REPORT TO CITY COUNCIL

DATE: SEPTEMBER 10, 2008

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER
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SUBJECT: REQUEST TO OPPOSE PROPOSITION 7 "SOLAR AND CLEAN ENERGY ACT OF 2008"

At the request of Southern California Edison (SCE), staff has reviewed Senate Bill 411 (Simitian and Perata) – Proposition 7, labeled as the "Solar and Clean Energy Act of 2008," and presented the item to the Legislative Committee for review. Based on the information presented, the Committee was willing to support the request from Southern California Edison, but wanted a representative to make a presentation on the potential negative effects of this bill and renewable energy in general. One of the concerns raised was how this bill could affect the City's "green efforts" and if not this bill, then what would be appropriate or needed to support renewable energy efforts.

Representatives from SCE have asked that the City produce a letter in opposition to this bill for several reasons. The initiative aims to increase renewable energy targets by requiring energy agencies to accomplish large increases more than double what exists today as non-mandated goals. SCE feels that the goals established are well intended, but not attainable and would actually halt renewable energy development. The initiative also would require a two-thirds vote by the legislature to make any changes to the provisions in the bill.

Opponents of the initiative argue that loopholes in the penalty assessment create a situation in which non-compliance is far easier and less expensive than compliance. This initiative reduces the penalty assessment per kWh and lifts the existing penalty cap. In addition, the proposal changes the State's siting process for power plants and transmission lines. The bill appears to increase the regulatory complexity of the renewable power system, making it more difficult to get renewable energy facilities and equipment built. It is argued that this bill will take away local jurisdiction of wind and non-thermal power plants from local government agencies and give them to the California Energy Commission. The initiative would limit the price paid for renewable energy, a limit that does not exist for other energy sources. Although, as consumers, this appears to be a favorable provision, it does create a situation where renewable energy development may not occur if it is not profitable or self-sufficing.

Attached are the documents provided by SCE for your review. The only proponents of this initiative that staff could find were from a labor union of scientists. It should be noted that SCE

originally supported this legislation, but changed its stance once several amendments were made to the bill.

RECOMMENDATION

It is respectfully recommended the City Council provide direction to staff and, if appropriate, bring back a formal City Council item at the next regularly scheduled meeting of Tuesday, October 7, 2008.

Attachments: The Solar and Clean Energy Act of 2008 – A Flawed Initiative
Californians Against Another Risky Energy Proposition - The Devil is in the Details
Californians Against Another Costly Energy Scheme – Vote No on 7

THE SOLAR AND CLEAN ENERGY ACT OF 2008 – A FLAWED INITIATIVE

CALIFORNIA HAS THE MOST AGGRESSIVE RENEWABLE TARGETS IN THE COUNTRY

California law requires that 20 percent of electricity sold to customers be renewable by 2010. State energy agencies and our Governor have established a 33 percent target by 2020, and there is proposed legislation, SB 411 (Simitian and Perata), to make this target state law.

The proposed Solar and Clean Energy Act of 2008 does nothing to address the barriers that have been identified by the energy agencies, the renewables industry, conservation groups and others as standing in the way of reaching our renewable energy goals. These barriers must be addressed and changes need to be made to our existing laws and regulations to truly achieve these aggressive targets. Simply requiring a specific percentage of renewables, however, as proposed in the initiative, will not make it happen. While laudable in its 50 percent by 2025 target, the initiative does nothing to meaningfully address the majority of these barriers, and in fact creates more loopholes and exacerbates problems in existing law. Not only is it doomed to fail to reach its target, but it could slam the brakes on renewable energy development in the state, and jeopardize achievement of the near-term 20 percent requirement. Moreover, the initiative would require a two-thirds vote of the legislature to correct serious flaws in its provisions, which could leave Californians stuck with a tremendously flawed and inflexible renewable energy policy.

The success of California's renewable energy future is too important to achieving our clean energy goals to lock in fatally flawed legislation. The undersigned organizations are united in our commitment to the success of California's renewable energy future, quickly and aggressively – but for a real future, not just a number. That is why we oppose the proposed Solar and Clean Energy initiative currently in circulation.

1) THE INITIATIVE LOCKS IN LOOPHOLES FOR COMPLIANCE AND SLASHES PENALTIES

The initiative codifies a penalty for noncompliance (one cent per kWh) that represents an *80 percent reduction* from the penalty already adopted by the CPUC (five cents per kWh). While the initiative also lifts the current CPUC cap on total penalties, by preserving the overly lax excuses for waiving penalties, the initiative all but guarantees that its ambitious targets won't come close to being met. The initiative provides no real and true incentive to comply with the law any more than what we have right now. The initiative would create additional uncertainty for renewables developers and likely lead to fewer projects receiving sufficient financing. The Act would also explicitly allow for a signed contract – not the actual construction of a renewable project or delivery of actual electricity from that project – to excuse utilities from compliance. We've already had plenty of experience with contracts with speculative projects that have not to date, nor are ever likely to, produce any renewable electricity.

WHAT WE REALLY NEED

Real requirements with real penalties that will actually inspire renewable development – it really is that simple. This is basic public policy design. The initiative's low bar on penalties would effectively make non-compliance far easier than compliance with the law. Compliance with the law must be counted in terms of real energy production, and must be linked to a clear energy plan and greenhouse gas reductions.

2) THE INITIATIVE MAKES UNNECESSARY AND HARMFUL CHANGES IN CALIFORNIA'S SITING PROCESS FOR POWER PLANTS AND TRANSMISSION LINES

For reasons unclear to us, the Act would disrupt the whole system of how renewable programs and siting are administered. These changes would only serve to increase the regulatory complexity of the existing RPS program, which could cause further delays in getting renewables built. First, the initiative imposes a rigid and arbitrary timetable for permitting decisions. Furthermore, it limits all local, regional and state agency participation to a 100 day period. These timeframes significantly constrain public review and participation, lead to reduced input of sound scientific information to decision-makers, and are virtually certain to produce poorly designed projects, huge controversies and long delays. Second, it reassigns permitting authority for wind and non-thermal solar power plants from local governments to the

California Energy Commission (CEC), and permitting authority for transmission from the California Public Utilities Commission (CPUC) to the CEC – for no apparent reason. Neither of these changes address the barriers to power plant and transmission siting that have been identified, but they would act to the detriment of processes and policies.

The initiative's expedited siting provisions also apply to municipal solid waste facilities, aka. "trash burners," that are a huge public health problem and are not defined as "renewable" under our existing law. Trash burners have been shut down throughout the state due to a long-standing environmental justice effort, as they emit some of the world's most toxic pollutants to humans. There is absolutely no good reason to make or even suggest that these facilities should be easier or faster to build, for any reason.

WHAT WE REALLY NEED

1) Designated renewable energy zones and transmission corridors to help improve the permitting process to truly minimize any harm to the environment and facilitate public participation. The California Renewable Energy Transmission Initiative (RETI) involves all responsible agencies, relevant stakeholders, including environmental and land-use organizations, is already working to identify top priority renewable energy zones that can be developed most cost-effectively and with least environmental impact as well as conceptual transmission plans for those zones and will initiate the permitting process for projects identified. The initiative adds nothing to this process. 2) Joint programmatic EIR/EIS for California by the CEC and BLM will formalize the zones and streamline review without blocking public participation and good science. Planning and engaging stakeholders at the "front end" of projects leads to less controversy and delay in implementation of permitting decisions. The initiative would render this model unworkable. 3) The ISO's interconnection planning queue procedure must be fixed to facilitate more renewables development. The initiative does not address any of these issues and all three of these solutions are already in the process of being addressed through other processes.

3) THE INITIATIVE ARBITRARILY LIMITS THE PRICE PAID FOR RENEWABLE ENERGY – A LIMIT THAT DOES NOT EXIST FOR ANY OTHER ENERGY SOURCE, INCLUDING FOSSIL FUELS

The initiative puts a cap of 3 percent in rate increases on the costs that can be recovered to achieve the accelerated renewable requirements of the initiative. No such restriction exists in our *current* policy for any energy resource – renewable, natural gas, coal or nuclear. In fact, fuel prices for natural gas are volatile and are right now simply passed through to consumers without any cap. The limitation placed on rate increases in the initiative could provide another loophole for non-compliance if the rate increase exceeds this limitation. Further, this provision could function as a cap on the utilities' obligation to buy renewables – if the cost exceeds a 3% rate increase, then the law could go away and stagnate renewable development.

The sun and the wind are free, but not the technology, and some renewable technology is still relatively new and has not yet achieved cost reductions from large scale production. There are a lot of new and promising wind and solar technologies in development, but these are in the development stage. Placing a cap on renewables while simultaneously raising renewable requirements hinders both achievement of the targets and large scale development of new technology. It simply makes no sense.

WHAT WE REALLY NEED

Renewable pricing must support renewable development. Different renewable technologies have different values to the grid and displace different fossil fueled and nuclear resources. It is the job of the CPUC to protect ratepayers and set rates, and they have the expertise and analytical capability to do the job. There must be flexibility in the law to allow the CPUC to do its job. Pricing policies that adequately value renewables are currently under examination and implementation. The initiative doesn't do anything on this issue to address pricing reform, and in fact would hinder new renewable development.

Signers:

Renewable Energy Technology Companies

- Bright Source
- Calif. Solar Energy Industries Association (CalSEIA)
- PPM Energy
- Horizon Wind
- Solar Millennium, LLC
- enXco
- CE Generation
- Fortistar Methane Group
- Oak Creek
- SCHOTT Solar, Inc.
- American Wind Energy Association (AWEA)
- Cleantech America, Inc.
- Solar Monkey
- GreenVolts
- Sun Miner, LLC
- OptiSolar Inc.

Labor

- California Coalition of Utility Employees (CCUE) (Pat Lavin, President)
- International Brotherhood of Electrical Workers (IBEW), Local 1245 (Tom Dalzell, Business Manager)
- IBEW, Local 18 (Brian D'Arcy, Business Manager)
- IBEW, Local 47 (Pat Lavin, Business Manager)
- IBEW, Local 465 (John Hunter, Business Manager)
- IBEW, 9th District (Michael Mowrey, International Vice President)

Environmental and Customer Groups

- California League of Conservation Voters (CLCV)
- Center for Energy Efficiency and Renewable Technologies (CEERT)
- Environmental Defense Fund (EDF)
- Natural Resources Defense Council (NRDC)
- Union of Concerned Scientists (UCS)
- The Vote Solar Initiative (Vote Solar)
- Climate Protection Campaign
- Environmental Entrepreneurs (E2)
- Greenlining Institute

Californians Against Another RISKY ENERGY Proposition

The Devil is in the Details

Passage of the So-Called "Renewable" Initiative Could Increase Costs, Jeopardize System Reliability and Thwart Renewable Power Development.

A billionaire family with a history of sponsoring flawed ballot measures recently submitted signatures to qualify a risky new energy proposition for California's November 2008 ballot. The measure attempts to appeal to voters' support for more renewable power, but is so poorly drafted it could actually thwart clean energy projects already underway, increase electricity costs and significantly jeopardize electric system reliability. That's why a broad coalition of environmentalists, renewable energy providers, utilities, labor, business and consumer groups are opposed and have raised significant policy concerns. They include:

Significantly Increases Electricity Costs.

California's non-partisan legislative analyst warns that this measure could "*result in higher electricity rates*". This is easy to understand when one considers the three components necessary for bringing new renewable energy online: new generation, new backup generation, and new transmission.

New Generation would quickly become dated, more costly technologies. Renewable power technologies – like all technologies -- are evolving and improving. What is state-of-the-art today could be obsolete in five years. This measure forces utilities to sign 20-year contracts without establishing any competitive process to ensure that consumers are receiving power from the most cost-efficient sources and/or the latest technologies. Many renewable developers are already working to advance new technology. They should not be locked out of California's market.

New "backup" power investment will still be required. While renewable power sources are becoming more reliable, the fact is that many of these sources, like sun and wind, are not available at all times. Utilities have a duty to ensure power is available at all times when consumers need it. Utilities will still have to plan for backup power when renewable power is not available. Since the initiative requires utilities to move to 50% sources of renewables, a considerable amount of backup power will be needed – potentially saddling consumers with the cost of both renewable power and backup power sources.

Necessary transmission expansion would cost consumers billions. Many solar plants and wind farms are in remote desert or rural areas that are difficult to connect to the power grid. Regulators, renewable energy providers and utilities are working on a rational system to address the lack of transmission, particularly for renewable sources of power. This measure could actually add billions more in costs because it turns the existing regulatory process for new transmission on its ear – likely resulting in more delays and red tape.

(MORE)

Paid for by Californians Against Another Risky Energy Proposition,
a coalition of environmentalists, renewable energy companies, taxpayers, labor and utility companies, Southern California Edison Company and PG&E Corporation
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Jeopardizes Electric System Reliability.

Measure does not address the major impediments to building needed transmission. What good is power that can't be connected to the grid? Transmission has been identified by both the California Energy Commission and the California Public Utilities Commission as one of the greatest barriers to accelerated development of renewables. California regulators, utilities and energy providers are currently working on establishing an orderly system to address the huge backlog at the state and federal level to get transmission approved and built, particularly transmission needed to connect renewable power sources. This measure does not address the major hurdles to transmission development and, in fact, could exacerbate problems by making bureaucratic changes that simply shift responsibility from one government agency to another without the experience or staff to handle the new workload.

Backup power will still be needed. No assurance plants will be approved. As mentioned above, utilities will still need to purchase backup power to ensure system reliability. The measure is silent on meeting this critical requirement to keep the lights on.

Adds New Bureaucracy & Red Tape that will Delay Renewable Project Development.

Shifts responsibility from California Public Utilities Commission (CPUC) to California Energy Commission (CEC) and creates duplicative responsibilities between two agencies. This measure would give broad authority to the CEC for transmission, market price setting, and enforcing new rules surrounding renewables development. But the CEC is currently not equipped or staffed to handle these broad responsibilities. The impact of these changes will be a massive delay in renewable development, particularly the transmission line development that's needed.

Replicates the Mistakes of the Last Energy Crisis.

Accelerated demand for new technologies and lack of a competitive market will artificially inflate prices. This measure replicates many of the failed policies that led to the energy crisis. Doubling the amount of renewable energy the state must purchase during a short period of time will create huge demand for limited technologies. And this measure fails to create a competitive market where these demands can be met while ensuring the lowest possible prices. This lack of a competitive market will lead to artificially increased prices for renewable power. And while the proponents purport to "cap" what utilities can charge customers for the power they purchase, the measure contains no language that would do so. It is only an empty, unrealistic promise.

When problems arise, changes will be difficult if not impossible to make. Our electricity system is too complicated to be trusted to out of state billionaires. When problems arise, elected officials and regulators will not have the authority to fix them without an unlikely 2/3 vote of the legislature or another initiative.

Leading environmental groups oppose the measure and warn it will "slam the brakes" on renewable development in California.

California recently announced a world-leading plan to combat global climate change that includes the most aggressive renewable power mandates in the country. The state's leading environmental groups who fought hard to seek passage of that law oppose this measure. These experts say there are already policy barriers impeding the state's progress at reaching current goals. This measure not only fails to address those barriers, but would "slam the brakes" on renewable development in the state and erode progress already made towards aggressive renewable goals. For instance, the measure contains ambiguous language that could shut smaller renewable power companies out of the market. Language in the initiative could exclude renewable energy produced by facilities/plants of less than 30MW from counting toward the new renewable goals, putting small renewable energy entrepreneurs out of business.

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