



To: Members of the RCRC Board of Directors
From: John Kennedy, Legislative Affairs Advocate
Tracy Rhine, Senior Legislative Affairs Advocate
Leigh Kammerich, Regulatory Affairs Specialist
Date: April 21, 2021
Re: California Public Utilities Commission Update

Summary

RCRC is a formal participant in nine active regulatory proceedings at the California Public Utilities Commission (CPUC or Commission). This memo provides a general overview as well as the current status of the various CPUC issues that RCRC is advocating.

Background

Since becoming a formal participant in the proceeding that will ultimately establish how utilities safeguard their infrastructure and conduct de-energization of their power lines when there are extreme weather threats and, therefore, an elevated risk of wildfire, RCRC has been fully engaged in multiple interrelated CPUC proceedings, as well as others that seek to provide guiding policy on energy and communications reliability in rural areas. Additionally, RCRC is involved in several regulatory issues related to broadband infrastructure.

Overall, proceedings in these cases are generally considered “quasi-legislative” because they establish policy or rules affecting a class of regulated entities. However, the Wildfire Mitigations Plan Proceeding, Microgrids and Resiliency Proceeding, Frontier Communications Bankruptcy Proceeding, as well as the Renewables Portfolio Standard Proceeding are categorized as “rate setting.”

Issue

Wildfire Mitigation Plans Proceeding

This proceeding was established in 2018 to review and approve the 2019 electrical utility Wildfire Mitigations Plans (WMPs); however, pursuant to Assembly Bill 1054 (2019), the responsibility to review and approve these plans was moved to the Wildfire Safety Division (WSD), which is undergoing a transition to the California Natural Resources Agency on July 1, 2021. All electrical utilities are required to construct, maintain, and operate their lines and equipment to minimize the risk of a utility-caused wildfire and undertake comprehensive mitigation measures through WMPs, which must cover a three-year period. The WSD exercised its legal discretion to require an annual update to utility WMPs in 2021 and staggered the WMP compliance periods, first reviewing the large

investor-owned utilities (IOUs), and then the Small and Multi-Jurisdictional Utilities (SMJUs) and Independent Transmission Owners (ITOs). On the whole, public review as well as WSD approval occurs through a multi-step process, but given the breadth and complexity of WMPs, it occurs in a very abrupt fashion. Per state law, the WSD must approve or deny a submitted WMP within three months of utility submission.

On April 6th, RCRC responded to these large IOU updates, which have several troubling findings related to vegetation management and PSPS. RCRC advocated to comprehensively examine risk calculation models, rectify deficient vegetation management practices, and investigate the usage of PSPS events to ensure they are conducted reasonably as a last resort. Subsequently, on April 20th RCRC submitted feedback on the SMJU updates, specifically Liberty Utilities and PacifiCorp. Given the staffing constraints of SMJUs and, therefore, a reliance on third party contractors, these small utilities would benefit from additional regulatory guidance and best practices. Liberty Utilities in particular needs more robust internal Quality Assurance and Quality Control measures to better manage and strategically implement wildfire safety protocols.

On April 15th, the Commission approved a resolution to place PG&E into an “Enhanced Oversight and Enforcement” process for insufficient progress for wildfire mitigation efforts discovered through a WSD Audit of PG&E’s Enhanced Vegetation Management Program. These vegetation management failures will also have wide-ranging repercussions, as discussed in the De-Energization Proceeding below.

Lastly, Supervisor Diane Dillon (Napa County) brought to light a very concerning change of practice regarding PG&E’s Wildfire Wood Management Program (a standalone program not directly tied to Wildfire Mitigation Plans, though related). On April 21st, RCRC sent a letter to the Commission supporting the request by Napa County, Sonoma County, and the City of Santa Rosa that the CPUC require PG&E to renew its practice of removing trees cut down during post-fire vegetation management work. Unlike their standard practice in previous years, PG&E has left hundreds of thousands of felled trees cut down in post-fire mitigation work behind at great expense and danger to the property owner.

De-Energization Proceeding

Earlier this year, a new Phase 3 of the De-Energization Proceeding got underway to explore proposed additional and modified changes to Public Safety Power Shutoff (PSPS) guidelines, which are currently spread throughout three separate formal documents. The proposed changes are largely supportable. A prior Commission Decision acknowledged the need to create one primary authority for de-energization guidelines and directives through issuance of a General Order. It was widely believed this would be the focus of Phase 3; however, given the CPUC is on a pathway to create a fourth separate guidance document, on April 12th RCRC supported a motion initiated by several groups of local community choice aggregators, known as the Joint CCAs. On the whole, stakeholders would benefit from consolidating prior decisions and authorities into one comprehensive general order to eliminate challenges that come with the current patchwork of standards. This motion is still pending.

Additionally, the CPUC has conducted multiple public workshops to explore the execution of past PSPS events, as well as how proposed conditions from PG&E’s federal criminal probation may impact 2021 PSPS events. As a result of the deadly 2010 San Bruno gas

pipeline explosion, PG&E was convicted of six felonies in 2016 and is currently undergoing a sentence of five years of criminal probation with an appointed independent monitor. Citing deadly utility-caused wildfires and vegetation management failures during this probationary period, the U.S. District Court overseeing PG&E is considering imposing new probation conditions beginning July 1st that would drastically increase the scope and frequency of PSPS in order to minimize wildfire risk and save lives. For example, PG&E could be required to de-energize based on the number of trees or limbs that could fall on distribution lines—called the tree overstrike exposure—in Tier 2 and Tier 3 High Fire Threat Districts. It is estimated this could double the frequency of PSPS events, especially in many rural northern counties, as well as significantly increase the overall duration of these outages.

PG&E has identified 5.3 million trees over 25,000 distribution miles that may be affected by the U.S. District Court's proposed decision. The tree overstrike exposure inspections will need to be done through PG&E's Enhanced Vegetation Management program, which has a current pace of 1,800 miles per year for assessment; to date, 4,300 distribution line miles have been inspected. For areas that have not been assessed through the Enhanced Vegetation Management program, electrical circuits with tree overstrike exposure that have not been inspected will factor into the criteria to de-energize distribution lines, leading to greater customer impacts across high fire threat communities. The U.S. District Court is expected to make a final decision in the coming weeks. In the meantime, PG&E is adding information related to these proposed conditions in their PSPS outreach efforts with customers, local agencies, tribes, and other stakeholders.

SGIP Proceeding

In August 2020, RCRC became a party to a new Self-Generation Incentive Program (SGIP) Proceeding to further develop and refine policies, procedures, and rules for the SGIP, and to a lesser extent, the California Solar Initiative (CSI). The SGIP is funded by ratepayers of PG&E, Southern California Edison, and San Diego Gas and Electric for distributed energy resources and electric resiliency projects. On April 16, 2021, the Administrative Law Judge issued a comprehensive ruling to garner party input on a Heat Pump Water Heater Staff Proposal, as well as change the procedural schedule on new and pending issues prior to the statutory deadline to close this proceeding on November 16, 2021.

Microgrids and Resiliency Proceeding

Since adopting a Decision in mid-January to accelerate the commercialization of microgrids and backup battery power procurement in advance of the wildfire season, RCRC has provided input to the CPUC on potential pilot projects to those most in need located in rural areas, including through responding to a joint utility Advice Letter. PG&E's Community Microgrid Enablement Program was approved by the Commission in mid-March. Local and tribal governments constructing microgrids would be eligible to receive up to \$27 million in one-time matching funds to offset a portion of the distribution system upgrades needed to serve multiple critical facilities in PSPS-prone areas. PG&E will also provide technical support, including project design and scoping guidance, to communities.

Emergency Disaster Relief Program Proceeding

The Emergency Disaster Relief Program Proceeding seeks to adopt comprehensive disaster-related consumer protection measures for electric, gas, communications, and

water utility customers. Previously, the proceeding focused on wireless and wireline communications resiliency in Tier 2 and Tier 3 High Fire Threat Districts by requiring 72-hour backup power. On April 15th, the Commission adopted a Decision that would provide a disconnection moratorium to medium-large commercial and industrial electric and natural gas customers during the coronavirus pandemic. Next steps for this proceeding have not been announced.

California Advanced Services Fund Proceeding

The California Advanced Services Fund (CASF) provides financial grants to qualified service providers to construct broadband infrastructure needed to deploy high speed internet service in unserved and underserved areas. The next phases of this proceeding have been postponed given the number of CASF-related bills currently under consideration in the Legislature.

Broadband Deployment Proceeding

Per Governor Newsom's Executive Order N-73-20 directing state agencies to bridge the digital divide, the CPUC opened this proceeding in Fall 2020 to investigate near- and medium-term actions to strategically deploy robust and affordable broadband access to close the digital divide. The CPUC has outlined multiple phases of this proceeding going forward to consider key issues, such as how strategies, incentives, and standards can improve open access for multiple carriers in deploying wireline and wireless infrastructure in rural areas, as well as investigate the role investor-owned utilities can play in deploying broadband services to communities lacking access to download speeds of 100 Mbps.

An updated schedule of this proceeding was issued on April 20th that would divide the issues into two separate phases. Phase 1 will focus on service restoration after a disaster, as well as develop grant criteria for schools to receive funds from the Digital Divide Account, which amounts to nearly \$1 million. Phase 2 will be subdivided into two tracks, one to address the role IOUs can play in deploying broadband on a pilot basis, and the other will investigate whether internet service providers are redlining certain communities or neighborhoods within their service area.

Frontier Bankruptcy Proceeding

Last year, Frontier Communications Corporation filed for Chapter 11 bankruptcy in the U.S Bankruptcy Court, proposing to restructure ownership and deal with its \$17.5 billion debt and triggering California law requiring CPUC input. Frontier is one of the two largest Incumbent Local Exchange Carriers (ILEC) in California, offering phone, video, and/or broadband service in 44 counties. At the request of the CPUC, RCRC became a formal party to this proceeding on September 30, 2020.

On April 15th, the CPUC unanimously approved Frontier Communications corporate restructuring to exit bankruptcy, adopting various conditions based on a variety of operational, financial, service, pricing, and employment matters, and closed this proceeding. Frontier will have to fund a Compliance Monitor to assist the CPUC with future enforcement efforts. Frontier must also submit a detailed plan to improve its service quality, including (but not limited to) out of service performance, and credit customers for service outages lasting more than 24 hours for a multi-year period.

The Decision provides tribal and local governments with a “right of first offer” to purchase property that Frontier proposes to sell or dispose of, with tribes receiving priority over local governments for any competing claims. Further, the CPUC is requiring Frontier to invest \$1.75 billion in California over the next 4 years and undergo service improvements, redundancy and reliability, and must also target improving the scale, quality and reliability of backhaul and expand broadband deployment in unserved or underserved rural communities. Part of this investment is a requirement to build out fiber to 350,000 locations by December 31, 2026; of these, 150,000 locations must be in areas where Frontier has lower rates of return. In an effort to balance the inadequacies of rural infrastructure, within the 150,000 locations for fiber build out, the CPUC is requiring 10 percent of these funds going to rural areas with fewer than 50,000 people. It is estimated that nearly 90 percent of Frontier’s rural households do not have fiber services, whereas approximately 42 percent of its urban households do. Frontier will also be able to retain its Carrier of Last Resort status.

Renewables Portfolio Standard Program Proceeding

In October 2020, RCRC was granted party status in a rulemaking on the Renewable Portfolio Standards (RPS) Proceeding, spurred by a petition filed by the Center for Biological Diversity and a few other environmental groups to make it more difficult for biomass energy facilities to participate in the state’s Bioenergy Market Adjusting Tariff (BioMAT) program. The BioMAT program requires utilities to procure electricity from small bioenergy projects, including biomass facilities that utilize fuels from high hazard zones. This petition has not been adjudicated; further action from the CPUC will be announced.

Rule 20 Undergrounding Proceeding

The Rule 20A program funds the undergrounding of overhead power lines and was originally created to address the aesthetic impacts of the power lines. Local projects are completed through ratepayer-funded work credits that are allocated to communities based on the number of meters in that jurisdiction. On April 13th, RCRC made a motion for party status in the Rule 20 Undergrounding Proceeding following a long-awaited Proposed Decision modifying many elements of the Rule 20 program. The Rule 20A program has been criticized because most of the projects have benefited denser urban areas. In general, it can take an extremely long time to accumulate sufficient work credits to fund a project, it is more difficult to undertake projects in rural and mountainous areas, and there are dozens of communities that have not completed any projects in over 16 years. While CPUC staff suggested ending the Rule 20A program and transitioning to Rule 20B and 20C type programs, the Proposed Decision stops short of such a drastic change. In brief, the Proposed Decision:

- Expands the types of projects covered by the Rule 20A program to include undergrounding where overhead power lines limit or impede wheelchair access or pass-through areas of cultural or historic interest.
- Discontinues allocation of new Rule 20A work credits after December 31, 2022.
- Prohibits local agencies from borrowing work credits from future allocations beyond 2022.
- Prohibits local governments from selling or trading work credits in the secondary market; however, exceptions will be made for intra-county donations from counties to cities and towns within the county and among two or more adjoining municipalities.

- Imposes significant new accounting and reporting obligations on utilities to improve transparency and prevent the use of those funds by utilities for non-Rule 20A projects.
- Requires utilities to work with specified entities, including the Rural County Representatives of California, to draft an updated Rule 20 Guidebook detailing costs, responsibilities, and contacts for Rule 20 projects.

While the CPUC was contemplating expanding the Rule 20A program to mitigate wildfire risk from overhead lines, the Proposed Decision defers action on that issue to an upcoming Phase 2 of the proceeding, prompting RCRC to pursue formal party status. Phase 2 will also consider, 1) Whether to modify the Rule 20A program to support projects in underserved and disadvantaged communities; 2) Whether to take other steps to support completion of active Rule 20A projects; and, 3) Whether to modify or discontinue the Rule 20D program.

Staff Recommendation

RCRC staff will continue to participate in these proceedings and related issues that have profound impacts on RCRC member counties.

Attachments

- Wildfire Safety Division, Transition Update (Dated April 7, 2021)
- RCRC Comments, 2021 Large IOU Wildfire Mitigation Plans Updates (Dated April 6, 2021)
- RCRC Comments, 2021 SMJU Wildfire Mitigation Plans Updates (Dated April 20, 2021)
- RCRC Letter to Commissioner Batjer on PG&E's Wildfire Wood Management Program (Dated April 20, 2021)
- RCRC Comments, PSPS Phase 3 (Dated March 15, 2021)
- RCRC Comments, PSPS Phase 3 Reply Comments (Dated March 29, 2021)
- RCRC Comments, Response to Joint CCA Motion on PSPS General Order (Dated April 12, 2021)
- Presentation, PG&E Tree Overstrike Workshop (April 20, 2021)
- RCRC Comments, Microgrids Advice Letter (Dated March 15, 2021)
- RCRC Motion for Party Status, Rule 20 Proceeding (Dated April 13, 2021)