

**REGULATORY UPDATE FOR FEBRUARY 14, 2023
(WEEK OF FEBRUARY 6, 2023)**

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions¹

R.19-09-009 (Microgrid Proceeding). This decision adopts implementation rules for the previously authorized Microgrid Incentive Program for Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company. The Microgrid Incentive Program is a program that targets placement of community microgrids in disadvantaged vulnerable communities to support populations impacted by grid outages.

R.14-07-002/A.16-07-015 (Net Energy Metering and related matter). This decision partially grants a petition for modification of Decision (D.) 17-12-022 regarding the Solar on Multifamily Affordable Housing (SOMAH) program. The decision increases current incentive levels and eliminates the annual step-down in incentives established in Decision 17-12-022. The decision denies the petition's request to enable the Solar on Multifamily Affordable Housing Program Administrator to propose future changes to incentive levels via Advice Letter. The decision defers addressing the request for a differentiated incentive for properties in disadvantaged communities, leaving this element to be considered in a forthcoming ruling.

Draft Resolution G-3592. This resolution approves in part and modifies in part the California Energy Commission's (CEC) Gas Research and Development Program Proposed Budget Plan for Fiscal Year 2022-2023. The Gas Research and Development Program was established pursuant to D.04-08-010. The CPUC approves the CEC's proposed \$24 million budget, which includes a 10 percent, or \$2.4 million, administrative budget.

R.15-02-050 (Predecessor RPS Rulemaking). This decision closes the rulemaking, as all scoped issues have now been resolved.

Draft Resolution E-5246. This resolution approves, with modification, San Diego Community Power's Advice Letter 10-E to create tariffs to implement the Disadvantaged Communities Green Tariff and Community Solar Green Tariff programs.

A.22-08-001 (PacifiCorp 2023 Energy Cost Adjustment Clause filing). This decision approves the December 9, 2022 partial settlement, as modified, by PacifiCorp d/b/a Pacific Power (PacifiCorp), the California Farm Bureau Federation, and the Public Advocates Office at the CPUC resolving all issues raised with respect to the Greenhouse Gas Emissions Allowance program costs and Climate Credits. This proceeding remains open to address all other issues

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.

within the scope of PacifiCorp's Energy Cost Adjustment Clause filing.

Voting Meetings

The CPUC will hold its next voting meeting on February 23, 2023.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Stakeholder Initiatives: Upcoming Meetings and Deadlines

2024 Flexible Capacity Needs Assessment. The CAISO held a public stakeholder call on February 7, 2023 to discuss the Draft 2024 Flexible Capacity Needs Assessment. Written comments on the draft assessment are due by February 21, 2023.

Minimum State of Charge Extension. The CAISO held a public stakeholder call on February 9, 2023 to discuss the straw proposal for the minimum state of charge extension initiative. Written comments on the straw proposal are due February 23, 2023.

Subscriber Participating Transmission Owner Model. The CAISO will hold a public stakeholder call on February 15, 2023 to discuss the straw proposal for the Subscriber Participating Transmission Owner model initiative. Written comments on the straw proposal are due February 28, 2023.

FERC Order No. 881 - Managing Transmission Line Ratings Phase 2. The CAISO has scheduled public quarterly stakeholder meetings for 2023, related to the FERC Order No. 881 - Managing Transmission Line Ratings phase 2 initiative. During these quarterly meetings, the CAISO will provide stakeholders with an update on implementation efforts made in order to comply with FERC Order No. 881 by July 2025. The CAISO will hold its Q1 initiative update call on February 14, 2023. Comments on the February 14 stakeholder call discussion are due February 28, 2023.

Day-Ahead Market Enhancements. The CAISO will hold Day-Ahead Market Enhancements (DAME) initiative public stakeholder workshops on February 27, 2023 and March 7-8, 2023 to continue discussions on several key DAME design elements including the granularity of imbalance reserve procurement and energy storage modeling enhancements. The workshop on February 27 is offered in a virtual format, while the workshop on March 7-8 is offered virtually and in-person at the CAISO in Folsom, California. Comments on the stakeholder workshop discussions are due by end of day March 24, 2023.

Energy Storage Enhancements. The CAISO will hold a public stakeholder call on February 28, 2023 to discuss the draft tariff language for the Energy Storage Enhancements initiative. Written comments on the draft tariff language are due February 24, 2023.

CALIFORNIA ENERGY COMMISSION (CEC)

Integrated Energy Policy Report (IEPR)

On February 2, 2023, the CEC released a [Notice of Availability and Request for Comments](#) on the [Final 2022 IEPR Update](#). Written comments are due by 5:00 p.m. PT on February 23, 2023.

Energy System Reliability

On February 9, 2023, the CEC [released](#) the *Draft Clean Energy Reliability Investment Plan* (Draft Plan). Release of the Draft Plan follows a January 20, 2023 workshop that outlined the proposed priorities for the Plan and information from the workshops and public comments were key inputs in development of the Draft Plan. All January 20 workshop materials, including the agenda, transcripts, and presentation, are available in [Docket No. 21-ESR-01](#). Public comments on the Draft Plan are due by 5:00 p.m. on February 16, 2023.

Also on February 9, 2023, the CEC published the [Joint Agency Reliability Planning Assessment](#) (Assessment) that addresses requirements for electricity reliability reporting in Senate Bill (SB) 846 (Dodd, Chapter 239, Statutes of 2022) and Assembly Bill (AB) 205 (Committee on Budget, Chapter 61, Statutes of 2022). According to the Assessment, the contents include the first quarterly review of the demand forecast, the supply forecast, and potential high, medium, and low risks to reliability in the CAISO territory from 2023 to 2032, as required by SB 846. The Assessment also notes that the analysis contained therein for 2023 is preliminary and will be updated in May 2023. Further, as required by AB 205, the report also provides an evaluation of summer 2022 reliability and the magnitude of reliability problems for 2023–2026.

CEC Business Meetings

The next CEC Business Meeting is [scheduled](#) for February 15, 2023.

STATE WATER RESOURCES CONTROL BOARD (SWRCB)

On January 4, 2023, the SWRCB published a [Notice of Document Availability, Opportunity for Public Comment, and Public Hearing](#) (Notice) regarding the [Draft Staff Report and Draft Amendment](#) to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling to Extend the Compliance Schedule for Alamitos, Huntington Beach, Ormond Beach, and Scattergood Generating Stations, and the Diablo Canyon Nuclear Power Plant (OTC Policy Amendment). According to the Notice, written comments are due by 12:00 p.m. PT on March 17, 2023. A Public Hearing is scheduled for March 7, 2023. The proposed OTC Policy Amendment would extend the compliance date for the following power plants:

- Alamitos Generating Station (Alamitos) Units 3, 4, and 5; Huntington Beach Generating Station (Huntington Beach) Unit 2; and Ormond Beach Generating Station (Ormond Beach) Units 1 and 2 for three years, from December 31, 2023 to December 31, 2026, to support system-wide grid reliability.
- Scattergood Generating Station (Scattergood) Units 1 and 2 for five years, from December 31, 2024 to December 31, 2029, to support local system reliability.

The amendment also incorporates revisions to the compliance date for Diablo Canyon Nuclear Power Plant Units 1 and 2 to October 31, 2030, which reflects the extension provided by SB 846.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On February 21, 2023, the [Methane Task Force](#), composed of the California Department of Conservation's Geologic Energy Management Division and CARB, and their umbrella agencies the California Natural Resources Agency and the California Environmental Protection Agency, will host the third Task Force public meeting to provide updates on current and upcoming efforts at the agencies to address methane emissions, including an update on CalGEM's Orphan Well Abandonment Program and Prioritization Methodology and CARB's Satellite Monitoring Partnership. Registration for the virtual meeting is available [here](#).

On February 22, 2023, CARB will hold a public workshop on potential changes to the [Low Carbon Fuel Standard](#). At the workshop, staff will present 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 will release preliminary regulatory text of the proposed changes. Participants may provide verbal feedback to staff on the proposed changes to the Standard at the workshop. Written feedback will be solicited through March 15, 2023. Registration and additional information on the workshop is available [here](#).

CARB will hold its next Board meeting on February 23, 2023. At the meeting, the Board conduct a public meeting to consider recommendations for additional communities for selection for the AB 617 [Community Air Protection Program](#) and receive an update from staff on the annual AB 617 Implementation Memorandum. The agenda for the meeting is available [here](#).

Opportunities for Public Comment

Comments on the recommendations for communities for selection for participation in the AB 617 [Community Air Protection Program](#) may be submitted to CARB [here](#) on or before February 13, 2023 or provided at the February 23-24, 2023 hearing.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION (WUTC)

On January 12, 2023, the WUTC issued notice that it is postponing activities in the docket of U-210590 (Proceedings to Develop a Policy Statement Addressing Alternatives to Traditional Cost of Service Ratemaking) until April 2023. The policy statement is expected to define regulatory goals, desired outcomes, design principles, and metrics for alternative ratemaking. Until the process restarts, stakeholders may continue to submit comments. The full statement may be found [here](#).

MINNESOTA

Minnesota Public Utilities Commission (MPUC) February 16, 2023 Agenda Meeting

On February 16, 2023, the MPUC will meet to address the following matters: (1) Frontier Communications' proposal to increase the convenience fee; (2) Minnesota Power Duluth Reliability Project permitting; and (3) Xcel Energy's tariff variance for disconnection of service.

Minnesota Legislature

On February 3, 2023, the Minnesota legislature passed a [bill](#) that will require all electric utilities in the state to generate or procure 100% carbon-free electricity by 2040. The bill was carried by the new Democratic-Farmer-Labor Party majority in both houses, and was signed by Governor Walz on February 7, 2023.

The bill defines which generation resources are carbon-free, including solar wind, limited hydroelectric, hydrogen, and biomass. The bill also provides utilities with potential off-ramps for compliance, which will allow from deviation from the 100% standard based on issues such as affordability or reliability. Although these off-ramps are not new, recent concerns on rates for some customer classes being well above the national average (see recent media coverage [here](#)), as well as the bill's potential impact on existing plans for natural gas plants proposed for reliability purposes (for discussion of these matters see recent Integrated Resource Planning Orders for both [Xcel](#) and [Minnesota Power](#)), there is the potential for the off-ramps to receive newfound consideration. Additionally, the bill seeks to address other social concerns, including, but not limited to, local job creation, low-income customer protections, and host community preferences. The bill also provisionally adopts the U.S. Environmental Protection Agency's (EPA) draft cost of greenhouse gas emissions valuations, released in September 2022, with a mandate to adopt the final estimates from EPA when those estimates become available, as well as any subsequent adjustments by the federal Interagency Working Group that are in excess of MPUC's adopted estimates. Finally, the bill creates utility reporting requirements to track compliance and rate impacts.

While hailed as a success by many, there remains a degree of uncertainty surrounding the legislation. For example, a neighboring state continues to explore litigation based on the premise that the new legislation may interfere or regulate commerce beyond Minnesota. The potential for litigation is something that will be worth monitoring moving forward.

OREGON DEPARTMENT OF ENERGY

The Oregon Department of Energy has opened applications for the second round of the Community Renewable Energy Grant Program. Grants are expected to total \$12 million, and the program is open to Oregon Tribes, public bodies, and consumer-owned utilities. The application period closes on February 12, 2023, and information can be found [here](#).

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On February 21, 2023, the OPUC will host a public meeting in the docket of UM 2273 (re Investigation Into House Bill 2021 Implementation Issues) to establish the scope of an investigation into HB 2021 implementation issues. Background information can be found [here](#).

On January 20, 2023, the OPUC issued Order 23-005 in the docket UM 2032 (re Staff Investigation into Treatment of Network Upgrade Costs for QFs [Qualifying Facilities]). In the Order, the OPUC upheld the current policy of requiring a QF generator to pay for all costs associated with interconnection, including construction upgrades (called “Network Upgrades,” which includes upgrades to the distribution system), except to the extent that the generator can show quantifiable system-wide benefits from the network upgrades.

The Order also allows any on-system QF to choose to be studied for both Network Resource Interconnection Service (NRIS) and Energy Resource Interconnection Source (ERIS), at the QF’s expense. Currently, QFs are required to study interconnection using NRIS. ERIS determines upgrades needed to safely inject power onto the grid, but NRIS goes a step further by also studying the upgrades needed to safely deliver that power to the utility’s load. Utilities are now directed to engage in negotiation of non-standard contracts with QFs that choose to interconnect with a host utility using ERIS, so long as the QF commits to curtailment at a level that obviates the need for network upgrades otherwise identified in a NRIS report.

ILLINOIS COMMERCE COMMISSION

On February 10, 2023, the assigned Administrative Law Judge issued a Proposed Order that would approve, with modifications, the Beneficial Electrification Plan (BE Plan) filed by Ameren Illinois Company in July 2022. (Docket Nos. 22-0431/0442.) The Proposed Order would, among other things, authorize rebates for Electric Vehicle Supply Equipment of up to \$20,000 for direct current fast-charging stations in non-equity or low-income communities, and rebates up to \$250,000 in equity-based or low-income communities. The Proposed Order would allow for line-extension allowances on the customer side of the meter for make-ready investments. The Proposed Order defers consideration of whether to adopt a reliability (also referred to as an “uptime” standard) requirement for projects funded under the BE Plan due to the ongoing development of such standards at the federal level.

Briefs on Exceptions to the Proposed Order are due on February 24, 2023 and replies are due March 6, 2023.

A Proposed Order regarding the BE Plan filed by Commonwealth Edison Company (Docket Nos. 22-0432/0442) is expected to issue on or around February 17, 2023.

NEW YORK

Governor Kathy Hochul, as part of her budget presentation on February 1, 2023, called for legislative authorization for the New York Power Authority (NYPA) to develop, own, and operate renewable energy projects. The proposal would permit, but not require, NYPA to develop own and operate renewable generation, whether alone or in partnership. The proposal calls for NYPA to receive bill credits for projects that provide power to residents of disadvantaged communities. The proposal also would require NYPA to create a plan to phase out its small gas-fired peaker plants by 2035, except when needed for reliability or emergency services.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

On February 14, 2023, the DC Circuit Court of Appeals issued an opinion upholding FERC's *Broadview Solar* ruling in March 2021, where FERC overturned a prior ruling and determined that a small power production qualifying facility may install greater than 80 MW of nameplate capacity so long as its send-out capacity at any single point in time is capped at no more than 80 MW. In reaching its decision, the DC Circuit focused on all of the components of the qualifying facility working together to produce power, including in *Broadview's* case the inverters that limited instantaneous output to 80 MW, rather than disqualifying the facility due to the nameplate capacity of any single component.

On January 27, 2023, FERC accepted the MISO Transmission Owner's proposal to eliminate all charges under Schedule 2 of the MISO open access transmission tariff for the provision of reactive power within the standard power factor range (0.95 leading to 0.95 lagging). [Order on Tariff Revisions](#), *Midcontinent Independent System Operator, Inc.*, 182 FERC ¶ 61,033 (2023). FERC reasoned that under Order 2003-A, if a Transmission Provider (TP) pays itself or an affiliated generator for reactive power within the standard power factor range, then the "comparability principle" requires that unaffiliated generators also be compensated for reactive power within the standard range. However, with the elimination of TP compensation for reactive power capability, independent generators are no longer entitled to such compensation. *Order* at P 52 & n.185. The Order dismissed the argument that elimination of reactive power capability compensation would adversely impact system reliability, finding that generators in MISO will still be required to provide reactive power within the standard power factor range as a condition to interconnection. The Order was silent regarding the independent generators' alternative proposal of eliminating compensation on a prospective basis while giving effect to the many dozens of settlements reached under the FERC's prior practice of setting reactive power compensation cases for hearing. Nor did FERC address how its elimination of reactive power capability compensation in MISO will impact its generic rulemaking regarding the methodology for compensation pending in Docket No. RM22-2.

On February 3, 2023, FERC issued show cause orders regarding the Large Generator Interconnection Procedures (LGIP) of [Nevada Power Company](#), FERC ¶ 61,051 (2023) and [PacifiCorp](#), 182 FERC ¶ 61,050 (2023). In the *Nevada Power* order, FERC preliminarily found that Nevada Power’s LGIP may be unjust and unreasonable because it fails to specify a methodology for allocating common network upgrades costs among interconnection customers in the context of a cluster system impact study. In the *PacifiCorp* order, FERC preliminarily found that PacifiCorp’s LGIP may be unjust and unreasonable because it provides for a restudy of system impacts on lower-queued interconnection customers when a higher-queued interconnection customer temporarily *suspends* its LGIA, and further would require the suspending interconnection customer to pay the costs of any studies or restudies required as a result of its suspension. FERC specifically found these LGIP provisions (or lack thereof) to be inconsistent with the requirements of Order 2003 and FERC precedent. (*Nevada Power Order* at PP 5-6; *PacifiCorp Order* at PP 7-8.) Both Nevada Power and PacifiCorp were given 60 days from the date of publication of the orders in the Federal Register to “show cause why” their LGIPs remain just and reasonable, and not unduly discriminatory or preferential or alternatively to explain what changes to the LGIP would remedy the FERC’s identified concerns. Interested parties may respond within 21 days of the utilities’ filings.

On February 9-10, 2023, FERC issued 13 separate orders granting waivers to New York renewable energy projects of section 25.6.2.3.1 of Attachment S of the New York Independent System Operator, Inc. (NYISO) Open Access Transmission Tariff, which requires an interconnection project to have an Interconnection System Reliability Impact Study (SRIS) approved by the NYISO Operating Committee before entering a Class Year Study. [Thousand Island Solar LLC](#); [Barrett Hempstead Battery Storage, LLC](#); [Microgrid Networks, LLC](#); [Boralex Inc.](#); [ConnectGen Montgomery County LLC](#); [Invenergy Solar Project Development, LLC](#); [Gravel Road Solar, LLC](#); [York Run Solar, LLC](#); [Union Energy Center, LLC](#); [North Country Wind, LLC](#); [Crane Brook Solar Project, LLC](#); [Innisfree Storage LLC](#); and [North Seneca Solar Project, LLC](#). In each case, the Interconnection Customer had diligently met all of its milestone obligations leading up to the SRIS process, but ran into processing delays that could jeopardize their inclusion in the 2023 Class Year Study. The projects each claimed to be “similarly situated” to Clean Power New York LLC, which FERC had granted a waiver of section 25.6.2.3.1 in *Clean Path New York LLC*, 181 FERC ¶ 61,236 (2022). The NYISO, NYPSC, NYSERDA, and Alliance for Clean Energy New York all filed comments in support of the waiver requests, indicating that inclusion of the projects in the 2023 Class Year Study is integral to achieving New York’s clean energy [goals](#). Consistent with the NYISO’s recommendation, FERC granted waivers of section 25.6.2.3.1 and allowed the projects until the completion date on the Annual Transmission Baseline Assessment base cases to have their SRIS approved by the NYISO Operating Committee for inclusion in the 2023 Class Year Study.