



*The current of the Valley*

# Connections

Summarizing Regional Energy Issues and News

November-December 2005 ◆

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## Energy Watch

### Bush Signs Appropriations Bill

President Bush signed a \$30.5 billion fiscal 2006 energy and water appropriations bill (H.R. 2419), which is approximately \$1.5 billion more than the administration's request and \$750 million more than fiscal 2005 levels.

The spending measure provides \$24.3 billion for Department of Energy programs, \$5.3 billion for the Corps of Engineers and \$1 billion for the Bureau of Reclamation. The bill provides \$5 million for the Renewable Energy Production Incentive (REPI) program, which provides payments to consumer-owned electric utilities for electricity produced using renewable resources; and allocates funding for purchase power and wheeling by the Western Area Power Administration (\$279 million), South-eastern Power Administration (\$32.7 million) and Southwestern Power Administration (\$3 million).

The Yucca Mountain nuclear waste repository in Nevada received \$450 million for fiscal 2006, which is \$127 million below fiscal 2005 and \$201 million below the president's request of \$651 million. The Department of Energy got \$1.19 billion for energy efficiency/renewable energy programs, fossil energy research and development programs are funded at \$598 million (an increase of \$106.5 million over the administration's request), which includes \$50 million for the Clean Coal Power Initiative.

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## Twelve Local Municipalities and KRC D Agree To Continue Partnership On Regional Energy Project

Twelve local municipalities agreed to move forward with the Kings River Conservation District toward final planning aimed at making a regional Community Choice Power Program a reality.

Council members and Supervisors from the cities of Clovis, Corcoran, Kerman, Kingsburg, Fresno, Dinuba, Hanford, Lemoore, Parlier, Reedley, Selma and Kings County voted to move ahead with preparation of a Community Choice implementation plan that would lead toward an application with the California Public Utilities Commission (CPUC). It is possible the energy program could be operating by early 2007.

Community Choice is a program created by the California Legislature. It permits a city or county to elect to aggregate electrical

energy from a source other than the tradition investor-owned utility company. The utility would continue to own, operate and maintain the local distribution system and handle all customer service, including billing.

Under the program being proposed, the electricity delivered to homes and businesses would be acquired from the Kings River Conservation District. KRC D plans to develop a new natural gas-fired, base-load power plant within the District's service area.

The twelve governing boards two years ago approved a statement expressing interest in the project and earlier this year entered into a memorandum of understanding with KRC D under which the the partnering agencies pursued a recently completed feasibility report.

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## Community Choice

### Final Decision on Rulemaking Is Issued

The California Public Utilities Commission issued its final decision (Decision) in Phase 2 of the rulemaking proceeding on December 15, 2005. The findings in the Phase 1 and 2 Decisions continue to make KRC D's Community Choice Program economically viable.

Many of the issues in the case follow from the overarching issue of CPUC jurisdiction over Community Choice Aggregators (Aggregators). The Decision finds that the CPUC's authority over Aggregators is narrowly circumscribed by AB 117 and that the Commission's primary role is to regulate the service the utility provides to the Aggregator and its customers. The Decision finds: "Nothing in the statute directs the Commission to regulate the Aggregator's program except to the extent that its program elements may affect utility operations and the rates and services to other customers."

The Decision covers many aspects of a Community Choice Program including implementation, consumer protection and renewables.

## Community Choice

**Implementation Plan and Community Choice Registration** - The Decision finds nothing in the statute that directs the CPUC to approve or disapprove an implementation plan or modifications to it. Nor does that statute provide authority to "decertify" an Aggregator or its implementation plan. It is not the CPUC's job to determine what information should be disclosed in an implementation plan, but rather it is up to the Aggregator to comply with the statute.

**Consumer Protection** - The Decision finds a very limited CPUC role for consumer protection other than those issues that would impact utility customers. The CPUC would not intermediate between an Aggregator and its customers, finding no evidence that utility services provided by local governments lack in consumer protections. The CPUC will require certain types of information from the Aggregator including annual reports such as those they would provide to their own local oversight agencies or bodies.

**Renewable Portfolio Standard (RPS)** - The Aggregator should identify in its implementation plan how it intends to comply with the RPS, although the CPUC defers to statute on what the implementation plan requires.

On December 9, 2005, KRCD filed a pre-hearing conference statement for the California Public Utilities Commission's Rulemaking Regarding the California Renewable Portfolio Standards (RPS) as it impacts Community Choice. In that statement, KRCD supported the 20 percent renewable requirements for Aggregators and indicated its desire to meet this standard by 2010. The manner by which the Aggregator will participate in the RPS is being considered in another CPUC proceeding.

### KRCD Power Connections

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## Energy Watch

### Lockyer Files Two Lawsuits Against Sempra And Affiliates

California Attorney General Bill Lockyer has filed two lawsuits against Sempra. The first suit, filed November 16, alleges that Sempra committed fraud on a large scale during the energy crisis of 2000-01 by manipulating wholesale electricity prices through widespread playing of "Enron games."

Lockyer then filed another suit on November 21 charging that Sempra and its affiliates, Southern California Gas Company and San Diego Gas and Electric Company, misled state regulators about their ability to supply natural gas during the energy crisis of 2000-2001.

Lockyer and the California Public Utilities Commission (CPUC) said Sempra Energy and its subsidiaries gave false information to the CPUC, assuring regulators that they could supply natural gas to customers when they knew they had insufficient pipeline capacity.

### CPUC Will Investigate Implementing Renewable Energy Credit Market

The CPUC will investigate creating a market for renewable-energy credits. The decision was issued on November 18 by President Peevey and says that state law provides the Commission with the ability to determine the manner in which energy service providers, community choice

aggregators, and small and multi-jurisdictional utilities participate in and comply with the Renewable Portfolio Standards (RPS) requirements. The decision also states the CPUC's intent to explore policy options for allowing procurement entities, and also allowing unbundled renewable energy credits to count for RPS compliance purposes in the future.

### Governor Appoints New Chief of Staff

On November 30, Governor Schwarzenegger announced the appointment of California Public Utilities Commissioner Susan Kennedy as his Chief of Staff. Kennedy's appointment will take effect January 1, 2006.

### CPUC Says SMUD Annexation Won't Affect Other PG&E Customers

CPUC staff has concluded that despite assertions to the contrary by Pacific Gas & Electric Company, the Sacramento Municipal Utility District's plan to annex customers in Yolo County will not hurt other PG&E customers. Annexation of three Yolo County cities-Davis, West Sacramento and Woodland-and unincorporated areas adjacent to the three, "will not substantially impair Pacific Gas and Electric Co.'s ability to provide adequate service at reasonable rates within the remainder of its service territory," the CPUC staff said.

## Partnership Moves Forward, *continued*

The feasibility report, financed by KRCD and its twelve municipal partners, concluded potential benefits of a regional Community Choice program appear to be significant from the perspectives of cost savings, improved reliability and local control. It recommended that the various agencies move ahead with development of an implementation plan.

The report acknowledges that the ability to provide these benefits and the financial viability of the Community Choice program would be contingent upon availability of cost-based electricity from the planned KRCD base-load generating facility. The report also identifies a number of other factors that must be addressed during preparation of the implementation plan.

Once all the Community Choice Program studies are completed as planned, the twelve local municipalities and KRCD could be positioned to formally apply with the CPUC in May 2006 to implement the program. The project's current proposed time line envisions CPUC action on the applications by October 2006 with the possibility the first Community Choice power deliveries might be made by January 2007.