

REGULATORY UPDATE FOR FEBRUARY 8 (WEEK OF FEBRUARY 1)**Special Report: LIBOR Phase-out by December 31, 2021**

Energy development attorney Bo Harvey recently co-authored an article ([available here](#)) on the upcoming regulatorily driven transition away from LIBOR (London Interbank Offered Rate). Energy market participants that are engaged with project financing will need to begin thinking about how to manage the transition away from LIBOR, which forms the basis for many, if not most, financing agreements, and is required to be phased out as a benchmark interest rate by December 31, 2021. The Federal Reserve has selected SOFR (Secured Overnight Financing Rate) as the “new” rate that will replace LIBOR. From a documentation standpoint, the LIBOR transition will require the modification of legacy loans or interest rate swaps that reference LIBOR in order to provide for appropriate “fallback” language to SOFR as the new rate. Any new loans or interest rate hedges that reference LIBOR will also need to incorporate appropriate language that addresses the upcoming shift to SOFR at the end of 2021.

California Public Utilities Commission**New Proposed Decisions and Draft Resolutions:¹**

R.10-05-004 (SGIP). This decision approves the Joint Petition for Modification of Decision 11-09-015 filed by Southern California Gas Company (SCG), Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and Center for Sustainable Energy (CSE) on December 23, 2020. In Decision (D.) 11-09-015, the SGIP payment structure was modified from an upfront-only capacity-based incentive mechanism (payment provided upon project completion and verification) with a performance-based incentive payment structure by which 50 percent of the incentive would be paid upfront, and 50 percent of the incentive would be a performance-based incentive based on the kilowatt-hour generation of on-site load over five years. According to the Petition, COVID-19 pandemic impacts have prevented projects from meeting the performance-based incentive requirements. The decision would pause the performance-based incentive requirements for up to one year, if the host customer verifies that the project was unable to meet those requirements due to COVID-19 impacts.

Draft Resolution E-5126. This resolution would approve four SCE bilateral resource adequacy transactions, described as follows:

Sky River Transaction: SCE held three PPAs with NextEra’s Sky River facility that were due to terminate on December 31, 2019 to allow for a repowering of the

¹ 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 20 days after the draft resolution appears in the Commission’s daily calendar, per Rule 14.5.

facilities. NextEra delayed the repowering and requested that SCE allow the facilities to continue generating on a merchant basis until construction of the repowering begins. After SCE completed its January/February 2020 resource adequacy (RA) solicitation, some of its position remained open. Therefore, SCE allowed the facilities to continue generating on a merchant basis and negotiated with NextEra to purchase all eligible RA associated with the facilities for 2020 and 2021. SCE argues that the NextEra transaction was competitive with procurement that occurred in its January/February RA solicitation and recent RA solicitations.

LA Basin – Exelon Generation Company, LLC (Exelon): The two bilateral transactions with Exelon conveyed Local LA Basin RA capacity required for SCE to meet is three-year forward Local RAR and was in the range of similar brokered offers conveying the same Local RA attribute.

Big Creek-Ventura – Calpine Energy Services, L.P. (Calpine): The bilateral transaction with Calpine provided Local Big Creek-Ventura RA capacity required for SCE to meet is three-year forward Local RAR and was comparable to, or cheaper than, similar offers conveying the same Local RA attribute.

R.12-11-005 (SGIP). This decision approves the Joint Petition for Modification of Decision 15-06-002 Concerning Self-Generation Incentive Program Requirements filed by SCG, PG&E, SCE, and CSE on December 23, 2020. This decision modifies D. 15-06-002 to stay the cancellation of projects past their third extension to provide interim relief to customers who have been affected by the COVID-19 pandemic.

Draft Resolution E-5129. PG&E's 2014 Conformed Bundled Procurement plan enables PG&E to procure various products for terms of up to five years without the Commission's pre-approval, provided that no term extends beyond December 31, 2024. This Resolution approves, without modification, the request of PG&E to extend its five-year procurement authority on a rolling basis until the Commission revises or replaces the investor-owned utilities' 2014 Bundled Procurement Plans.

Voting Meetings:

The Commission's next voting meeting is scheduled for February 11, 2021. The agenda includes the following items:

Item 8. Draft Resolution E-5109. In Advice Letter (AL) 5905-E, PG&E requests several modifications to Appendices A, B, and S of its 2014 Conformed Bundled Procurement Plan (2014 BPP). Some modifications would enable PG&E to access products and procurement processes that are substantially similar to those that the Commission approved for SCE in Resolution E-5063. Other revisions would clarify portions of the 2014 BPP or would broaden PG&E's procurement flexibility in response to recent decisions and market conditions. Among other changes, this Resolution would allow PG&E to classify RA products as non-standard products and thus "to pursue longer-term RA contracts via certain bilateral transactions, in addition to the more competitive (and preferred) methods," such as competitive solicitations in

the form of requests for offers. This Resolution approves PG&E's request in AL 5905-E without modification.

Item 12. R.14-10-003 (OIR re Integrated DERs). This decision adopts pilots to test two frameworks for procuring distributed energy resources to avoid or defer utility distribution investments: (1) a five-year distributed energy resources distribution deferral tariff pilot called the Partnership Pilot because of its reliance on several partnerships; and (2) a three-year standard offer contract pilot for procuring distributed energy resources to defer distribution investments.

Item 14. R.20-08-020 (NEM Proceeding). This decision adopts eight guiding principles to assist in the development and evaluation of proposals for a successor to the current net energy metering tariff. The principles reflect the statutory requirements of Public Utilities Code Section 2827.1, as well as equity, consumer protection measures, the fair consideration of all eligible technologies, coordination with the Commission and California's energy policies, transparency, maximizing the value of customer-sited renewable generation, and competitive neutrality among Load Serving Entities.

Item 16. R.20-05-003 (IRP Proceeding). The purpose of this decision is to recommend electricity resource portfolios to the California Independent System Operator (CAISO) to study in its 2021-2022 Transmission Planning Process. The general recommendations are as follows:

- Base case portfolio, for both reliability and policy-driven purposes, to be used to determine transmission investments needed: a portfolio that meets a 46 million metric ton (MMT) greenhouse gas (GHG) emissions target in 2031, with additional pumped storage and out-of-state renewables included compared to the portfolio adopted in D. 20-03-028. This base case portfolio includes approximately 10 gigawatts (GW) of new battery storage, 10 GW of new in-state renewables, and over 1 GW of out-of-state renewables.

- Two sensitivity portfolios, for study purposes: (1) a portfolio that meets a 38 MMT GHG emissions target in 2031, which portfolio includes approximately 20 GW of new in-state renewables, over 10 GW of new battery storage, and 3 GW of out-of-state renewables, and (2) a portfolio that includes a large segment of offshore wind, to improve the transmission assumptions relevant to offshore wind for the benefit of future planning.

- Resource-to-busbar mapping methodology: includes improvements to the initial recommended methodology to prioritize siting of preferred resources, especially battery storage, in disadvantaged communities and/or local capacity areas with poor air quality. The methodology is also updated to use the CAISO's updated deliverability, congestion, and curtailment information.

Item 40. R.20-11-003 (Summer 2021 Resiliency). This decision directs and authorizes PG&E, SCE, and San Diego Gas & Electric Company to contract for capacity that is available to serve peak and net peak demand in the summer of 2021 and seek approval for cost recovery in rates. This decision outlines the parameters and timelines these three large electric investor-owned utilities must adhere to in seeking approval from the Commission.

California Independent System Operator

Board of Governors Meeting. The California ISO held a Board of Governors meeting on February 3-4, 2021. Actions included approving Morongo Transmission, LLC as a participating transmission owner for the West of Devers project being managed by SCE.

Upcoming Meetings and Deadlines:

Western EIM Sub-Entity Scheduling Coordinator – Revised Straw Proposal.

Comments on the revised straw proposal for the Western EIM Sub-Entity Scheduling Coordinator initiative are due February 18, 2021.

2020-2021 Transmission Planning Process. The California ISO has posted the Draft Plan and Appendices, and scheduled a call for February 9, 2021 to discuss the Draft Plan. Written comments are due by February 23, 2021.

California Energy Commission

The California Energy Commission's (CEC) next business meeting is scheduled for February 10, 2021. Agenda is here: https://www.energy.ca.gov/sites/default/files/2021-01/2021-02-10_Agenda.pdf. Among the items on the February 10 agenda is a discussion of CEC progress on the Joint Agency Report, Charting a Path to a 100 Percent Clean Electricity Future, Senate Bill 100 (2018). Staff will present on the clean energy goals established by Senate Bill 100. Staff will also provide an update of the report development process, including the planned scope and public engagement process.

On January 21, 2021, the CEC held a [workshop](#) on clean energy alternatives to diesel backup generator systems and their use in data centers and other commercial operations in California. A [recording](#) of the workshop is now available on the CEC's workshop homepage. Written comments on the topic may be submitted to the CEC Docket Unit by February 12, 2021.

The CEC seeks public comments on Volume III of the Draft 2020 Integrated Energy Policy Report Update (Draft 2020 IEPR Update). The Draft 2020 IEPR Update, Volume III: California Energy Demand Forecast Update is available on the CEC's 2020 IEPR Update web page. The Draft 2020 IEPR Update, Volume I: Blue Skies, Clean Transportation, was posted January 6, 2021, and is available on the same web page. The Draft 2020 IEPR Update, Volume II: The Role of Microgrids in California's Clean and Resilient Energy Future will be available later. Written comments on Draft 2020 IEPR Update, Volume III: California Energy Demand Forecast Update must be submitted to the Docket Unit by 5:00 p.m. on February 18, 2021.

California Air Resources Board

On February 17, 2021, California and Québec, Canada will hold the first quarter 2021 [joint auction](#) of greenhouse allowances under the [California Cap-and-Trade Program](#) and the Québec Cap-and-Trade System. The minimum price for California allowances for the auction is \$17.71.

On February 25, 2021, the California Air Resources Board (ARB) will consider adoption of [amendments](#) to the designation of certain air basins within the state as attainment, nonattainment, or nonattainment-transitional, under the state ambient air quality standards, or AAQS. During this annual review, ARB is proposing to change the designation for ozone in areas of four air basins and the designation for fine particulate matter (PM_{2.5}) in one area, based on ARB's evaluation of recent air quality data. Additional details are available [here](#). Written comments can be submitted to ARB [here](#) on or before February 22, 2021, though ARB recommends filing comments at least ten days before the hearing.

On February 25, 2021, ARB will consider [selection of three additional communities](#) for participation in the Community Air Protection Program, established under Assembly Bill 617 (C. Garcia, 2017) to develop and implement community air monitoring systems and community emissions reduction programs. Additional information on the Community Air Protection Program and the proposed communities is available [here](#). Note, this item was originally scheduled for hearing at ARB's December 2020 meeting, however ARB is still accepting comments. Written comments can be submitted to ARB [here](#) on or before February 22, 2021, though ARB recommends filing comments at least ten days before the hearing.

ARB's [Compliance Offset Protocol Task Force](#) will hold its third meeting on March 2, 2021. The Task Force provides guidance to ARB in establishing new [offset protocols](#) for the [California Cap-and-Trade Program](#). In October 2020, the Task Force issued a report with its [Initial Draft Recommendations](#) for the Compliance Offset Program.

Oregon

Amendments to House Bill 2995 are currently in negotiation at the legislature. The bill requires that 100% of retail electricity sold in the state in 2035 and each subsequent year must be "clean energy." In addition, Senate Bill 154, which extends the sunset for the program that allows property constituting a solar project may pay a fee in lieu of property taxes, is scheduled for hearing on February 4, 2021.

The Oregon Public Utility Commission will hold a public meeting on February 11, 2021 in Docket Nos. UM 1910 (PacifiCorp), 1911 (Idaho Power), and 1912 (Portland General Electric), addressing the resource value of solar energy.

Washington

An executive session is scheduled for House Bill 1046, which if passed would create a more robust community solar program in the state by removing the 1 MW cap on community solar projects, providing for 20-year power purchase agreements, and allowing for utility cost recovery.

PJM

This coming Friday, February 12, 2021, marks the first of PJM's scheduled workshops in which the market operator is exploring enhancements to its capacity market. More information about these workshops can be found here: <https://insidelines.pjm.com/pjm-announces-new-series-of-capacity-market-workshops/>.

Federal Energy Regulatory Commission

1. FERC Chairman Glick announced that Pamela Quinlan will serve as FERC Acting Chief of Staff and Matt Christiansen will serve as FERC General Counsel. Prior to being named Acting Chief of Staff, Quinlan served as a Technical Advisor to Chairman Glick. She joined then-Commissioner Glick's office in 2017 from the Commission's Office of Energy Market Regulation. Prior to being named General Counsel, Christiansen served as a Legal Advisor to Chairman Glick. He joined then-Commissioner Glick's office in 2017 from the Commission's Office of the General Counsel.

2. FERC's next open meeting is February 18, 2021.

3. FERC will hold a technical conference on February 25-26, 2021 to discuss principles and best practices for credit risk management in organized wholesale electric markets. The conference may address the following aspects of credit policy: the credit and risk management infrastructure of the Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs); best practices and principles underlying capitalization requirements, financial security requirements, and unsecured credit allowances; the applicability of Know Your Customer protocols and other counterparty risk management tools; considerations for implementing Financial Transmission Right-specific credit policies, such as a mark-to-auction mechanism; and the relationship between credit policy and wholesale electric market design.