

Memorandum

To: ISO Board of Governors
From: Karen Edson, Vice President, Policy and Client Services
Date: May 8, 2013
Re: **Legislative and State Regulatory Update**

This memorandum does not require Board action.

STATE AFFAIRS

Legislative Update

ISO Board:

On April 8 the confirmation of ISO Board member David Olsen was brought before the body of the California State Senate for a vote in tandem with the confirmation of the appointment of Andrew McAllister to the California Energy Commission. Mr. Olsen and Mr. McAllister were confirmed with a 37-0 vote of the body.

Legislation:

We are currently in the policy committee portion of the legislative process. The date a bill must pass its policy committee is determined by whether or not it will have fiscal implications for the State. All legislation must pass the floor of the house it was introduced in by May 31. This date is known as the house of origin deadline. Legislation failing to meet this deadline will likely become two-year bills.

Key bills include:

AB 248 (Gorell): This bill would require the Public Utilities Commission and the ISO, in consultation with specified entities, to submit to the Legislature, on or before January 1, 2015, a report on policies, recommended legislative actions, and incentives necessary to accomplish specified objectives related to once-through cooling powerplants in Ventura County while preserving and enhancing electric system reliability in the Counties of Santa Barbara and Ventura. The bill's first hearing was canceled at the request of the author and has not been reset to date.

AB 284 (Quirk): This bill would require the California Energy Commission to convene the Road to 2050 Board consisting of representatives from the State Energy Resources

Conservation and Development Commission, the Public Utilities Commission, the State Air Resources Board, the California Environmental Protection Agency, the ISO, two members appointed by the Speaker of the Assembly and two members appointed by the Senate Rules Committee. The bill would require the board to contract with an independent research group to undertake specified studies regarding the achievement of a goal of reducing greenhouse gas emissions by 80% of the 1990 emissions level by 2050. The bill has been referred to both the Assembly Natural Resources and Assembly Utilities and Commerce Committees. It passed Assembly Natural Resources Committee on a 6-0 vote and passed the Assembly Utilities and Commerce Committee on a 10-1 vote.

AB 448 (Quirk): This bill would require the State Energy Resources Conservation and Development Commission to include in its integrated energy policy report an assessment of the flexible capacity required by the ISO to reliably operate the electrical system as energy resources are diversified. This bill would require this assessment to include an evaluation of how any change in flexible capacity to accommodate energy resource diversification impacts various aspects of the electrical system. The bill is currently in the Assembly Utilities and Commerce Committee and has not yet received a hearing.

AB 1014 (Williams): This bill would require specified electrical corporations to file with the Public Utilities Commission, by March 1, 2014, an advice letter requesting the approval of a Green Tariff and Shared Renewable Generation Program. The bill would require the Commission, by July 1, 2014, after notice and opportunity for public comment, to approve the advice letter if the Commission finds that the proposed program is reasonable and consistent with specified findings. The bill passed the Assembly Utilities and Commerce Committee on an 11-1 vote.

AB 1228 (V. Manuel Perez): This bill would increase the size of a fuel cell generating facility eligible for net metering from 1 MW to 3 MW. The bill is currently in the Assembly Utilities and Commerce Committee and has not yet received a hearing.

AB 1257 (Bocanegra): The bill enacts the Natural Gas Act and requires the CEC, every four years, to prepare and submit a report to the Legislature identifying strategies to maximize the benefits obtained from natural gas as an energy source. The bill passed the Assembly Natural Resources Committee on a 9-0 vote.

AB 1258 (Skinner): After recent amendments accepted by the author in Committee, the bill would require the CEC, in consultation with the Public Utilities Commission, the ISO, electrical corporations and publicly owned utilities, federal power marketing authorities, the Bureau of Reclamation, and the Department of Water Resources to conduct a technical analysis of the potential use of existing hydroelectric and pumped storage facilities to provide additional operational flexibility to facilitate the integration of renewable resources for the state's electricity grid. The amendments taken would also require the Commission to complete the report by November 1, 2014. The bill

passed its first policy committee hearing in the Assembly Utilities and Commerce Committee on a vote of 15-0.

AB 1295 (Hernandez): This bill would require an electrical corporation to include provisions in its tariff or allow an electrical generation facility to participate in the community renewables option. The bill passed the Assembly Utilities and Commerce Committee on a 14-0 vote.

SB 43 (Wolk): This bill would repeal the local government renewable energy self-generation program and enact the shared renewable energy self-generation program. The program would authorize a retail customer of an electrical corporation to acquire an interest in a shared renewable energy facility for the purpose of receiving a bill credit to offset all or a portion of the customer's electricity usage, consistent with specified requirements. The bill requires 500 MW of the rated nameplate generating capacity of shared renewable energy facilities to be made available during an 18-month period beginning January 1, 2014 and ending July 1, 2015. The bill passed its first policy committee hearing in the Senate Energy, Utilities and Communications Committee on a 6-4 vote.

SB 389 (Wright): The bill would prohibit the South Coast Air Quality Management District, on and after February 1, 2013, from charging a fee for the transfer of emissions offsets from the District's internal emissions offset account in order to offset any emissions increase from the replacement of electric utility steam boilers at electric generating facilities pursuant to a specified South Coast District regulation. The bill failed on a 4-4 vote in the Senate Environmental Quality Committee.

SB 699 (Hill): This bill would require the Public Utilities Commission to require each electrical corporation to annually file a report on the utility's electrical distribution grid infrastructure costs incurred during the prior year. The bill would require the Commission, in consultation with the State Energy Resources Conservation and Development Commission, the ISO, and other key stakeholders, to determine the specifications of the report to ensure that it provides sufficient detail for stakeholders to evaluate the degree to which the incurred costs achieve policy objectives. The bill passed its first policy committee hearing in the Senate Energy, Utilities and Communications Committee on a 10-1 vote.

SB 760 (Wright): This bill would prohibit every air pollution control and air quality management district that has established an emission reduction credit program from imposing any conditions to physically destroy existing equipment that may be currently operating, not operating, or retired at an electrical generation facility that applies for an emission reduction credit. Amendments were taken in the Senate Environmental Quality Committee and the bill passed on an 8-0 vote.

Regulatory Update

South Coast Air Quality Management District (SCAQMD) – Proposed Rule 1304.1:

Staff continues to actively participate in the SCAQMD working group established for proposed Rule 1304.1, initially posted on January 4, 2013. The rule's stated purpose is to require electrical generating facilities that use the specific offset exemption described in Rule 1304(a)(2) [Electric Utility Steam Boiler Replacement] to pay annual fees for up to the full amount of offsets provided by the SCAQMD.

In the initial public consultation meeting, subsequent working group meetings and in direct meetings with staff, we have raised concerns that the five years of upfront fees and limited provisions to obtain refunds would create unintended consequences for reliability in the LA Basin by creating financial disincentives for generation developers.

On April 3, SCAQMD staff issued a revised proposed rule that, among other changes, now requires only one year of fees upfront and allows the developer to request a refund if they do not proceed to construction. We see this as a very encouraging change that begins to address the concerns we have raised. On April 11, SCAQMD staff provided a second update to the draft rule. As a result of stakeholder feedback, staff has proposed a revised implementation date of the rule from March 1, 2013 to July 1, 2013.

Next steps: SCAQMD staff will complete the California Environmental Quality Act and socioeconomic analyses, hold additional work group meetings, and present the final proposed rule to the district board for approval on September 6. ISO staff will continue to participate in the district's working group.

Summer Readiness:

Regulatory Affairs staff continues to closely coordinate readiness for summer operations in southern California and joins a bi-weekly information exchange with the CPUC, CEC and the Governor's office. These meetings were conducted in 2012 and have resumed in 2013 to assure clear understanding of status and pending actions, as well as to enhance cross-organizational cooperation.

Specific areas of interest include:

- Huntington Beach 3 and 4 Synchronous Condensers:
 - Conversion of these inoperable generating units to synchronous condensers (*i.e.*, for critical voltage support in southern Orange County and San Diego) remains on track for summer peak operation, but hinges on pending CPUC decision.
- New generation:
 - New generating units at Walnut Creek (500 MW), Sentinel (800 MW) and El Segundo (repower of 564 MW) are expected to be fully operational for summer peak operation.

- Transmission improvement:
 - The project to decouple the two Barre-Ellis 230 kV lines (*i.e.*, to create four lines) is ahead of schedule and is expected to be complete before summer peak loading. This rearrangement will improve grid reliability in the area by increasing the number of line outages that can be tolerated in this critical transmission corridor.
 - New 230 kV station capacitors at SCE's Johanna, Santiago and Viejo substations are also ahead of schedule and will provide needed voltage support (in conjunction with the Huntington Beach synchronous condensers) for summer peak loading.
- Demand response:
 - While only modest additions of demand response are expected for this summer, these (plus existing programs) will provide operational experience valuable to better characterize operational needs and implementation of future programs.
- SONGS:
 - SCE proposed to amend the license for SONGS Unit 2 reflecting a maximum operating limit of 70 percent. The ISO participated in a pre-submittal meeting to reiterate the need for a definitive and firm schedule for the NRC decisions on a potential restart of the unit that would not compromise their established process or put safety at risk. On April 16, the NRC staff posted a notice in the *Federal Register* to make a temporary change to the operating license such that "full range of normal operating conditions" and "normal steady state full power operation" shall be based upon 70 percent of Rated Thermal Power and determined that the amendment involves no significant hazards. Public comments are due by May 16. The NRC schedule for potential restart of the unit is still pending.

Flex Alert:

At its April 18, 2013 meeting the CPUC approved a decision to fund the Flex Alert program at \$10 million each year for 2013 and 2014. The Flex Alert funding is for paid advertising to educate the public on the need for their response to reduce electric energy consumption when the ISO initiates a Flex Alert. Initially the Flex Alert program was developed during the "energy crisis" of 2000-2001 but was revived last year in the wake of the SONGS outage. Funding for this year had been proposed at reduced levels as compared to last year, but the ISO was successful in influencing the decision for the current approved funding at last year's level.

Also included in the decision was direction to conduct an Evaluation, Measurement and Verification Study (to be coordinated by SCE) to measure the *ex post* load impacts of Flex Alerts called by the ISO in 2013. This information will be considered in development of a proposal (as directed in the decision) for the transfer of the funding and administration of the Flex Alert program to the ISO or another entity that should be effective in 2015.

FEDERAL AFFAIRS

Cabinet Transition:

On April 10, the Senate confirmed the nomination of former REI CEO Sally Jewell as Secretary of the Interior by a vote of 87-11. She was sworn in at a private ceremony on April 12.

Still to be confirmed by the Senate to key Administration energy and environment posts are nominees Allison Macfarlane, Ernest Moniz and Gina McCarthy:

- Dr. Macfarlane has been nominated for a full term as Chair of the Nuclear Regulatory Commission, where she has been Interim Chair since July, 2012. Her nomination has not yet been taken up by the Senate Energy and Natural Resources Committee.
- Dr. Moniz's nomination to be Secretary of Energy was confirmed by the Senate Energy and Natural Resources Committee on April 18. At this writing, Senator Lindsey Graham (R-SC) has placed a hold on the nomination until issues related to a nuclear fuel reprocessing plant in South Carolina are resolved. A "hold" is a parliamentary procedure allowed under Senate rules to prevent or delay consideration of a motion on the Senate floor.
- Gina McCarthy's nomination to be Administrator of the U.S. Environmental Protection Agency is also on hold at this time. Senator Roy Blunt (R-MO) has placed the hold due to an issue of flood control in his state.

Continuing Resolution Approved:

On March 20, the Senate approved by a vote of 72-26 a continuing resolution that will keep federal programs running through September 30, the end of the current Fiscal Year. The House followed suit on March 21 by a vote of 318-108. The bill maintains the \$85 billion "sequester" spending cuts for the next six months, giving Congress additional time to work on an FY2014 budget. The bill was signed by the President on March 26.

PTC Guidance Issued:

On April 15, the Internal Revenue Service issued guidelines intended to clarify that renewable energy project developers can claim the Production Tax Credit approved by Congress in January's "fiscal cliff" legislation if they spend at least 5% of project costs by December 31, 2013. Previously, developers were required to place the project in service by that date. Wind, closed- and open-loop biomass, geothermal, landfill gas, trash, hydropower, marine and hydrokinetic projects are eligible for the incentive.

Cybersecurity Bills Pass House:

- On April 16, the House passed H.R. 756, the “Cybersecurity Enhancement Act of 2013,” by a vote of 402-16. The bill, which was also approved by the House in 2010 and 2012, is intended to improve coordination of government cybersecurity initiatives by providing for a strategic plan to assess cybersecurity risks and guide the direction of federal research and development.
- On April 18, the House approved the “Cyber Intelligence Sharing and Protection Act” (“CISPA”), by a vote of 288-127. The bill is intended to allow sharing of information on cyber threats and vulnerabilities between government agencies and private industry, including critical infrastructure. It also provides broad liability protections for companies that share information with the government. Members agreed to a series of amendments that would enhance congressional oversight as well as address privacy and civil liberties concerns that brought veto threats from the White House. A broad coalition of industry groups has written in support of the bill. Senate action remains uncertain.

Small Hydro Bill Advances:

On April 10, the House passed the “Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act (H.R. 678), by a vote of 416-7. The bill would streamline National Environmental Policy Act reviews for hydropower projects of 5 MW or less located in tunnels, pipelines, canals or other man-made conduits. The Senate held a hearing on a companion bill, S. 306, on April 23.

Legislation Introduced:

- On March 14, Congressman Jerry McNerney (D-CA) introduced the “Solar Energy Deployment Act of 2013” (H.R. 1107), which would establish a grant program within the Department of Energy to provide up to \$150 million annually to state and local governments for installation of solar technologies on public buildings. The bill has been referred to the House Energy and Commerce Committee.
- On April 10, Congressman Christopher Gibson (R-NY) introduced the “Storage Technology for Renewable and Green Energy Act” (“STORAGE ACT”), H.R. 1465, which would provide an energy investment tax credit for energy storage

property connected to the grid. The bill has been referred to the House Committee on Ways and Means.

- On April 18, Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) reintroduced their “Energy Savings and Industrial Competitiveness Act” (S. 761), which is aimed at improving energy efficiency technologies in all sectors of the economy. The bill is a revision of a measure that stalled in the Senate in the last session of Congress, with changes to enhance its chances of passage. It has been referred to the Senate Committee on Energy and Natural Resources, which has held hearings on the bill. A companion bill, H.R. 1616, has been introduced in the House.
- On April 24, Congressmen Ted Poe (R-TX) and Mike Thompson (D-CA) introduced a bill that would extend the “master limited partnership” tax breaks currently offered to fossil energy projects to wind, solar, biofuel and other renewable energy projects. The “Master Limited Partnership Parity Act” (H.R. 1696) has been referred to the House Committee on Ways and Means. The Senate companion bill is S. 795.

Industry Transition:

- The Western Area Power Administration has named Mark Gabriel, the CEO of management consulting firm Power Pundits LLC, as Administrator. Gabriel was previously a senior VP for Black and Veatch Management Consulting and other energy consulting firms, and also directed the Electric Power Research Institute’s “Electricity Sector Framework for the Future” initiative.
- American Public Power Association President and CEO Mark Crisson announced on March 14 that he will retire in April, 2014. Crisson, who was formerly CEO of Tacoma Utilities, has been head of the association since January, 2008.