

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: September 16, 2008

TO: Honorable Members of the Rules and Government Committee

FROM: Gerry F. Miller *GFM*
Chief Legislative Analyst

Council File No: 08-0002-S119
Assignment No: 08-07-1406

SUBJECT: Resolution (Huizar - Perry) to OPPOSE Proposition 7 - The Solar and Clean Energy Act of 2008

CLA RECOMMENDATION: Adopt Resolution (Perry - Garcetti) to include in the City's 2007-2008 State Legislative Program OPPOSITION for Proposition 7, the Solar and Clean Energy Act of 2008, which threatens the City's authority to exercise local control over its renewable energy program, the setting of renewable goals and standards, and the ability to manage its energy supply and reliability decisions in a manner that is cost-effective and supports the needs of its ratepayers.

SUMMARY:

Proposition (Prop.) 7, a proposed initiative statute, has qualified for the Statewide General Election of November 4th, 2008. Prop. 7 seeks to double the existing renewable portfolio energy standard (RPS), currently applicable only to investor-owned utilities (IOUs), from 20% by 2010 to 40% by 2020 and establishes an additional standard to attain a 50% renewable energy standard by 2025. These new standards would apply to both IOUs and publicly-owned utilities (POUs), such as the City's Department of Water and Power (DWP).

Specifically, the measure seeks to implement the following provisions:

Renewable Standard

- Increases the renewable standard to 40% of energy generation by December 31, 2020, and to 50% by December 31, 2025;
- Eliminates renewable projects under 30 megawatts (MW), including small hydro, from qualifying under the RPS program;
- Applies the renewable standard to POUs by removing the POU exemption from the definition of retail seller;
- Grants the ability of the California Energy Commission (CEC) to establish and assess penalties for failure to comply with the standard and the penalty cannot be passed on to the ratepayer;
- Requires utilities to sign renewable energy procurement contracts for a term of at least 20 years;

Transmission Line Siting

- Creates an overlapping jurisdictional regime between the California Public Utilities Commission (CPUC) and the CEC, and in some instances, shifts existing transmission authority from the CPUC to the CEC;
- Gives the CEC authority to create “energy zones” to expedite siting approvals for transmission construction.

Regulatory Structure Changes

- Requires that information regarding renewable production, certification necessary to verify compliance with the renewable standard must be sent to the CPUC, who then must forward the information to the CEC;
- Requires that the CEC determine if appropriate RPS targets have been met and that a utility is procuring sufficient eligible renewable resources to satisfy the targets;
- Requires the CEC to undertake a rulemaking for POU compliance with the RPS program with the authority to review and adopt a POU renewable energy procurement plan, and to establish compliance provisions for POUs, and impose penalties;
- Grants authority to the CEC for approving not only thermal plants greater than 50 MW (as currently provided for), but all solar and clean energy plants greater than 30MW, including small hydro.

BACKGROUND:

The City’s Department of Water and Power (DWP) is currently embarking upon an ambitious RPS Plan to generate 20% of its electricity from clean renewable sources by 2010 and 35% by 2020. The Plan seeks to fight global warming, aggressively pursue renewable energy, and implement energy conservation and efficiency measures. The DWP supports the responsible development of renewable energy resources that provides a reliable and cost-effective energy supply to its customers and enhances the environment.

The DWP is pursuing wind, solar, geothermal, biomass and hydroelectric renewable energy resources and is on track to meet the 2010 and 2020 renewable goals with a current renewable resource mix of approximately 14%.

Upon review of Prop. 7, it appears that it would not promote the orderly acquisition of renewable resources, but instead would set arbitrary and unrealistic goals without providing the ability of publicly owned utilities to balance energy efficiency and renewable acquisitions in the most reliable and cost effective manner for its ratepayers. The measure would actually complicate the regulatory approval of renewable energy projects and frustrate the siting of much needed new transmission, thereby actually slowing down renewable development.

In addition, the initiative changes the definition of “retail seller” placing POUs under the regulation of both the CPUC and also the CEC, thereby setting up a dual regulatory structure and taking authority away from local authorities to best determine their customer’s needs. In that manner, Prop. 7 threatens

the ability of local authorities to establish their own renewable standards, renewable procurement and contracting programs, and implementation schedules.

The measure specifically places the approval of renewable energy projects over 30 MW, the siting of new transmission, and approval of modifications to existing transmission with the CEC, instead of local authorities. Prop. 7 excludes the qualification of renewable projects under 30 MW from a utility's renewable program, when renewable projects of all sizes should be pursued and considered.

The level of renewable acquisition required, state-wide, by the Prop. 7, namely 40% by 2020 and 50% by 2025, may exceed the availability of those renewable resources in the time frame mandated by the measure. All utilities throughout the State would be competing for the same limited supply of renewable energy sources. This may cause severe problems for reliability and integration of those resources into the transmission grid.

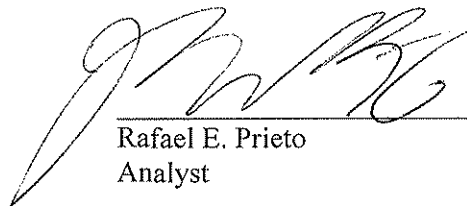
Furthermore, Prop. 7's requirement that utilities meet annual targets and accept all offers for renewable energy, if offered at or below market price, for a period of no less than 20 years could inflate prices and stifle competitiveness and technological innovation. Given the various concerns about the measure and its impact on the City, and its local control of utility regulation, it is important that the City adopt an oppose position for Prop. 7.

DEPARTMENTS NOTIFIED

Department of Water and Power

INITIATIVE STATUS

Qualified for the Statewide General Election - November 4th, 2008



Rafael E. Prieto
Analyst

Attachment(s): 1. Resolution (Huizar - Garcetti)
2. Proposition 7

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RULES & GOVERNMENT

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal government body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Proposition 7, the Solar and Clean Energy Act of 2008, seeks to require that all utilities, including municipally-owned utilities, provide 50% of their electricity from renewable energy sources by 2025; and

WHEREAS, Proposition 7 would require the California Energy Commission to identify solar and clean energy zones, primarily in the desert, to jump-start clean power plants; and

WHEREAS, the Initiative would fast track renewable plant construction permits for approval by the California Energy Commission; and

WHEREAS, Proposition 7 seeks to reduce penalties levied on utilities for acts of non-compliance and requires them to enter into 20 year contracts with providers of renewable resources; and

WHEREAS, a number of environmental advocacy organizations, such as the Natural Resources Defense Council, Center for Energy Efficiency and Renewable Technologies and Vote Solar and the Union of Concerned Scientists, have expressed great concern about this measure and its impact on the environment; and

WHEREAS, advocates state that the Initiative will make unnecessary and harmful changes in the State's siting process, severely limiting environmental reviews, for power plants and transmission lines; and

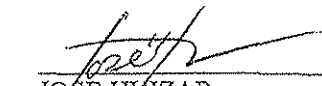
WHEREAS, the measure's lax penalties for utilities provides no real incentives for them to comply with renewable objectives; and

WHEREAS, Proposition 7 would likely exclude smaller renewable providers from participating in the market; and

WHEREAS, the measure's opponents maintain that the Initiative is so poorly drafted that it would disrupt renewable energy development and jeopardize the achievement of hard-fought near term requirement of 20% renewable energy use;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles, hereby includes in its 2007/2008 State Legislative Program OPPOSITION for Proposition 7, the Solar and Clean Energy Act of 2008, which seeks to augment utilities' renewable energy use in a manner that would ultimately harm the environment.

PRESENTED BY:


JOSE HUIZAR
Councilmember, 14th District

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SECONDED BY



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