

# Memorandum

**To:** ISO Board of Governors  
**From:** Karen Edson, Vice President, Policy and Client Services  
**Date:** May 11, 2011  
**Re:** **Briefing on the Status of State and Federal Legislative Matters**

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*This memorandum does not require Board action.*

## STATE AFFAIRS

### **33% Renewables Portfolio Standard (RPS)**

As of the last Board report, Senator Simitian had introduced SB 23, mandating that 33% of California's energy come from renewable resources by 2020. On February 1, he introduced SBX1 2, the identical measure in the extraordinary session. On April 12, the ISO attended the Governor's signing of SBX1 2. The measure will take effect on the 91<sup>st</sup> day after the adjournment of the special session, which is still open.

The bill requires at least 50% of renewable energy to have its first point of interconnection to a California balancing authority by December 31, 2013. That requirement will increase to 65% by the end of 2016 and to 75% by 2020.

It contains several conditions that allow the California Public Utilities Commission (CPUC) to waive enforcement and allow retail sellers to delay compliance with the renewable procurement requirement. Those conditions include:

- 1) Inadequate transmission capacity for delivery of sufficient renewable energy;
- 2) Unanticipated permitting, interconnection or other related delays for renewable energy projects or an insufficient supply of eligible renewable energy resources available to the retail seller; or,
- 3) Unanticipated curtailment of renewable energy necessary to address the needs of a balancing authority.

Prior to the 2020 goal of 33% RPS, utilities must accomplish two interim milestones. These include reaching 20% RPS by the end of 2013 and 25% RPS by the end of 2016.

## **Legislation Update**

The ISO is tracking roughly 80 energy-related measures. The following bills are the high priority bills.

### **AB 1214 (Skinner) Electrical Transmission**

This bill would direct the ISO and CPUC to jointly evaluate projects identified in the ISO transmission planning process as serving solar development areas and publish a report identifying those facilities that could be placed in service by December 31, 2016. The bill would also give “weight” to ISO determinations of the need for transmission under certain circumstances.

### **SB 881 (Corbett) Information Availability Related To Renewable Facility Siting**

This bill would require the Office of Planning and Research to maintain a web site containing information on issues related to siting renewable energy projects. Information from the ISO related to transmission availability would be included in addition to other information such as renewable resource quality, areas of critical environmental concern, and other environmental considerations.

### **SB 790 (Leno) Community Choice Aggregation**

This bill would require the CPUC to initiate a rulemaking by March 1, 2012 to consider adopting a code of conduct, associated rules and procedures applicable to utilities in connection with community choice aggregation in order to protect utility ratepayers. The bill would also expand the entities that are permitted to engage in community choice aggregation.

### **SB 23 (Simitian) RPS Compliance Dates**

This bill, which is a clean-up to SBX1 2, extends by one year the compliance dates for the California Energy Commission to report to the legislature on run-of-river hydroelectric generating facilities, adopt regulations for enforcement of RPS requirements, and for the CPUC to determine the effective load carrying capacity of wind and solar on the grid. These tasks must be completed by July 1, 2012 instead of the original deadline of July 1, 2011.

### **AB 37 (Huffman) Smart Meter Deployment.**

This bill would require the CPUC to identify alternative options for customers of electrical corporations that decline the installation of smart meters.

## **Net Metering Bills**

### **AB 512 (Gordon)**

This bill would expand the definition of an eligible renewable generating facility eligible for net energy metering to include a facility that has a generating capacity of no more than 5 MW. The current limit is 1 MW.

### **AB 1361 (Perea)**

This bill would keep the cap on eligible customer-generators at 1 MW, except if the customer is a state agency. In that case, their facilities may have up to 5 MW of generating capacity.

### **SB 370 (Blakeslee)**

This bill would allow agricultural customers to aggregate multiple meters on a single property or certain adjacent properties to the customer-generator.

### **SB 383 (Wolk)**

This bill would limit the generating capacity of an eligible renewable generating facility to not more than 20 MW, up from the current 1 MW limit. This bill would delete the 250 MW limitation upon the obligation of an electrical corporation to provide a bill credit.

### **SB 489 (Wolk)**

This bill would revise the definition of an eligible customer-generator by allowing all renewable energy resources, as defined in the California RPS program, to participate. Generating capacity would also be raised to not more than 1.5 MW.

## **Nuclear Initiative**

In early March, a ballot initiative entitled “The Nuclear Waste Act of 2011” was submitted to the Attorney General’s office. The initiative would halt nuclear energy production by any nuclear plant requiring the reprocessing of fuel rods pending actions by the Federal Government to prove that a demonstrated technology exists for the disposal of nuclear waste.

The Legislative Analyst’s Office is currently constructing the official title and summary for the measure.

## **Governor Brown’s Appointments**

Governor Brown has filled all three vacancies on the CPUC. His appointees are Mike Florio, senior attorney for The Utility Reform Network, Catherine Sandoval, associate professor at Santa Clara University School of Law, and Mark Ferron, senior partner at Silicon Valley Social Ventures and chief operating officer for the Global Markets Division of Deutsche Bank in London.

Governor Brown filled two of three positions at the California Energy Commission. Robert Weisenmiller, who served as a CEC Commissioner from 2010-2011, was appointed Chair.

Carla Peterman, who served on the Board of Directors for The Utility Reform Network, was also appointed as a Commissioner.

Governor Brown also made appointments to his Appointments office. Mona Pasquil, former chief of staff to Lieutenant Governor John Garamendi, was named appointments secretary. Nettie Sabelhaus, who had previously served as appointments director of the California Senate Rules Committee since 1999, was named special advisor to the Governor on appointments.

## **FEDERAL AFFAIRS**

### **Fiscal Year 2011 Continuing Resolution**

The House and Senate passed H.R. 1473, the final continuing resolution for Fiscal Year 2011, during the week of April 11, following six months of negotiations and stopgap spending bills. The final bill included approximately \$1.05 trillion in funding, nearly \$40 billion less than the FY 2010 funding amount. All non-defense spending was cut by 0.2% across the board. DOE was funded at \$25.6 billion for the rest of the fiscal year, \$10.7 billion below the 2010 funding level. The DOE Energy Efficiency and Renewable Energy programs were reduced by \$438 million, and the Office of Science was cut \$35 million below FY 2010 funding -- \$252 million below the amount requested for FY 2011.

The final continuing resolution did not include the proposed riders that would prevent the U.S. Environmental Protection Agency from regulating greenhouse gas emissions under the Clean Air Act. Congress will next begin discussions on the 2012 budget proposal. The House has already approved the Republican budget proposal for next year, essentially on a party-line vote, but the bill as passed has little chance to clear the Senate, which is expected to develop its own proposal.

### **Legislation Update**

#### Cyber-security

The Senate Energy and Natural Resources Committee's majority and minority staff have issued a bipartisan discussion draft of a grid cyber security act, which Committee Chairman Senator Jeff Bingaman (D-NM) has committed to take up after the Spring Recess. The draft is similar to a bill the Committee reported in 2010 and to the GRID Act (H.R. 5026) that the House passed last year, both of which gave FERC broad new authority over cyber security vulnerabilities. Chairman Bingaman has scheduled a hearing on the bill for May 5. If passed out of committee it will likely be joined with a broader cyber security bill being developed by the Senate Committee on Homeland Security and Governmental Affairs. Cyber security is considered to be one of the few areas where bipartisan legislation is likely in this Congress

## Transmission

Senators Bob Corker (R-TN) and Debbie Stabenow (D-MI) have asked the Senate Natural Resources Committee to hold a hearing on electric transmission, specifically to examine the impact of the Federal Energy Regulatory Commission's pending transmission cost allocation rule. FERC's Notice of Proposed Rule on Transmission Planning and Cost Allocation, issued on June 17, 2010, proposes that ISOs and RTOs set forth in their tariffs the methods to be used for regional cost allocation, allowing them to distinguish among facilities that address reliability, congestion relief, and achievement of public policy goals. Senator Corker has introduced legislation, S. 400, that would require FERC to allocate costs for regional transmission projects in a way that is "reasonably proportionate to measurable economic or reliability benefits projected," without consideration of public policy goals.

## **36<sup>th</sup> Congressional District Race**

The May 17 primary election to replace Representative Jane Harman in California's 36<sup>th</sup> Congressional District (Venice-San Pedro) now includes 11 candidates. If none of the contenders receives 50% or more of the votes, the top two candidates will have a runoff election on July 12. Representative Harman announced her resignation in February to head the Woodrow Wilson International Center for Scholars.

## **Department of Energy**

The Senate on April 15 approved by unanimous consent the nomination of Peter Lyons as assistant Secretary of Department of Energy's (DOE) Office of Nuclear Energy. Lyons was previously the acting Assistant Secretary. From 2005 to 2009 Dr. Lyons served as a commissioner of the Nuclear Regulatory Commission.

DOE recently announced incentives for several renewable energy facilities in California. On April 12, Energy Secretary Steven Chu announced a loan guarantee totaling \$1.6 billion for BrightSource Energy's 392 MW solar thermal generation facility in Ivanpah, CA. DOE also made a conditional commitment to provide a loan guarantee of \$1.187 billion to SunPower Corp for its 250 MW California Valley Solar Ranch Project in San Luis Obispo county. The Solar Ranch project will be the largest photovoltaic project to date using "sun tracker" monitoring and control systems, which are projected to increase output of the facility by 25%. On April 18, DOE also announced a conditional commitment to provide a \$2.1 billion loan guarantee to Solar Trust of America, LLC, to support construction of a 1000 MW concentrated solar plant in Blyth, CA.

On April 20, DOE announced new funding totaling \$130 million for investment in five new high-risk research programs through the Advanced Research Projects Agency – Energy (ARPA-E), including support for programs in Advanced Thermal Storage, Green Electricity Network Integration, and Solar Agile Delivery of Electrical Power. The Green Electricity Network Integration program will fund innovative control software and high-voltage hardware designed to optimize costs of managing intermittent resources as well as hardware to enable automated, real-time control of grid components.

The ARPA-E agency, which was initially supported through stimulus funding, received \$180 million in the recently-passed budget for FY 2011.

## **Water Policy**

On April 20, the U.S. Environmental Protection Agency published a formal notice in the *Federal Register* proposing standards for cooling water intake structures at existing power plants and other facilities pursuant to Section 316(b) of the Clean Water Act. EPA also established a July 19, 2011 deadline for submission of public comment on the standards, which would impact more than 550 electric generating plants nationally. In California, the once-through cooling policy approved by the State Water Resources Control Board became effective on October 1, 2010. The ISO has studied the reliability impacts of policy implementation as part of its annual transmission planning process and has joined with California state agencies to form the Statewide Advisory Committee on Cooling Water Intake Structures to implement the policy in a way that maintains power supply reliability.

## **Judiciary**

On April 19, the Supreme Court heard oral arguments in *American Electric Power v. Connecticut*, a case asking the Court to determine whether states and other plaintiffs may bring lawsuits against greenhouse gas emitters under a claim that the defendants' activities are a public nuisance under federal common law. California is among the six states, two land trusts and the City of New York bringing suit against the defendants, which consist of large utilities in the eastern U.S. The Obama Administration and 23 other states have sided with the defendants, arguing that the plaintiffs lack standing and that EPA is already addressing greenhouse gases under the Clean Air Act. A decision is expected by the end of the Court's term in June.