

# Memorandum

To: ISO Board of Governors  
From: Karen Edson, Vice President, Policy and Client Services  
Date: December 11, 2013  
Re: **Legislative and State Regulatory update**

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***This memorandum does not require Board action.***

## STATE AFFAIRS

### Regulatory Update

#### **Joint Reliability Plan:**

In a 5-0 vote on November 14, the CPUC endorsed the CPUC-ISO Joint Reliability Plan, a reformulated version of what was formerly known as the Joint Reliability Framework. The vote specifically endorses continuing the collaborative effort to address resource reliability issues facing California. While not an approval of specific proposed solutions contained in the current initiatives of the plan, comments from commissioners were cautiously optimistic.

Foremost in all commissioners' comments were two main points: 1) there remains concern for jurisdiction creep or any loss of local control that may be represented by a FERC-regulated reliability services auction (as a means of replacing the current capacity procurement mechanism methodology for backstopping resource adequacy), and 2) that collaboration between the CPUC and the ISO has proven to be of increasing value and that such collaborative efforts are cause for cautious optimism that remaining issues can be resolved effectively. With regard to jurisdiction creep, President Peevey offered that "[w]e're all nervous..." but went on to say that the Joint Reliability Plan actually reduces this risk. The CPUC indicated plans to open a rulemaking on this issue in January in parallel with an ISO stakeholder process.

#### **Southern California Reliability Project:**

In early October of this year, a project team was assembled to develop a detailed plan to address the reliability concerns of the LA Basin and San Diego areas resulting from

the premature retirement of San Onofre Nuclear Generating Station (SONGS), which exacerbated the already significant challenges for these transmission constrained areas. The project team, including representatives from the ISO, the CPUC, and the CEC and facilitated by Michal Picker of the Governor's office, began development of the effort to address not only the SONGS retirement, but also the pending and compounding challenges of resource reductions from once-through cooling compliance and other causes, along with continuing load growth and renewable integration. On November 12, the team presented its approach and discussed initial areas of focus with the state's Energy Principals.

When completed, the plan will identify the relative timing of approval and implementation requirements for preferred and conventional resource and transmission projects needed to meet the reliability requirements of the area. Tracking the approval, development and implementation of resource and grid projects will enable informed and timely decisions as may be needed to develop and potentially trigger contingency plans in the event other resources do not materialize soon enough.

### **US EPA Carbon Pollution Guidelines for Existing Power Plants:**

Staff is participating in a collaborative effort led by CARB and involving the ISO, CEC and CPUC to provide input to the US Environmental Protection Agency (EPA) as they develop carbon pollution standards for existing power plants.

#### Background

On June 25, 2013, President Obama issued a Presidential Memorandum directing the EPA to work expeditiously to complete carbon pollution standards for the power sector. EPA is using its authority under section 111 of the Clean Air Act to issue requirements that address carbon pollution from existing power plants and modifications of those plants. The Presidential Memorandum specifically directs EPA to build upon state leadership, provide flexibility, and take advantage of a wide range of energy sources and technologies toward building a cleaner power sector that provides reliable and affordable power to meet our energy needs.

The Presidential Memorandum directs EPA to issue proposed carbon pollution standards and guidelines for modified and existing power plants by no later than June 1, 2014, and to issue final standards and guidelines by no later than June 1, 2015. States must submit implementation plans no later than June 1, 2016.

#### Next Steps

CARB is developing an outline to guide discussions for developing specific recommendations to be sent to EPA. The ISO, CEC and CPUC support the following initial overarching principles:

- EPA should take a “system” approach to set the level of the standard.
  - This approach offers ways to reduce fossil emissions to achieve greater reductions at lower costs than measures applicable only within plant fence lines.
  - Guidelines should recognize current carbon pollution reduction and clean energy programs as compliance mechanisms (e.g., AB32, RPS, energy efficiency standards).
- States should have flexibility in demonstrating how they will meet the level of the standard.
- Guidelines should minimize compliance costs and burdens, maintain electric reliability and maximize economic and environmental benefits.

In a November 15, 2013 meeting, EPA was supportive of California’s overall approach and is compiling a list of specific questions regarding California’s existing greenhouse gas reduction programs. Staff will continue to participate in development of a letter to EPA outlining California’s recommendations and responding to EPA’s forthcoming questions. The target for completion of the letter is early January 2014.

### **Legislative Update**

The legislature reconvenes on January 6, 2014 for the second year in the two-year session.

## **FEDERAL AFFAIRS**

### **Administration**

At the November 21 FERC Open Meeting, Chairman Jon Wellinghoff announced that he will depart from the Commission, effective November 24. He also announced that Commissioner Cheryl LaFleur will become Interim Chair. Commissioner La Fleur, who was appointed by President Obama in 2010, was previously the Executive Vice President and Acting CEO of National Grid, USA. Chairman Wellinghoff will join the San Francisco law firm Stoel Rives.

### **Congress**

Congressman Ken Calvert (R-42<sup>nd</sup> District – Corona) has been awarded the chairmanship of the House Appropriations Committee’s Subcommittee on Interior, Environment and Related Agencies. The change is part of an overall restructuring of the Appropriations Committee following the death of Congressman Bill Young (R-FL) in October and the resignation of Congressman Rodney Alexander (R-LA) in September. Representative Calvert will be the only California member of the “College of Cardinals,” as the 12 House appropriations subcommittee chairs are called. He will control initial funding decisions for both the Department of the Interior and EPA, as well as the U.S. Forest Service and many Department of Energy programs. In interviews, he stated that

his priorities will be wildfire prevention, limiting burdensome regulations and providing for expanded domestic energy development.

On November 21, Senate Majority Leader Harry Reid (D-NV) successfully led a parliamentary maneuver that will allow votes to go forward on executive-branch nominees and most judicial nominees with a simple majority of 51 votes, rather than the 60 votes previously needed. The move will allow votes to occur without the threat of filibuster that has prevented votes on nominees such as Ron Binz, who withdrew his name from consideration as FERC chairman on October 1 after it became clear that his nomination could not clear the 60-vote threshold. The 60-vote filibuster threat has also been used recently to prevent advancement of presidential nominations for the U.S. Court of Appeals for the D.C. Circuit, which hears appeals against administrative agencies such as FERC and EPA.

## **STRATEGIC ALLIANCES AND REGIONAL AFFAIRS**

### **Energy imbalance market (EIM)**

Tariff stakeholder process – The Board’s November approval of the market design provided management with the authority to move forward with filing an amended tariff to the Federal Energy Regulatory Commission. The ISO is conducting additional stakeholder meetings and providing opportunities for comment on the draft tariff language, first released on November 12. The tariff amendment is scheduled to be filed February 28, 2014.

Governance proposal – The EIM governance proposal will be before the board in December for consideration and approval. Stakeholders that engaged in the EIM governance proposal had the opportunity to participate in three rounds of drafts, open conference calls and comment periods, each resulting in thoughtful and consistent responses from stakeholders. The proposal is discussed in greater detail in the associated agenda item documents.

NV Energy announcement – As stated by NV Energy representatives at the Board’s November meeting, the Nevada utility plans to seek approval from their Public Utilities Commission (PUCN) to join the EIM. NV Energy, which operates in both northern and southern Nevada, and comprises over 1.1 million Nevada customers, serves a peak load of approximately 7300 MW. NV Energy and the ISO are completing a study, where preliminary results showed benefits to both balancing authorities. We anticipate that the joint study will be filed with the PUCN in January.

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

## **Regional outreach**

Outreach to western states utility commissioners, policy makers and utilities continues as the EIM moves into implementation. The ISO participates in regional forums and discussions on many topics, including EIM, flexibility reserves, renewable energy integration, distributed energy resources, technology advancements and more.

The PUC-EIM group, organized by the Western Interstate Energy Board (WIEB) and comprised of utility commissioners from the western states continues to be a respected venue for regional discussions and some of its members have been active participants in the EIM governance proposal process, as well as other regional transmission and energy-related issues.