STATE OF CALIFORNIA | Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 16, 2012

To: The Commission
(Meeting of April 19, 2012)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2341 (Williams) – Distribution grid: distributed generation.**
As introduced: February 24, 2012

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL:

This bill would require the California Public Utilities Commission (CPUC) to make decisions in general rate cases and related proceedings that ensure that distribution grid investments are “compatible with” the “optimal deployment” of distributed generation (DG), which the bill defines as the upgrades needed to accommodate 12,000 megawatts (MW) of DG by the year 2020.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

This bill as written requires the CPUC to ensure that its decisions in general rate case (“GRC”) proceedings invest in distribution system upgrades sufficient to meet a goal of 12,000 MW of DG by the year 2020. The bill (i) makes upfront distribution system upgrade decisions unique to DG that are being addressed by the CPUC in other open proceedings, and (ii) engages in legislative ratemaking. The bill thus limits the CPUC’s ability to efficiently handle its case load by requiring issues specific to DG to be considered in GRC proceedings, rather than in the most efficient proceeding.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Energy Division):

The CPUC is mandated to ensure that electricity rates meet a just and reasonable standard. A GRC is the major proceeding under which the CPUC has the opportunity to apply that standard to review a utility's proposed revenues, expenses, and plant and equipment investments, including maintaining and enhancing generation and distribution infrastructure.

a. The bill addresses CPUC cost assignment policy for DG that is the subject of an open CPUC proceeding.

The CPUC is addressing issues related to distribution level interconnection in an open proceeding.[1] Phase 2, which is anticipated to begin in Q3 2012, will address cost issues associated with interconnecting DG.

In addition, this bill would assign to ratepayers the cost of investments in the distribution system to accommodate a goal of 12,000 MW of DG by 2020. As noted in the Energy Division analysis of AB 2340 (Williams, as amended), this reverses longstanding CPUC cost causation policy that assigns distribution system upgrade costs to the triggering developer. The bill as written does not utilize any mechanisms to determine if the proposed upgrades to accommodate DG upgrades are cost-effective and/or whether alternative resources, such as energy efficiency or demand response, would be less expensive.

b. The bill engages in legislative ratemaking.

The bill engages in legislative ratemaking by establishing a requirement that the CPUC shall make investment decisions within GRC proceedings to accommodate 12,000 MW of DG by 2020.

While utility plans for maintenance and enhancement of distribution infrastructure may be proposed and vetted within a GRC, the proceeding does not serve as a forum for comprehensive distribution system planning. The considerations within a GRC do not typically include a comprehensive identification of infrastructure needs, a comparison of investment options, or cost-benefit analysis of resource types.

The CPUC should instead have the flexibility to give issues unique to DG more attention, by addressing them in a separate proceeding, or combining them with interrelated issues outside the GRC. As written, this bill creates procedural requirements that could impair the efficient resolution of the issues the bill seeks to address.

In addition, within a GRC the burden is on the utility to demonstrate that its proposal complies with the Public Utilities Code. As this bill would impose a new statutory requirement for expenditures within the GRC, the initial burden would fall on the utility to make a showing that its proposed investments accommodate a goal of 12,000 megawatts of DG by 2020. However, the bill imposes no accountability mechanisms to

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[1] Order Instituting Rulemaking (R.) 11-09-011, filed 9/22/2011.

track expenditures against rate-based revenue or other means to ensure reasonableness for ratepayers.

Finally, the broad scope of GRC proceedings makes it difficult for parties with an interest in DG to fully participate.

c. The bill as written contains ambiguous terms that may lead to outcomes not intended by the author.

The bill as drafted contains ambiguous terms that may lead to unintended outcomes, including:

- *"[E]lectrical corporation general rate cases and related proceedings…"* The bill does not further define "related proceedings," which presents a risk of litigation over implementation of (or alleged failure to implement) the bill's mandate in proceedings other than GRCs.

- *"[E]nsure…that all investments…are compatible with optimal deployment…"* The bill does not define "compatible," creating the risk of variable application of the standards, reducing predictability in the marketplace.

While the CPUC disagrees with the author's objectives in this bill, clarification of terms in the bill will reduce such risk, if the bill is enacted. The CPUC suggests modifications as follows:

> *"The commission shall ensure, through its decisions, that all investments in the distribution system controlled by the electrical corporation are optimal for the deployment of distributed generation to meet a goal of 12,000 megawatts of distributed generation by 2020."*

PROGRAM BACKGROUND:

As stated in the CPUC's most recent *Electric and Gas Utility Cost Report*,[2] the revenue requirements that utilities are authorized to collect from customers are determined in the following proceedings:

1. GRCs;
2. Transmission rate cases at the Federal Energy Regulatory Commission ("FERC");
3. Energy Resource Recovery Account ("ERRA") proceedings; and
4. Specific program area proceedings.

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[2] *Electric and Gas Utility Cost Report*, March 2012, page 8. Filed annually pursuant to Public Utilities Code section 747. Available at http://www.cpuc.ca.gov/NR/rdonlyres/1C5DC9A9-3440-43EA-9C61-065FAD1FD111/0/AB67CostReport201.pdf.

The 2011 distribution revenue requirement from all sources for the major investor-owned utilities, which includes distribution system upgrades, was as follows: PG&E - $1.34 billion, SCE - $1.17 billion, and SDG&E - $0.41 billion.[3]

Governor Brown's call for 12,000 MW of DG by 2020 is being implemented by the CPUC in several open long-term planning, procurement, resource adequacy, interconnection, and smart grid proceedings. Evaluation of the costs and benefits of DG, including infrastructure costs, is also being conducted in a series of technical studies being launched in 2012.

- As noted above, the CPUC is addressing cost issues related to distribution level interconnection in Phase 2 of the interconnection OIR. [4]

- The Long-Term Procurement Plan ("LTPP") proceeding[5] serves as the CPUC's umbrella proceeding to consider, in an integrated fashion, the utilities' procurement of supply resources and ensure compliance with the loading order resource policies.

- In Q3 2012, within the CPUC's Resource Adequacy proceeding,[6] the CPUC will consider rule changes relating to DG, including a proposal by the California Independent System Operator ("CAISO") to provide Resource Adequacy Deliverability for DG.[7] CAISO's proposal, if implemented, will provide additional market signals about efficient siting of distributed generation and facilitate Resource Adequacy Deliverability for DG.

- In Q1 2012, the CPUC has issued requests for proposals for technical expertise to study and compare costs and benefits among different types of DG and procurement mechanisms. Work is anticipated to begin on these studies in Q3 2012.

LEGISLATIVE HISTORY:

None.

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[3] Id., page 12.
[4] R. 11-09-011.

[5] R. 10-05-006.

[6] R. 11-10-023.

[7] See http://www.caiso.com/informed/Pages/StakeholderProcesses/DeliverabilityforDistributedGeneration.aspx.

FISCAL IMPACT:

Total Fiscal Impact: $243,409.

Implementation of this bill will require an additional full-time Administrative Law Judge I and an additional full-time Public Utilities Regulatory Analyst IV for three years over and above existing staffing. This bill will also require the same level of continued staffing for each triennial GRC. Specifically:

- One full-time Energy Division Public Utilities Regulatory Analyst IV to assemble data, analyze implementation options, and develop a staff proposal within each affected electrical corporation's GRC.
- One full-time Administrative Law Judge I to ensure that this requirement is implemented within each affected electrical corporation's GRC.

The regulatory and analytical work required by this bill would add a new dimension to existing GRC and related proceedings. Thus, it represents an expansion of work duties requiring additional resources.

The regulatory and analytical work duties associated with the complexity of implementing this bill's requirements include:

- Precisely identify, apart from the GRC for each affected electrical corporation, the "related proceedings" in which this policy requirement may be applied.

- Establish methodology by which data on distribution system upgrades proposed within each GRC and any related proceeding will be analyzed to implement the bill's goal of 12,000 MW of DG by 2020.

- Assemble and analyze data on distribution system upgrades proposed within each GRC and any related proceeding for implementation of the bill's goal of 12,000 MW of DG by 2020.

- Litigate challenges within the GRC and any related proceeding to address application of the methodology to determine whether an upgrade implements the bill's goal of 12,000 MW of DG by 2020.

- Conduct procedural communications, consideration of party views and evidence, and writing of rulings and proposed decisions.

Existing Energy Division public utilities regulatory analysts are engaged in implementing the CPUC's procurement programs and present interconnection activities. This bill creates a new policy requirement within GRCs and related proceedings and, on that basis, new work duties that are not similar to present existing work duties. To implement this bill without additional staff resources would require redirecting staffing resources away from pre-existing programs implementing present CPUC policy.

Existing Administrative Law Judges are fully occupied with proceedings already underway. The introduction of a new proceeding will require additional administrative law judge resources not presently available to be redirected.

Existing Public Utilities Counsel resources would be able to absorb any litigation over the legal challenges that could be filed under pursuant to implementation of this bill.

STATUS:

AB 2341 is scheduled to be heard before the Assembly Utilities and Commerce Committee on April 23, 2012.

SUPPORT/OPPOSITION:

Support: None on file.
Opposition: Pacific Gas & Electric Company (PG&E)

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BILL LANGUAGE:

BILL NUMBER: AB 2341 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Williams
(Coauthor: Assembly Member Blumenfield)

FEBRUARY 24, 2012

An act to add Section 379.9 to the Public Utilities Code, relating to electricity distribution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2341, as introduced, Williams. : Distribution grid: distributed generation.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to administer, until January 1, 2016, a self-generation incentive program for distributed generation resources to facilitate the integration of those resources into the electrical grid, improve efficiency and reliability of the distribution and transmission system, and reduce emissions of greenhouse gases, peak demand, and ratepayer costs.

This bill would require the PUC to ensure, through its decisions in electrical corporation general rate cases and related proceedings, that all investments in the distribution grid are compatible with optimal deployment of distributed generation, to the extent grid upgrades are required to meet a goal of 12,000 megawatts of distributed generation by 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 379.9 is added to the Public Utilities Code, to read:

379.9. The commission shall ensure, through its decisions in electrical corporation general rate cases and related proceedings, that all investments in the distribution grid are compatible with optimal deployment of distributed generation, to the extent grid upgrades are required to meet a goal of 12,000 megawatts of distributed generation by 2020.