

LEGISLATIVE ALERT: ENERGY • JANUARY 2015



Shaping the Energy Landscape of Tomorrow: **CALIFORNIA ENERGY LEGISLATION YEAR IN REVIEW 2014**

INTRODUCTION

In his January 2015 inaugural address, California Governor Brown called for an ambitious expansion of the State's renewable energy goals to 50% by 2030, a policy direction that may drive the State's energy legislative agenda for the next term. The legislative year in 2014, on the other hand, lacked a major unifying theme with regard to energy, and instead addressed a myriad of approaches to the changing energy economy while simultaneously attempting to maintain the pace of solar growth, ensure electric grid reliability, impact mitigation for oil and gas development, and rate protection for disadvantaged communities and others, as well as continuing its focus on safe utility services.

The 2014 legislative year is perhaps most notable in what was missing: many had anticipated reform of the California Environmental Quality Act (CEQA), which did not come to be, and there were no new laws to restrict or further regulate the use of hydraulic fracturing or to collect a severance tax for oil and gas extraction. These high-profile energy issues may return to the legislative agenda in 2015.

ELECTRIC GRID: WATCHING COSTS AND RELIABILITY IMPACTS OF RENEWABLE ENERGY

California's utilities are well on their way to reaching the Renewables Portfolio Standard (RPS) goal of 33% renewable energy by 2020. In recognition of the reliability challenges of an energy supply powered by the vagaries of the sun and the wind, and of potential increased ratepayer costs that could be associated with those challenges, the legislature is requiring the California Public Utilities Commission (CPUC) to consider grid integration costs of new renewable procurement, as has been requested by some stakeholders for several years, and to report on the costs of renewable programs.

AB 2363 (DAHLE) ELECTRICITY PROCUREMENT

Public Utilities Code: amends §§ 399.13 and 454.5

Under this law, the CPUC must direct electric utilities to include costs of integrating eligible renewable energy resources in their proposed procurement plans, and to adopt by December 31, 2015, a methodology for determining integration costs.

AB 2761 (COMMITTEE ON UTILITIES AND COMMERCE) PUBLIC UTILITIES COMMISSION: REPORT: RENEWABLE ENERGY RESOURCES

Public Utilities Code: amends §§ 910 and 911

AB 2761 requires the CPUC to report on the fiscal impact to utilities of renewable energy programs to the Legislature's policy and fiscal committees by May 1 of each year.

DISTRIBUTED ENERGY RESOURCES: SOLAR ENERGY, DEMAND RESPONSE, AND PROPERTY ASSESSED CLEAN ENERGY

In 2014, California took considerable strides to promote increased adoption of solar energy, energy efficiency, and demand response at the residential and commercial levels by extending the property tax exemption for solar systems, prompting municipalities to streamline solar permitting processes, encouraging demand response programs, and reinvigorating the once-beleaguered residential applications of the Property Assessed Clean Energy (PACE) program.

SB 871 (COMMITTEE ON BUDGET AND FISCAL REVIEW) PROPERTY TAXES: NEW CONSTRUCTION EXCLUSION: ACTIVE SOLAR ENERGY SYSTEM

Revenue and Taxation Code: amends § 73

As part of the annual state budget, SB 871 extended the property tax exemption for "active" solar systems to January 1, 2025. The exemption, which was due to expire at the end of 2016, applies to residential and utility-scale solar electric generating systems, as well as to solar water heating systems.

AB 2188 (MURATSUCHI) SOLAR ENERGY: PERMITS

Civil Code: amends § 714

Government Code: amends § 65850.5

AB 2188 builds upon existing state policy to promote and encourage the use of solar energy systems, and to limit obstacles to their use. The bill requires cities and counties to adopt, on or before September 30, 2015, ordinances that create expedited, streamlined permitting processes for small residential rooftop solar energy systems, and to inspect such systems in a timely manner. Cities and counties are also prohibited from conditioning the approval of any solar energy system permit on approval by homeowner's associations. AB 2188 also requires residential solar water heaters to be certified by an accredited listing agency.

SB 1414 (WOLK) ELECTRICITY: DEMAND RESPONSE

Public Utilities Code: amends § 380; adds § 380.5

SB 1414 provides a variety of provisions to promote demand response programs. It requires utilities to consider demand response in resource adequacy studies, and directs the CPUC to determine the most efficient and equitable means to ensure that investments are made in new and existing demand response resources that can promote grid reliability and greenhouse gas emissions reductions. The CPUC must also establish a mechanism to value load modifying demand response resources, and, in a joint obligation with the Energy Commission and the California Independent System Operator, must ensure that changes in demand caused by load modifying demand response resources are expeditiously and comprehensively reflected in planning processes.

AB 1883 (SKINNER) PROPERTY ASSESSED CLEAN ENERGY

Streets and Highways Code: amends §§ 5898.12, 5898.24, 5898.28, 5898.30, and 5899.2; adds §§ 5898.16 and 5898.33

AB 1883 provides various provisions to help lower the transaction costs associated with the PACE program, including by allowing relevant government agencies to issue bonds for groups of PACE deals, rather than requiring that bonds be tied to individual projects. The new law also expands PACE to include solar power purchase agreements (PPAs), and streamlines PACE program administration in numerous respects.

AB 2597 (TING) ENERGY: PACE PROGRAM

Public Resources Code: amends §§ 26052, 26055, 26060, 26061, 26062, and 26063

AB 2597 increases from 10 percent to 15 percent of property values the amount of financing available to homeowners installing building weatherization, solar panels, low-flow plumbing fixtures, or electric vehicle charging stations at their homes through PACE programs.

ELECTRIFYING THE TRANSMISSION SECTOR

The Legislature continued to promote the adoption and use of electric vehicles by extending carpool lane privileges and providing a mechanism for the installation of electric vehicle charging stations in parking lots of residential and commercial leased property.

AB 2013 (MURATSUCHI) AND AB 1721 (LINDER) HIGH OCCUPANCY VEHICLE LANES: ELECTRIC VEHICLES

Vehicle Code: amends § 5205.5

Together, AB 2013 and AB 1721 increase to 70,000 the number of vehicle identifiers that the DMV is authorized to issue for use by vehicles not carrying the requisite number of passengers in high occupancy vehicle (HOV) lanes, and extends certain privileges for HOV lanes to electric vehicles.

AB 2565 (MURATSUCHI) RENTAL PROPERTY: ELECTRIC VEHICLE CHARGING STATIONS

Civil Code: adds §§ 1947.6 and 1952.7

For any lease executed, renewed, or extended on and after July 1, 2015, AB 2565 requires a landlord to approve a tenant's written request to install an electric vehicle charging station at a parking space allotted for the tenant

in accordance with specified requirements. Certain residential rental properties are excluded, including those with fewer than five parking spaces and those subject to rent control. Tenants using such provisions must carry certain general liability coverage for the charging station. AB 2565 also voids any term in a lease renewed or extended on or after January 1, 2015 that conveys any possessory interest in commercial property that either prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in a parking space associated with the commercial property.

GREENHOUSE GAS AND OTHER EMISSIONS REDUCTION

Under the framework of California's landmark greenhouse gas emissions reduction law (AB 32), the Legislature promoted numerous programs to help reduce emissions and to promote other environmental objectives through the use of funds secured from cap-and-trade auctions.

SB 1204 (LARA) CALIFORNIA CLEAN TRUCK, BUS, AND OFF-ROAD VEHICLE AND EQUIPMENT TECHNOLOGY PROGRAM

Health and Safety Code: adds § 39719.2

SB 1204 creates the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program to be funded from cap-and-trade revenues. The program, which will be administered by the Air Resources Board in conjunction with the Energy Commission, is intended to fund zero- and near-zero-emission technologies with priority to be given to projects that benefit disadvantaged communities.

SB 1275 (DE LEON) VEHICLE RETIREMENT AND REPLACEMENT: CHARGE AHEAD CALIFORNIA INITIATIVE

Health and Safety Code: amends § 44125; adds §§ 44258, et seq.

The Charge Ahead California Initiative, to be administered by the Air Resources Board in conjunction with the Energy Commission and the state's air districts, aims to place in service at least 1,000,000 zero- and near-zero-emission vehicles by January 1, 2023, and to increase access for disadvantaged, low-income, and moderate-income communities and consumers to these vehicles. As part of the program, the Air Resources Board must update guidelines to encourage public transportation and car sharing.

AB 1447 (WALDRON) CALIFORNIA GLOBAL WARMING SOLUTIONS ACT OF 2006: GREENHOUSE GAS REDUCTION FUND: TRAFFIC SYNCHRONIZATION

Streets and Highways Code: adds §§ 2581, et seq.

AB 1447 authorizes moneys in the Greenhouse Gas Reduction Fund to be allocated for investments in a traffic signal synchronization component of a sustainable infrastructure project if designed and implemented to achieve cost-effective and measurable reductions in greenhouse gas emissions.

SB 862 (COMMITTEE ON BUDGET AND FISCAL REVIEW) GREENHOUSE GASES: EMISSIONS REDUCTION

Government Code: amends § 16428.9; adds §§ 12087.5 and 19602.8

Health and Safety Code: amends §§ 39711, 39715, and 44091.1; adds §§ 39719 and 39719.1

Public Resources Code: amends §§ 4475, 25470, 25472, 25474, and 75121; adds §§ 25471.5 and 25474.5; adds §§ 4598, et seq., §§ 42995, et seq., and §§ 75200, et seq.; repeals § 12292

Public Utilities Code: amends § 2827

Statutes of 2007: repeals Chapter 657, § 2

Statutes of 2013: amends Chapter 415, § 1

This budget bill funds numerous greenhouse gas emission reduction programs. Among numerous other funding provisions, SB 862 provides moneys and rules for the following funds and programs: (1) the CalRecycle Greenhouse Gas Reduction Revolving Loan Fund to promote in-state development of infrastructure to process organics and other recyclable materials into new value-added products; (2) the Energy Efficiency Low-Income Weatherization Program; (3) the Low Carbon Transit Operations Program to provide operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities; (4) the Transit and Intercity Rail Capital Program to fund improvements to the State's intercity, commuter, and urban rail systems; (5) the Energy Efficiency Retrofit State Revolving Fund to provide loans for energy efficiency retrofit projects in or on state-owned buildings and facilities; (6) the Affordable Housing and Sustainable Communities Program to reduce greenhouse gas emissions through projects that implement land use,

housing, transportation, and agricultural land preservation practices to support infill and compact development; and (7) the Clean Vehicle Rebate Project and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project. SB 862 also requires that \$400 million of the \$500 million loan made from the Greenhouse Gas Reduction Fund to the General Fund in 2013, upon repayment, be available to the High-Speed Rail Authority as necessary, based on the financial needs of the high-speed rail project.

FUELS: MITIGATING OIL AND GAS IMPACTS AND PROMOTING BIOGAS

In the oil and gas sector, the 2014 legislative session focused on identifying and mitigating impacts, especially with regard to water use, and to promoting biogas through environmental review exemptions.

SB 1371 (LENO) NATURAL GAS: LEAKAGE ABATEMENT

Public Utilities Code: adds §§ 975, et seq.

SB 1371 enacts numerous provisions to reduce leakage from intrastate natural gas pipelines regulated by the CPUC, in order to advance the State's greenhouse gas reduction goals. Under the new law, the CPUC must adopt rules and procedures to govern the leakage abatement efforts, consistent with several new statutory directions, and to require gas utilities to file reports as soon as practicable regarding new methane leaks.

SB 1281 (PAVLEY) OIL AND GAS PRODUCTION: WATER USE: REPORTING

Public Resources Code: amends § 3227; adds § 3226.3

SB 1281 adds to prior legal requirements governing the submission of statements by each oil and gas well owner to the State Oil and Gas Supervisor. Pursuant to the new law, well owners must report the source and volume of any water used, the treatment of water, and the use of treated or recycled water in oil and gas field activities. Violation of the reporting requirements is punishable as a crime.

AB 1104 (SALAS) CEQA: BIOGAS PIPELINE EXEMPTION

Public Resources Code: replaces § 21080.23.5

Prior to AB 1104, CEQA included exemptions from environmental review for specified projects, including those that consist of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or

removal of an existing pipeline, if certain conditions are met. AB 1104 provides that, for purposes of that exemption, until January 1, 2018, “pipeline” also means a pipeline located in Fresno, Kern, Kings, or Tulare counties that are used to transport biogas.

ENSURING UTILITY SAFETY

The Legislature has continued its focus from the last few years on ensuring the safety of the State’s consumers by requiring the CPUC to promote safety in its oversight of electric and gas utilities, and by requiring additional notice to schools and hospitals located near natural gas pipeline projects.

SB 699 (HILL) PUBLIC UTILITIES: ELECTRICAL CORPORATIONS

Public Utilities Code: amends § 364

Under SB 699, the CPUC must consider adopting rules to address physical security risks to the distribution systems of electric utilities, either in a new proceeding or a new phase of an existing proceeding, to commence on or before July 1, 2015.

SB 900 (HILL) PUBLIC UTILITIES: RATE CASE APPLICATION: SAFETY

Public Utilities Code: amends § 321.1; adds § 750

SB 900 requires the CPUC to develop formal procedures to consider safety in investor-owned utilities’ rate case application proceedings, and to take actions to assess and mitigate the impacts of its decisions on customer, public, and employee safety.

SB 1409 (HILL) PUBLIC UTILITIES COMMISSION: SAFETY INVESTIGATIONS

Public Utilities Code: adds § 915

Beginning on February 1, 2016, the CPUC must annually publish a report that includes all investigations into gas or electric service safety incidents reported to the Commission by investor-owned utilities and succinctly describes safety investigations concluded during the prior calendar year and ongoing investigations. Descriptions of completed and ongoing safety investigations must now also be included in the CPUC’s annual work plan submitted to the Governor and the Legislature.

AB 1937 (GORDON) NATURAL GAS PIPELINE SAFETY ACT OF 2011: SCHOOL AND HOSPITAL NOTIFICATION OF NONEMERGENCY EXCAVATION OR CONSTRUCTION OF GAS PIPELINES

Public Utilities Code: adds § 955.5

Under AB 1937, gas utilities must provide at least three-working-days’ notice to a school or hospital prior to undertaking nonemergency excavation or construction of a gas pipeline within 500 feet of the school or hospital, and creates new record-keeping requirements for the utilities relating to such work.

AFFORDABLE ELECTRICITY FOR ALL

In an era when electric rates are expected to increase considerably, the Legislature has taken steps to ensure that the CPUC considers rate impacts to specific groups of people: those living in hot climates that may disproportionately feel the impacts of new rate structures due to high air conditioning use, and disadvantaged communities located in the San Joaquin Valley that may have less access to affordable energy solutions than other communities throughout the State.

SB 1090 (FULLER) RATES: DEFAULT TIME-OF-USE PRICING

Public Utilities Code: amends § 745

Under SB 1090, before the CPUC can require or authorize a utility to use default time-of-use rates for residential customers, it must consider evidence regarding any resulting hardship that would be caused to customers living in hot climates.

AB 2672 (PEREA) ACCESS TO ENERGY: DISADVANTAGED COMMUNITIES: SAN JOAQUIN VALLEY

Public Utilities Code: adds § 783

This law requires the CPUC to initiate a new proceeding to identify disadvantaged communities in the San Joaquin Valley meeting specified requirements and to analyze economically feasible options to increase access to affordable energy in those communities. The CPUC must then take appropriate action and determine appropriate funding sources to pursue the identified options.

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