

Memorandum

To: ISO Board of Governors

From: Karen Edson, Vice President of External Affairs

Date: September 2, 2009

Re: **Briefing on Status of State and Federal Legislative Matters**

This memorandum does not require Board action.

STATE AFFAIRS

State Budget

On July 24, 2009, the Legislature passed the budget, and four days later the Governor signed the plan. The package of bills closed \$24.159 billion in deficits through a variety of means, including \$16.125 billion in spending cuts and \$3.492 billion in revenues and revenue accelerations. The state is also borrowing heavily from local governments.

Through line-item vetoes, the Governor cut an additional \$497.2 million, mainly from health and human services programs. These cuts, however, are being challenged in court through a lawsuit filed against the Governor by Senate Pro Tempore, Darrell Steinberg. Steinberg contends that the cuts are unlawful since the Governor cut spending from amounts already approved by the Legislature.

Holding true to their promise, though, the Governor and Legislative Republicans did not institute any new taxes to solve the budget crisis.

Renewable Portfolio Standard (RPS)

Although the focus on the state budget has partially overshadowed actual policy objectives, both Assembly and Senate RPS measures remain active. Senate Bill 14 (Simitian) is making its way through the appropriate policy committees in the Assembly, and Assembly Bill 64 (Krekorian) is doing the same in the Senate.

A key concern with both bills is the restriction of out-of-state delivery of renewable resources, which could be an obstacle to attaining a 33% RPS by 2020 while still providing grid

reliability. The ISO conveyed this concern through a joint letter with California's major Balancing Authorities to the author's as well as other Legislative leaders.

Legislative Deadlines

Aug. 28 - Last day for fiscal committees to meet and report bills to the Floor (J.R. 61(a)(11)).

Sept. 4 - Last day to amend on the Floor (J.R. 61(a)(13), A.R. 69(e)).

Sept. 11 - Last day for any bill to be passed (J.R. 61(a)(14)). Interim Recess begins on adjournment (J.R. 51(a)(4)).

Oct. 11 - Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec.10(b)(2)).

Legislation

With the September 11 deadline to pass bills and submit them to the Governor's desk looming close, the remainder of the first half of the 2009-2010 Session is sure to be eventful as members push to pass bills with significant potential impacts on the energy sector.

Government Affairs continues to keep a close watch on the following pieces of legislation:

AB 45 (Blakeslee) Distributed generation: small wind energy systems.

Authorizes a local agency to adopt an ordinance that provides for the installation of small wind energy systems outside an urbanized area, but within the local agency's jurisdiction, and to establish a process for the issuance of conditional use permits for these systems, subject to specified conditions.

AB 64 (Krekorian) Energy: renewable energy resources: generation and transmission.

In addition to establishing a 33% RPS requirement for 2020, establishes a state energy coordinating committee, which includes the Chair of the ISO Governing Board, to coordinate state actions, make recommendations, and develop a strategic plan to achieve RPS goals; expands the California Energy Commission's (CEC's) power plant licensing authority to include renewable generation of 5 MW or more; places new restrictions on RPS eligibility, including a requirement for "simultaneous generation and California consumption"; authorizes the California Public Utilities Commission (PUC), with the concurrence of the Division of Ratepayer Advocates, to grant a rebuttable presumption to an ISO determination need; and requires the PUC to establish a 12-month schedule for approving or rejecting a transmission project that will access eligible renewable generation.

AB 413 (Fuentes) Energy: rates.

Eliminates the current rate freeze for electricity usage for residential customers of up to 130% of the baseline rate, lifts the current suspension and provides limited expansion of direct-access electricity service, and provides a number of other rate stabilization measures to address emergency measures instituted during the 2001 energy crisis by AB 1X (Keeley), Chapter 4, Statutes of 2001.

AB 560 (Skinner) Net energy metering.

Increases the current cap on the amount of electricity that can be generated under the net-energy metering program from 2.5% to 5% of each utility's aggregate peak demand. Since the last Board Report, the 5% figure was amended from 10%.

AB 1106 (Fuentes) Renewable electric generation facilities: feed-in tariffs.

Revises and expands California's feed-in tariff program for eligible renewable electric generation to eliminate the current statewide cap of 500 megawatts (MW) and increase the size of eligible facilities from 1.5 MW to 20 MW.

AB 1110 (Fuentes) Advanced electrical distributed generation technology.

Authorizes the PUC and the State Air Resources Board to treat advanced electrical distributed generation technology as cogeneration, and makes certain existing limitations upon gas rates and surcharges charged to cogenerators applicable to an advanced electrical distributed generation technology.

AB 1536 (Blakeslee) Distributed energy resources incentive program.

Requires the PUC, in consultation with the CEC, to administer the distributed energy resources incentive program for distributed generation until January 1, 2012, for the purposes of deploying distributed generation technologies that the PUC determines produce benefits for ratepayers commensurate with their contribution to the costs of the program. The bill also revises certain distributed energy incentives.

SB 7 (Wiggins) Renewable energy sources: net metering.

Requires an electrical distribution utility or cooperative to allow eligible energy generation customers to apply for kilowatt-hour credits on net surplus electricity generated during the following 24 months. Requires the PUC, as part of an assessment submitted to the Legislature on June 30, 2010, to evaluate the costs and benefits of allowing net surplus customer-generators to apply net surplus electricity generated in one year as a credit for kilowatt-hours consumed during one, or both, of the 2 following 12-month periods.

SB 14 (Simitian) Utilities: Renewable energy resources.

In addition to establishing a 33% RPS requirement for 2020, revises RPS eligibility requirements to require simultaneous generation and California consumption of electricity. In addition, it includes several provisions related to the ISO's role in the possible development of transmission owned jointly by investor-owned utilities and publicly-owned utilities and the CEC's transmission planning authority. The ISO, the Sacramento Municipal Utility District, and the Los Angeles Department of Water and Power worked together to develop amendments to these provisions and recommended them jointly to the author and legislative committees. These amendments were incorporated into the bill on August 18.

SB 32 (Negrete-McLeod) Renewable electric generation facilities.

Requires the PUC to increase the size of facilities eligible for feed-in tariffs facilities 1.5 MW to 3 MW and delete the requirement that the generation facility be located on property owned

or under the control of the generator. The PUC is authorized to adjust payments to reflect the value of the electricity and other factors.

SB 17 (Padilla) Electricity: smart grid systems.

Requires the PUC, in consultation with other state agencies and key stakeholders, to determine the requirements for a smart grid deployment plan and requires the utilities to submit smart grid plans to the PUC.

SB 460 (Wolk) Energy: transmission lines.

Expands Energy Commission siting authority to include high-voltage transmission lines proposed to be built by a local publicly owned electric utility and requires publicly owned utilities proposing a new line to certify to the CEC that it has participated in a joint transmission planning process conducted by the ISO.

SB 655 (Padilla) Independent System Operator: transmission facilities.

Requires the ISO to appear annually before the appropriate policy committees of the Senate and the Assembly to report on the ISO's activities, and states legislative intent that the ISO take all necessary steps to ensure that the transmission grid is secure from intrusion by unauthorized persons or entities.

SB 695 (Kehoe) Electricity: rates.

Makes several changes to the state's regulation of electricity, including allowing for increases in some residential electricity rates, increasing the ability of retail customers to purchase electricity directly from generators, prohibiting mandatory time-variant pricing, and making changes to existing energy efficiency programs. Provisions of AB 413 (Fuentes) are similar to this measure.

SB 696 (Wright) Air quality: CEQA exemptions: emission reduction credits.

A Los Angeles Superior Court decision prevents use of air emission credits necessary to the development/replacement of generation in southern California. This bill makes the credits available and authorizes their use for essential public services, other exempt purposes as defined by the SCAQMD, and powerplants under specified conditions.

FEDERAL AFFAIRS

Obama Administration

The Department of Energy announced on August 18 that it received 431 applications for Smart Grid stimulus funds, representing a total project value of \$24.6 billion, by the August 14 application deadline. The American Reinvestment and Recovery Act provided \$3.9 billion for Smart Grid projects.

FERC will hold a technical conference on Transmission Planning under Order 890 in the West in Phoenix, Arizona on September 3. The event is the first of three technical conferences organized by FERC to determine whether transmission providers' planning efforts can meet

challenges posed by wider integration of renewable resources and other regional energy sources into the power grid. The other conferences will be held in Philadelphia and Atlanta.

Congress

The House and Senate are not currently in session. They will reconvene on Tuesday, September 8.

On August 6, the Senate Energy and Natural Resources Committee held a hearing on the nomination of John Norris to be a commissioner at FERC. In his opening statement, Norris identified reliable system operation, integration of renewables, and smart grid initiatives as his top priorities and promised to work with Congress to develop energy legislation. In response to questions from Committee members, he stated that FERC should assist in the development of the transmission grid to bring renewable resources to load centers, but should be “respectful of” and “give great deference to” the states in siting of the lines. Confirmation votes by the committee and the full Senate are expected in September.

In the Senate’s final week before the August recess, key committees held hearings focusing on climate change policy considerations, particularly the allocation of emission allowances. The Environment and Public Works Committee held a hearing on August 6 to highlight U.S. leadership in clean energy, with testimony from Interior Secretary Ken Salazar, FERC Chairman Jon Wellinghoff, DOE Assistant Secretary for Policy and International Affairs David Sandalow, and representatives of the environmental and business communities. Committee Chair Barbara Boxer stated that she is considering a 2020 target of between 17 and 20% below 2005 emission levels, slightly exceeding the 15% target established by the Western Climate Change Initiative but less than California’s goal of 25% reduction by 2020. Senator Boxer also noted that she is considering a “price collar” that would impose minimum and maximum prices on emission allowances to provide cost certainty for industry.

The Senate Finance Committee held a hearing on emission allowance allocation on August 4, with testimony from the Government Accountability Office as well as environmental and business groups. Chairman Baucus (D-MT) has not yet indicated his position on emission allocations. He stated that the committee is on target to mark up a bill by late September, in line with the deadline established by Senate Majority Leader Harry Reid (D-NV) for the six committees with potential jurisdiction over the bill.

Congresswoman Judy Chu (D-El Monte), who won a July 14 runoff election to replace Labor Secretary Hilda Solis in California’s 32nd District, has been named to the House Education and Labor Committee. Congresswoman Chu will receive additional committee assignments in September.