

Memorandum

To: ISO Board of Governors
From: Karen Edson, Vice President, Policy and Client Services
Date: September 5, 2013
Re: **Legislative and State regulatory update**

This memorandum does not require Board action.

STATE AFFAIRS

Regulatory update

South Coast Air Quality Management District (SCAQMD) – Proposed Rule 1304.1

ISO staff has continued to participate in the SCAQMD rulemaking process for proposed Rule 1304.1. The rule, initially posted on January 4, 2013, requires electrical generating facilities that use the specific offset exemption described in Rule 1304(a)(2) [Electric Utility Steam Boiler Replacement] to pay annual fees for up to the full amount of offsets provided by the SCAQMD. The ISO's comments have focused on the potential for the proposed rule to create unintended consequences that could affect reliability in the LA Basin by creating a disincentive for repowering of plants that must comply with the state's once-through cooling regulation. SCAQMD has made significant revisions regarding upfront funding requirements and refund mechanisms addressing our concerns. The SCAQMD board is scheduled to consider adoption of the proposed rule at its September 6 meeting.

Long-term procurement plan proceeding (LTPP)

On May 21, CPUC Commissioner Florio and Administrative Law Judge Gamson issued a Revised Scoping Ruling in the 2012 LTPP that added a Track 4 to the scope of the proceeding to consider local reliability needs in the LA Basin and San Diego local capacity areas in the absence of the San Onofre Nuclear Generating Station (SONGS). On August 5, ISO staff submitted Track 4 testimony describing the results of studies using assumptions identified in the May 21 ruling and providing recommendations on possible next steps. We have recommended that the CPUC defer a decision about the

need for additional resources until the ISO completes studies of potential transmission mitigation solutions as part of the 2013/2014 Transmission Plan. Staff expects to present this additional testimony in March 2014, following Board approval of the plan. With this information, the Commission can consider the appropriate resource mix to meet reliability needs arising from the SONGS retirement, in line with a decision by July 2014. The mix can include additional preferred resources and other alternatives to conventional resources, depending on location and effectiveness.

Sycamore Canyon – Penasquitos 230 kV Line

In the 2012-2013 transmission plan the ISO approved the Sycamore Canyon–Penasquitos 230 kV line as a reliability-driven element with additional policy benefits for the San Diego area. The forecast load growth in the area, combined with the retirement of SONGS and further compounded by the once-through cooling compliance date of 2017 for the Encina power plant, make it imperative that the line be operational for reliability before summer 2017. This determination resulted in a competitive solicitation process, for which there are four qualified candidate sponsors. All of them have identified the CPUC as the siting authority. Therefore, in accordance with the ISO tariff, it will be the CPUC that determines the successful project sponsor.

ISO management is coordinating with the CPUC to minimize concerns that there may be insufficient time to complete the CPUC routing approval process, including environmental reviews, and allow adequate time for construction if the sponsor selection process or the approval process becomes protracted.

FERC technical conference - joint reliability framework

The ISO and the CPUC continue to collaborate on a process to address short- to near-term capacity needs to bridge the gap between the one-year resource adequacy program and the ten-year-out long-term procurement plan, while also addressing flexibility and local needs. At a July 31 FERC technical conference on flexible and local resources at risk of retirement, the ISO and CPUC presented the reliability framework for a market-based structure to ensure reliability needs are met. Next steps include incorporating stakeholder comments, drilling down into the details of the framework (i.e. the relative percentages of local and flexible capacity that should be procured multiple years forward), how preferred resources are best included into the overall process, and what roles the other state energy agencies should have in the final plans. Following the agreement on these critical details, the next milestone will be to map out the parallel, but separate, state and federal processes to reach a timely implementation.

Roadmaps

The ISO will publish the final ISO demand response and energy efficiency roadmap prior to the October symposium. The ISO and agencies have begun collaboration efforts using this roadmap to develop a detailed work plan for demand response and energy efficiency. The vehicle-to-grid roadmap is on track for completion by the end of 2013. This roadmap is a cross-agency, stakeholder supported effort and part of the larger Governor's Zero Emission Vehicle Action Plan. The CEC and ISO will hold workshops to gather input for the roadmap.

Legislative update

Legislative hearings

San Onofre Nuclear Generating Station (SONGS) closure: The Senate Energy, Utilities and Communications Committee announced earlier this summer that it would be conducting three informational hearings regarding the closure of SONGS.

The first hearing, entitled "Electrical System Stability and Reliability: Life After SONGS," was held on July 10. Stephen Berberich of the California Independent System Operator, Robert Weisenmiller of the California Energy Commission and Edward Randolph of the California Public Utilities Commission gave a joint presentation highlighting key actions that have been taken to maintain reliability in southern Orange County and San Diego this summer. The group also discussed the Governor's SONGS Task Force comprised of the CEC, CPUC, SWRCB, CARB and the ISO charged with providing a plan by mid-September to identify options for meeting long-term reliability needs through preferred resources, transmission system upgrades and conventional generation.

The second hearing, entitled "Life After SONGS: the Decommissioning of a Nuclear Power Plant," was held on August 13. Stephen Pickett of Southern California Edison provided an overview of the SONGS property and updates on employee impacts, spent nuclear fuel, seismic studies and planning for the future. Michael Weber of the Nuclear Regulatory Commission provided a presentation summarizing the decommissioning process. Ed Randolph of the California Public Utilities Commission provided an overview of the decommissioning plans that SCE has submitted and the potential costs of decommissioning.

The Committee will hold a third hearing entitled “Life After SONGS: Joint Agency Task Force Report on Electric Infrastructure Issues,” on September 24. The Committee has requested that the ISO, CEC and CPUC attend.

Legislature

Schedule: The first year of the 2013-2014 legislative session will come to a close on September 13. All bills must pass both the Senate and Assembly by this time to be considered this year for signature or veto by Governor Brown. Bills that do not meet this deadline cannot be acted upon until the legislature reconvenes in 2014. The Governor will have 30 days from the end of session to sign legislation into law.

Appointments: Energy Commission nominees Karen Douglas and David Hochschild appeared before the Senate Rules Committee on August 15. The Committee approved their confirmation on a 5-0 vote. Their confirmation will now go to the floor of the Senate for final approval.

Strategic alliances and regional affairs

Energy imbalance market (EIM)

Stakeholder process - The third revised proposal together with the initial governance white paper were both published on August 13 and the third stakeholder meeting was held in Portland on August 20. We had 95 people in attendance at the stakeholder meeting with 110 participants on the conference line. The type and amount of questions indicated that the stakeholders are developing a deeper understanding of the proposal after each revised draft and generally have provided positive feedback. Comments on both papers are due from stakeholders by September 6, when additional refinement and modification to the design proposal and the governance document will be incorporated. The ISO held two special technical workshop conference calls for participants on Aug 13 and Aug 14 and plans to schedule additional workshops during September.

Governance - The governance white paper posted on August 13 discusses a phased approach to the development of EIM governance. The first phase would immediately create a transition committee, made up of stakeholders with a diversity of experience and also representing a geographical and organizational diversity. The seven member committee, if approved by the Board, would have the task of advising the Board on EIM issues as the market simulations and initial operation progresses. Additionally, this

committee will develop recommendations for an independent EIM governance structure that could be implemented in early 2016, subject to Board and FERC approval.

Outreach to other state commissions – PacifiCorp is under jurisdiction in six states including California. Together with PacifiCorp, the ISO conducted outreach to the five state commissions outside California to explain EIM and high level governance principles. These included Oregon, Washington, Idaho, Utah, and Wyoming. The outreach was well received and has led to follow-up discussions.

Engagement with potential EIM entities – Ongoing discussions continue with other interested outside Balancing Authority Areas to explore EIM within their territories.

FEDERAL AFFAIRS

Administration transition

On June 27, President Obama announced the nomination of Ron Binz to replace the retiring Jon Wellinghoff as Chair of the Federal Energy Regulatory Commission. Mr. Binz is currently a Senior Policy Advisor for the Center for the New Energy Economy. He was Chair of the Colorado Public Utility Commission from 2007 to 2011. No date has been established for Senate consideration of the nomination.

On July 1, Allison Macfarlane was sworn in as Chair of the Nuclear Regulatory Commission. Her term will be in effect until June 30, 2018.

On July 12, Janet Napolitano announced that she will step down from her position as Secretary of Homeland Security in September to become the President of the University of California System. A replacement has not yet been nominated.

On July 18, 136 days after her nomination, Gina McCarthy was approved by the Senate to be the Administrator of the Environmental Protection Agency. She was sworn in shortly thereafter. Ms. McCarthy was previously the agency's Assistant Administrator.

Congress

Both the House and Senate are in recess through September 8.

Cyber bill clears committee: On July 30, the Senate Commerce Committee passed S. 1353, the "Cybersecurity Act of 2013." The bill, cosponsored by Senators Jay Rockefeller (D-WV) and John Thune (R-SD) would codify the cybersecurity framework

called for by President Obama in his February 12, 2013 Executive Order supporting development of voluntary, industry-led standards, guidelines and best practices designed to reduce cybersecurity risks to critical infrastructure.

Hydropower bills approved: Before recessing, the Senate approved two bills designed to speed development of small hydropower projects. H.R. 267, the “Hydropower Regulatory Efficiency Act,” directs FERC to study ways to streamline the permitting process for small hydropower and conduit projects. H.R. 678, the “Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act,” streamlines the regulatory process for hydropower projects developed on existing Bureau of Reclamation pipes, canals and ditches. Both bills were signed into law by President Obama on August 9.

Energy efficiency bill queued up for Senate: Just prior to the August recess, Senate Majority Leader Harry Reid (D-NV) moved to bring the “Energy Savings and Industrial Competitiveness Act of 2013” to the Senate floor as S. 1392, establishing the bill as a top priority for floor debate after Labor Day. The bill contains a variety of initiatives to improve energy efficiency in residential, commercial and industrial buildings. Cosponsors, Jeanne Shaheen (D-NH) and Rob Portman (R-OH), are working to gain support for the measure over the recess.

Continuing resolution likely: When Congress returns from the August recess, the House will have only nine scheduled legislative days and the Senate only 16 days before the September 30 end of the Fiscal Year. None of the 12 appropriations bills have been approved, and most observers believe that one or more continuing resolutions will be needed to continue federal government operations beyond the deadline.

Senate subcommittee requests JP Morgan documents: On August 8, Senators Carl Levin (D-MI) and John McCain (R-AZ), wrote to FERC requesting key documents from the agency’s investigation of JP Morgan’s conduct in wholesale energy markets in California and Michigan. The two Senators are the Chairman and Ranking Member, respectively, of the Senate Homeland Security and Government Affairs Committee’s Permanent Subcommittee on Investigations. According to Senate staff, a hearing on matters related to physical commodity interests held by financial holding companies will likely be held in September.

Bills Introduced:

- On June 27, Congressman Mike Honda (D-17th District – San Jose) introduced H.R. 2556, legislation providing for the establishment of five regional, industry-

specific Vertical Centers of Excellence on Cybersecurity to address cybersecurity challenges. The centers would examine existing threats, serve as clearinghouses for information and education, promote local solutions to cyber issues, and develop annual reports to the industry and government officials. The bill has been referred to the Committee on Science, Space and Technology.

- On June 27, Congresswoman Jan Schakowsky (D-IL) introduced the “Promoting Energy Efficient Renewables Act,” which would make the production tax credit for wind, geothermal and hydropower projects permanent. The PTC will expire at the end of 2013 without congressional intervention. The bill has been referred to the House Committee on Ways and Means.
- On June 27, Senators Ron Wyden (D-OR), Lamar Alexander (R-TN), Lisa Murkowski (R-AK) and Dianne Feinstein (D-CA) introduced S. 1240, which would create an independent Nuclear Waste Administration to replace the Department of Energy in overseeing nuclear waste storage. The bill would provide a process for states and localities to apply to host temporary and permanent storage facilities. Funding would be provided through the \$28 billion unspent balance in the existing Nuclear Waste Fund. The bill has been referred to the Senate Committee on Energy and Natural Resources, which Senator Wyden chairs.
- On August 1, Congressman Donald Payne (D-NJ) and a group of 24 House Members introduced a bipartisan bill, the “Saving More American Resources Today (SMART) Grid Study Act of 2013.” The bill, H.R. 2962, would authorize a comprehensive study by the National Research Council assessing actions needed to strengthen electric power systems in preparation, response, mitigation and recovery from such events and recommend additional actions needed to make the grid more adaptive. The bill has been referred to the House Homeland Security Committee.