

# Memorandum

**To:** ISO Board of Governors  
**From:** Karen Edson, Vice President of Policy and Client Services  
**Date:** July 16, 2010  
**Re:** **Briefing on the Status of State and Federal Legislative Matters**

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*This memorandum does not require Board action.*

## STATE AFFAIRS

### Regulatory Update

#### Once-Through Cooling

On May 4, 2010, the California State Water Resources Control Board (SWRCB) adopted a policy aimed at phasing out the use of once-through cooling at coastal power plants in California. The ISO has worked closely with the SWRCB, California Energy Commission (CEC) and the California Public Utilities Corporation (CPUC) to ensure that the new regulations would acknowledge the need to maintain electric reliability.

The SWRCB staff expects to deliver the adopted policy to the Office of Administrative Law (OAL) sometime in late July or early August. Following OAL review and approval, the policy will become effective. Once effective, the SWRCB will organize a statewide task force, which includes the ISO, to advise the board on generator implementation plans that are due six months from the effective date.

The ISO will work collaboratively with the SWRCB to implement the policy. The policy acknowledges the ISO role in determining which power plants are needed to maintain electric reliability. However, it also sets forth hard target dates by which the once-through cooling plants must be compliant with the policy. Some plants may choose to retrofit to gain compliance, but inevitably, some of the owners may choose to close down the generators affected by this regulation. The ISO staff will be assessing whether adequate and effective replacement power, based on information available now or at the time of evaluation, will be forthcoming within the time frames set forth in the policy or defining the necessary infrastructure changes to continue meeting reliability and operational requirements.

## Legislative Schedule

- July 2: Last day for policy committees to hear and report bills. Summer recess begins on adjournment, provided the Budget Bill has been passed.
- August 31: Last day for any bill to be passed and final Recess begins on adjournment.
- September 30: Last day for Governor to sign or veto bills passed by the Legislature before September 1 and in the Governor's possession on or after September 1.

## Legislation Update

- SB 722 (Simitian): 33% Renewable Portfolio Standard  
This bill which requires a 33% renewable portfolio standard by 2020 continues to progress through the legislature. Negotiations on amendments continue, including the hotly debated issue of how much energy should be allowed to come from out-of-state generation.
- SB 1435 (Padilla): Electric and Plug-in Hybrid Vehicle Charging Stations  
The bill would require the CPUC to adopt rules for charging facilities to minimize negative impacts to the grid through methods such as shifting charging to off-peak periods and promoting use of the most energy efficient electric and plug-in hybrid vehicles.
- SB 1437 (Kehoe): Independent System Operator Activities Report  
This bill would require the independent governing board of directors to annually select a representative of the ISO to appear before the appropriate policy committees of the Senate and Assembly to report on the activities of the ISO.

## Proposition 16: Two-Thirds Vote Requirement for Local Public Electricity Providers

Proposition 16, which would have required a two-thirds vote of the electorate before a public agency could enter the retail power business, was defeated by voters during the June 7 election by a 52.5 to 47.5 percent margin.

## November Ballot Initiative to Suspend AB 32

A measure to suspend AB 32, the California law that requires the state's greenhouse-gas emission levels to be cut to 1990 levels by 2020, officially qualified for the November 2 ballot. The measure, known as Proposition 23, calls for AB 32 implementation to be suspended until California's unemployment rate, which currently stands at 12.6 percent, drops to 5.5 percent or below for four consecutive quarters.

## **FEDERAL AFFAIRS**

### **Administration**

On June 2 the Department of Energy announced funding for up to \$6 million over two years to improve short-term wind energy forecasting. The funds will support projects that improve the ability of utilities and grid operators to plan for the energy output of wind power plants, thus reducing the costs and increasing the reliability of integrating wind energy into the electricity grid. Improvement of short-term wind forecasting has been a priority for the ISO, and our staff has recently testified before a congressional committee on the benefits of improved forecasting and steps needed to optimize forecasts for renewables.

On June 17 the Federal Energy Regulatory Commission issued a draft “Notice of Proposed Rulemaking on Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities.” The draft rule would require utilities to participate in a regional transmission planning process that considers the needs of state and federal policy requirements and to eliminate the “right of first refusal” from FERC tariffs (while preserving state authority over such rights). It would also establish, and require implementation of, principles for allocating costs of new transmission commensurate with benefits, giving FERC backstop authority for the cost allocation methodology. Comments on the draft NOPR will be due 60 days after publication in the *Federal Register*.

### **Congress**

On June 22 the Senate voted to confirm 62 pending nominations, including the nominations of Phil Moeller and Cheryl LaFleur to be Commissioners at FERC and the nomination of Patricia Hoffman to be Assistant Secretary for Electricity Delivery and Energy Reliability at DOE.

The House-Senate conference on the huge financial regulatory reform bill concluded on June 25 after several weeks of debate and an all-night session on the controversial derivatives title, which contained provisions on jurisdiction over certain electricity market products. Conferees approved Chairman Waxman’s version of the bill’s provisions on FERC jurisdiction, which CAISO and industry partners supported. The final language explicitly gives FERC jurisdiction over energy markets operated by ISOs and RTOs, including ERCOT. The conference report was originally expected to be taken up for a final up-or-down vote by the House and Senate before the July 4 Congressional recess, but will now likely be delayed because of Senate memorial services for the late Robert Byrd (D-WV). This leaves open some possibility that the conference may reconvene for additional changes to the bill.

The fate of energy and climate legislation continues to be uncertain. Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-NM) announced on June 29 that he is drafting utility-only greenhouse gas legislation as the most feasible approach to make progress on climate change this year, given political and schedule considerations. If such a bill is introduced, it could potentially be combined on the floor with Senator Bingaman’s bipartisan energy bill, the “American Clean Energy Leadership Act of 2009,” which was approved by the

Energy and Natural Resources Committee in July of 2009. That bill includes mandatory national renewable electricity standards, as well as FERC oversight of interconnection-wide transmission planning and backstop authority for siting of high-priority transmission lines. Also under consideration as a strategy to move energy and climate legislation this year is “bulletproof” plan merging climate and energy legislation with a bill to overhaul offshore drilling regulations that Senate Republicans would be hesitant not to support. In an election year, summer congressional recesses are typically viewed as key markers for legislative action. Both the House and Senate will be in recess through the week of July 5, and the August recess has now been moved up to August 2 instead of the originally-scheduled August 9. Congress therefore faces a diminished window of opportunity to pass legislation before the November midterm elections. Depending on the outcome of those elections, Congress might return to Washington for a lame duck session to complete action on important leadership priorities, including energy and climate legislation.

The Senate Homeland Security and Government Affairs Committee on June 24 approved S. 3480, legislation creating a White House Office of Cyberspace Policy to work with federal agencies and the private sector on the development of standards for the protection of critical infrastructure. The bill would also give the President the authority to declare a cyber emergency and require private industry to take necessary steps to protect the electricity grid and other critical assets. According to Senator Reid’s staff, the bill will likely be combined with the Senate Commerce Committee bill, S. 773, which gives the President emergency authority over “critical infrastructure information systems.” The House passed its cyber security bill, H.R. 5026, on June 9.