

Memorandum

To: ISO Board of Governors
From: Karen Edson, Vice President, Policy and Client Services
Date: July 6, 2011
Re: **Status of State and Federal Legislative Matters**

This memorandum does not require Board action.

STATE AFFAIRS

Work with the Governor's Office, the California Public Utilities Commission and the California Energy Commission continues on a range of regulatory issues related to renewable integration, resource adequacy policies, long-term procurement and transmission planning. In addition, on July 6th, the California Independent System Operator Corporation will participate in a joint workshop with the California Energy Commission, California Air Resources Board, California Environmental Protection Agency, and California Public Utilities Commission to discuss updates to the California Clean Energy Future Overview. This document describes California's electricity-related, inter-dependent initiatives important to achieving California's greenhouse gas reduction and other environmental goals. The workshop will also air proposed metrics for measuring success. Supporting documents can be found at <http://www.cacleanenergyfuture.org>.

Legislature

On June 27, Governor Brown and Democratic leaders of the Legislature agreed to a budget compromise that is expected to be considered by the Legislature on June 28. The new budget reportedly reflects nearly \$12 billion in unexpected revenues coupled with more than \$12 billion in cuts and about \$3.5 billion in fund shifts and internal borrowing. It includes provisions for additional budget cuts if \$4 billion in expected additional revenues do not materialize.

Now that several legislative deadlines have passed, many bills have become two-year bills, and the ISO has a much better idea of which legislation could be enacted by the end of this year. The following bills are the most important of the fifty that we are tracking:

AB 723 (Bradford) Energy: public goods charge

This bill extends the sunset date from January 1, 2012 to January 1, 2016 on the public goods charge, which is a non-bypassable system benefits charge paid by all electrical corporation customers that funds energy efficiency, renewable energy, and research, development, and demonstration programs.

AB 982 (Skinner) Land exchange for renewable energy-related projects.

This bill requires the State Lands Commission to make best efforts to enter into a memorandum of agreement by April 1, 2012 with the US Secretary of the Interior to execute a land exchange to consolidate school land parcels into contiguous holdings that are suitable for renewable energy-related projects.

AB 1302 (Williams) Distributed Generation

This bill requires each large electrical corporation, both public and private, to provide maps and other information identifying and designating zones within their respective service territories that are optimal for deployment of distributed generation.

AB 1303 (Williams) Energy Programs

This bill extends the life of the CEC-administered Public Interest Energy Research program, which is currently scheduled to sunset January 1, 2012, to January 1, 2020.

SB 23 (Simitian) RPS Compliance Dates

This bill, which is a clean-up to SBX1 2, extends by one year the compliance dates for the CEC to report to the legislature on run-of-river hydroelectric generating facilities, adopt regulations for enforcement of RPS requirements, and for the CPUC to determine the effective load carrying capacity of wind and solar on the grid. These tasks must be completed by July 1, 2012 instead of the original deadline of July 1, 2011.

SB 35 (Padilla) California Energy Research and Technology Act of 2011

This bill repeals the provisions of the PIER program and instead establishes the California Energy Research and Technology Program, which the CEC would administer with the goal of funding research, development, and demonstration projects that may lead to advancement and breakthroughs to overcome those barriers that prevent the achievement of the state's statutory energy goals. The program would have a coordinating council consisting of a member of the ISO, among several other energy industry representatives.

SB 489 (Wolk) Net Energy Metering

This bill revises the definition of an eligible customer-generator by allowing a renewable electrical generating facility, as defined, for purposes of the Renewable Energy Resources Program administered by the CEC to participate.

SB 790 (Leno) Community Choice Aggregation

This bill requires the CPUC to initiate a rulemaking by March 1, 2012 to consider adopting a code of conduct, associated rules and procedures applicable to utilities in connection with community choice aggregation (CCA) in order to protect utility ratepayers. The bill would also expand the entities that are permitted to engage in CCA.

Nuclear Initiative

The last Board report described a proposed ballot initiative called "The Nuclear Waste Act of 2011" that would halt nuclear energy production by any nuclear plant requiring the reprocessing of fuel rods pending actions by the Federal Government to prove that a

demonstrated technology exists for the disposal of nuclear waste. On May 23, the Secretary of State cleared the initiative for signature. The Attorney General has prepared the legal title and summary that will appear on the petitions. The measure's proponent has until October 20, 2011 to collect 504,760 signatures in order to qualify for the next general election ballot.

FEDERAL AFFAIRS

Despite an atmosphere of partisan gridlock in Washington, both Congress and the Administration are pursuing a number of policy initiatives of interest to the ISO, including actions to address grid cybersecurity concerns, to facilitate and incent the advancement of renewable energy resources, and to promote transmission and "smart grid" development. Some recent activities in these areas are summarized below.

Congress

Cybersecurity Legislation

Recent high-profile hacker attacks on financial institutions, government agencies and private companies have reignited congressional interest in cybersecurity legislation, including specific measures focused on maintaining integrity of the nation's electric infrastructure. Cybersecurity is considered one of the few areas where bipartisan action is possible in this Congress.

In the Senate Energy and Natural Resources Committee, Chairman Jeff Bingaman (D-NM) and Ranking Member Lisa Murkowski (R-AK) have cooperated on a grid-focused cybersecurity bill (not yet numbered) that would give the Federal Energy Regulatory Commission the lead role and new authority to oversee electric infrastructure security. This bill, which passed out of Committee by voice vote on May 26, is similar to a version that was close to passage in the final days of the last Congress and has a good chance of success this year. It will likely be combined with an omnibus cybersecurity bill that Senate Majority Leader Harry Reid (D-NV) is developing through the Homeland Security and Commerce committees

In the House, the Energy and Commerce Committee staff have developed a bipartisan draft, entitled the "Grid Reliability and Infrastructure Defense Act" ("GRID Act"). The measure is similar to a bipartisan bill cosponsored by now-House Energy and Commerce Committee Chairman Fred Upton (R-MI) and Committee member Ed Markey (D-MA) last year. That bill was passed by the House but was not taken up in the Senate. The House draft was released on May 23 as a "starting point" and has not yet been marked up. We understand that the House Energy and Commerce Committee will hold a Members-only briefing on the bill, followed by a markup session, in the near future.

Renewable/Domestic Energy Legislation

On May 26, Senators Bernie Sanders (I-VT) and John Boozman (R-AR) introduced legislation (S. 1019) to lower costs for installation of solar energy systems in homes and businesses, with the goal of installing 10 million systems by 2020. The effort would build on the existing Department of Energy (DOE) SunShot initiative, which provides grants for communities to make the solar energy permitting process less costly and to reward communities that have adopted "best practices" for solar permits.

On June 14, a group of House Republicans coordinated the introduction of bills to facilitate permitting for renewable energy projects, including the following:

- The “Cutting Red Tape to Facilitate Renewable Energy Act” (H.R. 2170), which would eliminate the need for consideration of alternate project sites in the NEPA review Process. Sponsor: Doc Hastings (R-WA), who chairs the House Natural Resources Committee.
- The “Exploring for Geothermal Energy on Federal Lands Act” (H.R. 2171), which would require only one environmental review for all geothermal exploration test holes within a leased area and would streamline the permit review for such developments. Sponsor: Raul Labrador (R-ID).
- The “Utilizing America’s Federal Lands for Wind Energy Act” (H.R. 2172), which would exempt from environmental impact studies small –footprint test towers that are on Bureau of Land Management or Forest Service property and also meet certain environmental criteria. Sponsor: Kristi Noem (R-SD).
- The “Advancing Offshore Wind Production Act” (H.R. 2173), which would establish a 30-day timeline for preliminary weather testing and monitoring for offshore wind projects in the Outer Continental Shelf and streamline the environmental review process for temporary projects that meet specific conditions. Sponsor: Rob Wittman (R-VA).

House leadership has now endorsed a domestic energy production bill, the “Roadmap for America’s Energy Future” (H.R. 909), sponsored by Congressman Devin Nunes (R-21st District – Visalia). The bill contains provisions to speed energy production from the outer continental shelf and other domestic resource areas and dedicate federal revenues from traditional energy development to alternative and renewable energy technologies. It would also establish a reverse auction for renewable energy projects in which developers could bid for federal assistance on a per-megawatt basis, with the lowest bidder receiving funding irrespective of technology.

Executive Branch

Support for Renewable Energy

On June 1, DOE announced the availability of more than \$27 million in new support to reduce non-hardware costs of solar energy projects as part of the Administration’s SunShot Initiative, aimed at making solar energy cost-competitive with fossil fuels within the next 10 years. The agency will issue competitive solicitations for projects to remove barriers to rooftop solar implementation and for development of tools that local governments can use to streamline and expedite solar installations.

On June 8, DOE Secretary Steven Chu announced up to \$70 million in funding over the next three years to support technology advancements in geothermal energy. The funding will support research in advanced exploration, well completion, control of water injection and production, tools for monitoring and optimizing reservoirs, and improved geochemistry and rock-fluid interaction.

On June 14, DOE announced conditional loan guarantee commitments of \$1.2 billion for Abengoa Solar’s Mojave concentrating solar project in San Bernardino County and up to \$681.6 million for NextEra’s Genesis concentrating solar project in Riverside County. Senator Dianne Feinstein

announced that the two projects would create more than 1700 jobs in California and urged DOE and the Office of Management and Budget to finalize the loans as quickly as possible.

“Smart Grid” and Transmission Development

On June 13, the Administration held a high-profile White House event designed to publicize the Administration’s work on electric infrastructure, including smart grid and the transmission system. Secretary Chu spoke on the importance of regional planning and investment in high voltage facilities to meet economic and reliability goals. Council on Environmental Quality Chair Nancy Sutley announced a “Rapid Response Team” to expedite permit review for transmission projects that will interconnect renewable resources. The event also included announcements of a number of new initiatives to facilitate smart grid research and development, empower consumers, enhance cybersecurity and facilitate development of transmission for renewables.

Bureau of Land Management Decision on BrightSource Solar Project

The Interior Department’s Bureau of Land Management announced on June 10 that the BrightSource Energy Company’s Ivanpah solar project will not jeopardize the desert tortoise population at the project site, releasing a hold on construction that was imposed in April. The Fish and Wildlife Service has issued a “biological opinion” on the matter that will include moving, monitoring and protecting the tortoises.