

Memorandum

To: ISO Board of Governors
From: Mary McDonald, Director of State Affairs
Terri Moreland, Director of Federal Affairs
Karen Edson, Vice President of External Affairs
Date: March 18, 2008
Re: *Status of State and Federal Legislative Matters*

This memorandum does not require Board action.

State Affairs

Legislative Hearings

On Monday, March 3rd, the Senate Subcommittee on Alternative Energy and the Assembly Natural Resources held a joint hearing on the implementation of AB 32 – California Global Warming Solutions Act of 2006.

On Tuesday, March 4th, the Senate Committee on Energy, Utilities and Communications held an informational hearing on direct access.

On Monday, March 10th, the Assembly Committee on Utilities and Commerce held an informational hearing on two issues: 1) the integration of renewable resources with California's electricity system; and 2) greenhouse gas reduction goals in the energy sector. Yakout delivered a presentation at the hearing at the request of the Committee Chair.

On Tuesday, March 11th, the Senate Committee on Energy, Utilities and Communications held an informational hearing on transmission and the delivery of renewables. Yakout was again asked by the Committee Chair of the Senate to give a presentation.

Capitol News

Assembly Member Karen Bass was recently elected as the new Speaker of the California State Assembly. The Senator will wait until Speaker Nunez's term is up in November before she assumes her new position.

Legislation

The deadline to introduce legislation was February 22nd. There were many energy-related bills introduced this session. At this point, we are tracking 87 bills on our main tracking list. We will create a "hot bill" list as

soon as we determine which of those bills, if any, could impact the ISO. It is worth pointing out that there are a significant number of solar measures have been introduced this session. Assemblyman Fuentes introduced a Joint Resolution (AJR 50) that urges the United States Senate and the President of the United States to enact the Renewable Energy and Energy Conservation Tax Act of 2008, legislation that would provide tax incentives for the production of renewable energy and energy conservation.

There are also two smart grid bills this session. These bills would encourage, and where appropriate, mandate the utilization of smart grid systems by electric utilities, electrical corporations, and local publicly owned electric utilities.

Federal Affairs

Renewable Energy:

On February 27, the U.S. House of Representatives approved an \$18.1 billion tax package that would extend incentives for wind, solar and other renewable energy resources and create incentives for plug-in hybrid vehicles, biofuels and consumer energy efficiency. The approval, by a margin of 236-182, marks the third time that the House has endorsed such a measure. The incentives, which have expired or are set to expire by the end of 2008, have been narrowly rejected twice by the Senate due to a controversial plan to offset the renewable energy tax breaks by repealing subsidies to major oil companies. Senate leaders are said to be now considering an alternative package of offsets that would not impact the oil and gas industries. Senate Majority Leader Harry Reid (D-NV) has targeted floor consideration of the package in April. Advocates for the extensions assert that past short-term extensions have led to a boom-and-bust cycle for development of renewable energy and energy efficiency projects and are urging Congress to approve a multi-year extension.

Climate Change:

House climate change legislation, under the jurisdiction of the Energy and Commerce Committee, is moving at a somewhat slower pace than its counterpart in the Senate, which is under the jurisdiction of the Environment and Public Works Committee. Senator Boxer, who chairs the Senate committee, succeeded in getting her climate change vehicle, the Warner-Lieberman bill, (S. 2191) out of committee in December, 2007, and Majority Leader Reid has said that he will try to bring the measure to the floor sometime in May. In the House, Committee chairman John Dingell (D-MI) and Energy and Air Quality Subcommittee chairman Rick Boucher (D-VA) are releasing a series of "White Papers" intended to generate feedback for eventual use in drafting an economy-wide, mandatory cap-and-trade bill. The latest paper focuses on identifying roles and responsibilities for federal, state and local governments in response to climate change and determining the distribution of responsibilities that will achieve the most economically effective reductions. Previous papers dealt with competitiveness concerns and engagement of developing countries, and with the potential domestic economic sectors and activities to be included in a comprehensive cap-and-trade program.

Controversy continues in Congress over the U.S. Environmental Protection Agency's decision to reject California's request for a waiver to implement state restrictions on greenhouse gas emissions from vehicles. EPA's denial of the waiver was predicated in part on the contention that since climate change is a global issue by its nature, the Clean Air Act does not authorize states to address it individually. This finding has potential ramifications for other state-level greenhouse gas initiatives. California has responded with a lawsuit against the EPA, supported by many other states and environmental advocacy organizations. In addition, representatives Brad Sherman (D-CA) and Peter Welch (D-VT) have introduced legislation that

would overturn EPA's denial and allow California and 17 other states to move forward with greenhouse gas emissions standards. The not-yet-numbered bill currently has 42 cosponsors.

The Supreme Court issued three rulings on February 20 which had no direct relationship to energy or environmental issues but which all asserted the principle of federal preemption over states when a federal law and a state law are in conflict. These decisions are considered to have precedential value in potential challenges to state climate change laws and regulations. The three cases are *Rowe v. NH Motor Transport*, *Reigel v. Medtronic*, and *Preston v. Ferrer*.