LEGAL & REGULATORY





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Is a Green Future Realistic with an Economy in the Red?

C alifornia Governor Arnold Schwarzenegger recently signed an executive order expanding the state's renewables portfolio standard (RPS) requirement to 33% by 2020. The executive order formalizes what has been generally assumed for some time: A 33% RPS requirement will be needed for California to achieve its ambitious greenhouse gas (GHG) emissions reduction goals.

The governor's order, however, comes at a most difficult time. As the call to aggressively address climate change remains strong, the nation and the world community are mired in a recession and credit crisis that poses significant challenges to developing and financing the infrastructure necessary to meet GHG reduction objectives. In the long term, the "greening" of the nation's generation fleet remains the right policy, but will the current economic exigencies cause the green dream to be again deferred?

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Huge Investments in New Infrastructure Will Be Needed

In an October status report on California's RPS program, the California Public Utilities Commission (CPUC) estimated that seven new "major" transmission lines at a cost of \$6.4 billion and 70,000 GWh of new renewable energy may be needed for the state to meet a 33% RPS goal. The CPUC report identified the major challenges to meeting a 33% RPS requirement. Access to credit and capital markets, which has now emerged as the industry's No. 1 concern, did not even make the top five.

Twenty-eight states, in addition to California, have enacted some form of RPS mandates that require implementation over the next decade. Add to these current state RPS requirements the specter of a federal RPS requirement and broader climate change legislation, and the needed investments in new renewable generation and related transmission will likely cost in the hundreds of billions of dollars over the next 25 years.

The Reliability Consideration

While the greening of the nation's generation supply has garnered the lion's share of the headlines, attention is beginning to be directed at the implications of climate change initiatives on electric reliability. Rick Sergel, president and CEO of the North American Electric Reliability Corp., recently commented, "when viewed from a continent-wide perspective, current climate initiatives do not adequately address key reliability objectives, particularly the need for a strong and robust transmission system." A new report on investment in the energy industry estimates that investments of between \$1.5 and \$2.0 trillion will be needed between 2010 and 2030 to maintain current reliability levels for electricity customers. The ultimate cost of these investments is directly related to assumptions regarding the demands of RPS and GHG reduction requirements. However, these cost estimates conveniently assume away the ultimate policy question: Are even the "greenest" among the populace prepared in today's economy to pay more to keep the lights on simply to support the addition of new renewable resources?

A Tough Sell

Even assuming that RPS and GHG reduction requirements remain at their current levels, the need to escalate investment dollars for renewable energy and transmission projects presently to meet existing RPS requirements remains. Government spending programs being discussed by the incoming Obama Administration will help, but access to nongovernmental sources of credit and capital will continue to be the single most important component of a successful, large-scale transition to green generation and the associated build-out of transmission infrastructure

Whether it is production or investment tax credits, more advantageous depreciation policies, direct government spending or financial-support programs, or traditional commercial project financing, consumers will be on the hook— through taxes or electricity rates or both—for the massive investment needed to meet RPS and climate change goals.

However, with the Fed expecting home foreclosures to reach 2.25 million in 2008 (more than twice normal levels) and unemployment rising (one-month total job losses in November were the largest since December 1974), is it fair to ask the country to fund a green future now?

The answer must remain yes.

An Investment in the Future

RPS goals and emissions reduction measures are worthy policies on their own: They benefit the environment, improve public health, and create new "green" jobs. However, they also represent the cornerstone of an energy policy aimed at reducing reliance on foreign oil and, finally, after four decades, responding in a meaningful way to America's call for energy independence. We can not afford, as we have done repeatedly, to weaken our commitment to this effort simply because of a temporary reduction in world oil prices brought on by the current economic distress. It remains important to keep these broader goals in mind as the near-term financial costs of going green are subjected to inevitable scrutiny in these dark economic times.

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