



Memorandum

To: ISO Board of Governors

From: Karen Edson, Vice President, Policy & Client Services

Date: September 7, 2012

Re: Legislative and State Regulatory Update

This memorandum does not require Board action.

STATE AFFAIRS

Legislature

The legislature adjourned on August 31, marking the end of the two-year session. The Governor has until September 30 to sign or veto all legislation before him. The next session begins December 3, 2012. Forty-two newly elected legislators will take their oath of office, either replacing members who have termed out or who are not running for re-election to the same office.

Legislation:

On July 13, Governor Brown signed AB 2516, Assemblyman Bradford's legislation which specifies that the ISO must minimize its internal operational costs to the extent possible and communicate with other balancing authorities. Amendments proposed by the ISO were incorporated into the chaptered version of the bill.

Several pieces of legislation involving net energy metering and feed-in tariffs were passed this session. The bills summarized below are pending action by the Governor by the September 30 deadline.

- Assemblymember Jerry Hill authored a bill on fuel cell net energy metering. AB 2165 establishes a requirement that electrical corporations offer net energy metering for fuel cells until the total capacity of net energy metering fuel cell facilities reaches a level equal to its proportionate share of a statewide limitation of 500 MW cumulative rated generation capacity. The proportionate share is based on the ratio of the electrical corporation's peak demand compared to the total statewide peak demand.
- Assemblyman Bradford authored a bill on net energy metering as well. AB 2514 calls for the California Public Utilities Commission to complete a study by October 31,

2013, to determine who benefits from and who pays for the net energy metering program. The study also must include a broader analysis of benefits and costs to ratepayers by region.

- Senator Wolk's SB 594 would authorize a net metering customer with multiple meters to aggregate the electrical load of the meters located on adjacent or contiguous property.
- Senator Rubio authored SB 1122 to require statewide procurement of up to 250 MW of renewable energy from biomass or biogas technologies, in addition to the current 750 MW feed-in tariff cap.

Regulatory Update

Interconnection Order Instituting Rulemaking (Rule 21):

On August 14, 2012 California Public Utilities Commission Administrative Law Judge DeAngelis issued a proposed decision that would adopt a settlement agreement revising distribution level interconnection rules and regulations, including the Rule 21 interconnection process, and accept the settlement's recommended scope of Phase II issues. The ISO was not a party to the settlement agreement, but staff participated in Rule 21 Phase I settlement discussions from September 2011 through February 2012.

Key components of the revised Rule 21 include:

- 1) Structural changes to the study process;
- 2) Establishment of a public Rule 21 queue;
- 3) Identification of a pathway to Resource Adequacy;
- 4) New screens which permit higher penetration levels of distributed generation without significantly increasing the time or expense of the interconnection process; and
- 5) California Public Utilities Commission monitoring of utility compliance with timelines.

The proposed settlement takes a major step forward by setting out timelines for completing an interconnection request and obtaining queue positions. Timelines also are established for developers in terms of responding to utility requests for information, meeting to discuss study results, and posting financial security to move ahead in the process.

ISO staff has begun internal discussions to be prepared to provide input on metering and other technical requirements in Phase II, which is expected to begin in October 2012.

Cap-and-Trade:

California Air Resources Board Chair Mary Nichols responded to an August 6, 2012 letter from FERC Commissioner Moeller in which he raised concerns that the Air Board's cap-and-trade rule against resource shuffling may reduce imports of power to California. The rule attempts to prevent covered entities under the cap-and-trade program from minimizing their cap-and-trade compliance costs by using lower emitting resources to support power sales to California, while selling power from higher emitting resources to other markets. Chair Nichols committed in her letter to suspend enforcement for 18 months of the rule requiring importers to provide an annual attestation to the Board that they have not engaged in resource shuffling. ISO staff continues to actively engage with the Air Resources Board to assess the impact of this rule as well as rules affecting publicly owned utilities that are part of the ISO and generators with preexisting contracts that limit their ability to pass through cap and trade compliance costs.

2013 Summer Readiness Outreach:

With uncertainties surrounding the return of the San Onofre Nuclear Generating Station, mitigation planning for the summer of 2013 is at the point that implementation must begin for longer lead elements, such as capacitor installations and conversion of Huntington Beach Units 3 and 4 generators to synchronous condensers. Ongoing outreach has included a briefing for representatives of the Sierra Club. Also, a briefing on September 11 is scheduled with the Natural Resources Defense Council. Other briefings include face-to-face meetings with:

- Chairman of the California Energy Commission
- Multiple commissioners and senior staff of the California Public Utilities Commission
- Senior advisors in the California Governor's Office
- Senior staff of U.S. Senators Boxer and Feinstein
- Office of General Counsel of the U.S. Environmental Protection Agency
- Assistant secretary for Electricity Delivery and Energy Reliability in the U.S. Department of Energy
- Senior staff of the President's Council on Environmental Quality
- Multiple commissioners and senior staff of the Federal Energy Regulatory Commission

This outreach has been focused on assuring the solid understanding of not only forecasted grid conditions and the available resources to meet demand, but also the urgency of very near term actions to meet long lead times for implementation of mitigation measures.

FEDERAL AFFAIRS

Congress

Both the House and the Senate are in recess until Monday, September 10. House Republican and Senate Democratic leaders announced prior to adjournment that they have struck a deal with the White House to pass a six-month continuing resolution when they return to Washington in September. The agreement will continue 2012 federal agency funding for an additional six months, reflecting last year's debt limit agreement.

Transition:

Congressman Dennis Cardoza (D-18th District – Merced/Modesto) has resigned effective August 15. Cardoza, a moderate “Blue Dog” Democrat serving his fifth term in Congress, would have had to run against fellow Democrat Jim Costa (20th District – Fresno) to represent the 16th Congressional District as redrawn by the independent Citizens Redistricting Commission.

Legislation:

On August 1, the House of Representatives passed H.R. 4273, the “Resolving Environmental and Grid Reliability Conflicts Act of 2012,” by voice vote. The bill would enable generators to remain in operation under federal emergency order without liability for violations of federal, state or local environmental statutes and would also shield them from citizen suits. A Senate companion bill is reportedly under development.

On August 1, Senators Mark Warner (D-VA), Rob Portman (R-OH), and Susan Collins (R-ME) introduced a bill that would require independent agencies such as FERC, the Commodity Futures Trading Commission, and the Securities and Exchange Commission to analyze costs and benefits of new regulations with impacts of \$100 million or more, select the “least burdensome” regulatory options, and examine less costly alternatives. The bill would codify a requirement that already applies to other federal agencies under an Executive Order and is consistent with recommendations of the President’s Jobs Council. The bill is not yet numbered.

On August 1, Senator Jeff Bingaman (D-NM) introduced a bill establishing a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, and ensure appropriate funding levels for nuclear waste management. The bill, S. 3469, has been referred to the Committee on Energy and Natural Resources, which Senator Bingaman chairs.

On August 2, the Senate Finance Committee approved by a vote of 19-5 a tax extenders bill that includes a one-year extension of the 2.2-cents-per-kilowatt-hour production tax credit sought by the wind industry. The credit is currently scheduled to expire at the end of 2012. The extension was a last-minute addition to the chairman’s mark by Finance Committee

Chairman Max Baucus (D-MT). There is no companion extenders package in the House at this writing, and the House is not expected to take up the matter until the post-election lame duck session.

On August 2, the Senate voted against limiting debate on the “Cybersecurity Act of 2012” (S. 3414), by a vote of 52-46, short of the 60 votes needed to advance it to the floor for a vote. The bill would have established voluntary security standards for critical infrastructure, encouraged sharing of information on cyber threats between government and the private sector, and updated federal network security practices. The outcome leaves the fate of cybersecurity legislation uncertain.