KAMALA D. HARRIS
Attorney General of California
SALLY MAGNANI
Supervising Deputy Attorney General
LISA TRANKLEY
Deputy Attorney General
State Bar No. 83108
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 327-7877
Fax:
E-mail: Lisa.Trankley@doj.ca.gov
Attorneys for People

IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN WATERSHEDS PROJECT, Plaintiff, v. KEN SALAZAR, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF THE INTERIOR; BOB ABBEY, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE UNITED STATES BUREAU OF LAND MANAGEMENT; MIKE POOL, IN HIS OFFICIAL CAPACITY AS DEPUTY DIRECTOR OF THE UNITED STATES BUREAU OF LAND MANAGEMENT; UNITED STATES BUREAU OF LAND MANAGEMENT, A FEDERAL AGENCY; ROWAN GOULD, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE UNITED STATES FISH AND WILDLIFE SERVICE; REN LOHOEFENER, IN HIS OFFICIAL CAPACITY AS REGIONAL DIRECTOR OF THE PACIFIC SOUTHWEST REGION OF THE UNITED STATES FISH AND WILDLIFE SERVICE; UNITED STATES FISH AND WILDLIFE SERVICE, A FEDERAL AGENCY; AND UNITED STATES DEPARTMENT OF THE INTERIOR, A FEDERAL AGENCY, Defendants, and BRIGHT SOURCE ENERGY, INC. Intervenor-Defendant.	Case No.: 2:11-cv-00492-DMG-SS **AMICUS CURIAE MEMORANDUM OF GOVERNOR EDMUND G. BROWN JR. IN OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** Date: August 1, 2011 Time: 9:30 a.m. Courtroom: 7 – 2nd Floor Judge: Honorable Dolly M. Gee Trial Date: TBA Action Filed: 01/14/2011

TABLE OF CONTENTS

Page

INTRODUCTION 1

ARGUMENT 2

I. Plaintiff must show that enjoining the Ivanpah project is in the public interest 2

II. California has a significant interest in increasing renewable energy sources, which include the Ivanpah project 3

III. California has devoted substantial resources to its renewable energy development programs, including siting large-scale renewable energy facilities such as the Ivanpah project 4

A. Legislation 4

B. Regulatory efforts 5

IV. The Ivanpah project is an important component of California's efforts to meet the RPS standard and reduce greenhouse gas emissions 8

CONCLUSION 11

TABLE OF AUTHORITIES

Page

CASES

Alliance for the Wild Rockies v. Cottrell
632 F.3d 1127 (9th Cir. 2011) 2

Weinberger v. Romero-Barcelo
456 U.S. 305, 102 S.Ct. 1798, 72 L.Ed.2d 91 (1982) 2

Western Watersheds v. Bureau of Land Management
No. 3:11-cv-00053-HDM-VPC, 2011 U.S. Dist. LEXIS 50056
(D. Nev. April 28, 2011) 2

Winter v. Natural Resources Defense Council, Inc.
555 U.S. 7, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008) 2

STATUTES

Calfornia Health & Safety Code
§ 38501(a) (West 2011) 5

California Public Resources Code
§ 25301(a) (West 2011) 7

OTHER AUTHORITIES

Assembly Bill 32 (2005-2006 Session) 4

Senate Bill X1-2 (S.B. X1-2, 2011-2012 Session) 3, 4

INTRODUCTION

In April 2011, Governor Jerry Brown signed into law a "Renewables Portfolio Standard" (RPS) requiring all retail sellers of electricity to serve 33 percent of their load with renewable energy by 2020, the most ambitious renewable energy standard in the United States. The 33 percent RPS statute is new, but California's commitment to the reduction of the use of fossil fuel is not. The state's strategy is multi-faceted, including economic incentives, specific requirements for actions by the major utilities, processes for expediting the siting of renewable energy facilities, and improvements to the transmission infrastructure accommodating renewable energy sources. California is committed to a significant and substantial increase in renewable resources for electrical power, the reduction of fossil-fuel based pollutants, and to promoting the green economy, consistent with protection of the environment.

The Ivanpah project will contribute 370 megawatts of solar energy towards that commitment and, as set forth below, is an important part of California's overall efforts to transform its energy future. California has a keen interest in the success of the Ivanpah project. Governor Brown asks this Court to consider California's interest when determining whether Western Watersheds Project has met its burden of proving that an injunction is in the public interest. In light of the actions taken in conjunction with the project, the public interest here is in the success of responsibly sited renewable energy resources. We therefore ask the Court to deny the request for a preliminary injunction and allow this renewable energy project to proceed.

////

////

////

ARGUMENT

I. PLAINTIFF MUST SHOW THAT ENJOINING THE IVANPAH PROJECT IS IN THE PUBLIC INTEREST

Under longstanding law, a plaintiff seeking injunctive relief must show that the injunction is in the public interest. As the Supreme Court noted in *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312,102 S.Ct. 1798, 72 L.Ed.2d 91 (1982): "In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." Under the public interest prong in the injunctive relief test in *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008), the Court considered the impact of the Navy's use of sonar during training exercises on marine mammals. The Court found that although marine mammals would be harmed, the "balance of equities and consideration of the overall public interest in this case tip strongly in favor of the Navy" (*id.* at 378), and the Court vacated the preliminary injunction issued by the Ninth Circuit.

As the Ninth Circuit stated in *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1138 (9th Cir. 2011): "We will not grant a preliminary injunction . . . unless those public interests [in support of issuing the injunction] outweigh other public interests that cut in favor of *not* issuing the injunction." In a challenge similar to this case, Western Watersheds Project sought a preliminary injunction against the Bureau of Land Management alleging deficiencies in its National Environmental Policy Act review of a proposed wind facility. The district court denied the preliminary injunction, finding that any environmental interests were outweighed by other interests in the case. Specifically, the court found that delaying the project "would harm federal renewable energy goals and delay Nevada's economic recovery." *Western Watersheds v. Bureau of Land Management*, No. 3:11-cv-00053-HDM-VPC, 2011 U.S. Dist. LEXIS 50056, at *18 (D. Nev. April 28, 2011). Similarly, this Court should find that an injunction is

not in the public interest because of the importance of the project to the state's renewable energy goals.[1] As Randall Hickok testified in his declaration opposing the TRO application, a preliminary injunction could threaten the viability of the project (Hickok Declaration, ¶¶ 18- 24), one which California sorely needs to meet its RPS goals.

II. CALIFORNIA HAS A SIGNIFICANT INTEREST IN INCREASING RENEWABLE ENERGY SOURCES, WHICH INCLUDE THE IVANPAH PROJECT

California has specifically determined that increasing renewable energy is in the public interest. In enacting the 33 percent RPS into law, the Legislature found that the RPS program will provide unique and important benefits to California, including displacing fossil fuel consumption; adding new electrical generating facilities; reducing air pollution; meeting the state's climate change goals by reducing greenhouse gas emissions from electrical generation; promoting stable retail electricity rates; providing a diversified and balanced energy generation portfolio; and contributing to the safe and reliable operation of the electrical grid. S.B. X1-2, 2011-2012 Sess., Sec. 13. As the California Energy Commission (CEC) has noted, increasing renewable energy in the state's electricity mix reduces the risks and costs associated with potentially high and volatile natural gas prices while also reducing dependence on imported natural gas. CALIFORNIA ENERGY COMMISSION, INTEGRATED POLICY REPORT 2 (2009)[2].

The California Air Resources Board (CARB) has estimated that the 33 percent RPS goal will reduce greenhouse gas emissions from the state's electricity sector by

[1] The plaintiffs may argue that the public interest in protecting the desert tortoise outweighs any public interest in renewable energy. We note that the Energy Commission imposed mitigation conditions to protect the desert tortoise, beyond those required by the federal government, and concluded that there would be no significant impacts to desert tortoise from the Ivanpah project. CALIFORNIA ENERGY COMMISSION, DECISION ON IVANPAH SOLAR ELECTRIC GENERATING SYSTEM VI- 42 (2010), found at http://www.energy.ca.gov/sitingcases/ivanpah/documents/index.html

[2] http://www.energy.ca.gov/2009_energypolicy

at least 12 million metric tons of carbon dioxide equivalents.[3] In addition, moving to renewable energy will reduce air pollutants and toxic air contaminants that result from fossil-fuel power generation, thus providing positive health benefits. AIR RESOURCES BOARD, PROPOSED REGULATION FOR A CALIFORNIA RENEWABLE ELECTRICITY STANDARD STAFF REPORT: INITIAL STATEMENT OF REASONS ES-3 (2010)[4].

The Ivanpah project will help the state meet its 33 percent RPS goal and exemplifies the benefits of renewable resources to California. Because it is a non-polluting thermal solar plant, it will not emit greenhouse gases or any other air pollutants, and its clean energy will displace power derived from fossil fuels.

III. CALIFORNIA HAS DEVOTED SUBSTANTIAL RESOURCES TO ITS RENEWABLE ENERGY DEVELOPMENT PROGRAMS, INCLUDING SITING LARGE-SCALE RENEWABLE ENERGY FACILITIES SUCH AS THE IVANPAH PROJECT

California's efforts to transform its energy supply from one based on fossil fuels to one based on renewable energy is reflected in both legislation and regulatory programs and policies.

A. LEGISLATION

Multiple pieces of California legislation encourage and require the adoption and use of renewable energy. Assembly Bill 32 (A.B. 32, 2005-2006 Sess., "AB 32") and Senate Bill X1-2 (S.B. X1-2, 2011-2012 Sess., "SB X1-2") establish California's overall approach, and fundamentally define the actions California must take to supply its citizens with energy.

In AB 32, the California Global Warming Solutions Act of 2006, the Legislature found that global warming poses a serious threat to California's

---

[3] This term is a measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

[4] www.arb.ca.gov/regact/2010/res2010/res10isor.pdf

economic well-being, public health, natural resources, and environment. CAL. HEALTH & SAFETY CODE § 38501(a) (West 2011). Aspiring to exercise a "global leadership role" (*id.* at § 38501(e)), the legislation directed the CARB to develop regulations, market mechanisms, and other actions to reduce California's greenhouse gas emissions, such as carbon dioxide, to 1990 levels by 2020.

SB X1-2 is the comprehensive legislation that codifies and implements the RPS goal that by the end of 2020, 33 percent of total retail sales of electricity come from renewable energy resources.[5] The bill also sets interim targets of 20 percent renewable sources by 2013 and 25 percent by 2016. To achieve these targets, SB X1-2 directs the state's major utilities to prepare annual renewable energy procurement plans and an annual compliance report, and requires a number of regulatory agencies to undertake specific efforts to ensure that the targets are reached.

B. REGULATORY EFFORTS

California's substantial and significant efforts to reach its renewable energy goals are evident from looking at the extensive resources the state has devoted to increasing the production of renewable energy. In 2003, two state agencies - the CEC and the California Public Utilities Commission (CPUC) -adopted an Energy Action Plan with a goal of eliminating energy outages and excessive price spikes in electricity or natural gas.[6] The Plan established an important principle, known as the "loading order," to guide the agencies' energy decisions. The agencies agreed

---

[5] SB X1-2 is the culmination of a series of legislative and gubernatorial RPS actions. In 2002, Governor Davis signed SB 1078, creating the RPS. It required investor-owned utilities (those regulated by the Public Utilities Commission) to ensure that by 2017 20 percent of their retail sales would come from renewable resources. In 2006, SB 107 modified the program to require the utilities to meet the 20 percent target by 2010. Governor Schwarzenegger then upped the target to 33 percent by 2020 through Executive Order S-14-08.

[6] The Plan was also adopted by the Consumer Power and Conservation Financing Authority, which has since been phased out and no longer exists.

that their highest priority should be to increase conservation and energy efficiency. Any need for new generation should be met first by renewable energy resources (including large-scale projects like Ivanpah) and distributed generation,[7] and second with clean fossil-fueled generation. CALIFORNIA ENERGY COMMISSION ET AL, ENERGY ACTION PLAN 4 (2003)[8].

Executive Order S-14-08[9] directed all state regulatory agencies to give priority to reviewing permits for renewable energy projects. Two of those, the CEC and Department of Fish and Game, have joined with the federal Bureau of Land Management and the Fish and Wildlife Service to form the Renewable Energy Action Team. The team meets regularly to coordinate review of renewable energy projects on state and federal lands, including the Ivanpah project, in order to reduce the time and uncertainty of the licensing processes. They are also developing the Desert Renewable Energy Conservation Plan, a road map for renewable energy development in California's desert regions.

And to ensure that adequate transmission capacity exists for these new renewable energy sources, state agencies, utilities, the environmental community, and renewable generation developers have formed the Renewable Energy Transmission Initiative. The purpose of this effort is to develop a statewide transmission plan with sufficient capacity to support the 33 percent RPS.

The CEC has a multitude of programs devoted to encouraging the development of renewable energy resources.[10] It retains siting jurisdiction over

---

[7] Distributed generation consists of small generation sources that are at or very near the location where the energy is used. An example of distributed generation is a rooftop solar project.

[8] www.energy.ca.gov/energy_action_plan/2003-05-08_ACTION_PLAN.PDF

[9] http://www.dfg.ca.gov/habcon/energy/

[10] The CEC, for example, provides support to existing, new, and emerging renewable technologies; provides incentives for small wind and fuel cell electricity systems; and provides incentives for solar electricity systems in new home construction.

(continued...)

solar thermal power plants of 50 megawatts or greater, such as the Ivanpah project. As part of its energy policy responsibilities, the CEC is required to prepare a biennial integrated energy policy report, which contains an integrated assessment of major energy trends and provides policy recommendations to, *inter alia*, conserve resources, protect the environment, and ensure reliable and diverse energy supplies. CAL. PUB. RES. CODE § 25301(a) (West 2011). For its 2011 report, the CEC stated that it will prepare a renewable energy plan intended to "expedite permitting of the highest priority renewable generation and transmission projects with the goal of developing 12,000 megawatts of distributed generation and 8,000 megawatts of utility-scale renewable by 2020." CALIFORNIA ENERGY COMMISSION, INTEGRATED ENERGY POLICY REPORT SCOPING ORDER 9-10 (2011)[11]. The CEC also has responsibilities under the new RPS legislation to implement portions of the RPS program, including the adoption of regulations governing compliance of publicly owned utilities with the RPS targets.

Increasing the state's sources of renewable energy is also a high priority at the CPUC. SB X1-2 gave new responsibility to the CPUC pertaining to pricing for electricity purchased from renewable energy sources. The CPUC already sets RPS targets for investor-owned utilities and determines whether the utilities have met the targets. It also oversees a process called the Long-Term Procurement Plan proceeding, in which it reviews and approves utilities' ten-year plans to purchase energy, and considers the impacts of state energy policies on the need for new resources. The CPUC is encouraging the development of renewable energy through the Renewable Auction Mechanism, a program that streamlines the process by which utilities can purchase energy from small renewable distributed generation projects. Finally, the CPUC oversees various rebate programs for customers of

---

(...continued)

[11] http://www.energy.ca.gov/2011_energypolicy/index.html

investor-owned utilities, including programs for solar installations on residential and commercial buildings, solar hot water heaters, and grants to develop solar technologies.

The CARB has the major responsibility of implementing AB 32, the legislation directing the state to reduce its greenhouse gas emissions to 1990 levels. In its AB 32 Scoping Plan, the CARB estimated that adding 4,000 megawatts of combined heat and power[12] would reduce greenhouse gas emissions by 6.7 million metric tons of carbon dioxide equivalents. CALIFORNIA AIR RESOURCES BOARD, CLIMATE CHANGE SCOPING PLAN, APPENDIX C at C-126 (2008)[13]. The CARB also has the authority under the RPS program to impose penalties on publicly owned utilities that have failed to comply with the RPS standards.

IV. THE IVANPAH PROJECT IS AN IMPORTANT COMPONENT OF CALIFORNIA'S EFFORTS TO MEET THE RPS STANDARD AND REDUCE GREENHOUSE GAS EMISSIONS

The CEC's written decision approving the Ivanpah project discusses at length the specific benefits of the project and why it is important to California. After reviewing the benefits of renewable energy in general, the CEC found that the Ivanpah power plant specifically (1) will assist in meeting the state's RPS and greenhouse gas reduction targets; (2) will avoid more than 13 million tons of carbon dioxide emissions as well as 85 percent of air pollutant emissions over its lifecycle in comparison to a natural gas plant of the same size; (3) will reduce California's dependence on fossil fuels; and (4) will reduce the need to operate less efficient power plants. CALIFORNIA ENERGY COMMISSION, DECISION ON IVANPAH SOLAR ELECTRIC GENERATING SYSTEM VIII- 2-4 (2010)[14]. The CEC concluded that the project "helps address a global climate change problem of paramount

[12] "Combined heat and power," also known as cogeneration, is the simultaneous production of electricity and heat from a single fuel source.

[13] www.arb.ca.gov/cc/scopingplan/document/appendices_volume1.pdf

[14] http://www.energy.ca.gov/sitingcases/ivanpah/documents/index.html

importance and responds to state laws requiring a shift to renewable electricity sources." (*Id.* at VIII-5.) In its certification hearing for the Ivanpah project, the chair of the CEC explicitly recognized the importance of the project to California's energy future, stating: "[The Ivanpah project] is tangible evidence of a substantial move away from dependence on fossil fuel for the electricity system in the State of California, and it is the beginning of what we need to do to make that transition fully effective." Transcript of California Energy Commission Business Meeting at 118 (September 22, 2010)[15].

In spite of these benefits to the state, Western Watersheds Project contends through its Declaration of Bill Powers, submitted with the application for a TRO, that the project is unnecessary because "there will be no peak demand reliability need for the 370 MW Ivanpah project for at least a decade." Declaration of Bill Powers, ¶ 4. In reaching this conclusion, Mr. Powers only analyzed the projected peak demand forecast and "surplus" of generation at the time of the system peak (*id.* at ¶¶ 5-16), and did not analyze the need for the project in terms of meeting the state's RPS or greenhouse gas reduction goals. Thus Mr. Powers simply analyzed whether the project's megawatts are needed. That inquiry, however, is irrelevant. As explained above, renewable power is needed in the state because the RPS requires utilities to increase their purchases of renewable power. According to the CPUC, in 2010 the large investor-owned utilities served 17.9 percent of their electric load with RPS generation. PUBLIC UTILITIES COMMISSION, RENEWABLES PORTFOLIO STANDARD QUARTERLY REPORT 2 (March 2011)[16]. The utilities, therefore, need to increase their purchases of renewable energy, such as the solar energy that the Ivanpah project will produce, in order to meet the RPS target of 20

[15] http://www.energy.ca.gov/business_meetings/index_2010.html

[16] http://www.cpuc.ca.gov/PUC/energy/Renewables

percent by 2013. As Randall Hickok stated in his declaration opposing the TRO application, two of California's largest utilities have contracted for all of the Ivanpah project's power, expressly for the purpose of fulfilling their RPS obligations. Declaration of Randall Hickok, ¶ 7.

Moreover, Mr. Powers' conclusion that there will be no need for the project during the peak hours overlooks the fact that the project will generate renewable power during the all daylight hours, not just peak hours. The electricity generated by the Ivanpah project will displace generation that burns fossil fuels, thereby reducing overall emissions from the state's electricity system.

Finally, Mr. Powers states that "it would be less costly and more consistent with California's Energy Action Plan for rooftop and other forms of distributed solar [photovoltaic] to provide the 370 MW solar energy output Ivanpah would produce." Declaration of Bill Powers, ¶ 20. California has determined, however, that the state can achieve its aggressive renewable energy and greenhouse gas reduction targets only by taking a multi-pronged development approach. As the CEC stated in its Final Decision, "Distributed solar must be viewed as a partner, not a competitor or replacement for utility scale solar." CALIFORNIA ENERGY COMMISSION, DECISION ON IVANPAH SOLAR ELECTRIC GENERATING SYSTEM II- 17 (2010). The CEC found that large scale solar projects are needed to work in concert with renewable technologies such as wind, geothermal, biomass, tidal energy, and wave energy to meet California's RPS and greenhouse gas emission reduction goals. *Id.* at II-20. In his testimony at the CEC's hearings on the Ivanpah project, Mr. Powers acknowledged that the state would need contributions from other technologies besides distributed photovoltaic sources to reach the 33 percent RPS goal by 2020. Transcript of Evidentiary Hearing 295 (January 12, 2010)[17]. Thus, while Mr. Powers is correct that the Governor has encouraged increased

[17] http://www.energy.ca.gov/sitingcases/ivanpah/documents/index.html

distributed photovoltaic energy (Dec. of Bill Powers, ¶ 25), the state needs the Ivanpah project as well as distributed photovoltaic energy to accomplish its renewable energy goals.

CONCLUSION

California has set a bold course for its march toward reliance on renewable energy, and the Ivanpah project is a very important step in this effort. California has a strong, demonstrated interest in increasing its renewable energy and decreasing its greenhouse gas emissions. The Court should take these interests into account, and deny Western Watersheds' request for a preliminary injunction on the grounds that an injunction is not in the public interest.

Dated: July 15, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
SALLY MAGNANI
Supervising Deputy Attorney General

LISA TRANKLEY
Deputy Attorney General
Attorneys for Amicus Curiae

SA2010950015

DECLARATION OF SERVICE BY E-MAIL AND OVERNIGHT COURIER

I declare I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for overnight mail with the **GOLDEN STATE OVERNIGHT COURIERS**. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the overnight courier that same day in the ordinary course of business.

On July 15, 2011, I served the attached **AMICUS CURIAE MEMORANDUM OF GOVERNOR EDMUND G. BROWN JR. IN OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, for overnight delivery, addressed as follows:

See Attached List

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 15, 2011, at Sacramento, California.

Paula Corral
Declarant

Signature

Certificate of Service Attachment

Daniel P. Garrett-Steinman -- Email: dgarrett@volkerlaw.com
Jamey M.B. Volker -- Email: jvolker@volkerlaw.com
Joshua A. H. Harris -- Email: jharris@volkerlaw.com
Stephan Coles Volker -- Email: svolker@volkerlaw.com
Law Offices of Stephen C. Volker
436 14th Street, Suite 1300
Oakland, CA 94612
Attorneys for Plaintiff Western Watersheds

David B. Glazer – Email: david.glazer@usdoj.gov
U.S. Department of Justice
Environmental Enforcement Section
301 Howard Street, Suite 1050
San Francisco, CA 94501
Attorneys for Defendants

Albert M. Ferlo – Email: aferlo@perkinscoie.com
Perkins Coie LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960
Attorneys for Intervenor-Defendant BrightSource Energy Inc.

David T. Biderman – Email: dbiderman@perkinscoie.com
Monica M. Ortiz – Email: mortiz@perkinscoie.com
Nathan M. Smith – Email: nsmith@perkinscoie.com
Perkins Coie LLP
1888 Century Park East, Suite 1700
Los Angeles, CA 90067-1721
Attorneys to be Noticed for Intervenor-Defendant BrightSource Energy Inc.