

Memorandum

To: ISO Board of Governors
From: Karen Edson, Vice President, Policy and Client Services
Date: May 7, 2015
Re: State, Regional and Federal Affairs update

This memorandum does not require Board action.

STATE AFFAIRS

Regulatory update

Carlsbad Energy Center Proceeding (Application of SDG&E for Power Purchase Tolling Agreement):

On March 6, California Public Utilities Commission (CPUC) Administrative Law Judge Yacknin issued a Proposed Decision denying, without prejudice, the application of SDG&E for a Power Purchase Tolling Agreement for the 600 MW Carlsbad Energy Center Project. The Carlsbad project is meant to replace the existing Encina Power Station, which will be retired by December 31, 2017 to comply with the state's once-through cooling (OTC) regulation.

The ISO filed comments on March 23 opposing the proposed decision, citing uncontroverted evidence that additional resources will be needed in the San Diego area in 2018. Reliability analyses performed by the ISO, and on record in the 2012 long term procurement plan proceeding, show this need specifically for the purpose of replacing OTC units in the northwest San Diego area. The 2013 – 2014 transmission plan shows that even with significant new generation at the Carlsbad site, residual need exists over a longer timeframe. The CPUC largely accepted the ISO's modeling in decision D.14-03-004, and authorized 500-800 MW of additional resources by SDG&E. The ISO argued that the proposed decision disregarded this evidence and failure to approve the Power Purchase Tolling Agreement would result in extension of the compliance date of the OTC regulation for the Encina Generating Station, a method the ISO objects to as a tool for planning system reliability.

On April 7, CPUC President Picker issued an Alternate Proposed Decision to conditionally approve the Power Purchase Tolling Agreement for a 500 MW thermal plant and require the resulting 100 MW of residual procurement authority to consist of preferred resources or energy storage. This would bring the total authorized procurement of preferred resources for SDG&E to 300 MW. The ISO filed comments on April 27 supporting the Alternate Proposed Decision and urging expeditious submission and review of SDG&E's procurement and requesting the CPUC to act swiftly to ensure that these resources are available to meet the identified long-term reliability issues. The earliest the Alternate Proposed Decision could be considered for a vote by the CPUC would be at its May 7 business meeting.

Legislative update

Legislature:

On April 6, the legislature returned from spring recess. Summer recess will occur from July 17-August 17, and final recess for the first year of this two-year session will begin September 11.

Legislation:

Currently, bills are making their way through policy committee hearings at the legislature, including the energy-related bills we are tracking. Bills of interest include:

SB 180 (Jackson): The bill would require the Public Utilities Commission, by June 30, 2017, through a rulemaking proceeding and in consultation with the CEC and the State Air Resources Board, to establish a greenhouse gas emission performance standard for all nonpeaking and peaking generation. It would provide that the standard shall not put reliability of the electrical grid at risk or hamper further deployment of renewable generation resources or reductions of greenhouse gases emissions.

SB 350 (De León): This "50-50-50" measure increases the RPS to an amount equal to at least 50 percent of electricity sold by December 31, 2030; reduces petroleum use in motor vehicles and the transportation sector by 50 percent by January 1, 2030; and doubles energy efficiency in buildings by January 1, 2030.

AB 645 (Williams): This measure would increase the RPS for the amount of electricity generated per year from eligible renewable energy resources from 33 percent in 2020 to at least 50 percent by 2030.

AB 674 (Mullin): This bill would establish a definition of a "clean distributed energy resource," and exempts those customers who use a clean distributed energy resource from nonbypassable charges for electricity generated on site.

AB 1330 (Bloom): This bill would establish an annual energy efficiency resource standard that would require each California electric utility to increase the amount of

energy efficiency resources annually to be not less than 1.5% per year by 2020, and not less than 2% by 2025. It also would direct the CPUC to establish an annual percentage of peak demand that shall be achieved through event-based demand response, and would require that community choice aggregators, electric service providers, and electrical corporations achieve the annual percentage.

SB 765 (Wolk): This bill would require the CPUC to contract with an independent entity, to be known as the California Market Transformation Administrator (CalMTA), to coordinate the state's energy efficiency market-transformation activities.

STRATEGIC ALLIANCES AND REGIONAL AFFAIRS

PacifiCorp/ISO Memorandum of Understanding signed to explore PacifiCorp becoming a Participating Transmission Owner (PTO):

PacifiCorp and the ISO reached an agreement on April 14 to explore the feasibility and benefits of PacifiCorp joining the ISO. Joint work is underway to develop the cost/benefit analysis and identify the various workstreams that will guide the project.

Puget Sound Energy joining the energy imbalance market (EIM):

The Puget Sound Energy (PSE) implementation began with a 2-day project kickoff meeting in Bellevue Washington on April 14-15. As an EIM entity, PSE was eligible for a seat on the EIM Transitional Committee and the ISO Board of Governors appointed PSE Vice President David Mills to the committee at their March 26 meeting.

EIM Transitional Committee:

Following the March 19, 2015 posting of the straw proposal for long-term governance of the energy imbalance market, the stakeholder working group of the EIM Transitional Committee held a meeting on March 30 to present the proposal and take questions. Responses to the straw proposal were submitted by 20 stakeholders and have been posted to the energy imbalance market governance initiative webpage.

At their April 30 meeting, the committee discussed the stakeholder comments and areas of the governance proposal that will go through additional refinement. The committee decided to revise the schedule for the posting of the next version of the governance proposal and are working to develop and post a revised schedule on the ISO website.

At the same April 30 meeting the committee received briefings on EIM operations including a summary of the Q1 2015 benefits report, current operations and implementation planning for both NV Energy and Puget Sound Energy. Their next meeting is scheduled for June 25, 2015 in Reno, NV.

EIM implementation:

In response to the FERC order and April 9 technical conference, the ISO will file a revised pricing proposal and EIM readiness criteria with FERC on May 15. The ISO will continue to work closely with NV Energy regarding the readiness criteria supporting their October 1, 2015 implementation. The stakeholder process for phase 2 of the EIM year one enhancement will begin this summer.

Regional outreach:

Following the Northwest Power Pool (NWPP) announcement that they would not accept the ISO or Southwest Power Pool (SPP) bids for the security constrained economic dispatch (SCED), they have announced Phase 4 of their effort, which will proceed without funding by PacifiCorp, Grant County PUD, and Clark County PUD. Phase 4 consists of eight modules, including a 15-minute economic dispatch module still being defined, together with continued due diligence on the SCED. The ISO continues to be engaged with NWPP on these regional initiatives.

The ISO continues its outreach around the region as part of the ongoing effort to provide information and seek stakeholder feedback on the EIM and other regional activities. Discussions continue with other interested balancing authority areas and state regulators, as appropriate.

FEDERAL AFFAIRS

Administration:

Commissioner Bay assumes FERC chairmanship: Commissioner Norman Bay became chairman of FERC on April 15 under the terms of a compromise agreement brokered between Congress and the White House last summer. Chairman Bay, a Democrat, succeeds Democrat Cheryl LaFleur, who will remain as a commissioner. Chairman Bay's term will extend through June 30, 2018.

DOE issues QER Report: On April 22, the Department of Energy released the initial installment of its Quadrennial Energy Review, focusing on policies and investments needed to ensure that the nation's energy infrastructure can effectively support economic development, provide for energy security, and enable deployment of clean, sustainable energy resources. The report was issued in response to President Obama's January 9, 2014 Presidential Memorandum, which directed DOE to coordinate input from the private sector and government agencies to inform action, investments and legislation. The QER includes a chapter entitled "Modernizing the Electric Grid" that cites a number of California's actions aimed at achieving the Administration's goals, including increases in transmission investment, the state's aggressive actions to promote energy storage, the early adoption of plug-in vehicles, and the California ISO's establishment of fast ramping products for adding grid flexibility. The QER also

provides recommendations on actions that will enhance modern grid development, including research and development needs and legislative initiatives.

Congress: Legislative Action:

House committee passes bill to streamline permitting for major projects: On March 24, the House Judiciary Committee approved legislation, H.R. 348, which would enable project sponsors to bypass environmental reviews and permits for major energy, infrastructure, and manufacturing projects if federal agencies failed to act on them in a timely manner. The bill, entitled the “Responsibly and Professionally Invigorating Development Act” (“RAPID Act”), passed by a vote of 15-11. It would apply to any major project that involves federal funding or federal permits, and would limit challenges by environmental groups and others to a six-month period. The bill is likely to pass the House. A similar bill, S. 280, has been introduced in the Senate.

Cybersecurity bill passes House: On April 22, the House of Representatives approved H.R. 1560, the “Protecting Cyber Networks Act,” cosponsored by Select Intelligence Committee Chairman Devin Nunes (R-22nd District – Visalia) and Ranking Member Adam Schiff (D-28th District – Burbank). The bill would provide liability protections to companies that voluntarily share information on cyber threats or vulnerabilities with other private companies or the federal government. The Senate Intelligence Committee, chaired by Senator Dianne Feinstein, recently approved a similar bill, the “Cybersecurity Information Sharing Act,” which Senate Majority Leader Mitch McConnell (R-KY) has identified as a legislative priority for 2015. That bill, however, would require companies to share data with the Department of Homeland Security in order to receive liability protections.

House Energy and Water bill advances with added grid support funding: On April 22, the House Appropriations Committee approved by voice vote a \$35.4 billion funding bill for energy and water programs in Fiscal Year 2016, which begins October 1. Before final committee passage, members reallocated \$50 million from the Nuclear Regulatory Commission’s corporate support activities to other programs, including \$10 million for smart grid development, \$10 million for transformer resilience and advanced components, and \$7.5 million for grid cybersecurity. The bill is expected to be taken up by the full House during the week of April 27.

“Ratepayer Protection Act” advances in House: The House Energy and Commerce Committee’s Energy and Power Subcommittee approved the “Ratepayer Protection Act,” (not yet numbered) on April 23 by a vote of 17-12. The bill, introduced by Congressman Ed Whitfield (R-KY) includes language that would allow states to delay compliance with the EPA’s proposed carbon rules for power plants under Section 111(d) of the Clean Air Act until litigation is exhausted, a process expected to take several years. It would also allow governors to opt out of compliance with the rule if they determine it would adversely affect their state’s economy or pose a threat to electricity

reliability. Congressman Whitfield has said he intends to bring the bill before the full committee before EPA finalizes the rule this summer.

House and Senate begin work on comprehensive energy bills: On April 24, the House Energy and Commerce Committee's Energy and Power Subcommittee held a hearing on "21st Century Workforce" provisions intended to be part of a comprehensive energy bill to be taken up on a bipartisan basis this year. The bill, based on legislation introduced by Congressman Bobby Rush (D-IL) with input from Subcommittee Republicans Bill Flores (R-TX) and Richard Hudson (R-NC), would establish job training programs within the Department of Energy for all facets of the energy industry, including oil and gas production, electricity transmission and increased use of renewable resources. The other titles envisioned by leadership will focus on energy efficiency, infrastructure development and energy diplomacy. The Senate Energy and Natural Resources Committee has also announced plans to develop a formal energy bill on a bipartisan basis. Senate work will begin with consideration of an energy efficiency title.

Legislation introduced:

S. 913, introduced by Senator Orrin Hatch (R-UT) on 4/14/15. The bill would amend the Internal Revenue Code to provide an investment tax credit for waste heat to power projects. It was referred to the Senate Finance Committee on 4/14/15 and passed by the Committee on the same day.

S. 964, the "Nuclear Plant Decommissioning Act of 2015," introduced by Senator Bernard Sanders (I-VT) and others on 4/15/15. The bill would amend the Atomic Energy Act of 1954 to provide states and local communities with a role in development and preparation of decommissioning plans for retired nuclear plants. It would also require the Nuclear Regulatory Commission to publicly approve or reject all proposed decommissioning plans. The bill has been referred to the Senate Committee on Environment and Public Works.

H.R. 1971, the "Climate Change Solutions Act," introduced by Congressman Ted Lieu (D-33rd District – Los Angeles) 4/22/15. The bill would establish national greenhouse gas emission reduction targets of 40% below 1990 levels by 2035 and 80% by 2050. It would also establish a national renewable energy standard requiring 50% of all electricity sold in the U.S. to be generated from renewable resources by 2030. It has been referred to the House committees on Energy and Commerce and Foreign Affairs.

S. 944, the "Safe and Secure Decommissioning Act of 2015," introduced by Senator Barbara Boxer (D-CA) and others on 4/22/15. The bill would prohibit the Nuclear Regulatory Commission from issuing exemptions from decommissioned nuclear plants until all of the spent fuel stored at the site has been moved into dry cask storage. It has been referred to the Senate Committee on Environment and Public Works.

Delegation transition:

Congresswoman Lois Capps (D-24th District – Santa Barbara) announced on April 8 that she will not run for a 10th term in the November 2016 elections. Congresswoman Capps is a member of the Energy and Commerce Committee and serves on the Energy and Power and Environment and Economy subcommittees. Her announcement follows retirement statements by Senator Barbara Boxer and Congresswoman Janice Hahn (D-44th District – San Pedro).

Federal Court actions:

Court hears 111(d) arguments: The U.S. Court of Appeals for the District of Columbia heard oral arguments on April 16 on a request by 15 states and potentially-regulated parties to block EPA's rulemaking process under Section 111(d) of the Clean Air Act. The parties, led by West Virginia, argued before a three-judge panel that the EPA lacks authority to promulgate the proposed rule because of inconsistencies in statutory language. A group of 12 other states (including California) and environmental advocates advanced arguments supporting EPA's standing in the case. Observers note that the judges expressed reluctance to take on the case before the actual rule is promulgated. EPA is currently scheduled to release the final rule sometime this summer.

Supreme Court has decided to hear demand response case: On May 4, the Supreme Court granted FERC's petition seeking review of the appellate court's decision on its demand response rule, Order No. 745. . The U.S. Court of Appeals for the District of Columbia Circuit vacated the rule last year on jurisdictional grounds. At issue is whether FERC's jurisdiction under sections 201, 205 and 206 of the Federal Power Act provides the authority to regulate participation in those markets by demand response resources. The Supreme Court has not yet specified a briefing schedule for the case, though it is likely the Court will hear argument this coming fall or winter, after the Court returns from summer recess, and a decision could be forthcoming, potentially, in early 2016.