



**Monday, October 19**  
**2:30 pm–4:00 pm**

## **803 Legislative Update on Energy Issues**

**Dawn C. Anaiscourt**  
*Senior Attorney, SCE Law Department*  
Southern California Edison

**Norman D. Ewart**  
*Associate General Counsel, Legal-Production & Unregulated*  
Rosetta Resources Inc.

**Kevin Gross**  
*Senior Counsel*  
Chevron Corporation

**Alex MacWilliam**  
*Partner*  
Fraser Milner Casgrain

## Faculty Biographies

### **Dawn C. Anaiscourt**

Dawn C. Anaiscourt is a senior attorney at Southern California Edison Company. Her practice focuses on providing legal support for the procurement of renewable and conventional electric energy, natural gas and related financial products, including pro forma development, aiding in the preparation and management of product solicitations, and contract negotiation and drafting.

Prior to joining SCE's law department, Ms. Anaiscourt practiced corporate and securities law with Katten Muchin Rosenman LLP and Shaw Pittman LLP, both in Los Angeles, where she provided counsel to public, private and entrepreneurial entities for venture capital and M&A transactions, large-scale IP due diligence management, 34 Act reporting and other corporate matters.

Ms. Anaiscourt currently serves on the advisory board of the Los Angeles Metropolitan Urban Debate League.

Ms. Anaiscourt received her BA from Harvard University and a JD/MBA from the School of Law and the Anderson School of Management at University of California, Los Angeles.

### **Norman D. Ewart**

Norman D. Ewart is the associate general counsel of Rosetta Resources Inc. and is located in Houston, Texas.

Mr. Ewart has worked many years as an in-house corporate oil and gas attorney. Prior to becoming an in-house attorney, he practiced oil and gas and other areas of law with Hinkle, Cox, Eaton, Coffield & Hensley in Roswell, New Mexico.

He is the president-elect of ACC's Houston Chapter.

Mr. Ewart graduated from St. John's College, Annapolis, Maryland, and received his JD degree from the University of New Mexico.

### **Alex MacWilliam**

Alex MacWilliam is a senior energy/environmental partner with the Calgary office of Fraser Milner Casgrain LLP, one of Canada's largest business law firms. He leads the firm's national environmental law practice and advises Canadian and foreign clients involved in the energy, transportation, manufacturing, financial services and land development sectors. Mr. MacWilliam's practice includes advice to clients on climate change regulation and associated matters, resolution of environmental disputes through

negotiation, mediation, arbitration and litigation, defense of environmental prosecutions, environmental due diligence associated with mergers, acquisitions and financings and compliance matters.

At FMC, Mr. MacWilliam is actively involved in FMC's sponsorship of the Houston chapter of ACC and the ACC Energy Committee and its participation at the ACC Annual Meetings. Mr. MacWilliam is a member of the Alberta Environmental Appeals Board and the Canadian Chamber of Commerce Environment Committee and Climate Change Task Force. He belongs to the ABA Environment, Energy and Resources Section, is a past president of the Calgary Bar Association and the Canadian Transport Lawyers Association and a sessional lecturer at the University of Calgary Faculty of Law. He sits on the board of directors of the Calgary International Film Festival and Alberta Theatre Projects and is a member of the Calgary Petroleum Club.

Mr. MacWilliam received his BA from the University of Calgary and his LLB from the University of British Columbia.

Legislative Update on  
Energy Issues:  
Renewable Electric Energy  
ACC Annual Meeting  
October 19, 2009  
Dawn C. Anaiscourt, SCE

---

---

---

---

---

---

---

---

Outline

- Renewable Electric Energy
- Renewable Energy Credit
- Federal Incentives
- Legislation in Development

---

---

---

---

---

---

---

---

Renewable Electric Energy

- Wind
- Solar
  - Thermal
  - Photovoltaic
- Geothermal
- Biomass
- Hydro
- Other

---

---

---

---

---

---

---

---



---

---

---

---

---

---

---



---

---

---

---

---

---

---



---

---

---

---

---

---

---

### Geothermal Plant



---

---

---

---

---

---

---

### Hydro Powerhouse No. 1, Big Creek, CA



---

---

---

---

---

---

---

### Renewable Energy Credit

- Also known as a "REC"
- Key attribute of electric energy produced by an eligible renewable energy resource:  
Renewable Energy = electric energy + REC
- Credit or certification for 1 MWh of renewable energy
- REC types: Bundled, Unbundled, Tradable, Federal (proposed)

---

---

---

---

---

---

---

### Federal Incentives

- Production Tax Credits (PTC)
- Investment Tax Credits (ITC)
- Modified Accelerated Cost Recovery System (MACRS)
- Loan Guarantees
- Grants
- Clean Renewable Energy Bonds (CREBs)

---

---

---

---

---

---

---

### Legislation in Development

#### American Clean Energy and Security Act (ACES)

- Introduced by House Energy and Commerce Committee, Chairman Henry Waxman (D-Cal.)
- aka Waxman-Markey Bill
- House passed bill on July 20, 2009
- Addresses climate change with cap and trade
- Also proposes federal RPS
- Does not preempt state RPS requirements

---

---

---

---

---

---

---

### ACES, cont.

- Retail Electrical Supplier's Annual Combined Target (ACT) for RPS would be met with Federal Renewable Electrical Credits (FRECs) and Electricity Savings
- $\frac{3}{4}$  FRECS and  $\frac{1}{4}$  Electricity Savings
- FREC issued for 1 MWh of Renewable Electricity

---

---

---

---

---

---

---

Legislation in Development *Cont.*

California Senate Bill 14

- Sponsored by Senator Joe Simitian
- Would increase California's RPS to 33% by 2020
- 33% supported by Governor Arnold Schwarzenegger (Exec. Order S-14-08) and California Air Resource Board

---

---

---

---

---

---

---

SCE and Renewable Energy

SCE contracts for renewable electric energy through:

- Requests for Electric Energy Proposals
- Renewable Standard Contracts
- CREST Program
- Solar PV Rooftop Program (in development)

<http://www.sce.com/EnergyProcurement/renewables/>

---

---

---

---

---

---

---



**Comparison of 5 Top State Renewable Energy Producers**

	<u>California</u>	<u>Washington</u>	<u>Oregon</u>	<u>New York</u>	<u>Texas</u>
Rank by Renewable Generation <sup>1</sup>	2	1	3	4	5
Total Renewable Net Generation for 2007 (in thousand MWh) <sup>2</sup>	52,173	82,560	35,816	28,028	11,932
% Hydro vs. Non-Hydro Renewables (April 2009) <sup>3</sup>	54.6% Hydro vs. 45.4% Non-Hydro	94.5% Hydro vs. 5.5% Non-Hydro	89.4% Hydro vs. 10.6% Non-Hydro	84.8% Hydro vs. 15.2% Non-Hydro	8.7% Hydro vs. 91.3 % Non-Hydro
Population Rank (2008) <sup>4</sup>	1 36.8 million	14 6.5 million	27 3.8 million	3 19.5 million	2 24.3 million
Other	Leading US in non-hydroelectric renewable generation; second highest energy consumption but 48 <sup>th</sup> in per capita consumption	Leading US in hydroelectric generation; net exporter of electricity, including to California	One of the leading hydroelectric power producers	One of the leading hydroelectric and MSW/landfill gas power producers; one of highest states in total energy consumption but low per capita consumption	Leading US in wind-powered generation capacity and in electricity production and consumption

<sup>1</sup> Statistics for 2007 from Energy Information Administration (EIA) at [http://www.eia.doe.gov/cneaf/solar.renewables/page/stat\\_profiles/sum\\_tabe\\_gen.html](http://www.eia.doe.gov/cneaf/solar.renewables/page/stat_profiles/sum_tabe_gen.html)

<sup>2</sup> Statistics for 2007 from EIA at [http://www.eia.doe.gov/cneaf/solar.renewables/page/stat\\_profiles/sum\\_tabe\\_gen.html](http://www.eia.doe.gov/cneaf/solar.renewables/page/stat_profiles/sum_tabe_gen.html). 2007 US Renewable Energy Totals: Capacity 107,954 MW and Generation: 352,747 thousand MWh.

<sup>3</sup> Percentages based on data from EIA for April 2009 at [http://tonto.eia.doe.gov/state/state\\_energy\\_profiles.cfm](http://tonto.eia.doe.gov/state/state_energy_profiles.cfm).

<sup>4</sup> Data from EIA for April 2009 at [http://tonto.eia.doe.gov/state/state\\_energy\\_profiles.cfm](http://tonto.eia.doe.gov/state/state_energy_profiles.cfm).

**Comparison of CA, WA and OR  
Renewable Energy Portfolio Standards**

<u>Elements of Programs</u>	<u>California</u>	<u>Washington</u>	<u>Oregon</u>
RPS Program Requirement <sup>i</sup>	1% increase each year until 20% by 12/31/ 2010 <sup>ii</sup>	3% by 1/1/2012 6% by 1/1/2016 15% by 1/1/2020 <sup>iii</sup>	5% by 12/31/2011 15% by 12/31/2015 20% by 12/31/2020 25% by 12/31/2025 <sup>iv</sup>
Obligated Entities	electric corporations, community choice aggregators, electric service providers	Electric utilities with >25,000 in-state customers <sup>v</sup>	Electric utilities and electricity service suppliers <sup>vi</sup>
Solar, wind, geothermal, landfill gas, ocean	Yes	Yes	Yes
Biomass	Yes	Some <sup>vii</sup>	Some <sup>viii</sup>
Hydro	Yes, small hydro (30 MW or less)	Yes	Yes, with restrictions
Out of State Restrictions	Yes <sup>ix</sup>	Yes <sup>x</sup>	Yes <sup>xi</sup>
Unbundled RECS to Satisfy Annual Requirements	PUC has authority to allow unbundled RECs but has not yet done so.	Yes <sup>xii</sup>	Yes, with certain geographic and quantity restrictions

- 
- <sup>i</sup> Information from the US Department of Energy: Energy Efficiency and Renewable Energy, at [http://apps1.eere.energy.gov/states/maps/renewable\\_portfolio\\_states.cfm](http://apps1.eere.energy.gov/states/maps/renewable_portfolio_states.cfm).
- <sup>ii</sup> Cal Public Utilities Code (CPUC) Section 399.15(b)(1). California legislature currently considering legislation that would increase the RPS requirement incrementally to 33% by 2020. *See* California SB 14.
- <sup>iii</sup> Revised Code of Washington (RCW) Chapter 19.285.
- <sup>iv</sup> Required targets vary by utility size. Targets shown are for large electric utilities (at least 3% total state retail sales). Oregon Revised Statutes (ORS) Chapter 469A.052.
- <sup>v</sup> RCW Chapter 19.285.030(16).
- <sup>vi</sup> ORS Chapter 469A.050.
- <sup>vii</sup> RCW Chapter 19.285.030(18).
- <sup>viii</sup> ORS Chapter 469A.025(3).
- <sup>ix</sup> Facility either (i) must be in California or interconnect to Cal ISO or (ii) must interconnect to WECC; and the energy must be “delivered” to California. CPUC Section 399.12; Cal Public Resources Code Section 25741(a) and (b).
- <sup>x</sup> Facility either must be located in the Pacific Northwest (as defined by the Bonneville Power administration) or the power must be delivered into state on real-time basis without firming and shaping. Revised Code of Washington Chapter 19.285.030(10).
- <sup>xi</sup> Facility either must be located in WECC or designated as environmentally preferable. ORS 46A.010.
- <sup>xii</sup> RCW Chapter 19.285.040(2)(a).

## ACC Extras

Supplemental resources available on [www.acc.com](http://www.acc.com)

ACC Green House Counsel

<http://Acc.com/gogreen>

Overview of Electricity Regulation and Oil and Gas Law in Canada.

Infopak. February 2008

<http://www.acc.com/legalresources/resource.cfm?show=19622>

Disclosure of Financial Risks Due to Climate Change.

Article. September 2008

<http://www.acc.com/legalresources/resource.cfm?show=255822>

Please note, these additional resources are provided by the Association of Corporate Counsel and not by the faculty of this session.