

**REGULATORY UPDATE FOR OCTOBER 4, 2022
(WEEK OF SEPTEMBER 26, 2022)****CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)****New Proposed Decisions and Draft Resolutions¹**

A.21-08-004 (PacifiCorp ECAC). This decision authorizes PacifiCorp d/b/a Pacific Power (PacifiCorp) to modify its Energy Cost Adjustment Clause (ECAC) rates to allow for an annual increase in revenues for 2022 of approximately \$3.4 million from its previously authorized rates. These new rates shall become effective upon the filing of an advice letter, subject to the Energy Division determining the rates comply with this decision. In addition, this decision directs PacifiCorp to conduct additional analyses for future ECAC cycles to ensure PacifiCorp is actively considering options to reliably and economically serve its customers' electricity needs with alternatives to coal.

R.18-07-003 (RPS Implementation). This decision 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 Decision (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 their 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 & Electric Company (SDG&E) must each file a Tier 1 Advice Letter 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 pro formas.

A.21-06-022 (PG&E Microgrid Framework). This decision adopts a framework for substation microgrid resiliency solutions to mitigate public safety power shutoffs for PG&E. The adopted framework contains eight primary elements: (1) a 10-year historical lookback analysis; (2) greenhouse gas emissions performance standards; (3) clean technology market development standards; (4) an alternatives analysis; (5) a procurement strategy; (6) a rate architecture and cost allocation methodology; (7) demand response measures; and (8) environmental and social justice action.

A.21-09-001 (SDG&E Rate Design). This decision considers SDG&E's proposal for an optional residential rate, TOU-ELEC, with a tiered fixed charge to incentivize beneficial

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.

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 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 advice letter 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.

Draft Resolution E-5234. This Resolution approves five mid-term reliability (MTR) energy storage contracts (the MTR Contracts) for 474 megawatts (MW) of nameplate capacity, expected to provide 433 to 445 MW of incremental September net qualifying capacity, which SCE procured to satisfy a portion of its 2023 and 2024 MTR requirements. These contracts include three resource adequacy (RA) only contracts and two RA with put option contracts (i.e., RA contracts where the seller also has the option to put the dispatch rights to SCE). The MTR Contracts are for new in-front-of-the meter energy storage projects. This Resolution also approves the form and substance of a 7 MW Solar Photovoltaic contract, a required condition of two of the energy storage contracts.

A.21-08-013/A.21-08-014/A.21-08-015 (2022 Cost of Capital). This decision resolves the narrow issues of whether the extraordinary circumstances requirements of D. 08-05-035 have been met and whether the Cost of Capital Mechanism adjustment should apply to the return on equity for the year 2022 for SCE, SDG&E, and PG&E (collectively, the utilities). This decision finds that the utilities experienced the circumstances caused by the COVID-19 pandemic differently as compared to the proxy utilities groups and the overall financial markets. The decision finds that these extraordinary circumstances warrant a departure from the Cost of Capital Mechanism adjustment for 2022; that the Cost of Capital Mechanism adjustment fails to result in a fair and reasonable return on equity given the extraordinary circumstances; and, therefore, that the Cost of Capital Mechanism should not apply in 2022. The decision finds it is reasonable for the Commission to establish a second phase to examine the cost of capital for 2022. This proceeding remains open to consider the next phase.

A.21-08-013/A.21-08-014/A.21-08-015 (2022 Cost of Capital) This is an alternate proposed decision of President Reynolds to the proposed decision above issued by LJs Zhang and Hecht. This alternate differs from the proposed decision in that the return on equity, and other cost of capital components for 2022, are to remain at levels previously approved by D. 19-12-056. The alternate closes the proceedings.

Voting Meetings

The CPUC will hold its next voting meeting on October 6, 2022. The agenda includes the following energy-related items.

Item 4. Rulemaking (R.) 20-07-013 (Risk-Based Decision-Making Framework). This decision refines certain reporting requirements for the Risk Spending Accountability Reports (RSARs) required of every IOU and Small and Multi-Jurisdictional Utility gas and electric utilities pursuant to 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 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.

Item 6. Draft Resolution E-5212. This resolution approves, with modifications, California Choice Energy Authority's and East Bay Community Energy's Petitions for Modification of Resolution E-4999, filed on February 23, 2022 and April 12, 2022, respectively. Both CCAs allege that the changeover from CalEnviroScreen (CES) 3.0 to 4.0 inadvertently caused eligibility and procurement challenges for Disadvantaged Community (DAC)-Green Tariff (GT) and/or Community Solar Green Tariff (CSGT) in their service territories and propose that CPUC make eligible all DAC census tracts previously approved under CES 3.0, in addition to CES 4.0 census tracts. CES 3.0 was in place when each currently participating Program Administrator's (PA) implementation plan was approved. This resolution finds that the CCAs' proposed modifications are appropriate and makes additional modifications to prevent the issue from reoccurring in other PA areas, as well as to ensure equity in accordance with existing legislation and CPUC policy goals. Specifically, the resolution allows "legacy" DACs under prior versions of CES, beginning from the time at which a PA's DAC-GT or CSGT implementation advice letter (AL) is approved by the CPUC, to remain eligible for the DAC-GT and CSGT programs. This direction applies to both PAs with implementation ALs that are already approved and any new PAs authorized to submit an implementation AL for the DAC-GT and/or CSGT program.

Item 8. A.21-04-001 (SCE ERA). This decision approves SCE's rate recovery for 2020 Record Year costs, including its procurement-related operations and regulatory account management, as modified. For the 2020 Record Year, SCE's total recorded fuel and purchased power revenue requirement was \$4.735 billion. SCE's application also requested a total revenue requirement of \$60.772 million associated with four accounts: (1) \$47.680 million for the COVID-19 Pandemic Protections Memorandum Account (CPPMA); (2) \$0.304 million for the Building Benchmarking Data Memorandum Account (MA); (3) \$0.550 million for the Integrated Resource Planning Costs MA; (4) \$21.554 million in the Residential Rate Implementation MA; and (5) \$0.684 million for franchise fees and uncollectibles (FF&U). This decision approves a \$31.080 million net revenue requirement—roughly half of the originally requested amount—associated with the following accounts: (1) \$23.000 million in the CPPMA; (2) \$0.304 million for the Building Benchmarking Data MA; (3) \$0.550 million for the Integrated Resource

Planning Costs MA; (4) \$21.554 million for the Residential Rate Implementation MA; (5) - \$3.669 million for the Energy Resource Recovery Account (ERRA) Balancing Account; (6) - \$10.979 million for the Public Purpose Program Adjustment Mechanism; and (7) \$0.350 million for FF&U.

Item 12. This resolution approves PG&E's amendments to two system reliability contracts for capacity procured to meet the requirements of D.19-11-009. The contract with Nexus Renewables U.S. Inc. is amended to reduce the capacity of the project from 27 MW to 10 MW and delay the online date by one year to August 1, 2023. The contract price of the NextEra Energy Resources Development is increased, with no delay in the project development schedule.

Item 13. This resolution rejects without prejudice PG&E's, SCE's, and SDG&E's ALs providing specifics on whether and how reductions to a customer's Limited Generation Profiles will be determined. The utilities are ordered to participate in a minimum of two full-day workshops to confer with stakeholders on topics further outlined in the resolution. After the workshops, but within 60 days of issuance of the resolution, the utilities are ordered to file new ALs.

Item 22. R.15-06-009 (IOR re Physical Security). This decision grants the joint Motion filed on July 15, 2022, of SDG&E (U902E), PG&E (U39E), and SCE (U338E) to withdraw the Petition for Modification (Petition) that was filed on January 10, 2020 and close this proceeding. The Petition sought revisions to how the Commission handled extremely sensitive data; Commission staff reached an informal agreement with the parties that obviated the need for the Petition.

Item 33. 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.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Capacity Procurement Mechanism Enhancements. The CAISO held a public stakeholder call on September 23, 2022 to discuss the Track 1 draft final proposal for the Capacity Procurement Mechanism Enhancements initiative. Written comments on the Track 1 straw proposal are due October 7, 2022.

2022-2023 Transmission Planning Process (TPP). The CAISO has posted the 2022-2023 TPP preliminary reliability results to its website. The request window is open through October 15, 2022.

Washington WEIM Greenhouse Gas Enhancements. The CAISO held a public stakeholder call on September 29, 2022 to discuss the draft final proposal for the Washington Western Energy Imbalance Market (WEIM) Greenhouse Gas Enhancements initiative. Written comments are due October 7, 2022.

TPP Enhancements. The CAISO held a public stakeholder call on September 30, 2022 to discuss the straw proposal for the TPP Enhancements initiative. Written comments are due October 14, 2022.

Extended Day-Ahead Market. The CAISO will host an Extended Day-Ahead Market (EDAM) initiative virtual public stakeholder workshop on October 11, 2022, focusing on settlements processes based upon the recent revised straw proposal EDAM design.

2023 Net Qualifying Capacity. The CAISO has posted the Final 2023 Resource Adequacy Net Qualifying Capacity list for requesting resources.

WEIM Resource Sufficiency Evaluation Enhancements Phase 2. The CAISO has scheduled a stakeholder call on October 6, 2022 to provide stakeholders with the opportunity to ask questions and provide verbal comments on the WEIM Resource Sufficiency Evaluation Enhancements Phase 2 final proposal.

CALIFORNIA ENERGY COMMISSION (CEC)

AB 205 Emergency Rulemaking: Opt-in Certification Provisions

On September 19, 2022, CEC staff hosted a webinar wherein they presented draft emergency regulations implementing the opt-in certification provisions of Assembly Bill (AB) 205. Staff provided a summary of the AB 205 provisions, the draft regulations, and the target timeline for adoption. Written comments on the draft regulations were due by September 30, 2022. (See TN# 246139 in [Docket No. 22-OIR-01](#) at slide 5.) The draft regulations are available at TN# 246084 in [Docket No. 22-OIR-01](#). The full Commission will consider adoption at the October 12, 2022 Business Meeting (agenda item 7).

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 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](#).

AB 205 also established a new CEC program, which was slightly modified by AB 209 on September 6, 2022, to respond to potential climate-related threats to the reliability of electricity in California. This program authorizes the CEC to implement an expedited certification process for Department of Water Resources (DWR) facilities, which include certain new emergency and temporary power generators, new energy storage systems, new zero-emission fuel technology generation facilities, and facilities supporting development of zero-emission generation capacity with a point of interconnection at a California balancing authority. On September 30, 2022, the CEC hosted a webinar regarding proposed emergency regulations to implement the certification of certain new DWR facilities. Additional information can be found at TN# 246161 in [Docket No. 22-OIR-02](#).

Offshore Wind

CEC staff will host a remote-access-only [workshop](#) on October 6, 2022 at 9:30 a.m. PT regarding AB 525's requirement to develop a strategic plan for floating offshore wind in California. For additional information, please visit the CEC's Offshore Renewable Energy [page](#) or see TN# 246206 in [Docket No. 17-MISC-01](#).

Proposed Amendments to Small Power Plant Exemption (SPPE) Regulations

The CEC has postponed the September 14, 2022 adoption hearing regarding proposed amendments to the regulations for SPPEs. For additional information, please see [Docket No. 21-OIR-04](#). The postponement notice is available at TN# 245882 in [Docket No. 21-OIR-04](#).

Lithium Valley Commission

The Blue Ribbon Commission on Lithium Extraction (Lithium Valley Commission) is tasked to review, investigate, and analyze eight topics relating to lithium extraction in California as set forth in AB 1657. As part of its duties, the Lithium Valley Commission must submit a report to the Legislature documenting its findings and any recommendations developed after conducting the required review and analyses. On September 21, 2022, the Lithium Valley Commission released its draft report of the Blue Ribbon Commission on Lithium Extraction in California. According to the [Notice of Availability](#), oral comments on the draft report will be accepted at community and tribal workshops during October 2022 and at future Blue Ribbon Commission meetings, both in person and remotely. In addition, written comments on the draft report must be submitted by 5:00 p.m. on October 28, 2022. Please see [Docket No. 20-LITHIUM-01](#) for future notices regarding upcoming workshops and opportunities for public comment. The draft report and additional information are also available [here](#).

CEC Business Meetings

The next CEC Business Meeting is [scheduled](#) for October 12, 2022.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

CARB will hold its next Board meeting on October 13, 2022. The full agenda is available [here](#).

On November 3, 2022, CARB will conduct a joint public meeting with the California Transportation Commission and the California Department of Housing and Community Development. The public meeting notice and information on attendance are available [here](#).

Opportunities for Public Comment

On September 20, 2022, CARB held a [public workshop](#) to discuss potential changes to the Oil and Gas Methane Regulation. Feedback on the workshop may be submitted to CARB [here](#) on or before October 11, 2022.

CARB will consider the proposed [Advanced Clean Fleets](#) regulation on October 27, 2022. In advance of the [hearing](#), comments on the proposed regulation may be submitted to CARB [here](#) on or before October 17, 2022.

CARB has recirculated the [draft environmental analysis](#) for the 2022 Scoping Plan Update. Comments may be submitted to CARB [here](#) on or before October 24, 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](#) that was issued in 2018. Comments on the draft People's Blueprint may be submitted to CARB [here](#) on or before October 31, 2022.

Independent System Operator-Northeast (ISO-NE)

On August 30, 2022, the Maine Supreme Judicial Court struck down as unconstitutional a 2021 voter referendum to block construction of a \$1 billion transmission line that would transmit Canadian hydropower to the New England states. [NECEC Transmission LLC v. Bureau of Parks & Lands \(Aug. 30, 2020\)](#). The court held that the citizen-initiated referendum could not apply retroactively to deprive NECEC Transmission LLC and Avangrid Networks, Inc. of their "vested rights" under the due process clause of the Maine Constitution, having previously obtained a Certificate of Public Convenience and Necessity from the Maine Public Utilities Commission and other required permits and approvals.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

October 6, 2022, MPUC Agenda Meeting

At 8:00 a.m. PT, on October 6, 2022, the MPUC will hold its weekly agenda meeting. During the meeting the MPUC will address the procedural issues associated with Xcel Energy's electric vehicle petition. The MPUC previously issued a notice of comment period soliciting stakeholder feedback on how to best analyze the company's large electric vehicle infrastructure proposal in the midst of a pending rate case. Potential procedural options could include consolidation into the rate case, a separate contested case proceeding before an administrative law judge, or a miscellaneous notice and comment procedure before the MPUC. Staff Briefing Papers are available [here](#).

OREGON DEPARTMENT OF ENERGY (ODOE)

On September 15, 2022, in accordance with Oregon House Bill 3375 (2021), the ODOE submitted its report to the Legislature on its study into the opportunities and challenges of integrating up to three gigawatts of floating offshore wind into the grid by 2030. The report concluded that federal waters off Oregon's coast hold the potential to develop dozens of gigawatts of floating offshore wind, but there is broad support for further study, engagement, and collaboration to balance the potential benefits and challenges. The final report can be found [here](#).

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On September 23, 2022, the OPUC issued order number 22-348 extending the Community Solar Program renewable energy credit reporting deadline for the 2021-2022 reporting year to December 31, 2022. The full order can be found [here](#).

On Tuesday, October 4 and Thursday, October 6, the OPUC will host a remote public hearing and commissioner work session in the matter of docket UM 2225 re Investigation into Clean Energy Plans. The purpose of the meeting is for the OPUC to consider Staff's near-term guidance on the Road Map Acknowledgement and Community Lens Analysis for the first Clean Energy Plans. The public may comment on Tuesday, while Thursday will focus on deliberation and decision-making. Login information and the agenda for Tuesday may be found [here](#); Thursday's is found [here](#).

ILLINOIS COMMERCE COMMISSION (ICC)

On September 30, ChargePoint, Inc. (ChargePoint) filed a response to the Motion for Interim Order (Motion) filed by the Attorney General's Office (AGO) on behalf of the People of the State of Illinois on September 16 in consolidated Docket Nos. 22-0432 and 22-0442, considering Commonwealth Edison Company's (ComEd) Beneficial Electrification Plan (BE Plan). ChargePoint urged the Commission's denial of the AGO's Motion. ChargePoint contends that the AGO's "extremely narrow reading" of the Electric Vehicle Act is inconsistent with the plain meaning of the statute. Previously, on September 22, 2022, 15 parties filed direct testimony. Additionally, on September 23, 2022, several parties filed replies to responses

regarding ICC staff's *Combined Motion to Dismiss and Motion for Interim Order*, which sought to strike several components from ComEd's proposed BE Plan and also sought ICC clarification regarding how to calculate the retail rate cap for purposes of the BE Plan. An all-party settlement meeting scheduled for September 29 was postponed to October due to party requests.

On September 15, 2022, ICC staff and intervenors filed direct testimony in Ameren Illinois Company's (Ameren) pending Application for Approval of its BE Plan filed pursuant to the Climate and Equitable Jobs Act, 20 ILCS 627/45. ([Docket Nos. 22-0431, 22-0443.](#)) Ameren's rebuttal testimony is due October 12, 2022.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

On September 22, 2022, FERC [issued an order](#) requiring almost 200 market-based rate entities to submit their delinquent market-based rate database baseline submissions or their market-based rate authorization will be revoked on October 7, 2022.

On September 22, 2022, FERC [issued a Notice of Proposed Rulemaking](#) to establish rules providing incentive-based rate treatment for utilities making certain voluntary cybersecurity investments. In the Infrastructure Investment and Jobs Act of 2021, Congress directed FERC to establish incentive-based rate treatments to encourage utilities to invest in advanced cybersecurity technology and participate in cybersecurity threat information sharing programs. Comments on today's NOPR are due 30 days after publication in the Federal Register.

FERC will convene its [annual Commissioner-led Reliability Technical Conference](#) on November 10, 2022, in person in Washington, D.C. and remotely via Webex.

The next public meeting of the [Joint Federal-State Task Force](#) on Electric Transmission will be held on November 15, 2022 in New Orleans, Louisiana, with a remote Webex option available.

On August 30, 2022, FERC issued a deficiency letter to PJM in the ongoing PJM interconnection queue reform docket. FERC asked PJM to respond to seven issues, including questions affecting how interconnection customers demonstrate Site Control on government property or move a generating facility to an alternate site. PJM has 30 days to respond to FERC's questions.