

REGULATORY UPDATE FOR NOVEMBER 1, 2021 (WEEK OF OCTOBER 25)**CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC or COMMISSION)****New Proposed Decisions and Draft Resolutions¹**

A.18-10-007 (Wildfire Mitigation Plans). This decision closes this proceeding. Pursuant to Assembly Bill 111 (2019), all duties, powers, and responsibilities of the Commission's Wildfire Safety Division were transferred on July 1, 2021 to the Office of Energy Infrastructure, established within the California Natural Resources Agency under the same bill.

R.19-09-009 (Microgrids and Resiliency). This decision adopts enhanced summer 2022 and summer 2023 requirements for Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E). First, PG&E shall file a Tier 2 Advice Letter, within 45 days of the effective date of this decision, to expand its Temporary Generation Program for filling the system capacity shortfalls anticipated in the summers of 2022 and 2023. Second, SDG&E may procure up to four circuit-level energy storage microgrid projects that may provide a total of 160 megawatt-hours of capacity to fill system capacity shortfalls anticipated in the summers of 2022 and 2023. The procurement of these four circuit-level energy storage microgrid projects is conditioned upon these resources providing peak and net peak grid reliability benefits in the summers of 2022 and 2023. SDG&E shall file a Tier 2 Advice Letter, within 30 days of the effective date of this decision, seeking implementation authorization for procurement of these four circuit-level energy storage microgrid projects. SDG&E shall comply with the Cost Allocation Mechanism for utility-owned generation previously adopted in Rulemaking 20-11-003. Furthermore, SDG&E shall comply with any subsequent modifications to the Cost Allocation Mechanism adopted in Rulemaking 20-011-003. The decision suggests that Los Angeles County propose its Eastern Avenue Emergency Operations Battery Storage Microgrid Project, a Los Angeles Department of Public Health Solar and Battery Storage Project, and Pitchess Detention Center Solar and Battery Storage Project in the Microgrid Incentive Program for consideration, subject to the overall eligibility, cost, and budget constraints of the Microgrid Incentive Program.

R.13-11-005 (EE Portfolios). This decision approves several initiatives designed to produce emergency peak demand (during 4:00 p.m. - 9:00 p.m.) and/or net peak (during 7:00 p.m. - 9:00 p.m.) demand reductions through energy efficiency actions by the summers of 2022 and 2023. The decision was developed in response to Governor Newsom's July 30, 2021 Emergency Proclamation. This decision approves \$185 million in incremental energy efficiency

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.

budgets for program years 2022 and 2023, while also allowing shifting of energy efficiency funds previously allocated to address summer reliability objectives.

R.20-11-003 (Summer Reliability). This decision adopts a number of supply- and demand-side requirements to ensure there is adequate electric power in the event of extreme weather during times of greatest need in summers 2022 and 2023. The decision adopts the following demand-side changes:

- Expansion of the Emergency Load Reduction Program (ELRP) adopted in Phase 1 of this proceeding;
- Allows aggregation of vehicle to grid managed charging and discharge to support the grid at net peak;
- Broadens the Flex Alert media campaign to focus on the new Residential ELRP program and continue existing activities into 2022 and 2023;
- Makes changes to existing Demand Response programs, both on a statewide basis and to individual programs that pertain to each major electric Investor-Owned Utility;
- Approves a large smart thermostat incentive program designed to reduce air conditioning a few degrees during emergencies; and
- Adds pilots to test the effectiveness of dynamic rates that change rapidly in response to grid emergencies.

The decision would also adopt the following supply-side measures:

- Allows energy storage projects that are not fully deliverable as long as they provide peak and net peak grid reliability benefits in summer 2022 or 2023;
- Expands the use of a centralized procurement entity as a means of procuring reliability resources located in local areas; and
- Encourages accelerated on-line dates for procurement already ordered.

Voting Meetings

The Commission's next voting meeting is scheduled for November 4, 2021. The following energy-related items are on the agenda.

Item 3. Draft Resolution 5165. In Decision (D.) 20-09-035, the CPUC adopted Proposals 23e—allowing interconnection applicants with a Vehicle-to-Grid (V2G) Direct Current Electric Vehicle Supply Equipment system to request permission to switch to bidirectional mode after completing the Rule 21 interconnection process—and 23i—exempting V2G Alternating Current system pilots, temporarily, from Rule 21 smart inverter requirements.

Ordering Paragraph 42 directed SDG&E, Southern California Edison (SCE), and PG&E to file a Tier 3 Advice Letter to request approval of the implementation steps for these two proposals after presenting them at a V2G Workshop. This Resolution approves with modifications the proposed implementation plans for Proposals 23e and 23i put forth in the Joint Advice Letter SDG&E AL 3774-E, SCE AL 4510-E, and PG&E 6209-E.

Item 8. A.16-10-012 (DCR Transmission CPCN). This decision grants DCR Transmission, LLC a certificate of public convenience and necessity for the Ten West Link Transmission Line Project to construct a 125-mile, series-compensated 500-kilovolt (kV) transmission line with a conductor capacity of approximately 3,200 megawatts (MW) between the Colorado River 500-kV substation, owned by SCE, and the Delaney 500-kV substation, owned by Arizona Public Services Company.

Item 16. R.18-07-003 (RPS Implementation). This decision changes the confidentiality provisions relating to RPS procurement records, generally allowing broader, and earlier, access to RPS procurement records.

Item 16A. R.18-07-003 (RPS Implementation). This alternate proposed decision from Commissioner Rechtschaffen would generally lengthen the confidentiality periods for some forms of RPS procurement records. However, while both decisions would aggregate bid data for public disclosure after the final contracts are submitted for CPUC approval when at least three bidders are in the resource category, this decision would require individual bidders' bid information and bid evaluation and scoring information to be public one year after the final contracts are submitted to the CPUC for approval (or one year after the solicitation is closed if no contracts are executed).

Item 17. I.17-02-002 (Aliso Canyon). This decision sets the interim storage capacity at the Aliso Canyon Natural Gas Storage Facility at a range between zero and 68.6 billion cubic feet. The new level adopted in this decision is based on the necessity to protect customers from natural gas reliability issues and rate impacts for both natural gas and electricity in the current timeframe, before any mitigation of these potential reliability and cost risks is completed. The decision is an interim solution to address the immediate needs of the upcoming winter season because if there is inadequate gas to meet demand in winter 2021-2022, there will be health and safety consequences.

Item 17A. I.17-02-002 (Aliso Canyon). Alternate proposed decision of Commission Guzman-Aceves. This decision sets the interim storage capacity at the Aliso Canyon Natural Gas Storage Facility at a range between zero and 41.16 billion cubic feet.

Item 18. R.20-07-013 (Risk-Based Decision-Making Framework). This decision adopts 32 Safety and Operational Metrics for PG&E, to be used in accordance with D.20-05-053, which approved PG&E's post-bankruptcy reorganization plan. The decision requires PG&E to report on these Safety and Operational Metrics every six months starting March 31, 2022. The metrics are included in Appendix A to the decision. The decision also adopts 10 new Safety Performance Metrics (SPMs), building on those adopted in D.19-04-020, for application to PG&E, SCE, Southern California Gas Company, and SDG&E, that delete four and modify 19 of

26 existing SPMs for a total of 32 SPMs. These are included in Appendix B to the decision. The decision modifies the “Transparency Guidelines” proposed by PG&E and requires SCE to test these guidelines to the best of its ability concurrent with its 2022 Risk Assessment Mitigation Phase filing. The Commission will consider formally adopting these guidelines in a subsequent decision. The Transparency Guidelines as modified in this decision are contained in Appendix C to the decision. The decision approves minor technical clarifications to the Risk-Based Decision-Making Framework adopted in D.18-12-014.

CALIFORNIA ISO (CAISO)

Board of Governors Meeting

The California ISO’s next Board of Governors meeting is scheduled for November 3 and 4, 2021. The agenda includes a vote on Maximum Import Capability Enhancements. The full agenda may be found [here](#).

Stakeholder Initiatives: Upcoming Meetings and Deadlines

New Initiative: Interconnection Process Enhancements 2021. The CAISO has launched its Interconnection Process Enhancements 2021 initiative and held a public stakeholder workshop webinar on October 19, 2021. The deadline for written comments has been extended to November 2, 2021.

Extended Day-Ahead Market Initiative. The California ISO is hosting a foundational workshop for the Extended Day-Ahead Market (EDAM) initiative on November 12, 2021. In preparation for this workshop, the ISO is requesting questions in advance on the EDAM Common Design Principals and Concepts that will be discussed in further detail during the workshop. Questions are due by November 4, 2021.

Reliability Demand Response Resource Bidding Enhancements. The California ISO will hold a public stakeholder call on November 4, 2021 to discuss the issue paper and straw proposal for the Reliability Demand Response Resource Bidding Enhancements initiative. Comments are due November 12, 2021.

Energy Storage and Distributed Energy Resources Phase 4. On October 26, 2021, the Federal Energy Regulatory Commission approved proposed revisions to the California ISO’s Tariff designed to optimize the performance of storage and demand response resources and improve CAISO’s markets, as part of the fourth phase of CAISO’s energy storage and distributed energy resources (ESDER) stakeholder initiative. 177 FERC ¶ 61,051. Phase 4 involved three distinct Tariff revisions: (1) creating biddable state of charge parameters for energy storage; (2) applying market power mitigation to energy storage; and (3) enabling demand response resources to specify maximum daily run times. The California ISO is deploying the functionality of its ESDER Phase 4 initiative, effective trade date November 1, 2021, for both Real-Time and Day-Ahead Markets of November 1, 2021.

CALIFORNIA ENERGY COMMISSION (CEC)

Energy System Reliability (21-ESR-01)

On September 23, 2021, CEC Staff held an Informational Workshop on Midterm Reliability Modeling. The workshop followed the CEC's August 30, 2021 workshop, which provided 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 event recording from the September 23, 2021 workshop is available [here](#). The CEC Staff Report and Staff presentation from the September 23 workshop are available [here](#). Stoel's Renewable + Law Blog provides a summary of the August 30, 2021 workshop [here](#).

On September 8, 2021, CEC Staff also issued a revised 2022 Summer Supply Stack Analysis (Analysis) in the Energy System Reliability [docket](#). The revised Analysis assesses supply conditions against average and extreme weather conditions for summer 2022. Via an updated docket entry on September 21, 2021, Staff posted an "Updated" Revised Analysis that replaced the September 8 version. Staff's Analysis projects a need for between 200 and 4,350 MWs of additional resources to ensure reliability during summer 2022 under extreme weather events. The revised Analysis updates the draft 2022 Summer Stack Analysis provided at the CEC's August 11, 2021 Business Meeting. The previous draft Analysis had calculated a higher need of between 600 and 5,200 MWs for 2022 summer reliability under extreme weather events. During the September 8 Business Meeting, the CEC adopted Resolution No. 21-0908-8 adopting the Summer 2022 Supply Stack Analysis. A copy of Resolution No. 21-0908-8 was posted to the Energy System Reliability [docket](#) on September 16, 2021.

SB 100

The CEC and the CPUC will jointly conduct a [workshop](#) at 1 pm PT on November 1, 2021 to discuss approaches to include non-energy benefits and social costs in future Senate Bill 100 analyses. Additional information regarding the workshop, including remote attendance instructions and the meeting schedule is available [here](#).

CEC Business Meetings

The next CEC Business Meeting is scheduled for November 15, 2021. The meeting agenda is available [here](#).

CALIFORNIA AIR RESOURCES BOARD (ARB)

On November 4, 2021, ARB will host a joint [public meeting](#) with the California Transportation Commission and the California Department of Housing and Community Development. This is the second of two annual joint meetings in 2021 to coordinate interagency efforts to implement policies that jointly affect transportation, housing, air quality, and climate. The meeting will focus on interagency work on equity, housing, and related efforts to reduce vehicle miles traveled in order to meet climate and air quality commitments by the State.

ARB is holding virtual public workshops as part of the Assembly Bill (AB) 32 Scoping Plan Update. On November 2, 2021, ARB, in collaboration with the CEC, CPUC, and CAISO, will hold a [public workshop](#) to discuss the role of the electricity sector in meeting the State's energy, climate, and air quality goals. Recordings of past AB 32 Scoping Plan Update meetings and workshops are available [here](#).

On November 9, 2021, ARB will host a virtual public meeting for the AB 32 Environmental Justice Advisory Committee. The agenda and a link to the meeting are available [here](#).

On November 10, 2021, the AB 617 Consultation Group will hold a virtual meeting. AB 617 established the Community Air Protection Program to develop and implement community air monitoring systems and community emissions reduction programs. Additional information on the Community Air Protection Program and the proposed communities is available [here](#). The agenda and a link to the upcoming meeting are available [here](#).

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's next regular Board meeting will be held November 19, 2021. The agenda will be made available [here](#) 10 days prior to the meeting. At the meeting, the Board will consider the final draft investment plan for cap-and-trade auction proceeds. This is the fourth investment plan and identifies a suite of future funding priorities for California climate investments. The draft plan was previously released for public comment and ARB is accepting comments on the final draft plan on or before November 8, 2021. The public notice is available [here](#) and comments can be submitted [here](#).

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

Minnesota Power General Rate Case, PUC Docket No. 21-335

On November 1, 2021, Minnesota Power filed a general rate case seeking a total rate increase of \$108.3 million or approximately 17.58% based on a proposed ROE of 10.25%. The filing contemplates an across-the-board 18.22% increase for all customer classes, effective January 1, 2022. Alternatively, if MPUC elects to suspend the proposed increase pending review, Minnesota Power proposes an interim-rate increase of \$87.3 million or approximately 14.23%, effective January 1, 2022. We will continue to supplement this update as more information becomes available.

Northern States Power Company dba Xcel Energy Natural Gas Rate Case, PUC Docket No. 21-678

On November 1, 2021, Northern States Power Co. dba Xcel Energy ("Xcel") filed a natural gas rate case seeking a net increase of \$35.6 million or 6.6% based on a proposed 10.50%

ROE. In the event MPUC elects to suspend the proposed rate increase, Xcel seeks an interim-rate increase of \$24.9 million or 4.9% in 2022, which will be billed uniformly as a 13.96% increase for customers. The filing also discusses a rate case stay-out alternative that is pending before MPUC in PUC Docket No. 21-750. We will continue to update this matter as more information become available, and it is still an open question whether this case will be litigated.

CenterPoint Energy Resources Corp. dba CenterPoint Energy Minnesota Gas Rate Case, PUC Docket No. 21-435

On November 1, 2021, CenterPoint Energy Resources Corp. dba CenterPoint Energy Minnesota Gas (CenterPoint) filed a natural gas rate case seeking a net increase of approximately \$67 million or 6.5%, based on an ROE of 10.20%. Alternatively, should MPUC suspend the proposed rate increase, CenterPoint seeks an interim-rate increase of approximately \$51.8 million or 5.1%. We will provide additional updates as more information becomes available.

OREGON PUBLIC UTILITIES COMMISSION

New Formal Rulemaking in Docket No. AR 631

Last Tuesday, the OPUC issued Order No. 21-353 which approved Staff's request to open a formal rulemaking with respect to new proposed terms and conditions of Qualifying Facility (QF) standard contracts. The proposed QF contract terms and procedural rules, along with initial stakeholder comments, are located in the order [here](#).

Temporary Waiver of Low-Income Subscription Requirement Extended in Oregon Community Solar Program (CSP) – UM 1930

Under the Oregon CSP, program managers must subscribe at least 10% of their project's capacity to low-income individuals within 12 months after certification. This requirement was temporarily waived in October 2020 due to the COVID-19 pandemic. Last Monday, the OPUC issued Order 21-347, which extended this waiver for an additional six months. The final order is located [here](#).

OPUC Meetings This Week

On November 2, 2021 at 9:30 am PT, the OPUC will host a public meeting to discuss a wide range of dockets including UM 1930 (related to Oregon's CSP), UM 1729 (related to PacifiCorp's Avoided Cost Purchases from Generators 10 MW or Less), and LC 77 (related to PacifiCorp's 2021 Integrated Resource Plan). The agenda and dial in details can be located [here](#).

NEW YORK

New York Department of Environmental Conservation (DEC) Denies Air Permits for Gas Projects:

On October 27, 2021, the New York DEC denied air permits for the Astoria and Danskammer Energy Center gas-fired generator projects. The Astoria project is a proposed 437 MW simple cycle, dual-fuel peaking generator, while the Danskammer project is a 536-MW natural gas-fired, combined cycle generation facility.

The DEC denied the air permits because (i) the projects are “inconsistent with or would interfere with the statewide greenhouse gas emissions limits established in the Climate Leadership and Community Protection Act (CLCPA),” and (ii) there was no adequate showing of a reliability need for the projects that justified approval of air permits despite the inconsistency with the CLCPA. The CLCPA creates the requirement of zero-emissions by 2040. NRG, which proposed the Astoria project, argued that it would utilize hydrogen, renewable natural gas, or other zero-emissions fuels to meet the CLCPA’s requirement. The DEC found these plans speculative and potentially unfeasible.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

FERC allowed PJM Interconnection, L.L.C.’s “Focused MOPR” filing to go into effect on September 29, 2021 by failing to issue an order within 60 days as required under Section 205 of the Federal Power Act (FPA). According to the FERC’s September 29 [Notice](#), the FERC’s Commissioners were “divided two against two as to the lawfulness of the change” with Chairman Glick and Commissioner Clements (both Democrats) in support of the filing and Commissioners Christie and Danley (both Republicans) against it. Thereafter, in accordance with recently enacted requirements of Section 205(g) of the FPA, each of the Commissioners (Chairman Glick and Commissioner Clements, [jointly](#), and Commissioners [Christie](#) and [Danly](#), separately) issued statements regarding the basis for their respective positions.

Requests for rehearing were filed by a number of parties on October 29, including the Pennsylvania Public Service Commission (PAPUC), the Public Utilities Commission of Ohio (PUCO), and the Electric Power Supply Association (EPSA), among others. The PAPUC and PUCO contend that the timing of the Commissioners’ statements, following many days if not weeks after the FERC’s September 29 Notice of inaction, is prejudicial to their rehearing rights and frustrate due process. The EPSA contends that the Joint Statement by Chairman Glick and Commissioner Clements supporting the Focused MOPR filing is not a Commission order, that the Commission as a body has not provided an explanation for allowing the filing to go into effect, and, therefore, that the result is per se “arbitrary and capricious.”

As the result of yet another 2-2 split among FERC’s Commissioners, the Southeast Energy Exchange Market (SEEM) agreement took effect by operation of law on October 12, 2021. The agreement had appeared on FERC’s agenda for its September open meeting; however, it was removed at the last moment—indicating disagreement among the

Commissioners. Supporters of the SEEM agreement say that it provides for expanded bilateral energy trading across 11 Southeastern states and eliminates transmission rate pancaking. The agreement is not without its critics, however, who are concerned that the agreement will allow some of the nation's largest utilities to exclude competitors from the market.

FERC extended the deadline for baseline submissions to the new [market-based rate relational database](#). Baseline submissions will now be due February 1, 2022. Baseline submissions are required for all entities with market-based rate authorization.

FERC issued its [winter energy market and reliability assessment](#). The assessment noted that the National Oceanic and Atmospheric Administration forecasts above average temperatures for the winter for most of the U.S. and that solar and wind electric capacity additions may outpace natural gas-fired generation capacity additions this winter. The report concluded that all North American Electric Reliability Corporation Planning Regions expect available generation to exceed planning reserve margins this winter. Transfer capacity between regions will likely be critical for electric reliability.

Upcoming Conferences and Meetings

FERC will hold its [first Federal-State Transmission Task Force Meeting](#) on November 10, 2021 to explore transmission-related issues to identify and realize the benefits of electricity transmission while ensuring that the costs are allocated efficiently and fairly.

FERC will hold a [technical conference](#) on November 15, 2021 to examine in detail issues and potential reforms related to regional transmission planning as described in the July 15, 2021 Advanced Notice of Proposed Rulemaking. Specifically, the technical conference will examine issues related to incorporating sufficiently long-term and comprehensive forecasts of future transmission needs during regional transmission planning processes, including considering the anticipated needs of future generations in identifying needed transmission facilities.

FERC will hold a Staff-led [technical conference](#) on November 19, 2021 to discuss methods natural gas companies may use to mitigate the effects of direct and indirect greenhouse gas emissions resulting from Natural Gas Act §§ 3 and 7 authorizations.