



Memorandum

To: ISO Board of Governors

From: Karen Edson, Vice President of External Affairs

Date: March 18, 2009

Re: **Briefing of State and Federal Legislative Matters**

This memorandum does not require Board action.

State Affairs

California State Budget:

After a protracted and contentious budget standoff and the longest Senate floor session in California history, the State Legislature garnered the required two-thirds majority needed to pass the budget. The vote came on February 19 and Governor Schwarzenegger signed the bill on the following day. The 17-month spending plan proposes to close the \$40 billion budget deficit through \$15 billion in spending cuts, \$12.8 billion in temporary tax increases, and \$11.4 billion in borrowing. The temporary tax increases include an increase in the state's sales and income taxes as well as the vehicle license fee. Republicans succeeded in eliminating a proposed 12-cent gasoline tax and in getting ballot measures asking voters to approve constitutional amendments to establish an open primary system and to ban legislative pay increases during deficit years. Californians will vote on the pay increase measure during a special session on May 19 and on the open primary system in the June 2010 election.

Passing the budget late has become standard practice in California, and many do not see this changing until the state no longer requires a two-thirds majority to pass it. This has inspired some California lawmakers and business lobbyists to try to change the requirement. The San Francisco-based Bay Area Council, which is sponsored by 275 businesses, plans to launch a campaign that would, among other things, reduce the two-thirds requirement to a 55 percent majority. Even though Californians voted down a similar measure (Proposition 56) in 2004, there is hope among proponents that the latest budget impasse will convince voters to support the change.

Legislative Hearings

- On Monday, February 23 the Assembly held a joint hearing on California's Renewable Portfolio Standard (RPS), aimed at providing members of the Assembly Utilities and Commerce Committee, Natural Resources Committee, and Select Committee on Renewable Resources with a detailed overview of how the current RPS works and what problems are currently preventing utilities from meeting their RPS goals.
- On Monday, March 2, the Assembly held another joint hearing on once-through cooling and the lack of air credits in the South Coast Air Quality Management District. This hearing was before the Assembly Committee on Utilities and Commerce, as well as the Committee on Natural Resources. The California Independent System Operators (ISO) were asked to participate on two panels: the first focusing on the supply of electricity and the ISO operational responsibilities associated with balancing power on the grid; and the second on the relationship between power plants that use once-through cooling systems and electricity supply.

Legislation:

We are tracking 136 energy-related bills. New bills are still being introduced. We will add summaries of those that are most critical to the next board report.

We are continuing to keep a close eye on the two RPS bills below.

AB 64 (Krekorian) Energy: renewable energy resources: generation and transmission.

This bill amends California's Renewable Portfolio Standard to require 35 percent by December 31, 2020, with a goal of 50 percent by December 31, 2035. It establishes flexible ranking criteria for contracts, including price, time of delivery, dispatchability and location. Preference is given to California suppliers. It requires a benchmark price to capture cost and benefits of renewable energy as well as a cost cap for total expenditures for resources above benchmark prices. This bill also establishes the Renewable Infrastructure Authority to formalize the Renewable Energy Transmission Initiative process and serve as the lead agency for siting renewable facilities over 5MW among other things.

Since it was introduced, no action has been taken on this bill.

SB 14 (Simitian, Kehoe, Padilla, Steinberg) Utilities: Public Utilities Commission: energy: renewable energy resources: rates.

This measure addresses a broad range of issues. Among other things the measure requires investor owned and municipal utilities to achieve a 33 percent RPS by December 31, 2020, restricts direct access and addresses AB1X provisions. Additionally, the

measure mandates that the California Energy Commission (CEC) facilitate in consultation with the ISO and the publicly owned utilities, a process for the execution of seams agreements; the development of a statewide transmission plan and the siting and approval of new transmission lines that can be jointly owned or utilized by investor owned utilities (IOUs), municipal utilities, and merchant transmission companies. The measure states that through this process the transmission could be jointly operated by the ISO and municipal utilities. AB 14 also mandates the ISO to undertake all feasible efforts to seek the approval of the Federal Energy Regulatory Commission (FERC) if necessary to: 1) Adjust its market structure to achieve 33 percent RPS in the most cost-effective manner possible; 2) Develop a statewide transmission plan in consultation with the publicly owned utilities that incorporates the publicly owned utilities transmission plans, potential joint privately owned and publicly owned infrastructure projects. Finally, the bill also has several implications for the California Public Utilities Commission (CPUC). It requires the Governor to appoint, subject to the approval of the Senate, a president of the CPUC from among its members; repeals the requirement that the president direct CPUC staff and mandates that the CPUC hold one meeting a month in Sacramento.

This bill has been extensively amended, and on Tuesday, March 3, it passed out of the Senate Energy, Utilities and Communications Committee.

Committee Membership:

Assembly Select Committee on Renewable Energy: Assemblyman Paul Krekorian, Chair; Assemblymember Sam Blakeslee, Vice Chair; and Assembly Members Anthony Adams, Tom Berryhil, Bob Blumenfield, Anna Caballero, Wilmer Amina Carter, Jerry Hill, Jared Huffman, John Perez, Manuel Perez, Nancy Skinner, and Cameron Smyth. There are 9 Democrats and 4 Republicans on the Committee.

State Legislative Schedule:

Apr. 2: Spring Recess begins upon adjournment (J.R. 51(a)(2)).

Apr. 13: Legislature reconvenes from Spring Recess (J.R. 51(a)(2)).

July 17: Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51 (a)(3)).

Aug. 17: Legislature reconvenes from Summer Recess (J.R. 51 (a)(3)).

Sept. 11: Last day for any bill to be passed (J.R. 61(a)(14)). Interim Recess begins on adjournment (J.R. 51(a)(4)).

Federal Affairs

President Obama

In the first five weeks of his Administration, President Barak Obama devoted significant attention to the energy and environmental policies he endorsed in his campaign and articulated in his inaugural address. The President's initiatives constitute a fundamental shift in policies on energy efficiency, renewable energy and global climate solutions and represent a sharper focus on electricity and transmission since the national electrification initiatives of the 1930's. This year, transformation of the transmission infrastructure is at the very center of economic policy, energy strategy, national security and the environment.

Economic Stimulus: On February 17, the President signed into law the \$789 billion American Recovery and Reinvestment Act of 2009 (ARRA, passed by Congress on February 13) at a ceremony in Denver in which he highlighted the impact of the bill on renewable energy and smart grid development. Vice-President Biden will oversee the implementation of the Act's provisions. The measure includes, among a host of other funding and tax provisions, \$71 billion for clean energy programs, including \$4.5 billion for Department of Energy's Office of Electricity Delivery and Energy Reliability for modernization of the transmission system, demand response equipment, energy storage R&D, and implementation of smart grid programs created under the Energy Independence and Security Act of 2007. Of the \$4.5 billion total, \$100 million is directed at workforce training activities and \$80 million on assessment of future resource demand and transmission needs. The balance of the \$4.5 billion can be spent by the DOE on a discretionary basis. In a separate section of the bill, ARRA provides the Western Area Power Administration (Western) and the Bonneville Power Administration with expanded borrowing authority for transmission development.

Budget: The President reiterated his support for transmission development and other energy and environmental initiatives in his first address to a joint session of Congress on February 24, which targeted energy, health care and education as the primary policy areas for major federal investment in the next decade. These priorities were highlighted in the President's budget outline for 2010-2020, issued on February 26. The most significant energy proposal in the budget is inclusion of revenues from the auction of greenhouse gas emission allowances under a cap-and-trade system, beginning in 2012. Auction revenues from cap-and-trade are projected to bring in \$150 billion over 10 years. The auction revenues would be directed at investment in clean energy technologies and at income tax credits for low-income working families. The budget anticipates that the program will reduce greenhouse gas emissions by 14 percent over 2005 levels by 2020, with an 83 percent reduction by 2050.

Congress:

Senate Majority Leader Harry Reid (D-NV) Reid has asserted that an electricity transmission bill is crucial in light of the 4th Circuit Court of Appeals decision issued

February 18 that denied FERC's EPACT'05 authority to permit transmission in designated National Interest Electric Transmission Corridors when a state has not approved the siting application. Reid announced on February 25 that he will first focus attention on a renewable energy standard, with hopes of completing a bill before the congressional recess in early April. Transmission legislation, including requirements for multi-state transmission planning and cost allocation and the expansion of federal siting under FERC authority, will be taken up next. Finally, he will focus on climate change, with the goal of completing a proposal in the Senate before the end of the year. Reid has said that he will issue draft renewable portfolio standard and transmission bills soon for consideration by the Senate Energy and Natural Resources Committee. Senator Barbara Boxer, who chairs the Environment and Public Works Committee and will be a central player in global warming legislation, has said that her goal is to have legislation ready for action before the international global warming summit in December in Copenhagen. Senate committees have held a number of hearings on topics such as Renewable Portfolio Standards, Smart Grid, and other energy/environment issues.

In the House, Congressman Henry Waxman, who chairs the Energy and Commerce Committee, has announced a plan to solicit comments on a draft global warming bill with a goal of marking up cap-and-trade legislation before the May 26 Memorial Day recess. Congressman Waxman is working with Congressman Ed Markey (D-MA), who chairs the Energy and Environment subcommittee, to draft the bill, but he will seek input from other panels in the House, including the Agriculture Committee, which has marked up its own bill giving oversight jurisdiction on carbon markets to the Commodity Futures Trading Commission. Congressmen Waxman and Markey favor giving such oversight to FERC. Waxman has said that his geographically and politically diverse 59-member committee serves as a statistical proxy for the political dynamics of the entire House, so that any bill he can get out of committee can likely pass on the House floor.

Federal Agencies:

All of the federal government agencies are gearing up to implement programs funded through the American Reinvestment and Recovery Act on a priority basis. The following activities are ongoing to implement ARRA energy initiatives:

- The Federal Energy Regulatory Commission held a Technical Conference on March 2 entitled "Integrating Renewable Resources into the Wholesale Electric Grid," with a wide range of panelists from national, state and regional organizations. Conference speakers included Pedro Pizarro, Executive Vice-President of Power Operations, Southern California Edison and Udi Helman, Principal Economist, California ISO.
- Department of Energy Secretary Steven Chu has announced the creation of a "special organization" within DOE to distribute funding for the Department's energy initiatives under ARRA and has appointed key senior staff to ensure prompt action in the application process. On March 4, DOE issued its first report on implementation of the stimulus proposal, outlining the specific funding

available within the department and the steps taken to move the funding out. In addition, the Western Area Power Administration has published a notice in the Federal Register seeking expressions of interest from those “interested in identifying a proposed transmission project, primarily in Western’s service area, and/or desiring to participate with Western and others by constructing, financing, owning, operating or maintaining transmission facilities or acquiring transmission rights or entering into long-term transmission service agreement on that project.” Statements of interest are due by April 3. Western is also seeking public comments on the principles, policies and practices of the program.

- The National Institute of Standards and Technology (NIST) will have the task of coordinating the Interoperability Framework for smart grid devices and systems under ARRA. At a March 2 oversight hearing before the Senate Energy and Natural Resources Committee to review progress on smart grid initiatives, a NIST representative said that the agency hopes to provide draft standards for smart grid initiatives this summer.