

REGULATORY UPDATE FOR OCTOBER 18, 2021 (WEEK OF OCTOBER 11)**CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)**New Proposed Decisions and Draft Resolutions¹

Draft Resolution L-613. On November 19, 2020, Brandon Rittiman sought the disclosure of certain records of the CPUC pursuant to the California Public Records Act. Rittiman sought all communications between Commission President Marybel Batjer or her executive staff with the following employees of the Governor's office: Ana Matasanos, Alice Reynolds, Ann Patterson, and Rachel Wagoner. This Resolution would deny the appeal of Rittiman for a reconsideration of the Commission Staff determination that the records he sought are exempt from disclosure pursuant to California Government Code § 6254(1), which exempts from public disclosure “[c]orrespondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary.”

Voting Meetings

The Commission will hold its next voting meeting on October 21, 2021. The following energy-related items were on the agenda. The Commission's next voting meeting will be held on October 21, 2021.

Item 3. R.19-10-005 (EPIC Program). In this decision, the Commission authorizes Pacific Gas and Electric (PG&E), Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E) to continue in their roles as administrators of the Electric Program Investment Charge (EPIC) Program, subject to additional administrative requirements. Like the California Energy Commission (CEC), the Investor-Owned Utilities (IOUs) are authorized to file two five-year investment plans, with the first cycle covering 2021-2025 (EPIC 4) and the second cycle covering 2026-2030 (EPIC 5). The Commission authorizes EPIC 4 investment plan budgets of \$18.44 million annually for PG&E, \$3.24 million annually for SDG&E, and \$15.131 million annually for SCE. To bring greater focus to the EPIC Program and improve transparency, the Commission adopts a number of administrative requirements, as well as the guiding principles and mission statement contained in Appendix A of the Proposed Decision. Given the number of revisions in this decision, the Commission extends the filing deadline for the CEC's EPIC 4 investment plan from October 1, 2021 to December 1, 2021. Although the Commission

¹ Per California Public Utilities Commission (CPUC or Commission) 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.

authorizes the IOUs as administrators, and authorizes their investment plan budgets, this decision does not approve their investment plans.

Item 3A. R.19-10-005 (EPIC Program). This alternate proposed decision (APD) of Commissioner Guzman Aceves differs from the proposed decision (PD) (Item 3) in that it provides further justification for the continuation of the IOU administrative role, while only authorizing their funding through 2025. Additionally, the APD differs from the PD in that it increases the administrative cost cap for a fourth EPIC administrator, the CEC, from a soft cap of 10% to a firm cap of 15%. The APD matches the outcome of the PD in other respects.

Item 9. A.20-02-004 (PG&E Wildfire Costs). This decision adopts the Settlement Agreement proposed by PG&E, the Public Advocates Office at the CPUC, and The Utility Reform Network, and authorizes the utility to recover \$445.5 million from ratepayers related to the insurance costs tracked in its Wildfire Expense Memorandum Account during the period July 26, 2017 through December 31, 2019. This decision directs PG&E to recover the costs through several existing ratemaking mechanisms over a 36-month period.

Item 13. A.21-06-016 (SCE Wildfire Recovery Bonds). This Financing Order grants in part and denies in part the second application of SCE for authority under Assembly Bill 1054 and Public Utilities (Pub. Util.) Code §§ 850 and 850.1 to issue Recovery Bonds to recover certain wildfire-related capital expenditures, certain operations and maintenance expenses, and certain uncollectible bad debts expense amassed during the COVID-19 pandemic, as well as financing costs related to issuing the Recovery Bonds. The Order authorizes SCE to issue Recovery Bonds to recover approximately \$526 million in capital expenditures and applicable financing costs, resulting in a ratepayer savings of approximately \$403 million compared to traditional utility financing mechanisms on a net present value basis. The Recovery Bonds will be issued by a legally separate Special Purpose Entity, which will transfer the Recovery Bonds proceeds to SCE in exchange for the right to receive revenues to repay the Recovery Bonds' principal, interest, and related costs. The Recovery Bonds' principal, interest, and related costs will be recovered via a surcharge called the Fixed Recovery Charge. All consumers of electricity in SCE's service territory will be required to pay the Fixed Recovery Charge, except for those consumers that are exempt pursuant to Pub. Util. Code § 850.1(i).

Item 19. 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 19A. R.18-07-003 (RPS Implementation). This APD 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 20. 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 Decision (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.

Item 21. Draft Resolution WSD-021. This Resolution ratifies the Action Statement (Appendix A of the Resolution) of the Office of Energy Infrastructure Safety approving PG&E's 2021 Wildfire Mitigation Plan Update pursuant to Pub. Util. Code § 8386.

CALIFORNIA ISO (CAISO)

Western EIM Governing Body Teleconference Meeting

The next Western EIM Governing Body teleconference meeting is scheduled for October 20, 2021. The agenda may be found [here](#).

Stakeholder Initiatives: Upcoming Meetings and Deadlines

2021 Contract Management Enhancements. The CAISO held a public stakeholder call on October 7, 2021 to discuss the draft final proposal and draft tariff language for the 2021 Contract Management Enhancements initiative. Comments are due October 21, 2021.

New Initiative: Interconnection Process Enhancements 2021. The CAISO has launched its Interconnection Process Enhancements 2021 initiative and scheduled a public stakeholder workshop webinar on October 19, 2021. The purpose of this workshop is for the CAISO to present the problems and issues presented in the CAISO's preliminary issue paper and to solicit input and provide stakeholders an opportunity to present the issues that need to be addressed within this initiative.

EIM Resource Sufficiency Evaluation Enhancements Phase 1. The California ISO held a stakeholder call on October 12, 2021, to discuss the draft final proposal for Phase 1 of the Energy Imbalance Market Resource Sufficiency Evaluation Enhancements initiative. Comments on the proposal and call discussion are due October 22, 2021.

Resource Adequacy Enhancements Phase 2. The CAISO held a public stakeholder call on October 12, 2021 to discuss the straw proposal for phase 2 of the Resource Adequacy Enhancements initiative. A redlined copy of the straw proposal has been issued and may be found [here](#). Written comments are due October 26, 2021.

Maximum Import Capability Enhancements: Final Proposal. The California ISO will hold a public stakeholder call on October 18, 2021 to discuss the final proposal for the Maximum Import Capability Enhancements initiative.

CALIFORNIA ENERGY COMMISSION

Energy System Reliability (21-ESR-01)

On September 23, 2021, CEC Staff held an Informational Workshop on Midterm Reliability Modeling to the Energy System Reliability. 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

In response to Governor Newsom's July 30, 2021 Emergency Proclamation, on September 29, 2021 the CEC published a "Report to the Governor on Priority SB 100 Actions to Accelerate the Transition to Carbon-Free Energy." The report includes recommendations on actions California can take to accelerate achieving goals set forth in SB 100 goals and California's transition to carbon-free energy. The report is available [here](#).

Lithium Valley Commission

The next Lithium Valley Commission meeting will be held on Thursday, October 28, 2021 at 1:30 p.m. PT. Additional information is available [here](#).

CEC Business Meetings

The next CEC Business Meeting is scheduled for November 15, 2021.

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD (SWRCB)

Proposed Final Amendment to OTC Policy

On October 19, 2021, the SWRCB will consider adoption of the Proposed Final Amendment to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (OTC Policy) to Revise the Compliance Schedule for the Redondo Beach Generating Station and the Proposed Final Staff Report. The amendment materials propose an extension of the OTC Policy compliance date for the Redondo Beach Generating Station to ensure grid reliability.

Additional information regarding the October 19, 2021 Board meeting is available [here](#). Copies of the Proposed Final Amendment, Proposed Final Staff Report, and Responses to Comments are available on the OTC Policy program's Policy Documents [website](#).

CALIFORNIA AIR RESOURCES BOARD (ARB)

Upcoming ARB meetings will be held virtually October 14 and October 28-29, 2021. At the [October 14 meeting](#), ARB will consider the Community Emissions Reduction Program for the Portside Environmental Justice Neighborhoods, developed under the AB 617 Community Air Protection Program. The full agenda for the October 28-29 meeting will be available [here](#) 10 days prior to the meeting.

On October 28, 2021, ARB will hold a [public meeting](#) to consider approval of the 2020 Mobile Source Strategy. SB 44 (Skinner, 2019) requires ARB to update its 2016 Mobile Source Strategy by 2021 and every five years thereafter. The Mobile Source Strategy identifies opportunities for mobile source emissions reductions to support state emission reduction goals and to reduce exposure in low-income and disadvantaged communities. Comments on the Mobile Source Strategy can be submitted [here](#) on or before October 18, 2021.

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. Comments may be submitted [here](#) in advance of the meeting on or before October 25, 2021.

On September 30, 2021, ARB held a [virtual public workshop](#) on modeling inputs for a range of scenarios under consideration to achieve carbon neutrality in California by 2045, as part of the Assembly Bill (AB) 32 Scoping Plan Update. Comments on the workshop may be [submitted](#) to ARB on or before October 22, 2021. Recordings of this workshop and other past AB 32 Scoping Plan Update meetings and workshops 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.

MINNESOTA REGULATORY UPDATES

Minnesota Public Utilities Commission

1. Minnesota Power Contract Dispute with Verso Corporation, PUC Docket No. 21-593

On October 14, 2021, the Minnesota Public Utilities Commission (Commission) met to consider Minnesota Power's complaint against Verso Corporation (Verso), a former industrial customer on its system that recently shutdown. Minnesota Power's complaint against Verso centered around a take-or-pay provision in the electric service agreement (ESA) executed between the companies. In short, the companies disagree about the amount owed to Minnesota Power and whether it has a duty to mitigate damages. Minnesota Power's complaint sought a Commission "interpretation" of the amount owed to Minnesota Power under the ESA and a determination that it did not need to mitigate damages. Because the Commission does not have authority to award damages, certain stakeholders questioned the Commission's authority to award the relief sought by Minnesota Power. After deciding it had jurisdiction to adjudicate Minnesota Power's complaint, the Commission granted Minnesota Power's requested relief. In response to questions, Minnesota Power did, however, state that it did not anticipate that other ratepayers would be impacted by the Commission's decision. A written order is pending.

2. Minnesota Power Land Sales, PUC Docket No. 20-675

On October 14, 2021, the Commission met to again consider Minnesota Power's petition for approval to sell residential leased lots surrounding reservoirs in its hydroelectric system. Minnesota Power is no longer required to maintain ownership of certain leased lots, and proposed selling the lots and using the approximately \$100 million proceeds as a rate mitigation tool to be credited to ratepayers in a future rate case or through a rider. When the Commission first heard this matter, it expressed significant concerns with Minnesota Power's proposed negotiations with current tenants, and therefore requested additional information and stakeholder feedback. Upon subsequent review, the Commission approved Minnesota Power's petition; however, the Commission placed a number of conditions upon how the company is to conduct negotiations and subsequent sales with its current tenants. Minnesota Power will credit the value of the sales in a future rate case or rider filing.

3. Minnesota Public Utilities Commission Investigation into Self-Commitment of Self-Scheduling of Large Baseload Generation Facilities, PUC Docket No. 19-704

On October 14, 2021, the Commission met to consider its investigation into self-commitment and self-scheduling of large baseload generation units by Minnesota utilities. After discussion, the Commission accepted the reports filed by the utilities, determining that the utilities' filings contained sufficient information. The Commission also required additional compliance filings and reporting requirements of each utility, which will be filed in this docket or relevant resource planning dockets at a later date.

OREGON PUBLIC UTILITY COMMISSION (OPUC)

OPUC Formally Acknowledges Avista's 2021 Integrated Resource Plan (IRP) – LC 75

Last Friday, the OPUC issued Order 21-331, which acknowledged Avista's 2021 IRP along with the utilities' 2021 IRP Action Plan. The Action Plan includes monitoring supply resource trends and issues, especially related to availability and price of natural gas. More information can be located in the final order [here](#).

OPUC Meetings This Week

On October 21 at 9:30 a.m. PT, the OPUC will hold a public meeting to discuss AR 631 related to new terms, procedures, and conditions of standard, qualifying facility PURPA contracts. At the meeting this week, OPUC will consider whether to open a formal rulemaking docket to adopt draft contract rules outlined in the staff report located [here](#).

Later that same day at 1:00 p.m. PT, the OPUC will hold a staff workshop to amend several rules in the Oregon Community Solar Program. The rulemaking will implement the Staff and OPUC's policy recommendations outlined in Order [21-317](#). Dial-in details for the workshop can be located [here](#).

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

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.

NYISO Files Revisions to Implement New York Transmission Owners' Right of First Refusal Regarding Upgrades to Their Transmission Facilities

On October 12, 2021, [NYISO filed](#), pursuant to Section 206 of the Federal Power Act, tariff revisions to establish rules by which a Transmission Owner in New York (NYTO) can exercise its federal right of first refusal (ROFR) regarding upgrades identified in NYISO's Public Policy Transmission Planning Process. NYISO made the filing in response to the recent FERC decision that NYTOs possess a federal ROFR under NYISO's foundational agreements to build, own, and recover the costs of upgrades to their existing transmission facilities that are part of a competitive transmission solution selected by NYISO's Board in the transmission planning processes.

In the Public Policy Transmission Planning Process, NYISO solicits for proposed transmission needs that interested parties (Developers) believe are being driven by public policy requirements. Developers submit bids for transmission projects and NYISO then evaluates and selects projects that need to be built (each selected project a "Public Policy Transmission Project"). In its filing, NYISO proposes to establish a process to classify the facilities within a Public Policy Transmission Project as new transmission facilities or transmission upgrades. NYISO will designate to the proposing Developer the new transmission facilities, and the NYTO the transmission upgrades submitted as part of the Public Policy Transmission Project. Each grouping of the project components (i.e., new facilities or upgrades) will be a "Designated Public Policy Project." The Developer and the NYTO will each be a "Designated Entity" responsible for developing, building, financing, operating, and maintaining its separate Designated Public Policy Project, which collectively make up the selected Public Policy Transmission Project.

Within 30 calendar days of approval of the Public Policy Transmission Planning Report by NYISO's Board, an NYTO that has been identified as a Designated Entity for a Designated Public Policy Project must provide notice to NYISO if it does not intend to exercise its ROFR for one or more upgrades. If the NYTO does not take any action within the 30-day period, it will automatically be the Designated Entity and will be responsible for constructing those transmission upgrades. If the NYTO notifies NYISO that it rejects its designation, NYISO will designate such upgrade to the Developer that proposed the underlying Public Policy Transmission Project, and that upgrade will be included in the Developer's Designated Public Policy Project.

Upcoming Conferences and Meetings

FERC's October open meeting is scheduled to take place this Thursday, October 21, 2021. The agenda includes an action filed under Federal Power Act § 211A by several electric cooperatives in the Southeast who have alleged that the Tennessee Valley Authority is being discriminatory in offering transmission services. It is one of very few actions to come before FERC seeking to use the seldom-triggered Section 211A. The agenda also includes a settlement of SCE's revisions to its wholesale distribution access tariff to address rates for charging for distribution-interconnected storage facilities.

FERC will hold a [technical conference](#) on October 12, 2021 on Regional Transmission Organization/Independent System Operator energy and ancillary services markets to discuss market reforms to increase operational flexibility, which may be needed as the resource fleet and load profiles change over time.

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 needs of anticipated future generation in identifying needed transmission facilities.

FERC will hold a Commission 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.