

**REGULATORY UPDATE FOR SEPTEMBER 13, 2022
(WEEK OF SEPTEMBER 5, 2022)****CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)****New Proposed Decisions and Draft Resolutions¹**

Draft Resolution E-5224. Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) filed a Joint Utility Advice Letter (AL) (PG&E AL 6365-E, SDG&E AL 3872-E, and SCE AL 4610-E), requesting approval of a Vehicle-Grid Integration Emerging Markets and Technology (EMT) Program. This draft resolution denies the Joint Utility AL for several reasons: (1) the Joint Utility AL does not adequately justify the proposed budget; (2) the Joint Utility AL lacks success metrics linked to clear end goals; and (3) the need for the program is unclear due to other efforts that may overlap with the proposed program activities.

R.13-11-005 (Energy Efficiency). This decision finds that SCE mismanaged its energy efficiency upstream lighting program from 2017 through 2019 and failed to ensure that efficient light bulbs were tracked and sold as intended by the program design. As a result, ratepayers funded significant program efforts that resulted in unaccounted-for light bulbs that were reported to have been shipped to grocery and discount stores but could not be verified to have produced (or have even had the potential to produce) energy savings. To remedy this situation, this decision requires the following financial compensation from SCE: (1) \$76.1 million in program funding shall be credited to ratepayers for the administrative costs and the incentive costs of the light bulbs that could not be accounted for; (2) \$6.8 million in shareholder incentives through the Efficiency Savings and Performance Incentive (ESPI) mechanism shall be refunded; and (3) \$19.06 million in fines shall be paid to the State's General Fund for violations of Rule 1.1 of the Commission's Rules of Practice and Procedure. This decision concludes the adjudicatory phase of this proceeding related to SCE's upstream lighting program, but the rest of the proceeding remains open.

Draft Resolution E-5227. On April 27, 2021, SCE filed AL 4480-E, to request approval for its low port rebate level to cover up to \$5,000 per port as a one-time payment for Charge Ready 2 customers installing four or fewer charge ports. As proposed, the rebate would only cover customer-side infrastructure costs, including electric vehicle supply equipment (EVSE), with none of the budget nor Charge Ready 2 program funds applied to cover utility-side infrastructure work. This Resolution approves, with modifications, the low port rebate program. The Resolution requires modifications to SCE's low port rebate proposal for sites installing four or fewer ports under the Charge Ready 2 program. Specifically, this Resolution directs SCE to include customer and utility-side costs for participating sites as part of the originally allocated

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.

funds from the \$333 Million Commission-approved budget for the Make Ready Expansion program and to maintain the original \$16,000 per port cap which includes customer and utility-side costs.

A.20-10-012 (SCE Phase 2 GRC). This is the second and final decision for the Phase 2 General Rate Case (GRC) filed by SCE for cost allocation and rate design. An earlier decision adopted five unopposed partial settlements between SCE and various groups of interested parties. Those settlements left open only a few issues which were litigated and resolved in this decision. They are: (1) Real Time Pricing (RTP) rate design proposals; (2) Solar Energy Industries Association (SEIA) proposal to increase the rate differentials for Schedules TOU-D-4-9PM and TOU-D-5-8PM; and (3) SEIA proposal to implement a new Option S rate for medium and large power customers that includes a daily demand charge. This decision adopts SCE's proposal to leave its existing RTP rate offerings in place while a second pilot program is underway testing a new RTP offer that uses the California Independent System Operator's (CAISO) real time prices and new customer technology. The decision declines to adopt the proposal to implement another concurrent trial of an RTP tariff also with CAISO market prices. This decision denies the proposed changes to TOU-D-4-9PM and TOU-D-5-8PM. It orders SCE to file a detailed proposal for the possible adoption of just and reasonable rates for TOU-D-4-9PM and TOU-D-5-8PM by the earliest of either a Rate Design Window application or its next Phase 2 GRC. This decision denies the proposed adoption of an Option S. It orders SCE to file a detailed proposal for the possible adoption of an Option S in the earliest proceeding of either a Rate Design Window application or its next Phase 2 GRC. Application 20-12-012 is closed.

Voting Meetings

The CPUC will hold its next voting meeting on September 15, 2022. The agenda includes the following energy-related items.

Item 4. R.20-07-013 (Risk-Based Decision-Making Framework). This decision refines certain reporting requirements for the Risk Spending Accountability Reports required of investor-owned utility (IOU) and Small and Multi-Jurisdictional Utility gas and electric utilities pursuant to 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 8. A.20-03-016 (PG&E Gas Demand Pilot Program). This decision dismisses without prejudice Application 20-03-016 (Application) filed by PG&E for approval of its Gas DR Pilot Programs in compliance with Ordering Paragraph 11 of D.19-09-025. Concurrently with its Application, PG&E filed a motion for a ruling to defer consideration of its Application in order to allow the CPUC to issue a final decision in Track 2 of R.20-01-0071 (Track 2 decision, LT Gas Rulemaking). On June 2, 2020, the assigned Administrative Law Judge (ALJ) issued a ruling granting PG&E's motion (ALJ Ruling). The ALJ Ruling directed PG&E to file an

amended application in this proceeding within 60 days of the date of issuance of the Track 2 decision. On September 27, 2021, the CPUC issued D.21-09-042 extending the initial statutory deadline for this proceeding by one year to September 29, 2022. On January 5, 2022, the Commissioner in R.20-01-007, the LT Gas Rulemaking, issued an amended scoping memo setting both the scope and the proceeding schedule for Track 2. The Track 2 decision is currently scheduled for Second Quarter 2023. This decision does not prejudge the merits of PG&E's Application. PG&E may file a new application within 18 months of the issuance of this decision.

Item 9. Draft Resolution E-5215 (EBCE EE Plan). Public Utilities Code Section (PU Code Section) 381.1 gives Community Choice Aggregators (CCAs) the option to elect to become an administrator of cost-effective energy efficiency (EE) programs, subject to CPUC adoption of a CCA's EE Program Administration Plan (EE Plan) that has been approved by the CCA's governing board. East Bay Community Energy (EBCE) submitted a three-year budget request of \$13,463,049 to the CPUC on October 2, 2021, via Tier 3 AL 28-E and supplemental AL 28-E-A on March 10, 2022. This Resolution approves EBCE's request to elect to administer its EE Plan according to the criteria set forth in PU Code Section 381.1(e) and (f)(1)-(6), and CPUC direction in D.14-01-033, on enabling CCAs to administer EE programs. The budget that EBCE requested to receive to fund its EE Plan is \$13,463,049. PG&E is ordered to transfer \$13,463,049 to EBCE for its three-year EE Plan.

Item 12. R.14-07-002 (NEM). This decision modifies D.17-12-022 and D.20-04-012 to simplify the process for forecasting and setting aside funding for the Solar on Multifamily Affordable Housing program.

Item 13. A.22-03-014 (Southwest Gas Move2Zero Program). This Decision dismisses Southwest Gas's application on the ground that it is insufficient and incomplete. The dismissal is without prejudice to Southwest Gas filing for approval of a new or similar program in the future, although Southwest Gas is directed to provide sufficient and complete information in any future application, and to address issues raised in the parties' protests to this application, if relevant.

Item 16. Draft Resolution E-5228. This Resolution provides a link to the final 2022 avoided cost calculator (ACC) and related documentation and data files. The documentation also compares 2022 and 2021 ACC outputs. The Resolution also describes the data and major modeling updates to the 2022 ACC.

Item 17. Draft Resolution E-5212. This Resolution approves, with modifications, California Choice Energy Authority's and EBCE'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 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 33. R.19-01-011 (Building Decarbonization OIR). This Decision adopts Energy Division’s staff proposal to eliminate gas line extension allowances, the 10-year refundable payment option, and the 50 percent discount payment option provided under the current gas line extension rules. The elimination is for all customers in all customer classes effective July 1, 2023. This decision applies to new applications for gas line extensions submitted on or after July 1, 2023. Applications submitted before July 1, 2023 will not be affected by this decision.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Day-Ahead Market Enhancements. The CAISO will host a virtual public stakeholder workshop on September 14, 2022 for the Day-Ahead Market Enhancements initiative. The workshop is intended for collaboration with stakeholders on several elements of the proposal.

WEIM Resource Sufficiency Evaluation Enhancements Phase 2. The CAISO has scheduled a call on September 15 to discuss the Western Energy Imbalance Market (WEIM) Resource Sufficiency Evaluation Enhancements (RSEE) Phase 2 draft tariff language. Comments on the draft tariff language are due September 27.

Transmission Service and Market Scheduling Priorities Phase 2. The CAISO held a stakeholder call on August 11, 2022, to discuss the Transmission Service and Market Scheduling Priorities Phase 2 straw proposal. The CAISO has extended the comment deadline for the Transmission Service and Market Scheduling Priorities Phase 2 straw proposal to September 16.

Extended Day-Ahead Market (EDAM). The CAISO has scheduled an additional EDAM public stakeholder call on September 14, 2022, to discuss the transfer revenue allocation, settlements, and EDAM fees topics of the revised straw proposal. In addition, the comment deadline for the revised straw proposal has been extended from September 20 to September 26.

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

The CAISO has also posted its responses to comments on the 2021-2022 TPP - Accessing Out-of-State Wind Resources stakeholder call discussion, which was held on June 27, 2022. In addition, the CAISO has posted a Request for Expressions of Interest (REOI) to California Load Serving Entities to determine their interest and level of commitment in accessing out-of-state wind resources in Idaho. The response form is provided as Attachment A to the

REOI and expressions must be submitted using that form to regionaltransmission@caiso.com by end of day September 21, 2022.

CALIFORNIA ENERGY COMMISSION (CEC)

AB 205 Emergency Rulemaking: Expansion of CEC Siting Jurisdiction

CEC staff will host a webinar at 10:00 a.m. on September 19, 2022, to present the opt-in certification provisions of Assembly Bill (AB) 205. Staff will seek input on the proposed emergency regulations to implement the new certification program that applies to certain non-fossil-fueled power plants, energy storage facilities, and related manufacturing facilities. For additional information on the webinar, please visit TN# 245945 in Docket No. 22-OIR-01.

As background, on June 30, 2022, California Governor Gavin Newsom signed AB 205, which, among various other things, expands the siting jurisdiction of the CEC to include non-thermal generating facilities, such as solar and wind projects, with a capacity of 50 megawatts (MW) or more. The CEC's siting jurisdiction was previously limited to thermal generating facilities like gas-fired and geothermal power plants with a capacity of 50 MW or more. In addition, AB 205 allows the CEC to have siting jurisdiction over energy storage facilities with a capacity of 200 MW hours or more. Unlike thermal generating facilities, the CEC's expanded siting jurisdiction over solar and non-thermal generating facilities, as well as energy storage facilities, is at the 5 REGULATORY UPDATE 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](#).

Proposed Amendments to SPPE Regulations

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

CEC Business Meetings

The next CEC Business Meeting is scheduled for September 14, 2022. The meeting agenda and backup materials are available [here](#).

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On September 22, 2022, CARB will hold a public meeting on the [Innovative Clean Transit](#) program. Staff will provide an informational update on the program and readiness for regulatory requirements beginning in 2023. The public notice of the meeting is available [here](#).

CARB will hold its next [Board meeting](#) on September 22, 2022. The agenda is available [here](#).

Opportunities for Public Comment

Comments were due on the proposed [2022 State Strategy](#) for the federal Clean Air Act SIP on or before September 12, 2022.

Comments were due in advance of a public meeting on the [Innovative Clean Transit](#) program on or before September 12, 2022.

On August 18, 2022, CARB held a [public workshop](#) to discuss potential changes to the [Low Carbon Fuel Standard](#). Feedback on the workshop and proposed changes may be submitted [here](#) on or before September 19, 2022.

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

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)

September 15, 2022, MPUC Agenda Meeting

The MPUC will meet at 8:00 a.m. PT on September 15, 2022, to address the following matters: (1) Shakopee Public Utilities Commission's and Minnesota Valley Cooperation's service territory transfer; (2) Minnesota Power's customer affordability program; (3) Great Plains Natural Gas Company's conservation improvement program; (4) CenterPoint Energy's conservation improvement program; and (5) Xcel Energy's Sherco solar project.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On Wednesday, September 8, OPUC adopted new rules related to electric utilities' risk-based Wildfire Mitigation Plans, creating new obligations that are intended to proactively reduce wildfire risk. The rules are the culmination of almost two years of stakeholder engagement, and

they are likely to have meaningful implications for both private and public electric utilities in Oregon. The final order can be found [here](#). That same day, OPUC also released a new order related to the transportation electrification planning process by modifying Division 87 of the Oregon Administrative Rules. That order can be found [here](#).

Next Monday, September 19, OPUC will host a virtual staff workshop on docket UM 2225 (re House Bill 2021 Investigation into Clean Energy Plans). The meeting information has not yet been posted but the docket can be accessed [here](#).

Next Tuesday, September 20, OPUC will host a virtual public meeting on docket UM 1930 (re Community Solar Implementation). Two days later, on Thursday, OPUC will host a virtual hearing on the same docket, related to the use of funds for projects using the agent subscription model. The docket for the meeting and hearing can be found [here](#).

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION (WUTC)

On Thursday, September 15 at 9:30 a.m. PT, WUTC will host an open meeting to cover a variety of issues, including the 2022 Renewable Portfolio Standard plans for Avista Corporation, Puget Sound Energy, and PacifiCorp. The meeting agenda can be found [here](#).

ILLINOIS COMMERCE COMMISSION (ICC)

On Friday, September 2, Staff of the Illinois Commerce Commission (Staff) filed a *Combined Motion to Dismiss and Motion for Interim Order* (Motion) requesting the ICC to strike several components of Commonwealth Edison Company's (ComEd) Beneficial Electrification Plan (BE Plan), filed on July 1, 2022, in consolidated Docket Nos. 22-0432 and 22-0442 (available [here](#)). Specifically, Staff seeks dismissal of (1) non-transportation funding components of the BE Plan, including, for example, rebates for electric heat pumps, electric lawn equipment, and installation of induction cooking equipment; (2) rebates for purchasing an electric vehicle; and (3) rebates for the installation of publicly accessible or public sector charging infrastructure under ComEd's proposed Commercial and Industrial and Public Sector program proposals. Staff contends non-transportation funding proposals are beyond the scope of the Electric Vehicle Act, pursuant to which ComEd filed its BE Plan, and that the ICC is prohibited from approving rebates that overlap with existing rebate programs being administered by other Illinois State agencies. Finally, Staff also requests ICC clarification regarding the retail rate cap as it applies to spending authorized under the BE Plan. Responses to the Motion are due September 16 and replies to responses may be submitted by September 23.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

FERC will convene its [annual Commissioner-led Reliability Technical Conference](#) on Thursday, November 10, 2022, in-person in Washington D.C. and 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, LA, with a Webex option available.

On Tuesday, September 6, 2022, the Commission issued an order in Docket Nos. ER22-2009 and ER22-2011 accepting a proposal by certain Duke Energy entities to implement a generator replacement process as part of their generator interconnection procedures. The Commission had previously accepted generator replacement processes filed by Dominion Energy of South Carolina and also by Public Service Company of Colorado (PSCo). The Duke entities' filing was substantively similar to both Dominion and PSCo's previous filings and allows for the owner of a retiring generating facility to submit a generation replacement request to replace its facility with another requiring equal or less interconnection service and have that request be expeditiously studied outside of the normal interconnection process.

On Wednesday, September 7, 2022, the D.C. Circuit heard oral arguments in *Solar Energy Industries Association v. FERC*, D.C. Cir. No. 21-1126. This proceeding stems from the FERC's 2021 orders initially denying and then later granting Broadview Solar's application seeking certification as a qualifying small power production facility and may impact the certification of qualifying facilities going forward. *Broadview Solar, LLC*, 174 FERC ¶ 61,199 (2021), *order on reh'g*, 175 FERC ¶ 61,228 (2021).

On Friday, September 9, FERC issued an order ([here](#)) on compliance and addressing arguments raised on rehearing in a longstanding complaint initiated by Tenaska with respect to network upgrades that the Southwest Power Pool (SPP) had assigned to the company's Clear Creek Wind Project. FERC had initially determined that SPP's use of certain models in restudy was unduly discriminatory or preferential, and ordered SPP to conduct a new restudy with a revised base case. SPP's restudy, as updated in August 2022 with new materials and labor costs, estimated approximately \$102 million in network upgrades. In Friday's order, FERC accepted the results of SPP's restudy, finding that SPP had allocated costs consistent with "but-for" cost allocation standards which in SPP only allocate network upgrade costs when a project crosses a 3% minimum threshold impact. Other projects had impacted the same circuit but below the threshold, and therefore had previously been assigned no costs. But according to FERC, Tenaska's project, on the other hand, crossed the threshold and triggered an overload. FERC found this method for assigning costs to be reasonable.

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.

On August 19, 2022, FERC approved ([here](#)) the Cost Sharing and Recovery Agreement filed by the New York Transmission Owners (NYTOs) and accompanying Rate Schedule 19 filed by the NY Independent System Operator in order to recover the cost of local transmission upgrades that are determined by the New York Public Service Commission (NYPSC) to be necessary to meet New York State's climate and renewable energy goals under state law. FERC rejected LS Power's protest that the proposal was non-compliant with Order 1000, noting that Order 1000 recognizes, and indeed encourages, voluntary participant funding agreements as clarified in its [State Agreement Policy Statement](#). FERC also approved cost allocation on a load-ratio share basis because the upgrades are those that the NYPSC has found to facilitate the

achievement of statewide mandates applicable to the NYTOs, which benefit customers throughout the State.

FERC's next open meeting is September 22, 2022.