

REGULATORY UPDATE FOR MAY 3 (WEEK OF APRIL 26)**CALIFORNIA PUBLIC UTILITIES COMMISSION****New Proposed Decisions and Draft Resolutions¹**

R20-05-002 (SGIP). This decision revises program requirements for Self-Generation Incentive Program (SGIP) renewable generation technologies and addresses other issues. This decision terminates a pause on acceptance of applications for renewable generation technology projects using a control/use/destroy baseline as adopted in Decision (D.) 20-01-021. It limits eligible directed renewable fuels to those produced within California and strengthens renewable fuel documentation, verification, auditing, and enforcement requirements. This decision requires that all environmental attributes associated with renewable fuels used in a SGIP project, if any, are obtained and exclusively owned and retained by the SGIP Host Customer, who must not sell, use, or transfer any Renewable Energy Credits. It clarifies that SGIP renewable generation projects using 100% renewable fuels and involving internal combustion engines shall meet the same criteria pollutant emission levels as required in Public Utilities Code Section 379.6(c)(1)-(3) for fossil-fuel combustion projects. This decision requires on-site SGIP biogas projects to meet the standard of methane purity set forth in Southern California Gas Company Tariff Rule no. 30, "Transportation of Customer-Owned Gas," and prohibits award of SGIP incentives to internal combustion engine projects in counties listed as severe or extreme federal nonattainment areas for particulate matter or ozone. This decision updates the definition of SGIP-eligible renewable fuels and revises certain SGIP application requirements for wind technologies. Finally, this decision revises the eligibility requirements for the Equity Resiliency Budget and provides several other clarifications.

Voting Meetings

The CPUC has a voting meeting scheduled for May 6, 2021. The following items are included on the agenda.

Item 4: Draft Resolution E-5131. This draft resolution approves utility proposals to modify customer bill statements to include the Power Charge Indifference Adjustment (PCIA) as a line item on utility bundled customer bills, with modifications to the proposed definition of PCIA. It also approves changes to Pacific Gas and Electric Company's (PG&E) Cost Responsibility tariff and to the respective tariffs of PG&E, Southern California Edison (SCE),

¹ Per California Public Regulatory Commission (CPUC or 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 CPUC's daily calendar, per Rule 14.5.

and San Diego Gas & Electric Company that will clarify and explain customer cost responsibility for the PCIA.

Item 7. Draft Resolution ALJ-406. This draft resolution denies San José Clean Energy’s (SJCE) appeal of Citation No. E-4195-0074 by the Commission’s Consumer Protection and Enforcement Division. Citation No. E-4195-0074 cites and fines SJCE for failing to procure certain of its 2020 year-ahead system resource adequacy (RA) obligations. The resolution finds, among other conclusions, that SJCE rejected bids that would have met its system RA obligations, and did so deliberately on the basis of market conditions, notwithstanding the Commission’s express rejection of a waiver process based solely on market conditions. SJCE must pay the penalty of \$1,116,149.48 within 45 days from the date of issuance of the resolution.

Item 8. Draft Resolution E-5142. This resolution approves five contracts for incremental system reliability resources that SCE procured through the Standard Track of its System Reliability Request for Offers solicitation in 2020. SCE undertook this procurement to meet its 2022 and 2023 incremental procurement requirements pursuant to D. 19-11-016 in the Integrated Resource Plan Rulemaking, 16-02-007. This resolution approves the contracts without modification. The approved contracts are:

Seller/Project	Technology Type	Capacity (MW)	Location and DAC Designation²	Contract Type	Initial Delivery Date	Contract Term
Sonoran West Solar Holdings, LLC/ Crimson	IFOM Lithium-Ion Battery	200	Blythe, CA (not in DAC)	RA with Put Options	8/1/2022	14 years 10 months
Silver Peak Solar, LLC/Eldorado Valley	IFOM Lithium-Ion Battery	60	Boulder City, NV (DAC adjacent)	Toll	8/1/2022	10 years
Desert Peak Energy Storage I, LLC/Desert Peak	IFOM Lithium-Ion Battery	325	Palm Springs, CA (not in DAC)	Toll	8/1/2023	14 years 10 months
Sunrun Inc.	BTM Energy Storage- Demand Response	4.5	SCE Territory (not in DAC)	Demand Response	8/1/2023	10 years
Sunrun Inc. DAC Contract	BTM Energy Storage- Demand Response	0.5	SCE Territory (in DACs)	Demand Response	8/1/2023	10 years

Item 14. Draft Resolution E-5128. This resolution approves PacifiCorp's Renewable Energy Credit (REC) Purchase and Sale Agreement (Agreement) with Escalante Solar III, LLC (Escalante), executed in May 2020. The Agreement is for Portfolio Content Category 3 RECs commencing from the effective date of the contract and continuing for a 10-year term. The Escalante Solar III facility is owned by Escalante and located in Milford, Utah, in the PacifiCorp East Control Area. It began commercial operations on August 17, 2016 and has been certified as RPS-eligible since October 12, 2017. PacifiCorp is already procuring the energy associated with the RECs from Escalante Solar III under a qualifying facility contract and will continue to procure the energy separately under the same contract.

Item 29. R.17-06-026 (PCIA). This Phase 2 decision (a) removes the cap and trigger for PCIA rate increases, (b) authorizes new Voluntary Allocation, Market Offer, and Request for Information processes for Renewables Portfolio Standard contracts subject to the PCIA, (c) approves a process for increasing transparency of investor-owned utilities' RA resources, and (d) authorizes SCE to continue to apply the approach to greenhouse gas (GHG) free resources approved in Resolution E-5095 through December 31, 2023. This proceeding remains open to consider (i) Phase 2 issues relating to Energy Resource Recovery Account proceedings and (ii) whether GHG-free resources are undervalued in the PCIA methodology, and if so, the appropriate way to address this problem.

Item 30. A.21-01-004 (PG&E Recovery Bonds). This Financing Order grants PG&E's application for authority under Division 1, Part 1, Chapter 4 of the California Public Utilities Code (Article 5.8) to issue \$7.5 billion of bonds to fund costs and expenses related to 2017 North Bay Wildfires and other financing costs.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Los Angeles Basin Black Start Request for Proposals. The California Independent System Operator (California ISO) will hold a stakeholder call on May 17, 2021 to discuss the competitive solicitation process for the Los Angeles Basin Black Start Service request for proposals. The discussion will include technical, commercial, and contractual requirements for incremental black start resources.

Hybrid Resources - Aggregate Capability Constraint for Co-Located Resources: Draft Tariff Language. The California ISO will hold a stakeholder call on May 11, 2021 to discuss the draft tariff language for the Hybrid Resources Aggregate Capability Constraint (ACC) for Co-Located Resources. Comments are due May 6, 2021.

New Initiative: Energy Storage Enhancements. The California ISO has launched a new initiative called Energy Storage Enhancements and has scheduled a public stakeholder web meeting for May 5, 2021 to discuss the issue paper for this initiative. Comments are due May 19, 2021.

2022 Draft Policy Initiatives Catalog Posted. The California ISO has posted its 2022 Draft Policy Initiatives Catalog to its website. Stakeholder written comments on the draft catalog are due May 21, 2021.

CALIFORNIA ENERGY COMMISSION

On April 22, 2021, the California Energy Commission (CEC) circulated public [notices](#) regarding a two-session joint workshop with the CPUC and the California ISO (Workshop) that will focus on electric system reliability for summer 2021. The Workshop will be held on May 4, 2021 via remote access only, with Session 1 commencing at 10:00 a.m. PT and Session 2 scheduled to begin at 2:00 p.m. PT. See the link above for attendance and registration information.

The Workshop will review lessons learned, both from last summer and from the work performed to date, and the status of the activities planned to reduce electric system reliability risks for summer 2021. There will also be panel discussions with other state agencies, utility representatives, and other stakeholders to explore additional opportunities to support summer 2021 energy reliability. A detailed meeting agenda will be posted [here](#) prior to the Workshop.

The next CEC Business Meeting is scheduled for May 12, 2021. The agenda and remote participation instruction are available [here](#).

CALIFORNIA AIR RESOURCES BOARD

The California Air Resources Board is accepting comments on the proposed Clean Miles Standard (Standard), which will be considered by the Board at its May 20, 2021 meeting. Comments can be submitted electronically [here](#) on or before May 17, 2021. The Standard would set electrification and GHG emissions targets for the light-duty fleets of transportation network companies like Uber and Lyft. The electrification target, measured by the percentage of electric vehicle miles traveled (eVMT), would commence in 2023 with a target of 2% eVMT and increase to 90% eVMT in 2030. The GHG emissions target would use a metric of grams of CO₂ per passenger-mile-traveled (g CO₂/PMT), and also encourage a reduction in vehicle miles traveled (VMT) relative to passenger miles traveled. The Standard would require a transportation network company to meet a GHG target of 252 g CO₂/PMT in 2023, decreasing to 0 g CO₂/PMT in 2030. Transportation network companies would have various options to reduce company-wide GHG emissions to the annual targets, including improving fleet-wide fuel efficiency, reducing VMT by increasing shared rides, reducing VMT by reducing deadhead miles (i.e., those miles driven without a passenger), and earning CO₂ credits by investing in active transportation infrastructure or by providing integrated fare services to connect riders to mass transit. The Standard will help California meet the statewide mandate to reduce GHG emissions 40% below 1990 levels by 2030. The Standard will be implemented by the CPUC.

MINNESOTA PUBLIC UTILITIES COMMISSION

Xcel Energy Community Solar Garden Program, PUC Docket No. E002/M-13-867

On April 22, 2021, the Minnesota Public Utilities Commission (Commission) met to consider Northern States Power Company, dba Xcel Energy's (Xcel) community solar garden (CSG) program. The issue before the Commission was the ongoing planned outages to CSGs impacting the profitability of the program for garden owners/operators. The owners/operators provided the Commission with data demonstrating a higher instance of outages in Minnesota compared to other states, arguing that the outages were unnecessary. Ultimately, the Commission (voting 4-0), directed Xcel to: (1) file updates on stakeholder meetings and technical solutions by June 1, 2021; (2) file a plan to reduce the frequency and duration of outages by September 2021; (3) propose a method and process for reimbursing developers for lost revenues where the Commission determines that Xcel has acted in violation of tariff provisions; and (4) develop updated protocol for timing and notification of planned outages. The Commission's written order is pending, and may provide additional clarification.

The Matter of Honor the Earth's 2020 Petition for Investigation and Complaint Concerning the Capacity of the Enbridge Mainline System, PUC Docket No. PL9/C-20-801

On October 27, 2020, Honor the Earth filed a petition for investigation and complaint, alleging that Enbridge presented materially false information related to the capacity of its Mainline System during the evidentiary hearing for the Line 3 Replacement Project. Specifically, Honor the Earth alleged that Enbridge has or intends to increase capacities of its Line 4 and 67 pipelines by more than 10%. Honor the Earth requested that the Commission: (1) open an investigation into capacity additions to the Mainline System and whether Enbridge presented false information and (2) open an investigation into whether Lines 4 and 67 must be recertified. The Commission analyzed each request in turn, dismissing each aspect of Honor the Earth's petition. The Commission explicitly found that it has general jurisdiction over the type of allegations raised by Honor the Earth, but it did not currently have jurisdiction to investigate and provide relief due to the pending Line 3 appeal. Also, with respect to the recertification of Lines 4 and 67, the Commission found that Honor the Earth's petition did not raise reasonable grounds for an investigation. The Commission's written order is pending.

OREGON

Oregon Public Utility Commission (OPUC) Meetings This Week

On May 4, 2021 at 9:30 a.m. PT, the OPUC will hold a public meeting to discuss a wide range of dockets. The agenda includes a discussion on annual bill credit reconciliation under the Oregon Community Solar Program (docket [UM 1930](#)) and PacifiCorp's 2019 Integrated Resource Plan (docket [LC 70](#)). Later in the week on May 7, 2021 at 9:00 a.m. PT, the OPUC will hold a closed, staff workshop to discuss distribution system planning (docket [UM 2005](#)).

WASHINGTON

Avista Files Updated 2021 Integrated Resource Plan – UE-200301

Last week, Avista submitted an updated 2021 electric integrated resource plan (IRP). Major highlights of the IRP include establishing an equity advisory group to address energy inequity among vulnerable communities and rolling out a new demand response program. Parties have until May 28, 2021 to file written comments on the IRP.

Washington Utilities and Transportation Commission (UTC) Meetings this Week

On May 6, 2021 at 9:30 a.m. PT, the Washington UTC will hold a public meeting to discuss a wide variety of dockets including [UE-210229](#), which revises Puget Sound Energy's WN U-60, electric Tariff G. The proposed revisions change the minimum term of QF contracts and revise the applicability of Schedule 9 Monthly Rate charges to primary and high voltage interconnection.

NEW YORK

Federal Energy Regulatory Commission (FERC) Issues Order Accepting Compliance and Directing Further Compliance Regarding New York Independent System Operator (NYISO) Compliance Filing Implementing Renewable Resource and Self-Supply Exemptions to Buyer-side Market Power Mitigation Rules

On April 29, 2021, FERC issued an order accepting in part NYISO's compliance filing regarding certain exemptions to buyer-side market power mitigation rules, while directing further compliance within 30 days of the order.

The proceeding arises from a 2015 complaint by the New York Public Service Commission, New York Power Authority (NYPA), and New York State Energy Research and Development Authority, which alleged that NYISO's buyer-side market power mitigation rules (Buyer Mitigation Rules) were unjust and unduly discriminatory. NYISO's then-effective Buyer Mitigation Rules provided that "unless exempt from mitigation, new capacity resources must enter the New York City or G-J Locality Installed Capacity ('ICAP') markets at a price at or above an applicable offer floor until their capacity clears 12, not necessarily consecutive, monthly auctions." FERC found that the Buyer Mitigation Rules were unjust and unduly discriminatory as applicable to certain narrowly defined renewable and self-supply resources that have limited or no incentive and ability to exercise buyer-side market power to suppress ICAP prices.

In 2016, NYISO filed proposed revisions to its Services Tariff to implement exemptions from its Buyer Mitigation Rules for these renewable resources and self-supply resources. In February 2020, FERC issued an order accepting in part and rejecting in part the 2016 compliance filing and mandating an additional compliance filing. FERC rejected NYISO's proposal that "public authorit[ies] or corporate municipal instrumentalit[ies], including a[ny] subsidiary thereof,

created by the State of New York that own or operate generation or transmission and that [are] authorized to produce, transmit or distribute electricity for the benefit of the public,” would be eligible for the self-supply exemption. FERC found that certain public power entities, like NYPA, act on behalf of more than their own specific set of customers and, as a result, have the incentive and ability to artificially suppress ICAP market prices.

On December 21, 2020, as amended on December 22, 2020 and January 8, 2021, NYISO submitted additional compliance to address the February 2020 Order (Compliance Filing). The Compliance Filing proposed revisions to allow municipal electric utilities and cooperatively owned electric systems to remain eligible for the self-supply exemption, while explicitly excluding a public authority or corporate municipal instrumentality created by the State of New York from such eligibility. FERC accepted NYISO’s proposed definition of self-supply load service entities insofar as it proposes to include municipally owned electric systems, but found that it was internally inconsistent. FERC directed NYISO to submit a further compliance filing within 30 days to clarify the definition. FERC also rejected, as an untimely request for rehearing of its February 2020 Order, NYPA’s argument that FERC reconsider its rationale for disqualifying public power entities like NYPA from eligibility for the self-supply exemption on the basis that, as an instrumentality of the state, it has an incentive to manipulate ICAP prices.

FERC Chairman Glick concurred with the order, agreeing with the conclusion that municipal electric companies should be eligible for the self-supply exemption. However, the Chairman found that “the mitigation rules are per se unreasonable and serve only to prop up prices, protect incumbent generators, and impede state clean energy policies.”

FEDERAL ENERGY REGULATORY COMMISSION

1. FERC has extended the timeframe for market-based rate sellers to file their baseline filings in compliance with FERC Order No. 860. Order No. 860 will now go into effect on July 1, 2021, and baseline filings will be due by November 2, 2021. The relational database system is open through June 30, 2021 for testing, and then the system will be open for baseline filings from July through October 2021.

2. FERC has scheduled a [technical conference](#) on June 1-2, 2021 to discuss issues surrounding the threat to electric system reliability posed by climate change and extreme weather events.

3. PJM officials have floated a proposal that, if implemented, may undo some of the impacts that PJM’s Minimum Offer Price Rule (MOPR) has on renewable energy projects and other subsidized resources in that market. The proposal would shift the burden of determining whether a resource receives a “State Subsidy” to FERC (rather than PJM and the Market Monitor), and absent a determination each State Subsidy would be considered to be in good faith and would not subject a resource to the MOPR.

