

Memorandum

To: ISO Board of Governors
From: Mary McDonald, Director of State Affairs
Terri Moreland, Director of Federal Affairs
Date: December 4, 2007
Re: *Status of State and Federal Legislative Matters*

This memorandum does not require Board action.

State Affairs

Interim Legislative Hearings

The Senate Committee on Energy, Utilities & Communications is holding a hearing on Monday, December 10th in San Diego. The subject of the hearing is a status report on nuclear power.

The Assembly Committee on Utilities and Commerce has posted a hearing regarding oversight of the California Energy Commission. This hearing has been postponed twice. To date, no new hearing date has been scheduled.

The following is a list of bills that we classified as "Hot Bills". The first five measures listed were acted on by the Governor and the final measure SB 411 is pending in the Assembly Committee on Appropriations.

AB 1613 (Blakeslee) Energy: Waste Heat and Carbon Emissions Reduction Act.

Status: Signed into law; Chapter 713, Statutes of 2007

Summary: This law enacts the Waste Heat and Carbon Emissions Reduction Act. The Act authorizes the CPUC to require an electrical corporation to purchase excess electricity delivered by a combined heat and power system that complies with certain sizing, energy efficiency, and air pollution control requirements. Additionally, the Act, authorizes the CPUC to establish a maximum kilowatt-hours' limitation on the amount of excess electricity that an electrical corporation is required to purchase if the CPUC finds that the anticipated excess electricity generation has an adverse effect on long-term resource planning or the reliable operation of the grid. Among other things, the bill will also require the CPUC to establish, in consultation with the ISO, tariff provisions that facilitate the provisions of the act and the reliable operation of the grid.

[SB 428 \(Dutton\)](#) Electrical corporations: demand reduction.

Status: Signed into law; Chapter 538, Statutes of 2007

Summary: This law requires investor-owned utilities to continue to expand the available interruptible and air conditioning cycling programs. The pricing incentives are required to reflect the full range of costs avoided by the demand reductions, including environmental effects. These provisions will be repealed on January 1, 2015.

[SB 451 \(Kehoe\)](#) Energy: energy resource customer-generators.

Status: Vetoed on 10/13/07

Summary: This bill would have allowed any customer of an electrical corporation to be paid for the electricity at a market price determined by the CPUC. The qualified customer facilities were limited to renewables. Further, the bill would have raised the statewide cumulative MW cap from 250 MW to 1000 MW, and requires each utility to take electrical power from customers (under a tariff to be filed at the CPUC) until the utility has reached its proportionate share of the 1000 MW cap (based on ration of utility's peak demand to total statewide peak demand).

[SB 1017 \(Perata\)](#) Municipal utility districts: electricity generation: self-service wheeling. (Amended on 06/28/07)

Status: Signed into law; Chapter 668, Statutes of 2007

Summary: This bill requires an electrical corporation to provide self-service wheeling services upon request by a water district capable of generating at least 25 percent of its annual electrical use to serve off-site loads of the water district. The sponsor of the bill, East Bay Municipal Utility District (EBMUD). Currently, EBMUD generates its own hydroelectric power and sells the electricity at wholesale to the Sacramento Municipal Utility District (SMUD). To serve its own customers, it has to purchase electricity at the retail rate from PG&E, which includes transmission and distribution charges. EBMUD believes that by requiring PG&E to distribute, or wheel, the electricity from their generation facilities to their other locations they will incur savings equal to the difference between the retail and wholesale price for electricity. *The bill was amended on 6/28/2007, to include language provided by the ISO. The following is what we suggested: "To compensate the electrical corporation for the use of its facilities, EBMUD shall pay applicable rates approved by the Commission for distribution, or distribution and transmission, or any transmission rates as required under federal law."*

[SB 1036 \(Perata\)](#) Energy: renewable energy resources.

Status: Signed into law; Chapter 685, Statutes of 2007

Summary: The bill deletes the requirement that the Energy Commission award production incentives and allocate and award supplemental energy payments to eligible renewable energy resources to cover above-market costs of renewable energy. The bill requires the Energy Commission to terminate all production incentives awarded prior to January 1, 2002, from the New Renewable Resources Account, unless the renewable energy project began generating electricity by January 1, 2007

[B 411 \(Simitian\)](#) (Energy: renewable energy resources. (Amended on 7/17/2007)

Status: Two-year bill

Summary: This bill would require investor-owned utilities and energy service providers to increase their purchases of renewable energy such that at least 33% of retail sales are procured from renewable energy resources by December 31, 2020. The bill is very controversial and has produced some heated debate in both energy committees.

Federal Affairs

Energy Legislation: House and Senate negotiators worked through the two-week Thanksgiving Recess and have reached a tentative compromise on an omnibus energy bill that could go to the House floor as early as December 5. The compromise, which has not yet been circulated as legislative language, would combine key provisions that the House and Senate passed in two separate bills last summer, increasing the fuel efficiency standard for cars and light trucks by 35 mpg by 2020 and requiring the addition of 20.5 billion gallons of renewable fuels to be mixed with motor fuels by 2015. Points of contention still remaining include the creation of a 15% national renewable portfolio standard for utilities and an energy tax package that would divert funds raised from oil and gas leases to fund renewable energy research and development. Some observers predict that these provisions will be jettisoned in order to win support in the Senate, which did not include them in its bill.

If the compromise bill is passed by the House, the Senate would take up an identical bill, avoiding the traditional conference process in order to speed approval. The original versions of both House and Senate bills as passed included increased funding for renewable energy, as well as expanded energy efficiency initiatives and "Smart Grid" provisions. These items are expected to remain in any negotiated bicameral agreement.

Climate Change: Senate Environment and Public Works Committee Chair Barbara Boxer will use cap-and-trade climate change legislation introduced by Senators Joseph Lieberman (I-CT) and John Warner (R-VA) to frame the Senate climate debate, but the Senator announced modifications on November 28 designed to help ensure that Committee Democrats will support the measure. Senator Boxer is expected to offer an amended version of the bill, S. 2191, at an initial Environment and Public Works Committee markup session on December 5. The bill was reported out of the Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection on November 1. Senator Boxer has stated that she hopes to pass the measure out of committee before the end of the year.

The bill would establish a greenhouse gas emissions cap on the electric power, industrial and transportation sectors designed to cut emissions by 70% below 2005 levels by 2050. Utility and industrial facilities would be regulated depending on their emissions of "carbon dioxide equivalents," defined as the quantity of each greenhouse gas that EPA determines makes the same contribution to climate change as 1 metric ton of carbon dioxide. Emitters would receive some free allowances but would have to purchase the remainder in an open auction. Senator Boxer's proposed revisions reduce the number of free allowances and eliminate them entirely by 2031 rather than 2035 as in the original version of the bill.

A total of twelve greenhouse gas bills have been introduced in the 110th Congress thus far. Eleven of them would establish a cap-and-trade program or leave implementation details to the U.S. Environmental Protection Agency or the President. The sole exception, sponsored by Congressman Pete Stark (D-13th, Fremont), would tax carbon emissions directly.