

**REGULATORY UPDATE FOR OCTOBER 25, 2022
(WEEK OF OCTOBER 17, 2022)**

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC)

New Proposed Decisions and Draft Resolutions¹

None.

Voting Meetings

The CPUC held a voting meeting on October 20, 2022. The agenda included the following energy-related items.

Item 2. Resolution E-5221. The Database for Energy Efficient Resources (DEER) contains information on energy-efficient technologies and measures. DEER provides estimates of the typical energy-savings potential for these technologies in residential and nonresidential applications. DEER is used by California Energy Efficiency (EE) Program Administrators, private sector implementers, and the EE industry across the country to develop and design energy efficiency programs. This resolution approves updates to the DEER for program year (PY) 2024 and a revised version of DEER for PY2023 and PY2022, in compliance with D.15-10-028, D.21-05-031, and Resolutions E-4818, E-4952, E-5009, E-5082, and E-5152. **Held to November 3 meeting.**

Item 4. Resolution E-5224. PG&E, SDG&E and 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 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. **Approved.**

Item 5. 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, with none of the budget or 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 funds from the \$333

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.

million CPUC-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. **Approved.**

Item 6. A.20-10-012 (SCE CARD Application). 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 disposes of these issues in the following manner:

1. 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; SCE's proposal to implement another concurrent trial of an RTP tariff also with CAISO market prices is not adopted.
2. Denies the proposed changes to TOU-D-4-9PM and TOU-D-5-8PM. SCE is ordered to file a detailed proposal for the possible adoption of just and reasonable rates for TOU-D-4-9PM and TOU-D-5-8PM with its next Phase 2 GRC.
3. Denies the proposed adoption of an Option S. SCE is ordered to file a detailed proposal for the possible adoption of an Option S in its next Phase 2 GRC.

Signed, D.22-10-022.

Item 10. Resolution E-5235. This resolution approves SDG&E amendments to one system reliability contract for capacity procured to meet requirements of D.19-11-009. The contract with Ortega Grid, LLC is amended to delay the online date by one year to June 1, 2023, in exchange for a reduction in the agreement's original contract price. **Approved.**

Item 11. A.20-10-011 (PG&E EV Pilot). This decision adopts an uncontested settlement establishing export compensation rules for certain customers of PG&E taking service on an RTP rate. The uncontested settlement was jointly filed by PG&E, the Vehicle-Grid Integration Council, the Public Advocates Office, and Electrify America, LLC. **Signed, D.22-10-024.**

Item 21. R.20-05-012 (SGIP OIR). This decision grants the petition of SCE to modify D.22-04-036, Decision Establishing Heat Pump Water Heater Program Requirements. Accordingly, D.22-04-036 is modified to allow SCE to transfer the Heat Pump Water Heater program funds to the third-party program administrator/program implementer quarterly, based on: (1) quarterly budgets submitted by the third party and approved by the Energy Division, and (2) actual, reasonable expenditures supported by quarterly reporting with documentation to the Energy Division. **Signed, D.22-10-028.**

Item 22. R. ___ - ___ - ___ (New BioMAT OIR). The purpose of this rulemaking is to implement Assembly Bill (AB) 843 (Aguiar-Curry), Stats. 2021, ch. 234, and authorize

Community Choice Aggregators to participate in the Bioenergy Market Adjusting Tariff (BioMAT) program. **Signed, R.22-10-010.**

Item 29. R. ___ - ___ - ___ (New DER OIR). 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. **Held to November 3 meeting.**

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO)

Board of Governors Meeting

The next CAISO Board of Governors meeting is scheduled for October 26 and 27, 2022. The agenda includes a decision on the Interconnection Process Enhancements, Phase 2. The full agenda may be accessed [here](#).

Stakeholder Initiatives: Upcoming Meetings and Deadlines

Western Energy Imbalance Market Regional Issues Forum. The Western Energy Imbalance Market (WEIM) Regional Issues Forum will take place November 8, 2022, at the SAFE Credit Union Convention Center in Sacramento, CA. The draft agenda may be found [here](#).

Transmission Development Forum. The CAISO, in conjunction with the CPUC and the participating transmission owners, will hold its quarterly public stakeholder call on October 28, 2022, to provide status updates on the transmission projects previously approved through the transmission planning process and network upgrades identified in the generation interconnection process.

2021-2022 Transmission Planning Process: Accessing Out-of-State Wind Resources in Idaho Area Update. The CAISO released a request for expressions of interest on August 25, 2022, as an extension to the 2021-2022 Transmission Planning Process to determine interest from California load-serving entities in out-of-state resources in the Idaho area. As noted in the request for expressions of interest, the CAISO planned to have a follow-up stakeholder call on October 19, 2022; however, it has been delayed until November.

WEIM Resource Sufficiency Evaluation Enhancements Phase 2. Following stakeholder feedback, including the opinion of the Market Surveillance Committee, the CAISO is deferring the WEIM Resource Sufficiency Evaluation Enhancements Phase 2 initiative to the December joint governance meeting. The CAISO plans to use this additional time to explore any modifications to the proposal that address some of the concerns that have been raised while also not jeopardizing a summer 2023 implementation.

Washington WEIM Greenhouse Gas Enhancements. The CAISO has scheduled a public stakeholder call on October 31, 2022, to discuss the draft tariff language for the

Washington WEIM Greenhouse Gas (GHG) Enhancements initiative. Written comments are due October 28.

CALIFORNIA ENERGY COMMISSION (CEC)

AB 205 Emergency Rulemaking: Opt-in Certification Provisions

On October 12, 2022, the CEC adopted emergency regulations implementing the opt-in certification provisions of AB 205. The regulations are available at TN# 246379 in [Docket No. 22-OIR-01](#).

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 with 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 October 12, 2022, the CEC adopted emergency regulations to implement the certification of certain new DWR facilities. Additional information can be found at TN# 246549 in [Docket No. 22-OIR-02](#).

Energy System Reliability

The CEC will hold a Lead Commissioner workshop on October 28, 2022, to discuss clean energy resources that may support grid reliability. According to the workshop [Notice](#), information discussed at the workshop will be used to shape an assessment of portfolios of alternative resources to replace the Diablo Canyon Nuclear Power Plant. The workshop will be held in two sessions as discussed [here](#) (Session 1) and [here](#) (Session 2).

Offshore Wind

CEC staff will hold a workshop at 9:30 a.m. on October 26, 2022, to present CEC staff's approach to identifying suitable sea space for wind energy areas in federal waters sufficient to accommodate offshore wind planning goals for 2030 and 2045 as required by AB 525. Additional information is available at TN# 246531 in [Docket No. 17-MISC-01](#).

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 California 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](#).

The next Lithium Valley Commission meeting will be held at 10:00 a.m. on October 31, 2022 via remote access only. Additional information is available [here](#).

CEC Business Meetings

The next CEC Business Meeting is scheduled for November 16, 2022.

CALIFORNIA AIR RESOURCES BOARD (CARB)

Meetings and Workshops

On October 24-25, 2022, CARB will host a public meeting of the [AB 32 Environmental Justice Advisory Committee](#). Information on the meeting agenda and virtual or in-person attendance can be found [here](#).

CARB will hold its next board meeting on October 27, 2022. At the meeting, CARB will hold the first of two planned hearings on the proposed [Advanced Clean Fleets](#) regulation. The full meeting agenda is available [here](#).

On October 28, 2022, CARB will hold a public workshop on modeling for the draft [2022 Scoping Plan Update](#). Information on the workshop and attendance 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

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.

MINNESOTA PUBLIC UTILITIES COMMISSION (MPUC)

MPUC Agenda Meeting, October 27, 2022

On Thursday, October 27, 2022, at 8:00 a.m. PT, the MPUC will hold its weekly agenda meeting covering the following matters: (1) Great River Energy's route permit petition; (2) Hayward Solar, LLC's certificate of need and site permit petition; (3) Xcel Energy's application for amendment to a site permit to repower the Pleasant Valley Wind Project; and (4) Xcel Energy's gas utility infrastructure rider petition.

February 2021 Extreme Weather Investigation, MPUC Docket Nos. 21-135, 21-138, 21-610, 21-611, and 21-235

On October 19, 2022, the MPUC issued its orders on the February 2021 natural gas spike. By way of background, during February 2021, cold weather across the country increased demand for natural gas. The increased demand and limited supply led to an extreme rise in natural gas prices. Minnesota's natural gas utilities maintained service throughout the event; however, service required market purchases at extremely high prices. Market purchases like these are typically automatically passed to customers through the automatic adjustment process; however, the MPUC ordered an investigation and ultimately a contested case to review CenterPoint's, Xcel Energy's, Great Plain's and MERC's practices and whether the increased gas costs are properly passed to customers.

After conducting evidentiary hearings, the Administrative Law Judges concluded that the utilities acted prudently and recommended recovery of the costs associated with the February 2021 event. The MPUC heard oral argument on August 4 and 11, 2022. After review of the four separate cases, the MPUC made the following four decisions. For CenterPoint, the MPUC concluded that the utility failed to prudently utilize certain storage and peaking facilities, and failed to prudently curtail specific customer load. The MPUC similarly found that Xcel Energy's load-forecasting practices and use of peaking facilities were imprudent and ordered disallowances. The MPUC also found that Great Plains acted imprudently and ordered disallowances with respect to storage and curtailment. Finally, the prior to the second day of the hearing, MERC reached a settlement with other intervenors, which was accepted by the MPUC. The orders also require subsequent analysis and compliance items for the utilities generally reviewing extreme market condition operations.

OREGON PUBLIC UTILITIES COMMISSION (OPUC)

On Wednesday, October 19, the OPUC staff hosted a stakeholder workshop in the matter of UM 2143 (re Investigation into Resource Adequacy [RA] in the State) and presented a proposed strategy to initiate rulemaking on a long-term Resource Adequacy (RA) standard for Oregon. As currently proposed, the Oregon RA standard would be aligned with the Western

Regional Adequacy Program. Comments on the rulemaking scope and strategy are due by November 21. The announce can be found [here](#), and the staff presentation can be found [here](#).

On Tuesday, November 1 at 9:00 a.m. PST, 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 to discuss near-term guidance on analytical improvements in the first clean energy plans and associated integrated resource plans. The agenda and meeting information can be found [here](#).

On Thursday, November 3 at 9:30 a.m. PST, the OPUC will host a special public meeting and presentation of the Energy Trust of Oregon's 2023 budget and action plan. More information and a link to the meeting can be found [here](#).

OREGON ENERGY FACILITY SITING COUNCIL (EFSC)

On Friday, October 28 at 8:30 a.m., EFSC will hold an open meeting in person and virtually to discuss a variety of energy-related issues, including review of comments related to rulemaking on Protected Areas, Scenic Resources and Recreation Standards; informational overview of recycling wind turbine components; and initiation of informal proceedings to evaluate potential rule changes to the rules governing the amendment of site certificates. A staff report, agenda and more information can be found [here](#).

OREGON DEPARTMENT OF ENERGY (ODOE)

On September 15, in accordance with Oregon House Bill 3375 (2021), the ODOE submitted its report to the Oregon 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](#).

WASHINGTON TRANSPORTATION AND UTILITIES COMMISSION (WTUC)

On Thursday, October 27 at 9:30 a.m. PST, WTUC will host a virtual meeting to cover a variety of issues, including PacifiCorp's presentation of its 2022 Washington Transportation Electrification Plan. The meeting agenda and information can be found [here](#).

ILLINOIS COMMERCE COMMISSION

On October 18, the assigned Administrative Law Judge issued a Proposed Interim Order (PIO) granting in part and denying in part staff's motion to dismiss and to strike components of the Beneficial Electrification Plan (BE Plan) filed by Commonwealth Edison Company (ComEd) in the consolidated docket ([Nos. 22-0432 and 22-0442](#)). Overall, the PIO would (1) grant staff's request to remove the Commercial and Industrial and Public Sector Incentive Programs, which

offered customer rebates for electric vehicle purchases and for electric vehicle infrastructure development; (2) deny staff's motion to strike the non-transportation components of ComEd's BE Plan (e.g., building electrification rebates); and (3) deny staff's motion to modify ComEd's proposed application of the retail rate cap on budget expenditures under the BE Plan. Two days after the issuance of the PIO, ComEd filed its rebuttal testimony on October 20, in which it acknowledged the PIO but did not seek to modify any components of its testimony in response to the proposed order. Parties may file Briefs on Exceptions to the PIO on October 25, and replies are due by October 28.

On October 12, 2022, Ameren Illinois Company (Ameren) filed rebuttal testimony in the consolidated docket ([Nos. 22-0431 and 22-0443](#)) considering whether to approve Ameren's BE Plan. Evidentiary hearings are scheduled for December 1 and December 2.

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

On October 20, 2022, FERC issued the [2022-2023 Winter Energy Market and Reliability Assessment](#), which was updated on October 25, 2022. According to the report, U.S. electricity markets are projected to have adequate amounts of generating capacity to maintain reliable operations this winter, though certain regions may face challenges in extreme weather. The report notes that above-average temperatures are forecasted this winter, except in Pacific Northwest and West-North Central regions of the U.S. The report also notes that due to the rising demand for natural gas and lower than average storage inventories, it is expected that this winter's natural gas prices will be higher than last year, and will be particularly high in New England. Texas' ability to import power was also raised as a potential challenge if extreme weather arises.

On October 21, 2022, FERC issued an [Order Granting in Part and Denying in Part Petition for Declaratory Order](#) filed by Blue Ridge Power Agency (Blue Ridge) on behalf of four of its member companies requesting a declaration that those companies are permitted to utilize battery storage technologies on their systems to reduce and/or manage (sometimes referred to as "peak shaving") their demands under their full requirements power contracts with Appalachian Power Company (APCO). APCO filed a Motion to Dismiss and Protest Blue Ridge's petition contending that it involves a non-technical contract dispute "unique to the parties" which should be decided by a Virginia state court rather than by FERC. FERC, however, agreed with Blue Ridge that the dispute involves a broader question of whether a full requirements customer's installation of battery storage is compatible with the full requirements nature of the contract, and decided to exercise its primary jurisdiction to resolve the dispute. FERC's order examined the agreements and found that installation and utilization of battery storage was not expressly prohibited under the terms of three of the four full requirements contracts and was therefore entirely permissible. Commissioners Danly and Commissioner Christie both dissented on the ground that they would have declined jurisdiction and left it to the state court to resolve the dispute.

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, LA, with a remote Webex option available.

On October 17, 2022, the Indicated PJM Transmission Owners (ITOs) and the New Jersey Division of Rate Counsel (Rate Counsel) each filed an Answer ([here and here](#)) in opposition to the Motion to Govern Procedures on Remand ([Motion](#)) filed by Consolidated Edison Company of New York, Inc.; Linden VFT, LLC; Hudson Transmission Partners, LLC; and the New York Power Authority (collectively, the New York Entities).

On August 9, 2022, the U.S. Court of Appeals for the District of Columbia Circuit remanded to FERC for further proceedings a number of issues relating to PJM Interconnection, LLC's allocation of the costs of the Bergen-Linden and Sewaren short-circuit transmission projects, using the DFAX methodology, including the 1% *de minimis* threshold. [Consol. Edison Co. of N.Y. Inc. v. FERC, No. 15-1183 \(D.C. Cir. Aug. 9, 2022\)](#). On September 30, 2022, the New York Entities filed a Motion seeking approximately \$115 million in refunds, plus interest, based on a recalculation of rates that removes the *de minimis* threshold and assigns all of the costs of the projects to the host zone, Public Service Electric and Gas Company.

In their answers, the ITOs and Rate Counsel argued that the New York Entities' Motion is both improper and premature. They noted that the court's decision did not direct the FERC to order refunds. Rather, the court indicated that the FERC's earlier orders did not adequately explain its reasoning for treating the Bergen-Linden and Sewaren short-circuit projects differently from a stability project, like the Artificial Island project. The answers also pointed out that the court did not hold that use of the DFAX method for short-circuit projects violated cost causation principles *per se*, and that the FERC on remand may be able to provide a more satisfactory explanation for the distinction. Therefore, the ITOs and Rate Counsel urged FERC to hold further proceedings to address the defects identified by the court and, if necessary, to consider alternative cost allocation methodologies.