

# Memorandum

**To:** ISO Board of Governors

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

**Date:** March 15, 2012

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

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*This memorandum does not require Board action.*

## STATE AFFAIRS

**Confirmations:** As of the last Board report, all of Governor Brown's appointees to the California Energy Commission and California Public Utilities Commission had been confirmed by the full Senate, except for CPUC Commissioner Mark Ferron. Ferron has now had his Senate Rules confirmation hearing and was unanimously confirmed by the committee on March 7.

## Regulatory Issues

### **CPUC Resource Adequacy Replacement Rule:**

In the 2011 resource adequacy proceeding, the CPUC issued a decision that included elimination of the "replacement rule," which calls for load serving entities to replace a resource adequacy resource that is unavailable for an extended planned outage. The change is effective for the 2013 resource adequacy compliance year. Absent replacement of the resource-adequacy-designated units that are unavailable, there is increased risk that backstop resources may be needed, to be provided either through a potential forward-looking capacity procurement mechanism or through real-time exceptional dispatch. The ISO has commenced a stakeholder process to address the elimination of the rule. Discussions will include potential process changes that may require amendments to the ISO tariff.

### **CPUC Long Term Procurement Proceeding:**

The CPUC issued a draft proposed decision that adopted the settlement and closed the current (2010) long-term procurement proceeding, but did not open a new proceeding or set a schedule for 2012. The ISO is urging the CPUC to start a new two-year proceeding

immediately. Time is critically short and it is imperative that a local procurement target is established in this year's proceeding rather than delaying two years for the next expected long-term procurement proceeding. This urgency is particularly great for Southern California Edison in the Los Angeles load pocket as a result of the once-through cooling policy that will begin impacting Los Angeles resources in 2017. Without CPUC authority it is not reasonable to assume the investor-owned utilities will offer contracts to the needed resources, but without approved contracts the resource owners cannot commit the necessary funds to repower or modify their facilities. The new long-term procurement proceeding also requires determination of whether additional system requirements exist to meet ISO needs for flexible capacity.

### **Once-Through Cooling Policy Report:**

The ISO, in collaboration with six state agencies represented on the Statewide Advisory Committee on Cooling Water Intake Structures, has drafted a report required annually by the State Water Resource Control Board's *Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (OTC Policy)*. The intent of the report is to provide the Water Board with recommendations on modifications to the compliance schedule every year starting in 2012. The advisory committee is scheduled to meet on March 19 to receive comments on the report and adopt a resolution transmitting the report to the Water Board by March 31.

1. Power plant owners submitted compliance plans on April 1, 2011. These plans identify numerous uncertainties about replacing infrastructure subject to the OTC Policy.
2. As part of its 2011/2012 transmission planning process, the ISO, in collaboration with various state agencies and stakeholders, conducted reliability assessments for 2021 under different resource portfolios. The advisory committee has conducted a review of the implementation plans for power plants with near term compliance dates (i.e. 2015 and 2017) and, in light of the ISO's reliability assessments, has made the following recommendations to the Water Board:
  - The Water Board should recognize that based on projected capacity needs in the ISO balancing authority area it may be necessary to modify final compliance dates for generating units.
  - The Board should direct its staff to require generator owners with near-term compliance dates to document the status of any permitting activities needed to repower or retrofit these facilities.

- The Board should adopt the advisory committee's recommendations made last year to develop a compliance schedule on a unit-by-unit basis at existing power plants rather than on a facility-wide basis and require generators to supplement their implementation plans annually.
- The Board should consider recommended changes to the statewide policy during the second and third quarters of 2012.

## **Legislature**

### **Legislation Introduced:**

Currently, the ISO is tracking 95 active, energy-related measures. Staff is analyzing those with the most potential to impact the corporation, including the two described below:

Assemblyman Bradford, Chair of the Assembly Committee on Utilities and Commerce, introduced AB 2516, which would require the ISO to conduct internal operations in a manner that maximizes electricity reliability at the lowest cost for ratepayers. A new provision also mandates that the ISO communicate to the maximum extent possible with all balancing coordinators operating in the state.

Assemblyman Blumenfield introduced AB 2590, which requires the CEC to annually prepare a public, detailed report on each distributed generation interconnection study conducted during the previous year. They would also have to convene a rulemaking either parallel to, or jointly with, the ISO to harmonize confidentiality rules with respect to interconnection requests and interconnection studies. The revised rules must require a presumption of nonconfidentiality, and would require the Commission, ISO, or electrical corporation, as applicable, to provide a written statement demonstrating why any particular information should be deemed confidential.

### **Legislative Hearings:**

On March 16, the Select Committee on the Renewable Energy Economy in Rural California, chaired by Assemblyman V. Manuel Pérez, will hold a hearing in El Centro on opportunities and challenges in achieving California's 33 percent renewables portfolio standard. This is the Select Committee's second field hearing focusing on rural development. Neil Millar, Executive Director of Infrastructure Development, will testify on behalf of the ISO.

### **Senate Energy, Utilities and Communications Committee:**

On February 16, the Senate Rules Committee decided to add two new members to the Senate Energy Committee, bringing membership from 11 to 13. The new members are Senators Christine Kehoe (D-San Diego) and Bill Emmerson (R-Riverside). Senator Kehoe is former Chair of the committee.

## **Little Hoover Commission**

On February 28 Bob Foster, Chair of the ISO Board of Governors, testified before the Commission. This was their third hearing on the status of energy governance and related matters. He was invited to talk about energy costs and reliability as the state works towards meeting its goal of 33 percent renewables by 2020.

## **FEDERAL AFFAIRS**

### **Administration:**

**FERC Nominations:** On February 4, President Obama announced his intention to renominate John Norris to a full term on the Federal Energy Regulatory Commission. Norris's current term expires in June, 2012. It is expected that the nomination of Norris, a Democrat, will be paired with the nomination of Tony Clark, a Republican, for consideration by the full Senate. A Senate confirmation hearing could be scheduled as early as March 14.

**FY 2013 Budget:** On February 14, the Administration released its proposed budget for Fiscal Year 2013, which begins on October 1, 2012. The budget proposal provides for an extension of the Section 1603 Treasury Program, which has been a top priority of the solar industry, and also proposes extension of the wind energy production tax credit. These extenders were not included in the payroll tax bill passed by Congress and signed by the President on February 16. The budget proposal also increases research and development funding for advanced energy technologies, provides \$5 billion for companies that manufacture clean-tech products, and provides increased funding for solar and wind energy technologies and energy efficiency. It also proposes increasing the consumer tax credit on electric vehicles from \$7,500 to \$10,000 and eliminating the current cap on eligible vehicles per manufacturer.

### **Congress:**

**Delegation Retirements:** Congressman David Dreier (R-26<sup>th</sup> District – San Dimas) has announced that he will retire after this session of Congress. Dreier, who has served 16 terms in office, is currently Chairman of the House Rules Committee. He joins Republicans Jerry Lewis, Elton Gallegly and Wally Herger and Democrats Lynn Woolsey, Dennis Cardoza and Bob Filner among those who have announced retirement at the end of the year. Together, California's retiring delegation members represent more than 100 years of congressional seniority.

## **Legislation:**

Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-NM) has issued his clean energy standard legislation, aimed at a goal of 80 percent of U.S. electricity from “low- or no-carbon sources” by 2035. The bill would give credits to any method of generating electricity that is cleaner than a state-of-the-art supercritical coal generation facility. Credits would be issued on a sliding scale based on carbon intensity. Utilities that are ineligible for credits would be allowed to pay an “Alternative Compliance Payment” directed to fund energy efficiency programs at the state level. The bill faces significant opposition in Congress this year.

Senator Dianne Feinstein has joined a bipartisan group of Senate committee leaders in introducing cybersecurity legislation focused on protection of essential services, including the electric grid. The bill, S. 2105, was cosponsored by senators Joe Lieberman (I-CT), Susan Collins (R-Me) and Jay Rockefeller (D-WV) in addition to Senator Feinstein. The bill specifically includes language proposed by Senator Feinstein based on comments provided by CAISO security experts. Similar language was proposed in the House by Congressman Lungren (R-3<sup>rd</sup> district – Gold River). The bill places jurisdiction over cybersecurity within the Department of Homeland Security and requires the agency to perform an assessment of risk-based security standards by sector. Current industry regulators, such as FERC, would continue to oversee their sectors of jurisdiction.

Congressmen Mike Thompson (D-1<sup>st</sup> District – Napa) and Christopher Gibson (R-NY) have introduced legislation to speed the development of energy storage technologies in order to help integrate renewable energy onto the electric grid. The bill, entitled the “Storage Technology for Renewable and Green energy (“STORAGE”) Act,” is a companion to a bill introduced in the Senate last year by Senators Jeff Bingaman, Ron Wyden (D-OR) and Susan Collins. It would provide a 20 percent investment tax credit for storage systems and a 30 percent tax credit for business and homeowners who install on-site storage or renewable energy projects. Storage technologies are not currently eligible for tax credits.