

REGULATORY UPDATE FOR NOVEMBER 9 (WEEK OF NOVEMBER 2)**Special Report: “Power Marketing Update”**

Energy development attorney Bo Harvey recently published an in-depth look at one offtake structure, the proxy revenue swap, and how it is typically documented. [Jennifer Martin](#), [Bo Harvey](#), and the rest of our [Energy Development team](#) are always available to help advise on power marketing and offtake structuring.

[Click here to read the update.](#)

California Public Utilities Commission**New Proposed Decisions and Draft Resolutions:¹**

R.14-07-002 (Net Metering). This proposed decision modifies program eligibility for the Disadvantaged Communities – Single-Family Solar Homes program to include California Indian Country, as specified for the Self-Generation Incentive Program. This modification is in response to a petition for modification of Decision 18-06-027 by GRID Alternatives. All other requests included in GRID Alternatives’ petition for modification are denied without prejudice.

A.19-08-002 (PacifiCorp Energy Cost Adjustment Charge). This decision authorizes PacifiCorp to modify its Energy Cost Adjustment Clause (ECAC) rates to allow for recovery of its: 1) adjusted actual net power costs (NPC) and fuel stock carrying charge for 2018; 2) adjusted actual and forecast NPC and fuel stock carrying charge for 2019; and 3) forecast NPC and fuel stock carrying charge for 2020. These new rates shall become effective upon the filing of an advice letter, subject to the Energy Division determining that the rates comply with this decision. In addition, this decision directs PacifiCorp to include additional information in future ECAC filings regarding the adjustments made to the marginal prices used for coal generation dispatch decisions, the execution of new coal supply agreements, as well as whether any environmental response clauses in PacifiCorp’s long-term coal agreements should be invoked.

Voting Meetings:

The Commission’s next voting meeting is scheduled for November 19. The agenda is scheduled to be published on November 9.

The Commission held a voting meeting on November 5, 2020. The agenda included the following items:

¹ Per 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 Commission’s daily calendar, per Rule 14.5.

Item 8: Proposed Resolution E-5106 (Self Generation Incentive Program). On June 2, 2020, the following advice letters were jointly filed by the identified parties, proposing a methodology for calculating the incentive for Large Thermal Energy Storage under the Self Generation Incentive Program: Southern California Gas Company (SoCalGas) 5640-G, Pacific Gas and Electric Company (PG&E) 4255-G/5839-E, Southern California Edison Company (SCE) 4223-E, and the Center for Sustainable Energy (CSE) 112-E. This proposed resolution rejects those jointly-filed advice letters, and the proposed methodology, and requires a joint Tier 2 advice letter from SoCalGas, PG&E, SCE, and CSE to propose a dynamic Large Thermal Energy Storage incentive methodology based on actual system specifications and site-specific monitoring and data collection. **Approved.**

Item 9: Proposed Resolution E-5102. This proposed resolution would approve Clean Power Alliance's Advice Letter 4-E/E-A to create Disadvantaged Communities Green Tariff and Community Solar Green Tariff rates and program design in compliance with Decision 18-06-027. **Approved.**

Item 13: A.20-07-008. This proposed decision would grant Southern California Edison Company's Application for authority to issue a securitized recovery bond to fund fire risk mitigation plan capital expenditures (Recovery Bond). The proposed decision would reduce financing costs by an estimated \$173,500,000 for previously-approved investments, offset by the \$5,355,143 expected cost to issue the Recovery Bond, resulting in a net decrease to ratepayers. **Signed, D.20-11-007.**

Item 19: R.13-11-005 (Energy Efficiency). This proposed decision would continue the Energy Savings Performance Incentive program in its current form, due to the heightened importance of the energy efficiency resource and the fact that the Commission has continued to select the investor-owned utilities as program administrators. The proposed decision also commits the Commission to reexamining the structure of shareholder incentive opportunities further, once several other policy issues related to potential and goal-setting are resolved, currently scheduled for 2021. **Defeated.**

Item 19A: R.13-11-005 (Alternate filed by Commissioner Randolph). This alternate proposed decision would place a moratorium on the Energy Savings Performance Incentive program in its current form, until the Commission resolves policy issues related to potential and goal-setting and until after the portfolio transition process for statewide and third-party programs is completed over the next few years. **Signed, D.20-11-013.**

California Independent System Operator

Upcoming Meetings and Deadlines:

Generator Downsizing Request Submittal Window for Generator Interconnection Projects: Open 10/15/20 to 11/15/20. The California ISO will begin to accept downsizing requests on October 15, 2020, for active interconnection requests and commercial generating facilities seeking to downsize under the annual generator downsizing process. All downsizing

requests and deposits must be submitted to the ISO by 5 p.m. (Pacific Time), November 15, 2020.

Extended Day-Ahead Market. The California ISO has extended the deadline to submit written comments on the Extended Day-Ahead Market bundle 1 straw proposal from October 8, 2020 to November 12, 2020.

Real-Time Settlement Review Draft Final Proposal. The California ISO has scheduled a public stakeholder call on October 28, 2020, to discuss the draft final proposal for the Real-Time Settlement Review initiative. Comments are due November 11, 2020.

FERC Order 831 - Import Bidding and Market Parameters: Revised Draft Tariff Language Posted. The California ISO has scheduled a public stakeholder call on November 10, 2020, to discuss the revised draft tariff language for the FERC Order 831 - Import Bidding and Market Parameters initiative.

Affidavits for Allocating and Retaining Transmission Plan Deliverability Due December 4, 2020. Generation interconnection customers must submit Transmission Plan Deliverability (TP Deliverability) affidavits to the California ISO by December 4, 2020 to be eligible to receive or retain deliverability allocations in the annual TP Deliverability allocation process. This also applies to wholesale distribution access tariff (WDAT) projects studied by the ISO for deliverability.

Energy Storage and Distributed Energy Resources - Default Energy Bid Final Proposal. The California ISO has posted the final proposal for the Energy Storage and Distributed Energy Resources (ESDER) Default Energy Bid initiative. Comments are due November 12, 2020.

2022 Local Capacity Requirements. The California ISO will hold a public stakeholder call on November 3, 2020, to discuss the criteria, assumptions, and methodology to be used in the 2022 Local Capacity Technical study. The ISO has posted a draft study manual that addresses these topics. Comments on the study manual are due November 17.

Western EIM Base Schedule Submission Deadline Draft Final Proposal Posted. The California ISO has scheduled a public stakeholder call on Nov. 6, 2020, to discuss the draft final proposal for the Western EIM Base Schedule Submission Deadline initiative. Comments are due November 13, 2020.

Variable Operations and Maintenance Cost Review: Draft Tariff Language Posted. The California ISO has scheduled a public stakeholder call on Nov. 20, 2020, to discuss the draft tariff language for the Variable Operations and Maintenance Cost Review initiative. Written comments are due November 17.

Board of Governors and Western EIM Governing Body Joint Executive Session Meeting: 11/11/20 Final Agenda. The California ISO has posted the final agenda for the Nov. 11, 2020, Board of Governors and Western Energy Imbalance Market (EIM) Governing Body

joint executive session teleconference meeting to its website. Link here:

<http://www.caiso.com/Documents/Board-Governors-WesternEIMGoverningBodyJointExecutiveSessionMeeting11120FinalAgenda.html>

Market Surveillance Committee Teleconference Meeting: 11/13/20 Final Agenda

The California ISO has posted the final agenda for the Market Surveillance Committee teleconference meeting on Nov. 13, 2020, to its website. Link here:

<http://www.caiso.com/Documents/MarketSurveillanceCommitteeTeleconferenceMeeting111320FinalAgenda.html>

California Air Resources Board

On November 19 and 20, 2020, the California Air Resources Board (CARB) will hold a public hearing to consider amendments to its regulations for the reporting of Criteria Air Pollutants and Toxic Air Contaminants. The proposed amendments will expand CARB's inventories of emissions from stationary sources, on-road and off-road mobile sources, and area-wide sources, i.e., consumer products. The amendments would expand the scope of sources subject to reporting, increasing the number of facilities reporting from about 1,300 to approximately 60,000 at full implementation. The amendments would incorporate a multi-year phase-in for reporting of additional processes and provide abbreviated reporting requirements for thousands of facilities. The amendments would also improve consistency with the Air Toxics "Hot Spots" Program reporting requirements under Assembly Bill 2588. Details on the proposed amendments and the hearing are available [here](#). Written comments can be submitted by mail or electronically [here](#) and must be received no later than November 16, 2020, if they will not be physically submitted at the hearing.

Minnesota Public Utilities Commission

Otter Tail Power Company Rate Case

On November 2, 2020, Otter Tail Power Company ("OTP") filed a rate case for review by the Minnesota Public Utilities Commission ("Commission" or "MPUC"). For final rates, OTP requests a net revenue increase of \$14.5 million (6.77%), which assumes a return on equity of 10.2%, equity ratio of 52.5%, and overall rate of return of 7.59%. It is anticipated that interim rates will take effect on January 1, 2021, and will include a 26.21% increase applied to the customer, energy, demand, fixed, and facilities charges as well as the monthly minimum. After the filing, the Commission noticed a comment period in MPUC Docket No. E-017/GR-20-719, seeking comments on whether OTP's filing complies with the relevant statutes and rules and whether the matter should be referred to the Office of Administrative Hearings for a contested-case hearing.

Minnesota Power Petition to Track and Defer Lost Large Industrial Customer Sales Resulting from the COVID-19 Pandemic

On November 4, 2020, Minnesota Power filed a petition seeking Commission approval to track and record large industrial customer revenues that have been lost because of specific

customers indefinitely idling facilities due to the COVID-19 pandemic. Minnesota Power claims that its current large power customer losses are equivalent to losing its entire residential customer class. As a result, Minnesota Power seeks authority to track and recover the net lost revenues in an amount found to be reasonable by the Commission in Minnesota Power's next general rate case. As far as timing, Minnesota Power seeks Commission resolution by June 1, 2021.

Xcel Energy Rate-Case and Stay-Out Petition

On November 2, 2020, Xcel Energy ("Xcel" or the "Company") filed a multi-year rate case (covering the years 2021-2023) for review by the Commission. In total, Xcel seeks an additional \$597 million, which is broken down into a requested \$406 million increase in 2021, \$99 million increase in 2022, and a \$93 million increase in 2023. For 2021, these numbers include a 10.2% return on equity, equity ratio of 52.5%, and an overall rate of return of 7.35%. These proposed numbers remain relatively unchanged for 2022 and 2023.

As noted in previous updates and filings by Xcel, the Company is also requesting a rate-case stay-out, which allows Xcel to withdraw its pending case and collect revenue through the use of sales, capital, and tax true-up mechanisms. The Commission approved a similar request in 2019, allowing Xcel to withdraw its 2019 rate-case filing. Though noticed separately, the Commission issued notices of comment periods in the rate case (E-002/GR-20-723) and stay-out (E-002/M-20-743) dockets. In the rate case, the Commission seeks comments on whether Xcel's filing complies with the relevant statutes, rules, and previous Commission orders and whether the case should be referred to the Office of Administrative Hearings for a contested-case proceeding. Additionally, the notice in the stay-out docket requests stakeholder feedback whether the Commission should approve the terms of Xcel's request. Initial comments in both dockets are due on November 12, 2020.

Xcel Energy COVID-19 and Civil Unrest Relief for Commercial and Industrial Customers

At the Commission hearing on November 5, 2020, the Commission considered Xcel's petition to provide rate discounts for certain commercial and industrial customers that had peak monthly loads of less than 100 kW before the COVID-19 pandemic and local civil unrest. Parties were generally in favor of approval, and the Commission approved Xcel's request subject to minor timing, tracking and reporting requirements. Once the Commission issues its written order, qualifying parties will receive a credit for the following 8-month period.

Washington Utilities and Transportation Commission

On November 6, 2020, the Washington Utilities and Transportation Commission (WUTC) will hold a public hearing for the adoption of proposed rules in its Energy Independent Act rulemaking (Docket No. UE-190652).

On October 14, 2020, the WUTC issued a notice of opportunity to file written comments and a notice of a proposed rule adoption in its Integrated Resource Plan and Clean Energy Implementation Plan rulemaking proceedings (WUTC Docket Nos. UE-10698 and UE-191023).

Comments on the proposed rules are due on November 12, 2020 and a hearing on the proposed rules is scheduled for December 9, 2020.

Federal Energy Regulatory Commission

President Trump swapped out the chairman of FERC, replacing former Chairman Chatterjee (R) with new Chairman Danly (R). Commissioner Chatterjee recently held a technical conference and issued a policy statement on carbon pricing in RTO/ISO markets. Chairman Danly has served as a Commissioner since March of this year. He has frequently described himself as a “humble regulator” who believes FERC should not use the full extent of its jurisdiction, including in a recent dissent from FERC’s Order No. 2222 (removing barriers to DERs in the wholesale markets). Chairman Danly’s tenure is likely to be short, as President-elect Biden may appoint a new Chairman when he takes office.

The Commission’s next open meeting is November 19, 2020.

FERC announced a roundtable on December 3, 2020, to discuss increased deployment of electric vehicles (EV) and EV charging infrastructure nationwide and their impact on and value to the FERC-jurisdictional transmission system and wholesale electricity markets.

Publications Including Our Insights from Last Week

Power Magazine publishes article by Jason Johns and Jessica Bayles that addresses the tensions between state and federal regulation in the energy industry.

- <https://www.powermag.com/in-search-of-middle-ground-between-state-public-policy-and-federal-regulation/>

Jessica Bayles contributes insights to Power Magazine and E&E News regarding FERC’s technical conference on offshore wind.

- <https://www.powermag.com/vineyard-wind-secures-transmission-agreement-with-iso-ne/>
- <https://www.eenews.net/stories/1063717423>

Utility Dive publishes article by Seth Hilton and Jason Johns that discusses the energy cases that may come before a reconfigured U.S. Supreme Court.

- <https://www.utilitydive.com/news/justice-barretts-confirmation-and-how-it-may-affect-the-energy-industry/588151/>