

# CALIFORNIA PUBLIC UTILITIES COMMISSION

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The California Public Utilities Commission (CPUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today, under the Public Utilities Act of 1951, Public Utilities Code section 201 et seq., the CPUC regulates energy, some aspects of transportation (rail, moving companies, limos, shared-ride carriers), water/sewage, and limited aspects of communications. The CPUC licenses more than 1,200 privately-owned and operated gas, electric, telephone, water, sewer, steam, and pipeline utilities, in addition to 3,300 truck, bus, “shared ride,” railroad, light rail, ferry, and other transportation companies in California. The CPUC grants operating authority, regulates service standards, and monitors utility operations for safety.

A Commission consisting of five full-time members appointed by the Governor and subject to Senate confirmation directs the agency. The California Constitution directly authorizes the Commission and provides it with a mandate to balance the public interest—the need for reliable, safe utility services at reasonable rates—with the constitutional right of a utility to compensation for its “prudent costs” and a fair rate of return on “used and useful” investments.

The Commission has quasi-legislative authority to adopt regulations, some of which are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR). The Commission also has quasi-judicial authority to take testimony, subpoena witnesses and records, and issue decisions and orders. The CPUC’s Administrative Law Judge (ALJ) Division supports the Commission’s decision-making process and holds both quasi-legislative and quasi-judicial hearings when evidence-taking and findings of fact are needed. In general, the CPUC’s ALJs preside over

hearings and forward “proposed decisions” to the Commission for all final decisions. At one time, the CPUC decisions were solely reviewable by the California Supreme Court on a discretionary basis, but Public Utilities Code section 1756 permits courts of appeal to entertain challenges to most CPUC decisions. Still, judicial review remains discretionary, and most petitions for review are not entertained. The CPUC’s decisions are effectively final in most cases.

The CPUC allows ratepayers, utilities, and consumer and industry organizations to participate in its proceedings. Non-utility entities may be given “party” status and, where they contribute to a beneficial outcome for the general public beyond their economic stake, may receive “intervenor compensation.” Such compensation facilitated participation in many Commission proceedings over the past twenty years by numerous consumer and minority-representation groups, including San Francisco-based TURN (The Utility Reform Network), San Diego-based UCAN (Utility Consumers’ Action Network), and the Greenlining Institute, an amalgam of civil rights and community organizations in San Francisco.

The CPUC staff—which includes economists, engineers, ALJs, accountants, attorneys, administrative and clerical support staff, and safety and transportation specialists—is organized into 16 divisions.

In addition, the CPUC maintains services important to public access and representation. The San Francisco-based Public Advisor’s Office, as well as the Commission’s outreach offices in Los Angeles and San Diego, provide procedural information and advice to individuals and groups who want to participate in formal CPUC proceedings. Most importantly, under Public Utilities Code section 309.5, a Public Advocate’s Office of the CPUC independently represents the interests of all public utility customers and subscribers in Commission proceedings in order to obtain “the lowest possible rate for service consistent with reliable and safe service levels.”

Pursuant to [AB 1054 \(Holden\) \(Chapter 79, Statutes of 2019\)](#), the Wildfire Safety Division (WSD) is the CPUC’s newest division; its purpose is to “evaluate and approve or deny electrical corporations’ Wildfire Mitigation Plans . . . in order to ensure that the electrical utilities are taking effective actions to reduce utility-related wildfire risk, . . . actively audit and evaluate IOU compliance with Wildfire Mitigation Plans, promptly addressing faults, including Public Safety Power Shutoff protocols, and [issue] safety certifications to the electrical corporations if they have satisfied several requirements.” On July 1, 2021, pursuant to [AB 111 \(Committee on Budget\) \(Chapter 81, Statutes of 2019\)](#), the duties, powers, and responsibilities of the WSD will be transferred to the newly-established Office of Energy Infrastructure Safety within the Natural Resources Agency under the supervision of a director appointed by the Governor.

Recently, there have been a number of appointments and reappointments at the CPUC. On August 31, 2020, the Commissioners unanimously voted to terminate the employment of the Commission’s Executive Director, Alice Stebbins. *[26:1 CRLR 174–176]* On January 5, 2021, the Commission [appointed](#) Rachel Peterson as its Executive Director. Ms. Peterson had previously served at the CPUC in a variety of capacities, including as the CPUC’s Acting Executive Director after the termination of Ms. Stebbins. The Commission’s [Strategic Directives, Governance Process Policies, and Commission-Staff Linkage Policies](#) document outlines the Executive Director’s duties, which include “organiz[ing], coordinat[ing], supervis[ing], and direct[ing] the operations and affairs of the [C]ommission . . . .”

Additionally, on December 9, 2020, Governor Gavin Newsom [appointed](#) Liane Randolph as the new Chair of the California Air Resources Board. Ms. Randolph had previously served as a CPUC Commissioner since 2015. Governor Newsom then [appointed](#) Darcie Houck on February 9, 2021 to fill the seat vacated by former Commissioner Randolph. Commissioner Houck

previously served as Chief Counsel for the California Energy Commission (CEC) and as a CPUC ALJ. Commissioner Houck earned a Juris Doctor degree from the University of California, Davis School of Law.

On December 30, 2020, Governor Newsom [reappointed](#) Marybel Batjer as President of the CPUC. President Batjer has served in that position since 2019. Prior to her role at the CPUC, President Batjer served as Secretary of the Government Operations Agency from 2013 to 2019.

Per Public Utilities Code section 308(a), the five-member Commission appoints the Executive Director, and the Executive Director holds office during the Commissioners' pleasure. Commissioners are appointed to the CPUC for six-year terms that require Senate confirmation.

During the entirety of the reporting period covered by this edition, the CPUC required remote participation by the public due to the ongoing COVID-19 pandemic.

## HIGHLIGHTS

### **Former Executive Director Files Lawsuit Against the CPUC**

On December 4, 2020, the former Executive Director of the CPUC, Alice Stebbins, filed a [complaint](#) against the Commission in the San Francisco Superior Court (*Alice Stebbins v. California Public Utilities Commission, et al.*, Case No. CGC-20-588148 (San Francisco Super. Ct.)). The lawsuit stems from the CPUC commissioners' [unanimous vote to terminate Stebbins on August 31, 2020](#) after a California State Personnel Board Special Investigation Report concluded that a series of hires made during Stebbins' tenure were "highly questionable." [[26:1 CRLR 174–76](#)]

Stebbins alleges four causes of action in her complaint. Specifically, she claims that the CPUC violated the California Whistleblower Protection Act—including Government Code section 8547.8—when the commissioners voted to terminate her employment after Stebbins disclosed to CPUC President Marybel Batjer and other commissioners the discovery of \$200 million in uncollected accounts receivables from telecommunication companies, water utilities, investor-owned utilities, and transportation companies. In her complaint, Stebbins characterizes the internal processes for tracking these uncollected accounts receivables as “truly shocking” and alleges that the CPUC “operated on an on an honor system with the Utilities . . . .” Stebbins further alleges that her termination was rooted in her efforts to uncover and fix fiscal and budgetary issues at the CPUC—efforts which she claims President Batjer “showed no interest in.”

Stebbins also asserts that the CPUC violated Labor Code section 1102.5 by retaliating against her and terminating her employment after she disclosed this information, and that the Commission “willfully refused and continues to refuse to pay [her] unpaid wages as required by Labor Code section 203.”

She originally raised a claim for unfair and unlawful business practices under Business and Professions Code section 17200 et seq., but dropped that cause of action in her [first amended complaint](#), filed on December 22, 2020. Stebbins seeks compensatory damages including lost wages and employee benefits; general damages for emotional distress, humiliation, and mental anguish; double damages for back pay pursuant to Government Code section 12635; penalties and damages pursuant to Labor Code section 203; punitive and/or exemplary damages; interest; costs related to the lawsuit; and attorney’s fees.

The Commission filed an [answer](#) on February 5, 2021. In that answer, the Commission denied every allegation and purported cause of action and offered nine affirmative defenses. At this writing, the litigation is in the discovery phase.

## **Commission Imposes \$59 Million Penalty Against Uber for Violating Rulings Regarding Sexual Assault and Harassment Claims**

On December 14, 2020, an ALJ with the CPUC, Robert Mason III, issued a [Decision](#) in its ongoing Rulemaking Proceeding R.12-12-011, fining Uber \$59 million for failing to comply with earlier rulings dated [December 19, 2019](#) and [January 27, 2020](#). The prior rulings required Uber to provide information regarding sexual assault and sexual harassment claims arising out of its California transportation network company passenger services.

In the December 19, 2019 ruling, the Commission ordered Uber to file a copy of its *U.S. Safety Report for 2017–2018* and answer questions regarding sexual assault and sexual harassment claims relevant to Uber’s California transportation operations. Among other things, ALJ Mason sought details regarding each incident of sexual assault and sexual misconduct that occurred in California in 2017, 2018, and 2019.

On January 10, 2020, Uber filed a copy of its *U.S. Safety Report* along with a [Motion for Reconsideration](#) of the December 19, 2019 ruling. To support its motion, Uber cited the sensitivity of the data requested by the CPUC. On January 27, 2020, the assigned ALJ issued a [ruling](#) denying Uber’s Motion for Reconsideration. On January 30, 2020, Uber filed its [response](#) to the December 19, 2019 Ruling. In Uber’s response, the company stated that it received 1,243 reports of sexual assault and sexual harassment within California which were included in the *U.S. Safety Report*.

Uber’s response also objected to a number of Judge Mason’s questions. Soon thereafter, Uber filed a second [Motion for Reconsideration](#) and a [Motion for Stay](#).

At issue in Judge Mason’s December 14, 2020 decision was Uber’s refusal to answer the following questions first posed in the December 19, 2019 ruling: the identity of the persons involved in drafting and approving the *U.S. Safety Report* (questions 1.1., 1.2., and 1.4.) and specific data regarding the contours of the sexual assault and harassment complaints occurring in California (questions 2.4.1., 2.4.2., 2.4.3., and 2.4.4.). Judge Mason ultimately concluded that Uber refused, “without any legitimate legal or factual grounds,” to comply with the December 19, 2019, and January 27, 2020 rulings. Judge Mason then fined Uber \$59,085,000 and noted that Uber had thirty days from the issuance of this decision to pay the penalty amount in full and comply with the 2019 and 2020 rulings. The decision further noted that Uber’s permits to operate as a Transportation Network Company and a Charter-party Carrier would be suspended if Uber failed to perform these tasks by the thirty-day deadline.

On January 11, 2021, the Rape, Abuse, & Incest National Network (“RAINN”) filed an [Appeal](#) before the CPUC. RAINN opposed the CPUC’s data request even after it was amended to permit Uber to submit incident-level information under seal because “that does not obviate the need to honor survivors’ informed consent when reporting sexual assault to government agencies.” On January 13, 2021, Uber filed an [appeal](#) before the CPUC arguing that the Commission “cannot, on the one hand, acknowledge that victims of sexual assault are entitled to protect their personal information but simultaneously impose an extraordinary \$59 million fine on Uber . . . for raising the need for such protections.”

On February 22, 2021, Judge Mason [granted](#) Uber’s Motion Requesting Alternative Dispute Resolution (“ADR”). Judge Mason gave ADR participants seventy-five days from the

date the case was assigned to a mediator to reach a resolution or to declare that the ADR process was not successful. Pending completion of the ADR process, Judge Mason stayed the Commission’s consideration of the December 14, 2020 decision.

On March 8, 2021, the Chief Administrative Law Judge assigned Kimberly H. Kim and Charles Ferguson to Rulemaking 12-12-011 as neutral ALJs in the alternative dispute resolution. At this writing, the Commission has not issued a decision on the appeal.

## **The CPUC Implements SB 676 Electric Vehicle Integration and Development (R.18-12-006)**

On December 21, 2020, the CPUC issued [D.20-12-029](#) to implement [SB 676 \(Bradford\) \(Chapter 484, Statutes of 2019\)](#) and promote vehicle grid integration (VGI) strategies as part of its ongoing rulemaking proceeding, R.18-12-006. [*see* [25:1 CRLR 265](#)]. The Governor signed SB 676 on October 2, 2019, which requires the CPUC to “maximize the use of feasible and cost-effective electric vehicle (EV) grid integration” by January 1, 2030. Prior to enactment of the bill, the CPUC authorized a [Scoping Ruling](#) on April 13, 2017, in a companion proceeding charged with implementing [SB 350 \(de León\) \(Chapter 547, Statutes of 2015\)](#) to, among other things, create a VGI working group (VGI WG) to identify recommendations for further EV integration into the grid.

On July 20, 2020, an ALJ issued an [email ruling](#) seeking party comment on issues related to VGI to assist the Commission in fulfilling its obligations under SB 676. The ruling included a final report created by the VGI WG, given to the parties to further inform their recommendations. The report described strategies and recommendations for furthering EV integration generally and provided specific recommendations for following the expectations of SB 676. The December 2020



decision is based on party comments from the email ruling and the contents of the [VGI WG final report](#).

The December 2020 decision modified the definition of VGI to better embody cost-effectiveness, safety, and reliability, among other things. The decision also adopted strategies from the VGI WG final report to help meet the January 1, 2030, deadline. These policies include: funding and launching data programs, studies, and task forces to transform the VGI market; accelerating the use of EVs for public safety power shut-off resiliency and backup; funding activities to accelerate commercialization; and enhancing coordination and consistency between agencies and state goals. In its decision, the CPUC also adopted other policies to equitably distribute the benefits of VGI and SB 676 to various disadvantaged communities throughout California, as well as to support the Commission's own [Environmental and Social Justice \(ESJ\) Action Plan](#). For example, the decision requires large electrical corporations to document in future applications for transportation electrification effective strategies for engaging with community-based organizations to seek their advice on program design and implementation to prioritize low-income and disadvantaged communities.

## **The CPUC Transfers Electric Resource Portfolios For 2021–2022 Transmission Planning Process (R.20-05-003)**

At its February 11, 2021 [voting meeting](#) (Agenda item 16), the CPUC adopted [D.21-02-008](#) to transfer electric resource portfolios to the California Independent System Operator (CAISO) as part of its ongoing rulemaking proceeding, [R.20-05-003](#). The decision recommends electricity resource portfolios for the CAISO to study in its 2021–2022 Transmission Planning Process (TPP).

Every year the CPUC recommends to CAISO electricity resource portfolios, including one reliability and one policy-driven base case, and two sensitivity cases.

On October 20, 2020, an ALJ issued a [ruling](#) seeking party comments on the CPUC staff recommendations for portfolios to be used in the 2021–2022 TPP. The ruling included a recommended framework for [TPP portfolio selection](#), [descriptions of the proposed portfolios](#), and a [methodology for resource-to-busbar mapping and assumptions](#). The recommended reliability and policy-driven base cases were identical, with a recommendation for the portfolio that meets the 2030 greenhouse gas (GHG) target of 46 million metric tons (MMT), adopted in [D.20-03-028](#). The first recommended policy-driven sensitivity portfolio meets the 2030 GHG target of 38 MMT. The CPUC designed the second policy-driven sensitivity portfolio to obtain improved transmission capability and upgrade cost estimates for certain areas on the CAISO system to aid in modeling offshore wind as a future candidate resource. The ALJ ruling also contained updates in mapping for battery storage, non-battery resources, and thermal generation retirement assumptions. This proposed base case portfolio includes the largest amount of battery storage ever examined by the CPUC.

In D.21-02-008, the CPUC did not formally adopt the framework created by Commission staff for evaluating TPP portfolios but will use the framework and party comments to inform future rounds of evaluation of TPP portfolios. The decision continues to recommend the 46 MMT GHG emissions target portfolio with updates from CEC’s 2019 Integrated Energy Policy Report. This portfolio identifies over 9 GW of new battery storage, over 16 GW of new in-state renewables, and over 1 GW of out-of-state renewables on new transmission. The 38 MMT portfolio is currently being analyzed as a potential preferred system portfolio for the 2022–2023 TPP cycle.

The decision became effective on February 11, 2021.

## California Releases First Joint Agency Report on Path to Carbon-Free Electricity System by 2045

On March 15, 2021, the CPUC, in cooperation with CEC and California Air Resources Board (CARB), released the first [joint agency report](#) and a [summary document](#) detailing the state’s path to a carbon-free electricity system by 2045. The plan was drafted as required by [SB 100 \(de León\) \(Chapter 312, Statutes of 2018\)](#), the state’s policy requiring that renewable and zero-carbon energy resources supply all-electric retail sales to customers by 2045. [see [24:1 CRLR 158–159](#)] The report states the joint agencies held a series of public workshops to solicit comments on its scope, analysis, and process. The agencies also consulted with the California balancing authorities, which balance supply and demand and maintain electric frequency on the grid. Further, the agencies consulted with the Disadvantaged Communities Advisory Group for comments from representatives of disadvantaged communities who also advise the CEC and the CPUC on energy equity issues.

The agencies determined that the 2045 goal while challenging, is feasible with significant investment in new and existing technologies and an increased build-up of clean energy projects. In addition to addressing climate change, the report stated SB 100 would benefit residents throughout the state in three key aspects: improving public health, advancing energy equity, and supporting a clean energy economy. Noting that the bill did not define “zero-carbon resources,” the joint agencies interpreted the phrase to mean energy resources that either qualify as “renewable” in the most recent Renewables Portfolio Standards (RPS) Eligibility Guidebook or generate zero GHG emissions on site.

The report considered various implementation pathways and their estimated resource requirements and cost impacts. One such scenario, termed the SB 100 Core scenario, predicted the

results of the pathway that is consistent with the joint agencies' interpretation of the statute and included only commercialized technologies with publicly available cost and performance data. This scenario showed a tripling of generation resources relative to today's installed capacity. A nearly \$4.5 billion additional annual total resource cost in 2045 would be required to meet the bill's goal. The report also generally suggested that the total resource cost of achieving SB 100 is six percent higher than a sixty percent RPS future in 2045. The agencies identified innovation in zero-carbon technologies and load flexibility, and energy storage development as avenues for cost reductions. However, the report noted record-setting build rates would ultimately be required to meet the bill's goals.

SB 100 requires the agencies to submit a new report every four years. The agencies' next steps for analysis include inquiries into reliability, emerging technologies and innovation, land-use and environmental impacts, and non-energy benefits and social costs.

## **Commission Holds Hearing On Southern California Edison's Execution of 2020 Public Safety Power Shutoffs; Proposes Additional Guidelines for Utilities to Minimize the Impact (R.18-12-005)**

On January 26, 2021, the CPUC held a [hearing](#) to address Southern California Edison's (SCE) continued Public Safety Power Shutoffs (PSPS). In a January 19, 2021 [letter](#) to SCE's President and CEO Kevin Payne, CPUC President Marybel Batjer expressed "deep concern" with respect to SCE's overall execution of the various PSPS events in 2020, describing its performance as "tactless" and "deficient in meeting the standard its customers deserved." The letter noted that from May through December 2020, there were 16 PSPS events and that in the course of these events, the California Department of Forestry and Fire Protection (CAL FIRE) and the California

Office of Emergency Services (Cal OES) observed that SCE underperformed in a number of areas. These included transparency, communicating with customers and state and local governments, and identification of, especially at-risk customers. The letter ordered Mr. Payne, along with five specifically named Vice-Presidents, to appear at the January 26 public meeting of the CPUC, CAL FIRE, and Cal OES to answer questions regarding its PSPS execution and to file corrective plans with the CPUC by February 12, 2021. SCE sent a [reply](#) to the Commission on January 22, 2021, agreeing to work with the CPUC to provide the required information and “take whatever actions are necessary to make further improvements.”

The four-and-a-half-hour hearing included statements from various politicians, including local Mayors, County Supervisors, Assembly Members, State Senators, and a Congressman. These officials expressed the concerns of their constituents, as well as the burdens that shutdowns imposed on public administrations and safety. In particular, Congressman Mike Garcia claimed that the harm from the shutdowns could be even greater than from likely fires. Public comment from SCE customers included complaints about lost food, and other damages without compensation from the utility. Witnesses expressed outrage that, despite these failures, SCE is looking to raise rates in February.

After these and other comments, SCE gave a presentation at the hearing. The company defended the necessity of shutoffs, noting there were 60 instances where wind damage could have started a fire. They did, however, lay out a [plan](#) for improvement. SCE further agreed that PSPS should only be used as a last resort, and laid out methods to improve their decisional transparency, and also to better notify customers and coordinate with government agencies.

Following the hearing, on February 19, 2021, the CPUC [announced](#) that it issued a series of proposed additional guidelines that utilities must follow in 2021 and beyond to minimize the

impacts of PSPS events. The guidelines include requirements to ensure that utilities are providing precise and accurate information to customers; reaching non-English speaking customers; reaching the most vulnerable; utilizing the expertise of community partners; properly trained in emergency management; and learn from and report on each PSPS event. The proposed guidelines are contained Attachment 1 to Commissioner Batjer’s February 19, 2021 [Phase 3 Scoping Memo and Ruling](#) in its ongoing Rulemaking Proceeding to Examine Utility De-Energization of Power lines in Dangerous Conditions (R.18-12-005). Public Comments may be submitted in the “public comments” tab on the [proceeding’s docket](#).

According to the scoping memo, which extends the statutory deadline of the rulemaking proceeding to July 30, 2022, a proposed decision with respect to the Phase 3 staff proposal is expected by May 2021.

## **The CPUC Unanimously Votes to Require San Diego Gas & Electric to Adjust Forecasted Rates after Challenge from Community Choice Aggregation Programs (A.20-04-014)**

At its January 14, 2021 [voting meeting](#) (Agenda item 37, 37A), the Commission voted 4–0 to issue a decision ([D.21-01-017](#)), adopting Commissioner Martha Guzman-Aceves’ December 28, 2020 [Alternate Proposed Decision](#) regarding 2021 electric procurement revenue requirement forecasts and GHG-related forecasts for San Diego Gas & Electric (SDG&E).

The proceeding is part of an annual process involving the Commission’s Energy Resource Recovery Account (ERRA), a balancing account, established pursuant to section 454.5(d)(3) of the Public Utilities Code, where the utilities record and track energy procurement costs (fuel and purchased power). The Commission tracks the difference between the utilities’ authorized revenue

recovered in customer rates and the actual cost of power. In ERRA proceedings, California’s three investor-owned utilities, including SDG&E, are able to recover 100 percent of their fuel, purchased power, and other related costs as long as they are consistent with the utility’s approved procurement plan. At the end of the year, any under or over-collection is charged or credited to customers’ bills. According to the Commission’s [Public Advocates Office](#), the ERRA process is comprised of two types of annual proceedings: “compliance,” in which the Commission reviews a utility’s compliance with its procurement plan from the preceding year, and “forecast,” in which the Commission approves a utility’s revenue requirement for the upcoming year based on its anticipated accrual of electric procurement costs and sales. This decision pertains to SDG&E’s forecast proceedings for 2021.

SDG&E filed its customary application for approval of electric procurement revenue requirement forecasts and GHG-related forecasts for 2021 on April 15, 2020, and an [amended application](#) on April 20, 2020. On May 18, 2020, the California Public Advocates Office and San Diego Community Power (SDCP) filed protests against the application. After the Commission determined that this was a ratesetting matter, proceedings ensued over the summer. On November 6, 2020, SDG&E filed an [update](#) to its application to reflect changes in its forecasts and Commission decisions. Of note, the utility projected a combined total rate decrease of \$334.173 million compared to the currently effective rates, a decrease of 12.35 percent or 2.964 cents/kWh from the current system average bundled rate.

SDCP is a Community Choice Aggregation (CCA) program that will offer power to residents in San Diego, Chula Vista, La Mesa, Encinitas, and Imperial Beach later this year. Another CCA, the Clean Energy Alliance (CEA), will also be launching this year and will be the new default power provider for the cities of Carlsbad, Del Mar, and Solana Beach in San Diego

County. Pursuant to section 331.1 of the Public Utilities Code, a CCA is any city, county, city and county, and any group of cities, counties, or cities and counties that elect to combine the loads of their residents, businesses, and municipal facilities in a communitywide electricity buyers' program, and any California public agency possessing statutory authority to generate and deliver electricity at retail within its designated jurisdiction. SDCP's rollout plan began with 1,000 municipal accounts in March 2021 and culminates with 700,000 residential accounts by January 2022. CEA will begin servicing an additional 58,000 customers in May and June of 2021.

On November 18, 2020, SDCP, the CEA, and the California Community Choice Association (collectively, "the CCAs") submitted [joint comments](#) on SDG&E's November update. The CCAs contended that SDG&E's calculation of its 2021 commodity rate forecast for bundled customers relied on an inaccurate and outdated sales forecast that did not account for the departure of about 24 percent of SDG&E's 2021 bundled load sales that will occur in 2021 with the launch of SDCP and CEA. More specifically, they claimed that SDG&E's 2021 commodity rate forecast was based upon an outdated 2019 sales forecast rather than its 2021 energy requirements forecast that SDG&E used to derive the ERRA revenue requirement in this proceeding. According to the CCAs, the artificially low 2021 commodity rates will mislead customers by creating a false price signal that bundled rates are lower than they should be. They also noted in their comments that adopting SDG&E's proposed rates could "threaten the viability of CCA service itself" and "CCAs would be unfairly forced to compete against artificially low commodity rates—and to do so right when they are launching and customers are making decisions regarding their generation service providers." They further argued that a 12% decrease in rates for SDG&E, coinciding with SDCP's rollout, would discourage a large number of customers from transferring over.



In its November 25, 2020 [reply](#), SDG&E countered that the data used for the alternate forecast could result in rates that were 40% higher for medium and large industrial and commercial customers. SDG&E also claimed that the Commission directed it to seek approval of future sales forecasts in its next phase of a different proceeding, A.19-03-002, and that SDG&E is not authorized to update its 2021 sales forecast outside of that proceeding.

In an open [letter](#) to the CPUC separate from its official filings, SDCP's board accused SDG&E of a "willful manipulation of data" and noted that if SDG&E were allowed to roll out the artificially lower rates, it would cause a temporary rate drop that would later need to be corrected, causing market volatility and harming ratepayers. According to SDCP, this would constitute predatory, temporarily low prices simply to eliminate a competitor with a smaller carbon footprint.

On December 2, 2020, ALJ Peter Wercinski issued a [proposed decision](#), which among other things, agreed with SDG&E's argument that the calculation of commodity rates is not within the scope of this proceeding but is within the scope of SDG&E's current General Rate Case proceeding, A.19-03-002. At the [voting meeting](#) (Item 37), Commissioner Guzman-Aceves reported that she and her team worked together with stakeholders following the issuance of the proposed decision, and developed an [Alternate Proposed Decision](#) (APD), which directs SDG&E to implement rates based upon its 2021 energy requirements sales forecast used to derive the ERRR revenue requirement in this proceeding. In advocating for the Commission to adopt the ADP, Commissioner Guzman-Aceves pointed out that to utilize the rates SDG&E was proposing would result in an under-collection of \$150–\$260 million dollars in 2021. During the discussion, the other commissioners agreed that the ADP would be more accurate, prevent under collection, and prevent artificially low rates for SDG&E that may discourage customers from utilizing the

CCAs. Ultimately the Commissioners voted unanimously to adopt the ADP, and the matter is now closed.

## **Commission Votes to Allow Utilities to Increase Capacities in Spite of Continuing Environmental Concerns (R.20-11-003)**

At its March 25, 2021 [meeting](#) (Agenda item 10), the CPUC, unanimously voted to direct California’s three major Investor Owned Utilities (IOUs), SDG&E, Pacific Gas & Electric (PG&E), and SCE, to increase their energy storage capacities and adopt measures to decrease demand during dangerous periods. These periods would include extreme weather events such as California’s August 2020 heatwave. The decision ([D.21-03-056](#)) directs the utilities to increase their Planning Reserve Margins (PRM) from 15% to 17.5% and amends parts of a previously [proposed decision](#) of ALJ Bryan L. Stevens.

The plan was adopted in order to avoid the blackouts or PSPS, which ensued during August 2020’s heatwave. The CPUC issued the initial [Order Instituting Rulemaking](#) (R.20-11-003) on November 20, 2020, in response to the August 2020 rolling blackouts and PSPS events.

At the March 25, 2021 meeting, the Commissioners heard public comments from many callers who expressed concerns about the plan’s effect on the environment. Though some expressed thanks for the alterations made from the earlier [proposed decision](#), they still felt that the final plan did not go far enough to take environmental concerns into consideration. Environmentalists expressed fear that the increased capacity will cause an increase in fossil fuel use while the state is attempting to phase them out. In pointing out the paradox that would ensue with increased fossil fuel usage, one commenter noted that “the reason we’re having extreme weather in the first place is because we’ve been burning natural gas.” Environmentalists did score

some victories, though, as the final plan does include restrictions on large commercial diesel generators. However, environmentalists would have preferred them to be precluded altogether. CPUC President Matjer noted during the hearing that diesel generators would only be a “last resort,” however.

[Attachment 1](#) to the decision outlines the specific parameters of the ordered measures to reduce demand during critical periods, including a statewide paid Flex Alert paid media campaign to spread awareness during these periods, modifications to critical peak pricing in order to incentivize customers to conserve energy during critical periods, and a new Emergency Load Reduction Program (ELRP), to be developed by the ISOs as a tool to provide emergency load reduction and serve as an insurance policy against the need for future rotating outages. The ELRP pilot becomes effective May 1, 2021. The rulemaking proceeding is ongoing.

## MAJOR PUBLICATIONS

The following reports have been conducted by or about the CPUC during this reporting period:

### Internal

- [2020 Annual Report](#), CPUC, February 2021 (as mandated by [SB 512 \(Hill\)](#) ([Chapter 808, Statutes of 2016](#)), the Commission published its 2020 Annual Report highlighting its activities from the prior year and forecasting the work expected over the next 12 months).
- [California Public Utilities Commission Performance Audit](#), California Department of Finance, February 2021 (Provides, at the request of the CPUC, an audit of the CPUC’s Accounts Receivable (AR) Workbook as of June 30, 2019. Among other things, concludes that the CPUC’s AR Workbook was not accurate or complete, and included a net

overstatement of \$6.3 million; finds that while CPUC has been actively pursuing resolving some of these accounts receivable balances and errors, its accounts receivable practices related to preparing the AR Workbook were not always in compliance with applicable laws, regulations, policies, and accounting standards.).

- [Resolution of Proceedings, Disposition of Applications for Rehearing, and Commissioner Presence at Hearings](#), CPUC, January 2021 (As mandated by [SB 512 \(Hill\) \(Chapter 808, Statutes of 2016\)](#)), provides the legislature with annual report on the CPUC's timeliness in resolving cases. The report concludes that all of Commission's 2020 proceedings that were subject to statutory deadlines were completed consistent with statutory timeframes.).

## **Telecommunications**

- [Issue Brief: California's Digital Divide](#), Little Hoover Commission, December 2020 (Issue brief on access to affordable, high-speed internet in California; finds California's broadband coverage, speed, and pricing is rated 13th in the nation with strong access to low-cost plans (defined as less than \$60/month) but very slow speeds; U.S. ranked 31st out of 36 OECD countries for their internet access among households; majority of U.S. cities still pay more for slower internet speeds than their counterparts abroad; experts attribute higher broadband prices and slower speeds to a lack of competition among internet service providers.).
- [Annual Report of Telephone Corporations' Customer, Employment, and Investment Information](#), CPUC, March 2021 (pursuant to [SB 697 \(Hertzberg\) \(Chapter 612, Statutes of 2015\)](#)), provides an annual report to the legislature specified information relating to customers, employment, and capital investment of regulated telephone corporations with more than 750 employees; covers data from the 2019 calendar year and tracks metrics including the

number of wireline and wireless customers subject to this statute and the total number of California residents employed by these companies).

- [Deaf and Disabled Telecommunication Program Annual Report](#), CPUC, March 2021 (Pursuant to [AB 497 \(Santiago\) \(Chapter 287, Statutes of 2019\)](#), provides the legislature with an annual report summarizing the accomplishments of the Deaf and Disabled Telecommunications Program during the fiscal year 2019–2020.).

## **Water**

- [Report to the Legislature on the Credit Card Pilot Program](#), CPUC, January 2021 (Pursuant to section 915 of the Public Utilities Code and [AB 1180 \(Cristina Garcia\) \(Chapter 254, Statutes of 2016\)](#), provides a report to the legislature analyzing whether more customers pay their water bills via credit card when transaction fees are removed; concludes that more customers are transitioning to paying their utility bills via card regardless of transaction fees.).

## **Energy**

- [Final Root Cause Analysis Mid-August 2020 Extreme Heat Wave](#), CAISO, CPUC, CEC, January 13, 2021 (Final Analysis of August 2020 power outages analyzing their causes and provides recommendations to prevent similar outages in the future; provides additional data analysis and updates preliminary Root Cause Analysis filed in October 2020. [see [16:1 CRLR 183–185](#)]).

- [Utility Costs and Affordability of the Grid of the Future](#), CPUC, February 2021 (Pursuant to Public Utilities Code section 913.1 ([SB 695 \(Kehoe\) \(Chapter 395, Statutes of 2009\)](#)) provides white paper analysis of utility costs and trends for the next ten years, equity issues, and actions to limit or reduce utility costs; finds that across all three IOUs since 2013, rates have

increased by 37% for PG&E, 6% for SCE, and 48% for SDG&E, largely attributed to increases in capital additions driven by rising investments in transmission by PG&E and distribution by SCE and SDG&E.).

- [\*\*Audit Report on PG&E’s Implementation of their Enhanced Vegetation Management Program in 2020\*\*](#), CPUC WSD, February 8, 2021 (Audit of PG&E’s enhanced vegetation management program as described in its conditionally approved Wildfire Mitigation plan; finds that PG&E failed to communicate its use of a new risk overlay model and provided conflicting information to the WSD; PG&E’s data submissions to the WSD was inconsistent and provided three different prioritization plans; highlights concerns about methodology used to arrive at final risk score rankings and its prioritization. (*see* RULEMAKING)).

## **RULEMAKING**

The following is a status update on recent rulemaking proceedings that the CPUC has initiated:

### **Telecommunications**

- **R.20-09-001 – Order Instituting Rulemaking Regarding Broadband Infrastructure Deployment and to Support Service Providers in the State of California** – On December 28, 2020, Commissioner Aceves issued a [scoping memo and ruling](#) in a rulemaking proceeding that the Commission opened to explore how to provide “expeditiously reliable, fast, and affordable broadband Internet access services that connect all Californians.” The Commissioner’s December scoping memo bifurcated this proceeding into three phases. Phase I will explore (1) the construction of fiber facilities or other technologies capable of providing a minimum download speed of 100 Mbps when restoring facilities after a disaster, and (2) how the

Commission should use specified funds to help schools and students. On December 30, 2020, the assigned ALJ issued the [phase I staff proposal](#). Opening briefs and reply comments took place during February 2021. The Commission anticipates a phase I proposed decision during May 2021.

- **A.18-07-011 & A.18-07-012 – In the Matter of the Joint Application of Sprint Communications Company and T-Mobile USA, Inc. for Approval of Transfer of Control of Sprint Communications Company Pursuant to California Public Utilities Code Section 854(a)** – On November 19, 2020, the CPUC issued [D.20-11-025](#) granting in part and denying in part the petition for modification of D.20-04-008. The underlying matter involves the CPUC’s approval of a merger between Sprint and T-Mobile subject to certain conditions. In the November decision involving the petition for modification, the CPUC extended the compliance date for providing 5G wireless service coverage at specified speeds from 2024 to 2026. But the Commission rejected the request to dispose of a mandate requiring T-Mobile to increase its number of employees. The Commission further rejected a request to use FCC drive tests to confirm that T-Mobile has met its network build obligations in lieu of a Commission-developed test. [[26:1 CRLR 200](#)]

- **R.20-08-021 – OIR Regarding Revisions to the California Advanced Services Fund** – On January 14, 2021, the Commissioners voted to approve [D.21-01-003](#), establishing a process for the California Advanced Services Fund (CASF) to leverage the federal Rural Digital Opportunity Fund. The decision established a process for the CASF to leverage up to \$695 million in federal funding to deploy broadband in rural California communities that lack service. On April 15, 2021, Commissioner Houck issued a [ruling](#) revising the schedule for phases II and III of this proceeding, postponing existing deadlines in light of a number of bills that the legislature introduced in this session that would impact the CASF.

- **R.20-10-002 – OIR to Consider Telecommunications Services Used by Incarcerated People** – On January 12, 2021, Commissioner Guzman Aceves issued a [scoping memo and ruling](#) defining “inmate communication services” as “any and all communication services provided by telephone corporations to incarcerated or detained minors or adults held in California,” including in federal prisons, immigration detention facilities, state prisons, city jails, county jails, juvenile facilities, and military and tribal jails. This proceeding considers how to ensure incarcerated people’s access to intrastate telecommunications services at rates that are just and reasonable. The Commission expects a proposed decision during the third quarter of 2021. The CPUC will hold remote access (virtual) public forums to hear comments regarding this proceeding on April 28 and 29, 2021. [[26:1 CRLR 179–181, 201](#)]

- **R.18-03-011 – OIR Regarding Emergency Disaster Relief Program** – On February 11, 2021, the Commission adopted [D.21-02-029](#). As a result of this decision, the CPUC now requires landline companies to ensure that phone systems in areas prone to outages and wildfires have seventy-two hours of backup power. Moreover, the Commission adopted a definition of “resiliency” in the context of emergency services management by wireline providers. Resiliency strategies would include things like backup power, redundancy, network hardening, temporary facilities, communication and coordination with other utilities, and preparedness planning. Finally, the decision requires wireline providers to file Communications Resiliency Plans with the Commission detailing their ability to maintain minimum levels of service during disasters or electric power grid outages. [[25:2 CRLR 167](#); [26:1 CRLR 200](#)] At this writing, the rulemaking proceeding remains open.



- **A.20-11-001 – In the Matter of the Joint Application of TracFone Wireless, Inc., América Móvil, and Verizon Communications, Inc. for Approval and Transfer of Control Over TracFone Wireless, Inc.** – On November 5, 2020, and pursuant to sections 851 through 854 of the California Public Utilities Code and Rule 3.6 of the CPUC’s Rules of Practice and Procedure, the [joint applicants](#) requested that the Commission approve the transfer of TracFone from América Móvil to Verizon. Several organizations, including the Public Advocates Office and TURN, filed timely protests. A prehearing conference occurred on January 26, 2021. On February 24, 2021, Commissioner Rechtschaffen issued a [scoping memo and ruling](#) in this proceeding. The ruling confirmed that this is a ratesetting proceeding and the proceeding will address whether the proposed transaction impacts competition for services. A proposed Decision is anticipated during September 2021.

## **Transportation**

- **R.12-12-011 – Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services** – The Commission issued two notable decisions pertaining to this ongoing rulemaking proceeding during this reporting period:

- On December 14, 2020, ALJ Robert Mason III issued a [decision](#) fining Uber \$59 million for failing to comply with earlier rulings dated [December 19, 2019](#) and [January 27, 2020](#). On January 13, 2021, Uber filed an [appeal](#). At this writing, this matter is in alternative dispute resolution (*see* HIGHLIGHTS).

- On November 19, 2020, the Commissioners voted to approve [D.20-11-046](#) authorizing the deployment of driver and driverless autonomous vehicle passenger service. The

Decision creates two new programs—one for drivered and one for driverless autonomous vehicles—and authorizes fare collection for such programs. Permit holders in both programs must submit detailed quarterly program reports to the CPUC. [[25:2 CRLR 167](#); [26:1 CRLR 202](#)]

- **R-19-02-012 – OIR to Implement Senate Bill 1376 Requiring Transportation Network Companies to Provide Access for Persons with Disabilities, Including Wheelchair Users who need a Wheelchair Accessible Vehicle** – On March 4, 2021, the Commission adopted [D.21-03-005](#) for issues scoped for track 3 of this ongoing proceeding. This proceeding adopts rules and requirements to implement [SB 1376 \(Hill\) \(Chapter 701, Statutes of 2018\)](#), which addresses making transportation network companies accessible to persons with disabilities. On March 19, 2021, Commissioner Shiroma issued an [amended track 4 scoping memo and ruling](#), which includes track 3 issues that will carry over into track 4. Track 4 will cover transportation network company offset requirements, Access Fund disbursement, additional accessibility issues, and yearly benchmarks for determining community wheelchair-accessible vehicle demand. The Commission anticipates a proposed decision on track 4 issues during the third quarter of 2021. [[25:1 CRLR 247–48](#); [25:2 CRLR 168](#); [26:1 CRLR 202](#)]

## **Water**

- **[Res. M-4849](#) – Authorization and Order Directing Utilities to Extend Emergency Consumer Protections to Support Local California Customers Through June 30, 2021, and to File Transition Plans for the Expiration of the Emergency Consumer Protections** – On February 11, 2021, the Commissioners unanimously voted to extend previously-adopted customer protection measures ([Res. M-4842](#)) from April 16, 2021, to June 30, 2021. Under this resolution,

the CPUC directs energy, water, and communications companies to suspend customer disconnections for non-payment amid the ongoing COVID-19 pandemic.

## **Energy**

- **A.19-07-006 – Application of SDG&E for Approval of EV High Power Charging Rate** – On December 21, 2020, the Commission issued [D.20-12-023](#), Authorizing SDG&E Rate for EV High Power Charging, implementing a new rate for separately-metered EV charging loads with an aggregated maximum demand of 20 kilowatts or greater, excluding single-family residential customers. It is the Commission’s duty to consider rate design strategies that can reduce the effects of demand charges on EV drivers and fleets and help accelerate the adoption of EVs. The CPUC found that this proposal will advance state policy goals. This decision closed the ongoing application proceeding. [*see [26:1 CRLR 194–195](#)*]

- **R.18-12-006 – OIR to Continue the Development of Rates and Infrastructure for Vehicle Electrification** – The Commission issued two decisions during this reporting period pertaining to this ongoing proceeding, which was first initiated in December 2018. The proceeding remains open as of April 15, 2021.

- On December 21, 2020, the CPUC issued [D.20-12-027](#), Concerning Low Carbon Fuel Standard Holdback Revenue Utilization, adopting pieces of a Transportation Electrification Framework staff proposal regarding utilization by the large electrical corporations of certain proceeds earned through the Low Carbon Fuel Standard (LCFS) program. The decision ensures that the intent of [AB 841 \(Ting\) \(Chapter 372, Statutes of 2020\)](#) is met in the expenditure of LCFS holdback funds by these corporations.

○ On December 21, 2020, the Commission issued [D.20-12-029](#), Concerning Implementation of [SB 676 \(Bradford\) \(Chapter 484, Statutes of 2019\)](#) and Vehicle-Grid Integration Strategies (*see* HIGHLIGHTS).

• **R.13-02-008 – OIR to Adopt Biomethane Standards and Requirements, Pipeline Open Access Rules, and Related Enforcement Provisions** – On December 21, 2020, the Commission issued [D.20-12-031](#), Adopting the Standard Renewable Gas Interconnection and Operating Agreement jointly proposed by PG&E, Southwest Gas Corporation, Southern California Gas Company, and SDG&E, with modifications. The CPUC also provided in this decision an additional \$40 million in funding from Cap-and-Trade allowance proceeds for the monetary incentive program to fund biomethane projects currently on the waitlist. The decision noted this was consistent with state policy of reducing GHG, as every unit of biomethane injected into gas utility pipelines displaces a unit of fossil fuel that would otherwise disperse GHG emissions into the atmosphere. The proceeding remains open as of April 15, 2021.

• **A.20-07-004 – Application of SCE for Approval of Its Forecast 2021 Energy Resource Recovery Account (ERRA) Proceeding Revenue Requirement** – On December 21, 2020, the Commission issued [D.20-12-035](#), Adopting SCE’s 2021 Electric Procurement Cost Revenue Requirement Forecast, 2021 Forecast of GHG Related Costs, and Power Charge Indifference Adjustment Trigger Mechanism Surcharge. SCE’s ERRA electric procurement cost revenue requirement forecast was \$4,454.131 million. SCE’s forecast GHG costs were \$302.970 million in Cap-and-Trade costs and \$402.139 million in auction proceeds. The decision also directed SCE to return \$330.882 million in GHG auction proceeds to its customers, after setting aside \$71.004 million in funding for clean energy and energy efficiency programs. Further, the

decision authorized the forecast amount of \$29 per household for the residential CA Climate Credit Program to be returned to customers. This decision closed the application.

- **R.18-07-003 – OIR to Continue Implementation and Administration, and Consider Further Development of, California Renewables Portfolio Standard (RPS) Program** – On January 20, 2021, the Commission issued [D.21-01-005](#), 2020 RPS Procurement Plans. The decision approved a number of draft plans presented by large IOUs, small and multijurisdictional utilities, CCAs, and energy service providers. Final 2020 RPS procurement plans were due within 30 days of the effective date of the decision. Approval of these draft plans moves the Commission closer to the goal set out in [SB 100 \(de León\) \(Chapter 312, Statutes of 2018\)](#) of 60% retail sales from RPS-eligible resources by 2030 and a planning goal of 100% carbon-free resources statewide by 2045. This ongoing proceeding remains open as of April 15, 2021. [*see* [26:1 CRLR 195–196](#)]

- **R.20-05-003 – OIR to Continue Electric Integrated Resource Planning and Related Procurement Processes** – On February 11, 2021, the CPUC [announced](#) it issued [D.21-02-008](#), Transferring Electric Resource Portfolios to California Independent System Operator for 2021–2022 TPP. This proceeding remains open as of April 15, 2021 (*see* HIGHLIGHTS).

- **A.20-08-002 – Application of PacifiCorp for Approval of Its 2021 Energy Cost Adjustment Clause and GHG Related Forecast and Reconciliation of Costs and Revenue** – On March 8, 2021, the Commission issued [D.21-03-007](#), Approving Stipulation Regarding PacifiCorp’s 2021 GHG Emissions Allowance Program Costs and Climate Credits, which directs PacifiCorp to complete the actions outlined in its stipulation. The decision allows PacifiCorp to distribute the residential California Climate Credit for 2021 of \$97.23 per household to California

ratepayers in time for its semi-annual distribution in April 2021. This application remains open as of April 15, 2021.

- **R.19-01-011 – OIR Regarding Building Decarbonization** – On April 15, 2021, the CPUC approved [Resolution E-5116](#), CEC’s Implementation Plan for the Building Initiative for Low Emissions Development Program (BUILD), as required by [D.20-03-027](#). The resolution also established the procedure by which CEC should submit the BUILD program guidelines to the Commission for approval. D.20-03-027 previously authorized an \$80 million budget for the BUILD program. This ongoing proceeding remains open as of April 15, 2021. [*see* [26:1 CRLR 197](#)]

- **R.14-07-002 – OIR to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering** – On April 15, 2021, the CPUC approved [Resolution E-5124](#), Community Choice Aggregator Tariffs to Implement the Disadvantaged Communities Green Tariff (DAC-GT) and Community Solar Green Tariff (CSGT) Programs Pursuant to [D.18-06-027](#). The resolution approves, with modification, advice letters from CleanPowerSF, East Bay Community Energy, Marin Clean Energy, Peninsula Clean Energy, and San Jose Clean Energy to create the DAC-GT and CSGT programs. These programs provide 100% clean energy at a 20% total bill discount to residential customers who reside in disadvantaged communities, as defined by D.18-06-027. This ongoing proceeding remains open. [*see* [26:1 CRLR 194](#)]

- **R.21-02-014 – Order Instituting Rulemaking to Address Energy Utility Customer Bill Debt Accumulated During the COVID-19 Pandemic.** On February 11, 2021, the CPUC issued an [Order Instituting Rulemaking](#) to consider whether to establish special relief

programs for customers who could not pay their energy bills during the COVID-19 pandemic. The OIR includes as an appendix two straw proposals for COVID-19 period arrearage relief and directs respondents to comment on the straw proposals and present variations or alternatives. Proceedings are ongoing as utilities and consumer interest groups are submitting comments. According to the March 15, 2021, [scoping memo](#), a proposed decision is scheduled to be issued on May 21, 2021, and a final decision is set to be issued on June 24, 2021.

- **I.19-09-016 – Order Instituting Investigation to Consider Ratemaking and Other Implications for Proposed Plan for Resolution of Voluntary Case Filed by PG&E Pursuant to Chapter 11 of the Bankruptcy Code** – On April 15, 2021, the CPUC unanimously voted to issue [Resolution M-4852](#), Placing PG&E Into Step 1 of The “Enhanced Oversight And Enforcement (EOE) Process.” The Commission [announced](#) the proposed resolution on February 25, 2021, citing the EOE [process](#) imposed as a condition for the CPUC approving PG&E’s exit from bankruptcy in May 2020 ([D.20-05-053](#)), which permits the Commission to take additional steps to ensure PG&E is improving its safety performances if specific “triggering events” occur. [\[26:1 CRLR 198\]](#) This resolution invokes step 1 with regard to PG&E’s insufficient progress with risk-driven wildfire mitigation efforts following a February 8, 2021 [audit report](#) by the WSD (see MAJOR PUBLICATIONS). The resolution requires PG&E to issue a corrective action within 20 days.

- **A.19-09-014 — Application of SDG&E for Authority to Eliminate the Seasonal Differential in its Residential Rates.** On March 8, 2021, the CPUC issued [D.21-03-003](#), “Decision concerning adjustment of the high usage charge for the large electrical corporations.” The decision adopts an uncontested settlement to modify SDG&E’s opt-in residential time-of-use-rates, and modifies a contested settlement in this proceeding to potentially eliminate the high usage

charge of the large electrical corporations at the completion of each large electrical corporation's migration of its residential customers to time-of-use rates. The application was closed effective March 4, 2021.

## **Wildfire**

- **R.20-11-003 – Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Reliable Electric Service in California in the Event of an Extreme Weather Event in 2021** – On November 20, 2020, the CPUC issued an [Order Instituting Rulemaking](#) to establish procedures to ensure the reliability of the state's energy grid for the summer of 2021 (*see* HIGHLIGHTS).

# **LEGISLATION**

## **Internal**

- [AB 988 \(Bauer-Kahan\)](#), as introduced February 18, 2021, and as it applies to the CPUC, would amend section 324.9 of the Public Utilities Code and would require the CPUC to publish specified information regarding the proposed 988 crisis hotline on its website. The author opines that the current system of addressing mental health crises relies on law enforcement and confinement; the author believes that a comprehensive crisis response system such as the proposed 988 hotline would “increase access to the right kind of care.” [*A. HEALTH; A. C&C*]
- [AB 1471 \(Villapudua\)](#), as introduced February 19, 2021, would amend sections 301 and 306 of the Public Utilities Code. The amendments to section 301 would require the Governor and Senate to consider regional diversity when selecting and confirming commissioners by paying attention to the regions of Northern California, the Central Valley, and Southern California. The amendments to section 306 would relocate the Commission's offices from San



Francisco to Stockton. According to the author, this bill would expand “the diversity of thought and experience within the CPUC would greatly benefit the lives of all Californians who are impacted by the decisions they make every day.” [A. U&E]

- [SB 429 \(Bradford\)](#), as amended March 10, 2021, would amend section 8283 of the Public Utilities Code to add microgrids as a focal category when encouraging the procurement of services from women, minorities, disabled veterans, and LGBT business enterprises. [S. EU&C]

- [SB 599 \(Hueso\)](#), as introduced February 18, 2021, is a CPUC-sponsored bill that would amend sections 1701.3 and 1701.8 and add section 1701.9 to the Public Utilities Code to recast and clarify language concerning “quiet periods” and closed sessions. The amendments to section 1701.3 would delete existing language regarding “quiet periods”—periods of time during which oral and written *ex parte* communications are forbidden. New section 1701.9 would require the Commission to establish a quiet period during the three business days before the Commission’s scheduled vote on a decision. The amendments to section 1701.8 would delete existing language regarding the Commission meeting in closed session. New section 1701.9 would authorize the Commission to meet in closed session to deliberate on a proposed decision, order, or resolution after providing three-day advanced notice to the public, except in an adjudicatory or quasi-legislative proceeding. [S. EU&C]

## **Telecommunications**

- [AB 14 \(Aguiar-Curry\)](#), as introduced December 7, 2020, and as it applies to the CPUC, would add and amend various sections of the Public Utilities Code to extend the California Advanced Service Fund (CASF). Specifically, the bill would authorize the Commission to issue bonds secured by CASF surcharge revenues in an aggregate amount up to \$1 billion for broadband

deployment and adoption. The bill would require the CASF program to promote remote learning and telehealth in addition to existing categories like economic growth and job creation. The bill would further require annual financial and performance audits regarding the implementation and effectiveness of the CASF program. Finally, the bill would remove the requirement that Voice over Internet Protocol service providers use certain methodologies to identify their intrastate revenues subject to surcharges. This bill would take effect immediately as an urgency statute. According to the author, “The heartbreaking is reality that 1 in 8 California homes do not have internet access and communities of color face even higher numbers of students and families who remain disconnected. . . we seek to modernize and sufficiently fund the CASF to provide sufficient service to meet the current and future internet needs of all Californians.” *[A. L.Gov]*

- [AB 1100 \(Aguiar-Curry\)](#), as introduced February 18, 2021, would add section 914.8 to the Public Utilities Code to require the Commission to collect certain information from telecommunications providers in the aftermath of emergencies or disasters regarding the extent of any damage to communications infrastructure; the types of infrastructure used to restore telecommunications service; the backup electrical supply that was used; and the obstacles encountered by the telecommunications service provider in repairing or replacing communications infrastructure. Moreover, such information would be annually reported to the legislature. The author cites lost landline phone service during Sonoma County’s wildfire and the 2020 Glass Fire as reasons why it is necessary for state regulators and public officials to be informed of telecommunications service failures moving forward. *[A. EM]*

- [AB 1176 \(Eduardo Garcia\)](#), as introduced February 18, 2021, would section 270 of, amend and renumber section 28 of, and add and repeal section 282 of the Public Utilities Code to create the California Connect Fund in the State Treasury. Until January 1, 2031, the bill would

require the CPUC to administer the California Connect Program to ensure that high-speed broadband service is available to every California household at affordable rates. This fund would be subject to the conditions and restrictions applicable to the existing universal service funds such as the California Advanced Services Fund. *[A. C&C]*

- [AB 1257 \(Patterson\)](#), as introduced February 19, 2021, would add section 275.7 to the Public Utilities Code. The bill would streamline formal rate cases for small independent telephone corporations—referred to as small incumbent local exchange carriers or ILECs—by requiring the parties to rate cases to participate in at least one day of facilitated mediation and by requiring the parties to meet and confer before filing any motion. According to the author, this bill would encourage the CPUC to decrease the regulatory burden and expense of its rate case process for small rural telephone companies. *[A. Appr]*

- [AB 1425 \(Gipson\)](#), as introduced February 19, 2021, would add section 281.4 to the Public Utilities Code. Beginning on January 1, 2022, the bill would transfer \$25 million to the Broadband Public Housing Account to provide grants to enhance the “connectivity” of residents in publicly-subsidized, multiunit housing complexes. Connectivity would include broadband infrastructure access, ownership or possession of appropriate computing devices, and digital literacy proficiency. *[A. C&C]*

- [AB 1557 \(Santiago\)](#), as amended March 18, 2021, would add section 767.6 to the Public Utilities Code to mandate certain timelines for addressing requests for pole attachments between cable television corporations and public utilities. Although a bill analysis was unavailable at this writing, the California Cable & Telecommunication Association [lists](#) itself as a sponsor of this bill on its website. *[A. C&C]*

- [SB 4 \(Gonzalez\)](#), as amended March 25, 2021, and as it applies to the CPUC, would add and amend various sections of the Public Utilities Code regarding the CASF, as well as the deaf and disabled telecommunications program. Specifically, the bill would extend the CASF indefinitely; increase the minimum speed of broadband infrastructure funded by the CASF; expand the communities eligible for CASF grants; and allow the CPUC to issue bonds secured by CASF revenue. The bill would also require the CPUC to conduct an audit and performance review of the CASF every other year and would extend these auditing and reporting duties indefinitely. This bill would take effect immediately as an urgency statute. *[S. Jud]*

- [SB 28 \(Caballero\)](#), as amended April 5, 2021, and as it applies to the CPUC, would add, amend, and repeal various sections of the Public Utilities Code to institute the Rural Broadband and Digital Infrastructure Video Competition Reform Act. Specifically, the bill would expand the authority of the CPUC to regulate cable video franchises and would require the CPUC to consult with local governments within the franchisee’s service territory as part of any proceeding to suspend or revoke a franchise. The bill would delete a prior provision stating that holders of such state franchises are not public utilities. The bill would also mandate certain reporting requirements. At this writing, the bill’s supporters include a number of California cities and TURN, while the California Cable & Telecommunications Association has registered its opposition. According to the author, the bill would help empower “local governments to control their destiny through gaining back negotiating power for their digital infrastructure franchise licenses.” *[S. GO]*

- [SB 341 \(McGuire\)](#), as amended March 23, 2021, would amend section 53122 of the Government Code and add sections 776.2 and 914.8 to the Public Utilities Code. The

amendments to section 53122 would require the Cal OES and the CPUC to adopt requirements for public outage maps to be maintained by telecommunications service providers. New section 776.2 would require the CPUC to develop and implement backup electricity rules and would require telecommunications services to maintain backup electricity supplies for at least seventy-two hours. New section 914.8 would require the Commission to annually report on these matters to the legislature. According to the author's office, "SB 341 will strengthen our telecommunications networks by creating stronger oversight and accountability when it comes to telecommunication outages." *[S. Appr]*

- [SB 394 \(Hueso\)](#), as amended February 11, 2021, would amend section 878 and repeal section 872 of the Public Utilities Code. Section 872 currently contains a definition of the term "household" as it pertains to the California Lifeline Universal Service Telephone program. The amendment to section 878 would instead define "household" to clarify that individuals with the same physical address can have separate Lifeline subscriptions if they are "separate economic units." The author notes that Southern California metropolitan areas have high rates of shared housing and that California is uniquely impacted by the extent to which residents in shared housing may not be eligible for assistance programs due to the lack of eligibility alignment between programs. *[A. Desk]*

- [SB 546 \(Wilk\)](#), as amended March 25, 2021, would add section 881 to the Public Utilities Code and would take effect as an urgency statute. This bill would require the CPUC to extend the iFoster Pilot Program, which provides California's foster youth with smartphones and access to cellular data. The bill would further authorize the Commission to adjust the program's support-amounts for things like inflation, increased data needed for distance learning, and other academic or employment needs. *[S. HumanSvs]*

- [SB 556 \(Dodd\)](#), as amended April 12, 2021, would add Division 2.6 (commencing with section 5980) to the Public Utilities Code. The bill also referred to as the California Connectivity Act, would prohibit a local government or a local, publicly-owned electric utility from unreasonably denying the leasing or licensing of its street light poles or traffic signal poles to communications service providers for the purpose of placing small wireless facilities on those poles. The bill would further mandate timelines for local, publicly-owned electric utilities or local governments to respond to requests for the placement of such small wireless facilities by a communications service provider. *[S. EU&C]*

## **Water**

- [AB 1058 \(Cristina Garcia\)](#), as amended April 12, 2021, would amend sections 755 and 755.5 of the Public Utilities Code regarding bill payment options for water corporations. While existing law authorizes electrical, gas, and water corporations to offer credit card and debit card payment options and offers associated cost recovery provisions, the amendments to section 755 would delete water corporations from this list of authorizations. Additionally, the amendments to section 755.5 would delete provisions related to a pilot program evaluating customer interest in certain bill payment options and would instead require the Commission to authorize water corporations to recover “reasonable expenses” incurred in providing bill payment options to customers. The author notes that AB 1058 is an extension of an existing pilot program established to gather information about consumer habits and further notes that paying recurring bills online has become a matter of convenience for customers throughout California. At this writing, California American Water, the California Water Association, California Water Service, and Great Oaks Water Company have registered their support. *[A. Appr]*

- [AB 1250 \(Calderon\)](#), as introduced February 19, 2021, would add Chapter 2.7 (commencing with section 2721) to the Public Utilities Code to establish the Consolidation for the Safe Drinking Water Act of 2021. The bill would establish timeframes for the CPUC to act upon requests for water system consolidation. The bill would require the CPUC to approve or deny an application for consolidation within eight months of its filing unless the CPUC makes a written determination that the deadline cannot be met. Yet for consolidations valued at \$5 million or less, the bill would allow water or sewer system corporations to instead obtain approval by filing an advice letter with the Commission. *[A. U&E]*

## **Energy**

- [AB 427 \(Bauer-Kahan\)](#), as introduced on February 4, 2021, would amend section 38530 of the Health and Safety Code, and section 380 of the Public Utilities Code, to require the CPUC, by July 1, 2022, to establish a capacity valuation methodology for customer-sited energy storage resources and customer-sited hybrid resources, as defined, in consultation with the CAISO and the State Energy Resources Conservation and Development Commission, for the 2023 resource adequacy year. *[A. U&E]*
- [AB 1139 \(Gonzalez\)](#), as amended on April 8, 2021, would amend section 739.1, repeal sections 2827.1 and 2827.7, and repeal and add section 2827 of the Public Utilities Code to repeal the Commission’s authorization for net energy metering tariffs (NEM 1.0 and NEM 2.0), and require the CPUC to establish a net energy metering tariff (NEM 3.0). Specifically customers would start phasing into the new NEM 3.0 program on July 1, 2022, with a final transition by July 1, 2024. The bill would also allocate up to \$300 million annually to discount initial purchase of renewable generation by customers enrolled in the California Alternative Rates for Energy

(CARE) discounts program for low-income customers, and up to \$500 million annually to discount the initial purchase of renewable generation for public buildings, and increases the average effective discount of the CARE program to 40 to 45 percent of the billed usage of non-CARE customers. According to the author, “It’s entirely unfair that under net energy metering working-class families and families of color who have not had the same access to rooftop solar has actually had to foot the bill for this industry and pay higher energy bills.” This bill is designed to gradually reform the energy rate structures to ensure rooftop solar customers pay their fair share. *[A. U&E]*

- [AB 1156 \(Holden\)](#), as amended on March 11, 2021, would amend section 8389 of the Public Utilities Code to require the Commission, as part of a proceeding, to continue approving IOUs’ executive compensation structure rather than transferring that responsibility to the Office of Energy Infrastructure Safety, as currently scheduled to occur on July 1, 2021 pursuant to [AB 1054 \(Holden\) \(Chapter 79, Statutes of 2019\)](#). *[A. U&E]*

- [SB 204 \(Dodd\)](#), as amended March 23, 2021, would add section 380.6 to the Public Utilities Code to codify an existing reliability and emergency demand response program known as the Base Interruptible Program (BIP), and establish specified incentive requirements and conditions for the continued use of the program.. Beginning January 1, 2024, the bill would authorize the Commission to approve increased or decreased incentive levels for program participation if determined that those incentives are reasonably necessary to ensure continued participation by eligible customers. *[S. Appr]*

- [SB 345 \(Becker\)](#), as amended March 23, 2021, would add section 383 to the Public Utilities Code to require the Commission to establish common definitions of non-energy benefits and attempt to determine consistent values for use in all distributed energy resource programs. It



would also require the CPUC to give priority access to programs that provide the most non-energy benefits, particularly to disadvantaged communities, and to post the non-energy benefit values on its website. *[S. Appr]*

- [SB 437 \(Wieckowski\)](#), as amended April 8, 2021, would amend section 9621 of the Public Utilities Code to require local publicly-owned electric utilities to include in each updated integrated resource plan (IRP) the details of the utility’s electrical service rate design that supports transportation electrification. Additionally the bill would require that the rate design be detailed for all transportation sectors to incentivize the purchase of zero-emission vehicles and provide utility customers the ability to readily and accurately predict the cost of paying for electricity for these vehicles. According to the author, California’s transportation sector currently generates 40% of the state’s GHG emissions and 80% of the state’s air pollution. The bill is designed to incentivize a transition to zero-emission vehicle technology throughout the transportation sector. *[S. EU&C]*

- [SB 529 \(Hertzberg\)](#), as introduced on February 17, 2021, would amend sections 365.1 and 380 of the Public Utilities Code to authorize the Commission to consider a multiyear centralized resource adequacy mechanism, among other options, to most efficiently and equitably meet specified resource adequacy (RA) objectives. According to the author, this bill would ensure that when the CPUC implements a multiyear RA mechanism that includes a central procurement entity, the cost allocation mechanism would not be suspended. As such this bill, attempts to largely reflect the CPUC decision adopted in June 2020 ([D.20-06-002](#)). *[S. EU&C]*

- [SB 612 \(Portantino\)](#), as amended on April 13, 2021, would add section 366.4 to the Public Utilities Code to require the Commission to require electric IOUs to offer community

choice aggregators and electric service providers to offer an allocation of product attributes from legacy electrical resources paid for through exit fees of the departing load. The bill would define these attributes as requirements of the Renewable Portfolio Standard Program, Resource Adequacy, resources that do not emit GHG emissions, and other attributes that have regulatory compliance or other identified market value. According to the committee analysis, this bill was amended to adopt, in principle, the overall nature of proposals submitted to the CPUC from Working Group 3 as part of an ongoing rulemaking proceeding (R.17-06-026), designed to consider alternatives to the amount that CCA customers pay as part of its efforts to ensure that departing customers do not experience cost increases. [*see* [23:1 CRLR 194](#); [23:2 CRLR 162](#); [24:1 CRLR 148–150](#)] [*S. EU&C*]

- [SB 646 \(Hertzberg\)](#), as amended March 10, 2021, would amend sections 454.51 and 454.52 of the Public Utilities Code to modify the statute governing the integrated resources planning (IRP) program by the CPUC. Specifically, the bill would require the Commission to ensure that the net costs of any incremental renewable energy integration resources procured by any load-serving entity designated by the Commission to serve as a central procurement entity are allocated on that basis, instead of designating only the electric IOUs as responsible for procuring the identified incremental renewable energy resources. This bill would also specify the role of electric service providers as the same as that of CCAs in satisfying the portfolio needs for renewable integration. [*S. EU&C*]

- [SB 423 \(Stern\)](#), as introduced February 12, 2021, and as it applies to the CPUC, would amend sections 380 and 454.52 of, and add section 701.7 to the Public Utilities Code, and repeal and add section 25216.7 of, and add section 25216.8 to, the Public Resources Code, to explicitly accelerate procurement and planning of specified emerging renewable energy and zero-

carbon resources into existing energy procurement and planning processes. The bill would make a series of legislative findings and declarations regarding the need to accelerate deployment of emerging renewable and zero-carbon resources that can provide firm baseload or firm, flexible electricity, including green electrolytic hydrogen, new long-duration and multi-day storage resources, and geothermal offshore wind resources. Specifically, it would require the CPUC to consult with the CEC, CAISO, and CARB to submit to the legislature an assessment of emerging renewable energy and firm zero-carbon resource that would support a clean, reliable, and resilient electrical grid in California. It would also require the CEC and the CPUC, on or before December 31, 2022, to adopt and update measures to bolster the near-, mid- and long-term reliability and resiliency of CA’s electrical grid consistent with California’s goals to reduce localized air pollutants and emissions of GHG. The bill would also require the CPUC, as part of its integrating planning process, to pursue opportunities to lower ratepayer costs, and as part of establishing Resource Adequacy requirements, ensure that these requirements result in the load servicing entities having sufficient resources to maintain reliable electrical service during multi-day extreme or atypical weather events. *[S. EQ]*

- [SB 67 \(Becker\)](#), as amended March 3, 2021, and as it applies to the CPUC, would amend a series of provisions of, and add section 399.15.1 to, the Public Utilities Code to establish the California 24/7 Clean Energy Standard Program, which would require that 85% of retail sales annually, and at least 60% of retail sales within certain subperiods by December 31, 2030, and 90% of retail sales annually and at least 75% of retail sales within certain subperiods by December 31, 2035, be supplied by eligible clean energy resources, as defined. Specifically, the bill would require the CPUC to establish for each retail seller clean energy procurement requirements for each compliance period provided. This addition would help move the CPUC towards the statewide

goal of 100% electrical load coming from clean energy resources, including renewables and other zero-carbon resources, by December 31, 2045. *[S. EU&C]*

- [SB 18 \(Skinner\)](#), as amended March 23, 2021, and as it applies to the CPUC, would amend section 25327.5 of the Public Resources Code, and amend sections 400.2 and 400.3 of, and add sections 380.1 and 380.6 to the Public Utilities Code to establish a definition for green hydrogen, and require the CPUC to include green hydrogen within its integrated resources plan. It would also require the Commission to consider green electrolytic hydrogen as part of encouraging portfolio diversity in energy storage. According to the author, green hydrogen has the potential to decarbonize sectors of the economy in a more feasible and cost-effective manner than other alternatives to help achieve the state’s climate, clean energy, and clean air objectives. *[S. EQ]*

- [SB 662 \(Archuleta\)](#), as amended March 25, 2021, and as it applies to the CPUC, would amend sections 237.5, 740.3, and 740.12 of the Public Utilities Code to incorporate hydrogen refueling into the definition of transportation electrification and require the Commission to authorize gas corporations to file applications for programs and investments to accelerate widespread transportation electrification to advance specified environmental objectives. The bill would also require the CPUC to modify and approve programs and investments in transportation electrification, including hydrogen and hydrogen-related pipelines, hydrogen distribution, and make-ready infrastructure for hydrogen using a reasonable cost recovery mechanism. *[S. EQ]*

- [AB 843 \(Aguiar-Curry\)](#), as amended April 12, 2021, would amend section 399.20 of the Public Utilities Code to authorize a CCA to participate in the CPUC’s Bioenergy Market Adjusting Tariff (BioMAT) program. Specifically, the bill would provide a mechanism for CCAs to submit to the PUC a petition for cost recovery of certain BioMAT-eligible contracts, and would

direct the CPUC to coordinate the program with other bioenergy subsidies or incentives so that contract prices might be reduced. It would also provide CPUC with certain authority over CCA contracting with a bioenergy electric generation facility. According to the author, this bill is aimed at allowing CCAs to access the BioMAT program to procure bioenergy electricity projects. *[S. Appr]*

- [AB 1087 \(Chiu\)](#), as amended April 14, 2021, and as it applies to the CPUC, would amend section 748.5 of, and add Chapter 8.5 (commencing with section 2845) to the Public Utilities Code to require the CPUC to, beginning with fiscal year commencing July 1, 2022, and ending with the fiscal year ending June 30, 2027, annually allocate up to 5% of revenues received by electrical corporations from GHG allowances to the Environmental Justice Community Resilience Hubs (EJCRH) Program. Of note, the bill would add section 2847 to require the CPUC to establish eligibility criteria for building upgrades that meet the EJCRH program’s goals to reduce GHG emissions and criteria air pollutants and enhance community resilience in disadvantaged or vulnerable communities. *[A. NatRes]*

## **Wildfire**

- [SB 533 Stern](#), as amended March 5, 2021, would amend sections 8385, 8386, 8386.3, and 8370 of, and add section 8373 to, the Public Utilities Code, to impose several measures designed to address proactive electric power shutoffs by electric utility companies to mitigate risk of wildfire. Specifically, the bill would require specified repairs and upgrades of the electric utilities’ distribution and transmission grids, establish a statewide database of critical facilities and infrastructure, and require more microgrid planning to ensure energy resiliency and grid reliability. *[S. EU&C]*

- [SB 694 \(Bradford\)](#), as introduced on February 19, 2021, would amend section 8386 of the Public Utilities Code to require an electrical corporation’s wildfire mitigation plan to include a description of how the electrical corporation will develop sufficient numbers of experienced personnel necessary to complete the work described in the plan, as provided. According to the author, this bill is intended to address the shortages in existing electric utility wildfire mitigation workforce by providing opportunities for current and former members of the California Conservation Corps and other local conservation organizations, who have developed skills that can help fill the needs of the electric utilities. [S. EU&C]

- [SB 756 \(Hueso\)](#), as introduced on February 19, 2021, would amend section 2790 of the Public Utilities Code to define “low-income customers” as it relates to eligibility for the Energy Savings Assistance (ESA) program. Specifically, the bill would expand eligibility for the ESA program to persons or families with household incomes at or below 250% of the federal poverty level, up from 200% of the federal poverty level as currently defined. [S. EU&C]

## LITIGATION

- *Alice Stebbins v. Cal. Pub. Util. Comm’n, et al.*, Case No. CGC-20-588148 (San Francisco Super. Ct.). On December 4, 2020, the former Executive Director of the CPUC, Alice Stebbins, filed a [complaint](#) against the Commission in the San Francisco Superior Court (*Alice Stebbins v. California Public Utilities Commission, et al.*, Case No. CGC-20-588148 (San Francisco Super. Ct.)). The lawsuit stems from the CPUC commissioners’ [unanimous vote to terminate Stebbins on August 31, 2020](#), after a California State Personnel Board Special Investigation Report concluded that a series of hires made during Stebbins’ tenure were “highly questionable” (see HIGHLIGHTS). [[26:1 CRLR 174–76](#)]

- ***Nat'l Lifeline Ass'n v. Batjer et al.*, No. 3:20-cv-08312 (N.D. Cal. Nov. 24, 2020).**

On November 24, 2020, National Lifeline Association (NALA) filed a [complaint and prayer for injunctive and declaratory relief](#) to prevent Commissioners Batjer, Rechtschaffen, Guzman Aceves, and Shiroma from giving effect to or enforcing provisions of [D.20-10-006](#). NALA alleges that this Decision, which requires wireless telecommunications service providers participating in the California Lifeline program to “provide certain service plans for free,” is preempted by section 332(c)(3)(A) of the Federal Communications Act of 1934 (47 U.S.C. § 332(c)(3)(A)). On January 25, 2021, the Commissioners filed an [answer](#) to the complaint. Among other things, the Commissioners alleged that section 332(c)(3)(A) of the Communications Act does not prohibit state regulation of conditions for receiving state Lifeline subsidies. On February 21, 2021, Plaintiffs filed a [motion for judgment on the pleadings](#) pursuant to Fed. R. Civ. P. 12(c). On March 19, 2021, Defendants filed their [response](#) to the motion for judgment on the pleadings. A hearing on the motion is set for April 30, 2021.

- ***Cal. Pub. Util. Comm'n v. FCC, et al.*, No. 21-01016 (D.C. Cir. Jan. 14, 2021).**

On January 14, 2021, the CPUC filed a [petition for review](#) of the Federal Communications Commission's (FCC) October 29, 2020 order captioned *Restoring Internet Freedom; Bridging the Digital Divide for Low-Income Consumers; Lifeline and Link Up Reform and Modernization, Order on Remand*, in the D.C. Circuit. This petition for review involves the partial remand of *Mozilla Corp. v. Fed. Comm'n Comm'n*, 940 F.3d 1 (D.C. Cir. 2019) that has been well-covered in previous editions of the Reporter. [[25:1 CRLR 274–276](#); [24:2 CRLR 225–226](#); [24:1 CRLR 175](#)] Following that remand, the FCC found no basis to change its prior approach. While the CPUC filed its petition for review in January 2021, the FCC filed an [unopposed motion for abeyance](#) on April 7, 2021. In the motion for abeyance, the FCC noted that the composition of the FCC had

changed since the order under review, that the FCC originally adopted decision by narrow margins, and that the only Commissioner remaining on the Commission from that vote was a dissenter who has since become the Acting Chairwoman of the FCC. On April 8, the court granted the abeyance. The FCC must file an abeyance status report by July 7, 2021.

- ***United States v. California*, Case 2:18-cv-02660-JAM-DB (E.D. Cal. 2018).** On February 8, 2021, the U.S. Department of Justice filed a [notice of voluntary dismissal](#). That same day, the Court dismissed this case in its entirety. Under the previous presidential administration, the DOJ used this litigation to challenge [SB 822 \(Wiener\) \(Chapter 976, Statutes of 2018\)](#), considered by many to be the strongest net neutrality law in the nation. [[24:1 CRLR 175–76](#)]

- ***Am. Cable Ass’n v. Becerra*, No. 2:18-cv-02684 (E.D. Cal., filed Oct. 3, 2018).** On February 8, 2021, the court ordered the parties to file a brief joint status report no later than February 16, 2021, outlining whether the United States of America’s voluntary dismissal in *United States v. California* (18-cv-02660) would affect this litigation in any way. On February 16, the parties submitted a [joint status report](#) agreeing that this voluntary dismissal did not require the postponement of the previously scheduled hearing in this litigation. On February 23, 2021, the Court held a previously scheduled video conference regarding the Motion for Preliminary Injunction by All Plaintiffs originally filed on August 5, 2020. In that motion, Plaintiffs sought to enjoin Defendant, California Attorney General Xavier Becerra, from enforcing the California Internet Consumer Protection and Net Neutrality Act of 2018 (SB-822). After hearing arguments in February, the Court denied Plaintiff’s motion. On March 9, 2021, Plaintiffs [appealed](#) the order denying the preliminary injunction to the Ninth Circuit. At this writing, that appeal is ongoing and is docketed as *ACA Connects, et al. v. Xavier Becerra*, No. 21-15430 (9th Cir. Mar 11, 2021). [[24:1 CRLR 175](#); [24:2 CRLR 225–26](#); [25:1 CRLR 274–76](#); [25:2 CRLR 179](#); [26:1 CRLR 207–208](#)]



- ***ACA Connects, et al. v. Xavier Becerra*, No. 21-15430 (9th Cir. Mar. 11, 2021).**

On March 11, 2021, Plaintiffs in the case *Am. Cable Ass'n v. Becerra*, No. 2:18-cv-02684 (E.D. Cal., filed Oct. 3, 2018) appealed to the Ninth Circuit. Plaintiff-Appellants filed their [opening brief](#) on April 6, 2021, and argued that the District Court erred in denying Appellants' preliminary injunction motion. At this writing, several amicus briefs have been filed related to this appeal; an answering brief has not been filed but is due by May 4, 2021. [[24:1 CRLR 175](#); [24:2 CRLR 225–26](#); [25:1 CRLR 274–76](#); [25:2 CRLR 179](#); [26:1 CRLR 207–208](#)]

- ***MetroPCS Cal. LLC v. Batjer et al.*, 348 F. Supp. 3d 948 (N.D. Cal. 2018).** On August 14, 2020, the Ninth Circuit issued a [decision](#) reversing and remanding a prior grant of summary judgment in favor of Plaintiff-Appellee MetroPCS (*MetroPCS Cal., LLC v. Picker*, 970 F.3d 1106 (9th Cir. 2020)). On remand, the Commissioners filed a [cross-motion for summary judgment and an opposition to Plaintiff's motion for summary judgment](#) on February 19, 2021. In 2014, California enacted the Prepaid Mobile Telephony Service Surcharge Collection Act ([AB 1717 \(Perea\) \(Chapter 885, Statutes of 2014\)](#)), imposing surcharges on prepaid wireless customers for intrastate revenues, the calculations of which are determined by the CPUC. MetroPCS filed suit, arguing that such actions are preempted by the FCC's prior decisions. At this writing, a summary judgment hearing is set for April 23, 2021, before Judge Susan Illston. [[26:1 CRLR 208–209](#)]

- ***John Trotter, Trustee of the PG&E Fire Victim Trust v. Lewis Chew, et al.*, Case No. CGC-18-572326 (San Francisco Super. Ct.).** On March 24, 2021, the Trustee representing victims of the 2018 Camp Fire and the 2017 North Bay Wine Country Fires filed an [amended complaint](#) against 22 former PG&E board members and executives for two separate breaches of fiduciary duty. With respect to the North Bay fire, the complaint alleges that defendants failed to

install a power shut-off program at PG&E during times of high winds, which was particularly needed in light of the utility's failure to properly maintain a vegetation management program. The complaint alleges that defendants knew that the conditions posed an unacceptable risk and that PG&E should have had a system to shut power off during times of extreme fire danger conditions but failed to do so. With respect to the Camp Fire, the complaint cites the CPUC's finding that it was caused by PG&E's failure to inspect and repair the 100-year-old equipment on its long-range transmission lines and or implement a proactive system to replace the equipment to avoid material fatigue, corrosion, and subsequent failures. This litigation arises out of a settlement in PG&E's bankruptcy proceeding, which established an estimated \$13.5 billion trust and reserved the rights of the victims to pursue litigation against former PG&E executives, which the trust is presently taking advantage of. [*See* [25:1 CRLR 268–271](#)]. On March 30, 2021, this matter was consolidated with several other matters and will proceed under Case No. CGC-17-562591 going forward. Defendants' responsive pleading is due on or before April 26, 2021.

- ***City of Torrance v. Southern California Edison Co.*, 61 Cal. App. 5th 1071 (2021), Case No. B300296 (Court of Appeal, Second District, Division 3, California).** On March 17, 2021, the California Court of Appeals [reversed](#) the Los Angeles Superior Court's order sustaining defendant's demurrer to the City of Torrance's complaint against SCE without leave to amend. The city alleged that SCE miscalculated municipal tax on electrical usage by applying annual credit relating to state-wide GHG emissions policy to reduce consumers' tax base and sought declaratory relief and an order compelling SCE to comply with the electricity tax ordinance. On appeal, the court held that the credit was not subject to deduction from tax base; and while it held that SCE was not liable to the city for users' unpaid taxes, the city should have been granted

the opportunity to amend its complaint to assert a claim for unpaid taxes against any consumer that had underpaid its tax. The matter has been remanded to Superior Court.