

**REGULATORY UPDATE FOR SEPTEMBER 20, 2021 (WEEK OF SEPTEMBER 13)****CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)****Pacific Gas and Electric Company (PG&E) Seeks Local RA Penalty Waiver**

Illustrative of the some of the challenges that load-serving entities have experienced in procuring sufficient resource adequacy capacity, PG&E on Friday, September 17, filed an advice letter (Advice Letter 6333-E) seeking a penalty waiver for its failure to meet its local resource adequacy requirements for the Greater Bay Area Local Capacity Area for November 2021. PG&E claims that despite good faith commercially reasonable efforts, it was unable to procure sufficient local capacity to meet those requirements.

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

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.

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.

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).

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

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<sup>1</sup> 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.

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, Southern California Edison Company (SCE), Southern California Gas Company, and San Diego Gas & Electric Company (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 their ability concurrent with their 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.

### Voting Meetings

The Commission will hold a voting meeting on September 23, 2021. The following energy-related items are on the agenda.

Item 4. R.19-10-005 (EPIC Program). In this decision, the Commission authorizes PG&E, SCE, and SDG&E to continue in their role 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 (IOU) 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 authorizes the IOUs as administrators, and authorize their investment plan budgets, this decision does not approve their investment plans.

Item 5. Draft Resolution E-5168. On February 26, 2021, PacifiCorp d/b/a Pacific Power (PacifiCorp) filed AL 643-E, which was withdrawn on May 17, 2021, and replaced with AL 649-E on May 21, 2021. PacifiCorp filed AL 649-E-A on June 18, 2021, which clarifies language within its May 21 filing. On March 1, 2021, BVES filed AL 413-E and Liberty Utilities (Calpeco Electric) LLC (Liberty) filed AL 166-E. The three IOUs request approval to establish a new Electric Rule: Rule 24 for BVES, Liberty, and PacifiCorp—known as the EV Infrastructure Rules. The ALs also request approval of an associated Electric Vehicle Infrastructure Memorandum Account to track the costs associated with offering these new rules. This Resolution requires modifications to the proposed EV Infrastructure Rules to create consistency in policy across the IOU service territories, increase transparency for customers, and ensure additional protections for ratepayers. This Resolution requires each IOU to file a Tier 1 AL within 60 days of adoption of this Resolution to make the modifications that this Resolution orders and to address the outstanding implementation details related to the rules. The Resolution additionally orders each IOU to also file a Tier 2 AL to address outstanding implementation

details that the Tier 1 AL filing does not cover.

Item 6. Draft Resolution E-5167. On February 26, 2021, SCE filed AL 4429-E, SDG&E filed AL 3705-E, and PG&E filed AL 6102-E that was later replaced by AL 6102-E-A filed on March 17, 2021. The ALs request the establishment of new rules—Electric Rule 45 for SDG&E and Electric Rule 29 for SCE and PG&E—known as the EV Infrastructure Rules (Rules) and request associated Memorandum Accounts (Memo Accounts) to track the costs associated with offering these new Rules. This Resolution approves, with modifications, PG&E’s, SCE’s, and SDG&E’s proposed Rules and associated Memo Accounts. Under the proposed Rules, ratepayers cover the costs of service line extensions and electrical distribution infrastructure—or EV Service Extensions—for separately metered EV charging for customers other than those in single-family residences. Per the direction of Public Utilities Code Section 740.19, these costs related to utility-side distribution infrastructure that support EV charging will be recovered through the IOUs’ general rate cases (GRC). As a result, IOUs will no longer request approval for utility-side costs associated with separately metered EV charging in an application or AL proposing a new transmission electrification (TE) program. In the past, the IOUs tracked these costs in Balancing Accounts associated with individual TE programs, whereas with the approval of this Resolution the IOUs will, moving forward, track these costs within a Memo Account and seek approval of those costs within a GRC.

Item 10. R.14-07-002 (Net Energy Metering). This decision establishes a process to assess the continued need for an assistance fund for residential customers of the investor-owned electric utilities that have not received the expected benefits of their net energy metering solar installations either due to fraud, poor workmanship, or other violations of Contractors License Law, and where no other administrative remedy for consumer financial assistance is available. A working group will review the status of currently-appropriated funds to assist consumers and provide future data and recommendations to the Commission on the potential need for a new funding source. This consolidated proceeding is closed.

Item 14. Draft Resolution G-3584. This Resolution approves the CEC’s Natural Gas Research and Development Program Proposed Budget Plan for Fiscal Year 2021-2022 (FY2021-2022 Plan). The Natural Gas Research and Development Program (Gas R&D Program) was established pursuant to D.04-08-010. The CPUC approves the CEC’s proposed \$24 million budget.

Item 15. R.18-12-005 (PSPS). Addresses and resolves Appeals, pursuant to Rule 14.4, of the Presiding Officer’s Decision on alleged violations of PG&E with respect to its implementation of the Fall 2019 Public Safety Power Shutoff Events. **Will be considered in closed session.**

Item 27. R.13-11-005 (Energy Efficiency). This decision adopts energy savings goals for ratepayer-funded energy efficiency program portfolios for 2022–2032, and provides updated guidance to program administrators for 2022-2023 budget advice letters and 2024-2027 applications.

Item 28. 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 Public Utilities Code Section 8386.

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

#### **Federal Energy Regulatory Commission (FERC) Grants Tariff Waiver for State Power Augmentation Project**

On August 24, 2021, the CAISO filed a Petition for Tariff Waiver, to allow it to interconnect temporary gas-fired turbines. The State Power Augmentation Project is an effort to site small gas turbines at existing sites that stems from the Governor's July 30, 2021 Emergency Proclamation. The California Department of Water Resources and the CEC have reached out to generation owners that could accommodate the addition of 30 MW gas turbines. So far, two sites have been found: Greenleaf 1 in Yuba City and Roseville Energy Park. Each site will accommodate two turbines. The units are supposed to come online in mid-September. At the Greenleaf 1 site, there is existing interconnection capacity for 49.2 MW of gas turbines. However, the CAISO needed a tariff waiver to timely interconnect the additional 10.8 MW of generation. On September 15, 2021, the FERC granted the waiver. The waiver is temporary, allowing interconnection for up to three years from the date of the order. Commissioner Danley dissented, arguing that the waiver was retroactive, in violation of the prohibition on retroactive ratemaking.

#### **Western Area Power Administration (WAPA) Desert Southwest region Signs Implementation Agreement to join the EIM**

WAPA Desert Southwest signed an implementation agreement with the CAISO on September 15, 2021, to begin the process to allow WAPA Desert Southwest to participate in the real-time energy market in 2023.

#### **Generator Downsizing Request Submittal Window for Generator Interconnection Projects Opens**

The CAISO will begin to accept downsizing requests on October 15, 2021, for active interconnection requests and commercial generating facilities seeking to downsize under the annual generator downsizing process. All downsizing requests and deposits must be submitted by 5 p.m. (Pacific Time), November 15, 2021.

#### **Board of Governors Meeting September 22-23, 2021**

The CAISO's next Board of Governors meeting is scheduled for September 22-23, 2021. The meeting's agenda includes votes on the EIM Governance Review Committee's ("GRC") Part 2 Governance Documents, and a conditional approval to extend reliability must-run contracts. With regard to the GRC's Part 2 Governance Documents, the proposal would implement GRC-recommended governance changes to the delegation of authority to the EIM Governing Body. The conditional approval to extend reliability must-run contracts would grant CAISO Management the authority to extend, through calendar year 2022, the reliability must-run

contracts for the Dynegy Oakland, LLC; Starwood Energy Group; CSU Channel Islands Site Authority; Midway Sunset Cogeneration Company; and KES Kingsburg, LP generating units. Management will update the Board on the extent to which it exercised this discretion at the November Board meeting. The full meeting agenda is [here](#).

#### Stakeholder Initiatives: Upcoming Meetings and Deadlines

**Maximum Import Capability Enhancements: Draft Final Proposal and Draft Tariff Language Posted.** The CAISO will hold a public stakeholder call on September 20, 2021, to discuss the draft final proposal and draft tariff language for the Maximum Import Capability Enhancements initiative. Written comments are due October 4, 2021.

**External Load Forward Scheduling Rights Process Issue Paper.** Written comments on the issue paper for the External Load Forward Scheduling Rights Process initiative are due by end of day September 30, 2021.

**2021 Summer Readiness Update.** The CAISO has scheduled a public call on September 24, 2021, for the final Summer Readiness call of the season, to provide stakeholders with an update on summer readiness activities to help improve grid reliability during hot weather conditions this summer.

#### CALIFORNIA ENERGY COMMISSION

**Energy System Reliability (21-ESR-01).** On September 10, 2021, the CEC posted a Notice of Staff Informational Workshop on Midterm Reliability Modeling to the Energy System Reliability [docket](#). The workshop will be held at 9:30 a.m. on September 23, 2021. This workshop follows on the heels of 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. 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 this same docket. The revised Analysis assesses supply conditions against average and extreme weather conditions for summer 2022. The Analysis projects a need for between 200 to 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, 2021 Business Meeting, the CEC adopted Resolution No. 21-0908-8 adopting the Summer 2022 Supply Stack Analysis. A copy of the Resolution was posted to the Energy System Reliability [docket](#) on September 16, 2021.

**Temporary and Emergency Generation Program.** In response to Governor Newsom's Emergency Proclamation issued on July 30, 2021, the CEC developed a temporary emergency program to expedite clean energy projects and address heat-related threats to California's energy supply. Last week, the CEC uploaded materials to the Temporary and Emergency Generation

Program [page](#) regarding the battery storage system licensing process. Such documents include the criteria and procedures for expedited permitting of battery energy storage systems and the battery storage system (BSS) application checklist. The Program page also includes materials regarding the temporary power generator licensing process and the process for expedited project change petitions.

**CEC Business Meetings.** The next CEC Business Meeting is scheduled for September 30, 2021, during which the CEC will be considering, among other things, the adoption of CEC staff's Mid-Term Reliability Analysis Report. According to the Business Meeting [agenda](#), the report summarizes risks associated with a rapid increase in battery storage, contains information regarding the potential of additional incremental thermal capacity at existing power plants, and includes an assessment of the potential for outages under different weather conditions for the summers 2022–2026 in CAISO territory.

### **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)**

On September 21, 2021, the ARB will host a virtual public meeting of the AB 617 Consultation Group. Details on the virtual meeting are available [here](#).

The =AB 32 Environmental Justice Advisory Committee will hold virtual public meetings on September 22 and September 27, 2021. Details on the virtual meetings are available [here](#) and [here](#).

On September 22, 2021, ARB will hold a virtual public meeting to discuss research priorities for ARB to fund in fiscal year 2022-2023. Details on the virtual meeting are available [here](#).

On September 23, 2021, ARB will hold a virtual Board meeting to consider approval of two components of the State Implementation Plan (SIP): the [Coso Junction PM10 Maintenance Plan](#) and the [Sacramento County PM10 Maintenance Plan](#). At the meeting, ARB will also hear an update on the 2018 PM2.5 SIP for the San Joaquin Valley and consider a SIP revision to the 15 µg/m<sup>3</sup> annual PM2.5 Standard. Notice of the San Joaquin Valley items is available [here](#).



On September 30, 2021, ARB will hold 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 AB 32 Scoping Plan Update. ARB is accepting comments on a prior Scoping Plan Update workshop on short-lived climate pollutants, held on September 8, 2021. Comments on the workshop can be submitted [here](#) until September 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.

### **SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

#### **Northern States Power Company Petition for Transmission Cost Recovery, PUC Docket No. EL21-025**

On September 1, 2021, Northern States Power dba Xcel Energy (Xcel) filed its 2022 Transmission Cost Recovery Rider (TCR) petition. Xcel seeks a 2022 TCR revenue requirement of \$7.0 million, utilizing a TCR adjustment factor of \$0.003245 per kWh to be implemented on January 1, 2022. The filing indicates that, if approved, the TCR will result in a \$2.43 surcharge per month for average residential customers. This matter remains open before the South Dakota Public Utilities Commission.

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

#### **PGE Requests Additional Capacity in the Customer Supply Option (CSO) of its Green Energy Affinity Rider (GEAR) Tariff Program – UM 1953**

Last Friday, PGE and its electric service customer, QTS Investment Properties Hillsboro, LLC, filed a joint petition requesting an increase in the CSO capacity of PGE's GEAR Tariff Program. In the petition, parties requested that the OPUC approve an additional 250 MW under the program. More details can be located [here](#).

#### **OPUC Meetings This Week**

On Tuesday, September 21 at 9:30 a.m. PT the OPUC will hold a public meeting to discuss a wide range of dockets including UM 1930 (related to Oregon's Community Solar Program) and UM 1730 (related to Idaho Power's Avoided Cost Rates, Schedule 85). Later in the week on Wednesday, September 22 at 2:00 p.m. PT, the OPUC will hold a staff workshop in AR 631 to discuss OPUC's draft rules related to QF standard contracts. More details can be located [here](#).

## **FEDERAL ENERGY REGULATORY COMMISSION**

FERC's [open meeting](#) this week includes the following noteworthy agenda items:

- The FERC is expected to address filings by utilities in the Southeast to create a Southeast Energy Exchange Market (SEEM), which would extend the Southeast's current bilateral market to create a region-wide, automated, intra-hour market platform to facilitate bilateral trading using unused transmission capacity. Intervenors have argued that the SEEM is effectively a loose power pool and requires more regulation, including an OATT, more open governance, and market monitoring.
- Action on a complaint filed by Green Development regarding FERC-jurisdictional Direct Assignment Facility charges assessed by New England Power Company ("NEP") and Narragansett Electric Company ("NEC") on distribution-level state-jurisdictional net-metered renewable energy projects.

President Biden announced his intent to nominate Willie L. Phillips, Jr. as a Commissioner of FERC. Phillips is currently Chairman of the Public Service Commission of the District of Columbia (DCPSC). Phillips has been on the DCPSC since 2014 and has been the Chairman since 2018. Prior to his tenure on the DCPSC, Phillips served as Assistant General Counsel for the North American Electric Reliability Corporation. If confirmed, Phillips would replace Republican Neil Chatterjee and give Democrats a 3-2 majority on FERC.

FERC's annual Commissioner-led [reliability technical conference](#) will take place on September 30, 2021.

FERC will hold its [first Federal-State Transmission Task Force Meeting](#) on November 10, 2021. The Task Force, established by the FERC in June, is composed of FERC Commissioners and 10 state regulators representing the five National Association of Regulatory Utility Commissioners regions. It will explore transmission-related issues to identify and realize the benefits of electricity transmission while ensuring that the costs are allocated efficiently and fairly.

On September 7, 2021, FERC issued an [Order Establishing Additional Briefing and Instituting Section 206 Proceeding](#) in response to the complaint filed by NECEC Transmission LLC and Avangrid, Inc. (collectively, Avangrid) against NextEra Energy Resources, LLC, NextEra Energy Seabrook, LLC, FPL Energy Wyman LLC, and FPL Wyman IV LLC (collectively, Seabrook) alleging that Seabrook has been delaying and increasing the cost of a circuit breaker replacement at the Seabrook nuclear generating station necessary for the interconnection of Avangrid's New England Clean Energy Connect (NECEC) transmission project.

The NECEC project will enable the delivery of up to 1,200 MW of hydroelectric energy from Quebec, Canada to New England under FERC-jurisdictional transmission contracts. Based on a system impact study performed by ISO New England Inc. (ISO-NE), a number of system upgrades would be necessary to accommodate the interconnection of the project, including the



replacement of a circuit breaker at the Seabrook Station. Seabrook contends that the breaker is not a transmission or interconnection facility, but rather is part of a generator that is not subject to FERC's open-access requirements, and that the breaker does not need to be replaced absent Avangrid's proposed interconnection. Recognizing that Avangrid's complaint presents novel jurisdictional issues, FERC invited interested parties to submit briefs on an array of issues, including what, if any, obligations Seabrook has to replace the breaker. *Id.* at ¶ 18. FERC also instituted a Section 206 "show cause" proceeding, preliminarily finding that the ISO-NE Tariff is unjust and unreasonable to the extent that it allows existing generating facilities and their components to be identified as impacted facilities which must be remedied before a new interconnection customer may interconnect but does not require that the generator take action. FERC therefore directed ISO-NE to, *inter alia*, explain what changes to the Tariff it would make to remedy this situation going forward. *Id.* at ¶¶ 20-23.