

Capitol fight erupts over renewable energy

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Call it a clash of the bureaucratic titans.

Last year, the Legislature and Gov. Schwarzenegger wrestled over renewable energy until the closing hours of the legislative session. Schwarzenegger eventually vetoed the Democrats' bill and tried to do the job himself by ordering the Air Resources Board to act via executive order.

But that order, in part, touched off a bureaucratic war between the administration and ARB on one side and the Public Utilities Commission on the other.

The squabble is unknown to the public. But its outcome could have a profound impact on public policy and on ratepayers' pocketbooks. To some extent, the dispute is jurisdictional, involving the Air Resources Board and the Public Utilities Commission – and the executive level of the administration.

“Absolutely, we've communicated the governor's positions to both of those institutions,” said Dan Pellissier, a top state official who handles energy policy coordination for the governor.

But critics of the administration's role said the dispute is clouding state energy policy.

“Everybody's confused. This is an issue that needs to be resolved by a joint public hearing of the California Energy Commission and the PUC because the administration's agencies are in conflict with each other,” said V. John White, of the Center for Energy Efficiency and Renewable Technology. “What this means is that everybody needs to figure out a reasonable approach, put it in a bill and pass it.”

The crux of the of the dispute is the use of tradable renewable energy credits, or TRECs (pronounced “T-Rex”), that can be used to help satisfy the state law requiring utilities to get an increasing portion of their energy mix from renewable sources, such as wind, solar, geothermal and some forms of hydro power, among others.

That law, called the Renewable Portfolio Standard, or RPS, requires 20 percent of renewables by this year, although none of the state's major utilities has yet reached that goal. The RPS threshold, however, is not the focus of the latest dispute.

Rather, it is the degree to which utilities will be able to obtain energy credits for out-of-state renewable generation.

The administration and utilities see economic benefits in the out-of-state renewables, leading to long-term savings and cheaper energy. Limiting out-of-state credits would drive up cost over time, they argue, and while there may be some short-term job lost, that would be made up by the economic and environmental benefits that would last for decades, Pellissier noted.

“The important thing here is looking ahead: Are we going to artificially limit where they can get electricity from and artificially drive up the cost of renewable energy? The governor says we won't do it,” he said.

Two key groups, labor and ratepayer advocates, aren't buying it.

“The scenario we are looking at now is a huge gain for out-of-state renewable programs. They’ll have California ratepayers funding renewable development in Montana and Alberta and Washington and Oregon instead of California,” said Mark Joseph of the 35,000-member Council of Utility Employees, a union group that favors in-state development to protect utility workers’ jobs.

“I am utterly baffled as to why the governor would be so interested in pushing renewable generation out of the state. It makes no sense,” he added.

The debate over TRECs is not new. But the latest round was triggered by a PUC decision.

On March 11, the PUC adopted a policy limiting the use of TRECs to 25 percent of a utility’s energy procurement. The decision has the effect of limiting the utilities’ ability to bring in renewable power from outside the state and requires more in-state development.

Environmentalists told Capitol Weekly they generally liked the PUC decision. Labor, too, favors more in-state development because of the jobs generated for California workers.

But the PUC’s decision did not please the Schwarzenegger administration. The governor has favored greater out-of-state as a way of encouraging renewable energy development and promoting investment, and has concerns about restricting inter-state energy transfers. So do the investor-owned utilities and independent power generators, who challenged the PUC’s decision.

Developing renewable energy requires as broad a market as possible, the utilities said in its formal request to modify the decision. “Instead of broadening the market, however, the TREC decision places new limits on the joint utilities’ market opportunities,” the three utilities wrote on April 12.

An intense dispute – intense even by Capitol standards – immediately erupted after the PUC’s March 11 decision. Critics of the administration said Schwarzenegger’s top staff threatened to strip Public Utilities President Michael Peevey of his position on the five-member panel and withdraw the nomination of Nancy Ryan as a PUC commissioner. Numerous sources inside the Capitol made similar statements. Peevey and Ryan declined to comment.

Peevey, a former utility president, and Ryan, a former top aide to Peevey on the PUC staff, are widely respected, say allies and critics alike. “That’s why nobody knows where all this craziness is coming from,” one said.

Pellissier rejected the allegations. “It never happened,” he said. “Categorically, we have never told Mike Peevey that he would not be president. We never told Nancy Ryan that we would withdraw her nomination.”

The ARB also entered the arena.

Last September, when the governor vetoed legislation to raise the RPS to 33 percent, he said he was critical of provisions that he said would violate federal law by “restricting the sale of energy across state lines.” At the same time, he issued an executive order requiring the ARB to develop its own regulation on renewables by this summer and reaffirmed the goal of reaching 33 percent over time.

Last month, on the same day that the PUC reached its decision, the ARB – following the governor’s executive

order -- released a draft of options on renewable energy credits. The first option, supported by utilities, was to have no limits on the TRECs; another was to follow the PUC's lead.

"It blows apart the whole system. The PUC has already adopted a decision totally the opposite of what the ARB is considering. It is a prescription for failure," said Matt Freedman, a staff attorney of The Utility Reform Network, a San Francisco-based consumer advocacy group.

The process of basing the acquisition of renewable energy on out-of-state generation is flawed, he added.

"The governor has mentioned the need for green jobs and a green economy, and we set up these requirements for a more renewable economy. But what if we don't have to buy any of it in California? What if they could just use these certificates for facilities being built a thousand miles away which provide no benefit to the California system? They're just buying a piece of paper.

The utilities -- Pacific Gas and Electric Co., San Diego Gas & Electric and Edison -- weren't the only ones unhappy with the PUC decision. Also seeking a modification is the Independent Energy Producers Association, whose members include out-of-state producers.

White's group, one of several that challenged the PUC action, wants to go back to square one, get the CEC involved to revisit the definition issue, which would help clarify the PUC policy.

"We don't just want the PUC decision changed, we want to go back to the beginning, to where the policy began to diverge," he said.