation into two companion proceedings. Upon further review, we conclude that bifurcation would introduce unnecessary procedural complications and that establishing independent tracks best addresses the concerns underlying the initial proposal of bifurcation.

duplicate work or backtrack and revisit matters that have already been resolved in R.08-02-007. Therefore, the record of R.08-02-007 will be incorporated into this proceeding. It is expected that all matters resolved in good faith through ACRs, Administrative Law Judge (ALJ) Ruling, as well as those resolved in good faith amongst parties in R.08-02-007 remain in effect, and that these matters will not be revisited in the current proceeding unless the Commission determines otherwise.

3. Three-Track Procurement Planning Proceeding

Based on the record in R.08-02-007, we have decided to establish separate tracks for different elements of the 2010 procurement planning cycle:

- (1) **Track I** will identify California Public Utilities Commission (CPUC)-jurisdictional needs for new resources to meet system or local resource adequacy and to consider authorization of IOU procurement to meet that need, including issues related to long-term renewables planning and need for replacement generation infrastructure to eliminate reliance on power plants using once-through-cooling (OTC).
- (2) **Track II** will address the development and approval of individual IOU "bundled" procurement plans consistent with §454.5.
- (3) **Track III** will consider rule and policy changes related to the procurement process which were not resolved in R.08-02-007, as outlined in greater detail below.

This separation of issues into different tracks is intended to clarify jurisdictional differences, as well as to allow the IOUs' bundled procurement plans to be approved on a separate schedule, while robust analyses of system planning issues proceed on a separate track. The numerical ordering of these tracks is not intended to imply a priority ranking or a chronological order to their resolution.

Findings from the decision(s) in the system planning track (Track I) and/or rules track (Track III) are anticipated to feed into bundled procurement plans for the next available cycle, either Track II of the present proceeding or of a successor proceeding, depending upon the timing of decision(s) in Tracks I and III. We anticipate that any decisions in Tracks I and III adopted before the November 19, 2010 Commission meeting will inform Track II of the current proceeding, while any Tracks I and III decisions adopted after this date will not inform Track II of the current proceeding.¹⁸ Given the schedule for Track II noted below, this will allow one year to resolve Track II issues and avoid late changes to input assumptions that could cause significant slowdowns and the need to redo work that has already been completed.

Also, although we will endeavor to resolve as many issues as possible in Track III, resolution of all of the issues identified for consideration in Track III is not necessary for progress to continue on Tracks I and II.

4. Interagency Considerations

The Commission established that LTPPs would occur on a biennial basis in D.04-01-050, an approach adopted to ensure appropriate coordination with the CEC's Integrated Energy Policy Report (IEPR) proceeding.¹⁹ We will consider the CEC's 2009 IEPR, for procurement-related recommendations during this and related rulemakings.²⁰

¹⁸ All schedule dates may be revised by the Assigned Commissioner or ALJ as necessary to facilitate the efficient management of the proceeding.

¹⁹ D.04-01-050 at 175.

²⁰ CEC. *2009 Integrated Energy Policy Report*, CEC-100-2009-003-CMF, December 16, 2009. See <http://www.energy.ca.gov/2009publications/CEC-100-2009-003/CEC-100-2009-003-CMF.PDF>.

In the past few years, we have encouraged the active participation of the CEC in our rulemaking endeavors on the decision-making side, rather than as party litigants. We invite the CEC to join us in this proceeding by continuing the collaborative approach that both agencies pursued in the development of procurement policy in R.05-12-013. This collaborative approach has been an effective tool to ensure that state agencies are able to communicate and effectuate their joint policy goals. At this point, we do not specify the details of the precise interagency working model that will prove to be most effective in this proceeding.

In addition, the Commission has worked cooperatively with the California Independent System Operator (CAISO) on matters that directly impact long-term procurement, including transmission planning and wholesale market issues. We welcome and invite the CAISO's participation in this proceeding. As with the CEC, we do not specify the details of the precise working model that will prove to be most effective in this proceeding.

Other state agencies actively involved in energy policymaking may also be interested in this proceeding, and we welcome their participation.

5. Preliminary Scoping Memo

As required by Rule 7.1(d)²¹ of the Commission's Rules of Practice and Procedure (Rules), this Order includes a preliminary scoping memo. In this

²¹ "An order instituting rulemaking shall preliminarily determine the category and need for hearing, and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changes by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to category is subject to appeal under Rule 7.6." (Rule 7.1(d).)

Preliminary Scoping Memo, we describe the issues to be considered in this proceeding and the timetable for resolving the proceeding.

5.1. Track I – Long-Term System and Local Reliability Resource Plan

The purpose of the "system" planning track is to identify CPUC-jurisdictional needs for new resources to meet system or local resource adequacy over the 2011-2020 planning horizon, including issues related to long-term renewables planning and need for replacement generation infrastructure to eliminate reliance on power plants using OTC. In addition to maintaining an adequate reserve margin, we anticipate that system requirements to: 1) integrate renewables, 2) support OTC policy implementation, 3) maintain local reliability, and 4) meet GHG goals will be primary drivers for any need for new resources identified in this proceeding. Furthermore, we may address or reassess the Energy Efficiency and Demand Response assumptions utilized in determining future need.²²

Finally, because the system resource plans conducted in this proceeding will be based on an integrated resource planning approach, the Commission will have comprehensive information on which to base resource policy choices applicable to all jurisdictional LSEs. While 33% renewables portfolio standards (RPS) implementation scenarios will likely be a central focus of this proceeding, additional scenarios to assess other cost-effective resource strategies to achieve

²² We will not consider new EE goals in this proceeding. However, we may review the energy efficiency planning assumptions adopted in D.08-07-047 for procurement purposes. Additionally, we may consider any new information about EE projections after parties file proposals in response to a subsequent ruling served in both this proceeding and R.09-11-014.

GHG goals, including scenarios considering GHG adders, transmission, distributed generation, and OTC may also be considered. The nature and extent of the scenarios that are covered in this proceeding will be addressed in a later ruling.²³

The assigned Commissioner or ALJ will issue a ruling shortly after the issuance of this Order presenting staff's proposed preliminary planning standards. Additionally, the ALJ will issue a separate ruling requesting parties to comment upon an appropriate range of energy efficiency assumptions to be used in this proceeding. Staff will subsequently present a report on renewable planning standards. Parties will be given an opportunity to comment.

5.2. Track II – IOU Section 494.5 Bundled Plans

Track II will consider individual IOU procurement plans pursuant to § 454.5, in light of any guidance derived from Tracks I and III adopted no later than the Commission meeting scheduled for November 19, 2010, as noted above. Each IOU shall file its individual bundled plan consistent with guidance to be provided in the Track II Scoping Memo and any rulings or decisions arising from Tracks I and III.

In this phase, we anticipate that the IOUs shall file their bundled plans and associated testimony, to be followed by intervenor testimony. Evidentiary hearings are anticipated, followed by a round of post-hearing briefs and reply

²³ This may also include the common assumptions that parties will use in specific scenarios.

briefs. We anticipate issuance of one or more proposed decisions on the IOU bundled plans by December 2011.²⁴

Track II may begin after Track III has had a reasonable opportunity to consider rule and policy issues necessary to prepare and evaluate the bundled plans (see below). We anticipate that Track II will begin no later than December 2010.

Based on the record in R.08-02-007, we find it reasonable to direct the IOUs' filing of bundled LTPPs to be based on a limited set of planning standards using the best information available at that time. Our intent is to ensure that the IOUs' plans can be more easily compared to each other and to maintain consistency, where appropriate, with Commission policy in other procurement-related proceedings.

5.3. Track III – Rule and Policy Issues

Track III will address numerous rule and policy issues related to procurement plans. Some of these issues must be resolved prior to the initiation of Track II of this proceeding. The issues include, but may not be limited to, the following:

- 1. Updates to Procurement Rules to Comply with SB 695 and Refinements to the D.06-07-029 Cost Allocation Methodology (CAM)** - SB 695²⁵ addresses many of the same issues addressed in the CAM we adopted in D.06-07-029. SB 695 applies to both Utility Owned Generation (UOG) and Independent Power Producer-owned (IPP) generation, and eliminates the CAM election process,

²⁴ The Commission is aware that the authorizations granted in D.07-12-052 only extend through 2016, and that the IOUs may need some decision on procurement authority by December 2011.

²⁵ SB 695 (Stats. 2009, ch. 337, effective October 11, 2009).

providing that a cost allocation must be “on a fully nonbypassable basis consistent with departing load provisions as determined by the Commission.”²⁶ This proceeding will consider any necessary modifications to the LTPP rules needed to implement SB 695 or to otherwise address refinements to the CAM process.

2. **Clarification / Refinement of Existing Procurement-Related Requirements in Support of the Development of a Procurement Requirements Summary Document (a.k.a. “Rulebook”)** – A Staff draft of a procedural requirements summary document or Rulebook will be distributed by separate ruling shortly after issuance of this Rulemaking, which will include a timetable for at least one workshop and for responses to the draft.²⁷
3. **Procurement Rules to Comply with OTC Policies**²⁸ – This proceeding will consider a number of procurement policies related to IOU-owned or contracted OTC generation units. Examples of such policies include (but are not limited to) policies encouraging retirement of OTC units; Request for Offer (RFO) design to procure new greenfield or repowered projects for local resource adequacy (RA), while minimizing market power; and RFO bid evaluation protocols to allow comparison of retrofitting projects.²⁹
4. **California Independent System Operator Corporation Market-Related Procurement Implementation Issues** – The CAISO instituted a new market structure in 2009, previously known as the Market Redesign and Technology Upgrade. This proceeding will consider LTPP issues that arise from the new CAISO market design,

²⁶ Section 365.1 (c)(2)(A).

²⁷ While this document is known informally as the “Rule Book,” its final implementation may be in one of several different forms, including as a General Order.

²⁸ We anticipate that changes to procurement rules may be necessary to ensure that IOU procurement activity is in accordance with any adopted OTC policy.

²⁹ Retrofitting refers to a modification of an existing plant through the installation of a cooling system that complies with an adopted OTC policy. Retrofitting projects do not add new capacity to the system.

with a particular focus on the upfront standard for IOU procurement activity in CRR and convergence bidding markets.

5. **Refinements to Bid Evaluation in Competitive Solicitations (particularly with respect to UOG Bids)** – D.07-12-052 identified several concerns related to the process for evaluating UOG bids against Power Purchase Agreements bids. These concerns focus on the need to ensure that the bid evaluation process is fair, just and reasonable, and include the need to determine whether and how bid criteria can be developed to improve head-to-head comparisons of UOG and IPP bids. Issues which may be considered include:
 - How IOU bid development costs would be addressed (“at-risk” or ratepayer-guaranteed);
 - The extent to which penalty and reward components are or should be added to UOG bids to make them consistent with IPP bids;
 - What measures should be taken to prevent sharing of sensitive information between utility staff involved in developing utility bids and staff who create bid evaluation criteria and that select the winning bids;
 - How failed contracts should be handled within the IOU RFO/procurement process; and
 - Whether parties might agree on a common set of risk factors better managed by IOUs as compared to IPPs, to simplify the standard terms and conditions in the IOUs’ pro forma contracts and subsequent counterparty contract negotiations.
6. **Refinements to the Timelines Associated with IOU RFOs for RA Products** – D.06-06-064 instructs the IOUs to develop “least cost/best fit” portfolios and to sell contracted resources that are not needed. To meet this obligation, IOUs need to provide the excess resources to the market with sufficient time that other LSEs have an opportunity to purchase them to meet their resource obligations. We shall evaluate potential schedule milestones that IOUs can adopt to allow for smoother LSE compliance with RA filing deadlines.
7. **GHG Compliance Products and Risk Management Strategies** – This proceeding will also consider the GHG compliance products

that IOUs will be authorized to procure to meet their anticipated California GHG compliance obligations. Included in this authorization will be the GHG risk management approaches the IOUs plan to employ to manage this new risk.³⁰

8. **Other Procurement Rule Changes** – Staff have identified (at least) two issues in the Quarterly Compliance Report approval process: (1) net debtor IOU transactions with non-investment grade counterparties and collateral requirements; and (2) refinements to Independent Evaluator (IE) guidelines (e.g., restrictions on IEs engaging in other business with the utility while being an IE). Parties should be prepared to discuss other potential rule changes at the Prehearing Conference (PHC).

Some of these policies and rules relate specifically to Track II, and should be resolved prior to the filing of the IOUs' bundled procurement plans. We invite parties to comment on which issues must be resolved prior to the initiation of Track II, and which issues should be addressed later in the proceeding.

Under no circumstances will commencement of Track II be delayed such that there is insufficient time to meet the anticipated issuance date for a decision by December 2011. The IOUs' ability to cost effectively procure may become constrained if a decision is delayed beyond this date.

5.4. Issues Not Within the Scope of this Proceeding

We recognize the potential that the LTPP proceeding, as the umbrella proceeding, may attract "forum-shopping" proposals from parties that have had their ideas rejected, or have yet to be considered, in other proceedings. As in the predecessor proceeding, the Commission finds it necessary to adopt a scoping

³⁰ The Commission may also authorize in Track III interim IOU authority to procure a limited amount of these products, since the adoption of final Air Resources Board Cap and Trade Program regulations is anticipated in advance of the Track II decision in which bundled procurement authority will be addressed.

standard for this proceeding, in order to highlight what constitutes an issue that is legitimately in scope in this proceeding.

LTPP Scoping Standard. The LTPP scoping standard is defined as follows:

- Any procurement-related issue(s) not already considered in other procurement-related dockets in Table 1 below may be considered, subject to the following conditions. The issue(s) must:
 - (1) Materially impact procurement policies, practices and/or procedures;
 - (2) Be narrowly defined; and
 - (3) Demonstrate consistency with one or more of the LTPP proceeding goals set forth in R.08-02-007.

Therefore, issues that do not meet this standard *are not* in the scope of this proceeding.

Table 1 - Procurement-Related Dockets

Docket	Proceeding Number(s)
1. Climate Change/Emissions Performance Standard	R.06-04-009
2. Energy Efficiency	A. 08-07-021 et al., R.06-04-010, R.09-11-014, R.09-01-019 and successors
3. Demand Response and Advanced Metering	A.05-06-006 et al., A.08-06-001 et al., R.07-01-041 and successors
4. Dynamic Pricing	A.09-02-022, A.09-12-024, A.08-11-014 and successors
5. Renewable Portfolio Standard	R.06-02-012, R.08-08-009 and successors
6. Avoided Cost and Qualifying Facility Pricing	R.04-04-025
7. Distributed Generation	R.08-08-009 and successor

Docket	Proceeding Number(s)
8. Transmission and Renewable Energy Transmission	R.08-03-008 / I.08-03-010 and successor
9. Confidentiality	R.05-06-040
10. Direct Access	R.07-05-025 and successor
11. Community Choice Aggregation	R.03-10-003 and successor
12. Resource Adequacy Requirements	R.05-12-013, R.09-10-032 and successors
13. Planning Reserve Margin	R.08-04-012
14. Liquefied Natural Gas	R.07-11-001
15. Smart Grid	R.08-12-009
16. Electric Vehicles	R.09-08-009
17. Other procurement-related rulemakings not yet issued	

6. Invitation to Comment on Preliminary Scoping Memo and Schedule

This Order Instituting Rulemaking (OIR) serves as a solicitation for parties to comment on the Preliminary Scoping Memo. Comments are due thirty days after the issuance of this OIR. The Commission will utilize parties' comments and the PHC as a basis to identify areas that need clarification, and may consider the addition of specific issues or questions related to the items described in Section 5 to the scope of this proceeding, pursuant to the guidance set forth herein. We direct parties to limit their comments to the specific issues and questions set forth in this OIR, as well as to objections to the preliminary determinations made in Section 7 below.

7. Category of Proceeding and 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.³¹ As a preliminary matter, we determine that this proceeding is ratesetting as defined in Rule 1.3(e), and that because significant factual issues may be raised regarding the IOUs' bundled procurement plans, that evidentiary hearings will be necessary during at least Track II of the proceeding. However, as with earlier procurement proceedings, many issues may lend themselves to resolution through a combination of workshops and formal comments without hearing.

Any person who objects to the preliminary categorization of this rulemaking as "ratesetting" or to the preliminary hearing determination shall state their objections in the comments on the Preliminary Scoping Memo. After considering the comments, the assigned Commissioner will issue a scoping ruling making a final category determination; this final category determination is subject to appeal as specified in Rule 7.6

8. Schedule

A PHC is set for June 14, 2010 at 10:00 a.m. in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. At the PHC, the parties should be prepared to discuss the issues addressed in this order, as well as any procurement-related policy proposals not ruled out of scope in this OIR. In lieu of PHC statements, we request that parties file comments on the Preliminary Scoping Memo contained herein.

³¹ Rule 7.1(a).

Track I - Preliminary Schedule

Proceeding Milestone	Date
Ruling on Preliminary Planning Standards	May 2010
Ruling on Energy Efficiency Assumptions	May 2010
Comments due on Preliminary Scoping Memo	June 4, 2010
Prehearing Conference	June 14, 2010
Draft ED Staff Report on renewables assumptions	June 2010
Comments / Reply and Party Alternative Proposals on DR, renewables, and other non-renewables assumptions	June 2010
Scoping Memo for Track I	July 2010
Deadline for inputs to Track II	November 2010
IOUs file system resource plans	Q1 2011
Testimony, Briefs, and Hearings (If Necessary)	Q2 2011
Proposed Decision	Q3 2011
Decision	Q4 2011

Track II - Preliminary Schedule

Proceeding Milestone	Date
Ruling on Preliminary Planning Standards	May 2010
Comments due on Preliminary Scoping Memo	June 4, 2010
Prehearing Conference	June 14, 2010
Scoping Memo for Track II	To Be Determined

Proceeding Milestone	Date
Process: <ul style="list-style-type: none"> • Input Received from Tracks I and III • IOU Bundled Plans and Testimony • Intervenor Testimony • Evidentiary Hearings • Post-hearing Briefs • Post-hearing Reply Briefs • Preparation of the decision on IOU bundled procurement plans. 	December 2010 through October 2011
Proposed Decision(s) on IOU-specific Bundled Procurement Plans	November 2011

Track III - Preliminary Schedule

Proceeding Milestone	Date
Comments due on Preliminary Scoping Memo	June 4, 2010
Prehearing Conference	June 14, 2010
Scoping Memo for Track III	To Be Determined
Proposals, Comments, and/or Workshops	June 2010 to October 2011
Deadline for inputs to Track II	November 2010
Assigned Commissioner Rulings or Decisions on Track III Issues and Assumptions	As Appropriate

Each of the issue areas outlined in the Preliminary Scoping Memo will likely require different types and degrees of public participation. Therefore, we delegate further definition of procedure and schedule for each issue area to the assigned Commissioner and ALJ as determined in the Scoping Memo or later ruling. We leave open the possibility that issue areas may be decided upon

individually in interim decisions, if necessary. In addition, we authorize the assigned Commissioner and ALJ to organize issues within the proceeding, including moving issues between tracks.

This proceeding will conform to the statutory case management deadline for ratesetting matters set forth in § 1701.5. In particular, it is our intention to resolve all relevant issues within 24 months of the date of the assigned Commissioner's Scoping Memo for each track. In using the authority granted in § 1701.5(b) to set a time longer than 18 months, we consider the number and complexity of the tasks and the need to coordinate with other proceedings.

9. Becoming a Party: Joining and Using the Service List

PG&E, SDG&E and SCE and all CPUC-jurisdictional entities as defined under Section 380 (j) shall be respondents to this proceeding and shall therefore be parties. These entities are listed in Appendix A. Within fifteen days of mailing of this rulemaking, each respondent shall inform the Commission's Process Office of the contact information for a single representative, although other representatives and persons affiliated with the respondents may be placed on the Information Only service list.

We will provide for service of this order on the service list for R.08-02-007, the predecessor LTPP proceeding, as well as R.08-08-009 (RPS), R.05-12-013 and R.09-10-032 (RA), R.08-07-011 (Energy Efficiency), R.07-01-041 (Demand Response), R.08-03-008 (California Solar Initiative) and R.08-03-009/ Investigation 08-03-010 (Renewable Transmission). Such service does not confer party status in this proceeding upon any person or entity, and does not result in that person or entity being placed on the service list for this proceeding. If you want to participate in the rulemaking or simply to monitor it, follow the procedures set forth below. To ensure you receive all documents, send your

request within 30 days after the OIR is published. The Commission's Process Office will publish the official service list at the Commission's website (www.cpuc.ca.gov), and will update the list as necessary.

9.1. During the First 30 Days

Within 30 days of the service of this OIR, any person may ask to be added to the official service list. Send your request to the Process Office. You may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102). Include the following information:

- Docket Number of this Rulemaking;
- Name (and party represented, if applicable);
- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).³²

If the OIR names you as respondent, you are already a party, but you or your representative must still ask to be added to the official service list.

Party status will be granted to any party to R.08-02-007 upon receipt of the above information.

9.2. After the First 30 Days

If you want to become a party after the first 30 days, you may do so by filing and serving timely comments in the rulemaking (Rule 1.4(a)(2)), or by

³² If you want to file comments or otherwise actively participate, choose "Party" status. If you do not want to actively participate but want to follow events and filings as they occur, choose "State Service" status if you are an employee of the State of California; otherwise, choose "Information Only" status.

making an oral motion at the PHC (Rule 1.4(a)(3)), or by filing a motion (Rule 1.4(a)(4)). If you file a motion, you must also comply with Rule 1.4(b). These rules are in the Commission's Rules of Practice and Procedure, which you can read at the Commission's website.

If you want to be added to the official service list as a non-party (that is, as State Service or Information Only), follow the instructions in Section 9.1 above.

9.3. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail, and send a copy to everyone on the official service list.

9.4. Serving and Filing Documents

We anticipate that the Process Office will not publish the official service list before the first filing deadline in this Rulemaking. Until the official service list is published, the official service list for R.08-02-007 shall be used as the temporary official service list.

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office. If you are a party to this Rulemaking, you must serve by e-mail any person (whether Party, State Service, or Information Only) on the official service list who has provided an e-mail address.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at <http://www.cpuc.ca.gov/PUC/efiling>.

E-mail service is governed by Rule 1.10. The subject line for e-mail communications should include the proceeding number, and where the filing is related to a specific track, the track number for the filing. In addition, the party sending the e-mail should briefly describe the attached communication, for example, *Brief*. If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

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 (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

11. Intervenor Compensation

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 no later than 30 days after the PHC, even if that party had previously sought intervenor compensation status in R.08-02-007. Determinations of eligibility for intervenor compensation rendered in R.08-02-007 shall continue to this proceeding upon request in the NOI.

Contributions made during the pendency of R.08-02-007 to issues within the scope of this proceeding may be considered for compensation in this proceeding.

12. *Ex Parte* Communications

Communications with decisionmakers and advisors in this rulemaking are subject to the rules on *ex parte* communications set forth in Article 8 of the Rules of Practice and Procedure. (See Rule 8.4(b), Rule 8.2(c), Rule 8.3 and 8.5.)

Therefore, **IT IS ORDERED** that:

1. The Commission institutes this rulemaking on its own motion to continue its efforts to ensure reliable and cost-effective electricity supply in California through integration and refinement of a comprehensive set of procurement policies and review of long-term procurement plans.

2. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison, and all other load serving entities as defined in Public Utilities Code Section 380(j) are respondents to this proceeding. Appendix A lists such entities as reflected in the Commission's records. Any error or omission in Appendix A shall not excuse any load-serving entity from respondent status.

3. This is a successor proceeding to the Commission's procurement rulemaking, Rulemaking (R.) 08-02-007, with respect to long-term procurement plans and the record developed in that proceeding is fully available for consideration in this proceeding.

4. The Executive Director shall cause this Order Instituting Rulemaking to be served on the respondents listed in Paragraph 2 above, and on the service lists for Rulemaking (R.) 08-02-007, R.08-08-009 (Renewables Portfolio Standards), R.05-12-013 and R.09-10-032 (Resource Adequacy), R.08-07-011 (Energy

Efficiency), R.07-01-041 (Demand Response), R.08-03-008 (California Solar Initiative), and R.08-03-009/Investigation 08-03-010 (Renewable Transmission).

5. A prehearing conference is scheduled for June 14, 2010 at 10:00 a.m. in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. A service list will be established at that time.

6. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison shall, and other parties may, file comments on the Preliminary Scoping Memo and Schedule by June 4, 2010. Pursuant to Rule 6.2 of the Commission's Rules of Practice and Procedure, parties shall include in their comments any objections regarding the category, need for hearing, issues to be considered, or schedule.

7. Any person or representative of an entity interested in participating in or monitoring this proceeding that does not make an appearance at the prehearing conference shall follow the process for doing so set forth herein.

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

9. Evidentiary hearings are anticipated.

10. 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 no later than 30 days after the prehearing conference, even if that party had previously sought intervenor compensation status in Rulemaking (R.) 08-02-007. Determinations of eligibility for intervenor compensation rendered in R.08-02-007 shall continue to this proceeding upon request in the NOI. Contributions made during the pendency of R.08-02-007 to

issues within the scope of this proceeding may be considered for compensation in this proceeding.

11. 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, including reorganization of issues between the separate tracks of the proceeding.

12. Rulemaking 08-02-007 is closed.

13. This order is effective today.

Dated May 6, 2010, at San Francisco, California

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

I reserve the right to file a concurrence.

/s/ TIMOTHY ALAN SIMON
Commissioner

APPENDIX A

Load-Serving Entities as Defined in Section 380(j)

Electrical Corporations

Gloria Britton (909)
Regulatory Affairs Manager
Anza Electric Co-Operative, Inc.
58470 Highway 371
Anza, CA 92539-1909
Gloriab@Anzaelectric.org

John Dutcher, Vice President (906)
Mountain Utilities
P. O. Box 205
Kirkwood, CA 95646
Rslf1241A@cs.com

Brian Cherry (39)
Director, Regulatory Relations
Pacific Gas and Electric Company
P. O. Box 770000, B10C
San Francisco, CA 94177
bkc7@pge.com

Mark Tucker (901)
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232
CALIFORNIADOCKET@PACIFICORP.COM

Robert Marshall, General Manager (908)
Plumas Sierra Rural Electric Coop.
73233 State Route 70
Portola, CA 96122-7069
bmarshall@psrec.coop

Steve Rahon (902)
Director, Tariff & Regulatory Accounts
San Diego Gas & Electric Company
8330 Century Park Court, CP32C
San Diego, CA 92123-1548
srahon@semprautilities.com

Andy Brown (903)
NV Energy/
Sierra Pacific Power Company
Ellison, Schneider & Harris, LLP
2600 Capital Avenue, Suite 400
Sacramento, CA 95816-5931
abb@eslawfirm.com

Akbar Jazayeri (338)
Director of Revenue & Tariffs
Southern California Edison Company
P. O. Box 800
2241 Walnut Grove Avenue
Rosemead, CA 91770
akbar.jazayeri@sce.com

Ronald Moore (133)
Golden State Water Company/Bear Valley Electric
630 East Foothill Blvd.
San Dimas, CA 91773
rkmoore@scwater.com

Daniel Silveria (926)
General Manager
Surprise Valley Electric Corporation
P.O. Box 691
Alturas, CA 96101
DANSVEC@HDO.NET

Brian Fickett (928)
Valley Electric Association
800 E. Hwy 372
Pahrump, NV 89048
BRIANF@VEA.COOP

Electric Service Providers

Inger Goodman
Commerce Energy, Inc. (1092)
600 Anton Blvd. Ste. 2000
Costa Mesa, CA 92626
igoodman@commerceenergy.com

The Corporation Trust Company
Commerce Energy, Inc. (1092)
818 West 7th Street, 2nd floor
Los Angeles, CA 90017

Andrea Morrison
Direct Energy Services, LLC (1341)
415 Dixon Street
Arroyo Grande, CA 93420
andrea.morrison@directenergy.com

CT Corporation System
Direct Energy Services, LLC (1341)
818 West Seventh Street, 2nd Floor
Los Angeles, CA 90017

Kerry Hughes (1351)
Direct Energy Business, LLC
Liberty Center
1001 Liberty Avenue
Pittsburgh, PA 15222
kerry.hughes@directenergy.com

CT Corporation Services (1351)
Direct Energy Business, LLC
818 West 7th Street, 2nd Floor
Los Angeles, CA 90017

Andrew Brown
Constellation NewEnergy, Inc. (1359)
Ellison, Schneider & Harris, L.L.P.
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
abb@eslawfirm.com

Jason Armeta
Calpine PowerAmerica-CA, LLC (1362)
717 Texas Avenue, Ste. 100
Houston, TX 77002
jarmeta@calpine.com

CSC Lawyers Incorporating Service
Calpine PowerAmerica-CA, LLC (1362)
2730 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Drake Welch
Sempra Energy Solutions (1364)
401 West A Street, Suite 500
San Diego, CA 92101-3017
dwelch@semprasolutions.com

Thomas Darton
Pilot Power Group, Inc. (1365)
8910 University Center Lane, Suite 520
San Diego, CA 92122
tdarton@pilotpowergroup.com

Rick C. Noger
Praxair Plainfield, Inc. (1370)
2711 Centerville Road, Suite 400
Wilmington, DE 19808
rick_noger@praxair.com

Andrea Santiago
Liberty Power Holdings LLC (1371)
1901 W. Cypress Creek Road, Suite 600
Fort Lauderdale, FL 33309
asantiago@libertypowercorp.com

Andrea Santiago
Liberty Power Delaware LLC (1372)
1901 W. Cypress Creek Road, Suite 600
Fort Lauderdale, FL 33309
asantiago@libertypowercorp.com

Corporate Creations Network, Inc
Liberty Power Delaware LLC (1372)
131 - A Stony Circle #500
Santa Rosa, CA 95401

Michael Mazur
3 Phases Electrical Consulting (1373)
2100 Sepulveda Blvd., Suite 37
Manhattan Beach, CA 90266
info@3phasesrenewables.com

Marcie Milner, Vice President
Shell Energy (1374)
4445 Eastgate Mall, Suite 100
San Diego, CA 92121
marcie.milner@shell.com

Drake Welch
The Royal Bank of Scotland (1375)
36 St. Andrew Square
Edinburg – Scotland, UK EH2-2YB
dwelch@semprasolutions.com

Lori Nalley, CEO
Tiger Natural Gas, Inc. (1376)
1422 E. 71st, Suite J
Tulsa, OK 74136
Lnalley@Tigernaturalgas.com

Tiger Natural Gas, Inc. (1376)
CT Corporation System
915 L Street, Suite 1440
Sacramento, CA 95814

Jessica Evans, Director Customer Care
Glacial Energy of California, Inc. (1377)
24 Route 6A
Sandwich, MA 02563
jessica.evans@glacialenergy.com

Glacial Energy of California, Inc. (1377)
XL Corporate Services, Inc.
Attn: Beth Toro
720 14th Street
Sacramento, CA 95814
Blumberg@texas.net

Any electric service provider that, subsequent to the date of the order instituting this rulemaking, becomes registered to provide services within the service territory of one or more of the respondent electrical corporations through direct access transactions shall, upon such registration, become a respondent to this proceeding. Any electric service provider respondent whose registration is cancelled during the course of this proceeding shall, upon confirmation of such cancellation by the Energy Division, cease to be a respondent to this proceeding.

Community Choice Aggregators with approved implementation plans

John Dalessi
Director, Marin Energy Authority
3100 Zinfandel Drive, Suite 600
Rancho Cordova, CA 95670
jdalessi@navigantconsulting.com

David Orth
San Joaquin Valley Power Authority
Administrative Offices at Kings River Conservation District
4886 East Jensen Avenue
Fresno, CA 93725
dorth@krcd.org

Mike Campbell
City and County of San Francisco
SF Public Utilities Commission
1155 Market St., 11th floor
San Francisco CA, 94103
mcampbell@sfwater.org

Any community choice aggregator that, subsequent to the date of the order instituting this rulemaking, files an implementation plan or becomes registered to provide services within the service territory of one or more of the respondent electrical corporations through community choice aggregation transactions shall, upon such filing or registration, become a respondent to this proceeding. Any community choice aggregator respondent that withdraws its implementation plan or whose registration is cancelled during the course of this proceeding shall, upon confirmation of such withdrawal or cancellation by the Energy Division, cease to be a respondent to this proceeding.

(END OF APPENDIX A)