

**REGULATORY UPDATE FOR SEPTEMBER 28 (WEEK OF SEPTEMBER 21)****California—Executive Order**

On September 23, Governor Newsom issued Executive Order N-79-20, directing the California Air Resources Board to develop regulations to implement the goal that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035, that 100 percent of medium- and heavy-duty vehicles in the State be zero-emission by 2045, and that the State transition to 100 percent zero-emission off-road vehicles and equipment by 2035. State agencies were also directed to use existing authorities to accelerate deployment of affordable fueling and charging options for zero-emission vehicles.

**California Public Utilities Commission**New Proposed Decisions and Draft Resolutions<sup>1</sup>:

None.

Voting Meetings:

The Commission's next voting meeting is October 8, 2020. The Commission held a voting meeting on September 24, 2020. The agenda included the following items:

Item 4: A.19-10-001 (SCE Surplus Energy Transaction with BPA). On October 1, 2019, SCE filed an application requesting approval to extend, for an additional year, a two-year contract with Bonneville Power Administration (BPA) for the purchase of five MW of surplus electricity delivered around the clock. SCE described the surplus electricity as carbon-free hydroelectric power made available through incremental energy efficiency savings in BPA's service area. This proposed decision would deny approval, finding that the proposed transaction is a standard surplus power purchase contract and not an inter-regional energy efficiency transfer. Moreover, the purchased power carries an emission factor, and is not carbon-free. Finally, the contract does not provide sufficient policy benefits to justify its costs. **Signed, D20-09-020.**

Item 6: A.18-07-003 (RPS Implementation). This proposed decision deems as final and accepts the 2019 Renewables Portfolio Standard Procurement Plans submitted by four new Community Choice Aggregators but cautions the CCAs that more detail is required in their future RPS Plans. The four affected CCAs are the following: Butte Choice Energy Authority; Clean Energy Alliance; the City of Santa Barbara; and San Diego Community Power. Each of these CCAs is anticipated to start providing electricity to customers in 2021. This decision also

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<sup>1</sup> 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.

deems as final and accepts PacifiCorp's on-year supplement to its 2019 Integrated Resource Plan. This decision grants the request of EnerCal USA, LLC (DBA Yep Energy) for a waiver from filing RPS Plans, until such time that EnerCal serves retail load. **Signed, D.20-09-022.**

Item 9: R.18-12-006 (Vehicle Electrification). This proposed decision holds that the providers of medium- and heavy-duty electric vehicle charging services, and off-road electric transportation charging services, are not public utilities, based on an analysis of Public Utilities (Pub. Util.) Code Sections 740.2, 740.3, 740.12, 216, and 218. **Signed, D.20-09-025.**

Item 10: R.16-02-007 (IRP Proceeding). This proposed decision grants the petition for modification (PFM) of D.19-11-016 filed by the California Community Choice Association (CalCCA) on May 14, 2020. In its PFM, CalCCA sought to have the qualifying capacity (QC) methodology for counting capacity procured from hybrid projects, to satisfy the capacity procurement requirements in D.19-11-016, updated to the Commission's most recent definitions adopted in the resource adequacy proceeding, R.19-11-009. This decision confirms the QC counting methodology. In addition, CalCCA requested that the Commission modify the cost allocation principles articulated in D.19-11-016, to require that load-serving entities be billed for capacity procured on behalf of their customers, rather than having the customers themselves billed through a non-bypassable surcharge. This decision allows for that possibility, but does not require it; record development and final decision-making on this topic is ongoing in the new integrated resource planning proceeding, R.20-05-003. The Commission will address the finer points of cost allocation for capacity procured to comply with D.19-11-016 in R.20-05-003. **Signed, D.20-09-026.**

Item 22: R.17-07-007 (Rule 21 Proceeding). This proposed decision modifies Electric Tariff Rule 21 of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (Utilities), which governs the interconnection of distributed energy resources. The primary objective in adopting the modifications is to streamline the interconnection process by incorporating the Integration Capacity Analysis results from Rulemaking 14-08-013, the Distributed Resources Planning proceeding. **Signed, D.20-09-035.**

Item 23: R.18-07-003 (RPS Proceeding). This proposed decision modifies aspects of the Renewable Market Adjusting Tariff (ReMAT) Program. It adopts an electricity pricing methodology based on a weighted average of the utilities' recent executed long-term Renewables Portfolio Standard contracts. The proposed decision also eliminates caps on procurement during bimonthly Program Periods and instead authorizes procurement at the authorized rate on a first-come, first-served basis until each electric utility fulfills its proportionate share of procurement under § 399.20, along with additional changes. These modifications do not affect ReMAT contracts that have already been executed. **Held by staff to October 8 voting meeting.**

## **California Independent System Operator**

### Upcoming Meetings and Deadlines:

**Western EIM Base Schedule Submission Deadline.** The California ISO has launched a new initiative called Western EIM Base Schedule Submission Deadline, and will hold a public stakeholder web conference on Sept. 30, 2020 to discuss the issue paper and straw proposal for this initiative.

**Extended Day-Ahead Market.** The California ISO has extended the deadline to submit written comments on the Extended Day-Ahead Market bundle 1 straw proposal from Oct. 8, 2020 to Nov. 12, 2020.

**Resource Adequacy Enhancements.** The California ISO held public stakeholder working group calls on Sept. 14, 15, and 17, 2020, to further discuss various aspects of the Resource Adequacy Enhancements initiative. Comments are due October 1.

**Energy Storage and Distributed Energy Resources: Storage Default Energy Bid.** The California ISO will hold a public stakeholder meeting on Sept. 22, 2020, to discuss the default energy bid proposal for the Energy Storage and Distributed Energy Resources Phase 4 initiative. Written comments are due October 6.

**ISO Responses to 2020-2021 Transmission Planning Process Comments Posted**  
The California ISO has posted its [responses to comments](#) from the June 3, 2020, 2020-2021 Transmission Planning Process stakeholder call to the [Transmission Planning Process webpage](#).

## **Minnesota Public Utilities Commission**

### COVID-19 Deferred Accounting Docket

As a follow up to a previous update regarding the COVID-19 deferred accounting docket in Minnesota, the Commission met on Thursday, September 24, 2020, to consider various aspects of the utilities' accounting and reporting requirements. The Minnesota Department of Commerce ("Department"), Minnesota Large Industrial Group, and Office of the Attorney General ("OAG") participated on behalf of ratepayers. After feedback from stakeholders and discussion, the Commission:

1. Accepted the utilities' proposed accounting methodology;
2. Required the utilities to provide prorated revenue requirement comparisons of approved test year amounts to 2020 actual amounts of tracked items for the pandemic related period approved by the Commission;
3. Required all utilities to track budgeted activities that will not take place as a result of the pandemic and correspond to savings and reduced expenses;
4. Denied deferral and tracking of carrying costs;
5. Denied deferral and tracking of working capital impacts;

6. Denied deferral and tracking of lost production tax credits;
7. Allowed deferred COVID-related expenses to be tracked through the end of the Minnesota peacetime emergency, plus an additional 30 days;
8. Continued future compliance reporting on a quarterly basis; and
9. Required utilities to report actual and estimated expenses separately using Commission Staff's specified format.

#### Xcel Energy Residential Electric Vehicle Subscription Service Pilot Program

On September 24, 2020, the Commission approved Xcel's petition to extend the existing pilot program for an additional year and to add 50 participants.

#### Washington Utilities and Transportation Commission

On September 1, 2020, WUTC issued draft rules under its Washington State's Energy Independence Act rulemaking to clarify REC purchasing practices (WUTC Docket No. UE-190652). Comments on the draft rules are due by October 1, 2020.

#### Department of Energy

The Department of Energy's regulations implementing [President Trump's Executive Order on Securing the U.S. Bulk-Power System](#) are expected this week.

#### Federal Energy Regulatory Commission

FERC will hold a [technical conference on carbon pricing](#) in organized wholesale electricity markets this Wednesday, September 30. 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. Panels will address legal considerations for state-adopted carbon pricing and RTO/ISO markets, an overview of carbon pricing mechanisms and interactions with RTO/ISO markets, and considerations for market design. Panelists will include individuals from universities, the ISOs/RTOs, the PJM Market Monitor, the Western Power Trading Forum, and various market participants. The conference will be webcast.

FERC and NERC issued a [Second Joint Staff White Paper on Notices of Penalty Pertaining to Violations of Critical Infrastructure Protection Reliability Standards](#) on September 23. The previous whitepaper proposed that Critical Infrastructure Protection (CIP) Notice of Penalty (NOP) submissions would include in a public cover letter the name of the violator, the CIP Reliability Standard(s) violated (but not the Requirement(s)), and the penalty amount. The remainder would be submitted as nonpublic with a request to designate the filing as Critical Energy/Electric Infrastructure Information (CEII). The second whitepaper reverses course and concludes that publishing CIP violator names and other information would be insufficient to protect the security of the Bulk-Power System. Accordingly, going forward, CIP noncompliance filings and submittals by NERC will request that the entire filing or submittal be treated as CEII

and NERC will no longer publicly post redacted versions of the CIP noncompliance filings and submittals.

On September 18, FERC issued [informal Staff guidance](#) on information to be included in cost justification filings to justify sales above soft offer caps in the Western Electricity Coordinating Council (WECC).

On September 17, FERC provided an [overview of its current rehearing practice](#) in response to the recent decision of the *U.S. Court of Appeals for the D.C. Circuit in Allegheny Defense Project v. FERC*, 964 F.3d 1 (D.C. Cir. 2020) (*Allegheny*). The Natural Gas Act (NGA) and Federal Power Act (FPA) provide that if FERC does not “act” on a rehearing request within 30 days, the request may be deemed denied. The statutes then provide 60 days to file a petition for review in the appropriate Court of Appeals and, up until the point that FERC files the record on appeal with the reviewing court, both statutes provide FERC with the authority to “modify or set aside, in whole or in part” the underlying order. Prior to the D.C. Circuit’s decision in *Allegheny*, FERC routinely acted on rehearing requests, by the 30th day, by issuing tolling orders extending the time for FERC to consider the merits of a rehearing request. The Court in *Allegheny* held that those tolling orders do not amount to action on rehearing requests, and thus do not prevent rehearing requests from being “deemed” denied after 30 days. Post-*Allegheny*, FERC no longer issues tolling orders in FPA or NGA cases. Instead, where FERC does not act on the merits of a rehearing request by the 30-day deadline, it will issue either a Notice of Denial of Rehearing by Operation of Law, or a Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration (addressing issues raised on rehearing but not modifying the outcome).

FERC’s next open meeting is October 15.

FERC has a [technical conference scheduled for 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.