REGULATORY UPDATE FOR NOVEMBER 15, 2022
(WEEK OF NOVEMBER 7, 2022)

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions[1]

A.22-02-007 (SoCalGas Angeles Link). This decision grants Southern California Gas Company (SoCalGas) the authority to establish the Angeles Link Memorandum Account to record the costs of performing Phase One feasibility studies for the Angeles Link Project, up to a cap of $26 million with the option for an increase of up to 15 percent. The objective of the Angeles Link Project is to develop a clean hydrogen energy transport system to serve the Los Angeles Basin.

R.21-10-002 (Resource Adequacy). This decision denies the petition for modification of Decision (D.) 22-03-034 (Petition), filed by California Community Choice Association. In light of Pacific Gas and Electric Company's (PG&E) shortfalls in procuring local resource adequacy capacity in its role as the Central Procurement Entity (CPE) for its service territory, and the resulting impacts on other load serving entities' (LSEs) system and flexible resource adequacy (RA) compliance obligations, the Petition requested: (1) immediate suspension of a portion of LSEs' system and flexible RA compliance until the California Independent System Operator (CAISO) completes any local RA backstop procurement for the CPE; (2) immediate suspension of a portion of LSEs' system and flexible compliance requirements for January, February and March, until CAISO completes backstop procurement of local RA for the CPE; (3) system update and flexible RA requirements after CAISO has completed backstop procurement; and (4) require LSEs to meet the adjusted annual and system RA following the backstop adjustment not later than May 1, 2023. The Petition also requested that the CPUC immediately create an interim waiver process for system and flexible RA penalties.

R.18-07-003 (RPS Implementation). This decision approves the 2022 RPS Procurement Plans for the investor-owned utilities, community choice aggregators, and electric service providers, subject to specified modifications. Final plans are due no later than 30 days following issuance of the decision.

A.22-04-009/-011/-012 (Cost of Capital Applications). This decision establishes the 2023 ratemaking cost of capital for PG&E, Southern California Edison Company (SCE), SoCalGas, and San Diego Gas & Electric Company (SDG&E).

R.20-08-020 (Net Energy Metering Tariffs). This decision would adopt a new net energy metering tariff. The decision makes a number of significant changes, including dropping the grid

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[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.

benefits charge based on installed capacity that the previous proposed decision would have imposed, and adopting a new method of transitioning from the current NEM 2.0 tariff that provides an adder to the export compensation paid to residential customers in PG&E's and SCE's service territories.

Draft Resolution E-5247. SDG&E's joint Advice Letter (AL) 4011-E, consisting of BVES AL 444-E, Liberty Utilities AL 192-E, PG&E AL 6607-E, PacifiCorp AL 685-E, and SCE AL 4803-E (collectively, Joint IOUs' AL), proposes to establish a 160-business day average service energization timeline for projects installing electric vehicle charging infrastructure. The Joint IOUs' AL proposes to limit the adopted service energization timeline to cover tasks that are only within the IOUs' direct control, while also identifying measures to accelerate the timeline to complete tasks within their indirect control. Finally, the Joint IOUs' AL identifies options to improve the completion timeline for steps outside of the IOUs' direct control. This Resolution approves, with modifications, the Joint IOUs' proposed average service energization timeline. The Joint IOUs must achieve an interim average service energization timeline of 125 business days for projects going through the EV Infrastructure Rule, excluding projects with a capacity exceeding 2 megawatts (MW), projects that need distribution line upgrades via Electric Rule 15, and projects requiring sub-station upgrades. The Joint IOUs must collect and report data on sites that exceed the 125-business day average service energization timeline to inform potential modifications to the target. Within one-year of authorization of this resolution, the Joint IOUs shall host a public workshop to discuss their efforts to achieve the 125-business day average service energization timeline. Within 60-days of hosting this public workshop, the Joint IOUs must submit a Tier 2 (T2) AL proposing an updated average service energization timeline informed by their efforts over the previous year. Finally, the Joint IOUs must collect service energization data related to processes atypical or outside of the EV Infrastructure Rules (i.e., projects going through Rule 15, projects exceeding 2 MW in capacity, projects requiring sub-station upgrades, etc.) to inform a potential energization timeline for such projects.

A.22-05-014 (2023 ERRA Forecast Revenue Requirement). This decision approves SCE's total 2023 Energy Resource Recovery Account (ERRA) electric procurement cost revenue requirement forecast of $5,242.224 million, modifying SCE's requested revenue requirement of $5,237.858 million to account for a correction to the Solar on Multifamily Affordable Housing Program funding true-up. SCE's revenue requirement consists of both a generation service component and a delivery service component. As a result of the costs and other adjustments approved in this decision, on January 1, 2023, SCE's system average rates for bundled customers will increase by 2.9% as compared to rates effective October 1, 2022, to 24.444¢/kilowatt hour in 2023. The Power Charge Indifference Adjustment rates will be negative for most customer vintages in 2023 due to overcollections in 2022, resulting in credits for customers in those vintages.

R.13-02-008 (Biomethane Rulemaking). The CPUC directs California's four large gas investor-owned utilities to continue to file with the CPUC previously ordered biomethane-related reports regarding interconnected projects and procurement details, as well as information pertaining to factors identified in D.22-02-025, combined into a single consolidated report due annually starting May 1, 2024. This decision also adopts an interim definition for renewable hydrogen and directs the development of pilot projects to further evaluate standards for the safe injection of renewable hydrogen into California's common carrier pipeline system by specifying permissible injection thresholds, locations, testing requirements, and independent analysis.

Voting Meetings

The CPUC will hold a voting meeting on November 17, 2022. The agenda includes the following energy-related items.

Item 5. R.18-07-003 (RPS Implementation). This decision reviews and approves Voluntary Allocations and modifies the Market Offer process proposals of the LSEs to sell excess renewable resources pursuant to D.21-05-030. The decision approves all Voluntary Allocation offers made by the IOUs and accepted by the LSEs (except 3 Phases Renewables, Incorporated (3 Phases Renewables)) in this Voluntary Allocation and Market Offer cycle, as reported in the LSEs' draft 2022 RPS Plans filed on July 1, 2022 or updates filed on August 15, 2022. 3 Phases Renewables must file an updated draft 2022 RPS Plan, incorporating information on the status of its Voluntary Allocations, within seven days of the issuance date of this decision. PG&E, SCE, and SDG&E must each file a Tier 1 Advice Letter within 15 days of the issuance date of this decision to include the changes to the Market Offer process described in this decision, along with updated Market Offer proformas.

Item 6. A.21-09-001 (SDG&E Optional Residential Rate). This decision considers SDG&E's proposal for an optional residential rate, TOU-ELEC, with a tiered fixed charge to incentivize beneficial electrification and adopts it as modified, with the following rate design features: (1) an un-tiered time-of-use (TOU) rate with a flat monthly fixed charge of $16 for customers who own one or more of the following qualifying technologies: electric vehicles, energy storage, electric heat pump for water heating, or climate control; (2) greater Peak-to-Super-Off-Peak differential in summer and winter, as proposed by SDG&E, to send a stronger signal to use electricity outside the peak period; and (3) lower Off-Peak-to-Super-Off-Peak differential, as proposed by SDG&E, to soften the price signal between the two off-peak periods and allow for greater flexibility between peak- and non-peak period usage. This decision places an enrollment cap of 10,000 accounts on TOU-ELEC to control any potential revenue shortfall, with the option to increase the cap by increments of 10,000 via Tier 2 advice letter filings. This decision also requires SDG&E to supplement its marketing, education, and outreach plan to target customers who do not own the qualified technologies yet. Finally, the decision adopts the partial settlement agreement on the issue of including a medical discount for customers who are otherwise eligible for the Medical Baseline Program for the TOU-ELEC rate. The settling parties are SDG&E, the Center for Accessible Technology, the Public Advocates Office at the CPUC, the Utility Reform Network, and the Utility Consumers' Action Network.

Item 10. Resolution M-4864. This resolution authorizes PG&E to exit from Step 1 of the Enhanced Oversight and Enforcement Process set forth in Resolution M-4852, in accordance with D.20-05-003. Resolution M-4852 previously placed PG&E into Step 1 based upon findings that PG&E had made insufficient progress on risk-driven wildfire mitigation efforts.

Item 23. Resolution E-5244. This resolution approves SDG&E's agreement with Marine Corps Air Station Miramar (Miramar). SDG&E will provide a Summer Generation Availability Incentive (Incentive) from July 1, 2022 through October 31, 2022, to Miramar, in return for 6 MW of electric generation. The agreement stipulates that generation may be run up to five times per calendar month from 4:00 p.m. to 9:00 p.m., when this generation is called upon by SDG&E for additional grid support. In return, Miramar is to be compensated for this generation. SDG&E provided the same Incentive to Miramar from September 1, 2021 through October 31, 2021.

Item 31. R.__-__-___ (New DER OIR). Order Instituting Rulemaking to Develop Policy and Create a Consistent Regulatory Framework for Distributed Energy Resource Customer Programs. This rulemaking is a successor proceeding to R.14-10-003.

Item 32. R.18-12-006 (Vehicle Electrification). This decision adopts a statewide transportation electrification framework that includes a long-term transportation electrification policy and a third-party administered rebate program for electric vehicle infrastructure, and directs the California electrical corporations, specifically PG&E, SCE, SDG&E, Liberty Utilities (CalPeco Electric) LLC, Bear Valley Electric Service Inc., and PacifiCorp d/b/a Pacific Power, to jointly fund the program and associated activities.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Extended Day-Ahead Market. CAISO has published the Extended Day-Ahead Market draft final proposal. The deadline for written comments on the draft final proposal has moved from November 30, 2022 to November 22, 2022, to facilitate the publication of a final proposal by December 7, 2022. CAISO has also posted the revised tariff framework, which reflects the draft final proposal in an outline format of the tariff.

Energy Storage Enhancements. CAISO held a public stakeholder call on October 31, 2022, to discuss the final proposal to the Energy Storage Enhancements initiative. Written comments on the final proposal are due today, November 15, 2022.

Price Formation Enhancements Workshop. CAISO will host a Price Formation Enhancements initiative virtual public stakeholder workshop on November 16, 2022, focused on price formation principles and price formation foundation.

2022-2023 Transmission Planning Process. CAISO has posted the final reliability assessment study results for the 2022-2023 transmission planning process. CAISO will host a public stakeholder call on November 17, 2022, to present the preliminary assessment of the policy driven and economic planning study results, brief stakeholders on the projects recommended as being needed that are less than $50 million, and provide updates on other analysis.

CAISO Posts Analysis of September Heat Wave in Summer Market Performance Report for September 2022. CAISO published its analysis of the September heat wave in the

Summer Market Performance Report for September 2022. The report includes a heat wave analysis focusing mainly on the grid's most critical days, September 5-8, 2022. A stakeholder call is scheduled for November 17, 2022, to review the details of the analysis and answer stakeholder questions.

Generator Interconnection Affidavits for Allocating and Retaining Transmission Plan Deliverability Due December 5, 2022. Generator interconnection customers must submit Transmission Plan (TP) Deliverability affidavits to CAISO by December 5, 2022 to be eligible to receive or retain deliverability allocations in the annual TP Deliverability allocation process. This notice applies to all active generation interconnection projects who are eligible to seek an allocation or who want to retain an allocation from a prior allocation cycle.

Review of Final 2023 Resource Adequacy Compliance Filings and Determination of Deficiency. CAISO has posted its aggregate assessment of the annual RA plans submitted by LSEs and central procurement entities along with the reliability-must-run units designated by CAISO for 2023. LSEs and central procurement entities may submit revised annual RA plans by close of day on December 12, 2022.

CALIFORNIA ENERGY COMMISSION (CEC)

Integrated Energy Policy Report (IEPR)

On November 8, 2022, the CEC released the 2022 Draft IEPR Update. Comments on the draft are due by 5:00 p.m. on November 30, 2022. For more information, please visit the 2022 IEPR Update website or Docket No. 22-IEPR-01.

AB 205 Emergency Rulemaking: Opt-in Certification Provisions

On October 12, 2022, the CEC adopted emergency regulations implementing the opt-in certification provisions of Assembly Bill (AB) 205. The regulations are available at TN# 246379 in Docket No. 22-OIR-01. The California Office of Administrative Law approved the regulations on October 24, 2022.

As background, on June 30, 2022, California Governor Gavin Newsom signed AB 205, which, among other things, expands the jurisdiction of the CEC to include non-thermal generating facilities, such as solar and wind projects, 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 with 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.

Energy System Reliability

The CEC is seeking to identify clean energy resources and characterize their ability to support grid reliability. To that end, the CEC issued a Request for Information (RFI) on Clean Energy Resources for Reliability in an effort to collect information on the potential resources and attributes for consideration in these analyses. The RFI seeks public comment on various resource types and evaluation attributes set forth in detail in the RFI document, as well as regarding distributed electricity backup assets program design and resource characterization. Comments are due by 5:00 p.m. PT on November 30, 2022. Additional information regarding the RFI is available here.

Lithium Valley Commission

The next Lithium Valley Commission meeting will be held in hybrid format at 1:00 p.m. PT on November 17, 2022. The physical meeting will be held at the Imperial Valley College Auditorium in Imperial, California. Additional information is available here.

CEC Business Meetings

The next CEC Business Meeting is scheduled for November 16, 2022.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

CARB will hold its next board meeting on November 17-18, 2022. At the meeting, CARB will consider amendments to the in-use off-road diesel-fueled fleets regulation. The full agenda for the board meeting is available here.

On December 5, 2022, CARB will hold a public workshop on landfill methane emissions in California. The workshop will highlight results from research studies on landfill methane emissions. Information and registration for the workshop can be found here.

On December 6, 2022, CARB will host a virtual workshop on revisions to the Community Air Protection Program Blueprint and the fifth annual community recommendations and selection process for the Assembly Bill 617 Community Air Protection Program. Information and registration for the workshop can be found here.

Opportunities for Public Comment

On October 20, 2022, CARB held a workshop on development of the state's strategy to achieve net-zero GHG gas emissions in the cement sector in California. Comments can be submitted to CARB on the workshop on or before November 30, 2022 here.

On November 9, 2022, CARB held a workshop to discuss potential changes to the Low Carbon Fuel Standard. The workshop focused on options for increasing the stringency of the carbon intensity targets for 2030 and beyond, the design of initial scenarios for modeling, the modeling approach, and alternatives. Feedback on the workshop may be submitted to CARB here on or before December 2, 2022.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

Minnesota Power Integrated Resource Plan, MPUC Docket No. 21-33

The MPUC held a hearing on Minnesota Power's integrated resource plan (IRP) on November 10. At the hearing, the MPUC approved a number of adjustments to Minnesota Power's IRP based on a joint proposal (detailed below by resource type) from Minnesota Power, clean energy advocates, large industrial advocates, labor representatives, and community representatives. An RFP for new resources will follow the written order, which is expected in the next 30-60 days.

Resource Plan/Renewable Procurement

Minnesota Power was directed to procure cost-effective resources to meet its customer and renewable product needs between 2025 and 2030 by:

a. acquiring at least 300 MW and up to 400 MW of wind with at least 200 MW in service by 2026 as practicable;

b. acquiring up to 300 MW of regional/in-service territory or net-zero solar; and

c. implementing storage demonstration projects of at least 100 MWh and up to 500 MWh by 2026 as practicable.

d. Minnesota Power will also work with organized labor and other interested stakeholders to maximize socioeconomic benefits to customers and host communities by prioritizing utility investment in its service territory, use of local labor for construction and permanent staffing, and development of apprenticeship pathways when procuring new energy resources.

e. For projects located in or adjacent to existing host communities, Minnesota Power will engage with city officials early in the project development process for input and collaboration on issues, including siting, to ensure that projects effectively support the community's own transition plans.

f. Minnesota Power will work collaboratively with large power customers and large light and power customers to pursue at least 50 MW of additional long-term demand response to address future resource adequacy changes.

g. In its next resource plan, Minnesota Power will include a service quality study of its next preferred plan and thoroughly demonstrate how system reliability and resource adequacy will be maintained as it transitions to more intermittent generating resources.

Boswell Energy Center (BEC)

Require Minnesota Power to cease coal operations at BEC Unit 3 by December 31, 2029 and BEC Unit 4 by 2035 at the latest. Capacity and energy replacement options including transmission solutions for both units will be evaluated during the next resource plan. MISO long range transmission planning and associated processes will be incorporated. In addition, the MPUC directed the following:

a. In its next IRP, Minnesota Power will continue to evaluate additional transmission system reliability mitigations needed to maintain the option of retiring the Boswell facility entirely, including unit 4, by no later than 2030.

b. All retirement scenarios at Boswell will also include a comprehensive analysis of reliability, customer rate implications, any proposal or Commission decision with respect to NTEC capacity, worker transition, and socioeconomic impacts, including projected impacts on the local tax base for the City of Cohasset and Itasca County.

c. Minnesota Power will also specifically evaluate converting Boswell 3 to a synchronous condenser upon retirement in the next IRP.

d. In the next IRP, MP will describe work done to date and work yet to be completed, provide a schedule of expected milestones, and estimate the earliest date for completion of the transmission system reliability mitigations.

Nemadji Trail Energy Center (NTEC)

MP will file amended Affiliated Interest Agreements and updated capacity dedication amounts as part of the next resource plan or sooner, and parties may analyze whether that amount of NTEC capacity is in the public and ratepayer interest.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On October 19, 2022, the OPUC Staff hosted a stakeholder workshop in the matter of UM 2143 (re Investigation into Resource Adequacy in the State) and presented a proposed strategy to initiate rulemaking on a long-term RA standard for Oregon. As currently proposed, the Oregon RA standard would be aligned with the Western Regional Adequacy Program. Comments on the rulemaking scope and strategy are due by November 21, 2022. The announcement can be found here, and the staff presentation can be found here.

On November 1, 2022, the OPUC hosted a remote public hearing and commissioner work session in the matter of docket UM 2225 re Investigation into Clean Energy Plans. The purpose of the meeting was to discuss near-term guidance on analytical improvements in the first clean energy plans and associated integrated resource plans. The agenda and meeting information can be found here, and the staff report can be found here.

On Thursday, November 3, 2022, at a special public meeting, the OPUC adopted the Energy Trust of Oregon's 2023 budget and action plan. The budget and plan can be found here.

On November 16, 2022, at 1:00 p.m. PT, the OPUC will host a public workshop to discuss comments received to date in the matter of docket UM 638 (re Risk-Based Wildfire Protection Plans).

OREGON ENERGY FACILITY SITING COUNCIL (EFSC)

On October 28, 2022, EFSC held an open meeting to discuss a variety of energy-related issues, including review of comments related to rulemaking on Protected Areas, Scenic Resources, and Recreation Standards; informational overview of recycling wind turbine components; and initiation of informal proceedings to evaluate potential rule changes to the rules governing the amendment of site certificates. Information about the meeting can be found here.

WASHINGTON LOW CARBON ENERGY SITING STUDY ADVISORY BOARD (WSAB)

WSAB held a regular meeting on November 9. By way of background, the Washington Department of Ecology is conducting a study on how to improve environmental review and permitting processes for siting low carbon energy projects. WSAB is made up of many different stakeholders and serves as a forum for those stakeholders to provide perspectives and recommendations. The meeting information has not yet been published, but information about the process and past meetings are available here.

ILLINOIS COMMERCE COMMISSION (ICC)

On November 10, 2022, the ICC voted to adopt the Administrative Law Judge's (ALJ) Proposed Interim Order granting in part and denying in part Staff's motion to dismiss and to strike components of the Beneficial Electrification (BE) Plan filed by Commonwealth Edison Company (ComEd) in consolidated docket Nos. 22-0432 and 22-0442. Overall, the Interim Order (1) grants Staff's request to remove the rebates for customer purchases of electric vehicles and for the installation of electric vehicle charging station equipment (as opposed to rebates for make-ready infrastructure) under the Commercial and Industrial and Public Sector Incentive Programs on the grounds that they are duplicative of rebates offered by the Illinois Environmental Protection Agency (IEPA); (2) denies Staff's motion to strike the non-transportation components of ComEd's BE Plan (e.g., building electrification rebates); and (3) denies Staff's motion to modify ComEd's proposed application of the retail rate cap on budget expenditures under the BE Plan. Commissioner McCabe filed a concurrence with respect to issue (1) on the basis that it is premature to determine whether or not ComEd's proposed sub-programs are duplicative of those authorized to IEPA.

On November 7, 2022, Staff and intervenors filed rebuttal testimony in the consolidated docket (Nos. 22-0431 and 22-0443) considering whether to approve Ameren Illinois Company's BE Plan. Evidentiary hearings are scheduled for December 1 and December 2, 2022.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

On October 20, 2022, FERC issued the 2022-2023 Winter Energy Market and Reliability Assessment, which was updated on October 25, 2022. According to the report, U.S. electricity markets are projected to have adequate amounts of generating capacity to maintain reliable operations this winter, though certain regions may face challenges in extreme weather. The report notes that above-average temperatures are forecasted this winter, except in the Pacific Northwest and West-North Central regions of the U.S. The report also notes that due to the rising demand for natural gas and lower than average storage inventories, it is expected that this winter's natural gas prices will be higher than last year, and will be particularly high in New England. Texas' ability to import power was also raised as a potential challenge if extreme weather arises.

On October 21, 2022, FERC issued an Order Granting in Part and Denying in Part Petition for Declaratory Order filed by Blue Ridge Power Agency (Blue Ridge) on behalf of four of its member companies requesting a declaration that those companies are permitted to utilize battery storage technologies on their systems to reduce and/or manage (sometimes referred to as "peak shaving") their demands under their full requirements power contracts with Appalachian Power Company (APCO). APCO filed a Motion to Dismiss and Protest Blue Ridge's petition contending that it involves a non-technical contract dispute "unique to the parties," which should be decided by a Virginia state court rather than by FERC. FERC, however, agreed with Blue Ridge that the dispute involves a broader question of whether a full requirements customer's installation of battery storage is compatible with the full requirements nature of the contract, and decided to exercise its primary jurisdiction to resolve the dispute. FERC's order examined the agreements and found that installation and utilization of battery storage was not expressly prohibited under the terms of three of the four full requirements contracts and was therefore entirely permissible. Commissioners Danly and Christie both dissented on the ground that they would have declined jurisdiction and left it to the state court to resolve the dispute.

Two recent decisions from FERC 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 *Evergy 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.

FERC convened its Annual Commissioner-led Reliability Technical Conference on November 10, 2022, in person in Washington, D.C. and remotely via Webex.

The next public meeting of the Joint Federal-State Task Force on Electric Transmission is being held today, November 15, 2022, in New Orleans, Louisiana with a remote Webex option.

On October 17, 2022, the Indicated PJM Transmission Owners (ITOs) and the New Jersey Division of Rate Counsel (Rate Counsel) each filed an Answer (here and here) in opposition to the Motion to Govern Procedures on Remand (Motion) filed by Consolidated Edison Company of New York, Inc.; Linden VFT, LLC; Hudson Transmission Partners, LLC; and the New York Power Authority (collectively, the New York Entities).

On August 9, 2022, the U.S. Court of Appeals for the District of Columbia Circuit remanded to FERC for further proceedings a number of issues relating to PJM Interconnection, LLC's allocation of the costs of the Bergen-Linden and Sewaren short-circuit transmission projects, using the DFAX methodology, including the 1% *de minimis* threshold. *Consol. Edison Co. of N.Y. Inc. v. FERC*, No. 15-1183 (D.C. Cir. Aug. 9, 2022). On September 30, 2022, the New York Entities filed a motion seeking approximately $115 million in refunds, plus interest, based on a recalculation of rates that removes the *de minimis* threshold and assigns all of the costs of the projects to the host zone, Public Service Electric and Gas Company.

In their answers, the ITOs and Rate Counsel argued that the New York Entities' motion is both improper and premature. They noted that the court's decision did not direct FERC to order refunds. Rather, the court indicated that FERC's earlier orders did not adequately explain its reasoning for treating the Bergen-Linden and Sewaren short-circuit projects differently from a stability project, like the Artificial Island project. The answers also pointed out that the court did not hold that use of the DFAX method for short-circuit projects violated cost causation principles per se, and that FERC on remand may be able to provide a more satisfactory explanation for the distinction. The ITOs and Rate Counsel urged FERC, therefore, to hold further proceedings to address the defects identified by the court and, if necessary, to consider alternative cost allocation methodologies.

On November 1, 2022, ALJ Suzanne Krolikowski issued an Order Denying In Part Respondents' Motion to Compel Responses to Fifth Set of Data Requests/Notice to All Participants Concerning Failure to Comply with Commission Practice Obligations in the proceedings to determine whether Total Gas & Power North America, Inc.; Aaron Hall; and Teresa Tran (Respondents) manipulated natural gas prices in the Southwestern U.S. between 2009 and 2012, in violation of FERC's Anti-Market Manipulation Rule. Order Establishing Hearing. In addition to addressing substantive arguments in Respondents' motion to compel, ALJ Krolikowski's order emphatically put Respondents' counsel on notice that any further unsupported allegations of misconduct against opposing counsel could result in suspension and exclusion of counsel from further participation in the proceeding under Rule 2102(b) of FERC's regulations. According to the order, Respondents' counsel potentially violated this rule by alleging without support that Enforcement Staff "lost or destroyed" relevant evidence in the case and by citing as authority for its position an ALJ order but failing to disclose that the order never went into effect.

FERC's monthly open meeting is scheduled for November 17, 2022, and a couple of interesting items have appeared on the agenda. For one, FERC will take up a rulemaking addressing reliability standards specific to inverter-based generation. FERC will also be addressing a longstanding complaint filed against the Southwest Power Pool regarding its troublesome Attachment Z2, which provides for the reimbursement of network upgrade costs.