

Memorandum

To: ISO Board of Governors
From: Karen Edson, Vice President, Policy and Client Services
Date: May 10, 2010
Re: **Briefing on the Status of State and Federal Legislative Matters**

This memorandum does not require Board action.

STATE AFFAIRS

Regulatory Update

- ARB Renewable Energy Standard (RES)

The ARB is in the public comment period on draft renewable energy standard (RES) regulation being developed pursuant to a Governor's Executive Order. The ISO believes the proposed regulation will allow the ARB to satisfy the Governor's objectives, while not jeopardizing the reliability of California's electricity grid, and is largely consistent with the state's current rules to implement the state's 20% RPS. We satisfactorily resolved a concern we had about with a proposal to apply GHG offsets to renewable energy production based on needed integration services. The need for integration services is under consideration in the context of establishing the technical feasibility of the rule. The ARB is looking to us to support the feasibility of achieving 33% RPS through our 33% renewable integration studies.

- Once-Through Cooling

On May 4, the State Water Resources Control Board will consider adopting its policy to limit the use of once-through cooling technology in coastal power plants. Proposed compliance deadlines range from one year to the end of 2024. The proposed rule provides a role for the California Independent System Operator Corporation that is likely to be addressed at the hearing. As acknowledged in a joint letter from the ISO, the California Public Utilities Commission, and the California Energy Commission, the proposal acknowledges the "ISO's role to ensure electric system reliability by allowing continued operation of existing power plants using once through cooling until replacement infrastructure (generation or transmission) obviates the need for such plants for reliability." More specifically, the draft rule provides for special hearings if the ISO raises reliability concerns. Further, if the ISO recommends the suspension of a compliance date for more than 90 days, the Water Board would

be required to implement the recommendations unless it has compelling evidence to the contrary and makes a finding of overriding considerations.

Legislation Update

Renewable Generation Issues

- SB 722 (Steinberg): 33% Renewable Portfolio Standard
Discussions are underway about legislation to require utilities to meet a 33% renewable portfolio standard (RPS) by 2020. It is unclear when the Legislature will begin its formal deliberations.
- AB 1954 (Skinner): Transmission Cost Recovery
The bill would provide rate recovery assurance to utilities for transmission investments necessary to achieve renewable portfolio standard goals.
- SBX8 34 (Padilla): ARRA Projects
The bill would create programs to expedite the siting of solar power plants located in the Mojave or Colorado Desert seeking American Recovery & Reinvestment Act of 2009 funding. The bill has been signed into law.

Other Issues

- AB 2514 (Skinner): Energy Storage
The bill would require the CPUC to adopt energy storage system procurement targets for electrical corporations.
- AB 2561 (Villines): Agency Reorganization
The bill would create a Department of Energy (DOE), reconstitute the Energy Commission as the Energy Board within DOE, and resurrect the Electricity Oversight Board as the Office of Energy Market Oversight within DOE.
- SB 837 (Florez) and SB 1476 (Padilla): Meter Data
These bills are dealing with the ownership and confidentiality of meter data, especially as it relates to advanced metering technology.

Legislative Schedule

May 28: Last day for fiscal committees to hear and report to the floor bills introduced in their house.

June 4: Last day to pass bills out of the house of origin

August 31: Last day for any bill to be passed by the Legislature and final recess begins upon adjournment.

FEDERAL AFFAIRS

Administration:

Staff of the Federal Energy Regulatory Commission provided a summary of the “State of the Markets 2009” at the April 15 full Commission meeting. The report noted the considerable changes in energy markets in 2009, including reduced electricity demand, new domestic gas supplies, increased gas and wind generation, California’s new market implementation, and significant decreases in both congestion costs and wholesale electricity prices. The ISO’s initiation of its new market was cited as “the biggest RTO development of the year” in the report.

Congress:

Overview: With health care legislation behind it, Congress has renewed its focus on other Administration priorities, including energy and climate legislation and financial regulatory reform. Some observers are concerned, however, that possible protracted floor battles over immigration reform and a Supreme Court nominee will tie up the Senate schedule and complicate efforts to pass and conference any major legislation prior to the midterm elections in November.

Recent developments on Capitol Hill include the following:

- The Senate Energy and Natural Resources Committee has scheduled a confirmation hearing for FERC nominees Phil Moeller and Cheryl LaFleur on April 27. Moeller, a Republican, has been nominated by the President to a second 5-year term, through June 31, 2015. LaFleur, a Democrat, will fill out the remainder of Suedeen Kelly’s term, which ends on June 30, 2014. Pairing of nominations in this way is designed to mute political considerations during the confirmation process.
- The House Energy and Commerce Committee on April 15 unanimously approved a Manager’s Amendment to H.R. 5026, the “Grid Reliability and Infrastructure Defense Act of 2010,” (GRID Act). The measure would add a new Section 215A to the Federal Power Act giving FERC authority to protect the nation’s electric grid against threats and vulnerabilities, including the power to issue emergency orders if the President notifies the Commission of a security threat to the bulk power system – such as cyber attack, direct physical attack, geomagnetic storm, or man-made or nuclear electromagnetic pulses. To the extent possible, FERC must seek input from the North American Electric Reliability Corporation (NERC) on emergency orders. At this writing no floor vote has been scheduled on the bill.
- The Senate team of John Kerry (D-MA), Phil Graham (R-SC) and Joseph Lieberman (I-CT) continues to target April 26 for release of bipartisan climate legislation. Senate Majority Leader Harry Reid said on April 22 that each of the five committees with jurisdiction over the issue will have an opportunity to weigh in on the measure before it goes to the Senate floor for debate. The Energy and Natural Resources Committee and the Environment and Public Works Committee have already marked up their portions of energy and climate legislation, and parts of those bills are expected to be incorporated into a final package. The Kerry-

Graham-Lieberman draft is expected to include expanded funding for nuclear power, support for carbon capture and sequestration, and protection for “trade exposed” U.S. industries. In addition, electric utilities would obtain emission allowances based on a formula that takes historic emissions into account. Some form of pre-emption of existing state and regional greenhouse gas programs is also likely. The House bill, H.R. 2454, passed on June 26, 2009.

- Senate Majority Leader Harry Reid (D-NV) on April 22 filed a procedural motion on an omnibus financial regulatory reform bill, setting up a vote to proceed on the measure early in the week of April 26. Leadership will need at least one Republican vote to get the 60 votes required to begin debate. The 1400-page bill emerged from the Banking Committee in March after months of discussion, but some major issues are still to be decided on the Senate floor, including which federal agency – FERC or the CFTC -- should have primary jurisdiction over virtual energy trades and financial instruments such as congestion revenue rights. In addition, the Senate Agriculture Committee on April 21 approved its own comprehensive derivatives bill that could eventually be merged with the larger financial reform package. In passing that bill out of committee, Chairwoman Blanche Lincoln (D-AR) acknowledged that further work would be needed on the measure prior to a floor vote. The House passed its version of the financial reform bill on December 11, 2009 on a party-line vote.