



California Energy and Environment Update
November 30, 2010

This is a weekly series reporting on environment and energy related legislative, regulatory, and legal issues in California. It is intended as a supplement to ML Strategies' existing weekly Energy and Environment Weekly Update, which focuses on federal policy. If you should have any questions, please feel free to contact David Leiter (dileiter@mlstrategies.com) or Bryan Stockton (bstockton@mlstrategies.com)

DOE loan guarantee program issues draft term sheets for two California solar projects

Amid Republican rhetoric about rescinding unspent Recovery Act funds and industry frustration at the length of the loan guarantee process, the DOE loan guarantee office has moved closer to loan guarantees on two California solar projects. On Nov. 30, NRG Solar and SunPower announced that they had received a draft term sheet from the Department of Energy for its 250MW photovoltaic project in San Luis Obispo County. Last week, Solar Millennium announced DOE had issued a draft term sheet for the first phase of its 1000MW Blythe project in eastern Riverside County. Currently, DOE is engaged in due diligence for approximately 35 projects, three of which have announced term sheets. A term sheet precedes a conditional guarantee and financial close.

California urges EPA to include "upstream" GHGs on federal fuel economy label

EPA and the National Highway Traffic Safety Administration (NHTSA) issued a joint proposal earlier this year to create a redesigned label with information on fuel economy and environmental impacts. The proposal stated that EPA would provide information on estimated "upstream" greenhouse gas (GHG) emissions on its website but not on individual vehicle labels. Now, California's Air Resources Board (CARB) is urging EPA to include "upstream" GHGs on pending federal fuel economy and emission labels in order to create a national standard approach to labeling. California officials expressed a willingness to work with EPA, but they stressed that California intends to issue its own standard with upstream GHGs if EPA does not include them. A 2005 state law, AB 1229, requires CARB to include upstream GHG emissions on its "environmental performance labels."

The Natural Resources Defense Council supports including upstream GHG emission labels, reasoning that just as measuring tailpipe emissions is a sufficient metric for internal combustion engine vehicles so too is estimating the emissions produced during electricity production for electric vehicles operating on grid-supplied electricity. The auto industry supports EPA's proposed exclusion of upstream GHG emissions on individual vehicle fuel economy labels because upstream emissions vary greatly region to region. Opponents argue that having EPA post information on its website to allow consumers to estimate upstream GHG emissions would be more accurate than including upstream emissions on individual labels.

Federal Judge will decide whether to dismiss PACE lawsuits

U.S. District Judge Claudia Wilken of the Northern District of California will hear arguments December 2 over whether to dismiss several lawsuits challenging the Federal Housing Finance Agency's (FHFA) decision to effectively shutter the Property Assessed Clean Energy (PACE) Program, a White House-supported program that helps homeowners finance energy related home improvements. The PACE Program allows individual property owners to obtain loans from local governments for energy efficiency or renewable energy purchases, which are then repaid through special assessments on the owners' property. The FHFA, conservator of the troubled federal housing corporations Fannie Mae and Freddie Mac, argues that the loans increase the risk for mortgage lenders because the PACE loans are treated as a first lien on the property.

New report focuses on potential effects of rising seas and climate change in California

A report from the nonprofit Pacific Council on International Policy focused on the impact of climate change on coastal counties in California. With more than two-thirds of California's economic activity taking place on coastal counties at sea level, the report envisions potential relocation of roads, bridges and construction of defenses around major airports. The report offers advice on creating mechanisms to document the impacts of climate change and use the information to plan responses. It also recommends the establishment of a Climate Risk Council, consisting of a five-member group appointed by the governor to assemble and make data available on climate-related risks. A full report is available here:

<http://www.pacificcouncil.org/document.doc?id=183>.

Governor Schwarzenegger urges Washington to look at California on climate change

As Governor Schwarzenegger's term comes to an end, he urged the nation to look at California energy policy as an example for renewable energy law for the nation. Last week he hosted a meeting in California for local, regional, and provincial government leaders from 90 different countries aimed to developing policies to boost energy efficiency and reduce fossil fuel dependence. In a recent address the Governor stated that "Washington should take lessons from what is happening right here in California."