

**REGULATORY UPDATE FOR JANUARY 31, 2023  
(WEEK OF JANUARY 23, 2023)**

**CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)**

New Proposed Decisions and Draft Resolutions<sup>1</sup>

None.

Voting Meetings

The CPUC will hold a voting meeting on February 2, 2023. The agenda includes the following transportation and energy-related items.

Item 3. R.12-12-011. (Rulemaking to Address Ridesharing and Passenger Carrier Service.) This [decision](#) ends the presumption of confidentiality for the submission of Transportation Network Companies' (TNCs) Annual Reports and requires TNCs to submit their Annual Reports for the years 2014-2019 with limited redactions for information protected on privacy grounds, and denies requests to treat the remaining trip data as private, trade secret-protected information.

Item 5. Resolution No. L-618. This [Resolution](#) would affirm the determinations made by the CPUC's Legal Division staff to withhold certain records relating to TNCs in response to public records requests, but would also direct staff to produce "reasonably segregable portions of emails [that were withheld] that should have been produced."

Item 10. R.13-11-005. (Energy Efficiency Rulemaking.) This [decision](#) addresses several issues related to load-serving entities' energy efficiency portfolios, including improvements to the third-party solicitation process; use of strategic energy management approaches; governance and oversight of the CPUC's database tools; and data sharing protocols for CPUC-authorized energy efficiency programs.

Item 13. R.19-01-011. (Building Decarbonization.) This decision addresses Assembly Bill (AB) 179 implementation authorizing additional funding for the Technology and Equipment and Clean Heating (TECH) Initiative. The decision moves \$50 million from the CPUC's budget to the Building Decarbonization Pilot Program Balancing Account for TECH Initiative operations held by SCE and allows the \$50 million to be used on a statewide basis, consistent with AB 179.

Item 14. I.17-02-002. (Aliso Canyon Investigation.) This decision extends the statutory deadline for the completion of this proceeding, which is investigating the feasibility of

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<sup>1</sup> Per CPUC's 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 CPUC's daily calendar, per Rule 14.5.

minimizing or eliminating the use of the Aliso Canyon natural gas storage facility pursuant to Senate Bill (SB) 380, until November 10, 2023.

Item 24. R.11-03-012, R.14-03-003. (Rulemaking to Address Greenhouse Gas Emissions.) This [decision](#) directs the investor-owned utilities to apply, as soon as practicable, the electric and gas climate credits that would otherwise be applied to their customers' bills in April 2023 to mitigate near-term spikes in customers' utility bills.

Item 28. A.20-09-019. This [decision](#) grants PG&E the authority to recover incremental expenses recorded in (1) the Fire Hazard Prevention Memorandum Account, (2) the Fire Risk Mitigation Memorandum Account, (3) the Wildfire Mitigation Plan Memorandum Account, (4) the Catastrophic Events Memorandum Account, (5) the Land Conservation Plan Implementation Account, and (6) the Residential Rate Reform Memorandum Account. This decision denies the Joint Motion for Approval of the Settlement Agreement filed by PG&E and Cal Advocates, and approves a total authorized recovery of \$1,208,909,522.

Item 28A. A.20-09-019. (Wildfire Mitigation/Catastrophic Event Expenditures.) This presents an [alternate decision](#) from President Alice Reynolds. The alternate decision approves a contested Settlement Agreement, subject to modification reducing the settled amount by \$937,500 for Goodwill donations recorded as Operations and Maintenance in the Wildfire Mitigation Plan Memorandum Account. This modification results in an approved total revenue requirement of \$1,036,961,500 for PG&E's operational and capital expenditures.

## **CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)**

### **Stakeholder Initiatives: Upcoming Meetings and Deadlines**

**Day-Ahead Market Enhancements.** On January 23, the CAISO announced that it is deferring the decision on the Day-Ahead Market Enhancements (DAME) final proposal to a future joint CAISO Board of Governors and Western Energy Imbalance Market (WEIM) meeting. The CAISO states that this extension will allow it to further consider stakeholder feedback that included potential design alternatives before bringing a final design forward for a joint governance decision. The DAME initiative will remain on the February 1 meeting agenda as an informational briefing item only. The final proposal may be found [here](#).

**Extended Day-Ahead Market (EDAM).** On February 1, the ISO Board of Governors and the WEIM Governing Body will consider approving the EDAM proposal. A final version of the CAISO's Market Surveillance Committee report (dated January 27, 2023) on EDAM is posted on the meeting agenda and available [here](#).

**Market Parameter Changes Enhancements.** The CAISO held a public stakeholder meeting on January 26 to discuss the draft final proposal and tariff language for the Market Parameter Changes Enhancement initiative. The draft final proposal and tariff language is available [here](#).

**Transmission Development Forum.** The CAISO, in conjunction with the CPUC and

the participating transmission owners, held its quarterly public stakeholder call on January 25, 2023, to provide status updates on the transmission projects previously approved through the transmission planning process and network upgrades identified in the generation interconnection process.

**Transmission Service and Marketing Scheduling Priorities (TSMSP).** The CAISO has published the TSMSP Phase 2 final proposal, in which it plans to present for decision at the Joint WEIM Governing Body and CAISO Board of Governors meeting on February 1, 2023. Phase 2 of the initiative focuses on developing a longer-term framework for establishing wheeling through scheduling priority across the CAISO system. The final proposal primarily focuses on the derivation of transmission capability at the CAISO interties that can be reserved in advance to establish wheeling through priority across the system. The proposal, along with all other initiative-related information, is available on the [TSMSP initiative webpage](#).

## **CALIFORNIA ENERGY COMMISSION (CEC)**

### Energy System Reliability

The CEC [held](#) a remote access (Zoom) workshop on January 20, 2023 “to provide an overview of the preliminary reliability analysis for Senate Bill 846, Dodd, 2022 (SB 846) related to the prudence of extending the Diablo Canyon power plant to at least 2030 and to provide an overview of the proposed priorities for the Clean Energy Reliability Investment Plan (CERIP).” A detailed schedule was posted prior to the workshop. Additional information regarding SB 846 is available in the workshop [notice](#).

### Offshore Wind – AB 525

The CEC held a remote access [workshop](#) on December 19, 2022 to present the draft report on Preliminary Assessment of the Economic Benefits of Offshore Wind Related to Seaport Investments and Workforce Needs and Standards (Draft Report). On December 29, 2022, the CEC extended the comment period on the Draft Report from January 9, 2023 to February 8, 2023.

On December 15, 2022, the CEC also [released](#) the draft Conceptual Permitting Roadmap for offshore wind.

### Renewables Portfolio Standard (RPS)

On January 4, 2023, the CEC released a [Notice of Availability](#) regarding the Renewables Portfolio Standard Staff Draft 2017-2020 Retail Sellers Procurement Verification Report, CEC-300-2022-011-SD-REV/Docket #21-RPS-01 ([Draft Report](#)). According to the [Notice of Availability](#), the CEC considered adopting the Draft Report at the January 25, 2023 CEC Business Meeting. The Notice of Availability also stated that CEC staff strongly encouraged the submission of written comments to the Docket Unit no later than 5:00 p.m. on January 19, 2023.

### Lithium Valley Commission

The Lithium Valley Commission held a meeting remotely on January 20, 2023. Additional information is available [here](#).

### Reliability Reserve Incentive Programs (Docket No. 22-RENEW-01)

On January 27, 2023, the CEC held a remote access workshop to discuss the Demand Side Grid Support (DSGS) and Distributed Electricity Backup Assets (DEBA) programs. According to the workshop [notice](#), information gathered during the workshop will be used to inform potential modifications to the DSGS program guidelines and the development of the new DEBA program. Workshop session start times and additional information are available in the notice, which also states that a detailed workshop schedule will be posted prior to the workshop in [Docket No. 22-RENEW-01](#).

### Gas Research and Development (Gas R&D)

The CEC held a remote access workshop on January 24, 2023 to discuss the Gas R&D Program's proposed energy-related gas research initiatives for fiscal year 2023-24. Additional information is available [here](#).

### CEC Business Meetings

The next CEC Business Meeting is [scheduled](#) for February 15, 2023.

## **STATE WATER RESOURCES CONTROL BOARD (SWRCB)**

On January 4, 2023, the SWRCB published a [Notice of Document Availability, Opportunity for Public Comment, and Public Hearing](#) (Notice) regarding the Draft Staff Report and Draft Amendment to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling to Extend the Compliance Schedule for Alamitos, Huntington Beach, Ormond Beach, and Scattergood Generating Stations, and the Diablo Canyon Nuclear Power Plant (OTC Policy Amendment). According to the Notice, the Draft Staff Report and Draft Amendment will be released for public comment on or before January 31, 2023, and written comments are due by 12:00 p.m. on March 17, 2023. A Public Hearing is scheduled for March 7, 2023. The proposed OTC Policy Amendment would extend the compliance date for the following power plants:

- Alamitos Generating Station (Alamitos) Units 3, 4, and 5; Huntington Beach Generating Station (Huntington Beach) Unit 2; and Ormond Beach Generating Station (Ormond Beach) Units 1 and 2 for three years, from December 31, 2023 to December 31, 2026, to support system-wide grid reliability.
- Scattergood Generating Station (Scattergood) Units 1 and 2 for five years, from December 31, 2024 to December 31, 2029, to support local system reliability.

The amendment also incorporates revisions to the compliance date for Diablo Canyon Nuclear Power Plant (Diablo Canyon) Units 1 and 2 to October 31, 2030, which reflects the extension provided by SB 846.

### **CALIFORNIA AIR RESOURCES BOARD (CARB)**

On February 13, 2023, CARB will hold a public workshop to discuss proposed changes to the draft language of the proposed [Advanced Clean Fleets](#) regulation. The Board heard the draft regulation on October 27, 2022 and directed staff to discuss and make modifications to the proposed regulation to address stakeholder concerns. At the workshop, staff will discuss the proposed changes to the draft regulatory language and solicit feedback from stakeholders on the changes. Registration and further information are available [here](#).

At the February 23-24, 2023 Board meeting, CARB will conduct a public meeting to consider recommendations for additional communities for selection for the AB 617 [Community Air Protection Program](#). At the meeting, the Board will receive an update from staff on the annual AB 617 Implementation Memorandum.

#### Opportunities for Public Comment

On January 20, 2023, CARB held a [public workshop](#) on potential changes to the California Oil and Gas Methane Regulation. Comments on the draft changes to the regulation may be provided to CARB [here](#) on or before February 10, 2023.

Comments on the recommendations for communities for selection for participation in the AB 617 [Community Air Protection Program](#) may be submitted to CARB [here](#) on or before February 13, 2023, or provided at the February 23-24, 2023 hearing.

## **WASHINGTON LEAST-CONFLICT SOLAR-SITING PROGRAM**

The Washington State University Energy Program is currently leading a voluntary, non-regulatory effort that engages stakeholders, tribes, and state agencies in a process to identify least-conflict areas for utility-scale solar development in eastern Washington. The state-funded project will make its spatial data available to the public, create maps highlighting the least-conflict areas in the region, and produce a final report by June 30, 2023. The second public meeting was held on January 18, 2023. Information about the meeting, including the agenda and a video of the proceedings, is available [here](#).

## **OREGON DEPARTMENT OF ENERGY**

The Oregon Department of Energy has opened applications for the second round of the Community Renewable Energy Grant Program. Grants are expected to total \$12 million, and the program is open to Oregon Tribes, public bodies, and consumer-owned utilities. The application period closes on February 12, and information can be found [here](#).

## **OREGON ENERGY FACILITIES SITING COUNCIL (EFSC)**

At its meeting on December 16, 2022, EFSC adopted amendments to the Protected Areas, Scenic Resources, and Recreation Standards for the siting of large energy facilities in Oregon, effective December 19. The permanent rule changes alter the siting standards in several ways, although the new standards will only apply to the review of applications or requests for amendments filed on or after the effective date. Most significantly, the new standards (1) require the applicant to identify the managing agency of any protected areas in the study area, (2) require EFSC to assess the visual impact to State Scenic Resources, (3) allow EFSC to consider evidence related to impacts to scenic areas and recreational opportunities outside the analysis area, and (4) broadened the definition of Protected Area. The changes create additional siting considerations and risks for developers, and the Fiscal Impacts Advisory Council found that the rule changes are likely to have a significant impact on small businesses. The [final staff report](#) and [permanent rule](#) are available.

## **OREGON PUBLIC UTILITIES COMMISSION (OPUC)**

On Thursday, February 9 at 9:30 a.m. PST the OPUC will hold a special rulemaking deliberation meeting in the docket of AR 631 (re Rulemaking to Address Procedures, Terms, and Conditions Associated with Qualifying Facilities (QF) Standard Contracts). The proposed changes, including to the cost allocation of new infrastructure, the procurement of power purchase agreements, and other requirements, can be found [here](#). Final comments are due by 3:00 p.m. on February 10 and meeting access information is available [here](#).

On Friday, January 20, the OPUC issued order 23-005 in docket UM 2032 (re Staff Investigation into Treatment of Network Upgrade Costs for QFs [Qualifying Facilities]). In the order, the OPUC upheld the current policy of requiring a QF generator to pay for all costs associated with interconnection, including construction upgrades (including upgrades to the distribution system, collectively called “Network Upgrades”), except to the extent that the



generator can show quantifiable system-wide benefits from the Network Upgrades. Recognizing the inherent challenges with making this showing, the order creates some new processes intended to increase transparency in the transmission upgrade process.

The order also allows any on-system QF to choose to be studied for both Network Resource Interconnection Service (NRIS) and Energy Resource Interconnection Source (ERIS), at the QF's expense. Currently, QFs are required to study interconnection using NRIS. ERIS determines upgrades needed to safely inject power onto the grid, but NRIS goes a step further by also studying the upgrades needed to safely deliver that power to the utility's load. Utilities are now directed to engage in negotiation of non-standard contracts with QFs that choose to interconnect with a host utility using ERIS, so long as the QF commits to curtailment at a level that obviates the need for Network Upgrades otherwise identified in a NRIS report. The full order can be found [here](#).

### **ILLINOIS COMMERCE COMMISSION**

A Proposed Order from the Assigned ALJ regarding the Beneficial Electrification Plan (BE Plan) filed by Ameren Illinois Company is expected to issue on or around February 10, and a Proposed Order from the Assigned ALJ regarding the BE Plan filed by Commonwealth Edison Company is expected to issue on or around February 17, 2023.

### **FEDERAL ENERGY REGULATORY COMMISSION (FERC)**

Acting Chairman Willie Phillips oversaw his first monthly meeting last week as head of FERC. The agenda was understandably light for the first meeting of the year; however, FERC did take the following notable action:

- FERC [granted](#) a waiver requested by Shullsburg Wind Farm, which sought relief from having its interconnection milestone deposits that were made to the Midcontinent ISO (MISO) disbursed to five other interconnection customers as the result of cost shifting upon the applicant's termination of its interconnection agreement. FERC reasoned that MISO could retain the deposits in escrow until the "Harm Payments" were needed to compensate other generators for cost shifts, although FERC found that such cost shifts may not in fact occur as the result of reimbursement rights for upgrades in the ATC territory of MISO.

On November 29, 2022, FERC approved PJM Interconnection, L.L.C.'s comprehensive interconnection queue reform proposal, significantly altering how interconnection requests will be processed in the region. Our full client alert is available [here](#).

On January 10, 2023, the MISO Transmission Owners (TOs) filed an [Answer](#) to the protests to their November 30, 2022 filing to eliminate Reactive Power Compensation within the standard power factor range. The filing (which was supported by most but not all of the MISO TOs) was vigorously opposed by numerous independent generation owners in MISO on multiple grounds. Some protesters urged the TOs to wait for FERC action on the pending [Notice of Inquiry](#) regarding reactive power capability compensation, but the TOs countered that they

“acted now to stop the increasing burden on Transmission Customers.” (Answer at 5, 42.) The TOs pointed to support for their filing by many MISO state regulatory entities, some of whom claimed that termination of Reactive Power Compensation will produce cost savings by stopping generators from recovering revenues from consumers for “a service that they may not have ever needed or received.” (Answer at 4.) The TOs also argued that terminating compensation for reactive power capability will not adversely impact grid reliability because other RTOs (*e.g.*, CAISO and SPP) that provide no compensation have suffered no apparent harm to system reliability. (Answer at 6, 23-24.) The TOs’ Answer rejected the argument that their filing violates the “comparability principle” because they are competitively advantaged over independent generators by being able to charge reactive power costs through state-regulated cost-based rates to retail customers. (Answer at 8-11.) According to the TOs, independent generators are free to negotiate compensation for reactive power capability from the power purchaser through their market-based rates for real power.

On January 11, 2023, FERC issued in *Transcontinental Gas Pipe Line Company, LLC*, 182 FERC ¶ 61,006 (2023), its [Order](#) authorizing Transcontinental Gas Pipe Line Company, LLC (Transco) to construct a \$950 million expansion of its natural gas pipeline in the Northeast U.S. The project, known as the Regional Energy Access Expansion, will enable Transco to increase deliveries to the East Coast, predominantly in New Jersey, by over 829,000 dekatherms per day. Transco’s filing was supported by binding precedent agreements for the full capacity of the project, but it was opposed by the New Jersey Board of Public Utilities, the New Jersey Division of Rate Counsel, and Sierra Club, among others. The opponents took issue with the purported need for the new pipeline capacity and failure to consider non-pipeline alternatives. FERC, however, found adequate need for the project in the binding precedent agreements, which it required be converted into firm contracts for 100% of the capacity before proceeding with the project. (Order at ¶ 34.) FERC’s environmental analysis included a discussion of greenhouse gas emissions (GHG) and climate change and an assessment of the percentage increase in regional impacts from the project. (Order at ¶ 71.) But FERC declined to characterize these impacts and emissions as significant or insignificant because of its ongoing generic proceeding to determine whether and how to conduct significance determinations for GHG emissions going forward. *Interim GHG Policy Statement*, 178 FERC ¶ 61,197 at P 2 (2022).