

**REGULATORY UPDATE FOR MAY 16, 2023
(WEEK OF MAY 8, 2023)**

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions¹

Rulemaking (R.)18-07-017 (PURPA). In this proposed decision, the CPUC does not make changes to the avoided cost pricing options available to a Qualifying Facility of 20 megawatts or less seeking to sell electricity and/or capacity pursuant to the Public Utility Regulatory Policies Act of 1978. Because this was the only outstanding issue in the proceeding, the proceeding is closed.

Voting Meetings

The next CPUC voting meeting will be held on May 18, 2023. The following energy-related items are on the agenda.

Item 4. Application (A.)20-02-009, A.20-04-002 and A.20-06-001 (PSPS Revenues). This decision resolves the 2019 ERRRA Compliance Phase Two proceedings of Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric Company (SDG&E) (Joint Utilities) that were consolidated to address issues related to the Public Safety Power Shutoff (PSPS) events they initiated in 2019. This decision prohibits the Joint Utilities from adjusting future rates to collect any revenue shortfalls, recorded as under collections in their respective balancing accounts, caused by PSPS events in 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.

Item 6. A.22-05-005 (SDG&E and SCE Gas Rules and Memorandum Accounts). By this Application, Southern California Gas Company (SoCalGas) and SDG&E request authorization to establish the memo account to record costs imposed by current and proposed amendments by the Pipeline and Hazardous Materials Safety Administration. This decision finds that SoCalGas and SDG&E did not meet their burden of proof that this memorandum account is necessary or reasonable as proposed. Instead, CPUC finds that the existing Z-Factor in the companies' recent Phase 1 general rate case (GRC) decisions in fact provides appropriate allowances for initial rate relief treatment until the various projects that flow from the new Rules Project are included in subsequent Phase 1 GRCs. This decision adopts, a Rules Project Gas Rules & Regulations Memorandum Account, subject to the application of the companies' existing Z-Factor, with separate subaccounts for each of the two proposed new rules, to be effective on the date of this decision. The application of the Z-Factor will be applied one time

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.

for both companies to the memorandum account, not to each subaccount. This decision allows for the potential recovery of costs tracked in a memorandum account that are in excess of the companies' Z-Factor Allowances but does not assure the future recovery of any costs and does not change existing rates, as with any memorandum account there must be a subsequent reasonableness review.

Item 7. R.14-10-003 (IDER Regulatory Framework). This decision denies the petition of the Solar Energy Industries Association and the California Solar & Storage Association to modify Decision (D.)22-05-022. The Commission continues to support the policy determination in D.22-05-022 to revise the "No New DER" scenario to exclude both load reducing and load inducing distributed energy resources from the load forecast in this scenario. CPUC agrees with the petitioners that a zero value for the Greenhouse Gas Adder was not anticipated. As shown through CPUC adoption of Resolution E-5228 that approved the 2022 Avoided Cost Calculator values, however, CPUC considers the Energy Division's solution to resolving the zero value to be a reasonable approach. This decision determines that the petitioners brought no facts to this proceeding that have not already been addressed either in this proceeding or in the resolution process approving Resolution E-5228.

Item 12. A.19-11-003 et al., A.19-11-004, A.19-11-005, A.19-11-006, and A.19-11-007 (PG&E Energy Savings Assistance and California Alternate Rates for Energy Programs and Budgets for 2021-2026 Program Years). This decision lays out the procedure for implementation of the Low-Income Customer Assistance Program Concurrent Application System (CAS), as required by Senate Bill 1208. This decision establishes a working group to provide PG&E and CPUC's Energy Division with design recommendations and advice during the development process of the CAS. PG&E is directed to issue a Request for Proposals (RFP) for the CAS within 30 days after CPUC has issued a resolution outlining recommended CAS RFP design requirements. PG&E shall file a Tier 3 Advice Letter seeking approval for the CAS development contract, within 190 days after it has released the CAS development RFP. PG&E, SCE, SDG&E, and SoCalGas shall each establish two-way balancing accounts to record CAS development costs and file a Tier 2 Advice Letter within 30 days of the effective date of this decision to establish these balancing accounts.

Item 15. Resolution E-5267 SCE Advice Letter (AL) 4950-E, PG&E AL 6826-E, SDG&E AL 4142-E (Modifications to Emergency Load Reduction Program). This Resolution adopts, with modifications, changes to the Emergency Load Reduction Program (ELRP) as proposed by the Joint Utilities. This Resolution orders the Joint Utilities to file amended ELRP terms and conditions documents, via a supplemental AL, incorporating modifications. The following proposed changes are approved: allow dual participation between ELRP sub-group A.4 or A.5, and an IOU air conditioner cycling program, subject to certain conditions; transition SCE's Charge Ready customers to ELRP sub-group A.1 or another eligible demand response program; reduce the Minimum Size Threshold required for SDG&E customers to participate in ELRP sub-group A.1 from 50 kW to 1 kW potential load reduction; and revising the method Joint Utilities use to calculate incremental load reduction achieved by ELRP Group A customers during an event.

Item 19. Investigation (I.)15-08-19 (PG&E Safety Culture). This decision adopts the Modified Safety Policy Division Staff Report, dated April 2023 (Modified Staff Report), attached to this decision as Attachment A. The Modified Staff Report sets forth recommended reporting requirements and proposes a plan for tracking designated recommendations from NorthStar Consulting Group, Inc.'s 2017 Assessment of PG&Es Safety Culture and 2019 First Update Report. The Modified Staff Report reflects several modifications to the prior version of the staff report, circulated to the service list of this proceeding on September 16, 2022. This decision discusses reasoning for those modifications. Commission staff will continue to monitor PG&E's safety practices and take action, as needed. PG&E is ordered to comply with the reporting requirements set forth in the Modified Staff Report.

Item 22. A.22-05-015, A.22-05-016 (Sempra Utilities 2024 GRC). This decision grants Sempra Utilities authority to establish GRC memorandum accounts for the recording of the test year 2024 GRC revenue requirements effective January 1, 2024, for track 1. Sempra shall use the memorandum accounts to track and recover under-collection or refund over-collection in rates. This decision authorizes Sempra to make January 1, 2024, the effective date of any new revenue requirements and associated tariff revisions and ratemaking mechanisms approved by CPUC in this 2024 GRC. This decision also grants Sempra's request to allow for the recovery of interest, based on a Federal Reserve three-month commercial paper rate, to the extent necessary to keep Sempra, ratepayers, and shareholders relatively indifferent to the timing of CPUC's final decision regarding the 2024 revenue requirement. Within 60 days of the issuance of the decision, each Sempra utility shall file a Tier 1 AL updating its respective Tariff Preliminary Statement to reflect this decision.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Stakeholder Initiatives: Upcoming Meetings and Deadlines

2023 Interconnection Process Enhancements. CAISO posted the revised draft tariff language for track 1 of the Interconnection Process Enhancements Initiative 2023 initiative, available [here](#).

WEIM Governing Body, Joint, ISO Board of Governors, DMM Oversight Committee, and Audit Committee. CAISO posted the [draft agendas](#) for the WEIM Governing Body, Joint, ISO Board of Governors, DMM Oversight Committee, and Audit Committee meetings taking place May 16-18, 2023.

Extended Day-Ahead Market. CAISO posted an [agenda](#) for the May 19, and May 22, 2023 Extended Day-Ahead Market draft tariff language stakeholder workshops. The agenda is

available on the CAISO calendar for workshop participation details. Additional information is available [here](#).

CALIFORNIA ENERGY COMMISSION (CEC)

Offshore Wind

On May 8, 2023, the CEC held an offshore wind energy symposium entitled “On With the Wind: Toward 25 GW of Offshore Wind Energy in California” that discussed efforts required to advance floating offshore wind. More information is available on the [symposium website](#).

On May 10, 2023, the CEC [adopted](#) the [Energy Commission Report on AB 525 Offshore Wind Energy Permitting Roadmap](#). According to the Report’s Executive Summary:

While the CEC held a public workshop and allowed for a comment period, the process for developing the Draft Conceptual Permitting Roadmap was condensed to meet the statutory deadline. After consideration, the CEC believes it is important that additional options and suggestions — some from comments received and those identified through additional engagement — be carefully and fully evaluated and vetted before deciding the best permitting pathway.

As a result, in this report, the CEC includes additional information on state permitting agencies and processes for a more complete picture of the permitting landscape beyond the various federal processes. This report outlines additional permitting options or frameworks for consideration in developing a final permitting roadmap. *The CEC anticipates inclusion of a final permitting roadmap as part the AB 525 offshore wind strategic plan.*

Several approaches are available to serve as a framework for permitting and environmental reviews of offshore wind facilities. In addition to the option

described in the Draft Conceptual Permitting Roadmap, several other options could be considered.

California Energy Comm'n, *Commission Report re Assembly Bill 525 Offshore Wind Energy Permitting Roadmap* at 1-2 (Apr. 2023) (emphasis added).

In the coming weeks, the CEC will also be holding a few remote access AB 525 offshore wind workshops, as follows:

- [May 23, 2023](#) – Ports and Workforce Development to Support Floating Offshore Wind Development
- [May 25, 2023](#) – Assessing Transmission Upgrades and Investments for Offshore Wind Development off the Coast of California
- [June 1, 2023](#) – Identifying Additional Suitable Sea Space and Assessing Impacts and Mitigations for Offshore Wind Energy Development

In addition to the above, the CEC has [scheduled](#) two Tribal Listening Sessions regarding the development of offshore wind in federal waters off the coast of California. The Sessions are scheduled for May 15, 2023 from 5:00 p.m. to 7:00 p.m. PT and on May 17, 2023 from 9:00 a.m. to 11:00 a.m. PT.

Integrated Energy Policy Report (IEPR)

The CEC's [2023 IEPR Workshop Schedule](#) has been released. Forthcoming workshops include:

- [June 7](#): Regional Workshop on Interconnection in Southern CA
- [June 27 and 28](#): Accelerating Clean Energy Interconnection to the Grid at Bulk & Distribution Levels
- [July 6](#): Hydrogen
- [August 15](#): California Electricity Demand Forecast: Inputs and Assumptions
- [August 18](#): California Electricity Demand Forecast: Load Modifier Scenario Development
- [September 8](#): Revised Gas Price Forecast
- [November 15](#): California Electricity Demand Forecast: Load Modifier Scenario Results
- [December 6](#): California Electricity Demand Forecast: Electricity Forecast Results

The schedule is also accessible on the [2023 IEPR website](#).

Long Duration Energy Storage

On May 9, 2023, CEC Staff held a [workshop](#) on long duration energy storage (LDES)

analysis. At the remote-access workshop, Staff presented the results of Energy & Environmental Economics, Inc.’s final analysis as part of the grant agreement “Assessing Long-duration Energy Storage Deployment Scenarios to Meet California’s Energy Goals” funded under EPIC. This final analysis assesses the roles and cost targets for LDES to meet California’s energy goals in a varied set of scenarios through 2045.

Energy System Reliability

The CEC will hold a remote-access workshop on May 17, 2023, to provide an outlook regarding 2023 summer reliability. According to the workshop [Notice](#), staff from the CPUC, the Department of Water Resources, and CAISO will provide information on anticipated summer conditions, including “a summary of new clean energy resources coming online, hydroelectric resource availability, and fire conditions” as well as a presentation on 2023 summer reliability analyses. A detailed schedule will be posted prior to the workshop at [Docket No. 21-ESR-01](#).

Demand Analysis Working Group

While no official notice has been published, the CEC circulated a “save the date” email regarding a Demand Analysis Working Group (DAWG) webinar scheduled for June 1, 2023 from 2:00 to 4:00 pm PT. According to the email, the topics of discussion for the DAWG webinar will be:

- Overview of forecast improvements for 2023
- Overview of state-funded climate research supporting energy planning
- Improvements to capturing climate change impacts in the 2023 IEPR forecast
- Longer-term recommendations for improving how climate change is captured in the forecast

An agenda and meeting materials will be posted [here](#) in advance of the webinar.

Electric and Zero Emissions Vehicles

The CEC announced that it will host a pre-application workshop on a new grant funding opportunity ([GFO-22-615](#)) to develop innovative charging solutions for medium- and heavy-duty vehicles and fleets. The workshop will be held remotely on May 18, 2023 from 10:00 am to 12:00 pm PT.

The CEC noticed an upcoming Freight Infrastructure Planning (FIP) webinar that will be held on May 22, 2023, from 2:00 pm to 5:00 pm PT by the CPUC’s Energy Division Staff. The webinar will provide an initial overview of the FIP Staff proposal (available [here](#)), which is designed to address the need for proactive planning of long-lead-time utility-side electrical infrastructure that is needed to support the acceleration of transportation electrification, particularly across medium- and heavy-duty vehicles. Remote participation in the webinar is available [here](#), on Webex.

Reliability Reserve Incentive Programs

On April 26, 2023, CEC Staff held a remote-access [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 comments on the launch of the DSGS program. Note that CEC Staff issued a revised workshop notice extending the comment period to May 11, 2023.

CEC Meetings

The next CEC Business Meeting is [scheduled](#) for May 31, 2023.

On May 11-12, 2023, the CEC commissioners met to discuss issues and topics related to their respective lead subject matter areas as set forth on the [agenda](#). During the meeting, the commissioners received an update on and discussed the administration and budget of the CEC as well as the general outlook for clean energy. For additional details, please see the workshop [notice](#).

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On May 18, 2023, CARB will hold a [public workshop](#) on potential improvements to the [Landfill Methane Regulation](#), including increasing the effectiveness of methane emission control measures, improving alignment with federal and local requirements, clarifying certain requirements to avoid misinterpretation, and streamlining annual reporting under the Regulation. Information on the workshop is available [here](#).

On May 18, 2023, CARB will hold a pre-solicitation meeting for the [Clean Off-Road Equipment Voucher Incentive Project](#) to present an overview of the forthcoming solicitation. The program incentivizes California fleets to purchase or lease cleaner off-road equipment. Information on the meeting is available [here](#).

On May 23, 2023, CARB will hold a public workshop on potential changes to the [Low Carbon Fuel Standard](#) (LCFS). Information on the workshop is available [here](#), and a link for registration can be found [here](#). Following the workshop, CARB will request stakeholder feedback until June 6, 2023.

On May 24, 2023, CARB will hold a listening session on off-road rulemaking topics, including off-road new diesel engines (Tier 5), zero-emission forklifts, and the Targeted Manufacturer Rule for zero-emission off-road equipment. Registration for the session is available [here](#).

CARB will hold its next Board Meeting on May 25-26, 2023. The full agenda for the meeting is available [here](#).

On May 31 and June 1, 2023, CARB will hold virtual [community meetings](#) on the [LCFS](#) and potential changes to the regulations. The goal of the meetings is to hear from community members interested in how the LCFS works and how to improve the LCFS in the future. Information and registration for the meetings are available [here](#). These meeting are rescheduled from their original dates of May 2 and 4, 2023.

On June 22, 2023, CARB will conduct a public hearing on proposed amendments to the Oil and Gas Methane Regulation, which provides greenhouse gas emission standards for crude oil and natural gas facilities. More information on the hearing is available [here](#). Comments may be submitted to CARB [here](#) on or before June 12, 2023, or at the hearing.

Opportunities for Public Comment

On February 22, 2023, CARB held a [public workshop](#) on potential changes to the [LCFS](#). 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 May 31, 2023.

Comments on the proposed amendments to the Oil and Gas Methane Regulation may be submitted to CARB [here](#) on or before June 12, 2023, or at the hearing on the proposed amendments on June 22, 2023.

ILLINOIS COMMERCE COMMISSION (ICC)

The next ICC voting meeting will be held on May 18, 2023 at 11:30 am CT and can be viewed online by clicking [here](#). The agenda for the May 18 voting meeting is available [here](#).

IDAHO PUBLIC UTILITIES COMMISSION (IPUC)

[AVU-G-23-03 \(Avista 2023 Natural Gas IRP\)](#). On May 2, 2023, the IPUC issued a notice of filing and intervention deadline for Avista Corp.'s 2023 Natural Gas Integrated Resource Plan. Petitions to intervene are due May 23, 2023. No interventions have been filed to date.

PUBLIC UTILITY COMMISSION OF TEXAS AND ERCOT

As detailed in our April 11, 2023 regulatory update, Texas lawmakers in the Senate have continued their push to punish renewables in the wake of Winter Storm Uri by advancing several bills to the House. The House has taken action on a number of these bills:

- Senate Bill (SB) 6: *No action has been taken since the bill was referred to the House State Affairs Committee on April 17, 2023.* 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 billion and \$18 billion. The bill requires that plants constructed with these funds cannot enter the competitive day-ahead and real-time markets for 40 years and caps 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 non-bypassable charge to all transmission and distribution utilities, municipally owned utilities, and electric cooperatives in ERCOT.
- SB 7: *This bill was left pending in committee on May 3, 2023. While this is often evidence that there was not enough support in favor of the bill, a bill can also subsequently be considered in a formal meeting.* SB 7 would create a new ancillary service program that requires load-serving entities to purchase “dispatchable” reliability reserve services on a day-ahead basis. The bill requires intermittent renewable power generators to purchase reserves from dispatchable generators that can react to demand. A 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 1287: *No action has been taken since the bill was referred to the House State Affairs Committee on April 17, 2023.* This bill requires the Public Utility Commission of Texas (PUCT) to cap how much of a company’s interconnection costs can be paid by Texas consumers.
- SB 2012: *This bill continues to progress through the House State Affairs Committee and a substitute bill was reported favorably.* This bill would create guardrails on the Performance Credit Mechanism adopted by the PUCT, which is designed to incentivize the construction of dispatchable generation and requires electric companies to pay generators to produce power in times of shortage.
- SB 2014: *No action has been taken since the bill was referred to the House State Affairs Committee on April 17, 2023.* SB 2014 would make renewable energy certificates voluntary instead of mandatory.
- SB 2015: *No action has been taken since the bill was referred to the House State Affairs Committee on April 17, 2023.* This bill would require that 50% of generating capacity installed in ERCOT after 2023 be from dispatchable resources.
- SB 624: *This bill was referred to the House State Affairs Committee on May 8, 2023.* This bill would require wind and solar facilities to obtain a permit from the PUCT. The application for a permit would require an environmental impact statement by the Parks and Wildlife Department. The bill would also require renewable power developers to hold public meetings and require facilities to be built at least 100 feet from property lines and 200 feet from homes. The bill retroactively applies to existing renewable projects and also adds a number of new fees for renewable project owners.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

FERC's Joint Federal-State Task Force on Electric Transmission will [meet](#) on July 16, 2023.

FERC [announced](#) a Commissioner-led PJM Capacity Market Forum to take place on June 15, 2023. The forum will include three panels to solicit varied perspectives on the current state of the PJM capacity market, potential improvements, and related proposals to address resource adequacy. The first panel, the overview panel, will explore whether the PJM capacity market is achieving its objectives of ensuring resource adequacy at just and reasonable rates. The second panel, the technical panel, will discuss potential market design reforms that may be needed to ensure PJM's capacity market is achieving its objectives. The third panel, a roundtable with state representatives (including state commissioners), will discuss their views and respond to the first and second panels' discussions.

FERC issued a [final rule](#) providing incentive-based rate treatment for utilities making certain voluntary cybersecurity investments. The final rule largely tracks the Notice of Proposed Rulemaking (NOPR) issued in September but includes some important additions: First, FERC expanded the definition of eligible cybersecurity investments to include not only a pre-qualified list of cybersecurity investments, but also those investments that are done on a case-by-case basis, allowing utilities to request incentives for a variety of solutions tailored to their specific situations. Second, FERC will allow utilities to seek incentives for early compliance with new cybersecurity reliability standards. The final rule adopts the NOPR's proposed requirement that expenditures materially improve a utility's cybersecurity posture. It also adopts the proposal to allow deferred cost recovery that would enable the utility to defer expenses and include the unamortized portion in its rate base but does not adopt the proposed return on equity adder of 200 basis points. The rule also states that approved incentives, with certain exceptions, will remain in effect for up to five years from the date on which expenses are incurred, provided that the investments remain voluntary.

U.S. DEPARTMENT OF TRANSPORTATION (DOT)

Pursuant to a May 15, 2023, notice, the deadline to submit applications for the DOT's Charging and Fueling Infrastructure Competitive Grant Program (CFI Program), which opened on March 14, 2023, has been extended from May 30 to June 13, 2023. (See [here](#).) This discretionary grant funding opportunity includes \$2.5 billion over five years, with \$700 million in funding available from fiscal years 2022 and 2023 and is additional to the \$5 billion in funding that was authorized under the National Electric Vehicle Infrastructure Formula Program. The CFI Program 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).

DOT-hosted webinars on the CFI Program were recorded and are available for viewing [here](#), together with additional information regarding the CFI grant opportunity. Additionally, on May 5, DOT posted a CFI Program Questions and Answers Document that is available [here](#).

COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES (CFIUS)

On May 5, 2023, CFIUS published [proposed changes to 31 CFR Part 802](#) that would add eight additional military installations in Arizona, California, North Dakota, South Dakota, and Texas to the existing list of 32 sites nationwide around which CFIUS has jurisdiction to review national security implications of foreign acquisition of real estate within 100 miles of the site. The rule changes are responsive to widely publicized reports of CFIUS’s inability to exercise jurisdiction over a proposed corn milling facility to be built by Chinese company, Fufeng Group Ltd., in North Dakota only 12 miles from Grand Forks Air Force Base. While the proposed rule change is not yet final for jurisdictional purposes, it is instructive as to what sites that CFIUS and its member agency, the Department of Defense, view as posing significant national security vulnerabilities. Thus, any foreign acquisition of or investment in an energy development project, real estate, or other business in these areas should be given extra attention for a possible filing with CFIUS for national security review. Below is a map of military installations and missile fields listed in the CFIUS regulations, with the eight proposed additions shown with red circles indicating 100-mile radiuses.

