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Questions Surround California's Renewable Electricity Mandate

Author: [Jon Costantino](#)

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California was close. Just how close? It depends on whom you ask. Some would say that the California Legislature was only a single roll call away from sending to the Governor legislation expanding the state's renewable electricity mandate to 33% (SB 722).

But the Legislature missed the midnight deadline by four minutes, thus throwing away a year's worth of work, negotiations and politics. Others would say that it is unclear how close California really was because the exact contents and implications of SB 722 were not really known and securing that final vote was never a sure thing. Also, it was not known if enough changes had been made to satisfy the Governor's requirements laid out in last year's veto message of a similar bill, [SB 14](#).

If the bill did pass, and if it was signed by the Governor, then California would have firmly established a long-term marketplace for renewable energy. Such a marketplace would have provided certainty for the many solar, wind, biomass and other renewable energy providers, their subcontractors and the utilities themselves. When California enacts a new law that forces technology, advances environmental policy, and has implications outside its borders, historically, the rest of the nation gets pulled along for the ride.

But a bill wasn't passed and it wasn't signed. Therefore, the Legislature's inaction opened the door for the California Air Resources Board ([CARB](#)) to adopt in September a Renewable Electricity Standard ([RES](#)) regulation as a greenhouse gas emissions backstop aimed at achieving the same policy goal. The Board's administrative action put an enforceable mandate on the books, thus accomplishing a major milestone outlined in the State's climate change policy roadmap, the [Scoping Plan](#). Though this new mandate is indeed historic, it could also become history in less than a week. Because the regulation's underlying authorization coming from [AB 32](#) (the California Global Warming Solutions Act of 2006) and not direct statutory authority, the regulation could be suspended by voter initiative on November 2. So, if the question were asked today, "Does California have a 33% renewable

electricity mandate?” at this point the answer would be a resounding, “Yes, but...” Right now only one thing is certain: California’s renewable energy program has lots of questions.

Uncertainty is always a problem for business, but that is exactly what California has given the renewable electricity industry over the last month—a whole lot of questions with very few answers. For the second straight year, legislation to increase California’s Renewable Portfolio Standard (RPS) from 20 to 33% failed to get enacted, and because the substitute regulation adopted to achieve the same goal is waiting for the results of a citizen referendum to suspend the state’s entire climate program (Proposition 23), industry is left without clear direction on how to move forward.

In stark contrast to SB 722, the regulation drafted by CARB had very few limits or restrictions on where the electricity was generated or on the use of renewable energy credits (RECs). But at the September 23, 2010 Board meeting, where the regulation was approved, the staff had recommended and the Board adopted changes requiring the RES regulation be “harmonized” with the California Public Utilities Commission’s existing 20% RPS program. This last-minute change provided even more uncertainty on the direction in which the state was heading.

The Legislature’s inaction cost the state a historic opportunity to establish meaningful and long-lasting policy for the state and possibly the nation. Instead, California’s electricity industry is left with a bare-bones administrative regulation, a final version of which has not yet been released to the public, and won’t be until weeks after the 2010 California gubernatorial election.

If next year’s Legislature takes another run at passing a comprehensive RPS bill, it will have to deal with the several key issues that have plagued the last two RPS bills: how much renewable energy must come from within California’s borders, what role would renewable credits play, and the larger issues of costs and cost-containment. It is unclear how these questions will be answered, but it is certain that any bill coming out of the California Legislature will not be as wide open the RES regulation. These are not insignificant questions and have multimillion-dollar implications for business and ratepayers, but the answers are still not fully known and won’t be for some time.

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