REGULATORY UPDATE FOR JULY 12, 2022 (WEEK OF JULY 4, 2022)

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions[1]

None.

Voting Meetings

The CPUC's next voting meeting will be held July 14, 2022. The agenda includes the following energy-related items:

Item 2. R.11-09-011 (Rule 21). This decision determines that an increasing number of large generating facilities interconnecting through the transmission grid under the net energy metering tariff, i.e., Rule 21, creates challenges to the ability of the California Independent System Operator (ISO) to ensure the safety and reliability of the transmission grid. To address this concern, the CPUC finds that an immediate revision of the net energy metering exception in Section B.1 of Rule 21 is necessary as there are no viable solutions in the record to address the concern. Hence, Section B.1 is revised to limit the exemption of net energy metering generating facilities to those facilities less than or equal to one megawatt of capacity. The revision to Section B.1 is not applicable to projects with a Permission to Operate letter or those projects with a materially complete interconnection application, submitted as of May 6, 2022. PG&E, SDG&E, and SCE are directed to submit a Tier 1 AL within 30 days of the adoption of this decision, revising Rule 21 and all related tariffs to comply with this change. A second exception in Section B.1 of Rule 21, for non-export generating facilities, is maintained at this time as non-export generating facilities do not create the same safety and reliability concerns as net energy metering generating facilities. The Energy Division is authorized to facilitate a workshop, within 90 days of the adoption of this decision, to discuss specific circumstances under which non-export facilities could create material operational challenges, including load masking, and how to address any such challenges.

Item 3. R.20-01-007 (Long-Term Gas System Planning). This decision resolves issues related to questions from Tracks 1A and 1B of the April 23, 2020 Assigned Commissioner's Scoping Memo and Ruling. Specifically, it addresses questions 1 through 5 of Track 1A and questions 1 and 2 of Track 1B. This decision additionally requires Southern California Gas Company and PG&E to maintain adequate backbone capacity to meet the average day in a 1-in-10 cold and dry year standard established by CPUC D.06-09-039. This decision establishes a

[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.

framework for issuing citations when a utility fails to maintain adequate backbone capacity as set forth in Appendix A.

Item 6. R.08-08-009/R.11-05-005 (Legacy RPS Proceedings). This decision denies two petitions for modification of D.10-12-048 related to potential security issues associated with making certain transmission and distribution system information available to the public. In D.10-12-048, the CPUC adopted the renewable auction mechanism (RAM) to provide opportunities for development of small renewables portfolio standard (RPS) projects. In two separate petitions to modify D.10-12-048, three investor-owned utilities assert that, for security reasons, this system information should be treated as confidential and should not be made available to the public. Because RAM has now been operating for approximately a decade with the transmission and distribution system information already made available to the public, there are now other proceedings in which the CPUC has required public disclosure of the same or similar information, and no valid security concerns have been demonstrated that warrant modification of D.10-12-048, the CPUC dismisses the petition of SCE for modification of D.10-12-048, filed on December 16, 2011 in R.08-08-009, and the petition of PG&E, SDG&E, and SCE for modification of D.10-12-048 and Resolution E-4414, filed on December 10, 2018 in R.11-05-005, as moot.

Item 7. Resolution E-5217. This resolution revises existing requirements for PG&E, and adopts new requirements for SCE and SDG&E to standardize their respective annual end-of-year consolidated electric revenue and January 1 rate change AL filings. These requirements are needed to establish uniform filing procedures for these utilities to provide a more efficient process to implement revenue requirement changes previously approved by the CPUC and the Federal Energy Regulatory Commission (FERC), and for the amortization of regulatory accounts. This resolution requires these utilities to file a Tier 2 AL by November 5 of the year prior to the January 1 rate change with initial estimated revenue requirement amounts, and then subsequently update these forecasts with the actual amounts that were authorized in a separate Tier 1 AL to be filed by December 31.

Item 13. A.20-07-020 (PG&E GT&S Capital Expenditures). This decision approves a settlement agreement authorizing PG&E to recover $356.349 million in revenue requirements over a 60-month amortization period for capital expenditures PG&E incurred in 2011-2014 for its gas transmission and storage (GT&S) system. The settlement agreement reduced PG&E's request for $416.3 million by $60 million in revenue requirement and increased PG&E's requested amortization period of 36 months by an additional 24 months. PG&E incurred these capital expenditures from 2011 to 2014 because of additional GT&S work it had to perform to comply with regulatory and legislative mandates and directives imposed on PG&E after the 2009 San Bruno gas pipeline explosion (San Bruno explosion). The additional work PG&E performed to meet new regulatory directives significantly exceeded the level of GT&S work and costs forecasted in the GRC prior to the San Bruno explosion, the Gas Accord V proceeding, and Application 09-09-013.

Item 14. R.17-06-026 (PCIA). This decision establishes a standard process for reviewing representatives of community choice aggregators to (i) access confidential Energy Resource Recovery Account data to develop Power Charge Indifference Adjustment forecasts and (ii) disclose non-confidential analyses of Power Charge Indifference Adjustment forecasts to community choice aggregators. This decision also confirms that the CPUC's staff should exclude Voluntary Allocations from calculations of the Renewable Portfolio Standard Market Price Benchmark.

Item 16. Resolution E-5008. This resolution approves, with modifications, the bill credit mechanism and the implementation tariffs proposed by PG&E, SCE, and SDG&E to end recovery of costs of a Utility DR program from customers enrolled in a CCA or ESP DR program deemed similar to the Utility DR program. Additionally, this resolution approves PG&E and SDG&E's proposals for recording incremental costs associated with implementing the bill credit mechanism. As SCE did not file a proposal, its plan to record costs is unknown, and this resolution directs SCE to file a similar proposal via a Tier 1 AL.

Item 22. Resolution E-5084. This resolution approves SCE's AL 4746-E, which requests approval of its Amended Notice Protocol for Customer Advance Notice of Transfer to a Community Choice Aggregation Service. The Amended Notice Protocol would waive the six-month notice and form submission requirements for residential customers who wish to transfer from SCE to any Participating Community Choice Aggregator outside of the Automatic Enrollment period.

Item 36. R.18-07-006 (Affordability of Utility Service). D.20-07-032 adopted three metrics, the Affordability Ratio, Hours-at-Minimum-Wage, and Socio-Economic Vulnerability Index, by which the CPUC would assess the relative affordability of essential utility service across industries and proceedings, including examination of how different geographic areas of California are impacted. This decision directs when and how the affordability framework will be applied in CPUC proceedings and further develops the tools and methodologies used to calculate three affordability metrics.

Item 37. R.___________(new rulemaking). This rulemaking seeks to enable widespread demand flexibility through electric rates. The CPUC will establish demand flexibility policies and modify electric rates to advance the following objectives: (a) enhance the reliability of California's electric system; (b) make electric bills more affordable and equitable; (c) reduce the curtailment of renewable energy and greenhouse gas emissions associated with meeting the state's future system load; (d) enable widespread electrification of buildings and transportation to meet the state's climate goals; (e) reduce long-term system costs through more efficient pricing of electricity; and (f) enable participation in demand flexibility by both bundled and unbundled customers. This rulemaking will consider updates to the CPUC's rate design principles, guidance principles for demand flexibility, and how to streamline the patchwork of niche rates and programs to expand the use of demand flexibility beyond early adopters. Further, this proceeding will consider how demand flexibility policies, rates, tools, and programs can better support equitable and affordable rates for all Californians and advance the CPUC's Environmental and Social Justice Action Plan. This rulemaking will update the CPUC's rate design principles and guidance for advancing demand flexibility. The CPUC may also modify, consolidate, or eliminate existing rates and authorize additional pilots, rates, programs, studies, or tools.

CALIFORNIA ISO

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Energy Storage Enhancements. The California ISO's public stakeholder web meeting previously scheduled for June 30, 2022, to discuss the second revised straw proposal for the Energy Storage Enhancements initiative, was rescheduled to July 7. Written comments are now due July 20, 2022.

2021-2022 Transmission Planning Process. The California ISO, with the California Energy Commission (CEC) and CPUC, held a public stakeholder call on July 6, 2022, to provide an update on the 2022-2023 Transmission Planning Process. The comment deadline has been extended to July 20, 2022.

Extended Day-Ahead Market. The California ISO will host a series of virtual Extended Day-Ahead Market (EDAM) initiative public stakeholder workshops on July 11, 19, and 20, 2022. The workshops are intended to discuss various elements of the EDAM straw proposal, and stakeholder comments, in further detail.

The California ISO and PacifiCorp will also jointly host an EDAM initiative public stakeholder workshop, offered in-person and virtually, on July 26-27, 2022 at the Sheraton Salt Lake City Hotel. The workshop is intended to discuss various elements of the EDAM design. If you plan to attend the meeting in-person, you must register by July 21.

WEIM Resource Sufficiency Evaluation Enhancements Phase 2. The California ISO scheduled a stakeholder call on July 11, 2022, to discuss the Western Energy Imbalance Market (WEIM) Resource Sufficiency Evaluation Enhancements Phase 2 straw proposal. Comments are due July 25.

Price Formation Enhancements. The California ISO is holding a public stakeholder call on July 12, 2022, to discuss the issue paper for the new Price Formation Enhancements initiative. Please submit written comments on the issue paper by end of day July 26, 2022.

CALIFORNIA ENERGY COMMISSION

Offshore Wind

On May 18, 2022, CEC staff held a workshop on offshore wind energy development off the California coast focused on "Maximum Feasible Capacity and Megawatt Planning Goals for 2030 and 2045." During the workshop, CEC staff presented a draft report that includes staff's proposed findings and recommendations addressing the requirements of AB 525 for the CEC to evaluate and quantify the maximum feasible capacity of offshore wind to achieve reliability, ratepayer, employment, and decarbonization benefits and establish megawatt offshore wind planning goals for 2030 and 2045. A summary of the workshop can be found on the Stoel Rives Renewable + Law blog here.

Since the May 18 workshop, the CEC has removed Item 3 from the CEC's May 24, 2022 Business Meeting agenda, which had previously indicated that the CEC would consider adoption of the California Offshore Wind Energy Development Report at the May 24 Business Meeting. On May 23, 2022, the CEC circulated an update regarding the removal of the agenda item to subscribers of the CEC's Offshore Renewable Energy List. The email correspondence stated the following regarding removal of the draft report from the May 24 agenda:

> In light of new information submitted during the workshop and public comment opportunity, including information recommending that the CEC establish different MW offshore wind planning goals for 2030 and 2045 than those in the draft report based on studies released after the draft report posted; Commissioner Vaccaro will conduct a public workshop to further examine this new information to consider possible changes to the draft report recommendations for MW offshore wind planning goals for 2030 and 2045.

On June 27, 2022, the CEC held a workshop further evaluating the information received during the May 18 workshop and in public comments related thereto. The purpose of the June 27 workshop was to provide the CEC and the public an opportunity to review and discuss the specific studies relied upon in the draft report. Additional information regarding the workshop, including the workshop schedule and presentation materials, is available here.

The draft report will be considered by the CEC at the July 13, 2022 Business Meeting (see Agenda Item 7, here).

AB205: Expansion of CEC Siting Jurisdiction

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. 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.

Integrated Energy Policy Report (IEPR)

On July 20, 2022, the CEC will hold a workshop to discuss approaches to ensure meaningful community engagement and develop an equity and environmental justice framework. The workshop will focus on economic opportunity to support the state's transition to a clean energy future. The workshop is scheduled to be held both in-person (in Bakersfield) and via remote attendance and will commence at 10:00 a.m. PT. For additional information, please see TN #243968 in Docket No. 22-IEPR-04.

Lithium Valley Commission

The next Lithium Valley Commission meeting will be held at 9:00 a.m. PT on July 21, 2022. For additional information regarding physical meeting locations and remote access instructions, please visit the 2022 IEPR Update page or see TN #243993 in Docket No. 20-LITHIUM-01.

CEC Business Meetings

The next CEC Business Meeting is scheduled for July 13, 2022. The agenda is available here.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On July 28, 2022, CARB will hold a virtual listening session on *Zero-Emission Trucks – How Do We Get There?* Registration is available here. The session will solicit feedback from commercial vehicle owners and populations impacted by poor air quality, as the state moves to transition trucks and buses to zero-emission technology by 2045 to meet air quality standards and greenhouse gas reduction goals. The state has put into place and is developing various regulations to achieve these goals, including the Advanced Clean Trucks Regulation, the proposed Advanced Clean Fleets Regulation, the Zero-Emission Transport Refrigeration Unit Regulation, the Innovative Clean Transit Regulation, and the Zero-Emission Powertrain Certification.

CARB will hold its next Board meeting on August 25-26, 2022. The full agenda will be available here 10 days prior to the meeting.

Opportunities for Public Comment

CARB's draft report and associated data dashboard on implementation of California's Sustainable Communities and Climate Protection Act are available for public comment through July 14, 2022. Comments may be submitted to sustainablecommunities@arb.ca.gov.

The CARB Low Carbon Fuel Standard Crude Oil Life Cycle Assessment, Calculation of 2021 Crude Average Carbon Intensity Value, is available for public comment until July 15, 2022. The link to submit comments is available here.

CARB held a virtual public workshop on July 7, 2022 to discuss potential changes to the Low Carbon Fuel Standard. Comments may be submitted here on or before August 8, 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, issued in 2018. Comments on the draft People's Blueprint may be submitted to CARB here on or before September 30, 2022.

CARB has held a series of public workshops on draft regulatory language for the proposed Advanced Clean Fleets Regulation to achieve zero-emission medium and heavy-duty truck and bus fleets by 2045. Informal comments on the proposed regulation may be submitted here on or before December 31, 2022.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

MPUC July 14, 2022 Agenda Meeting

The MPUC will hold its weekly agenda meeting on July 14, 2022, at 8:00 a.m. PT. At the meeting, the MPUC will address the following four matters: (1) CenterPoint Energy's petition for approval of an affiliated interest agreement; (2) approval of the Minnesota gas utilities' gas affordability annual reports; (3) LTD Broadband's petition to revoke eligible telecommunications carrier; and (4) SunShare, LLC's formal complaint against Xcel Energy.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

OPUC Approves Idaho Power Company's Cogeneration and Small Power Production Rates

On July 6, 2022 the OPUC issued Order 22-246 which approved Idaho Power Company's (IPC) update to its Schedule 85, Cogeneration and Small Power Production Standard Contract Rates. However, the OPUC directed IPC to move the start of its deficiency period pricing from January 1, 2023, to January 1, 2024. The final order can be located here.

OPUC Meetings This Week

On July 12, 2022 at 9:30 a.m. PT, the OPUC staff is hosting a public meeting in a wide range of dockets including AR 651 (related to direct access rulemaking) and UM 1728 (related to PGE updates to Schedule 201 Qualifying Facility (10 MW or less) avoided cost).

On July 14, 2022 at 9:30 a.m. PT, the OPUC staff is holding a public hearing in UM 2166 (related to PGE's 2021 All Source Request for Proposal). The staff's report for the special meeting can be located here.

On July 15, 2022 at 9 a.m. PT, the OPUC staff is holding a workshop in UM 2111 (related to staff's investigation into interconnection processes and policies). The workshop notice can be located here.

FEDERAL ENERGY REGULATORY COMMISSION

At its June 16, 2022, open meeting, the FERC (or Commission) issued a notice of proposed rulemaking (NOPR), *Improvements to Generator Interconnection Procedures and Agreements*, 179 FERC ¶ 61,194 (2022), proposing reforms to the Commission's standard generator interconnection procedures and agreements. The goal of the NOPR is to reduce queue backlogs and expedite the process for connecting new electric generation facilities to the transmission grid, and to do what the Commission has proposed – altering its 20-year-old approach to processing interconnection requests to align with "first-ready, first-served" methods used in the organized markets around the country. Read more about the NOPR here.

PJM Interconnection, L.L.C. (PJM) filed modifications to its Open Access Transmission Tariff in Docket No. ER22-2110 to move its own interconnection queue to a clustered "first-ready, first-served" approach used by other regional transmission organizations and transmission providers. PJM requested a Commission order accepting the filing by October 3, 2022, with an effective date of January 3, 2023.

On July 6, 2022, ISO-NE filing proposed rules on distributed energy resource (DERs) interconnection to FERC. ISO-NE argues that the current process, where some DERs use the ISO-NE interconnection process while others use the state interconnection process, is inefficient and results in coordination issues. ISO-NE proposes that all new DERs utilize the state process instead of the ISO process. This would remove the optionality provided to transmission owners, who currently determine what interconnection process DERs use.

On July 5, 2022, FERC conditionally granted NYPA's request for certain transmission incentives. NYPA filed its request on February 10, 2022, and requested authorization for a 50-basis point ROE adder and a cost-containment mechanism with a performance-based rate incentive inclusive of tiered ROE premiums with a cost cap provision (Performance-based ROE Incentive). The Commission approved the filing, agreeing with NYPA that the ROE adder was needed to reflect the risks and challenges associated with NYPA's investment in a transmission project in northern New York. The Commission approved the Performance-based ROE Incentive, finding that the cost-containment mechanism incorporated in NYPA's proposed Performance-based ROE Incentive mitigated the risk of cost overruns for ratepayers while also incentivizing NYPA to come in under the proposed cost cap.

On June 30, 2022, the U.S. Supreme Court ruled in a 6-3 decision that the Environmental Protection Agency (EPA) lacks the authority under the Clean Air Act to limit greenhouse gas (GHG) emissions from power plants through "generation shifting," i.e., by increasing the use of cleaner energy resources like wind and solar and decreasing the use of dirtier resources like coal. *West Virginia v. EPA*. The Court's decision reverses and remands the D.C. Circuit ruling that vacated both the Trump administration's repeal of Obama administration's Clean Power Plan and its replacement with the Trump administration's Affordable Clean Energy Rule. The Court held that the general grant of authority in Section 111(d) of the Clean Air Act does not authorize the EPA to establish emission standards for existing power plants based on the generation shifting approach taken in the Clean Power Plan. In reaching its decision, the Court said that EPA's effort to regulate GHG emissions by making industry-wide changes violated the "major questions doctrine" under which the Court applies a more skeptical review of "a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted." No. 20-1530 et al., slip op. at 20 (U.S. June 30, 2022).

Whether the Court's ruling in *West Virginia v. EPA* will impact or alter FERC's regulatory policymaking initiatives remains to be seen. The Court's application of the "major questions doctrine" signals a significant shift in the Court's approach to statutory interpretation and to the role of administrative agencies in implementation of their statutory authority. The Court's reasoning could be applied to the FERC's current initiative to evaluate the GHG emissions and impacts on climate change of proposed new natural gas pipeline projects in determining whether to grant a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act (NGA). *Order on Draft Policy Statements*, 178 FERC ¶ 61,197 (2022). Arguments are already being made that FERC's heightened review and assessment of the environmental impacts associated with a pipeline project's GHG emissions go well beyond FERC's statutory authority under the NGA and are of such "economic and political significance" that only Congress can authorize such regulation.