RTO Insider
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Supreme Court: EPA Erred on Mercury Rule

Minimal Impact Seen on Coal Retirements

By Tom Kleckner

The Supreme Court ruled Monday that the Environmental Protection Agency acted "unreasonably" when it failed to consider costs before deciding to regulate mercury and other toxic emissions from power plants under the Clean Air Act.

The court's 5-4 ruling did not void EPA's authority to regulate the emissions but will require the agency to rewrite the Mercury and Air Toxics Standards (MATS) with a consideration of costs at the beginning of the process. It remanded the case to the D.C. Circuit Court of Appeals for further review.

Muted Impact

The ruling in *Michigan v. Environmental Protection Agency* is not expected to affect the number of coal-fired plant retirements. Industry analysts say about two-thirds of the nation's 460 coal plants are already in compliance and investments in emission controls have already been made. (See *MATS Challenge Too Late for Targeted Coal Plants*.)

"EPA is disappointed that the court did not uphold the rule, but this rule was issued more than three years ago, investments have been made and most plants are already well on their way to compliance," EPA spokeswoman Melissa Harrison said in a statement.

"Because of the stricter air regulations that have been in place in New England for years, most plants would not have been affected by this rule," said ISO-NE spokeswoman Marcia Blomberg. "And further, the economics of low-priced natural gas have driv-

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MACRUC 2015

At the 20th annual MACRUC Education Conference in Williamsburg, Va., a Patrick Henry impersonator's counsel not to pursue Ben Franklin's foolish "electric fluids" idea draws laughter from, among others, (left to right) FERC Chair Norman Bay, PJM CEO-in-waiting Andy Ott, FERC Chief of Staff Larry Gasteiger, PJM Chair Howard Schneider, PA PUC Commissioner Robert Powelson, Delaware PSC Chair Dallas Winslow and Ohio Commissioner Beth Trombold. **Coverage p.2-5**

PJM Delays Vote on Capacity Performance Rules

By Rich Heidorn Jr.

WILMINGTON, Del. — PJM officials Thursday delayed a vote on manual changes for the Capacity Performance plan, sidestepping a potential confrontation with anxious stakeholders.

The agenda for Thursday's Markets and Reliability Committee said PJM would seek endorsement of the Manual 18 changes, which run for more than 200 pages. But PJM officials delayed the vote — apparently chastened by a stormy stakeholder meeting the week before, which left some stakeholders complaining that the RTO had not thought through all the details before the Federal Energy Regulatory Commission approved the proposal June 9.

Stu Bresler, vice president of market operations, said PJM's "current thinking" is to seek endorsement at the July 23 MRC meeting. There will be an additional meeting on the changes from 1 to 4 p.m. on July 15, following a training session from 1-4 p.m. on July 8.

"Technically speaking, we can put manual changes in place without a stakeholder vote," Bresler said. But he said the RTO had traditionally sought stakeholder endorsement of the manuals, which spell out Tariff and Operating Agreement rules and procedures in detail.

In the meantime, PJM must make a compliance filing by July 9, said Dave Anders, director of stakeholder affairs and market services.

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Also in this issue:

20th Annual MACRUC Education Conference

Dominion CEO: Ignore the Fringes, not the Science

By Rich Heidorn Jr.


Farrell

WILLIAMSBURG, Va. — Dominion Resources CEO Tom Farrell spoke of the challenges of social media, the promise of utility-scale solar and the dangers of "magical thinking" in remarks to the 20th annual Education Conference of the Mid-Atlantic Conference of Regulatory Utility Commissioners last week.

"Transitioning from more than three decades of public policy centered on the notion of energy scarcity to energy abundance is a very good problem to have, but nevertheless it's a problem," Farrell said. Making the transition, he said, will require new gas and electric infrastructure and a rational response to environmental regulations.

"The combined effect of the proposed climate change, air quality, water quality, ash disposal and many other [energy-related] regulations on customer costs and reliability is a great cause for concern … But wishing away regulations we might differ with is not an option," he said.

"We must avoid magical thinking in the public policy arena — the type of thinking that bypasses the laws of physics, the limits of technology and the realities of human nature in pursuit of ideological goals. Just as we have long recognized that hope is not a business plan, so we must accept that ideology is not an energy policy."

Farrell said he expects utility-scale solar to be part of the response to the Environmental Protection Agency's Clean Power Plan. "Although much of the public policy debate and all of the publicity tends to focus on distributed solar, the real story has been the explosive growth in utility–scale solar, by far the most cost-effective … and useful complement to traditional generation," he said.

Farrell praised Federal Energy Regulatory Commission Chairman Norman Bay's suggestion earlier in the conference that states create "energy corridors" for siting both electric and gas lines.

Meeting future environmental rules, Farrell said, will require utilities to overcome obstacles from both infrastructure opponents and federal agencies responsible for approving siting of new lines.

"Social media … accelerates the flow of information — and misinformation — on the Web. In the hands of those who oppose new energy infrastructure, social media gone viral can erode industry's credibility and make our job of communicating facts much harder. But communicate we must. Our industry has not always been on the cutting edge in the use of social media tools. But we're going to have to learn how to do it and we're going to have to learn how to respond."

Farrell said utilities are facing an unusual alliance of "environmental groups who don't want any fossil fuels used at all" and Tea Party-type activists who "say I'm happy to use gas or electricity, but I don't want you doing it on my property."

"When you put those two together that's a very interesting coalition," he said. "I think you're going to see … that grow exponentially over the next five years."

He expressed frustration with what he said were seemingly contradictory directives from federal agencies, citing the difficulty Dominion has had in winning federal approval for a transmission line across Virginia's James River. The line is needed because of the loss of coal-fired generation shuttered due to environmental rules. "We still don't have all the permits and we've been working on it for six years," he said.

"We would do well to acknowledge that energy issues are highly complex, that there are tradeoffs and opportunity costs embedded in every single policy decision made. There is no silver bullet solution that's going to solve all the problems and do it reliably and inexpensively," he said. "In essence this means more hard work on energy policy and less attention paid to energy soundbites coming from the fringes on either side."

Exelon: EPA Plan Will Get Nuclear Issue 'Half Right'

Joe Dominguez, executive vice president of government and regulatory affairs for Exelon, said the company is not abandoning organized markets but needs them to reflect the cost of carbon emissions for its nuclear fleet to survive.

"The work that we've seen from the RTOs — from PJM, even from ERCOT — indicate that with a relatively modest price on carbon we can achieve compliance with the EPA's [Clean Power] Plan."

Dominguez said he believes EPA will get the nuclear issue "half right" in the final emissions rule, due this summer.

"My guess is EPA is going to largely ignore the problem and hope that nuclear plants don't retire," he said.

But he predicted that EPA will "give substantial incentives for mass-based regional cooperative programs to achieve compliance."

"And there, I think, nuclear is going to be fully recognized, because in any mass-based program the loss of nuclear units would quite obviously be reflected in an increase in the emissions as fossil fuel takes up the gap left by nuclear. That will self-correct."


Dominguez

20th Annual MACRUC Education Conference

FERC Commissioner **Tony Clark** said the reason he supported ISO-NE's Pay-for-Performance and PJM's Capacity Performance plans was not because he wanted to raise capacity prices or ensure the economics of coal or nuclear generation. "It was never that sort of debate. The discussion I had with my staff … was the issue of performance and that is, if a resource is receiving a large amount of money in capacity payments, then you have to be there on the days when we need you. Certain resources, because of that demand for performance, will probably fare better than others in that sort of regime; [there may be] some benefits for nuclear units."

Ohio PUC Commissioner **Asim Haque**, who succeeded Pennsylvania PUC Commissioner Robert Powelson as MACRUC president, said the theme of his presidency will be "lead together… lead now." He said the MACRUC region is at the center of the changes shaping the electric industry, citing the Regional Greenhouse Gas Initiative, New York's Reforming the Energy Vision and the impact of the EPA Clean Power Plan on coal states such as West Virginia, Kentucky and Ohio. "The MACRUC region, more than any other region in this country, is the region where transformation is happening, and it provides all of us, no matter where you sit in this industry, with an opportunity to lead," he said. "But I do not believe that states should lead in isolation. Now is the time, based upon what we're facing, for meaningful collaboration — collaboration with fellow states, with federal entities and even with industry."

FERC Chairman **Norman Bay**: "I am from government, but I think when Patrick Henry was talking about fearing government officials, he must have been talking about state regulators, right? Not federal ones."

Shaun Chapman, vice president of policy and markets for SolarCity, disputed complaints that customers with rooftop solar are being subsidized by others on the grid. "We have not seen reliable numbers to demonstrate that that is actually occurring," he said. "A number of … commission studies [indicate] that there actually is a net benefit at current penetration levels and the penetration level expected over the next few years. … We're willing to call [it] a wash until we get to much higher penetration levels." © RTO Insider

20th Annual MACRUC Education Conference

The opening night cocktail party was moved indoors due to the heat. © RTO Insider

New York PSC Commissioner Diane Burman said most generators don't have firm gas because "our rules don't incent them."

Outgoing Maryland Commissioner **Lawrence Brenner** received a standing ovation before leading a panel discussion. Brenner quipped: "I feel like I'm at my own funeral."

Former Sen. and Indiana Gov. **Evan Bayh** joked about why he appointed David Ziegner to the state Utility Regulatory Commission. "He knew things about me in college."

NARUC and Florida PSC President **Lisa Edgar**: "We are dealing with changing times. More and more attention being focused on the work that we do."

PA PUC Commissioner **Robert Powelson** criticized the Army Corps of Engineers and the Interior Department, saying they have slowed the approval of gas pipelines and electric transmission needed to meet federal environmental rules requiring a shift from coal-fired generation. "I firmly believe there is a disconnect inside the Beltway."

Attorney **Steve Huntoon** leads fellow oenophile and former NARUC President **Frederick Butler** on a tasting of Thomas Jefferson's favorite wines. © RTO Insider

20th Annual MACRUC Education Conference

Retiring PJM CEO **Terry Boston** accepts applause from the conference audience.

NJ BPU Commissioner **Joseph Fiordaliso** asks a question during a panel discussion.

Switched at birth? No. 4 on Ohio PUC Commissioner Asim Haque's list of the Top 10 Things Overheard at MACRUC: "Commissioners **[Beth] Trombold [left]** and **[Pamela] Witmer [right]** … should trade places like in "The Parent Trap" and see if Chairs [Gladys] Brown and [Andre] Porter notice." © RTO Insider

NARUC's Michelle Malloy enjoys the fife and drum team. © RTO Insider

PJM NEWS

PJM Moving on Day-Ahead Schedule Changes; Stakeholders Split

By Rich Heidorn Jr.

WILMINGTON, Del. — PJM officials said last week they intend to move up the day-ahead energy market schedule despite a lack of consensus among stakeholders.

RTO officials said they believe the change is necessary as a result of the Federal Energy Regulatory Commission's April order moving the timely nomination cycle deadline for gas to 2 p.m. ET from 12:30 p.m. and adding a third intraday nomination cycle.

The order required grid operators to adjust the posting of their day-ahead energy market and reliability unit commitment processes to a time "sufficiently in advance" of the timely and evening gas nomination cycles to allow generators to obtain gas (or to show cause why such changes are not necessary). Compliance filings are due July 23. (See *FERC Approves Final Rule on Gas-Electric Coordination*.)

Adrien Ford, director of market evolution, said PJM officials determined that they must change the energy market deadlines to comply with the order.

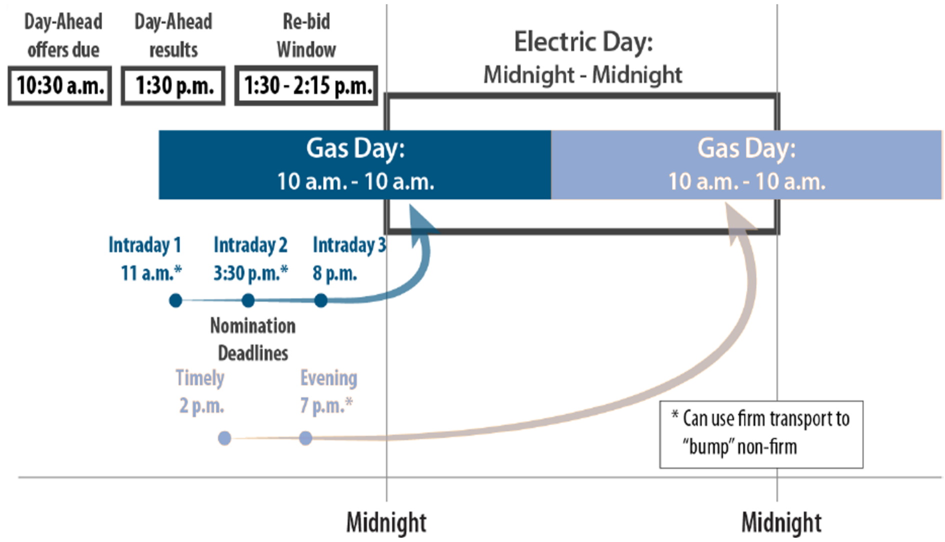
PJM's filing will propose moving the deadline for submitting day-ahead offers up 90 minutes to 10:30 a.m. ET from noon. The RTO said it will post day-ahead results by 1:30 p.m., up from the current 4 p.m., as it reduces its clearing time to three hours from four.

The rebid window for the reliability assessment and commitment (RAC) run will be open from 1:30 to 2:15 p.m., up from the current 4 to 6 p.m. (Day-ahead commitments are based on demand bids from load-serving entities; the RAC run adds resources PJM believes may be needed based on PJM's load forecast.)

In a poll of 51 stakeholders, none of the five suggested day-ahead clearing windows received a supermajority.

Slightly more than half of voters selected as their first choice a clearing window of 11 a.m. to 2 p.m., which PJM said would be too late to comply with the order. A clearing window of 10:15 a.m. to 1:15 p.m. was the first choice of 29%.

PJM said the window it proposed "received the highest overall support." Although it was the first choice of only 8%, 31% picked it



PJM proposed energy market schedule. (Source: PJM)

second and 59% made it their third choice.

Ford said stakeholders expressed a variety of opinions on how much time they needed between the posting of energy market awards and the gas nomination deadlines. "There was one stakeholder that needed 10 minutes. We had other members who said they needed an hour. There were others who didn't think any of these [proposed windows] were sufficient," Ford said. "Based on what I heard, 30 minutes was a way to meet" the FERC compliance requirement.

Stakeholder Reaction

Consultant Bob O'Connell said the changes increase risk premiums because generators will be basing offers into PJM's markets on gas transactions executed during periods in which there is less price transparency. "You're imposing higher costs on customers," he said, adding that PJM should set a goal of clearing the day-ahead market in two hours or less.

John Citrolo of Public Service Electric and Gas said his company, which owns gas generation, would prefer a somewhat later start than proposed by PJM. But he added, "If gas traders get to their desks by 7 a.m. and show me some liquid prices by 9 a.m.," the industry will adapt.

David "Scarp" Scarpignato of Calpine said his company supports PJM's proposal, calling it "critical" to the company, whose fleet is virtually all gas-fired.

Generators with firm transportation can use the second intraday nomination (ID 2) to bump those without firm transport who bought gas in ID 1. ID 3 is not bumpable.

As a result, if generators selected on the reliability run aren't able to get their gas nominations in time for ID 2 at 3:30 pm., he said, "We're not going to get gas."

"Under [Capacity Performance], PJM has told generators to secure firm gas transport," he added. "What's the point of getting firm gas transport if we don't get committed in time to use it?"

"We think we can get most RAC run commitments out before ID 2," said Stu Bresler, PJM vice president of market operations.

Citrolo noted that PJM clears about 94% of its megawatts in the day-ahead market, urging, "Don't turn things upside down for the other 6%."

Scarp countered that on some days, the RAC run could provide as much as 12,000 MW. "It would be absolutely critical for reliability," he said.

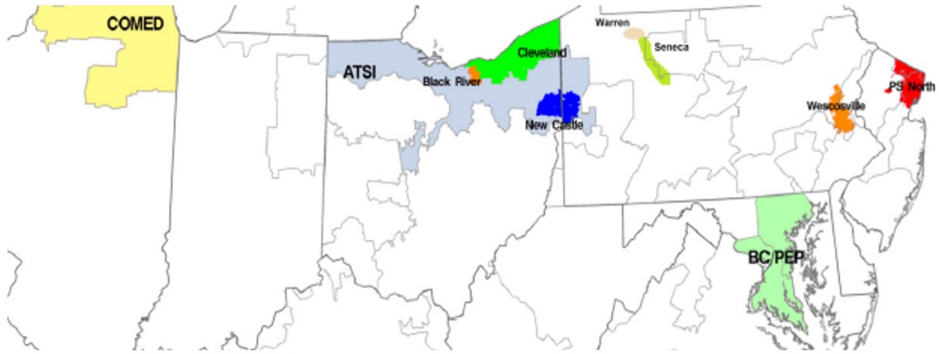
"We've been managing that later rebid window with one less nomination cycle for years," responded Citrolo.

"And we've had a lot of units that can't get gas," interjected Mike Kormos, PJM executive vice president of operations. "We've been managing, but not that well."

PJM NEWS

PJM Considering Release of Uplift, Outage Data

By Rich Heidorn Jr.



Closed-loop interfaces (Source: Monitoring Analytics LLC)

WILMINGTON, Del. — PJM is proposing to relax confidentiality rules regarding uplift payments and generator outages, saying they are inhibiting stakeholder discussions.

The RTO on Thursday presented the Markets and Reliability Committee a problem statement and proposed changes to section 3.5 of PJM Manual 33.

PJM said the proposed changes were prompted by requests from stakeholders for more granular data, particularly following severe system events such as weather disruptions.

The existing rules, which were prompted by the Federal Energy Regulatory Commission's Order 719, have "no strict definition" of what information is confidential and do not consider the age of the information — meaning data considered confidential remains that way even after the reason for nondisclosure may have passed, PJM said.

The manual currently allows release of aggregate market data only if it includes more than three market participants' data and the aggregation is for an area no smaller than a PJM transmission zone. The rules also prohibit PJM from disclosing some data even if it has been released publicly elsewhere, such as the nuclear plant outages the Nuclear Regulatory Commission posts on its website.

As a result, said PJM's Tom Zadlo, the RTO is unable to be specific about conditions surrounding weather events, closed-loop interfaces and transmission planning.

Uplift Recipients

The Independent Market Monitor called for changes to the confidentiality rules in February 2014, when it disclosed that 10 generating units had received $335 million in uplift payments in 2013, 38% of the RTO's total for the year. The Monitor contends all uplift payments should be public information, saying that identifying the causes of uplift and the generators receiving payments would allow competition to reduce those costs.

PJM said then that it would be unable to disclose the names of the units in question without a FERC order. (See *PJM Won't Name Uplift Recipients*.) But in its proposed manual changes, PJM altered its position, saying that generator-specific information regarding uplift payments would not be considered confidential and that the RTO may disseminate the information daily.

Other Changes

The changes also would allow PJM to release information on generation outages once they have concluded, "if PJM deems them to be relevant." The RTO said it would release such data only when related to an event on the grid, such as severe weather or a transmission system event.

PJM noted that while generation outage data has been considered confidential by the RTO it publishes transmission outages on its OASIS system.

The RTO also would be able to disclose demand response supplies in small areas, such as a group of zip codes, information it said is important to understanding the impact of weather events and closed-loop interfaces. Specific offers or suppliers would not be released.

The identities of generators that cleared in capacity market auctions — though not their offers — also would be disclosed.

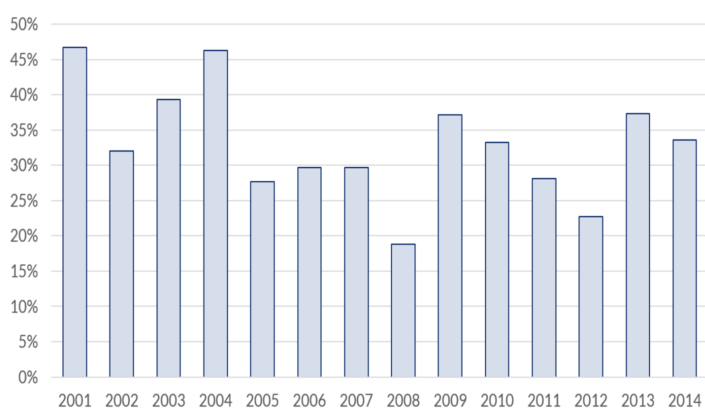
Data that is already in the public domain from other sources would no longer be considered confidential.

Market Monitor Joe Bowring said he may ask PJM to consider amendments to the scope of the problem statement, which is expected to be brought to a vote at the July MRC meeting.

Stakeholder Concerns

Jason Barker of Exelon expressed misgivings over the release of information on generators receiving uplift payments, saying it would give competitors "information about what unit costs are."

John Citrolo of Public Service Electric and Gas also expressed concern, saying release of uplift and outage information could "send the wrong message" to investors of publicly traded companies and interfere with established communication protocols with their organized labor.



Top 10 generators' share of energy uplift credits.
(Source: Monitoring Analytics LLC)

PJM NEWS

ODEC Seeks Last Ditch Vote on Deadlocked FTR/ARR Issue

PJM May File Unilaterally

By Suzanne Herel

WILMINGTON, Del. — Old Dominion Electric Cooperative introduced a last-ditch effort to reach consensus on a redesign of the financial transmission rights and auction revenue rights processes Thursday, seeking a vote on a proposal combining recommendations from PJM and the Independent Market Monitor.

ODEC's Steve Lieberman introduced the proposal to the Markets and Reliability Committee, prompted by a discussion at the May MRC meeting over whether the deadlocked FTR/ARR Senior Task Force should be disbanded. (See *Move to Disband FTR Task Force Splits PJM Members*.)

The task force was established last spring to address concerns that FTR funding was falling short of target allocations. Although it was unable to reach consensus on rule changes, the FTR funding shortfall has evaporated as PJM has become more conservative in its modeling of ARRs and FTRs. For the 2014/15 planning year, which ended May 31, 2015, FTR funding had a surplus of more than $130 million.

As a result, however, Lieberman said, Stage 1B and Stage 2 ARR allocations have been "nearly eliminated."

"In ODEC's mind, this highlights the need for additional transmission development."

His proposal, which will be brought to a vote at the July MRC meeting, incorporates three elements, which PJM had presented to the task force as package 22.

The first, drawn from a PJM staff proposal regarding the Stage 1A 10-year process, would escalate current ARR results using a zonal load forecast growth rate of +1.5%.

The other two elements were proposed by the Monitor and supported by PJM. It would change the method of reporting the monthly payout ratio so that any negative target allocations are included as revenue, slightly increasing the reported payout ratio.

It would also treat each FTR individually, eliminating the netting of positively and negatively valued FTR positions in a portfolio prior to determining positively valued FTR payout ratios.

Prospects Cloudy

Although the odds against the package winning two-thirds support in a sector-weighted MRC vote may be steep — none of the 12 packages brought to votes at the task force won even a simple majority vote — ODEC did receive some support Thursday.

Market Monitor Joe Bowring said he supported the proposal but said it was only a start in solving the issue.

PJM also endorsed the plan. "PJM would be supportive of moving forward with this particular package," said Stu Bresler, vice president of market operations.

Carl Johnson, representing the PJM Public Power Coalition, agreed. "This is the best way to move forward. As a load-serving entity, this is something we can support," he said.

But the proposal had its detractors.

DC Energy's Bruce Bleiweis, who served on the task force, suggested ODEC eliminate the netting proposal in order to garner wider support. And, he said, "At some point in time, stakeholders and PJM need to agree that we just didn't come to a solution for the problem we were facing."

Consultant Roy Shanker agreed with Bleiweis that the "netting" proposal did not increase ARRs.

Shanker also accused ODEC of "cherry picking" from proposals made to the task force. "We're hearing three-line summaries of things people spent months on," he said.

"There was no attempt at cherry picking," Lieberman responded. "It's the proposal that received the greatest support" at the task force.

Unilateral Filing?

In a June 2 filing with the Federal Energy Regulatory Commission, PJM suggested it may make a unilateral Section 206 filing to break the deadlock. PJM said the shift of revenues from ARR holders to FTR holders "is less equitable and desirable than it would prefer." (See *FERC Denies Rehearing on PJM FTR Funding*.)

FTR revenue adequacy. (*through January 2015) (Source: PJM)

PJM NEWS

PJM Markets and Reliability Committee Briefs

PJM Won't Be Ready for Flexible Generator Offers by November

PJM doesn't plan to allow generators to make hourly market offers for winter 2015/16, despite a Federal Energy Regulatory Commission order that such flexibility be developed by Nov. 1.

Officials said the RTO cannot accept such offers until it revamps its market system and that the new software cannot be completed by next winter.

In its June 9 ruling, FERC ordered PJM to file Tariff changes allowing market participants to submit day-ahead offers that vary by the hour and update their offers in real time, including in emergency situations, or explain why the changes are unnecessary. The commission said the changes should take effect by Nov. 1 "or as soon as practicable thereafter." PJM must make a compliance filing informing the commission of its plans by July 10. (See *Duke, ODEC Denied 'Stranded' Gas Compensation*.)

In April, stakeholders approved the creation of the Generator Offer Flexibility Senior Task Force to consider such changes in response to a problem statement by Calpine. Calpine noted that PJM is the only organized market in the country that doesn't permit generators to vary their offers hourly. (See *Bid for Generator Price Flexibility Draws Debate over 10% Adder*.)

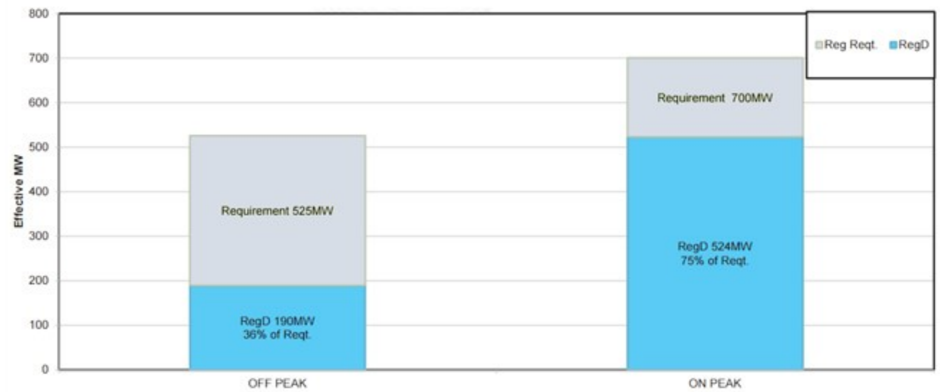
PJM said it considered proposing an interim solution while it waits for the software changes but bowed to stakeholder sentiment for a single, long-term solution.

The task force held its first meeting June 29.

Monitor: Marginal Benefit Factor Faulty, Inconsistently Applied

The Independent Market Monitor is recommending a broader look at concerns that PJM is buying too much fast-responding "RegD" resources in the regulation market. The Monitor said Thursday that stakeholders should revisit the marginal benefit factor that defines the substitutability between "RegA" and RegD megawatts.

"PJM's current marginal benefit factor function is, at least in some hours, overvaluing RegD as a substitute for RegA in the optimization," said Howard Haas of Monitoring



Maximum hourly RegD participation in regulation. (Source: PJM)

Analytics. The misalignment also means RegD resources are being incorrectly compensated — sometimes being paid too little, and sometimes too much, Haas said. (See *PJM Market Monitor: Faulty Marginal Benefit Factor Harming Regulation*.)

The Monitor proposed a problem statement and issue charge that will be considered at the MRC's July 23 meeting.

PJM introduced its own problem statement on the regulation issue at the April Operating Committee meeting, but it has not yet been brought to a vote. Under times of system stress, PJM said, it has observed issues with regulation performance when the proportion of megawatts from RegD resources is greater than 42%. (See "Too Much of a Good Thing? PJM Concerned Fast Response Regulation Crowding out Traditional Resources," *PJM Operating Committee Briefs*.)

A PJM official told the MRC that the RTO is currently performing a study on the issue, which will take eight weeks to complete.

Changes Would Allow Earlier Replacement Transactions

The committee will be asked to vote at its July 23 meeting on manual changes that would allow market participants to enter replacement capacity transactions earlier than Nov. 30 prior to the start of the delivery year if the need is linked to a physical reason that would prevent a participant from meeting its commitment.

Such replacements would be permitted when the owner of the replaced resource could show the expected final physical position of the resource at the time of the request.

Existing generators could engage in such transactions if they are being deactivated, while new generators could replace themselves if their project is cancelled or delayed. Demand response or energy efficiency resources could be replaced due to the permanent departure of their loads.

Resources replaced would not be able to be recommitted for the delivery year.

PJM Law Proposes Cleaning up Language in Governing Documents

The PJM Law Department proposed an initiative to clean up language in the RTO's governing documents that is "ambiguous, incorrect or requires clarification."

The project would entail reviewing the Tariff, Operating Agreement and Reliability Assurance Agreement related to topics including offer caps and prices, demand resources and the capacity market.

PJM's proposed problem statement and issue charge would assign the task to the Market Implementation Committee, separating it from the effort already underway involving the Tariff Harmonization Senior Task Force. The task force was formed in December to identify discrepancies in provisions regarding definitions, indemnification, limitation of liability and alternative dispute resolution procedures in the same governing documents. (See *Task Force Proposed to Resolve Inconsistencies in PJM Governing Documents*.)

Continued on page 10

PJM News

Tx Developer: PJM TOs Inflating Upgrade Costs for ARRs

By Michael Brooks

Queue	Queue Date	Source	Sink	MW	Imp	Fac	CSA
V3-052	10/21/2009	NI HUB	DC Cook	500	●	●	●
V4-006	11/12/2009	Byron 1	NI Hub	150	●	●	●
V4-007	11/12/2009	Quad City 1	NI Hub	150	●	●	●
V4-030	12/08/2009	Byron 2	NI Hub	350	●	●	●
V4-031	12/08/2009	Quad 2	NI Hub	350	●	●	●
Y2-047	08/06/2012	Peach Bottom	BGE	200	●		
Z1-083	10/30/2013	Salem Unit 1	PSEG Zone	300	○		
AA1-035	08/01/2014	Edgecomb	Roanoke Valley	60	○		
AA1-090	10/29/2014	Cheswick 24kV Unit 1	AEP-Dayton HUB	565	○		
AA1-119	10/31/2014	Sunset Lake	Mardela	139	○		
AA1-120	10/31/2014	Fowler	LaPorte	64	○		
Z2-053	03/28/2014	Bridgewater	S. River	156.1	●		
Z2-069	04/22/2014	Bridgewater	Hoboken	105	●		
Z2-072	04/22/2014	Indian River	New Church	204.6	●		
AA2-172	04/30/2015	ATSI	PSEG	115	○		

ARR queue

A merchant transmission developer last week accused several PJM transmission owners of inflating the costs of upgrades necessary to approve three auction revenue rights requests.

TransSource LLC asked the Federal Energy Regulatory Commission to order PJM to provide it with data showing how the RTO calculated the almost $1.7 billion in upgrade costs in its system impact studies (SIS) for the requests. TransSource said the RTO has repeatedly refused to release the data, in violation of its Tariff (EL15-79).

The company also requested fast-track processing of its complaint and asked that FERC suspend a July 12 deadline to execute facilities study agreements in order for the requests to retain their positions in the ARR queue.

TransSource — not to be confused with Transource Energy, a joint venture of American Electric Power and Great Plains Energy — said that if it misses the deadline and forfeits its queue positions, it could lose $6 million per month in incremental ARR revenues.

PJM estimated the requests, identified by their queue position numbers Z2-053, Z2-069 and Z2-072, to be worth, respectively, 156.1 MW, 105 MW and 204.6 MW in incremental ARRs. It estimated $376.5 million, $783.8 million and $586.8 million in upgrade costs.

TransSource alleges that the transmission owners whose lines would require upgrades necessary to award the ARRs "intentionally assigned to those queue positions a scope of mitigation that is materially too broad in an effort to defeat TransSource's network upgrade request."

Z2-053 and Z2-069 are both sourced in Bridgewater, N.J., and sink in Hoboken and South River, respectively. Z2-072's source is the Indian River power plant in Delaware, and its sink is New Church, Va., on the Delmarva Peninsula. The ARRs require upgrades on lines owned by Public Service Electric and Gas, PPL, Jersey Central Power & Light and Delmarva Power & Light.

"On 12 occasions TransSource has asked PJM to explain how it determined the scope of mitigation used in its SIS and has requested access to the underlying data inputs, assumptions that the PJM TOs submitted to PJM and that PJM used to determine the SIS scope of mitigation and costs. Each time, PJM has refused," TransSource said. PJM told TransSource that it had no right the data, according to the company.

TransSource pointed to the section in the PJM Tariff that requires the RTO to "provide a copy of the system impact study and, to the extent consistent with the Office of the Interconnection's confidentiality obligations in … the Operating Agreement, related work papers to all new service customers that had new service requests evaluated in the study and to the affected transmission owner(s)."

The company said the scope of work outlined in the studies is "badly inflated and intended to defeat the TransSource network upgrades … making it difficult, if not impossible, for TransSource to secure the financing required for its network upgrades."

TransSource added that its queue positions "directly affect numerous PJM Order 1000 Regional Transmission Expansion Projects, several of which stand to be rendered unnecessary if TransSource's projects are completed and become operational."

The complaint was filed by TransSource manager Adam Rousselle, who did not respond to requests for comment.

PJM Markets and Reliability Committee Briefs

Continued from page 9

Ed Tatum of Old Dominion Electric Cooperative suggested that PJM consider unifying the efforts, saying ODEC wanted to participate but had limited resources. "Words do matter," he said. "Anytime we do something like this, it's a big deal."

"I didn't think what we were trying to do here really fit" the task force's charter, responded PJM attorney Jacqui Hugee, who added the charter could be changed.

The task force plans to bring its first batch of changes to the next MRC meeting for a vote, along with a second batch for first reading.

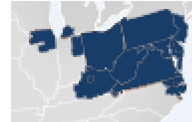
Changes to Manuals 03, 3A, 19 Endorsed

Members endorsed the following manual changes:

- Manual 19: Load Forecasting and Analysis. Makes changes to residential measurement and verification rules. Provides a solution for the issue that some electric distribution companies (EDCs) are prohibited from sharing personally identifiable information about residential customers participating in demand response programs. EDCs may use unique ID numbers instead through May 31, 2016.
- Manual 03: Transmission Operations. Requires a separation between emergency and load dump ratings. In the event they are the same, the emergency rating submitted by the transmission owner shall be, at a minimum, 3% lower than the submitted Load Dump rating. If this change results in a normal rating that is higher than the long-term emergency rating, the TO shall, at a minimum, make the normal rating equal to the LTE rating.
- Manual 3A: Energy Management System Model Updates and Quality Assurance. Continues effort to streamline and update sections pertaining to model updates. Most significant change is new section added on sub-transmission model submission requirements. TERM Appendix A reworked to more clearly outline business rules and tool interaction.

— Suzanne Herel

PJM NEWS



Monitor at Odds with PJM, Marketer over FTR Forfeiture Rule

By Rich Heidorn Jr.

PJM's Independent Market Monitor told the Federal Energy Regulatory Commission last week that proposals by the RTO and a marketer to change the financial transmission rights (FTR) forfeiture rule would weaken protections against market manipulation.

The Monitor leveled the criticism in comments filed last week in the Section 206 case FERC ordered last year regarding the RTO's treatment of virtual transactions (EL14-37).

The Monitor said PJM's proposal to use a load- or generation-weighted reference bus rather than the largest impact bus would "functionally eliminate" the forfeiture rule under the current, non-portfolio approach to evaluating impacts of transactions on congestion.

In September, FERC ordered the Section 206 proceeding to determine whether PJM is improperly treating up-to-congestion transactions differently than incremental offers (INCs) and decrement bids (DECs). While INCs and DECs are charged uplift and subject to the FTR forfeiture rule, UTCs are exempt from both.

Ruling by October?

The Monitor's criticism was in response to some of the almost two dozen comments filed in late May following a Jan. 7 technical conference on the issue.

In opening the Section 206 docket last year, the commission said it would rule within five months after it receives comments following the technical conference. That would put FERC on schedule for a ruling by the end of October. (See *FERC Issues Request for Comments in UTC Uplift Docket; Ruling by October?*)

The Monitor's reply, filed June 23, was also critical of a proposal by EDF Trading to replace the forfeiture rule with individual enforcement actions.

"An enforcement action approach, relative to a rule-based approach, is inefficient, nontransparent and of limited value as a deterrent to market manipulation," the Monitor said. "Such a rule is unclear and effectively unenforceable, which may be the point."

The Monitor added that PJM's current rule not subjecting UTCs to forfeitures "ignores [the] laws of physics."

"As the power flows from the UTC source to the UTC sink, it flows across constraints. As a result, the net flow from a UTC should be treated the same as an INC when the UTC net flow is an injection and the same as a DEC when the UTC net flow is a withdrawal, under the FTR forfeiture rule."

Uplift Task Force to Resume

FERC's ruling in the 206 case may result in the application of uplift charges to UTCs, an issue that has split PJM stakeholders. UTC trading volumes collapsed after Sept. 8, the refund-effective date set by FERC for any uplift assessments.

PJM told the Markets and Reliability Committee on Thursday that the Energy Market Uplift Senior Task Force (EMUSTF) will resume regular meetings in August or September.

Stakeholders had asked to suspend the task force's efforts on uplift cost allocation pending FERC action on PJM's Capacity Performance proposal. FERC largely approved the proposal June 9.

Until last week — when it met to discuss the results of the backcast analysis on several cost allocation proposals — the task force had not held a meeting since April.

Also last week, PJM filed a proposed revision on how it pays generators for lost opportunity costs in the day-ahead and real-time markets (ER15-1966). The MRC approved the proposal, which came out of the task force meetings, in April. (See *PJM Members Tighten Lost Opportunity Cost Rules; Tech-Specific Eligibility Retained*.)

MISO NEWS

Ideas to Reform MISO Out-of-Cycle Process Emerge After Lake Charles Dispute

By Chris O'Malley

MISO stakeholders have submitted recommendations for refining the out-of-cycle request process in the wake of transmission developer complaints over Entergy's $187 million transmission upgrade near Lake Charles, La.

MISO approved the OOC request, which Entergy said was necessary to meet the sudden needs of an industrial customer, following a clamor from transmission developers complaining they were denied a chance to compete for the project. (See Entergy Out-of-Cycle Requests Win MISO Board OK.)

Transmission developers, transmission owners and ITC Holdings proposed numerous changes to MISO's Transmission Planning Business Practices Manual. "The urgency and the need cannot be the result of inadequate planning, or worse, action that attempts to circumvent the robust, stakeholder-driven process" in the MISO Transmission Expansion Plan (MTEP), the TD sector said in comments submitted last week at a Planning Advisory Committee meeting.

Among the sector's proposed changes is a requirement that OOC projects involving multiple load additions have "documented customer service requests." One of the criticisms of the Entergy OOC request was that neither MISO nor stakeholders were privy to details about the Entergy customer or its specific load needs.

Entergy pointed broadly to an industrial renaissance in the Lake Charles region and said that it received unanticipated customer demand for service after the annual MTEP cutoff date. It said it was not permitted to disclose the customer.

The TD sector also proposed to insert language that would require MISO, before submitting a request for stakeholder review, to determine that a project "does not directly or indirectly eliminate the need for a Market Efficiency Project or Multi-Value Project" — projects that are subject to competition.

More Flexible Language

Meanwhile, TOs are seeking to tweak OOC eligibility rules. They proposed language that notes that "it is not possible to predict every event that will lead to the need for OOC treatment" of a baseline reliability project or "other" project. For example, projects may be driven by generation retirements or regulatory mandates, they said.

ITC Holdings, which did not join with the majority of transmission owner comments, also proposed to change the criteria for OOC project designation. ITC said its language change would allow for needs not specifically identified in the existing criteria. "For example, storm damage that necessitates a system change may require OOC review," ITC said.

Alternatives to OOC

Other changes stakeholders proposed in the Transmission Planning Business Practices Manual involve stakeholder reviews of OOC requests.

The TD sector complained that MISO moved too fast on Entergy's Lake Charles request, without adequate feedback from stakeholders.

The sector is seeking at least one sub-regional planning meeting or public Technical Studies Task Force meeting "at which the out-of-cycle project and identified alternatives will be evaluated." Stakeholders would be able to submit alternatives to an OOC at a following sub-regional or task force meeting.

TOs Assert Rights

At the PAC meeting last week, MISO officials attempted to compare the suggested stakeholder redlines to the BPM manual. Stakeholders offered some additional perspective.

"What we were trying to do is return this BPM language to its fundamental source, which is the transmission owner's agreement," said Cynthia Crane, principal regulatory analyst at ITC Holdings.

"And that's what's missing in all this dialog, it's [that] the transmission owners agreement gives transmission owners certain rights" such as to upgrade, modify, alter or replace its facilities, she said. "We have to be really careful in what we are drafting here in order to not violate the TOA," she added.

Jeff Webb, director of planning at MISO, said "The last thing you want to do is impede the TOs' [ability to meet their] obligations."

Suspicion of OOC Requests

But some speaking at the PAC meeting urged MISO to be vigilant about maintaining oversight, given the potential for utilities to misuse the OOC process.

"I can play this game all day where I need to build [a line] because I haven't put my load in for three years now and I know it's coming, but I don't want to go through that competitive process stuff," said Kip Fox, director of transmission strategy and grid development at American Electric Power, speaking of a hypothetical abuse. "So I'll just wait until the four-year window closes and then I'll submit it and all of the sudden it's a reliability project."

Fox told MISO: "You have to give us some confidence that those loads are being looked at."

Webb noted the challenge in obtaining information from a load-serving entity making an OOC request. "What is the load-serving entity able and willing to disclose to defuse this sort of 'proof issue' that's in front of us?"

Load-serving entities often counter that they're prevented by nondisclosure agreements from revealing specifics about customer expansion plans.

Webb said MISO would review the feedback and return at a future meeting with draft language of its own.

> **"You have to give us some confidence that those loads are being looked at."**
>
> **Kip Fox, AEP**

MISO NEWS

Plains & Eastern Tx Line Foes Cry Foul over DOE Review

By Tom Kleckner

Opponents of Clean Line Energy's proposed Plains & Eastern transmission line are asking for public hearings and a way to intervene on the project, which would span 720 miles from Oklahoma to Tennessee.

A group called BLOCK Plains & Eastern Clean Line: Arkansas and Oklahoma filed petitions with the Federal Energy Regulatory Commission and the Energy Department's Office of Electricity Delivery and Energy Reliability on June 16, asking them to conduct a rulemaking for implementing Section 1222 of the Energy Policy Act of 2005.

The Plains & Eastern is the first transmission project being developed with the department under Section 1222, which authorizes the Southwestern and Western Area Power Administrations to participate in transmission projects with third parties in states where they operate if the department determines that they are necessary to reduce congestion or meet demand.

Section 1222 does not allow financial participation by those agencies, but it does authorize the Energy Department to facilitate private sector participation in transmission development by accepting and using third-party funds.

"There *is* no 'normal process' [for Section 1222]," Carol Overland, attorney for BLOCK Plains, said in an interview. "It's not something ever used before and DOE has not established rules for Section 1222, so we have asked for a rulemaking."

FERC rejected BLOCK Plains' petition last week, saying Section 1222 "does not give the commission rulemaking or other authority regarding these matters and is therefore outside of the commission's jurisdiction" (RM15-22).

Overland said BLOCK Plains has yet to hear from the Energy Department. However, the department has extended the public comment period to July 13, saying it is "accepting comments on whether the proposed project meets the statutory criteria listed in Section 1222 … as well as all factors included in DOE's 2010 request for proposals."

The department selected the Plains & Eastern project in 2012 under the RFP. Clean Line hopes to partner with the Southwestern Power Administration, which owns transmission lines and facilities in Texas, Oklahoma, Missouri, Louisiana and Arkansas. (See *Clean Line Starts Online Petition for DOE Tx Approval*.)

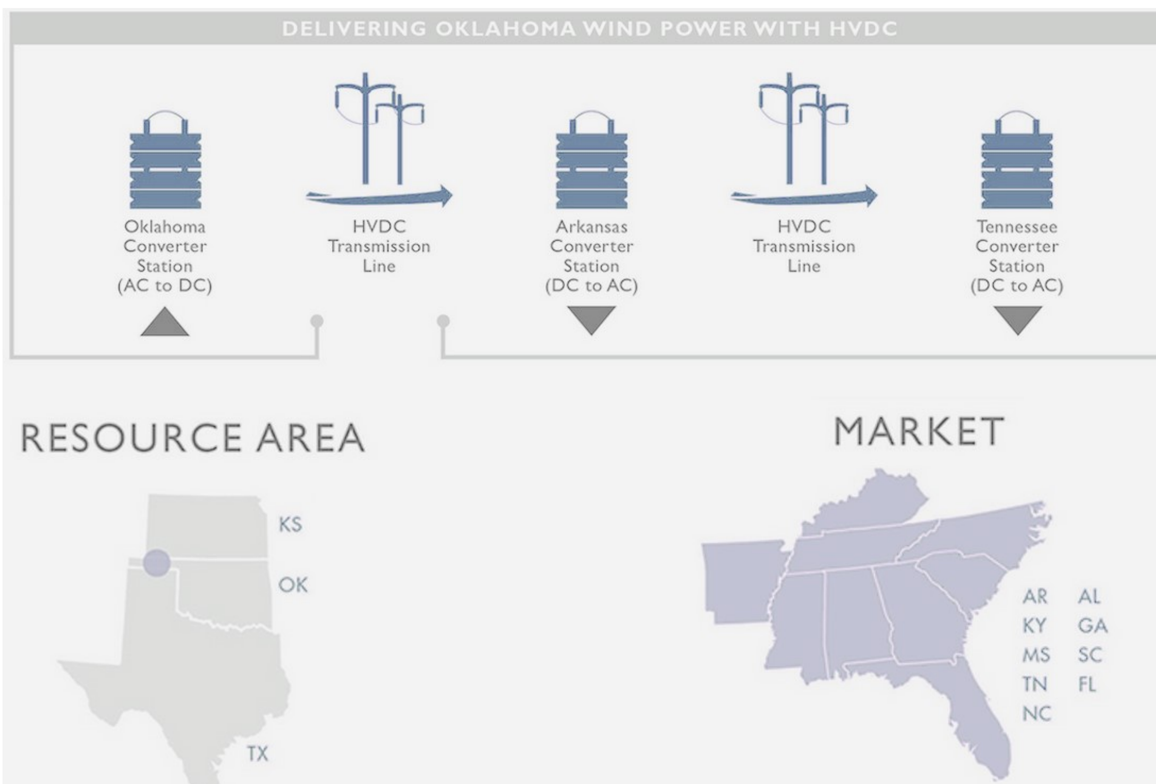
BLOCK Plains, which says its represents Arkansas and Oklahoma landowners, contends the department has improperly conducted reviews on the environmental impact of the project, its need and routing options without first creating a rulemaking process for Section 1222.

Due Process

"The process chosen by the department raises due process issues because there are no established rules, the department's process severely limits public participation and transparency [and] restricts access to information, and thus far the department offers no opportunity for public hearings or intervention in a contested case," the group said in its petitions. "The process chosen by the department also severely limits building a record that would support any decision by the department. There is no justification for operating without rules."

The Plains & Eastern project would deliver more than 3,500 MW of energy from wind farms in the Oklahoma Panhandle to the southeastern U.S. The DC line would connect with the Tennessee Valley Authority.

The department has closed comments on a draft environmental impact statement for the project and is now preparing a final EIS. Clean Line hopes to begin construction on the Plains & Eastern project in 2016, with commercial operation as early as 2018.



Plains & Eastern Clean Line (Source: Clean Line Energy)

MISO NEWS

Three of Four Proposed MISO-SPP Tx Projects Move Forward

By Chris O'Malley

A list of joint transmission projects between MISO and SPP has been trimmed and sent further down the line toward possible board approval late this year.

MISO's Planning Advisory Committee last week voted to recommend to the MISO-SPP Joint Planning Committee three projects totaling $156.9 million near the RTOs' seams in Kansas, Nebraska and Louisiana.

MISO and SPP staff initially identified nearly 70 potential economic projects to relieve congested flow gates. In May, the MISO-SPP Interregional Planning Stakeholder Advisory Committee narrowed that list to four transmission projects totaling $276 million. (See SPP, MISO Considering 4 Transmission Projects.)

The list was reduced to three before it was presented at the PAC on June 24. The revision eliminated one of two 345-kV transmission projects proposed to straddle the Kansas-Nebraska border.

Surviving the cut is the proposed $133.8 million, 78-mile Elm Creek-NSUB transmission line. Removed from the list is the $138.8 million, 100-mile Elm Creek-Mark Moore line that would also have run in the north-south direction across the border but would have been further east.

Elm Creek-NSUB had a benefit-cost ratio of 1.22 versus 1.03 for Elm Creek-Mark Moore. Only 7% of the benefits of the latter project would have gone to MISO, compared to 20% from Elm Creek-NSUB.

The three transmission projects would provide an estimated $234.5 million in benefits, based on a net present value analysis over 20 years, according to a report on the MISO-SPP Coordinated System Plan released June 18.

Cost-Benefit Questioned

Though none of the stakeholders at the PAC meeting voted against recommending the three projects, some had questions about how costs would be allocated to MISO. In particular, some questioned how MISO South might be affected by Elm Creek-NSUB.

Eric Thoms, MISO's manager of planning coordination and strategy, explained that 80% of Market Efficiency Project costs are allocated to zones that benefit, with the remaining 20% spread on a postage stamp basis. "If MISO South is not identified as a [beneficiary], they would not be allocated any of the costs," he said.

Neal Balu, director of transmission policy at Wisconsin Public Service Corp., and George Dawe, vice president at Duke American Transmission Co., questioned why MISO was pursuing projects that don't meet the minimum 1.25 ratio benefit-cost ratio required of other MISO projects. "I'm wondering how the 1.22 B-C becomes any different in a MISO analysis than it was in the MISO/SPP joint amount," Dawe said. "… I think it's a slippery slope. I think that means you evaluate everything and you never stop."

Thoms said the projects are being evaluated under the MISO-SPP Joint Operating Agreement, which only requires that "an interregional project has to be greater than $5 million, it has to show benefit to each region of more than 5% and [that] the benefits outweigh the costs."

He was backed up by Jenell McKay, a senior MISO analyst, who explained that because MISO receives only 20% of the benefit of Elm Creek-NSUB, it would be allocated 20% of the cost, or approximately $30 million.

"When MISO takes the project to our regional review process, assuming we get that far, our percent of the costs will be the denominator in the B-C ratio. … So we're not going to use the full project cost when we determine our regional B-C ratio," she said.

Next Steps

The projects next go to the MISO/SPP Joint Planning Committee for a vote, and then return to PAC later this summer for regional review. Potential board approval could come late this year.

The projects are also receiving scrutiny by SPP in a roughly parallel track.

Project ID	Description	NPV Cost (2015-M$)	NPV Benefit (2015-M$)	B/C Ratio*	% NPV Benefit	
					MISO	SPP
S3	Elm Creek–NSUB 345 kV (Nebraska, Kansas)	$133.8	$165.0	1.22	20%	80%
S1	S Shreveport - Wallace Lake 138 kV (Louisiana)	$17.7	$46.1	2.61	80%	20%
M4	Series Reactor on Alto–Swartz 115 kV (Louisiana)	$5.4	$23.4	4.32	86%	14%
	Total	**$156.9**	**$234.5**	**1.49**	**38%**	**62%**

*Based on net present value (NPV) over 20 years. (Source: MISO)

NYISO NEWS

Project Interest Overwhelms New York's Green Bank

By William Opalka

New York's Green Bank has generated so much interest from clean energy and energy efficiency developers that it is asking to borrow from the private markets as well as revise allocations from its state sponsor.

In a report filed with the New York Public Service Commission on Thursday, the bank's sponsor, the New York State Energy Research and Development Authority (NYSERDA), said its schedule to capitalize the bank with $1 billion over five years is inadequate for its potential project portfolio.

It is asking the PSC for permission "to obtain an external borrowing facility to provide the necessary liquidity and the certainty of sufficient available capital that is critical for private sector engagement" (14-M-0094). The bank was initially funded with $200 million last year and has received requests for $734 million through mid-June.

In its annual business plan filed on June 19, the bank said it has received funding applications that could be leveraged into more than $3 billion worth of clean energy projects statewide.

The bank is one of four initiatives of New York's Clean Energy Fund, which NYSERDA calls a "key pillar" of the state's Reforming the Energy Vision program. The fund also includes the $1 billion NY-Sun initiative to build solar projects throughout New York. (See *New York PSC Bars Utility Ownership of Distributed Energy Resources*.)

The bank's business model is predicated on projects receiving $3 from the financial markets for every $1 in publicly backed funds.

More than half of the current funding requests — in both the number of projects and their financing needs — has come from energy efficiency programs. The rest is divided among wind, solar, bioenergy and other projects.

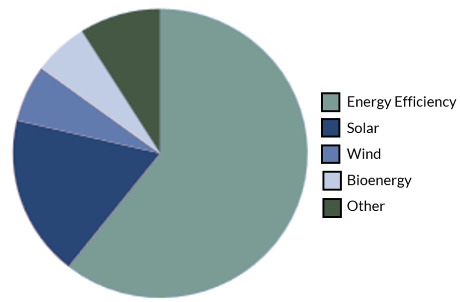
The $734 million in funding requests are in various stages of the bank's pipeline. As of June 12, the Green Bank had $338 million of projects in its "active portfolio," meaning they had passed advanced stages of review by its scoring committee. About $500,000 in transactions have closed.

The bank started in 2014 with plans to be capitalized with $1 billion in public funding over five years. Last year it received $165 million in ratepayer funds through the system benefits charge (SBC) and another $45 million from New York's share of money from the cap-and-trade program of the Regional Greenhouse Gas Initiative.

Seeking Advance

NYSERDA says it appears the bank's current funding levels will be unable to keep up with the amount of projects seeking aid.

The bank is seeking an advance of $150 million now to keep momentum going in the project pipeline. It would then draw funds from NYSERDA over a total of 10 years instead of five, with lower annual allocations over the extended time frame. It said the private credit facility it is seeking "would be put in place at the point it is needed, sized to ensure that the available amount would not itself become the constraint on [the bank's] ability to run and grow its business."



Loan requests by technology. ($734 million total) (Source: NYSERDA)

Without the $150 million, NYSERDA said, the bank will lose $1.5 billion in private investment over the next decade.

The bank's aim is to become self-sustaining within a few years as loans are repaid and that money is recycled to fund future projects. The bank anticipates it will reach a "steady state" of annual commitments of about $200 million.

The bank was formed to leverage investment in clean energy technologies and energy efficiency programs that may not attract private capital on their own.

But the bank's report says its expertise was also crucial in assisting two upstate clean energy projects that ultimately were financed through private sources. It cited a 60-MW biomass energy project at the U.S. Army's Fort Drum, for which the bank was originally committed to purchase $10 million of its debt.

It also said its consultations with private banks helped familiarize them with an ongoing project to install solar arrays at several Finger Lakes region vineyards.

NYISO, SPP: Reject Tx Developers' Protests

By William Opalka and Tom Kleckner

NYISO and SPP told the Federal Energy Regulatory Commission last week it should reject transmission developers' protests to their recent Order 1000 compliance filings.

NYISO said that LS Power and NextEra Energy made "inaccurate or misleading statements" in response to its filing, and that the protests raise issues outside of the proceeding and propose changes that would impair system reliability (ER13-102).

LS Power and NextEra filed their protests in response to the ISO's April compliance filing. (See *Tx Developers Challenge NYISO, SPP, ISO-NE Order 1000 Filings*.)

LS Power said an incumbent transmission owner should be required to execute a development agreement if its regulated backstop solution is selected by NYISO as the more efficient or cost-effective transmission. "It is important that the developer agreement impose no more stringent obligations on the developer of an alternative regulated solution," it wrote.

NextEra said the filing burdens alternative developers without guaranteeing faster project completion.

NYISO responded that the incumbents are already required to file a development agreement under Order 1000. The ISO said the language suggested by NextEra "would interfere with the existing requirements to timely identify and address potential project delays."

Continued on page 16

SPP NEWS

PJM: CFTC Order on SPP Undermines Exemption

By Tom Kleckner

PJM, ERCOT and CAISO have asked the Commodities Futures Trading Commission to remove language from a draft order that they say could undermine the broad exemptions the commission granted RTOs and ISOs in 2013.

The three grid operators filed joint comments last week concerning CFTC's May 2015 draft order on a request from SPP seeking the same exemptions from the Commodity Exchange Act that the commission granted the six other RTOs and ISOs in 2013.

CFTC's 2013 order exempted electricity transactions subject to tariffs approved by the Federal Energy Regulatory Commission from most provisions of the CEA while retaining its general anti-fraud and anti-manipulation authority over such transactions. SPP was the only grid operator not party to the 2013 order because its day-ahead market, the Integrated Marketplace, was not fully implemented until March 2014. (See *CFTC Approves Dodd-Frank Exemption for RTOs*.)

The three grid operators said they are concerned that the CFTC draft order to SPP included, for the first time, a statement of its intent "to preserve private rights of action" under section 22 of the CEA.

"Although the proposed exemption involves another RTO, the commission's insertion … can be construed as a retroactive attempt to modify the ISO-RTO final order and, therefore, raises fundamental fairness and regulatory policy issues that potentially impact the ISO-RTO final order," they said.

Although the text of the proposed SPP order does not preserve a private right of action, the preamble states that "[i]t would be highly unusual for the commission to reserve to itself the power to pursue claims for fraud and manipulation … while at the same time denying private rights of action and damages remedies for the same violations. …Thus, the commission did not intend to create such a limitation and believes the [2013 order and the proposed SPP order do not] prevent private claims for fraud or manipulation under the act."

"In the draft order, the CFTC generally addressed whether private parties could bring actions against RTO/ISO market participants they allege to have manipulated energy products and markets, which had otherwise been exempted from CFTC regulation," PJM said in a press release. "However, rather than clarifying the CFTC's intent on private rights of action, the draft order is confusing and could increase legal exposure to RTO/ISO market participants."

PJM said its concerns were heightened by a recent civil case in Texas arising out of market conduct in ERCOT, which it said "raised questions as to whether the CFTC intended to also preserve the ability for a private party to sue a market participant for alleged market manipulation."

Regulatory Certainty

Exempting ISO and RTO transactions from private rights of action under the CEA is essential to avoiding conflicting or duplicative regulation and providing market participants with certainty about the regulatory treatment of the transactions, the grid operators said.

The three requested that CFTC "remove its proposed statement about private claims in the preamble language or conform it to the text of the proposed SPP order. Alternatively, the commission should defer any action on its statement of intent until after it has conferred with its fellow regulatory and enforcement agencies."

SPP's application to CFTC asked for an exemption from provisions of the CEA and CFTC regulations for transmission congestion rights, energy transactions and operating reserve transactions. CFTC issued its draft order May 18.

PJM, ERCOT and CAISO filed their comments June 22 after consulting with other ISOs and RTOs, FERC and industry trade groups.

NYISO, SPP: Reject Tx Developers' Protests

Continued from page 15

SPP Protest

LS Power also filed a protest against SPP, which responded by saying its May 18 compliance filing fully complied with FERC's directives.

The RTO said LS Power's arguments were a "collateral attack" on Order 1000. "SPP has demonstrated full compliance with all of the regional transmission planning and cost allocation requirements of Order No. 1000" and FERC's compliance orders, SPP said (ER13-366-006).

In April, FERC ordered SPP to submit a fourth compliance filing revising Tariff provisions pertaining to "'rights of way where facilities exist.'" The commission said SPP must acknowledge that "retention, modification or transfer" of rights of way remain subject to state and local laws.

SPP said its proposal is "substantially similar" to FERC's Order 1000 language and that LS Power failed "to demonstrate otherwise."

LS Power said SPP should only invoke the right-of-way language when the relevant law expressly "prohibits" alteration of existing rights of way and there is only one "feasible route" for the transmission project that would alter a transmission owner's use over its existing rights of way.

The RTO also said LS Power's request "seeks to impose requirements on SPP not found in Order No. 1000 and not required by the commission in the SPP compliance orders or in other Order No. 1000 transmission planning regions."

SPP Names Morais Assistant General Counsel

Matt Morais, who has worked in the legal departments of ERCOT and PJM, has been named associate general counsel for markets and regulatory policy for SPP.

Morais will lead SPP's legal and regulatory policy efforts with the Federal Energy Regulatory Commission. He will also lead a compliance group working on regulatory and policy matters.

"Matt has extensive experience in regulatory and policy matters involving the electric industry and will provide effective counsel on rulemaking and compliance matters for our organization," said Paul Suskie, executive vice president of regulatory policy and general counsel.

More: *SPP*

ISO-NE NEWS

NEPGA: Order Sloped Demand Curve in FCA 10

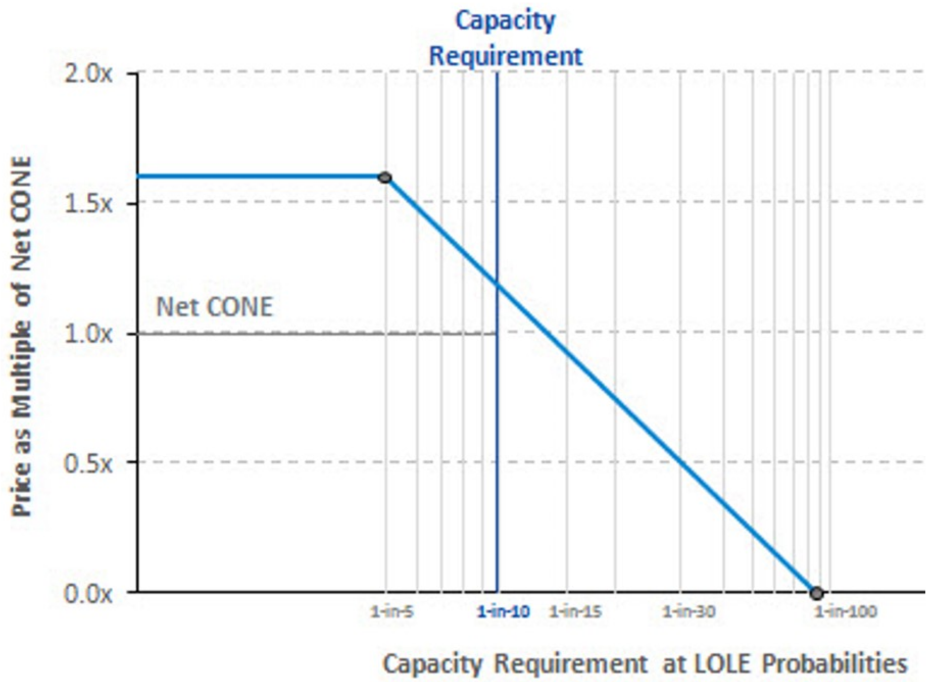
By William Opalka

The New England Power Generators Association says ISO-NE should adhere to a planned change to a sloped demand curve in the next Forward Capacity Auction (ER14-1639).

NEPGA has asked the Federal Energy Regulatory Commission to clarify a previous order that directed the RTO to continue the effort to eliminate the need for administrative pricing in zones that are short of generation resources or suffer from transmission constraints.

ISO-NE informed FERC in May that the complexities involved in switching to the sloped demand curve could not be resolved in time to "result in just and reasonable outcomes" in FCA 10, which is scheduled for Feb. 8, 2016. ISO-NE also cited the need to reconfigure the zones within the RTO to resolve transmission constraints identified since the last auction as an impediment to a timely resolution. (See *ISO-NE Proposes New Capacity Zones for FCA 10*.)

NEPGA suggests that FERC did not explicitly order a sloped zonal demand curve "only because it relied on ISO-NE's commitment to file sloped zonal demand curves for commission review in advance of FCA 10."



Sloped demand curve. (Source: ISO-NE)

NEPGA is asking the commission to initiate a Section 206 proceeding and order ISO-NE to file the sloped zonal demand curves developed by the RTO and New England Power Pool stakeholders.

"Market participants have expected for over a year that their participation in FCA 10 would be based on both system-wide and zonal sloped demand curves. Clearing capacity resources on a curve better reflects the incremental value of capacity and leads to a more efficient market outcome," NEPGA wrote.

Hearing over New England Tx ROE Nears End

By William Opalka

New England transmission owners and a coalition of state officials and consumer groups are expected to conclude a Federal Energy Regulatory Commission evidentiary hearing this week in their long-running transmission rate dispute.

The hearing, which began last week, concerns the return on equity earned by the transmission owners. It is a consolidation of two complaints initiated by the states' attorneys general, combining a docket about transmission charges from December 2012 to March 2014 (EL13-33) with a second dispute over the ROE from June 2014 through October 2015 (EL14-86).

The hearing is being conducted under the new framework FERC set in its June 2014 ruling that switched to a two-step discounted cash flow (DCF) model incorporating short-term and long-term growth rate estimates. The commission previously had relied on only short-term growth rates as benchmarks for electric transmission ROEs. (See *FERC Splits over ROE*.)

The ruling lowered the New England TOs' base ROE from 11.14% to 10.57%, the 75th percentile of a "zone of reasonableness" of 7.03% to 11.74%.

The plaintiffs seek a base ROE of 8.75% for the period ending March 2014 and 8.12 to 8.82% for the later time period.

FERC trial staff is recommending ROEs of less than 10%.

"The evidence confirms what the complainants' *prima facie* showing indicated: all of the ROEs at issue have become unjust and unreasonable. ... Even if — contrary to the evidence — it were found that these base ROEs should again be set at the top quarter of the DCF range, the resulting values would be 9.52% and 9.91%," trial staff wrote in a pre-hearing brief. "Either way, the 11.14% and 10.57% base ROEs that customers have paid and continue to pay are well above any just and reasonable level."

A recommended decision by the administrative law judge is expected by the end of the year with FERC issuing a final ruling in mid-2016.

The plaintiffs are seeking refunds of up to $180 million and say their proposed ROE reduction would save New England ratepayers an additional $74 million annually.

Company Briefs

FirstEnergy's Retiring Burger Plant May Become Site of Ethane Cracker

FirstEnergy officials confirmed that the soon-to-be retired R.E. Burger power plant in Eastern Ohio could be the site of an ethane cracker plant if it reaches a deal with two foreign chemical companies. The news came when FirstEnergy Generation President James Lash said the company is moving a machine shop from the Burger site to Canonsburg, Pa.

The cracker plant would convert ethane produced from the Utica and Marcellus Shale formations into material used by plastics and petrochemical manufacturers Marubeni Corp., of Japan, and PTT Global Chemical Public Co., of Thailand.

More: *Pittsburgh Business Times*

Columbia Pipeline Spending $2.7 Billion on Shale Gas Transport

Columbia Pipeline Group plans to invest $2.7 billion in natural gas transmission projects to transport production from the Marcellus and Utica shale regions in Appalachia to the Gulf Coast.

Columbia's Mountainer XPress and Gulf XPress will add capacity to deliver 2.7 bcf/d from shale areas in Ohio, Pennsylvania and West Virginia. The Mountaineer XPress project involves 165 miles of new pipeline, while the Gulf XPress project includes upgrades to existing infrastructure between Kentucky and Louisiana.

The Houston-based Columbia is a subsidiary of NiSource.

More: *Columbia Pipeline*

Sunny Days Mean Less Stink In Detroit Thanks to Bigbelly

Detroit is becoming the latest city to use the solar-powered Bigbelly sidewalk trash compactors.

DTE Energy will install seven of the trash-compacting and recycling units in several Detroit locations as part of its Energize Detroit neighborhood revitalization program. The idea is to eliminate trash overflows, keep insects away and beautify neighborhoods. The solar units will automatically send signals to collection trucks when they are full.

Bigbelly says its units are operating in 47 countries and that Philadelphia has installed about 1,000 of the devices.

More: *DTE Energy*; *Bigbelly*

Energy Future Holdings Calls Off Oncor Auction Plans

Energy Future Holdings, 80% owner of transmission company Oncor, has told a Delaware Bankruptcy Court judge that it is calling off the planned auction of its ownership stake and will go ahead with a reorganization plan.

The Texas energy giant filed for Chapter 11 bankruptcy protection in April 2014, saddled by debt. It announced last year that it was giving up on its original restructuring plan and would auction off its Oncor stake, which is valued at about $19 billion. NextEra Energy and Hunt Consolidated Inc. were identified as likely bidders.

But Energy Future says it will now return to Plan A and reorganize. It plans to emerge from bankruptcy next year.

More: *Wall Street Journal* (subscription required)

Bill Gates to Double Renewable Energy Stake


Gates

Microsoft founder Bill Gates, who says he has already invested an estimated $1 billion in renewable energy companies, plans to double his investment within the next five years.

Gates has concentrated his green investments in energy storage, advanced nuclear and carbon capture technologies.

He said it is time for such companies to push the envelope to develop new methods to bring renewable energy to market. "Power is about reliability," he said. "We need to get something that works reliably."

More: *Financial Times* (subscription required)

Duke Selling off Stake In Integrys Energy Systems

Duke Energy is divesting its stake in a five-year-old rooftop solar joint venture with Integrys Energy Systems.

Duke is selling its 9-MW share of the 32-MW venture to TerraForm Power, of Maryland. TerraForm had already purchased the other 23 MW from Integrys. Together, Duke and Integrys invested about $180 million in a variety of small solar projects. It marked Duke's first venture into solar.

More: *Charlotte Business Journal*

NextEra Energy Looking for New Wind Site in North Dakota

NextEra Energy Resources, which in May withdrew an application to build a $250 million wind farm in North Dakota, announced it is looking for sites for a similar plant.

Although the company won't give details on sites it is considering, a member of the Public Service Commission said the company is not looking far from the location of its first project.

"NextEra has informed us they're looking at multiple locations and all of those locations are south of where they were looking at before," Commissioner Brian Kalk said. The first plan was shelved after landowners objected and the Stark County Commission denied the company a conditional use permit.

More: *Prairie Business Magazine*

FEDERAL BRIEFS

House Passes Bill to Delay Clean Power Plan

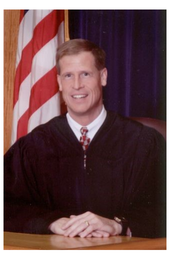
The House on Wednesday voted 247-180 to weaken the Environmental Protection Agency's Clean Power Plan. The bill would delay implementation of the carbon emissions rules for power plants and would allow states to opt out of the rules.

"The bill's effects would be felt hardest by those most at risk from the impacts of air pollution and climate change, such as the elderly, the infirm, children, native and tribal groups, and low-income populations," the White House said in a letter to lawmakers. It promised that President Obama would veto the bill if it reached his desk.

Senate Republicans have introduced a similar bill that would go even further to weaken the rule and impair the EPA's ability to set carbon rules for power plants.

More: *The Hill*

Federal Judge in Wyoming Grants Temporary Stop to Fracking Rules


Skavdahl

A district court judge in Wyoming last week granted a request to temporarily stop new federal rules governing hydraulic fracturing on public lands.

Judge Scott Skavdahl granted a reprieve until July 22, acting on a request from the oil and gas industry, which said the rules represent an "arbitrary and unnecessary" burden on drillers. Industry was joined by state governments in Colorado, Wyoming, North Dakota and Utah in stopping the new rules.

The rules would require companies to disclose chemicals used in fracking on federal land and to implement new practices to curb oil and gas leaks.

More: *Reuters*

DOE Approves Sabine Pass LNG Export Expansion Plan

The Department of Energy on Friday approved Cheniere Energy's plan to expand its Sabine Pass liquefied natural gas terminal in Louisiana to export LNG to countries that do not have free trade agreements with the U.S. Cheniere already has four production facilities nearing completion at the terminal. The approval authorizes it to build two more.

The government's approval came two days after the Federal Energy Regulatory Commission declined a request by the Sierra Club to reconsider its approval of the expansion plans.

The development of new domestic gas fields has transformed the nation's energy outlook, allowing the industry to promote exports where a decade ago it had been planning to increase imports of LNG to buttress U.S. supplies. The Sabine Pass terminal will be the first large-scale plant in decades to ship LNG from the continental U.S.

More: *FuelFix*

FERC Denies Extension to Public Comment Period on Mountain Valley

The Federal Energy Regulatory Commission has turned down a request to expand the public comment session for a proposed natural gas pipeline that would run through central Virginia. Lawmakers and other officials asked for an extension of the comment period, but FERC Chairman Norman Bay declared the session ended.

The 300-mile Mountain Valley pipeline would transport natural gas from Wetzel County, W.Va., to Pittsylvania County, Va.

More: *News Leader*

NRC Steps up Oversight At Talen's Susquehanna Site

The Nuclear Regulatory Commission will increase its oversight of Talen Energy's Susquehanna nuclear station in Pennsylvania after a recent inspection during an emergency drill identified weaknesses with the plant's response. Talen Energy was formed by the recent spinoff of PPL's generation assets.

The problem involves the plant's interpretation of when to start a 15-minute clock for an emergency assessment of a radioactive leak. Plant personnel thought the clock started when it was determined that crews were unable to stop a leak. But NRC rules say the clock starts when a leak is first detected.

"It's important during an emergency situation that state, county and local officials are provided with information in a timely manner to assess the situation and implement protective actions, if warranted," NRC Region I Administrator Dan Dorman said in a news release. "While the probability of an event of this magnitude is extremely low, this finding points to a weakness in that area that the company will need to address."

More: *The Morning Call*

DOE Finds Canadian Oil Sands Produce More Greenhouse Gases

A study funded by the U.S. Department of Energy found that petroleum extracted from Canadian oil sands produces 20% more greenhouse gases than conventional crude. The findings are consistent with long-held assumptions about oil sands production, which requires more energy to extract than conventional oil.

The study, conducted by the department's Argonne National Laboratory, Stanford University and the University of California, noted that oil sands production is expected to double in the next 15 years, and that half of that crude could end up in the United States.

The findings are expected to fuel debate on the Keystone XL Pipeline, which is designed to transport Canadian crude to oil refineries in the Gulf of Mexico region. Final approval of the pipeline has not yet been granted.

More: *Wall Street Journal* (subscription required)

FERC to Prepare Impact Statement For Port Arthur LNG Project

The Federal Energy Regulatory Commission has issued a notice of intent to draw up an environmental impact statement for the proposed Port Arthur Liquefaction Project in Texas, as well as an associated pipeline project.

Port Arthur LNG, an affiliate of Sempra LNG, and Port Arthur Pipeline, a subsidiary of Sempra US Gas and Power, are planning to construct and operate interrelated LNG terminal and natural gas infrastructure projects along the Sabine-Neches Ship Channel in Jefferson County, Texas.

The Port Arthur Pipeline Project includes 35 miles of pipeline to supply the export terminal. Part of an existing state highway and as many as five existing pipelines will need to be relocated as part of the project.

More: *LNG Industry*

STATE BRIEFS

CONNECTICUT

Regulators Call Halt to Eversource Work Site Closure

The Public Utilities Regulatory Authority has ordered Eversource Energy to delay the proposed closure of a regional district office in Simsbury until it could assess the effect of a previous round of closures of district work centers throughout the state.

Eversource sought the closures as a move to consolidate its state footprint and lower operating costs. Attorney General George Jepsen and Consumer Counsel Elin Swanson Katz argued that the closure of the Simsbury work center could slow Eversource's response to power outages in the Farmington Valley during major storms.

PURA noted that Simsbury is largely isolated from major highways. Regulators approved the closure of three other centers. Altogether, 400 workers will be moved to other work sites.

More: Hartford Courant (registration required)

ILLINOIS

Regulators OK WEC-Integrys Deal with Conditions

The Commerce Commission voted 4-1 to approve Wisconsin Energy Corp.'s $9.1 billion acquisition of Integrys Energy Group but attached a number of conditions mostly directed at Peoples Gas, an Integrys gas-distribution system in Chicago.

The ICC will require Peoples Gas to file reports by September committing itself to the scope, schedule and cost for a gas-main replacement project that has been the target of much criticism. The project's cost, initially estimated to be about $2 billion, has more than doubled.

The ICC approval is the final regulatory hurdle required for the merger, which expands WEC's reach from Wisconsin to Illinois, Minnesota and Michigan.

More: Journal Sentinel

INDIANA

Is the State Headed for a Competitive Energy Market?

A consortium of more than two dozen large-scale energy users is pushing for the state to open up to retail energy competition.

Indiana Industrial Energy Consumers argues that the state's energy prices have gone from being the nation's fifth-lowest in 2003 to 26th lowest in 2014. Meanwhile, neighboring states Illinois and Ohio, which once had higher average industrial electricity rates, now have lower rates .

The consortium plans to lobby lawmakers this summer to expand opportunities for cogeneration plants at the industrial facilities. The companies also are discussing a broader reform that could increase market competition for industrial and residential customers.

More: The Times of Northwest Indiana

KENTUCKY

Kentucky Power Wins Rate Increase

The Public Service Commission has approved a rate-increase settlement for Kentucky Power.

The agreement allows the utility to increase its annual revenue by $45.4 million, about 57% of the company's initial rate request. Kentucky Power also agreed to drop its appeal of an earlier PSC decision disallowing certain fuel costs, which represents a savings to customers of about $54 million.

Other provisions include imposition of a 15-cent customer monthly charge to be matched by company shareholders that is expected to generate about $300,000 per year to support economic development in the company's service area. Kentucky Power, a subsidiary of American Electric Power, has about 173,000 customers.

More: WYMT TV

MAINE

Bill Provides Wind Power Opt-out

The Legislature has passed a bill that would give residents who are not represented by local governments an opportunity to exclude their communities from areas considered for large wind power projects.

The bill would give residents of the Unorganized Territory the right to petition the Land Use Planning Commission to pull out of the expedited wind permitting area, a region designated in the 2007 Wind Energy Act. Under the law, organized municipalities can pass ordinances to control wind power projects, but residents in areas without organized government cannot.

The Unorganized Territory — the part of the state that has no incorporated municipal government — covers slightly more than half the state's area, including much of the interior and some coastal islands.

More: Portland Press Herald

Legislature Overrides Veto of Energy Efficiency Bill

The Legislature unanimously overrode Gov. Paul LePage's veto of a bill that corrects a one-word clerical error potentially worth nearly $38 million for an energy efficiency program.

LePage

The bill reinserts what has become known as the missing "and" in a law that funds the Efficiency Maine program. It was made necessary in 2013 when the Legislature passed a massive energy bill that authorized a surcharge on electricity ratepayers but left out the critical conjunction. The Public Utilities Commission voted in March to interpret the language literally, meaning program funding would be capped at $22 million rather than the $59 million envisioned by the Legislature.

LePage, who opposes the ratepayer surcharge, vetoed the corrective measure. State law requires a two-thirds majority in both houses of the Legislature to override a veto.

More: Portland Press Herald

Continued on page 21

STATE BRIEFS

Continued from page 20

MARYLAND

Residents Concede in Pepco Tree Management Dispute

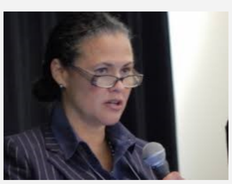
A group of Potomac homeowners who banded together to try to keep Pepco from cutting down trees on private property near its power lines has conceded defeat. Armed off-duty Montgomery County police officers began standing guard last week to keep protesters from interfering with Pepco contractors cutting down trees on residents' property.

Pepco stepped up its vegetation management program after the Public Service Commission in 2011 fined the utility for poor performance. A PSC working group developed standards dictating how close a tree's branches can grow to different types of power lines and said that no jurisdiction in the state could override the standards.

The utility says it's within its rights to bring its bucket trucks and chainsaws onto people's property because of a series of easements it purchased in the 1950s, before modern neighborhoods were built in the area. Pepco says it has decreased the number of outages per customer an average of 8.6% and that their duration has been shortened by nearly 24%.

More: Bethesda Magazine

PSC Member Accused of Conflict Of Interest in Merger Vote



Speakes-Backman

Opponents of Exelon's $6.8 billion acquisition of Pepco Holdings Inc. have appealed the Public Service Commission's approval of the deal, saying a commissioner who cast the deciding vote had a conflict of interest.

Commissioner Kelly Speakes-Backman was in talks to take an executive position with the industry group Alliance to Save Energy when the PSC voted on the merger on May 15. (See How Exelon Won Over Maryland.) Exelon is on the board of directors for the group, which lobbies Congress on energy efficiency issues.

"Speakes-Backman's failure to recuse herself from voting on the Exelon-Pepco merger while negotiating employment with an organization tied to and financed by Exelon Corp. constitutes a clear conflict of interest," said Tyson Slocum of advocacy group Public Citizen. Speakes-Backman, who became a senior vice president with the trade group after the vote, denied there was a conflict, saying she ceased communication with the group when she learned of Exelon's place on the board until after the commission's decision.

The Maryland Office of People's Counsel has appealed the commission's decision in circuit court. The D.C. Public Service Commission is the only remaining regulatory body still to vote on the deal, which has attracted vociferous opposition in the district.

More: WUSA-9; The Baltimore Sun

MICHIGAN

Death of Vet After Utility Shutoff Prompts Discussion on Rules

The death of a veteran from hypothermia last winter has prompted a call to discuss how utilities handle shutoff notices.

John Skelley, 69, was found dead in a Detroit home in February after Consumers Energy shut off natural gas service. Utilities are forbidden from shutting off utilities in the homes of seniors from November to March, but Consumers Energy said it was unaware anybody was living in the house. The service was listed under a different name, and the company said it sent numerous shutoff notices to the service holder with no response.

The Public Service Commission is calling for a full report from Consumers Energy and is asking all utilities in Michigan to form a "collaborative work group" to review current rules and see if any changes need to be made.

More: Detroit Free Press

MINNESOTA

PUC Signs off on Solar Garden Size Agreement

The Public Utilities Commission approved a settlement between Xcel Energy and several community solar garden developers that will allow more of the small-scale solar projects to be built.

Xcel had pushed for a limit to the size of community-owned solar facilities, which they saw as cutting into their business without paying to support grid development and maintenance. Some community solar facilities as large as 50 MW were proposed, "well beyond what was intended," Xcel Regional Vice President Laura McCarten said.

The agreement limits the size of a community solar facility to 5 MW. The agreement is retroactive, and all facilities will go back for a design review to ensure they don't exceed that size.

More: Minnesota Public Radio

MISSOURI

Clean Line Taps KC Contractor for Tx Project While Awaiting OK

Clean Line Energy announced it will hire PAR Electric Contractors of Kansas City to help build its Grain Belt Express transmission line, buttressing arguments that construction could put 1,300 people to work in the state. The announcement came as the Public Service Commission delayed a vote on the project for a deeper evaluation.

The planned 750-mile HVDC line would carry wind power from Kansas into Missouri and further east.

Indiana and Kansas regulators have already approved the project.

More: KCUR

Empire District Gets 29% Less in Rate Case

The Public Service Commission has approved a $17.1 million rate increase for the Empire District Electric Co., 29% less than the company sought when it filed last August. The ruling will add about $7 to the average residential customer's electric bill.

Empire sought the increase mainly to cover the costs of installing emission controls at its Asbury Power Plant. Empire also said it needed to pay for a new maintenance contract for its 12-unit Riverton gas-fired plant and faces higher RTO charges.

Empire serves 149,300 electric customers in 16 Missouri counties.

More: Missouri Public Service Commission

Continued on page 22

State Briefs

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NEW HAMPSHIRE

PUC Approves Temporary Eversource Rate Hike

State regulators approved a temporary increase of 0.07 cents/kWh for customers of Eversource Energy to pay for reliability projects. The commission first approved the reliability enhancement program in 2006 to reduce the frequency and duration of power outages. The current funding was set to expire at the end of June.

On June 10, Eversource asked the Public Utilities Commission to approve the temporary rate increase to recoup money spent on reliability projects since 2013. According to the company, since the start of the reliability program, there has been a steady decline in the duration and frequency of outages affecting customers.

More: *New Hampshire Union Leader*

NEW JERSEY

Fishermen's Energy Takes Case To State Supreme Court

Fishermen's Energy, a consortium of commercial fishermen developing wind farms off the state's coast, is appealing the Board of Public Utilities' denial of a proposed 25-MW pilot project off Atlantic City.

The company asked the state Supreme Court to direct the BPU to approve the project, which received a $46.7 million grant from the Obama administration. The BPU rejected the project because it said it was too costly, even with federal subsidies.

More: *The Sandpaper*; *NJ Spotlight*

NEW MEXICO

SPS Case Spurned by New Mexico Commission over Detail

The New Mexico Public Regulation Commission has dismissed Southwestern Public Service Co.'s latest rate case filing, which would have increased base rates by $1.4 million in mid-2016.

The commission said SPS did not comply with its new interpretation of a statute involving forecasted test year (FTY) periods, according to a regulatory filing by SPS's parent, Xcel Energy. SPS said it plans to refile the rate case later this year.

More: *Securities and Exchange Commission*

NEW YORK

Half of State's Power to Come from Renewable Sources by 2030

The New York State Energy Research and Development Authority has approved a new state energy plan that aims to reduce carbon emissions by 40% from 1990 levels in the next 15 years and calls for the state to get half of its power from renewable sources by 2030.

The long-awaited plan, released Thursday, aligns with the Cuomo administration's Reforming Energy Vision initiative to remake the energy grid and provide more renewables and energy efficiency.

"The eyes of the country really are on New York, and where we are going and how we are going to get there," NYSERDA Director John Williams said.

More: *Capital New York*

National Grid Submitting Smart Grid Plans

National Grid will submit its plans for a smart grid demonstration project for the Clifton Park area on July 1.

The project will be based on one currently operating around Worcester, Mass., where customers can choose different pricing models for their electrical usage and can access advanced smart grid technologies to help them control their usage.

National Grid also introduced a new team that will lead the company's various smart grid demonstration projects. The team will be led by Ed White, vice president of new energy solutions.

More: *Times Union*

NORTH CAROLINA

Lower Fuel Prices Lead to Savings for Duke Customers

Duke Energy Progress has proposed a rate reduction that would cut the monthly energy bill for a typical residential customer by 2.5%.

The new rate, if approved by the Utilities Commission, would reduce the average residential monthly bill from $111.38 to $108.69. The decrease is a result of the falling prices of coal and natural gas as well as in the cost to ship coal to the state by train and barge.

More: *The News & Observer*

NORTH DAKOTA

PSC Approves 2 Pipelines To Run Beneath Lake Sakakawea

The Public Service Commission has approved two pipelines to run beneath Lake Sakakawea — one carrying crude oil, the other natural gas. Both projects were proposed by Hess North Dakota Pipelines.

The first is a 25-mile oil pipeline to run from a Hess facility near Keene in McKenzie County to the Ramberg Truck Facility near Tioga. It would carry about 76,000 barrels of oil per day. The second, called the Hawkeye NGL Pipeline, would run along a similar route for about 19.2 miles, using an existing oil pipeline that would be converted to carry natural gas liquids. It would carry about 30,000 barrels of NGLs a day.

Hess is one of the largest oil producers in North Dakota.

More: *Bismarck Tribune*

SOUTH DAKOTA

PUC to Hold Public Hearing Before Crucial Keystone Decision

The Public Utilities Commission will hold a final public hearing on July 6 at the state Capitol to get input on the Keystone XL Pipeline. Although the project received initial approval back in 2010, the PUC must rule on whether or not conditions have changed substantially before construction can be approved.

More: *KDLT*

PJM Delays Vote on Capacity Performance Rules

Continued from page 1

Rules Still Being Developed

Officials said they delayed the vote in part because they saw the need for additional changes beyond what they outlined during a testy, six-hour meeting June 18. (See PJM Stakeholders Rush to Figure out What's Changing for the BRA.) "We will have some additional tweaks," said Bresler.

PJM also agreed with Exelon's proposal that a seller's requested risk premium level can be "reasonably supported" rather than "documented and quantifiable" as it originally proposed.

"We do intend to add a little more language consistent with something Exelon offered [regarding] what we consider to be acceptable as far as risk," said PJM attorney Jen Tribulski.

Ed Tatum of Old Dominion Electric Cooperative said after the June 18 session that RTO officials "seem to be making [the rules] up as they go along." It was an observation that several other stakeholders told *RTO Insider* they agreed with — while conceding some uncertainty was unsurprising given the breadth of the changes.

Tatum on Thursday expressed gratitude for the additional time. "Our interest is that we have as few surprises as we possibly can," he said.

American Electric Power's Brock Ondayko also expressed frustration during Thursday's meeting. "In response to many questions, PJM says, 'We'll have to go back to look at that.'"

Officials said they hoped the additional month would give them time to resolve all outstanding questions about the rules that will apply for the Base Residual Auction beginning Aug. 10.

Aggregation Rules

Bruce Campbell, of demand response provider EnergyConnect, said a discussion at a training session Wednesday on how resource providers can aggregate resources "left a lot of people confused, if not unhappy, with what PJM is proposing."

"The language seems to say you can offer aggregation, but performance will be assessed based on individual resources," Campbell said. "It seems inconsistent."

"It seems to me we should be going back to some sort of stakeholder process to consider" alternative rules on issues such as aggregation, said consultant Tom Rutigliano of Achieving Equilibrium.

Fixed Resource Requirements

Marji Philips of Direct Energy questioned whether PJM had included a transition for fixed revenue requirement entities, asking whether the RTO was "concerned that FRR won't be prepared."

"It's really not appropriate to debate the FERC order," responded CEO-in-waiting Andy Ott. "… The scope of this meeting is compliance."

Ott said he disagreed that FRRs won't be prepared, saying their plans were already submitted for the transition years of 2018/19 and 2019/20.

Philips persisted: "We have the competitive market that's meeting the reliability standard and the regulated part of PJM that's not."

FERC Order

The new rules, a response to the poor generator performance during the January 2014 polar vortex, increases reliability expectations of capacity resources with a new Capacity Performance product. It is intended to result in larger capacity payments for the most reliable resources and higher penalties for non-performers.

Although FERC rejected some of PJM's related proposals for changes to the energy market, it otherwise approved the RTO's changes with only limited modifications. (See *FERC OKs PJM Capacity Performance: What You Need to Know*.)

Supreme Court: EPA Erred on Mercury Rule

Continued from page 1

en many of the region's older fossil-fired units to retirement, so we expect there will be limited impact from this ruling."

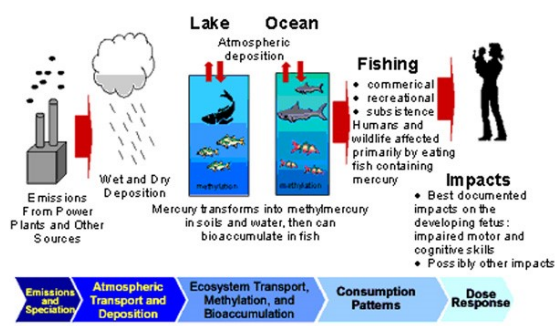
NYISO is analyzing the decision, spokesman David Flanagan said.

Coal plants also are under pressure from EPA's cross-state pollution rule and the carbon emission rule expected later this summer. Even without MATS, EPA Administrator Gina McCarthy told HBO's "Real Time with Bill Maher" on Friday, "we're still going to get at the toxic pollution from these facilities."

Overreach

Nevertheless, the ruling gave EPA's opponents something to celebrate. "The Supreme Court's decision today vindicates the House's legislative actions to rein in bureaucratic overreach and institute some common sense in rulemaking," House Majority Leader Kevin McCarthy (R-Calif.) said.

Coal stocks rallied on the news. Peabody Energy rose almost 10% on the day, while Alpha Natural Resources was up 8.6%, Cloud Peak Energy gained 6.4% and Arch Coal jumped 4.5%.



Mercury exposure pathways. (Source: EPA)

'Appropriate and Necessary'

MATS went into effect in April, although some power plants were given an extension until April 2016. *Michigan v. Environmental Protection Agency* combined what began as three challenges by industry groups and 23 states.

After the D.C. Circuit upheld the rule last year, the Supreme Court agreed to consider whether EPA acted unreasonably by refusing to consider costs in determining whether it is "appropriate and necessary" to regulate hazardous air pollutants emitted by electric utilities.

"EPA strayed well beyond the bounds of

Continued on page 24

Supreme Court: EPA Erred on Mercury Rule

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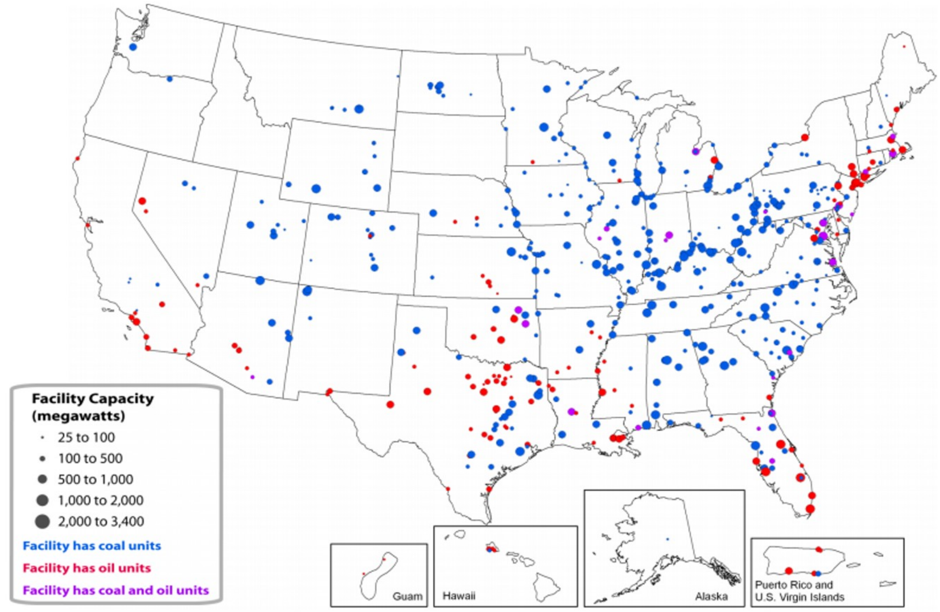

Generating plants subject to MATS rule. (Source: EPA)

reasonable interpretation in concluding that cost is not a factor relevant to the appropriateness of regulating power plants," Justice Antonin Scalia wrote in the majority opinion, in which he was joined by Chief Justice John Roberts and Justices Clarence Thomas, Samuel Alito and Anthony Kennedy.

"It is not rational, never mind 'appropriate,' to impose billions of dollars in economic costs in return for a few dollars in health or environmental benefits," Scalia said.

In a dissent, Justice Elena Kagan noted that while EPA's power plant regulations would have been unreasonable without considering costs, the agency had taken an "exhaustive" consideration of costs.

"Over more than a decade, EPA took costs into account at multiple stages and through multiple means as it set emissions limits for power plants," Kagan wrote. "And when making its initial 'appropriate and necessary' finding, EPA knew it would do exactly that — knew it would thoroughly consider the cost-effectiveness of emissions standards later on." Justices Sonia Sotomayor, Stephen Breyer and Ruth Bader Ginsburg joined in the dissent.

Cost-Benefit

EPA has said MATS compliance will cost electric utilities $9.6 billion annually but produce total benefits of at least $37 billion to $90 billion per year, while preventing as many as 11,000 premature deaths and 130,000 asthma attacks. It will also eliminate 5,700 hospitalizations and emergency room visits and 540,000 missed workdays, the agency said.

However, only a fraction of the benefits — $500,000 to $6.2 million annually — are directly related to cuts in mercury emissions. The remainder are "co-benefits" that arise not directly from reducing toxic emissions, but from reductions in particulate matter and carbon emissions expected to result from the standards.

EPA critics have said the agency has engaged in over counting, citing the same co-benefits to justify multiple EPA regulations.

Clean Air Act Amendments

The MATS regulations were initiated when Congress amended the Clean Air Act in 1990. The amendments ordered EPA to regulate 189 hazardous air pollutants, including mercury, arsenic and cadmium, which had not been previously controlled. (See *MATS: 25 Years in the Making*.)

"It is disappointing that a quarter century after the 1990 Clean Air Act amendments, Americans are still waiting on the first-ever limits on mercury from coal-fired power plants, the single largest source of these toxic emissions," Ken Kimmell, president of the Union of Concerned Scientists, said in a statement.

Implications for Future Regulations

The ruling is a "groundbreaking administrative-law case," Justin Savage, a partner at the law firm Hogan Lovells and a former Justice Department environmental lawyer, told the *National Journal*. "It essentially says that when a statute is ambiguous, an agency must consider costs."

"After this decision, an agency would not want to walk into court saying, 'Your Honor, we did not consider costs at all when deciding to take regulatory action on an issue,'" agreed environmental law professor Jonathan Adler of Case Western Reserve University.

Sean Donahue, who represents environmental and public health groups that supported EPA, told *The New York Times* that the ruling will require the agency "to do more homework on costs."

"But I'm very confident that the final rule will be up and running and finally approved without a great deal of trouble. This is a disappointment. It's a bump in the road, but I don't think by any means it's the end of this program."

FBR Capital analyst Benjamin Salisbury told *StreetInsider.com* that the ruling could ultimately result in tougher regulations on mercury and toxic emissions. "EPA could resurrect MATS in a stronger form, given the 'baseline' EPA will observe includes less of the older, high-emission coal-fired plants and current units with more emission control than previously," he said.

— William Opalka contributed to this article.

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