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Late Changes to Energy Bill Leave Dems Miffed; Passage Less Likely

By Rich Heidorn Jr.

WASHINGTON — A key House committee last week approved what would be the first comprehensive energy legislation in eight years, but hopes for passage dimmed after Republican amendments eroded bipartisan support.

H.R. 8, the North American Energy Security and Infrastructure Act of 2015, cleared the House Energy and Commerce Committee 32-20 on Wednesday with support from only three Democrats. The bill includes measures to improve energy infrastructure, resilience and reliability while increasing scrutiny of RTOs and FERC.

A preliminary draft of the bill had passed a subcommittee unanimously. But Wednesday's markup devolved into partisan sniping after Chairman Fred Upton (R-Mich.) replaced the original bill with a 208-page amendment that stripped gas and electric infrastructure funding sought by Democrats. The amendment also includes provisions that would speed the approval of liquefied natural gas export terminals and repeal current law requiring that federal buildings phase out the use of fossil fuel-generated energy.

Pallone (left) and Upton

The changes left Rep. Frank Pallone (D-N.J.), the ranking Democrat on the committee, fuming. "This bill only aims to help polluters in my opinion," he said. "It continues to ignore the impact of climate change, which remains the biggest threat to our energy security and way of life."

Upton said the bill is intended to create jobs, improve infrastructure and ensure affordable energy. "While it has been difficult to find bipartisan consensus on as many fronts as I would have liked, I believe we have written a substantive, thoughtful bill," he said.

Congress has not approved a comprehensive energy bill since the Energy Independence and Security Act of 2007. While the House bill is unlikely to pass as is, many of its provisions could find their way into final legislation if bipartisanship prevails.

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James Dinegar, CEO of the Greater Washington Board of Trade, in an Exelon video with other D.C. business and civic leaders supporting the merger.

Reports: Exelon Considering DC HQ To Win Pepco Deal

By Suzanne Herel

Chicago-based Exelon would open a headquarters in the district and offer more customer credits under a tentative agreement D.C. Mayor Muriel Bowser's office has reportedly struck to support the company's purchase of D.C.-based Pepco Holdings Inc.

While neither Bowser's office nor the companies would confirm the draft settlement, several intervenors in the merger process told Bloomberg and the *Washington City Paper* that the document was being shared among interested parties on Friday.

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Generators Seek to Reopen Capacity Performance Rules

By Rich Heidorn Jr.

Generators asked PJM stakeholders last week to consider changes to the RTO's new Capacity Performance program, saying the rules approved by the Board of Managers without stakeholder consensus are overly punitive.

A group calling itself the "Supplier Caucus" asked the Markets and Reliability Committee to consider two problem statements. One would expand ways for generators to minimize underperformance penalties by netting them against over-performing generators. The second would consider widening the *force majeure* rules under which generators can es-

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Also in this issue:

EPA Ozone Rule May Mean Changes for 30+ Coal Units

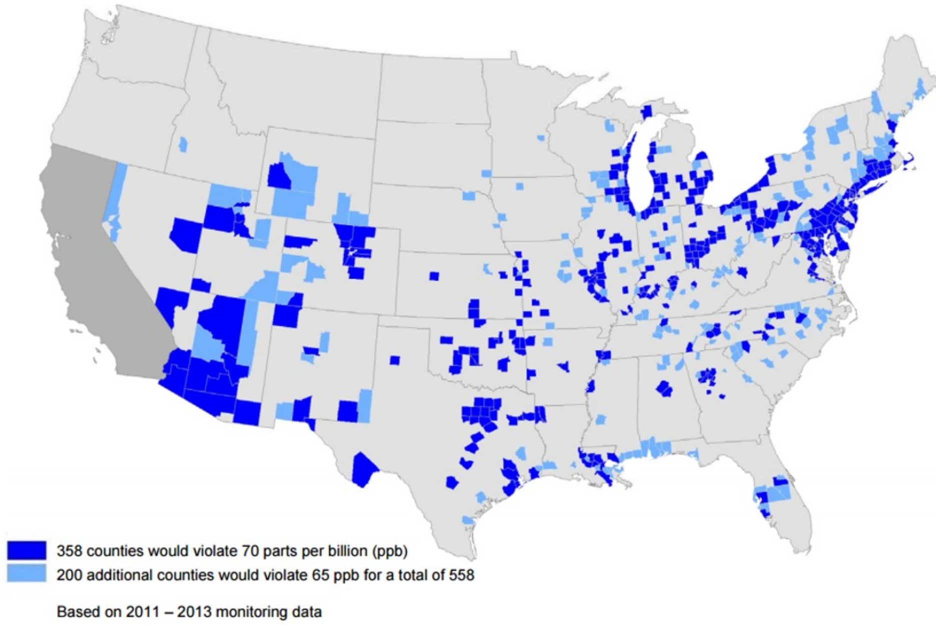
By Amanda Durish Cook

The Environmental Protection Agency last week tightened its ground-level ozone limits to 70 parts per billion (ppb), a less strenuous standard than some electric generators had feared and public health advocates had sought.

The National Ambient Air Quality Standards (NAAQS) rule could impact more than three dozen coal-fired electric generators lacking scrubbers or not using them full time.

In areas expected to need to reduce nitrogen oxides (NO_x) emissions under the rule, EPA's Regulatory Impact Analysis identified 37 coal-fired generators that either do not have selective catalytic reduction (SCR) systems (30 units, 5.4 GW) or have the scrubbers but do not always use them (seven units, 3.1 GW).

In addition, new generators could be restricted in the more than 350 counties that EPA says will not meet the 70 ppb standard.



EPA estimates 358 counties will need to take actions to comply with the new ozone standard of 70 parts per billion. The count does not include California, which has separate standards. *Source: EPA*

Ozone, the main component of smog, aggravates lung diseases, including asthma, emphysema and bronchitis. It forms when emissions of NO_x, volatile organic compounds (VOCs), carbon monoxide and methane are heated by the sun. Utilities, industrial facilities, motor vehicle exhaust, gasoline vapors and chemical solvents are the major man-made sources of NO_x and VOCs.

Industry Reaction

The agency last visited the issue in 2008, when it released a 75 ppb recommendation. EPA was considering a range between 65 and 70 ppb for an eight-hour average.

The Edison Electric Institute had pushed for a new standard at the top end of the range. "While compliance challenges remain with the new standard at 70 ppb, EPA has recognized the serious implementation concerns raised by stakeholders of setting the standard below 70 ppb," EEI President Tom Kuhn said in a statement.

The ozone standard doesn't directly apply to power producers but to their states. David Flannery, legal counsel for the Midwest Ozone Group, said that it's "too early to tell" how either will be affected. The group represents coal-burning utilities including American Electric Power, Duke Energy and Ameren.

"States will have to decide how they're going to apply this ambient air standard," Flannery said. "There's a mix of sources that contribute. This includes cars and mobile sources in addition to the industrial sources."

Flannery said that states are still planning how to meet 2008's 75 ppb rule. "Part of the criticism of the new standard is that the EPA introduced the new standard before the old one could be fully implemented," he said.

Implementation

EPA said it is tightening the standard based on more than 1,000 recent studies that suggested the current limit did not adequately protect public health.

Assuming it survives anticipated legal challenges, the next step in enforcing the ruling is to designate attainment and nonattainment areas. States will have to suggest designation areas within a year; EPA will make designations by October 2017 using air quality data from 2014 to 2016.

States identified with nonattainment areas will be forced to devise emission inventories and establish a preconstruction permitting program. The preconstruction permits apply to "new or expanding sources of air pollution," including power plants, industrial boilers and factories.

Any state containing nonattainment areas sorted into the "moderate" or higher category will have until 2021 to design state implementation plans demonstrating the pollution-reducing steps they will take to comply. Deadlines for compliance from nonattainment areas will range from 2020 to 2037.

The agency estimated the new standard will cost $1.4 billion while producing health benefits of $2.9 billion to $5.9 billion.

It says compliance with the new threshold will be made easier by existing environmental rules, including emission control requirements for motor fuels and vehicles, the Mercury and Air Toxics Standards (MATS) and the carbon emission reductions under the Clean Power Plan.

'Missed Opportunity'

EPA says average ozone levels have dropped 33% nationally since 1980 and that more than 90% of areas designated nonattainment for the 1997 ozone standards now meet those standards. EEI says the electric power sector has reduced sulfur dioxide (SO_2) emissions by 80% and NO_x by almost three-quarters since 1990 despite increased power demand.

Michael Brune, executive director of environmental advocate Sierra Club, called the rule "a modest step" and "a missed opportunity."

"Over the past seven years, medical scientists have been clear that any standard above 60 ppb puts our communities at risk and is especially dangerous to children, seniors and people with respiratory illnesses," Brune said in a statement.

ISO-NE NEWS

Mass. Gov.: Hydro Contracts Best Way to Lower Costs, Meet GHG Goals

By William Opalka

Massachusetts Gov. Charlie Baker said last week that long-term contracts for hydropower are the quickest and most cost-effective way for the state to reduce rising energy costs and reach greenhouse gas reduction goals.

The first-term Republican testified before the legislature's Joint Committee on Telecommunications, Utilities and Energy in support of his bill to mandate the state's utilities seek long-term contracts to procure hydropower.

New England power generators have complained that elected officials' urge to "do something" about rising power costs in the region risks market development just as power plant owners are willing to invest there. (*See New England Generators: State Interventions Risk Market Development*.)

Baker confronted that argument in his remarks that described how ISO-NE's main concern is reliability and plant owners need to provide returns to their investors.

Massachusetts Gov. Charlie Baker testifying before the legislature in support of his bill to mandate that the state's utilities seek long-term contracts to procure hydropower. *Source: Gov. Baker*

"When acting in line with their obligations, none of these players are primarily concerned with costs to the consumer or environmental considerations. That is the status quo," he said. "We are left with the critical question of who addresses energy costs and environmental concerns. The answer to that question is us."

The 2008 Global Warming Solutions Act mandates a reduction in greenhouse gas emissions of 25% from 1990 levels by 2020. A 2010 state energy plan said Massachusetts would need at least 1,200 MW of hydropower to reach the target.

"We are in danger of being out of compliance with our own law," Baker said.

Hydropower on that scale would likely come from Canada, but nothing precludes hydro resources in the U.S. from bidding into any solicitations from the utilities, he said. Baker said hydro can be obtained under current law, but that is unlikely in the absence of long-term contracts.

The contracts would only be pursued if state regulators determined they were cost-effective, the governor said.

Baker also said he would consider testing the market for the viability of offshore wind projects and suggested the legislature could amend his bill to include that resource. The Cape Wind project in Nantucket Sound, under development for more than a decade, was halted after it failed to complete financing after a protracted legal battle.

The governor also repeated his call for action to reduce electricity costs, which are among the highest in the nation, through regional efforts. (See *Baker: New England Must Sacrifice to Lower Costs*.)

MISO NEWS

MISO Considering Raising Energy Offer Cap to $1,500/MWh

By Tom Kleckner

> **"Anything we do should not be considered permanent, given FERC's pending action."**
>
> **Jeff Bladen, MISO**

LITTLE ROCK, Ark. — MISO said last week it may increase its energy market offer cap to $1,500/MWh this winter in response to expected FERC action.

Staff told the Market Subcommittee last week it is considering three interim energy offer cap options: 1) no change from current practices; 2) last winter's revenue sufficiency guarantee (RSG) approach, which offered compensation through uplift; and 3) increasing the energy cap above the current $1,000/MWh.

Because MISO has increased its reliance on gas-fired generation, a repeat of the gas price spikes seen during the 2014 polar vortex could result in hundreds to thousands of megawatts of capacity exceeding the current cap, Markets System Analyst Chuck Hansen told the group.

MISO's market engineering team has already tested systems for energy offers up to $3,000/MWh and found no issues that would prevent a higher cap. The team also simulated higher gas prices by increasing offer curves for gas plants and found that market signals became distorted as the price signals reached the cap, Hansen said.

Hansen said increasing the energy offer cap to $1,500/MWh would accommodate gas prices reaching $100/MMBtu, but studies show offers above that would increase the likelihood of the system marginal price being greater than the value of the lost load when operating reserves are scarce.

"Anything we do should not be considered permanent, given FERC's pending action," said Jeff Bladen, MISO's executive director of market design.

FERC on Sept. 17 announced its intention to take action on offer caps and other price formation issues, though it offered no timeline. The statement came in a Notice of Proposed Rulemaking (RM15-24) that would require organized markets to settle real-time energy and operating reserve transactions financially at the same five-minute time interval that it dispatches those resources. (See *NOPR Requires RTOs Switch to 5-Minute Settlements*.)

MISO Market Monitor David Patton has been recommending five-minute settlements since his 2012 State of the Markets Report.

"Any time you're selling a product," Patton told the MSC, "I believe you should be paid for the value of the product in the time period it is being delivered."

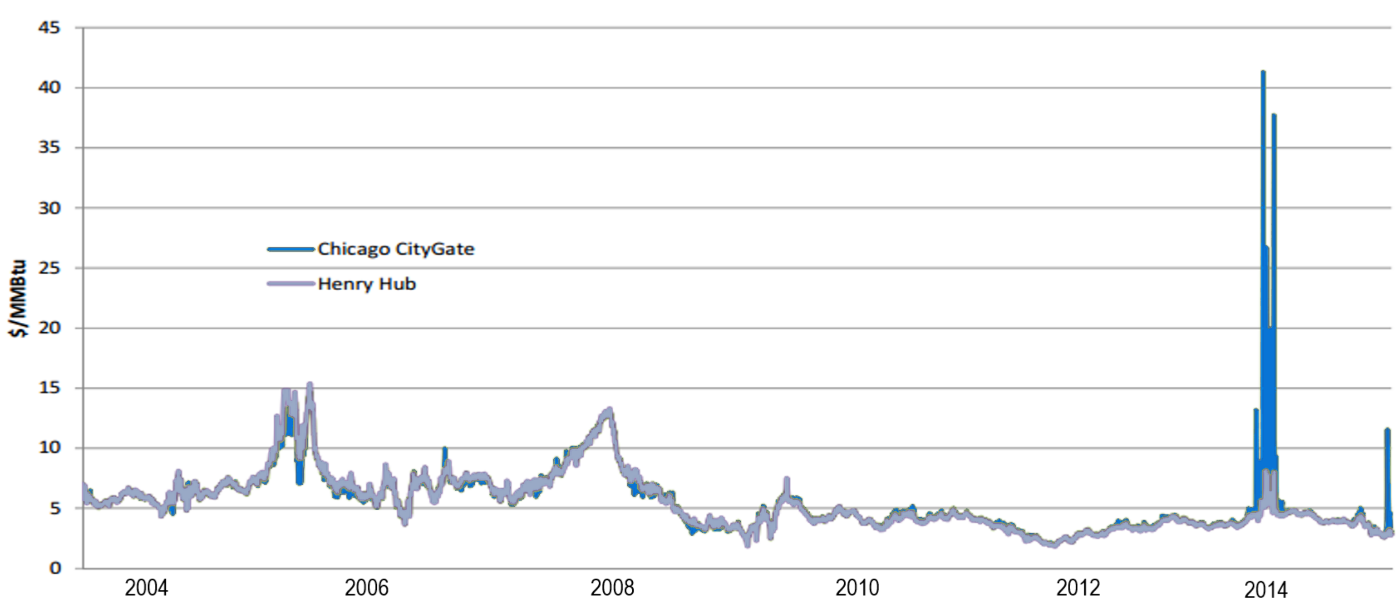
Some stakeholders expressed support for the 2014-15 winter solution and apprehension for raising the energy cap.

"We really want your feedback," Bladen said, urging input on fixed-offer caps and whether generators should be able to recover verifiable fuel costs beyond the cap using uplift, as was the case last winter.

Based on the feedback (due Oct. 6), MISO will present and discuss its proposal at the Oct. 27 MSC meeting. It has targeted Nov. 1 for a FERC filing, with a Jan. 1 implementation date.

Hansen said FERC's guidance will be incorporated into a permanent offer cap solution. He said MISO will continue to monitor neighboring RTO actions on offer caps and coordinate as appropriate.

On Thursday, two days after the MSC meeting, PJM stakeholders overwhelmingly approved increasing the RTO's energy offer cap from $1,000/MWh to $2,000/MWh. (See related story, *PJM Members OK $2,000/MWh Energy Market Offer Cap*, p.7.)



Natural gas prices. *Source: MISO*

MISO News

FERC Launches Probe into MISO Capacity Auction; Tech Conference Scheduled

By Amanda Durish Cook

FERC has begun a non-public investigation over allegations of improprieties in MISO's April capacity auction and will hold a technical conference on the matter Oct. 20.

The commission's actions, disclosed last week, are in response to complaints filed by Illinois Attorney General Lisa Madigan, Southwestern Electric Cooperative, Illinois industrial energy consumers and the public interest group Public Citizen over MISO's Planning Resource Auction, which resulted in a nine-fold price increase in Zone 4, which comprises much of Illinois.

Public Citizen called for an investigation in May into whether Dynegy improperly withheld capacity in Zone 4, an allegation the company has denied. Public Citizen also alleged that MISO brushed aside recommendations by its staff that Zones 4 and 5 be merged due to their concerns about Dynegy's growing share of capacity in Zone 4 after the company acquired four generators there from Ameren.

Prices in Zone 4 cleared at $150/MW-day, compared with just $16.75 a year earlier.

FERC said it is holding the all-day conference to obtain additional information and "determine what further action, if any, may be appropriate" to address the complaints (EL15-70, *et al*). The conference, which will be webcast, will include discussions of current market power mitigation rules, the calculations of auction parameters and zonal boundaries.

The conference will be run by staff from the offices of General Counsel, Energy Market Regulation, and Energy Policy and Innovation. Stakeholders will have until Nov. 4 to submit post-technical conference comments.

FERC said the conference will not address the non-public investigation being conducted by the Office of Enforcement into "whether market manipulation or other potential violations of commission orders, rules and regulations occurred before or during the auction" (IN15-10). FERC said the investigation began "shortly after" the auction concluded April 14.

In its complaint in May, Public Citizen suggested that Dynegy could have inflated prices by either not offering some capacity or by offering some of it at such a high price that it would not clear.

Madigan filed a complaint saying that Dynegy's increased generation portfolio in Zone 4 made it a "pivotal supplier" in the zone. Madigan also complained that in approving the Dynegy acquisition, FERC declined to look at its effect on competition and prices in Zone 4 and instead only considered a competitive analysis of MISO as a whole.

Dynegy CEO Robert Flexon defended the company's bidding strategy in an interview in June, insisting no capacity was withheld. (See *Dynegy Chief Unapologetic over MISO Auction Flap*.)

MISO and its Market Monitor also contend the auction was the result of market dynamics, not improper conduct. (See *Dynegy: No Evidence of Misconduct in Auction*.)

NYISO NEWS

Blackstone Seeks Two Coal-fired Plants in New York

By William Opalka

A power plant owner affiliated with The Blackstone Group is asking state and federal regulators for expedited approval to buy two coal-fired power plants in western New York (15-E-0580).

Riesling Power is seeking to buy the 668-MW Somerset facility in Niagara County and the 312-MW Cayuga facility, which is operating under a controversial reliability support services agreement.

Both plants are owned by Upstate New York Power Producers, formed by a group of bondholders that purchased the plants from the bankrupt AES Energy East for $240 million in 2012. The filing asks for approval by the New York Public Service Commission's Dec. 17 meeting. The buyer said all personnel would remain in place and the plants would continue operating. The purchase price was not disclosed.

"Expedited approval is appropriate here because the proposed transfer does not raise any issues regarding retail energy sales to captive ratepayers or market power concerns in the competitive wholesale markets in New York and is consistent with commission precedent," the state filing states.

Cayuga power plant

Upstate New York Power, whose largest stockholders are the California Public Employees' Retirement System (CalPERS), Carlyle Strategic Partners, J.P. Morgan Investment Management and Marathon Asset Management, asked for FERC approval of the deal by Nov. 24 (EC15-214).

Riesling is a wholly owned subsidiary of Bicent Power, which in turn is 95.6%-owned by GSO Capital Partners. GSO represents the credit-oriented business of The Blackstone Group LP, one of the largest players in the leveraged buyout business. Upstate New York Power had hired Blackstone in 2014 to sell the plants, according to Power

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FERC Sides with Long Island Developer in NYISO Interconnection Dispute

By William Opalka

FERC on Wednesday sided with a Long Island power plant developer in its dispute with NYISO over interconnection standards the ISO sought to apply to the company's proposed 750-MW combined-cycle facility (EL15-84).

The developer of Caithness Long Island II filed a complaint July 10 claiming that NYISO's application of a local reliability requirement violates its Tariff and FERC Order 2003.

Caithness sought to prevent NYISO from applying the Long Island local reliability interface transfer capability test to identify required system upgrades as part of its interconnection facilities study.

"We find that the Long Island guideline constitutes a deliverability test and therefore using it to identify system upgrade facilities is inconsistent with Order No. 2003 and violates the [Tariff]," FERC wrote.

Order 2003 requires transmission providers to offer two levels of interconnection service: energy resource interconnection service (ERIS) and network resource interconnection service (NRIS). ERIS is a minimal interconnection service and NRIS is a more flexible service for resources that seek to be designated network resources or capacity resources.

Artist's rendering of Caithness Long Island II. *Source: Caithness Energy LLC*

To obtain NRIS, the interconnection customer has to satisfy a deliverability test to ensure that its generating facility can be operated simultaneously at peak load along with other generators in the same electrical area and that any output produced above the area's peak load requirements can be transmitted to other locations on the transmission provider's system.

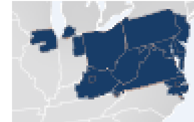
The Caithness II project in Brookhaven has proposed an interconnection with the Long Island Power Authority. Caithness had requested basic ERIS service.

Caithness complained that NYISO's Long Island guideline would allow transmission owners to act unilaterally to cause "an unjustifiable increase in interconnection costs measured in the hundreds of millions of dollars" for the project.

FERC agreed, saying the guideline is "impermissible because it creates a conflict with the NYISO minimum interconnection standard by imposing a deliverability requirement on a project requesting energy-only interconnection under ERIS."

While NRIS studies are required to identify network upgrades needed to allow the generator to contribute to meeting the overall capacity needs of the control area or planning region, ERIS studies are not, FERC said.

PJM NEWS



PJM Members OK $2,000/MWh Energy Offer Cap

CEO Boston: Consensus Vote 'Stakeholder Process at its Best'

By Suzanne Herel

VALLEY FORGE, Pa. — The Markets and Reliability Committee voted overwhelmingly Thursday to raise the energy market offer cap to $2,000/MWh in a move that outgoing CEO Terry Boston called "the stakeholder process at its best."

The MRC approved the new cap by an unweighted 84-17 margin, after which the Members Committee gave final approval by voice vote.

Boston said the Board of Managers would approve the new framework and PJM would be filing a Tariff change with FERC within a couple of weeks.

He apologized for not having the Tariff language ready before the vote, saying, "We were not as optimistic as we should have been about this getting approved this morning and afternoon." He said the language would be made available to members a few days before the FERC filing.

Boston appeared touched by the vote, which comes as his seven-year tenure nears its end. "In the first meeting of the year, after this was voted down last year, I begged for consensus," he recalled.

There was a smattering of applause when the vote was revealed at the MRC, and many who had sparred this year over the issue offered praise to PJM staff, each other and the four entities who agreed to withdraw their own proposals in favor of the simplified plan: Direct Energy, Old Dominion Electric Cooperative, PJM Power Providers Group (P3) and the Independent Market Monitor. (See PJM Stakeholders Weigh 4 Options on Cap; No Agreement in Sight.)

"It's really cool that we were able to pull this off given the short time frame," said Marji Phillips of Direct Energy, which had initiated the first of the four proposals. "I want to compliment everyone who supported this — especially when I was yelling at you at the last meeting."

Pepco Holdings Inc.'s Gloria Godson called the vote "a beautiful thing to behold."

The Details

The proposal caps cost-based offers at $2,000/MWh and allows them to set LMPs, with market-based offers allowed to equal cost-based ones. Generators with approved fuel-cost policies claiming costs above $2,000/MWh would be compensated through after-the-fact review and subsequent make-whole payments.

Supporters of an increase in the cap say it is necessary to ensure that gas-fired generators can recover their costs when fuel prices spike during extreme conditions such as the 2014 polar vortex.

Jeff Whitehead of Direct Energy, whose proposal would have raised the cap to $2,700/MWh for cost-based day-ahead offers and price-based real-time offers, said the company was willing to back the compromise because it ensures "that as much generator compensation cost is recovered as possible in energy prices, which are hedgeable, and something load servers can compete on."

"Uplift is not [hedgeable] and is a cost that gets rolled into risk adders that get passed on to consumers," he added.

Likewise, David "Scarp" Scarpignato of Calpine said P3 didn't believe the consensus proposal offered the "proper price formation," but the group was willing to support it because it does allow generators to recover costs and raises the level that can set LMPs.

Temporary Change; FERC Action Expected

Some of those who opposed raising the cap previously — or thought the compromise was insufficient — were willing to support what is now assumed to be a temporary solution. (FERC on Sept. 17 announced its intention to take action on offer caps and other price formation issues.)

Exelon's Jason Barker, who at the last meeting on the issue was opposed to the framework, supported it Thursday as "an improvement over the status quo" and said he hoped FERC would improve on the filing. "We will look forward to FERC … recognizing flaws inherent in this proposal," he said. (See Consensus Near on PJM Energy Market Offer Cap?)

Similarly, Dynegy's Jason Cox said, "Dynegy reluctantly supports this compromise as a way to ensure that our costs are covered until FERC acts. We believe that we should not allow market distortions and continue to support potential massive uplift during critical periods."

Susan Bruce of the PJM Industrial Customer Coalition said her group continued to have concerns over the proposal but offered support in return for a promise from the Market Monitor and PJM that there would be "robust reporting" on offers between $1,000, the current cap, and $2,000.

Delaware, Maryland Unconvinced

State consumer advocates generally opposed the proposal.

John Farber, public utility analyst for the Delaware Public Service Commission, asked that PJM consider releasing information about the heat rates of the generators setting the clearing price.

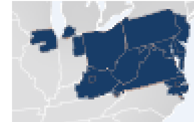
Walter Hall of the Maryland Public Service Commission said his agency remained unconvinced of a need to raise the cost cap.

Jim Jablonski of the Public Power Association of New Jersey pointed out that PJM fared better this past winter, which saw colder temperatures, than it had during the previous season's polar vortex.

And, he said, "Capacity Performance is designed to provide a financial incentive to perform whenever needed and designed to eliminate future emergencies. Reliability, therefore, in our view is protected. We do not think a change is warranted. Two thousand dollars is not supportable except as a compromise, has no factual basis and definitely is going to be open to challenge."

> **"We were not as optimistic as we should have been about this getting approved this morning and afternoon."**
>
> **Terry Boston, PJM CEO**

PJM NEWS



Advocates' Funding Request Sparks Sharp Words

Seeking OK on Pepco Deal, Exelon Offers Support

By Suzanne Herel

VALLEY FORGE, Pa. — Nearly everyone who spoke at last week's PJM Members Committee meeting agreed that stakeholder discussions are enhanced by the participation of the Consumer Advocates of the PJM States.

But not everyone wants to pay to have them in the room.

Griffiths

A proposal by CAPS Executive Director Dan Griffiths that the RTO fund the group's $450,000 budget through an assessment on electric customers won support from state regulators and other load interests but drew sharp opposition from suppliers.

Griffiths and West Virginia Consumer Advocate Jacqueline Roberts proposed that CAPS' budget be funded in part through an assessment on electric sales similar to the funding Organization of PJM States (OPSI). They said it would amount to eight-tenths of a cent for a residential customer using 12,000 KWh annually.

Opposed in Principle

But while the charge would be miniscule, some market participants said they opposed it in principle.

"Our company is a great believer in markets and competitive markets, and we have trouble funding an organization that is comprised of entities that have challenged competition at the state level and at PJM," said Marji Philips of Direct Energy. "Frankly that was why our company decided we could not get behind this proposal.

"Some [advocates] have been vehemently anti-competition at the retail level," she added.

"Silencing views that don't agree with you doesn't give you a better stakeholder process. It might give you a quieter stakeholder process," Roberts responded.

"There's nothing to keep you from dialing in" to the meetings, Philips countered.

She added later that while Direct Energy supports the advocates' participation at PJM meetings, it believes their funding should come from their states.

CAPS is a nonprofit group made up of consumer advocates from the PJM states and D.C. It was formed in 2012 with start-up funding from a FERC enforcement settlement with Constellation Energy (IN12-7-00), allowing advocates to travel to PJM meetings in Valley Forge, Pa., and Wilmington, Del.

CAPS' assessment on electricity consumers would be supplemented by remaining Constellation funds along with contributions Exelon has offered to win its acquisition of Pepco Holdings Inc. Exelon's Jason Barker said that as part of its effort to win approval of the merger, "Exelon has agreed to support reasonable proposals to have PJM members fund CAPS." (See related story, *Reports: Exelon Considering D.C. HQ to Win Pepco Deal*, p.1.)

The rationale for the assessment, said Griffiths, is that consumers deserve a voice at PJM because the majority of charges they see on their electricity bill are the result of actions taken at the RTO and FERC. "We think that being here is a benefit to everybody," he said.

Chris Norton, director of market regulatory affairs for American Municipal Power, said the assessment would be unfair to his public power members who are not represented by CAPS. PJM CFO Suzanne Daugherty said there was no way to excuse AMP members from the assessment because many public power customers are supplied through "commingled" customer accounts.

PJM: Up to Members to Decide

PJM Market Monitor Joe Bowring and CEO-elect Andy Ott agreed that CAPS' involvement has been beneficial.

"If you look at the past 18 months, when the CAPS organization has stood up and been engaged in the stakeholder process, I think it's been enriching," Ott said. "The positive nature of having consumer advocates be engaged is obvious. It seems to me that all of us have seen that happen."

But, he said, "When you get to the question of … should the funding be through the PJM Tariff — there, I think it's beyond what PJM should be opining on. That's a members' decision."

Dynegy's Jason Cox and Jesse Dillon, assistant general counsel for Talen Energy, also opposed the proposal.

"If [the amount is] so *de minimis*, it seems like the states could fund it themselves," Cox said.

"We don't think PJM members should be forced to fund private speech and expression with which we may disagree," said Dillon. To say retail customers would bear the charge is a "sophistry," he added.

"They're charging load-serving entities," he said. "We are an LSE, and we do not have the ability to pass costs on to customers like others might."

Cox and ODEC's Ed Tatum. © RTO Insider

ODEC Position 'Evolved'

Ed Tatum said the thinking of Old Dominion Electric Cooperative used to be in line with Talen's.

But, he said, "Old Dominion's thinking on this has evolved. We have experienced the stakeholder process without strong [consumer] representation. Through CAPS, now we have an engaged, knowledgeable group of folks [who seek to achieve consensus]. … We would support CAPS."

Susan Bruce, representing the PJM Industrial Customer Coalition, said her group realizes "the importance of this forum on ratemaking at the state level: Two-thirds or three-quarters of customers' bills are a result of actions here or at FERC."

"We think the stakeholder process is more vibrant with them and helps us avoid sur-

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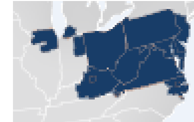
PJM NEWS



Markets and Reliability Committee Briefs

PJM Seeks Tariff Change to Release Excess Capacity

VALLEY FORGE, Pa. — PJM is proposing a Tariff change that would allow it to release Base Capacity resources to reflect the Capacity Performance resources it acquired in the transition auctions for the 2016/17 and 2017/18 delivery years.

The RTO uses its incremental auctions to sell excess capacity, or purchase more to replace shortfalls, based on changes to its load forecast. But PJM's Tariff does not allow for such adjustments based on the additional capacity obtained in the transition auctions.

PJM obtained 4,246 MW of Capacity Performance for 2016/17 and 10,017 MW for 2017/18 in the transition auctions held in August and September.

The Tariff change, which will be brought to a Markets and Reliability Committee vote Oct. 22, would be effective for the third incremental auction for 2016/17 in February.

Independent Market Monitor Joe Bowring took issue with PJM Assistant General Counsel Jen Tribulski calling the amendment a "minor change."

"This is a substantive change," he said. "Why buy excess and sell it back? Why do you think that makes sense for the market?"

Stu Bresler, PJM senior vice president for markets, said that when PJM executed the transition auctions for Capacity Performance, it didn't know what mix of Base and Capacity Performance resources would result.

"This was our intent all along, if we had a case where we had resources committed that weren't previously committed," he said. (See PJM Transition Auction Capacity not Included in Incremental Auction.)

In order for the Tariff change to be in place for the February auction, it needs to be filed with FERC by December.

New Methodology Would Decrease Projected Load

The MRC got a look at proposed changes to PJM's load forecast methodology, which would mean a 2.6% drop in projected peak load for summer 2018.

Among the changes in methodology are the addition of an energy efficiency and saturation variable, a weather history shortened to 20 years and the addition of weather "splines," which capture the relationship between weather and load, PJM staff said.

"The impact of energy efficiency has finally gotten to the magnitude that it will make a difference in our model," PJM's Tom Falin said.

The new methodology is predicted to reduce error rates from 6.6% to 1.5% on a three-year-out basis. (See "New Methodology Could Lower Summer 2018 Forecast by 2.6%; Winter Down 1.8%" in PJM Planning Committee Briefs.)

Members will be asked to endorse the final forecast in November, following the addition of updated economic data, equipment index trends and other data.

While the load forecast is expected to drop, PJM is recommending increasing the installed reserve margin (IRM) to 16.5% from 15.7%.

The proposed increase in the IRM came as a surprise to some members, who expected it to drop as a result of the implementation of Capacity Performance rules. (See "Proposed Increase in Reserve Margin Sparks Opposition from Load" in PJM Planning Committee Briefs.)

But staff said the increase resulted from changes in 2015 capacity and load models, as well as a decline in the capacity benefit of ties (CBOT) — expected capacity imports. The CBOT was reduced because the "rest of world" peak demand is becoming more coincident with the PJM peak.

Staff stressed that changes in the IRM may not have that much impact on the forecast pool requirement (FPR), which determines the amount of capacity procured in the annual Base Residual Auction.

Solution, Task Force Proposed to Curtail RegD Resources

PJM staff presented a provisional solution to address modeling problems that are causing PJM's regulation market to purchase too much RegD megawatts at times.

They also proposed a charter for the Regulation Market Issues Senior Task Force, which will be assigned to track the issue.

The solution, which will be brought to a vote Oct. 22, would move the benefits factor curve to the left so that it is at zero at 40%. A cap of 26.2% also would be implemented during identified excursion hours — hours when dispatch frequently moves the regulation signal manually.

In addition, the group proposes a tie-breaker logic to rank RegD self-schedules or zero-cost offers. (See "Proposal Would Curtail RegD Resources in Regulation Market" in PJM Operating Committee Briefs.)

Continued on page 10

Advocates' Funding Request Sparks Sharp Words

Continued from page 8

prises at the FERC level," she continued. "My clients, they're willing to pay that cost."

The debate echoed that in MISO in April, when the RTO declined a request by consumer advocates for $200,000 to help cover its legal costs in a fight over MISO transmission owners' return on equity. (See MISO to Consumer Sector: No Money for You.)

Roberts noted, however, that MISO's advocates receive funding through the tariff for the Organization of MISO States. Griffiths pointed out that CAPS has pledged not to use its funding to litigate at FERC.

Roberts indicated confidence that the funding request will be approved, insisting those who spoke in opposition did not represent a wide group of stakeholders. "We have strong support and support in every sector," she said.

PJM NEWS

Generators Seek to Reopen Capacity Performance Rules

Continued from page 1

cape penalties.

Bob O'Connell, of Main Line Electricity Market Consultants, said the current rules have "ineffective and inefficient options" for generators to manage the risk of underperformance during CP compliance hours. O'Connell said current rules allow companies with multiple generators to offset poor performance with over-performing units under "narrow criteria" but does not allow after-the-fact offsets, such as bilateral trades.

That could force smaller generators to seek mergers, reducing competition, he said. It could also result in "onerous" financing terms for future generators, he said.

Walter Hall of the Maryland Public Service Commission expressed support for O'Connell's proposal to consider changes, saying it could reduce the risk premiums generators include in their offers. Hall said any changes must be "consistent with the reliability enhancement objectives" of the CP program.

But Market Monitor Joe Bowring said the change could upset the increased risk/increased reward bargain at the heart of the CP rules. "It was an explicit part of the design. It was done on purpose," he said.

Exemption for Transmission Outage

Ken Foladare of Tangibl outlined the second problem statement, which would reconsider PJM's catastrophic *force majeure* rules. Foladare said the current rules would penalize generators for nonperformance even if it was impossible to deliver power because of a widespread blackout or a system disturbance.

Foladare's initiative would consider circumstances for waiving penalties when the nonperformance resulted from a lack of transmission service.

Katie Guerry of EnerNOC said stakeholders should consider any changes to CP rules together in a single committee, such as the former Capacity Senior Task Force.

"We have lots of issues we'd like to see revisited," agreed Marji Philips of Direct Energy. "The piecemeal approach is not the way to get there." (See Philips' op-ed, *Why Capacity Performance Isn't Good for the Markets in the Long Term*, p.11.)

"Both these [problem statements] suggest that you have created costs for providers … that are not reflected in value," said Bruce Campbell of EnergyConnect, adding that the proposals were "rammed through the stakeholder process."

When PJM and stakeholders designed the original capacity market rules, "we spent a lot of time working through the gory details," Campbell said. "That did not happen in this process." (See *FERC OKs PJM Capacity Performance: What You Need to Know*.)

The problem statements will be brought to a vote at the next MRC meeting Oct. 22.

Flooded substation in Bath, Maine. *Source: Central Maine Power*

Scenario Analysis

The MRC also was briefed on the scenario analysis PJM is planning to conduct on the recently completed first Base Residual Auction under CP.

The analysis will consider nine scenarios used in each of the last two years and one new one that reruns the results using the variable resource requirement curve shape and gross cost of new entry values used in the 2017/18 BRA. The rules were changed for the 2018/19 BRA following the RTO's triennial review. (See *PJM Board Orders Filing on Capacity Parameter Changes*.)

The repeated scenarios include an unconstrained simulation in which locational deliverability area limits are removed and CP supply is both added and removed from the bottom of the supply curve in and outside of MAAC.

Markets and Reliability Committee Briefs

Continued from page 9

The changes to the curve and the tiebreaker would be evaluated quarterly and may be changed depending on the findings of the task force.

Manual Changes Approved

The MRC endorsed changes to the following manuals at its meeting last week:

- Manual 40: Certification and Training Requirements. Edited for grammar and to clarify roles and responsibilities under North American Electric Reliability Corp. definitions.
- Manual M10: Pre-Scheduling Operations. Revised to allow for maintenance outage procedures under Capacity Performance rules. PJM members are now required to specify an "early return time" for planned outages and submit outages with at least three days' notice. It also grants PJM authority to recall an already underway outage with 72 hours' notice.
- Manual M14D: Generator Operational Requirements. Incorporates minor changes to the cold weather testing program for seldom-used generators. (See "Members Choose Status Quo on Winter Testing" in *PJM Operating Committee Briefs*.)
- Manuals 14B and 14A: Generation and Transmission Interconnection Process. Changes document how PJM will oversee transmission projects that have benefits in at least two categories, including baseline reliability upgrades, market efficiency and public policy. (See *PJM Wins OK on Multi-Driver Tx Projects*.)

— Suzanne Herel and Amanda Durish Cook

STAKEHOLDER SOAPBOX

OPINION: Why Capacity Performance Isn't Good for the Markets in the Long Term

By Marji Rosenbluth Philips

> **Consumers would be better off paying higher real-time energy prices when the system is stressed than doling out billions of dollars annually for an event that may not occur.**

It's no secret that Direct Energy believes that PJM's Capacity Performance market structure, approved by FERC, is both over-priced and unlikely to achieve its intended results. In this op-ed piece, we explain why.

PJM's Reliability Pricing Model was not designed to deal with winter peaks and the reliance on Marcellus shale gas. Nor did the RPM specifically target nuclear, coal and inefficient units for extra revenue.

Need for Comprehensive Overhaul

Instead of doing a comprehensive overhaul, and without much of a stakeholder process, PJM tried to Band-Aid the RPM and developed the CP structure in about four months.

This Band-Aid seems targeted less toward fixing an unreliable system and more to increasing revenues for certain generators. Otherwise why would FERC have exempted fixed resource requirement entities from having to make their system as reliable as the rest of PJM?

Direct Energy protested the CP transition auctions for several reasons.

Generators had already taken measures to improve their performance after the polar vortex.

PJM required consumers to fund a new winter testing program that allowed many generators to have "trial" runs so that there were far fewer operational challenges for units that had not been run in a while.

Generators themselves publicly reported making greater investments because the costs of non-performance during the polar vortex were so high.

And the transition money is unlikely to contribute to better performance during their three-year periods: nuclear units will still incur unanticipated forced outages, and gas generators will unlikely be able to firm up their fuel as few units have permits that allow dual fuel and burning of oil, or they lack space to install storage.

Moreover, payments are not high enough to allow generators to purchase firm gas supply. Direct Energy also protested the method by which the auctions were being cleared, because there were two ways to do it and PJM chose the more expensive way.

That is now all history. But our concerns continue.

Illusory Insurance?

Consumers are paying for what may very well be an illusory insurance policy. First, there is no guarantee that a polar vortex event will occur again. Consumers would be better off paying higher real-time energy prices when the system is stressed than doling out billions of dollars annually for an event that may not occur.

And even if it does, there is no guarantee that the generation will be there physically. As noted above, many generators cannot invest in dual fuel or storage facilities, and payments are not significant enough to fund new pipelines to procure firm transmission. Even if the payments were sufficient, unless generators enter into the gas markets during timely nomination periods, they cannot procure firm gas.

We believe that prudent generators are not going to invest more money into their facilities but are more likely to seek financial hedges to cover non-performance risk. So at the end of the day, physical performance is no more guaranteed under CP than it was under the RPM.

Moreover, we are now more than ever dependent on fewer generators to achieve reliability. There are numerous resources that could run for short periods of time, or during one season, that are no longer eligible to be providers of capacity.

This simply makes no sense: There is no reason why there cannot be differing payment structures for capacity. PJM says all megawatts are equal; but they already gave up on that concept when they introduced differing payment structures for demand response (which is a very valuable reliability tool in the wholesale markets that we hope the Supreme Court will recognize) and ran the transition auctions using two different products and clearing curves.

Diverse Resources

There is no reason why the RPM could not have been expanded to include more diverse resources and less expensive ones to help achieve system reliability.

The bottom line is that we strongly support the principles that generators should receive just and reasonable compensation for their performance, but that compensation should be commensurate with the benefits a unit provides to the system. Consumers have been asked to foot an extraordinarily high insurance bill that the chief regulator, FERC, admits is not based on any kind of consumer analysis or even comparative analysis of what is the most efficient way to achieve stated reliability goals.

This is the saddest part of our regulatory system today.

And we need to find a way to fix it. Somewhere in the calculus of how to run good markets, there needs to be an assessment of whether there is a more efficient way to get the same or similar benefits.

Marji Rosenbluth Philips is director of RTO and federal services for Direct Energy, one of the largest retail providers of electricity and natural gas in North America.

If you'd like to contribute an op-ed article for the **Stakeholder Soapbox**, contact Rich.Heidorn@rtoinsider.com.

COMPANY BRIEFS

Chesapeake Energy Lays off More than 700, Blames Prices

Chesapeake Energy, the Oklahoma City-based shale drilling company, laid off about 15% of its workforce last week, saying the cuts were necessary to survive the downturn in natural gas and oil prices.

"The current commodity price environment continues to be a challenge for our industry and for Chesapeake," Chief Executive Doug Lawler wrote to employees. "While this was extremely difficult, we are acting decisively and prudently to enhance the long-term competitiveness and strength of Chesapeake."

Chesapeake said it laid off 740 of its 5,000 employees. Chesapeake tried to weather the wholesale price downturn by ramping up production and selling off some properties, but it wasn't enough.

More: *Wall Street Journal*; *Associated Press*

Xcel Shuttering 2 Sherco Units by 2026

Xcel Energy announced Friday that it would retire two units at its largest coal plant by 2026 to meet carbon emissions mandates under the Environmental Protection Agency's Clean Power Plan.

The company's analysis concluded it could close the units at the Sherburne County Generating Station, or Sherco, in Minnesota without affecting reliability. Xcel said the retirement, along with other planned changes, will cut its carbon emissions by 60% from 2005 levels.

It said it plans a transition period of eight to 10 years before final shutdown and is examining the possibility of using the site for a gas-fired plant or solar generation.

More: *Midwest Energy News*

FirstEnergy Solutions Dropping PECO Customers in October

The retail electricity arm of FirstEnergy has decided it can no longer afford the good deals it offered PECO Energy customers when the Ohio-based company ventured into the territory three years ago.

FirstEnergy Solutions mailed letters to its PECO customers, saying it was declining to renew the fixed-rate deals. If those customers don't choose a different competitive supplier, they will revert to PECO by default. The company didn't say how many customers it was dropping, but a similar contraction in western Pennsylvania earlier this year resulted in a reduction of 36,000 Duquesne Light customers being supplied by competitive energy suppliers.

"We didn't have all that risk built into the pricing," said Diane Francis, a company spokeswoman. "We actually had to go out and buy power for those customers."

More: *The Philadelphia Inquirer*

Kenergy, Kentucky Municipality Argue over Development's Energy

Kenergy has filed a lawsuit against Owensboro Municipal Utilities in a dispute over which utility has the rights to supply power to the mammoth Gateway Commons mixed-use development in Kentucky.

Kenergy claims the company is entitled to provide power in the part of Gateway Commons that falls within what the company calls its "exclusive service territory," and that OMU is attempting to "selectively encroach" on that territory. But OMU claims in court documents the city utility has a "right" to provide power to the entire development because the Gateway Commons property is inside the city limits.

Gateway Commons is planned as a $334 million "lifestyle center" that will include residential, retail and entertainment centers.

More: *Messenger-Inquirer*

Overhead Line Upgrade Continues in New Orleans

Entergy New Orleans said work will begin this week on the second phase of $30 million in system improvements in New Orleans.

The utility is replacing existing overhead transmission lines with 3M aluminum conductor composite reinforced wire. According to Entergy, the lines will improve reliability and deliver more transmission capacity. The company also said it can complete the upgrade without having to replace steel transmission poles currently in use.

Work on the project, which began in mid-July with phase one, is scheduled to wrap up next March. The work is part of an effort to phase out the Michoud generating facility, which has produced power since the 1960s.

More: *New Orleans City Business*

Nebraska Utilities Look Out-of-State To Meet Their Energy Needs

A handful of local utilities in the northeast corner of Nebraska have decided to switch from the Nebraska Public Power District to a different supplier, taking advantage of the flexibility offered by the region's power grid. The utilities say they will save some money under better contract terms.

South Sioux City signed a contract with Lincoln Electric System for electricity starting in 2017. A group of other municipal utilities — Northeast Nebraska Public Power, Wakefield and Wayne — all plan to buy electricity from Big Rivers Electric Cooperative in Kentucky in 2018.

NPPD's 75 wholesale customers are weighing their options this fall because the state's largest utility wants its customers to sign new 20-year contracts that start in January, to help it plan for the future. Buying power from elsewhere is possible now after Nebraska joined SPP in 2009.

More: *Associated Press*

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COMPANY BRIEFS

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North Dakota Wind Farm Project Underway After 8 Years

Xcel Energy recently broke ground on the $300 million Courtenay Wind Farm in eastern North Dakota, after eight years of planning and development work.

Geronimo Energy began the project in 2007 and turned it over to Xcel in May. The Courtenay project will supply 200 MW of electricity at its planned completion in late 2016.

More: *The Jamestown Sun*

Kentucky Munis Organize For Lower-Cost Electricity

Ten municipal utilities, including Owensboro Municipal Utilities, met for the first time recently to organize an effort to acquire power at a price lower than most of them now buy from PPL's Kentucky Utilities.

Nine of the 10 utilities in the Kentucky Municipal Energy Agency are now Kentucky Utilities customers. The 10th, Owensboro, has its own generation capacity and stands to be both a supplier and customer of the agency.

The board members addressed several organizational matters Sept. 24, including the election of officers, approval of bylaws, hiring staff and a request for proposals to buy electricity on the open market beginning in 2019 from coal, natural gas and possibly renewable energy suppliers.

More: *Messenger-Inquirer*

PSE&G's Kinsley Solar Farm Lauded

Public Service Electric & Gas' Kinsley Solar Farm was chosen as the New Jersey Association of Energy Engineers' 2014 renewable energy project of the year.

The 35-acre, 11.18-MW facility, located on the former Kinsley landfill in Deptford, N.J., is part of PSE&G's plan to build 125 MW of grid-connected solar. With 36,841 solar panels, the Kinsley farm provides enough electricity to power about 2,000 average homes annually.

Including Kinsley, PSE&G has seven solar farms built on landfills or brownfields. An eighth is expected to go into service by the end of 2015.

More: *Public Service Enterprise Group*

AEP Sells Commercial Barge Subsidiary for $400 Million

American Electric Power will sell AEP River Operations to American Commercial Lines for about $550 million. The commercial barge subsidiary delivers about 45 million tons of products annually, including 10 million tons of coal.

AEP expects to net about $400 million and plans to invest the funds in its regulated business. Meanwhile, it continues to evaluate the future of its competitive generation business.

More: *American Electric Power*

Columbia's East Side Expansion Project Comes Online

Columbia Pipeline on Friday announced that the East Side Expansion Project has been put into service by subsidiary Columbia Gas Transmission.

"East Side is an important piece of our project backlog, which is designed to meet the needs of both producers and end-use markets over the next several years," Columbia Pipeline Group President Glen Kettering said.

The two new pipeline loops create additional capacity for 312 million cubic feet of gas per day. They include 9 miles of line in Chester County, Pa., and another 9 miles in Gloucester County, N.J. The project also includes two new 4,700-horsepower compressors in Pike County, Pa., and two new 10,000-horsepower units in Northampton County, Pa.

More: *Columbia Pipeline Group*

Calpine Closes on Champion Acquisition

Calpine has closed on its acquisition of Champion Energy Marketing, a retail electric provider based in Houston. Previous reports valued the deal at $240 million.

Champion's majority shareholder is Houston Astros owner Jim Crane and his Crane Capital Group. EDF Trading, a subsidiary of the France-based electric utility EDF, owned 25%.

"The addition of Champion Energy is an important step in our concerted effort to create more channels for our wholesale power by getting closer to customers," said Trey Griggs, Calpine's executive vice president and chief commercial officer.

More: *Calpine*; *FuelFix*

WEC Selling CNG Business Acquired from Integrys Purchase

WEC Energy Group has decided that operating a chain of compressed natural gas fueling stations doesn't fit in with its overall business plan and is selling its Trillium CNG business.

Trillium was included in WEC's $9.1 billion acquisition of Integrys last summer. It operates 66 public stations and 43 private fueling stations. Analysts put Trillium's value at $140 million.

"It's not their core business and feel that it would have better attention with someone who understands that business, versus a regulated utility," company spokeswoman Lisa Prunty said. "Trillium continues to see robust growth in a rapidly developing industry and WEC sees significant value in Trillium. It's a highly respected brand. However it's just inconsistent with a utility risk profile."

More: *Milwaukee Journal-Sentinel*

Federal Briefs

Former Governor Sues Feds over 'Secret' Plan to Store Nuke Waste


Andrus

Former Idaho Gov. Cecil Andrus is suing the Department of Energy to get information behind a proposal to ship nuclear waste to a nuclear research facility on the Snake River. Andrus suspects the federal government intends to turn the facility into a permanent storage site for spent fuel from commercial reactors.

The former four-term governor sued after receiving mostly redacted documents under a Freedom of Information Act request. He says a 1995 legal agreement between Idaho and the department prohibits such shipments and called for the removal of nuclear waste already stored there.

"I suspect they know what they are planning will be very controversial and, for that reason, want to keep it secret," he said in a statement.

More: Reuters

EPA Finalizes Coal Plant Toxic Metal Effluent Rules

The Environmental Protection Agency released its final version of rules governing the release of toxic metals in the wastewater from steam electric power plants. The rules set limits on the amount of arsenic, mercury, selenium and nitrogen in the wastewater streams from de-sulfuring flue gases, and they set a zero limit on discharges from coal ash transportation.

The rules also encompass wastewater discharges from mercury control systems and coal-gasification wastewater.

The agency said that only 134 of the nation's 1,080 coal-fired plants will need to make pollution-control investments and put the annual cost of compliance at about $480 million. The rules were last updated in 1982.

More: Power Magazine

NRC Finds Pilgrim Station's Weather Tower Inoperable

Pilgrim Station, already under increased scrutiny from the Nuclear Regulatory Commission, has received failure notifications for four new negative findings from an August inspection.

The most recent inspection included a finding that Pilgrim's primary weather tower was inoperable on eight occasions between 2012 and 2015 and without backup. If a radiological release occurred during those times, the plant would have had to rely on the National Weather Service for data, NRC said. It said the failings raised doubts that owner-operator Entergy could "protect the health and safety of the public in the event of a radiological emergency."

Pilgrim was already noted as being among the nation's three worst-performing nuclear generating stations. Entergy has said it may be too costly to correct all the deficiencies and is investigating the possibility of closing it.

More: *The Patriot Ledger*

Solar Energy Keeps Getting Cheaper, Lab Says

Pushed by technological and market advances, and an impending deadline for a key federal incentive, solar pricing is becoming more competitive, according to a report from the Lawrence Berkeley National Laboratory.

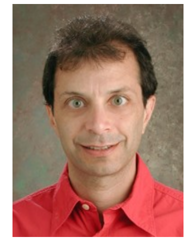
The lab said that utility-scale solar projects have been receiving about 5 cents/kWh in power sales agreements. Wholesale electricity prices in the U.S. ranged from 2 to 6 cents/kWh.

The prices reflect the 30% federal investment tax credit. That credit is scheduled to fall to 10% after 2016. The report — "Utility Scale Solar" — shows that installed project costs have dropped by more than 50% since 2009, and projects are performing at an average capacity factor of 29.4%, up from 26.3% in 2011.

More: Berkeley Lab

US Falling Behind in Offshore Wind Power, Professors Say

The U.S. has fallen behind in the development of offshore wind power, even as land-based wind and solar have taken off, according to an academic study.


Firestone

A group of professors from the University of Delaware, writing in *Proceedings of the National Academy of Sciences* (subscription required), noted that offshore wind turbines were installed back in 1991 in Europe, but no such facilities dot the U.S. coasts.

"As we celebrate the 10-year anniversary of the U.S. Energy Policy Act of 2005, it is disheartening to see that while land-based wind and solar have reached new heights, U.S. offshore wind has remained a missed opportunity," says the paper's lead author, Jeremy Firestone.

More: *UDaily*

Federal Judge in Wyoming Blocks New Fracking Rules


Skavdahl

A federal judge has blocked the Bureau of Land Management from implementing new rules concerning fracking on federal land. U.S. District Court Judge Scott Skavdahl said the agency lacks the authority to institute the new regulations.

The states of Wyoming, North Dakota, Colorado and Utah, as well as the Independent Petroleum Association of America and the Western Alliance, had sued to block the new federal rules, which they argued duplicated state rules, making it more expensive to drill for natural gas and oil in shale regions.

"Congress has not authorized or delegated to the BLM authority to regulate hydraulic fracturing and, under our constitutional structure, it is only through congressional action that the BLM can acquire this authority," Skavdahl wrote in a 54-page decision.

More: *Bloomberg Business*

EPA Gives North Dakota Coal Plants Extra Time on Clean Power Plan

The Environmental Protection Agency has pushed the deadline for North Dakota to come up with a plan to meet its Clean Power Plan goals from fall 2016 to fall 2018. Under the new plan, the state is required to reduce carbon emissions 45% by 2030.

State environmental chief Dave Glatt said the 2016 deadline would have been nearly

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Federal Briefs

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impossible to meet. "We spent 10 years developing a regional haze (pollution reduction) plan, and this is a lot more complicated," he said.

Glatt

EPA, in response to prodding from U.S. Sen. Heidi Heitkamp (D-N.D.), has promised to help determine the best ways to bring clean coal technology and renewables into the generation mix as part of the effort to meet the mandate.

More: *Bismarck Tribune*

TVA's Sequoyah Reactors Get NRC License Extensions

The Nuclear Regulatory Commission last week granted 20-year license extensions to the Tennessee Valley Authority's two Sequoyah reactors in Soddy-Daisy, Tenn.

"Extending Sequoyah operations will play an integral role in reducing our carbon emissions while reliably supplying electricity at the lowest possible cost," said Joe Grimes, TVA's chief nuclear officer.

NRC has granted license extensions to 78 U.S. nuclear reactors so far, each for 20 years. Applications for another 16 renewals are pending.

More: *Associated Press*; *Chattanooga Times Free Press*

NRC Announces Personnel Changes

The Nuclear Regulatory Commission announced several senior personnel changes as part of its plan to streamline operations.

Mike Weber, the current deputy executive director for Material, Waste, Research, State, Tribal and Compliance Programs, was named director of the Office of Nuclear Regulatory Research. Jennifer Uhle is moving from her position as deputy director for engineering in the Office of Nuclear Reactor Regulation to become director of the Office of New Reactors. Catherine Haney, director of Nuclear Materials Safety and Safeguards, will become Region II regional administrator in January.

The changes, said NRC Chairman Stephen Burns, "will put in place a management structure well suited to ensuring we accomplish our mission of protecting people and the environment even as we reduce our size and budget."

More: *World Nuclear News*

Energy and Power Chief Announces Retirement

U.S. Rep. Ed Whitfield (R-Ky.), chairman of the House Subcommittee on Energy and Power, announced last week he will not seek re-election to a 12th term in 2016.

Whitfield

Whitfield, 72, a leader of the Republican opposition to the Environmental Protection Agency's carbon emission rules, will stay through the end of his term in December 2016. Whitfield's long-time aide, Michael Pape, and state Agriculture Commissioner James Comer, who finished second in the Republican primary for governor in May, have announced they will seek the seat.

Rep. Pete Olson (R-Texas), the subcommittee's vice chairman, is the leading candidate to replace Whitfield as chairman of the panel. Whitfield's departure also increases the odds that Rep. John Shimkus (R-Ill.) will succeed Rep. Fred Upton (R-Mich.) as chairman of the Energy and Commerce Committee. Upton must relinquish the chairmanship at the end of this term due to GOP term limits.

More: *Associated Press*; *Lexington Herald-Leader*; *Politico*

State Briefs

CONNECTICUT

Variable Rate Ban in Effect

Regulators reaffirmed the state's first-in-the-nation ban on variable rate electric contracts, which was approved earlier this year by the General Assembly and became law Thursday.

The Public Utilities Regulatory Authority ruling said the act's language "is clear and unambiguous about variable pricing in residential contracts starting on and after Oct. 1, 2015." Third-party electricity providers who offer the variable rate plans had claimed the language was unclear.

Consumer Counsel Elin Swanson Katz hailed the ruling as "a victory for consumers." Katz was active in efforts to get the variable rate ban passed.

More: *New Haven Register*

DELAWARE

Calpine's Garrison Energy Center Dedicated

Calpine's Garrison Energy Center in Dover, a 309-MW combined-cycle power plant, was officially dedicated Thursday, though it has been up and running since June.

State officials hope the efficient power plant will help them achieve emission reduction targets set forth by the Environmental Protection Agency's Clean Power Plan.

Calpine bought the rights to the gas-fired generating facility at the Garrison Oak Technology Park several years ago. The Dover City

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State Briefs

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Council approved a $6 million bond issue for infrastructure improvements, and the state gave Calpine a $2.5 million grant to build a natural gas pipeline.

More: Delaware State News

ILLINOIS

ICC Greenlights Ameren Transmission Line

Construction on a 46-mile transmission line linking Peoria to Galesburg is slated to begin next year after Ameren Transmission won approval from the Commerce Commission.

Ameren's transmission subsidiary plans to have the $150 million high-voltage line completed by 2018. MISO has also approved the line.

Ameren Transmission chairman and president Maureen Borkowski said the project will boost the state's economy and create jobs. The project is one of three large new transmission lines being developed by Ameren Transmission as it expands infrastructure in the region.

More: St. Louis Post-Dispatch

INDIANA

IURC Hears IPL's Rate Hike Request

Indianapolis Power & Light is asking the Utility Regulatory Commission for a $67.7 million rate increase, more than 10 times what the state's consumer advocate says the utility needs.

IPL first made the request last December, but it was put on hold until Sept. 21 after the Office of Utility Consumer Counselor protested. The consumer advocate contends that the utility needs just $5.9 million to cover increasing maintenance costs and capital expenses to address the utility's underground transmission faults that have been blamed for causing several dramatic fires and explosions.

The rate case is expected to drag on until next year.

More: Energy Manager Today

KENTUCKY

Paducah Eyes Selling Capacity into PJM

The Paducah Power System is exploring whether to sell surplus power into PJM.

The municipal power system's board approved a $50,000 deposit for a study to be conducted by PJM. Board chairman Hardy Roberts says he hopes the power system will be able to sell excess capacity to markets in the RTO.

The capacity would come from its gas-fired peaking plant.

More: WLKY

MISSOURI

Utilities Urge AG to Take on Clean Power Plan

Electric utilities are pressuring state Attorney General Chris Koster to join a legal challenge to the Obama administration's carbon emission regulations.

Koster

Representatives from Ameren Missouri, Kansas City Power and Light, Empire District Electric and groups representing the state's municipal utilities and electric cooperatives sent Koster a letter Sept. 28 asking him to join other states that have mounted legal challenges to the regulations.

Koster is a Democrat running for governor next year. Many Democrats support the rules, which are opposed by the coal industry and utilities, both politically powerful constituencies in the state. EPA wants the state, which burns coal for 80% of its electricity, to reduce carbon emissions by 37% from 2012 levels.

More: St. Louis Post-Dispatch

NEW HAMPSHIRE

Eversource Fined $250K For Worker's Death

The Public Utilities Commission has fined Eversource NH $250,000 for failing to repair a broken cross arm on a utility pole in Keene, where an employee of Keene State College was electrocuted while investigating a report of a low-hanging wire.

The PUC's Safety Division found that the utility's inspectors discovered the broken cross arm in January 2014, but it went unrepaired for three months before the death of Nathan L. DeMond, whose body was discovered in contact with the wire where it passed closest to the ground. The report said the company "failed to act in accordance with good utility practice" by not repairing the broken equipment promptly.

An Eversource spokesperson said the company has not yet decided if it will appeal the ruling.

More: New Hampshire Union Leader

Lower Eversource Rate Forecast for Winter

Eversource Energy is predicting a winter energy service charge of 10.39 cents/kWh, slightly lower than last year's winter rate of 10.56 cents. The utility is not formally requesting a rate change at this time but is giving the Public Utility Commission a prediction of what it is likely to ask for in its formal filing in December. The new charge will be in effect from Jan. 1 to June 30.

"Constraints on natural gas supply into New England often drive up the cost of energy during winter months, and the region continues to experience higher energy prices compared to other areas of the country," said Penni Conner, senior vice president and chief customer officer at Eversource.

More: New Hampshire Union Leader

Report: Room for Improvement In Storm Restoration Efforts

After six major storms in eight years, utilities have gotten better at restoring power, but there's still room for improvement, according to a 100-page report by state regulators.

According to Public Utility Commission staff, Eversource, which has 70% of the state's customers, was slow to deploy out-of-state restoration crews during a Thanksgiving storm in 2014, was hampered by weak weather forecasts and did not communicate effectively with its customers

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STATE BRIEFS

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about likely restoration times.

Response to the Thanksgiving storm was complicated by holiday staffing issues, but the utilities had plenty of time to prepare, according to the PUC. The commission also expressed concern about inconsistencies in the weather forecasts among utilities.

More: *New Hampshire Union Leader*

NEW JERSEY

Opponents Decry Proposed PennEast Pipeline

Protesters opposing the PennEast natural gas pipeline took aim at the state's biggest electric utility, Public Service Electric and Gas.

About three dozen protesters walked from the statehouse to PSE&G, a partner in the PennEast pipeline, demanding the project be killed. Among them was Democratic Assemblywoman Elizabeth Muoio.

PennEast said in a statement that construction of the 36-inch pipeline would have an estimated $1.6 billion positive economic impact and support about 12,000 jobs. The 118-mile pipeline would stretch from in Luzerne County, Pa., to near Mercer County. Affiliates of five gas distribution companies, mostly in the state, are the major customers.

More: *The Associated Press*

State Has Potential to Recover 4M Tons of Biomass

A Rutgers University study on bioenergy potential shows that the state produces 7 million dry tons of biomass annually, more than 4 million of which could be recovered and used to generate power, heat or vehicle fuel.

The report aimed to update 2007 feedstock and technology assessments and considered statewide waste and biomass resource by location, greenhouse gas reduction potential and policy recommendations.

According to the assessment, the recoverable biomass could generate up to 654 MW of power — 6.4% of the state's electricity consumption. It also represents the equivalent of 230 million gallons of gasoline, or 4.3% of transportation fuel consumed in the state.

More: *Biomass Magazine*

NEW YORK

PSEG Allowed to Make Partial Tax Payment

The Nassau County Legislature unanimously approved a measure allowing PSEG Long Island to pay nearly $1.4 million less in property taxes than it was initially billed.

The legislature voted to allow the county treasurer to accept a one-time reduced tax payment from PSEG of $28.6 million instead of the $30 million it had been billed. The county is exploring options to collect the remaining amount, including litigation, officials said.

The Long Island Power Authority, which still owns power facilities operated by PSEG, had directed the utility to limit tax-bill increases to 2% because its lawyers said the state-approved LIPA Reform Act of 2013 caps tax hikes to 2% a year on company properties.

More: *Newsday*

NORTH CAROLINA

Duke Settles Coal Ash, Wastewater Issues with $7M Payment

Duke Energy agreed to a $7 million settlement with the state Department of Environmental Quality, concluding its troubles with state regulators over coal ash and groundwater violations.

The agreement, announced last week, represents a substantial reduction from the initial fine of $25.1 million. The company argued that the state failed to follow its own regulations when it imposed the fine without giving Duke a chance to respond.

The settlement calls for Duke to quicken the pace of cleanup at four of its 14 coal plants and ash-containment impoundments. The state estimates it will cost between $10 million and $15 million for those cleanup projects. Duke in February settled federal charges relating to coal ash with a $101.2 million payment.

More: *The Charlotte Observer*

State First in Southeast To Break 1-GW Solar Mark

The state became the first in the Southeast, and the fourth in the U.S. overall, to surpass 1 GW of solar capacity, according to a report from the NC Sustainable Energy Association. According to the report, the state follows California, Arizona and New Jersey to reach the 1-GW mark.

While the pace of solar installations has been high in the state, it will probably slow down. The General Assembly in September voted to end the state's Renewable Energy Investment Tax Credit. The report said that the tax credit helped fund about $182.6 million in solar projects between 2007 and 2014.

The report also said that the clean energy industry in the state now counts about 1,200 companies employing 23,000 people and generates about $4.8 billion in annual gross revenues.

More: *SmartGrid News*

OHIO

Supreme Court Sets Hearing In Delayed Wind Farm Project

A dispute over the stalled Buckeye Wind Power Project in Champaign County will move forward after the state Supreme Court set Dec. 16 for oral arguments in the case.

The Power Siting Board approved the second phase of the project in May 2013, but nearby property owners and several local government entities appealed.

The project is split into two phases, the first of which was approved in 2010 but is still unbuilt. Combined, the two phases call for construction of about 100 turbines in several townships across rural Champaign County, generating 200 MW.

More: *Dayton Daily News*

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STATE BRIEFS

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Panel: State Should Halt March Toward Green Goals

Kasich

Gov. John Kasich's office said last week a recommendation from a state panel that it indefinitely continue its freeze on renewable and energy efficiency mandates is "unacceptable."

The Republican-controlled Energy Mandates Study Committee released its report recommending that the state not resume its march any time soon toward achieving at least a quarter of its power from renewable and advanced technology sources.

Green energy advocates say the committee was stacked against renewable energy. Utilities like FirstEnergy, the Akron-based parent of Toledo Edison, have opposed the standards.

More: *The Blade*

PENNSYLVANIA

Andrew Place Takes Place on PUC

Place

Andrew Place, former corporate director for energy and environmental policy at natural gas producer EQT Corp., was welcomed to his seat on the Public Utility Commission following his unanimous confirmation by the state Senate.

Place helped establish the Center for Sustainable Shale Development and worked at the state's Department of Environmental Protection. He pledged to be "an unassailably independent voice" on the commission.

"Andrew's unique background — blending work in academia, business and state government — will serve the commission well as we strive to ensure a continued balance between consumer and utilities," PUC Chairman Gladys M. Brown said.

More: *Public Utility Commission*

VIRGINIA

Dominion's $47 Million Solar Farm Gets State OK

A State Corporation Commission hearing examiner recommended that Dominion Virginia Power's plan to build a solar farm near Remington is in the public interest and should receive a certificate of public convenience and necessity. The three-member commission must still approve it.

Dominion has said the solar facility, which will be the largest in the state, could be in operation by late 2016. The 20-MW facility in Fauquier County would tie into existing transmission lines.

More: *Fauquier Now*

Blackstone Seeks Two Coal-fired Plants in New York

Continued from page 6

Finance and Risk.

Neither Riesling nor Bicent own generation in New York, the filing states.

The Plants

Cayuga, a 60-year-old pulverized coal-fired power plant on the eastern shore of Cayuga Lake in Lansing, N.Y., is operating under a RSSA with New York State Electric and Gas (NYSEG). The plant is also the subject of a PSC proceeding considering whether to repower it from coal to natural gas.

Plant owners had proposed to mothball the facility in early 2013, but NYISO and NYSEG determined the plant was needed for system reliability. A one-year RSSA was ordered by the PSC. With no suitable alternatives identified, the commission approved a second RSSA that expires June 30, 2017.

Upstate New York Power recently filed a revised proposal to convert the plant to natural gas. (See *Cayuga Power Plant Repowering Opposed*.)

NYSEG, Niagara Mohawk and several stakeholders are promoting the proposed Auburn Transmission Project Phase 2 as an alternative to the Cayuga repowering (13-T-0235). The project has been endorsed by PSC staff.

Somerset, a pulverized coal-fired power plant in Barker, N.Y., on the southern shore of Lake Ontario that began commercial operations in 1984, has been described as too distant from existing natural gas pipelines for a conversion.

The largest taxpayer in its home county, Somerset is a merchant plant selling its output into NYISO.

Energy Highway

When New York Gov. Andrew Cuomo proposed the Energy Highway in 2012 to bring power from generation plants upstate to load centers in and around New York City, Upstate New York Power responded that the plants could play an "important role" for the proposal.

"New York's energy needs require a diverse blend of fuel-type resources to provide the state's residents and businesses with a dependable and affordable energy pool," the company said. "Upstate New York Power Producers looks forward to being a part of the solution."

It said the two plants are in compliance with the current environmental regulations and "well positioned" to meet future regulations, having invested in technologies including flue gas desulfurization and selective catalytic reduction to reduce sulfur dioxide (SO_2) and nitrogen oxides (NO_x) emissions.

Last month, the PSC staff took a step toward making the highway a reality, recommending transmission routes that would help move 1,000 MW of upstate generation. (See *NYPSC Staff Recommends $1.2B in Transmission Projects*.)

Somerset, located in Zone A, is connected to the main 345-kV east/west transmission corridor with NYSEG at the Kintigh Switchyard. Cayuga, in Zone C, connects with NYSEG at the Milliken Switchyard at 115 kV.

Late Changes to Energy Bill Leave Dems Miffed; Passage Less Likely

Continued from page 1

The Senate Energy and Natural Resources Committee passed its own legislation, the Energy Policy Modernization Act, on July 30 by a bipartisan 18-4 vote.

The package, crafted by Chairwoman Lisa Murkowski (R-Alaska) and ranking member Maria Cantwell (D-Wash.), also would expedite LNG projects and streamline the federal permitting process. It includes measures to improve energy efficiency and cybersecurity and encourage hydropower and geothermal development.

Below is a summary of the House bill's major provisions affecting the electric industry:

RELIABILITY

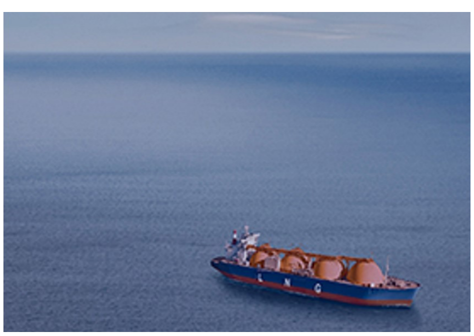
Fuel Security

The bill would require traditional vertically integrated utilities to incorporate "reliable generation" into their integrated resource plans, defining it as generation facilities with firm-fuel contracts, dual-fuel capability or sufficient on-site fuel to operate "for the duration of an emergency or severe weather conditions." (Section 1107)

The requirements would not apply to companies engaged in competitive, unbundled retail electric sales.

FERC Reliability Review

FERC, in consultation with the North American Electric Reliability Corp., would be required to conduct reliability analyses of any federal rule affecting electric generators that is expected to result in an annual effect on the economy of at least $1 billion. The FERC review would evaluate the impact of the rule on electric reliability; resource adequacy; the nation's electricity generation portfolio; the operation of wholesale markets; electric transmission lines; and natural gas pipelines. (Section 1108)



The bill would require the Energy Department to act on applications for LNG export facilities within 30 days of the conclusion of reviews. *Photo source: America's Natural Gas Alliance*

RESILIENCE

Hardening

The bill would require all utilities to develop plans for improving the resilience of their systems against physical sabotage, cyberattacks, electromagnetic pulses, geomagnetic disturbances, severe weather and earthquakes. Among the measures that utilities may consider are the hardening of distribution facilities; technologies that can isolate or repair problems remotely, such as advanced metering and monitoring and control systems; cybersecurity measures; distributed generation; microgrids and non-grid-scale energy storage. (Section 1107)

State regulators "shall consider" authorizing spending on such improvements, the bill says.

The legislation also establishes a competitive grant program for states and local governments for spending on resilience and reliability. (Section 1201)

Strategic Transformer Reserve

The bill would authorize the creation of a stockpile of large power transformers and trailer-mounted mobile substations to recover from the threats listed above. (See "Hardening.")

The issue caught Congress' attention as a result of the April 2013 rifle attack on Pacific Gas and Electric's Metcalf substation and a campaign by former FERC Chairman Jon Wellinghoff to raise awareness of the grid's vulnerabilities. Wellinghoff cited a 2013 FERC analysis that he said concluded that an attack that disabled nine critical substations could cause an extended blackout in the continental U.S. (See *Report: Sabotage Threat Uncertainty Could Lead to Wasteful Spending*.)

The Energy Department would be required to develop a plan for the reserve and identify preferred funding options, including fees on owners and operators of bulk-power systems and critical electric infrastructure, federal appropriations, and public-private cost sharing. (Section 1105)

Grid Security Emergencies

If the president declares a grid security emergency, the Secretary of Energy would have authority to order measures to protect or restore the reliability of critical electric infrastructure. (Section 215A)

FERC

Merger Authorization

It would limit FERC review of merger and consolidation acquisitions to those of $10 million or more. (Section 4222)

FERC Enforcement

FERC would be required to create an Office of Compliance Assistance and Public Participation to "promote improved compliance with commission rules and orders." (Section 4211)

The proposal is an apparent response to complaints by some in the Washington energy bar that FERC's Office of Enforcement, formerly headed by Chairman Norman Bay, is unfair and heavy handed. (See *Gates, Powhatan Say FERC Enforcers Didn't Share Crucial Info*.)

The office would "promote improved compliance" with commission rules through outreach and publications and, "where appropriate, direct communication with entities regulated by the commission.''

The provision is intended to provide entities subject to FERC regulation "the opportunity to obtain timely guidance for compliance with commission rules and orders" — an opportunity FERC says it already offers through "no-action" letters.

RTOs/ISOs

GAO Study

The Government Accountability Office would be required to conduct reports on each RTO's and ISO's "market rules, practices and structures." (Section 4221)

The grid operators would be judged on a number of issues, including whether they produce just and reasonable rates; facilitate fuel diversity, reliability and advanced grid technologies; and promote "equitable treatment of business models, including different utility types."

GAO also would evaluate the transparency of grid operators' governance structures and stakeholder processes as well as the transparency of dispatch decisions, including the need for out-of-market actions and the accuracy of day-ahead unit commitments.

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Late Changes to Energy Bill Leave Dems Miffed; Passage Less Likely

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The report also would review how well grid operators facilitate "the ability of load-serving entities to self-supply their service territory load."

The American Public Power Association, which opposes mandatory capacity markets, said the bill doesn't go far enough. The group said the bill doesn't address problems faced by public power utilities "forced to participate in the FERC-blessed mandatory capacity markets and is silent on the issue of self-supply for such LSEs."

APPA, which represents more than 2,000 community-owned, not-for-profit utilities, said it wants the legislation changed to allow wholesale markets to "become more affordable and workable for public power utilities that are willing and able to build a variety of power generation facilities if not blocked from doing so by rules skewed toward certain market participants."

Financial traders could benefit from a requirement that RTOs ensure "the proper alignment of the energy and transmission markets by including both energy and financial transmission rights in the day-ahead markets."

Industry sources said the provision would encourage more widespread use of products similar to PJM's up-to-congestion trades and ERCOT's point-to-point congestion hedges.

Capacity Markets

RTOs and ISOs operating capacity markets would be required to provide to FERC an analysis of how the markets use competitive forces and include "resource-neutral" performance criteria. FERC would be required to report to Congress on whether each market meets the criteria and make recommendations for those that don't. (Section 215B)

INFRASTRUCTURE

Deadlines

A final decision on a federal authorization for gas pipelines would be due no later than 90 days after FERC issues its final environmental document, unless a schedule is otherwise established by federal law. (Section 1101)

It would require the Energy Department to

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Reports: Exelon Considering DC Headquarters to Win Pepco Deal

Continued from page 1

The move comes as the D.C. Public Service Commission is scheduled to decide Wednesday whether to grant a joint request by the district's attorney general and the companies to stay proceedings in the matter until Nov. 4. The request is an attempt to buy time to strike a deal that might be acceptable to the D.C. PSC, which unanimously rejected the acquisition in August. (See *DC Halts Exelon's Acquisition of Pepco Holdings; Pepco Stock Tumbles*.)

Wall Street remains skeptical that Exelon will consummate the deal.

Exelon shares closed Monday at $30.30, up 1.6% for the day, while Pepco rose 0.4% to $25.41. But both remain about $2 below their prices on Aug. 24, before the PSC's rejection.

Exelon Appeal

Last week, Exelon asked the agency to reconsider its decision, taking issue in a 43-page filing with the PSC's findings that the deal would not be in the public interest and it would not be in the public interest to identify additional conditions that could make it so. (See *Exelon Appeals DC PSC Decision; DC Mayor Confirms Negotiations*.)

The filing came at the same time the mayor confirmed her office was discussing a settlement agreement with the companies that would constitute a new filing to the commission. Previously, Bowser's office had said it agreed with a letter of opposition filed by Attorney General Karl Racine's office listing 40 conditions that should be met for the deal to be accepted.

Negotiations Continuing

On Monday, Racine spokesman Rob Marus said it was premature to say whether the attorney general would support the outcome of negotiations, which he said were continuing.

"The settlement to be weighed in on is a different settlement," he said. "The Office of the Attorney General has a role to weigh in early on in the process; now we're in a different place in the process."

Marus said Racine, whose former law firm did work for Pepco, had recused himself from the issue.

According to the *City Paper*, Robert Robinson, president of the Grid 2.0 Working Group, was among the intervenors who viewed the working settlement.

He said the district government won more concessions because of its initial opposition, but the agreement still represents an "about face" that doesn't address all the issues. "We're going to get locked into a deal of economic slavery, of continuing to pay higher and higher prices," he said.

Unique Concessions

D.C. is the last holdout to the $6.8 billion deal, which already has been approved by FERC and regulators in New Jersey, Virginia, Maryland and Delaware. The states negotiated their agreements on a "most favored nation" status, meaning that if any subsequent agreement were more beneficial, it would have to be bestowed in kind on them.

In making its decision, the D.C. PSC said it weighed seven factors of public interest, among them the effects on ratepayers and shareholders, market competition and preservation of natural resources and the environment.

Roger Berliner, a regulatory attorney and Montgomery County councilman who led opposition to the merger in Maryland, said he suspects the settlement will be largely unique to D.C. and not invoke changes to the other states' agreements.

For example, he said, Pepco is headquartered in D.C. If Exelon agrees to open another headquarters, it wouldn't have to provide the same concession elsewhere.

"It's hard for me to imagine how they would strike a deal that would trigger the most favored nations clause," Berliner said.

He also was skeptical about Exelon being able to offer a commitment to renewable energy that would overcome the commissioners' concerns.

"We had settlement negotiations with [Exelon] and said, 'If you are prepared to be the best in the country when it comes to renewables, we can have this conversa-

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Late Changes to Energy Bill Leave Dems Miffed; Passage Less Likely

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act on applications for LNG export facilities within 30 days of the conclusion of reviews under the National Environmental Policy Act. (Section 3006)

Frank Macchiarola, executive vice president for government affairs at America's Natural Gas Alliance, praised the bill, saying that it "recognizes and seeks to maximize the opportunities presented by our nation's domestic energy abundance." ANGA represents independent natural gas exploration and production companies in North America.

Carbon Capture

The Energy Department would be required to evaluate all carbon capture and sequestration projects funded by the agency every two years. (Section 1109)

Hydropower

The bill would reauthorize hydroelectric production incentives through fiscal year 2025 and require FERC to minimize infringement on private property rights in issuing hydropower licenses. (Sections 1301 -1304)

FERC would be authorized to issue exemptions from licensing requirements for development of new hydropower projects at existing non-powered dams.

It would build on changes in two bills enacted in 2013 that streamline regulations on small hydropower sites. A 2012 Energy Department report said the powering of non-powered dams could unlock 12 GW of generating capacity. (See *Tiny Hydro Projects Joining Generation Mix in PJM*.)

APPA said it was disappointed that the bill does not include "substantive" licensing reform.

"The current hydropower licensing process must be reformed so that public power and other utilities can increase reliable emissions-free hydropower generation without unnecessarily prolonged resource agency review," it said.

The bill would provide special relief for one hydro project, however.

The developers of the proposed hydro project on the U.S. Army Corps of Engineers' W. Kerr Scott Dam on the Yadkin River in North Carolina would have an additional six years to start construction under the bill. Wilkesboro Hydropower has proposed adding a turbine that would generate 2 MW at the unpowered dam.

FERC granted the developers a license in July 2012 giving them two years to begin construction and five years to complete it. In May 2014, FERC granted Wilkesboro Hydropower a two-year extension (P-12642-007).

Under the Federal Power Act, FERC told the developers, the deadline for starting construction may only be extended once.

CORRECTION

Last week's newsletter incorrectly stated that Lubbock Power & Light, which announced plans to join ERCOT in 2019, is currently a member of SPP. The company receives its energy through Xcel Energy, which is an SPP member.

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Exelon Considering DC HQ to Win Pepco Deal

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tion,'" he said. "Clearly that was something they were not prepared to do."

That, Berliner said, underscored the concern — also perceived by some in D.C. — that Exelon's nuclear portfolio presents an insurmountable conflict of interest with a commitment to renewable energy.

Sides Mobilize

In D.C., the most vocal support for the deal has come from the business community and dozens of charitable groups who receive funding from Pepco.

In a media blitz that included churches, minority groups and former D.C. Mayor Anthony Williams, supporters urged reconsideration of the merger, saying it would bring increased grid reliability, jobs and opportunities for minority businesses.

"We know that reliability will be enhanced," James Dinegar, president of the Greater Washington Board of Trade, said in a video posted on the merger partners' website. "It's the right move for strengthening this region and then positioning us as we continue to grow to be the strongest region in the country."

Pepco Chairman Joseph M. Rigby is a former chairman of the Board of Trade and currently serves on its senior council.

Opposition to Stay

Opposing the acquisition are more than half of the district's Advisory Neighborhood Commissions and nearly half of the 12-member City Council. The Office of People's Counsel, which also has advised against approval without significant concessions, could not be reached for comment on Monday.

Meanwhile, the Grid 2.0 Working Group and D.C. Public Power filed their opposition to the request for a stay.

If the settlement constitutes a new filing, Grid 2.0 argued, it and Exelon's request for a reconsideration should be considered independently on parallel tracks.

In its filing, D.C. Public Power also offered an alternate solution: "There are, in fact, merger arrangements that can be practically implemented that fully satisfy public interest concerns [such as] DCPP's proposal to buy Pepco's D.C. assets in a divestiture from Exelon/PHI. The result would be an independent, D.C.-based not-for-profit electric power utility serving the interests of the citizens of the District of Columbia."

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MRC/MC Preview

7. ENERGY MARKET UP-LIFT SENIOR TASK FORCE (EMUSTF) Charter (11:00-11:10)

Members will be asked to approve the charter for the Energy Market Uplift Senior Task Force (EMUSTF). The MRC approved the creation of the task force in May to take a broad review of its method of providing Operating Reserve payments.

PJM said the changes were needed to reduce growing uplift costs resulting from Operating Reserves, "make whole" payments that ensure generators dispatched out of merit for system reliability don't operate at a loss.

See *PJM Proposes Operating Reserve Changes to Cut Uplift*

pjm

Energy Market Uplift Senior Task Force Charter

Draft

Mission

The Markets and Reliability Committee (MRC) approved the creation of the Energy Market Uplift Senior Task Force (EMUSTF) on May 30, 2013 to evaluate causes for energy market up-lift charges, develop ways to minimize them while maintaining prices that are consistent with operational reliability needs, and explore new methodologies for the allocation of make-whole payments.

PJM Proposes Operating Reserve Changes to Cut Uplift

April 30, 2013

PJM called Thursday for a broad review of its method of providing Operating Reserve payments, saying changes were needed to reduce growing uplift costs.

Operating Reserves are "make whole" payments that ensure generators dispatched out of merit for system reliability don't operate at a loss. Because they are collected through uplift charges and not reflected in day-ahead or real-time locational marginal prices, they cannot be hedged.

In 2012, operating reserve payments totaled a near record $649 million, 2.2% of total billing. Day-ahead operating reserve charges increased by about 90% in 2012, spiking in September after PJM increased the number of "must run" units dispatched in the day-ahead market.

- **Federal and state regulatory news briefs**

OHIO

Industry Likes Efficiency Rule, Wants Spending Cap

The Ohio Manufacturers Association favors the state's energy efficiency standards but wants a cap on how much utilities can charge for efficiency riders. The group said is still studying provisions of a bill that has been introduced to make changes in the program.

Meanwhile, wind energy supporters argued against a provision in the bill that would eliminate requirements that utilities buy a certain amount of in-state renewable energy.

More: *Columbus Business First; The Columbus Dispatch*

- **Voting summaries**

Trading Limits

Reason for Change: PJM proposed the cap because high bid volumes can make it difficult for the RTO's day-ahead markets software to reach solutions.

Impact: PJM can limit market participants to no more than 3,000 UTC transactions each in the day-ahead market when necessary for market operations. (A similar cap also applies to increment offers and decrement bids.)

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PJM to Consider Storage as Capacity
October 1, 2013
Members agreed to consider new rules to allow batteries, flywheels and other advanced storage technologies to bid in the capacity market. -more-

PJM Likely to Limit Capacity Imports
September 17, 2013
PJM will seek to set a limit on capacity imports before next year's Base Reliability Auction under a problem statement approved Thursday by the Planning Committee. -more-

Installed Reserve Margin May Increase for 2014
September 17, 2013
PJM's recommended Installed Reserve Margin (IRM) will increase slightly because of the increasing alignment of the RTO's peak demand with demand outside of the region, according to a preliminary analysis presented to the Planning Committee Thursday. -more-

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