

## *Five Seconds of Summer*

Summer is almost over. School's in session and the Halloween candy is already in the stores. Summer always seems to go too quickly, but this was one for the books.

Suddenly, California looks short of capacity and the dispatch is harder to meet. The Pacific Northwest is awake to the challenge of renewable resource penetration as legacy units are scheduled to retire and more state are doubling down on renewables.

WPTF had a roundtable on this in Portland in June and the challenges of the California resource mix – both currently and going forward – were discussed at length at our DC Roundtable. The Summer meeting at Lake Tahoe in July had Federal Energy Regulatory Commission (FERC) Commissioner Glick recognizing all the challenges we have in the West but also suggesting that FERC would only be watching for now.

The Summer ended with a proposed Settlement on Resource Adequacy (RA) docket at the California Public Utility Commission (CPUC) from a group of parties that included WPTF. This filing was the result of many, many meetings. But I will say it was one of the best examples of good faith discussion on market design that I have seen in years.

Meanwhile market formation efforts continue with the Western Energy Imbalance Market (EIM) entities telling us they still think they can have a proposal for an “extended Day-Ahead product” for bidding between California Independent System Operator (CAISO) and the EIM. We'll see if it's something useful or a problematic invention that leaves utility for this broader “market” in the hands of utilities that own generation. Further out in the Mountain West, the Southwest Power Pool (SPP) is offering its own Energy Imbalance Service in the hopes that those on that part of the interconnection can take steps for their own market.

So much going on. It never had that “lazy” quality that is supposed to mark the season. No wonder Summer went by so quickly.

Scott Miller

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## *Save the Date*

2020 Winter General Meeting  
February 20-21  
Park Hyatt Aviara Resort  
Carlsbad, California

Check the WPTF website for all  
the details

# RESOURCE ADEQUACY (RA) COMMITTEE

*Greg Klatt*

*Greg Klatt coordinates the [Resource Adequacy 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.*

## Central Buyer Settlement

In the last quarterly report, I wrote about the workshops held over the prior two months on issues related to having a “central buyer” procure capacity to meet resource adequacy (RA) requirements. Despite the tedium and, at times, seeming pointlessness of the workshops, I observed that “a negotiated settlement, among most if not all the parties, is not the impossibility that it appeared to be on day one.” What I couldn’t disclose at the time was that settlement discussions were already underway. Over the following weeks and months, representatives from a diverse group of market participants, including the California Community Choice Association (CalCCA), San Diego Gas & Electric (SDG&E), CAISO, electric service providers, generators and WPTF, collectively spent many hundreds of hours on settlement discussions, drafting documents and outreach to other parties. The product of all that hard work was a proposed settlement for a “residual” central buyer structure that, with one exception, covers the requirements for a “workable implementation solution” identified by the CPUC in its Track 2 decision. The exception is the identity of the central buyer, which is the first required “detail” in the CPUCs laundry list for a workable

solution. But that turned out to be a nut the settling parties simply couldn’t crack.

The key elements of the proposed settlement, in which the central buyer is referred to as the RA Central Procurement Entity (RA-CPE), are:

- The CPUC will establish three-year forward procurement requirements for system, flexible and local RA capacity. That has been a key plank of WPTFs RA policy for years.
- The RA-CPE will be responsible for procuring the system, flexible and local capacity needed to meet the RA requirements established by the CPUC. While the settlement leaves the identity of the central buyer for the CPUC (or possibly the legislature to decide), it does specify the RA-CPE will be “competitively neutral, independent, and creditworthy.”
- CPUC-jurisdictional load-serving entities (LSEs) will no longer have RA compliance obligations; however, the LSEs can procure RA capacity bilaterally and, if desired, “show” their capacity to the RA-CPE and/or offer to sell it the RA-CPE.
- The amount of RA capacity to be procured by the RA-CPE will be reduced, on a one-to-one (MW-for-MW) basis, by the amount of RA capacity that LSEs

collectively “show” to the RA-CPE. The uncertainty of whether capacity procured by non-utility LSEs was one of the major flaws of the “full procurement” and “hybrid” models championed by Pacific Gas and Electric (PG&E) and Southern California Edison (SCE), respectively.

- The RA-CPE will procure the “residual” amount of RA capacity that is needed to meet that applicable RA requirements through annual solicitations, the results of which (MWs procured and weighted average prices) will be made public. These features are designed to minimize the need for CAISO backstop procurement and increase market transparency.
- The RA-CPE will procure RA capacity at “least cost” and in conformance with bid selection criteria established by the CPUC. While reliability at the lowest cost is obviously a primary aim of the proposed RA central buyer structure, this provision recognizes that the RA program doesn’t operate in a policy vacuum.
- The RA-CPE will be required to accept all bids up to the CAISOs Capacity Procurement Mechanism (CPM) “soft offer” cap (currently \$75.67/kW-year, or \$6.31/kW-month). This is the primary way the proposed settlement addresses market power concerns.

- The RA-CPE may accept bids above the CPM “soft offer” cap when deemed reasonable and consistent with the CPUC’s bid selection criteria. Without allowing for RA-CPE procurement at prices above the “soft offer” cap when appropriate, the temptation to default to CAISO backstop procurement would be too great.
- The RA-CPEs procurement costs will be allocated to CPUC-jurisdictional LSEs based on their actual loads and load shares. This is the key feature (there are others) to address load migration.
- To the extent an LSE “shows” RA capacity to the RA-CPE, the LSEs share of the collective cost responsibility for RA-CPE procurement costs will be reduced on a one-to-one basis. This assurance allows LSEs to seek out the resources that best meet their subjective criteria, while still ensuring reliability needs are met. “But,” you ask, “what about the need to differentiate between resources based on their effectiveness in addressing local constraints?” There is a footnote<sup>1</sup> in the settlement that addresses that very issue.
- LSEs that lose load may sell the “shown” RA associated with the lost load to other LSEs. In other

words, the settlement creates a new product, Shown RA, that can be traded between LSEs to account for load migration and other changes in load.

- LSEs will be subject to creditworthiness requirements similar to the CAISOs requirements for Scheduling Coordinators. The settlement also makes provision for ensuring the RA-CPE remains revenue neutral in the event an LSE fails to pay its allocation of RA-CPE costs.

<sup>1</sup> “Crediting for Local Shown RA will not take into account the effectiveness of a resource. Resources do not have a single effectiveness factor, but have different effectiveness with respect to different contingencies. The CAISO does not believe that it can clearly articulate a single ranking of resources with respect to a multiplicity of contingencies. In addition, disaggregation of requirements and crediting to the sub-area should at least partially address concerns about effectiveness. The parties have thus provided for a 1-for-1 credit but provided for a load-share based allocation of resources procured to cure collective deficiencies, as provided in RA-CPE Cost Allocation.”

The settling parties<sup>2</sup> submitted the settlement to the CPUC for approval on August 30. Comments on the settlement are due September 30.

I've been asked what I think the chances are the settlement will be approved. I really don't know. It will largely depend, I think, on whether PG&E, SCE or any other major party opposes the settlement (as opposed to "support with modifications"). Staff's opinion will also carry a lot of weight. To date, staff has declined to share their thoughts, not even privately, and we likely won't know for sure whether any parties will oppose the settlement until the comments come in. The settling parties are continuing outreach efforts to bring other parties onboard. We'll also be lobbying the 5th Floor at the CPUC. But, beyond that, it's fingers crossed!

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<sup>2</sup> CalCCA, Calpine Corporation, Independent Energy Producers Association, Middle River Power, NRG Energy, SDG&E, Shell Energy North America, and WPTF. CAISO supports the settlement but, due to its governing rules, is not able to sign onto the settlement agreement.

# 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.*

## **A Grid Dependent on Imports OR System Market Power Mitigation – Please Choose One**

California’s most valuable import is electricity. The CAISO gets 22% of its electricity from other states and at a minimum, needs over 9,000 MW imported to meet peak load during the summer.<sup>1</sup> The CAISO typically has a little under 6,000 MW under RA contract, with a record high of 7,129 MW in this September.<sup>2</sup> California is therefore relying on thousands of MWs to voluntarily import into the CAISO market simply to keep the lights on. This means any market changes that might decrease incentives to import into the CAISO will have radical repercussions on reliability.

And the CAISO is considering moving forward with such changes. Last year the Department of Market Monitoring (DMM) recommended “that the ISO begin to consider various actions that might be taken to reduce the likelihood of conditions in which system market power may exist and to mitigate the impacts of system market power” due to tight system conditions in real-time and indications that the day-ahead may be less competitive. They also noted that lower hydro, less gas generation, and more generation controlled by net sellers over 2018 and 2019 meant that that the entire system was likely to grow less structurally competitive.

In other words, they are worried a generator will be able to exert market power and set a high price across the entire CAISO footprint.

Like all ISOs, the CAISO only monitors and mitigates for local market power — that is, the ability for a generator to influence the price over a localized transmission constraint. This can be across Path 15 or a very small area, but there is no test for market power across the entire system, including imports.

The CAISO has noticed an uptick in its metrics used to screen for potentially uncompetitive conditions at a system level in the CAISO balancing area. When market conditions are uncompetitive, it allows suppliers the potential ability to exercise market power. A supplier can then economically withhold supply from the market by offering it in above marginal costs and have the effect of raising prices system-wide.

So, here’s the million-dollar question: at what point, or how many hours that fail the CAISO’s “screen” for system-level uncompetitive conditions, would a system-level market power mitigation mechanism warranted? No one has yet to directly answer this question. WPTF has continued

<sup>1</sup> CAISO 2019 Summer Assessment, page 9.

<sup>2</sup> 2019 Draft Local and System-Wide 2021 Grid Reliability Studies Report, page 10.

to note that there are obvious limitations with using the “screening tool,” more commonly referred to as the Residual Supply Index (RSI), to track hours of uncompetitive conditions. First, it does not fully encapsulate all the necessary conditions for market power to be exercised. Second, just because an hour fails the screen does not mean it would be appropriate to mitigate offers. Inappropriate mitigation could suppress prices during hours of tight supply conditions – hours at which one would expect and want prices to rise. Ultimately, the CAISO balancing area may see the much-needed import supply disappear because prices indicate that their supply is more valued elsewhere.

At this point, the CAISO is still evaluating if it would be appropriate to apply some type of market power mitigation at the system level. The CAISO has noted that any potential policy change will not impact the current market power mitigation for the EIM, which is already subject to an EIM area-wide check. WPTF would prefer the CAISO take a monitor-and-see approach. One where they continue to report out the screening metrics and expand upon the analysis before spending resources designing a mechanism that, in the end, may cause the issue to worsen.

Over the next couple months, we can expect the Market Surveillance Committee to issue a formal opinion on measures the CAISO should consider. This will be presented to the CAISO Board in November, at which time, the CAISO will likely decide if it should open a formal stakeholder process for system-level market power. In the meantime, stayed tuned for another active discussion at the September 20 working group meeting.

#### **Documentation Cheat Sheet**

Finding all the system market power materials is a challenging task, even for those of us adept at finding CAISO documents. They are located across three different CAISO websites:

1. Miscellaneous stakeholder meetings webpage. Here you will find the under previous meetings on July 15 presentations by the CAISO, DMM, NRG, PG&E, SCE, and WPTF as well as comments from many parties including the CPUC.
2. Market Surveillance Committee (MSC) webpage. Here you will find the original June 7, 2018 presentation and June 7, 2019 presentation from the Department of Market Monitoring recommending the CAISO investigate system market further, as well as presentations from the CAISO in 2019 on

April 5, June 7, and August 19. On August 19 the MSC also discussed two presentations by Dr. Harvey and Dr. Bushnell.

3. EIM Regional Issues Forum webpage.

# 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.*

## **Could the West Build a Regional Transmission Organization (RTO) One Piece at a Time?**

Simmering beneath the surface over the last year or so, a number of key initiatives appear to be making incremental progress towards the development and expansion of organized markets in the West. There isn't a single venue that is in the spotlight in the same manner as when PacifiCorp was looking to join the CAISO or when the group of utilities known as Mountain West Transmission Group was looking to join SPP. But, despite the lack of a single major RTO creation/expansion initiative, a lot is happening.

When the combination of services under consideration are looked at together, the West could end up with a set of services very similar to those of an RTO, a nearly complete "RTO puzzle," if you will. And, perhaps, creating these components individually may be a more successful route than prior attempts at Western RTO formation. Incrementalism, many argue, is the best way for the West to successfully implement an organized market structure. Before the pieces can be arranged into an RTO, each individual piece must be successfully stood up. Below are the various activities underway, or which may be underway in the future, that could lay the foundation for a future RTO.

First, there is the continued growth of real-time energy markets; CAISO's EIM continues to expand. Just this year, a multitude of entities

have announced their intent to join including: the Bonneville Power Administration (though the decision to join is not yet final), Tucson Electric Power, Tacoma Power, Turlock Irrigation District, Modesto Irrigation District, and Western Area Power Administration (WAPA's) Sierra-Nevada Region (SNR). On the other side of the interconnection, four Colorado utilities are exploring the costs and benefits of joining the EIM and the proposed SPP Western Energy Imbalance Service (WEIS) market. And several WAPA regions (and participants in those regions) have announced their decision to join SPP's WEIS<sup>1</sup> (see press release here). Thus, there are now very few areas left in the West that have not committed to joining one of the real-time energy markets in the West.

Interested in building on the success of the EIM, the EIM Entities continue to explore the possibility of extending the CAISO's day-ahead market functionality to interested parties in the West. The proposal is being referred to as the Extended Day-Ahead Market (EDAM). The results of the EIM Entities' EDAM feasibility assessment are expected relatively soon (and may be complete by the time you read this article).

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<sup>1</sup> The WAPA agreement includes the electric loads of a number of its projects, located in the WAPA Colorado Missouri (WACM) Balancing Authority and the WAPA Upper Great Plains (WAUW) Balancing Authority. WAPA's SNR will become part of the Western EIM in 2021. And WAPA's Desert Southwest (DSW) region is performing a benefits study in conjunction with several other parties.

Assuming the feasibility assessment is positive, the hard work to develop EDAM market design and address governance of the day-ahead market functionality will begin.

Third, the Northwest Power Pool (NWPP) has begun assessing resource capacity adequacy in the Northwest. The NWPP is in the early stages of evaluating approaches that may enable better trading of capacity resources in the Northwest, including ensuring that the same capacity is not being relied on by more than one entity and, potentially, addressing difficult questions like capacity value for various resource types.

Fourth, the regional transmission planning organizations, ColumbiaGrid and Northern Tier Transmission Grid, have filed at FERC to create a consolidated transmission planning region: NorthernGrid.<sup>2</sup> Agreement on the terms and conditions necessary to create a larger transmission planning organization in the Northwest, presumably, was no small feat; this may be indicative of an increased willingness on the part of utilities in that region to work together to tackle hard questions, such as those of transmission cost allocation. Agreement on these matters may represent an important precedent for future discussion around RTO formation in the Northwest.

And finally, in my last column in the WPTF Quarterly Report, I discussed an Independent Coordinator of Transmission as a concept worthy

of exploration given the continued challenges with interconnection queue processing for Western utilities and as a tool that may help address concerns around transmission dedication and transmission use in EDAM. While no utilities are actively considering the concept, it is possible this component may be further explored. It certainly would be yet another piece of the “RTO puzzle.”

When combined, these different initiatives — real-time energy markets, day-ahead energy markets (including unit commitment and dispatch), resource adequacy, transmission planning and (potentially) independent transmission coordination — appear very similar to the suite of services that make up an RTO. And, maybe, if the West is able to erect each of these individual pieces, combining them into a single market will be easier than taking the “plunge” of full RTO participation all at once (as most previous market formation proposals have unsuccessfully attempted to do). Whether this will be another unsuccessful attempt at RTO creation or the one that finally succeeds remains to be seen. Combining these initiatives into an RTO will, of course, require that not only is each component put in place, but also that the benefits of each component can be demonstrated to participants, regulators, and observers, which is no small endeavor. But, even if one or more of these components

fails to come to fruition, it is possible that the continued coordination and discussion on these matters will help move the West closer to agreement on the fundamental design elements of a Western RTO.

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<sup>2</sup> Each FERC-jurisdictional transmission provider has filed its own docket, but you can find the representative language in the PacifiCorp filing, Docket ER19-2763.

# CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) COMMITTEE

*Dan Douglass*

*Dan Douglass has directed WPTF's legal efforts since helping to cofound WPTF with Gary Ackerman in 1998. On behalf of WPTF, he has been extremely active at the California Public Utilities Commission and assists Ellen Wolfe, Caitlin Liotiris, and Carrie Bentley with WPTF matters at the Federal Energy Regulatory Commission (FERC).*

*His firm, Douglass & Liddell, specializes exclusively in energy law issues, providing regulatory and transactional counsel to generators, suppliers, and end-users in the electricity and natural gas markets. This work has included the formation and representation of several influential regulatory advocacy organizations in addition to WPTF.*

*Prior to Douglass & Liddell, Dan was a partner with the national firm of Arter & Hadden, where he headed the firm's California energy practice; he previously was General Counsel of LG&E Power and President of Cook Inlet Energy Supply. Dan also spent 15 years at Southern California Gas Company and its affiliates and worked on several international and domestic gas supply and storage issues during that time.*

## **The CPUC's IRP Directed Procurement – Boon or Bane?**

This year, the Commission has moved forward assertively with its integrated resource planning (IRP) process in Rulemaking 16-02-007. This article summarizes what has led to a recent mandatory procurement directive by the California Public Utilities Commission (CPUC) and questions whether the process is constitutes good public policy making.

Last April, Decision 19-04-040, the Decision Adopting Preferred System Portfolio and Plan for 2017-2018 Integrated Resource Plan Cycle was voted out by the CPUC. This process began with the filing of individual integrated resource plans (IRPs) the prior in August by six IOUs, 18 ESPs, 20 CCAs and four co-ops.

The decision noted that, "In general, the plans varied widely in quality, and this experience will be used to update and refine individual filing requirements for the next cycle." Most significantly, the decision concluded that the appropriate way to make more progress, beyond just utilizing more appropriate planning assumptions, would be to begin to conduct procurement processes for various types of resources. The decision announced the Commission's intent to open a "procurement track" in the IRP proceeding which would deal with some of the critical questions

faced in ensuring adequate clean resources and reliability, at lowest cost, through 2030. Critical issues to be addressed included:

- (a) Who will procure?
- (b) Will all entities procure, or will some just have their customers pay?
- (c) What types of resources and how much should be procured and, by when?

Several others were also mentioned, such as how to handle the potential need for joint procurement among multiple smaller entities; whether there should be limits on the amount of uncontracted and/or unspecified power to serve load in particular years throughout the planning horizon; whether all LSEs should be required to show they were procuring an appropriate resource mix; and how GHG emissions profiles from such resources would be identified and assigned to all benefiting LSEs. However; issues a-c above guaranteed there would be a robust debate, which has, in fact, subsequently ensued. The decision concluded that, "We intend to begin to address these issues in Summer 2019."

Subsequently, on June 20, IRP assigned Commissioner Randolph and ALJ Fitch issued a Ruling initiating a new "procurement track." The Ruling noted a "tightening" in the resource adequacy (RA) market for system RA and cited requests for waivers

by LSEs for 2019. It proposed to direct all LSEs to procure a pro-rata share of 2,000 MW of new peak capacity to be online by August 1, 2021. Each LSE was to provide details in its May 2020 IRP filing explaining how it proposes to meet that requirement.

The procured resources could be “renewables, storage, demand response, energy efficiency, other DERs, firm imports (with capacity discounted by 1/3 to account for the risk associated with increasing imports), or conventional thermal resources.” The ruling also proposed that Southern California Edison should procure 500 MW from existing resources with costs recovered through the Cost Allocation Mechanism (CAM), but to charge all statewide customers for the procurement, rather than just those in SCE’s territory (despite the fact that CAM has never before been applied this way). It also suggested consultation with the State Water Resources Control Board as to whether the retirement of one or more once-through cooling (OTC) units could be postponed by a year or two. Comments and replies were filed on July 22 and August 12.

WPTF filed opening comments that expressed concern about rigor of the staff’s analysis justifying procurement; noted that there is an overemphasis on new resources and a counter-factual assumption that existing resources will continue to operate

despite the lack of sufficiently strong economic incentives to do so; observed that the only “new” resources that could be online in time are behind-the-meter storage, demand response and energy efficiency; said that incremental capacity additions at existing gas plants might be accomplished, but completely new generation couldn’t be permitted and constructed within the specified timeline; and said that extending OTC licenses has both pluses and minuses.

WPTF’s reply comments said the CAISO analysis in its opening comments changed our mind on need, causing WPTF to agree that a not insignificant system RA shortfall could materialize as early as 2021, with the shortfall potentially increasing in 2022 and beyond. However; we reiterated that the Ruling’s proposed directive for procurement of 2,000 MW of “new peak capacity...to come online by August 1, 2021” was fatally flawed as very little new peak capacity can be online by the summer of 2021.

Furthermore, as to the new capacity that could be online by then, the resource that represents the largest MW potential—four-hour battery storage—is not well-suited for replacing existing RA capacity. WPTF also contended that the Ruling’s proposed directive for SCE to procure 500 MW of existing resources was problematic, as it would make it much harder for other LSEs to

meet their system RA requirements and was predicated on an unlawful expansion of the CAM.

As for the OTC directive, WPTF argued that to the extent any resulting procurement was “focused on resources that have formally notified the CAISO and the Commission of an intention to retire,” it would create a perverse incentive for resource owners to threaten retirement and discriminate against gas-fired generation resources that have already made investments to comply with the Water Board’s OTC regulations. Finally, WPTF suggested that rather than trying to apply band-aids in the form of yet more one-off procurement, the Commission should instead establish three-year forward procurement requirements for system and flexible RA, starting with the 2021 compliance year.

Where does IRP go next? Good question. The Ruling called for “potential workshops” in August and “additional comments” in “Fall 2019” but none were scheduled. Perhaps this interim breathing spell between the flurry of comments (44 parties filed opening comments and 36 offered replies) offers a chance to consider exactly what the procurement track is likely to accomplish.

The IRP proceeding is the Commission’s primary venue for implementation of the SB 350 requirements related to integrated resource planning, as codified

in Public Utilities Code Sections 454.51 and 454.52. However, a review of these sections of the law make it clear that SB 350 directed the Commission to implement a planning process that would meet certain goals, such as reducing GHG emissions, meeting renewable goals, ensuring system and local reliability, etc. However the procurement track ruling has gone beyond that statutory mandate by issuing specific procurement directives.

This is, of course, not the first time such a directive has been issued. As noted in D.09-03-031, in response to a concern for the adequacy of the state's electric resources for summer 2007, then Commission President Michael Peevey issued an Assigned Commissioner's Ruling on August 15, 2006, ordering SCE to build in its service territory five 49 MW peaker units that could provide additional capacity and collateral grid-reliability benefits in time for summer 2007. The same decision directed that "all of the peakers' costs and resource adequacy benefits should be allocated to all benefiting customers, not just SCE's bundled service customers." So, there is precedent, albeit limited, for such action by the Commission. It is altogether another question as to whether it is wise.

In a recent Los Angeles Times interview, the eminent energy scholar and CAISO Board member Severin Borenstein discussed the PG&E bankruptcy, wildfire threats and calls to "take over" the utility: "I've heard many people say, we should just take over PG&E — I think we have to be careful and remember who 'we' is. 'We' is the state. Anybody who's stood in line at the DMV or dealt with state agencies in other contexts knows that government isn't the most efficient or most effective organization all the time, either. So that's the tradeoff that we constantly face."

The same tradeoff exists with regard to the procurement track Ruling. It is legitimate to question whether centralized planning, as epitomized by the June 20 Ruling, is the best approach for the state and California ratepayers. It is also fair to question whether SB 350, the putative authority for the Commission's IRP actions, actually confers procurement authority of this nature on the Commission.

# 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.*

## **PG&E Dominates the Legislative Session**

### *Legislative Session Concludes*

While the California Legislature successfully passed and the Governor signed legislation aimed at guarding against financial harm from wildfires (AB 1054, Holden), some work on this matter may remain in the coming year.

As if PG&E issues were not enough, in the waning hours of the session, the Legislature advanced a measure that seeks to block the Trump Administration's rollbacks of Obama-era environmental standards. While Governor Newsom has sought to position himself as one of the leading domestic critics of President Trump, his office announced that while Newsom fully supports the principles behind SB 1 (by Senate President pro tempore Toni Atkins), he will veto the bill.

Governor's statement:

*The measure does not "provide the state with any new authority to push back against the Trump Administration's environmental policies and it limits the state's ability to rely upon the best available science to protect our environment."*

Although Newsom's announcement might have come as a surprise, legislators were well aware of his unease about the bill. Newsom had signaled he was receptive to the water issues raised in a letter from California's

U.S. Senator Feinstein and several House Democrats who represent the Central Valley.

Atkins told reporters she had debated for several days over whether to move the bill forward — not because she didn't think it could pass the Legislature, but because of Newsom's concerns.

While PG&E dominated the legislative session on energy matters, a bill that did not ultimately make it, the PG&E sponsored AB 235 (Mayes), a bill that would provide \$20 billion in the form of state-issued tax-exemption to PG&E for its wildfire liabilities, stalled — but is likely to return in January 2020 — however, much will depend on how the bankruptcy proceedings move and how much confidence the utility can regain with the Legislature.

## **\$18 Billion Bankruptcy Reorganization Plan Filed**

As the legislature was deciding to put AB 235 on ice, PG&E filed an \$18 billion formal reorganization plan in U.S. Bankruptcy Court on September 9th that proposes to pay for all wildfire claims. The filing represents the first formal step in what might be a protracted struggle between wildfire victims, insurance companies and other creditors over the future of PG&E. The plan requires approval from creditors, the bankruptcy judge and the CPUC.

It's far from certain that the wildfire victims and insurers will accept

PG&Es offer. At the same time, a group of hedge funds that are owed billions of dollars by PG&E are mounting a hostile takeover plan to seize control of the company.

In a statement following the filing, PG&Es Chief Financial Officer, Jason Wells, offered the following:

*“It’s a framework for compensating wildfire victims and other stakeholders. Our proposal is rate-neutral for customers.”*

Wells added that the plan is designed to lift PG&E out of bankruptcy by June 30, 2020. That’s the deadline set by the Legislature to make PG&E eligible to participate in an insurance fund to pay claims for future wildfires (AB 1054).

But it’s the existing wildfire liabilities that loom as PG&E’s biggest hurdle to getting out of bankruptcy.

PG&E filed its reorganization plan just days after the Legislature postponed, at least until January, action on legislation that would have given PG&E access to low-interest, tax-free state bonds to raise money for wildfire claims. AB 235, would have given PG&E a big advantage over the hedge funds trying to take the company over.

Despite not having the benefit of the additional funding from AB 235, PG&E said it has alternative funding sources and that the company is prepared to pay claims

using billions of dollars in fresh capital that has been pledged by a separate group of hedge funds that control about half of PG&Es stock.

Importantly, PG&E said its reorganization plan pays all other debts in full and honors the billions of dollars in contracts the company has signed with providers of solar, wind and other forms of renewable energy. The commitment to renewable power is crucial because California officials have insisted PG&E stick with clean energy, and the company had gone to court to get legal authority to sever some of those contracts.

Still, the big unknown is how wildfire creditors will view the PG&E plan. In its plan, PG&E said it will create two trust funds: One with \$8.4 billion to pay wildfire victims and the other for \$8.5 billion for insurers that had to pay claims from deadly Northern California blazes in 2017 and 2018. Another \$1 billion would go to local governments.

The bankruptcy court has not yet begun the process of sorting out total wildfire liabilities and PG&E said the reorganization plan could be amended “as additional details are confirmed. Victims’ attorneys are preparing for a state court trial about whether PG&E is responsible for the 2017 Tubbs Fire, even though state investigators said a private electrical system was to blame.

U.S. District Court Judge James Donato is beginning proceedings to estimate how much money the company owes victims of all past fires, including the 2018 Camp Fire.

The outcomes of all those proceedings will ultimately influence the exact amount of money PG&E has to reserve for wildfire victims.

**PG&E and Insurance Companies Announce \$11 Billion Deal to Settle Wildfire Claims** – Four days after filing their bankruptcy reorganization plan, PG&E said on September 13th that the company had reached an agreement to settle wildfire claims against the utility for \$11 billion, far below the \$20 billion the insurers had originally sought in bankruptcy court.

The announced settlement is between PG&E and a group of insurers known as the ad hoc subrogation group that has been formally recognized in bankruptcy court as one of the company’s major creditors. The group holds 85% of uninsured insurance claims from the 2017 and 2018 fires, which destroyed more than 20,000 homes and killed 130 people.

The \$11 billion settlement, which must be approved by U.S. Bankruptcy Judge Dennis Montali, is substantially more than what the company proposed in a reorganization plan filed with the bankruptcy court recently, but less than the \$20 billion in claims filed by members of the

ad hoc subrogation group. Under that plan, the company proposed paying insurance companies \$8.5 billion. In its Friday statement, PG&E said it will secure additional equity financing to cover the higher settlement amount.

The company has yet to come to terms with the tens of thousands of individual wildfire victims who have sued PG&E in the wake of fires that ravaged communities across Northern California in October 2017 and November 2018. Plaintiffs' attorney Riddle said there could be as many as 50,000 victims who file claims through the bankruptcy court by the October 21, 2019, deadline. The wildfire plaintiffs are also formally recognized in bankruptcy court as a PG&E creditor, and their attorneys continue to negotiate a settlement with the company.

Even with all the uncertainties surrounding the individual victims' cases, the proposed deal with insurers represents one major box that PG&E needed to check off as it works to exit bankruptcy.

#### **Key Bill Update**

A few energy bills introduced in 2019 are worth mentioning as they may be back in 2020: Senate Bill 772 (Bradford) would require the CAISO to procure 2,500 megawatts of long duration bulk energy storage; Assembly Bill 915 (Mayes) would move the RPS from the current 60% to 80% by December 31, 2038; Senate Bill 549 (Hill), would subject

PG&E electric rates to legislative approval; AB 56 (Garcia) would establish a central statewide entity to procure electricity for all end-use retail customers in the state; SB 350 (Hertzberg) would authorize the CPUC a multiyear centralized resource adequacy mechanism; and finally, AB 235 (Mayes) would afford PG&E an additional \$20 billion in tax-exempt state issued bonds to help the utility with its wildfire claims.

# 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.*

## **A Mixed Bag of Carbon Policies in the West**

Well, it was an eventful summer in the West, both in terms of what did and didn't happen.

Let's start with what didn't happen – Cap and Trade legislation in Oregon. With a Democrat in the Governor's office and a Democratic super-majority in the legislature, a cap and trade program modeled on California's was widely expected to pass this year. However, as the session wound down, things got a little crazy. Once the bill had passed out of the House and moved to the Senate for consideration, 11 out of 12 of the Republican Senators skipped town to deny the Democrats a quorum for a vote. After Governor Kate Brown sent the State Patrol to look for the wayward Republicans, reports indicated that all were in hiding or had fled to Idaho.

It was looking to be showdown, but after five days of no-shows by the Republicans, Senate President Peter Courtney stated that he would cease consideration of the bill. In addition to strong Republican opposition, two Democrats have also indicated that they would oppose the bill, and a third Laurie Monnes Anderson, has raised enough concerns that her support is in doubt. Given that the Senate wasn't assured to pass the bill, the Senate President has chosen to forego a confrontation and instead get the Republicans

back to get through the backlog of remaining legislation, including budget bills.

At the time, Governor Brown was expected to call for a special session in September to continue consideration of the legislation. However, that approach is now off the table. Instead, the legislation will be brought back in the short 35-day 2020 session starting in February. In the interim, Carbon Policy Office (CPO) staff will work with the legislature and stakeholders to identify potential changes to the bill that could swing the few more Democratic votes needed to ensure passage. However, even if drafters and the Governor's office are able to find this 'special sauce' needed to pass the bill, managing the schedule of Senate business to avoid more Republican shenanigans will be a strategic challenge.

If the legislature is unable to push through the cap and trade bill next year, Governor Brown has directed CPO staff to explore carbon reduction options that could be implemented by the state under existing authority. To facilitate such efforts, or implementation of an eventual cap and trade program, the Department of Environmental Quality (DEQ) has launched a rulemaking to revise its greenhouse gas reporting and verification requirements. A draft circulated by DEQ aims to align Oregon's reporting program more

closely with California, including rules for reporting of imported electricity.

As we reported in the June edition of this newsletter, Washington adopted the Clean Energy Transformation Act (CETA) in May of this year. The legislation requires that Washington utilities meet 80% of their load using carbon free energy by 2030 and use alternate compliance options to make the remaining 20% carbon-neutral. As of 2044, 100% of electricity used to serve Washington load must be carbon free.

Over the summer, the Department of Commerce (DOC) kicked-off a proceeding to work out detailed implementation rules for the CETA. Workshops to date have focused on data collection for implementation of the low-income energy assistance provisions of the programs, the social cost of carbon to be used for planning, the definition of incremental hydro and treatment of different vintages of renewable energy credits (RECs). A key area of concern for WPTF will be rules for implementation of the provision that allows for use of unbundled RECs to make electricity carbon-neutral, provided that there is no double-counting of the nonpower attributes associated with the RECs. DOC plans to complete work in all these areas by December 2020. Additionally, a workgroup on interaction of the program with

electricity and carbon markets is expected to launch sometime this quarter. The Utilities and Transportation Commission (UTC) is conducting a parallel rulemaking for investor-owned utilities that is expected to closely track the DOC proceeding.

In California, things are relatively quiet. Because Oregon was not successful in passing a carbon legislation bill, the need to modify California's program rules or address EIM design-changes to accommodate expansion of cap and trade is moot. While it possible that Washington's CETA may necessitate consideration of seams issues with California down the line, such consideration cannot occur until Washington has completed its rulemaking.

In the meantime, California's 100% Clean Energy Policy adopted by Senate Bill 100 requires the California Energy Commission (CEC), the CPUC and the California Air Resources Board (CARB) to periodically report jointly to the legislature on program implementation. The first such report is due January 1, 2021. The agencies held a joint workshop on September 5 to initiate the report development. Key areas to be addressed in the report preparation include:

- 1) A review of the 100% zero-carbon policy focused on technologies, forecasts, then-existing transmission, and

the maintenance of safety, environmental and public safety protection, affordability, and system and local reliability;

- 2) An evaluation of the potential benefits and impacts on system and local reliability associated with achieving the policy and,
- 3) Assessment of anticipated financial costs and benefits to electric, gas and water utilities, including customer rate impacts and benefits,
- 4) Identification of the barriers to, and benefits of, achieving the policy and
- 5) Consideration of alternative scenarios for achievement of the policy and the estimated costs and benefits of each scenario.

CEC will lead the analytic effort for the report under its Integrated Energy Policy Report docket.

# 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.

## **A Picture is Emerging in Mexico**

A picture regarding the Mexican Energy sector has evolved in the seven months after Andrés Manuel López Obrador (AMLO) came to power. His real focus has been to focus on investing Pemex, the national oil company and holding off from allowing other areas of the energy sector to develop. Before we get specific about power though, we should mention some of the concerns at macro level.

Fitch Ratings, has downgraded Pemex twice in six months to what is considered a debt rating of "junk." The Pemex rating is significant to Mexico as a country as it has traditionally been the flagship for considering country risk in Mexico. If banks and rating agencies begin to doubt Pemex's recovery, that has grave implications for the country as a whole. A new business plan for the state oil company was released in July and outlined a few key areas of focus. The plan advocates the government supporting Pemex over the next three years.

There have also been a number of high-level resignations in government in only the first six months of AMLOs presidency. The most important and recent of those high-profile resignations was Carlos Urzúa, who was elected under as the Head of Treasury under MORENA, and officially resigned from his post three weeks ago.

## **Electricity Markets**

Market Development: Mexico's power market operator CENACE

posted the suspension of its mid-term power auction on June 4, explaining that the administration planned to wait until it had finished its National Development Plan (PND in Spanish) to determine how any future power auctions would meet its established objectives. Private efforts could help fill the gap left by recent power auction cancellations and suspensions, though concerns remain about the status of other government-run auction mechanisms. Market participants say that the suspension of the Financial Transmission Rights (FTRs) auction is extremely detrimental to the market, as access to reliable prices for transmission is essential in securing financing for a project. Without access to FTRs, the variability of congestion costs on Mexico's already-burdened transmission lines would be too unpredictable for interested lenders.

Sener vs CRE battle: In July, Mexico's energy ministry SENER requested the cancellation of three resolutions approved in January by the independent energy regulator CRE, shifting the parameters that govern Mexico's power market and heightening risk in the young market undermining a sense of democracy and independent regulation in the electricity sector. The likely reason for the changes is that renewables could become more cost competitive in the future even with gas-fired power plants, potentially making them a threat to CFE's goals of generating more power and buying less from private companies. It is worrying for advocates of the reform who believe

in the transparency rather than dogmatic and centrist government that is looking to consolidate power from within.

Blackouts: Power market operator CENACE announced a state of operational emergency in the Yucatan on June 17, warning that power outages could take place this summer because of these natural gas shortages. The announcement was later taken down from CENACE's website. The Yucatan peninsula depends on natural gas-fueled generation from its combined cycle plants, which have an estimated total capacity of 2.5GW, according to CENACE. Of this, at least 985MW are needed to ensure a steady supply of electricity, but at this time, less than 750MW of capacity are guaranteed available.

These current issues have brought into question ideas posed by the new government and reinforces the need for new generation and transmission across Mexico, undermining the direction of the MORENA energy policy.

### **National Electricity Development Program – “PRODESEN”**

Sener released its National Electricity Development Program (PRODESEN) on June 2 which outlined its objectives through and beyond the current administration.

Main Objectives: Among the principles that guide the new PRODESEN, the primary objectives underlined in the publication were: guaranteed and reliable supply,

sovereignty, energy security and sustainability. It considers the reintegration and operational, financial and technological strengthening of the Federal Electricity Commission (CFE) and “will correct the negative consequences” of the strict legal separation of the CFE.

However, the document goes on to criticize the Energy Reforms of the last Administration that sought to liberalize markets and induce new investment. It particularly blamed the Reforms for incorporating “private agents” in a way that disadvantaged the Energy Regulatory Commission (CFE). However, the plan directs for CFE to be “rescued”. PROSDEN 2019-2033 retains the goal that Mexico should have a minimum share of clean energy in the generation of electric power of at least 35%.

Expanding Transmission: Sener proposes the implementation of 18 different projects to expand the national transmission network and the general distribution networks. They noted concern about the cancellation of the Ixtepec-Yautepec and Baja California transmission lines projects at the beginning of the year, as well as the suspension of its fourth long-term power auction that was designed to promote investment in clean energy. Three projects will be given priority to meet the demand growth of Cancun and Riviera Maya; compensate the dynamic reactive power of the Bajío region; and increase the transmission capacity

of the northeast region to the center of the country.

### **Cenace Publication on Transmission**

CENACE published the planning document on June 14, two weeks after SENER published the PRODESEN power planning document. CENACE plans to focus on increasing service coverage in areas where it is currently difficult to import power, and to shore up regional distribution networks that have out-dated equipment. The document identified the reduction of power losses on the lines as a key goal as well as the improvement of transmission networks in areas like Tamaulipas and Yucatan.

### **Pipeline Delays**

The topic of the South Texas - Tuxpan pipeline has roused much debate since its completion two months ago and many are perplexed by MORENA's decision to not allow gas to flow.

Mexico is a gas-driven power market where transmission lines are clearly lacking, and the power grid is oversubscribed in some regions causing blackouts in areas such as Baja and the Yucatan Peninsula. Electricity costs continue to rise because of a dependency on generating electricity from refined petroleum products, namely diesel and fuel oil, both of which are dirtier than natural gas.

AMLO's party, MORENA, simply does not move based upon economic indicators though and

the government justifies its position by arguing that the developers did not fulfil the terms indicated in the contract for the contracted pipeline.

However, agreements could be reached with the natural gas transport companies regarding the contracts with the Federal Electricity Commission (CFE), said the President. AMLO said that progress was made in negotiations with the five companies that built and would operate seven pipelines to supply power to CFE power plants, under Manuel Bartlett Díaz.

Mexico relies heavily on electricity through natural gas and imports approximately 90 percent of its consumption from the United States, deeming these projects incredibly important.