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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Further Develop a Risk-Based Decision-Making Framework for Electric and Gas Utilities.

Rulemaking 20-07-013

ASSIGNED COMMISSIONER’S PHASE 4 SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the Commission’s Rules of Practice and Procedure (Rules).

1. Procedural Background

The Commission opened Rulemaking (R.) 20-07-013 on July 16, 2020, to consider ways to strengthen the risk-based decision-making framework used by the regulated energy utilities to assess, manage, mitigate and minimize safety risks. The rulemaking builds on requirements for a utility risk framework adopted in the Safety Model Assessment Proceeding, Application (A.) 15-05-002 et al., and R.13-11-006, which was opened to address the requirements of Pub. Util. Code Sections 963(b)(3) and 750. The purpose of this instant rulemaking is to further the prioritization of safety by gas and electric utilities in alignment with the requirements of Pub. Util. Code Section 451 of just and reasonable rates.

The Commission adopted two decisions in Phase 1 of this proceeding, Decision (D.) 21-11-009, Decision Addressing Phase 1, Track 1 and 2 Issues, and D.22-10-002, Decision Addressing Phase 1, Tracks 3 and 4 Issues. In Phase 2 of

this proceeding, the Commission adopted D.22-12-027, Phase 2 Decision Adopting Modifications to the Risk-Based Decision-Making Framework Adopted in Decision 18-12-014 and Directing Environmental and Social Justice Pilots.

On March 13, 2023, the assigned Commissioner and assigned Administrative Law Judges issued Ruling Issuing Phase 3 Roadmap for Comment and Scheduling Prehearing Conference, with a Phase 3 Roadmap proposed by Staff attached. Parties filed comments on the Phase 3 Roadmap on March 30, 2023.

A prehearing conference (PHC) was held on April 11, 2023, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the outstanding issues in this proceeding, and address other matters as necessary. Parties filed reply comments on the Phase 3 Roadmap and Post-PHC Statements on April 21, 2023. The Assigned Commissioner issued their Phase 3 Scoping Memo and Ruling Extending Statutory Deadline on May 31, 2023, outlining the issues to be addressed in Phase 3 and Phase 4 of the present proceeding. The Commission adopted D.24-05-064, addressing Phase 3 issues. Issues related to Risk Assessment and Mitigation Phase (RAMP) data reporting templates were deferred to Phase 4 of this proceeding.

2. Phase 4 Priorities

Phase 4 priorities comprise of unaddressed issues from previous phases of this proceeding and definitional clarifications and corrections. It is the expectation that the second Phase 4 decision will close this proceeding and new successor OIR may be opened afterwards, which may address other issues including but not limited to whether RAMP applications should include information about how utilities have prioritized risk-related investments along

with other priorities, like reliability, affordability, energizing new customers, or other important needs.

2.1. Risk Tolerance Standard and Methodology

The instant Order Instituting Rulemaking for the Risk-Based Decision-Making Framework (RDF) Proceeding (the OIR) initially asked if the Commission should adopt a risk tolerance standard or an ‘As Low As Reasonably Practicable’ (ALARP) framework.¹ The ALARP Framework was first discussed in a Staff White Paper in Phase 1 of A.15-05-002. D.16-08-018 noted that the Commission first needed to establish a comparable quantitative and probabilistic risk framework for use across all utilities before an ALARP or risk tolerance approach could be established.² The RDF provides the framework through which the Commission can now consider the need for risk tolerance and ALARP frameworks. Within the RDF, risk tolerance is currently defined as:

“Maximum amount of Residual Risk that an entity or its stakeholders are willing to accept after application of risk Control or Mitigation. Risk Tolerance can be influenced by legal or regulatory requirements.”³

In more practical terms, risk tolerance is the residual amount of overall risk that is deemed acceptable to remain in a system managed by the utilities (e.g., the electric grid, natural gas pipeline infrastructure, etc.) after incrementally reducing risk (i.e. implementing Controls and Mitigations) weighed against the costs needed for that incremental risk reduction. By overall residual risk, we are referring to the total risk managed by the utility and not just the residual risk that is presented in a single RAMP or General Rate Case (GRC) filing. A standard

¹ R.20-07-013, at 23.

² D.16-08-018 at CoL 14.

³ D.24-05-064, Appendix A, at A-5.

method is needed to integrate risk tolerance into the RDF and inform future RAMP and GRC filings.

Methods for risk tolerance thresholds can be established by regulators and these methods can include placing spending caps on risk Mitigations.⁴ Without such regulations, utilities implicitly set their own risk tolerance standards. We are concerned that a risk tolerance goal that is too high or too low will yield suboptimal outcomes for ratepayer safety or ratepayer costs, respectively. In response to both the Phase 2 Staff Proposal and Proposed Decision, many Parties expressed a desire to establish risk tolerance thresholds in subsequent phases of this proceeding, with guidance from the Commission. In the Phase 3 Scoping Memo, the Commission noted Safety Policy Division's retention of a technical consultant to assist with the topic of risk tolerance and deferred consideration of the topic until Phase 4 of this proceeding.⁵

2.2. Addressing Overall Residual Risk

As part of their RAMP filing, the utilities are required to provide graphics of historical progress on risk reduction over the last two RAMP cycles for each enterprise risk addressed in a RAMP or GRC filing.⁶ In order for the Commission to evaluate a utility's progress towards a risk tolerance standard, the utilities must present their respective overall residual risk for each enterprise risk and include the historical progress of risk reduction for every RAMP cycle to date.

⁴ Considerations of a spending cap on mitigations would need to focus on uncertainty associated with the data used within risk models, which could be addressed through sensitivity analysis. See also the discussion of simple optimization and the concept of "as low as reasonably practicable" (ALARP), as discussed in the Order Instituting Rulemaking (OIR) for 20-07-013 at 21-11 and 29-33.

⁵ Phase 3 Scoping Memo at 3.

⁶ D.22-10-002, Appendix A, Requirement #20 at A3.

Within RAMP and GRC filings, the utilities develop mitigation programs based on the estimated GRC Test Year Baseline Risk. The amount of risk remaining after implementing the mitigation programs authorized by a GRC decision that reduces the GRC Test Year Baseline Risk would be the residual risk only within the scope of that GRC application. Currently, the RDF does not require the utilities to report on the overall residual risk associated with each enterprise risk submitted in a RAMP or GRC filing. The Commission should consider requiring the utilities to explicitly submit data on its overall residual risk that includes the historical progress of risk reduction for every RAMP cycle. This information could help the Commission determine within the context of a given RAMP or GRC filing whether the utility has properly designed its mitigation programs to address overall residual risk to a level Californians can tolerate and at a speed that recognizes the need for prioritizing safety while appropriately accounting for costs.

2.3. Mitigation Selection Optimization

The OIR also included discussion about whether the Commission should consider simple optimization techniques for a range of mitigation options.⁷ D.16-08-018 noted that the Commission could require the utilities to identify and quantify the key constraints affecting their selection of mitigation options for implementation.⁸ The RDF currently requires utilities to identify and rank risks and produce cost-benefit ratios (CBRs) for each Mitigation and Control at the Program and Tranche scale.⁹ Mitigation options must then be ranked based on their CBRs. However, the RDF does not require the utilities to select mitigation

⁷ R.20-07-013 at 21.

⁸ D.16-08-018 at 184.

⁹ D.24-05-064, Appendix A, Row 26, at A-17.

options for implementation based on CBRs alone.¹⁰ Thus, the Commission should explore basic risk mitigation optimization techniques by requiring the utilities to identify and quantify the key constraints affecting their selection of mitigation options for implementation.

In addition to budget limits and operational requirements, these constraints also include risk tolerance, which is why optimization should be discussed in tandem with that topic. Phase 4 will evaluate scenarios reflecting these constraints to develop guidance for a more complex optimization approach that includes a risk tolerance standard. These scenarios should reflect approaches that account for costs in the RAMP, GRC, Wildfire Mitigation Plan (WMP) and other memorandum accounts related to risk mitigation spending.

2.4. Definition of Scoped Work

The Commission has previously explored the topic of scoped work in the context of the Risk Spend Accountability Reports (RSAR) as a way of gaining insight into how the utility plans to reduce risk at a granular level and how that plan is then implemented.¹¹ At present, the RDF does not have a specific definition of scoped work, sometimes known as a project.¹² The RDF requires utilities to report data at the program level, which is defined as a Commission-jurisdictional effort within Electric Operations or Gas Operations consisting of projects, activities, and/or functions with a defined scope that is intended to

¹⁰ *Ibid.*

¹¹ D.19-04-020 at 34.

¹² In some contexts scoped work is also called a project. However, the term “project” can have a specific legal meaning which may or may not be appropriate in this context.

meet a specific objective.¹³ Additionally, the utilities must breakdown program level information across risk tranches, which was clearly defined in Phase 3.¹⁴

In the context of the Risk Spend Accountability Report (RSAR), the Commission has previously decided to focus on program level reporting in lieu of project level information.¹⁵ Since utility risk assessments have progressed significantly in the past five years, the Commission should now review the concept and definition of scoped work. In tandem with its Phase 3 proposal for data templates, Cal Advocates provided a definition of a project as a set of tasks with a defined timeline, for which there are a specific set of goals, and which include scoping, estimating, planning, scheduling, tracking, unit cost, budget, and assessment. During Phase 3, there was contention among parties regarding the need to define project in the context of the RDF. The Commission ruled that robust discussion during a workshop would be needed to develop a definition of project that addresses the concerns of Staff, intervenors, and the utilities.¹⁶

2.5. Risk Mitigation Accountability- Improving the Risk Mitigation Accountability Report (RMAR)

The Commission has identified challenges in developing the Risk Mitigation Accountability Report (RMAR), as directed in D.14-12-025,¹⁷ modified in D.19-04-020,¹⁸ and discussed in the OIR.¹⁹ The purpose of the RMAR is to compare a utility's projections of the benefits and costs of the risk mitigation

¹³ D.22-12-027, Appendix A, at A-17-A-19, Row 28. See also D.19-04-020 at 35.

¹⁴ D.24-05-064 at 26-27 and 119.

¹⁵ D.19-04-020 at 34.

¹⁶ D.24-05-064 at 110.

¹⁷ D.14-12-025 at 44.

¹⁸ D.19-04-020 at 29.

¹⁹ OIR 20-07-013 at 14.

programs adopted in the GRC to the actual benefits and costs after implementation. The RMAR is an important tool for addressing accountability and transparency regarding the risk reduction achieved from investments in mitigation projects, which is still missing from the RDF. Ensuring accuracy within an RMAR also requires clarity on granular levels of reporting units, thus the discussion of scoped work (see above) is important to this topic. The Commission should consider integrating a standard RMAR approach into the RDF as well as how to improve its effectiveness as an accountability tool.

Once this Commission considers what improvements to the RMAR should be made, the time will be ripe to next consider potential improvements to the RAMP data templates. In Phase 3, the discussion of RAMP Reporting Templates was postponed until an approach to RMAR could be properly addressed and discussed in the OIR.

2.6. RAMP Data Template

RAMP filings are complex and cover hundreds of program areas and related risk mitigations, risk scores, and other information. In comments on the Phase 3 Roadmap, the Commission's Public Advocates Office (Cal Advocates) emphasized the need for the Commission to consider requiring the IOUs to use templates as part of their RAMP filings to ensure clear utility provision of "granular detail, data and information to support utilities' risk mitigation programs."²⁰ Cal Advocates proposed that the Commission prioritize consideration and adoption of such templates in Phase 3 in order to ensure transparent utility reporting of:

²⁰ Cal Advocates Comments on Phase 3 Roadmap at 2.

- Appropriate units used for a specific mitigation, such as circuit miles, pipeline miles, asset units, staffing levels, inspection levels;
- The cost-effectiveness for the specific levels of risk mitigation programs;
- Past and proposed effectiveness of risk mitigation programs, considering safety performance metrics, safety and operational metrics, or other specific mitigation effectiveness measures; and
- Past, current, and projected progress on all risk mitigation programs.²¹

At the request of the assigned ALJ, Cal Advocates provided two high level RAMP template “straw proposals” for discussion during Phase 3, namely a “Sample Mitigation Program Selection Template,” and a “Sample Mitigation Program Progress Template,”²² (collectively, Risk Mitigation templates).

The Commission determined in D.24-05-064 that “the process, timing, and lexicon for the Risk Mitigation templates”²³ need further development. In that decision, the Commission also authorized continuation of the Technical Working Group (TWG) established in D.21-11-009 to prepare and propose recommendations for refining the Risk Mitigation templates.²⁴

A related topic that requires resolution in Phase 4 is how the concepts of “scoped work” and/or “project” are appropriately defined in the Risk-Based Decision-Making Framework (RDF). Accountability reporting is currently done

²¹ *Id.* at 3.

²² Cal Advocates Reply and Phase Prehearing Conference Comments at Attachments A and B.

²³ D.24-05-064 at 110.

²⁴ *Id.*

at the program-level, but the Commission acknowledged the benefit of receiving information at a more granular level in D.24-05-064.²⁵

3. Issues

Phase 4 of this proceeding will consider the following remaining issues, split into two tracks:

Track 1

1. How should the utilities be required to report on their progress in reducing the overall residual risk remaining after their respective mitigations have been implemented?
2. How should “scoped work” and “project” be appropriately defined for the purposes of the Risk-Based Decision-Making Framework (RDF)?
3. What approach or procedure for determining an acceptable amount of overall residual risk that remains on the system after incrementally reducing risk, weighed against the cost of incremental risk reduction, should be adopted for use by the utilities, if any? How should this approach be integrated into the RDF?
4. Given the key constraints affecting the selection of mitigations or the portfolio of mitigations adopted by the utilities, how should the utilities optimize the reduction of risk through their prioritization of mitigations?
5. What reporting procedure, if any, should be adopted for use by the utilities that can compare a utility’s projections of the benefits and costs of the risk mitigation programs adopted in the GRC to the actual benefits and costs after implementation of those mitigation programs? How can such a reporting procedure be integrated into the RDF?
6. Should minor clarifications and corrections be considered for certain key terms (for example: renaming Cost Benefit Ratio to Benefit Cost Ratio, clarifications to the definition of

²⁵ *Id.*

risk, clarifications to the GRC Forecast Cost Thresholds for Supplemental Analysis to account for 4 year rate cases)?

Track 2

7. Should the Commission adopt required templates for data presentation for use in the RAMPs as proposed by CalAdvocates? If so, what should be the information requirements and format of the templates?
8. What structured method, if any, for collecting and consolidating the more granular project-level data necessary to support the utilities’ proposed risk mitigation projects and show how the utilities determine specific targets and forecasts be integrated into the RDF should be adopted for use by the utilities?

4. Need for Evidentiary Hearing

There are no issues of material disputed fact. Accordingly, no evidentiary hearing is needed.

5. Schedule

The following schedule is adopted here and may be modified by the assigned Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the rulemaking:

Phase 4 Issue	Planning Questions Circulate	Notification and Proposals	Workshop Date	Deadline for Parties to File Proposal	Opening Comments	Reply Comments
Definition of Scoped Work	Wednesday, October 9, 2024	Wednesday, October 16, 2024	Wednesday, October 30, 2024	Tuesday, November 5, 2024	Monday, November 25, 2024	Monday, December 2, 2024
Overall Residual Risk/ Risk Tolerance/Risk Optimization	Wednesday, October 30, 2024	Wednesday, November 6, 2024	Wednesday & Thursday, November 20 & 21, 2024 (TBD Friday November 22, 2024)	Wednesday, November 27, 2024	Tuesday, December 17, 2024	Tuesday, December 24, 2024
RMAR	Wednesday, November 27, 2024	Wednesday, December 4, 2024	Wednesday, December 18, 2024	Monday, December 30, 2024	Monday, January 20, 2025	Monday, January 27, 2025
RAMP Data Templates TWGs	N/A	Friday, January 10, 2025	Friday, January 24, 2025	N/A	N/A	N/A

Phase 4 Proposed Decisions	Target Proposed Decision Dates
Track 1 Proposed Decision	March 2024
Track 2 Proposed Decision	April 2024

The proceeding will stand submitted upon the filing of reply comments on the last topic in the schedule unless the ALJ requires further evidence or argument, unless the ALJ requires further evidence or argument. To provide sufficient time to resolve the issues included in Phase 4 of this proceeding, the statutory deadline for this proceeding is extended from June 30, 2025, to December 31, 2025, as provided for in Pub. Util. Code Section 1701.5.

6. Alternative Dispute Resolution (ADR) Program and Settlements

The Commission’s Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties’ request, the assigned ALJ can refer this proceeding to the Commission’s ADR Coordinator. Additional ADR information is available on the Commission’s website.²⁶

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the

²⁶ <https://www.cpuc.ca.gov/PUC/adr/>

burden of proof as to whether the settlement should be adopted by the Commission.

7. Category of Proceeding and Ex Parte Restrictions

This ruling confirms the determination in the previous Scoping Memos that this is a quasi-legislative proceeding. Accordingly, ex parte communications are allowed without restriction pursuant to Article 8 of the Rules.

8. Public Outreach

Pursuant to Public Utilities Code Section 1711(a), where feasible and appropriate, before determining the scope of the proceeding, the Commission sought the participation of those likely to be affected, including those likely to derive benefit from, and those potentially subject to, a decision in this proceeding. This matter was noticed on the Commission's daily calendar. Where feasible and appropriate, this matter was incorporated into engagements conducted by the Commission's External Affairs Division with local governments and other interested parties.

In addition, the Commission served the Order Instituting Rulemaking/Investigation on the following Service Lists: Application (A.) 15-05-002 et al, R.18-12-005, R.18-10-007, R.18-04-019, R.18-03-011, R.15-01-008, Investigation (I.) 19-11-010/I.19-11-001, I.18-11-006, I.17-11-003, A.19-08-015, A.19-08-013, A.19-06-001, A.18-12-001, A.18-04-002 et al, A.17-10-008, A.17-10-007/A.17-10008, A.17-05-004, I.1909-016, I.18-12-007, and I.19-06-015.

9. Intervenor Compensation

Pursuant to Public Utilities Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by May 11, 2023, 30 days after the Phase 3 prehearing conference.

10. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

11. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

12. Filing, Service, and Service List

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.²⁷

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10, with one exception, such that all parties are excused from the Rule 1.10 requirement to serve on the ALJ both an electronic and a paper copy of filed or serviced documents. Therefore, when serving documents on Commissioners,

²⁷ The form to request additions and changes to the Service list may be found at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>

their personal advisors, and the ALJ, whether they are on the official service list or not, parties must only provide electronic service, unless otherwise instructed by the ALJ. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

13. Receiving Electronic Service from the Commission

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your email safe sender list and update your email screening practices, settings and filters to ensure receipt of emails from the Commission.

14. Assignment of Proceeding

Commissioner John Reynolds is the assigned Commissioner and Jonathan Lakey is the assigned ALJ for the proceeding.

IT IS RULED that:

1. The scope of Phase 4 of this proceeding is described above and is adopted.
2. The schedule for Phase 4 of this proceeding is set forth above and is adopted.
3. Evidentiary hearing is not needed for Phase 4 of this proceeding.
4. The category of the proceeding, including Phase 4, is quasi-legislative.

Dated September 13, 2024, at Sacramento, California.

/s/ JOHN REYNOLDS

John Reynolds
Assigned Commissioner