

**REGULATORY UPDATE FOR OCTOBER 12 (WEEK OF OCTOBER 5)****California Joint Root Cause Analysis Report**

In response to an August 17, 2020 letter from the California Governor, the California Independent System Operator, California Public Utilities Commission, and California Energy Commission issued a “Preliminary Root Cause Analysis” of the two rotating outages in the CAISO footprint on August 14 and 15, 2020. The Analysis found that a series of factors all led to the outages. Those factors were:

- 1) The climate change-induced extreme heat storm across the western United States resulted in the demand for electricity exceeding the existing electricity resource planning targets. The existing resource planning processes are not designed to fully address an extreme heat storm like the one experienced in mid August.
- 2) In transitioning to a reliable, clean and affordable resource mix, resource planning targets have not kept pace to lead to sufficient resources that can be relied upon to meet demand in the early evening hours. This makes balancing demand and supply more challenging. These challenges were amplified by the extreme heat storm.
- 3) Some practices in the day-ahead energy market exacerbated the supply challenges under highly stressed conditions.

The Analysis recommends that the authoring entities and the State should take the following immediate actions to ensure reliability for 2021 and beyond:

1. Update the resource and reliability planning targets to better account for: a. Heat storms and other extreme events resulting from climate change like the ones encountered in both August and September; b. A transitioning electricity resource mix to meet the clean energy goals of the state during critical hours of grid need;
2. Ensure that the generation and storage projects that are currently under construction in California are completed by their targeted online dates;
3. Expedite the regulatory and procurement processes to develop additional resources that can be online by 2021. This will most likely focus on resources such as demand response and flexibility. This can complement the resources that are already under construction;
4. Coordinate additional procurement by non-CPUC jurisdictional entities; and
5. Enhance CAISO market practices to ensure they accurately reflect the actual balance of supply and demand during stressed operating conditions.

The CAISO will hold a public stakeholder call on October 15 (rescheduled from the original date of October 13) to discuss the Preliminary Analysis. Stakeholders are invited to submit questions in advance of the call for subject matter experts to address during the public discussion.

The entire report may be found here: <http://www.caiso.com/Documents/Preliminary-Root-Cause-Analysis-Rotating-Outages-August-2020.pdf>

### **California Public Utilities Commission**

#### New Proposed Decisions and Draft Resolutions<sup>1</sup>:

None.

#### Voting Meetings:

The Commission held a voting meeting on October 8, 2020. The agenda included the following items:

Item 7: R.18-07-003 (RPS Proceeding). This proposed decision modifies aspects of the Renewable Market Adjusting Tariff (ReMAT) Program. It adopts an electricity pricing methodology based on a weighted average of the utilities' recent executed long-term Renewables Portfolio Standard contracts. The proposed decision also eliminates caps on procurement during bimonthly Program Periods and instead authorizes procurement at the authorized rate on a first-come, first-served basis until each electric utility fulfills its proportionate share of procurement under § 399.20, along with additional changes. These modifications do not affect ReMAT contracts that have already been executed. **Signed, D.20-10-005.**

Item 8: Draft Resolution E-5059: This Resolution would adopt with modifications proposed tariff revisions by Pacific Gas and Electric Company Advice Letter 5354-E, Southern California Edison Company Advice Letter 3840-E, and San Diego Gas & Electric Company Advice Letter 3257-E to implement Reentry Fees and Financial Security Requirements for Community Choice Aggregators. Reentry fees include investor owned utility administrative costs and procurement costs resulting from a mass involuntary return of CCA customers to IOU service, and the financial security requirements must cover those potential costs. **Approved.**

### **California Independent System Operator**

#### Upcoming Meetings and Deadlines:

**Generator Downsizing Request Submittal Window for Generator Interconnection Projects: Open 10/15/20 to 11/15/20.** The California ISO will begin to accept downsizing requests on Oct. 15, 2020, 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 to the ISO by 5 p.m. (Pacific Time), Nov. 15, 2020.

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<sup>1</sup> Per 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 twenty days after the draft resolution appears in the Commission's daily calendar, per Rule 14.5.

**Annual Policy Initiatives Roadmap Process: 2021 Draft Policy Initiatives Roadmap Posted.** The California ISO will hold a public stakeholder web conference on Oct. 7, 2020, to discuss the 2021 draft Policy Initiatives Roadmap, as part of its annual policy initiatives roadmap process. Comments are due October 21.

**Extended Day-Ahead Market.** The California ISO has extended the deadline to submit written comments on the Extended Day-Ahead Market bundle 1 straw proposal from Oct. 8, 2020 to Nov. 12, 2020.

**Hybrid Resources: Final Proposal.** The California ISO will hold a public stakeholder web conference on Oct. 15, 2020, to discuss the final proposal for the Hybrid Resources initiative. Comments are due by October 29.

### **California Energy Commission**

The California Energy Commission has postponed the Lead Commissioner workshop in which the CEC intended to solicit further public and stakeholder comment on proposed modifications to the Renewables Portfolio Standard enforcement regulations for local publicly owned electric utilities. The workshop was previously scheduled for October 13, but the CEC has not yet announced the new date.

### **California Air Resources Board**

On November 19 and 20, 2020, the California Air Resources Board (CARB) will hold a public hearing to consider amendments to its regulations for the reporting of Criteria Air Pollutants and Toxic Air Contaminants. The proposed amendments will expand CARB's inventories of emissions from stationary sources, on-road and off-road mobile sources, and area-wide sources, i.e. consumer products. The amendments would expand the scope of sources subject to reporting, increasing the number of facilities reporting from about 1,300 to approximately 60,000 at full implementation. The amendments would incorporate a six-year phase-in for reporting of additional processes and provide abbreviated reporting requirements for thousands of facilities. The amendments would also improve consistency with air toxic "hot spots" reporting requirements under Assembly Bill 2588. Details on the proposed amendments and the hearing are available [here](#). Written comments can be submitted by mail or electronically [here](#) and must be received no later than November 16, 2020 if they will not be physically submitted at the hearing.

### **Washington Utilities and Transportation Commission**

The Washington Utilities and Transportation Commission (WUTC) extended COVID-related protections for customers of investor-owned electric and natural gas utilities, including an extended moratorium on disconnections for nonpayment through the end of April 2021.

WUTC Staff recommended that the WUTC deny Puget Sound Energy's request to sell its 25% ownership interest in Colstrip Unit 4, arguing that Puget Sound Energy has not

demonstrated that such sales are in the best interest of the public. (WUTC Docket No. UE-200115)

### **Federal Energy Regulatory Commission**

FERC has a [technical conference scheduled for October 27 on offshore wind generation integration in RTOs/ISOs](#). The conference will address whether existing Commission transmission, interconnection, and merchant transmission facility frameworks in RTOs/ISOs can accommodate anticipated growth in offshore wind generation in an efficient and effective manner that safeguards open access transmission principles and to consider possible changes or improvements to the current framework should they be needed to accommodate such growth. Commissioners may participate in the technical conference.

FERC approved American Transmission Company's (ATC) transition to MISO's current reimbursement policy for network upgrades. MISO has for years provided generator interconnection customers with little to no reimbursement for network upgrade costs, but ATC has until now provided customers with a full reimbursement. This week, however, ATC received approval to join the rest of MISO in reimbursing only 10% of costs for network upgrades that are 345 kV and above, and no reimbursement for upgrades below 345 kV. The change applies to customers who entered the interconnection queue on or after April 29, 2019.

FERC's Open Meeting this Thursday includes the following notable topics:

1. FERC's 2020/2021 Winter Energy Market and Reliability Assessment
2. Action on a rulemaking petition seeking an amendment to the definition of "useful thermal energy output" in FERC's PURPA regulations to accommodate solid oxide fuel cells
3. Action on NERC and WECC's petition got approval of proposed Regional Reliability Standard BAL-002-WECC-3, specifying the quantity and types of Contingency Reserve required to ensure reliability under normal and abnormal conditions.
4. Action on a complaint by the PPL Industrial Customer Alliance alleging PPL Electric Utilities Corporation's base rate of return on equity is unjust and unreasonable
5. Orders on rehearing of FERC's latest PJM MOPR order and NYISO buyer-side mitigation rules order
6. Action on a petition for a waiver of tariff provisions filed in 2018 to allow an offshore wind resource to participate in ISO-NE's Forward Capacity Auction as a Renewable Technology Resource

### Ninth Circuit Court of Appeals

*Pacific Gas and Electric Co. v. Federal Energy Regulatory Commission*, Case No. 19-71615.

On October 7, 2020, the Ninth Circuit Court of Appeals issued a decision

(<https://www.law360.com/articles/1318009/attachments/0>) dismissing PG&E's petition for review of two FERC Declaratory Orders (*NextEra Energy, Inc., et al, v. Pacific Gas and Electric Company*, 166 FERC ¶ 61,049 (2019), *reh'g denied*, 176 FERC ¶ 61,096 (2019), and a consolidated appeal by FERC of a declaratory judgment issued by Judge Montali in the PG&E bankruptcy case. All three decisions, as summarized by the Ninth Circuit, involved "whether a Chapter 11 debtor can cease performing under its wholesale power contracts with the approval of the bankruptcy court, or whether FERC's consent is also needed." FERC held in its two orders that it had concurrent jurisdiction over the wholesale power contracts such that it must approve any changes. The United States Bankruptcy Court for the Northern District of California rejected FERC's conclusion, finding that it had exclusive jurisdiction over that issue. In the unpublished decision, the Ninth Circuit held that the issue was moot in light of the bankruptcy court's confirmation of PG&E's reorganization plan that assumed all of the wholesale power purchase contracts at issue, and vacated the two FERC Declaratory Orders and the bankruptcy court's Declaratory Judgment. Although the Ninth Circuit vacated the two FERC Declaratory Orders, it also noted that FERC has already re-asserted its position regarding concurrent jurisdiction in the context of the Natural Gas Act (*citing ETC Tiger Pipeline LLC*, 171 FERC ¶ 61,248 (2020)).