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California Takes the Bronze: Implications and Impacts of California's SB 350

On October 7, Gov. Brown signed into law the Clean Energy and Pollution Reduction Act of 2015 ("SB 350") 2015. This comes as no surprise, because when the state legislature passed SB 350 on September 11, 2015, Gov. Brown said that "taking carbon out of the modern economy requires heroic efforts and tireless struggle. SB 350, in both efficiency and renewable energy, ratchets up the California commitment. We have the technological means, and now we have the legal mandate to reduce carbon pollution." To put it in context: the new requirements will double the use of renewable energy in California, which means California now has the third-highest renewable energy requirements in the nation, just behind Hawaii (required to be 100 percent renewable by 2045) and Vermont (75 percent renewable by 2032).

In large part, SB 350 conforms with the governor's climate policy goals that he announced in his 2015 State-of-the-State speech, which called for 50 percent of California's electricity to come from renewable energy sources, 50 percent greater energy efficiency of existing buildings, and a 50 percent reduction in the amount of petroleum used in cars and trucks – all by 2030.

What, then, are some of the specific implications of SB 350 becoming law?

Increases Renewable Portfolio Standard to 50 Percent by 2030 SB 350 increases the Renewable Portfolio Standard ("RPS") goals, and sets new energy and climate policy in the state for the next 15 years. RPS is a specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure. The RPS program is implemented jointly by the California Public Utilities Commission ("CPUC") and the California Energy Commission ("CEC").

Under SB 350, the new RPS would require 50 percent of the state's electricity to come from renewable energy resources by 2030 for both retail sellers of electricity and publicly owned utilities. The RPS includes interim targets of 40 percent renewables by the end of 2024, 45 percent by the end of 2027, and 50 percent by the end of the 2030. The state legislature justified the 50-percent RPS target by 2030 and thereafter by noting that investor-owned utilities have met their 2013 RPS goal (20 percent) and are on track to meet their 2016 RPS goal (25 percent), and are well-positioned to meet their 2020 RPS goal (33 percent), as required by SB 2 (1X) (Simitian 2011).

Pushes for Diversified Energy Generation Portfolio SB 350 does not change the RPS content categories for eligible renewable energy resources. All renewable energy, acquired through electricity contracts executed after June 1, 2010, is divided into three portfolio content categories (also known as “buckets”), as set forth by SB 2 (1X). Category 1 is, in general, renewable energy that is directly connected to the California grid. Category 2 is, in general, renewable energy that is generated outside of the grid and purchased by utilities for RPS credit. Category 3 is, in general, renewable energy that does not qualify under Category 1 or 2, or a RPS credit which can be a separate commodity from actual energy generation; this is termed as an “unbundled” RPS credit.

The classification for each category and the type of electricity product that qualifies under each category depends on the impact the electricity products has on the operation of the grid when supplying electricity to a California balancing authority. For additional information on the RPS categories, please visit [CA.gov – 33% RPS](#).

Under SB 2 (1X), in order to satisfy their 20 percent RPS target for 2020, utilities must procure at least 75 percent of renewable energy credits in Category 1 by 2020 and thereafter, and no more than 10 percent in Category 3 by 2020 and thereafter. SB 350 did not change these content categories or the procurement required under each category. However, by increasing the RPS target from 33 percent to 50 percent, this will result in utilities having to purchase or generate more renewable energy.

Like SB 2 (1X), SB 350 still calls for “diversified and balanced energy generation portfolio” and for “least-cost and best-fit eligible renewable energy resources” to comply with the 50 percent RPS target. The CPUC has until January 1, 2017, to establish the quantity of electricity products that retail sellers have to procure from eligible renewable resources. Beginning in 2021, SB 350 allows unlimited saving of the Category 1 renewable energy credit that is procured in excess during one compliance period, to be applied to any subsequent compliance period, regardless of the length of the renewable energy procurement contract.

However, unlike SB 2(1X), SB 350 requires 65 percent of the procurement for each compliance period to be from contracts that are 10 years or more in duration,

or from ownership of eligible renewable energy resources, beginning in 2021. SB 350 maintains the other requirements described in SB 2(1X) for procurement contracts, such as oversight by the CPUC and the requirement that electrical corporations give preference to California-based renewable energy projects that provide environmental and economic benefits to communities with high poverty or unemployment rates.

Thus, these contractual requirements have implications for transactions that take place between generators and purchasers of renewable energy, and the prices that are charged to ultimate consumers of electricity produced from renewable energy resources.

Doubles Energy Efficiency As for energy efficiency, SB 350 includes provisions to double the savings in electricity and natural gas efficiency in final end-uses among retail customers, including residential and non-residential buildings, by 2030. While SB 350 directs the CPUC and the CEC to set annual targets for electrical and gas corporations that are consistent with this goal, the local publicly owned electric utilities are required to set annual targets for energy savings and demand reduction for the next 10 years. SB 350 encourages utilities to engage in cost-effective activities such as peak load reduction, which will likely result in expansion of time-of-use rate plans and other types of innovative pricing.

Moves Toward Regionalization of the California Independent System

Operator In addition, SB 350 requires the California Independent System Operator (“ISO”) to propose governance modifications for the state legislature’s approval that will facilitate the ISO’s transformation into a regional organization, develop regional electricity transmission markets in the Western states, and improve access to these markets.

The regionalization of the ISO will impact the growth of the renewable energy market, including adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area, providing comparative advantage to certain renewable energy sources based on climate and local policies, and displacing fossil fuel consumption in other Western states. There is a sun-setting provision in SB 350 regarding the ISO’s modification of its governance structure, so the ISO, the state legislature, and the governor have until January 1, 2019, to implement the necessary changes.

Thus, as California moves toward increasing its reliance on renewable energy sources, the industry is on the watch for potential impacts of a higher RPS target of 50 percent on the industry, such as growth of the behind-the-meter rooftop solar, utility-scale projects, and wholesale distributed generation for renewable energy resources; treatment of different types of renewable energy with relation to RPS targets; changes to Western states’ electric transmission facilities and land-use planning; and the cost of procuring, storing, integrating, operating and transmitting renewable energy resources.

The impact on energy prices for consumers and the cost of doubling energy efficiency is yet to be determined. Similarly, the impact of the [Air Resource Board](#) removing barriers to transportation electrification on the electric industry, especially the renewable energy market, is yet to be seen.

Impact on Cap and Trade and the Petroleum Industry While there is no direct effect on carbon trading from SB 350, the bill does lead to a decrease in overall greenhouse gases (“GHGs”).

As to the petroleum industry, SB 350 originally included a goal to reduce petroleum use by 50 percent by 2030. This provision to reduce petroleum consumption by 50 percent by 2030 was removed from the bill shortly before passage. Perhaps the removal of the petroleum-use consumption language is an indication that the California state legislature thinks the petroleum industry is already “doing its share” to reduce GHG emissions through the cap and trade and other provisions of the [California Global Warming Solutions Act of 2006](#) (“AB 32”), and thus, it will not additionally burden that industry segment with more GHG regulation.

Moreover, SB 350 includes a broad goal of dropping GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. But industry beware: while this bill does not directly target reduction in petroleum usage, some petroleum-usage reduction will likely be inevitable to meet the SB 350’s GHG emission reduction goals. Additionally, the governor and members of the state legislature have said that they still plan to fight to reduce petroleum usage more specifically. Accordingly, we expect that the issue of reducing petroleum consumption will likely resurface in 2016.

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