

**REGULATORY UPDATE FOR DECEMBER 27, 2021 (WEEK OF DECEMBER 20)****CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC or COMMISSION)**December 16 Meeting the Last for President Batjer and Commissioner Guzman Aceves

The Commission's December 16, 2021 Voting Meeting was the last voting meeting for President Marybel Batjer, who announced her resignation earlier this year, and for Commissioner Martha Guzman Aceves, who has been nominated by President Biden to lead the U.S. Environmental Protection Agency's Region 9, which covers the southwestern United States and the Pacific Islands. Governor Newsom appointed Alice Reynolds, his Senior Advisor for Energy, to replace President Batjer. No replacement for Commissioner Guzman Aceves has been announced.

New Proposed Decisions and Draft Resolutions<sup>1</sup>

R.18-07-003 (RPS Implementation). This decision imposes a penalty of \$348,500 on Gexa Energy California LLC (Gexa) for failing to include required non-modifiable standard terms and conditions in a contract it entered into for purposes of renewable portfolio standard (RPS) compliance. The decision reverses an Energy Division Compliance Determination Notice that found that Gexa had not met the long-term contracting requirement, finding that the contract, though ambiguous, was a long-term contract for purposes of RPS compliance.

Draft Resolution E-5190. On February 11, 2021, CPUC issued Decision (D.) 21-02-006 adopting pilots to test two frameworks for procuring Distributed Energy Resources to defer or avoid investor-owned utilities (IOU) traditional distribution capital investments as part of the Distribution Investment Deferral Framework. The pilots are the Standard Offer Contract (SOC) and the Partnership Pilot. D.21-02-006 required an Energy Division led process for establishing evaluation criteria for the SOC and Partnership Pilot. Energy Division was tasked with inviting party proposals on evaluation criteria and facilitating a workshop to discuss proposals. The IOUs were ordered to file a joint advice letter with proposed evaluation criteria taking party proposals and discussion at the workshop into consideration. This Resolution approves with modifications the proposed evaluation criteria for the SOC and Partnership Pilot put forth in the Joint Advice Letter SDG&E 3780-E, PG&E 6218-E, and SCE 4514-E pursuant to D.21-02-006.

R.20-05-003 (IRP). This decision adopts a Preferred System Plan (PSP) portfolio that meets the statewide 38 million metric ton (MMT) greenhouse gas (GHG) target for the electric sector in 2030. This portfolio was developed first with an aggregation of the individual integrated resource plans (IRPs) of all load serving entities (LSEs), reflecting the resource preferences of those LSEs. Then, Commission staff made adjustments to extend the timeframe

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<sup>1</sup> 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.

beyond 2030 to 2032 for transmission planning purposes and to add the resources required in D. 21-06-035 for mid-term reliability purposes. Finally, the portfolio utilizes a managed mid-demand paired with high electric vehicle (EV) demand forecast from the California Energy Commission's (CEC) Integrated Energy Policy Report (IEPR) of 2020. This decision further recommends to the California Independent System Operator (CAISO) that the 38 MMT PSP portfolio be utilized as both the reliability base case and the policy-driven base case for study in its 2022-2023 Transmission Planning Process (TPP). This decision also delegates to Commission staff to explore with CEC and CAISO staff the development of a policy-driven sensitivity case designed to test the transmission buildout needed for a more aggressive GHG reduction case: the 30 MMT core portfolio with high electrification. The decision also evaluates the 2020 individual IRP filings of all LSEs under the CPUC's IRP purview—it approves 20, and finds that 24 plans are incomplete and require additional revisions through a Tier 2 advice letter. The decision also adopts an interim definition of renewable hydrogen, and orders the procurement of two storage resources that were identified by the CAISO as alternatives to transmission upgrades in the previous TPP cycle.

#### Voting Meetings

The Commission's next voting meeting will be held on January 13, 2022. The agenda is scheduled to be published on January 3, 2022.

### **CALIFORNIA ISO (CAISO)**

#### Stakeholder Initiatives: Upcoming Meetings and Deadlines

**EIM Resource Sufficiency Evaluation Enhancements.** The CAISO held a stakeholder call to discuss the revised draft final proposal for Phase 1 of the Energy Imbalance Market (EIM) Resource Sufficiency Evaluation Enhancements initiative on December 21, 2021. Comments on the workshop materials and discussion are due on January 10, 2022.

**Interconnection Process Enhancements 2021 Initiative.** The CAISO held a public stakeholder call on December 13, 2021 to discuss the issue paper/straw proposal for the Interconnection Process Enhancements 2021 initiative. Comments are due January 3, 2022. For more information on the issue paper/straw proposal, see our Renewable + Law blog post [here](#).

**Energy Storage Enhancements Straw Proposal.** The CAISO held a stakeholder call on December 14, 2021 to discuss the straw proposal for the Energy Storage Enhancements initiative. Comments are due January 12, 2022.

**Reliability Demand Response Resource Bidding Enhancements.** The CAISO held a stakeholder call on December 22, 2021 to discuss the revised straw proposal for the Reliability Demand Response Resource Bidding Enhancements initiative. Comments are due January 7, 2022.

**Central Procurement Entity Implementation and RAAIM Settlement Modification.** The California ISO will hold a public stakeholder call on January 6, 2022 to discuss the draft

final proposal for the Central Procurement Entity Implementation and Resource Adequacy Availability Incentive Mechanism (RAAIM) Settlement Modification initiative. Written comments on the draft tariff language are due January 6, 2022 and on the draft final proposal on January 20, 2022.

**Transmission Service and Market Scheduling Priorities Phase 1 Revised Draft Tariff Language.** The California ISO has scheduled a stakeholder call on January 14, 2022 to review the revised draft tariff language for the Transmission Service and Market Scheduling Priorities Phase 1 initiative. Comments on the draft tariff language are due January 7, 2022.

### **CALIFORNIA ENERGY COMMISSION (CEC)**

#### **2021 Integrated Energy Policy Report (IEPR)**

On December 7, 2021, the CEC published a Notice of Availability and Request for Comments on the Draft 2021 IEPR. Copies of the Notice and the Draft 2021 IEPR are available [here](#). Note that only three of the four 2021 IEPR volumes have been released for public comment. Volume III will be released for public comment at a later date under a separate notice of availability. As set forth in the CEC's March 16, 2021 scoping order, the 2021 IEPR volumes cover the following:

- **Volume I** addresses actions needed to reduce GHGs related to the buildings in which Californians live and work, with an emphasis on energy efficiency. It also addresses reducing GHGs from the industrial and agricultural sectors.
- **Volume II** examines actions needed to increase the reliability and resiliency of California's energy system.
- **Volume III** looks at the evolving role of gas in California's energy system, both the importance in near-term reliability and the need for the system to evolve as California works to achieve carbon neutrality—the point at which the removal of carbon pollution from the atmosphere equals or exceeds emissions—by 2045. This volume is not yet available for comment.
- **Volume IV** reports on California's energy demand outlook, including a forecast to 2035 and long-term energy demand scenarios to 2050. The analysis includes the electricity, gas, and transportation sectors.
- The **Appendix** evaluates the benefits of California's clean transportation system.

The CEC held over 20 workshops between February 2021 and December 16, 2021 on the topics identified in the scoping order. Written comments on the three volumes of the Draft 2021 IEPR were due on December 21, 2021.

#### **Rulemaking to Amend Regulations for Delegation of Certification Authority and Small Power Plant Exemptions (Docket No. 21-OIR-02)**

On December 8, 2021, the CEC adopted Order No. 21-1208-03 (Order), which officially [instituted a formal rulemaking proceeding](#) to consider amendments to the CEC's procedures for delegation of certification authority and small power plant exemptions. According to the Order,

the rulemaking will specifically address: (i) delegating the CEC's full authority for the certification of geothermal powerplants within a county that has adopted a geothermal element for its general plan and demonstrates that it has an equivalent certification program (Cal. Code Regs., tit. 20, §§ 1802, 1804, and 1860-1870) and (ii) exempting from its exclusive certification authority thermal powerplants with a generating capacity of up to 100 megawatts (Cal. Code Regs., tit. 20, §§ 1934-1948, and Appendix F).

The Order notes that the CEC is undertaking the rulemaking proceeding in response to the Governor's Proclamation of a State of Emergency issued on July 30, 2021, which directs state agencies to perform actions to accelerate the state's transition to carbon-free energy. According to the CEC, the goal of the rulemaking proceeding is to streamline and accelerate the administrative processes and procedures for the delegation of certification for geothermal powerplants, and for small power plant exemptions for all thermal powerplants. While doing so, the CEC will ensure that all environmental, public health, safety, and reliability requirements of CEQA and the Warren-Alquist Act are met.

#### CEC Business Meetings

The next CEC Business Meeting is scheduled for January 26, 2022.

#### **CALIFORNIA AIR RESOURCES BOARD (ARB)**

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

ARB is holding virtual public workshops as part of the Assembly Bill (AB) 32 Scoping Plan Update. Comments on the recent [technical workshop](#) on modeling land management scenarios for natural and working lands can be submitted [here](#) on or before January 5, 2022. Comments on the [public workshop](#) on building decarbonization can be submitted to ARB [here](#) on or before January 7, 2022. Recordings of past AB 32 Scoping Plan Update meetings and workshops are available [here](#).

ARB held a recent [workshop](#) on potential future changes to the Low Carbon Fuel Standard program. Comments on the workshop can be submitted [here](#) on or before January 7, 2022.

ARB's next regular Board meeting will be held January 27-28, 2022. The agenda will be available [here](#) 10 days prior to the meeting.

## **MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)**

### **Minnesota Power EV Charging Infrastructure Investment Request for Clarification, PUC Docket No. 21-257**

On December 22, 2021, the MPUC met to consider Minnesota Power's request seeking clarification of the MPUC's previous approval of its EV charging infrastructure petition. Minnesota Power's request highlighted aspects of the MPUC's limited approval of the use of deferred accounting for EV charging infrastructure, particularly, the MPUC's determination that the company "may not accrue in the deferred account a return on its capital expenditures associated with the proposal." The request sought direction as to whether Minnesota Power is permanently barred from obtaining a return on capital for the capital expenditures. After discussion, the MPUC determined that the request did not raise new issues, did not point to new and relevant evidence, did not expose errors or ambiguities in the original order, and did not otherwise warrant clarification. The MPUC further explained that nothing in its order precludes Minnesota Power from seeking a return on investments once they are included in the test year of a future rate case. The MPUC issued its written order the following day, and it will not meet again in 2021.

## **OREGON PUBLIC UTILITY COMMISSION (OPUC)**

### **Capacity Added to Portland General Electric Company's (PGE) Customer Supply Option in Its Green Energy Affinity Rider (GEAR) Program – UM 2202**

Last Monday, the OPUC issued Order 21-468 which approved a petition to increase capacity under the Customer Supply Option of PGE's GEAR program. On September 17, 2021, PGE and QTS Investment Properties Hillsboro, LLC (QTS) filed a petition for additional renewable energy capacity in order to power QTS's data centers. Order 21-468 approved the petition and added an additional 250 MW to the program. The final order can be located [here](#).

### **OPUC Meetings This Week**

On Tuesday December 28, 2021 at 9:30 a.m. PST, the OPUC is hosting a public meeting to discuss a wide range of dockets including UM 1930 (related to pre-certification of the Wood River Solar Project under Oregon's Community Solar Program), UM 2099 (related to PGE's net metering services), and ADV 1309 (related to Pacific Power's renewable energy portfolio option).

## **WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION (WUTC)**

### **Puget Sound Energy (PSE) and PacifiCorp Granted Temporary Waiver from WAC 480-106-040**

Last week the WUTC issued new orders in UE-210848 and UE-210816, which granted PSE and PacifiCorp temporary waivers under WAC 480-106-040(1)(b) related to the calculation

of avoid cost rates for qualifying facilities. WUTC granted the temporary waivers in order to allow the utilities to file their annual avoided cost rates based on the data presented in their most recent IRPs. The orders can be located [here](#) and [here](#).

## **NEW YORK INDEPENDENT SYSTEM OPERATOR (NYISO)**

### **NYISO Proposes Revisions to Market Power Mitigation Measures**

On December 22, 2021, NYISO submitted amendments to the Market Power Mitigation measures that are set forth in Section 23 of the Market Administration and Control Area Services Tariff (Services Tariff). The Services Tariff requires NYISO to monitor for and mitigate uneconomic production and uneconomic withdrawal. Uneconomic production is increasing the output of an electric facility to levels that would otherwise be uneconomic in order to cause and obtain benefits from a transmission constraint. Uneconomic withdrawal is energy withdrawn at a price that is uneconomic for the withdrawal-eligible generator and that causes or contributes to transmission congestion. NYISO imposes mitigation if conduct is detected that (i) meets criteria and (ii) causes a market impact that exceeds the thresholds, both as specified in the Services Tariff.

Working with Potomac Economics and various stakeholders, NYISO developed a proposal to modify mitigation measures applicable to uneconomic production and uneconomic withdrawal. The proposal:

1. seeks to eliminate subjectivity by redefining uneconomic production and uneconomic withdrawal. NYISO argues that this will align with the objective analysis that determines whether the party's conduct violated the relevant conduct threshold (\$ or MW) and caused a market impact (a change to Locational Based Marginal Price revenues or guarantee payments), in order to impose mitigation;
2. in response to the increase in intermittent power resources, such as renewable wind and solar facilities, in the New York power system, modifies the applicable conduct and impact tests that trigger mitigation measures; and
3. amends the applicable mitigation measures to more thoroughly address guarantee payments to market parties and affiliates that result from uneconomic production or uneconomic withdrawal.

Comments on the filing are due by January 12, 2022.

## **FEDERAL ENERGY REGULATORY COMMISSION (FERC)**

FERC has extended the waiver of its requirement that filings be notarized or supported by sworn declarations until March 31, 2022. FERC also extended the waiver of its requirements to hold in-person meetings or submit notarized documents for open access transmission tariffs.

Market-Based Rate (MBR) Database: Just over one month left! The deadline for baseline submissions to the new MBR relational database is February 1, 2022. Baseline submissions are required for all entities with MBR authorization.

PJM's Reserve Market Rules: On December 22, 2021, FERC reversed portions of a May 2020 decision and ordered PJM to revise its reserve market rules—specifically its operating reserve demand curves—within 60 days from the decision. FERC's decision will also cause further delays to PJM's upcoming capacity auctions; FERC ordered PJM to file a new auction schedule within 30 days of the decision.

Reactive Power Capability Compensation: On November 18, 2021, FERC issued a Notice of Inquiry (NOI) seeking comments on reactive power capability compensation and market design. ([Link to NOI here.](#)) Reactive power is a critical component of the bulk electric system and over the last decade has become a key component in cost recovery for renewable resources including solar and wind facilities. In 1999, FERC approved a method proposed by American Electric Power Service Corporation (AEP) for allocating costs for a synchronous generator between real and reactive power capability. This so-called AEP methodology is now recommended by FERC when an entity seeks to recover reactive power capability costs. In the NOI, FERC is performing a holistic review of the applicability of the AEP methodology to renewable resources.

Initial Comments are due January 31, 2022, and Reply Comments are due February 28, 2022. Please see our related [blog post](#) for details regarding this NOI.