QUARTERLY REPORT

June 2020

It's weird out there, but we've got stuff to do…

I've just done my first "business travel" since the lockdown in March. As glad as I was to see folks in person, it was disconcerting – the planes, airports, and hotels were very different from my last trip. The vibe is strange out there. Nobody knows exactly what the rules are, but we are all trying to adjust. But let's admit it – it is weird.

In the meantime, WPTF has pivoted in response to the temporary halt of large in-person meetings by holding several "virtual" meetings. We have hosted 1) a kick-off meeting of the California Public Utilities Commission (CPUC) Committee; 2) a video meeting on the demand picture in California and large renewable curtailments in the California Independent System Operator (CAISO); and, 3) a webinar on efforts to develop a regional Resource Adequacy (RA) procurement mechanism.

More conversation is necessary, however. California continues to struggle with what to do about RA. The CPUC continues to try to fix a problem it believed existed two years ago, proposing rules that will make it harder to share resources with the rest of the West. At the local level, the CPUC's proposal would undermine incentives for investment by concentrating procurement in the hands of jurisdictional Investor-owned Utilities (IOUs). Needless to say, there is a regional context that is missing from the CPUC deliberations. How long can California believe it can dictate terms for resources coming from the rest of the western region of the US?

These conversations will, for the time being, have to be had virtually. WPTF had to cancel its Summer Meeting scheduled to take place at the Coeur d'Alene Resort in Idaho. We intend to have our Winter Meeting in February in Carlsbad, California and resume the Summer Meeting tradition in Idaho next year. But in the meantime, we are working on a compressed virtual General Meeting with speakers of interest and will be back to members with a schedule soon – please stay tuned. We will also be coming up with a web version of the WPTF Washington, DC Roundtable in early August. The focus will likely be on how the struggle of the West for a regional RA paradigm is progressing. Given the participation of (Federal Energy Regulatory Commission (FERC) staff in these Roundtables of the past, this may be an opportunity to converse with DC policy makers in an informal setting.

So, my friends, it is indeed weird out there but the need to keep at our jobs is still there. Adjust, regroup, engage – and know that your WPTF committees are focused on all the stuff we need to get done for, and with you.

Scott Miller

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Save the Date

Check the WPTF website for all the details

WIDER WEST COMMITTEE (2WC)

Caitlin Liotiris

Caitlin Liotiris coordinates WPTF's [Wider West Committee (2WC)](), which engages on market, policy, reliability and technical developments in the "wider West," generally outside of California. The 2WC is active in advocating for broader western energy markets, especially the EIM and other regional market expansion opportunities. The 2WC also follows important developments at Peak Reliability and the Western Electricity Coordinating Council. Caitlin has over a decade of experience in energy issues in the West and has spent most of those years actively engaged on market development efforts across the Western Interconnection footprint, including a major role in developing the policies for implementing the EIM. She is skilled in understanding and distilling the interaction of energy policy and energy market dynamics. In addition to her work with WPTF, Caitlin has worked on various energy policy and market related issues throughout the county. Caitlin is currently a member of Peak Reliability's Member Advisory Committee (MAC) and has also co-authored various reports exploring the benefits of proposed transmission facilities in the West.

The Rest of the West Joins California in Wrestling with Resource Adequacy

In California, various agencies, including the CPUC and the CAISO, have been grappling with revisions and improvements to the state's RA program for years. Revisions to the RA structure are currently being considered to account for everything from increasing penetration of variable energy resources and battery energy storage to the growing number of, relatively small, Load Serving Entities (LSEs) in California.

While RA issues and debates have long existed in California, in recent years we've seen increased interest in tackling RA more holistically across the West. Outside of organized markets (e.g. CAISO), the West doesn't have a standardized method of measuring and assuring RA. Of course, all North American Electric Reliability Corporation (NERC) Registered Entities have to meet the requirements of applicable reliability standards, but there is no overarching requirement for demonstration of sufficient capacity to meet future need. Certainly, there is no standardized way of accrediting capacity from wind, solar, hydro, battery storage, and hybrid resources in the West. Some are anxious to see that change as the West experiences its own changes, most notably increasing variable energy resource penetration and diminishing capacity reserve margins as legacy plants retire.

As most readers are already aware, the Northwest Power Pool (NWPP) is in the process of conducting a comprehensive review of RA programs across the region and is also in the initial stages of designing a coordinated, regional RA program. These efforts are being undertaken to help address concerns about whether the region has sufficient capacity and to help ensure resources aren't being "double counted."

But what readers may not be aware of is that, in June, the Western Electricity Coordinating Council (WECC) kicked off its new "Resource Adequacy Forum." WECC's forum is intended primarily as an information-sharing vehicle and to help address one of WECC's near-term priorities: to evaluate interconnection-wide RA and performance. Despite WECC's intended focus on information sharing and facilitating discussions, the first meeting of this group already included several versions of this question: "can WECC develop a west-wide minimum standard for RA?" This seems unlikely to actually come to fruition, as such an endeavor would require WECC to develop a regional standard (which, over the last few years, has tended to be repealed rather than added). Additionally, to develop a minimum RA standard for the West, WECC would need to determine an approach to capacity accreditation for various resource types, plus establish a planning reserve margin (or other metric of compliance).

This type of WECC action seems highly unlikely at this juncture and would almost certainly face strong opposition from a variety of stakeholders, including state regulators.

Despite the complexities of establishing an RA program in the absence of an ISO/RTO (as NWPP is seeking to do), the NWPP effort appears far more likely to come to fruition than a WECC region-wide standard. The NWPP effort has – or at least appears to have – the buy-in of key parties and the program design is being done as a collaborative effort to develop a proposal and stand up (or hire) an entity to administer the program. It is clear that there is going to be a focus not just in California, but also across the West on RA issues for the next few years.

As Expected, Interconnection Queue Reforms Expand in the West

Over the last few years, the 2WC has been involved in a variety of generation interconnection queue-related forums. As I said in a prior Quarterly Report, generator interconnection is a somewhat arcane corner of our industry. That said, anyone who has developed a project understands the importance of generator interconnection procedures to project development.

In 2018, in the face of growing queue backlogs, Public Service Company of Colorado (PSCo) began working with stakeholders on an overhaul to the Federal Energy Regulatory Commission (FERC) pro forma interconnection procedures. After several attempts, in December 2019, FERC approved queue reforms that moved PSCo to a "first-ready, first-served" cluster approach. The 2WC participated and advocated in the PSCo stakeholder process, with the understanding that the reforms developed in that venue were likely to be used as a template by other western utilities seeking to address their own interconnection queue backlogs.

Sure enough, we have seen a number of utilities follow PSCo's lead. PacifiCorp recently received approval for its reforms, which are similar in many ways to PSCo's. After a hard-fought stakeholder process and FERC proceeding. FERC ordered PacifiCorp to make changes to a few key provisions of the filing, which hopefully will improve competitive outcomes in the PacifiCorp queue. The interconnection reforms approved for PacifiCorp have major implications for its current resource solicitation effort. There are outstanding Requests for Rehearing at FERC which are primarily intended to expand the pool of resources that will be eligible for PacifiCorp's "transitional cluster" and thereby, expand the number of resources that can participate in the utility's 2020 Request for Proposals (RFP).

Tri-State is now also proposing to implement interconnection queue reforms that are very similar to PSCo's. The transition to a "first-ready, first-served" approach turns many typical commercial practices on their heads and moves interconnection later in the development cycle. It remains to be seen if these reforms can be effective and fair to non-incumbent resource developers. Already, developers are reporting some issues with elements of PSCo's queue reform, including a definition of Site Control that doesn't account for development of resources on State land. The 2WC is participating in the Tri-State stakeholder process, including highlighting modifications from PSCo's "template" that may be beneficial in light of ongoing experience with that process. Member input on issues experienced in these newly reformed interconnection queues is welcomed and will be used to inform future proposals to continually improve interconnection processes in the West.

CARBON AND CLEAN ENERGY COMMITTEE

Clare Breidenich

Clare Breidenich coordinates [WPTF's Carbon and Clean Energy Committee](). Clare has over 18 years' experience on greenhouse gas regulation and policy. In addition to her work with WPTF, Clare has worked on international climate issues with the Environmental Protection Agency, the Department of State, and the United Nations Framework Convention on Climate Change secretariat. She has also served on the Washington State Governor's Climate Action Team and on a National Academy of Science's Committee on monitoring of greenhouse gas emissions.

Washington and Oregon Move Forward with Carbon and Clean Energy Rule-making

The Washington Department of Commerce (DOC) and the Utilities and Transportation Commission have been working in parallel to develop implementation rules for the Clean Energy Transformation Act (CETA), for Consumer-Owned and Investor-Owned Utilities respectively.

Most of the topics under discussion by DOC will not be of interest to WPTF members that are not Washington utilities, as they provide additional guidance on CETA requirements for implementation planning and reporting. However, there are several issues at play in both proceedings regarding utility procurement that have potential to impact the electricity market.

The first is with respect to the CETA's requirement that each utility "eliminate coal resources from its allocation of electricity" by December 31, 2025. In Oregon and Washington, which also have statutes requiring utilities to divest of coal, "allocation" is understood to mean the ownership or investment in coal resources that affect customer costs. However, the draft rules developed by both Washington agencies interpret the coal elimination requirement as applying to market purchases of unspecified electricity as well, and would require each utility to use e-tags to demonstrate that unspecified purchases were not sourced from coal resources. WPTF and Washington utilities have opposed this interpretation and recommend that the issue be consider by the Carbon and Electricity Markets Workgroup.

The second issue concerns what is considered "use of renewable and non-emitting resources" under the CETA. Until 2045, the CETA allows a utility to meet up to 20% of its obligation to be greenhouse gas (GHG) neutral with "alternative compliance options" including the use of unbundled renewable energy credits (RECs). For the remaining 80%, the question is essentially what constitutes "bundled" renewable or non-emitting electricity under the CETA. For non-emitting resources, both agencies propose that each utility document ownership of the "non-power attributes" associated with the electricity. This approach is similar to the California Air Resources Board's "Seller Warranty" requirement for claims of specified electricity.

For renewable resources, the two agencies have proposed an approach that would require the electricity and underlying RECs to be acquired together, but allow the electricity to be resold as unspecified power. (The question of whether unbundled RECs can be used for CETA as an alternate compliance option when the underlying electricity has been sold as specified appears to have been deferred, pending the Carbon and Electricity Market Workgroup's consideration.)

Lastly, there seems to be some pretty confused thinking in the Washington environmental community around the treatment of energy storage resources under the CETA. Some stakeholders call for the definition of non-emitting resources to be modified to exclude storage resources that have been charged with an emitting resource and to specify that storage be eligible to meet CETA targets only when charged by non-emitting resources. WPTF comments on this issue recommend that energy storage resources be treated as modifying load to obviate the need to consider the type of generating resource(s) and any associated emissions, and to allow them to be appropriately reflected in CETA implementation plans without potential for double-counting of renewable or non-emitting generation.

Oregon

As discussed in the last Quarterly report, back in March when the Oregon Legislature failed to pass a cap-and-trade bill, Governor Brown issued an Executive Order that tightens the state's GHG reduction goals and directed the state agencies to "exercise any and all authority and discretion" authorized by law to meet these GHG goals. In mid-May, the Oregon Department of Environmental Quality (DEQ) and other state agencies published their initial proposals for specific activities and programs in response to the Governor's directive.

As expected, the DEQ's report outlines a "cap and reduce program". The program would establish GHG emission caps for three sources explicitly called out in the Governor's order: transportation fuels, natural gas, and large industrial sources. DEQ believes that it has legal authority to regulate these sources. The report notes that because DEQ lacks authority to regulate emissions that occur out-of-state, emissions associated with imported electricity cannot be regulated, which would make regulation of the electric sector ineffective. The report notes that other programmatic approaches may be more appropriate for electricity. Although slim on details, the report does seem to envisage a true cap and trade program for regulated sectors (unlike the failed Clean Air Rule adopted in Washington a few years back). However, DEQ does not believe that it could auction allowances, but would instead have to directly allocate them. The report does not provide any insight into what DEQ is thinking in terms of level or rate of decline of emission caps, and leaves open the possibly of a rate-based approach. Although an explicit cost cap is not proposed, DEQ cites the possibility of an alternate compliance mechanism – in addition to trading – as a mechanism to control program costs.

At this point, significant additional GHG reduction requirements for the electricity sector do not seem planned. While the Oregon Public Utility Commission (OPUC) also published an initial report, the agency is not proposing any new rule-making, but rather plans to integrate specific GHG objectives into their existing proceedings and regulatory oversight, including the IRP processes and existing Transportation Electrification Planning framework. These include

- Updating IRP guidelines to incorporate the social cost of carbon and more explicitly consider GHG costs and risks, and exploring the development of criteria to measure utility progress toward GHG goals;
- Considering whether a utility's rate design and rate schedules send appropriate price signals and incentives for reducing GHG emissions and exploring whether a prudency review of a utility investment should include consideration of whether utilities' actions are consistent with GHG goals;
- Exploring changes to utility tariffs that promote GHG emission reductions, such as time-of-use rate offerings; and
- Considering new rate schedules, revisions to planning guidelines and requirements, and prioritization of infrastructure investments to approach transportation electrification as load within distribution system planning.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR (CAISO) COMMITTEE

Carrie Bentley

Carrie Bentley is the co-founder and CEO of Gridwell Consulting and has over a decade experience in the energy industry across the ISO/RTO markets. Ms. Bentley currently provides analysis and strategic support on "all things California ISO," including transmission, interconnection, capacity, storage assets, and the energy markets. Prior to becoming a consultant, Ms. Bentley most recently had been acting as a lead market design and regulatory policy developer at the CAISO, leading design and stakeholder initiatives in critical areas such as flexible ramping, resource adequacy, and renewable integration. Prior to the CAISO, Ms. Bentley was a consultant for GDS Associates, an engineering and economics consulting firm where she specialized in power supply contracting, natural gas hedging, and energy market design for a large range of clients in ERCOT, PJM, MISO, and SPP.

Scarcity pricing

As the CAISO continues to engage in several significant market design and policy discussions with stakeholders, a less visible topic is making cameo appearances in several on-going efforts. When its appearances are viewed in isolation, the cameo topic can easily be dismissed by other higher priority issues that are the focal point of the individual efforts. But, when we step back and view all the policy discussions that include the cameo appearance together, we see the significant role that cameo topic can and should play in the design of an effective and competitive wholesale energy market. We wanted to take this opportunity to look more in-depth at what we consider the most recent and pressing cameo topic at the California ISO – scarcity pricing.

In general, scarcity pricing refers to a market mechanism that allows energy prices to gradually rise above the marginal energy offer when the market starts to run out of supply to meet demand. The higher energy price then sends an appropriate signal to the market that indicates the need for more supply to be offered – makes sense, right? But today, the CAISO arguably lacks any sort of effective scarcity pricing mechanism. Sure, they have designed scarcity pricing for ancillary services, which is how most of the other ISOs have implemented scarcity pricing in their markets. We could spend an entire article talking specifically about how the current ancillary service design is not a robust scarcity pricing mechanism for energy, and the ways in which the CAISO design differs from that of the other ISOs. Then there's the Flexible Ramping Product (FRP), which the CAISO continues to contend is the scarcity pricing mechanism and thus nothing more is needed. We will get into more detail later on in this article about the effectiveness of FRP to act as a scarcity pricing mechanism, but first, let's examine the policy efforts that are making the need for a scarcity pricing mechanism that much more significant these days.

FERC Order 831 – Import Bidding and Market Parameters

In April, the CAISO posted its Draft Final Proposal for FERC Order 831 – Import Bidding and Market Parameters in which they propose how import bids greater than $1,000/MWh can be cost verified before being used in the market. Under the proposal, import offers above $1,000/MWh can be submitted and used in the market only when the CAISO either (1) cost verifies an internal resource with bids above $1,000/MWH or (2) calculates the maximum import screen to be greater than $1,000/MWh. Aside from how the maximum import screen is actually calculated, there is another element of the proposal related to how prices are set when the market runs out of bids to meet demand . . . and here comes the cameo appearance of scarcity pricing. Today the scarcity pricing is really the difference between the highest cleared economic offer and the $1,000/MWh administrative price, though the effectiveness and strength of that signal when the last economic offer is $999/MWh can be called into question. Tomorrow, when energy offers are greater than $1,000/MWh and the market runs out of supply to meet demand, this proposal will, by design, eliminate any aspect of scarcity pricing. This is because when the CAISO market runs out of supply, the prices will not be set at a higher administrative price but rather based on the highest cleared economic offer. From a transparency perspective no one will be able to tell looking at prices if there was enough supply to meet demand but costs that day were just high or the market completely ran out of supply. So this policy essentially takes a step backwards with regards to the scarcity pricing in the CAISO markets.

System Market Power Mitigation

The CAISO continues down its path of designing a mitigation mechanism for system market power. Even though with each iteration of the design, there are some significant changes, the one thing that seems to remain consistent is leveraging the local market power mitigation design as much as possible. With that comes not only a trigger that will determine when the test for market power is run but the test itself. The CAISO is proposing to use the same test as is used for local market power mitigation – Residual Supply Index – with some slight modifications to the inputs. Regardless of the inputs, the RSI test itself is a blunt test that by design can result in false positives – or indicating offers should be mitigated due to market power when in fact its just tight supply conditions.

And every time WPTF notes there is a need in the market to allow prices to reflect scarcity conditions, the CAISO points to its Flexible Ramping Product Enhancements policy. So, how is it that the FRP design will now address scarcity pricing?

Flexible Ramping Product Enhancements

To be clear, the Flexible Ramping Product (FRP) Enhancements policy includes several improvements of the current design. FRP will now be awarded to resources which can then provide the energy in real time and thus will improve the pricing of FRP. However, the CAISO also contends that with these improvements, the FRP will now more effectively provide the scarcity pricing signals WPTF has been asking for. The idea is that the market will not procure all of the FRP requirement once the cost of doing so is more than the cost associated with the probability of running out of supply to meet demand. When that happens, the Flexible Ramping Product prices will increase along with the energy prices since they are co-optimized. This is supposed to be how the pricing works today, but the CAISO contends that it is not effectively working because the market is awarding it to resources than physically cannot provide the ramping energy; therefore by addressing that issue through the proposal enhancements, the scarcity pricing signal will also be improved.

While we agree in theory this can help, the data provide a realistic perspective. The actual requirements in real time during the net load peak hours are minimal and thus less likely to actually have the impact on energy prices one would want during tight supply conditions. Additionally, when the FRP requirement is relaxed today, it does not necessarily always result in higher energy prices. This becomes quite clear when one looks at the EIM energy prices when the FRP prices reach the demand curve prices; in some cases the energy prices do increase but not always. Thus, while we appreciate the improvements to FRP and do agree they will result in more efficient pricing, it is not the robust scarcity pricing mechanism that the CAISO market so desperately needs especially in light of the policy design changes coming down the road that seem to really try to drive prices down during those tight supply conditions.

CPUC COMMITTEE

Greg Klatt

Greg Klatt coordinates the [CPUC Committee](). Greg is a practicing attorney with over 20 years of energy industry experience. His practice focuses on state and federal regulation of the electric power and natural gas industries. He has represented clients in numerous ratemaking and rulemaking proceedings before the CPUC. He regularly advises energy companies regarding regulatory requirements applicable to their product and service offerings. He represents marketers and retailers in CPUC licensing, compliance and enforcement matters. He also commonly acts as regulatory counsel in energy-related transactional matters, including procurement contracting, resource development projects, repower projects, major asset acquisitions and related financing arrangements.

Greg received his J.D. from UC Berkeley's School of Law (Boalt Hall). He graduated magna cum laude with a B.A. in History from the University of San Francisco and is a lifetime member of the Alpha Sigma Nu honor society.

"The only things that is constant is change." – Heraclitus (c. 500 BCE)

"Willingness to change is a strength, even if it means plunging part of the company into total confusion for a while." – Jack Welch, CEO, General Electric (1981-2001)

Despite (or perhaps because of) the COVID-19 pandemic and statewide stay-at-home orders, the CPUC has been quite productive over the past three months. And by "productive," I mean "producing a large amount" rather than "yielding good results." In any event, and regardless of their qualitative value, big changes are underfoot for the CPUC's RA program – both for load-serving entities (LSE) and other RA market participants. In this CPUC Committee update, we take a close look at two of the biggest changes.

This Isn't the Central Buyer We're Looking For

After two years of proposals, workshops and comments, the Commission voted out a final decision on a central RA procurement framework on June 11. The decision rejects a proposed settlement to which WPTF was a party. The key elements of that proposal included the expansion of multi-year requirements to all categories of RA (system, flexible and local) and a "residual" procurement model for the central procurement entity (CPE). Instead, the decision designates PG&E and SCE as the CPEs for their respective service territories, for multi-year local RA requirements only, under a "hybrid" procurement model, beginning with the 2023 compliance year.[1]

Under the proposed settlement, LSEs would have continued to be allocated RA requirements and have primary responsibility for procuring the capacity to meet those requirements; the CPE—which would have been independent entity, preferably without any other market presence—would have been responsible for procuring any capacity needed to meet RA requirements that wasn't met by the LSEs. In other words, the CPE would only be responsible for procuring any residual RA capacity needs.

In contrast, under the adopted hybrid model, the utility-CPE is responsible for procuring all the local RA capacity needed in its TAC area. Local capacity procured by an LSE can either be: (1) bid in to the CPE's solicitations; (2) retained by the LSE to meet its system and flexible RA needs; or (3) voluntarily "shown" to the CPE. Local capacity that is shown

[1] The Commission declined to adopt a central procurement framework for the SDG&E service territory "at this time," given that the local RA requirement in SDG&E's service territory mostly met or exceed system RA requirements, such that CPE procurement would leave very little if any room for LSE procurement of system and flexible RA capacity.

by LSEs counts toward local RA requirements, thereby reducing the total amount of local capacity the CPE needs to procure. But—and this is the major flaw of the hybrid model—it doesn't reduce the LSE's cost responsibility for CPE procurement on a one-to-one (MW for MW) basis. CPE procurement and administrative costs will be recovered from all customers in the applicable utility's service territory through the existing CAM methodology.

To address some—but not all—of the concerns about the lack of appropriate LSE credits for self-procured local resources, the decision authorizes the formation of a working group to develop "a Local Capacity Requirement (LCR) reduction compensation mechanism that properly compensates [LSEs] for shown local preferred and energy storage resources." The working group is also charged with "considering" the treatment of existing contracts, including contracts for local gas-fired generation resources; but there is no guarantee that credits for existing gas generation contracts will be forthcoming. The decision also forecloses the possibility of credits for new local gas generation.

The working group is supposed to submit a report to the Commission by September 1, 2020. I have a feeling the working group process will be highly contentious, and parties will request an extension. Also, several other elements of the decision are highly problematic, and I expect to see one or more applications for rehearing of the CPE decision being filed in July.

Imports for Me, But Not for Thee

The other big change affects RA imports. A proposed decision (PD) issued on May 18 would adopt new requirements for RA imports contracts based on an Energy Division proposal that most parties opposed. However, as the PD notes, "parties have wide-ranging positions on the RA import rules, and that there are numerous competing interests and financial outcomes at stake in the import supply chain, including suppliers, marketers, LSEs, and BAAs." Consequently, the parties were unable to agree on a consensus proposal to address the Commission's concerns about "speculative" RA import supplies, leaving a vacuum that the PD fills with the Energy Division proposal.

Under the PD, RA import contracts that are tied to resources that are pseudo-tied or dynamically scheduled into the CAISO day-ahead and real-time markets are not subject to any new requirements. In contrast, RA import contracts that are not tied to such resources—i.e., non-resource-specific RA imports—are subject to the following conditions for counting toward an LSE's system RA requirements:

(1) The contract must be an energy contract with no economic curtailment provisions;

(2) Energy must be self-scheduled (or in the alternative, bid in at levels between negative $150/MWh and $0/MWh) into the day-ahead and real-time CAISO markets for delivery;

(3) Energy must be self-scheduled (or in the alternative, bid in at levels between negative $150/MWh and $0/MWh) during the Availability Assessment Hours throughout the RA compliance month, consistent with the Maximum Cumulative Capability (MCC) buckets; and

(4) The contract must include the following terms: (a) the sale of energy denominated in $/MWh or $/kWh; (b) delivery of energy the LSE specifically, not to the CAISO generally; and (c) the import isn't sourced from CAISO-internal resources.

The PD states that "[t]he Commission is aware that any effort to eliminate speculative import supply and require procurement of reliable RA import products may necessarily increase costs and discourage certain suppliers from participating in the RA market." Nonetheless, it views that as being an acceptable price to pay for "eliminating inexpensive speculative supply and requiring LSEs to procure reliable RA imports." The PD was adopted at the Commission's June 25 business meeting. Now we shall see if the Decision passes muster after the inevitable applications for rehearing and possibly even federal challenges are filed.

CALIFORNIA LEGISLATIVE COMMITTEE

Jesus Arredondo

WPTF Legislative Committee consultant is Jesus Arredondo. Jesus is the principal and founder of Advantage Government Consulting LLC and has over 19 years of experience in media and government relations, including concentrated experience in energy policy. Prior to launching Advantage Consulting, Jesus worked as a senior advisor for two major public relations firms in the United States and Mexico. Jesus also served as a policy advisor to a major California transmission project, principal advisor on an education effort in California concerning natural gas and on a national education campaign concerning the FERC's push for standard market design. Before launching Advantage Consulting, Jesus was a bilingual spokesman for two California governors and served five years as director of regulatory and government affairs for a fortune 250 independent power producer and two years at the California Power Exchange, where he served as director of corporate communications.

Governor/Legislature: COVID-19 Influenced Budget Not Fully Cooked

The Legislature approved a placeholder budget bill this week (6/15), but Democratic leaders continue to fine tune a deal with Governor Newsom before the July 15 Constitutional deadline.

Pushed by the Democratic leadership in both houses, members approved SB 74 as they faced a statutory deadline to pass a spending plan that is supposed to balance a projected $54 billion deficit. Members of both parties agreed that California's pandemic-slammed economy and plunging revenue likely meant this would be the first of multiple deficit-plagued budget cycles.

While Newsom and Democratic leadership continue to make progress, they are still negotiating over a cost-of-living increase for school districts, $1 billion in county realignment funds, and a reduction in payments to Medi-Cal providers.

Republicans commended the Democratic Legislative leadership for avoiding the deep education cuts proposed by Newsom last month, but slammed the budget as "structurally irresponsible." In contrast, Senate President Pro Tem Toni Atkins praised the budget as being "rooted in responsibility" and the product of collaboration between Newsom and lawmakers.

Highlights of Budget Plan Impacts to the Energy and Environmental Agencies

- ✓ No longer on the Table: A $4.8 billion climate bond proposal that would have been put before voters this November, plus $250 million to establish a Climate Catalyst Fund, according to the Assembly Floor Budget Report.
- ✓ Also no longer on the table: A proposed $965 million in cap-and-trade spending is off, but $133 million for the State to run the carbon trading program is approved. At the same time, the budget backs spending $5.3 million on a new auction platform and to cover higher dues in the Western Climate Initiative. The plan also approves $200,000 for CARB to assess making changes to the cap-and-trade program.
- ✓ CPUC: The budget request for nearly $30 million for 103 positions to implement wildfire mitigation bills SB 901 and AB 1054 will be reduced. Initially only 62 permanent positions for wildfire safety will be approved. The plan does retain 16 positions over three years for the fair allocation of wildfire damages. The plan also provides $770,000 to support four permanent positions to implement legislation requiring the Commission to develop

processes, market rules, and monitoring of new "provider of last resort" responsibilities in the state's electricity market.

- ✓ Department of Conservation: 128 positions and $24 million to improve oversight of the enforcement of oil and gas operations.
- ✓ Ocean Protection Council: $1 million to mitigate once-through cooling impacts.
- ✓ California Energy Commission: The proposed $51 million expenditure from the cap-and-trade program for electric vehicle charging will be deferred.
- ✓ Other items that would be dropped from the budget include: $16.6 million for fire protection support; $5 million from the Department of Forestry and Fire Protection's Wildland Firefighting Research Grant Program; $2.5 million for cutting toxic air pollution in California communities; and $986,000 for the Department of Forestry's State Fire Training Program.

One Caution: With this many budgetary cuts, we anticipate that "fees" charged for permits or any other filings will likely go up. We saw this happen during previous economic downturns, so expect that to happen again.

Court/CPUC/Legislature/PG&E: Utility Pleads Guilty to Camp Fire Deaths, Court Approves Bankruptcy Plan

As part of their emergence from bankruptcy plan, PG&E this week (6/16) pled guilty to 84 counts of involuntary manslaughter connected to the 2018 Camp Fire 2018, considered the worst wildfire in California history. A day later (6/17), U.S. Bankruptcy Judge Dennis Montali said he would approve the company's reorganization, concluding California's most dominating energy story of the last 18 months. On Saturday (6/20), Montali issued an order confirming PG&E's Chapter 11 plan.

The U.S. Bankruptcy Court approval is the last step in PG&E's Chapter 11 case, the largest utility bankruptcy in U.S. history. Securing Judge Montali's approval before the State's June 30 deadline allows the company to access California's new $21 billion insurance fund ahead of wildfire season (the fund was afforded through AB 1054).

During the court hearing on Tuesday (6/16), PG&E CEO Bill Johnson appeared solemn as he entered 84 guilty pleas on behalf of the company, as no individual was charged in connection to the disaster that destroyed the towns of Paradise and Concow and killed 84 members of those communities. Photos of the 84 victims were projected in the chamber, while Judge Michael Deems read all of their names and the criminal counts associated with each of their deaths. PG&E also pleaded guilty to unlawfully and recklessly causing a fire, along with special counts tied to 18,804 destroyed buildings and injuries of a firefighter and surviving victims.

Speaking to the Court, PG&E CEO Bill Johnson: "No words from me could ever reduce the magnitude of that devastation or do anything to repair the damage, but I sincerely hope that the actions we're taking today will help bring some measure of peace. I personally apologize for the pain that was caused here."

Butte County District Attorney Mike Ramsey, who investigated the Camp Fire on behalf of the state, noted that Johnson "stood before the court and did not put his head down, did not just mumble 'guilty.' He looked directly at each of those photos, and the people applaud him for that."

Johnson also added that the company has learned from the Camp Fire and has implemented "comprehensive changes" to its safety policies. He noted that PG&E will be paying $13.5 billion to victims of the Camp Fire and other PG&E-sparked wildfires over the past half-decade via the company's bankruptcy process, which is expected to conclude ahead of the State's June 30 deadline.

In addition to the Court approval, the CPUC also had to approve the plan, and the Commission delivered its endorsement last month following an agreement between PG&E and Governor Newsom on financial and governance reforms.

Judge Montali said PG&E's proposed reorganization complies with federal bankruptcy code, along with AB 1054 signed last summer that set terms for the company's Chapter 11 exit. Montali also said that PG&E properly negotiated, advertised and solicited support for its plan, dismissing claims by dissenting victims that the process was tainted by voting irregularities and conflicts of interest.

Montali specifically praised this week's resolution of a last-minute objection to the plan by the main victims group, which argued it didn't have enough rights to sell shares that comprise half of a $13.5 billion settlement with victims.

What's Next?

PG&E must also take additional steps tied to financing and legal agreements by September 30 in order to stave off a state takeover of the company, which lawmakers have proposed as a backstop option in SB 350. As previously reported, Senator Jerry Hill, SB 350's author, has stated that he hoped that SB 350 would never be needed.

With the judge's confirmation in hand, PG&E can begin marketing $5.25 billion in shares as part of a plan to raise $9 billion through new equity to help pay for the fire-related costs. PG&E is also raising more than $13 billion in the debt markets.

PG&E said it will implement all wildfire settlements it reached during its bankruptcy after it emerges, including the immediate funding of the victim trust.

MEXICO COMMITTEE

Rajan Vig

The WPTF Mexico Committee Consultant is Rajan Vig. Rajan started his career in strategy consulting with FTSE 100 companies, working at WPP Group in London before working at private equity firm, Hamilton Bradshaw, where he began his consulting focus on commodities. He moved to Houston in 2014 to found an energy human capital consultancy within Sir Peter Ogden's portfolio, where he oversaw the build-out of commercial energy businesses across oil, gas and renewables into emerging markets across the Americas, specifically Mexico and the Southern Cone. Most recently, Rajan started and ran BioUrja Trading's office in Mexico City, managing the company's implementation across trading and origination in Mexico across fuels, gas and electricity. Rajan has a BA (Hons) in Modern Languages (Spanish & Italian with Portuguese) from the University of Manchester and an MSc in Latin American Studies (Economics & Politics) from Oxford University.

Natural Gas Supply

In April, the President of the Energy Commission of the Senate of the Republic, Armando Guadiana Tijerina, presented his concerns over a possible lack of electricity supply in the country towards the end of the year. Tijerina spoke of the fact that Mexico will encounter a possible shortage of gas in Mexico, imported mainly from the United States towards Q4, and therefore deemed it important to put into operation "at maximum capacity" other generation plants with technologies other than natural gas such as renewables. Tijerina wanted to voice this to the respective regulatory bodies and have a contingency plan in place so that by October, the country has reserve capacity to fulfil its load needs.

The plea from Tijerina may finally turn the tide on MORENA's antagonism toward renewable energy generation. In fact, COVID-19 may serve to be the last straw that breaks the camel's back, pushing MORENA to make better decisions for the economy or further entrenching the party's popularity and demise.

Renewable Energy Covid-19 Suspension

In Mid-May, the Head of SENER, Rocío Nahle, put the brakes on allowing already built renewable energy assets to go live on the national grid since "their intermittent nature affected the reliability of the system." This also includes the development of new renewables assets.

The private market responded by sending letters of concern addressed to the now-ex Head of Conamer (National Commission for Regulatory Improvement), César Hernández Ochoa. These included the EU and Canadian embassy representatives concerned with the sheer investment that has been placed in México to develop renewable plants and how many Mexican jobs it may affect. A flurry of associations joined in, including our sister entity, ACE, where Board Members, myself included, worked on a draft in the late afternoon as Conamer developments progressed. This was created at approximately 18:30.

Since the request made by Nahle previously did not follow orthodox protocol, the SENER Head then moved to make her case with Conamer and requested that the proposal be made official by publishing it as a matter of urgency in the Official Journal of the Federation (DOF). Then something happened that no one expected... César Hernández Ochoa resigned. Rumors spread quickly that Nahle's bullying had worked. At 19:37, it was confirmed that the DOF had indeed published Nahle's emergency overture.

So why did Nahle do this? Well, this government has never been a grand patron of renewable energy and has repeatedly mentioned the legitimacy of gas and nuclear as more consistent sources of energy to the grid. However, Nahle knows something that we all already know too. Pemex, the MORENA golden child, is doomed. The amount of money being placed into the company is not going to save the NOC from profound losses this year: it has also attained losses in Q1 of over 20 billion USD, a number greater than the totality of 2019 losses.

With midterms nigh, and a struggling Pemex, selling dirty fuel oil to CFE power plants will not help recover balance sheets so now the government needs a new tact. If it can't save Pemex, maybe it can save CFE. By issuing this emergency and "temporary" plea, Nahle is taking away the competition from the CFE and giving the state electricity company a fighting chance.

Amparos use in Mexican Legislative

In brief, an amparo lawsuit (juicio de amparo or juicio de garantías) is a guarantee of protection of an individual's constitutional rights. Lawyers in México have described it as similar to the implementation of habeas corpus in Western law.

A Federal Judge by the name of Rodrigo de la Peza López Figueroa has granted seven definitive suspensions/ amparos to 13 companies affected by the Agreement of the National Center for Energy Control (Cenace) that prevented the entry into operation of new solar and wind power plants to the electricity market, as we have previously indicated and discussed under the MERC.

Peza López Figueroa, First District judge in Administrative Matters, Specialized in Economic Competition, Broadcasting and Telecommunications, ruled on the amparo presented by a number of renewable energy companies that argue their case against the agreement issued by Cenace on April 29. López Figueroa voiced during his ruling that these decisions being forced by SENER may have serious implications on society since their primary objective is to paralyze and delay the introduction of clean energy plants.

The Federal Judge fears that these types of government moves would alter the operation of the power markets in México and limit open competition citing that this move by SENER is, "consistent in the generation of monopolistic phenomena that in the end, can cause the unjustified rise in prices and the reduction in the efficiency of the provision of power to the detriment of the end users in México (i.e., the population)."

Governor Meeting

In further support against the SENER bids, 15 State Governors - 7 from the North East and West of the country, in addition to a group of PAN leaders - gathered 6/19 to defend the development of the renewable energy sector. They stood in unison against the attempted issuing of policy carried by SENER and demanded from President Andrés Manuel López Obrador the definitive cancellation of that said agreement.

They warned that the policy, which restricts renewable energy projects, hurts the confidence of businessmen and violates the Paris Agreement, in which Mexico is committed to fighting climate change. Likewise, they reserved the right to act legally to defend the right of Mexicans to live in a healthy and less polluted environment.

They stressed that federal policy also contradicts the agreement signed last February by the Alliance of Mexican Governors for Climate. "The availability of more energy at lower prices is a competitive advantage that no state can afford to scrap," they noted. We await the response from the government, including the Head of the CFE and Head of SENER to put forward their cases to the Federal Judge

PND publication

On Monday 6/15, The National Development Plan 2019 - 2024 (PND) was released on the National Commission for Regulatory Improvement website, produced and overseen by the Secretary of Energy, SENER. The paper argues that the Energy Reform has resultantly reduced the operational, financial, investment and service capacities of CFE and Pemex. Therefore, it is imperative to "rescue" the state entities via an energy policy that ranks the national public interest as its priority.

The purpose of the document is to set out as "medium and long-term objectives" of the Mexican energy sector with a particular focus on the "rescue" of the energy sector, based upon the nationalistic ideals of the government and its desired protection over Petróleos Mexicanos (Pemex) and the Federal Commission of Electricity (CFE).

The document also discusses at length the support and investment of the private sector, which carries out “strategic activities” in the energy field, in that it offers a lever for energy infrastructure and national development which SENER supports so that the energy markets stimulate competitiveness, fostering economic growth and employment.

The **first** primary objective of the energy policy for the Government of Mexico is to achieve and maintain sustainable energy self-sufficiency, with national production, to satisfy the energy demand of the population.

The **second** priority objective is to strengthen the productive companies of the Mexican State, Petróleos Mexicanos (Pemex) and the Federal Electricity Commission (CFE), as guarantors of energy security and sovereignty, and lever of national development, to limit a “multiplier” effect in the private sector.

These are the principal foci of the government as it pertains to the energy markets for the next 3.5 years.