



Shaping the Energy Landscape of Tomorrow: **California Energy Legislation Year In Review 2013**

Effective January 1, 2014, except as otherwise noted

INTRODUCTION

California continues to lead the nation in progressive energy law and policy. The body of legislation passed in 2013 reflects the state's response to the rapidly changing energy industry, marked largely by increased penetration of renewable energy technologies on the one hand, and the rapid development of new hydraulic fracturing techniques to enhance oil and gas production on the other.

In the oil and gas sector, the state enacted its first law expressly regulating the practice of hydraulic fracturing (SB 4), aiming to strike a balance between the economic and security benefits associated with in-state fuel production and the potential environmental and health concerns that may be associated with the practice. The legislature also continued to promote the long-term supply of in-state natural gas in policy planning efforts (AB 1257).

In the electric sector, AB 327 was the most significant piece of legislation passed in 2013, as it ushered in several changes to electric rate regulation and allows the state's utility regulator to increase the renewables portfolio standard requirement for the three largest electric utilities. Otherwise, 2013 saw a shift in focus away from the promotion of utility-scale renewable projects and towards a greater penetration of distributed energy generation (SB 43, AB 271, AB 415, AB 796, AB 1092) and energy efficiency/management measures (SB 73, AB 270, AB 719, AB 628). Other than AB 327, only one piece of legislation (SB 591) directly targeted utility-scale renewable requirements, but its practical effect will be limited as it affects only one local utility.

The trend of increased oversight of utilities with regard to safety and system reliability (SB 291, AB 66) and consumer rights (AB 1274, SB 656) also continued throughout this year, indicating the legislature's attempt to balance the promotion of technological advances with the protection of the state's electric and gas ratepayers.

LANDMARK LEGISLATION: AB 327 AND SB 4**AB 327 (Perea) Electricity: Natural Gas: Rates: Net Energy Metering: California Renewables Portfolio Standard Program**

Public Utilities Code—amends §§ 382, 399.15, 739.1, 2827 and 2827.10; amends and renumbers § 2827.1; adds §§ 769 and 2827.1; replaces §§ 739.9 and 745

This legislation has numerous aspects and implications:

Renewables Portfolio Standard (“RPS”)—Prior RPS law requires all utilities and other retail sellers of electricity in the state to ensure that at least 33 percent of retail sales come from eligible renewable resources by 2020. AB 327 gives the California Public Utilities Commission (“CPUC”) the discretion to raise RPS targets for utilities under its jurisdiction. RPS targets for other publicly owned utilities cannot be raised pursuant to this bill.

Changes to Tiered Residential Rates—Electricity consumers in the lowest tiers of usage have enjoyed certain restrictions on rate increases since the electricity crisis of 2001. AB 327 removes those restrictions and implements new rules regarding tiered rate structures. This will likely have the effect of increasing net rates for consumers on the coast and in other temperate weather zones, and decreasing net rates for inland customers and others with bigger heating / cooling needs. This law also changes the eligibility for the California Alternative Rates for Energy (“CARE”) program which provides rate relief for low-income customers.

Possible New Monthly Fee—Under AB 327, the CPUC is authorized to allow the major utilities to impose a monthly fee of up to \$10 per account (or \$5 per CARE account) applicable to all customers—even those that offset most or all of their energy demand with on-site solar facilities. While some parties fear that such a charge will discourage customers from installing on-site solar or other distributed generation technologies, the utilities and others believe such a charge is necessary to recover the costs of maintaining the grid.

Net Metering—The current net metering program (which allows eligible customer-generators to receive a bill credit for the amount of rooftop solar generated) was slated to expire after 2014. AB 327 extends the current net metering program through as late as June 2017 and allows for a new program thereafter. This bill also changes the way in which the statewide cap for net metering installations is calculated. In addition, the

CPUC has the option to establish a standard tariff for customer generators that would go into effect on July 1, 2017, or earlier if a utility has maxed out under the cap.

Time-of-Use Electric Rates—AB 327 allows the CPUC to require utilities to set mandatory time-of-use rates beginning in 2018, if they implement certain consumer protection measures. Utilities can offer time-of-use tariff options before then (and already do to some extent).

SB 4 (Pavley) Oil and Gas: Well Stimulation

Public Resources Code—amends §§ 3213, 3215, 3236.5, and 3401; adds §§ 3150, et seq.

Water Code—adds § 10783

The California Division of Oil, Gas and Geothermal Resources (“DOGGR”) has regulatory authority over oil and gas production in the State. SB 4 directs the DOGGR to work with a number of state agencies to develop regulations by Jan. 1, 2015 that address “well stimulation treatment,” a term defined to include activities that enhance oil and gas production by increasing the permeability of geological formation. The new regulations must be informed by a scientific study to be conducted by the California Natural Resources Agency on the potential hazards and risk that fracking and other well stimulation treatments pose to human health and the environment.

The regulations will also require operators to: (1) ensure the integrity of wells and well casings such that geologic and hydrologic formations are isolated during fracking operations; (2) disclose the composition and disposition of fracking fluids; (3) develop and submit a water management plan; and (4) provide baseline groundwater contaminant levels and monitor groundwater following fracking operations at the request of nearby property owners. Until the regulations are finalized, fracking activities will be allowed in California as long as the well owner or operator certifies compliance with the disclosure and notification requirements, as set forth in emergency interim regulations originally published on Dec. 11, 2013. During the pre-regulation period, the DOGGR will conduct a statewide environmental impact report pursuant to the California Environmental Quality Act, which must be completed by July 1, 2015.

The DOGGR has already made significant steps to implement SB 4, including making available for public review and comment draft regulations that will take effect in 2015, adopting interim regulations in the meantime, issuing a notice that it will prepare an

Environmental Impact Report “to evaluate the impacts of existing and potential future oil and gas well stimulation treatments occurring within California,” and publishing an SB 4 implementation plan.

OTHER LEGISLATIVE DEVELOPMENTS

PROMOTION OF SOLAR, ELECTRIC VEHICLES AND OTHER DISTRIBUTED TECHNOLOGIES

SB 43 (Wolk) Electricity: Green Tariff Shared Renewables Program

Public Utilities Code—replaces §§ 2831 et seq.

This legislation is designed to extend the benefits of distributed solar generation to any interested person, and not just home or business owners that can afford to put solar panels on their rooftops. Under the new law, the state’s three largest investor-owned utilities—as well as any other retail seller subject to the jurisdiction of the CPUC which voluntarily participates—must procure or develop new renewable energy projects located near load centers up to 20 MW in size (or up to 1 MW for projects in impacted or disadvantaged communities). Customers can opt in and “buy” a portion of one or more projects (up to a maximum of 2 MW), and in turn will be charged a monthly cost on their electric bills pursuant to newly developed green tariffs. The participating customers will also receive a credit on their bill that is locked in for 20 years, effectively equal to the avoided cost of the utilities purchasing power elsewhere. Over time, the customers should save money as electric bills increase. SB 43 sets a statewide cap for the program of 600 MW, and reserves 100 MW for renewable projects located in impacted or disadvantaged communities.

AB 217 (Bradford) Electricity: Solar Electricity: Low-Income Households

Public Utilities Code—amends §§ 2851 and 2852

Prior law authorized the collection of a surcharge on electricity bills of customers served by the state’s three large investor-owned utilities—Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric—to create a rebate program for solar installation for low-income customers. The law created two programs: the Single-family Affordable Solar Homes program (“SASH”) and the Multi-family Affordable Solar Homes program (“MASH”). AB 217 re-authorizes the surcharge,

to allow for another \$108 million to fund the SASH and MASH programs (\$54 million each). The bill also requires eligible SASH and MASH program participants to enroll in the Energy Savings Assistance Program to help maximum energy efficiency as a complement to the solar installation. The CPUC must also ensure that the implementation of the SASH and MASH programs maximizes overall benefit to ratepayers, including job training and opportunities in the solar and energy efficiency industries in the State. It is likely that GRID Alternatives, the Oakland, Calif.-based non-profit that was selected by the CPUC to manage the MASH program in the past will continue to serve this role for the re-funded program.

AB 415 (Garcia) Solar Energy: Water Heating

Public Utilities Code—amends § 2864

Pursuant to the Solar Water Heating and Efficiency Act of 2007, the CPUC, in consultation with the California Energy Commission (“CEC”), must establish eligibility criteria for solar water heating systems receiving financial incentives funded by gas customers. AB 415 provides further legislative direction regarding the criteria, which must now include eligibility requirements for solar collector or water heating systems used in residential, multifamily residential, commercial, government, nonprofit, educational, or industrial applications.

AB 796 (Muratsuchi) Advanced Electrical Distributed Generation Technology

Public Utilities Code—amends § 379.8

Entities that use natural gas to generate both electricity and useful thermal energy on-site (cogeneration) are eligible for a particular rate for the supply of natural gas. Application of the same rate was previously extended to fuel cell technologies, but the rate had a sunset date of January 2014. AB 796 extends the sunset date to January 2016, allowing fuel cell users to take advantage of the same natural gas rate available to customers using cogeneration technology.

AB 1092 (Levine) Building Standards: Electric Vehicle Charging Infrastructure

Health and Safety Code—adds § 18941.10

The California Building Standards Commission (“CBSC”) adopts building standards proposed by other state

agencies and of its own accord. A new building standards code must be published at least once every three years. AB 1092 requires the CBSC in the next building code cycle to adopt mandatory building standards for the installation of future electric vehicle charging infrastructure for parking spaces in multifamily dwellings and nonresidential development. In addition, the Department of Housing and Community Development must propose for the CBSC's consideration such standards for multifamily dwellings.

ENERGY EFFICIENCY AND MANAGEMENT

SB 73 (Committee on Budget and Fiscal Review) Energy: Proposition 39 Implementation

Public Resources Code—amends § 25415; adds §§ 26225, et seq.

Adopted as part of the state's overall budget package in 2013, SB 73 establishes a Clean Energy Job Creation Fund in order to help implement the requirements of Proposition 39, passed by voters in 2012. Up to \$550 million will be transferred annually from the state's general fund into the new fund for allocation primarily to public schools and community college districts for energy efficiency upgrades. Pursuant to Prop 39, the money is effectively derived from a change in corporate taxation practices. Multi-state business are now required to calculate their state income tax liability based on the percentage of their sales in California, a change that is expected to generate over \$1 billion in revenue each year.

AB 270 (Bradford) Public Utilities: Ratepayer-Funded Energy Efficiency Assistance

Public Utilities Code—adds §§ 589 and 747.6

Under this bill, the CPUC must oversee the investor-owned utilities' development of a single public website by June 1, 2014, that collects information regarding ratepayer-funded energy efficiency programs. The CPUC must also provide an annual report to the legislature regarding its efforts to eliminate or modify energy efficiency programs that are duplicative of those offered by other state agencies.

AB 719 (Hernández) Energy: Energy Efficiency: Street Light Pole

Public Utilities Code—adds § 384.5

This law requires the CPUC to order electrical utilities under its jurisdiction to submit by July 1, 2015, a tariff to

be used, at the discretion of local governments, to fund energy efficiency improvements in street light poles owned by the utilities but for which the local governments pay the electric bill.

AB 628 (Gorell) Energy Management Plans for Harbor and Port Districts

Public Resources Code—adds §§ 25990, et seq.

AB 628 empowers harbor and port districts to work with the utility serving the district to prepare energy management plans to reduce air emissions and promote economic development. If a district chooses to prepare such a plan, the plan must include specified provisions, including, among many others: an assessment of the district's current energy consumption, an assessment of various energy management issues, a set of measurable energy performance and management goals, a summary of impediments to achieve energy-related goals, and proposed methods to fund the activities included in the plan.

OIL AND NATURAL GAS PRODUCTION

AB 1257 (Bocanegra) Energy: State Energy Resources Conservation and Development Commission: Natural Gas

Public Resources Code—adds § 25303.5

Since 2002, the CEC has been legally required to publish an Integrated Energy Policy Report ("IEPR") every two years, and to update the report in off years. This bill requires the CEC beginning with the 2015 IEPR process to identify strategies to maximize the benefits obtained from natural gas as an energy source in the state.

SYSTEM RELIABILITY AND SAFETY

SB 291 (Hill) Public Utilities Commission: Safety Enforcement: Gas and Electrical Corporations

Public Utilities Code—adds § 1702.5

The CPUC investigates the cause of all accidents related to public utility activities or property that result in loss of life or injury to person or property. Under SB 291, the CPUC must develop and implement a safety enforcement program to use in conjunction with any such investigation proceeding, and incorporate ongoing measures to ensure accountability. The safety enforcement program for the gas sector must be in place by July 1, 2014, and for the electric sector by Jan. 1, 2015.

AB 66 (Muratsuchi) Electricity: System Reliability*Public Utilities Code—adds § 2774.1*

Under AB 66, the CPUC must require electric utilities subject to its jurisdiction to include in any annual reliability report, that is otherwise due after July 1, 2014, information on the reliability of service to end users. In particular, the reports should identify the frequency and duration of interruptions in services and areas with the most frequent and longest outages. The CPUC must use the information to require cost-effective remediation of identified reliability problems, subject to specified exceptions. The reliability reports must also be made available to the public on the utilities' websites.

CONSUMER PROTECTION**AB 1274 (Bradford) Privacy:****Consumer Electrical and Natural Gas Usage Data***Civil Code—adds §§ 1798.98, et seq.*

Utilities are not permitted to share a customer's electric or gas personal information or usage data or retrieved via smart meter technology with any third parties without the customer's express permission. Utilities must also use reasonable security measures to protect customer data. Under AB 1274, the prohibitions against sharing electric or gas data without consent and the security measure requirements are extended to any business with access to such data. In addition, businesses are prohibited from providing any sort of incentive or discount to customers for accessing the data without their prior consent.

SB 656 (Wright) Electrical Restructuring:**Natural Gas Restructuring: Information Practices***Public Utilities Code—amends §§ 392.1, 394.3, 394.5; adds §§ 980, et seq.*

Following restructuring of the electricity industry, in which vertically integrated utilities no longer have monopolies over the provision of electricity to retail customers, several consumer protection provisions were placed into law. SB 656 extends certain consumer protection provisions applicable to Electric Service Providers to Core Transport Agents (also known as Core Gas Aggregators). This law also eliminates the requirement that the CPUC compile and update certain information regarding customer complaints made against Electric Service Providers, so long as the Provider's monthly subscription rate is not increasing by 5 percent or more. Further, the CPUC's Office of Ratepayer

Advocates is no longer required to analyze and publicize information for the customers of Electric Service Providers.

RENEWABLE REQUIREMENTS FOR LOCAL UTILITIES**SB 591 (Cannella) Renewable Energy Resources: Local Publicly Owned Electric Utility: Hydroelectric Generation Facility***Public Utilities Code—amends § 399.30*

Previous changes to the state's RPS law extended renewable procurement requirements to local publicly owned utilities as well as investor-owned utilities and other retail sellers of electricity in the state. Accordingly, all utilities are required to ensure that at least 33 percent of their retail sales are from eligible renewable resources by 2020. Large hydroelectric facilities have traditionally been excluded from the definition of eligible renewable resources. SB 591 provides that a local publicly owned electric utility is not required to procure additional eligible renewable energy resources in excess of specified levels if at least 50 percent of its annual retail sales are derived from its own hydroelectric production. As a practical matter, the bill will only affect the Merced Irrigation District at this time. <

ACRONYMS

AB	Assembly Bill
CARE	California Alternative Rates for Energy
CBSC	California Building Standards Commission
CEC	California Energy Commission
CPUC	California Public Utilities Commission
DOGGR	Division of Oil, Gas and Geothermal Resources
IEPR	Integrated Energy Policy Report
MASH	Single-family Affordable Solar Homes program
MW	Megawatt
RPS	Renewables Portfolio Standard
SASH	Multi-family Affordable Solar Homes program
SB	Senate Bill

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PRACTICE GROUP LEADERS

Ella Foley Gannon
ella.gannon@bingham.com
+1.415.393.2572

Jim Dragna
jim.dragna@bingham.com
+1.213.680.6436

California Partners and Principal Consultants

Chris Berka
chris.berka@bingham.com
+1.650.849.4866

Steve Black
steve.black@bingham.com
+1.415.393.2395

Greg Christianson
greg.christianson@bingham.com
+1.415.393.2562

Carol Dillon
carol.dillon@bingham.com
+1.650.849.4812

Tom Gede
tom.gede@bingham.com
+1.415.393.2132

Bill Kissinger
william.kissinger@bingham.com
+1.415.393.2850

Camarin E.B. Madigan
camarin.madigan@bingham.com
+1.415.393.2660

Rick R. Rothman
Rick.rothman@bingham.com
+1.213.680.6590

Sean Walsh
sean.walsh@bingham.com
+1.415.393.2477

Harlan Wendell
harlan.wendell@bingham.com
+1.650.849.4806

California Counsel, Of Counsel and Associates

Marilee J. Allan
marilee.allan@bingham.com
+1.415.393.2364

Denise G. Fellers
denise.fellers@bingham.com
+1.213.680.6427

Jamie Kendall
jamie.kendall@bingham.com
+1.213.680.6635

Jenny Rosen
jennifer.rosen@bingham.com
+1.415.393.2080

David Brown
david.brown@bingham.com
+1.213.680.681

Bill Freedman
william.freedman@bingham.com
+1.213.680.6426

Devin McDonell
devin.mcdonnell@bingham.com
+1.415.393.2358

Monica A. Schwebs
monica.schwebs@bingham.com
+1.415.393.2575

Jesse Chavez
jesus.chavez@bingham.com
+1.213.680.6584

Misti Groves
misti.groves@bingham.com
+1.415.393.2330

Jennifer MikoLevine
jennifer.mikolevine@bingham.com
+1.213.680.6771

Sandy Skaggs
s.skaggs@bingham.com
+1.415.393.2528

Jeremy Esterkin
jeremy.esterkin@bingham.com
+1.213.680.6843

Sarah Keane
sarah.keane@bingham.com
+1.415.393.2024

Jordan Ray
jordan.ray@bingham.com
+1.213.680.6857

Edward L. Strohbehn Jr.
edward.strohbehn@bingham.com
+1.415.393.2059

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One Federal Street, Boston, MA 02110-1726

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