

Memorandum

To: ISO Board of Governors
From: Mary McDonald, Director of State Affairs
Terri Moreland, Director of Federal Affairs
Karen Edson, Vice President of External Affairs
Date: July 10, 2009
Re: *Status of State and Federal Legislative Matters*

This memorandum does not require Board action.

STATE AFFAIRS

State Budget:

The State Budget continues to be the primary focus of the State Legislature. June 15 was the deadline for Legislators to pass the budget, with June 30 marking the end of the fiscal year. As of the date of this report, Legislature is at an impasse. Democrats are pushing for solutions that include tax increases, and Republicans are advocating exclusive reliance on spending cuts. The Governor has vowed to veto any budget containing new taxes or fees, and is holding up action on other matters, such as gubernatorial appointments.

Legislative Schedule:

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

Aug. 17: The 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)).

Energy Agency Reorganization:

The Governor has proposed to reorganize certain state agencies as a way to reduce state spending. ABX3 33 (Villines), which would bring all state energy-related agencies under a single Department of Energy. The reorganization proposal aims to streamline energy facility siting and create a single point of accountability within state government. Although the

California Independent System Operator Corporation (the ISO) is not a key focus of the legislation, the organization commented in an informational hearing to address market monitoring and state agency governance issues.

Renewable Portfolio Standard Legislation (RPS):

Separate pieces of legislation establishing a 33% renewable portfolio standard for 2020, AB 64 (Krekorian) and SB 14 (Simitian), have passed their house of origin. A bicameral working group has been holding regular meetings to determine how best to reconcile the differences between the two bills and merge them into a final product. The ISO has submitted letters to the Senate and Assembly policy committees reiterating our commitment to helping the state reach its 33% RPS goals, identifying the magnitude of the challenge, and urging the Legislature to incorporate flexibility into the program.

AB 64, in addition to establishing a 33% RPS requirement for 2020, establishes a state energy coordinating committee, which includes the Chair of the ISO Governing Board, to coordinate state actions, make recommendations, and develop a strategic plan to achieve RPS goals; expands the California Energy Commission (CEC's) power plant licensing authority to include renewable generation of 5 MW or more; places new restrictions on RPS eligibility, including a requirement for “simultaneous generation and California consumption”; authorizes the California Public Utilities Corporation (CPUC), with the concurrence of the Division of Ratepayer Advocates, to grant a rebuttable presumption to an ISO determination need; and requires the CPUC to establish a 12-month schedule for approving or rejecting a transmission project that will access eligible renewable generation.

SB 14 also revises RPS eligibility requirements to require simultaneous generation and California consumption of electricity. In addition, it includes several provisions related to the ISO's role in the possible development of transmission owned jointly by investor-owned utilities and publicly-owned utilities and the CEC's transmission planning authority. The ISO, the Sacramento Municipal Utility District (SMUD), and the Los Angeles Department of Water and Power (LADWP) worked together to develop amendments to these provisions and have recommended them jointly to the author and legislative committees.

Feed-in Tariff Legislation:

AB 1106 (Fuentes) Renewable electric generation facilities: feed-in tariffs.

Revises and expands California's feed-in tariff program for eligible renewable electric generation to eliminate the current statewide cap of 500 megawatts (MW) and increase the size of eligible facilities from 1.5 MW to 20 MW.

SB 7 (Wiggins) Renewable energy sources: net metering

Requires an electrical distribution utility or cooperative to allow eligible energy generation customers to apply for kilowatt-hour credits on net surplus electricity generated during the following 24 months. This bill provides that a required report on the costs and benefits of various metering programs and the impacts of excess energy and credit generation which is to be submitted by June 30, 2010 instead of by June 30, 2009 and requires the report to additionally

evaluate the impact of the generation of excess kilowatt-hours and excess credit based on time-of-use rate on participating and non-participating customers.

SB 32 (Negrete-McLeod) Renewable electric generation facilities

Requires the CPUC to increase the size of facilities eligible for feed-in tariffs facilities 1.5 MW to 3 MW and delete the requirement that the generation facility be located on property owned or under the control of the generator. The CPUC is authorized to adjust payments to reflect the value of the electricity and other factors.

Other Legislation:

AB 45 (Blakeslee) Distributed generation: small wind energy systems.

Reenacts a lapsed authorization for local governments to provide, by ordinance, for the installation of small wind energy systems, and requires local governments that have not provided such authorization by a specified date to approve applications for small wind energy systems if certain conditions are met by the applicants.

AB 413 (Fuentes) Energy: rates.

Eliminates the current rate freeze for electricity usage for residential customers of up to 130% of the baseline rate, lifts the current suspension and provides limited expansion of direct-access electricity service, and provides a number of other rate stabilization measures to address emergency measures instituted during the 2001 energy crisis by AB 1X (Keeley), Chapter 4, Statutes of 2001.

AB 435 (De La Torre) Public utilities: transmission facilities: environmental review: infrastructure.

Requires the CPUC to study the efficacy of conducting concurrent environmental review of proposed electricity transmission facilities by federal and state agencies. It would require the ISO to identify upgrades and expansions of the electrical transmission system as are necessary for its control area and to provide a report to the CPUC, the CEC, and the Electricity Oversight Board. The report must identify upgrades and expansions of the electrical transmission system. Each report must include projections for at least the next 10 years and consider the Energy Commission's most recent electricity supply and demand forecast, any relevant investments identified in the Energy Commission's strategic transmission investment plan, and any relevant Energy Commission transmission corridor designations.

AB 560 (Skinner) Net energy metering

Increases the current cap on the amount of electricity that can be generated under the net-energy metering program from 2.5% to 10% of each utility's aggregate peak demand.

AB 1110 (Fuentes) Advanced electrical distributed generation technology.

Authorizes the CPUC and the State Air Resources Board to treat advanced electrical distributed generation technology as cogeneration, and makes certain existing limitations upon gas rates and surcharges charged to cogenerators applicable to an advanced electrical distributed generation technology.

AB 1536 (Blakeslee) Distributed energy resources incentive program

Requires the CPUC, in consultation with the CEC, to administer the distributed energy resources incentive program for distributed generation until January 1, 2012, for the purposes of deploying distributed generation technologies that the CPUC determines produce benefits for ratepayers commensurate with their contribution to the costs of the program. The bill also revises certain distributed energy incentives.

SB 17 (Padilla) Electricity: smart grid systems.

Requires the PUC, in consultation with other state agencies and key stakeholders, to determine the requirements for a smart grid deployment plan and requires the utilities to submit smart grid plans to the PUC.

SB 460 (Wolk) Energy: transmission lines.

Expands Energy Commission siting authority to include high-voltage transmission lines proposed to be built by a local publicly owned electric utility and requires publicly owned utilities proposing a new line to certify to the CEC that it has participated in a joint transmission planning process conducted by the ISO.

SB 655 (Padilla) Independent System Operator: transmission facilities.

Requires the ISO to appear annually before the appropriate policy committees of the Senate and the Assembly to report on the ISO's activities, and states legislative intent that the ISO take all necessary steps to ensure that the transmission grid is secure from intrusion by unauthorized persons or entities.

SB 695 (Kehoe) Electricity: rates.

Makes several changes to the state's regulation of electricity, including allowing for increases in some residential electricity rates, increasing the ability of retail customers to purchase electricity directly from generators, prohibiting mandatory time-variant pricing, and making changes to existing energy efficiency programs. Provisions of AB 413 (Fuentes) are similar to this measure.

SB 696 (Wright) Air quality: CEQA exemptions: emission reduction credits

A Los Angeles Superior Court decision prevents use of air emission credits necessary to the development/replacement of generation in southern California. This bill makes the credits available and authorizes their use for essential public services, other exempt purposes as defined by the South Coast Air Quality Management District (SCAQMD), and power plants under specified conditions.

FEDERAL AFFAIRS***Congress:***

Leadership in both the Senate and the House have continued to work toward producing comprehensive energy legislation that includes national renewable energy standards, transmission infrastructure development, energy efficiency, clean energy technology

development and deployment, improved energy market transparency and greenhouse gas controls. Each chamber is taking a different legislative approach with the intent to work out differences in conference later this year.

On June 17, the Senate Committee on Energy and Natural Resources approved an energy bill, the “American Clean Energy Leadership Act” (ACELA), incorporating a renewable electricity standard, energy efficiency requirements, and reforms related to transmission infrastructure development. Four Republicans crossed party lines to approve the draft bill, reflecting compromises forged by Chairman Jeff Bingaman (D-NM) during a series of markups. These included weakening of the original renewable electricity mandates and adding provisions expanding offshore drilling. The renewable standard in the committee-approved bill is 15% by 2021, with up to 4% of the total able to be met by energy efficiency measures.

The committee-passed bill establishes broad goals and policies for development of a “high priority national transmission infrastructure,” and authorizes the Federal Energy Regulatory Commission (FERC) to coordinate development of interconnection-wide plans that achieve these goals. FERC would have backstop siting authority as well as cost allocation authority based on establishment of “measurable economic and reliability benefits.”

Majority Leader Harry Reid (D-NV) has said that he will combine the omnibus bill with climate change legislation that the Senate Environment and Public Works Committee is scheduled to complete before the August recess. Committee Chair Barbara Boxer has promised that she will hold hearings on the climate bill during July. The Senate Finance, Commerce and Foreign Relations committees are expected to assert jurisdiction over the climate bill as well.

In the House, Energy and Commerce Committee Chairman Henry Waxman made good on his promise to pass comprehensive energy and climate legislation before the July 4 recess. After a week-long full court press by the President, Speaker Pelosi, and White House advisors and hours of negotiations, House Members on June 26 voted 219-212 to approve the 1200-page “American Clean Energy and Security Act” (ACES). Eight Republicans voted in favor of the bill and 44 Democrats voted against it.

The legislation includes, for the first time, a national cap on emissions of greenhouse gases, beginning with a 3% reduction below 2005 levels in 2012 and increasing to 83% below 2005 levels by 2050. It creates a carbon dioxide emissions allowance market to help industry comply with these caps, with free allowances for local electric and natural gas distribution companies and energy-intensive and trade-exposed industries through 2025. It also mandates a 20% combined renewable energy and energy efficiency standard by 2020.

Transmission provisions were modified during the last-minute negotiations on the bill to reflect opposition to FERC backstop authority among eastern Members. The House-passed version now provides new authority for FERC to site interstate transmission lines in the West that are proposed through regional planning processes if states do not act or place unreasonable conditions on siting. It would give undefined regional planning entities 18 months to develop a transmission plan meeting principles established by FERC, and require FERC to report to Congress on any difficulties or conflicts developed in the regional planning process. Chairman

Waxman and Congressman Dingell (D-MI) engaged in a colloquy on the transmission provisions during floor debate in which Mr. Waxman expressed his preference for a uniform policy but that noted there is greater consensus in the West on the need for federal backstop authority. Waxman said that the bill's provisions are "only a partial step forward" and "need help" to be workable.

The House-passed bill also includes language that would place new restrictions on over-the-counter energy derivatives. The provision would be repealed upon passage of subsequent legislation addressing stronger regulation of the financial sector.

The Administration:

President Obama has announced his intention to nominate John Norris as a Commissioner at FERC. Norris was Chairman of the Iowa Utilities Board from 2005 until 2009, when he joined the Administration as Chief of Staff to Agriculture Secretary Tom Vilsack. The President has also announced his intention to renominate Commissioner Suedeen Kelly for an additional 5-year term as Commission. Kelly's term expires on June 30, but she can continue to serve on the Commission without Senate confirmation through the year-end congressional recess. Both nominations are expected to be confirmed.

Other:

There will be a runoff election on July 14 for the 32nd Congressional District seat vacated by Hilda Solis, who has been confirmed as Secretary of Labor.