

REGULATORY UPDATE FOR JUNE 29 (COVERING WEEK OF JUNE 22)**California Public Utilities Commission****New Proposed Decisions and Draft Resolutions¹:**

San Diego Gas and Electric Company Advice 3524-E. Proposed Resolution E-5083. SDG&E's 2014 Conformed Bundled Procurement Plan enables SDG&E to procure various products for terms of up to five years without the California Public Utilities Commission's preapproval, as long as no term extends beyond December 31, 2024. This resolution would approve, without modification, SDG&E's request to extend its five-year procurement authority on a rolling basis until the Commission revises or replaces the investor owned utilities' 2014 Bundled Procurement Plans.

Other Filings:

R.19-11-009 (Resource adequacy rulemaking). June 23, 2020 ALJ email ruling suspending track 3 schedule. The issues within the scope of Track 3, as set forth in the January 22, 2020 Assigned Commissioner Scoping Memo and Ruling were: 1. Examination of the broader RA capacity structure to address energy attributes and hourly capacity requirements, given the increasing penetration of use-limited resources, greater reliance on preferred resources, rolling off of a significant amount of long-term tolling contracts held by utilities, and material increases in energy and capacity prices experienced in California over the past years. 2. Other significant structural changes to the RA program identified during Track 1 or Track 2 that will require more process and time to develop and implement. The email ruling suspended the track 3 schedule set forth in the Scoping Memo for Track 3, stating that an amended Scoping Memo will be issued by the Assigned Commissioner that modifies the Track 3 schedule and extends the deadline for Track 3 proposals.

R.18-07-003 (RPS rulemaking). June 24, 2020 email ruling denied a Joint Motion filed by Apple Valley Choice Energy, City of Lancaster, City of Pico Rivera, City of San Jacinto, City of Rancho Mirage, City of Baldwin Park, City of Commerce, City of Pomona, and City of Santa Barbara, Clean Power Alliance, CleanPowerSF, East Bay Community Energy, Marin Clean Energy, Monterey Bay Community Power Authority, Peninsula Clean Energy Authority, Pioneer Community Energy, Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority, Sonoma Clean Power Authority, San Jose Clean Energy, Valley Clean Energy Alliance, EDF Industrial Power Services (CA), LLC, Shell Energy North America (US), LP, and the Regents of the University of California (Joint Parties), on June 5, 2020, to Partially Modify the Schedule of Review for 2020 Renewable Portfolio Standard Procurement Plans (RPS Plans) Issued in the Assigned Commissioner and Administrative Law Judge Ruling (ACR) on May 6, 2020, and

¹ Per Commission Rules of Practice and Procedure, Rule 14.3, Comments on proposed decisions are due 20 days after issuance of the proposed decision, and reply comments are due five days thereafter. Comments on Draft Resolutions are due twenty days after the draft resolution appears in the Commission's daily calendar, per Rule 14.5.

amended on May 13, 2020. Specifically, the email ruling denied an extension to file information required under Section 15: Conformance with the Integrated Resource Planning Proceeding by September 15, 2020, denied the Joint Parties request to modify the ACR to specify that retail sellers are not required to incorporate any future guidance or orders from R.17-06-026 on Portfolio Optimization in their draft RPS Plans, clarified the use of Conforming Portfolios terminology in the 2020 RPS Plans by revising Table 4 of the ACR, and modified the 2020 RPS Plans Review Schedule to accommodate revisions made to Table 4.

Voting Meetings:

The Commission held a voting meeting on June 25. The Commission adopted the following items at the meeting:

Item 11: R.17-09-020/R19-11-009. Decision on rehearing of D.19-10-021, and on track one proposals in R.19-11-009 concerning import resource adequacy requirements. The proposed decision requires non-resource specific import RA to meet the following requirements: (1) The contract is an energy contract with no economic curtailment provisions; (2) The energy must be self-scheduled (or in the alternative, bid in at levels between negative \$150/MWh and \$0/MWh) into the day-ahead and real-time CAISO markets at least during the Availability Assessment Hours throughout the RA compliance month, consistent with the MCC buckets; and (3) The energy must be delivered to the LSE in accordance with the governing contract, consistent with the MCC buckets. A non-resource specific energy contract must also include the following terms: (1) The energy contract must include: (a) the price denominated in \$/MWh or \$/kWh, (b) the quantity delivered per hour (e.g., 100 MW), and (c) the delivery period (e.g., on-peak between hours ending 0700 and 2200, Monday through Saturday, excluding Sundays and holidays); 2. The counterparty of the energy contract must be the LSE and the energy must be delivered and sold to the LSE (i.e. not that the contract shall be for the sale of energy to the CAISO generally); and c. A requirement that the import is not sourced from resources internal to the CAISO Balancing Area. These rules will apply starting with the 2021 RA compliance year.

Item 18. R.19-11-009. Decision adopts local capacity requirements for 2021-2023 and flexible capacity requirements for 2021 applicable to Commission-jurisdictional load serving entities. This Decision also adopts the following refinements to the Resource Adequacy program: (1) a new optional QC counting convention is adopted for dispatchable hydro resources, (2) a new QC counting convention for hybrid and co-located resources (including at least one energy storage device) subject to ITC charging restrictions, (3) new testing requirements for third-party DR resources procured by non-LSEs, (4) revises the maximum cumulative capacity (MCC) buckets, (5) increases a shaped system penalty price that is \$8.88/kW-month in summer months (May to October) and \$4.44/kW-month in non-summer months for system capacity shortfalls, and (6) caps EFC for storage resources at two times the QC.

Commission workshops

June 30, 2020, 9 a.m. to 4 p.m. Public Webinar: 2020 Demand Response Auction Mechanism (DRAM) Refinements Workshop.

California Independent System Operator

Upcoming Meetings and Deadlines:

System Market Power Mitigation, Draft Final Proposal. The California ISO held a public stakeholder web conference on June 24, 2020, to discuss the draft final proposal for the System Market Power Mitigation initiative. Written comments are due July 14.

California Energy Commission

On June 19, 2020, the California Energy Commission (CEC) published a [notice](#) regarding a public workshop related to offshore wind energy off the Central Coast of California. The workshop is part of the Bureau of Ocean Energy Management (BOEM) California Intergovernmental Renewable Energy Task Force (California Task Force) and is a follow-up to the [Outreach on Additional Considerations for Offshore Wind Energy off the Central Coast of California](#) presented to the California Task Force during the [March 9, 2020 California Task Force meeting](#). The purpose of the public workshop is to take public comment on potential additional offshore wind energy locations off the Central Coast of California. The workshop will be held remotely on July 1, 2020 at 10:00 a.m. Written comments are due by 5:00 p.m. on July 31, 2020.

California State Water Resources Control Board

On June 19, 2020, the State Water Resources Control Board (State Water Board) published a [third revised public notice](#) changing the date of the State Water Board meeting wherein the State Water Board will conduct a public hearing and consider adoption of a proposed amendment to the Water Quality Control Policy On the Use of Coastal and Estuarine Waters for Power Plant Cooling (“OTC Policy”). The State Water Board meeting will now be held on September 1, 2020 at 9:30 a.m. According to the notice, no changes were made to the public comment period, which ended on May 18, 2020. For more details about the amendment, please visit the State Water Board [program page](#).

California Air Resources Board

On June 27, 2020, the California Air Resources Board (CARB) adopted the [Advanced Clean Trucks](#) regulation to accelerate sales of zero-emission medium- and heavy-duty trucks in California. Under the regulation, manufacturers of Class 2b-8 trucks are required to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035. By 2035, zero-emission trucks will be 55% of Class 2b-3 truck sales, 75% of Class 4-8 straight truck sales, and 40% of truck tractor sales. The regulation requires reporting by large retailers, manufacturers, and brokers about shipments and shuttle services and about fleet operations by fleet owners with 50 or more trucks.

Minnesota Office of the Attorney General Complaint

On June 24, 2020, the Minnesota Office of the Attorney General (“OAG”) [filed a Complaint](#) against the American Petroleum Institute, Exxon Mobil Corporation, ExxonMobil Oil Corporation, Koch Industries, Inc., Flint Hills Resources LP, and Flint Hills Resources Pine Bend (collectively, the “Defendants”). The Complaint alleges that the Defendants had a significant understanding of the impacts of CO₂ on the environment dating back to the 1960s and 1970s. The Complaint further alleges that, despite this knowledge, the Defendants intentionally misled the public about the impacts of CO₂ and accrued billions of dollars of profit. Filed in Minnesota state court in Ramsey County, the OAG alleges various forms of fraud and consumer protection violations, and the Complaint seeks various civil penalties and fees.

Federal Energy Regulatory Commission

On June 22, 2020, FERC issued a Declaratory Order in [ETC Tiger Pipeline, LLC](#), 171 FERC ¶ 61,248 (2020) involving the anticipated bankruptcy filing of Chesapeake Energy Marketing, LLC (“Chesapeake”) where it held that under sections 4 and 5 of the Natural Gas Act (“NGA”), FERC has concurrent jurisdiction with the bankruptcy court to determine whether to reject or modify a natural gas transportation agreement. This holding is consistent with the Commission’s declaration under the Federal Power Act (“FPA”) in [NextEra](#) and [Exelon](#) involving PG&E’s bankruptcy filing. Recognizing that federal courts have reached varying conclusions regarding the interaction between the Bankruptcy Code and the FPA and the NGA (*Id.* at P 27 & n. 57), the Commission emphasized that contracts regulated under sections 4 and 5 of the NGA are subject to the “filed rate doctrine” under which obligations exist independently of private contractual duties and continue to bind the counterparties, regardless of one party’s breach of contract or even a determination that a contract may not be enforced at all. (*Id.* at P 22.) Accordingly, FERC concluded that in order to give effect to both the NGA and the Bankruptcy Code, Chesapeake may not modify the rates, terms or conditions of its transportation agreements by rejecting those agreements in bankruptcy, but must obtain FERC approval to do so. (*Id.* at P 24).

FERC [announced a technical conference on October 27](#) on offshore wind generation integration in RTOs/ISOs. The conference will address whether existing Commission transmission, interconnection, and merchant transmission facility frameworks in RTOs/ISOs can accommodate anticipated growth in offshore wind generation in an efficient and effective manner that safeguards open access transmission principles and to consider possible changes or improvements to the current framework should they be needed to accommodate such growth. Commissioners may participate in the technical conference. Individuals interested in participating as panelists should submit a self-nomination form by [Friday, August 14, 2020](#).

FERC [announced a technical conference on September 30](#) on carbon pricing in organized wholesale electricity markets. The conference will address state adoption of mechanisms to price carbon dioxide emissions, commonly referred to as carbon pricing, in regions with Commission-jurisdictional organized wholesale electricity markets.

The next Commission meeting is scheduled for [July 16, 2020](#).