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Proposal to Revisit PJM Capacity Model Receives Tepid Response

By Rory D. Sweeney and Rich Heidorn Jr.

WILMINGTON, Del. — A stakeholder group calling for a comprehensive review of PJM's capacity market won support from consumer advocates and state regulators last week, but industrial consumers and generators were cool to the idea.

The one point no one disputed at Thursday's Markets and Reliability Committee meeting: Winning consensus on rules to replace the Reliability Pricing Model is a long shot.

"We might have a very low probability of coming to consensus on this process," acknowledged American Municipal Power's Ed Tatum, who introduced the proposal.

Tatum speaking at the MRC last week

"But it's not zero."

The proposed problem statement seeks a structure that will be more "resilient" to unforeseen shocks, such as state-subsidized generation.

The framework for the capacity market is the result of a FERC-brokered settlement in 2007. But there have been numerous rule changes since then, including most recently the introduction of Capacity Performance, which increased penalties and rewards for performance.

Delaware Municipal Electric Corp., Old Dominion Electric Cooperative, the PJM Public Power Coalition, the Public Power Association of New Jersey, Dominion Virginia Power and retailer Direct Energy have signed on as co-sponsors of AMP's

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California Legislature Approves Bill to Sharply Reduce GHG Emissions

By Robert Mullin

California lawmakers last week passed a bill to reduce the state's greenhouse gas emissions to 40% below 1990 levels by 2030.

The State Assembly approved the measure on a 48-31 vote, largely along party lines. Two Democrats opposed the bill, with one abstaining, while just one Republican voted in favor. The bill breezed through the State Senate on a vote of 25-13 and is expected to be signed into law by Gov. Jerry Brown.

The bill builds on the California Global Warming Solutions Act of 2006, the landmark legislation

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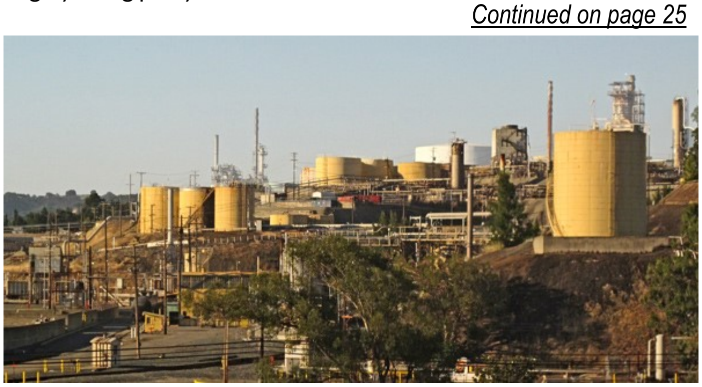

Valero Energy's Benicia Refinery in Benicia, Calif. Oil industry lobbying efforts unexpectedly stalled SB 32 in the California State Assembly last year, but supporters wrangled a comfortable margin to pass the bill during the current session.

Wildlife Refuge Preps for Trial Against ATC Clear-Cut

Saving 'Grandfather Spruce'

By Amanda Durish Cook

A Wisconsin wildlife hospital's dispute with American Transmission Co. over its "Grandfather Spruce" tree will go to trial after a judge this month denied the utility's motion to dismiss the case.

Yvonne Wallace Blane and Steven Blane, founders of Fellow Mortals Wildlife Hospital in southeastern Wisconsin, filed the lawsuit in June against ATC after the company proposed to

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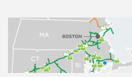
A Wisconsin animal hospital says the trees along ATC's 138-kV transmission line provide its animals a buffer from the weather and traffic noise from the adjacent road. A 100-year-old Norway spruce (above) towers above other trees.
Source: Fellow Mortals Wildlife Hospital

Also in this issue:



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Proposal to Revisit PJM Capacity Model Receives Tepid Response

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initiative. (See Co-ops, Munis Call for Reset of PJM Capacity Model.)


Whitehead

Direct Energy's Jeff Whitehead said changes to the capacity constructs are "already happening," citing the stakeholder initiatives created to address concerns over CP. In addition to task forces addressing seasonal capacity and mitigating generators' risk of nonperformance, there are ongoing debates over calculating CP penalties, generator ramp rates and treatment of external assets.

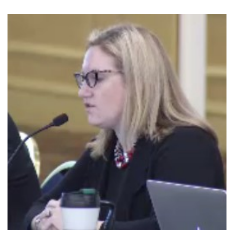
To those who don't support the problem statement, he asked, "Where do you want these debates [to occur] if not here?"

Additional Supporters

The coalition picked up support at the meeting from Dan Griffiths, executive director of the Consumer Advocates of PJM States; John Farber of the Delaware Public Service Commission staff; and Greg Pakela of DTE Energy Trading.

Farber said *ad hoc* reactions to CP, such as the seasonal capacity initiative, have created uncertainty. "That uncertainty only creates risk, and risk creates cost," he said. "The worst position for PJM is to do nothing."

Pakela said PJM needs to prepare for the future, predicting it's "a matter of time" before states find a way to subsidize in-state generation that passes muster at FERC. Such efforts may increase as states seek to meet their emission targets under EPA's Clean Power Plan, he said.


Bruce

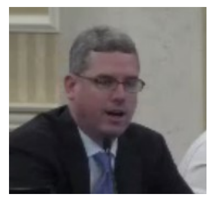
But Susan Bruce, who represents the PJM Industrial Customer Coalition, said although her group "has never been a big fan of capacity markets," it wasn't eager to open up the issue again.

"The devil we know may be better than the devil we don't," she said.

Stakeholders representing generators were particularly wary. "While I encourage you to look at other market designs, I'll challenge you to find one that's better," Dynegy's Jason Cox said. Models used by MISO and CAISO, he said, are "vastly inferior."

He also questioned the premise of the initiative, asking "How can you design a construct to deal with issues you don't even know about yet?"

Nothing in it for Supply?


Fitch

Neal Fitch of NRG Energy and Tom Hyzinski of Talen Energy said it was unclear to them what the "problem" is and questioned Tatum on the scope of the proposed inquiry.

"Soup to nuts within resource adequacy?" Fitch asked.

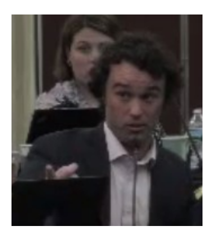
Yes, responded Tatum.

Based on input from stakeholders, Tatum revised the proposed issue charge before the meeting to narrow its scope. The revised charge says it will limit its discussion of shortage pricing and the energy and ancillary services markets "to those that would be necessitated by any recommended changes to the capacity construct."

"We don't want to take on the world here," Tatum said.

"You're assuming that you'll come up with something that will be bulletproof?" Hyzinski asked Tatum.

"No," Tatum responded. "I think there might be something more resilient. I don't know if there is or not."


Borgatti

Mike Borgatti of Gabel Associates called it "a pocketbook issue."

"Suppliers don't want to be paid less. Load doesn't want to pay more," he said. "I struggle to explain to my clients on the

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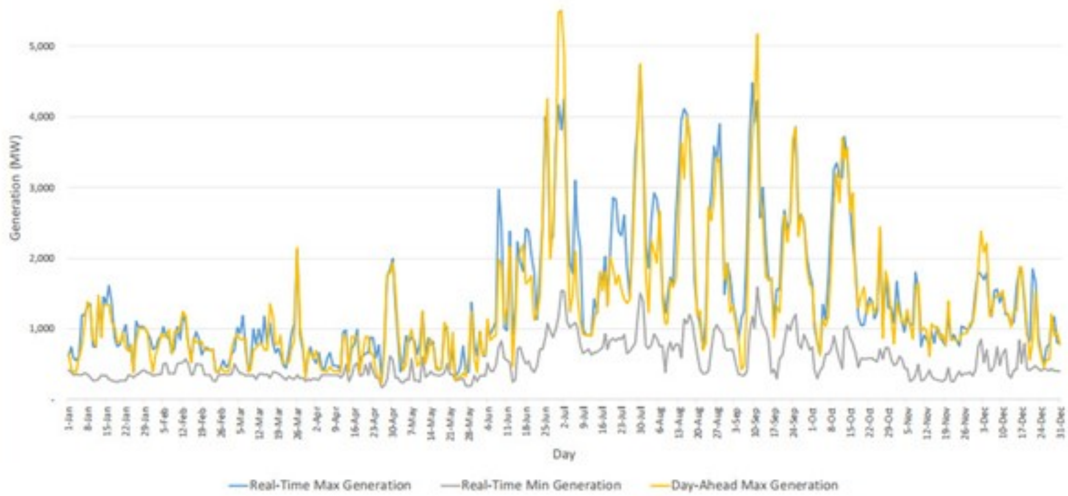
CAISO News

SoCal Gas Restrictions Unlikely to Impede Winter Grid Operations

By Robert Mullin



CAISO's utilization of gas-fired generation in the Los Angeles Basin, 2015. *Source: CAISO*

Southern California's winter grid operations are unlikely to be compromised by natural gas pipeline restrictions stemming from the shutdown of Aliso Canyon, even in the event of a once-in-a-decade cold snap, according to an interagency assessment released last week.

Still, tight gas supplies could leave the region vulnerable to load shedding during a significant grid contingency — such as the loss of transmission import capability or unexpected outages at outside generators serving the region, the report says.

The Southern California Gas (SoCalGas) storage facility north of Los Angeles was closed after a leak released massive amounts of methane between October and February, prompting the company to impose daily balancing requirements on its customers in order to ensure reliable gas delivery to gas-fired generators during the summer's peak season for electricity demand. (See *CAISO Seeks Rapid Response to SoCal Gas Restrictions*.)

The report was produced by technical staff from CAISO, the California Public Utilities Commission, the California Energy Commission (CEC), Los Angeles Department of Water and Power (LADWP) and SoCalGas — the owner and operator of the region's pipeline system.

Cold Day Design Standard

The region's one-in-10-year "cold day design standard" would require SoCalGas to send out 5.2 Bcfd on its system, the report shows. However, without the ability to withdraw from Aliso Canyon, the company is limited to a maximum sendout capacity of 4.7 Bcfd, assuming there are no other storage or pipeline outages and a full utilization of receipt point and storage withdrawals.

Gas supplied to electric generation could be curtailed if the region's total demand exceeds 4.5 Bcfd under a scenario in which generators utilize 100% of their gas receipts or 4.2 Bcfd under 85% utilization, the report said, indicating the importance for generators to tightly balance their schedules with their gas burns.

Nevertheless, the region's electricity grid is expected to operate reliably "so long as the total SoCalGas supportable gas delivery and supply is greater than 4.1 Bcfd under normal pre-contingency conditions and 4.2 Bcfd to support N-1 contingency conditions" — such as the loss of a key generating unit or transmission line serving a load pocket.

While the report finds that the area affected by the gas restrictions should have sufficient transmission and electricity supply from outside resources during winter, it acknowledges that neighboring balancing areas may have to provide emergency assistance "depending on the magnitude and timing of gas curtailments."

The report offers another caveat: "If supportable SoCalGas supply falls below 4.1 Bcfd during peak winter gas demand conditions, it may be necessary to withdraw from Aliso Canyon to avoid electric load interruption."

Recent history suggests that gas should be available despite a lack of injections into the facility for almost a year.

"Because of the effectiveness of the Aliso Canyon summer action plan, as of the time of this report, no gas has been withdrawn from Aliso Canyon to maintain electric reliability," the report notes.

15 Bcf in Storage

The facility still contains about 15 Bcf of working gas in storage, unchanged from the volume that the PUC last January ordered be left in the facility to cover summer needs.

Summer has seen CAISO manage two heat-driven conservation alerts without having to tap that supply, and the grid's gas needs are sure to drop significantly during winter. Last year, the ISO utilized less than half as much gas-fired generation in the Los Angeles Basin during winter than in summer.

LADWP, which operates its own balancing area, passed through its summer peak season without the benefit of its 287-kV Mead-Victorville Line 1, which is slated to return to service by winter. The additional transmission capacity should provide 5,010 MW of winter import capability, compared with a forecast peak load of 4,309 MW. The upshot: The utility could meet its reliability requirements without relying on any of the basin's local gas-fired generation, absent the loss of any of its four synchronous condensers needed for voltage regulation and support.

The interagency assessment was accompanied by a winter action plan developed to reduce the potential for gas curtailments large enough to interrupt Southern California's electric service. Among the measures is a recommendation that CAISO impose a

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CAISO News

CAISO Proposes Broadening LSE Definition

Stakeholders Concerned About Resource Adequacy Obligations

By Robert Mullin

CAISO is proposing to amend its Tariff to expand the definition of a "load-serving entity" to include any organization granted authority to serve its own electricity needs.

The Tariff currently recognizes as LSEs only those entities that sell electricity or serve load to end users, a description that covers utilities, federal power marketing agencies and community choice aggregators. A special exception was made for the State Water Project (SWP), a California agency that directly engages the wholesale market to cover its own energy requirements.

The ISO is seeking a broader definition to accommodate the San Francisco Bay Area Rapid Transit District (BART), which, like the SWP, serves its own load but does not meet the standard definition of an LSE.

"We'll see what other entities will participate under this definition, but we're not sure there are any at this point," Perry Servedio, senior market design and regulatory developer at CAISO, said during an Aug. 23 stakeholder call to discuss the proposal.

At the end of the year, BART's transmission contract rights on the Pacific Gas and Electric network, which predate the existence of the ISO, will expire. Those rights will convert to CAISO service, leaving the agency exposed to congestion charges.

For a recognized LSE facing a similar circumstance, CAISO provides a remedy: The LSE can cover its exposure by seeking an allocation of congestion revenue rights (CRRs) in the initial round of the ISO's annual allocation process. The ISO treats the expiring contract rights as if they were expiring annual CRRs.

But that process is not available to BART.

As an interim measure, CAISO last month filed with FERC to seek another temporary exception to the definition in order to enable BART to participate in this fall's 2017 CRR allocation (ER16-2327).

By expanding the definition, the ISO hopes to eliminate the need for one-off exceptions. The revised Tariff would categorize BART and SWP as LSEs "granted authority pursuant to California state or local law, regulation or franchise to serve their own load."

The amended language sent up red flags for some stakeholders, who worried that any California entity granted such authority would qualify as an LSE and therefore be required to procure adequate reserves to support their load.

Ernie Hahn, senior resource manager with the Metropolitan Water District of Southern California, said his agency is concerned about what the change would mean upon expiration of its transmission contract rights with Southern California Edison.

"This came out of the blue and we're a little distressed by it," he said. "We don't understand what the [resource adequacy] implications will be."

"Our intent is not to require entities to do this," said Brad Cooper, CAISO senior manager of market design and regulatory policy. "To the extent that there's an arrangement like yours, you're not considered an LSE."

But David Zlotlow, CAISO senior counsel, confirmed that the district would face the requirement once its contract expires.

"I object to the change because you haven't given us enough time to prepare for the [resource adequacy] requirement," Hahn said. He encouraged the ISO to make an "incremental change" to the definition, similar to the SWP exception.

"When I read this, it suggests to me that entities serving load behind the meter will get captured by this," said Steven Kelly, director of policy at the Independent Energy Producers Association.

"A day or two ago, in anticipation of this call, we had that same thought," Zlotlow said. "There might be a word or two to add to this definition."

"Do storage devices or pumped storage qualify as LSEs because they serve their own load?" asked Mark Smith, vice president at Calpine.

"No, because they're not serving end users, they're just sending back to the grid," Zlotlow replied.

Jan Strack of San Diego Gas & Electric said the change raises questions about what entities are affected, and how.

"I think you need to be sort of thoughtful about how wide this net gets thrown," Strack said.

"We definitely want to hear from you if we're missing something with this definition — or if we need to tighten it up," Servedio said.

Stakeholder comments on the proposal are due Sept. 2. ISO staff plan to submit the changes for board approval in October.

SoCal Gas Restrictions Unlikely to Impede Winter Grid Operations

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generator gas burn ceiling for very cold days.

"Effectively, it curtails some of the electric generation load in advance and increases the probability that SoCalGas will not have to curtail further," the plan says.

The plan also recommends that:

- The PUC require that SoCalGas implement a demand response program that rewards large natural gas consumers for reducing demand when requested;
- SoCalGas maintain requirements that non-core gas customers tightly balance their schedules with actual use and develop a similar provision for core customers;
- The CEC and PUC investigate what "affiliate impediments" would prevent SoCalGas parent company Sempra Energy from buying LNG from its own Costa Azul LNG facility in Mexico and delivering it into the Southern California gas system; and
- The CEC identify and solicit additional sources of gas supply, including more in-state production.

The California agencies are seeking comments on the winter action plan, the subject of an Aug. 26 public workshop.

ERCOT News

TAC Briefs

Committee Approves Federal Notification Requirements

AUSTIN, Texas — Acting on a request from Texas Gov. Greg Abbott's office, ERCOT has drafted a revision to its planning guide requiring energy developers to notify the Department of Defense of any projects near military installations.

The planning guide revision request (PGRR 047) was unanimously approved by ERCOT's Technical Advisory Committee last week and will be considered by the Board of Directors during its Oct. 11 meeting.

The revision requires developers seeking an interconnection agreement to include among their materials a signed affidavit that they have notified the department of its proposed project and requested its review. The declaration only requires the initiation of an informal review, not its completion.

The proposed change is in response to requests by the governor's office and the Defense Department to require that any proposed construction covered under existing federal regulations "confirm that they have provided notice and obtained review from the [Federal Aviation Administration] and DOD to the extent required under federal law."

Current federal regulations require any structure constructed above certain height limits (approximately 200 feet) or in proximity to military and civilian airports provide notice to the FAA and DOD siting clearinghouse.

Several projects have recently brought the issue of federal notification to the forefront.

Sheppard Air Force Base near Wichita Falls has said proposed wind developments nearby would interfere with its radar and flight training operations. A proposed wind farm near Corpus Christi in South Texas has drawn concerns that it could impact training missions at two nearby U.S. Navy airbases, despite FAA's conclusion to the contrary. (See "FAA Stands by its Greenlight for Proposed Wind Farm," *Federal Briefs*, p.18.)

Speaking before the Texas House of Representatives' Defense and Veterans Affairs Committee on Aug. 24 in Wichita Falls, ERCOT Director of System Planning Warren Lasher said he wants to see "increased coordination and communication" between the military and wind energy developers to resolve conflicts.

TAC Vice Chair Bob Helton, GDF-Suez; Chair Adrianne Brandt, CPS-Energy; and ERCOT COO Cheryl Mele lead last week's committee meeting. © *RTO Insider*

"This will ensure that all energy developers check with DOD well before" the developments are put into motion, he said.

The TAC ensured the proposed rule would only affect developments that are not already connected to the power grid. The committee set Nov. 1, 2016, as the effective date for the change, after staff tracked down Lasher at a Public Utility Commission of Texas meeting for his approval.

Related legislation is expected to be proposed when the Texas Legislature begins its 2017 session in January. A Wichita Falls representative is considering filing a proposal that would affect tax abatements for some wind projects near military bases, while a New Braunfels legislator has said she would intervene if an energy project endangered military missions.

Changes in TAC Leadership

Last week's meeting marked the end of Randa Stephenson's tenure as TAC chair. Stephenson, of the Lower Colorado River Authority, was recently named the utility's vice president of wholesale markets and support.

Stephenson said her new job came with additional responsibilities that would preclude her continued role as TAC chair. She said she was disappointed but would continue to participate through the end of the year.

"Are you really disappointed?" asked ENGIE's Bob Helton, to peals of laughter.

Stephenson "has been a workhorse for the TAC process for many, many years," said CPS Energy's Adrianne Brandt, who was unanimously approved as Stephenson's replacement. "She's given us almost five years of TAC leadership. It's a lot of work and a thankless job."

Helton was unanimously approved as the TAC's vice chair, replacing Brandt.

TAC Sends 16 More Change Requests to Board

The committee sent 16 other revision requests to the board, endorsing eight Nodal Protocol revision requests (NPRRs) and eight revisions to the nodal operating guide (NOGRRs), the planning guide and the retail market guide (RMGRRs). All but one of the requests passed unanimously.

In addition, the TAC tasked the Wholesale Market Subcommittee to develop a long-term solution for reliability-must-run mitigated offers after a related rule change failed on appeal last month at the committee and this month before the board (NPRR 784). (See "Board Rejects RMR Mitigated-Offer Appeal, Lets Stakeholder Process Move Forward," *ERCOT Board of Directors Briefs*.)

"In our discussions with stakeholders, it seems there's general support for a long-term solution gravitating around placing RMR offers last in the stack," said NRG Texas' Bill Barnes, who has championed the revision request.

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ERCOT NEWS

TAC Briefs

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The 16 revision requests approved are:

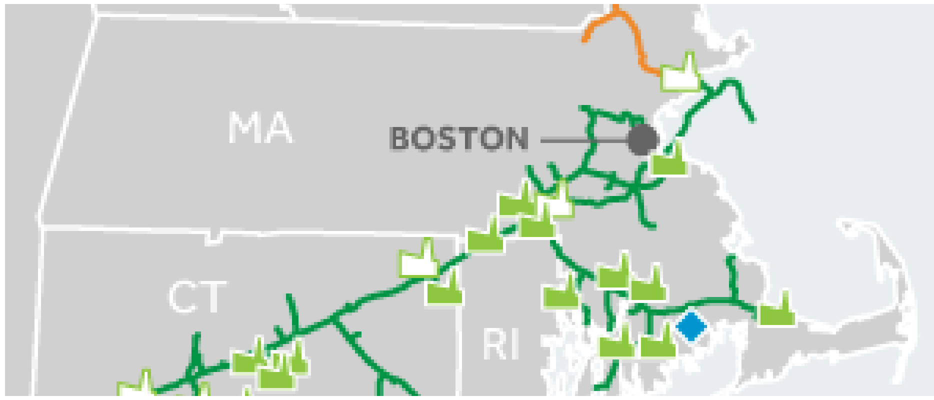
- NPRR 753: Gives non-modeled generators the option of using the advanced metering system data submittal process and requires the installation of ERCOT-polled settlement meters to ensure the energy flows are reflected in real-time initial statements.
- NPRR 760: Ensures that operating days with no activity are captured in the denominator for calculations of credit variables. It received two no votes and three abstentions.
- NPRR 778: Changes competitive retailer rules regarding move-in or move-out date changes to prevent an inadvertent error. The change should eliminate two-thirds of manual interventions currently required.
- A companion change, RMGRR 139, modifies market processes to align with NPRR 778's proposed changes.
- NPRR 779 and PGRR 048: Clarify references to the Texas Reliability Entity and the Independent Market Monitor. Current protocols refer to the Texas RE in both its capacity as the Regional Entity and the Public Utility Commission of Texas Reliability Monitor. The NPRR also removes the 24-hour deadline for ERCOT to notify the Reliability Monitor of a failure to provide ancillary services. The new language clarifies that the IMM is an included party in several provisions related to the ERCOT stakeholder process.
- NPRR 782: Removes inconsistencies in protocol language by changing the equations governing the settlement of ancillary services. The change affects resources unable to deliver on their ancillary services obligations because of transmission constraints.
- NPRR 785: Allows ERCOT to automatically prepopulate current operating plans (COPs) for wind and photovoltaic resources with the most recent forecast for the next 168 hours. Qualified scheduling entities representing these resources can either submit the prepopulated forecast as the COP by default or submit a lower number.
- NPRR 786: Corrects the allocation of transmission losses, distribution losses and unaccounted-for energy (UFE) so that negative loads do not result in loss of UFE allocations.
- NPRR 787: Removes the requirement that the qualified scheduling entity receiving a verbal dispatch instruction confirmation include the name of the individual that received the confirmation within the electronic acknowledgement.
- NOGRR 150: Moves voltage-support obligation language to the Operating Guide so that the requirements are recognized as binding. It also allocates voltage-support responsibility to the appropriate entity, and clarifies that the ERCOT transmission operator has the authority to instruct a QSE to modify its resource's voltage set point.
- NOGRR 158: Modifies language in the nodal operating guide relating to limits on hydro resources' responsive reserve to ensure consistency with NPRR 669.
- PGRR 049: Removes the option to submit generation interconnection or change request (GINR) applications through standard mail or fax and updates the mailing address for GINR payments to the ERCOT treasury department.
- RMGRR 134: Gives non-modeled generators the option to use the advanced metering system data-submittal process and clarifies processes for unregistered distributed generation versus registered non-modeled generators.
- RMGRR 140: Removes the current date restrictions to give ERCOT increased flexibility when executing a competitive retailer's acquisition of another retailer's customers to prevent a "mass transition event." The change will prevent end-use customers from being transitioned to provider-of-last-resort service and reduces associated uplift to the market.
- RMGRR 141: Clarifies procedures during an extended unplanned system outage.

— Tom Kleckner

ISO-NE NEWS

Eversource, National Grid Withdraw Requests to Bill for Pipeline

By William Opalka



Access Northeast route *Source: Spectra Energy*

Eversource Energy and National Grid have withdrawn their requests to bill electric ratepayers for natural gas capacity from the proposed Access Northeast pipeline project, bowing to a ruling by the Massachusetts Supreme Judicial Court.

The filings made last week for their four electric distribution companies followed the court's Aug. 17 decision vacating an order by the state Department of Public Utilities approving pipeline capacity contracts. (See *Mass. Supreme Court Vacates EDC-Pipeline Contract Order*.)

Earlier, state Attorney General Maura Healey filed a motion asking the DPU to dismiss the contracts.

Eversource spokesman Michael Durand said the companies' filings with the DPU were a formality in light of the court's decision. "This does not affect our commitment to the project. We remain committed to working with the New England states to provide the infrastructure so urgently needed to ensure reliable and lower-cost electricity for customers," he said.

"The companies reserve the right to seek department approval of the same or similar agreements in the future to the extent that, in the future, there is a change in relation to the department's legal authority to approve such agreements," Eversource wrote. National Grid made an identical filing on behalf of its EDCs.

Eversource and National Grid are co-sponsors of Access Northeast, which developer Spectra Energy says will deliver 925,000 dekatherms/day of natural gas to the New England power market.

Spectra spokesman Creighton Welch said the company is not giving up on the pipeline. "There is a sizeable need for natural gas throughout New England that is unabated by the court's decision," Welch said. "Therefore, our path forward is clear and our mission to re-establish the Massachusetts contribution is full-speed ahead. We are confident that, ultimately, the interests of New England's consumers will prevail with desperately needed gas supply made available by Access Northeast."

The Conservation Law Foundation, the successful plaintiff in the case, said the EDCs had no choice. "The Massachusetts Supreme Judicial Court made it clear last week that electric companies can't gamble on pipelines with the hard-earned money of businesses and families across our state. That is exactly what these contracts would have done, and so Eversource and National Grid had no choice but to face reality and withdraw their proposals," spokesman Josh Block said.

MISO NEWS

NIPSCO Considers Closing 4 Coal Units in 7 Years

By Amanda Durish Cook

Northern Indiana Public Service Co. said last week it may shut down one coal-fired plant and partially close another.

Though nothing has been finalized, NIPSCO officials said they are considering closing the two-unit Bailly Generating Station on Lake Michigan as soon as mid-2018 and idling two of the four units at the R.M. Schahfer Generating Station in Wheatfield, Ind., by 2023. NIPSCO's plan was unveiled last week at a public meeting on its biennial integrated resource plan, which is due to the Indiana Utility Regulatory Commission on Nov. 1.

"Companies with aging coal-fired units are facing intense economic and environmental regulatory pressures that are driving important decisions today about how to meet the customer needs of tomorrow. Given these factors, we believe it may be in our customers' best interests to retire some of NIPSCO's coal-fired generation units," Violet Sistovaris, NIPSCO executive vice president, said in a statement.

Graycor Industrial Constructors completed a wet flue gas desulfurization system at NIPSCO's R.M. Schahfer Generating Station located in Wheatfield, Ind., in 2014. *Source: Graycor*

Sistovaris said NIPSCO would work closely with stakeholders to come up with a retirement strategy for inclusion in its IRP, which looks ahead 20 years.

The retirement dates coincide with the effective dates of EPA's coal ash rule in 2018 and Effluent Limitations Guidelines in 2023.

NIPSCO, which has invested more than $800 million in emission-reducing technologies for its coal-fired units, said compliance with the new rules would cost an additional $1 billion over seven years if it keeps its entire coal fleet operating.

Six years ago, 90% of NIPSCO's generation capacity was coal-fired. Today, that figure is down to 72%. NIPSCO's portfolio includes three coal-fired plants, one natural gas–fired station, two hydroelectric plants and purchased wind power.

The closures at Bailly and Schahfer would remove about 31% of NIPSCO's total generating capacity. Bailly's two units opened in 1962 and 1968; Schahfer's four units were opened over 10 years beginning in 1976.

This month, the company said it would demolish its long-dormant Gary, Ind.-based Mitchell Generating Station over the next two years for $18 million. The plant was permanently closed in 2011.

Advisory Committee Briefs

Board Member Search Down to 6 Candidates

MISO has narrowed candidates for the Board of Directors to six, Nominating Committee stakeholder member Matt Brown said.

Brown told the Advisory Committee that the nominating panel interviewed 10 candidates in mid-August and selected a primary and secondary choice for each of the three open seats. The RTO started with a list of about 30 candidates.

"We're really trying to pick individuals with the most impressive backgrounds, and not the ones that fit a mold," Brown said.

Under MISO rules, the board must be made up of individuals with varying expertise. For this search, the RTO requires a person with transmission operations expertise, one with transmission planning expertise and one with experience in finance, accounting, engineering and utility regulation. Brown said the committee is also looking for candidates who have experience in technology or cybersecurity.

"It's been a very enlightening process, and I think the search firm did a great job in locating candidates, and we had a very successful interview process," Brown said. From a stakeholder perspective, Commissioner Weber and I are very excited about the six candidates and their caliber," Brown said. Indiana Utility Regulatory Commissioner Angela Weber occupies the other stakeholder seat on the Nominating Committee.

Directors Judy Walsh, Michael Evans and Paul Feldman will hit MISO's term limit when their current terms expire Dec. 31. MISO enacted a limit of three consecutive three-year terms last year. The Nominating Committee can seek a waiver to allow a fourth term if it believes it is needed "to retain [the director's] skills or expertise, to maintain geographic or other diversity of the board, or is otherwise in the best interests of" MISO.

The board will review the committee's six choices and make a selection by mid-September. Members will vote on the candidates between Sept. 15 and the Oct. 24 Informational Forum, at which the results will be announced.

The terms begin in January and expire at the end of 2019.

Close to Fall, MISO Stakeholder Entities Still Setting 2016 Priorities

The Resource Adequacy Subcommittee is seeking the approval of just two priorities for the year.

The RASC's proposed priorities for 2016 are to improve the Planning Resource Auction and enhance gas-electric coordination.

RASC Chair Gary Mathis said he received scant feedback on the priorities. Mathis said he thought the timing had something to do with it. "2016 is more than half over," he pointed out.

AC Chair Audrey Penner said stakeholders will begin earlier on 2017 priorities, starting with a strategic planning session at the end of September. She added that the groups

Continued on page 9

MISO NEWS

Informational Forum Briefs

July Operations: Hot but Quiet

MISO's average load during July was 87.9 GW, 4.8 GW more than June and about the same as last year, said Shawn McFarlane, executive director of strategy and enterprise risk management, during an Aug. 23 Informational Forum.

McFarlane said July temperatures were close to normal. Load peaked at 120.7 GW on July 21 during a maximum generation warning. (See "June Energy Prices Up Across Footprint; New Emergency Pricing Encounters Snag in July," MISO Informational Forum Briefs.)

Systemwide, MISO experienced average July prices of about $30/MWh, about $1/MWh more than last July.

Price convergence in July was the lowest it has been in a year, with a 22.5% difference between real-time and day-ahead prices. At this time last year, there was an average 14.8% divergence. Collections for day-ahead market congestion, at $80.26 million for July, were also at their highest level in a year.

Wind generation contributed 4.3% of total MISO electricity production (2,457 GWh), 661 GWh less than June's 6% share but more than in July 2015, when wind contributed 3.3% (1,975 GWh).

Queue Reform

Stephen Kozey, senior vice president for compliance services, said MISO will make a revised generator interconnection queue reform filing by the end of October. FERC rejected MISO's proposed queue changes in March, saying they assumed the current backlog could be blamed on "speculative" projects and failed to consider other potential factors (ER16-675). (See MISO Queue Changes on Hold Pending Technical Conference.)

Kozey also reminded stakeholders that MISO has pushed back implementation of a separate, three-year forward capacity auction for retail-choice areas to the 2018/19 planning year. He said MISO now plans to file in early November. (See MISO Delays Forward Auction Filing; Issues Draft Tariff and Business Rules.)

FBI Agent Informs Stakeholders on Cybersecurity Threats

Special Agent Michael Alford, of the FBI's Cyber Division, said cyberterrorists, foreign governments and hacktivists most often attack critical energy infrastructure, in what he called a general cybersecurity "declassified briefing" at the Informational Forum.

Alford said hacktivists will sometimes target energy companies over proposed pipelines and development, while foreign governments conduct intrusions for espionage. He said according to the FBI, the energy grid is increasingly becoming a prime target for cyberattacks.

Spear phishing, which uses phony emails to get access to information, is the most common way to enter company networks, Alford said, citing the 2015 hack on Ukraine's power grid. (See How a 'Phantom Mouse' and Weaponized Excel Files Brought Down Ukraine's Grid.)

Alford said cyber threats can begin with a single attacker contacting an employee that they've performed "Internet reconnaissance" on. He told attendees to be mindful of the information shared on their social network profiles, as hackers will use the pages to gain employee information.

"If you have a LinkedIn account, that's fine, but be aware that could be used against you," Alford said.

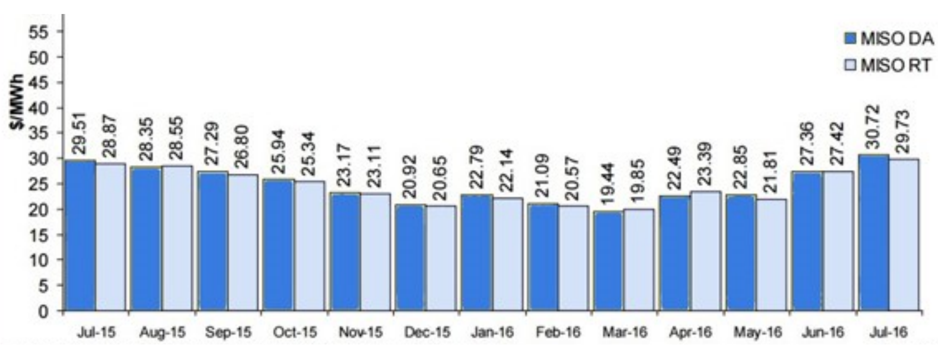
He said the "end goal" of IT administrators should be to have a good log-in and password system and maintain it.

"You can throw tons of money at a system and make it secure, but that's not always needed," Alford said, noting that different departments at the same business need different levels of security.

Alford said utility employees shouldn't hesitate to report cyberattack suspicions to either local law enforcement or the FBI.

"If you see something, report it, because you're probably not the only one they're attacking," Alford said, adding that state-sponsored attacks often target several businesses or organizations simultaneously.

— Amanda Durish Cook



Day-ahead and real-time average monthly systemwide prices. Note: MISO systemwide price is based on the monthly hourly average of the active hubs. *Source: MISO*

AC Briefs

Continued from page 8

would work to streamline the new priorities planning process in its second year.

"This is our first kick at the can, and we'll get better year after year," Penner said.

Meanwhile, Planning Advisory Committee Chair Bob McKee submitted five priorities nearly identical to the AC's own priorities approved in May. (See "Committee Endorses 5 Final Priorities," MISO Advisory Committee Briefs.)

"There was not a lot of conversation, but no concerns have been raised," McKee said of the AC's priority-setting.

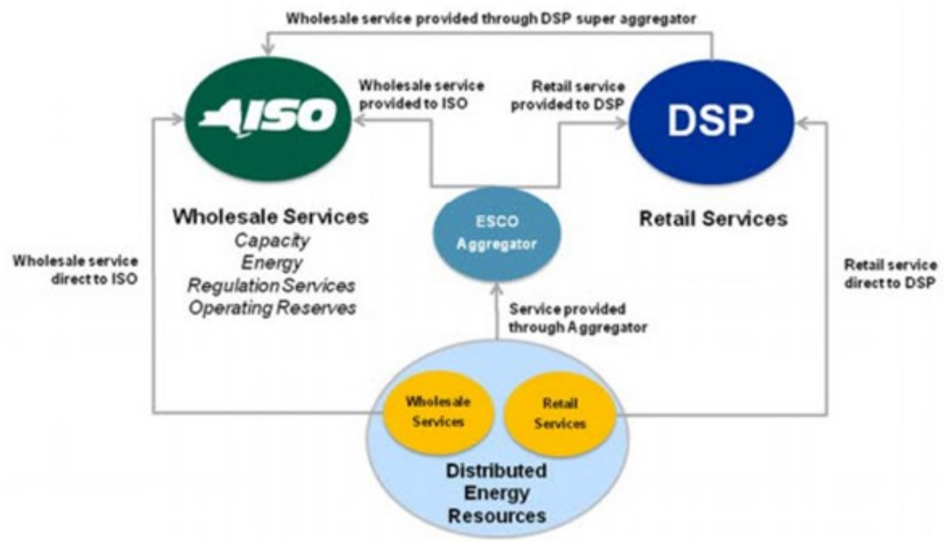
Penner said the PAC and RASC's 2016 priorities would be up for AC approval at the September meeting.

— Amanda Durish Cook

NYISO NEWS

NYISO Releases Plan for Integrating Distributed Energy Resources

By William Opalka



Integrating DER in wholesale electricity markets *Source: NYISO*

Responding to policy initiatives from Washington and Albany, NYISO last week released a "road map" for integrating distributed energy resources that seeks to build on the grid operator's existing markets and demand response programs.

The ISO said the draft report was a response to the New York Public Service Commission's Reforming the Energy Vision initiative, and FERC Orders 719 and 745, which require the ISO to give DR greater access to real-time markets. NYISO says it provides a framework for market rules that will be developed over the next three to five years to implement the state and federal policies.

Demand Elasticity

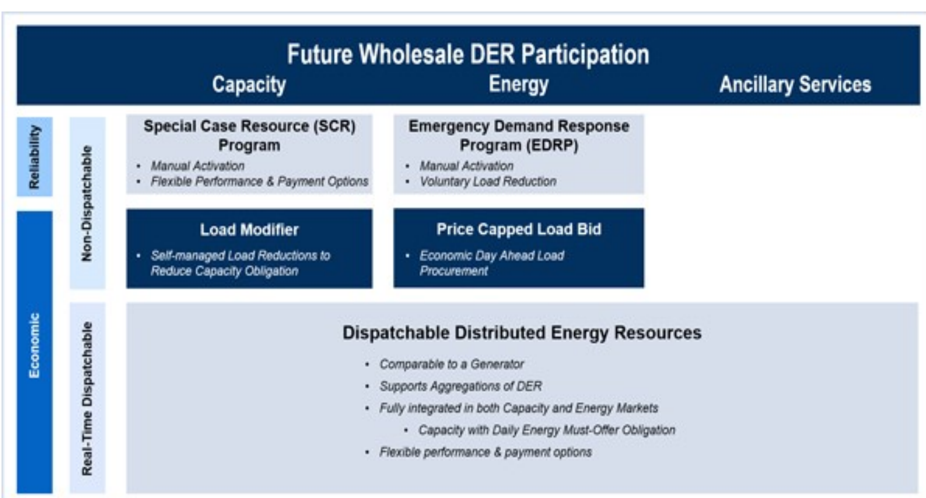
NYISO said it agrees with the PSC that DER "can make load more dynamic and responsive to wholesale market price signals."

The PSC says DER can improve system efficiency if their value is properly reflected in retail and wholesale markets and if utilities are incented to consider them as alternatives to traditional capital investments. The commission envisions the creation of distribution system platform (DSP) providers that plan, operate and administer markets for distribution-level services.

NYISO said REV is largely consistent with how the ISO "administers wholesale markets, plans for bulk system needs and operates the grid."

Competitive wholesale markets, the ISO notes, were designed in part to facilitate demand-side elasticity. "For a variety of reasons, ranging from the economics and limitations of enabling technologies, this demand elasticity has failed to materialize to a significant degree."

But with improved technology and economic models, NYISO said, integrating DER into the wholesale markets could "build upon the efficiencies already realized under competitive wholesale market structures."



Source: NYISO

'A Desire to Participate'

The ISO said its new rules will accommodate "controllable resources with various capabilities and a desire to participate in the wholesale markets."

The report says DER will be incented through economic dispatch and real-time locational prices "that [align] compensation with system requirements."

"The NYISO intends for the DER program to align incentives and compensation based on the flexibility and measured performance of the DER (or aggregation), and market clearing prices based on the needs of the system. The intent is to treat DER comparably with other supply resources participating in the NYISO's energy, capacity and ancillary services markets."

DER participating in the capacity market will be required to offer into the energy and ancillary services markets "for all or a portion of the day, depending on the business model and capabilities of the DER."

Changes Needed

The ISO said integrating DER will require changes to market design, system planning and grid operations.

"Realizing this goal will require an examination of DER performance obligations,

Continued on page 11

NYISO NEWS

Hydro Owner Wants in on New York Nuke Subsidy

By William Opalka

A hydropower owner is seeking rehearing of New York's Clean Energy Standard, which limited the state's new zero-emission credits (ZECs) to nuclear generators (15-E-0302).

In a petition filed Aug. 23, Ampersand Hydro said it was arbitrarily excluded from the New York Public Service Commission's "discriminatory" Aug. 1 order. The filing appears to be the first in what is anticipated to be numerous challenges to the commission's order.

1.9-MW Tannery Island hydro facility
Source: Ampersand Hydro

3-MW Ogdensburg hydro facility
Source: Ampersand Hydro

Ampersand said the PSC erred by "arbitrarily and capriciously failing to develop an implementation plan that permits small hydro generation resources to also be treated as a zero-emission facility and unjustly and unreasonably discriminat-[ed] in providing nuclear generation facilities a significant competitive advantage over competing generation resources, including small hydro generation."

Ampersand says small hydropower should enjoy the same treatment as nuclear under the standard: 12-year contracts with a subsidy of $17.48/MWh for the first two years with adjustments every two years thereafter.

The commission order calculated the subsidy based on EPA's social cost of carbon, minus revenue paid to the state under the Regional Greenhouse Gas Initiative.

The PSC said the payments were justified because nuclear plants are unprofitable in a low natural gas price environment and New York's clean energy goals are at risk if the plants close. Ampersand said it is subject to the same market and clean energy dynamics. (See *New York Adopts Clean Energy Standard, Nuclear Subsidy*.)

"The CES order explicitly recognized that an important generation resource with zero emissions, small hydro generation resources, may be not able to survive in the competitive wholesale energy market in New York and therefore might be forced to retire," the company wrote. "Significantly, however, the CES order failed to provide any discussion of why generation resources that no party challenges are zero-emission, renewable resources should be denied ZECs. Instead, the CES order merely deferred any action in favor of additional studies."

Ampersand specializes in acquiring and rehabilitating small hydropower stations. The Boston-based company controls 12 small merchant hydro stations in New York totaling 18.7 MW with an expected annual production in excess of 70,000 MWh.

NYISO Releases Plan for Integrating Distributed Energy Resources

Continued from page 10

operating characteristics, metering and telemetry requirements, measurement and verification of baselines and performance, market modeling, and an understanding of how to balance the simultaneous participation of DER in retail/distribution-level programs as well as the NYISO's competitive wholesale market."

A particular concern will be ensuring accurate load forecasts and metering.

DER will be required to provide data quality equivalent to the "Point Identifier1" metering used by large generators, with "real-time supervisory control and data acquisition (SCADA)-quality or better telemetry data for operations and monitoring functions, and after-the-fact revenue-quality meter data from individual resources for measurement and verification and settlements."

These measurement and verification services may be performed by distribution service platform providers.

DR = DER

Going forward, NYISO said it will consider all DR as DER.

The current Special Case Resources program "has proven to be a valuable tool for planners to project load forecasts and for operators to manage system reliability" and will be retained, albeit "with potential modifications," the report says.

The Emergency Demand Response Program and Price Capped Load Bidding also will continue. But the current Day-Ahead Demand Response and Demand Side Ancillary Services programs would be replaced.

The ISO says the report is only a beginning. "Implementing the DER initiative will entail considerable time, effort and stakeholder engagement. This road map represents a starting point for initiating discussions that will lead to further refinement on key market design elements, functional requirements and tariff language necessary to implement the vision."

NYISO NEWS

Exelon: CES Language Risks Subsidies for Ginna, Nine Mile Point

By William Opalka

Exelon last week asked New York regulators to guarantee subsidy payments for its three nuclear units in the state in the event that its proposed purchase of Entergy's James A. FitzPatrick plant falls through (15-E-0302).

The company said language in the Clean Energy Standard adopted Aug. 1 by the New York Public Service Commission could be interpreted to end the subsidy in March 2019 if not clarified. The order directed the purchase of zero-emission credits (ZEC) in six two-year tranches from 2017 to 2029. (See *New York Adopts Clean Energy Standard, Nuclear Subsidy*.)

Exelon owns the R.E. Ginna and Nine Mile Point 1 and 2 facilities on Lake Ontario. Exelon and Entergy filed a request to approve the sale of FitzPatrick with the PSC on Monday. (See *FitzPatrick Sale Filed with New York Regulators*.)

Nine Mile Point

Ginna, Nine Mile Point 1 and FitzPatrick are all at risk of closing at the end of their current fueling cycles in the first quarter of 2017 if ZEC payments are not adopted, the companies said. The CES anticipated the FitzPatrick sale after negotiations between Exelon and Entergy were announced in mid-July.

"The FitzPatrick purchase condition [of the CES order] is unclear as to whether the 12-year duration of the R.E. Ginna facility's, the Nine Mile Point facility's and the FitzPatrick facility's respective ZEC contracts are conditioned on the sale of the FitzPatrick facility by Sept. 1, 2018, or whether the 12-year duration language applies only to the FitzPatrick facility's ZEC contract," the petition states.

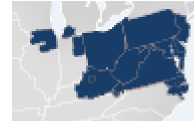
The petition says there is ambiguity in the order and its Appendix E, which states: "If the sale and closing does not occur, there will be no commitment for the program to continue beyond Tranche 1 and the commission will have six months before the otherwise planned commencement of Tranche 2 to determine a future course of action, if any."

Exelon is asking for specific language to limit the two years of ZEC payments only to FitzPatrick if the sale is not completed.

It asks for a clarification or limited rehearing order by Nov. 18, the same date it has requested for approval of the sale.

Advertisement

PJM NEWS



Markets and Reliability Committee Briefs

PJM not Ready for Vote on Plan to Sell Excess Capacity

WILMINGTON, Del. — PJM officials have gained support for a new method of releasing excess capacity, but told the Markets and Reliability Committee on Thursday they were not sure the plan is ripe for a stakeholder vote.

The RTO procured 10,017 MW of new capacity commitments in the Capacity Performance transition auction for delivery year 2017/18. PJM's Jeff Bastian told the MRC the capacity would likely clear at $0 in February's third incremental auction under current rules — a price PJM and stakeholders agree would ignore the reliability benefits of retaining the capacity.

Direct Energy and NextEra Energy — which had proposed their own formulas last month — said they supported PJM's proposal, under which the RTO would retain more capacity at lower prices but release more at a higher price. The plan would release excess capacity on an upward sloping trajectory, ranging from 0 MW at $10.74/MW-day to all 10,017 MW being available at $144/MW-day.

The PJM Industrial Customer Coalition also said Thursday it supports the change.

Direct Energy's Jeff Whitehead said PJM should bring the issue to a vote at the Market Implementation Committee next month. He said he plans to introduce a problem statement to consider capacity releases for future years.

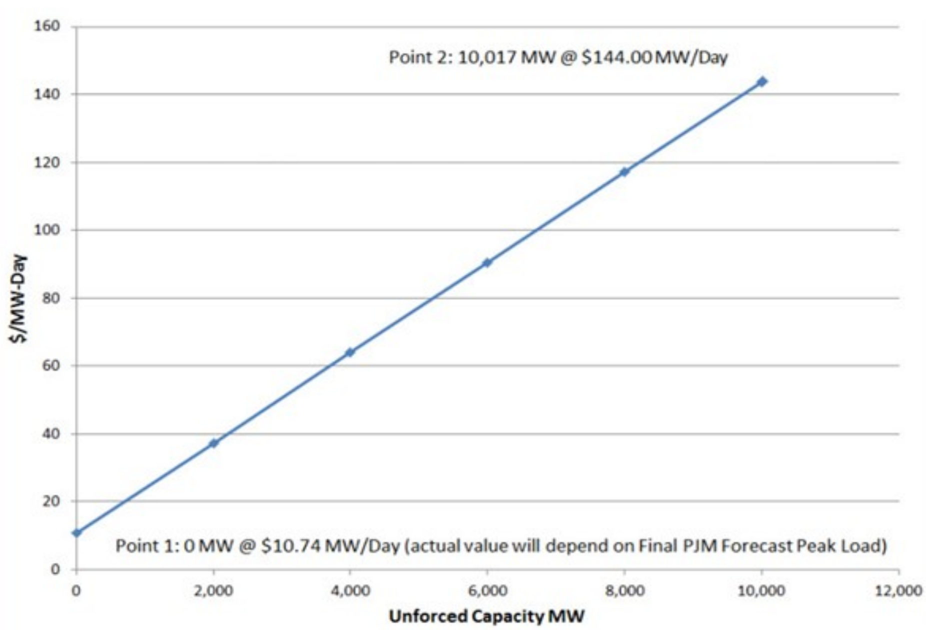
Whitehead said it is very difficult to quantify the additional reliability value of the excess capacity. "We could end up in analysis paralysis," he said in pushing for an MIC vote. "We've been discussing this for a while."

Gabel Associates' Mike Borgatti, representing NextEra, said the PJM proposal has "evolved" and that although it differs from NextEra's proposal, "we're comfortable with this."

But other stakeholders expressed reservations, and PJM's Chantal Hendrzak, the MIC chair, said, "I don't know that we're quite ready" for a September MIC vote.

PJM, which must file its plans for releasing the capacity with FERC by November, first outlined its plan before the MIC earlier this month. (See "Proposal Would Set Higher Prices for Capacity Released in 3rd I.A. for 2017/18," *PJM Market Implementation Committee Briefs*.)

In the third incremental auction for the 2016/17 delivery year, PJM offered 4,818 MW at $0/MW-day but cleared 4,556 MW at an average price of $4.79/MW-day, Bastian said.



Proposed sell-back price of new commitment megawatts *Source: PJM*

Using the same formula for 2017/18, Bastian said, the excess "could well clear at zero."

Calpine's David "Scarp" Scarpignato asked if the sale could be isolated from other transactions during settlement to identify the impact on costs. Bastian said a simulation might be possible, but he wouldn't commit to it.

Jeffrey Levine of ENGIE asked if PJM would consider a stepped offer curve instead of the straight-line slope the RTO proposed.

"Yes," Bastian responded. "This is a stakeholder process."

Gary Greiner of Public Service Enterprise Group also questioned PJM's curve. "I don't think that 'let's start at $10.74 because that's what we paid for it' is a good strategy," he said.

But supporters of the PJM proposal said it would be a step backward to consider different shaped curves.

"We are comfortable with the proposal as presented here today," said Susan Bruce, an attorney representing the PJM Industrial Customer Coalition. "I am a little uncomfortable at the ideas of new curves being" proposed.

"I'm not in a position to argue curves," said Dan Griffiths, executive director of the Consumer Advocates of the PJM States. He said the debate highlighted a bigger concern for ratepayers — PJM's systematic over-procurement. "From way too much [capacity] we're trying to figure out how to get back to just too much," he said.

Independent Market Monitor Joe Bowring made a pitch for his proposal to not release any of the excess, suggesting any release could suppress prices.

No matter the outcome of the release, it will likely incite second-guessing, said Jason Cox of Dynegy: If the price is high, critics will ask why wasn't more capacity offered; if it's low, why wasn't less offered?

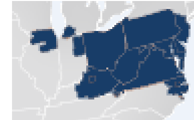
"PJM's in a really tough spot," he said.

Revisions Proposed to Cost Development Procedures

PJM's first read of its proposed fuel-cost policy revisions generated little discussion at the MRC.

Continued on page 15

PJM NEWS



Markets and Reliability Committee Briefs

Continued from page 14

But Bowring predicted the proposal is "very likely to be changed by FERC" because it gives PJM, rather than the Monitor, the power to approve or reject generators' policies. That, Bowring said, would violate the RTO's Tariff.

Bowring also said the revisions, to be contained in Manual 15, were "stretching" the definition of a market seller.

PJM says it will bring the proposal to an MRC vote in September contingent on FERC's approval of its related Aug. 16 compliance filing on implementing hourly offers.

In response to opposition by generators, PJM earlier reduced the proposed penalties for noncompliance with the new rules. (See *Heeding Stakeholders, PJM Reduces Proposed Fuel-Cost Penalties*.)

PJM's Jeff Schmitt also presented the MRC with changes resulting from a biennial review of Manual 15, which are expected to be brought to a vote in September.

Metering Standards Ready for Stakeholder Vote

After identifying gaps in understanding between staff and members on metering procedures, PJM has developed a proposal that would substantially rewrite the Manual 1 language that governs metering.

The "high level of the high-level" changes proposed focus on the definition of accuracy and how to achieve it in every metering capacity, PJM's Ryan Nice said.

To the make the plan "palatable" to members with decades-old infrastructure, PJM is proposing a "tuned-up" grandfather clause. (See "Metering Task Force Presents Proposal to Improve Clarity," *PJM Operating Committee Briefs*.)

All equipment installed after the publication of the manual would be required to be fully compliant with the new metering standard. Equipment installed earlier than 1997 would be exempt from the new requirements. Equipment installed after 1997 but before the manual's publication would have to meet all but a few requirements.

Stakeholders will be asked to endorse the changes at the September MRC.

Manual Changes Approved

The MRC unanimously endorsed the following manual changes:

- Manual 3A: Energy Management System Model Updates and Quality Assurance. Changes reflect administrative and modeling process updates.
- Manual 11: Energy & Ancillary Services Market Operations. Conforming changes, updated references and spelling and grammatical corrections are the result of a periodic review.
- Manual 12: Balancing Operations. Administrative and conforming updates align with NERC reliability standard BAL-001-02, which went into effect July 1, and with the frequency bias calculation in BAL-003-1.
- Manual 14D: Generator Operational Requirements. Changes include updates to the cold weather generation resource preparation section. Amends cold weather testing process effective with winter 2016/17. Generators that cleared as Capacity Performance in the current delivery year will no longer be eligible for compensation for conducting the exercise but may test and receive compensation as a self-scheduled resource. (See "PJM Plans to End Compensation for CP Units Participating in Winter Testing," *PJM Operating Committee Briefs*.)
- Manual 37: Reliability Coordination. Updates are the result of an annual review.

— Rory D. Sweeney and Rich Heidorn Jr.

Proposal to Revisit PJM Capacity Model Receives Tepid Response

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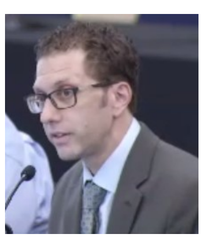
supply side of the house what the opportunity is" in pursuing the discussion.



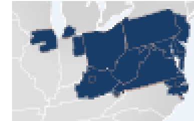
Lieberman

Whitehead acknowledged his company's interests, saying the current uncertainty is undermining competitive retailers' business model. Predictable prices based on market fundamentals, he said, "allows us to contract forward and sleep at night."

Tatum and Steve Lieberman of ODEC said their employers are caught in the middle as load-serving entities that also own generation. This issue "hits us on both sides," Lieberman said.

Continued on page 16

PJM NEWS



FERC Orders PJM TOs to Change Rules on Supplemental Projects

Commission also OKs Excluding Low-Voltage Projects from Competition

By Rich Heidorn Jr.

FERC ruled last week that PJM transmission owners' procedures regarding supplemental projects are not in compliance with Order 890, directing the TOs to file revisions within 60 days (EL16-71).

"As implemented, the transmission planning process governed by the PJM Operating Agreement is not providing stakeholders with the opportunity for early and meaningful input and participation in the transmission planning process, as required by Order No. 890," the commission said.

The commission said it issued the Order to Show Cause because of testimony at a Nov. 12 technical conference. (See *PJM TOs Defend Jurisdiction at FERC Conference*.)

The commission cited complaints by Old Dominion Electric Cooperative and American Municipal Power concerning the TOs' handling of supplemental projects — those not required for compliance with PJM's reliability, operational performance or economic criteria, and not state public policy projects.

"Based on the comments received at the technical conference, it appears that some PJM transmission owners are conducting significant local transmission planning activities before the need for a supplemental project is brought to PJM for discussion in the stakeholder process," the commission said. "In addition, certain of the PJM transmission owners appear to be identifying — and even taking steps toward developing — supplemental projects before providing any opportunity for stakeholders to participate in the development of those projects through the PJM [Regional Transmission Expansion Plan] process."

The commission said the TOs must either propose revisions to the PJM Operating Agreement, revise their portions of the PJM Open Access Transmission Tariff or their individual Open Access Transmission Tariffs, or show cause why they should not be required to do so.

"Assuming that the PJM transmission owners file revisions to the OATT, we estimate that the commission would be able to issue our decision within approximately three months of the filing of such revisions," FERC said.

200-kV Threshold Approved

In a separate order, the commission approved PJM's proposal to exempt reliability upgrades on facilities below 200 kV from competitive windows under Order 1000 (ER16-1335).

PJM said such projects are almost always assigned to incumbent developers, and the change would enable its engineers to focus on problems more likely to result in a competitive greenfield project. (See "Low-Voltage Projects to be Exempted from Competitive Window Process," *MRC & Members Committee Briefs*.)

The commission limited the exemption to projects within a single transmission zone, saying those involving two or more zones must be opened to a proposal window.

FERC also required PJM to clarify how it will identify transmission solutions for reliability violations on facilities below 200 kV. It said PJM must also provide it with reports on those projects for the next two planning cycles to enable the commission to monitor its implementation of the process.

Proposal to Revisit PJM Capacity Model Receives Tepid Response

Continued from page 15

Tatum said AMP likes the opportunity provided by markets to build its own generation or seek cheaper offers by others. "If we can get supply for less than building our own, that's a good thing," he said.

"If the intent is to replace the capacity market with a bilateral approach, I think that is a bad idea."

Joe Bowring, Monitoring Analytics

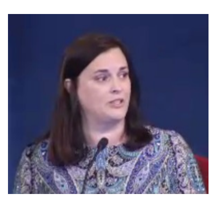
PJM, Monitor Weigh In

PJM officials and Independent Market Monitor Joe Bowring were silent during the 70-minute discussion, until a stakeholder asked for their positions.

"There's no harm in discussing things," Bowring said. "I actually think CP is pretty robust and a pretty good design. It can always be improved.

"If the intent is to replace the capacity market with a bilateral approach," he added after the meeting, "I think that is a bad idea."

PJM CFO and MRC Chair Suzanne Daugherty responded: "PJM believes in the stakeholder process. If the stakeholders support [the initiative], we do also."



Daugherty

Facilitator Sought

A vote on the problem statement could come as soon as next month's MRC meeting.

PJM stakeholders rarely reject problem statements, which require only majority support to proceed. Winning approval for Tariff changes, however, would take a two-thirds sector-weighted vote.

If the problem statement moves forward, Bruce suggested, the discussions should be moderated by a facilitator independent of market participants and PJM. Other stakeholders supported Bruce's request.

"I'm guessing that we're not all looking for the capacity market to do the same thing," she said. "It's beyond 'missing money' at this point."

SPP News

SPP MMU Releases 2015 State of the Market Report

SPP's Market Monitoring Unit filed its 2015 State of the Market report with FERC on Friday, saying the Integrated Marketplace's second year of operation showed "significant maturing," illustrated by high participation, "lower levels of make-whole payments and mitigation compared to other markets, and a modest level of scarcity pricing."

The MMU's report noted the market was affected by low natural gas prices, increasing wind generation and an expanding footprint. The RTO's territory grew about 10% in both generation and load with the October addition of the Integrated System, which covers the Dakotas and parts of several other Upper Midwestern states.

According to the report, average monthly natural gas prices were "generally flat" at about $2.50/MMBtu through September, declining to below $2/MMBtu in December. The energy market's average all-in price was $23.48/MWh.

The MMU said the amount of wind energy continues to increase and represented almost 20% of total SPP generation in November and December. Although congestion declined systemwide, it increased in areas with wind generation.

Coal generation, on the other hand, has declined from a historical average of 60 to 65% to an average of 55% in 2015. In November, coal represented only 45% of SPP's total generation, according to the report.

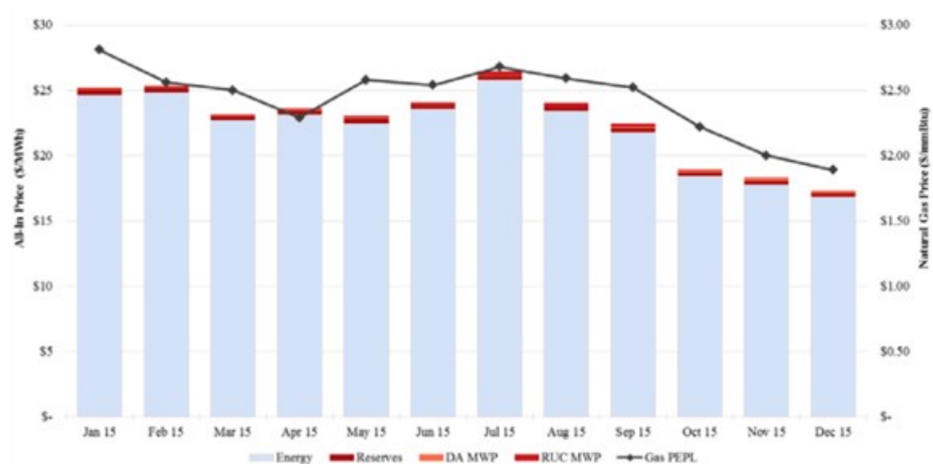
SPP ended the year with 12,398 MW of installed wind capacity, a 44% increase from the 8,606 MW in 2014. The MMU said actual generation resulting from new capacity does not show up in the market for several months after registration, and the full impact of the nearly 4,000 MW in new wind capacity will not be felt until 2016.

"Initial results from 2016 indicate that at times generation is approaching 50% of total load," the MMU said, a "substantial increase" from the 34% average in 2015. SPP's current wind penetration record is 48.32%, set April 5.

The MMU said the market saw a 156-MW increase in installed generation capacity to 67,251 MW. Along with a slightly lower system peak load compared to 2014, that resulted in a small increase in the market resource margin, from 48% in 2014 to 49%.

"Given the large resource margin and the frequency with which the LMP represents inexpensive generation," the report said, "prices generally did not rise to levels high enough to support investment in new generating capacity."

The MMU presented a draft version of the report during the July Board of Directors meeting. (See "MMU Shares Draft State of the Market Report," *SPP Board of Directors and Members Committee Briefs*.)



All-in price of electricity *Source: SPP*

Fitch Affirms SPP's Long-Term Debt at A, Gives Stable Rating

Fitch Ratings on Friday affirmed SPP's long-term issuer default rating (IDR) at "A" and gave the RTO a "stable" rating outlook. Fitch also affirmed SPP's short-term IDR at "F1" and noted the actions affected approximately $268 million in debt.

The agency cited as positives the $66 million in debt maturities being repaid with available cash through 2018 and the $71 million in capital expenditures through 2018, a 19% decrease compared to the prior three years.

Fitch also noted SPP's projection that the addition of the Integrated System will produce $334.1 million in savings over 10 years.

It said the RTO's voluntary membership "is a modest credit concern" but that the departure risk "is mitigated by the requirement that the exiting member pay a fee equal to its share of SPP's outstanding debt and other committed expenses as an 'exit charge.'"

SPP RE Sets Week of Meetings in Oklahoma City

The SPP Regional Entity has room for either in-person or webinar attendance for its fall workshop Sept. 20-21 in Oklahoma City. The workshop is sandwiched between a Regional Compliance Working Group meeting Sept. 19 and an RTO compliance forum Sept. 21-22. All meetings will be held at the Skirvin Hilton Hotel.

— Tom Kleckner

COMPANY BRIEFS

Bankruptcy Court Approves EFH Emergence from Chapter 11

The U.S. Bankruptcy Court for the District of Delaware has approved a reorganization plan that will take Energy Future Holdings' competitive businesses out of Chapter 11 after two years.

In a statement posted on its website Friday, Dallas-based EFH said the bankruptcy judge approved Texas Competitive Energy Holdings' tax-free spinoff of generator Luminant, electric retailer TXU Energy and supporting business services. *The Wall Street Journal* reported that the companies will be taken over by senior lenders, including affiliates of Apollo Global Management, Brookfield Asset Management and Oaktree Capital Management.

EFH said the "Reorganized TCEH," as it will be known in the short term, has already received "a majority of the key regulatory approvals required for emergence," in addition to the bankruptcy court's approval. EFH expects a final approval, related to Luminant's mining operations, from the Railroad Commission of Texas in September.

U.S. Bankruptcy Judge Christopher Sontchi said the plan "was the best possible deal" for EFH to emerge from bankruptcy.

The bankruptcy court's approval doesn't apply to EFH's regulated transmission and distribution provider, Oncor. NextEra Energy has reached an agreement to buy for $18.4 billion the 80% share of Oncor currently owned by EFH and Energy Future Intermediate Holdings, another of EFH's several holding companies. (See *NextEra Reaches Deal for Oncor*.)

A confirmation hearing on the Oncor assets' emergence from bankruptcy is scheduled to begin Dec. 1.

EFH, then known as TXU Corp., was acquired in 2007 by private equity firms KKR & Co., TPG Capital LP and Goldman Sachs Capital Partners through a $45 billion leveraged buyout. Low gas prices have bedeviled EFH ever since, forcing the holding company to file for bankruptcy protection in April 2014.

— Tom Kleckner

DTE Computer Glitch Duplicating Charges

DTE Energy says a glitch in its computers caused customers to be charged multiple times in late August.

One ratepayer said she was charged eight extra times for the same $135 bill, and $1,215 was automatically withdrawn from her account.

DTE said customers who made payments on Friday, Aug. 19, or Monday, Aug. 22, could be affected.

More: *WDIV*

Dominion Virginia Power Proposing $53M Tx Project

Dominion Virginia Power has applied with the Virginia State Corporation Commission to replace the existing 500-kV Carson-Rogers Road Line in Greensville County. The project, if approved, would cost about $52.9 million and be completed in December 2018.

The company says the project will ensure it meets mandatory NERC and PJM reliability standards. The existing line went into service in 1972 and is nearing the end of its service life.

More: *Electric Light & Power*

Westar, Great Plains Shareholders To Vote on Merger in September

Great Plains Energy and Westar Energy shareholders will vote on Great Plains' proposed $12.2 billion acquisition of Westar in separate but concurrent special shareholder meetings Sept. 26. The deal would pay Westar shareholders $51/share plus $9/share in Great Plains stock.

Westar will hold its meeting at the Kansas Expocentre in Topeka, while Great Plains will host shareholders at its Kansas City office. Shareholders as of the close of business on Aug. 22 are entitled to vote. The companies expect most individual shareholders to mail their votes.

The two companies filed a proxy statement Aug. 25 detailing the transaction, which must be approved by stockholders and multiple regulatory agencies. They expect the deal to close next spring.

More: *The Topeka Capital-Journal*

PSO Names 40-Year Veteran As VP of Generation Group

Public Service Company of Oklahoma last week named Tommy Slater as vice president of the company's generating assets. Slater, currently a plant manager at sister company Southwestern Electric Power Co.'s Welsh Plant in Texas, replaces Gary Knight, who is retiring after 35 years with PSO.

Prior to his 2010 appointment as manager at Welsh, Slater worked as a start-up engineer, plant shift supervisor and manager for SWEPCO's regional engineering organization.

Slater has a bachelor's degree in mechanical engineering from the University of Texas at Arlington and is a registered professional engineer in Texas.

More: *Public Service Company of Oklahoma*

FEDERAL BRIEFS

EPA's Case Against Ameren Missouri Begins

Lawyers representing EPA last week argued that multimillion-dollar boiler upgrades in 2007 and 2010 at Ameren Missouri's Rush Island facilities south of St. Louis should have required a permit and review process under the Clean Air Act.

In the 1990s, Ameren decided to switch to a new, ultra-low-sulfur coal rather than install new controls. This resulted in operational problems, leading the company to make $72 million worth of upgrades, including boiler modifications and a new turbine. It also led, EPA argued, to increased electricity output and, thus, increased emissions.

James W. Beers Jr., of the Justice Department's Environment and Natural Resources Division, argued that the upgrades are new sources of pollution and should be subjected to more rigid emissions limits. He said that

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FEDERAL BRIEFS

Continued from page 18

Ameren should have to install new sulfur dioxide controls at the plants. Ameren said the improvements were part of routine maintenance and should not fall under Clean Air Act standards. The company also argued that EPA cannot prove that the rise in emissions resulted from the upgrades and not from increased electricity demand.

More: St. Louis Post-Dispatch

Ginna Cited by NRC For Document Error

Federal regulators have cited R.E. Ginna nuclear plant owner Exelon for a safety violation because the station's emergency plan contained a sentence that misused less-than symbols.

If a serious accident had occurred, the written emergency management decision flowchart could have led control room operators to mistakenly call for a mass evacuation, according to the Nuclear Regulatory Commission. The mistake proved harmless, as there was no serious accident during the two-and-a-half years the error existed in the tree-like graph, intended to support decision-making during critical incidents.

The mistake was discovered by an Exelon supervisor this spring as plant personnel prepared for an emergency drill. The commission classified the error as a low-to-moderate level violation.

More: Democrat and Chronicle

FAA Stands by its Greenlight For Proposed Wind Farm

The Federal Aviation Administration is standing by its previous determination that the proposed Chapman Ranch wind farm in South Texas would "not have an adverse effect on the safe and efficient use of the navigable airspace" primarily used by the U.S. Navy for training pilots out of Kingsville and Corpus Christi.

The administration's decision, along with an agreement between the Navy and developer Apex Clean Energy, still leaves unresolved concerns that the wind farm may make the area less attractive to the military for training. The agreement allows the Navy to shut down the wind farm's operation any time it interferes with its operations, according to John Kelley, who represents the Chapman family.

The Corpus Christi City Council, which annexed lands to assert some control over the facility's development, responded to FAA's decision by stripping $14 million from next year's budget for capital improvement projects for the newly annexed land.

More: Corpus Christi Caller-Times; Corpus Christi Caller-Times

TVA Files for Uprates At Browns Ferry Plant

The Tennessee Valley Authority has filed a request with the Nuclear Regulatory Commission to allow power uprates at its Browns Ferry Nuclear Plant.

The Blue Ridge Environmental Defense League opposes the request, saying that TVA's calculation "under-predicts the reaction of zirconium and steam that would occur in a loss-of-coolant accident."

"NRC should seek to reduce, not increase, the risk of loss of coolant that will melt the fuel rods leading to meltdown and released radiation," said Gary Morgan of the group's Scottsboro-based chapter.

More: The Chattanoogan

Fracking Tied to Migraines, Fatigue, Study Says

A study in *Environmental Health Perspectives* drew a connection between living near shale gas wells and an increased rate of migraines, fatigue and sinus problems. The report, based on 7,785 randomly selected patients of a Pennsylvania health system, showed that those living closest to fracking sites were 49 to 95% more likely to show signs of chronic sinusitis, migraines and fatigue.

The senior author, Dr. Brian S. Schwartz, admitted there could be other variables and said the study was observational, not one that proved cause and effect.

However, he said, "there have now been seven or eight studies with different designs and in different populations, and while none is perfect, there is now a growing body of evidence that this industry is associated with impacts on health that are biologically plausible. Do we know the exact mechanism? No. That requires further study."

More: The New York Times

Renewable Production Beat Records Each Month of 2016

Renewable energy production set new records each month of 2016, according to the Energy Information Administration.

The measures run through June and include utility-scale wind, solar, hydro, geothermal and biomass plants larger than 1 MW. The records were attained despite low numbers for hydro because of the drought in the West. And while most renewables have been increasing their share, hydro's share has remained unchanged for the past 20 years.

More: Greentech Media

Tesla Wins FTC Approval To Buy SolarCity

The Federal Trade Commission approved Tesla Motors acquisition of the home solar installation company SolarCity, a move the car manufacturing company said would further its goal of providing a one-stop shop for solar panels, home battery storage and electric cars.

The $2.6 billion transaction, announced earlier this month, still needs other regulatory approvals, but SolarCity said it hopes the deal closes by the end of the year.

More: Reuters

BLM Leasing Program Draws Opposition

Environmentalists are challenging a Bureau of Land Management plan to lease more than 19,000 acres of federal land in Montana for oil and gas exploration.

WildEarth Guardians says BLM officials have failed to consider the climate damage done by fossil fuel development. The Center for Biological Diversity and the Theodore Roosevelt Conservation Partnership have also filed protests on the proposed lease, which is slated for auction Oct. 18 in Billings.

The group has been aggressively challenging BLM leases in several Western states, including Wyoming, Colorado and Utah, on grounds similar to those cited by the group in Montana. BLM has leased more than 800,000 acres of federal land for oil and gas development last year alone.

More: Billings Gazette

STATE BRIEFS

CALIFORNIA

Riverside County Looks To Create Power Supplier

Riverside County officials are advancing a plan to create an alternative retail electricity supplier that would supplant Southern California Edison in unincorporated areas of the county. The officials say that the community choice aggregator, which would purchase power directly from producers, would allow county residents to lower their costs and increase reliance on renewables.

The county plans to engage a third-party consultant to develop and run the program, which would require approval from the state's Public Utilities Commission. Residents and businesses will be automatically enrolled in the program but could opt out and continue using SCE if they choose. Incorporated communities would have the option to join up after the program is implemented.

Community choice aggregators are authorized under a 2002 state law. Though only four have been formed, renewable advocates are promoting them as a mechanism to allow communities to have more control over the source of their electrical power.

More: The Desert Sun

INDIANA

Regulators Approve 2% Hike to Help Duke Plant

Regulators have approved a 2% rate hike for Duke Energy customers to help the company pay for its beleaguered Edwardsport coal-gasification plant.

Under a settlement, Duke will pay $87.5 million of deferred operating costs dating from when the plant went into service in 2013. The plant's price tag has climbed to $3.5 billion from its original estimate of $1.9 billion.

The settlement was supported by the state Office of Utility Consumer Counselor, along with industrial customers, environmentalists and consumer advocates. It would result in an additional $1.83/month for the typical residential customer. The company has absorbed about $900 million in construction overruns on the plant.

More: The Associated Press

IOWA

IUB Denies Permanent Stay to Dakota Access Construction


Huser

The Utilities Board unanimously denied landowners' request for a permanent stay of construction of the Dakota Access pipeline pending a court ruling on whether eminent domain can be used to access their properties.

The board heard about 45 minutes of testimony before deliberating in closed session. When it returned to open session, Chair Geri Huser said the board found that the potential harm of a permanent stay outweighed the potential benefits, as it found little chance of success in the petitioners' complaint before the Polk County District Court.

The landowners had requested an emergency session of the board to hear their request. But Huser said "any apparent emergency that may exist was created by the petitioners' own actions and their own decisions." The board did extend a temporary stay currently in place until 9 a.m. Monday to give the landowners time to file an appeal in court. Commissioner Nick Wagner voted against the extension.

More: Radio Iowa

MARYLAND

PSC Holding Hearings On PEPCO Rate Hike

The Public Service Commission has scheduled two public hearings to discuss PEPCO's request to increase its electric distribution rate by $104 million for 560,000 customers in Prince George's and Montgomery counties. A typical residential customer would pay $13 more a month under the proposed rate (Case No. 9418).

Hearings will be Sept. 6 at the Montgomery County Executive Building in Rockville, Md., and Sept. 8 at Prince George's Community College in Largo, Md.

More: Maryland Public Service Commission

NRG Settles Wastewater Pollution Suit with State


The Chalk Point plant, on the Patuxent River

NRG Energy will pay $1 million to settle a lawsuit alleging two coal-fired plants illegally released high levels of nitrogen in wastewater.

The state filed suit in 2013 alleging NRG's Chalk Point and Dickerson stations discharged illegal amounts of nitrogen and phosphorus into the Potomac and Patuxent rivers. The chemicals have been blamed for feeding algae that suck oxygen out of the Chesapeake Bay, creating dead zones for fish, crabs and vegetation.

In some years, the state said, the Chalk Point plant released 20 times as much nitrogen as its permit allowed. NRG will also pay $1 million to fund environmental restoration projects and invest $10 million to upgrade the wastewater systems at the two plants.

More: The Washington Post

MICHIGAN

State Energy Committee Hears Reliability Concerns

Public Service Commission Chair Sally Talberg told the Senate Energy Committee last week that the state would go "dark" in 10 years if policymakers did not address an impending electricity shortage.

The committee discussed the PSC's recent five-year outlook, which predicts reliability challenges during peak demand in the Lower Peninsula, although it forecasts the state will meet minimum reliability standards through imports for the foreseeable future.

State Sen. Mike Shirkey (R) downplayed the report, telling reporters it could be "ripe with people cherry picking pieces of information and then reframing them to advance their narrative."

More: The Detroit News

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STATE BRIEFS

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MONTANA

Residents Asked to Conserve Water to Help Colstrip Plant

Colstrip residents were asked to limit their water use so the nearby power plant can continue to safely operate. The notice came at the request of Talen Energy, which operates the 2,100-MW plant.

Colstrip Mayor John Williams asked the city's 2,300 residents to minimize their use of water for sprinkling and irrigation through the end of August. Williams said low water levels and high temperatures have caused problems with Talen's water intake system on the Yellowstone River.

More: *Billings Gazette*

NEBRASKA

Lincoln Electric Plans to Show off New Solar Farm in September

Lincoln Electric System will dedicate the state's first commercial solar energy park next month and commemorate the event with tours for customers who helped finance the project.

The utility's SunShares program allows about 1,200 enrolled customers to pay extra on their monthly bills to support solar energy.

The 5-MW, $8.9 million community solar project is owned by developer Enerparc. LES has a 20-year contract to buy power from the company. Construction began in March, and it went online in late June, producing enough electricity to power about 900 homes.

More: *Lincoln Journal Star*

NEW JERSEY

Rate Counsel Against JCP&L Tx Spin-off Plan

The Division of Rate Counsel said it will argue against FirstEnergy's plan to spin off Jersey Central Power & Light's transmission facilities into a new company to be called Mid-Atlantic Interstate Transmission. The assets include about 2,500 miles of transmission lines and towers.

"We believe that ratepayers are getting the short end of the stick because MAIT is getting these at a very, very favorable price," said Stefanie Brand, the division's director.

More: *Asbury Park Press*

NEW MEXICO

Regulators Reopen PNM Rate Case, Face Criticism

The Public Regulation Commission is being criticized for its decision last week to reopen hearings for Public Service Company of New Mexico (PNM)'s proposed rate increase. Commissioners said that the case could be extended through December if the utility decides to submit more evidence showing that its energy investments are prudent.

Reopening the proceedings, which began in April, would undermine a determination earlier this month by hearing officer Carolyn Glick, who recommended a 6% increase rather than the 15.8% increase PNM is seeking to cover some $123.5 million in costs. The company has threatened to go to court if the lower increase is approved.

Intervenors said Aug. 25 that the PRC's decision gives the company too much leeway. If the case is reopened, it would be PNM's third opportunity this year to provide proof that its investments are fair for ratepayers.

More: *The Santa Fe New Mexican*

NEW YORK

Entergy Would Get Termination Fee if FitzPatrick Sale Fizzles

The New York Power Authority will pay Entergy a $35 million termination fee if the sale of the FitzPatrick nuclear plant to Exelon falls through.

According to spokesman Steven Gosset, NYPA established a $35 million letter of credit that will pay Entergy if the PSC does not approve the sale to Exelon by Nov. 18. Entergy also would get the money if the New York State Energy Research and Development Authority fails to sign a contract by Nov. 18 that guarantees nuclear subsidies for FitzPatrick.

Both of those scenarios, and others that would trigger the fee, are unlikely, said Gosset, who declined to provide a copy of the letter. Entergy also declined to comment on the agreement.

More: *syracuse.com*

NORTH DAKOTA

University, Energy Companies Partner in Carbon-Capture Efforts

Hoeven

A diverse group of energy businesses are partnering with the University of North Dakota to develop carbon capture and sequestration technology.

ALLETE Clean Energy, Minnkota Power Cooperative and BNI Energy signed a memorandum of understanding with the university's Energy and Environmental Research Center to submit a bid to the U.S. Department of Energy for a proposal they call Project Tundra, which aims to devise a way to reduce carbon dioxide emissions from existing coal-fired plants.

U.S. Sen. John Hoeven (R) said he had worked to secure $30 million to assist in the development of commercially viable and retrofittable CCS technology. The bill has passed in the Senate and now awaits House approval, Hoeven said.

More: *Forum News Service*

OHIO

AEP Asks PUCO for Distribution Hike to Counter Residential Solar

American Electric Power has asked the Public Utilities Commission for permission to increase the fixed monthly distribution charges for all of its customers to make up for the number of residential customers who are installing rooftop solar and energy efficient technology.

AEP Ohio says it has seen the number of solar net metering customers rise from 286 in 2011 to 983. AEP is asking to increase the average customer charge from $8.40 to $18.40.

"This increase in net metering customers is currently resulting in a shift of the recovery

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STATE BRIEFS

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of fixed costs from net metering customers to non-net metering customers," company spokeswoman Terri Flora said. The hike wouldn't result in any more revenue for the company, Flora said, but opponents say the increase would discourage installing solar distributed resources.

More: *Midwest Energy News*

OKLAHOMA

Regulators Hear Arguments On PSO's $130M Rate Case

The Corporation Commission last week heard arguments in the long delayed matter over Public Service Company of Oklahoma (PSO)'s requested $130 million electric rate increase. Consumer advocates argue that existing rates should be cut by up to $7 million, and an administrative law judge recommended a nominal rate increase of $676,000.

PSO filed the rate case in July 2015, and the company implemented an interim $75 million rate increase in January after it did not receive a final decision within the required six-month time period. The interim rate increase is subject to refund if the commission finds the utility wasn't entitled to the extra revenue.

The company said the rate increase was needed to recover $453 million in system investments from February 2014 to July 2015. The utility also spent another $215 million this year on plant upgrades to meet federal environmental regulations.

More: *The Oklahoman*

SOUTH DAKOTA

PUC Gathering Input on Proposed 201-MW Wind Farm

About 300 people attended a public meeting held by the Public Utilities Commission to gather comments on a proposed wind farm north of Avon.

The 201-MW wind farm, proposed by developer Prevailing Winds, would have 100 turbines generating up to 860 GWh annually. Company representatives gave a presentation about the project and argued for the need for more wind power.

The project has generated opposition from some neighboring landowners. Some see the turbines as "eyesores," while the others said they were concerned about potential health effects.

More: *Yankton Daily Press & Dakotan*

TEXAS

Lawmakers Urged to End Coal Company Self-Bonding

Environmental advocates at a Sunset Advisory Commission hearing on the Railroad Commission urged state lawmakers to require coal companies to set aside resources to cover the cost of cleaning up mines. Coal companies are currently allowed to self-bond, a process that could leave residents on the hook for more than $250 million in environmental cleanup costs if the companies renege on their obligations.

The state currently allows four coal mining companies to self-insure the cost of cleaning up seven strip mine operations. With the coal industry's financial challenges, experts say taxpayers are at risk.

The Sunset Commission, which assesses the continued need for state agencies, held the hearing to get feedback on a scathing report published in April by its staff advisory committee on the inefficiencies and inadequacies of the Railroad Commission, which, despite its name, regulates energy extraction industries in the state.

More: *The Texas Observer*

WEST VIRGINIA

FirstEnergy Asking for $6.9 Million Surcharge

FirstEnergy asked state regulators to approve a $6.9 million rate surcharge for MonPower and Potomac Edison customers to pay for upgrades at two coal-fired plants.

The requests were made possible by a coal-industry supported bill approved five months ago, which allowed utilities to pass through costs for upgrading their coal-fired plants without having to go through a formal rate proceeding. At the time the bill was introduced, FirstEnergy said it didn't have any plans to use the provision.

The total cost of the upgrades at the Harrison and Fort Martin plants will be more than $76 million, according to company filings. The surcharges, if approved, will increase a typical residential customer's rates about $6.60 per year.

More: *Charleston Gazette-Mail*

Wildlife Refuge Preps for Trial Against ATC Clear-Cut

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clear-cut a 50-foot easement into the 5-acre wildlife sanctuary for a 138-kV transmission line.

On Aug. 15, ATC's motion to dismiss the case was denied by Walworth County Circuit Court, which also imposed a temporary restraining order preventing the company from cutting any trees or applying herbicides on the hospital's property pending a four-day trial scheduled for Oct. 10.

Fellow Mortals' lawyer Robert Kennedy, of law firm Rizzo & Diersen in Kenosha, said he plans to argue that the 1970 easement — between the property's previous owners and ATC predecessor Wisconsin Power and Light — is ambiguous and intends that trees should be cut only if ATC's lines are in danger.

'Tough Case'

"We have a very tough case ahead because in one interpretation, we have a 50-year-old easement that does state that ATC can cut down any trees they want," Kennedy said. "Our argument is the trees do not pose a threat."

Kennedy said if ATC is allowed to clear-cut, it's "very likely" that Fellow Mortals would have to shut down the sanctuary.

"ATC does not think Fellow Mortals is unique enough to warrant an exception, yet wildlife rehabilitation itself is an endangered resource," said Yvonne Blane, who first opened the hospital with her husband, Steven, from their home in the mid-1980s before selecting the current location in

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Wildlife Refuge Preps for Trial Against ATC Clear-Cut

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1994.

According to Blane, there were 229 licensed wildlife rehabilitators in Wisconsin in 2001; today there are 110. "Honestly, there aren't a whole lot of wildlife hospitals like us left," Blane said.

Blane said Fellow Mortals' acreage used to be part of a farm that was split up following a house fire. "That simple farmer signed that easement so long ago because he had a kind heart. I don't think he ever dreamed this would have happened," she said. "I don't think people think about easements, and this is a cautionary tale. Never ever find out later what contracts are tied to your property."

Blane said she receives a letter from ATC "every few years" notifying them of trimming. Near the first of the year, Blane said she received another letter and assumed it was for routine trimming. "We worked with them in the past, and they've always been great," she said.

However, Blane said she woke up one morning in February to see the area partitioned off with orange tape and blue X's spray-painted on several trees.

"It's a tremendous amount of wildlife habitat that they could be destroying," said Kennedy, who first came across the hospital years ago when he brought in two orphaned woodchuck cubs.

Vegetation Management Plan

ATC says its vegetation management plan will minimize service interruptions and create access for maintenance, and that pruning trees, as has been done in the past, is less efficient than cutting the tall-growing vegetation on a regular rotation.

The company, which spoke to local media earlier in the dispute, is no longer commenting because of the litigation. Spokesperson Alissa Braatz would only say that the company is "removing all incompatible vegetation from the easement area for safety and reliability purposes."

View of the vegetation at Fellow Mortals from Palmer Road *© Google*

The Blanes say that mature trees and dense undergrowth on the easement are necessary to provide the animals a buffer against wind, snow and noise from the adjacent road.

They also say they are willing to pay for trimming. An estimated 100-year-old Norway spruce, or "Grandfather Spruce" as Fellow Mortals staff refer to it, has been periodically trimmed for the nearly 50 years the easement has been in place, most recently in 2009.

"The idea is to keep these animals segregated from humans as much as possible," Kennedy said.

The Blanes posted photos on Facebook to show the spruce in winter, when it "alone buffers the wind and snow and noise and provides screening and privacy" for the wildlife. There is additional cover from young walnut trees and other vegetation "during the busy summer months, when traffic on rural Palmer Road is nearly constant," they wrote.

Hawks, Woodchucks and Deer

Unlike other animal rescue facilities that transfer wildlife elsewhere for care and rehabilitation, Fellow Mortals keeps its animals from the time they are admitted to when they're released. Over the years, its patient list has included owls, hawks, rabbits, woodchucks, beavers and deer. The Blanes and their small staff have treated 1,400 animals so far in 2016.

Blane said the hospital treats about five large birds per year, including cranes that are admitted with leg fractures from colliding with transmission lines. She said the hospital has spent about $25,000 in donations so far on the case, and she regrets it can't be spent on the "hundreds" of animals currently in the hospital's care.

"We bought [the property] for the trees and the location," Blane said. "Everything has been built around the property we chose. We were offered other property for free and turned it down. We created a very special place here that we thought would be around for a long time."

Room for Settlement?

The couple argues that no power interruption incidents have ever occurred on their premises.

According to the Blanes, the spruce was recently examined by a certified master arborist and given a low risk of falling. Kennedy said he is prepared to call on a tree expert who can testify the spruce is "solid as a rock" and any weather event that causes the tree to fall would also cause severe damage to ATC's lines.

Their attorney says the only suggestion ATC has offered Fellow Mortals in the dispute is not much of a compromise: The company has offered to plant low-lying vegetation after the trees are removed. Kennedy says that is not an option.

"We would accept some trimming, but we have pictures of the clear-cutting they've

'Grandfather Spruce' in the summer (left) and the winter. *Source: Fellow Mortals Wildlife Hospital*

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Wildlife Refuge Preps for Trial Against ATC Clear-Cut

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done in other places. It looks like a Brontosaurus rampaged it," he said.

"There's no question that it's more profitable for ATC to clear rather than trim periodically. If you clear-cut, you can wait 20 years before sending crews back out. But it's a cost-saving measure on the backs of all these landowners with nice forested areas," Kennedy said.

Town Weighs In

The hospital's online petition protesting ATC's plans has gathered more than 86,000 supporters, nearing their 90,000 goal. It also gained an ally in the town of Geneva, which has an ordinance that requires town approval for all tree cutting and sharply restricts clear-cutting.

"As I am sure you are also aware," Town Attorney Richard W. Torhorst wrote in a June 9 letter to ATC, "the Federal Energy Regulatory Commission takes the position that best practices relating to vegetation management does not require clear-cutting along the right of way."

ATC attorney Christopher Zibart fired back with a letter the following day saying that the company recognized the state Public Service Commission — and not the town — as having "the authority to regulate this core public utility function."

Zibart also swatted away Torhorst's reference to FERC, noting that ATC's line X-55 is below FERC's 200-kV voltage threshold.

"In any event, the FERC does not manage specific vegetation practices and has stated that it does not 'mandate nor prohibit' removal of trees," Zibart continued. "Where, as here, the specific trees in the right of way are incompatible with the line (they will continue to grow back into the lines and would not likely survive whatever 'trimming' could be done), it is best to remove them."

The town attorney acknowledged that the town's ordinance does give public utilities an exemption from obtaining a permit for tree trimming, but he said ATC is "not exempt from the prohibition against clear-cutting," which allows exceptions only for residential properties.

'Positive Balance'

ATC's Braatz told local website MyWalworthCounty.com in June that the company hopes to reach a settlement that would include "compatible vegetation and fencing to help create the privacy and noise buffering that they desire." The company has a Web page illustrating the low-lying plants it recommends for rights of way.

"We believe this would accomplish a positive balance between ATC's responsibility for ensuring safe and reliable electric service and the Fellow Mortals' compassion and commitment for healing wildlife," she said.

"I think what ATC is doing is unethical and not community-minded, and I think there are employees in the company who are uncomfortable with how far this has gone," Blane said. "I don't know why it's so important for ATC to be right except they might be afraid that this is going to set a precedent.

"The voltage has remained the same. The poles have remained the same. The only thing that's changed is ATC's policy."

California Legislature Approves Bill to Sharply Reduce GHG Emissions

Continued from page 1

that required the state to reduce its emission to 1990 levels by 2020. It also codifies an executive order issued last year by Brown, making it more difficult for a future governor to roll back efforts to reduce the state's emissions.

"Today, the Assembly speaker, most Democrats and one brave Republican passed SB 32, rejecting the brazen deception of the oil lobby and their Trump-inspired allies who deny science and fight every reasonable effort to curb global warming," Brown said in a statement in response to the Assembly's vote.


Pavley

"Today's action sends an unmistakable signal to investors of California's commitment to clean energy and clean air," said Sen. Fran Pavley (D), author of the bill. "This will trigger more investment and more jobs in our thriving clean-energy sector and solidify California's leadership in demonstrating to the world that we can combat climate change while also spurring economic growth."

The bill affects the electric, manufacturing and transportation sectors. The state Air Resources Board (ARB) will determine specific reductions by industry.

Utilities — which could benefit from the electrification of the transportation fleet — have not opposed the bill and have been preparing for the change since last year's executive order. The state's renewable portfolio standard — 50% by 2030 — is expected to generate most of the needed reductions for the power sector. (See *California Policy Goals to Require Significant Transmission Upgrades*.)

The oil industry lobbied hard against the legislation, which faced uncertainty since stalling in the Assembly last summer. Prospects soured after a group of Democrats representing low-income communities opposed the bill based on concerns that efforts to reduce the carbon content in gasoline would translate into higher fuel prices, which disproportionately affect people with lower incomes. Some lawmakers also complained that the bill provided the ARB with too much latitude to develop and implement emission-reduction programs without sufficient public oversight.

To address both concerns, the legislature last week passed a companion bill (AB 197) that will put two legislators on the ARB as nonvoting members and require the board to report annually to a newly created joint legislative committee on climate change policies. It also directs the ARB to prioritize emissions rules and regulations that limit economic impact on the state's disadvantaged communities and regions reliant on agriculture.

Implementation of SB 32 was contingent on the passage of AB 197.

The current version of SB 32 does not extend the state's cap-and-trade system, which is set to expire after 2020. The California Chamber of Commerce is challenging the program in court, contending that the emissions trading scheme constitutes a tax requiring approval by a two-thirds majority of the legislature.

That legal uncertainty has undermined investor confidence in the market for California carbon credits. The ARB-run auction Aug. 16 saw buyers pick up less than 35% of available allowances, following a dismal 10.5% showing in May. Previous auctions have typically been fully subscribed, providing significant revenues for the state.

Still, in light of last week's Assembly vote, Brown expressed optimism about the program.

"With these bills, California's charting a clear path on climate beyond 2020 and we'll continue to work to shore up the cap-and-trade program, reduce super pollutants and direct more investment to disadvantaged communities," Brown said.