

Memorandum

To: ISO Board of Governors

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

Date: October 31, 2013

Re: Legislative and state regulatory update

This memorandum does not require Board action.

STATE AFFAIRS

Regulatory update

South Coast Air Quality Management District (SCAQMD) air emissions offsets developments:

At the SCAQMD October 4 board meeting, district staff presented a report entitled “Electric Grid Reliability, Power Plant Siting and Offset Issues.” The report focused primarily on the southern California reliability plan developed by the ISO, California Energy Commission, and California Public Utilities Commission, with input from Southern California Edison, San Diego Gas and Electric Corporation and the SCAQMD. Of particular interest, the report also included new near- and long-term recommendations as follows:

- Near-term: Initiate a Rulemaking to allow the use of SCAQMD offsets for new greenfield projects or additions at existing conventional generation projects, and for permit modernization projects (produce/deploy/fund zero or near-zero technology).
- Long-term: Address the overall offset requirements relative to PM10 (Federal Attainment / State Law).
- Amendment, as required: If needed, seek a narrow legislative amendment to state law (SB 288) to facilitate the rulemaking implementing the recommended contingency plans.

The report also included informational recommendations for SCAQMD staff to provide initial thoughts on near- and long-term actions:

- Near-term:
 - Conduct series of public consultation meetings;
 - Provide periodic briefings to the Stationary Source Committee;
 - Provide briefings to legislative committees (if legislative changes are necessary);
 - Hold public workshops; and
 - Hold board adoption hearing.
- Long-term (with additional steps to be determined):
 - Work with stakeholder group to receive input on viable options for PM10 offsets (Federal Attainment); and
 - Coordinate with 2016 Air Quality Management Plan efforts.

The SCAQMD board received and filed the recommendations and we anticipate that SCAQMD staff will be moving forward with them. ISO staff will track new developments, including involvement in any new rulemaking process.

Long term procurement plan (LTPP) proceeding – Track 4:

The ISO is actively involved in Track 4 of the CPUC 2012 LTPP proceeding. The CPUC added this track to the scope of the 2012 LTPP on May 21, 2013 for the purpose of determining local area needs in the LA Basin and San Diego areas without SONGS. (Decision D.13-02-015 on February 13, 2013 authorized procurement in Track 1 of this proceeding for local capacity requirements based upon studies that included SONGS.)

The Track 4 schedule, which was revised on September 16, 2013, calls for evidentiary hearings from October 28 – November 1, 2013 and estimates a proposed decision by the first quarter of 2014. Transmission alternatives developed in the ISO transmission planning process will be considered prior to a final decision.

The outcome of this track of the proceeding is a critical regulatory action identified in the “Preliminary Reliability Plan for LA Basin and San Diego” for both near-term (2014 – 2017) and long-term (2020 and beyond) needs. The ISO has filed testimony in this track of the proceeding based upon planning studies that included assumptions defined by the CPUC. Studies reveal that there is an incremental need (in addition to local capacity procurement authorized in the Track 1 decision) of 2,822 MW by 2022 without SONGS.

Update for the Sycamore Canyon-Penasquitos 230 kV Line:

All four candidate project sponsors for the new Sycamore Canyon-Penasquitos 230 kV Line project (included in the 2012/2013 transmission planning cycle and approved by the ISO) have sought siting approval from the CPUC. Under prevailing tariff provisions, when project sponsors seek siting approval from more than one siting agency, the ISO determines the successful project sponsor. However, when all the potential project sponsors seek siting approval from the same agency, then that siting agency (in this case the CPUC) determines the successful project sponsor. This tariff provision has been amended to note that the ISO will determine the project sponsor in all cases, but was not in effect for the 2012-2013 planning cycle and so the previous tariff provision prevails.

Recognizing the CPUC did not have a process for determining the successful sponsor, and in an effort to assure an in-service date for this new line that meets reliability requirements, the ISO met with the CPUC to offer support or input to assist the CPUC. Ultimately, the CPUC approached the ISO suggesting a joint filing with FERC for a waiver to the prevailing tariff provision in favor of the revised and FERC-approved tariff provision, which directs the ISO to determine the successful project sponsor. Accordingly, and following pre-filing meetings with FERC staff and gaining the support of candidate project sponsors, the CPUC and the ISO have made an appropriate joint filing with FERC to request a waiver to the pertinent tariff sections. FERC approval is anticipated and this project is expected to progress in a timely manner.

Legislative Update

Legislation:

October 13 was the last day for the Governor to sign or veto legislation. Among the key pieces of legislation he signed were the following:

- **AB 66** by Assemblyman Muratsuchi: Directs the CPUC to require an electrical corporation to include geographical information on the frequency and duration of electrical service interruptions in their annual reliability reports.
- **AB 327** by Assemblyman Perea: Officially makes the 33 percent renewable portfolio standard the floor, rather than the ceiling, under state law. The bill also authorizes the CPUC to approve a flat rate of up to \$10 on all residential utility customers and removes the suspension on net metering that would have gone into effect at the end of 2013.
- **AB 1274** by Assemblyman Bradford: Prohibits businesses from sharing, disclosing, selling, or otherwise making a customer's electrical and gas

consumption data accessible to a third party without obtaining the express consent of the customer.

- **SB 43** by Senator Wolk: Enacts the Green Tariff Shared Renewables Program, which requires a participating utility, defined as being an electrical corporation with 100,000 or more customers in California, to file with the CPUC an application requesting approval of a green tariff shared renewables program enabling ratepayers to participate directly in offsite electrical generation facilities that use eligible renewable energy resources.

Legislative briefings:

On September 5, the ISO, CEC and CPUC briefed the Governor's Office on Southern California Reliability. The last Board report mentioned a hearing scheduled for September 24 entitled "Life After SONGS: Joint Agency Task Force Report on Electric Infrastructure Issues." The hearing was cancelled, so instead, on October 1, the ISO with the CEC and CPUC provided briefings to Assembly and Senate staff on the Southern California Reliability Plan.

STRATEGIC ALLIANCES AND REGIONAL AFFAIRS

Energy Imbalance Market (EIM):

Stakeholder process – Since the March Board meeting, the ISO has been working to develop the design details for the energy imbalance market. We hosted a total of five open stakeholder meetings, including meetings in Phoenix and Portland, to expand our outreach to potential EIM entities across the West. To address specific stakeholder technical questions, the team hosted an additional six technical workshops with market participants.

The design proposal will be presented to the Board for decision at the November 7-8 meeting.

Governance proposal – After receiving comments from 29 stakeholders on the governance proposal white paper, a revised white paper and a draft of the Charter for the proposed Transitional Committee were posted on October 4. A web conference was held on October 11 to specifically address the revised draft of the governance proposal as well as the draft Charter for the proposed Transitional Committee.

Stakeholder comments were thoughtful and reflected a wide range of interests in the two-phased approach. More specificity in the definition of the sectors and the Transitional Committee nomination process were included in the revised white paper.

Additional revisions included:

- Separating the government agency and public interest groups, so that the proposal now includes seven sectors that will be involved in the nomination process for the Transitional Committee.
- Expansion of the Transitional Committee from seven to nine seats, with possible growth to eleven if other EIM entities sign an implementation agreement with the ISO.
- Removing the restriction to require experience with the ISO markets since 2009, allowing any entity in the Western Interconnection to engage in the nomination process for the Transitional Committee
- Clarification to reinforce that the Transitional Committee will use a similar process to the ISO stakeholder process for obtaining input on its long-term governance proposal. ISO staff will assist in this process.
- Clarification that the ISO Board will have the discretion to appoint Transitional Committee members from the list provided through the sector ranking process.
- Clarification that the ISO has the current authority in its bylaws to create advisory committee's to the Board, such as this Transitional Committee, that can advise the Board on any matter relevant to the scope of the committee.

Comments on these revisions just arrived and will be addressed in an update to the Governance proposal scheduled to be released on November 7.

Regional outreach – Initial outreach to state utility commissions that regulate PacifiCorp occurred in July and September. In coordination with PacifiCorp, these included Oregon, Washington, Idaho, Utah, and Wyoming and resulted in additional follow up meetings. PacifiCorp also operates in California and ongoing outreach occurs with the CPUC and CEC on these matters.

The PUC-EIM group, organized by the Western Interstate Energy Board (WIEB) and comprised of utility commissioners from the western states, developed the initial request for proposals on a regional energy imbalance market. This group has continued to be a respected venue for regional discussions and some of its members have been active participants in the EIM governance proposal process. Additional outreach has occurred with WIEB staff and PUC-EIM members on related issues, including flexible reserve requirements and transmission and technology advancements.

As comments are received by a variety of interest groups on regional coordination, ISO staff has communicated additional detailed information to respond to the specific needs of these groups

Engagement with potential EIM entities – Ongoing discussions continue with other interested outside balancing authority areas to explore EIM within their territories.

FEDERAL AFFAIRS

Administration transition:

Binz withdraws nomination: Ron Binz, President Obama's nominee to succeed Jon Wellinghoff as chairman of FERC, withdrew his nomination on October 8 after it became clear that he did not have enough votes to win approval from the Senate Energy and Natural Resources Committee, which held a hearing on his nomination on September 17. The nomination, which was announced on June 27, received an unusual amount of negative coverage in the press, including two editorials in the *Wall Street Journal*. Mr. Binz, who was Chairman of the Colorado Public Utility Commission from 2007 to 2011, has returned to his position as Senior Policy Advisor at the University of Colorado's Center for the New Energy Economy. At this writing, no replacement nominee has been named. Chairman Wellinghoff's term officially expired on June 30, 2013, but agency rules allow him to continue in the position through the year-end congressional recess, which is now scheduled for December 13.

Zichal leaving White House: Heather Zichal, Deputy Assistant to President Obama for energy and climate change, announced on October 8 that she will be leaving her White House position. Ms. Zichal was instrumental in the Administration's Climate Action Plan, which directed agencies to use existing authorities to reduce greenhouse gas emissions. No replacement has been named.

Gensler to step down: On October 3, Commodity Futures Trading Commission Chairman Gary Gensler announced that he will step down from his position by the end of the year. Chairman Gensler's term ended in mid-April, 2012, but agency rules allow him to continue in the position through the end of the current congressional session.

Federal Agencies:

Agencies reopen: Federal agencies reopened on October 17 following 16 days of uncertainty over Fiscal Year 2014 funding. Between October 1 and the October 17 passage of a short-term continuing budget resolution, agencies implemented contingency plans for operation with non-essential employees furloughed in many departments. The Environmental Protection Agency, the Department of Energy and the Department of Interior furloughed most employees. The Nuclear Regulatory Commission was able to maintain operations for a week with prior-year unobligated funding, but furloughed all but 300 site inspectors and emergency response employees on October 8. FERC was able to continue operations throughout the shutdown at full staff with reserve funding. The National Institute of Standards and Technology, which is under the Department of Commerce, did not meet its October 10 deadline to publish a draft cybersecurity framework for the private sector, which was required under President Obama's February 13, 2013 Executive Order.

EPA releases new power plant standards: On September 20, the EPA released a proposed rule that would mandate all new coal-fired power plants to utilize carbon sequestration technology. The proposal calls for large coal-fired power plants to meet a standard of 1100 pounds of CO²/MWh. New plants would have seven years to comply with the standard. New gas-fired combined cycle units would have to meet a standard of 1000 pounds of CO²/MWh, which observers say would be achievable without additional carbon control technology. EPA staff has scheduled a series of “listening sessions” nationwide to hear comments on the proposal.

Congressional action:

Continuing resolution and debt limit legislation passes: Since Congress returned from its August recess on September 9, substantive legislative and policy issues, including energy and environment concerns, have been sidelined by the protracted impasse over the continuing resolution and the impending debt ceiling. Shortly before U.S. borrowing authority was about to run out on October 17, Congress passed and sent the President a continuing resolution funding government functions through January 15, 2014, and suspending the debt limit through February 7. The agreement also directed House and Senate leaders to name members to a conference committee tasked with developing a budget blueprint for the next decade.

Energy efficiency bill status uncertain: On September 11, the Senate began consideration of S. 1392, the energy efficiency bill cosponsored by Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH), but the bill was pulled from the floor over controversial, non-germane amendments. It is currently uncertain whether the bill will be brought back for consideration before the end of the year. The 19-page bill, which is the first energy legislation to be debated on the Senate floor since 2007, includes a number of provisions designed to promote and support energy efficiency improvements in residences and businesses. It also includes language requiring the Department of Energy to develop and adjust targets for the advancement of distributed generation and onsite renewable power generation technologies as well as smart grid and plug load systems.