

REGULATORY UPDATE FOR JULY 26, 2022 (WEEK OF JULY 18, 2022)**CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)****New Proposed Decisions and Draft Resolutions¹**

R.20-07-013 (Risk-Based Decision-Making Framework). This decision refines certain reporting requirements for the Risk Spending Accountability Reports required of investor-owned utility (IOU) and Small and Multi-Jurisdictional Utility gas and electric utilities pursuant to Decision (D.) 19-04-020 and D.14-12-025. It updates certain requirements for IOU Risk Assessment and Mitigation Phase (RAMP) reports and clarifies information requirements related to RAMP filings for submittal in general rate case (GRC) applications. As such, this decision updates the Rate Case Plan for GRC applications, most recently addressed in D.20-01-002. This decision eliminates the separate gas safety reporting requirements adopted in D.19-09-025, D.17-05-013, D.13-05-010, and D.11-05-018 and directs the IOUs to include any non-duplicative aspects of these reporting requirements into their RSARs or related filings.

Draft Resolution E-5220. The CPUC adopted D.21-12-032 on December 17, 2021, which directed the three large IOUs to each file a Tier 2 Advice Letter (AL) modifying their ReMAT tariffs and standard PPAs to accommodate the eligibility of facilities enhanced with storage, establish a de minimis threshold for each product category, and include a process through which the IOUs aggregate remaining capacity across one or two of the three Product Categories, if necessary, to meet their individual share of the statewide ReMAT capacity target. Further, D.21-12-032 directed San Diego Gas & Electric (SDG&E) to reopen its ReMAT program. D.21-12-032 also reaffirmed the IOUs' option to provide information-only time-of-delivery factors, as adopted in D.19-12-042, and resolved several petitions for modification. On March 15, 2022, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and SDG&E filed ALs pursuant to Ordering Paragraph 8 of D.21-12-032. On April 25, 2022, and May 13, 2022, PG&E, SCE, and SDG&E filed supplemental ALs. On April 4, 2022, California Energy Storage Alliance and JTN Energy each filed timely responses and protests. This resolution approves with modification PG&E ALs 6528-E/E-A and SDG&E ALs 3968-E/E-A and approves SCE ALs 4745-E/E-A as they include the required modifications to their ReMAT tariffs and PPAs consistent with D.21-12-032.

Draft Resolution E-5225. This resolution approves an energy storage contract with Nextera (Desert Peak Energy Storage II, LLC) for 75 megawatts (MW) of nameplate capacity, expected to provide 72 MW of incremental September net qualifying capacity, that SCE procured to satisfy a portion of its 2023 mid-term reliability requirements. The contract is for a new stand-alone, in-front-of-the-meter energy storage project and is a resource adequacy (RA)

¹ Per CPUC 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.

with put option contract, i.e., an RA contract where the seller also has the option to put the energy dispatch rights to SCE. This resolution approves all of the relief requested in AL 4800-E.

R.21-10-002 (RA). This decision adopts regional wind ELCCs for the 2023 compliance year and addresses the demand response (DR) qualifying capacity methodology for the 2023 and 2024 compliance years. The Energy Division's regional wind ELCC study values are adopted for 2023 and beyond. The decision also declines to adopt an interim qualifying capacity methodology for DR, finding there is insufficient record support for adopting the methodology. The decision, however, does find it reasonable to apply a LIP (load impact protocol) methodology to DR resources, and directs parties to develop refinements to the LIP methodology so that it can apply to the 24-hour slice framework the CPUC recently adopted, for the 2024 test year. The Energy Division is directed to notice the first workshop to address this issue as soon as practicable; subsequent workshops will be added to the Workstream 2 schedule for this proceeding.

Voting Meetings

The CPUC's next voting meeting will be held August 4, 2022, and the agenda includes the following energy-related items:

Item 3. Resolution E-5217. This resolution revises existing requirements for PG&E, and adopts new requirements for SCE and SDG&E to standardize their respective annual end-of-year consolidated electric revenue and January 1 rate change AL filings. These requirements are needed to establish uniform filing procedures for these utilities to provide a more efficient process to implement revenue requirement changes previously approved by the CPUC and the Federal Energy Regulatory Commission (FERC), and for the amortization of regulatory accounts. This resolution requires these utilities to file a Tier 2 AL by November 5 of the year prior to the January 1 rate change with initial estimated revenue requirement amounts, and then subsequently update these forecasts with the actual amounts that were authorized in a separate Tier 1 AL to be filed by December 31.

Item 5. A.20-10-012 (SCE GRC, Phase 2). This decision adopts five separate and uncontested partial settlements resolving distinct and specific components of SCE's proposals for establishing marginal costs, allocation of revenues, and rate designs to be used to prospectively recover SCE's revenue requirements as adopted by the CPUC. They are: 1. The Marginal Cost and Revenue Allocation Settlement Agreement, filed on December 13, 2021; 2. The Residential and Small Commercial Rate Design Settlement Agreement, filed on December 17, 2021; 3. The Streetlight and Traffic Control Rate Group Settlement Agreement, filed on January 7, 2022; 4. The Agricultural and Pumping Rate Group Rate Design Settlement Agreement, filed on January 11, 2022; and 5. The Medium and Large Power Rate Group Rate Design Settlement Agreement, filed on February 18, 2022. All issues contemplated in the scoping memo for this proceeding are resolved by the five separately filed settlements except for the following: (1) Real Time Pricing rate design proposals; and (2) the proposal to increase the rate differentials for Schedules TOU-D-4-9PM1 and TOU-D-5-8PM. The proceeding remains open to address those proposals.

Item 6. A.19-11-019 (PG&E Marginal Costs, Revenue Allocation, Rate Design)/A.20-10-011 (PG&E Day-Ahead Real Time Rate & Pilot). This decision considers a study on the marginal generation capacity costs that should be used by PG&E when calculating its rates, including its recently approved real-time pricing rate. This decision approves the study's methodology for calculating marginal generation capacity costs and orders PG&E to utilize the methodology as soon as is practicable. An uncontested settlement on real-time pricing pilots for certain customers of PG&E is also considered by this decision and is approved without modification.

Item 9. A.22-03-010 (PG&E Fire Risk Mitigation Recovery Bonds). This Financing Order grants the request by PG&E for authority under Assembly Bill (AB) 1054 and Public Utilities (Pub. Util.) Code §§ 850(a)(2) and 850.1 to issue Wildfire Hardening Recovery Bonds (Recovery Bonds) totaling up to approximately \$1.4 billion. These Recovery Bonds will finance additional authorized fire risk mitigation plan capital expenditures pursuant to Pub. Util. Code § 8386.3(e), enacted under AB 1054. The Recovery Bonds' principal, interest, and related costs will be recovered via a surcharge called the Fixed Recovery Charge. All consumers of electricity in PG&E's service territory will be required to pay the Fixed Recovery Charge, except for those consumers that are exempt pursuant to Pub. Util. Code § 850.1(i).

Item 10. Resolution G-3587. This resolution approves SDG&E's AL 3028-G, which proposes a meter calibration adjustment factor to customer bills in statistically tested meter groups in which 10% or more of the gas meters are registering fast by 2% to 3%. By approving the adjustment factor, the eventual replacement of these meters will be aligned with SDG&E's next-generation Smart Meter 2.0 program, to be submitted as part of its 2024 GRC. The proposed meter calibration adjustment factor will be applied to the whole group whose gas meters have been statistically tested as registering outside allowable limits because SDG&E does not know precisely which meters are outside the limits, based on its statistical sampling. In lieu of replacement of the meter in advance of the smart meter deployment, SDG&E requests that those customers whose gas meters are within a participating meter group that has been statistically tested as running at 2% to 3% fast receive a bill credit of 2% until their meter has been replaced. This resolution also approves commensurate tariff changes to SDG&E's Rule No. 02.

Item 11. Resolution E-5103. This resolution adopts with modifications PG&E AL 5799-E, Mid-Cycle Review Compliance Submittal for its 2018–2022 DR funding application pursuant to D.17-12-003. The Mid-Cycle Review (MCR) is required by D.16-09-056, which increased the DR budget cycle from three to five years. The MCR provides a full status report of each DR program and may recommend minor, non-controversial program changes.

Item 12. Resolution E-5113. This resolution addresses various proposals in SDG&E's AL 3522-E, MCR Compliance Submittal for its 2018–2022 DR funding application pursuant to D.17-12-003. The MCR is required by D.16-09-056, which increased the DR budget cycle from three to five years. The MCR provides a full status report of each DR program and may recommend minor, non-controversial program changes.

Item 19. A.21-01-016 (SoCalGas Storage Integrity Management Program). This decision adopts and approves the September 8, 2021 Joint Motion for Approval of the Settlement Agreement of Southern California Gas Company (SoCalGas) and the Public Advocates Office of the CPUC pertaining to SoCalGas's application to recover costs recorded in the Storage Integrity Management Program (SIMP) Balancing Account from January 1, 2016 to December 3, 2018. SoCalGas is authorized to recover \$32.622 million composed of: \$41.904 million in operations and maintenance (O&M), and \$16.996 million in capital expenditures, reduced by \$26.278 million already paid by ratepayers for 2018 SIMP O&M and capital expenditures.

Item 31. R.18-07-006 (Affordability of Utility Service). D.20-07-032 adopted three metrics, the Affordability Ratio, Hours-at-Minimum-Wage, and Socio-Economic Vulnerability Index, by which the CPUC would assess the relative affordability of essential utility service across industries and proceedings, including examination of how different geographic areas of California are impacted. This decision directs when and how the affordability framework will be applied in CPUC proceedings and further develops the tools and methodologies used to calculate three affordability metrics.

Item 32. R.18-12-006 (Vehicle Electrification). This decision adopts a plug-in electric vehicle submetering protocol for PG&E, SCE, SDG&E, Liberty Utilities (CalPeco Electric) LLC, Bear Valley Electric Service Inc., and PacifiCorp d/b/a Pacific Power and requires the utilities to implement the submetering protocol for all customers with plug-in electric vehicles and customer-owned submeters. This decision also adopts electric vehicle supply equipment communication protocols for PG&E, SCE, SDG&E, Liberty Utilities (CalPeco Electric) LLC, Bear Valley Electric Service Inc., and PacifiCorp d/b/a Pacific Power and requires the utilities to qualify electric vehicle supply equipment that meet the minimum performance standards for all future transportation electrification efforts.

CALIFORNIA ISO

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Price Formation Enhancements. The California ISO held a public stakeholder call on July 12, 2022, to discuss the issue paper for the new Price Formation Enhancements initiative. The deadline for written comments has been extended to August 9, 2022.

Transmission Planning Process Enhancements. The California ISO held a public stakeholder call on July 22, 2022, to discuss the issue paper for the new Transmission Planning Process Enhancements initiative. Written comments are due August 5, 2022.

2021-2022 Transmission Planning Process. The California ISO held a stakeholder call on June 27, 2022, as an extension to the 2021-2022 transmission planning process to explore an expression of interest for out-of-state resources in the Idaho area. As noted during the call, the California ISO planned to release expressions of interest on July 18, 2022; however, it has been delayed until August.

Energy Storage Enhancements. The California ISO has scheduled a public stakeholder call on July 28, 2022, to discuss the addendum to the second revised straw proposal for the energy storage enhancements initiative. The California ISO has extended the comment deadline to August 4, 2022.

Transmission Development Forum

The California ISO, in conjunction with the CPUC and the participating transmission owners, will hold its quarterly public stakeholder call on July 29, 2022, to provide status updates on the transmission projects previously approved through the transmission planning process and network upgrades identified in the generation interconnection process. Written comments are due August 12, 2022.

CALIFORNIA ENERGY COMMISSION

AB 205: Expansion of CEC Siting Jurisdiction

On June 30, 2022, California Governor Gavin Newsom signed [AB 205](#), which, among *various* other things, expands the siting jurisdiction of the CEC to include non-thermal generating facilities, such as solar and wind projects, with a capacity of 50 MW or more. The CEC's siting jurisdiction was previously limited to thermal generating facilities like gas-fired and geothermal power plants with a capacity of 50 MW or more. In addition, AB 205 allows the CEC to have siting jurisdiction over energy storage facilities with a capacity of 200 MW hours or more. Unlike thermal generating facilities, the CEC's expanded siting jurisdiction over solar and non-thermal generating facilities, as well as energy storage facilities, is at the request of the applicant – meaning it is “opt-in.” A summary of the changes to the CEC siting jurisdiction contained in AB 205 can be found on the Stoel Rives [California Environmental Law blog](#) and [Renewable + Law blog](#).

Demand Side Grid Support Program

CEC staff hosted a remote workshop for the Demand Side Grid Support Program's Draft Guidelines on July 25, 2022. According to the workshop notice, the program will provide incentives to reduce customer net energy load during extreme events. The Draft Guidelines propose rules for the program, including eligibility requirements, participation process, incentive structure, and the payment process. The Draft Guidelines are available at TN #244148 in [Docket No. 22-RENEW-01](#). Comments regarding the Draft Guidelines are due July 29, 2022 by 5:00 p.m. PST. For additional information, please see TN #244146 in [Docket No. 22-RENEW-01](#).

CEC Business Meetings

The next CEC Business Meeting is scheduled for August 10, 2022.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On July 28, 2022, CARB will hold a virtual listening session on *Zero-Emission Trucks – How Do We Get There?* Registration is available [here](#). The session will solicit feedback from commercial vehicle owners and populations impacted by poor air quality, as the state moves to transition trucks and buses to zero-emission technology by 2045 to meet air quality standards and greenhouse gas reduction goals. The state has put into place and is developing various regulations to achieve these goals, including the [Advanced Clean Trucks Regulation](#), the proposed [Advanced Clean Fleets Regulation](#), the [Zero-Emission Transport Refrigeration Unit Regulation](#), the [Innovative Clean Transit Regulation](#), and the [Zero-Emission Powertrain Certification](#).

CARB will hold several community listening sessions on the draft AB 32 [Scoping Plan Update](#) across the state. The Plan assesses progress towards achieving a decrease in California's greenhouse gas emissions by 40% below 1990 levels by 2030 and lays out a path to achieve carbon neutrality by 2045. A session will be held in person in Oakland on July 28, 2022, in Fresno on August 3, 2022, and in Los Angeles on August 4, 2022. A virtual listening session will be held August 9, 2022. Information on the sessions is available [here](#).

CARB has invited Native American tribes to consult on the draft [AB 32 Scoping Plan Update](#). Requests for consultation on the draft Plan should be submitted to CARB by August 4, 2022. CARB will hold a listening session and webinar for tribes on the draft Plan on August 24, 2022. Information is available [here](#).

CARB will hold its next [Board meeting](#) on August 25-26, 2022. The full agenda will be available [here](#) 10 days prior to the meeting.

Opportunities for Public Comment

CARB previously issued the draft AB 32 [Scoping Plan Update](#) for public comment and held a public hearing on the Plan on June 23, 2022. On July 22, 2022, [Governor Gavin Newsom](#) issued a [letter](#) to CARB calling for more aggressive targets in the Plan, including (1) a planning goal for an offshore wind of 20 GW by 2045, (2) a 20% clean fuels target for the aviation sector, (3) renewable energy implementation to avoid new natural gas-fired power plants, and (4) carbon removal targets of 20 million metric tons (MMT) by 2030 and 100 MMT by 2045.

CARB has issued [proposed modifications](#) to the draft [Advanced Clean Cars II](#) regulation for public comment. CARB previously held a public hearing on the draft regulation on June 9, 2022. The proposed regulation would transition new light-duty vehicle sales in California to 100% zero emission by 2035. The deadline for comments on the proposed modifications has been extended to July 28, 2022. Comments may be submitted [here](#).

CARB held a virtual [public workshop](#) on July 7, 2022 to discuss potential changes to the Low Carbon Fuel Standard. Comments may be submitted [here](#) on or before August 8, 2022.

CARB has held a series of [public workshops](#) on draft regulatory language for the proposed [Advanced Clean Fleets Regulation](#) to achieve zero-emission medium and heavy-duty truck and bus fleets by 2045. Informal comments on the proposed regulation may be submitted [here](#) on or before August 19, 2022.

A draft [People's Blueprint](#) has been prepared by community and environmental justice advisors to CARB as a starting point for discussion of CARB's update to the AB 617 [Community Air Protection Blueprint](#), issued in 2018. Comments on the draft People's Blueprint may be submitted to CARB [here](#) on or before September 30, 2022.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

Xcel Community Solar Garden Update: PUC Docket No. 13-867

On July 21, 2022, the MPUC met to consider a new process for updating Xcel's Applicable Retail Rate (ARR) calculation. Per [Minn. Stat. § 216B.1641](#), the ARR is the bill credit rate applied to bills of subscribers to Xcel's community solar garden program. During the hearing, the MPUC approved a new 30-day negative check-off process for updating the ARR. The order, issued on July 22, can be found [here](#).

MPUC July 28, 2022 Agenda Meeting

The MPUC was scheduled to hear oral arguments regarding Minnesota gas utilities' requests for approval to recover costs associated with the February 2021 Winter Storm Uri extreme weather event. That hearing has now been postponed to August 4, starting at 9:00 a.m. The notice can be found [here](#).

New Minnesota Transmission Projects

On July 25, 2022, MISO approved 18 new high-voltage transmission lines, setting the stage for adding 53 GW of renewable energy to the grid. News of the announcement can be found [here](#). The estimated cost is \$10.3 billion. About 20% of this investment will be in Minnesota, where three high-voltage transmission lines are planned, the largest of which will be a \$970 million, 150-mile transmission line linking the Iron Range to central Minnesota. Local news coverage, and a map of the transmission lines in Minnesota, can be found [here](#).

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

OPUC Meetings This Week

On July 22, 2022, OPUC released a staff report in anticipation of the July 26 public hearing regarding PacifiCorp's monthly meter charge budget under the Oregon Transportation Electrification Plan. The staff report can be found [here](#).

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION (WUTC)

WUTC Meetings This Week

On July 28, 2022, at 9:30 a.m. PST, the WUTC is hosting an open meeting to address a wide range of dockets including U-190730 (re annual inflation update to the Social Cost of Greenhouse Gasses). The full agenda and dial-in details can be located [here](#).

FEDERAL ENERGY REGULATORY COMMISSION

FERC has a light agenda for its last monthly open meeting prior to the August break. FERC plans to address a notice of inquiry issued in Docket No. RM21-11 where it is seeking input on potential changes to the Uniform System of Accounts in order to better capture information related to renewable energy assets. In addition, FERC will revisit revisions that were made to PJM's open access tariff to restore the historical energy and ancillary services revenue offset for use in PJM's capacity market – an issue related to the MOPR whipsawing that has occurred over the past few years. Lastly, FERC's open meeting agenda includes a rulemaking entry entitled "Duty of Candor," which will reside in Docket No. RM22-20 once issued.

On July 6, 2022, ISO-NE filing proposed rules on distributed energy resource (DERs) interconnection to FERC. ISO-NE argues that the current process, where some DERs use the ISO-NE interconnection process while others use the state interconnection process, is inefficient and results in coordination issues. ISO-NE proposes that all new DERs utilize the state process instead of the ISO process. This would remove the optionality provided to transmission owners, who currently determine what interconnection process DERs use.

On June 30, 2022, the U.S. Supreme Court ruled in a 6-3 decision that the Environmental Protection Agency (EPA) lacks the authority under the Clean Air Act to limit greenhouse gas (GHG) emissions from power plants through "generation shifting," i.e., by increasing the use of cleaner energy resources like wind and solar and decreasing the use of dirtier resources like coal. [*West Virginia v. EPA*](#). The Court's decision reverses and remands the D.C. Circuit ruling that vacated both the Trump administration's repeal of Obama administration's Clean Power Plan and its replacement with the Trump administration's Affordable Clean Energy Rule. The Court held that the general grant of authority in Section 111(d) of the Clean Air Act does authorize the EPA to establish emission standards for existing power plants based on the generation shifting approach taken in the Clean Power Plan. In reaching its decision, the Court said that EPA's effort to regulate GHG emissions by making industry-wide changes violated the "major questions doctrine" under which the Court applies a more skeptical review of "a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted." No. 20-1530 et al., slip op. at 20 (U.S. June 30, 2022).

Whether the Court's ruling in *West Virginia v. EPA* will impact or alter FERC's regulatory policymaking initiatives remains to be seen. The Court's application of the "major

questions doctrine” signals a significant shift in the Court’s approach to statutory interpretation and to the role of administrative agencies in implementation of their statutory authority. The Court’s reasoning could be applied to the FERC’s current initiative to evaluate the GHG emissions and impacts on climate change of proposed new natural gas pipeline projects in determining whether to grant a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act (NGA). *Order on Draft Policy Statements*, 178 FERC ¶ 61,197 (2022). Arguments are already being made that FERC’s heightened review and assessment of the environmental impacts associated with a pipeline project’s GHG emissions go well beyond FERC’s statutory authority under the NGA and are of such “economic and political significance” that only Congress can authorize such regulation.