

PUBLIC UTILITIES COMMISSION

Office of Governmental Affairs

770 L Street, Suite 1050
Sacramento, CA 95814
(916) 327-3277

June 30, 2009

The Honorable Alex Padilla, Chair
Senate Energy, Utilities & Communications Committee
State Capitol, Room 4038
Sacramento, CA 95814**RE: AB 64 (Krekorian/Bass) – As Amended June 23, 2009 – Oppose unless amended**
Status: Senate EU&C Hearing – July 2, 2009

Dear Senator Padilla:

On February 20, 2009, the California Public Utilities Commission (CPUC or Commission) voted 3 to 2 to oppose AB 64 unless it is amended. AB 64 would increase the renewables portfolio standard (RPS) target to 23% in 2014, 27% by 2017, and 33% in 2020, and make other modifications to the RPS program. This bill would also create the Energy Planning and Infrastructure Coordinating Committee (EPIC).

The Commission generally supports AB 64's advancement of the renewable portfolio standard beyond 20% by 2010 towards 33% by 2020. Indeed, increased procurement from renewable resources is a critical element of meeting AB 32's emission reduction goals and greening California's power production and consumption. However, AB 64's proposed changes to the administration of the RPS program are more complex than necessary, and would require the CPUC to initiate lengthy proceedings to change the existing rules.

For example, the proposed cost containment mechanism is essentially the same in principle as the current market price referent (MPR) benchmark and above market funds (AMF) modified by SB 1036 (Perata) in 2007. Yet, the proposed changes alter the AMF from a lump sum to an annual amount. This seemingly simple change will require the Commission to revisit the administrative rules it established pursuant to SB 1036, which will take another year of proceedings at the CPUC and be more complicated to administer. Plus, the change from a lump sum to an annual amount does not address the concern behind the change – expensive renewable contracts in the early years of the program using up the available funds for the total program. Under an annual AMF, expensive contracts early in the program can still use up the available funds for the total program as the contracts cumulatively hit the cap in the years closer to 2020. The solution to this concern instead is continued utility resource planning at the CPUC in order to achieve 33% RPS by 2020 in a logical and cost effective manner. If the Legislature maintains the MPR and AMF concept as the cost containment mechanism, the Commission recommends keeping the SB 1036 AMF rules in place and determining the lump sum as a percentage of the 2009 total bundled electric revenues multiplied by the number of years of the program.

More importantly, the Commission has serious concerns about the barriers to out-of-state renewable resources proposed by AB 64. The CPUC generally supports a Western regional approach to increasing renewable generation, and, as such, is cautious about proposed preferential treatment of in-state

renewable energy resources over out-of-state resources. A national RPS program is supported by the new U.S. President, and will likely be adopted by Congress. California, as a renewable-rich state, has the potential to be a renewable energy exporter in the future. The state should be cautious about setting a precedent among its sister states for in-state preferential treatment.

Finally, the Commission believes that EPIC adds an unnecessary layer of governmental review to generation and transmission siting, and may create a conflict of interest for members who are commissioners at the CPUC and the California Energy Commission (CEC). However, the Commission supports the intent behind EPIC – better statewide coordination of infrastructure planning for renewable energy – and commits to continued cooperation with both state and federal agencies involved in generation and transmission permitting.

The Commission looks forward to working with the author to address these and other concerns as it has time to thoroughly analyze the latest amendments to AB 64. If you have any questions or wish to discuss this matter further, please do not hesitate to call me at (916) 327-8441.

Sincerely,



PAMELA C. LOOMIS

Director

cc: The Honorable Paul Krekorian, Member, California State Assembly
Members, Senate Energy, Utilities & Communications Committee
Kellie Smith, Senate Energy, Utilities & Communications Committee
Wade Teasdale, Senate Republican Caucus/Policy
Kip Lipper, Office of the President pro Tem
John Moffatt, Chief Deputy Legislative Secretary, Office of Governor Arnold Schwarzenegger