

**REGULATORY UPDATE FOR APRIL 11, 2023
(WEEK OF APRIL 3, 2023)**

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions¹

No new proposed decisions or draft resolutions.

Voting Meetings

The CPUC held a voting meeting on April 6, 2023. The agenda included the following energy- and transportation-related items.

Item 4. Resolution E-5252 (Transmission Project Review Process). This resolution would establish a Transmission Project Review Process (TPR Process) to provide a uniform process to review IOUs' capital transmission projects. The TPR Process is intended to allow the CPUC and all stakeholders to receive data from Transmission Owners; inquire about and provide feedback on the IOUs' historical, current, and forecast transmission projects; and provide feedback to the IOUs on their transmission projects. The TPR Process will provide the CPUC and all stakeholders semiannually with current, specific, comprehensive, and system-wide transmission data for projects with any capital additions to rate base in the last five years, and any forecast or actual capital expenditures in the current year or future five years. Projects will be included if they are expected to total \$1 million or more in capital costs. **Held to 4/27 meeting.**

Item 5. A.20-02-009, A.20-04-002, and A.20-06-001 (2019 ERRa Compliance Phase 2). This decision resolves the 2019 ERRa Compliance Phase 2 proceedings of Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively the Joint Utilities), which were consolidated to address issues related to the Public Safety Power Shutoff (PSPS) events they initiated in 2019. Separately, the CPUC opened an Order Instituting Investigation 19-11-013 (PSPS OII) to examine whether the Joint Utilities complied with applicable laws, rules, and regulations when they initiated the PSPS events in 2019. In D.21-06-014 (decision resolving the PSPS OII), the CPUC found that the Joint Utilities were grossly deficient in reasonably identifying, evaluating, and weighing the potential public harms to their customers when initiating the 2019 PSPS events and imposed a monetary remedy by prohibiting their collection of all authorized revenue requirement equal to the estimated unrealized volumetric sales and revenues resulting from future PSPS events. This decision prohibits the Joint Utilities from adjusting future rates to collect any revenue shortfalls, recorded as undercollections in their respective balancing accounts, caused by PSPS events in

¹ Per CPUC's 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 CPUC's daily calendar, per Rule 14.5.

2019. This decision also adopts a methodology to calculate the estimated unrealized revenues the Joint Utilities incurred in 2019 or will incur during future PSPS events. The consolidated 2019 ERRA Compliance proceedings of PG&E, SCE, and SDG&E are closed. **Held to 4/27 meeting.**

Item 7. A.22-09-002 (Sunnova CPCN Application). This decision grants the motion of the Public Advocates Office (Cal Advocates) to dismiss the application filed by Sunnova Community Microgrids California, LLC (SCMC) for a Certificate of Public Convenience and Necessity (CPCN) to Construct and Operate Public Utility Microgrids and to Establish Rates for Service. The decision grants Cal Advocates' motion to dismiss because: (1) Cal Advocates' motion to dismiss is not improper; (2) the exemptions SCMC seeks are unauthorized; and (3) SCMC failed to provide the information required for a CPCN. **Signed, D.23-04-004.**

Item 11. Resolution E-5259, Advice Letter 4928-E (SCE Etiwanda Separator Storage Project—MTR Procurement Requirements). This resolution approves SCE's request to count the utility-owned Etiwanda Separator storage project towards its midterm reliability procurement requirements and modify the project's cost recovery mechanism. The project was originally procured to meet summer reliability procurement targets. **Approved.**

Item 12. Resolution G-3591, Advice Letter 5509-G, Advice Letter 5685-G. This resolution approves, with the adjustments directed in D.22-03-010 and D. 22-04-034 for codes and standards advocacy category, Southern California Gas Company's (SoCalGas) Efficiency Savings and Performance Incentive (ESPI) awards for program years (PY) 2017-2018 and 2018-2019. D. 22-03-010 Ordering Paragraph (OP) 2 stated that any expenditures associated with Codes and Standards (C&S) advocacy, for which SoCalGas has not yet received ESPI payment, are hereby ineligible for ESPI payment. The award approved in this resolution includes the C&S adjustments directed in that order. The resolution approves a final incentive award of \$3,494,989 for PY 2017-2018 and a final incentive award of \$3,746,301 for PY 2018-2019. **Approved.**

Item 14. Resolution E-5254 (Cost Recovery Requests for Infrastructure Investment and Jobs Act and Other Federal Programs). Pursuant to Article XII, Section 6 of the California Constitution and the Public Utilities Code, the CPUC may adopt reasonable regulations for the oversight of costs passed on to the ratepayers of California. This resolution adopts a procedural venue for the electric and gas IOUs to request cost recovery for match funding and tax liabilities pursuant to any funds received from the federal Infrastructure Investment and Jobs Act Clean Energy Infrastructure Grant Programs administered by the U.S. Department of Energy, the federal Inflation Reduction Act, and the federal Creating Helpful Incentives to Produce Semiconductors and Science Act. This resolution also adopts an advice letter process for IOUs to track and report costs and grant project progress. **Approved.**

Item 17. R.21-10-002 (Resource Adequacy). This decision adopts implementation details for the 24-hour slice-of-day framework adopted in D.22-06-050, including adopting compliance tools, resource counting rules for various resource types, and a methodology to translate the Planning Reserve Margin to the slice-of-day framework. **Signed, D.23-04-010.**

Item 22. A.23-01-020 (SCE ERRA). This decision approves the application of SCE to recover in bundled service customer generation rates an amount up to \$595.615 million to address an under collection in its ERRA Balancing Account. SCE is granted authority to decline to place some or all of the increase into rates if its forecast, at the time it submits its implementing advice letter, reasonably demonstrates that it will not need some or all of the increase in order to bring its ERRA Trigger Balance within the prescribed ERRA Trigger Mechanism thresholds. This decision also approves SCE's proposal to amortize the revenue recovery, if needed, over 12 months beginning June 1, 2023. Bundled customer rates would increase by 4.4% during that period if the authorized \$595.615 million is fully recovered. **Signed, D.23-04-012.**

Item 25. Resolution E-5265 (PG&E E-ELEC rate). On March 16, 2020, the CPUC issued D.20-03-002, directing PG&E to propose a new opt-in, untiered residential TOU rate in PG&E's General Rate Case, Phase II (A.19-11-019). This directive informed the proposal of PG&E's Schedule E-ELEC rate, intended to incentivize beneficial residential electrification in PG&E's territory by lowering volumetric rates through the use of a fixed charge. As required in D.20-03-002, residential customers are eligible for Schedule E-ELEC if they use the following electrification technologies: (1) electric vehicle (EV) charging, (2) energy storage charging, or (3) electric heat pumps. This Resolution approves the research plan and budget for a measurement and evaluation study for Schedule E-ELEC as proposed by PG&E, pursuant to OP 16 of D.21-11-016. **Approved.**

Item 47. R.19-09-009 (Microgrids). Pursuant to OPs 6 and 7 of D.21-01-018, this decision adopts implementation rules for the previously authorized Microgrid Incentive Program for PG&E, SDG&E, and SCE. The Microgrid Incentive Program is a program that targets placement of community microgrids in disadvantaged vulnerable communities (DVCs) to support populations impacted by grid outages. This Microgrid Incentive Program seeks to advance microgrid resiliency technology, advance system benefits of microgrids equitably across DVCs, and inform future regulatory resiliency action to the benefit of all ratepayer customers. **Signed, D.23-04-034.**

Item 48. A.22-02-005, A.22-03-003, A.22-03-004, A.22-03-005, A.22-03-007, A.22-03-008, A.22-03-011, and A.22-03-012 (PG&E Energy Efficiency Plans). This decision addresses a staff proposal for reducing ratepayer-funded incentives for natural gas energy efficiency measures. This decision: (1) establishes a framework that defines and allows continued funding of "exempt measures"—measures that result in gas savings but do not burn gas; (2) establishes a means to determine whether a given measure is (or is not) cost-effective; and (3) provides for working groups to examine and recommend technical guidance for identifying a viable electric alternative (for a given gas measure) and further criteria for custom projects. Beginning in PY 2024, ratepayer-funded incentives will no longer be authorized for non-exempt, non-cost-effective gas measures for new construction projects with no existing gas line, and for new construction projects with an existing gas line if gas usage will materially increase. This policy will apply to residential and commercial projects in the resource acquisition and market support segments of energy efficiency program administrators' portfolios. **Signed, D.23-04-035.**

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Stakeholder Initiatives: Upcoming Meetings and Deadlines

2022-2023 Transmission Planning Process. CAISO posted the 2022-2023 draft transmission plan and hosted a public stakeholder call on April 11, 2023. The draft transmission plan is available on the 2022-2023 transmission planning process [webpage](#).

2024 and 2028 Local Capacity Technical Study Final Results. CAISO will hold a stakeholder call on April 12, 2023, to present and discuss the proposed final local capacity technical study results. The presentations with the final study results were posted on April 10, 2023. CAISO also posted on the same process page on April 5, 2023, the draft 2024 and 2028 local capacity technical study reports.

Day-Ahead Market Enhancements. Draft revised final proposal posted. CAISO posted the draft revised final proposal for the Day-Ahead Market Enhancements initiative to its website. CAISO discussed the revised proposal during the April 7, 2023 stakeholder meeting. Details for that meeting are available in the notice published on March 24, 2023, and on the CAISO calendar. Written comments are due by end of day April 20, 2023.

Western Energy Imbalance Market (WEIM) Regional Issues Forum. The WEIM Regional Issues Forum will hold its next meeting, in person and virtually, on June 21, 2023, in Salt Lake City, Utah.

New Initiative: Ancillary Service State of Charge Constraint. CAISO scheduled a public stakeholder meeting on April 27, 2023, to discuss the straw proposal, and policy related to the changes that were introduced for the Ancillary Service State of Charge Constraint initiative and filed at FERC in September 2022.

CALIFORNIA ENERGY COMMISSION (CEC)

Integrated Energy Policy Report

The CEC will host a remote-access webinar on April 18 to provide an overview of the 2023 North American Market Gas (NAMGas) trade model, end-use price assumptions, and preliminary results. This webinar will provide staff with the opportunity to vet model assumptions, discuss price results, and seek stakeholder feedback. The webinar will be held at 10 a.m. and login details are available [here](#).

Energy System Reliability

On April 19, 2023, the CEC will host a workshop in collaboration with the CPUC and CAISO to present and seek comments from stakeholders and interested parties on the preliminary load shift goal and the forthcoming preliminary report to reduce net peak electrical demand as required by SB 846. The workshop will include a public comment period. SB 846,

in part, directs the CEC (in consultation with the CPUC and CAISO) to establish a load shift goal that focuses on reducing net peak electrical demand and a report that includes recommended policies to increase demand response and load shifting without increasing greenhouse gas emissions or electricity rates. According to SB 846, the load shift goal must be adopted by June 1, 2023, and is to be adjusted in each biennial Integrated Energy Policy Report thereafter.

The CEC released the final Clean Energy Reliability Investment Plan, available [here](#).

Electric and Zero Emissions Vehicles

On April 6, the CEC announced a Request for Information (RFI) seeking input on EV infrastructure projects for medium- and heavy-duty vehicles. The CEC is seeking input on a range of topics, including project ideas and project details such as location, technical considerations, scalability, public-private partnerships, and business models. The CEC is hoping to identify the most promising projects for the Charging and Fueling Infrastructure (CFI) and National Electric Vehicle Infrastructure (NEVI) grant funding programs, and to ensure that they will align with state goals and priorities. Additional information regarding the RFI is available [here](#).

The CEC issued a notice for an upcoming workshop to be held jointly with the California Department of Transportation on April 13. The workshop will provide an overview of two planning tools intended to support California's NEVI Formula Funding Program. The tools are the "NEVI Corridor Group Interactive Map" and the "NEVI Matchmaker Tool." A detailed meeting agenda will be posted prior to the workshop at the National Electric Vehicle Infrastructure Deployment Plan Development docket ([22-EVI-03](#)). The workshop notice and attendance details are available [here](#).

Hydrogen Funding Opportunities

On April 5, the CEC announced that it intends to release a solicitation to provide cost-share funding (total funding available is \$20 million) to applicants that apply for and receive an award under an eligible federal funding opportunity announcement for hydrogen technology projects meeting the requirements of the solicitation and of Assembly Bill (AB) 209. Eligible projects under AB 209 are specific to hydrogen derived from water using eligible renewable energy resources, as defined in Section 399.12 of the Public Utilities Code, or produced from these eligible renewable energy resources. The announcement encouraged interested applicants to review GFO-21-901 (Section IV) (Electric Program Investment Charge Cost Share Solicitation) for elements that could be considered in the scoring criteria, due to the short time for applications. The CEC may consider the following criteria, which is subject to change when the final solicitation is released: technical merit, technical approach, impacts and benefits to California, term qualifications and capabilities, budget and cost-effectiveness, and impacts on disadvantaged and low-income or tribal communities. The anticipated release date is May 2023.

Reliability Reserve Incentive Programs

On April 10, 2023, CEC staff held a remote-access only workshop to discuss the Demand Side Grid Support (DSGS) program's draft revised guidelines. As background, the DSGS program compensates certain participants for upfront capacity commitments and per-unit reductions in net energy load during extreme events achieved through reduced usage, use of backup generation, or both. In January 2023, CEC staff held a workshop and collected public comment on the launch of the DSGS program.

CEC Meetings

The next CEC Business Meeting is [scheduled](#) for April 12, 2023, and a copy of the most recently updated agenda is available [here](#).

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On April 6, 2023, CARB conducted a joint public meeting with the California Transportation Commission and the California Department of Housing and Community Development. Information on the meeting is available [here](#).

CARB will hold its next Board Meeting on April 27-28, 2023. At the meeting, CARB will consider the proposed [Advanced Clean Fleets Regulation](#). The full agenda will be available [here](#) 10 days prior to the meeting.

Opportunities for Public Comment

CARB has released [modified text](#) for the [Advanced Clean Fleets Regulation](#) for public comment. The proposed modified regulatory language presents conforming modifications to the regulation in accordance with CARB's direction at its October 2022 hearing on the proposed regulation. CARB also added documents to the rulemaking record and has invited comments on the new documentation. Comments on the proposed modified text and additional documentation were due on or before April 7, 2023.

On February 22, 2023, CARB held a [public workshop](#) on potential changes to the [Low Carbon Fuel Standard](#). At the workshop, staff presented additional information on potential credit generation opportunities that may affect carbon intensity targets, preliminary fuel mix, and cost outputs from the California Transportation Supply model, and concepts related to streamlining implementation. Staff has released [draft regulatory text](#) of the proposed changes. Comments on the proposed changes for Tier 1 Simplified Calculators and Lookup Table Values may be submitted [here](#) on or before April 30, 2023.

ILLINOIS COMMERCE COMMISSION (ICC)

The ICC held its voting meeting on April 5 and the meeting agenda and results are available [here](#). The next voting meeting will be held on April 20 and the agenda will be posted 48 hours in advance.

OREGON PUBLIC UTILITY COMMISSION (OPUC)

On April 6, the OPUC approved a request by PacifiCorp to be allowed until May 31, 2023, to file its Clean Energy Plan and Jim Bridger Long-Term Fuel Plan and begin the associated review process. In a separate approval, the OPUC also set May 31, 2023, as the deadline for PacifiCorp to file its annual report.

The OPUC held a prehearing conference yesterday in Docket LC 80, which addresses Portland General Electric's Integrated Resource Plan and Clean Energy Plan that was filed on March 31.

IDAHO PUBLIC UTILITIES COMMISSION (IPUC)

On April 5, 2023, the IPUC issued a [notice](#) of Idaho Power's application for participation in the Western Resource Adequacy Program (WRAP) and recovery of WRAP-associated costs in a future rate proceeding. Interventions are due by April 26, 2023.

TEXAS LEGISLATURE & ELECTRIC RELIABILITY COUNCIL OF TEXAS (ERCOT)

Texas lawmakers continued their push to punish renewables in the wake of Winter Storm Uri by advancing several bills on April 5, 2023. These bills would fund 10 GW of gas-fired plants solely to prevent load shed; limit the amount of renewable generation constructed; institute a firming requirement for all resources and load-serving entities; and mandate that generation be built closer to load to reduce transmission costs.

Chief among the bills is Senate Bill (SB) 6. This bill calls for interest-free loans from state funds to build "reliability assets." These reliability assets are gas plants in ERCOT's footprint with on-site fuel storage. The bill is expected to cost between \$10 and \$18 billion. The bill has been revised to state that plants constructed with these funds cannot enter the competitive day-ahead and real-time markets for 40 years. This change is meant to maintain the competitiveness of the ERCOT market. The bill would also cap the rate of return for these reliability assets at 10%. If there are not enough funds for the program, the Texas Public Utilities Commission would set a nonbypassable charge to all transmission and distribution utilities, municipally owned utilities and electric cooperatives in ERCOT.

Senators also approved SB 7, which creates a new ancillary service program that requires load-serving entities to purchase "dispatchable" reliability reserve services on a day-ahead basis. The key provision of this "firming" bill hinders energy storage development by requiring that resources offering the ancillary service be capable of running for at least 10 hours. The original version of the bill mandated a four hour run time. SB 7 would not be compatible with ERCOT's

view that energy storage is dispatchable.

The Senate has also advanced other bills to the House of Representatives. SB 2014 would make RECs voluntary instead of mandatory and SB 2015 would require that 50% of generating capacity installed in ERCOT after 2023 be from dispatchable resources.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

On Friday, April 7, FERC conditionally approved a proposal by PJM Interconnection, L.L.C. (PJM) to alter its process for accrediting capacity variable and hybrid resources under PJM's effective load-carrying capability (ELCC) model. The newly approved rule limits the hourly output that is used in the ELCC for these types of resources at their individual capacity interconnection rights (CIR) level.

On March 16, 2023, FERC issued an [Order on Formula Rate Protocols and Establishing a Show Cause Proceeding](#), 182 FERC ¶ 61,156 (2023) (Order), finding that the transmission formula rate protocols of Commonwealth Edison Company (ComEd) appear to “have . . . become” unjust and unreasonable because they do not conform with FERC's current policy as established in a series of orders regarding MISO and the protocols of the MISO TOs. *See also* [Order on Compliance Filings re MISO Under ER13-2379](#); [Order on Rehearing and Clarification re MISO](#). The Order identified three broad categories of concern with ComEd's protocols: (1) the limited scope of participation by interested parties, (2) the transparency of information provided under the protocols, and (3) the adequacy of the formula rate challenge procedures. Regarding the scope of participation, the Order noted that its policy is to allow participation by all interested parties, and that the protocols should define “interested parties” to include customers, state public utility commissions, consumer advocate agencies, and state attorneys general. Order at ¶¶ 12-13. Regarding transparency, the Order expressed concern that ComEd's protocols do not provide interested parties with sufficient time to review, request information, and challenge annual updates *before* the formula rate filings are made with FERC. Order at ¶ 20. Regarding the adequacy of formula rate challenge procedures, the Order was concerned that ComEd's protocols did not specify procedures through which interested parties can *informally* challenge the proposed inputs to the formula rate, and that such procedures should not impede the statutory rights of other parties to file complaints regarding the formula rates. Order at ¶¶ 30-34. As a result, the Order initiated an investigation under Section 206(b) of the Federal Power Act and directed ComEd within 60 days to “show cause why” its protocols remain just and reasonable, explain what changes to its protocols would remedy the identified concerns if FERC were to find these deviations to be unjust and unreasonable, and establish a refund effective date as of the Order's publication in the Federal Register.

On March 24, 2023, the Independent Market Monitor (IMM) for PJM filed a [Complaint](#) against PJM, alleging that PJM refused to permit it to participate in meetings of the PJM Liaison Committee—a stakeholder committee whose charter limits attendance to PJM Members and PJM Board Members. The Complaint contends that the IMM's exclusion from *any* PJM stakeholder process is inconsistent with the independence of PJM, the PJM Board, and the IMM, and that the IMM's participation is “appropriate and necessary to perform its functions” as the market monitor. Apparently, the IMM was allowed to attend PJM Liaison Committee meetings

until 2018, when the PJM Members Committee voted to enforce the Committee's charter and restrict participation solely to PJM Members and PJM Board Members. The IMM's Complaint comes on the heels of a similar [Complaint](#) filed by the Public Service Commission of West Virginia (WV PSC) alleging that it too was being improperly barred from attending PJM Liaison Committee meetings. According to the WV PSC, its right to observe the PJM Liaison Committee meetings is critical to carrying out its responsibilities in protecting West Virginia consumers' interests.

U.S. DEPARTMENT OF TRANSPORTATION (DOT)

The DOT hosted a series of webinars to share information regarding the CFI discretionary grant funding opportunity it opened on March 14. One webinar took place on March 21 at 1 p.m. ET, and another was held on March 22 at 2 p.m. ET. The webinars were recorded and are available for viewing [here](#), together with additional information regarding the CFI grant opportunity. The funding opportunity includes \$2.5 billion over five years, with \$700 million in funding available from fiscal years 2022 and 2023. This program funding is in addition to the \$5 billion in funding that was authorized under the National Electric Vehicle Infrastructure Formula Program, as this funding opportunity is designed to "fill gaps" in the alternative fuel corridors network and to prioritize disadvantaged communities. There are two funding categories under the CFI program: (1) Community Charging and Fueling Grants (Community Program), and (2) Alternative Fuel Corridor Grants (Corridor Program).

Applications for the CFI funding opportunity are due by May 30, 2023.