



CALIFORNIA ENERGY MARKETS

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BILLBOARD

Southwest: PUCN Lets Google Sidestep NV Energy Exit Fee *Jump to [5].*

Potomac: Trade Commission Says Solar Imports Harm U.S. Producers *Jump to [6].*

SoCal Gas Methane Capture Initiative Hits 1 Million Cubic Feet . . . *Jump to [7].*

Imperial Irrigation District Rescinds 60 MW Solar PPA. *Jump to [7.1].*

Bottom Lines: Bay Area Cities Sue Oil Firms Over Climate Change *Jump to [8].*

CPUC Report: PG&E at Fault for 2015 Discovery Bay Outage . . . *Jump to [10.1].*

CPUC Outlines Framework for Fixed Charges *Jump to [11.1].*

Guzman Aceves, Rechtschaffen Confirmed by Senate . . . *Jump to [11.2].*

East Bay CCA Program Gears Up for Launch *Jump to [14].*

CAISO Approves Automated Modeling of Power Plant Losses . . . *Jump to [15].*

Utah PSC Mulls Net Metering Agreement for RMP *Jump to [16.1].*

APS Proposes New Technology in Efficiency Program *Jump to [16.2].*

PRICE REPORT

Energy Prices Move at Weather's Whim *Details on Page 4.*

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THE WEEK IN SUMMARY

[1] Former Chief ALJ Accuses CPUC of Discrimination

The California Public Utilities Commission has been hit with accusations of discrimination from former Chief Administrative Law Judge Karen Clopton, who was abruptly dismissed from her post this summer. In a whistleblower retaliation complaint filed before the State Personnel Board, Clopton said she was fired for her cooperation with official investigations into what has been called chummy relationships between agency officials and Pacific Gas & Electric. The commission asserts Clopton was dismissed for cause. *At [10], years of friction, and accusations of bias on both sides.*

[2] New Sempra-Funded Group Enters Fray as San Diego Considers CCA

As the City of San Diego approaches a final decision on whether or not to launch a community choice aggregation program, a new Sempra-funded coalition made up of local business and civic leaders has initiated a public-information campaign that focuses on potential costs and risks associated with CCA. If aggregation moves forward, the majority of load in San Diego Gas & Electric's service territory could switch to the new program. *Scrutinizing CCA, at [13].*



As San Diego gears up for a vote on CCA, business interests are calling for more information. Photo: Pixabay.com

[3] Next Up in Puente Case: Briefs on CAISO's Special Study of Alternatives

The California Energy Commission has concluded its latest evidentiary hearings in its licensing case for the controversial Puente Power Project, and now parties in the proceeding are turning to the next step—a Sept. 29 deadline to file briefs on issues related to the California Independent System Operator's special study on preferred-resource alternatives to Puente. An analysis by Clean Coalition showed much lower costs for a solar-plus-storage alternative to Puente. *At [12], Clean Coalition pushes for alternatives procured through new mechanism.*

[4] Utilities Propose Initial Framework for Rule 20A Audit

Investor-owned utilities have pitched a new system to the California Public Utilities Commission to audit the process by which they help communities convert overhead electrical facilities to underground infrastructure. Among other changes, the commission anticipates asking the utilities to hire independent consultants to conduct a programmatic and financial audit of their undergrounding programs. *Utility priorities in Rule 20A program, at [11].*

[5] Google Can Sidestep NV Energy Exit Fee; Motion Questions Fee Use

Google can leave NV Energy's utility service without paying a hefty exit fee, according to an order from the Public Utilities Commission of Nevada—if the internet-technology company goes ahead with plans to build a data center in the state powered by renewable energy. This is the first case of a large customer successfully avoiding the utility exit fee in advance of a new project investment in Nevada. Scrutiny of the utility's use of its accumulated exit fees, which total about \$173 million, has risen on the heels of the precedent-setting Google decision. *At [16], Nevada wants to keep business flowing.*

[6] Trade Commission Says Solar Imports Harming U.S. Producers

The U.S. International Trade Commission on Sept. 22 ruled that imports of crystalline solar products are harming U.S. producers, setting the stage for import restrictions such as tariffs or quotas. Meanwhile, the Senate Energy and Natural Resources Committee on Sept. 19 reported out by voice vote the nominations of Kevin McIntyre and Richard Glick to sit on the Federal Energy Regulatory Commission. Senate confirmation would bring FERC up to its full complement of five commissioners. *Western utility officials seek legislation streamlining approvals for vegetation management on power-line rights of way crossing federal lands, at [17].*

NEWS IN BRIEF

[7] SoCal Gas Methane Capture Initiative Achieves 1 Million Cubic Foot Mark

Southern California Gas Co. announced Sept. 18 it has collected more than 1 million cubic feet of natural gas during the first year of a methane-capture initiative—enough to fuel more than 6,000 homes.

The company began capturing natural gas during pipeline replacement work in August 2016, netting an estimated 1.2 million cubic feet of gas that would otherwise have been vented into the atmosphere. Most of the captured gas is compressed and pumped into holding tanks, and re-injected into the SoCal Gas pipeline system.

“When crews perform work on a pipeline, natural gas inside the pipe must be purged for safety,” the SoCal Gas said. Capturing gas, rather than venting it, provides for greenhouse-gas emissions reductions.

The methane-capture initiative is part of SoCal Gas' pipeline safety enhancement plan. In 2017, the company estimates it will spend approximately \$1.2 billion for improvements to distribution, transmission and storage systems and for pipeline safety.

Emissions from the natural gas distribution system represent less than 1 percent of GHG emissions nationwide, according to the company.

Meanwhile, SoCal Gas said there's no indication that an explosion in a home in the Los Angeles neighborhood of West Hills on Sept. 20 was caused by a natural gas leak. The explosion damaged five surrounding homes; no serious injuries were reported.

SoCal Gas said its crews “are working diligently” with the Los Angeles Fire Department to determine the cause of the explosion. *—L. B. V.*

[7.1] Imperial Irrigation District Rescinds 60 MW Solar PPA

The Imperial Irrigation District announced Sept. 12 it is rescinding a 60 MW, 20-year power-purchase agreement with Titan Solar I, a development subsidiary of Regenerate Power of Palo Alto.

The PPA, approved by the district's board of directors in July, had a levelized cost of energy of \$29.72/MWh. Under terms of the deal, IID would have pre-paid \$25 million for the power, in five payments of \$5 million each.

In August, Regenerate Power requested that IID either agree to changes to the contract—including a \$5/MWh price increase and a six-month delay in milestones, including the required commercial operation date of June 30, 2018—or rescind the contract in full.

In making the request, the company cited rising solar panel prices—saying they had increased from 30 cents/watt to 50 cents/watt due to the International Trade Commission's Suniva proceeding—and delays in panel delivery. Panel manufacturers Suniva and SolarWorld Americas have petitioned for tariffs against imported solar equipment, which they assert is driving U.S. manufacturers out of business. The ITC ruled in their favor on Sept. 22 (see story at [17]).

“The material solar panel price increase and the significant delay in the project schedule have increased project costs for the Solar Facility by \$15 million,” said Reyad Fezzani, chief executive officer of Regenerate Power, in an Aug. 29 letter to IID.

Fezzani also asserted that negative [press coverage](#) by *The Desert Sun*, alleging potential conflicts of interest in the PPA process, further increased the cost of financing the project.

The Titan project was to serve IID's new eGreen community solar program, designed for customers who are unable to install rooftop solar on their own residences, with priority enrollment for low-income residential customers. About 14,000 of IID's 150,000 customers are enrolled in a residential energy assistance program and receive a 20 to 30 percent discount on electric bills.

“Our goal to provide all of our customers with an opportunity to support and benefit from clean, renewable, locally produced energy is unchanged,” Kevin Kelley, IID's general manager, said in a statement. “We will continue to develop the eGreen program and will bring back new options to the board in the near future.” *—L. B. V.*

BOTTOM LINES

[8] Oakland and San Francisco Sue Oil Majors Over Climate Change Impacts

The cities of Oakland and San Francisco separately filed public-nuisance lawsuits against five of the largest oil companies, alleging the companies for decades have known of potential catastrophic impacts of climate change yet continued pushing their products.

Both cities are seeking an order of abatement that would require Chevron Corp., B.P. PLC, ConocoPhillips Co., Exxon Mobil Corp., and Royal Dutch Shell PLC to pay into adaptation funds to cover the costs of coping with climate change. The funds would go toward building seawalls, raising the elevation of low-lying properties, and building other infrastructure necessary for the cities to adapt to climate change.

The new lawsuits, filed Sept. 19 in the superior courts of Alameda and San Francisco counties, ask the courts to hold the defendants liable for creating, contributing to and/or maintaining a public nuisance. [*San Francisco Superior Court Case No. CGC 17-561370, Alameda County Superior Court Case No. RG17875889*].

They are the fourth and fifth suits filed this year to lean on common law claims against fossil-fuel companies. In July, Marin and San Mateo counties, both of which have long stretches of coastline, and the City of Imperial Beach in San Diego County sued more than three dozen companies, including the oil majors, seeking compensation for the current and future costs of dealing with climate change.

“This idea of bringing nuisance action or other tort actions based on state law for climate change impacts has been in the air for a long time,” said Michael Burger, executive director of the [Sabin Center for Climate Change Law](#) at Columbia University School of Law. “Those who, like me, track this stuff very closely have been waiting and wondering when they were going to come.”

The center has compiled a [searchable database](#) of U.S. and non-U.S. climate-change litigation, organized by type of case.

The Oakland and San Francisco suits come as California is increasing its focus on climate change resilience and adaptation planning.

California’s [Ocean Protection Council](#) is in the process of [updating](#) its sea-level rise guidance document. An April 2017 [update](#) on sea-level rise science raised the specter of a global sea-level rise of six feet or more within this century under a business-as-usual scenario, and a sea-level rise along the coastline of the San Francisco Bay of an additional 10 feet by 2100. In the near term, the report says the Bay Area could see as much as 0.3 feet to as much as 0.8 feet of sea-level rise by 2030.

“This new information shows that the cost of dealing with global warming-induced sea level

‘This idea . . . has been in the air for a long time.’



BP, a defendant in two new lawsuits over climate-change impacts, operates 275 Arco gas stations in California. Photo: Mavis Scanlon

rise—already immense—will be staggering for the public entities that must protect their people and their coastlines,” the Oakland complaint stated. A five-year Local Hazard Mitigation Plan that Oakland adopted last year states that projected sea-level rise puts at risk property with a total replacement cost of between \$22 billion and \$38 billion.

“The magnitude of the actions needed to abate harms from sea level rise, and the amount of property at risk, will increase in light of the rapidly accelerating sea level rise and the increased scientific understanding of sea level rise processes as set forth in the 2017 report,” the city said.

The complaint notes that Chevron is the largest cumulative producer of fossil fuels in the world, followed by Exxon Mobil Corp. BP is fourth-largest, Shell is sixth-largest, and ConocoPhillips is ninth-largest.

“Chevron welcomes serious attempts to address the issue of climate change, but these suits do not do that,” company spokeswoman Melissa Ritchie said in an emailed statement. “Reducing greenhouse gas emissions is a global issue that requires global engagement and action. Should this litigation proceed, it will only serve special interests at the expense of broader policy, regulatory, and economic priorities.”

A ConocoPhillips spokesman said the company does not comment on pending litigation.

Kara Siepman, a spokeswoman for the Western States Petroleum Association, said in an email the group is aware of the suit, but as a matter of policy does not comment on active litigation.

Chevron on Aug. 24 filed motions in the Marin, San Mateo and Imperial Beach suits to move them to federal district court in part on the grounds that the actions raised disputed and substantial federal questions. And on Aug. 28, Peabody Energy sought to have the three earlier suits dismissed.

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WESTERN PRICE SURVEY

[9] Energy Prices Move at Weather's Whim

Sept. 22 marks the fall equinox, and with it, analysts await stronger signals of a transition into heating use once colder weather settles in. The Sierra Nevada, Cascade, and Olympic ranges have already seen early snowfall, while the San Francisco area expects high temperatures exceeding seasonal norms the week of Sept. 25.

Western power prices vacillated for yet another week, while natural gas values at regional hubs moved lower.

“Here in the Pacific Northwest it feels as if someone flipped a switch as what was one of the hottest and driest summers on record has suddenly given way to cooler temperatures and torrential downpours,” stated EnergyGPS analysts in a Sept. 21 report. “While the change was quite sudden, it doesn’t come as a surprise as the end of September/beginning of October marks a weather transition across the entire country.”

With the transition from cooling to heating imminent, if the extended weather forecast across the United States holds steady, EnergyGPS said it expects residential and commercial demand to remain weak over the next 10 days, and then to increase near the end of the month. Peak average power prices varied compared with the previous week. Mid-Columbia peak power gained the most, adding \$3.15 to \$26.25/MWh in Friday-to-Friday trading. In contrast, Palo Verde power tumbled \$6.10, ending at \$26.35/MWh.

Meanwhile, working natural gas in storage was 3,408 Bcf as of Sept. 15, according to U.S. Energy Information Administration estimates. This is a net increase of 97 Bcf compared to the previous week.

Natural gas demand increased 11 percent week over week, according to the EIA. The amount of natural gas used for power generation grew 23 percent as utilities restored power in Florida following Hurricane Irma and weather in the eastern U.S. grew warmer. In its assessment of hurricane-related issues, the EIA noted it does not cover Puerto Rico energy use or demand trends.

Henry Hub gas spot values added 7 cents to reach \$3.11/MMBtu between Sept. 14 and Sept. 21.

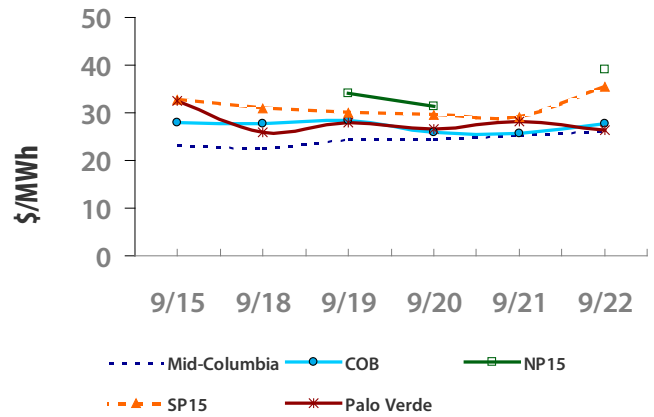
In Thursday-to-Thursday trading, Western prices moved lower by between 4 and 17 cents. El Paso-Permian natural gas lost the most, down 17 cents to \$2.48/MMBtu by Sept. 21.

Power demand on the California Independent System Operator grid reached 31,877 MW Sept. 18. In the week ahead, power use should tick up to more than 36,000 MW starting Sept. 27, according to the grid operator’s forecast.

What’s ahead: In the week ahead, the greater Los Angeles and San Francisco areas expect temperatures well above normal the week of Sept. 25. Forecasters expect temperatures across the interior West to be between 10 and 16 degrees below normal through month’s end. —**Linda Dailey Paulson**

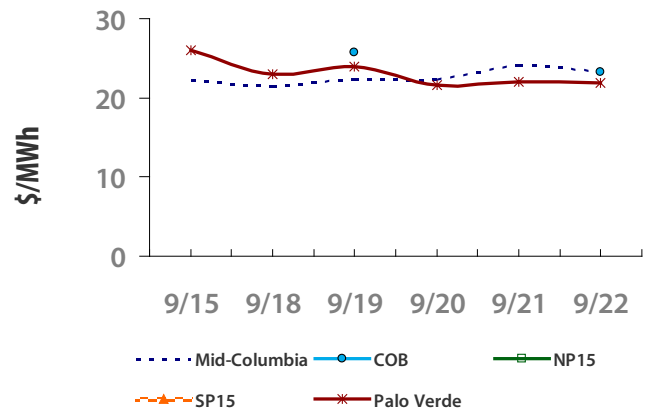
Average Peak Power Prices

Friday, 09/15 - Friday, 09/22



Average Off-Peak Prices

Friday, 09/15 - Friday, 09/22

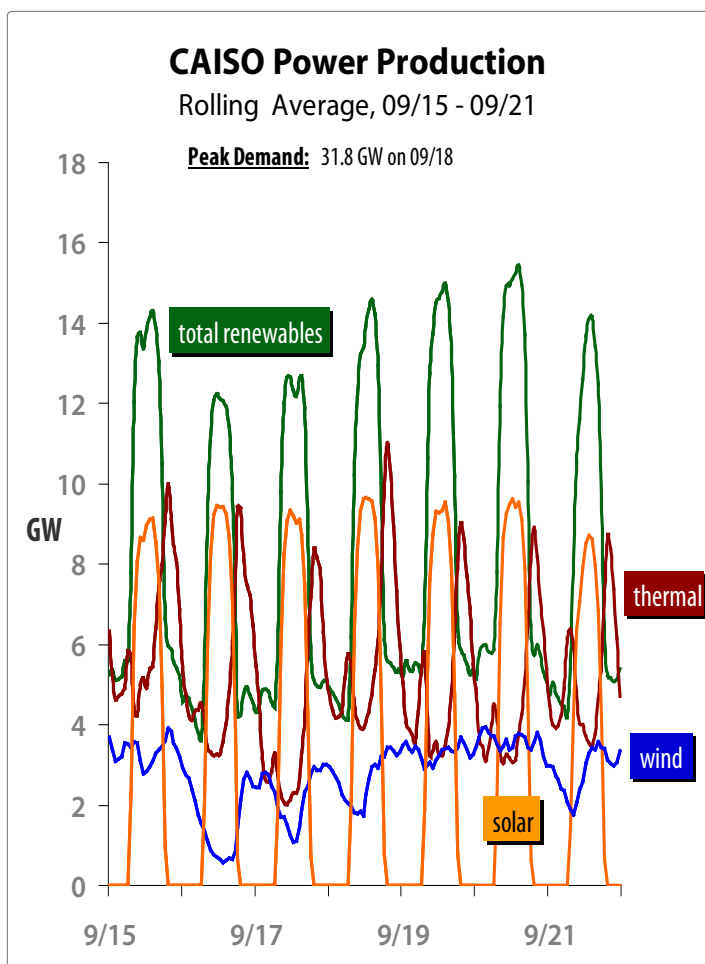


Average Natural Gas Prices (\$/MMBtu)

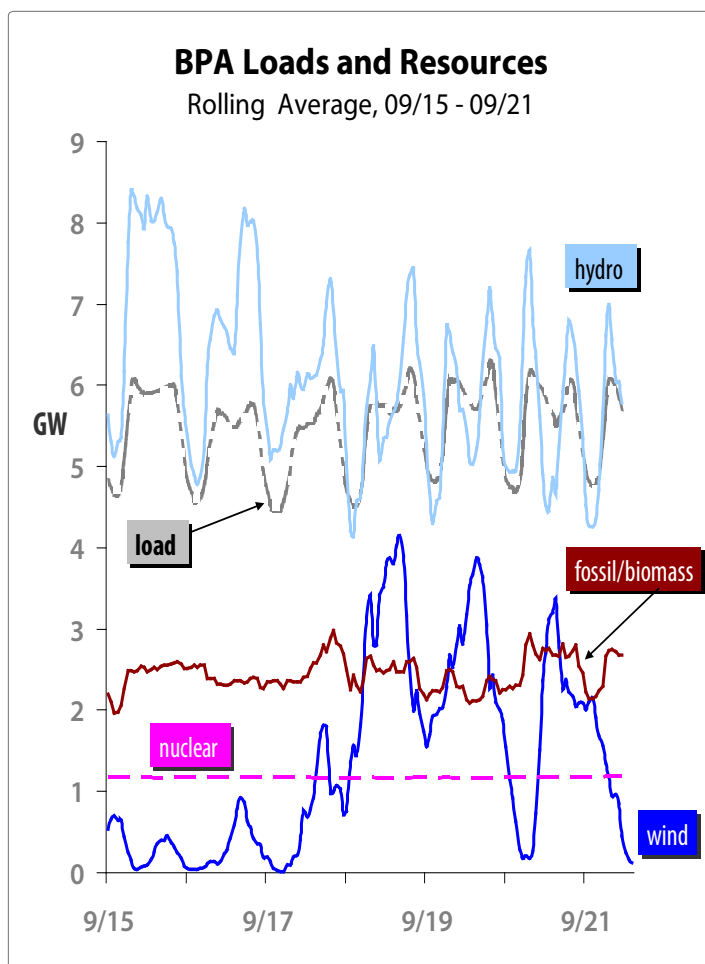
	Th., 09/14	Tues., 09/19	Th., 09/21
Henry Hub	3.04	3.13	3.11
Sumas	2.63	2.66	2.57
Alberta	1.67	1.10	N/A
Malin	2.78	2.75	2.66
Opal/Kern	2.72	2.70	2.61
Stanfield	2.61	2.66	2.57
PG&E CityGate	3.38	3.37	3.22
SoCal Border	2.81	2.88	2.68
EP-Permian	2.65	2.59	2.48
EP-San Juan	2.65	2.60	2.51

Power/gas prices courtesy ICE (www.theice.com) and Enerfax

POWER GAUGE



Source: BPA & CAISO



Continued from page 3

In announcing the suits, San Francisco City Attorney Dennis Herrera likened the oil companies' actions to those of tobacco companies in the decades before they were sued in the 1980s, saying the oil-company defendants "knowingly and recklessly created an ongoing public nuisance that is causing harm now, and in the future risks catastrophic harm to human life and property."

The Oakland suit notes that as far back as 1957, scientists at the Scripps Institute warned that "global warming 'may become significant during future decades if industrial fuel combustion continues to rise exponentially.'" The American Petroleum Institute, a lobbying group for the industry, warned its members starting in the 1950s that fossil fuels could harm the climate, according to the suit.

Despite decades of knowledge and warnings about harm to the climate from fossil-fuel combustion, the defendants continued extensive promotion of fossil-fuel use and downplayed the global-warming risks, the suit contends, in part by sowing uncertainty over climate science. That effort bears "a striking resemblance to Big Tobacco's propaganda campaign to

deceive the public about the adverse health effects of smoking," the Oakland suit said.

"It's clearly analogous in some sense to the tobacco litigation," Burger with the Sabin Center said. While there are obvious differences between the industries, the story lines in the suits are similar, he said—they both allege a long history of malfeasance, cover-ups and lies to obscure the public debate.

Oakland and San Francisco made it clear they are not seeking to impose liability on the oil companies for their direct emissions of greenhouse gases, nor are they seeking restrictions or restraints on the oil companies' operations. That could dissuade the court from worrying about its authority to hear the cases based on the premise that the plaintiffs may be asking the court to directly regulate the industry, according to Burger.

As the cases move forward, Burger said he will be watching for how the courts rule on any motions to dismiss. Although not an ultimate determinant of whether the cases can proceed, court rulings on such motions will be the first point at which there is an indication of the plaintiffs' standing to make these claims, he said. —**Mavis Scanlon**

REGULATION STATUS

[10] Former Chief ALJ Accuses CPUC of Discrimination (from [1])

The California Public Utilities Commission has been hit with accusations of discrimination from former Chief Administrative Law Judge Karen Clopton, who was abruptly dismissed from her post this summer.

In a whistleblower retaliation complaint filed before the State Personnel Board, Clopton accuses the commission president and members of discriminating against her, and eventually terminating her for her cooperation with official investigations into what has been called chummy relationships between agency officials and Pacific Gas & Electric.

CPUC commissioners voted unanimously to dismiss Clopton at a June 29 closed session. The decision was initially supposed to become effective on July 28, although the date was later pushed to Aug. 25. This was six weeks after she was awarded, and two weeks after she was presented with, the Robert B. Yegge Award from the American Bar Association for “exceptional and noteworthy work.”

The decision was announced by CPUC President Michael Picker at the commission’s last meeting, on Sept. 14 (see *CEM* No. 1454 [12]). The commission declined to discuss the firing, but laid out a lengthy case for Clopton’s termination in a 22-page notice of adverse action dated June 30.

CPUC spokeswoman Terrie Prosper said the commission dismissed Clopton for cause, and will vigorously defend its decision as necessary.

“The CPUC’s adverse employment action clearly stated the reasons for her dismissal and the allegations put forward today are completely baseless,” Prosper said in an emailed statement. “We will provide no further comment on this personnel action.”

Clopton’s complaint and the CPUC’s filing feature charges of bias on both sides, and highlight what appears to be years of tension between Clopton and the commission. The friction has taken place against the backdrop of the commission implementing a number of internal reforms and strategic directives in response to issues that surfaced as a result of internal and external investigations into the San Bruno gas-pipeline incident.

Clopton was appointed to her position in January 2009, following stints as general counsel for the California Department of Corporations and president of the League of Women Voters of San Francisco.

In her complaint, Clopton, who was the CPUC’s first African-American chief ALJ, claims that she was terminated due to her role in state and federal investigations into backdoor communications between PG&E and former commission members. She asserts that she had instructed all ALJs to cooperate with the investigation, and had advised members of the commission not to try and sway the assignment of judges

to particular proceedings. She had also criticized CPUC Executive Director Tim Sullivan’s decision to appoint Michael Colvin as an ALJ, both because of his “close and unethical relationships” with employees at PG&E and because of racially offensive emails he had written about African-American ALJs at the commission.

“She was terminated—despite nine years of excellent service—because members of the commission were unhappy with her cooperation with the probe of issues that arose regarding PG&E’s efforts to control the selection of judges,” said Dan Siegel, an attorney with Siegel, Yee & Brunner, representing Clopton.

He also contends that Clopton had made a considerable effort to hire a more diverse CPUC staff, as well as to address issues of explicit and implicit racial bias, but that this advocacy had not been “well received” by members of the commission.

The commission’s notice of adverse action states that her termination was due to “insubordination,” “discourteous treatment of the public or other employees,” and “willful disobedience.” It cites a host of instances dating back to 2010, including alleged comments Clopton made about white people, Latinos

and Orthodox Jews that made commission employees uncomfortable; her “confrontational and intimidating” style of communication; and her opposition to being directly supervised by all five commissioners, among others.

The notice also specifically refers to Clopton’s interactions with Colvin, alleging that, at a meeting that took place six weeks after he was assigned as ALJ, she threatened to reject him while he was

serving a probationary period.

Siegel, however, said the notice was a “banquet of reasons” that all boil down to the assertion that Clopton “made people feel bad.”

“These reasons are not significant grounds to terminate someone in her position, and they represent simply a pretext for the real reasons,” he said, when asked how Clopton responded to the commission’s allegations.

“As soon as she understood that this was on the table, she made a very strong decision that she was going to fight against this,” he said.

Clopton alleges several retaliatory measures taken against her during her time at the commission, including being scolded by then-Commissioner Catherine Sandoval for referring to the PG&E collusion as a “scandal.” She also claims that the commission delayed paying the counsel retained to represent her during the course of the investigations into the commission’s relationship with PG&E, and criticized her for upholding the rules. She describes the commission’s review of her management style as being without factual basis, and based largely on a few disgruntled employees.

**Clopton’s
complaint and
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“The commission altered the terms of Ms. Clopton’s employment by changing the process by which her employment performance was evaluated,” the complaint states, adding that under the new system, she was evaluated by all the commissioners in an *ad hoc* manner. In February, she received an evaluation that suggested she needed to improve, which she views as being a product of resentment against her support of the PG&E investigations and attempts to critique racial bias among commission staff.

The notice of adverse action, meanwhile, details two other instances in which she was asked to change her management style by the commission—one wherein Picker raised concerns about her “dismissive comments” regarding an internal auditor’s report and asked her to ensure that the ALJs were engaging more with the commission as a whole, and another when Commissioner Carla Peterman suggested to Clopton that she was not creating an environment wherein staff felt comfortable giving honest feedback.

In her complaint, Clopton is seeking reinstatement as chief ALJ, to be awarded all back pay and benefits for the period since her dismissal, and for records in her personnel file to be removed. —*Kavya Balaraman*

[10.1] CPUC Report: PG&E at Fault for 2015 Discovery Bay Outage

Pacific Gas & Electric’s failure to follow its own operational procedure led to the 2015 natural gas outage in Discovery Bay that left thousands of customers with no heat in frigid temperatures, a report from the California Public Utilities Commission found.

The outage took place on Dec. 27, 2015, after a district regulating station frosted over, forcing PG&E to shut it down. As a result, nearly 6,000 customers in Byron and Discovery Bay were left without electricity. Service was restored to around 90 percent of them within the next two days.

In an internal investigation, the utility found the incident was caused by the presence of wet gas in the system; this was because a valve at the Whiskey Slough Station on McDonald Island, which is normally kept closed to ensure gas passes through a dehydration system, had been left open.

The utility did not pinpoint with certainty how the valve was left open, but found the mistake likely occurred during a well rework project conducted a week before the incident, when the valve was opened for re-injection, according to PG&E’s review as well as the CPUC.

In an investigation report published on May 4, first obtained by KQED, the commission noted that PG&E failed to comply with its own standard operating procedure, which required it to check to ensure the valve was closed. According to the report, the valve should have been closed after the work conducted prior to the incident was completed, but there was no checklist or information available for the process.

PG&E’s internal investigation concluded that the incident was caused in part because of its own failure to consider the risk that moisture presents to

its system. It also noted that due to a faulty maintenance system, station operators didn’t trust the control system and generally accepted any deviations that it showed. It also noted that the Whiskey Slough Station’s control-room practices were inadequate.

For instance, the station’s operating manual did include instructions to check that valves were closed, but did not specify how exactly to do so. There weren’t enough systems in place to automatically control the valves, nor alarms to alert staff to the situation. An inspection by a PG&E investigation team conducted in January 2016 found that 11 out of 15 valve status indication lights for the plant did not work, including the one that had allowed water vapor into the system. Operators at McDonald Island had previously complained that corrective actions weren’t being addressed in a timely manner. In addition, investigators found that the station staff was not adequately trained.

The commission report concluded that “PG&E is in non-compliance for not following its own operational procedure.” The utility has until Sept. 25 to respond to the report.

PG&E spokeswoman Teresa Jimenez said the utility is still in the process of reviewing the report.

She said the shutdown was due to an “abundance of caution” after it was observed that the regulating station had frosted over.

“That was a factor of human error and so since then, we’ve taken several steps to make sure that that has been remediated,” she added. “We now have a heating element in case there’s frost and have changed procedure, because of that human element, to make sure [the valves] are shut off once [they’re] supposed to be shut off.”

The utility identified 31 corrective measures following the incident, 27 of which have been completed or are underway, said Jimenez. She added that PG&E has been making an effort to reach out to the affected community following the incident, including by providing \$17,000 to the local school district. —*K. B.*

[11] Utilities Propose Initial Framework for Rule 20A Audit (from [4])

Investor-owned utilities have pitched a new system to the California Public Utilities Commission to audit the process by which they help communities convert overhead electrical facilities to underground infrastructure. Details of the new proposal were discussed at a Sept. 19 public workshop.

This process takes place through the CPUC’s Electric Tariff Rule 20A, which requires utilities to allocate annual work credits to cities and unincorporated county areas across the state; once a community has enough credits, the utility works with it to transfer infrastructure under the ground, after which it can recover that cost from ratepayers. The undergrounding program dates back to 1967, and is applicable to projects that are in the public interest—for instance, on streets that are frequently used by pedestrians and vehicles, roads around parks and scenic areas, or arterial routes.

Under the program, communities are allocated work credits based on a predetermined amount outlined in 1990, with adjustments depending on the number of overhead meters and the total number of meters they have. However, the commission opened a proceeding in May to revise Rule 20, which provides an overall framework for undergrounding, after noting that it is plagued with issues. For instance, a large number of work credits remain unredeemed, utilities face steep price differences for undergrounding infrastructure in rural and urban areas, and ratemaking issues have cropped up during the general rate-case process [R17-05-010].

Among other changes, the commission anticipates asking the utilities to hire independent consultants to conduct a programmatic and financial audit of their Rule 20A programs, as well as requesting them to submit a wealth of data regarding eligible communities in their service territories, the number of work credits available annually, and statistics on current and completed projects.

The proposed changes were discussed at the Sept. 19 public workshop, where CPUC and utility representatives went over the current status of the programs and the kind of information they thought might be relevant to include in the audit.

At the workshop, Gabe Petlin, senior regulatory analyst with the commission's Energy Division, said that regulators wanted the utilities' input on the scope of the audit, as well as feedback on the list of data-request items outlined by the commission.

All three large investor-owned utilities in California currently have Rule 20A programs for undergrounding work. San Diego Gas & Electric has average annual allocations of around \$25.6 million, and completes around seven undergrounding projects every year, according to Kathy Valdivia, project manager with the utility. Andrea Miller, Pacific Gas & Electric's Rule 20A program manager, said PG&E has annual allocations of around \$41.3 million and completed 22 projects in 2016. Meanwhile, Southern California Edison has an annual program budget of around \$26.1 million for 2017.

The utilities submitted a **joint audit scope** to the commission in July, which incorporated prior recommendations from the Energy Division. In it, they outlined five broad areas to audit, the first being work credits and allocations.

"The three utilities did feel that it would make more sense to come up with a joint, agreed-upon audit scope," said Tony Mathis, manager of distribution project management at Edison. "I think it makes good sense that when we do have an audit, the auditors look at the same items across all utilities, so we have a nice, consistent look and view at the specific audit areas."

Addressing issues with work credits and allocations was a top priority for the utilities, Mathis added. In this category, the audit would focus on whether allocations are accurately calculated, look into how

those credits are used by governmental agencies, and study utility processes for allowing the agencies to trade credits.

"We think there's a lot of opportunity to redistribute the allocations in a different manner and put more allocations in the hands of cities and counties that truly have the eligible facilities to underground, and the desire to underground," explained Mathis, pointing out that cities would not want to trade credits if they were being allocated efficiently.

"The market out there of buying and selling is really a symptom of the fact that we really need to take a good look at the allocation methodology and recommend something that we all believe works a bit better," he added.

Under the second category, program expenditures, the audit would look into the accuracy of utilities' estimates of project cost, identify reasons that projects might end up costing more, and try to outline a breakdown of "cost elements" like labor, materials and contracts—a hotly debated point at the workshop, since some representatives pointed out that they would need a more detailed categorization of these elements before costs could be recorded in that format. The audit would also look into contributions made by other parties, like local governments.

The proposal also suggested including communication and outreach strategies, program coordination, and GRC forecasting in the scope of the audit.

Two of the smaller utilities, PacifiCorp and Liberty Utilities, have asked to be exempted from the audit and to conduct an internal review instead. Melissa Nottingham, regulatory manager at PacifiCorp, explained that the utility's service area includes four counties and around 45,000 customers in the sparsely populated northernmost area of California.

The utility faces issues identifying eligible projects, Nottingham said, partly because the terrain in the region makes undergrounding difficult and not always beneficial. In fact, in the last 10 years PacifiCorp has implemented only one undergrounding project, in the town of Weed.

"Based on the size of our program, we are recommending an internal review—just to make sure that we're allocating our credits properly; that we're communicating with our communities in a way that they know these funds are available," she explained. "Basically, we find that the overall cost of an external audit would be unduly burdensome to our ratepayers, considering the size and scope of our program."

Nottingham's views were echoed by Dan Marsh, manager of rates and regulatory affairs with Liberty Utilities, which has also asked for an audit exemption, but is willing to conduct an internal review along the same lines. Liberty has around 50,000 customers.

The commission anticipates that the Energy Division will either approve or approve with modifications the utility audit scope by Oct. 11. The division will also be issuing data requests to the utilities soon.

—Kavya Balaraman

'The three utilities did feel that it would make more sense to come up with a joint, agreed-upon audit scope.'

[11.1] Commission Outlines Framework for Fixed Charges in Proposed Decision

A proposed decision by the California Public Utilities Commission limits the costs that a utility may include in a “fixed charge” to only certain service-related costs, such as those associated with setting up accounts, metering services and billing or payment, as well as all meter capital costs.

The [proposed decision](#) was filed by Administrative Law Judges Michelle Cooke and Nilgun Atamturk, and commissioners are scheduled to vote on it at the commission’s Sept. 28 business meeting in Chula Vista.

The decision comes amid a raging debate between utilities and ratepayer-advocate groups regarding how to introduce a fixed charge to customers’ monthly bills. A fixed charge is a constant fee that residential utility customers have to pay regardless of their energy usage, to help utilities recover the fixed costs that they incur. However, multiple interpretations of these “fixed costs” exist, largely based on whether a group believes that utilities are saddled with system-related fixed costs.

California’s utilities, for instance, define fixed costs as all marginal customer costs, including expenses associated with setting up accounts, reading meters, billing, and new connections, as well as other aspects, like marginal capacity costs—future expenses on generation capacity, which depend on local demand—as well as nonbypassable charges.

However, groups like the Office of Ratepayer Advocates, the Solar Energy Industries Association and The Utility Reform Network limit the definition to customer-service costs, metering services, and operations and maintenance costs for the final leg of transformer, service-line and metering equipment.

The two interpretations yield wildly different costs, with the utilities’ proposal amounting to monthly increases of \$35 to \$81 for customers—despite such fees being limited by statute to \$10, and to \$5 dollars for non-California Alternate Rates for Energy and CARE customers, respectively—and the other groups’ proposal leading to costs of \$2.27 to \$4.70 per month per customer.

The commission’s proposal sides with the ratepayer groups and notes that “fixed charges cannot cover any costs that vary with demand and must exclude transmission charges and all non-bypassable charges such as public purpose program charges.” The proposed decision also indicates concern regarding how customers will react to a new fixed cost.

The issue is being tackled by the commission through Pacific Gas & Electric’s general rate case Phase 2 proceeding, which included a workshop to look into what categories of fixed costs can be categorized as a fixed charge [A16-06-013]. While the actual amounts of fixed costs outlined in the decision will apply only to PG&E, the framework behind it will be used by the other utilities as well.

Commissioner Carla Peterman conducted an all-party meeting to discuss the proposed decision on Sept. 21. —*K. B.*

[11.2] Guzman Aceves, Rechtschaffen Confirmed by Senate

The California Senate on Sept. 16 confirmed the appointments of Martha Guzman Aceves and Clifford Rechtschaffen as members of the California Public Utilities Commission.

Both commissioners were appointed on Dec. 28, 2016, by Gov. Jerry Brown for terms that run through Jan. 1, 2023. Prior to that, Guzman Aceves was the deputy legislative affairs secretary in the Office of the Governor; she has also worked at the California Rural Legal Assistance Foundation as sustainable communities program director. Rechtschaffen was a senior advisor to Gov. Brown for six years preceding his appointment, and has also served as acting director of the California Department of Conservation.

“During these challenging times, I am grateful for the opportunity to serve with like-minded, visionary commissioners as we forge a path to prudently transition our economy while keeping all utility services safe, clean, reliable, and affordable,” said Guzman Aceves, in a statement.

Rechtschaffen added that he looked forward to contributing toward achieving California’s clean-energy goals. —*K. B.*

[12] Next Up in Puente Case: Briefs on CAISO’s Special Study of Alternatives

(from [3])

It’s been two and a half years since NRG Energy first filed an application for certification for the Puente Power Project, a 262 MW gas-fired peaker plant proposed on the coast in Oxnard to help replace generation from the Mandalay Generating Station. NRG plans to retire Units 1 and 2 at the Mandalay plant by the end of 2020 to comply with state regulations limiting the use of ocean and estuarine water for power plant cooling.

Now, with the latest evidentiary hearings concluded in the California Energy Commission’s licensing proceeding on the controversial project, parties in the case are looking to a Sept. 29 deadline to file briefs on issues related to the California Independent System Operator’s [special study](#) on preferred resource alternatives to Puente.

The CAISO study, released in mid-August, found that while clean-energy resources such as solar, energy storage and demand response could meet local needs and help avoid the need to build a new gas plant, they would be pricey. CAISO estimated Puente would cost \$299 million, but the alternatives, depending on the scenario and configuration, would cost from \$309 million to \$1.1 billion. (In its initial application, NRG pegged construction costs for Puente at between \$235 million and \$270 million) (see *CEM* No. 1350 [13]).

Advocacy group Clean Coalition then did its own analysis of the CAISO study, and concluded the costs cited by CAISO are far too high.

“Frankly, what shocked me when I was doing the model [is that] distributed renewables are straight-up

cheaper than natural gas,” said Clean Coalition Policy Director Doug Karpa. “We knew that day was coming. I think now it has arrived.”

Southern California Edison in 2014 signed a 20-year resource-adequacy contract with NRG for the output from Puente, following a 2013 request for offers for between 215 MW and 290 MW of capacity near Oxnard, in the Moorpark sub-area of the Big Creek/Ventura local reliability area. Edison needed capacity in the transmission-constrained area to meet local capacity requirements by 2021. It also contracted with NRG to refurbish the 54 MW Ellwood gas plant in nearby Goleta.

Clean Coalition’s analysis shows that a 120 MW ground-mounted solar-photovoltaic system paired with 75 MW of energy storage would cost approximately \$267 million to install. Clean Coalition based its estimate on component costs from deployed systems, information from the National Renewable Energy Laboratory, and an analysis of solar and storage costs from Lazard. An identical system that utilized the built environment for solar—rooftops and parking structures—would increase overall costs of the 220 MW system to \$370 million.

The group also found that developing 210 MW of solar and a 130 MW/560 MWh energy-storage hybrid system could replace both the Puente and Ellwood plants for a total cost of \$406 million (with ground-mounted solar) or up to \$575 million (with built-environment solar PV), which is still well below the \$1.1 billion CAISO estimate for a similar combination.

Clean Coalition Executive Director Craig Lewis cites three major deficiencies with the CAISO report. First, the CAISO study did not incorporate about \$19 million a year for Puente’s operations, maintenance and fuel costs.

“Accounting for these costs would raise the total cost of Puente to over \$870 million over thirty years,” Clean Coalition said in announcing the analysis. Over the same time period, it would cost between \$430 million and \$530 million to run the PV solar-and-storage facility, according to the group.

A second issue is that CAISO used numbers for storage from a Navigant study from 2014, and that didn’t make a lot of sense to Karpa and Clean Coalition.

“The big headline in energy storage these days is how insanely quickly costs are coming down,” Karpa said. Storage costs are dropping between 9 and 11 percent a year, according to Clean Coalition, and are down about 40 percent since the Navigant study was published. Based on current trends, storage costs by 2020 will be about half of what CAISO estimated, according to the coalition.

CAISO also did not take into account the 30 percent federal tax investment credit.

In Sept. 15 testimony in the Puente evidentiary hearing, Neil Millar, CAISO executive director of infrastructure development, noted that it was not the grid operator’s original intention to include cost information in its study, but that as the study

progressed, its focus shifted “from testing fixed portfolios on a pass/fail basis to a focus [on] topping up portfolios with additional preferred resources until successful system performance was achieved.”

That approach led CAISO to look at and include high-level capital cost information drawn from publicly available material, he said.

“We anticipated it to provide a starting point for the cost considerations, while recognizing that the preferred-resource costs are trending downward and are reasonably expected to be lower in the future,” Millar said, noting that while life-cycle costs were not considered, they could have a meaningful impact on the resources being considered.

He said that the ISO does not believe the costs in the study render the alternatives infeasible.

“Further,” he added, “the only way to test the economic feasibility of the preferred-resources options is to conduct an RFO specifically targeted to procuring those resources.”

Resource costs are also very highly dependent on where they are deployed, said Dawn Gleiter, senior director of business development at NRG. “The only real [cost] information we have is the RFO that was conducted,” she said, which was specifically geared to placing resources in this specific location.

But the RFO was issued nearly five years ago, so should Edison take another look?

“You have to have a process,” Gleiter said, adding that it is a separate question if one thinks the process is taking too long. NRG has maintained the Puente project is the only economically viable way to ensure replacement power can be in place ahead of the 2020 once-through-cooling compliance deadline. It would not make sense to start now with a new RFO

for other resources, NRG contends.

But Clean Coalition is advocating for a new procurement mechanism it says is effective and easy to implement, and that could be used to source preferred resources to replace Puente.

Its proposal for market-responsive pricing calls for prices to adjust over time under feed-in tariff programs, depending on market response to the offered prices. In other words, if there is very high interest in a particular procurement program, prices would adjust downward in the next tier. If there is little demand, prices would move upward in the next tier.

“I would say that with a properly designed feed-in tariff this is very possible,” Lewis said. “This is really straightforward.”

The mechanism eliminates the need for an RFO, and Lewis estimated a utility like Edison could design its version of the program and get it approved by the California Public Utilities Commission in about six months.

Regardless of how the CEC decides on Puente, one of the take-aways from Clean Coalition’s analysis is that “this is a huge opportunity,” Lewis said.

It puts “policymakers, utility executives, everyone on notice that solar plus storage is superior from so many different angles.” —*Mavis Scanlon*

‘The big headline in energy storage these days is how insanely quickly costs are coming down.’

REGIONAL ROUNDUP

[13] New Sempra-Funded Group Enters Fray as San Diego Considers CCA*(from [2])*

As the City of San Diego approaches a final decision on whether or not to launch a community choice aggregation program, a new group made up of local business and civic leaders, the [Clear the Air Coalition](#), has initiated a public-information campaign that focuses on potential costs and risks associated with CCA.

San Diego Gas & Electric affiliate Sempra Services launched the coalition Sept. 14. Members include representatives of Sempra Services; the San Diego Regional Chamber of Commerce; the San Diego County Taxpayers Association; the Latino Leadership and Policy Forum; the Asian Business Association; and the United African American Ministerial Action Council.

The San Diego City Council is slated to vote in January on whether to establish an aggregation program that would provide generation service to electric customers in San Diego. If CCA is approved, the majority of load in SDG&E's service territory could switch to the new program.

CCA is identified in San Diego's climate action plan, adopted in 2015, as a potential mechanism for helping the city achieve the goal of eliminating half of all greenhouse-gas emissions in the city, and for 100 percent of electricity used in the city to be from renewable sources, by 2035.

Clear the Air maintains it does not oppose aggregation per se, but believes it should meet two key criteria to win the support of the City Council and San Diego Mayor Kevin Faulconer.

The first criteria is to fulfill San Diego's 100 percent renewable-energy goal "through real and additional" GHG emissions reductions; the second is to "not burden taxpayers with significant financial risk in the short or long term."

Clear the Air claims the picture of how aggregation might impact the city and achieve goals is still fuzzy, despite the findings of a final draft CCA [feasibility study](#) published in July.

The study, by Willdan Financial Services and EnerNex, was commissioned by the city in order to understand the financial and economic viability of a city-run aggregation program. It uses a 15-year study period, and assumes the launch of CCA service in May 2020.

A number of possible energy supply scenarios are included in the study, with default supplies ranging from 50 percent renewable to 100 percent renewable. SDG&E's portfolio forecast is based on the utility complying with the state-mandated renewables

portfolio standard, attaining 50 percent by 2030, from a level of about 45 percent in 2020.

It is feasible that a CCA program would be able to meet the majority of the minimum performance criteria recommended by the city's Sustainable Energy Advisory Board, the study found, including GHG reductions to meet climate action plan targets and having an energy supply that is 100 percent from renewables, without having to rely on unbundled renewable-energy credits.

A CCA program with electric rates that are competitive with incumbent utility SDG&E is also feasible, according to the study.

"Under the various scenarios examined, by and large the CCA program rates for most of the study period remain below those projected for SDG&E, indicating that from ratepayers' perspective the CCA program is beneficial," the study said.

The coalition argues, however, that "it's impossible to tell" what the impact on ratepayers will be given a process is now underway at the California Public Utilities Commission to come up with a better way to assign costs associated with legacy power purchases to departing load.

As it now stands, investor-owned utilities assign contract-related costs to departing-load customers through the Power Charge Indifference Adjustment, in a manner that both aggregators and IOUs believe is unfair.

The CPUC is still determining fee structures and will not have an answer for 18 months, the coalition asserts in a [fact sheet](#) posted on its website.

The group also highlights that the program does not account for the possibility of the Legislature passing a bill, such as SB 100, that will require utilities to deliver

100 percent renewable energy by 2045. Is CCA "worth the risk if pending legislation will achieve the same goal?" the coalition asks.

The San Diego-based Climate Action Campaign, which supports CCA, said Clear the Air is seeking to deny residents and small businesses access to lower bills and more clean energy. "Climate Action Campaign and friends have done extensive outreach and education to the community and they have spoken loud and clear: they want the freedom to choose their electricity provider," the campaign said.

On Sept. 20, the Climate Action Campaign announced that the San Diego Democratic Party has endorsed a community choice aggregation program for the City of San Diego.

The California Community Choice Association, which represents CCAs in the state, "encourages San Diego to carefully consider the benefits and risks" of operating a CCA program, and promises to support the city if it chooses move ahead with aggregation to "help ensure their success."

—Leora Broydo Vestel

Is CCA 'worth the risk if pending legislation will achieve the same goal?'

[14] East Bay Community Energy Advances to Launch of CCA Program

East Bay Community Energy is working to secure financing, contract with service providers and fill a number of staff positions in advance of the launch of its community choice aggregation service, scheduled for April.

Alameda County and 11 cities therein—Albany, Emeryville, Berkeley, Oakland, Piedmont, San Leandro, Dublin, Livermore, Hayward, Union City and Fremont—have formed a joint-powers authority that is administering the East Bay aggregation program. With expected service to about 600,000 accounts, or upwards of 1.5 million people, EBCE is poised to be the largest CCA in California.

EBCE is in the midst of finalizing a contract with GridX/Concentrix for billing, data-management and call-center services.

GridX/Concentrix, which has a software-based billing system used by Pacific Gas & Electric and the Sacramento Municipal Utility District, according to EBCE, is one of two providers that responded to a request for proposals issued by the aggregator in June.

Calpine Energy Services, which to date has been the provider of choice for data-management and call-center services for aggregators in California, also responded to the RFP.

In evaluating the proposals, a three-person selection committee—encompassing a member of the International Brotherhood of Electrical Workers Local 595, a member of the Albany City Council, and staff of the Alameda County Planning Department—found both applicants to be “highly qualified vendors with different benefits and drawbacks, but that GridX/Concentrix offered the most upside for EBCE,” according to a Sept. 20 report by Chief Executive Officer Nick Chaset to the EBCE Board of Directors.

GridX/Concentrix highlighted a number of capabilities to the committee, including advanced value-added services focused on customer energy-usage analysis for energy-efficiency, net-metering and demand-response needs assessments; and a customer-engagement platform where customers can access energy usage information, opt in to customer energy programs, and share energy data with third-party distributed resource providers.

Calpine, acknowledged by staff as the “market incumbent in the CCA data management and call center space,” underscored its successes bringing CCA customers on line and its “well-defined internal processes for ensuring customer success.”

The committee, however, expressed concern that Calpine’s “product offering seemed inflexible” and wanted to know more about how it would modify its systems to support EBCE’s local-energy focus, according to the report.

“An additional area of concern for the panelists was the fact that Calpine has many other CCA



customers and may not be able to give EBCE the level of attention needed when it is also trying to support other major CCAs like LA County as they prepare to launch,” the report states.

Both vendors committed to site their call centers in Alameda County and submitted final offers that included lowered bid prices.

Calpine’s updated offer highlighted a partnership with a software company based in Alameda County that would enhance its ability to support the development and integration of local distributed resources, the report noted. GridX, meanwhile, committed to signing a labor-neutrality agreement for its Fremont-based customer service representatives and other deal sweeteners to maximize local benefits.

East Bay Community Energy, funded with an initial \$2.5 million in financing from Alameda County, issued a request for offers Sept. 19 seeking:

- a revolving line of credit of up to \$5 million for remaining startup costs and working capital expenses;
- commercial banking services including account, deposit and treasury services for utility billing and energy-market operations;

• a non-revolving line of credit of up to \$60 million to support energy-market activities and longer-term working capital needs.

The RFO “was distributed to a large number of financial institutions, with a particular focus on trying to engage with local and mission-oriented banks,” the report said. Responses are due Oct. 10.

In terms of staffing, EBCE has hired Chaset as CEO and Stephanie Cabrera as executive assistant/board clerk, and is seeking to next fill the following positions: chief operating officer, general counsel, director of marketing and account services, and director of government and community affairs.

“The level of interest and number of applications received thus far has been very high,” the report said, “and bodes well for creating a first-rate team of qualified, committed professionals.”

EBCE will provide generation service to the 11 cities and unincorporated areas in Alameda County, representing about 90 percent of the county’s total annual load of approximately 7,000 GWh.

Pleasanton and Newark, representing the other 10 percent, have not taken the required steps for CCA participation. The City of Alameda is served by its own municipal utility and is thus off-limits to CCA.

—Leora Broydo Vestel

‘The level of interest and number of applications received thus far has been very high.’

[15] CAISO Approves Automated Modeling of Power Plant Losses

The California Independent System Operator's Board of Governors on Sept. 19 approved an enhancement to CAISO rules that will enable its systems to automatically model potential loss of power plants. The grid operator undertook the move to enhance market efficiency and readiness, it said.

Before the change, CAISO grid models could consider only potential transmission outages, but not unexpected outages at power plants, meaning those outages had to be managed through manual intervention, CAISO said.

Before it can go into effect, the rule change must be approved by the Federal Energy Regulatory Commission. The governing body of the Western energy imbalance market approved an element of this rule earlier in September, according to CAISO.

The board also authorized the extension through 2018 of a reliability-must-run contract with three 55 MW units at a Dynegy plant in Oakland. Such RMR contracts are used for generation not under a long-term contract with a utility but that is needed to maintain local reliability, including voltage support, black-start or dual-fuel capability.

In Oakland, the resources are needed to meet reliability requirements in the Oakland sub-area based on a CAISO analysis of real-time operations data for 2015 and 2016, said Keith Casey, CAISO vice president of market and infrastructure development, in a Sept. 12 memo to the Board of Governors. The analysis shows a need of at least 98 MW for a 1-in-3 heat wave "and instances where all three Oakland generators were on line simultaneously to maintain local reliability."

CAISO's 2018 local capacity study, released in May, showed a need of only 56 MW in the sub-area, which CAISO attributed to a discrepancy in load-forecast distribution among substations in the area. CAISO said it will work with Pacific Gas & Electric and the California Energy Commission to correct the discrepancy.

The board also heard several updates that required no action.

In an update on state, regional and federal affairs, CAISO staff on July 24 submitted informal comments in a California Public Utilities Commission proceeding that is assessing whether reliability can be maintained if usage of the Aliso Canyon natural gas storage facility is reduced or eliminated.

Key recommendations CAISO made to the commission are:

- To incorporate results of the grid operator's power-flow modeling into a production cost analysis being undertaken.
- To carefully consider different solar conditions and effects on the hourly rate of gas needed in the analysis.
- To develop electricity demand forecasts utilizing the California Energy Commission's hourly profiles, expected to be available early next year.
- To consider impacts of a reduction in use or a closure throughout the entire integrated electric

grid in Southern California, rather than just in the Los Angeles Basin.

The update also noted that Portland General Electric is progressing well toward its entry into the energy imbalance market. The Portland utility will join the EIM Oct. 1. Parallel operations between the market entities began Aug. 1. And CAISO and PGE completed a readiness assessment and submitted it to FERC on Aug. 30.

Following PGE's entry, Idaho Power and Powerex are slated to join the EIM next April. Other entities studying whether or not to join the market include the El Centro Nacional de Control de Energía, the Mexican grid operator, and NorthWestern Energy, which is based in Montana.

In the second quarter, the EIM generated benefits of \$39.5 million, and more than \$213 million since its inception, according to a quarterly report CAISO released Aug. 1. Efficient dispatch in the EIM also led to the displacement of 28,700 metric tons of carbon dioxide (see *CEM* No. 1448 [16.1]). —*Mavis Scanlon*

SOUTHWEST

[16] Google Can Sidestep NV Energy Exit Fee; Motion Questions Fee Use

(from [5])

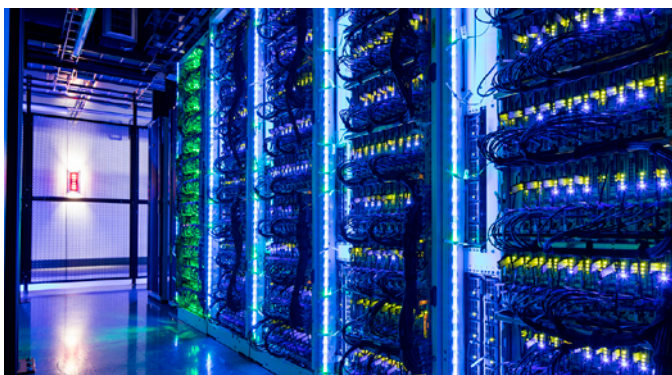
Google can leave NV Energy's utility service without paying a hefty exit fee, according to a Sept. 8 order from the Public Utilities Commission of Nevada—if the internet-technology company goes ahead with plans to construct a renewable energy-supported data center in the state. This is the first case of a large customer successfully avoiding the utility exit fee in advance of a new project investment in Nevada.

Scrutiny of the utility's use of its accumulated exit fees, which total about \$173 million, has risen on the heels of the precedent-setting Google decision. The Smart Energy Alliance filed a motion on Sept. 19 asking the PUCN to instruct NV Energy to "transparently" account for the exit-fee funds and to clarify its plans for using the funds.

NV Energy's substantial accumulation of exit fees from large customers under Nevada Revised Statutes Chapter 704B is unusual compared with other U.S. utilities, according to Rick Gilliam, program director for distributed generation and regulatory policy at Vote Solar's Denver office. Chapter 704B, enacted in 2005, allows the commission to calculate the economic impact of an exit and to assess payments to ensure the exit is not contrary to the public interest.

"This is unique in the country, for having so many large customers leave a utility and having to pay so much to do so," Gilliam said. "Most utilities bend over backwards to try to keep a large customer. If I owned NV Energy I might wonder why so many customers want to pay so much to leave."

The order in the Google case means the company can take power from the utility as it starts construction of the data center, then switch to independent



Google now may build a data center in Nevada like Switch. Photo: Switch

renewable-energy generators without paying millions of dollars for the utility separation, as have a number of Las Vegas casinos over the past two years. MGM Resorts, for example, has agreed to pay \$86.9 million to leave the utility by Oct. 1.

While the exiting casinos have long been customers of NV Energy and are required to make the exit payments to mitigate impacts on remaining utility customers, the Google order opens the door to new commercial or industrial facility development in the state, with a link to the grid but without a subsequent exit-fee burden.

PUCN Chairman Joseph Reynolds issued the opinion on Google, confirming that the company could take service from NV Energy for one day, then discontinue the service the next day without paying the impact fee, which is required under Chapter 704B. Google must meet the state requirement of consuming at least 1 MW of electricity from the utility per year, according to the terms of the law.

Reynolds' opinion clarified that 704B is not intended to hinder growth and economic development in Nevada, and that the commission will not burden new businesses in Nevada that have no "meaningful" relationship with NV Energy.

Google initially filed a docket with the PUCN on April 25 seeking an order on the question of how a new electric customer that ultimately plans to receive service from a new renewable-energy service provider should apply for bundled electric service for a minimal time [17-04019].

The commission's determination could have affected Google's decision on whether to build the data center or not, the company said in its filing.

Google has purchased about 1,210 acres of land at the Tahoe Reno Industrial Center, according to a spokeswoman for the center. The project does not yet have a schedule, according to a Google statement.

Privately owned TRI also houses Tesla's battery Giga-factory, Apple's Mills Project data center, and a large data center owned by Switch. The TRI Public-Private Partnership Project, formed in 2001, is a partnership between the development owners and Storey County. The developers have paid for infrastructure development up front, and are being reimbursed through county revenue taxes levied on the businesses operating there.

The Smart Energy Alliance, in its motion, questions whether the utility needs these funds for new

capacity investment to continue to provide service to existing customers, apart from funds earmarked in planning proceedings. The alliance filed its motion in two NV Energy rate-related cases at the commission, [17-06003] and [17-06003], filed on June 5.

"Clearly, if NV Energy is not passing the benefits [of the exit fees] to remaining customers, those benefits are flowing to NV Energy's shareholders, in violation of the law," the motion contends. Some of the customers that sought to leave the utility were told that the exit fee would be calculated in a black box, the motion said. —*Charles W. Thurston*

[16.1] Utah PSC Mulls Net Metering Agreement for RMP

The Utah Public Service Commission is considering a stipulation agreement on net energy metering rates for solar customers forged out of nine months of negotiations among Rocky Mountain Power, solar advocates and other groups. With hearings wrapped up as of Sept. 18, parties expect a decision from the commission within a month.

Salt Lake City-based RMP, Utah's largest utility, provides electric service to nearly 1.1 million customers in Idaho, Utah and Wyoming. Negotiations on the current agreement started last November; the agreement comes in a proceeding opened to investigate the costs and benefits of RMP's net-metering program [14-035-114].

The proposed stipulation agreement, filed on Aug. 28, would close, or cap, Rocky Mountain Power's current net-metering program no later than Nov. 15, and grandfather solar customers registered by that date under existing net-metering terms until the end of 2035.

Once the proposed agreement is decided on by the commission, a new export credit proceeding on solar-export valuation will begin. This process could take up to three years to complete.

The proposed agreement would establish a transition group of customers who apply for solar interconnection after the cap date but before the conclusion date of the export credit proceeding, which will seek to place an appropriate value on exported electricity. The proposed agreement acknowledges that the proceeding may change the terms of treatment for the transition group of solar customers.

The proposed agreement also limits the cumulative interconnected capacity of residential transition customers to 170 MW DC, and of large nonresidential transition customers to 70 MW DC.

Transition solar customers applying for interconnection after the Nov. 15 cap would pay fees ranging from \$60 to \$150, and also may pay fees prorated to the size of their individual installations, ranging from \$1.50/kW to \$3/kW.

Export credits for the transition customers would be paid at rates ranging from a low of 3.4 cents to a high of 9.2 cents per kWh, depending on customer class. The proposal estimated that over \$7.8 million in payments would be made to RMP residential customers in all its state territories,



Net metering for solar in Utah is about to change. Photo: Berkshire Hathaway

based on projected customer exports of 85,000 MWh to the grid during the estimated three-year transition period. The Utah component is estimated at \$5.2 million.

Boulder-based Western Resource Advocates calculated the export-credit cost impact to all customers at \$20 million a year, more than the \$7.8 million that the utility projected, said Jennifer Gardner, a staff attorney for the organization.

The export credits would be paid for through charges to RMP customers in Utah, and these funds would accumulate in the company's Energy Balancing Account, which normally serves as a fuel-cost adjustment pool.

WRA opposes the accumulation of export credit funds in the account without clarification of how they would be accounted for and used.

The proposed agreement also establishes a 15-minute interval for netting transition customers' usage and export credits.

WRA sought one-hour intervals for netting rooftop solar customers, rather than the current monthly interval, according to Gardner. "We are concerned that the 15-minute intervals could shut the door on any developing [time of use] rates for residential customers, and open the door to demand charges, which are measured in 15-minute intervals; it basically puts a bull's-eye on residential solar," she said.

The 15-minute interval is a procedure that is not well tested in the utility industry, according to Gilliam. "This 15-minute netting period is highly unusual, and makes Utah one of the only states in the nation to micrometer and net solar generation, to my knowledge," he said in Aug. 28 testimony.

Signatories to the proposed agreement will meet during the second quarter of 2018 to begin planning data collection for the export-credit valuation exercise.

The parties also will work collectively to create a website within the Utah.gov portal to explain both the current and future treatment of net metering and customer generation. In addition, the parties will work collaboratively to develop and implement consumer-protection regulations through the appropriate state agency or through legislation.

Signatories include the Utah Division of Public Utilities; the Utah Office of Consumer Services; Vivint Solar; Auric Solar; HEAL Utah; Intermountain Wind and Solar; Legend Solar; Utah Solar Energy Association; Salt Lake City Corp.; Summit County; Utah Citizens Advocating Renewable Energy; and Utah Clean Energy. Three organizations do not oppose the agreement but did not sign, including the Utah Association of Energy Users, Vote Solar and Western Resource Advocates.

The Salt Lake City-based Utah Association of Energy Users did not sign the agreement, in part because it does not include provisions to protect larger energy users, which are ineligible for the net-metering program, from inappropriate cost shifting, according to Sept. 12 testimony from Neal Townsend, a consultant at Salt Lake City-based Energy Strategies, representing the association. —C. T.

[16.2] APS Proposes New Technology in \$52.6 Million Efficiency Program

Arizona Public Service is proposing an expanded energy-efficiency program for 2018, including smart thermostats, water-heater timers, electric school buses, residential electric-vehicle charging infrastructure, and greater residential energy-storage funding. The \$52.6 million proposal is a follow-on to the utility's 2018 Demand Side Management Plan docket, filed Sept. 1 [E-01345A-17-0134].

APS serves about 2.7 million people in 11 of Arizona's 15 counties.

"This proposal is important because, combined with our new rate plans, we are taking an innovative approach to helping customers save money and reduce peak demand—a win-win for everyone," said Anna Stewart, an APS spokeswoman.

The new program goal is to achieve an estimated 434,000 MWh of energy savings per year starting in 2018. The effort would focus on reducing summer peak demand and shifting load to midday in non-summer months to better integrate solar on the grid.

The proposed program would reward customers for conserving power during the 3 p.m. to 8 p.m. peak period, and incentivize the use of electricity during the remaining solar-production hours.

The proposal also would include reverse demand-response and load-shifting pilot measures, including a reverse demand-response pilot for large customers with dispatchable load of at least 30 kW.

Among other highlights of the program are the following elements:

- \$2.3 million worth of electric buses would be added to the utility's Schools Pilot 2.0 project;
- \$1.3 million would be made available to subsidize residential EV charging stations;
- Residential energy-storage funding would be increased to \$6 million from \$4 million under the existing APS storage program; and
- To better coordinate energy efficiency with its customers, APS would offer more proactive text and email alerts to give customers timely information on outages, usage and billing. —C. T.

POTOMAC

[17] Trade Panel Says Solar Imports Harming U.S. Producers (from [6])

The U.S. International Trade Commission on Sept. 22 ruled that imports of crystalline solar products are harming U.S. producers, setting the stage for import restrictions such as tariffs or quotas.

The commission ruled following an Aug. 15 hearing where trade-restriction proponents said low-priced imports of cells and modules are driving domestic solar producers out of business, while opponents said tariffs or quotas could drive up solar energy costs and cripple demand.

The commission will move into a “remedy phase,” which could result in recommendations sent to President Donald Trump for imposing tariffs, quotas, a two-level duty in which goods enter the U.S. at a higher duty after a quota is filled, trade-adjustment assistance, or a combination of measures. The commission also could recommend negotiations with exporting countries. The commission has until Nov. 13 to send Trump a package of recommendations.

Under the federal Trade Act, Trump, a longtime critic of trade imbalances, could impose trade measures for an initial period of up to four years.

SolarWorld-Americas, the Hillsboro, Ore.-based manufacturer that joined with Georgia-based Suniva to file a trade complaint with the ITC, praised the commission’s finding in a statement. “We welcome this important step toward securing relief from a surge of imports that has idled and shuttered dozens of factories, leaving thousands of workers without jobs,” the company said.

SolarWorld said a prehearing ITC staff report found that nearly 30 crystalline-silicon solar manufacturing sites have closed in the U.S. since 2012, during which imports of solar products rose fivefold.

Abigail Ross Hopper, CEO of the Solar Energy Industries Association, said the ITC decision could double the price of solar energy and “destroy two-thirds of demand.”

In a Sept. 19 statement, SEIA said “the real reason” SolarWorld and Suniva filed a complaint with the ITC “is to get a federal bailout to pay back their creditors for bad investments.”

Sixteen senators, including Westerners Dianne Feinstein (D-Calif.), Cory Gardner (R-Colo.), Martin Heinrich (D-N.M.), and Dean Heller (R-Nev.), said in a letter to the ITC that solar companies in their states “believe the requested trade protection would double the price of solar panels,” which they said would stop solar development “dead in its tracks.” Similar points were raised in a letter from 53 House lawmakers.

Committee Advances FERC Nominations

The Senate Energy and Natural Resources Committee on Sept. 19 reported out by voice vote the nominations of Kevin McIntyre and Richard Glick to sit on the Federal Energy Regulatory Commission.

If the full Senate confirms McIntyre and Glick, FERC would be up to its full complement of five commissioners. President Trump has indicated he would name McIntyre chairman if he is confirmed, taking over the gavel from Neil Chatterjee.

McIntyre, who was nominated for the term ending June 20, 2018, and a five-year term ending June 30, 2023, is co-leader of the energy practice at the law firm Jones Day. Glick, general counsel for the Senate committee’s Democrats, was nominated for a term expiring June 30, 2022.

The committee also reported out the nomination of Joseph Galash to serve as the Interior Department’s assistant secretary for land and minerals management. Galash is a former commissioner of Alaska’s Department of Natural Resources.

Utilities Urge Vegetation Management Changes

Western utility officials on Sept. 19 said federal agencies take too long to approve vegetation management on power-line rights of way crossing federal lands, and supported Senate and House legislation to streamline approvals.

At a Senate Energy and Natural Resources Committee hearing, Forest Service and Interior Department officials said they support the goals of the bills, the House-passed HR 1873 and a section of S. 1460, the comprehensive energy bill drafted by committee Chairman Lisa Murkowski (R-Alaska) and the committee’s ranking Democrat, Washington’s Maria Cantwell.

“I understand utilities are frustrated,” Glenn Casamassa, associate deputy chief of the U.S. Forest Service, told the committee.

Casamassa said the Forest Service is committed to working with utilities on vegetation management, pointing to a standard permit and maintenance plan for rights of way on Forest Service land the agency concluded with the Bonneville Power Administration. Casamassa also said the Forest Service reached an agreement with Pacific Gas & Electric to remove hazardous trees in rights of way crossing national forests in PG&E’s service territory.

Mark Hayden, general manager of Missoula Electric Cooperative, told the hearing the Forest Service took almost 18 months to approve the co-op’s proposal to bury six miles of three-phase line in western Montana’s Swan Valley.

Hayden noted the project did not require an environmental impact statement or assessment. “I can only imagine the number of months or years project approval would have taken had those more in-depth investigations applied,” he said.

Hayden also pointed to Benton Rural Electric Association’s efforts to renew a Forest Service special-use permit granting right-of-way access. The central Washington co-op applied for renewal in August 2015, but 15 months later, “Forest Service officials have proposed nothing short of a full-blown environmental assessment” costing an estimated \$100,000 for “facilities that have been in place for more than 70 years,” Hayden said.

Murkowski asked hearing witnesses about modifying wildfire liability that federal law imposes on utilities with power-line rights of way on federal lands.

In response, Hayden said Congress should ensure “there should be liability relief for utilities if there are delays in the approval of a vegetation management plan.”

Andrew Rable, forestry manager for Arizona Public Service, testifying on behalf of the Edison Electric Institute, noted that utilities are caught between federal land managers’ approval delays and potential fines for violating the North American Electric Reliability Corporation’s reliability requirements for keeping transmission lines clear of trees.

The officials spoke in favor of HR 1873, which would give utilities the option of submitting vegetation-management plans to federal land managers qualifying for a “categorical exclusion” exemption from detailed environmental studies under the National Environmental Policy Act. The bill sets a 90-day deadline for plan approvals.

Similar language is in S. 1460.

Both bills would lift wildfire liability on utilities if federal agencies withhold or delay permission to carry out vegetation-management plans on rights of way.

The Wilderness Society’s Scott Miller, senior director of the group’s Southwest region, spoke against HR 1873, arguing that “it would give a blanket categorical exclusion to everything.” He said the Senate bill provides a “thoughtful framework” for right-of-way management by encouraging long-term planning that allows for “appropriate environmental review.”

Zinke Recommends Revising Monuments

Interior Secretary Ryan Zinke has recommended boundary changes and management-plan revisions for 10 onshore and marine national monuments, including two in Utah containing fossil-fuel resources, in a memo to President Trump made public Sept. 18 by *The Washington Post*.

Zinke recommended that Trump revise presidential proclamations establishing the monuments and rework management plans to allow for “traditional uses,” including mineral extraction. The memo did not specify recommended boundary changes or the resulting acreage reductions.

The recommendations include the 1.35 million-acre Bears Ears National Monument, established last December by President Barack Obama, and the nearly 1.88 million-acre Grand Staircase-Escalante National

Monument, designated in 1996 by President Bill Clinton. Both monuments are on federal lands in Utah.

Zinke’s memo noted Grand Staircase-Escalante contains “several billion tons of coal and oil deposits.” In addition, land within Bears Ears has drawn interest from oil and natural gas producers.

At an unrelated Senate hearing Sept. 19, Sen. Martin Heinrich (D-N.M.) took Zinke’s memo to task for what he called significant “factual errors” in the memo’s text involving the southern boundary of and hunting access in New Mexico’s Organ Mountain Desert Peaks National Monument.

“I certainly hope that before the president acts on any of these recommendations that [Zinke] makes sure that he can get his facts straight,” Heinrich said.

Trump on April 26 ordered review of monuments at least 100,000 acres in size established or enlarged to that size since 1996. Zinke earlier recommended no changes for six monuments, including Canyons of the Ancients in Colorado, which holds grandfathered natural gas leases.

While previous presidents have reduced the size of national monuments, a president’s authority for shrinking a monument is legally ambiguous, according to a 2016 Congressional Research Service report. If Trump orders monument size reductions, litigation is thought to be likely.

Zinke’s memo took issue with designation of monuments to protect landscapes and ecosystems. The 1906 Antiquities Act authorizes presidents to establish monuments on federal lands to protect “objects of historic or scientific interest” within “the smallest area compatible with proper care and management of the objects to be protected.”

In a June 9 *Virginia Law Review* article, environmental attorneys Mark Squillace, Erik Biber, Nicholas Bryner, and Sean Hecht argued that the 1976 Federal Land Policy and Management Act “makes it clear that the president does not have implied authority” to modify or revoke monument designations made by a predecessor.

They noted the Supreme Court upheld President Theodore Roosevelt’s 1908 designation of the Grand Canyon as a national monument covering 808,000 acres.

FERC OKs Revised Frequency Reliability Standard

FERC on Sept. 20 approved changes in a frequency-control reliability standard.

The revisions, proposed by NERC, “clarify and consolidate” frequency-control requirements for balancing authorities.

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The FERC-approved standard also provides for “more accurate and comprehensive calculation” of area-control error by balancing authorities, FERC said.

In other matters, FERC approved a two-year extension of the deadline for Okanogan Public Utility District of Washington to begin construction of the 9 MW Enloe Hydroelectric Project.

FERC acted at its first meeting since its quorum was restored by Senate confirmation of Commissioners Neil Chatterjee and Robert Powelson in August.

EPA Reconsidering Coal Ash Rule

The Environmental Protection Agency on Sept. 14 agreed to reconsider parts of the 2015 rule regulating management of coal ash and other coal-combustion byproducts.

EPA accepted a petition from a utilities group seeking reconsideration of 11 rule provisions covering inactive surface impoundments, closure of unlined impoundments, groundwater monitoring and cleanup standards, and reuse of coal-combustion residuals in other products, such as fly ash used for producing concrete and flue-gas desulfurization gypsum used for manufacturing wallboard.

If EPA decides to rework the regulation, a rule-making, including a public comment period, would be required.

A law enacted last year allows states to operate coal-ash programs differing from EPA’s if they are “at least as protective” as the federal rule, which sets standards for existing and new coal-ash disposal facilities. The rule requires periodic safety assessments, installation of monitoring wells to check on potential groundwater impacts, and standards to minimize runoff from disposal sites and to prevent overtopping from floodwaters.

In its May 12 petition, the Utility Solid Waste Activities Group argued the EPA rule should be amended in light of the 2016 law to “incorporate the risk-based management options contained in state and other EPA solid waste programs, eliminating the burdensome, one-size-fits-all approach of the current rule.”

The utilities group also asked EPA to delay compliance deadlines.

EPA Administrator Scott Pruitt said in a statement that the agency should “consider improvements that may help states tailor their permit programs to the needs of the states.”

Environmental organizations warned EPA they would challenge a proposal to alter the rule. Earthjustice said 208 of 1,400 coal-ash impoundments have leaked or spilled into water bodies, and 331 coal-ash ponds have “high” or “significant” ratings for loss of life or property damage if they fail.

About 117 million tons of coal ash were produced in 2015, and 52 percent was recycled into other products, according to American Coal Ash Association figures.

McMaster: No Backtracking on Paris Pullout

White House National Security Adviser H. R. McMaster on Sept. 17 denied a *Wall Street Journal* report that President Trump is reconsidering his decision to pull out of the 2015 Paris climate agreement, but added that Trump is open to joining a replacement deal.

“He’s out of the Paris accord,” McMaster said on “Fox News Sunday,” but added that “the president’s ears are open, though, if at some point they can decide that they can come forward with an agreement that addresses the president’s very fundamental concerns about Paris.”

French President Emmanuel Macron, however, told the United Nations General Assembly on Sept. 19 the Paris agreement “is not up for renegotiation.”

The Obama administration pledged to reduce U.S. greenhouse-gas emissions 26 to 28 percent by 2025. China, the world’s largest emitter of GHG emissions, has pledged to reduce carbon dioxide emissions 60 to 65 percent per unit of gross domestic product by 2030.

A total of 197 countries signed the Paris accord, and 164 have ratified it so far. There are no mechanisms in the agreement to enforce emissions-reduction commitments, and countries can alter their commitments.

Under the accord’s terms, the U.S. cannot formally withdraw until Nov. 4, 2020. —*Jim DiPeso*