

REGULATORY UPDATE FOR AUGUST 16, 2022 (WEEK OF AUGUST 8, 2022)**CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)****New Proposed Decisions and Draft Resolutions¹**

R.19-01-011 (Building Decarbonization). This Decision adopts Energy Division’s staff proposal to eliminate gas line extension allowances, the 10-year refundable payment option, and the 50 percent discount payment option provided under the current gas line extension rules. The elimination is for all customers in all customer classes effective July 1, 2023. This decision applies to new applications for gas line extensions submitted on or after July 1, 2023. Applications submitted before July 1, 2023 will not be affected by this decision.

A.22-03-014 (Southwest Gas Move2Zero Program). This Decision dismisses Southwest Gas’s application on the ground that it is insufficient and incomplete. The dismissal is without prejudice to Southwest Gas filing for approval of a new or similar program in the future, although Southwest Gas is directed to provide sufficient and complete information in any future application, as well as addressing issues raised in the parties’ protests to this application, if relevant.

Draft Resolution E-5228. This Resolution provides a link to the final 2022 avoided cost calculator (ACC) and related documentation and data files. The documentation also compares 2022 and 2021 ACC outputs. The Resolution also describes the data and major modeling updates to the 2022 ACC.

Draft Resolution E-5212. This Resolution approves, with modifications, California Choice Energy Authority’s and East Bay Community Energy’s Petitions for Modification of Resolution E-4999, filed on February 23, 2022 and April 12, 2022, respectively. Both Community Choice Aggregators (CCAs) allege that the changeover from CalEnviroScreen (CES) 3.0 to 4.0 inadvertently caused eligibility and procurement challenges for Disadvantaged Community (DAC) – Green Tariff (GT) and/or Community Solar Green Tariff (CSGT) in their service territories and propose that CPUC make eligible all DAC census tracts previously approved under CES 3.0, in addition to CES 4.0 census tracts. CES 3.0 was the version that was in place when each currently participating Program Administrator’s (PA) implementation plan was approved. This Resolution finds that the CCAs’ proposed modifications are appropriate and makes additional modifications to prevent the issue from reoccurring in other PA areas, as well as to ensure equity in accordance with existing legislation and CPUC policy goals. Specifically, the Resolution allows “legacy” DACs under prior versions of CES, beginning from the time at which a PA’s DAC-GT or CSGT implementation advice letter is approved by the CPUC, to remain eligible for the DAC-GT and CSGT programs. This direction applies both to those PAs

¹ Per CPUC 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 20 days after the draft resolution appears in the CPUC’s daily calendar, per Rule 14.5.

with implementation advice letters that are already approved as well as any new PAs authorized to submit an implementation advice letter for the DAC-GT and/or CSGT program.

Voting Meetings

The CPUC will hold its next voting meeting on August 25, 2022.

CALIFORNIA ISO

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Washington WEIM Greenhouse Gas Enhancements. The California ISO has launched a new initiative called Washington Western Energy Imbalance Market (WEIM) Greenhouse Gas Enhancements, and will hold a virtual workshop with stakeholders and Washington joint agencies on August 22, 2022 to discuss the issue paper and straw proposal for this initiative. Written comments are due September 6, 2022.

Capacity Procurement Mechanism Enhancements. The California ISO held a public stakeholder call on August 4, 2022 to discuss the track 1 straw proposal for the new Capacity Procurement Mechanism Enhancements initiative. Written comments on the track 1 straw proposal are due August 18, 2022.

Transmission Service and Market Scheduling Priorities Phase 2. The California ISO held a stakeholder call on August 11, 2022 to discuss the Transmission Service and Market Scheduling Priorities Phase 2 straw proposal. Comments are due August 25, 2022.

Extended Day-Ahead Market. The California ISO has scheduled a virtual public stakeholder meeting on August 29, 2022 to discuss the Extended Day-Ahead Market initiative revised straw proposal. The straw proposal will be published on August 16, 2022.

2023 Net Qualifying Capacity Values

The California ISO has posted the preliminary 2023 Resource Adequacy Net Qualifying Capacity list. Scheduling coordinators are requested to review their information and submit comments by September 1, 2022.

CALIFORNIA ENERGY COMMISSION

Offshore Wind

During the August 10, 2022 California Energy Commission (CEC) Business Meeting (see [agenda](#)), the CEC adopted the final report on Offshore Wind Energy Development off the California Coast: Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045 (see agenda item 2). A copy of the final report is available [here](#). A copy of Order No. 22-0810-02, *Adoption of the AB 525 Offshore Wind Report Including the Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045* is available at TN# 245037 in [Docket No. 17-MISC-01](#).

Energy System Reliability

The CEC and the California ISO [held a joint remote access workshop](#) on August 12, 2022 to provide an update on electric reliability needs in the face of climate change, supply chain delays, and other factors affecting the online dates of new generation and energy storage projects. The workshop included a discussion of the role that the Diablo Canyon Power Plant could have in supporting mid-term electric reliability and California’s clean energy transition. According to the workshop Notice, the workshop also “explore[d] actions that are needed to preserve the option of extending, for a limited term, the operating license of the Diablo Canyon Power Plant.” The workshop Notice can be accessed at TN# 244536 in [Docket No. 21-ESR-01](#). According to the workshop Notice, written comments are due by 5:00 p.m. PT on August 19, 2022.

AB 205: Expansion of CEC Siting Jurisdiction

On June 30, 2022, California Governor Gavin Newsom signed [AB 205](#), which, among *various* other things, expands the siting jurisdiction of the CEC to include non-thermal generating facilities, such as solar and wind projects, with a capacity of 50 megawatts (MW) or more. The CEC’s siting jurisdiction was previously limited to thermal generating facilities like gas-fired and geothermal power plants with a capacity of 50 MW or more. In addition, AB 205 allows the CEC to have siting jurisdiction over energy storage facilities with a capacity of 200 MW hours or more. Unlike thermal generating facilities, the CEC’s expanded siting jurisdiction over solar and non-thermal generating facilities, as well as energy storage facilities, is at the request of the applicant—meaning it is “opt-in.” A summary of the changes to the CEC siting jurisdiction contained in AB 205 can be found on the Stoel Rives [California Environmental Law blog](#) and [Renewable + Law blog](#).

Lithium Valley Commission

The next Lithium Valley Commission meeting will be held in Calipatria, California (and via remote access) on August 25, 2022 at 1:30 p.m. PT. Additional information is available at TN# 245045 in [Docket No. 20-LITHIUM-01](#).

CEC Business Meetings

The next CEC Business Meeting is scheduled for September 14, 2022.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On August 18, 2022, CARB will hold a public workshop on potential changes to the [Low Carbon Fuel Standard](#). Additional information and registration is available [here](#).

On August 22-23, 2022, CARB will host [public meetings](#) of the [Assembly Bill \(AB\) 32 Environmental Justice Advisory Committee](#), virtually and in person in Los Angeles. Information on attendance and the agenda for the meetings are available [here](#).

On August 23, 2022, CARB will hold a [public workshop](#) on the proposed [2022 State Strategy](#) for the federal Clean Air Act State Implementation Plan (SIP). The 2022 SIP Strategy is currently scheduled for CARB consideration in September.

CARB has invited Native American tribes to consult on the draft [AB 32 Scoping Plan Update](#). CARB will hold a listening session and webinar for tribes on the draft Plan on August 24, 2022. Information is available [here](#).

CARB will hold its next [Board meeting](#) on August 25, 2022. The full agenda is available [here](#). At the meeting, the Board will consider the [Community Emissions Reduction Plan for the South Los Angeles Community](#), developed under the [AB 617 Community Air Protection Program](#). The deadline to submit written comments electronically has past, but comments may be presented at the Board meeting. At the meeting, the Board will also consider the [Advanced Clean Cars II Regulations](#). Additional [documents](#) for the proposed [Advanced Clean Cars II Regulations](#) are available for public comment [here](#) on or before August 23, 2022.

Opportunities for Public Comment

CARB has held a series of [public workshops](#) on draft regulatory language for the proposed [Advanced Clean Fleets](#) Regulation to achieve zero-emission medium and heavy-duty truck and bus fleets by 2045. Informal comments on the proposed regulation may be submitted [here](#) on or before August 19, 2022.

Additional [documents](#) for the proposed [Advanced Clean Cars II Regulations](#) are available for public comment [here](#) on or before August 23, 2022.

Comments may be submitted on the proposed [2022 State Strategy](#) for the federal Clean Air Act SIP [here](#) on or before September 12, 2022.

A draft [People's Blueprint](#) has been prepared by community and environmental justice advisors to CARB as a starting point for discussion of CARB's update to the [AB 617 Community Air Protection Blueprint](#), issued in 2018. Comments on the draft People's Blueprint may be submitted to CARB [here](#) on or before September 30, 2022.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

February 2021 Extreme Weather Gas Prices Dockets

The MPUC met on August 4, 2022 to hear oral arguments regarding the prudence of gas utilities' natural gas supply strategies during the extreme weather event that impacted the country in February 2021. By way of background, the Minnesota natural gas utilities (CenterPoint Energy Resources Corp. (CenterPoint), Great Plains Natural Gas Co. (Great Plains), Minnesota Energy Resources Corp. (MERC), and Xcel Energy (Xcel)) maintained reliability throughout the

weather event but incurred significant costs that the utilities intended to pass along to customers. The MPUC opened utility-specific dockets and referred the matters to two Administrative Law Judges (ALJs) to develop a complete record addressing the prudence of the utilities' incremental gas increases during the weather event through a consolidated contested case proceeding. Intervenors argued that the utilities failed to utilize various strategies to help mitigate costs such as curtailment, use of peaking facilities, proper forecasting, and hedging. The intervenors, therefore, recommended a range of disallowances based upon these findings. Ultimately, however, the ALJs found that the utilities had acted prudently and recommended MPUC approval of full cost recovery. The MPUC focused its questioning on burden of proof and prudence of specific costs incurred by the utilities. In closing, one commissioner also urged parties to continue discussing settlement arrangements prior to the deliberation hearing.

The MPUC deliberated on August 11, 2022 to evaluate the prudence of utility expenditures during the extreme weather of February 2021. The MPUC's discussion continued to focus on burden of proof and prudence. Relying heavily on this burden, and the detailed records in front of the ALJs, one commissioner supported full recovery of all costs incurred by the utilities during February 2021. However, that commissioner was alone in this approach. The other commissioners effectively supported decisions that resulted in 10%-15% disallowances for CenterPoint, Xcel, and Great Plains. With respect to MERC, there was a settlement whereby MERC agreed to a relatively small (about 3%) disallowance, which was approved by the MPUC. Going forward, the utilities were directed to extend the timeframe for recovery of the costs ultimately approved and directed to bring forward compliance filings detailing plans for preventing this issue in the future. Written orders are pending in each docket, which may be subject to further reconsideration requests and subsequent appeals.

MPUC Weekly Agenda Meeting

The MPUC will meet on August 18, 2022 at 8:00 a.m. PT to address the following matters: (1) CenterPoint's rate case settlement agreement; (2) Big Bend Wind, LLC's site and route permits; and (3) Xcel's site and route permit applications for a solar facility in Sherburne County, Minnesota.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

OPUC Meetings This Week

On August 18 at 1:30 p.m. PT, the OPUC is holding a virtual hearing in docket LC 78 (related to Idaho Power's 2021 Integrated Resource Plan). The dial-in details and agenda have not been posted, but the docket where the information will be posted may be accessed [here](#).

ILLINOIS COMMERCE COMMISSION (ICC)

The Assigned ALJ in each of the proceedings considering the petitions for approval of proposed Beneficial Electrification Plans (BEPs) filed by each Commonwealth Edison Company (ComEd) and Ameren Illinois Company (Ameren) adopted a procedural schedule. The BEPs were filed pursuant to Illinois' Climate and Equitable Jobs Act, Ill Pub. Act 102-662, which amended the state's Electric Vehicle Act (20 ILCS 627/45), and they include proposals for new and modified electric vehicle charging tariffs, in addition to rebate funding for the installation of electric vehicle infrastructure. Pursuant to the adopted procedural schedules, Staff and Intervenor direct testimony is due on September 15, 2022 in the Ameren proceeding and on September 22, 2022 in the ComEd proceeding.

A link to the docket for ComEd's BEP, Docket 22-0432/22-0442 (consol.), is available [here](#). A link to Ameren's BEP, Docket 22-0431/22-0443 (consol.), is available [here](#).

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

FERC's July 28, 2022 Open Meeting resulted in three proposed rulemakings:

FERC issued a [Notice of Proposed Rulemaking](#) (NOPR) to modernize its accounting systems to better reflect the rapid changes in electric power market resources and technologies. The NOPR would modify FERC's Uniform System of Accounts by creating new accounts for wind, solar, and other non-hydro renewable assets; establishing a new functional class for energy storage accounts; codifying the accounting treatment for renewable energy credits; and creating new accounts for computer hardware, software, and communication equipment. Creation of these discrete accounts would provide more accurate information to FERC and the public during the ratemaking process by enabling more reasonable estimates for lifetimes of plant service and their recorded depreciation. Additionally, the NOPR seeks comment on whether the Chief Accountant should issue guidance on accounting for hydrogen. Comments on the NOPR will be due 45 days after publication in the Federal Register.

FERC issued a second [NOPR](#) on improving credit risk management in the organized wholesale electric power markets. The NOPR would allow electric power market operators to share credit-related information among themselves so they can more accurately assess market participants' credit risks. Separately, FERC also issued an Order to Show Cause finding that the existing open access transmission tariffs of the California Independent System Operator Corporation, ISO New England Inc., New York Independent System Operator, Inc., and Southwest Power Pool Inc. appear to be unjust and unreasonable because they lack certain credit risk management practices. Specifically, these tariffs do not contain practices intended to ensure that market participants in financial transmission rights markets administered by these market operators maintain sufficient collateral to reduce the risk of defaults and the potential mutualization of costs from any defaults that are not supported by adequate collateral. Comments on the NOPR will be due 60 days after publication in the Federal Register. Market operators' responses to the Show Cause Order are due October 26, 2022.

FERC issued a third [NOPR](#) that would impose a new duty of candor for entities that communicate with FERC or organizations upon which FERC relies to carry out its statutory obligations in the FERC-jurisdictional electric, natural gas, and oil industries and markets. The proposed rule is based on the existing rule governing communications by entities with market-based rate authority and would apply to communications with FERC (including FERC staff), FERC-approved market monitors, FERC-approved regional transmission organizations, FERC-approved independent system operators, jurisdictional transmission or transportation providers, and the North American Electric Reliability Corporation (NERC) and its associated Regional Entities. Comments on the NOPR will be due 60 days after publication in the Federal Register.

FERC Chairman Rich Glick and Jim Robb, President and CEO of NERC, [published a letter](#) encouraging the North American Energy Standards Board to convene a forum to identify solutions to the reliability challenges facing the nation's natural gas system and bulk electric system. Such a forum was one of the key recommendations from the FERC-NERC report on the February 2021 freeze in Texas and the southcentral U.S. caused by Winter Storm Uri.

On August 9, 2022, the D.C. Circuit Court of Appeals vacated the FERC's 2020 Order setting the Midcontinent Independent System Operator (MISO) transmission owners' return on equity (ROE) at 10.02% ([Order](#)). The proceeding has lasted nearly a decade, and, in its Order, the Court held that FERC's methodology used to determine the latest appropriate ROE was arbitrary and capricious. The proceeding arises from two Section 206 complaints filed by customers who argued that MISO's existing ROE of 122.38% was too high. Since that time, FERC has set three ROE rates: 10.32% in 2016, 9.88% in 2019, and 10.02% in 2020. In determining the 10.02% ROE in 2020, FERC utilized a revised methodology for determining ROE, incorporating the discounted-cash-flow, capital-asset, and risk-premium models to determine a zone of reasonableness and set the ROE at its midpoint. FERC added the use of the risk-premium model despite finding, in its first rehearing order in 2019 (Opinion No. 569), that any "additional robustness" the risk-premium model added to its methodology was "outweighed by the disadvantages of its deficiencies," and rejecting its use. While the Court recognized that FERC is entitled to change its mind and now use the risk-premium model, it found that "FERC failed to offer a reasoned explanation for its decision to reintroduce the risk-premium model after initially, and forcefully, rejecting it." FERC will now re-evaluate its methodology in a third rehearing order. With the need to upgrade the transmission system across the MISO footprint, FERC will need to act quickly to ensure investors have the economic certainty necessary to invest in these high-cost upgrades.