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Pending California Legislation Mandates Dramatic Increase in Renewable Energy Resources

On November 17, 2008, California Governor Arnold Schwarzenegger issued Executive Order S-14-08, directing State agencies to take all appropriate action to implement the goal of requiring all retail sellers of electricity in California to procure at least 33 percent of electricity sold to retail customers from renewable sources by 2020. Two separate bills, Senate Bill 14 and Assembly Bill 64, currently pending before the California legislature seek to mandate achievement of the target set forth in Executive Order S-14-08.

Senate Bill 14 would require retail sellers of electricity, which include most privately-owned electricity providers, to increase the amount of electricity procured from renewable resources to 33 percent by December 31, 2020. Senate Bill 14 would also require local publicly-owned utilities to adopt standards to achieve the same target.

Assembly Bill 64 would go farther by requiring retail sellers of electricity and local publicly-owned utilities to (1) procure at least 20 percent of the electricity delivered to retail customers from eligible renewable energy resources by December 31, 2010, (2) procure at least 25 percent from eligible renewable energy resources by December 31, 2015, (3) procure at least 35 percent from eligible renewable energy resources by December 31, 2020, and (4) have a goal of procuring at least 50 percent from eligible renewable energy resources by December 31, 2035.

Although it is too early to tell which form the final legislation will take, it is clear that a number of obstacles must first be overcome before even a 33 percent rate of electricity sales from renewable resources can realistically be achieved by 2020. Chief among these obstacles are permitting delays, lack of available transmission facilities, and the need for additional financial investment. A number of new initiatives have been proposed to assist utilities and renewable energy providers in addressing these obstacles.

For example, attempts to streamline the permitting process are being made through cooperative inter-agency efforts. In August 2007, the California Energy Commission ("CEC") and the federal Bureau of Land Management ("BLM") entered into a Memorandum of Understanding to conduct joint environmental review for solar thermal power plants that are under the jurisdiction of both agencies. Likewise, in November 2008, CEC, BLM, the California Department of Fish and Game ("CDFG"), and the United States Fish and Wildlife Service entered into a Memorandum of Understanding to establish the California Renewable Energy Permit Team with the goal of reducing the timelines

for siting, development, permitting, and construction of qualifying renewable energy projects in the Mojave and Colorado Desert regions. In November 2008, CEC and CDFG also entered into a separate Memorandum of Understanding to form the Renewable Energy Action Team "to create a one-stop process for permitting renewable energy generation power plants and transmission lines under California law."

Transmission issues are similarly being addressed by inter-agency efforts. The Renewable Energy Transmission Initiative ("RETI") was initiated as a joint effort among CEC, the California Public Utilities Commission, and the California Independent System Operator in order to identify a number of Competitive Renewable Energy Zones in which the development of new renewable energy resources could most economically be connected to new transmission facilities at the least environmental cost. The RETI issued the final report on the initial phase of its investigation in January of this year. In addition, the BLM and the United States Forest Service have recently issued Records of Decision designating up to 6,000 miles of preferred corridors for the location of future oil, natural gas, hydrogen, and electrical transmission facilities on lands subject to their jurisdiction in the 11 contiguous western states.

Financial assistance may be coming through the federal stimulus bill. The stimulus package recently approved by the House of Representatives calls for over \$15 billion in various incentives for renewable energy, transportation, and energy efficiency. Among other things, the stimulus package extends existing tax credits for renewables, provides for utilities to continue issuing clean renewable energy bonds, allows a new tax credit for the bonds, and also allows utilities to defer taxes on the gains they made by selling rights-of-way for transmission facilities to independent transmission companies.

While much is still uncertain with regard to both the pending California legislation and the federal stimulus package, there can be little doubt that California will increase its emphasis on the generation of electricity from renewable resources in the coming years thereby promoting the need to develop additional renewable energy facilities at an accelerated rate.

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