

**REGULATORY UPDATE FOR JANUARY 18, 2023
(WEEK OF JANUARY 9, 2023)**

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions¹

Draft Resolution ALJ-431. This Resolution would authorize the electronic filing of documents that a party seeks to file under seal.

R.20-05-003 (IRP). This decision addresses two primary topics. First, the decision requires supplemental mid-term reliability procurement of a total of 4,000 megawatts (MW) of net qualifying capacity (NQC) in addition to the 11,500 MW ordered previously in Decision (D.) 21-06-035. In addition to the additional 4,000 MW NQC of procurement ordered in this decision, requirements for procurement of long lead-time resources from D.21-06-035 are automatically postponed to 2028, but the existing February 1, 2023 procurement data filing requirements remain unchanged. Second, this decision recommends electricity resource portfolios to the California Independent System Operator to study in its 2023-2024 Transmission Planning Process. The portfolios would be a base case portfolio of a 30 million metric ton greenhouse gas emissions target in 2030 and one sensitivity portfolio that assumes offshore wind is 13.4 GW by 2035 as compared to 4.7 GW in the base case.

Voting Meetings

The CPUC held a voting meeting on January 12, 2023. The agenda includes the following energy-related items.

Item 12. Resolution E-5240 (SCE AL 4831-E). This Resolution approves SCE's cost-recovery proposal to implement the modified cost-recovery mechanism (MCAM). The MCAM will be used by SCE for procurement conducted on behalf of Load Serving Entities (LSEs) that opted out of procurement required by D.19-11-016 or that fail to meet their procurement requirements under D.19-11-016, D.21-06-035, or future Integrated Resource Planning (IRP) procurement orders. **Approved.**

Item 13. Resolution E-5239 (PG&E AL 6654-E). This Resolution approves, with modifications, Pacific Gas and Electric Company's (PG&E) cost-recovery proposal to implement the MCAM. The MCAM will be used by PG&E for procurement conducted on behalf of LSEs that opted out of procurement required by D.19-11-016 or that fail to meet their

¹ Per CPUC's 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 CPUC's daily calendar, per Rule 14.5.

procurement requirements under D.19-11-016, D.21-06-035, or future IRP procurement orders. **Approved.**

Item 14. Resolution E-5242 (PG&E AL 6623-E). In Resolution E-5132, effective March 18, 2021, the CPUC approved PG&E's Remote Grids Supplemental Provisions Agreement, allowing PG&E to deploy an initial set of Remote Grids up to 2 megawatts (MW) of peak historical customer load. PG&E requests the additional relief to offer Remote Grids as the sole standard service offering to customers when (1) the Remote Grid has a lower risk-informed estimated cost to serve than alternatives; and/or (2) the Remote Grid is the only reasonably feasible way of providing service. This relief would apply only within the limits of the Remote Grid pilot approved in Resolution E-5132. This Resolution approves PG&E's proposal. **Approved.**

Item 15. Resolution E-5250 (SDG&E AL 4096-E). This Resolution approves three San Diego Gas & Electric Company (SDG&E) contracts for 200 MW of incremental capacity procured to address 2023 and 2024 mid-term reliability (MTR). The three contracts are: the Terra-Gen Edwards Sanborn contract (resource adequacy (RA)-only 20 MW hybrid solar and storage project with expected online date of June 1, 2023), and the Ormat Bottleneck and Aypa Cald contracts (tolling agreements for battery storage projects with expected online date of June 1, 2024 for 80 MW and 100 MW of capacity, respectively). **Approved.**

Item 19. Resolution E-5251 (SCE AL 4885-E). This Resolution approves four MTR energy storage contracts for 619 MW of nameplate capacity, expected to provide 565.2 MW of incremental September NQC, that SCE procured to satisfy a portion of its 2023 and 2024 MTR requirements. These contracts include two RA-only contracts and two RA with put option contracts (i.e., RA contracts where the seller also has the option to put the dispatch rights to SCE). The MTR contracts are for new in-front-of-the-meter energy storage projects. The two RA-only contracts are the Nextera 90 MW Proxima RA Storage and WPower 69 MW Stanton projects, and the two RA with put option contracts are the Calpine 230 MW Nova I and Calpine 230 MW Nova II projects. **Approved.**

Item 20. Resolution E-5241 (SDG&E AL 4043-E). This Resolution approves, with modifications, SDG&E's cost-recovery proposal to implement the MCAM. The MCAM will be used by SDG&E for procurement conducted on behalf of customers of LSEs that opted out of procurement required by D.19-11-016 or that fail to meet their procurement requirements under D.19-11-016, D.21-06-035, or future IRP procurement orders. **Approved.**

Item 21. A.21-06-021 (PG&E 2023 GRC). This decision adopts an unopposed settlement by PG&E, the Public Advocates Office at the CPUC, and The Utility Reform Network to resolve the contested issues for the 2023-2026 general rate case (GRC) period regarding the structure and funding of PG&E's wildfire liability insurance coverage. The adopted settlement establishes a revenue requirement of \$400 million per year, for 2023 through 2026, for wildfire liability insurance coverage and approves coverage that consists entirely of self-insurance for third-party wildfire claims of less than \$1 billion per year. **Signed, D.23-01-005.**

Item 22. A.22-05-002/003/004 (Demand Response). This decision approves the Demand Response Auction Mechanism Pilot for 2024 deliveries. It also approves and provides funding for continued demand response research supervised by the CPUC's Energy Division. The proceeding remains open to consider utility and intervenor proposals for demand response programs, program modifications, pilots, and budgets for 2024-2027. **Signed, D.23-01-006.**

Item 29. R.23-01-___ (Diablo Canyon Extension). This order instituting rulemaking would open a new rulemaking to consider the potential extension of Diablo Canyon Nuclear Power Plant operations consistent with Senate Bill 846. **Signed, R.23-01-007.**

Item 41. A.20-09-019 (Wildfire Mitigation/Catastrophic Event Expenditures). This decision grants PG&E the authority to recover incremental expenses recorded in (1) the Fire Hazard Prevention Memorandum Account, (2) the Fire Risk Mitigation Memorandum Account, (3) the Wildfire Mitigation Plan Memorandum Account, (4) the Catastrophic Events Memorandum Account (CEMA), (5) the Land Conservation Plan Implementation Account, and (6) the Residential Rate Reform Memorandum Account. This decision denies the Joint Motion for Approval of the Settlement Agreement filed by PG&E and Cal Advocates. The decision approves a total authorized recovery of \$1,208,909,522. **Held to February 2, 2023 meeting.**

Item 41A. A.20-09-019 (Wildfire Mitigation/Catastrophic Event Expenditures). President Reynold's alternate decision approves the proposed settlement agreement filed by PG&E and Cal Advocates, with modifications to make certain disallowances permanent. The alternate decision approves a total revenue requirement of \$1,036,961,500. **Held to February 2, 2023 meeting.**

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Generator Deliverability Challenges. The CAISO has posted an update on Generator Deliverability Challenges in response to industry concerns with access to deliverability for resources seeking to compete in load serving entity procurement processes. This topic is being considered for a potential stakeholder initiative in 2023. The update may be found [here](#).

Day-Ahead Market Enhancements. The California ISO has published the Day-Ahead Market Enhancements (DAME) final proposal, in which it plans to present for decision at the Joint Western Energy Imbalance Market (WEIM) Governing Body and ISO Board of Governors meeting on February 1, 2023. The final proposal may be found [here](#).

Transmission Development Forum. The California ISO, in conjunction with the CPUC and the participating transmission owners, will hold its quarterly public stakeholder call on January 25, 2023, to provide status updates on the transmission projects previously approved through the transmission planning process and network upgrades identified in the generation interconnection process.

Annual Policy Initiatives Roadmap Process. The California ISO will hold a public

stakeholder call on February 21, 2023, to discuss the 2023 Revised Policy Initiatives Catalog and Draft Roadmap as part of its Annual Policy Initiatives Roadmap Process. Written comments are due February 28.

Capacity Procurement Mechanism Enhancements. The California ISO will host a public stakeholder call on February 9, 2023, to discuss the track 1 draft tariff language and final proposal for the Capacity Procurement Mechanism (CPM) Enhancements initiative. Written comments on the draft tariff language and final proposal prior to the stakeholder call are due January 26, 2023.

CALIFORNIA ENERGY COMMISSION (CEC)

Energy System Reliability

The CEC will [hold](#) a remote access (Zoom) workshop on January 20, 2023 at 9:30 a.m. “to provide an overview of the preliminary reliability analysis for Senate Bill 846, Dodd, 2022 (SB 846) related to the prudence of extending the Diablo Canyon power plant to at least 2030 and to provide an overview of the proposed priorities for the Clean Energy Reliability Investment Plan (CERIP).” A detailed schedule will be posted prior to the workshop.. Additional information regarding SB 846 is available in the workshop [notice](#).

Offshore Wind – AB 525

The CEC held a remote access [workshop](#) on December 19, 2022 to present the Draft Preliminary Assessment of the Economic Benefits of Offshore Wind Related to Seaport Investments and Workforce Needs and Standards (Draft Report). On December 29, 2022, the CEC [extended](#) the comment period on the Draft Report from January 9, 2023 to February 8, 2023.

On December 15, 2022, the CEC also [released](#) the draft Conceptual Permitting Roadmap for offshore wind.

Renewables Portfolio Standard (RPS)

On January 4, 2023, the CEC released a [Notice of Availability](#) regarding the Renewables Portfolio Standard Staff Draft 2017-2020 Retail Sellers Procurement Verification Report, CEC-300-2022-011-SD-REV/Docket #21- RPS-01 ([Draft Report](#)). According to the [Notice of Availability](#), the CEC will consider adopting the Draft Report at the January 25, 2023 CEC Business Meeting. The CEC will also accept oral comments during the January 25, 2023 Business Meeting. The Notice of Availability also states that CEC staff strongly encourages the submission of written comments to the Docket Unit no later than 5:00 p.m. on January 19, 2023.

Lithium Valley Commission

The next Lithium Valley Commission meeting will be held remotely on January 20, 2023 at 10:00 a.m. Additional information is available [here](#).

Reliability Reserve Incentive Programs (Docket No. 22-RENEW-01)

On January 27, 2023, the CEC will hold a remote access workshop to discuss the Demand Side Grid Support (DSGS) and Distributed Electricity Backup Assets (DEBA) programs. According to the workshop [notice](#), information gathered during the workshop will be used to inform potential modifications to the DSGS program guidelines and the development of the new DEBA program. Workshop session start times and additional information are available in the notice, which also states that a detailed workshop schedule will be posted prior to the workshop in [Docket No. 22-RENEW-01](#).

Gas Research and Development (Gas R&D)

The CEC will hold a remote access workshop on January 24, 2023 at 9:00 a.m. to discuss the Gas R&D Program's proposed energy-related gas research initiatives for fiscal year (FY) 2023-24. Additional information is available [here](#).

CEC Business Meetings

The next CEC Business Meeting is [scheduled](#) for January 25, 2023.

STATE WATER RESOURCES CONTROL BOARD (SWRCB)

On January 4, 2023, the SWRCB published a [Notice of Document Availability, Opportunity for Public Comment, and Public Hearing](#) (Notice) regarding the Draft Staff Report and Draft Amendment to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling to Extend the Compliance Schedules for the Alamitos, Huntington Beach, Ormond Beach, and Scattergood Generating Stations, and the Diablo Canyon Nuclear Power Plant (OTC Policy Amendment). According to the Notice, the Draft Staff Report and Draft Amendment will be released for public comment on or before January 31, 2023, and written comments are due by 12:00 p.m. on March 17, 2023. A Public Hearing is scheduled for March 7, 2023. The proposed amendment to the OTC Policy would extend the compliance date for the following power plants:

- Alamitos Generating Station (Alamitos) Units 3, 4, and 5; Huntington Beach Generating Station (Huntington Beach) Unit 2; and Ormond Beach Generating Station (Ormond Beach) Units 1 and 2 for three years, from December 31, 2023, to December 31, 2026, to support system-wide grid reliability.
- Scattergood Generating Station (Scattergood) Units 1 and 2 for five years, from December 31, 2024, to December 31, 2029, to support local system reliability.

The amendment also incorporates revisions to the compliance date for Diablo Canyon Nuclear Power Plant (Diablo Canyon) Units 1 and 2 to October 31, 2030, which reflects the extension provided by Senate Bill 846.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

CARB will hold its next Board meeting on January 26-27, 2023. The agenda for the Board meeting and information on attendance are available [here](#). At the meeting, the Board will hear a report from the Executive Officer on CARB's program priorities for 2023.

On January 19, 2023, CARB will hold a session on compliance and reporting to meet regulatory requirements for heavy-duty diesel vehicles operating in California. Information on the session and registration is available [here](#).

On January 20, 2023, CARB will hold a public workshop on potential changes to the California Oil and Gas Methane Regulation. At the workshop, CARB staff will present background information on the regulation and describe potential changes to the regulation. Information on the workshop is available [here](#).

On January 26, 2023, CARB will hold a class on new regulatory programs that will help California meet its carbon neutrality goals. The class will cover the requirements of existing regulations, as well as the new programs that will be in effect. Registration and further information are available [here](#).

Opportunities for Public Comment

On December 6, 2022, CARB hosted a workshop on revisions to the Community Air Protection Program Blueprint and the fifth annual [community recommendations and selection process](#) for the AB 617 [Community Air Protection Program](#). Comments related to the workshop and the [Community Air Protection Program Blueprint 2.0 Draft Expanded Concepts Outline](#) may be submitted to CARB [here](#) on or before January 19, 2023.

WASHINGTON LEAST-CONFLICT SOLAR-SITING PROGRAM

The Washington State University Energy Program is currently leading a voluntary, non-regulatory effort that engages stakeholders, tribes, and state agencies in a process to identify least-conflict areas for utility-scale solar development in Eastern Washington. The state-funded project will make its spatial data available to the public, create maps highlighting the least-conflict areas in the region, and produce a final report by June 30, 2023. The second public meeting was held on January 18, 2023. Information about the meeting, including the agenda and a video of the proceedings, is available [here](#).

OREGON DEPARTMENT OF ENERGY

The Oregon Department of Energy has opened applications for the second round of the Community Renewable Energy Grant Program. Grants are expected to total \$12 million, and the program is open to Oregon Tribes, public bodies, and consumer-owned utilities. The application period closes on February 12, and information can be found [here](#).

OREGON ENERGY FACILITIES SITING COUNCIL (EFSC)

At its meeting on December 16, EFSC adopted amendments to the Protected Areas, Scenic Resources, and Recreation Standards for the siting of large energy facilities in Oregon, effective December 19. The permanent rule changes alter the siting standards in several ways, although the new standards will only apply to the review of applications or requests for amendments filed on or after the effective date. Most significantly, the new standards (1) require the applicant to identify the managing agency of any protected areas in the study area, (2) require EFSC to assess the visual impact to State Scenic Resources, (3) allow EFSC to consider evidence related to impacts to scenic areas and recreational opportunities outside the analysis area, and (4) broadened the definition of Protected Area. The changes create additional siting considerations and risks for developers, and the Fiscal Impacts Advisory Council found that the rule changes are likely to have a significant impact on small businesses. The [final staff report](#) and [permanent rule](#) are available.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On Thursday, January 12 at 9:30 a.m., the OPUC held a Public Meeting in the docket AR 631 (re Procedures, Terms, & Conditions Associated with Qualified Facility Standard Contracts). The proposed changes, including to the cost allocation of new infrastructure, the procurement of power purchase agreements, and other requirements can be found [here](#). Final comments are due by 3:00 p.m. on February 10.

On Tuesday, January 10 at 1:30 p.m., the OPUC held a special public meeting in the docket UM 2143 (re Investigation into Resource Adequacy [RA] in Oregon update and Technical Conference on the State of RA). The agenda and access information can be found [here](#) and the presentation on the Western Resource Adequacy Program is available [here](#).

ILLINOIS COMMERCE COMMISSION (ICC)

On January 4, 2023, parties filed initial briefs regarding the Beneficial Electrification Plan (BE Plan) filed by Commonwealth Edison Company in the consolidated docket (Nos. 22-0432 and 22-0442). Reply briefs are due January 18, 2023, and position statements or proposed orders are due for submission on January 20, 2023.

Parties filed reply briefs regarding the BE Plan of Ameren Illinois Company ([Nos. 22-0431 and 22-0443](#)) on January 11, 2023, and position statements or proposed orders were filed on January 13, 2023.

A final ICC decision is expected to issue on each of the respective BE Plans in March 2023.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

MPUC Agenda Meeting re Minnesota Power's Rate Case, MPUC Docket No. 21-335

On January 18, 2023, the MPUC will hold its first agenda meeting to decide Minnesota Power's pending rate case. The issues before the MPUC include: (1) should the MPUC adopt the recommendations of the administrative law judge?, (2) what level of revenue is appropriate for the Company during the test year?, and (3) how should that revenue be collected from customers? The MPUC intends to use the January 18 meeting to allow for oral argument and commissioner questioning. The MPUC will then recess until January 23, 2023, when it will deliberate and determine the outcome of this proceeding. MPUC Staff briefing papers can be found [here](#).

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

President Biden has selected Commissioner Willie Phillips as FERC's Acting Chairman. And with Rich Glick's departure from FERC earlier this week, FERC is at a 2-2 Democrat/Republican split until such time that a new commissioner is nominated and confirmed.

On November 29, 2022, FERC approved PJM Interconnection, L.L.C.'s (PJM) comprehensive interconnection queue reform proposal, significantly altering how interconnection requests will be processed in the region. Our full client alert is available [here](#).

Two other decisions from FERC last month have the industry focused on investor rights that allow an entity to appoint its own officer or directors to the board of a public utility or a holding company. In [TransAlta Energy Marketing \(U.S.\), Inc.](#), 181 FERC ¶ 61,055 (2022), and [Evergny Kansas Central, Inc.](#), 181 FERC ¶ 61,044 (2022), FERC asserted that such appointments will require approval under Federal Power Act Section 203 and may also create affiliations for purposes of assessing market power with respect to a public utility's ability to sell at market-based rates. In both decisions, the investor acquired less than 10% of the relevant voting

securities; however, the acquisition was paired with the appointment of the investor's own officers and directors to the target company's board of directors.

On January 10, 2023, the MISO TOs filed an [Answer](#) to the protests to their November 30, 2022 filing to eliminate Reactive Power Compensation within the standard power factor range. The filing (which was supported by most but not all of the MISO TOs) was vigorously opposed by numerous independent generation owners in MISO on multiple grounds. Some protesters urged the TOs to wait for FERC action on the pending [Notice of Inquiry](#) regarding reactive power capability compensation, but the TOs countered that they “acted now to stop the increasing burden on Transmission Customers.” (*Answer* at 5 & 42.) The TOs pointed to support for their filing by many MISO state regulatory entities, some of whom claimed that termination of reactive power compensation will produce cost savings by stopping generators from recovering revenues from consumers for “a service that they may not have ever needed or received.” (*Answer* at 4.) The TOs also argued that terminating compensation for reactive power capability will not adversely impact grid reliability because other RTOs (*e.g.*, CAISO and SPP) that provide no compensation have suffered no apparent harm to system reliability. (*Answer* at 6 & 23-24.) The TOs' Answer rejected the argument that their filing violates the “comparability principle” because they are competitively advantaged over independent generators by being able to charge reactive power costs through state-regulated cost-based rates to retail customers. (*Answer* at 8-11.) According to the TOs, independent generators are free to negotiate compensation for reactive power capability from the power purchaser through their market-based rates for real power.

On January 11, 2023, FERC issued [Transcontinental Gas Pipe Line Company, LLC](#), 182 FERC ¶ 61,006 (2023), authorizing Transcontinental Gas Pipe Line Company, LLC (Transco) to construct a \$950 million expansion of its natural gas pipeline in the Northeast U.S. The project, known as the Regional Energy Access Expansion, will enable Transco to increase deliveries to the East Coast, predominantly in New Jersey, by over 829,000 dekatherms per day. Transco's filing was supported by binding precedent agreements for the full capacity of the project, but it was opposed by the New Jersey Board of Public Utilities, the New Jersey Division of Rate Counsel, and Sierra Club, among others. The opponents took issue with the purported need for the new pipeline capacity and failure to consider non-pipeline alternatives. FERC, however, found adequate need for the project in the binding precedent agreements, which it required be converted into firm contracts for 100% of the capacity before proceeding with the project. (*Order* at P 34.) FERC's environmental analysis included a discussion of Greenhouse Gas Emissions (GHG) and Climate Change and an assessment of the percentage increase in regional impacts from the project. (*Order* at P 71.) But FERC declined to characterize these impacts and emissions as significant or insignificant because of its ongoing generic proceeding to determine whether and how to conduct significance determinations for GHG emissions going forward. *Interim GHG Policy Statement*, 178 FERC ¶ 61,197 at P 2 (2022).