

## WSGR ALERT

OCTOBER 2010

### CALIFORNIA TO DEVELOP UTILITY ENERGY STORAGE REQUIREMENTS

On September 29, 2010, Governor Schwarzenegger signed into law California AB 2514, which initiates a regulatory proceeding that may require utility companies within California to meet a portion of their total load through energy storage.

AB 2514 requires the California Public Utilities Commission (CPUC) to initiate a proceeding no later than March 1, 2012, in order to determine if procurement targets for energy storage systems are appropriate for the utilities subject to its jurisdiction. If such targets are found to be appropriate, the CPUC is to adopt procurement targets for December 31, 2015, and December 31, 2020. These targets are to be announced by October 1, 2013. The bill imposes similar obligations on the boards of publicly owned electric utilities.

For purposes of AB 2514, "energy storage systems" are defined as "commercially available technology" employing "mechanical, chemical, or thermal processes" to store energy for a period of time for subsequent dispatch. These systems may be centralized or distributed, and may be owned by a load-serving entity, an electricity customer, or a third party.

AB 2514 contains no guidance or requirements regarding procurement targets, leaving the determination of the appropriate targets to the discretion of the CPUC. However, in determining the appropriate targets, the CPUC is directed to consider, among other factors:

- (1) the integration of intermittent renewable energy resources into the transmission and distribution grid for operation at or near full capacity;
- (2) reducing the need for new fossil-fuel peaking facilities to meet peak demand;
- (3) reducing energy purchases from

sources with high greenhouse gas emissions; and

- (4) using energy storage systems to provide ancillary services otherwise provided by fossil-fuel facilities.

Although AB 2514 represents the first legislative action on energy storage systems in California, energy storage is not a new topic of discussion within the state. In a recent white paper on energy storage, the CPUC noted that energy storage "offers California multiple economic and environmental benefits" and that "these technologies are poised to become commercially viable." The white paper highlighted the following currently available and developing technologies:

- Pumped hydro
- Compressed air
- Batteries
- Thermal energy storage
- Flywheels
- Ultracapacitors
- Superconducting magnetic energy storage

Despite the promise of energy storage technologies, however, the CPUC acknowledged that the limited amount of data available regarding the costs and benefits of energy storage may be insufficient to form a rational basis for policy action. The CPUC also noted that the costs and benefits of energy storage are likely to be highly application-specific, and therefore difficult to assess. Nevertheless, the CPUC recommended further consideration of incentives for energy storage systems, including the adoption of a procurement standard.

Energy storage is also becoming a hot topic on the federal level. For example, the U.S. Department of Energy recently awarded loan

guarantees of \$17 million and \$43 million to energy storage projects building storage facilities using lithium-ion batteries and flywheels, respectively. In addition, while the Federal Energy Regulatory Commission currently determines whether storage systems should be classified as generation facilities or as transmission facilities on a case-by-case basis, lobbying efforts are underway to clarify this point, as this distinction impacts how developers may seek a return on their investment in such systems.

For more information regarding AB 2514, energy storage regulation, or other energy regulatory issues, please contact Peter Mostow, Matt Sieving, or Sheridan Pauker in Wilson Sonsini Goodrich & Rosati's energy and clean technology practice.



Wilson Sonsini Goodrich & Rosati  
PROFESSIONAL CORPORATION

This WSGR Alert was sent to our clients and interested parties via email on October 11, 2010. To receive future WSGR Alerts and newsletters via email, please contact Marketing at [wsgr\\_resource@wsgr.com](mailto:wsgr_resource@wsgr.com) and ask to be added to our mailing list.

This communication is provided for your information only and is not intended to constitute professional advice as to any particular situation. We would be pleased to provide you with specific advice about particular situations, if desired. Do not hesitate to contact us.

650 Page Mill Road  
Palo Alto, CA 94304-1050  
Tel: (650) 493-9300 Fax: (650) 493-6811  
email: [wsgr\\_resource@wsgr.com](mailto:wsgr_resource@wsgr.com)

[www.wsgr.com](http://www.wsgr.com)

© 2010 Wilson Sonsini Goodrich & Rosati,  
Professional Corporation  
All rights reserved.