

# Memorandum

**To:** ISO Board of Governors  
**From:** Karen Edson, Vice President, Policy and Client Services  
**Date:** May 9, 2012  
**Re:** Legislative and State Regulatory Update

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*This memorandum does not require Board action.*

## STATE AFFAIRS

### ISO Board of Governors:

On April 11, 2012, ISO Board Members Ashutosh Bhagwat, Angelina Galiteva and Richard Maullin had their Senate Rules Committee confirmation hearing. All three members were unanimously confirmed and subsequently approved by a unanimous vote of the entire Senate on April 19.

Also, on April 11, 2012, Governor Brown appointed David Olsen to the Board of Governors. Olsen has a robust history in the energy industry, having served as the managing director of Western Grid Group since 2003 and as coordinator of California Renewable Energy Transmission Initiative for the California Energy Commission from 2007 to 2010. From 2005 to 2007, he helped coordinate the Tehachapi Collaborative Study Group, served as president of Clipper Windpower Development Company from 2001 to 2003, CEO of Patagonia Inc. from 1996 to 1999, vice president of Magma Power Company from 1988 to 1995, and founder and president of Peak Power Corporate and CEO/president of Northern Power Systems from 1984 to 1988.

### Legislature

#### **Legislation:**

AB 2516 (Bradford), which was reported on in the last report, has passed the Assembly Utilities and Commerce and Appropriations Committees. Prior to these hearings, on April 13, the ISO submitted a letter to the author's office raising issues with the bill and proposing amendments which would allow the ISO to have the necessary flexibility to balance cost and reliability. The author has since indicated that he will accept the amendments.

## **Summer Readiness Briefings:**

Both houses of the state legislature have been briefed on summer readiness in light of the San Onofre Nuclear Generating Station's non-operational status. Leadership from the ISO, California Energy Commission, (CEC) California Public Utilities Commission (CPUC) and Air Resources Board jointly conducted the briefings in coordination with the Governor's office. The Governor's office and legislature are continually being kept apprised of the plant's status and potential effect on operations this summer.

Another summer readiness briefing took place on May 7 during the Assembly Utilities and Commerce Committee hearing. CEC Chairman Bob Weisenmiller, CPUC Executive Director Paul Clanon, and ISO Chief Executive Officer Steve Berberich made a joint presentation to the committee.

## **Regulatory Update**

The ISO is involved in a range of CPUC regulatory cases as well as a power plant siting case and other policy matters pending before the California Energy Commission. Recent developments in the CPUC's long-term procurement proceeding are especially noteworthy.

### **Long-Term procurement proceeding (LTPP)**

This is a biennial CPUC proceeding for determining capacity needs over the next ten years and authorizing the investor owned utilities to enter into contracts for new and existing resources to meet those needs. During April, two significant developments occurred at the CPUC, and the ISO staff was fully engaged.

At its April 19 commission meeting, the CPUC issued a final decision for the 2010 LTPP. In doing so, the Commission approved a proposed settlement between most of the parties with a few exceptions. The settlement included the ISO and acknowledged that additional studies were needed to determine the full extent of need for additional resources for the year 2020. The ISO has signaled its concerns about adequate capacity in general but more specifically in the Los Angeles and San Diego load pockets where many resources may retire rather than comply with the State's once-through cooling policy. In January, the Commission stated the need for local generation capacity in the SDG&E service territory would be addressed in another proceeding.

In addition to closing out the previous LTPP, the Commission opened a new, two year LTPP. The ISO has submitted comments urging the Commission to consider local area capacity needs in the LA Basin and Big Creek/Ventura areas, as identified in the once-through cooling study conducted jointly with several state agencies and included in the 2011/2012 Transmission Plan. The ISO's comments emphasized the importance of a decision on local area capacity needs by the end of 2012 so that load-serving entities will have sufficient time to solicit proposals and procure any necessary new generation to be

available if and when the current once-through cooling units retire as early as 2017. On May 3, the CPUC held a workshop to discuss the ISO study results. During this stakeholder meeting, the CPUC's energy division staff indicated they were on a track to develop a decision by December, 2012.

## **FEDERAL AFFAIRS**

### **Congress**

#### **Renewable Energy Incentives:**

The House and Senate have returned from their Spring recess and are focused on a host of issues, including Fiscal Year 2013 spending for federal agencies and programs, the five-year farm bill, a transportation bill, postal service reform, cybersecurity, oil and gas drilling reform and tax legislation. Renewable energy advocates continue to pursue energy tax extenders, including the Section 1603 Treasury grants program that expired in December and the investment tax credit that will expire in 2016. However, the Senate has failed twice to include these extenders in the highway bill despite a good deal of congressional support for the provisions, and many industry advocates are considering a post-election lame duck session strategy. In March, the Senate majority and minority leaders entered a colloquy into the *Congressional Record* indicating that they hoped to find "a path forward soon on tax extenders," suggesting that the dynamic on this issue is not primarily ideological. The National Governors Association has sent a letter to Senate Majority Leader Harry Reid (D-NV), Senate Minority Leader Mitch McConnell (R-KY), Speaker of the House John Boehner (R-OH), and House Minority Leader Nancy Pelosi urging Congress to pass a long-term extension of the tax credits to encourage investment in renewable energy.

#### **Department of Energy Funding:**

In the House, Appropriations Committee Republicans released a proposed 2013 Energy and Water funding bill, which includes funding for Department of Energy programs. The proposal was quickly approved by the Energy and Water Subcommittee by voice vote on April 18. No date has been set for consideration by the full Committee at this writing. The House proposal would reduce funding for DOE programs by \$365 million compared to FY 2012 funding, and shift the emphasis of the department from renewable energy and energy efficiency to fossil fuels and nuclear energy. It would also eliminate funding for DOE's Energy Innovation Hubs. DOE has requested funding for six hubs in 2013, including a new hub to address electricity systems. Senator Dianne Feinstein, who chairs the Senate Energy and Water Development Appropriations Subcommittee, is expected to introduce a Senate version of the bill soon.

## **Cybersecurity:**

The House is expected to take up a number of cybersecurity bills in the coming weeks. On April 18, the House Homeland Security Committee approved a stripped-down version of Congressman Dan Lungren's (R-3<sup>rd</sup> District – Gold River) cybersecurity bill (H.R. 3674), dropping language giving the Department of Homeland Security oversight of critical infrastructure networks such as the electric grid. Action is also expected on the Cyber Intelligence Sharing and Protection Act of 2011, which encourages business and government to share information on cyber threats; Congressman Darrell Issa's (R-49<sup>th</sup> District – Vista) Federal Information Security Amendments (H.R. 4257), which would mandate reform of federal agency information security; the Cybersecurity Enhancement Act (H.R. 2096), which would improve cybersecurity R&D; and a bill (H.R. 3834) reauthorizing the Networking and Information Technology R&D program. The bills are expected to be quickly approved in the House but may face opposition in House-Senate conference, especially if legislation sponsored by Senator Joseph Lieberman (I-CT) and Susan Collins (R-ME) moves forward there. The Lieberman-Collins bill is similar to the original Lungren proposal.

## **Administration**

### **DOE Renewable Energy Loans:**

The Department of Energy has released a new plan for renewable energy loan guarantees under the Section 1703 Program, which still has \$34 billion in loan authority. DOE's Loan Program Officer has notified the Senate Energy and Natural Resources Committee that the Department will begin issuing conditional loan commitments over the next several months.

### **US Environmental Protection Agency Carbon Limits:**

The US Environmental Protection Agency published its proposed greenhouse gas rule for new power plants in the *Federal Register* on April 13, establishing explicit limits on carbon dioxide emissions from new generating facilities for the first time. The rule, which would only impact new fossil-fueled plants over 25 MW, would restrict carbon emissions to 1000 pounds of CO<sup>2</sup> per megawatt hour. Gas-fired combined cycle plants should not be impacted, according to the EPA.

### **FERC Nominees:**

The Senate Energy and Natural Resources Committee has scheduled votes on April 26 on the nomination of Tony Clark and the renomination of Commissioner John Norris for 5-year terms as commissioners at FERC. The schedule for Senate floor consideration has not yet been determined.