

REGULATORY UPDATE FOR AUGUST 30, 2021 (WEEK OF AUGUST 23)**CALIFORNIA PUBLIC UTILITIES COMMISSION**New Proposed Decisions and Draft Resolutions¹

Draft Resolution G-3584. This resolution approves the California Energy Commission's (CEC) Natural Gas Research and Development Program, Proposed Budget Plan for Fiscal Year 2021-22 with a budget of \$24 million, pursuant to California Public Utilities Commission (CPUC) Decision (D.) 04-08-010.

Voting Meetings

The Commission's next voting meeting is scheduled for September 9, 2021. The agenda for that meeting is scheduled to be published August 30, 2021.

CALIFORNIA ISO2022 Net Qualifying Capacity and Effective Flexible Capacity Values for Resource Adequacy Resources

The California ISO has posted the preliminary 2022 Resource Adequacy Net Qualifying Capacity (NQC) and Effective Flexible Capacity (EFC) lists. Scheduling coordinators are requested to review their information and submit comments by September 10, 2021, for EFC and NQC.

Additional Significant Event Capacity Procurement Mechanism Designations

The California ISO continues to seek available capacity to be designated pursuant to the Capacity Procurement Mechanism.

2021 Summer Readiness Update

The California ISO has scheduled a public call on August 31, 2021, to provide stakeholders with an update on the ongoing readiness efforts to help improve grid reliability during hot weather conditions anticipated for this summer.

Stakeholder Initiatives: Upcoming Meetings and Deadlines

New Initiative: 2021 Contract Management Enhancements. The California ISO has

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.

launched a new initiative called 2021 Contract Management Enhancements. Comments on the issue paper and straw proposal are due by August 31, 2021. This initiative will update and clarify a number of policies related to generator interconnection contracts. These changes include the following topics: the ISO as an affected system pro forma study agreement, clarify and expand retirement and repower language, aligning modification timelines among the various study processes, allow asynchronous projects to convert to 100 percent storage, revise the droop and dead-band for asynchronous generators, and adjust the effective date of the Generator Interconnection Study Process Agreement. The policy updates will impact Tariff section 25, Appendix DD, Appendix U, Appendix EE, and Appendix FF.

New Initiative: Clarifications to Reliability Must-Run Designation Process. The California ISO has launched a new initiative called Clarifications to Reliability Must-Run (RMR) Designation Process. Comments on the issue paper are due by August 31, 2021. Through this initiative, the primary type of RMR designation will be determined when both local and system reliability need exists simultaneously.

EIM Resource Sufficiency Evaluation Enhancements Straw Proposal. Written comments on the straw proposal for the EIM Resource Sufficiency Evaluation Enhancements initiative are due September 8, 2021.

CALIFORNIA ENERGY COMMISSION

2021 IEPR. As part of the 2021 Integrated Energy Policy Report (2021 IEPR) process, the CEC will host a workshop on August 30, 2021 at 1:00 p.m. regarding natural gas forecasting efforts and preliminary results as part of the state's long-term energy planning efforts (CEC Docket 21-IEPR-05). Additional information regarding the workshop, including remote attendance instructions, is available [here](#).

The CEC also scheduled an IEPR workshop for August 31, 2021 that will examine the role of renewable natural gas (RNG) as an energy source for California's clean energy future. The workshop will be held in two sessions on Tuesday, August 31, 2021, as follows:

10:00 a.m. [Session 1](#): RNG Supply, Availability, and Price in California

2:00 p.m. [Session 2](#): Policy Approaches for RNG

For additional information about the 2021 IEPR and upcoming events related thereto, please visit <https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report/2021-integrated-energy-policy-report>.

CEC Business Meetings. During the August 17, 2021 CEC Business Meeting, the Commission adopted two orders specifically related to the July 30 Emergency Proclamation. The orders set forth (i) an expedited process for approval of petitions for changes to facilities licensed by the CEC, and (ii) an emergency approval process for new facilities greater than 10

MW. In each case, the orders only apply to facilities that will contribute to reducing the energy shortfall by October 31, 2021.

The next CEC Business Meeting is scheduled for September 8, 2021. The meeting agenda is available [here](#). Agenda item 2 indicates that the CEC will consider adoption of a proposed order establishing a process for expediting licenses for battery storage systems of 20 MW or more that the CEC determines are capable of discharging for at least two hours. Like the orders adopted during the August 17, 2021 CEC Business Meeting, this proposed order is also in response to the Governor's July 30, 2021 Emergency Proclamation.

Energy System Reliability (21-ESR-01). The CEC will host a workshop on August 30, 2021 to provide an update on actions to support electric grid reliability, including the Midterm Reliability Analysis and incremental efficiency improvement potential for natural gas power plants. The workshop is scheduled to begin at 9:30 a.m. Please visit the [event page](#) for additional information, workshop schedules, and remote attendance instructions.

CALIFORNIA AIR RESOURCES BOARD

On August 25, 2021, the California Air Resources Board (ARB) [released](#) the results of the quarterly cap-and-trade allowance auction, held jointly with the province of Quebec, Canada. All 2021 vintage allowances offered at auction – 71,261,536 in total – were sold, at a settlement price of \$23.30. All advance allowances, 8,306,250 2024 vintage allowances, were also sold, at a settlement price of \$23.69. Detailed results of the auction are available [here](#).

On September 2, 2021, ARB will hold a virtual workshop on the draft Fourth Investment Plan for cap-and-trade auction proceeds. Additional information and registration for the workshop is available [here](#). Comments can be submitted on the Plan [here](#) until September 17, 2021.

On September 8, 2021, ARB will hold a virtual workshop on short-lived climate pollutants, as part of the [AB 32 Scoping Plan Update](#). Also as part of the Update, ARB is accepting comments on the technical workshop held August 17, 2021 on development of modeled scenarios to achieve carbon neutrality by 2045. The workshop recording is available [here](#) and comments can be submitted until September 3, 2021 [here](#). Recordings of other past AB 32 Scoping Plan Update meetings and workshops are available [here](#).

On September 9, 2021, ARB will hold a virtual [workshop](#) on the proposed [Advanced Clean Fleets](#) regulation, which aims to achieve a zero-emissions truck and bus California fleet by 2045. ARB is accepting informal public comments on the proposed regulation, which may be submitted [here](#) on or before December 31, 2021.

The next ARB Board meeting will be held virtually on September 9, 2021. The full meeting agenda is available [here](#). At the meeting, ARB will consider the Community Emissions Reduction Program for Eastern Coachella Valley, developed under the AB 617 Community Air Protection Program. Details of the draft Community Emissions Reduction Program are available [here](#), and comments on the draft Program can be submitted [here](#) on or before August 30, 2021.

On September 10, 2021, ARB will hold a public workgroup meeting to discuss considerations related to the use of renewable diesel and proposed amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation. Details on the virtual meeting are available [here](#).

On September 23, 2021, ARB will consider approval of two components of the State Implementation Plan (SIP) at a virtual meeting: the [Coso Junction PM10 Maintenance Plan](#) and the [Sacramento County PM10 Maintenance Plan](#). At the meeting, ARB will also hear an update on the 2018 PM2.5 SIP for the San Joaquin Valley and consider a SIP revision to the 15 µg/m³ annual PM2.5 Standard. Notice of the San Joaquin Valley items is available [here](#).

MINNESOTA

Minnesota Court of Appeals

1. Order re In the Matter of Minnesota Power’s Petition for Approval of the EnergyForward Resource Package, Case Nos. A19-0688, A19-0704

As a follow up to our previous post [here](#), the Minnesota Court of Appeals issued a [decision](#) on August 23 affirming the MPUC’s decisions related to the Nemadji Trail Energy Center natural gas plant (NTEC) that will be constructed in Superior, Wisconsin. Applying a deferential standard of review, the Court analyzed the appeal (on remand from the Minnesota Supreme Court) and evidence under the MPUC’s novel standard for addressing affiliated interest agreements related to power plant construction outside of Minnesota.

Specifically, the Court analyzed whether the record before the MPUC demonstrates both (i) a need for NTEC and (ii) that a fossil fueled generating resource is more appropriate on Minnesota Power’s system than a renewable generating resource.

The Court determined that, viewed in its entirety, there was substantial record evidence supporting Minnesota Power’s need for NTEC, including testimony and extensive modeling from Minnesota Power and the Minnesota Department of Commerce – Division of Energy Resources (DOC-DER). The Court found that the record as a whole “reveals ample evidence” that NTEC is a reasonable choice to meet forecasted demand, is cost effective (even when considering environmental costs under [Minn. Stat. § 216B.2422, subd. 3](#)), and is better than various renewable sources that could expose Minnesota Power’s ratepayers to market price fluctuations.

Leveraging its findings on market price risk, the Court went on to find that the renewable preference in [Minn. Stat. § 216B.2422, subd. 4](#) was overcome by testimony from Minnesota Power and the DOC-DER “showing that the transition away from coal and toward intermittent renewable resources impairs reliability and could increase reliance on energy markets, thereby increasing costs.” In so doing, the Court summarized the MPUC’s application of the public interest standard in [Minn. Stat. § 216B.2422, subd. 4](#) on the basis of cost – finding “a wind or

solar alternative is not in the public interest because the comprehensive costs for such resources are higher than those associated with NTEC.”

More to certainly come on this front in Minnesota, as the state wrestles with the best timing for meeting the 80 percent reduction by 2050 goal set forth in [Minn. Stat. § 216H.02](#) and other energy policy provisions applicable to the MPUC and rate setting processes.

NORTH DAKOTA

North Dakota Public Service Commission

1. [Northern States Power Company 2021 Electric Rate Increase Application, Docket No. PU-20-441](#)

On November 6, 2020, Northern States Power Company (NSP) filed a request to increase rates by \$22.2 million or 10.8 percent with the North Dakota Public Service Commission (Commission). On July 1, 2021, stakeholders filed a Settlement Agreement, agreeing to the following: (1) a net increase of \$7.1 million or 3.4 percent; (2) a return on equity of 9.50 percent; (3) a cost of long-term debt of 4.22 percent; and (4) a cost of capital of 6.97 percent based on a capital structure of 52.50 percent common equity and 47.50 percent debt. The Settlement Agreement also apportioned the revenue increase as follows: (1) residential 3.4 percent; (2) C&I Non-Demand 1.2 percent; (3) C&I Demand 3.6 percent; and (4) lighting 5.9 percent. The Settlement Agreement further provides that NSP will withdraw its pending petition related to impacts of the COVID-19 pandemic, and not seek to recover those costs from North Dakota customers. After review, the Commission approved the Settlement Agreement on August 18, 2021.

OREGON

PacifiCorp’s Community Resiliency Storage Pilot Program

Last Tuesday, the Oregon Public Utility Commission issued Order 21-270, which approved PacifiCorp’s proposal for phase 2 of its Community Resiliency Storage Pilot. The pilot program studies the use of batteries at facilities that provide critical services to communities during emergency or disaster events. The approval was subject to two conditions – (1) that PacifiCorp host a stakeholder workshop to discuss the evaluation plan and site selection criteria for phase 2 and (2) that the total cost of the program recoverable from ratepayers is capped at \$1.6 million. The final order can be located [here](#).

PacifiCorp Requests Reduction of Block Size Under Its Blue Sky Renewable Energy Program

Under PacifiCorp’s Blue Sky program, customers seeking to purchase renewable energy can purchase renewable energy credits (RECs) to offset their carbon footprint and promote renewable energy development. Currently, the program offers blocks of 200 kWh of renewable

power at \$1.95 / block for purchase. However, due to recent price fluctuations in the REC market, PacifiCorp is seeking to reduce each block to 100 kWh. The filing can be located [here](#).

UTAH PUBLIC SERVICE COMMISSION

Application of Rocky Mountain Power for Approval of Its Electric Vehicle Infrastructure Program (Docket No. 20-035-34)

On August 23, 2021, Rocky Mountain Power (RMP) filed an Application for Approval of Its Electric Infrastructure Program Authorized by Electric Vehicle Infrastructure Amendments. Through the application, RMP seeks:

- The implementation of the Energy Vehicle Infrastructure Program (EVIP), as described in RMP's Transportation Plan for the Electric Vehicle Charging Infrastructure Program that allows customer funding of up to \$50 million to pay the costs associated with utility-owned electric vehicle charging infrastructure and vehicle charging service provided by RMP, pursuant to Utah Code § 54-4-41(2);
- The implementation, as of January 1, 2022, of a new Electric Service Schedule No. 198 – EVIP Cost Adjustment to allow RMP to collect \$5 million per year for 10 years with percentage increases applied to the Power Charge, Energy Charge, Facilities Charge, Back-Up Power Charge, Excess Power Charge, Daily Power Charge, and Voltage Discount;
- Approval to establish a balancing account reflecting the costs of the Company's prudent investments in the EVIP, offset by the collections through Schedules 60 and 198, and a carrying charge, provided for in Utah Code § 54-4-41(6);
- The implementation, as of January 1, 2022, of the new Electric Service Schedule No. 60 – Company Operated Electric Vehicle Charging Station Service, which lists the prices and details for the electric vehicle charging stations owned by the Company;
- A six-month extension of Electric Service Schedule No. 2E – Residential Service – Electric Vehicle Time-of-Use Pilot Option – Temporary; and
- The extension of Electric Service Schedule No. 120 – Plug-in Electric Vehicle Incentive Pilot Program throughout the duration of the EVIP, which is a custom incentive program originally created under the Sustainable Transportation and Energy Plan (STEP) pilot program that is scheduled to terminate January 1, 2022.

A schedule for Commission consideration of the application has not yet been established.

Request of Dominion Energy Utah to Expand Natural Gas Service to Goshen and Elberta, Utah (Docket No. 21-057-06)

On August 17, 2021, the Utah Public Service Commission (Commission) approved a Settlement Stipulation that resolves the application of Dominion Energy Utah to extend natural gas service to Goshen and Elberta, Utah. By approving the stipulation, the Commission approved the extension of gas service, approved the proposed costs of the project, and approved Dominion Energy Utah's recovery of those costs through the existing Rural Expansion Tracker. The

approval of this Settlement Stipulation follows the Commission's prior approval of Dominion Energy Utah's extension of natural gas service to Eureka, Utah.

Application of Dominion Energy Utah to Extend Service to Green River, Utah (Docket No. 21-057-12)

On August 5, 2021, Dominion Energy Utah filed an Application for Approval of Rural Natural Gas Infrastructure Development Project to Extend Service to Green River, Utah. In the Application, Dominion Energy Utah seeks approval from the Commission to purchase an existing gas line currently owned by a third party, and then, to use that acquired gas line and additional infrastructure to be constructed to extend natural gas service to Green River, Utah. Dominion Energy Utah also seeks to recover its costs for the project through the existing Rural Expansion Tracker. The matter has been scheduled for hearing on December 16, 2021.

Application of Rocky Mountain Power to Establish Export Credits for Customer Generated Electricity (Docket No. 17-035-61)

On October 30, 2020, the Commission issued an order approving an expert credit rate (ECR) and other modifications to Rocky Mountain Power's proposed Electric Service Schedule No. 137, Net Billing Service. In the Order, the Commission found it just and reasonable to update the ECR annually, and invited comments and reply comments on the concept of an annual update from interested parties. On August 11, 2021, and after an extended comment period, the Commission approved Rocky Mountain Power's Schedule No. 137 update filing, and ordered that Rocky Mountain Power shall provide an annual update of its Schedule No. 137 ECR 30 days prior to the target effective date of the updated ECR. The annual update will incorporate 12 months of data ending the prior June 30.

Rocky Mountain Power's Application for Alternative Cost Recovery for Major Plant Additions of the Pryor Mountain and TB Flats Wind Projects (Docket No. 21-035-42)

On August 2, 2021, Rocky Mountain Power filed its Application for Alternative Cost Recovery for the Pryor Mountain and TB Flats Wind Projects. Through the Application, Rocky Mountain Power seeks to recover certain costs for its Pryor Mountain and TB Flats Wind Projects that were not permitted to be recovered through updated rates approved in 2020. The Commission has set the matter for hearing on November 30, 2021.

WASHINGTON

Puget Sound Energy (PSE) Granted Extension for Clean Energy Implementation Plan (CEIP) Filing

Under WAC 480-100-640(1), each electric utility is required to submit a CEIP to fulfill certain objectives outlined in Washington's Clean Energy Transformation Act. The CEIP is due by October 1, 2021 and every four years thereafter. Last Thursday, the Washington Utilities and Transportation Commission issued an order allowing PSE to file its draft CEIP by October 15,

2021 and its final CEIP by December 17, 2021 in order to provide stakeholder groups with more time to provide input.

FEDERAL ENERGY REGULATORY COMMISSION

The Federal Energy Regulatory Commission (FERC) takes a recess in August, so FERC's next monthly meeting is September 23, 2021.

On August 24, FERC affirmed the qualifying facility status of the Trident Solar 1 facility under development in Montana, which facility includes 160 MW of gross solar PV power production capacity but has a net power production capacity of 80 MW due to the limitations of its inverters. Northwestern Energy had intervened and protested the self-certification of qualifying facility status; however, FERC upheld that status under its *Broadview Rehearing* precedent, 175 FERC ¶ 61,228 (2021).

On August 27, FERC rejected a tariff filing by Paiute Pipeline Company intended to define and allow for receipt and transportation of RNG on its pipeline system. *Paiute Pipeline Co.*, 176 FERC ¶ 61,134 (2021). FERC rejected the filing without prejudice because it relied in significant part on gas quality and interchangeability specifications that were not included in the proposed tariff but rather in a separate set of operating conditions and quality specifications. FERC emphasized in rejecting the tariff that “only natural gas quality and interchangeability specifications contained in a Commission-approved gas tariff may be enforced.” *Id.* at P 12 (citing *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Natural Gas Company Tariffs*, 115 FERC ¶ 61,325 at P 2 (2006)).

Former FERC Chairman Neil Chatterjee announced today that he has joined the Climate Leadership Council as a senior policy adviser and will use that role to advocate for carbon tax policy on Capitol Hill. In addition, Chatterjee also announced that he will join the law firm Hogan Lovells as a senior adviser.

FERC will hold a staff-led [technical conference](#) on September 14, 2021 addressing energy and ancillary services markets administered by the RTOs/ISOs. The technical conference will discuss potential energy and ancillary services market reforms, such as market reforms to increase operational flexibility, that may be needed as the resource fleet and load profiles change over time.

FERC's annual Commissioner-led [reliability technical conference](#) will take place on September 30, 2021.