

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 were 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.

On September 28, 2021, CPUC President Marybel Batjer [announced](#) her resignation as of the end of December 2021 in an email to agency staff. Batjer’s term as president was not set to expire until the end of 2026, and her resignation comes only two years after Governor Newsom initially appointed her to the position on July 12, 2019. Governor Newsom must now appoint a new president to the commission to be confirmed by the state legislature, and he has expressed his intent to decide on a replacement by the end of 2021.

Per Public Utilities Code section 308(a), the five-member Commission appoints the Executive Director, and the Executive Director holds office at 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

Commission Issues Proposed Rulemaking Decision to Enhance Regulatory Oversight and Enforcement of Investor-Owned Utilities

On September 17, 2021, the CPUC [announced](#) the issuance of the proposed rulemaking decision [R.20-07-013](#). This decision, if adopted, would further develop a risk-based framework for electric and gas utility decisions.

The proposed decision would adopt 32 safety and operational metrics for Pacific Gas and Electric Company (PG&E) to be used in accordance with [D.20-05-053](#), which approved PG&E's post-bankruptcy reorganization plan. This decision would require PG&E to report on these [Safety and Operational Metrics](#) every six months starting March 31, 2022. The proposed decision also adopts ten new Safety Performance Metrics (SPMs), which build on those adopted in D-19-04-020. The new SPMs would apply to PG&E, Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and San Diego Gas & Electric Company (SDG&E). The decision would also [delete or modify](#) 23 previous SPMs.

This proposed decision builds on [R-13-11-006](#), which the CPUC opened on November 14, 2013, and included a decision granting compensation to TURN on September 24, 2020, for intervention influencing a decision in the public interest. This proceeding outlined an “Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the Rate Case Plan for Energy Utilities (Risk

Rulemaking).” The CPUC stated that the purpose of the Risk Rulemaking was to incorporate a decision-making framework based on risk into the Rate Case Plan (RCP) for the energy utilities’ General Rate Cases (GRCs). The RCP guides utilities on how to follow substantive information and procedural rules in order to address revenue requests in their GRCs, and therefore the new and/or modified safety and operational metrics addressed in the proposed decision would be of paramount importance to the utility companies when preparing their respective RCP’s.

The September 17 proposed decision would also build on R-13-11-006 by modifying the [“Transparency Guidelines”](#) submitted by PG&E, as well as by requiring SCE to test the guidelines concurrently with the filing of their 2022 Risk Assessment Mitigation Phase documents. However, the CPUC will not consider formal adoptions to the proposed modifications of the Transparency Guidelines until a later decision. The rulemaking would also approve minor technical clarifications to the Risk-Based Decision Making Framework adopted in [D-18-12-014](#).

Finally, the proposed decision would adopt a [2021 Safety Model Assessment Proceeding \(S-MAP\) Revised Lexicon](#) and would formally establish a Technical Working Group for the proceeding. This would identify issues within the scope of this group, including the development of an updated S-MAP Roadmap, which would help guide Phase II of the proceeding. If approved by the CPUC, this decision would enhance regulatory oversight and enforcement of IOUs like PG&E, SCE, SoCalGas, and SDG&E by improving their risk mitigation and monitoring their safety performances. This rulemaking would also establish specific metrics to evaluate PG&E’s safety performance, which would contribute to further implementation of the [Enhanced Oversight and Enforcement Process](#) (EOEP) the CPUC imposed upon PG&E as a condition of approving PG&E’s May 2020 plan for exiting bankruptcy.

That EOEP was a response to PG&E’s wildfire mitigation designated work in 2020. It was adopted as a condition for approving PG&E’s plan for exiting bankruptcy in May 2020. It provides a roadmap for monitoring PG&E’s performance in delivering safe, reliable, affordable, clean energy. The EOEP does not replace existing CPUC regulatory or enforcement jurisdiction or limit the Commission’s alternative enforcement authority. These efforts to monitor PG&E are part of many actions the CPUC began taking to hold PG&E accountable for the mitigation of wildfire threats and the safety of their systems. The CPUC issues progress reports based on the steps outlined in the EOEP process on the PG&E [page](#) on the CPUC’s website.

At its November 4, 2021 [meeting](#), issued [D-21-11-009](#) addressing Phase 1, Track 1 and 2 issues. The decision was unanimously approved. It adopted the 32 Safety and Operational Metrics for PG&E and will require PG&E to report on the Safety and Operational Metrics every six months starting March 31, 2022.

The CPUC President Marybel Batjer Announces Her Resignation Amid Wildfire and Power Grid Concerns

On September 28, 2021, CPUC President Marybel Batjer [announced](#) her resignation as of the end of December 2021 in an email to agency staff. However, the CPUC has yet to post any press release about Batjer’s resignation on their website. Batjer’s term as president was not set to expire until the end of 2026, and her resignation comes only two years after Governor Newsom initially appointed her to the position (on July 12, 2019). The five CPUC Commissioners each hold office for staggered six-year terms, and on June 15, 2020, the State Senate confirmed her appointment to the CPUC. [[26:1 CRLR 173](#)]

President Batjer did not provide a public statement nor any reason for her premature departure, but news sources reported that in her email to staff, she [stated](#) it was a difficult decision “in the face of a changing climate and global pandemic.” Her resignation comes amidst ongoing investigations into PG&E and its role in recent wildfires. Much of Batjer’s tenure as president focused on increasing oversight over the state’s largest IOU company. PG&E filed for bankruptcy in 2019, and the CPUC approved a [plan](#) in 2020 that would allow the company to exit bankruptcy subject to greater oversight. This six-step plan led the CPUC to create an “Enhanced Oversight and Enforcement of PG&E” [page](#) on their website specifically designed to monitor PG&E’s progress and safety performance. Currently, PG&E remains in [step one](#) of that “exit from bankruptcy” plan.

Media sources have reported that many environmental organizations and utility workers, such as The Center for Biological Diversity, have criticized Batjer and the CPUC for not holding utility companies accountable and for not doing enough to help the transition to renewable energy. According to newspapers such as *The San Diego Union Tribune*, many organizations believe that the CPUC, under Batjer, has allowed utility companies to neglect their electrical infrastructure, resulting in harm and potential danger to millions of Californians. Critics have called for a utility regulator who will hold PG&E and other utility companies accountable for the problems companies have caused residents.

However, news sources also reported that Governor Newsom praised the CPUC president following her resignation letter on September 28, 2021. In his [response](#), Governor Newsom stated that “[f]or decades, Marybel Batjer has helped tackle the most persistent challenges confronting Californians head-on...[s]he is a passionate, smart and thoughtful leader and I’m grateful for her

service to the [s]tate of California and wish her all the best in future endeavors.” Batjer had written in her email that she was “grateful for Governor Newsom’s support” and that she intended to focus the remainder of tenure on “better position[ing] the state for the reliability and safety challenges of this and subsequent summers and wildfire seasons.”

Batjer also had to deal with issues stemming from California’s power grid during her two-year tenure, such as rolling blackouts in August of 2020. Though California’s power grid is run by the Independent System Operator (ISO), Batjer and the CPUC took some of the blame for poor planning that led to these blackouts. Since then, the CPUC has been working on ways to make the grid more reliable. In her resignation letter, President Batjer said she and the CPUC have worked hard to support Californians during these challenging times. She [stated](#) that supporting Californians became her mission over the past two years, and she will leave the CPUC knowing its leadership will continue to carry on that focus and determination.

During her tenure, Batjer, along with the rest of the CPUC commissioners, also [voted to dismiss](#) the former Executive Director of the CPUC, Alice Stebbins, at a meeting on July 16, 2020. This was one of the many events in a contentious dispute over Stebbins’s personnel decisions and other agency mismanagement claims during her time at the CPUC. At a public hearing on August 31, 2020, President Batjer stated that Stebbins was directly involved in the five hires, which the State Personnel Board found to be questionable in its own separate investigation. She denied allegations Stebbins made against her, and there is now an ongoing lawsuit by Stebbins against the CPUC following her filing of a whistleblower complaint. [\[26:2 CRLR 202–204\]](#) The lawsuit is currently in the discovery stage. As of June 7, 2021, a reply was filed in support of a motion for leave to file the first amended petition for writ of mandamus and other appropriate relief.

When asked who will become the commission's next president and when the announcement will be made, the CPUC did not comment. Governor Newsom must now appoint a new president to the commission to be confirmed by the state legislature. His office, according to media sources, stated that he will decide on a replacement by the end of the year. At the end of her resignation letter, it was reported that Batjer wrote, "I have had the privilege of serving four California governors and have given my all to public service for many decades. I am now ready for a new challenge and adventure."

Commission Issues Proposal that Would Approve an Uber Sexual Harassment Reporting Agreement and \$9 Million for Its Required Safety Initiatives

On October 29, 2021, the CPUC issued proposed rulemaking decision [R.12-12-011](#), a proposal that would approve a settlement agreement with Uber on the reporting of data on sexual harassment and assault. The agreement includes penalties of \$9 million if they fail to respond to CPUC requests for data on those incidents listed in their 2019 Safety Report. The settlement agreement would be between the Commission's Consumer Protection and Enforcement Division (CPED), Uber Technologies, Inc. (Uber), and the Rape, Abuse & Incest National Network, Inc. (RAINN). It would resolve whether Uber should be otherwise fined, penalized, or subject to other sanctions for refusing to thus far provide adequate information regarding sexual assaults and harassment arising from its passenger services.

If the proposal is adopted, it would render moot the decision imposing penalties against Uber for violation of the ALJ's December 19, 2019, and January 27, 2020 rulings (which required information regarding sexual assault and sexual harassment claims, including those now allegedly

moot and withdrawn). Under the [proposal](#), as noted above, Uber would pay \$9 million to support safety initiatives that, according to the CPUC, would directly promote the public interest in passenger safety. These initiatives would include \$5 million to the California Victims Compensation Board to be used for the victims of violence and sexual violence, specifically those who have been harmed due to the passenger carrier industry, \$4 million for efforts to address physical and sexual violence in the passenger carrier industry, most notably to contracts managed by the CPED, and a \$150,000 fine to the state's General Fund. The CPUC would also require that Uber provide them with information on sexual assault and harassment on a regular basis, and the agency would also create a process where survivors could opt-in to make more of the information on their assault available to the CPUC.

The Commission began asserting jurisdiction over service by Transportation Network Companies (TNCs) in 2011–12. This led to the initiation of R.12-12-011 on December 20, 2012, which was an order instituting rulemaking on regulations relating to passenger carriers, ridesharing, and new online-enabled transportation services. That proposed rulemaking eventually resulted in [D.13-09-045](#), which adopted rules and regulations to protect public safety while allowing new entrants to the transportation industry. That decision created reporting requirements with which each TNC, including Uber, must comply. As complaints about sexual harassment, misconduct, and assault from TNC drivers were reported to the CPUC, and since this proceeding remains open, the Commission expanded the scope of the proceeding to determine how TNCs were investigating driver-related sexual assaults and harassment and what additional regulations and reporting requirements should be adopted.

On December 5, 2019, Uber released its [US Safety Report](#), which raised concerns about the safety of passengers, specifically about sexual assault and harassment claims. Under the Commission’s jurisdiction to regulate TNCs, the assigned ALJ issued a [ruling](#) on December 19, 2019, ordering Uber to file and serve the US Safety Report in the instant proceeding and to “answer questions regarding alleged sexual assault and sexual misconduct incidents” relevant to Uber’s California transportation operations. In January 2020, Uber filed a copy of its US Safety Report, as well as a motion for reconsideration of the December 19, 2019 ruling. On January 27, 2020, the ALJ [denied](#) Uber’s motion for reconsideration.

This is not the first time Uber has failed to comply with D.13-09-045. In 2017, Uber was investigated after CPED allegations concerning its failure to comply with zero-tolerance rules in Safety Requirement D of the decision relating to DUI policy. [\[23:1 CRLR 198\]](#) Additionally, on December 14, 2020, an ALJ issued a decision in this same ongoing proceeding, R.12-12-011, fining Uber \$59 million for failing to comply with the earlier rulings on December 19, 2019, and January 27, 2020, regarding sexual assault and harassment claims. [\[26:2 CRLR 204\]](#) The instant proceeding would encourage Uber to once again comply with the safety and reporting requirements outlined in D.13-09-045.

This proposed decision will be on the CPUC’s December 2, 2021, Voting Meeting agenda, and unless and until the Commission votes to approve it, it will have no legal effect. At this writing, [public comment](#) is open on the proceeding’s Docket Card, and there are four public comments so far, all of which focus on the safety and accessibility components of the proceeding.

The CPUC Implements Six Steps for the Monitoring of PG&E

On August 5, 2021, the CPUC adopted [Resolution M-4855](#) to set the selection process, scope of work, and schedule for an Independent Safety Monitor that will complement the CPUC's oversight of PG&E. PG&E entered bankruptcy in 2019 following lawsuits resulting from multiple wildfires that were started from its power lines. [[24:2 CRLR 223–224](#); [25:1 CRLR 268–270](#); [25:2 CRLR 164–166](#); [26:1 CRLR 198](#); [26:2 CRLR 229](#)] The Independent Safety Monitor is a requirement for PG&E as a part of its reorganization plan under [D.20-05-053](#) to exit bankruptcy with specific financial and operational conditions. The Independent Safety Monitor was established to ensure that PG&E prioritizes and implements the highest level of risk reduction across all levels of the company. According to the [press release](#), requests for proposals will be sent out seeking an Independent Safety Monitor, and the CPUC will select the Safety Monitor from eligible candidates.

D.20-05-053, approved in 2020, instituted an [Enhanced Oversight and Enforcement \(EOE\)](#) process. This EOE process was established to supplement the CPUC's existing enforcement authority. This process has six possible steps (I.19-09-016, [Assigned Commissioner's Ruling and Proposals, Appendix A](#) at 14), ranging from the adoption of additional reporting requirements in step one to a formal review of PG&E's Certificate of Public Convenience and Necessity (CPCN) in step six. The six steps are further grouped into two sections: Enhanced Reporting and Enhanced Enforcement.

Step one, "Enhanced Reporting," can be triggered by PG&E's failure to comply with the CPUC's conditions and requirements. If step one is triggered, PG&E must submit a Corrective

Action Plan (CAP) to the Executive Director of the CPUC within twenty days of being placed in step one. Step two is Commission Oversight of Management and Operations, which involves PG&E’s submission of an updated CAP, which PG&E must comply with. Steps three through six, “Enhanced Enforcement,” starts with the Appointment of an Independent Third-Party Monitor (Step 3). Step four involves the Appointment of a Chief Restructuring Officer (CRO), who will have full management responsibility for developing and directing PG&E to implement the CAP. Step five is the Appointment of a Receiver, who would have the power to control and operate PG&E’s business units in the public interest, but could not dispose of the operations, assets, business, or PG&E stock. Step six entails a review of PG&E’s CPCN. If PG&E fails step six, pursuant to [SB 350 \(Hill\) \(Chapter 27, Statutes of 2020\)](#), it could be converted to the nonprofit public benefit corporation for the purpose of owning, controlling, operating, or managing electrical and gas services for its ratepayers and for the benefit of all Californians. This entity would be named “Golden State Energy.”

As of April 15, 2021, PG&E was at step one. In June 2021, the California Public Advocates Office [urged](#) the CPUC to find that PG&E was no longer in good standing for the rest of 2021, as there were many deficiencies in PG&E’s wildfire mitigation plan. As of this writing, the evaluation of PG&E’s status in the EOE process has not yet taken place.

On August 24, 2021, related to Resolution M-4855, the CPUC sent a [letter](#) to PG&E reminding it of the urgency to remove felled trees during its 2020 post-wildfire restoration work and to request that the PG&E take action to address trees felled for any post-wildfire restoration efforts for 2021. The letter contained specific requests, such as that PG&E immediately establish

a felled tree removal plan for the customers impacted by wildfires in 2020 and to consider every possible commercial use for the felled trees once they are removed.

The CPUC to Evaluate Strategies to Mitigate Energy Rate Increases (R.18-07-006)

On September 15, 2021, the CPUC issued an [Amended Scoping Memo and Ruling](#) on an “Order Instituting Rulemaking to Establish a Framework and Processes for Assessing the Affordability of Utility Service.” These “scoping” procedures define the substantive issues to be considered in the proceeding. Those here under consideration pertain to energy costs, with both costs and attendant rate increases a growing problem.

On July 12, 2018, the CPUC “instituted this [initial] rulemaking to develop a common understanding and methods and processes to assess, consistent with [CPUC] jurisdiction, the impacts on affordability of individual [CPUC] proceedings and utility rate requests.” [\[24:1 CRLR 138–140\]](#) On February 24, 2021, the CPUC held an *en banc* meeting to discuss the CPUC’s draft report on electric and gas cost and rate trends pursuant to Public Utilities Code section 913.1 ([2021 SB 695 Report](#)). The 2021 SB 695 Report warned of long-term increases in electric costs and their implications for equity and affordability under current trends. On April 29, 2021, the CPUC produced the first annual affordability [report](#), which led to this decision to move on to the third phase of the initial plan to examine “strategies to mitigate future energy rate increases.”

For this third phase of rulemaking [R.18-07-006](#) to mitigate energy rate increases, the CPUC set a preliminary scope of what actions should be taken. That preliminary scope for the third phase includes two questions: (1) What action, if any, should the CPUC take to mitigate future increases

in energy costs, rates, and bills? and (2) What actions, if any, should the CPUC recommend other entities take to mitigate such future increases?

While the 2021 SB 695 Report is focused on the rising costs and rates of electricity, stakeholders also raised issues pertaining to the rising cost of natural gas as well. As such, another focus of this current rulemaking is to ensure that as demand for natural gas declines, gas utilities continue to maintain safe and reliable gas systems at just and reasonable rates.

On October 22, 2021, Administrative Law Judge Camille Watts-Zagha chaired a [Prehearing Conference](#) to allow parties to provide comment as to whether to include strategies to mitigate natural gas rate increases should be included within 3. Assigned Commissioner Darcie Houck attended the hearing as well.

On November 5, 2021, Commissioner Houck and ALJ Watts-Zagha issued a [ruling](#) inviting comments on the staff proposal on implementation of affordability metrics. Opening comments on the staff proposal are due by December 8, 2021, and reply comments are due by December 23, 2021. Pursuant to the scoping memo, a proposed decision on Phase 2 is expected in April 2022.

The CPUC Orders California Utility Companies to Implement PIPP Pilot Programs (R.18-07-005)

On October 7, 2021, the CPUC issued a decision [D. 21-10-012](#) in an ongoing rulemaking proceeding to Consider New Approaches to Disconnections and Reconnections to Improve Energy Access and Contain Costs ([R.18-07-005](#)) which implements [SB 598 \(Hueso\) \(Chapter 362, Statutes of 2017\)](#). [[26:1 CRLR 199](#)] SB 598 was signed into law on September 28, 2017, and requires the CPUC to “develop rules, policies, and regulations with the goal of reducing the

statewide disconnection rate of natural gas and electricity customers” by January 1, 2024. [[24:1 CRLR 146](#)]

The decision orders PG&E, SDG&E, SCE, and SoCalGas “to implement Percentage of Income Payment Plan (PIPP) pilot programs to reduce residential disconnections of electric and natural gas service.” Participants in the PIPP pilot programs will receive a bill cap for their current natural gas and electricity bills at four percent of their household’s monthly income. Monthly bill caps will be standardized for households in two income tiers. The first is 0–100% of the Federal Poverty Guidelines, and the second is 101–200% of Federal Poverty Guidelines.

PG&E, SDG&E, SCE, and SoCalGas will enroll up to 15,000 of their customers as participants for 48 months to test whether PIPP programs can reduce the number of low-income households being disconnected from electric and natural gas services, encourage participation in energy saving and energy management programs, increase access to essential levels of energy service, and control program costs.

Customers of Community Choice Aggregators (CCAs) will also be eligible for the PIPP pilot program if they are enrolled in the California Alternate Rates for Energy (CARE) program and if they are located in one of the zip codes with the highest rates of disconnection in a utility’s service area, or if they have had their energy or natural gas disconnected two or more times during the 12 months prior to the disconnection moratorium.

At the end of 18 months, an independent evaluator will assess the PIPP pilot program based on the data and will recommend whether to modify the PIPP program and whether or not to have the utilities adopt the program long-term.

In a November 10, 2021 [email ruling](#), the ALJ Stephanie Wang directed the smaller and multi-jurisdictional utility parties to the proceeding to file comments on a series of questions pertaining to Phase 1A of this proceeding by December 13, 2021. Reply comments are due January 14, 2022.

The CPUC Votes to Approve Review of Solar Consumer Assistance Fund

On May 19, 2021, Commissioner Guzman Aceves issued a [proposed decision](#) to establish a solar consumer assistance fund for Net Energy Metering customers. This proposal responded to a broader policy goal of “ensuring that customers experiencing inadequate solar installations receive assistance.” On July 16, 2021, and concurrent with this rulemaking process, Governor Newsom signed into law [AB 137 \(Committee on Budget\) \(Chapter 77, Statutes of 2021\)](#), which requires the California Contractors State License Board (CSLB) to administer a newly established Solar Energy System Restitution Program. The California State Budget Act of 2021 appropriated \$5 million to CSLB “for the purpose of providing restitution to consumers who have suffered financial loss or injury due to the unlawful acts of a residential solar energy system contractor that has not been and will not be fully reimbursed from any other source.”

Commissioner Aceves subsequently modified her proposed decision to reflect the newly established fund to be administered by CSLB and eliminated the CPUC fund for solar customers from the proposal. The revised proposed decision requires PG&E to host a workshop when the “Contractors State License Board publishes a notice that it has paid out fifty percent of the available Solar Energy System Restitution Program funds.” The purpose of the workshop is to review the CSLB program and make broader recommendations to the CPUC.

The proposed decision concludes the “[p]rovision of financial assistance to customers who expended funds on inadequate solar energy systems directly supports the NEM program and the Commission’s statutory duty to support a sustainable distributed renewable generation market in the State.” Additionally, the decision concludes that “[i]t is reasonable to establish a process to assess the need for a solar consumer assistance fund, based on the CSLB’s distribution of funds under the Solar Energy System Restitution Program.” Hence, it appears that while the CPUC is deferring to CSLB for the solar fund, it will be monitoring its performance and the fund’s solvency and may not be entirely delegating the matter.

However, on September 23, 2021, the Commission [approved](#) the proposed decision of Commissioner Guzman Aceves by a vote of three to two. CPUC President Batjer and Commissioner Houck dissented from the commission’s decision. In her dissenting comments, President Batjer observed that the proposed decision seemed to imply that the Commission had authority to establish a consumer assistance fund, which she found dubious, stating that such a fund was outside the Commission’s jurisdiction. Additionally, President Batjer stated that it was not appropriate for the Commission to monitor CSLB’s program—and viewed it as an infringement upon that board’s authority.

Subsequent to the Commission’s vote to approve the decision on September 23, 2021, the proceeding was closed. Any future commission action with regard to a solar consumer assistance fund will now require the opening of a new proceeding.

The CPUC Votes to Approve Resolution Establishing New Electric Vehicle (EV) Infrastructure Rules

At its [meeting](#) on October 7, 2021, the CPUC unanimously voted to approve [Resolution E-5167](#). This resolution established new rules to account for utility-side distribution costs associated with EV charging deployment. The new rules were issued in response to [AB 841 \(Ting\) \(Chapter 372, Statutes of 2020\)](#), which required, *inter alia*, the establishment of new rules or tariffs to account for utility-side distribution costs associated with EV charging deployment [[26:1 CRLR 204](#)] On January 15, 2021, pursuant to AB 841, Commissioner Rechtschaffen issued an [Assigned Commissioner Ruling](#) (ACR) on R.18-12-006 seeking feedback from electrical corporations “on how to implement and interpret certain portions of AB 841.”

In response to the ACR and the requirements of AB 841, three Investor Owned Utilities (IOUs) submitted advice letters to the Commission: [PG&E](#), [SCE](#), and [SDG&E](#). All three IOUs proposed new rules dealing with the installation of new electrical service and distribution system upgrades for customers installing separately metered EV charging equipment (other than those in single family-residences). Under previous rules, some of the cost to install such separate equipment was borne by the customer receiving the service. Each of the Advice Letters of these three major state utilities proposed shifting some of these upgrade costs from the customer to ratepayers. The exact cost to ratepayers is unknown, as the Commission is “unable to estimate the total cost impact since it is difficult to estimate the rate of EV charger deployment and the number of customers that will take service under the EV infrastructure rules.”

Per the Resolution, the three IOUs are required to submit Tier 1 advice letters within 60-days of the adoption of the Resolution to compare their respective Electric Vehicle Infrastructure

Rules (including Rules 15 and 16 that are relevant). The IOUs must also add language to their rules clarifying their applicability and limitations. In order to ensure the IOUs all have the same definition of “electric vehicle” in their infrastructure rules, the Resolution also requires IOUs adopt the definition referenced in [D. 20-09-025](#). The three IOUs also must update their EV Infrastructure Rules to reflect the requirement to use existing services where technically feasible and to enroll customers in commercial “time-variant” electric vehicle rate programs. The three IOUs are also required to submit expected revenue and rate impacts through the end of 2024 in their Advice Letters.

The three IOUs are required to implement the new rules within six months of the Resolution’s adoption. The IOUs are also required to host public workshops to discuss barriers to timely energization by this six-month timeline from the Resolution’s approval. Within sixty days of the workshop, the IOUs are required to provide the Commission via a joint Tier 2 advice letter: A proposed service energization timeline that includes, at a minimum, a numerical target for the time between when a customer submits an application and when the site is energized. The discussion and feedback from the workshop on the Resolution included discussion on factors that are within or outside of the IOUs control. The discussion also included a description of how the IOUs can improve the timing for other responsibilities. The Resolution became effective on October 7, 2021.

The CPUC Votes to Approve Decision Setting the Interim Range of Aliso Canyon Natural Gas Maximum Storage Capacity at Up to 41.16 Billion Cubic Feet

On November 4, 2021, the CPUC voted 4-0 to approve [D.21-11-008](#). President Batjer was absent from the meeting. This decision, proposed by Commissioner Guzman Aceves, set the interim storage capacity at the Aliso Canyon Natural Gas Storage Facility (“Aliso Canyon”) at a range of between zero and 41.16 billion cubic feet. This decision was adopted over a [proposed decision](#) by ALJ Zhang, which would have set the interim storage capacity at Aliso Canyon at a range between zero and 68.6 billion cubic feet.

In response to a 2015 natural gas leak at Aliso Canyon, [SB 380 \(Pavley\) \(Chapter 14, Statutes of 2016\)](#) was signed into law by Governor Newsom on May 10, 2016. [\[23:1 CRLR 185\]](#) SB 380 required the Commission “to open a proceeding to determine the feasibility of minimizing or eliminating use of the Aliso Canyon natural gas storage facility located in the County of Los Angeles while still maintaining energy and electric reliability for the region” In response, the Commission initiated proceeding [I.17-02-002](#), which ordered an investigation to evaluate the “feasibility of minimizing or eliminating the use of the Aliso Canyon natural gas storage facility” “while still maintaining energy and electricity reliability for the [Los Angeles] region” at reasonable rates. [\[23:1 CRLR 185\]](#) This decision was issued pursuant to I.17-02-002.

In approving this decision, the Commission noted its sensitivity to public comments and arguments urging the immediate closure of Aliso Canyon. However, the Commission stressed that I.17-02-002 is still open and that “[t]here remains analysis in . . . [the] proceeding concerning the portfolio of resources that could replace the services provided by Aliso Canyon in the long term.”

D.21-11-008, at 17. Additionally, the Commission stated that “the record shows that continuing to rely on Aliso Canyon is necessary to protect customers from natural gas reliability issues and rate impacts for both natural gas and electricity in the current timeframe, and until any mitigation of these potential reliability and cost risks is completed.” *Id.*

As such, the Commission determined that as a matter of public policy, it was reasonable to set the interim maximum gas storage level at Aliso Canyon at 41.6 billion cubic feet. The interim storage levels remain in effect until such time as the Commission completes Phase 2 and 3 of proceeding I.17-02-002. D.21-11-008 is effective as of November 4, 2021.

The CPUC Approves Rulemaking Regarding Caps on Phone Rates for Those Incarcerated (R.20-10-002)

At its August 19, 2021, teleconference [meeting](#) [Agenda Item 31], the CPUC unanimously voted to adopt an interim rate cap on intrastate incarcerated persons calling services (IPCS) of seven cents (\$0.07) per minute for prepaid and collect calls. [D.21-08-037](#) prohibits the imposition of single-call, paper bill, live agent, and automated payment fees in association with intrastate and jurisdictionally mixed IPCS. It also requires the pass-through, with no markup, of third-party financial transaction fees, up to a limit of \$6.95 per transaction. Prior to this decision, the rates and fees for IPCS in California were unregulated. The decision also directs telephone corporations to provide their customers with notice of the adopted rate cap and ancillary fee requirements. They have 45 days to comply with that notice.

The Commission’s decision found the adoption of an interim rate cap “provides immediate rate relief to approximately 171,000 incarcerated people located at 343 incarceration facilities in

California.” The interim rate cap remains in effect until the Commission adopts a permanent IPCS intrastate rate cap.

The CPUC initiated the rulemaking on its own motion in October 2020 to consider incarcerated people’s access to intrastate telecommunication services is at rates that are just and reasonable. [*see* [26:1 CRLR 179–181, 201](#); [26:2 CRLR 222](#)]

At the August 19, 2021, meeting, the Commissioners heard public comments from callers who expressed the need for regulation to cap IPCS because many incarcerated families are low-income, and the cost is an additional burden for incarcerated persons to communicate with family members, which is important for their mental health and can provide them with a better outcome when they are released. Additionally, callers wanted the Commission to broaden the rate cap on other forms of communication to include text and video communication that have become more frequently used at incarceration facilities. One caller did ask the Commission to consider the impacts on the incarceration facilities of a cap on IPCS since the charge can provide some funding to the incarceration facilities and their programs.

The Commissioners noted during the hearing that this interim decision is the first step as they develop a permanent rate structure. In response to public comment, the Commission also noted that it would look into expanding caps on other forms of communication such as text and video. On September 15, 2021, a remote [prehearing conference](#) (PHC) regarding the OIR to Consider Regulating Telecommunications Services Used by Incarcerated People was held. The prehearing conference gave persons interested in Rulemaking 20-10-002 the opportunity to provide recommendations as well as the schedule for Phase II of the rulemaking.

SB 28 (Caballero), Authorizing the CPUC to Set and Enforce Customer Service Requirements for Cable Franchise Holders, Signed by Governor

[SB 28 \(Caballero\)](#), as amended August 30, 2021, adds section 5895, and repeals section 5960 of the Public Utilities Code, expanding the authority of the CPUC to collect data to enforce requirements for cable franchises. Included among those requirements is the setting of customer service requirements for cable providers. Of note, the new law makes various changes to the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). This includes revising the type of information collected by the CPUC from holders of a state franchise. According to the author, the bill aims to promote broadband access to rural and low-income residents “without new fees or taxes, by ensuring that digital video franchise license holders meet their license obligations in a non-discriminatory manner.”

New section 5895 enables the CPUC to collect enhanced data to better identify communities that lack internet service and close “donut holes” of internet service gaps in response to the rise of web-based streaming video service markets and the growth of wireless personal communications. While state law prohibits video franchises from discriminating against or denying access to service based on income (referred to as redlining), the CPUC with enhanced data collection can better identify instances of redlining and detect related abuses. Prior to the enactment of SB 28, broadband providers self-reported data to the CPUC. In the past, all households were considered served in a census tract if providers served a single house in that tract. Supporters of the bill noted that the current census “tract level data” from cable and telecommunications companies are not accurate and contend that rural and low-income areas have

been effectively redlined. They emphasize the discrepancy based on the location where recent impacts of COVID-19 have had on rural and low-income residents. That population found it especially difficult to work from home or to have their children connect to the internet to comply with school obligations. Some of the supporters of the legislation included the California Center for Rural Policy, California Emerging Technology Fund, California Telehealth Network, and League of California Cities. [*see* [26:2 CRLR 234](#)]

Although Governor Newsom signed SB 28, in his [signing message](#), he encouraged the legislature to consider further reform. He has concluded that the DIVCA is generally outdated and fails to reflect the market realities of today.

Governor Newsom signed SB 28 on October 8, 2021 (Chapter 673, Statutes of 2021).

Commission Proposal Requires Consumer Protection Measures for Verizon’s Acquisition of TracFone

On October 15, 2021, the CPUC [announced](#) the issuance of proposed decision [A.20-11-001](#). This decision, if adopted, would approve Verizon Communications’ acquisition of TracFone Wireless, with certain conditions for consumer protection.

The proposed decision finds that Verizon and TracFone do not meet the burden of proving their proposed acquisition is in the public interest *unless* the companies adopt a number of specific measures to protect consumers from price increases or service disruptions. Under the proposal, the consumer protection measures include a series of requirements that should enhance service quality and benefits for impacted customers, including those participating in the [California LifeLine Program](#).

The consumer protection measures include the following requirements for the proposed transfer of TracFone from América Móvil to Verizon. In order to mitigate the harm to current TracFone customers with handsets that are incompatible with Verizon's network, Verizon will have to provide all current TracFone customers with a new handset, free of charge. Additionally, replacement of handsets for LifeLine customers with incompatible handsets will be provided at no cost to the California LifeLine Program. To facilitate an effective and predictable transition period for customers, Verizon and TracFone must migrate all TracFone customers currently not using Verizon's network to Verizon's network within six months following the close of the transaction. The migration plan must prioritize TracFone's current California LifeLine customers. Also, to ensure that the transaction does not adversely impact the California LifeLine Program itself, Verizon or TracFone must participate in California LifeLine on terms and conditions that are comparable to (or superior to) those currently offered by TracFone and must comply with California LifeLine rules for as long as Verizon or TracFone operate in California. Verizon must also exercise good faith to offer mobile virtual network operator (MVNO) contracts in California to non-affiliates to the extent the company has the capacity. The proposal also establishes a reporting process as well as a mitigation enforcement program, with penalties if specific performance requirements are not met.

The proponents of these conditions contend that they are in the public interest. The [joint applicants](#) earlier requested that the CPUC approve the transfer of TracFone to Verizon on November 5, 2020. [*see 26:2 CRLR 223*]

The CPUC's Commissioners are scheduled to vote whether to approve the proposed decision at the CPUC's November 18, 2021, voting meeting. The proposed decision has no legal effect until and unless the Commission hears the item and votes to approve it.

MAJOR PUBLICATIONS

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

Internal

- [*Year 2020 Utilities Procurement of Goods, Services, and Fuel from Women, Minority, Disabled Veteran, and LGBT Business Enterprises*](#), CPUC, September 2021. (Pursuant to Public Utilities Code section 910.3, provides an annual report to the legislature regarding the progress reported to the CPUC by IOU companies in procuring goods, services, power, and fuel from women-owned, minority-owned, disabled veteran-owned, and lesbian, gay, bisexual, and/or transgender-owned business enterprises (WMDVLGBTBEs) in 2020. Reports that the utilities' diverse expenditure from WMDVLGBTBEs decreased by 7.5 percent, from \$12.7 billion in 2019 to \$11.7 billion in 2020.)
- [*2019 Annual Affordability Report*](#), CPUC, April 2021. (Pursuant to CPUC [D-20-07-032](#), adopts metrics and methodologies for assessing the relative affordability of public utility service under the Commission's jurisdiction. The first-ever annual report measures the Hours at Minimum Wage (HM), Socioeconomic Vulnerability Index (SEVI), and Affordability Ratio (AR) of essential services. Reports that: California households face significant disparities in the ability to afford essential utility services; income, more than housing costs, drives affordability for

families and individuals; certain areas of California face greater burdens to affordability; and industry-specific differences present opportunities for targeted policymaking.)

Energy

- [*Report to the Legislature: Report on Residential and Household Utility Service Disconnections*](#), CPUC, June 2021 (Pursuant to Public Utilities Code 910.5 [SB 598 \(Hueso\)](#) ([Chapter 362, Statutes of 2017](#)), summarizes actions the CPUC has taken to reduce residential disconnections of utility service by the four largest IOUs electric and gas corporations SCE, SoCalGas, SDG&E and PG&E; finds that the disconnection rate rose steadily for several years before declining in 2018 and 2019 before reaching the lowest disconnection rate for all utilities in 2020 after proactive measures were taken in 2020 and 2021 to suspend disconnections and implement other customer protections in response to the Covid-19 Pandemic.).
- [*2020 California Electric and Gas Utility Cost Annual Report to the Governor and Legislature*](#), CPUC, April 2021 (Pursuant to Public Utilities Code section 913, [AB 67 \(Levine\)](#) ([Chapter 562, Statutes of 2005](#)), summarizes the costs of programs and activities conducted by SCE, SoCalGas, SDG&E, and PG&E in part to help determine the effect of various legislative and administrative mandates on electric and gas rates.).
- [*Summer 2020 SoCalGas Conditions and Operations Report*](#), CPUC, November 15, 2021 (Summarizes weather patterns, operational decisions, and prices trends in the natural gas and electric markets in the SoCalGas territory; finds that in summer 2020 that southern California experienced electric price volatility due to high demand, heat waves and insufficient power supply, but SoCalGas was in a better position to respond to the increase in demand due to no critical gas

transmission lines being out of service and the ability to initiate withdrawals from the field during peak hours.).

- [*2021 Padilla Report Costs and Cost Savings for the RPS Program*](#), CPUC, May 2021 (Pursuant to Public Utilities Code section 913.3, provides an annual report to the legislature aggregating the costs and cost savings of the renewable energy expenditures and contracts for the previous year.).

- [*2021 California Solar Initiative \(CSI\) Annual Program Assessment*](#), CPUC, June 2021. (Pursuant to Public Utilities Code section 913.7, provides yearly assessment to the legislature on the success of the CSI program. The CSI program is overseen by the CPUC, with an initial goal to install 1,940 MW of customer-sited solar capacity and transition the solar industry into a self-sustaining one. Reports that as of the end of 2020, approximately 9,671 MW of customer-sited solar projects have been installed at over 1.1 million locations within the service territories of the state's three major IOU's, exceeding the CSI program goal by nearly 500% and the state's Go Solar California goal by roughly 322%).

- [*Report on Energy Efficiency Portfolio*](#), CPUC, July 2021. (Pursuant to Public Utilities Code section 913.5 provides a triennial report to the legislature on energy efficiency (EE) and conservation program overseen by the CPUC. Reports that in total, the 2017–2019 EE program portfolio saved 2,341 gigawatt-hours of electricity, 458 megawatts of demand, and 79 million therms of natural gas, exclusive of energy savings attributed codes and standards advocacy savings.).

- [*Monitoring and Evaluation Report regarding Southern California Gas Company's Gas Cost Incentive Mechanism \(GCIM\)*](#), Cal Advocates, October 15, 2021 (Pursuant

to the August 12, 2021, *Assigned Commissioner's Scoping Memo*, provides that Southern California Gas Company (SoCalGas) recorded gas costs for GCIM Year 27 were \$184,744,972 below the benchmark, which resulted in a reward of \$11,143,725 to SoCalGas' shareholders after applying the commodity cost cap of 1.5% and a rate payer benefit of \$173,601,247. The GCIM is used as a ratemaking tool to increase efficiency in administering regulatory controls. Cal Advocates verified the total savings and confirmed shareholders received the reward.).

Telecommunications

- [California Advanced Services Fund \(CASF\) 2020 Annual Report](#), CPUC, April 2021 (Pursuant to Public Utilities Code section 914.7(a) and [AB 1665 \(Eduardo Garcia\) \(Chapter 851, Statutes of 2017\)](#)), provides an annual report to the legislature presenting financial and programmatic highlights of the CASF program, including revenues, expenditures, approved projects, and expected benefits. The report also provides updates on unserved and served areas as well as broadband adoption in the state. The goal of the CASF program is to close the Digital Divide in California by funding broadband projects in underserved areas of the state with a goal of making broadband available to 98 percent of households by 2022.).

RULEMAKING

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

Internal

- [R.20-07-013](#): **Order Instituting Rulemaking to Further Develop a Risk-Based Decision-Making Framework for Electric and Gas Utilities**: On September 17, 2021, the CPUC

initiated a rulemaking proceeding to further develop a risk-based framework for electric and gas utility decisions. On November 4, 2021, [D-21-11-009](#) was made addressing Phase 1, Track 1 and 2 issues. The decision adopted the 32 Safety and Operational Metrics for PG&E outlined in the proceeding and will require PG&E to report on the Safety and Operational Metrics every six months starting March 31, 2022 (see HIGHLIGHTS).

- **[R.20-05-003](#): Order Instituting Rulemaking 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 its 2021–2022 Transmission Planning Process (TPP). On May 21, 2021, the CPUC initiated a proposed decision in this ongoing rulemaking proceeding addressing the mid-term reliability needs of the electricity system within the California Independent System Operator’s (CAISO’s) operating system. The capacity requirements of the system are adopted annually. The proposed decision from May 21 is an alternate submitted by Commissioner Rechtschaffen, which differs slightly from ALJ Fitch’s proposed decision. This alternate differs only regarding the eligibility and authorization for resources utilizing fossil fuels. On June 30, 2021, the CPUC issued a decision ([D-21-06-035](#)) on the proceeding, ultimately requiring at least 11,500 megawatts (MW) of additional net qualifying capacity (NQC) to be procured by all of the load-serving entities (LSEs) subject to the Commission’s integrated resource planning (IRP) authority. The annual capacity requirements begin with 2,000 MW by 2023 and add an additional 6,000 MW by 2024, an additional 1,500 MW by 2025, and an additional 2,000 MW by 2026. The proceeding remains open as of November 15, 2021. [*see* [26:2 CRLR 207–208](#)]

Energy

- [R.13-11-005](#): **Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues**: On August 20, 2021, the CPUC initiated a rulemaking proceeding to adopt energy savings goals for ratepayer-funded energy efficiency program portfolios for 2022–2032 and to provide updated guidance to program administrators for 2022–2023 budget advice letters and 2024–2027 applications. This is a proposed decision of ALJs Kao and Fitch, and it also addresses how to set energy goals, the definition of total system benefit, and a process for program administrators of non-IOU companies to propose and update goals applicable to them.

- [R.21-10-001](#): **Order Instituting Rulemaking to Develop Safety Culture Assessments for Electric and Natural Gas Utilities**: On October 13, 2021, the CPUC initiated a rulemaking proceeding to develop and adopt a framework in which to assess safety culture and identify the necessary elements to drive regulated investor-owned electric and natural gas utility companies and gas storage operators to establish and improve their safety culture within their organizations. The proceeding provides guidance on the form and content of the safety assessments for regulated IOUs and gas storage operators, provides a venue for organizational review of safety culture, and determines a process for ongoing review of future safety culture assessments. This proceeding was initiated in response to the multiple utility-related catastrophes in the last decade. Other proceedings that were recently opened to improve safety policies include [R.18-10-007](#), [I.15-08-019](#), [I.19-06-014](#), and [R.21-03-001](#).

- **R.18-07-006 – Order Instituting Rulemaking to Establish a Framework and Processes for Assessing the Affordability of Utility Service**: On September 15, 2021, the CPUC

issued an [Amended Scoping Memo and Ruling](#) on an “Order Instituting Rulemaking to Establish a Framework and Processes for Assessing the Affordability of Utility Service.” A November 5, 2021 [ruling](#) invites comments on the staff proposal on implementation of affordability metrics by December 8, 2021 (see HIGHLIGHTS).

- **I.17-02-002 – Investigation per SB 380 to determine the feasibility of minimizing or eliminating the use of the Aliso Canyon natural gas storage facility:** On November 4, 2021, the CPUC issued D.21-11-008, allowing SoCalGas to increase the amount of natural gas stored at its Aliso Canyon Storage facility from 34 billion cubic feet to 41 billion cubic feet. The Decision notes that this is an interim solution to address the immediate needs of the upcoming winter season and does not detract from the work in Phase 3 of this proceeding to determine the investments needed to minimize or eliminate the use of Aliso Canyon. The Commission will revisit the interim storage level by the conclusion of the combined Phase 2 and Phase 3 in this proceeding, which is ongoing (see HIGHLIGHTS).

- **R.14-07-002 – Order Instituting Rulemaking 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 June 25, 2021, the CPUC issued Decision [D.21-06-026](#) that directed IOUs to each establish a web-based search engine for regulatory agency staff to search and retrieve net energy metering interconnection application documents. This decision also increases the number of interconnection applications to be audited and directs the electric IOUs to manually review the interconnection applications of solar providers on the public list. [[26:1 CRLR 194](#); [26:2 CRLR 228](#)]

- **R.21-02-014 – Order Instituting Rulemaking to Address Energy Utility Customer Bill Debt Accumulated During the COVID-19 Pandemic:** On June 24, 2021, the CPUC issued an [Order](#) to suspend disconnections of residential and small business customers during the pandemic to ensure continued access to essential utility services during the Covid-19 pandemic. This decision suspended disconnections for three more months through September 30, 2021, while giving IOUs time to enroll and notify customers that they have two years to pay off their energy bill debt. The plan also gives similar relief for small businesses, with the plan directing energy utilities to enroll their small business partners in a plan, so their debt payments add no more than 10 percent to their typical bill and 5 percent for small business customers in disadvantaged communities. On September 23, 2021, the CPUC passed [Resolution M-4857](#), which approved an additional moratorium on disconnection and late fees on non-payments for residential and small business customers through December 31, 2021. The resolution also authorizes the executive director to issue one or more extensions beyond December 21, 2021, as necessary. Extensions are limited to three months in length. The proceeding is ongoing. [[26:2 CRLR 228–229](#)]

- **[R.21-06-017](#) – Order Instituting Rulemaking to Modernize the Electric Grid for a High Distributed Energy Resources Future:** On June 24, 2021, the CPUC adopted an OIR to prepare the grid for a high number of distributed energy resources (DER). The Commission notes in its OIR that “[i]n California, DER growth will continue to increase, especially due to policies and programs driving transportation electrification (TE) and associated DERs.” *Id.* at 8. Additionally, the Commission noted that “[t]he 2020 pandemic is not expected to have a lasting impact on DER investment, although full recovery of DER investment may not occur for several years.” *Id.* On November 15, 2021, Commissioner Houck issued an [Assigned Commissioner’s](#)

[Scoping Memo and Ruling](#). According to the scoping memo, the issues to be determined in this rulemaking are arranged in three tracks: (1) Distribution Planning Process (DPP) and Data Improvements; (2) Distribution System Operator (DSO) Roles and Responsibilities; and (3) Smart Inverter Operationalization and Grid Modernization Planning. At the time of this writing, no decisions with respect to this rulemaking have been issued.

- **[R.18-12-006](#) – Order Instituting Rulemaking to Continue the Development of Rates and Infrastructure for Vehicle Electrification:** The Commission issued one decision of note during this reporting period pertaining to this ongoing proceeding, which was first initiated in December 2018. [[26:2 CRLR 225–226](#)] On July 21, 2021, the CPUC issued [D.21-07-028](#), setting near-term priorities for transportation electrification investments by the electrical corporations. The decision provides guidance and a streamlined advice letter process for PG&E, SCE, SDG&E, Liberty Utilities LLC, Bear Valley Electric Service, and PacifiCorp regarding near-term priority transportation electrification investments and issues of equity relating to transportation electrification. The proceeding remains open as of November 15, 2021.

- **[R.19-01-011](#) – Order Instituting Rulemaking Regarding Building Decarbonization:** On November 9, 2021, the Commission issued [D.21-11-002](#), which adopts a set of guiding principles for the layering of incentives from various building decarbonization programs. This decision also adopts a statewide Wildfire and Natural Disaster Resiliency Rebuild Program known as the WNDRR Program to provide incentives to help homeowners impacted by a natural disaster rebuild all-electric homes in alignment with the state’s long-term climate and energy goals and provides guidance on data sharing of customer and other information between the CPUC and the California Energy Commission and participating electric utility companies. The

decision also directs California’s largest electric utilities (PG&E, SCE, and SDG&E) to study the net energy bill impacts when a customer switches from a natural gas water heater to an electric heat pump water heater. If a company finds a net increase in energy bills, it must propose a rate adjustment to eliminate any financial disincentive to fuel switching. As of the date of this writing, this rulemaking remains open. [*see* [26:1 CRLR 197](#); [26:2 CRLR 228](#)]

- **[R.14-07-002](#) – Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs:** On September 23, 2021, the Commission issued [D.21-09-024](#), which established a process to assess the continued need for a consumer assistance fund for residential customers IOUs (see HIGHLIGHTS). This rulemaking proceeding was closed as of September 23, 2021.

- **[R.20-05-002](#) – Order Instituting Rulemaking to Review Climate Credits for Current Compliance with Statute and for Potential Improvements:** On August 23, 2021, the CPUC issued [D.21-08-026](#), which adopts revisions to the current customer climate credits the State provides through the California Resource Air Board’s Cap-and-Trade Program to ensure that credits are compliant with current statute and regulation. The decision also modifies the small business California Climate Credit to a flat rate approach, mirroring the residential California Climate Credit. This rulemaking proceeding was closed, effective August 19, 2021. [*see* [26:1 CRLR 195](#)]

- **[R.18-03-011](#) – Order Instituting Rulemaking Regarding Emergency Disaster Relief Program:** On September 13, 2021, the Commission issued [D.21-09-012](#), granting compensation to Utility Consumers’ Action Network (UCAN) for substantial contribution to [D.20-07-011](#). In [D.20-07-011](#), the CPUC required California’s facilities-based wireless providers to

develop comprehensive resiliency strategies to prepare for catastrophic disasters and power outages. At the time, UCAN intervened in the proceeding to protect the interest of California ratepayers and advocated for a 72-hour backup power requirement limited to tier 2 and 3 High Fire Threat Districts of wireless providers' facilities to ensure minimum service coverage is maintained during disasters or commercial grid outages. Ultimately, UCAN's position was the position the Commission adopted, and the decision awards UCAN \$15,422.25 as reimbursement for their intervention. Additionally, on October 12, 2021, the Commission issued [D.21-10-015](#), denying rehearing of D.20-07-011. The Wireless Carriers had submitted an application for rehearing claiming D.20-07-011 was preempted on three grounds. The CPUC found the decision was not preempted, and the regulatory measures are consumer safeguards intended to protect the health and safety of utility customers.

- **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 November 5, 2021, the CPUC issued [D.21-11-001](#), approving PacifiCorp's 2021 Energy Cost Adjustment Clause Rates. PacifiCorp applies annually for authorization to modify its Energy Cost Adjustment Clause (ECAC) rates to allow for recovery of its net power costs. As required by the Integrated Resource Planning (IRP) proceeding, PacifiCorp has selected a preferred portfolio of generation resources that phases out the use of coal by 2045. The decision approves PacifiCorp's proposed combined ECAC and greenhouse gas cost recovery charges, which are 5.9 percent less than the previous year. [*see* [26:2 CRLR 227–228](#)]

Telecommunications

- **R.20-09-001 – Order Instituting Rulemaking Regarding Broadband**

Infrastructure Deployment and to Support Service Providers in the State of California: On October 21, 2021, the CPUC issued [D.21-10-020](#) resolving Phase I of the proceeding, adopting new post-disaster community engagement and reporting requirements for Investor-Owned Utilities and facilities-based telecommunications service providers. The underlying matter is designed to aid the Commission in setting the strategic direction and determining changes necessary to expeditiously deploy reliable, fast, and affordable broadband internet access services that connect all Californians. On August 6, 2021, the Commission opened the [public comment process](#) to collect recommendations for the locations for a statewide open-access middle-mile broadband network pursuant to [SB 156 \(Committee on Budget and Fiscal Review\) \(Chapter 112, Statutes of 2021\)](#). On August 2, 2021, Commissioner Guzman Aceves issued a [second amended scoping memo and ruling](#) dividing the proceeding into three phases. *[see 26:2 CRLR 221]* Public comment closed September 7, 2021.

- **R.20-10-002 – Order Instituting Rulemaking to Consider Regulating Telecommunications Services Used by Incarcerated People:** As discussed above, on August 19, 2021, the CPUC issued [D.21-08-037](#) adopting an interim cap on intrastate incarcerated persons calling services (IPCS) rates for seven cents (\$0.07) per minute for prepaid and collect calls. As a result of this decision, single-call, paper bill, live agent, and automated payment fees in association with intrastate and jurisdictionally mixed IPCS are prohibited (see HIGHLIGHTS). *[see 26:1 CRLR 179–181, 201; 26:2 CRLR 222]*

- **A.20-11-001 – In the Matter of the Joint Application of TracFone Wireless, Inc. (U4321C), América Móvil, S.A.B. de C.V. and Verizon Communications, Inc. for Approval of Transfer of Control over Tracfone Wireless, Inc.** As discussed above, on October

15, 2021, the CPUC issued a proposed decision [A.20-11-001](#). This decision, if adopted, would approve Verizon Communications' acquisition of TracFone Wireless, with certain conditions for consumer protection. The proposed decision finds that Verizon and TracFone do not meet the burden of proving their proposed acquisition is in the public interest *unless* the companies adopt a number of specific measures to protect consumers from price increases or service disruptions. Under the proposal, the consumer protection measures include a series of requirements that should enhance service quality and benefits for impacted customers, including those participating in the [California LifeLine Program](#). The CPUC's Commissioners are scheduled to vote whether to approve the proposed decision at the CPUC's November 18, 2021, voting meeting (see HIGHLIGHTS). [*see 26:2 CRLR 223*]

- **A.21-11-004 – Application of Frontier Communications Parent Inc., Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California Inc. (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C), Frontier Communications Online and Long Distance Inc. (U 7167 C), and Frontier Communications of America, Inc. (U 5429 C) For Rehearing of Resolution T-17734:** On November 11, 2021, Frontier Communications Parent Inc., Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California Inc. (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C), Frontier Communications Online and Long Distance Inc. (U 7167 C), and Frontier Communications of America, Inc. (U 5429 C) (collectively, Frontier) submitted an [application](#) for rehearing of Resolution T-17734 (Resolution). The Resolution adopts an enforcement program that Frontier believes exposes them to exorbitant penalties far beyond the range of potential fines applicable to other California telecommunication companies for the same conduct. Under the

Resolution, Frontier—which has only approximately 13% of the share of the working access lines amongst carriers subject to General Order 133-D penalties—is subject to *nearly five times* the maximum *combined* penalties for all other applicable carriers. In its application for a rehearing, Frontier believes the Resolution commits several material legal errors which are sufficient for a reviewing court to annul the Resolution. Therefore, Frontier is requesting a rehearing before the Commission. At this writing, the Commission has not yet filed a response.

Transportation

- [R.19-02-012](#) – **Order Instituting Rulemaking 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 October 1, 2021, the CPUC initiated a rulemaking proceeding to adopt and modify rules for the implementation of [SB 1376 \(Hill\) \(Chapter 701, Statutes of 2018\)](#), the “TNC Access for All Act.” SB 1376 requires TNCs to provide accessible services to persons with disabilities through online-enabled applications or platforms, focusing on wheelchair-accessible vehicles. The Commission addressed Track 4 issues of the proceeding, including modifications to the Offset Time Standard, Exemption Time Standard, and Trip Completion Standard. On July 15, 2021, the Commission issued a decision ([D.21-07-027](#)) granting compensation to different disability advocacy groups for their contributions to the implementation of SB 1376 in [D.19-06-033](#). Then, on November 4, 2021, the CPUC issued a decision ([D.21-11-004](#)) adopting the proposed Track 4 modifications. As of November 15, 2021, the proceeding still remains open. [*see* [25:1 CRLR 247–48](#); [25:2 CRLR 168](#); [26:1 CRLR 202](#); [26:2 CRLR 224](#)]

- [R.12-12-011](#) – **Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services:** On October 29, 2021, the CPUC initiated a rulemaking proceeding that would approve a settlement agreement with Uber on the reporting of data on sexual harassment and assault. The agreement includes penalties of \$9 million if Uber fails to respond to CPUC requests for data on those incidents listed in their 2019 Safety Report. The settlement agreement would be between the Commission’s Consumer Protection and Enforcement Division (CPED), Uber Technologies, Inc. (Uber), and the Rape, Abuse & Incest National Network, Inc. (RAINN). The Commission stated that the decision would resolve whether Uber should be otherwise fined, penalized, or subject to other sanctions for refusing to provide thus far adequate information regarding sexual assaults and harassment arising from its passenger services (see HIGHLIGHTS).

Wildfire

- **R.18-12-005 – De-Energization as a Wildfire Mitigation Strategy:** The CPUC issued a series of decisions during this period pertaining to examining de-energization of power lines in dangerous conditions. On June 29, 2021, the CPUC issued decision [D.21-06-034](#) adopting revised and additional guidelines and rules for public safety during public safety power shutoffs pursuant to Public Utilities Code section 451. On September 29, 2021, the CPUC issued decision [D.21-09-026](#), finding that PG&E violated section 451, the phase 1 Guidelines adopted in decision [D.19-05-042](#), and [Resolution ERSB-8](#) based on its implementation of the Fall 2019 Public Safety Power Shutoff (PSPS) events. [*25:1 CRLR 223–224*] PG&E failed to satisfy all the requirements, and the CPUC found that a penalty of \$106.003 million is appropriate to demand accountability for PG&E’s flawed implementation of the Fall 2019 PSPS events and to deter future violations.

The penalty will be offset by \$86 million on the bill credits PG&E already provided to some electric customers in 2019; therefore, the net penalty assessed is \$20.003 million. The proceeding remains open.

LEGISLATION

Internal

- [AB 474 \(Chau\)](#), as amended on August 16, 2021, and as it applies to the CPUC, amends multiple sections of the Public Utilities Code to enact various technical changes related to AB 473, which recodifies and reorganizes the California Public Records Act (CPRA). AB 474 became effective only when AB 473 was signed by Governor Newsom on October 7, 2021. This bill also reorganizes and makes other non-substantive changes to the CPRA, such as punctuation and spelling errors, which become operative on January 1, 2023. Additionally, the bill does not impose new limitations on public access. Governor Newsom signed AB 474 on October 7, 2021 (Chapter 615, Statutes of 2021).

- [SB 155 \(Committee on Budget\)](#), as amended on September 07, 2021, and as it applies to the CPUC, amends section 2827.10 of the Public Utilities Code to increase the salary of the CPUC members by 5% per year for each of the 2021–22, 2022–23, and 2023–24 fiscal years and to extend the eligibility for the existing electrical corporation fuel cell net energy metering tariff that companies filed with the CPUC from December 31, 2021, to December 31, 2023. Additionally, the bill includes provisions relating to the following areas: the Clean Transportation Program; healthy forest and fire protection funding; wildfire reporting; nature-based solutions; California Environmental Quality Act biodiversity; Klamath River Dam removal projects; coastal adaptation and protection; extreme heat; the Community Resilience Program and related centers;

carbon-negative fuels pilot projects; the Climate Catalyst Fund; the Recycling Market Development Zone Program; the CalRecycle Greenhouse Gas Revolving Loan Grant Program; the Bottle Bill as it relates to small grocers; the Healthy Refrigeration Grant Program; Safe and Affordable Drinking Water eligibility; water arrearages; water rights reporting; the State Coastal Conservancy; Tesla Park; the Off-Highway Motor Vehicle Recreation Commission; and tidelands and submerged lands in the City of Long Beach as they relate to oil revenue. This bill is known as the Omnibus Resources Budget Trailer Bill and contains all provisions necessary to implement the 2021 Budget Act. Governor Newsom signed SB 155 on September 23, 2021 (Chapter 258, Statutes of 2021).

Energy

- [AB 148 \(Committee on Budget\)](#), as amended on July 11, 2021, and as it applies to the CPUC, amends sections 270, 282, 895, 8385, 8386, 8386.1, 8386.3, 8386.5, and 8389 of the Public Utilities Code to prohibit the Secretary of State from reserving a corporate name or filing articles of incorporation using the name Golden State Energy unless it is used to establish the public benefit corporation that would be set up to succeed PG&E if it fails to complete its enhanced oversight process pursuant to section 3400, et seq. of the Public Utilities Code (see HIGHLIGHTS). This bill also transfers existing authority, including investigative powers and appeals through the Superior Court, from the Wildfire Safety Division of the CPUC to the Office of Energy Infrastructure Safety under the Natural Resources Agency as of July 1, 2021. Governor Newsom signed AB 148 on July 22, 2021 (Chapter 115, Statutes of 2021).

- [AB 242 \(Holden\)](#), as amended on June 29, 2021, amends sections 398.4, 854, 913.5, 913.6, 1701.8, and 3280, and repeals sections 913.2, 913.10, and 913.11 of the Public

Utilities Code to change the deadline for electricity retailers to disclose electricity sources and its associated intensity of greenhouse gas emissions for the previous calendar year from June 1 to October 1 each year. The bill also consolidates three reports that the CPUC must make to the legislature into one and allows court-approved settlements or judicial decisions to be eligible for coverage under the Wildfire Fund. Governor Newsom signed AB 242 on September 23, 2021 (Chapter 228, Statutes of 2021).

- [AB 843 \(Aguilar-Curry\)](#), as amended on July 5, 2021, amends section 399.20 of the Public Utilities Code to provide that the renewable feed-in tariff would apply to a qualifying electric generation facility that is developed to sell electricity to the electrical corporation or a bioenergy electric generation facility developed to sell electricity to an electrical corporation or a community choice aggregator (CCA). Additionally, this bill authorizes a CCA to submit eligible bioenergy projects for cost recovery pursuant to the BioMAT program if open capacity exists within the 250-megawatt BioMAT program limit. Governor Newsom signed AB 843 on September 23, 2021 (Chapter 234, Statutes of 2021).

- [SB 437 \(Wieckowski\)](#), as amended April 26, 2021, amends section 9621 of the Public Utilities Code, requiring that each utility's required updated integrated resource plan include details of its electrical service rate design that support transportation electrification. Additionally, the bill requires that the utility's integrated resource plan would include a plan about the utility's customer education and outreach efforts to inform customers of available incentives and decision-making tools that can assist customers in predicting the cost of paying for electricity for vehicles. Governor Newsom signed SB 437 on July 23, 2021 (Chapter 138, Statutes of 2021).

- [SB 533 \(Stern\)](#), as amended September 1, 2021, amends section 8386 of the Public Utilities Code to require that an electrical corporation’s wildfire mitigation plan identify circuits that have frequently been de-energized to mitigate the risk of wildfire and identify measures to be taken by the electrical corporation to reduce the need for, and impact of, future de-energization of those circuits. Governor Newsom signed AB 533 on September 23, 2021 (Chapter 244, Statutes of 2021).

- [SB 756 \(Hueso\)](#), as amended July 8, 2021, amends, repeals, and adds section 2790 to the Public Utilities Code to increase the income threshold for eligibility in the Energy Savings Assistance (ESA) program from 200% of the federal poverty level to 250% of the federal poverty level. The ESA program requires the state’s four largest IOUs to provide low-income households with no-cost energy efficiency measures, such as home weatherization services. The bill also prohibits the CPUC from increasing the IOUs’ authorized budgets for the ESA program to accommodate the expansion of income eligibility. Governor Newsom signed SB 756 on September 23, 2021 (Chapter 248, Statutes of 2021).

- [SB 694 \(Bradford\)](#), as amended September 3, 2021, amends section 8386.3 of the Public Utilities Code to require electrical corporations to provide a detailed summary to the CPUC in an advice letter setting forth their workforce development efforts pursuant to the Office of Federal Contract Compliance Programs, including data on the extent to which the electrical corporation and its contractors employ former members of the California Conservation Corps crews, members of community conservation corps, and formerly incarcerated conservation crew members. Governor Newsom signed AB 694 on October 8, 2021 (Chapter 733, Statutes of 2021).

- [AB 137 \(Committee on Budget\)](#), as amended on June 27, 2021, as it applies to the CPUC, amends sections 1601 and 1615 of the Public Utilities Code to revise the definition of “local educational agency” to include certain regional occupational centers, in order to make those centers eligible for grants under the joint School Energy Efficiency Stimulus Program. Governor Newsom signed AB 137 on July 16, 2021 (Chapter 77, Statutes of 2021).

- [SB 479 \(Laird\)](#), as amended on June 3, 2021, adds section 2830 to the Public Utilities Code to expand eligibility for the local government Renewable Energy Self-Generation Bill Credit Transfer program to Native American tribes. Under the program, local governments may elect to have a bill credit to a designated “benefitting account” for electricity exported to the electrical grid by an eligible renewable generating facility. The CPUC is required to adopt a rate tariff for the “benefitting account.” This bill adds new subdivisions to section 2830 to expand the definition of “benefitting account” to those meeting specified requirements within the boundaries of California Native American tribes. Governor Newsom signed SB 479 on July 23, 2021 (Chapter 141, Statutes of 2021).

Water

- [AB 1058 \(Garcia\)](#), as amended on August 23, 2021, amends section 755.5 of the Public Utilities Code to authorize a water company with more than 10,000 service connections to recover transaction costs relating to payment options in their rates. The bill also prohibits such a water company from recovering those costs from certain customers who participate in a CPUC water rate relief program for low-income ratepayers. These changes expand and make permanent the authority to allow water corporations to conduct pilot programs to assess water customer

interest and use of bill payment options. Governor Newsom signed AB 1058 on September 23, 2021 (Chapter 269, Statutes of 2021).

- [AB 1250 \(Calderon\)](#), as amended on July 5, 2021, known as the Consolidation for Safe Drinking Water Act of 2021, adds Chapter 2.7 (commencing with section 2721) to Part 2 of Division 1 of the Public Utilities Code to establish timeframes for the CPUC to take action on water system consolidation requests. The bill also changes certain phrases and definitions of “small community water systems,” extends filing deadlines for advice letters and applications for consolidation, and clarifies that small water systems that are eligible for those expedited timelines are identified as failing or at risk of failing by the State Water Resources Control Board. Additionally, the bill establishes the Consolidation for Safe Drinking Water Fund. Governor Newsom signed AB 1250 on October 8, 2021 (Chapter 713, Statutes of 2021).

Telecommunications

- [AB 14 \(Aguiar-Curry\)](#), as amended September 2, 2021, amends sections 285, 914.7, and 2881, and adds sections 281.1 and 884.2 of the Public Utilities Code to authorize the Commission to expand and extend the California Advanced Services Fund (CASF). Section 285 requires the Commission to impose surcharges to ensure that end-use customers of interconnected Voice over Internet Protocol (VoIP) service providers contribute to the funds. Section 914.7 requires the Commission to provide the legislature a report regarding the remaining unserved areas, CASF funds expended, broadband adoption levels from funds expended, and the status of the CASF balance and projected amount to be collected in each year to fund approved projects. Section 3881 requires the Commission to design and implement a program to provide telecommunications devices capable of serving the needs of individuals who are deaf or hard of

hearing at no charge additional to the basic exchange rate. New section 281.1 authorizes the Commission to impose the surcharge to fund the CASF until December 31, 2032. New section 884.2 authorizes the Commission to require each internet service provider to report specified information regarding each free, low-cost, income-qualified, or affordable internet service plan advertised by the provider. According to the author, this bill seeks to modernize and sufficiently fund the CASF to provide sufficient service to meet all Californians' current and future internet needs. Governor Newsom signed AB 14 on October 8, 2021 (Chapter 658, Statutes of 2021).

- [AB 41 \(Wood\)](#), as amended August 31, 2021, adds section 281.6 of the Public Utilities Code to require the Commission to maintain and update a statewide, publicly accessible, and interactive map showing the accessibility of broadband service in the state. According to the author, this bill intends to ensure that all possible connections and efficiencies are weighed seriously in order to maximize broadband deployment when there are already open trenches or are laying fiber. Governor Newsom signed AB 41 on October 8, 2021 (Chapter 659, Statutes of 2021).

- [AB 74 \(Lorena Gonzalez\)](#), as amended September 1, 2021, adds section 878.6 of the Public Utilities Code regarding the Universal Lifeline Telephone Service program (lifeline program). Section 878.6 requires the Commission, before March 1, 2022, to adopt updated rules for the lifeline program, establishing a modified recertification process that minimizes barriers to lifeline subscriber recertification and reduces the burden and cost of recertification on the lifeline program. Additionally, section 878.6 requires the CPUC, before January 1, 2023, to adopt updated rules for the lifeline program with the goal of achieving recertification rates at least equivalent to those rates achieved for the federal lifeline program. Further, section 878.6 requires the Commission to annually publicly report on its website the participation and recertification rates of

eligible lifeline subscribers. Governor Newsom signed AB 74 on September 30, 2021 (Chapter 410, Statutes of 2021).

- [SB 4 \(Gonzalez\)](#), as amended September 2, 2021, amends section 281 of the Public Utilities Code to extend the California Advanced Services Fund (CASF) operations until December 31, 2032. Additionally, section 281 increases the cap on the annual amount of funds the CASF can collect from \$66 million to \$150 million and removes an existing cap on the cumulative amount of funds the CASF can collect. Further, section 281 specifies that CASF funds may be used to support projects that deploy broadband infrastructure to unserved nonresidential facilities used for local and state emergency response activities. Governor Newsom signed SB 4 on October 8, 2021 (Chapter 671, Statutes of 2021).

- [SB 28 \(Caballero\)](#), as amended August 30, 2021, adds section 5895 and repeals section 5960 of the Public Utilities Code to require the CPUC to collect granular data on the actual locations served by franchise holders, adopt customer service requirements for franchise holders, and adjudicate any customer complaints. Governor Newsom signed SB 28 on October 8, 2021 (Chapter 673, Statutes of 2021) (see HIGHLIGHTS).

- [SB 156 \(Committee on Budget\)](#), as amended July 11, 2021, amends sections 281, 912.2, and 914.7, and adds section 281.2 of the Public Utilities Code regarding the California Advanced Services Fund (CASF). Section 281 requires the Commission to develop, implement, and administer the CASF to encourage the deployment of high-quality advanced communications services to all Californians. The goal of the Broadband Infrastructure Grant Account is, by no later than December 31, 2026, to approve funding for infrastructure projects that will provide broadband access to no less than 98% of all California households. Additionally, section 281 requires the

CPUC to identify state highway rights-of-way where installation of open-access middle-mile broadband infrastructure should be prioritized. In prioritizing state highway rights-of-way, the Commission shall prioritize a geographically diverse group of projects in rural and urban areas of the state to achieve the greatest reductions in the number of households unserved by current broadband internet access service meeting federal and state standards. Section 912.2 requires the Commission to conduct a fiscal and performance audit of the implementation and effectiveness of CASF by April 1, 2023, and biennially thereafter. Section 914.7 requires the Commission to report to the Legislature the fiscal and performance audit associated with section 912.2. New section 281.2 established the Broadband Loan Loss Reserve Fund in the State Treasury and is continuously appropriated to the Commission to fund costs related to the financing of the deployment of broadband infrastructure by a local government agency or nonprofit organization. Governor Newsom signed SB 156 on July 20, 2021 (Chapter 112, Statutes of 2021).

- [SB 341 \(McGuire\)](#), as amended September 2, 2021, amends section 910, and adds section 776.2 of the Public Utilities Code to the Commission regarding the standards for backup power systems of telephone corporations. Section 910 requires the Commission to develop, publish, and annually report the executive director’s performance and accounting of the commission’s transactions and proceedings. New section 776.2 requires the CPUC to develop and implement backup electricity rules to require providers of telecommunications service to submit resiliency plans to maintain backup electricity for their telecommunications infrastructure sufficient to maintain telecommunications services for at least 72 hours. Governor Newsom signed SB 341 on September 30, 2021 (Chapter 425, Statutes of 2021).

- [SB 394 \(Hueso\)](#), as introduced February 11, 2021, amends section 878, and

repeals section 872 of the Public Utilities Code to revise the definition of “household” for purposes of the lifeline telephone service program and authorize multiple lifeline telephone subscribers to maintain the same address if they are not members of the same household. According to the author, SB 394 is needed to better streamline eligibility across utility assistance programs for low-income Californians and ensure that the state can maximize Lifeline enrollment and federal benefits during the remainder of the pandemic and our recovery. Governor Newsome signed SB 394 on October 9, 2021 (Chapter 765, Statutes of 2021).

Transportation

- [AB 149 \(Committee on Budget\)](#), as amended on June 27, 2021, and as it relates to the CPUC, amends, adds, and repeals a number of provisions to the Public Utilities Code, to authorize the Board to name a nonvehicular wildlife crossing and implement criteria for the placement and design of a sign if at least 25% of the funding to construct the crossing derives from a state source. Additionally, the bill enacts several other provisions, including: extending the operations of the Secretary of Transportation under the National Environmental Protection Act (NEPA) until January 1, 2025; continuing temporary statutory relief for transit agencies impacted by Covid-19; building on statutory relief provided in the 2020-21 budget to aid transit agencies recovering from Covid-19; authorizing the DOT to offer a \$250 stipend to individuals and groups that complete a scheduled cleanup or abatement project as part of the Adopt a Highway Program; establishing the Clean California Program; authorizing the DOT to use job order contracting to construct those projects funded by the Clean California State Beautification Program of 2021; prohibiting the DOT from charging any self-help counties with sales tax measures dedicated to transportation improvements more than 10% for administration indirect cost recovery; providing

that cities and counties are not required to comply with the annual minimum expenditure requirements set out in the Road Maintenance and Rehabilitation Program in the 2019–20 fiscal year, though the requirements will be adjusted in the 2020–21 and 2021–22 years in proportion to any decrease in taxable sales; and authorizing the Department of Motor Vehicles (DMV) to establish a pilot program to evaluate the use of optional mobile or digital alternatives to driver’s licenses and identification cards. Governor Newsom signed AB 149 on July 16, 2021 (Chapter 81, Statutes of 2021).

- [AB 811 \(Rivas\)](#), as amended on August 31, 2021, amends section 130242 of the Public Utilities Code to eliminate a required finding and two-thirds vote that the Los Angeles County Metropolitan Transportation Authority (LA Metro) must make before entering into certain contracts such as those relating to transportation planning, programming, construction, and operations. Governor Newsom signed AB 811 on September 30, 2021 (Chapter 414, Statutes of 2021).

- [SB 69 \(McGuire\)](#), as amended on September 2, 2021, adds Chapter 4 (commencing with section 93030) to Title 12 of the Government Code, and amends multiple provisions of that code as well, including the heading of Title 12 (commencing with section 93000). SB 69 also amends and repeals a number of sections of the Public Utilities Code to rename the North Coast Rail Authority (NCRA) the Great Redwood Trail Agency (GRTA) and transfer its authority related to rail and freight to the Sonoma-Marín Area Rail Transit District (SMART). The bill also establishes the development of the Great Redwood Trail as a new mission of the GRTA. Additionally, the bill revises the makeup of the GRTA Board of Directors to include local stakeholders and requires the GRTA to recommend a new Board of Directors structure by March

1, 2023. According to the author, this bill takes the next steps needed to create the successor agency to the NCRA, which had longstanding issues. Governor Newsom signed SB 69 on September 30, 2021 (Chapter 423, Statutes of 2021).

- [SB 598 \(Pan\)](#), as amended on July 1, 2021, amends and repeals multiple sections of the Public Utilities Code to give employee organizations under the purview of the Sacramento Regional Transit District the option of transferring jurisdiction over unfair labor practices claims to the Public Employee Relations Board (PERB). Before this bill was enacted, those labor provisions were enforced within the Sacramento Regional Transit District (SacRT) judicial system. Governor Newsom signed SB 598 on October 4, 2021 (Chapter 492, Statutes of 2021).

- [AB 302 \(Ward\)](#), as amended on June 16, 2021, amends sections 120266, 120267, and 120269 of the Public Utilities Code. Section 120266 authorizes the San Diego Metropolitan Transit Development Board to license or regulate “transportation services” rendered within the city or unincorporated areas of the county. The amended code replaces the term “transportation services” with “for-hire vehicle services” and defines that term as “vehicles, other than public transportation vehicles, transporting passengers over public areas for compensation” Governor Newsom signed AB 302 on July 16, 2021 (Chapter 89, Statutes of 2021).

- [AB 784 \(Quirk\)](#), as amended on July 5, 2021, amends, *inter alia*, section 24535 of the Public Utilities Code, recognizing the Alameda-Contra Costa Transit District as the transit district for Alameda and Contra Costa Counties. Governor Newsom signed AB 784 on September 22, 2021 (Chapter 200, Statutes of 2021).

- [SB 548 \(Eggman\)](#), as amended on April 5, 2021, amends section 132652 of the Public Utilities Code, recognizing the Tri-Valley San Joaquin Valley Rail Authority as a “rail

transit district”, thereby exempting it from certain city and county regulations related to building and zoning. Governor Newsom signed SB 548 on September 22, 2021 (Chapter 220, Statutes of 2021).

Wildfire

- [AB 9 \(Wood\)](#), as amended September 3, 2021, establishes the Regional Forest and Fire Capacity Program in the Department of Conservation to support regional leadership to create fire-adapted communities and landscapes by improving ecosystem health, community wildfire preparedness, and fire resilience. As it applies to the CPUC, the bill amends section 8386.3 of the Public Utilities Code to clarify that an electrical corporation must notify the CPUC by advice letter of the date when it projects that it will have spent, or incurred obligations to spend, its entire annual revenue requirement for vegetation management in its wildfire mitigation plan not less than 30 days before that date. Governor Newsom signed AB 9 on September 23, 2021 (Chapter 225, Statutes of 2021).

The following bills, reported in [Volume 26, No. 2 \(Spring 2021\)](#), no longer pertain to the Board, died in committee, or otherwise failed to be enacted during the 2020–2021 legislative session: [AB 988 \(Bauer-Kahan\)](#), relating to emergency services; [AB 1471 \(Villapudua\)](#), relating to the Public Utilities Commission; [SB 429 \(Bradford\)](#), relating to energy; [SB 599 \(Hueso\)](#), relating to public utilities; [AB 1100 \(Aguiar-Curry\)](#), relating to communications; [AB 1176 \(Eduardo Garcia\)](#), relating to communications; [AB 1257 \(Patterson\)](#), relating to telecommunications; [AB 1425 \(Gipson\)](#), relating to telecommunication; [AB 1557 \(Santiago\)](#), relating to communications; [SB 546 \(Wilk\)](#), relating to communications; [SB 556 \(Dodd\)](#), relating to communications; [AB 427 \(Bauer-Kahan\)](#), relating to electricity; [AB 1139 \(Lorena Gonzalez\)](#),

relating to energy; [AB 1156 \(Holden\)](#), relating to electricity; [SB 204 \(Dodd\)](#), relating to electricity demand response.

LITIGATION

- ***John Trotter, Trustee of the PG&E Fire Victim Trust v. Williams et al., Case No. CGC-17-562591 (Cal. Super. Ct., San Francisco County)***. On November 8, 2021, the court issued an [order](#) sustaining with leave to amend in part, sustaining without leave to amend in part, and overruling in part officer and director defendants’ demurrers to the March 24, 2021, [Amended Complaint](#) filed by the Trustee representing victims of the 2018 Camp Fire and the 2017 North Bay Wine Country Fires. The Amended Complaint named 22 former PG&E board members and executives and alleged breaches of fiduciary duties relating to failures to take action that would have prevented the fires. On November 10, 2021, the case management conference was continued to January 25, 2022. At this writing, the case remains open. [see [26:2 CRLR 247–248](#)]

- ***ACA Connects, et al. v. Bonta, Docket No. 21-15430 (9th Cir.)***. On September 14, 2021, the Ninth Circuit Court of Appeals heard oral argument on plaintiffs’ appeal of the Eastern District of California’s February 23, 2021 denial of their motion for preliminary injunction to enjoin the California Attorney General from enforcing the California Internet Consumer Protection and Net Neutrality Act of 2018 ([SB 822 \(Weiner\) \(Chapter 976, Statutes of 2018\)](#)). [[24:1 CRLR 175](#); [24:2 CRLR 225-26](#); [25:1 CRLR 274-76](#); [25:2 CRLR 179](#); [26:1 CRLR 207-208](#); [26:2 CRLR 247](#)] At this writing, the Court has not issued an opinion.

- ***The People of the State of California, et al. v. Federal Energy Regulatory Commission, Docket No. 21-71199 (9th Cir.)***. On July 28, 2021, Attorney General Rob Bonta, on behalf of the People of California, the CPUC, PG&E, and SCE (“the California Parties”), filed

a [Petition for Review](#) of the Federal Energy Regulatory Commission’s (FERC) May 20, 2021 [Order on Initial Decision](#) concerning violations of quarterly reporting requirements of individual public utility sellers during the 2000-01 period (Western Energy Crisis). Specifically, the petition seeks review of FERC’s order, finally resolving an ongoing proceeding (“the Lockyer proceeding”) after an evidentiary hearing following remand in the Ninth Circuit’s Order and Opinion in *California ex rel. Harris v. FERC*, 784 F.3d 1267 (9th Cir. 2015). The OID concluded after an evidentiary hearing that the respondent energy corporations’ reporting violations did not mask manipulation or market power by respondents that resulted in unjust or unreasonable prices being charged by either respondent and that California did not establish a basis for ordering refunds based on quarterly reporting violations. The California Parties’ Opening briefs are due November 24, 2021, and FERC’s responding brief and any supplemental excerpts of record are due February 25, 2022. Intervenors’ briefs and any supplemental records are due April 8, 2022, and the California Parties' optional reply brief is due May 6, 2022.

- ***Plumas County, et al. vs. Pacific Gas and Electric Co., et al.*, Docket No. CGC21596070 (Super. Ct., County of San Francisco).** On October 20, 2021, the counties of Plumas, Butte, Tehama, Lassen, and Shasta filed a civil [complaint](#) in the Superior Court of California, County of San Francisco, against PG&E for damages resulting from the Dixie Fire and the Fly Fire, which merged into one fire, and at the time of filing had burned over 960,000 acres—the second-largest fire in California history. The complaint alleges that both fires were started by trees falling into PG&E’s electrical distribution lines, which caused sparks and resultant fires in the surrounding dry conditions. The complaint cites September 13, 2021, testimony from PG&E’s troubleman in the ongoing criminal [matters](#) before U.S. District Court Judge William Alsup

regarding the ignition of the Dixie Fire in support of the allegations. A case management conference is set for March 23, 2022.

- ***Nat'l Lifeline Ass'n v. Batjer et al.*, No. 21-15969 (9th Cir.)**. On May 5, 2021, the Court [granted](#) National Lifeline Association's (NALA) [motion](#) for judgment on the pleadings. The court found that the Free Rate Rule, which mandates that the Basic Plan and the Standard Plan shall be available to California LifeLine participants at no cost, is preempted by the Communications Act of 1934, 47 U.S.C. § 332(c)(3)(A) and, as such, the Free Rate Rule is null and void against any wireless LifeLine provider. On June 4, 2021, the Commissioners [appealed](#) the order of the district court to the Court of Appeals for the Ninth Circuit. On November 15, 2021, the Commissioners submitted their [opening brief](#) to the Court. On November 24, 2020, NALA had filed a [civil action](#) in the Northern District of California, Case No. 3:20-cv-08312, to prevent Commissioners Batjer, Rechtschaffen, Guzman Aceves, and Shiroma from giving effect to or enforcing provisions of [D.20-10-006](#). NALA alleged that the 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)). [[26:2 CRLR 245](#)]

- ***MetroPCS Cal. LLC v. Batjer et al.*, 348 F. Supp. 3d 948 (N.D. Cal. 2018)**. On September 22, 2021, the Court: [granted](#) summary judgment for the CPUC (denying a new claim by MetroPCS); denied a motion for summary judgment by both parties (relating to the CPUC methodology for calculating intrastate allocation factors); and granted summary judgment for the CPUC (denying a MetroPCS claim that under the doctrine of conflict preemption the CPUC resolutions are preempted by the Mobile Telephone Sourcing Act, 4 U.S.C. §§ 116 *et seq.*). A case

management conference was held on October 21, 2021, discussing the appointment of a special master and the scheduling of a bench trial. At the time of this writing, a trial date has not been set. On August 14, 2020, the Ninth Circuit had 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)).¹ The panel held that federal law did not facially preempt California law governing universal service contributions from prepaid wireless providers.

- ***Bullseye Telecom, Inc., v. Cal. Pub. Utilities Comm’n ex rel. Qwest Commc’ns Co., Case No. A160729 (Cal. Ct. App., 1st Dist.)***. In *Bullseye Telecom, Inc. v. Cal. Pub. Utilities Comm’n*, 66 Cal. App. 5th 301 (July 6, 2021), the First District Court of Appeal issued a [decision](#) rejecting petitioner’s claims of errors of CPUC’s decision, D.19-05-023, as modified by D.20-07-035. The petitioners claim the Commission violated sections 1731 and 1736 of the Public Utilities Code in failing to conduct an additional evidentiary hearing as part of the rehearing process of a 2016 Decision. The petitioners also contend the Rehearing Decision failed to adhere to the legal framework in the Scoping Memo. Finally, the petitioners contend the Commission violated sections 532 and 734 of the Public Utilities Code in concluding Qwest is entitled to refunds because any such award would result in the company paying less than the filed tariffs and result in discrimination against other long-distance carriers. Ultimately, the court affirmed the Commission’s decision.

- ***Mendel v. Chao, Case No. 19-cv-03244-JST (N.D. Cal.)***. On April 21, 2021, the United States District Court for the Northern District of California issued a [decision](#) dismissing

¹ 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. [[26:1 CRLR 208–209, 26:2 CRLR 247](#)]

Mendel's third amended complaint with prejudice. The court also denied leave to amend the complaint as it would be futile. On June 7, 2019, Mendel filed a complaint against 26 defendants for alleged illegal conduct in connection with the rideshare services provided by Uber and Lyft, Inc. On June 20, 2019, Mendel filed an amended complaint which named at least 30 defendants and alleged 31 causes of action. Several defendants moved to dismiss Mendel's complaint, and the court dismissed the complaint with leave to file an amended complaint consistent with Federal Rules of Civil Procedure Rule 8. Second and third complaints were filed on April 30, 2020, and August 18, 2020, respectively. Again, the defendants moved to dismiss the complaints.