

Memorandum

To: ISO Board of Governors

From: Karen Edson, Vice President, Policy and Client Services

Date: December 8, 2011

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

This memorandum does not require Board action.

STATE AFFAIRS

State Legislative Oversight Hearing on the Pacific Southwest Power Outage

The Assembly Utilities and Commerce Committee and the Joint Committee on Emergency Management held a joint hearing in San Diego on October 26, 2011 to discuss the Pacific Southwest power outage which occurred on September 8, 2011. Steve Berberich, ISO President and CEO, testified before the committees and gave an account of the chain of events that caused the widespread outage. He also vowed to do everything possible to prevent an outage like this from happening in the future.

The level of communication among the balancing authorities and utilities was one of the main topics of discussion. Representatives from San Diego Gas and Electric, Arizona Public Service Company, Imperial Irrigation District, the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, the Western Electricity Coordinating Council and the California Public Utilities Commission also testified at the hearing.

Little Hoover Commission

On November 15, Karen Edson, Vice President of Policy and Client Services, testified before the Little Hoover Commission regarding their current organizational evaluation of entities that share authority over energy policy, permitting and regulation. Her testimony centered on how the ISO maintains the grid, including its role in transmission planning. She also testified about the challenges the ISO faces with 13,000 MW of renewables expected to come on-line over the next few years coupled with the phase-out of once-through cooling, and the ISO's ongoing, close coordination with state agencies.

REGULATORY ISSUES

Work with the Governor's Office, the California Public Utilities Commission and the California Energy Commission continues on a range of regulatory issues related to renewable integration, resource adequacy policies, long-term procurement, transmission planning and generator interconnection. The following issues have required a specific focus:

Transmission Planning Process Resource Portfolios

The ISO has been meeting with the CEC and CPUC to solicit their help in developing RPS resource scenario assumptions for the 2012 – 2013 transmission planning process cycle. A key input for this year's assumptions is the incorporation of land-use data from the Desert Renewable Energy Conservation Plan's Preliminary Conservation Plan, which was released on October 26, 2011. Our goal is to receive the portfolios from the CPUC and CEC in early March 2012 for incorporation into the transmission planning process unified planning assumptions.

Once-Through Cooling Policy Implementation

As discussed in the October report, the ISO continues to work with the State Water Resources Control Board (SWRCB) and other state agencies to implement the *Statewide Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling* (Once-Through Cooling Policy).

The ISO has completed reliability studies in its transmission planning process based upon OTC generator owners' implementation plans received on April 1, 2011. Preliminary results will be presented at a December 8, 2011 stakeholder meeting. These results will provide the basis for a multi-agency report, required under the policy, to the SWRCB by March 31, 2012. The purpose of the report is to provide the SWRCB with recommendations on compliance date modifications as requested by generator owners. In addition to the ISO studies, the ISO, CEC and CPUC are meeting with generator owners at the SWRCB to gather additional details regarding their April 1, 2011 implementation plans.

AB 1318

In a related effort, the ISO has completed studies necessary for a California Air Resources Board (CARB) report to the Governor and Legislature in accordance with Assembly Bill 1318 (AB 1318, Wright, Chapter 206, Statutes of 2009). The report, which CARB expects to complete by the second quarter of 2012, will be completed in consultation with the CEC, CPUC, ISO and SWRCB. It will include an evaluation of the electrical system reliability needs of the South Coast Air Basin, and will include long-term sustainable

recommendations for meeting those reliability needs while ensuring compliance with state and federal laws.

FEDERAL AFFAIRS

Administration:

The Department of Energy on November 10 published its plan for conducting the *2012 Congestion Study*, as required by the Energy Policy Act of 2005. The agency is seeking comments on what types of publicly-available data should be considered and what analyses should be performed to “identify and understand the significance and character of transmission congestion.” DOE will also hold four half-day workshops on the study during December, including one in Portland on December 13 and one in San Diego on December 15. DOE will also hold consultations with interested stakeholders upon request.

DOE’s Inspector General’s Office has issued its annual report on management challenges at the agency, addressing significant issues such as cybersecurity, nuclear waste disposal and energy supply as well as the efficiency of agency operations. The report recommends that the agency engage in a process to consolidate DOE’s 16 research and development centers, which are funded collectively at about \$10 billion a year, in an effort to reduce costs. The report also recommends that agency management devote special attention to the loan guarantee program, infrastructure modernization, and facility security and safety.

Congress:

The House and Senate approved a three-bill “minibus” appropriations package on November 18 before adjourning for the Thanksgiving recess. The bill, which was signed by the President soon after passage, provides FY 2012 funding for Agriculture, Commerce-Justice-Science, and Transportation-Housing and Urban Development. It was crafted under the budget constraints required by last summer’s debt agreement. The minibus also carried a new continuing resolution ensuring operation of the federal government through December 16, averting a November 18 government shutdown and establishing December 16 as the *de facto* target for 2011 adjournment. The continuing resolution is a “clean” extension that does not include any new funding provisions.

Nine FY 2012 appropriations bills still remain to be passed. Despite attempts by Congress to move the remaining bills in minibus packages, it is expected that all nine bills will be rolled into one near-omnibus funding package that will be approved before the end of the year. The Defense appropriations bill is the likely vehicle for the package. Prior to adjournment, the Senate began debate on the Energy and Water Appropriations bill, which contains

funding for the Department of Energy, the Federal Energy Regulatory Commission, Department of Interior water programs, and the Corps of Engineers. The bill passed the House on July 15 but has stalled in the Senate over funding for small nuclear reactors. Proposed amendments to the bill continue to accumulate, including provisions that would place restrictions on the DOE loan guarantee program. The extension of energy tax credits and other incentives for renewable energy projects is likely to be the subject of debate in the coming weeks as Senate consideration of the bill proceeds.

Cybersecurity continues to be an area of congressional interest. Senate Majority Leader Harry Reid (D-NV) has sent a letter to Minority Leader Mitch McConnell (R-KY) promising action on cybersecurity legislation in the coming months. Senator Kay Bailey Hutchison (R-TX) and others have written to the President requesting information on current cybersecurity threats and outlining policies that would attract bipartisan support, including increased information sharing with the private sector, updating criminal law and enforcement tools, and identification of federal agencies that should play a role in cybersecurity research.

The House Rules Committee met prior to Thanksgiving recess to establish the procedural requirements for House consideration of the "Regulations from the Executive in Need of Scrutiny Act" ("REINS Act"). The REINS Act would require congressional approval of any federal regulation that would have an impact of \$100 million or more on the nation's economy. The Rules Committee voted against allowing amendments to the bill. Timing of consideration by the full House, where it is expected to pass, has not yet been determined.