

REGULATORY UPDATE FOR JUNE 28, 2021 (WEEK OF JUNE 21)**CALIFORNIA PUBLIC UTILITIES COMMISSION**New Proposed Decisions and Draft Resolutions¹

None.

Voting Meetings

The California Public Utilities Commission (CPUC or Commission) held a voting meeting on June 24, 2021. The agenda included the following items.

Item 2. Resolution E-5143. This Resolution updates a citation program under the administration of CPUC staff (Staff) to enforce compliance with Renewables Portfolio Standard (RPS) reporting and filing requirements. Approval of these updates to the RPS citation program will create penalties for non-compliance with the CPUC's requirements for submission of RPS Procurement Plans, as well as penalties for non-compliance with RPS reporting requirements and non-responsiveness to requests for information by Staff related to the implementation and administration of the RPS program. **Approved.**

Item 3. Resolution E-5150. The Avoided Cost Calculator (ACC) is used in cost-effectiveness analysis of distributed energy resource programs and policies. Decision (D.) 16-06-007 adopted annual updates to the ACC, and D.19-05-019 adopted a schedule for both major and minor changes to the ACC, with minor changes occurring in odd-numbered years by Staff-initiated Resolution. This Resolution provides the final 2021 ACC and related documentation, consistent with policies adopted in D.16-06-007 and D.19-05-019. The documentation provides additional detail about this update, including a comparison of the 2020 and 2021 ACC outputs. This Resolution describes the data and minor modeling updates to the 2021 ACC. **Approved.**

Item 8. R.14-07-002/A.16-07-015 (Net Energy Meeting). This decision directs the electric investor-owned utilities to each establish a web-based search engine for regulatory agency staff to search and retrieve net energy metering interconnection application documents. This decision also authorizes Staff to effectuate establishment and maintenance of a public list of solar providers whose interconnection application(s) or associated project(s) have been found in non-compliance with applicable state law or regulatory agency rules and regulations. Finally, this decision modifies the semi-annual spot audits originally required by Decision 18-09-044, by increasing the number of interconnection applications to be audited and directing the electric investor-owned utilities to manually review the interconnection applications of solar providers

¹ Per California Public Regulatory 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.

that are on the public list. **Signed, D.21-06-026** (Rev.1).

Item 10. R.20-11-003 (Summer 2021 Reliability). This decision modifies Decision 21-03-056 to clarify that the adopted Emergency Load Reduction Program shall have both day-of and day-ahead triggers for Group A participants. It additionally clarifies that following an Alert, Warning, Emergency declaration by the California Independent System Operator, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company will exercise discretion to activate the day-of trigger for Group A participants, either selectively staggered over time or all participants at the same time. **Signed, D.21-06-027** (Rev. 2).

Item 12. Draft Resolution ESRB-9. The Commission's General Order 167 (GO-167) sets forth standards for the maintenance and operation of electric generating facilities. Under the existing language of GO-167, Commission staff may issue citations only for certain specified violations of GO-167. This Resolution modifies the scope of the violations for which Commission staff may issue citations to include any violation of GO-167 and modifies the GO-167 citation process to more closely align with the Commission's other existing electric citation processes. **Approved.**

Item 18. R.19-11-009 (Resource Adequacy). This decision adopts local capacity requirements for 2022-2024 and flexible capacity requirements for 2022 applicable to Commission-jurisdictional load-serving entities. This decision also adopts refinements to the Resource Adequacy Program and addresses issues scoped as Track 3B.1 and Track 4. Issues scoped as part of Track 3B.2 will be addressed in a separate decision forthcoming in this proceeding. Among the refinements this decision makes to the Resource Adequacy Program are: (1) revising the maximum cumulative capacity buckets; (2) stating that investor-owned utilities will be directed to move their demand response (DR) portfolios onto their CAISO Supply Plans, but only once the Commission confirms that CAISO permits DR resources to bid variably in its markets and implements a Federal Energy Regulatory Commission (FERC)-approved RAIM penalty exemption for DR resources; (3) requesting that the California Energy Commission develop recommendations for a comprehensive and consistent measurement and verification strategy, including a new capacity counting methodology for DR addressing ex post and ex ante load impacts for implementation as early as practicable; (4) directing Energy Division to develop regional Effective Load Carrying Capability (ELCC) values for wind resources for the upcoming ELCC update for consideration in a successor RA proceeding; and (5) adopting PG&E's proposed point and tier penalty structure for system RA deficiencies. **Signed, D.21-06-029.**

Item 23. R.19-03-009 (Direct Access). This decision contains the Commission's recommendation to the Legislature against further expansion of the Direct Access program at this time. Public Utilities Code § 365.1 requires that recommendations to reopen Direct Access be supported by the following findings: (1) the recommendations are consistent with the state's greenhouse gas emission reduction goals, (2) the recommendations do not increase criteria air pollutants and toxic air contaminants, (3) the recommendations ensure electric system reliability, and (4) the recommendations do not cause undue shifting of costs to bundled-service customers of an electrical corporation or to direct transaction customers. After review of the Commission Staff Report attached to this decision, the Commission concludes that at this time, expansion of

Direct Access to all non-residential customers would present an unacceptable risk to the state's long-term reliability goals. Further, based on the current procurement practices of Direct Access providers, the Commission concludes that it is unable to ensure that expansion of Direct Access would not result in increased greenhouse gas emissions, criteria air pollutants, and toxic contaminants when compared to maintaining the current cap on Direct Access. **Signed, D.21-06-033.**

Item 25. R.18-12-005 (PSPS). This decision adopts and revises the Commission's guidelines and rules for these utilities regarding proactive de-energizations to mitigate the risk of catastrophic wildfire caused by utility infrastructure, also known as Public Safety Power Shut Offs or PSPS events. These new and revised guidelines and rules build upon prior Commission decisions, including Resolution ESRB-8 (July 12, 2018), Decision (D.)19-05-042, and D.20-05-051. In the next phase of this proceeding, the Commission will develop a compendium of the Commission's guidelines and rules regarding PSPS events and address other related matters, as needed. **Signed, D.21-06-035 (Rev. 1).**

Item 26. R.20-05-003 (IRP proceeding). This decision addresses the mid-term reliability needs of the electricity system within the California Independent System Operator's (CAISO's) operating system by requiring at least 11,500 megawatts (MW) of additional net qualifying capacity to be procured by all of the load-serving entities (LSEs) subject to the Commission's integrated resource planning (IRP) authority. The capacity requirements are adopted annually, beginning with 2,000 MW by 2023, an additional 6,000 MW by 2024, an additional 1,500 MW by 2025, and an additional 2,000 MW by 2026. All of the resources procured pursuant to this order will be zero-emitting, unless they otherwise qualify under the renewables portfolio standard eligibility requirements. The 2026 resources are required to be long-lead-time resources, with half coming from long-duration storage and the other half from zero-emitting resources or those that otherwise qualify as eligible under the renewables portfolio standard (RPS) program and have at least an 80 percent capacity factor. Contracted imported power may be used to count toward the capacity requirements in this order if the imports otherwise meet the requirements for firm imports in the resource adequacy program, are available during the duration of the time period for this order (2023-2026), and are contracted with new resources or represent capacity expansions to existing resources that have commercial online dates after the date of this decision. Incremental capacity from fossil-fueled resources will not be eligible to qualify under this order, but the Commission, in cooperation with the California Energy Commission, will conduct additional quantitative and qualitative analysis in the next few months to help inform preferred system portfolio decision, expected no later than the end of this year, where the Commission may consider additional capacity procurement requirements. For the IOUs that must submit their contracts to the Commission for advance approval, Tier 3 advice letters must be submitted for all procurement, except for contracts with pumped storage resources and when proposing utility ownership of the resources, circumstances which will require full applications. **Signed, D.21-06-038 (Rev. 1).**

Item 26A. R.20-05-003 (IRP proceeding). Alternate proposed decision of Commissioner Rechtschaffen. This alternate differs from the proposed decision only in the area of eligibility and authorization for resources utilizing fossil fuels. This decision directs procurement of 500 MW of conventional fossil-fueled generation by the IOUs with the following conditions:

a. projects cannot be located in a disadvantaged community; b. projects at mothballed or retired plants cannot qualify; c. the project must demonstrate greenhouse gas (GHG) emission benefits and incremental NQC; and d. contracts are limited to five years. The decision also authorizes procurement by the IOUs of an additional 300 MW of eligible fossil-fueled resources that commit to using specified portions of green hydrogen fuel throughout the contract term, and specifies that this procurement will have its costs allocated via the CAM. **Withdrawn.**

Item 28: New Order Instituting Rulemaking. This rulemaking will focus on preparing the electric grid for a high number of distributed energy resources, including those specific to transportation electrification and as defined in Assembly Bill 327 and Public Utilities Code Section 769. This Order Instituting Rulemaking will also address unresolved and ongoing issues from the Distribution Resources Plans proceeding (R.14-08-013) and Integrated Distributed Energy Resources proceeding (R.14-10-003). **Signed, D.21-06-017.**

CALIFORNIA ISO

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Energy Storage Enhancements - Stakeholder Presentation Working Group Meeting. The California ISO has invited stakeholders to attend a working group on July 26, 2021. This is an opportunity for stakeholders to showcase proposals for solutions to the issues outlined by the ISO in the Energy Storage Enhancements issue paper. Presentations are required to be submitted in advance of the working group meeting. Draft presentations are due by July 12, with final presentations posted publicly on July 19.

Western EIM Governing Body Teleconference Meeting: 6/30/21 Draft Agenda; Updated Schedule. The California ISO has posted the draft agenda for the June 30, 2021, Western Energy Imbalance Market (EIM) Governing Body teleconference meeting. The draft agenda may be found here: [Microsoft Word - Agenda-EIM-Governing-Body-Meeting-Jun-30-2021 \(westerneim.com\)](#)

Supercluster Interconnection Procedures. Comments on the Supercluster Interconnection Procedures final proposal and draft tariff language are due June 28.

Effective Load Carrying Capability Study Results for Demand Response Resources. Comments on study results for applying the ELCC methodology to investor-owned utility DR resources are due June 28.

New Initiative: Planning Standards - Remedial Action Scheme Guidelines Update, Issue Paper Posted. Comments on the issue paper for this new initiative are due July 9, 2021.

Western EIM Regional Issues Forum 6/29/21 Meeting. The Western EIM Regional Issues Forum has posted the final agenda for the June 29, 2021 meeting to the Western EIM website. Agenda may be found here: <https://www.westerneim.com/Documents/Agenda-EIMRegionalIssuesForum-Jun29-2021.pdf>

New Initiative: External Load Forward Scheduling Rights Process. The California ISO has launched a new initiative called External Load Forward Scheduling Rights Process and scheduled a public stakeholder workshop webinar on July 13, 2021. The purpose of this first workshop is to solicit input and provide stakeholders an opportunity to present the issues that need to be addressed and guiding principles for this stakeholder initiative. Requests to present and topics for the workshop are due July 7, 2021.

New Initiative: EIM Resource Sufficiency Evaluation Enhancements Issue Paper. The California ISO has launched a new initiative called EIM Resource Sufficiency Evaluation Enhancements and re-scheduled a two-day stakeholder workshop to discuss the issue paper to June 25 and 28, 2021 (from June 23-24). Comments on the issue paper and workshop discussions/materials are due July 9, 2021.

CALIFORNIA ENERGY COMMISSION

EPIC 2021-2025 Investment Plan. On June 2, 2021, CEC staff published a Notice of Staff Workshops regarding a series of remote-access workshops to discuss the Electric Program Investment Charge (EPIC) 2021-2025 Investment Plan (EPIC 4 Investment Plan) and solicit public input on specific research topics to inform the plan. The workshops will review the research initiatives proposed in the draft EPIC 4 Investment Plan and solicit public input.

As background, the CPUC established EPIC in 2012 to fill a critical gap in funding for public investments in clean energy research and technology innovation that can provide benefits to electric ratepayers through greater reliability, lower costs, and increased safety. On September 2, 2020, the CPUC renewed EPIC for an additional 10 years (January 1, 2021 through December 31, 2030) in D.20-08-042. The CPUC approved the CEC as an EPIC administrator with an annual budget of \$148 million for the first five years and ordered the IOUs to collect funds for the renewed EPIC starting January 1, 2021. The decision requires the CEC to file an investment plan to the CPUC by October 1, 2021 to cover the period of January 1, 2021 to December 31, 2025 (referred to as EPIC 4). According to the Public Notice, CEC staff anticipates that the CPUC will issue a decision on the EPIC 4 Investment Plan in spring 2022. More information on the CEC's administration of the EPIC program is available [here](#).

The series of CEC staff workshops started on June 14, 2021 and runs through July 2021, culminating in an August 4, 2021 workshop entitled "Draft Initiatives for EPIC 4" that will review the research initiatives proposed in the draft EPIC 4 Investment Plan and solicit public input. A detailed list of workshop dates and times, as well as remote attendance instructions, is available [here](#).

Offshore Wind. The CEC held a workshop on June 21, 2021 to present the next steps for considering offshore wind energy in federal waters off the California coast. Written comments must be submitted to the CEC Docket Unit by 5 p.m. on July 9, 2021. Additional details regarding the public comment process are available [here](#). For more information regarding the CEC's involvement in offshore renewable energy is available at <https://www.energy.ca.gov/programs-and-topics/topics/renewable-energy/offshore-renewable->

[energy](#) and <https://www.energy.ca.gov/programs-and-topics/topics/renewable-energy/offshore-renewable-energy/offshore-wind-research-and>.

2020 RPS Annual Reporting. On June 17, 2021, the CEC circulated an email reminder that, as specified by the [RPS Eligibility Guidebook, Ninth Edition \(Revised\)](#) all load-serving entities (LSE), including retail sellers and local publicly owned electric utilities (POU), are required to report retirement of 2020 renewable energy credits for California’s RPS to the CEC by July 1, 2021. Please see the [2020 WREGIS Reporting Guidance](#) for additional details. The CEC’s email reminder also highlighted the CEC Executive Director’s postponement of certain POU reporting. According to the CEC, the CEC will issue a set of 2020 annual reporting instructions for POU’s and CEC Staff intends to publish such instructions concurrently with the effective date of the update to the [RPS POU Regulations](#).

CALIFORNIA AIR RESOURCES BOARD

The California Air Resources Board’s (ARB) next general Board meeting will be held July 22-23, 2021. The meeting agenda will be available [here](#) when published. ARB will also hold a Board meeting on [community air protection](#) on July 29, 2021. The agenda will be made available [here](#).

Following on the California Air Resources Board’s (ARB) [public workshop](#) series on development of the AB 32 Scoping Plan Update for 2022, comments on the workshops can be [submitted](#) to ARB on or before July 9, 2021. Recordings of the workshops are [available online](#).

ARB is also 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](#) on or before September 15, 2021.

ARB has issued a [notice for public comment](#) on additional proposed modifications to the [Regulation for Reducing Sulfur Hexafluoride Emissions from Gas Insulated Switchgear](#). Amendments to the Regulation were adopted by ARB on September 24, 2020, subject to additional conforming modifications to the Regulation. The first set of proposed conforming modifications were issued for public comment in May 2021. Comments on the second set of proposed conforming modifications are due July 2, 2021. The amendments expanded the scope of the Regulation to all insulating gases with a global warming potential greater than one, established a timeline for phasing out acquisition of sulfur hexafluoride gas-insulated equipment, and revised reporting requirements. Comments on the proposed conforming modifications can be submitted [here](#).

MINNESOTA

1. [Xcel Energy Integrated Resource Plan \(“IRP”\), PUC Docket No. E-002/RP-19-368](#)

On June 25, 2021, roughly two years after the initial IRP filing, parties filed reply comments in response to Northern States Power Company, dba Xcel Energy’s (“Xcel”) pending IRP. Along with reply comments from stakeholders, Xcel also filed a reply comment containing another

alternative plan, which effectively is an entirely new plan for stakeholders to consider. Some of the key aspects of the plan include: (1) no longer pursuing a large combined-cycle (“CC”) unit at Sherco (Xcel previously received legislative approval to build a large CC unit at Sherco to replace retiring coal-fired units); (2) retirement of all coal generation by 2030, and reducing operation of units prior to retirement; (3) extending the life of the Monticello nuclear unit until 2040; adding nearly 6,000 MW of renewables and 240 MW of storage to its system; (4) adding significant demand-side management options, including annual energy efficiency savings of over 780 gigawatt hours; (5) adding firm dispatchable resources as needed in the near-term, while maintaining flexibility in the latter years of the planning period to allow for technological advances.

While several stakeholders seemed aware that Xcel was likely to submit an alternative plan in reply comments, most stakeholders took the “wait and see” approach, preferring to know the contents of Xcel’s alternative plan prior to providing feedback. As such, the timeline of this docket remains very much in flux while parties and the Commission determine how to proceed.

2. Minnesota Power Industrial Demand Response Product C, PUC Docket No. E-015/M-21-28

On June 24, 2021, the Minnesota Public Utilities Commission (“Commission”) considered Minnesota Power’s pending petition for approval of its Demand Response (“DR”) Product C offering to industrial customers. By way of background, the Commission has been reviewing Minnesota Power’s DR offerings over the past six years, including in its 2015 integrated resource plan and 2016 general rate case. Following those orders, Minnesota Power sought approval of three DR products. As part of that petition and relevant to this matter, the Commission approved a Product C offering, which calls for longer term contracts with industrial customers, allowing for more flexible, beneficial, emergency DR offerings. In this docket, Minnesota Power sought Commission approval of 8 multi-year Product C agreements with industrial customers that would provide 100 MW and 200 MW of DR each year from 2022-2028. Importantly, Minnesota Power proposed funding the DR programs through capacity sales to other utilities and passing through those revenues to the industrial customers. By funding the Product C agreements through capacity sales, Minnesota Power addressed the Commission’s previous concerns about passing costs to other ratepayers. While there was relatively limited feedback from stakeholders, the Minnesota Department of Commerce (“Department”) objected to Minnesota Power’s petition based on its concerns with the timing of Minnesota Power’s capacity sales and the potential deprivation of a benefit to other stakeholders.

During its extensive discussion and deliberations, the Commission expressed concern that the proposed Product C arrangement provides system-wide benefits, as opposed to benefits to Minnesota Power’s system. Additionally, though Minnesota Power’s petition was crafted such that stakeholders did not receive an increase in rates, the Commission remained concerned about the potential rate impact or cost shifts to non-participating customers. In an attempt to resolve its concerns, the Commission tabled this matter pending further reporting and commenting by Minnesota Power and other stakeholders. Specifically, by July 16, 2021, Minnesota Power is instructed to submit information, including: (1) an explanation of its current and projected capacity position and the impacts of DR on that position; (2) an analysis of the potential benefits

to Minnesota Power's system; (3) a detailed cost analysis of Product C; (4) a quantified analysis of how Product C will help retain large power customers; (5) a cost and revenues analysis of the capacity sales and DR product using normal allocation methods; (6) an explanation of how Minnesota Power will comply with its capacity sales contracts if Product C is rejected; (7) a description of any environmental benefits of Product C; and (8) a comparison of how Product C interacts with Minnesota Power's existing Product A emergency DR product. After reviewing the supplemental information, and receiving comments, the Commission will conduct another hearing on the Product C agreements on or before October 1, 2021.

3. Xcel Energy 2020 Annual Fuel Forecast and Monthly Fuel Cost Charges True-Up, PUC Docket No. E-002/AA-19-293

On June 24, 2021, the Minnesota Public Utilities Commission ("Commission") considered Northern States Power Company, dba Xcel Energy's ("Xcel") 2020 Annual Fuel Forecast True-Up filing. Throughout the comment process, the Department of Commerce, Commission Staff, and Xcel reached agreement on the outstanding issues. As such, the Commission accepted and approved Xcel's 2020 Fuel Adjustment Clause filing, which included authorization for Xcel to recover \$3.842 million of under-collected costs through a one-time surcharge scheduled for September 2021.

4. Minnesota Power 2020 Annual Fuel Forecast and Monthly Fuel Cost Charges True-Up, PUC Docket No. E-015/AA-19-302

On June 24, 2021, the Minnesota Public Utilities Commission ("Commission") considered Minnesota Power's 2020 Annual Fuel Forecast True-Up filing. Throughout the comment process, the Department of Commerce, Commission Staff, and Minnesota Power reached agreement on the relevant issues. As such, the Commission accepted and approved Minnesota Power's 2020 Fuel Adjustment Clause filing, which includes approval of a \$3.66 million refund to customers based on Minnesota Power's over-collected costs, which will be refunded over a four-month period beginning in September 2021.

OREGON

OPUC Meetings This Week

On Tuesday, June 29 at 9:30 a.m. PST, the OPUC will be hosting a public meeting to discuss a wide range of dockets, including UM 1728 related to PGE's avoided cost updates to Schedule 201 for Qualifying Facilities of 10 MW or Less. The staff report which recommends approving PGE's filing, which can be located [here](#).

FEDERAL ENERGY REGULATORY COMMISSION

FERC issued a [public report](#) outlining its work to establish the Office of Public Participation (OPP), which includes interim staffing of OPP to assist members of the public who wish to learn

more about, and participate in, FERC proceedings. The Commission intends to hire OPP's Director and other key personnel later this year.

On June 17, 2021, in anticipation of tight electricity supply conditions in the Western United States, FERC issued an [Order Providing Guidance](#) regarding justification for sales at prices above the \$1,000/MWh soft price cap in the Western Electricity Coordinating Council (WECC). According to the Order, such sales may be based on, but are not limited to, demonstrations from one of three possible frameworks: (1) a production cost-based framework, (2) an index-based framework or (3) an opportunity cost-based framework. Under the ***production cost framework***, sellers could demonstrate that sales above the cap were justified by evidence of actual costs associated with production of electricity from physical supply resources. Under the ***opportunity cost framework***, sellers could justify sales above the cap by documenting an opportunity to sell power above the cap that it declined to make in favor of the consummated sale reported to the Commission (*i.e.*, foregone opportunities). Under the ***index-based framework***, a seller would need to point to price indices as a means to justify its sales above the \$1,000/MWh WECC soft price cap. To rely on the index framework, the seller would need to show that the index price was both locationally and temporally relevant to the specific transaction in question, and that it meets the Commission's index liquidity standards and do not reflect evidence of price index manipulation. Finally, the Commission noted that ***sleeve transactions***—with nominal margins that reflect reasonable costs incurred—can be used in bilateral markets during tight supply conditions to ensure that available supply can be matched between willing sellers and buyers. In such transactions, both the entity providing the sleeve and the original seller would be required to justify sale prices that exceed the \$1,000/MWh WECC soft price cap.