

**REGULATORY UPDATE FOR NOVEMBER 29, 2022
(WEEKS OF NOVEMBER 14 AND 21, 2022)¹**

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions²

None.

Voting Meetings

The CPUC held a voting meeting on November 17, 2022. The agenda included the following energy-related items.

Item 5. R.18-07-003 (RPS Implementation). This decision (D.) reviews and approves Voluntary Allocations and modifies the Market Offer process proposals of the load-serving entities (LSEs) to sell excess renewable resources pursuant to D.21-05-030. The decision approves all Voluntary Allocation offers made by the investor-owned utilities (IOUs) and accepted by the LSEs (except 3 Phases Renewables, Incorporated (3 Phases Renewables)) in this Voluntary Allocation and Market Offer cycle, as reported in the LSEs' draft 2022 RPS Plans filed on July 1, 2022 or updates filed on August 15, 2022. 3 Phases Renewables must file an updated draft 2022 RPS Plan, incorporating information on the status of its Voluntary Allocations, within seven days of the issuance date of this decision. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E) each must file a Tier 1 Advice Letter (AL) within 15 days of the issuance date of this decision to include the changes to the Market Offer process described in this decision, along with updated Market Offer proformas. **Signed, D.22-11-021.**

Item 6. A.21-09-001 (SDG&E Optional Residential Rate). This decision considers SDG&E's proposal for an optional residential rate, TOU-ELEC, with a tiered fixed charge to incentivize beneficial electrification and adopts it as modified, with the following rate design features: (1) an un-tiered time-of-use (TOU) rate with a flat monthly fixed charge of \$16 for customers who own one or more of the following qualifying technologies: electric vehicles, energy storage, electric heat pump for water heating, or climate control; (2) greater Peak-to-Super-Off-Peak differential in summer and winter, as proposed by SDG&E, to send a stronger signal to use electricity outside the peak period; and (3) lower Off-Peak-to-Super-Off-Peak differential, as proposed by SDG&E, to soften the price signal between the two off-peak periods and allow for greater flexibility between peak- and non-peak period usage. This decision places

¹ Due to the Thanksgiving holiday, no regulatory alert was sent out on November 22.

² 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.

an enrollment cap of 10,000 accounts on TOU-ELEC to control any potential revenue shortfall, with the option to increase the cap by increments of 10,000 via Tier 2 AL filings. This decision also requires SDG&E to supplement its marketing, education, and outreach plan to target customers who do not own the qualified technologies yet. Finally, the decision adopts the partial settlement agreement on the issue of including a medical discount for customers who are otherwise eligible for the Medical Baseline Program for the TOU-ELEC rate. The settling parties are SDG&E, the Center for Accessible Technology, the Public Advocates Office at the CPUC, the Utility Reform Network, and the Utility Consumers' Action Network. **Signed, D.22-11-022.**

Item 10. Resolution M-4864. This resolution authorizes PG&E to exit from Step 1 of the Enhanced Oversight and Enforcement Process set forth in Resolution M-4852, in accordance with D.20-05-003. Resolution M-4852 previously placed PG&E into Step 1 based upon findings that PG&E had made insufficient progress on risk-driven wildfire mitigation efforts. **Held to December 1, 2022.**

Item 23. Resolution E-5244. This resolution approves SDG&E's agreement with Marine Corps Air Station Miramar (Miramar). SDG&E will provide a Summer Generation Availability Incentive (Incentive) from July 1, 2022 through October 31, 2022, to Miramar, in return for six MW of electric generation. The agreement stipulates that generation may be run up to five times per calendar month from 4:00 p.m. to 9:00 p.m., when this generation is called upon by SDG&E for additional grid support. In return, Miramar is to be compensated for this generation. SDG&E provided the same Incentive to Miramar from September 1, 2021 through October 31, 2021. **Approved.**

Item 31. R. __ - __ - __ (New DER OIR). Order Instituting Rulemaking to Develop Policy and Create a Consistent Regulatory Framework for Distributed Energy Resource Customer Programs. This rulemaking is a successor proceeding to R.14-10-003. **Signed, R.22-11-003.**

Item 32. R.18-12-006 (Vehicle Electrification). This decision adopts a statewide transportation electrification framework that includes a long-term transportation electrification policy and a third-party administered rebate program for electric vehicle infrastructure, and directs the California electrical corporations, specifically PG&E, SCE, SDG&E, Liberty Utilities (CalPeco Electric) LLC, Bear Valley Electric Service Inc., and PacifiCorp d/b/a Pacific Power, to jointly fund the program and associated activities. **Signed, D.22-11-040.**

The CPUC will hold its next voting meeting on December 1, 2022. The agenda includes the following energy-related items.

Item 5. Resolution M-4864. This resolution authorizes PG&E to exit from Step 1 of the Enhanced Oversight and Enforcement Process set forth in Resolution M-4852, in accordance with D.20-05-003. Resolution M-4852 previously placed PG&E into Step 1 based upon findings that PG&E had made insufficient progress on risk-driven wildfire mitigation efforts.

Item 8. P.22-06-012 (Bloom Petition for Regulation). This decision denies the petition for rulemaking by Bloom Energy Corporation to consider adopting a distributed energy resource

reliability and resilience tariff, pursuant to Public Utilities Code Section 1708.5 and Rule 6.3 of CPUC's Rules of Practice and Procedure. The decision finds that the issues presented in this petition were considered in CPUC proceedings within the previous 12 months, and that the proposal is not appropriate for a rulemaking, and is more appropriately considered in other proceedings.

Item 12. A.18-10-008/-009/-010 (Resolution E-4906 Applications). In D.16-09-056, CPUC adopted a policy of prohibiting the use of certain fossil-fueled resources in demand response (DR) programs (Demand Response Prohibited Resources Policy). That decision also established a program to enforce the Demand Response Prohibited Resources Policy. IOU Demand Response Prohibited Resources Policy Verification Plans (Verification Plans) were approved in Resolution E-4906. This decision determines that an incremental modification to the Verification Plans is needed to improve the confidence level and margin of error of the annual verification audits to ensure compliance with this policy. CPUC adopts the annual monitoring of the prohibited resources of a random set of Scenario 2 customers through the installation of a data logger and a current transformer. Scenario 2 customers are DR customers who attest that they have a prohibited resource on their premises but will not use it to defer load during a DR event. The annual DR prohibited resource monitoring shall commence in 2024 to coincide with the annual verification audit for that year and is additional to the attestations and audits currently performed in the Verification Plan. PG&E, SoCalGas, and SCE (jointly, Applicants) are directed to purchase 60 data loggers and current transformers for use in the annual monitoring. The costs for these improvements shall be borne by all ratepayers as these DR programs benefit all ratepayers. Applicants are directed to track these costs in the same DR account as costs for the annual Verification Plan. These costs shall be reviewed for reasonableness in the annual Energy Resource Recovery Account process for each of the Applicants.

Item 15. Resolution E-5243. This resolution approves PG&E amendments to four contracts for capacity procured to meet mid-term reliability requirements of D.21-06-035. The contract price of the four contracts is increased. Additionally, the Canyon Country, Beaumont, and Inland Empire contracts have been amended to delay the initial delivery dates to June 1, 2024 (from October 1, 2023, August 1, 2023, and April 1, 2024, respectively). The Inland Empire project capacity has also been reduced from 100 MW to 50 MW.

Item 16. Resolution E-5230. PG&E, SCE, and SDG&E (collectively, Large IOUs) submitted Tier 3 ALs to comply with Ordering Paragraphs (OPs) 15 and 51 of D.20-09-035. OP 15 and OP 51 required the Large IOUs to provide recommendations regarding the standard review, certification requirements, and interconnection processes necessary for implementation of the Limited Generation Profile proposal (Issue 9) and allow an inverter approved for non-export and limited-export to be set using different maximum export value settings at different times of the year (Proposal A-B 3) (collectively, the Proposals). In the ALs, the Large IOUs outlined the interconnection process in five phases, including review, certification requirements, approval, and performance evaluation process to implement the Proposals. This current resolution approves in part and modifies the Large IOUs' Proposals. This current resolution finds the ALs largely comply with OPs 15 and 51. There are issues, however, in both the protested items and the Large IOUs' Proposals that call for further discussion and clarification.

The Large IOUs are therefore directed to participate in at least two half-day workshops. Additional workshops may be held at the Energy Division's discretion. The workshops shall be recorded and publicly posted on the Energy Division's web site. The workshops shall commence no later than 30 days after issuance of the resolution. The Large IOUs are ordered to submit Tier 3 ALs no later than 90 days after issuance of the resolution to address the topics identified in the resolution as well as those raised in the workshops.

Item 17. A.16-08-006 (PG&E Diablo Canyon). In compliance with Senate Bill 846, this decision implements Pub. Util. Code Sections 712.8(c)(1)(A) and 712.8(e) requiring CPUC to direct and authorize PG&E to take "all actions that would be necessary" so as to preserve the option of extended operations at the Diablo Canyon nuclear power plant beyond the current expiration dates, and to track all costs associated with continued and extended operations. Application 16-08-006 is closed.

Item 20. R.21-03-001 (Wildfire Fund Non-Bypassable Charge (WF NBC)). Assembly Bill (AB) 1054 (Ch. 79, Stats. 2019) was enacted as an urgency measure to address increased risk of catastrophic wildfires in California, the electric utilities' exposure to financial liability, and ratepayer costs. The Governor signed AB 1054 on July 12, 2019. Pub. Util. Code Sections 1701.8 and 3280 et seq. define the Wildfire Fund, and Pub. Util. Code Section 3289 directed CPUC to consider whether it should exercise its authority to require certain electrical corporations to collect from ratepayers a non-bypassable charge to support California's new Wildfire Fund. On July 26, 2019, in response to Pub. Util. Code Section 3289, CPUC issued Order Instituting Rulemaking (R.) 19-07-017. On October 24, 2019, as a result of the R.19-07-017 proceeding, CPUC adopted D.19-10-056. That decision found that the imposition of a WF NBC as contemplated by AB 1054 was just and reasonable. The decision adopts a \$0.00530/kWh rate amount for the 2023 WF NBC to collect a \$866.7 million revenue requirement for January 1, 2023 through December 31, 2023.

Item 23. A.22-05-002/-003/-004 (IOU DR Programs). This decision approves the DR programs, pilots, and budgets for PG&E, SCE, and SDG&E for 2023. The proceeding remains open to consider utility and intervenor proposals for DR programs, program modifications, pilots, and budgets for 2024-2027. Per D.17-12-003, PG&E, SCE, and SDG&E were directed to file their 2023-2027 DR programs. PG&E, SCE, and SDG&E filed their applications on May 2, 2022, per an extension provided by a September 30, 2021 letter issued by the CPUC's Executive Director. Due to the late filing of the applications, bridge funding for 2023 would be addressed in this decision, while the CPUC considers programs, pilots, and budgets for the remaining 2024-2027 time period.

Item 24. A.22-04-006 (SoCalGas Debt Issuance). This decision grants Southern California Gas Company (SoCalGas) authority to issue up to \$2.820 billion in new debt securities. This decision also authorizes SoCalGas to take various actions to improve the terms and conditions of SoCalGas's debt portfolio and lower the cost of financing, and to take additional actions.

Item 25. A.22-04-007 (SDG&E Debt Issuance). This decision grants SDG&E authority to issue up to \$3.050 billion of new debt securities. This decision also authorizes SDG&E to

issue \$1.050 billion in roll-over debt securities, to utilize certain debt security features or enter into derivative transactions, and hedge planned issuances of debt securities.

Item 26. A.22-05-014/A.22-09-017 (SCE 2023 Energy Resource Recovery Account (ERRA) Forecast/2022 ERRA Trigger Application). This decision approves SCE's total 2023 ERRA electric procurement cost revenue requirement forecast of \$5,242.224 million, modifying SCE's requested revenue requirement of \$5,237.858 million to account for a correction to the Solar on Multifamily Affordable Housing Program funding true-up. As a result of the costs and other adjustments approved in this decision, on January 1, 2023, SCE's system average rates for bundled customers will increase by 2.9% as compared to rates effective October 1, 2022, to 24.444¢/kilowatt hour in 2023. The Power Charge Indifference Adjustment rates will be negative for most customer vintages in 2023 due to overcollections in 2022, resulting in credits for customers in those vintages. This decision also adopts Cost Responsibility Surcharge rates and approves SCE's ERRA Trigger Mechanism application. SCE's procurement-related revenue requirement will be updated to reflect 2022 year-end balances with recorded actuals through November 2022 and forecast for December 2022. SCE will implement the rate changes on January 1, 2023, pending approval of the Tier 1 AL filed in conformance with this decision.

Item 28. A.22-02-013 (Southwest Gas Debt Issuance). This decision grants Southwest Gas Corporation (SWG) authority to issue up to \$600 million of new debt. This decision also authorizes SWGC to refinance previously issued short-term debt securities, to refinance previously authorized securities under the Evergreening Authority Guidelines, and to enter into interest rate risk management contracts.

Item 35. R.20-01-007 (Long-Term Gas System Planning). This decision adopts a gas infrastructure General Order (GO), attached to the decision as Appendix A. The GO requires regulated gas corporations to file an application for a certificate of public convenience and necessity (CPCN) prior to commencing construction on any gas infrastructure that meets either of these criteria: (1) the project cost exceeds \$75 million or (2) the project is located within 1,000 feet of a "sensitive receptor" (including housing, educational institutions, or health care facilities) and, when completed, operation of the relevant plant, pipeline, or extension will result in an increase in permitted levels of a criteria air pollutant or a toxic air contaminant for which the area is listed as a serious, severe, or extreme air pollution non-attainment area. The GO outlines CPCN application information and notification requirements and specific types of exempt projects for which CPCN applications are not required. The GO and this decision require gas corporations to annually file a Report of Planned Gas Investments (gas reports), starting March 1, 2023. This decision directs PG&E, Southern California Gas Company (SoCalGas), and SDG&E to jointly convene a Planned Gas Investments Workshop during the years 2023, 2024, and 2025. It authorizes parties to file comments on the gas reports, and on the reporting requirements contained in the adopted GO, in the years 2023, 2024, and 2025. This decision authorizes PG&E, SoCalGas, and SDG&E to submit a Tier 3 AL requesting changes to the reporting requirements contained in the GO in Appendix A suggested by parties and agreed to by the gas corporations.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Extended Day-Ahead Market. CAISO has published the Extended Day-Ahead Market draft final proposal. The deadline for written comments on the draft final proposal has moved from November 30, 2022 to November 22, 2022, to facilitate the publication of a final proposal by December 7, 2022. CAISO has also posted the revised tariff framework, which reflects the draft final proposal in an outline format of the tariff.

Generator Interconnection Affidavits for Allocating and Retaining Transmission Plan Deliverability Due December 5, 2022. Generator interconnection customers must submit Transmission Plan (TP) Deliverability affidavits to CAISO by December 5, 2022 to be eligible to receive or retain deliverability allocations in the annual TP Deliverability allocation process. This notice applies to all active generation interconnection projects who are eligible to seek an allocation or who want to retain an allocation from a prior allocation cycle.

Review of Final 2023 Resource Adequacy Compliance Filings and Determination of Deficiency. CAISO has posted its aggregate assessment of the annual resource adequacy (RA) plans submitted by LSEs and central procurement entities along with the reliability-must-run units designated by CAISO for 2023. LSEs and central procurement entities may submit revised annual RA plans by close of day on December 12, 2022.

CALIFORNIA ENERGY COMMISSION (CEC)

Integrated Energy Policy Report (IEPR)

On November 8, 2022, the CEC released the 2022 Draft IEPR Update. Comments on the draft are due by 5:00 p.m. on November 30, 2022. For more information, please visit the 2022 IEPR Update [website](#) or [Docket No. 22-IEPR-01](#).

An IEPR Commissioner workshop has also been scheduled for Friday, December 2, 2022 regarding [Western Electricity System Integration](#) that will address three key dimensions of western integration: markets, transmission, and RA. The meeting will be held both in person and via remote access. For more information, please visit the CEC's [Western Electricity System Integration](#) workshop website.

Lastly, the CEC will host a remote access-only workshop at 10:00 a.m. on December 7, 2022, to present the energy demand analysis for the 2022 IEPR. According to the [Notice](#), the workshop will address results from the 2022 California Energy Demand Forecast, including the annual electricity forecasts and the hourly and peak electricity demand forecast. For more information, please visit the IEPR California Energy Demand 2022-2035 Forecast [webpage](#).

Reliability

On November 30, 2022, the CEC [will hold](#) a Lead Commissioner workshop regarding

SoCalGas System Reliability for Winter 2022-23. The workshop will be remote access-only and is scheduled to begin at 9:30 a.m. For more information, please visit the [workshop website](#) or visit [Docket No. 22-OII-02](#).

AB 205 Emergency Rulemaking: Opt-in Certification Provisions

On October 12, 2022, the CEC adopted emergency regulations implementing the opt-in certification provisions of AB 205. The regulations are available at TN# 246379 in [Docket No. 22-OIR-01](#). The California Office of Administrative Law [approved](#) the regulations on October 24, 2022.

As background, on June 30, 2022, California Governor Gavin Newsom signed AB 205, which, among other things, expands the jurisdiction of the CEC to include non-thermal generating facilities, such as solar and wind projects, 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 with 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](#).

Energy System Reliability

The CEC is seeking to identify clean energy resources and characterize their ability to support grid reliability. To that end, the CEC issued a Request for Information (RFI) on Clean Energy Resources for Reliability in an effort to collect information on the potential resources and attributes for consideration in these analyses. The RFI seeks public comment on various resource types and evaluation attributes set forth in detail in the RFI document, as well as regarding distributed electricity backup assets program design and resource characterization. Comments are due by 5:00 p.m. on November 30, 2022. Additional information regarding the RFI is available [here](#).

Renewables Portfolio Standard

On November 23, 2022, CEC Staff released (i) the Renewables Portfolio Standard Verification and Compliance Methodology Staff Report, 3rd Edition, CEC-300-2022-012-SF//Docket # 21-RPS-01, available [here](#), and (ii) the Renewables Portfolio Standard Staff Draft 2017-2020 Retail Sellers Procurement Verification Report, CEC-300-2022-011-SD/Docket # 21-RPS-01, available [here](#). The CEC will consider adopting the 2017-2020 Retail Sellers Procurement Verification Report, CEC-300-2022-011-SD, at the December 14, 2022 CEC Business Meeting. According to the [Notice of Availability](#), CEC Staff “strongly encourages the submission of written comments prior to the business meeting if possible” and then notes that “[w]ritten comments may be submitted to the Docket Unit by 5:00 p.m. on December 8, 2022.” For more information, please see the [Notice of Availability](#) or visit [Docket No. 21-RPS-01](#).

CEC Business Meetings

The next CEC Business Meeting is scheduled for December 14, 2022.

STATE WATER RESOURCES CONTROL BOARD (SWRCB)

On December 7, 2022, the Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) will present its recommendation and updates from the 2022 Special Report of the SACCWIS (approved by the SACCWIS on September 30, 2022) to the SWRCB. The presentation is [item #11](#) on the December 7, 2022 SWRCB meeting [agenda](#). According to the [agenda](#), the presentation contains recommendations to extend compliance dates for Alamitos, Huntington Beach, Ormond Beach, and Scattergood Generating Stations, as follows:

- Extend the compliance date of Alamitos Generating Station Units 3, 4, and 5 for three years from December 31, 2023, to December 31, 2026.
- Extend the compliance date of Huntington Beach Generating Station Unit 2 for three years from December 31, 2023, to December 31, 2026.
- Extend the compliance date of Ormond Beach Generating Station Units 1 and 2 for three years from December 31, 2023, to December 31, 2026.
- SACCWIS supports the Los Angeles Department of Water and Power's request to extend the Scattergood Generating Station Units 1 and 2 OTC Policy compliance date five years from December 31, 2024, to December 31, 2029.

A copy of the September 30, 2022 SACCWIS report is available [here](#).

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On November 30, 2022, CARB will host a joint meeting of the Board and the Assembly Bill (AB) 32 [Environmental Justice Advisory Committee](#). Information on attendance and the agenda for the meeting are available [here](#).

On November 30, 2022, CARB will host a public workshop on the [U.S. Forest Projects Compliance Offset Protocol](#), including requirements of the approved Protocol and the state of forest and forest carbon science, data, and tools relevant to the Protocol. Information and registration for the workshop are available [here](#).

On December 5, 2022, CARB will hold a public workshop on landfill methane emissions in California. The workshop will highlight results from research studies on landfill methane emissions. Information and registration for the workshop can be found [here](#).

On December 6, 2022, CARB will host a virtual workshop on revisions to the Community Air Protection Program Blueprint and the fifth annual [community recommendations and selection process](#) for the Assembly Bill 617 [Community Air Protection Program](#). Information and registration for the workshop can be found [here](#).

CARB will hold its next Board meeting on December 15-16, 2022. At the meeting, CARB will consider adoption of the final draft AB 32 [Scoping Plan Update](#). The full agenda for the Board meeting will be available [here](#) 10 days prior to the meeting.

Opportunities for Public Comment

On October 20, 2022, CARB held a [workshop](#) on development of the state's strategy to achieve net-zero GHG emissions in the cement sector in California. Comments can be submitted to CARB on the workshop on or before November 30, 2022 [here](#).

On November 9, 2022, CARB held a workshop to discuss potential changes to the [Low Carbon Fuel Standard](#). The [workshop](#) focused on options for increasing the stringency of the carbon intensity targets for 2030 and beyond, the design of initial scenarios for modeling, the modeling approach, and alternatives. Feedback on the workshop may be submitted to CARB [here](#) on or before December 2, 2022.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

MPUC Hearing on December 1, 2022

On Thursday, December 1, 2022, at 8:00 a.m., the MPUC will meet to consider the following items: (1) Xcel's 2023 fuel forecasts; (2) Minnesota Power's 2023 fuel forecasts; (3) Otter Tail Power Company's 2023 fuel forecasts; (4) Xcel Energy's request to expand current EV pilot programs; and (5) CenterPoint Energy's paperless billing initiative.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On Wednesday, October 19, 2022, the OPUC staff hosted a stakeholder workshop in the matter of UM 2143 (re Investigation into RA in the State) and presented a proposed strategy to initiate rulemaking on a long-term RA standard for Oregon. As currently proposed, the Oregon RA standard would be aligned with the Western Regional Adequacy Program. The announcement can be found [here](#), and the staff presentation can be found [here](#).

On Monday, November 14, 2022, the OPUC issued order number 22-446 in the matter of UM 2225 (re Near-term Guidance on Analytical Improvements in the First Clean Energy Plans and Associated Integrated Resource Plans) largely approving the Staff's proposed expectations for analytical improvements. The final order can be found [here](#).

On Wednesday, December 7, 2022, the OPUC will host a virtual staff workshop in the matter of UM 2111 (re Staff Investigation into Interconnection Process and Policies). This will be the fifth workshop focused on modernizing the screening and interconnection study practices and incorporating advanced inverters, storage, islanding, and other modern configurations. Meeting access information can be found [here](#).

ILLINOIS COMMERCE COMMISSION (ICC)

On November 10, 2022, the ICC voted to adopt the Administrative Law Judge’s (ALJ) Proposed Interim Order granting in part and denying in part the Staff’s motion to dismiss and to strike components of the Beneficial Electrification (BE) Plan filed by Commonwealth Edison Company (ComEd) in consolidated docket [Nos. 22-0432 and 22-0442](#). Overall, the Interim Order (1) grants the Staff’s request to remove the rebates for customer purchases of electric vehicles and for the installation of electric vehicle charging station equipment (as opposed to rebates for make-ready infrastructure) under the Commercial and Industrial and Public Sector Incentive Programs on the grounds that they are duplicative of rebates offered by the Illinois Environmental Protection Agency (IEPA); (2) denies the Staff’s motion to strike the non-transportation components of ComEd’s BE Plan (e.g., BE rebates); and (3) denies the Staff’s motion to modify ComEd’s proposed application of the retail rate cap on budget expenditures under the BE Plan. Commissioner McCabe filed a concurrence with respect to issue (1) on the basis that it is premature to determine whether ComEd’s proposed sub-programs are duplicative of those authorized to IEPA.

On November 7, 2022, the Staff and intervenors filed rebuttal testimony in the consolidated docket ([Nos. 22-0431 and 22-0443](#)) considering whether to approve Ameren Illinois Company’s BE Plan. Evidentiary hearings are scheduled for December 1 and December 2, 2022.

NEW YORK

On November 22, 2022, Governor Kathy Hochul signed a [two-year moratorium](#) on permitting for certain cryptocurrency mining operations. The moratorium adds a new section to New York’s environmental conservation law and states that the Department of Public Service shall not approve an application for a new air emissions permit or renewal of an existing air emissions permit for an electric generating facility that uses carbon fuel to provide behind-the-meter electricity to operations that use proof-of-work authentication methods to validate blockchain transactions.

The law does not impact existing operations or applications filed before November 23, 2022. Additionally, cryptocurrency mining operations that are powered solely by zero-emissions sources of electricity, such as hydropower, are not affected.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

FERC’s monthly open meeting occurred just prior to the Thanksgiving holiday and FERC took action in several notable dockets:

- FERC issued three orders relevant to inverter-based resources (IBRs)—i.e., solar, wind, fuel cell, and battery storage resources. The orders directed NERC to develop a plan to register entities that own and operate IBRs and develop reliability standards specific to these resources (including, if needed, resources smaller than the 75 MW registration threshold currently in place), and approved

several reliability standards related to IBRs that **NERC** had proposed earlier this year.

- FERC granted a waiver of a generator interconnection agreement in order to allow Chaves County Solar II, LLC a five-and-a-half-month extension to its commercial operation deadline. The project, which will interconnect in the SPP region, will soon reach the end of its commercial operation deadline (three years past the designated date). The applicant cited supply chain disruptions, COVID-19-related impacts to solar module production, and governmental orders related to AD/CVD tariffs and suspected forced labor that had slowed its progress in achieving its deadline.
- FERC took action in several dockets related to revenue crediting under SPP's tariff and interconnection agreements. In one such docket, FERC determined that SPP had violated its tariff and a customer's interconnection agreement by failing to implement a process to reimburse customers under Attachment Z2 for network upgrades they had funded.

Two other decisions from FERC last month have the industry focused on investor rights that allow an entity to appoint its own officer or directors to the board of a public utility or a holding company. In [*TransAlta Energy Marketing \(U.S.\), Inc.*](#), 181 FERC ¶ 61,055 (2022), and [*Evergy Kansas Central, Inc.*](#), 181 FERC ¶ 61,044 (2022), FERC asserted that such appointments will require approval under Federal Power Act Section 203 and may also create affiliations for purposes of assessing market power with respect to a public utility's ability to sell at market-based rates. In both decisions, the investor acquired less than 10% of the relevant voting securities; however, the acquisition was paired with the appointment of the investor's own officers and directors to the target company's board of directors.

On November 1, 2022, ALJ Suzanne Krolikowski issued an [Order Denying In Part Respondents' Motion to Compel Responses to Fifth Set of Data Requests/Notice to All Participants Concerning Failure to Comply with Commission Practice Obligations](#) in the proceedings to determine whether Total Gas & Power North America, Inc.; Aaron Hall; and Teresa Tran (Respondents) manipulated natural gas prices in the southwestern U.S. between 2009 and 2012, in violation of FERC's Anti-Market Manipulation Rule. [Order Establishing Hearing](#). In addition to addressing substantive arguments in Respondents' motion to compel, ALJ Krolikowski's order emphatically put Respondents' counsel on notice that any further unsupported allegations of misconduct against opposing counsel could result in suspension and exclusion of counsel from further participation in the proceeding under [Rule 2102\(b\)](#) of FERC's regulations. According to the order, Respondents' counsel potentially violated this rule by alleging without support that Enforcement Staff "lost or destroyed" relevant evidence in the case and by citing as authority for its position an ALJ order but failing to disclose that the order never went into effect.