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Bay Resigns After Trump Taps LaFleur as Acting FERC Chair

By Rich Heidorn Jr. and Ted Caddell

LaFleur and Bay are sworn into their Senate confirmation hearing in May 2014.

WASHINGTON — President Trump on Thursday appointed Commissioner Cheryl LaFleur as acting FERC chair, replacing Norman Bay.

Hours after the announcement, Bay said he would resign his post Feb. 3, 16 months before the end of his term.

Bay's departure, announced in a six-page letter reciting the agency's recent accomplishments, will leave the commission with only LaFleur and fellow Democrat Colette Honorable — one member short of the three-person quorum required to issue other than routine orders.

That will add urgency to the need to fill the three vacant Republican seats on the five-member panel. It could allow the reappointment of Honorable, whose term expires June 30 and was otherwise expected to be

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Backlog, Delays Feared as FERC Loses Quorum

By Ted Caddell

The resignation of former FERC Chairman Norman Bay means the agency will be unable to act on major orders and rulemakings for months, although it can continue to issue routine decisions under authority delegated to office directors.

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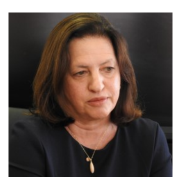
New York REV Won't Lose Momentum, Departing Zibelman Says

By William Opalka


Zibelman | *© RTO Insider*

ALBANY, N.Y. — Audrey Zibelman was brought from Pennsylvania to New York in 2013 to lead Gov. Andrew Cuomo's Reforming the Energy Vision initiative. But as she prepares to leave, Zibelman insists the ambitious program will survive her departure.

Zibelman surprised the state's energy industry when her new employer, the Australian Energy Market Operator, announced her hiring a week ago. (See *NYPSC Chair to Head Australia Grid Operator*.)

At a news conference after the New York Public Service Commission's meeting on Tuesday last week, she said the offer was made barely a week before the meeting. She will preside over two more commission sessions, with her more than three-year tenure

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PJM to Review Impact of State Public Policies on RPM

Capacity (Re)construct?

By Rory D. Sweeney

WILMINGTON, Del. — Following months of debate on the scope of the undertaking, a coalition of load-serving stakeholders won approval at Thursday's PJM Markets and Reliability Committee meeting to review the capacity market construct.

Overcoming what had appeared to be strong opposition, the problem statement and issue charge were endorsed with a sped-up timetable revised to make potential changes in time for the 2018 Base Residual Auction.

The initiative cites the aborted power purchase agreements for FirstEnergy and American Electric Power in Ohio and the zero-emission credits approved for nuclear plants in Illinois as examples of the impacts public policy initiatives may pose to price formation in the capacity market. It notes a pending complaint by Calpine asking FERC to impose the minimum offer price rule (MOPR) on existing generation. (See *FERC Rescinds AEP, FirstEnergy Affiliate-Sales Waivers*.)

"The failure to successfully anticipate these

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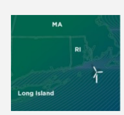

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Bay Resigns After Trump Taps LaFleur as Acting FERC Chair

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replaced by a Republican.

Calling his service on the commission "the greatest honor and privilege of my professional life," Bay praised his fellow commissioners and the "dedicated and talented career staff" with whom he had worked.

"The last few years have brought dramatic change to the energy space. The shale revolution and an abundance of low-priced natural gas, technological innovation, the expanded use of renewable energy, increased energy efficiency and flat load growth, state and federal public policy, and consumer choice have been drivers for change," Bay said. "As chairman, I have sought to help consumers realize the benefits from this change, while assisting the wholesale markets and industry in adapting to the change and maintaining just and reasonable rates and reliability."

LaFleur's Focus

LaFleur said she will remain focused on the same priorities as before: system reliability, grid security, transmission, energy supply diversity "and trying to adapt competitive markets to some of the state initiatives that we've seen."

"While I recognize that FERC is in a state of transition as we await nominations to fill vacant seats at the agency, it is important that FERC's work on the nation's energy markets and infrastructure move forward," she said in a statement. "I would particularly like to thank Chairman Norman Bay for his leadership of the commission over the past two years, and I look forward to working with him, Commissioner Colette Honorable, the terrific staff throughout the agency and future colleagues at FERC to continue to address the important energy issues facing our nation."

Honorable issued a statement Monday praising Bay for his "grace and humility."

"His leadership was critical for our continued work on gas and electric coordination, competitive transmission development, price formation and energy storage," she said. "The utility sector is in the midst of profound change, and former Chairman Bay made certain that the commission kept pace and did not leave consumers behind."

Republican Distrust

LaFleur's appointment as acting chair suggests Bay never overcame the distrust of Republican congressional leaders, who had sought to keep LaFleur in the top spot she had ascended to after Jon Wellinghoff's departure in November 2013.

President Barack Obama nominated Bay as chairman in a move engineered by then-Senate Majority Leader Harry Reid (D-Nev.), who publicly said he did not want LaFleur as chairman.

Bay was confirmed on a 52-45 party-line vote in July 2014, following a deal with the White House that delayed his move to the chairmanship for nine months. LaFleur was confirmed to a second term at the same time by a 90-7 vote.

The deal was a concession to those who questioned why Bay — who had served as director of FERC's Office of Enforcement since 2009 but had never served as a state utility regulator — would be appointed directly to the chairmanship over LaFleur, a former utility executive who has served on the commission since 2010. The last five chairmen before then had served a median of 30 months before becoming chair.

Bay also came under fire for what some energy lawyers and legislators called his heavy-handed running of the commission's enforcement division.

Bay's appointment to the chairmanship was strongly opposed by Sen. Lisa Murkowski (R-Alaska), ranking member at the time, now chairman of the Senate Energy and Natural Resources Committee. Sen. Mitch McConnell (R-Ky.), now Senate majority leader, said he feared Bay would be a "rubber stamp for the [Obama] administration's anti-coal agenda." (See *At FERC, Uncertainty Remains Despite Norman Bay's Nod*.)

Republican Majority Coming

LaFleur acknowledged that her return to the center seat at the commissioners' table is likely temporary. In a podcast posted Monday, she said that her appointment and

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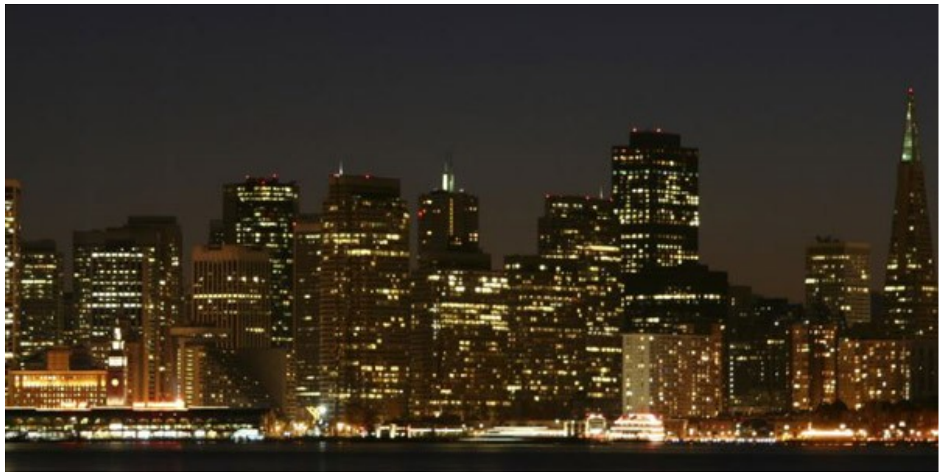
CAISO NEWS

CAISO Kicks off Effort to Procure Black Start Resources

By Robert Mullin



CAISO's black start procurement initiative was prompted by the need to better prepare the transmission-constrained San Francisco area for system restoration. | *San Francisco Travel*

A new, "expedited" CAISO initiative seeks to establish a process for selecting and procuring black start resources, needed to restore segments of California's transmission system in the event of regional outages.

The effort will follow an ambitious timeline: The ISO hopes to present a plan to its Board of Governors for approval in May.

The initiative represents the second phase of a 2013 undertaking to address NERC reliability standard EOP-005-2, which required transmission operators to draw up plans for system restoration in the event of widespread blackouts.

The ISO decided to explore the procurement issue after identifying a need for additional black start resources in the transmission-constrained San Francisco Bay Area.

"This need is the impetus for this stakeholder initiative," Scott Vaughan, CAISO lead grid assets engineer, said during a Jan. 24 call to kick off the effort.

CAISO staff have determined that, unlike in Southern California, where black start resources are more evenly distributed near major load centers and can provide more rapid restoration, resources serving the Bay Area are relatively far from population centers.

Under current practice, ISO and transmission owner restoration plans rely on black start resources either owned by a utility or acquired through a long-term contract. For a TO plan, a utility is able to recover the costs for resources through retail rates. Generation providing black start capability under the ISO's plans are subject to a three-party agreement among the ISO, the applicable TO and the generator for a zero-price term.

Still, CAISO's Tariff allows it to enter into black start service contracts for payment. If specific costs are not outlined in a contract, then the resource will be paid as exceptional — or out-of-market — dispatch and is entitled to bid cost recovery. The Tariff also outlines that scheduling coordinators can be required to pay for the service.

The new initiative would likely modify the current approach to procuring black start capability by ensuring that costs are spread beyond just the transmission-owning utility.

"Any such procurement would benefit all transmission customers in the area, yet may not result in the allocation of costs to all transmission customers if procured by the investor-owned utility," said an ISO issue paper, released Jan. 17, in reference to the Bay Area's specific need. "For instance, non-bundled customers taking service from a community choice aggregator, electric service provider or municipal utility in the area that rely on the black start capability may not face any cost allocation."

CAISO has floated two ideas for cost allocation. The first would have the ISO enter black start contracts and charge all scheduling coordinators, rather than specific TO areas, for incremental black start capability. The other idea would entail it shifting cost allocation to local transmission access charge areas and recovering the costs from TOs as reliability service costs.

The Bay Area, however, poses unique challenges for black start procurement. One is the lack of eligible resources there.

"The ISO has said that there is a relatively small set of units from which this service could be procured," said Brian Theaker, director of market affairs at NRG Energy. "Will the ISO disclose what that subset of units is?"

CAISO staff were reluctant to wade into that aspect of the issue before laying out a framework for procurement.

"At this point, we were not planning on getting into any more of the details around the specific requirement in the area or how we would go about procuring," said Neil Millar, CAISO executive director of infrastructure development. "The goal right now is to land on the cost allocation process and the procurement process itself that would set out how we would go about doing this."

Robert Jenkins of Flynn Resource Consultants picked up on Theaker's theme.

"I was looking for what kind of characteristics is the ISO valuing in identifying this small number of units," Jenkins said. "Is it geography? Is it size? Is it connectivity" to the ISO's system? He added that he would be interested in learning more about the scope of the market when that information became available.

Millar responded by offering some qualifications, pointing out that CAISO wanted stakeholders to consider the procurement issue within the context of the relatively small number of resources eligible to participate in the market.

"It's not a case of any generator located anywhere in the system," Millar said. "Location does matter very much and there's a relatively small subset, so that could affect people's input on how we should go about planning this procurement

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CAISO NEWS

FERC OKs Southwest Import Studies, Offers Future MBR Filers Guidance

By Robert Mullin

FERC on Wednesday accepted transmission calculations submitted by Southwestern transmission-owning utilities in support of their requests for market-based rates in their balancing areas.

But the commission's approval of the simultaneous import limit (SIL) values provided by the Arizona and New Mexico utilities was accompanied by pointed advice about how FERC expects SIL studies to be performed and reported in the future (ER10-2302, *et al.*).

The commission's Jan. 24 decision directly affects Arizona Public Service, El Paso Electric, Public Service Company of New Mexico (PNM), Tucson Electric Power, UNS Electric and UniSource Energy Development in Arizona and New Mexico. Also included in the order, which included 10 dockets, were Public Service Company of Colorado, Northern States Power and Southwestern Public Service Co., which submitted their SIL analyses at about the same time as the Southwestern companies in an effort to help FERC expedite its approval process for such studies.

PNM's application for market-based rate authority within its own territory was rejected by FERC in October 2015 in part because of an inadequate SIL analysis. The PNM order was issued at the same time the commission issued a rule to clarify and streamline its MBR program, the first major update to the policy since codifying it in Order 697 in 2007 (RM14-14). (See *FERC Refines Market-Based Rate Rules*.)

The commission said it will use the accepted SIL values when reviewing updated market analyses submitted by the Southwestern transmission owners, as well as those filed by non-transmission-owning entities in the region.

HANG2 transmission line | *Arizona Public Service*

Order 697 requires a utility to perform SIL studies in order to determine the amount of available transmission capacity that can serve the utility's home market "under the most limiting normal and single-contingency operating contingencies." The analysis is designed to determine how transmission constraints will limit energy imports to compete with the utility controlling the area.

The study, which examines transmission links with "first-tier" — or neighboring — balancing authority areas (BAAs), is expected to provide "a reasonable simulation of historical conditions" rather than a theoretical maximum transfer capability between areas.

FERC's order commended the Southwestern utilities, which in many cases function as first-tier BAAs for each other, for coordinating the preparation of their SIL studies and sharing SIL values with each other.

"Such a coordinated approach leads to more accurate and consistent SIL study results," the commission said, noting that the submitted studies were "generally" done correctly. "However, our review of the SIL studies and acceptance of the SIL values was hindered and delayed because of various modeling issues and incomplete or ambiguous reporting of results."

In light of those shortcomings, the commission outlined guidance for submitting SIL studies. FERC said future filers:

- Should study system contingences in both the home and first-tier areas that are historically used and identified in the energy seller's available transfer capability and OASIS practices documentation.
- Should furnish documentation showing that the contingency lists provided align with the BAA's OASIS practices. A "valid" contingency would consider the realistic conditions and operating procedures for the home and first-tier areas.
- Must consider that, if a contingency does not solve in a powerflow simulation, it could be difficult proving that the contingency would not cause an overload somewhere within the system. That could affect SIL values, the commission said.
- Should ensure the accuracy of transmission line ratings in the home and first-tier areas.
- May use historical capacity factors for certain energy-limited resources, such as hydroelectric and wind capacity.
- Should explain the reason for changes in SIL values from previous studies and identify significant changes in the system, such as major generation additions or retirements and construction of new high-voltage lines.

CAISO Kicks off Effort to Procure Black Start Resources

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process to pick a couple of units out of a relatively small subset."

Bonnie Blair, a consultant representing the "Six Cities" utilities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, pressed the ISO on the importance of the location of the resources.

Millar explained the "piecemeal" approach of restoring a part of the system after a blackout. The ISO starts by first bringing up a black start resource, then energizing individual transmission lines and

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CAISO NEWS

FERC Reopens Western Energy Crisis Refund Proceeding

By Robert Mullin

Two energy sellers that engaged in market manipulation during the Western Energy Crisis of 2000/01 will be prohibited from using the costs associated with illegal trading activity to offset the amount of money they're expected to refund back to California, FERC has ruled.

The commission will also hold an evidentiary hearing to determine which cost offset claims submitted by Shell Energy North America and Hafslund Energy Trading stemmed from crisis-period trading practices such as "false exports," "phantom ancillary services" and "false load scheduling" — all of which contributed to the widespread manipulation that bilked California ratepayers for billions of dollars (EL00-95-295).

Pacific Gas and Electric substation. Bankrupted by high wholesale electricity costs during the 2000-01 Western Energy Crisis, PG&E is party to the ongoing proceedings related to market manipulation during the period.

"We find that sellers should not be permitted to offset their refund liability by the costs incurred while engaged in activities in violation of the then-effective tariffs," the commission said in its Jan. 23 order.

Under the commission's refund methodology, prices for all short-term sales into CAISO and the now-defunct California Power Exchange are to be capped at a specific "mitigated market clearing price," with sellers expected to refund amounts above that level.

The commission initially allowed generators who believed that the mitigated price did not cover their operating costs to file cost-of-service rates in order to recover full costs, a provision that was later extended to energy marketers such as Shell and Hafslund for recovery of costs associated with their transactions.

FERC's decision comes after California petitioned the 9th U.S. Circuit Court of Appeals to contest the commission's previous acceptance of cost offsets submitted by Shell and Hafslund, a petition that the court held in abeyance.

The California parties — which include the state's attorney general, the California Public Utilities Commission, Pacific Gas and Electric and Southern California Edison — later filed a brief with the commission contending that the two companies' offset claims included costs associated with illegal trading activities.

The commission last year took up the issue on voluntary remand after getting approval from the 9th Circuit.

FERC's decision reopens the record on the proceeding and allows participating parties to supplement existing information. The commission also encouraged the parties to reach a "mutually acceptable" settlement ahead of a new hearing.

"We note that there have been numerous settlements already filed and approved by the commission in the refund proceeding and related proceedings," FERC said.

FERC Denies Multiple Energy Crisis Rehearing Requests

By Robert Mullin

In a sprawling decision, FERC last week rejected requests for rehearing by multiple energy sellers implicated in market manipulation during the Western Energy Crisis of 2000/01 (EL00-95-289).

The sellers — which include Hafslund Energy Trading, Illinova Energy Partners, MPS Merchant Services, Shell Energy North America and APX — had asked the commission to reconsider previous findings related to the disgorgement of overcharges the companies raked in from May to October 2000, the so-called "Summer Period" of the crisis, which ultimately cost California ratepayers billions of dollars.

FERC's Jan. 27 order centered on issues stemming from Opinion 536, issued in 2014.

'Appropriate Remedy'

In that decision, the commission set out what it deemed the "appropriate remedy" for the anomalous bidding, false export and false load scheduling tariff violations engaged in by the companies in an effort to drive up market clearing prices during the crisis: the disgorgement of any payments received in excess of a marginal cost-based proxy price.

A subsequent opinion required that companies found to have engaged in those practices would be forced to disgorge overcharges for all sales made during trading intervals in which market prices were affected by any of the companies' tariff violations.

FERC dismissed as moot rehearing requests by MPS, Illinova, Hafslund and Shell that called into question the commission's previous findings of tariff violations by the companies. The commission pointed out that the 9th U.S. Circuit Court of Appeals had already determined that FERC's orders on those matters were final and that the commission "reasonably concluded that the sellers engaged during the Summer Period in the practices deemed tariff violations."

The commission also denied a request for rehearing by MPS and Illinova in which the two companies contended that FERC's requirement that an individual seller disgorge profits not directly connected to any violation they committed represents an award of retroactive refunds to buyers rather than disgorgement. The two companies had complained that FERC's disgorgement remedy is limited to the return of profits obtained illegally. The commission countered that the 9th Circuit has recog-

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CAISO NEWS

FERC Denies Multiple Energy Crisis Rehearing Requests

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nized that the Federal Power Act "gives FERC authority to order refunds if it finds violations of the filed tariff and imposes no temporal limitations."

FERC rejected an argument by all five companies challenging the validity of the marginal cost-based proxy price methodology being used in the proceeding. "The commission has affirmed the presiding judge's finding that the marginal cost-based proxy methodology … provides for a credible proxy of prices in a normal competitive environment," the commission wrote.

The commission also rebuffed the companies' argument that they should not be responsible for disgorgement of profits from all sales affected by the tariff violations by any of the market's participants. Commissioners said they found persuasive the arguments of a California expert witness that the tariff violations had "intertemporal" effects on the state's market during the crisis.

The commission also rejected a contention by MPS and Illinova that the prices established by the CAISO and now-defunct California Power Exchange markets were contract rates subject to the public interest standard of review embedded in FERC's landmark *Mobile-Sierra* decision.

"The prices set by the CAISO and CalPX auction markets do not constitute contract rates because they result from a generally applicable auction mechanism set forth via tariff," rather than from an arms-length transaction between two parties, the commission said.

The CAISO and CalPX tariffs did not contain the terms of a public interest standard of review, the commission noted.

The commission also denied a request by Exelon, the successor-in-interest to AES NewEnergy, for a rehearing on the issue of the fuel costs the company submitted to offset its refund amounts.

"The commission considered the full array of evidence, noting certain CAISO records submitted by Exelon related to the transaction, but ultimately finding that Exelon had not 'clearly linked any evidence of its actual incurred costs to the resource and sale at hand,'" the commission said, citing language in a previous ruling. The commission reiterated a requirement that fuel cost information be "clearly linked" with a resource and an energy sale and "easily verifiable by supporting evidence."

Settlement Agreements

In two other orders stemming from the energy crisis, FERC rejected two of California's motions to preserve remedies or refunds against other non-settling parties as a condition for concluding settlement agreements with Illinova and MPS (EL00-95-299, EL00-95-300).

California had asked for the commission to affirm that a settlement with either company would not release non-settling parties from facing the possibility of having to disgorge profits from energy sales inflated by tariff violations committed by Illinova and MPS. The state argued that FERC's failure to grant the motion would make future settlements impossible by reducing the liability of the remaining sellers and incent them to wait for others to settle first, thereby deterring California from settling with any of them.

In denying California's motion, the commission stated that it "has dismissed from the proceeding parties that settled … before and during the instant proceeding, excluded the conduct of non-parties from the scope of the proceeding and emphasized that the trading hours impacted by the settled parties' tariff violations will not be included in disgorgement amounts due from the remaining respondents." The state failed to provide a compelling reason for the commission to reverse that long-standing practice, the commission added.

The commission noted that it was not ruling on either settlement agreement and directed California to notify FERC within 30 days whether it wished to revise or withdraw from the agreements.

CAISO Kicks off Effort to Procure Black Start Resources

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"picking up other generators, a bit of load, more generators, then more load" to reach into the affected areas.

"So as you keep considering sources further and further away, you quickly get to where the time it would take to do all those steps wipes out the benefit of getting the resource in the first place," Millar said.

Paul Nelson, electricity market design manager at Southern California Edison, wanted more specifics on the timeframe for acquiring the resources.

"Is this something that needs to be done in 2017, 2018?" Nelson asked. "Because that impacts the approaches for procuring it."

"We'd like to have some sort of contractual arrangement by the beginning of 2018 or end of 2017," Vaughan replied, adding that the small set of potential resources are not identified as black start capable and would likely require upgrades.

Theaker questioned whether the ISO schedule for completing the initiative was realistic, given the need to deal with issues of "compensation, context, structure and cost allocation," as well as to draw up a straw proposal.

"It's highly aggressive, but I think it is realistic," Vaughan responded.

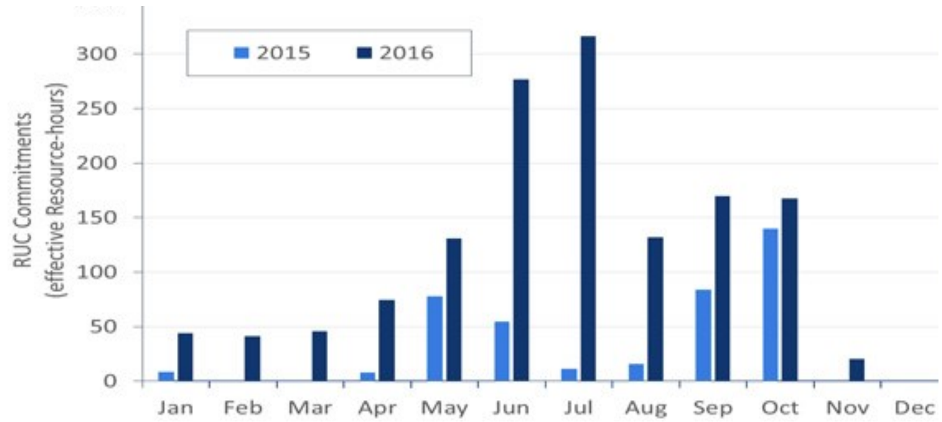
"Then I'd encourage you to identify some near-term milestones in terms of what has to be in place [and] when, in order to get this ready — not only for the board meeting in May, but also lay out the milestones for getting [resources procured by January 2018], as we've just discussed," Theaker said.

Comments on the issue paper must be submitted to CAISO by today. The ISO will publish a straw proposal Feb. 14.

ERCOT NEWS

ERCOT RUC Activity Jumps Sharply in 2016

By Tom Kleckner



ERCOT reliability unit commitments 2015 vs. 2016 | *ERCOT*

AUSTIN, Texas — ERCOT reliability unit commitment (RUC) activity increased more than three-fold in 2016, staff said at the Technical Advisory Committee meeting last week.

The number of instructed resource hours jumped from 411 in 2015 to 1,514 last year. Most of the activity occurred during the high-demand summer months, with almost 98% of the hours (1,481) noted as addressing congestion, primarily in the North and Houston zones, and the remaining 33 hours for capacity shortages.

No resource hours were committed for ancillary service shortages, voltage or reactive support, system inertia or in anticipation of extreme cold weather or startup failures.

"Although we saw a large increase in the total number of RUC commitments, we thought it was interesting to find the average dispatch limit and base points [metrics] stayed fairly similar," said ERCOT's Dave Maggio, manager of market analysis and validation.

According to Maggio's report, 170 resource hours were dispatched above the low dispatch limit (a resource's minimum production level in order to be dispatched). For 127.1 of those hours, the RUC-instructed resource was mitigated and the LMP was less than the RUC offer floor. He said the RUC-instructed resource was not mitigated for 39 hours and the LMP was less than the RUC offer floor, indicating a problem with its energy offer curve.

"If you remove the opt-out hours and just look at when the RUC occurred, it's telling us that for 84% of the resource hours, the unit was never even dispatched off its [low sustained limit]," Barnes said, referring to a resource's minimum sustained production capability. He painted Reliant Energy as not being in the "all-RUC-is-bad camp," but in the "RUC-is-too-conservative" camp.

"In terms of what we're getting for our money, [based on the results,] it's arguable RUC didn't always need it," Barnes said. "If the unit was never needed to move 1 MW off its LSL [this often], we probably should be looking at the design of the RUC process. Is it too conservative or not?"

Potomac Economics' Beth Garza, director of ERCOT's Independent Market Monitoring group, pointed out to the TAC that 478 of the hours were bought back through the use of the resources' opt-out status. Those resources are then excluded from RUC settlements as if the commitment never happened.

"There continues to be, from my perspective, great uncertainty in the market about how to opt out, and the specific process by which that can occur," she said, reiterating what she called one of her "common themes."

"It seems to me there's a widespread lack of understanding of the specific actions that have to be done right now, versus after [NPRR] 744 is implemented. … The process will change."

NPRR 744 was passed by the TAC and the Board of Director's last spring and is scheduled to be implemented June 27-29. It is intended to improve the process used to notify ERCOT of a decision to opt out of a RUC order.

With the change, qualified scheduling entities (QSEs) that submit bids and offers on behalf of resource entities or load-serving entities will be required to opt out of RUC settlement by telemetering a resource's status during the first interval it is online and available.

"This allows the entity that got RUCed to opt-out without using telemetry status," Maggio said. The NPRR helps the ERCOT system, he said, "because the decision for employing the price adder [occurs] simultaneously."

Noting about 600 of ERCOT's RUC-committed resource hours took place in June and July, Garza said she believes much of that was a deferral by market participants in making their own commitment decisions.

"In deferring that decision, RUC is going to step in at some point and make a decision on your behalf," she said. "To the extent we can get people to opt-out appropriately, there may not be a market impact. I think there's a question there: Is [RUC] bad? Is it helping us get to better commitment decisions across the market? Opting out helps with that part as well."

Several stakeholders pointed to the 33 resource hours instructed for capacity and questioned whether they should be in ERCOT's market design.

"It's created uncertainty around outcomes during those time periods that impact pricing during a capacity shortage," said Citigroup Energy's Eric Goff. "Hopefully, we have a significant price signal to get generators to commit themselves. If we don't, that's an even bigger problem."

Morgan Stanley's Clayton Greer suggested expanding ancillary services as another tool that could be used to "provide the same service."

ERCOT NEWS

TAC Briefs

TAC Endorses Forward-Pricing Credit Methodology

AUSTIN, Texas — ERCOT's Technical Advisory Committee last week endorsed a protocol change that incorporates futures prices to estimate forward risk, a change that the ISO says could reduce market-wide collateral requirements by $30 million to $70 million, depending on several parameters.

Under Nodal Protocol Revision Request 800, collateral requirements would be calculated using a ratio of the futures average price to the historic average price. It would be based on the Intercontinental Exchange's 21-day North Hub price curves.

ERCOT said exchange-based electricity futures market prices are "assumed" to be a better indicator of forward risk than historic ERCOT market prices.

Reliant Energy Retail Services' Bill Barnes, representing the independent retail electric providers, called the change a "novel approach," saying ERCOT may be the first electricity market to use this methodology.

"There is no better way to assess forward-price risk than to use the forwards, and that's what this does," he said. "It pulls those in and uses them to adjust your historical credit exposure."

Barnes said the revision request represents two years of work by the Credit Working Group to improve how forward collateral evaluations are working in the protocols. ERCOT's current methodology uses historical prices in its evaluations.

"In vetting [the current] approach, the working group found there were some pretty severe flaws in how they worked," he said. "The most accurate way to collateralize future credit risk … [is] what do we think your participant represents as far as a credit risk to the ERCOT market."

"It's consistent with how we mark our exposure to the markets," said Shell Energy North America's Greg Thurnher. "It seems to make common sense. It seems to be more effective than our previous practices, which essentially look in arrears to anticipate a forward exposure when the seasonality of our market paints a very different picture."

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Luminant cast the lone dissenting vote, saying its opposition to the NPRR was based solely on the implementation costs to ERCOT and individual market participants.

"We estimate costs of up to $300,000 to make changes in our systems, and we don't see the requisite benefit," said Luminant's Amanda Frazier.

Barnes noted the revision request was granted urgency status so that it could be incorporated into an existing release bundle for ERCOT's credit monitoring and management system.

"That will potentially help streamline the implementation and perhaps lower the cost," he said.

The change is estimated to cost ERCOT as much as $250,000 to implement. It has the support of the ISO's Finance and Audit Committee.

Small Municipalities' Revision Request Tabled for 7th Time

Tom Anson, an attorney representing the Small Public Power Group of Texas (SPPG), was granted a request to table until August his appeal of a rejected revision to the Nodal Operating Guide regarding the definition of transmission owners. This marks the seventh time NOGRR 149's appeal has been tabled since it was first brought to the TAC last March, shortly after it failed to pass the Reliability and Operations Subcommittee.

The revision would exempt distribution service providers without transmission or generation facilities from having to procure designated transmission operator services from a third-party provider if their annual peak is less than 25 MW. The NOGRR was developed in 2015 to settle the noncompliant status of seven municipally owned utilities, ranging in size from 9 to 21 MW.

Anson said the SPPG has been told it is "trying to make a market where there isn't one," and he said one transmission provider told the group it didn't have "much of an appetite to provide service." However, he also said the SPPG has four "conceptual" proposals in hand.

"These things take time," Anson said. "We can't promise we can turn any of these into a reality, but if the SPPG is willing to invest time and money into the effort with those who are helping them, we'll see if we can't turn one of these into not just a potential market solution, but a real market solution."

Anson said the SPPG would withdraw its appeal should it reach a deal with one of the transmission service providers. He agreed to return to the TAC in May with an update.

ERCOT to Keep Admin Fee Flat Through 2019

Staff told stakeholders the ISO intends to maintain its system administration fee of 55.5 cents/MWh through 2019.

Market participants requested more advance notice of future fee increases during the 2016-17 budgeting process. The fee was raised from 46.5 cents/MWh during those discussions.

Committee Chairs, Vice Chairs Approved

The TAC confirmed its subcommittee leadership for 2017. The chairs and vice chairs are:

- Commercial Operations Subcommittee: Chair Michelle Trenary, Tenaska Power Services; Vice Chair Heddie Lookadoo, Reliant Energy Retail Services.
- Protocol Revision Subcommittee: Chair Martha Henson, Oncor Electric Delivery; Vice Chair Diana Coleman, Texas Office of Public Utility Counsel.
- Reliability and Operations Subcommittee: Chair Alan Bern, Oncor; Vice Chair Boone Staples, Tenaska.
- Retail Market Subcommittee: Chair Kathy Scott, CenterPoint Energy; Vice Chair Rebecca Reed Zerwas, Reliant Energy.
- Wholesale Market Subcommittee: Chair Jeremy Carpenter, Tenaska; Vice Chair David Kee, CPS Energy.

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ERCOT NEWS

TAC Briefs

Continued from page 8

Stakeholders Vote for More Inclusive Steady State Models

Stakeholders unanimously endorsed a revision to the Planning Guide that modifies the conditions proposed generating resources must meet to be included in steady state working group (SSWG) base cases (PGRR 053).

The change would require only the data provided for full interconnection studies (the standard generation interconnection agreement, applicable permits, notice to proceed and financial security) for including a proposed generation resource in the base case. ERCOT says the current rules, which also require completion of a resource asset registration form, has “created a need to unnecessarily use extraordinary dispatch conditions in the SSWG base cases.” The change will result in more representative generation dispatch scenarios in base cases, the ISO said.

Beth Garza, director of ERCOT's Independent Market Monitoring group, and TAC Vice Chair Bob Helton, Dynegy. | © *RTO Insider*

“This lessens that data that’s required,” said ERCOT’s Jay Teixeira prior to including proposed All-Inclusive Generation Resources in the planning models. “Our intention was to pick up every resource that submits a resource form and are in the non-network model.”

The vote came after members struck references to “all-inclusive” generation resources, which had been added by the Reliability and Operations Subcommittee. Stakeholders said the term created confusion.

Katie Coleman, an attorney representing industrial customers, said she is working with ERCOT staff to update NPRR 190, which could help clear up the confusion. The NPRR was withdrawn in 2010 and was designed to add language acknowledging the existence of generation resources that qualify as distributed generation or are self-generators.

Revision Requests, Shadow-Price Cap Change Endorsed

The committee unanimously approved staff revisions to how ERCOT sets shadow-price caps and power-balance penalties under security constrained economic dispatch. The revisions update the shadow-price offer caps from $5,000/MWh to $9,000/MWh, reflecting the ISO’s current value for shadow-price caps.

The TAC also unanimously approved three additional NPRRs, another NOGRR and revisions to the Planning Guide. They will be brought to the Board of Directors on Feb. 14.

- NPRR 794: Moves reporting requirements for unregistered distributed generation from the Commercial Operations Market Guide to the protocols. The NPRR was approved in conjunction with COPMGRR 044.
- NPRR 805: Clarifies the criteria under which congestion revenue rights (CRRs) account holders can submit multi-month offers for long-term auctions. The months must be consecutive, within the period covered by the auction and during months when the account holder has ownership of the CRR.
- NPRR 806: Clarifies that municipalities and cooperatives not participating in ERCOT’s competitive market (non-opt-in entities, or NOIEs) have the option of accepting a refund or capacity for their preassigned CRR-eligible resources. The NOIEs cannot select one option for some months of the year and the other option for the remaining months.
- NOGRR 165: Aligns the operating guides with NERC reliability standards to ensure ERCOT and its transmission operators develop plans to mitigate operating emergencies. The plans should address NERC standard EOP-011 (Emergency Operations Planning) requirements and does not include black start or geomagnetic disturbance plans.
- PGRR 052: Ensures appropriate operating limits are established when stability studies are performed after a full interconnection study (FIS) has been completed and model data or transmission system changes not available during the FIS become available before the new unit is brought online.

— Tom Kleckner

ISO-NE NEWS

Atlantic Bridge Project Approved by FERC

By William Opalka

FERC on Wednesday approved the Atlantic Bridge Project, which will expand natural gas delivery capacity in New York and New England (CP16-9).

In issuing a certificate of public convenience and necessity for the project, the commission accepted an environmental assessment released last spring that found "no significant impact." (See *Atlantic Bridge Environmental Assessment Released*.)

"We agree with the conclusions presented in the EA and find that the project, if constructed and operated as described in the EA, and in compliance with the environmental conditions in the appendix to this order, does not constitute a major federal action significantly affecting the quality of the human environment," FERC wrote.

The project will expand Spectra Energy's Algonquin Gas Transmission and Maritimes & Northeast Pipeline systems by 132,700 dekatherms/day to serve the New England and Canadian natural gas markets.

The $452 million project would replace existing pipelines and add new or expand existing compressor stations in New York, Connecticut and Massachusetts.

Six miles of existing pipeline in New York and Connecticut would be increased from 26 inches to 42 inches. A 7,700-horsepower compressor station would be built in Weymouth, Mass., along with numerous infrastructure improvements.

The commission said "the vast majority" of public comments concerned the Weymouth station, but it said that facility did not require an additional environmental impact statement. Concerns were adequately addressed by conditions set out in the order, it said.

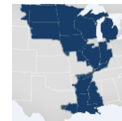
FERC turned aside opponents' claims that excess project capacity will be used to export LNG outside of North America.

"We note that while there are currently several proposals to export liquefied natural gas from the United States and Canada to overseas countries, there is no evidence that the applicants are constructing the Atlantic Bridge Project for this purpose. The project shippers receiving gas in Canada are industrial and commercial users of natural gas within Canada, not companies involved in the export of LNG," the commission wrote. "We also note the commission does not have jurisdiction over the export or import of natural gas as a commodity. Such jurisdiction resides with the U.S. Department of Energy (DOE), which must act on any applications for natural gas export and import authority. Thus, the issue of whether the export of LNG will cause economic harm is beyond the commission's purview."

Spectra said the pipelines' capacity was fully subscribed by five local distribution companies, two manufacturers and a municipal utility during its open season in 2014 and 2015.

The expansion project has a proposed in-service date of November 2017.

MISO News



MISO Appoints Melissa Brown as New CFO

By Amanda Durish Cook

CARMEL, Ind. — MISO has named a business executive with almost two decades of experience in the energy industry as its new chief financial officer.

Melissa Brown most recently served as CFO for Atlanta-headquartered Drax Biomass, a wood pellet manufacturer with locations throughout the southeastern U.S.

The new hire comes just over six months after former Vice President of Finance Jo Biggers left abruptly in mid-August and MISO opened a candidate search. (See *Vice President of Finance Biggers Exits MISO*.)

MISO spokesperson Jay Hermacinski said Brown will assume all the responsibilities that Biggers held in her role.

Since Biggers' departure, corporate service tasks were delegated to Senior Vice President of Compliance Services Steve Kozey. Finance and corporate planning responsibilities were handled by Vice President of Strategy and Business Development Wayne Schug.

MISO CEO John Bear said Brown's financial experience coupled with her energy background make her an ideal fit for the position. "Grid reliability and value-creation are our two top priorities at MISO. We need leaders like Melissa who will help MISO stay ahead of the constant changes we face in the energy industry," Bear said.

Brown was Drax's CFO from March to November and worked as an energy consultant for seven years with consulting firm Alix Partners.

She has also worked in different management roles at major utilities, including corporate treasurer and senior vice president of strategy and financial planning and analysis at Calpine; executive director of business development at NRG Energy; and manager of corporate financial analysis at AES. MISO said Brown has a combined 19 years of experience in power generation, fuel supply and public utilities.

"I am excited to join this dedicated team of professionals and look forward to helping the organization be the most reliable, value-creating RTO," Brown said.

Biggers' predecessors include Mike Holstein, who served from 2001 to 2011, and James Torgerson, who served from 1999 to 2001.

MISO Steering Committee Advances 3 Issues

By Amanda Durish Cook

Moser

CARMEL, Ind. — MISO's Steering Committee last week advanced three topics for discussion: the RTO's settlement with SPP, a potential cost recovery defect and potential cost-sharing for customer-funded upgrades.

The committee decided that the Market Subcommittee will discuss a possible cost recovery gap, an issue raised by Entergy. The gap arises when MISO decommits or manually redispatches a resource to offline status, the utility contends.

"If the resource is later brought back online to fulfill the remainder of an existing commitment period or to meet a subsequent commitment period, the resource is not guaranteed start-up cost recovery," Entergy said.

The company wants the RTO's Tariff revised "to provide incentive for resources to follow MISO instructions and to ensure that a resource owner is not forced to choose between following MISO instructions and incurring an uncompensated cost, and disregarding MISO instructions."

A discussion on generator-funded upgrades that benefit other interconnection customers was assigned to MISO's Regional Expansion Criteria and Benefits Working Group (RECBWG), despite a request by EDF Renewables that the topic be directed to the Interconnection Process Task Force (IPTF). The company wants such projects to receive some reimbursement through MISO, EDF said.

Jeff Webb, MISO director of planning, said the IPTF would be appropriate if project costs were only to be shared among interconnection customers, but he doubted that cost-sharing would be that limited. He suggested that the RECBWG first discuss the potential scope for cost allocation.

A stakeholder discussion on metrics used for the SPP-MISO transmission cost allocation settlement will initially be assigned to the Resource Adequacy Subcommittee for an examination of possible capacity benefits.

Jesse Moser, MISO director of seams relations and strategy, said internal decisions on the metrics belong in the RECBWG, which is already considering broader cost allocation changes. Still, some stakeholders contended that the issue should first move into the RASC for exploration of potential capacity benefits from the settlement.

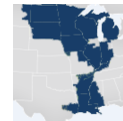
The settlement requires MISO to "conduct a stakeholder discussion regarding the use of capacity benefits as an alternative way to allocate costs" of the joint operating agreement (ER14-1736). (See "Cost Allocation Set in MISO-SPP Settlement," *MISO Market Subcommittee Briefs*.)

Madison Gas and Electric's Megan Wisersky said she was surprised to learn MISO would delve into a cost allocation discussion before assessing the resource adequacy impacts of the settlement.

Indiana Utility Regulatory Commission staffer Dave Johnston said the topic should be discussed in the RASC.

"To me, RECBWG is for transmission projects," Johnston said. "This is not what this is. This is a settlement between parties with a bucket of money."

MISO NEWS



MISO Directors to Decide Yearly Executive Bonuses

By Amanda Durish Cook

The Human Resources Committee of MISO's Board of Directors is considering a 2016 executive incentive plan that would slash potential bonuses by more than 30%.

During a Jan. 24 conference call, the committee suggested MISO executives receive 68.5% of a possible discretionary bonus for last year because of incomplete queue reform, a failure to implement seasonal and locational aspects into the Planning Resource Auction, capital budget overspending and a market funding efficiency rating that showed room for improvement.

According to MISO's 2015 Form 990 filing, incentives outpace base salary for the RTO's three highest paid executives.

CEO John Bear was the most highly compensated, taking in a $709,872 base salary and $1.1 million in incentives. Executive Vice President of Transmission and Technology Clair Moeller came in second with a salary of $363,189 and incentives worth $401,131.

Stephen Kozey, senior vice president of compliance services and one of MISO's original employees, earned $362,681 in salary and $372,888 in bonuses. Other vice presidents earned an average of $503,000 and $157,000 in incentives.

MISO spent $143 million on salaries, compensation and benefits in 2015, compared with $130 million a year earlier.

The RTO currently charges a $0.34/MWh administrative rate, which covers salaries and benefits in addition to fees for third-party consultants and computer services.

Greg Powell, MISO vice president of human resources, said that despite a shortfall that cut into bonuses, MISO's market funding efficiency score of 95.8% demonstrated the best performance to date. The RTO defines market funding efficiency as the alignment between financial transmission rights, the day-ahead market and the real-time market.

Bear said MISO could have done a better job forecasting capital spending last year, with the RTO overspending its $31 million budget by $2 million. In comparison, MISO overran its $225 million operating budget by $2.2 million.

MISO was also unable to implement interconnection queue reform and seasonal and locational constructs for the 2017/18 PRA during 2016.

Bear thought the stakeholder process was sufficient, but he acknowledged that MISO could work more with its Independent Market Monitor's recommendations.

However, the RTO gave itself an "excellent" rating for meeting all NERC reliability standards in 2016. Bear said that directors must typically discuss NERC reliability compliance performance in a closed session, but there was no need to do so because MISO had not committed a single violation in the year.

"I think it's a really good accomplishment for us, and now the challenge is to maintain that excellence," Bear said.

The 2016 MISO customer survey earned the RTO a threshold performance rating, with 82% of member respondents providing an average rating of five or better on a seven-point scale. MISO needed a minimum 80% to allow for the bonus payments.

Director Paul Bonavia said MISO's new incentive design, approved last year, is demanding but doable. (See *MISO Adds 3 New Board Members, Posts Staff Incentive Plan*.)

"We have struggled mightily with metrics that are challenging," Bonavia said. "We wanted it to be so that mid-level performance is a strong target, and we've seem to come out pretty well this year."

Kozey said committee suggestions to increase or decrease the incentive package are historically made after closed session discussions.

MISO NEWS

MISO Behind-the-Meter Generation Definitions Create Confusion

By Amanda Durish Cook

CARMEL, Ind. — MISO's effort to simplify treatment of behind-the-meter generation has created more questions than it has answered, stakeholders said last week at an educational meeting that turned into a contentious debate.

The RTO plans to split BTM resources into two categories for the purposes of market operations. The first would consist of "uppercase" generation described in the Tariff and dispatched in the market, usually as a load-modifying resource.

A second "lowercase" category would represent BTM resources not registered with or dispatchable by the RTO and not subject to market mitigation.

But some stakeholders expressed confusion over how the two definitions would address capacity deliverability or calculate network load for transmission billing.

The Jan. 26 debate is prompting MISO to re-examine its Tariff language and Business Practices Manuals with a promise for a more thorough discussion with stakeholders.

'More Conversation'

"We've had some areas where more conversation needs to happen," said Kim Sperry, MISO director of market engineering.

Stakeholders from multiple sectors said MISO does not have clear enough rules in place to require BTM generation to supply gross network load data before transmission rates are determined.

MISO staff said a legal precedent to provide gross load for transmission service for BTM generation was created 18 years ago in FERC Order 888, when the commission wrote that it "plainly require[d] inclusion in the rate denominator of 'behind-the-meter' loads" and said "load served by 'behind-the-meter' generation should be included in the load ratio share calculation for determining the transmission cost allocated to network customers."

However, stakeholders wondered if that load calculation would apply to MISO's lowercase BTM generation definition.


Sperry

Sperry said she expected network load reporting to represent transmission losses for all BTM generation.

WEC Energy Group's Chris Plante pointed out that there's nothing in the Tariff that requires BTM asset owners to create gross loads to help determine transmission rates. Sperry said MISO would work with its attorneys to possibly create clearer Tariff language.

Stakeholders also said similar generators would be treated differently in terms of capacity deliverability, depending on their uppercase or lowercase status. In a previous meeting, stakeholders asked how BTM generation could be counted as deliverable capacity and how it can deliver when it exceeds local load. (See *MISO Ponders Changes to Behind-the-Meter Generation Rules*.)

MISO said that, as with other resources, market participants could either obtain firm transmission service from the BTM generator to the load or the generator could acquire network resource interconnection service (NRIS) through the interconnection queue and serve load to a network customer.

Those deliverability requirements amounted to a rule change three months ahead of the Planning Resource Auction, stakeholders said, contending that excess BTM generation has historically been sold into the market as capacity without requiring NRIS or firm transmission.

'Not New Rules'

MISO staff maintained that the requirements were a "clarification" of what already exists in the Tariff.

"These are not new rules; these have existed in the Tariff," said Neil Shah, system support resource planning manager. "These resources need to go through the same process as other resources."

"As of now, that's your opinion," replied David Sapper of Customized Energy Solutions. "You'd better not try to enforce this without FERC approval. That's my admonition."

DeWayne Todd of Alcoa said MISO's clarification could upend decades of practice in which BTM generators have delivered excess load for reliability purposes. Stakeholders asked how many megawatts of BTM generation would now be considered undeliverable.

"We need to go back and fill in the gaps on some definitions. That's what I'm hearing," Sperry said.

WPPI's Steve Leovy said MISO should create a more detailed uppercase BTM generation definition, while others said the lowercase definition is too vague to fulfill transmission use pricing or capacity procedures.

Todd said the BTM deliverability requirement is infeasible because lowercase BTM generation would be ineligible for firm or point-to-point transmission service; those resources would not be captured in MISO's Open Access Same Time Information System (OASIS), which provides data on available transmission capability.

"Why wouldn't people just take all of their generation behind the meter and forego operating procedure?" American Electric Power's Kent Felix asked, referring to non-dispatchable BTM generation.

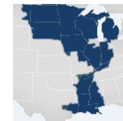
That was a question for MISO's Resource Adequacy Subcommittee, the RTO's Manager of Resource Adequacy John Harmon said.

"There are operation questions," We Energies' Tony Jankowski said. "Who gets to deploy that [BTM] resource? … We end up with a laundry list of questions and maybe stakeholders [should] work on these topics in other forums and come back."

"We need to go back and fill in the gaps on some definitions. That's what I'm hearing."

Kim Sperry, MISO

MISO NEWS



Informational Forum Briefs

Record Wind Output, Higher Gas Prices in December

December was marked by all-time high wind output in MISO, along with higher gas prices and erratic weather patterns that challenged the RTO's forecasters, officials said at a Jan. 24 Informational Forum.

Jeff Bladen, MISO's executive director of market design, said that while average temperatures in December were "near normal," the month saw "rapid transitions in temperatures and winds," leading to inaccurate forecasting and poor unit commitment.

"Ultimately, unit commitment decisions are heavily influenced by weather forecast accuracy," Bladen said.

There are ongoing efforts to improve load forecasting capabilities, he added. "The challenge is more volatile weather … it's something we continue to work on to improve our ability to manage and predict," Bladen said.

Load averaged around 77 GW during December, a 9-GW increase over November. The month's peak of 100 GW occurred Dec. 19.

MISO's systemwide energy prices averaged just above $30/MWh, up 22% compared with the previous month. Bladen said the increase could be attributed to an $3.59/MMBtu average natural gas price that was $1.15 higher than in November.

A month-to-month upending of wind output records has become almost standard for MISO, and a new high of 13.7 GW was set Dec.7, surpassing the previous record of 13.3 GW set in late November. Wind production for the month totaled 5,687 GWh, the highest value recorded for the RTO.

MISO Creates Focus Group for IT Refresh

MISO will create a Market System User Experience Focus Group to learn about information technology shortcomings, said Curtis Reister, the RTO's director of software delivery.

The group will meet Feb. 23 and is open to all users of MISO market systems who would like to comment on their market experiences and make suggestions.

The group, part of MISO's wider effort to make software improvements in 2017, will gauge customer satisfaction with usability, performance and security and seek to understand customer experiences. (See *MISO to Study Aging Software; Market Improvements Planned for 2017*.)

The RTO noted that its electronic market systems are more than 10 years old. While some applications have been improved for functionality, there have been "minimal" changes to front-end design.

"There is some dissatisfaction out there, and we want to understand it," Reister said.

The focus group will also decide which IT investments will have the biggest payback, he added.

MISO CEO John Bear said software investments are needed to manage a larger, more diverse fleet. "We're dealing with a lot more intermittency and a lot more generators," he said.

Some of the improvements might require members to make system changes implemented over the long-term in order to give those members adequate time to update, Bear said.

MISO will also switch platforms for its external website, according to Executive Director of External Affairs Kari Bennett.

Stakeholder Input Needed on Cost Allocation

Patrick Brown, manager of transmission planning for MISO South, said the RTO expects stakeholders to submit comments on transmission cost allocation by Feb. 27, in time for a Hot Topic discussion at the March 22 Advisory Committee meeting.

The RTO released a market efficiency project (MEP) cost allocation strawman in December, proposing to lower the current 345-kV voltage threshold and remove a footprint-wide postage stamp allocation of costs in favor of one in which costs are borne solely by participants in benefiting transmission pricing zones. (See *MISO Stakeholders Propose Changes to Market Efficiency Cost Allocation Process*.)

MISO expects cost allocation refinement to continue into the third quarter before Tariff changes are drafted in the fourth quarter and filed sometime in mid-2018.

— Amanda Durish Cook

Allocation Category	Driver(s)	Allocation to Beneficiaries
Multi-Value Project	Address energy policy laws and/or provide widespread benefits across footprint	100% postage stamp to load
Market Efficiency Project	Reduce market congestion when benefits are 1.25 in excess of costs	345 kV and above: 80% distributed to Local Resource Zones commensurate with expected benefit, 20% postage stamp to load
Baseline Reliability Project	NERC Reliability Criteria	100% allocated to local Pricing Zone
Generation Interconnection Project	Interconnection Request	Primarily paid for by requestor; 345 kV and above 10% postage stamp to load
Transmission Delivery Service Project	Transmission Service Request	Generally paid for by Transmission Customer; Transmission Owner can elect to roll-in into local Pricing Zone rates
Participant Funded ("Other")	Transmission Owner identified project that does not qualify for other cost allocation mechanisms. Can be driven by reliability, economics, public policy or some combination of the three.	Paid by requestor (local Pricing Zone)

MISO cost allocation methods | *MISO*

NYISO NEWS

FERC OKs NYISO Demand Curve Reset

By Rich Heidorn Jr.

FERC last week approved NYISO's revised demand curves but said the ISO must eliminate the assumption that new peaking plants in the New York Control Area (NYCA) will require emissions controls (ER17-386).

The Jan. 17 order approved NYISO's Nov. 18 proposal on all but one of nine contested issues. The new demand curves will take effect with the ISO's capacity auction for the 2017/18 capability year beginning May 1 and will be the basis for auctions through the 2020/21 delivery year. (See *IPPNY: Demand Curve Reset 'Top Priority'*.)

The ISO will continue to use the F class frame peaking turbine as the proxy unit for setting the cost of new entry. It also continued the requirement that peaking plants include dual-fuel capability and selective catalytic reduction (SCR) emissions controls for the New York City, Long Island and G-J Locality demand curves.

But the commission rejected the ISO's proposal to extend the SCR requirement to the NYCA, where gas-only designs were permitted.

The curves, calculated for NYISO by consulting firm Analysis Group, suggest increased prices in most zones, with Zones G-J starting at about $22/kW-year, up from less than $20 for 2014/15. Long Island's curve starts at almost $25, versus about $21 in the previous curve. The New York City curve is virtually unchanged with a $26 starting point.

The NYCA curve would have jumped from a starting point of about $14 to almost $20.

In its last demand curve reset, the ISO proposed that the NYCA peaking plant operate under an annual operating hours limit in lieu of installing SCR emissions controls. FERC said that assumption still holds, despite the ISO's contention that peakers without the controls risk not obtaining necessary air permits.

"It is undisputed that SCR emissions controls are not required for peaking plants located in load zones C and F in NYCA," the commission said. "In addition, NYISO admits that the F class frame turbine can meet the New Source Performance Standard requirement to limit nitrogen oxides emissions while operating on natural gas without SCR emissions controls."

The ISO acknowledged that F class turbines can meet New Source Performance Standards for carbon dioxide emissions without SCR controls by limiting their operations to 3,300 hours annually, a capacity factor limit of 38%.

The Independent Power Producers of New York joined the ISO in calling for the SCR inclusion, contending that increasing concern in New York over fossil fuels will pressure the state's Siting Board to require tougher controls.

FERC said their position was "speculative," quoting from its order in the last reset that "while there is always a risk that regulations will change in the future, we cannot base the finding of viability on speculation that the EPA or New York state regulators will act at some point in the future."

It noted that the demand curve reset process takes place every four years "so that changed circumstances, such as new regulations, can be taken into account."

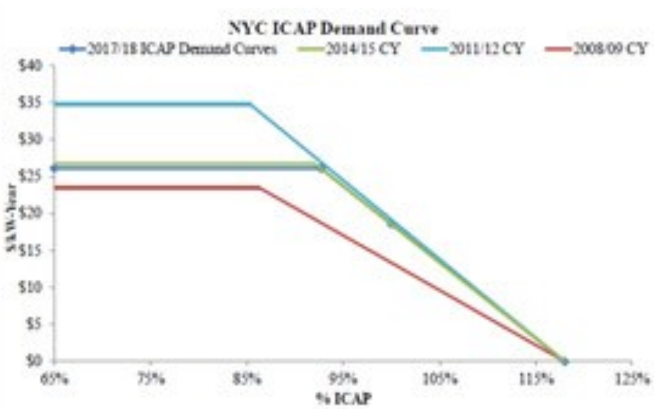
"We find more compelling the statements from [the New York State Department of Environmental Conservation] and evidence that New York state has issued air permits and Article 10 certificates for electric generators without SCR emissions controls in recent years. Specifically, NYSDEC stated in its comments to the NYISO Board of Directors that its permit reviews are fact specific, so SCR emissions controls to limit nitrogen oxides emissions "may not be required or appropriate in every case, such as where other control measures are available or where a facility accepts federally enforceable permit conditions to limit emissions below the applicable thresholds.

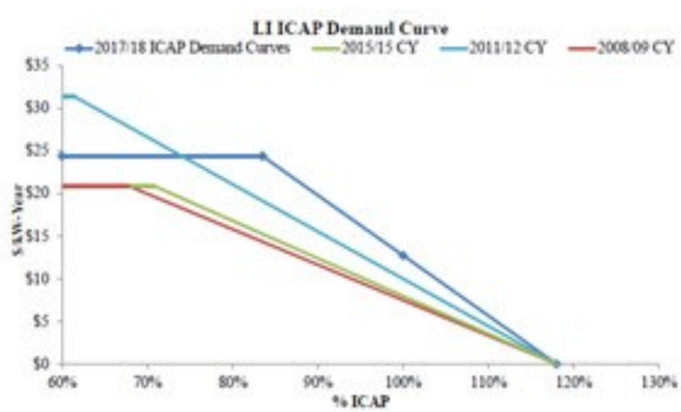
"We are more persuaded by NYSDEC's comments and N.Y. Siting Board precedent than speculation about future public involvement in [plant] certification proceedings," the commission said.

The commission ordered the ISO to file a revised Tariff within 30 days removing the SCR requirement for NYCA.

FERC otherwise approved the ISO's filing as is, siding with it on the choice of the F class turbine, peaking plant costs, property tax treatment, natural gas forecasts, and incorporation of shortage pricing into the net energy and ancillary services revenues assumptions.

The auction for the 2017 summer capability period (May 1-Oct. 31) will be conducted March 30-31, with results posted April 4.





NYISO installed capacity demand curves, 2017/18 vs. prior years | *Analysis Group*

NYISO NEWS

90-MW Wind Farm OK'd off Long Island

By William Opalka

The Long Island Power Authority on Wednesday approved a contract for a 90-MW offshore wind farm, by far the largest such facility contemplated in the U.S.

The site, 30 miles off the island's Southern Fork, is the first part of a wind development in federally leased waters that could support up to 1,000 MW of offshore wind.

Gov. Andrew Cuomo two weeks ago proposed the state develop 2,400 MW of offshore wind in various sites off Long Island to support the goal of 50% renewable energy by 2030. He also prompted the LIPA Board of Trustees to act on contract negotiations that had stalled since the summer. (See *Cuomo Proposes 2,400 MW of Offshore Wind by 2030*.)

The wind farm could provide enough electricity to power 50,000 homes. If the Cuomo proposal is realized, as many as 1.25 million homes could be powered.

The wind farm developer, Deepwater Wind, built the nation's first offshore wind farm off Block Island in Rhode Island, which was commissioned last month.

The LIPA board approved a contract submitted by Deepwater Wind for the South Fork Wind Farm after a yearlong process. Offshore wind was the lowest-cost option in the request for proposals from LIPA, beating out natural gas generation.

Neither LIPA nor Deepwater released contract terms on Wednesday.

The 20-year power purchase agreement includes a pay-for-performance clause, which allows LIPA to only pay for delivered energy, eliminating operating and construction risk, the authority said. LIPA said technology improvements reduced the project's "all-in" energy costs to be competitive with other renewable energy sources.

"Depending on the schedule for permitting, construction could start as early as 2019, and the wind farm could be operational as early as 2022," Deepwater spokeswoman Meaghan Wims told *RTO Insider*.

LIPA CEO Tom Falcone said in a statement, "We are confident this is the first step to developing the tremendous potential of offshore wind off Long Island's coast and meeting Gov. Cuomo's Clean Energy Standard. This project is the right size, at the right location and demonstrates how smart energy decisions can reduce cost while providing renewable energy and clean air for all of Long Island."

Elizabeth Gordon, director of the New York Offshore Wind Alliance, said, "LIPA's 90-MW South Fork project moves New York to the forefront of offshore wind development in America. Major progress on what will be the nation's largest offshore wind project, combined with Gov. Cuomo's 2,400-MW commitment, makes it clear that New York is entering a new energy era — one where offshore wind power is poised to play a key role in meeting downstate's electricity needs."

New York REV Won't Lose Momentum, Departing Zibelman Says

Continued from page 1

ending after the March 16 meeting.

Zibelman said she had no intention of leaving the PSC but was instead recruited by the Australian grid operator.

"This job, as chair, is a fantastic job for someone like me, who loves these industries and is always looking for ways to make things better," she said.

She is most closely associated with the state's ambitious REV initiative. She praised Cuomo for making tough policy decisions that will lead to a new organizational structure in the industry.

"I feel very strongly that REV is on the right track. Almost all of the key policy decisions that were needed to really start moving the industry in the direction that REV contemplates have been made," she said, citing orders issued last week as examples. "We have really moved away from the policy conception to the implementation." (See related stories, *Con Ed Rate Order Moves REV Forward with Shared Savings*, p.19, and *NYPSC OKs New Rules to Break Solar Interconnection Logjam*, p.17.)

She cited the pending distributed energy resources valuation order as a policy priority to enact before she departs. (See *NYPSC Vision for DER: From Net Metering to 'Value Stack'*.)

What Zibelman will leave behind is at least a dozen open dockets that deal with aspects of REV. These include the Clean Energy Standard and the zero-emission credits for nuclear plants, the Distribution System Implementation Platform, distributed generation compensation and several others.

On top of that, there are company- or issue-specific dockets that either predate REV and now include it, or have added REV components as they have progressed.

The PSC's years-long grappling with how to combat alleged abuses by energy service companies is an example of the former. Its just-approved rate case with Consolidated Edison with several provisions for distributed generation, demand management and utility investment incentives were features of the latter.

But Zibelman said incumbent commissioners Gregg Sayre and Diane Burman and a strong staff would ensure no loss of momentum.

Her departure, the pending retirement of Commissioner Patricia Acampora and a two-year-long vacancy means the PSC will have three openings for new members in short order.

"At this point, the momentum is in the [energy] market. They're leading and we're following as they tell us where they need to go," she said.

The decision to leave was made harder by having her husband on the other side of the world, Zibelman said. She is married to former PJM CEO Phil Harris, who for several years has led the Tres Amigas "superstation" project in New Mexico that would link the Eastern and Western Interconnections.

"It's a personal decision we're making, but he will continue at Tres Amigas, and we're going to work it out," Zibelman said.

NYISO News

NYPSC OKs New Rules to Break Solar Interconnection Logjam

By William Opalka

ALBANY, N.Y. — The New York Public Service Commission last week updated interconnection rules for solar projects larger than 50 kW in an effort to break a logjam in utilities' queues (16-E-0560).

The order sets deadlines and payment schedules for system upgrades to cull inactive projects from the queues and free up space for those projects further along in their development cycles.

The projects covered by the new rules are from above 50 kW to 2 MW. The PSC said more than 2,000 projects in that category were filed with the state's utilities from April through December 2016. Many of those projects are community shared solar developments, intended to expand the benefits to customer pools who are unable to install solar generation on their own properties.

"These new requirements will help determine whether a proposed solar project is viable and should move forward to construction," commission Chair Audrey Zibelman said in a statement. "Every proposal requires a lengthy, in-depth analysis to determine whether it is feasible and, too often, unrealistic projects have been getting in the way of workable proposals."

Although it did not cite statistics, the PSC said that multiple developers have filed interconnection requests for the same projects, exacerbating the logjam.

The utilities filed a joint proposal in September that was endorsed in whole or in part by 20 stakeholders.

The new rules include fixed decision deadlines and cost-sharing requirements for the required system upgrades. Developers must prove they have exclusive permission or a land-use agreement from a property owner for a specific project.

To remain in the queue, projects with a completed coordinated electric system interconnection review must pay 25% of the system upgrade costs to the utility and execute a standard interconnection agreement.

The rules would apply to those projects currently undergoing the interconnection review along with newer projects that have had only a preliminary review. Projects that fail to comply would be removed from the queue.

Projects that have been delayed by municipal moratoria can hold their positions by either paying the 25% system cost upgrade or executing an interconnection agreement.

The order also includes an interim cost-sharing mechanism in which the first developer in an affected area pays 100% of the system upgrade costs and is reimbursed by later projects that enjoy the same benefit.

PSC staff will work on a more permanent solution, the commission said.

The plan updates the standard interconnection requirements first adopted in 1999. The requirements have been updated several times since, including last March (15-E-0557), but the queue continued to pile up.

"The interconnection queue backlog presents a serious challenge to the commission's goals for increased solar installations, renewable power, and creating efficient markets for distributed energy resources, as contemplated in the [Reforming the Energy Vision] proceeding," the PSC wrote.

The six investor-owned utilities — Central Hudson Gas & Electric, Consolidated Edison, New York State Electric and Gas, National Grid, Orange & Rockland Utilities and Rochester Gas and Electric — must file tariff amendments and updated interconnection requirements that would become effective on March 1.

NYISO NEWS

FERC OKs NYISO Capacity Revision; Rejects Transition Plan

By William Opalka

FERC on Friday approved a NYISO plan to protect consumers from rising capacity prices in southeastern New York but rejected a one-year transition to the new rules, saying it "lacks analytical basis" (ER17-446).

NYISO proposed the plan in the fall to address anticipated price spikes in the capacity market in the Lower Hudson Valley and New York City zones, expected after the commission in October allowed the export of electricity from a New York plant in a constrained zone into ISO-NE. (See *FERC Sides with ISO-NE in Capacity Dispute with NYISO*.)

The ISO's current capacity market rules fail to recognize the impact of counterflows: They assume that 100% of a generator's exports from an import-constrained area must be replaced with generation in that locality. NYISO Market Monitor Potomac Economics warned the anomaly means capacity clearing prices in the Lower Hudson Valley "could rise far above competitive levels."

In response, the ISO proposed a "locality exchange factor," based on power flow analyses, which found that 47.8% of the capacity exported to ISO-NE from New York's G-J zones could be expected to be replaced by capacity in the rest of the state. That meant only the remaining 52.2% would need to be replaced by capacity within the zones. NYISO's proposal was vehemently opposed by generators, who said it would suppress prices. (See *NYISO Board Denies Generators' Appeal on Capacity Cap*.)

FERC's order approved NYISO's methodology but rejected its proposal for a one-year transition to the new rules (June 2017 through May 2018), during which the ISO planned to use an 80% locality exchange factor rather than the 47.8% figure.

NYISO said the transition was proposed by stakeholders and received votes in support from four out of the five voting sectors. But the commission said there was no "analytical basis" for the 80% factor.

"In its proposal for the locality exchange factor methodology, NYISO states that 'the price signal should reflect only the portion of the export that must be replaced by resources located within the locality.' The one-year transition mechanism, however, is not based off of the same power flow analysis that NYISO argues is the best way of accounting for counterflows," the commission said.

NYISO

FERC dismissed supporters' argument that the ISO needed more time to refine and evaluate the methodology. "If NYISO or, in turn, the commission, had some basis to doubt the efficacy of the locality exchange factor methodology, then rather than implementing a transition, the commission would be required to reject the methodology in its entirety as unjust and unreasonable," it said.

FERC ordered a new plan submitted within 30 days.

The methodology was prompted by the commission's October order allowing Castleton Commodities International's 1,242-MW Roseton 1 generator, located 43 miles north of New York City, to export 511 MW of its capacity to ISO-NE beginning next June for the 2017/18 delivery year. If Roseton decides to participate in ISO-NE's 2017/18 commitment period, NYISO would procure unnecessary replacement capacity, as Roseton would still be providing reliability services for the G-J zone, the ISO argued.

Roseton 1 | *© Google*

NYISO NEWS

Con Ed Rate Order Moves REV Forward with Shared Savings

By William Opalka

ALBANY, N.Y. — Standard utility rate cases in New York can now be expected to include innovative rate designs and programs to encourage energy efficiency and clean energy technologies following last week's action by the Public Service Commission.

In its approval of the three-year Consolidated Edison rate plan (16-E-0060, *et al.*), the PSC also passed a companion order that advanced the state's Reforming the Energy Vision initiative (15-E-0229).

Con Ed's March 2016 filing was in compliance with the PSC's December 2015 Targeted Demand Management Program order, which allow utilities to propose non-wire alternative (NWA) projects that replace or defer the need for transmission and distribution infrastructure through customer-side distributed energy resources or load reductions.

The commission's latest orders specify the utilities' incentives for such investments, with most the financial benefits returned to ratepayers.

"This is a big step on the way to implementing REV," Commissioner Gregg Sayre said at the meeting. "The REV orders only give us a framework and policy guidance on this process, and it's in cases like this where the rubber meets the road and real progress is made."

A benefit-cost analysis would be performed for any NWA, with various checkpoints set up through the approval and implementation processes to verify its viability, the order states.

The order adopts Con Ed's proposed incentive mechanism, but the commission reduced the utility's proposal of a 50-50 split of the benefits between shareholders and ratepayers. The order provides 30% of the net benefits to shareholders and 70% to ratepayers.

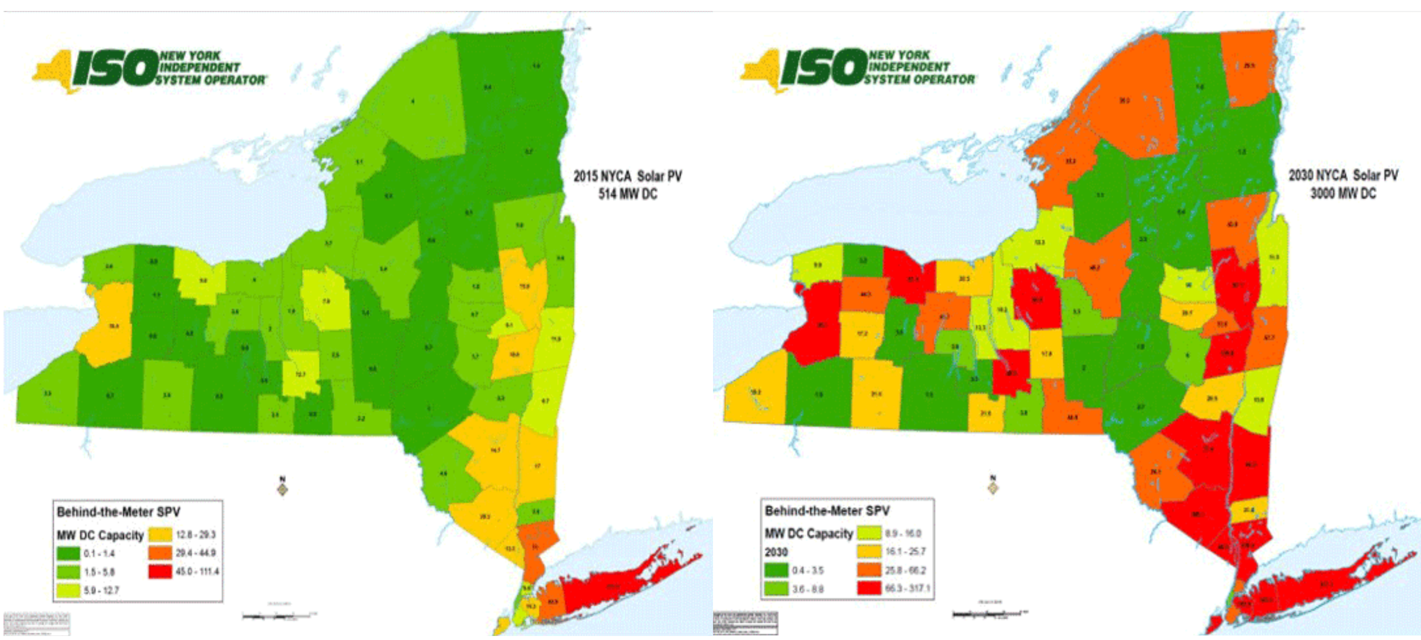
"As the commission articulated in the REV Track Two Order, incentive opportunities should be financially meaningful and structured such that they encourage enterprise-wide attention at the utility and spur strategic, portfolio-level approaches beyond narrow programs," the order states. "Further, incentive opportunities should be commensurate with the level of financial risk borne by utility shareholders.

"The 30% sharing adopted here represents a financially meaningful incentive opportunity that should encourage Con Edison to pursue the innovative portfolio-level approach to implementing NWA projects, while producing significant net benefits to customers and reflecting the financial risk required of Con Edison shareholders," the order continues.

Commissioner Diane Burman abstained on the Con Ed order, "consistent with my past voting record."

Burman says she prefers a "holistic approach" rather than deal with these items individually. "I think there's a lot here that is affecting other items that are still policy decisions that have not had finality, and we will work through that," she said.

Con Ed is already using demand management in a pilot program, the Brooklyn-Queens Demand Management program. It deferred a $1.2 billion substation with a combination of energy efficiency, DERs and demand response. (See *Overheard at the NYISO Distributed Energy Resource Workshop*.)



Heat maps of behind-the-meter solar in 2015 (left) and 2030 | *NYISO*

PJM NEWS

MRC/MC Briefs

Markets and Reliability Committee

PJM Uncomfortable with Separate Pseudo-Tie Rules

WILMINGTON, Del. — PJM must determine how to handle different rules for new and existing pseudo-ties after stakeholders vetoed a package of reforms for external resources at Thursday's Markets and Reliability Committee meeting but then agreed on applying the updated rules only to new pseudo-tie requests.

The package appeared headed back to the drawing board after failing to reach the 3.33 out of 5 necessary in a sector-weighted vote. But Exelon's Jason Barker immediately motioned for a vote on an "alternative" package that excluded existing pseudo-ties from the new requirements, saying it would "move toward something that we think is an improvement over the status quo."

The original proposal, developed through the Underperformance Risk Management Senior Task Force, called for making deliverability requirements uniform for resources within and outside of PJM's footprint and requiring confirmatory feasibility studies for all pseudo-ties. Existing pseudo-ties would have had until delivery year 2022/23 to conform to the deliverability standards for internal resources. (See *No End in Sight for PJM Capacity Market Changes*.)

By Oct. 1, 2018, PJM would notify external resource owners whether their pseudo-tie is operationally feasible. Owners of resources that fail would be required to perform the required upgrades or would be declared ineligible to offer capacity.

Stakeholders balked at the implication that their units might become nonviable if the transmission owner — over which neither they nor PJM has authority — declined to meet the new standards.

"It's their system; they can do things their way," said Mike Borgatti of Gabel Associates.

PJM's Adam Keech acknowledged, "We're not in a place where we can require someone to upgrade to our standards." He estimated there is roughly 3,500 MW of external generation pseudo-tied to PJM.

Joe Bowring, PJM's Independent Market Monitor, called the original proposal "a significant step forward" but still inadequate because imported capacity remains an inferior substitute for internal capacity resources and suppresses market prices.

"If units don't meet the rules and requirements, they don't meet the rules and requirements. That should be the end of the story," he said.

When the measure failed and Barker proposed applying the updated standards to new pseudo-ties, Bowring questioned whether Barker intended for existing pseudo-tied units to then be grandfathered in perpetuity. Stakeholders agreed that the alternative proposal would be silent on existing pseudo-ties and that portion would be sent back to the task force for further consideration. The measure was endorsed, receiving 3.97 in favor on a sector-weighted vote. The same proposal was later approved during the Members Committee meeting with 3.88 in favor.

PJM Senior Vice President of Operations and Markets Stu Bresler said there will need to be a discussion with the Board of Managers on having separate rules for similar groups. "We certainly can't live that way for very long," he said.

Work on Uplift Moves Forward Despite NOPR

In three decisive votes, stakeholders swiftly moved forward on efforts to address uplift.

The action was a far cry from last month, when PJM's Dave Anders explained that the Energy Market Uplift Senior Task Force had only been successful in half of its goals. The task force endorsed two proposals to reduce uplift and volatility. However, it considered more than a dozen proposals to address cost allocation issues and couldn't find majority agreement on any of them. The MRC instructed the task force to revote on the top five.

Earlier this month, the task force endorsed a package for the MRC to consider on Thursday. The proposal would maintain much of the status quo but include up-to-congestion transactions in the allocation of day-ahead and balancing operating reserves in the same way incremental offers and decremental bids are included. It would also remove the ability for internal bilateral transactions to offset deviation charges.

However, with FERC having issued a Notice of Proposed Rulemaking on uplift and UTCs on Jan. 19, PJM staff assumed stakeholders might want to postpone action on the issue until receiving clear direction from the commission. (See *FERC Proposes More Transparency, Cost Causation on Uplift*.)

Continued on page 21

FERC Denies Adjustments to Approved Rate for Artificial Island Project

FERC last week denied requests for rehearing on a formula rate it approved in April for Northeast Transmission Development's construction of a transmission line across the Delaware River (ER16-453).

Both NTD and the Delaware Municipal Electric Corp. had requested rehearing of the order, though for opposing reasons. NTD argued the commission erred in denying it a 50-basis-point risks and challenges return on equity adder in its initial order, while DEMEC argued the commission erred in granting NTD a 50-basis-point adder for joining PJM and turning over operational control of the line to the RTO upon completion.

DEMEC had also argued that FERC erred in allowing any of NTD's affiliates or subsidiaries to use the rate. The commission also denied this, clarifying that it applies to any affiliates or subsidiaries that may be formed in the future as well.

The efforts might all be for nothing though, as NTD's line is part of the Artificial Island project, which has been mired in years of delay. The project — PJM's first competitive solicitation under FERC's Order 1000 — is undergoing reanalysis and scope changes that won't be known until at least April. (See *PJM Analysis on Artificial Island Project Delayed Again*.)

— Rory D. Sweeney

PJM News

MRC/MC Briefs

Continued from page 20

Not so. "I think that PJM has shown in a lot of studies that UTCs do impact commitment and decommitment … and that's a cause of uplift," FirstEnergy's Jim Benchek said. "If down the road that NOPR does actually happen … then we'll deal with that rulemaking at that time. My final comment is let's vote today."

So they did: The Phase 1 proposal was approved with a sector-weighted vote of 4.1 out of 5. It largely maintains the status quo, except that it includes in the determination of balancing operating reserve credits only the day-ahead revenues from the hours the resource operated in real-time, not all day-ahead revenues.

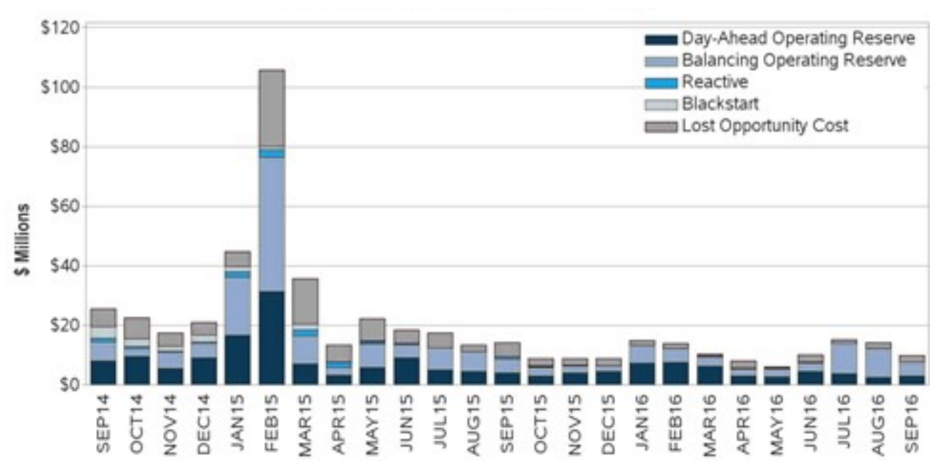
The proposal to postpone voting on Phase 2 for one year was opposed by 3.8 out of 5 in a sector-weighted vote, and a vote on the package succeeded with 4.01 out of 5.

Separately, stakeholders also approved a problem statement and issue charge to reconsider historical practices and provisions in the Operating Agreement and Manual 33 restricting the sharing of data that is considered confidential or market sensitive. Changes could result in more transparency on transmission constraints, the reliability assessment commitment process and conservative operations in day-ahead and real-time operations.

Stakeholders OK Manual Changes

Stakeholders endorsed by acclimation several manual revisions and other operational changes:

- Revisions to Manuals 11 and 12 to account for the updated regulation requirement developed by the Regulation Market Senior Issues Task Force. (See "Regulation Requirement Changing from 'Peak' to 'Ramp,'" *PJM Operating Committee Briefs*.)
- Revisions to Manual 27 developed as part of an annual review.
- Revisions to Manual 38 developed as part of a periodic review to provide more clarity on outage coordination.
- Revisions to Manual 40 that, among other things, reduce the grace period for completing operator training. (See "Manual 40 Revisions Approved with Exelon's Addendum," *PJM Operating Committee Briefs*.)
- Revisions to the PJM Tariff and Manuals 11, 12 and 28 regarding operating parameters. (See "Operating Parameters, ARR Enhancements Endorsed," *PJM Market Implementation Committee Briefs*.)
- Revisions proposed by the Governing Document Enhancement & Clarification Subcommittee to clean up definitions in the Tariff, Operating Agreement and Reliability Assurance Agreement.



PJM uplift charges by year | *PJM*

Members Committee

Members Approve Charter for Security Committee

Despite stakeholder inquiries about its non-decisional status, the Members Committee endorsed by acclimation the charter for a new Security & Resiliency Committee.

American Municipal Power's Ed Tatum asked what purpose the group would serve if it didn't make any decisions. PJM staff said it would operate in an advisory capacity like the Transmission Expansion Advisory Committee. Exelon's Gloria Godson clarified that the group was not formed at the behest of transmission owners.

"This was not a [Transmission Owners Agreement-Administrative Committee] idea," she said. "In fact, a lot of TOA-AC folks have an issue with this idea." (See "Preview of Security Committee Receives Tepid Response," *PJM Markets and Reliability and Members Committees Briefs*.)

According to PJM, the new committee will serve as a forum to discuss threats and hazards and offer case studies, solutions or other best practices. To avoid compromising company security, the committee won't include any Critical Energy Infrastructure Information in meetings and the news media will be barred. It will password-protect its minutes and only allow external partners by invitation. Corporate nondisclosure agreements will be used as needed.

Consent Agenda Endorsed

The committee also endorsed:

- Operating Agreement revisions associated with residual auction revenue rights enhancements.
- Revisions to the Tariff resulting from discussions at special Planning Committee sessions regarding new service request cost allocation and study methods. (See *PJM Considering Injection Rights for Demand Response*.)
- Tariff and Operating Agreement revisions developed by the Governing Document Enhancement & Clarification Subcommittee related to pumped hydro storage.

— Rory D. Sweeney

PJM NEWS

PJM to Review Impact of State Public Policies on RPM

Continued from page 1

occurrences resulted in important policy debates circumventing the PJM stakeholder process and going directly to litigation at FERC," the problem statement says. "The sponsors of this problem statement believe the stakeholder process forum is the appropriate place for these discussions. It is apparent to the problem statement sponsors that each state may take actions to meet its environmental, political and policy objectives that could affect" the Reliability Pricing Model.

The coalition, which includes Old Dominion Electric Cooperative, American Municipal Power, the Delaware Municipal Electric Corp., the PJM Public Power Coalition and the Public Power Association of New Jersey, has been asking since August for approval to review the RPM.

Focus Tightened

Since then, the measure's focus has been revised and repeatedly pared down. AMP's Ed Tatum, the coalition's spokesman, noted on Thursday that Direct Energy and Dominion Virginia Power have withdrawn as sponsors. As recently as last month's MRC, stakeholders remained hesitant to investigate the potential impacts of any governmental action on CP, concerned the implications could be too disruptive to the market, which is still digesting the rule changes under Capacity Performance. (See "Stakeholders Remain Skeptical of Campaign to Revisit CP," *PJM Markets and Reliability Committee Briefs*.)

The sponsors returned on Thursday focused just on state actions and explained that they had taken pains to limit the scope, despite suggestions to broaden it in certain ways. The effort still nearly faltered, as stakeholders remained concerned it inappropriately targeted states. Bob O'Connell of Panda Power Funds suggested focusing on "out-of-market actions" instead.

"Panda Power Funds has no interest in picking a fight with states. Our biggest focus is on price formation," he said. "I'm indifferent to who pushes the wheelbarrow with money into the room. I'm just concerned about the money in the room."

Illinois State Capitol

Alex Stern of Public Service Electric and Gas voiced support for O'Connell's efforts to focus on market design, but Tatum said "out-of-market" doesn't have a specific definition. Tatum also clarified that the focus had changed to not target the states for taking actions they deem necessary. Others agreed, including Dan Griffiths of the Consumer Advocates of the PJM States (CAPS) and Susan Bruce of the PJM Industrial Customer Coalition, who called it a "rabbit hole."

External 'Forces'

John Farber of the Delaware Public Service Commission praised the sponsors' acknowledgment that state actions can be "manifestations" of external "forces" applying pressure on government, not necessarily internally motivated. Ruth Ann Price, Delaware's deputy public advocate, was mild in her criticism, merely echoing a request to "soften" the language that had been made by other stakeholders during previous discussions. Tatum responded, as he has in the past, by asking for suggestions.

With the state advocates indicating interest in finding consensus, a small group huddled to craft mutually acceptable language.

In the meantime, Neal Fitch of NRG Energy pointed out that the issue's scope had been reduced, yet its timeline for results had been extended into late 2018. He said it seemed likely the issue could be resolved in time for the 2018 BRA in April.

A vote on the measure was deferred until after lunch to incorporate the updated language. When it finally came time to vote, the package referred to "state public policy initiatives" and anticipated results by the end of the year. PJM Senior Vice President of Operations and Markets Stu Bresler confirmed this left enough time for it to be incorporated in the planning criteria for the BRA.

EnerNOC's Katie Guerry questioned the continued focus on state actions, but Price defended the language, saying that local initiatives would not impact PJM's markets. Despite opposition from most of the Transmission Owner sector, the revised problem statement passed a sector-weighted vote with 3.95 out of 5, with the End Use Customers and Electric Distributors unanimously in support.

The issue charge assigns the initiative to a new Capacity Construct/Public Policy State Actions Senior Task Force reporting to the MRC. It will identify the "objectives and characteristics" of a well-functioning capacity market and "identify areas where state actions and the current RPM capacity construct may not be aligned."

The group will seek to address the conflicts with potential changes to the PJM Operating Agreement, Tariff, Reliability Assurance Agreement and manuals.

AEP's Akins Optimistic over Regulated Future

By Tom Kleckner

Calling 2016 "very successful" and predicting 2017 will be "another transformational year," American Electric Power CEO Nick Akins paid tribute to the late television icon Mary Tyler Moore during a Thursday conference call with financial analysts.

"In respect to the passing of Mary Tyler Moore, I will just say, we are going to make it after all," Akins said during the company's fourth-quarter and year-end report. "This has been a year of repositioning and de-risking the company. … We have come through with flying colors, but as a premium energy regulated company, our work is far from done."

Akins' optimism is fueled by the pending sale of four competitive power plants for $2.2 billion, the company's hopes for restructuring Ohio's electric market and possible corporate tax reform under the Trump administration.

The company reported fourth-quarter operating earnings of 67 cents/share, up almost 40% from a year earlier, which beat the Zacks consensus estimate of 55 cents/share. For the year, operating earnings were $3.94/share, up from $3.69/share a year ago. Its transmission segment contributed 54 cents to earnings for the year, an increase of more than 38%. AEP reaffirmed its 2017 operating earnings guidance range of $3.55 to $3.75/share.

Investors reacted to the news by driving AEP's share price up 40 cents to $62.97 at Friday's close.

Under Generally Accepted Accounting Principles (GAAP), the company reported 2016 earnings of almost $611 million, a $1.4 billion drop from 2015 that reflected its $2.3 billion write-down on its Ohio competitive generation assets in the third-quarter, as well as a federal tax audit settlement over the sale of its commercial barge operations and mark-to-market impact of hedging activities.

Akins said AEP expects to close its sale of three natural gas plants, with 2,533 MW of capacity, and the mammoth 2,665-MW Gen. James M. Gavin coal plant to Lightstone, a joint venture between The Blackstone Group and ArcLight Capital Partners, "sometime in 2017."

Three of the gas plants are in Ohio, and the fourth, the 1,186-MW Lawrenceburg Generating Station, is just across the state line in Indiana. Akins said the company was continuing a "strategic review process" for the remaining merchant generation units.

"This was a year of reducing risk and volatility of earnings for the company in the future and reinforcing our balance sheet to provide a strong platform for future growth," Akins said.

The CEO said the company is discussing with other utilities and stakeholders its proposed legislation to restructure Ohio's competitive market and expects a bill to be introduced as early as the second quarter.

"AEP will not invest in new generation in Ohio unless we have a clear path to recovery of our investment, so enabling legislation is critical," he said. "There's already drafts of legislation that are circulating around, and we just need to make sure all the parties are comfortable with that."

Though AEP saw signs of an improving economy in its service territory in the fourth quarter, Akins called the growth "minimal." He said the company will continue to watch the economy closely under the new administration's "pro-growth agenda."

"President Trump's focus of enhancing the ability for manufacturing industries to thrive and produce jobs … well that's AEP's service territory," he said. "AEP should prosper, and we are very much looking forward to working with the Trump administration to bring prosperity and jobs back to this country."

NextEra Misses Expectations, but Boosts Profits

By Tom Kleckner

NextEra Energy boosted its adjusted earnings by 5% in the fourth quarter and 11% for all of 2016, despite falling short of investor expectations on both measures.

The Florida-based company Friday reported fourth-quarter adjusted earnings of $566 million ($1.21/share) and full-year adjusted earnings of $2.88 billion ($6.19/share), missing the Zacks consensus estimates of $1.29/share and $6.22/share, respectively.

Investors rewarded the company with a $2.07 increase in its stock price, from $119.30/share to $121.37/share.

Adjusted earnings exclude the mark-to-market effects of some hedging, non-temporary impairments, operating results from a solar project in Spain and expenses related to its proposed acquisition of Texas-based Oncor. Also excluded from the 2016 results were gains from the sale of natural gas generation facilities.

Subsidiary NextEra Energy Resources' investments provided much of the growth. It commissioned about 2,500 MW of new wind and solar projects — the most wind and solar megawatts ever added by a single company in North America, NextEra said. It has signed contracts for another 540 MW of wind and 100 MW of solar energy since its third-quarter call.

"I remain as enthusiastic as ever about our future," NextEra CEO Jim Robo told financial analysists during a conference call. He said the company's performance reinforces "the overall strength and diversity of our growth prospects."

Central to NextEra's future is completing its $21 billion acquisition of Oncor, the largest transmission and distribution provider in Texas. The deal has FERC's approval, but it next faces a Public Utility Commission of Texas review scheduled for Feb. 21-24. (See *FERC OK in Hand, NextEra Faces More Questions on Oncor Deal*.)

The PUC has until April 29 to act on the acquisition or it will be automatically approved.

"We see an opportunity to make two already great companies even stronger," Robo said. "We believe we have the ability to bring real value to Oncor stakeholders, and in turn find attractive investment opportunities to create long-term shareholder value."

Robo reminded analysts that NextEra will use its A– credit rating and balance sheet — "One of the strongest in the sector," Robo said — to save Oncor customers "hundreds of millions of dollars by removing the debt that hangs over Oncor right now."

He said intervenors have raised questions that could result in NextEra being immediately downgraded once Oncor's debt is moved by either prohibiting the company from appointing a majority of the Oncor board or placing restrictions on dividends and approval of budgets.

"We are unwilling to compromise our A-corporate credit rating as a result of any transaction," Robo said. "We need to address these issues in order to avoid being downgraded, so we can close the transaction."

COMPANY BRIEFS

PG&E Fined $3M in San Bruno Explosion Criminal Case

A federal judge last week sentenced Pacific Gas and Electric to the maximum $3 million fine and branded the utility as a convicted felon in connection with the fatal explosion of a natural gas pipeline in San Bruno, Calif., more than six years ago.

U.S. District Court Judge Thelton Henderson's sentence also provided for court-ordered supervision of PG&E's natural gas operations; a three-month advertising campaign by PG&E; and 10,000 hours of community service, 2,000 of which must be performed by executives.

PG&E is prohibited from passing to its ratepayers costs and fines associated with the sentence.

More: *The Mercury News*

FirstEnergy Names Yeboah-Amankwah Legal Affairs VP


Yeboah-Amankwah

FirstEnergy announced last week that Ebony Yeboah-Amankwah has been promoted to vice president of state and federal regulatory legal affairs.

She will oversee labor, employment, benefits, real estate and tax law, as well as manage state and FERC legal regulatory affairs.

Yeboah-Amankwah has been with FirstEnergy since 2005 and has served in several attorney and executive director roles.

More: *Cleveland.com*

Consumers Energy Approves Plan for Sale of 2 Plants

Consumers Energy's board of directors recently approved a plan to sell the B.C. Cobb Power Plant to an undisclosed single buyer.

The deal also includes the J.R. Whiting facility in Luna Pier, Mich.

More: *WZZM*

AltaGas Purchases WGL Holdings for $6.4B

Calgary-based AltaGas has purchased WGL Holdings, which supplies natural gas to 1.1 million customers in the D.C. region, in a $6.4 billion cash deal.

The companies hope to close the sale, which will face regulatory scrutiny in D.C., Virginia and Maryland, by year-end.

U.S. operations make up about 50% of AltaGas' revenue and include gas distribution properties in Michigan and Alaska and power plants in California. AltaGas also owns a large battery-storage business.

More: *The Washington Post*

Class Action Alleges Southern Co. Misled Investors


Kemper County Energy Facility

A class action lawsuit has been filed against Southern Co. on behalf of its investors over Mississippi Power's construction of the Kemper County energy plant.

The suit, filed in the U.S. District Court for the Northern District of Georgia, alleges the defendants "made false and misleading statements and/or failed to disclose adverse information regarding the progress of the Kemper Plant" as it related to a deadline for completing construction upon which financing was contingent.

It further alleges that Southern Co. and some of its officers and directors violated the Securities Exchange Act of 1934.

More: *Sun Herald*

Terrestrial Energy Advises NRC of Plans to License SMR

Terrestrial Energy USA has advised the Nuclear Regulatory Commission of its plans to license a small modular reactor and announced that it plans to start "preapplication interactions" with the commission this year.

In a letter to the commission dated Nov. 18, 2016, Terrestrial said it plans to submit an application for a design certification or construction permit by October 2019.

Terrestrial included the status of its Integral Molten Salt Reactor — a liquid-fueled, high-temperature, 400-MWt advanced reactor power plant design — that its CEO, Simon Irish, said the company hopes to bring to market in the 2020s.

More: *World Nuclear News*

Dominion Elects Rigby, Story to Board of Directors


Rigby

Dominion's board of directors has elected Joseph M. Rigby and Susan N. Story as new directors, effective immediately, bringing the board's size to 13.

Rigby, 60, is the retired chairman, president and CEO of Pepco Holdings Inc., having served in the post from 2009 until 2016. He joined the company in 1979 when it was Atlantic City Electric. He has been a director of Dominion Midstream GP since 2014.

Story, 56, has been president and CEO of American Water since 2014. She joined the company in 2013 as CFO, after 31 years at Southern Co.

More: *Dominion*

SoCalEd, Tesla Bring 80MWh Energy Storage Station Online

Southern California Edison and Tesla have brought online an 80-MWh energy storage station at the Mira Loma substation.

The project, which uses 400 of Tesla's new Powerpack 2 batteries, is among the first to use them for utility-scale projects.

The project, which was launched after SoCalEd needed storage solutions following the Aliso Canyon shutdown, could serve as an example for decommissioning peaker plants and replacing them with battery-powered energy storage installations.

More: *Electrek*

Judge Rules Mods at Ameren Plant Violate Clean Air Act

A federal judge in St. Louis ruled last week that Ameren Missouri's coal-fired Rush

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COMPANY BRIEFS

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Island power plant, which the utility modified in 2007 and 2010 to produce output without obtaining proper permits, violates the Clean Air Act.

Judge Rodney Sippel wrote in his opinion and order that the modifications caused the plant to burn more coal and emit hundreds of tons more of sulfur dioxide per year. He also wrote that they did not constitute "routine maintenance" or defensible changes to accommodate demand growth that would shield Ameren from liability.

Ameren said the decision contradicts legal precedent and state regulations.

More: St. Louis Post-Dispatch

Entergy Advises New Orleans It Needs New Power Plant

Entergy has advised the New Orleans City Council that it needs a new combustion turbine power plant to replace power the city lost when its Michoud units were decommissioned in June.

The company mentioned the need for the $216 million plant as part of an integrated resource plan it submitted to the council. The plan provided a roadmap for Entergy and the energy it will provide over the next few years.

The council is not expected to consider Entergy's new plant proposal until April.

More: The Advocate

ATC Seeks Wisconsin PSC Approval for Interstate Tx Line

American Transmission Co. hopes to begin construction in February 2020 on a proposed $54.7 million, 345-kV power line running 3.5 miles from Pleasant Prairie, Wis., to Wadsworth, Ill.

If approved, the Wisconsin-Illinois Reliability Project, filed last week with the Wisconsin Public Service Commission, would relieve congestion on the existing interstate transmission system.

ATC is looking to complete the project in December 2020.

More: Kenosha News

Construction Anticipated on DTE Wind Farm in 2018

DTE Energy's first wind project since Michigan passed legislation requiring energy providers to achieve a renewable portfolio standard of 12.5% by 2019 and 15% by 2021 is gearing up for construction.

Invenergy Wind is expected to begin construction in early 2018 on the 65-turbine Pine River Wind Park in Gratiot County and Isabella County, Mich.

Completion of the 161-MW facility is anticipated by Dec. 31, 2018, and DTE will be transferred ownership.

More: Morning Sun News

Federal Briefs

Zinke, Perry Clear Senate Committee

The Senate Energy and Natural Resources Committee on Tuesday approved Rep. Ryan Zinke (R-Mont.) as secretary of the Interior Department and former Texas Gov. Rick Perry as energy secretary.

Zinke's nomination was approved 16-6 with four Democrats joining all Republicans in support. Perry was approved 17-6. The two nominations move to the full Senate, where they are expected to be approved.

In their confirmation hearings, both said they believe climate change is real and that manmade activity is a contributor — but that the degree of man's impact and the proper response remain under debate. (See *Zinke: Climate Change Real, but Coal, Gas Should Continue* and *Perry Regrets Calling for Ending DOE; Says Climate Changing*.)

More: *The Hill*; *The Hill*

FERC: Driver's Licenses From 5 States not Valid ID

Visitors from the Show Me state may need to show their passports to get into FERC headquarters and other federal buildings in the future. The commission announced Jan. 30 that it is no longer accepting driver's licenses from Maine, Minnesota, Missouri, Montana or Washington as forms of identification because they fail to comply with Congress' REAL ID Act.

The law was enacted in 2005 in response to the 9/11 Commission's recommendation that the federal government establish standards for sources of identification. The law allowed for states and territories to apply for extensions to comply, but the five states did not meet their deadlines.

The commission's announcement lists passports and other Transportation Security Administration-approved records that can be used to enter FERC and other federal offices.

More: *FERC*

CFTC's Giancarlo Announces Staffing Changes

Giancarlo

Commodity Futures Trading Commission Acting Chairman J. Christopher Giancarlo announced Friday several staff changes at the commission.

Giancarlo has appointed Amir Zaidi, who has been with the commission since 2010, to lead the Division of Market Oversight. He further appointed Vincent McGonagle, who has served the commission for nearly 20 years, as acting director for the Division of Enforcement.

Additionally, Jeffrey Bandman will leave his role as acting director of the Division of Clearing and Risk to become an adviser on financial technology issues. John Lawton, a 36-year employee of the commission, will be taking over as acting director of DCR.

More: *Commodity Futures Trading Commission*

Trump Moratorium Delays 30 EPA Regulations

EPA is freezing 30 regulations from the Obama administration following a moratorium by President Trump. Most of the regulations were published in the *Federal Register* following the 2016 election but have not yet taken effect.

The renewable fuel standard published in December is among those affected.

The delay will last until March 21, at which time many of the regulations may be dismantled by the incoming EPA head.

More: *The Hill*

Trump Admin Tells EPA to Take Down Climate Web Page

President Trump's administration has instructed EPA to remove the climate change page from its website, two agency employees told Reuters. The page contains links to scientific global warming research and detailed data on emissions.

"If the website goes dark, years of work we have done on climate change will disappear," an EPA staffer who asked not to be named told Reuters. The staffer said some employees were scrambling to save some of the site's information or convince the Trump administration to preserve parts of it.

Myron Ebell, who helped guide EPA's transition after Trump was elected in November until his swearing in on Jan. 20, said his "guess" was the links and information will still be available after the pages are taken down.

More: *Reuters*

Trump Signs Executive Orders Reviving Pipeline Projects

In a move expected to have an immediate impact in North Dakota, President Trump signed executive orders last week to revive the Dakota Access and Keystone XL pipelines, indicating the pipe should be made with American steel.

In North Dakota, the Army Corps of Engineers halted the Dakota Access pipeline in December in order to consider alternative routes following protests by the Standing Rock Sioux tribe and other groups.

Trump's executive order on the Keystone XL pipeline goes against a major decision by President Barack Obama, who said the project would contribute to climate change.

More: *The Washington Post*

Energy Industry Supporters Spearhead EPA Transition

President Trump's team charged with preparing EPA for new leadership is heavily weighted toward the energy industry lobby and pro-drilling think tanks, according to an email seen by Reuters on last week.

The email identifies three former researchers from think tanks funded by the Koch brothers, several people who have publicly argued against U.S. efforts to combat climate change, and at least one former mining industry lobbyist.

The team replaces the initial transition team picked by Trump after his November victory but before his swearing in.

More: *Reuters*

State Briefs

CALIFORNIA

CAISO Gets FERC OK to Delay Local Market Power Measure

FERC approved a CAISO request to delay rolling out a previously accepted plan designed to prevent generators from exercising market power under circumstances in which local transmission conditions become constrained. The measure, originally slated to become effective Jan. 30, will now take affect April 1. Under the measure, the ISO will institute an additional mitigation run for each five-minute dispatch interval within a 15-minute real-time unit commitment interval. (See *FERC OKs Local Market Power Mitigation Measures for CAISO*.)

CAISO sought the delay because unexpectedly slow progress on other software-related projects prevented staff from completing the back-end development of the market power mitigation implementation, which also shares software code with some of those other projects. Another concern was that meeting the original deadline would not provide sufficient time for market simulation ahead of the formal roll-out, something needed to allow market participants time to adapt to the new rules.

In approving the request, the commission found that the ISO had made a "good faith" effort to meet the initial deadline and said it agreed "that the software should be tested and ready for deployment before the revised market mitigation provisions become effective."

More: *ER16-1983-001*

Federal Suit in Play During San Onofre Settlement Talks

Settlement talks on Friday regarding the $3.3 billion bill assigned to ratepayers when the San Onofre nuclear power plant prematurely closed began with a federal lawsuit in the background.

Last week, federal judges declined to dismiss the lawsuit, filed by the Citizens Oversight consumer group, which challenges the distribution of the costs associated with the plant's 2012 failure.

State regulators reopened the San Onofre settlement proceeding and scheduled a new round of settlement talks after it came to light that the 2014 settlement agreement closely mirrored a framework set forth during a secret meeting in Warsaw, Poland, between the former Public Utilities Commission president and a Southern California Edison executive.

More: *The San Diego Union-Tribune*

SoCalGas Withdraws Natural Gas from Aliso Canyon

For the first time since January 2016, Southern California Gas withdrew natural gas from its Aliso Canyon storage facility last week because of higher demand created by colder weather.

Although a moratorium was placed on injections at Aliso Canyon following a leak that was halted last February, state regulators in June authorized SoCalGas to use the remaining 15 billion cubic feet of natural gas at the site to help prevent service reductions.

The wells that were used passed all of the tests required by the state's comprehensive safety review, SoCalGas said in a statement.

More: *Los Angeles Daily News*

Appeals Court to Rule on Fate Of Carbon Permit Auctions

Judges from the state's 3rd District Court of Appeals have until late April to decide a case that could determine the fate of the state's auctions for carbon permits.

Businesses argued to the state appellate court last week that the 2006 law that underlies cap-and-trade does not authorize the state to auction permits to pollute and that even if it did allow an auction, that would amount to a tax increase and require approval of two-thirds of the Assembly and Senate under the state Constitution. They maintained the states could give away the permits, which raised hundreds of millions of dollars per year prior to 2016, but not sell them.

The Air Resources Board, which administers the program, equated the auctions to regulatory fees, which did not require a two-thirds supermajority in 2006.

More: *The Associated Press*

Utilities Seek $1B to Fund EV Charging Stations

Southern California Edison, Pacific Gas and Electric and Sempra Energy's San Diego Gas & Electric are asking regulators for more than $1 billion combined to help the state achieve its goal of getting 1.5 million zero-emissions vehicles on the road by 2025.

The monies would be used, among other things, to support charging stations for electric trucks and buses.

SoCalEd is requesting $570 million; PG&E is requesting $253 million; and SDG&E is requesting $246 million.

More: *The Orange County Register*

CONNECTICUT

Nor'easter Arrives as Officials Celebrate Fuel Cell

As a Nor'easter began bearing down on the state last week, officials held a ribbon-cutting ceremony for a 2.2-MW fuel cell that was part of the state's strategy to harden infrastructure against catastrophic storms.

The fuel cell, located at the Amity Regional High School in Woodbridge, has been operating since December. It is currently producing electricity daily that is sold into the regional electric market, said Ed Crowder, a spokesman for The United Illuminating Co., which owns the fuel cell.

Microgrids are also part of the state's strategy to prevent power disruptions in key town buildings during crippling storms. However, the microgrid will not be fully operational until this summer when the fuel cell at the high school is linked up with other buildings, Crowder said.

More: *New Haven Register*

INDIANA

IMPA Continues Momentum with 2nd Solar Farm in Anderson

One day after its 5-MW solar park in Anderson went online, the Indiana Municipal Power Agency is looking to build a second solar facility in the city.

The Madison County Board of Zoning Appeals last week approved a special exception for construction of an 8.2-MW solar park, which would cover 27 acres in the county and 33 acres in the Anderson city limits. The project is expected to cost between $11.5 million and $12 million and will contain 30,000 solar panels, said Jack Alvery, IMPA's senior vice

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STATE BRIEFS

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president of generation.

Alvery said the park will take approximately four months to build and is expected to generate electricity by the fourth quarter of 2017.

More: *The Herald Bulletin*

Bill Would Allow Residents To Vote on Wind Farms


Saunders

State Rep. Tom Saunders (R) has proposed legislation that would allow residents to vote on the construction of wind farms before they can be built in their counties.

The bill also mandates that elected officials in communities slated for wind farm projects disclose any financial ties to the developers and provides requirements for setbacks.

House Bill 1597 comes at a time when wind farm projects are being debated in Fayette, Rush and Henry counties.

More: *Connersville News Examiner*

MISSISSIPPI

$121M Debt from Hurricane Katrina Getting Paid Early

A $121 million debt to help repair damage to the electric grid caused by Hurricane Katrina will be paid off by the end of January, prompting state regulators to discontinue a $3.45/month charge to ratepayers.

The Public Service Commission voted last week to remove the charge, which had been used to pay off the bonds that were used to help repair about $300 million in damage. A federal Community Development Block Grant paid the difference.

The debt was retired two years early, according to Mississippi Power.

More: *Sun Herald*

MISSOURI

Ameren Rate Hike Bill Stalls in Legislature

A plan by state power providers to change how their rates are set for the stated purposed of paying for infrastructure upgrades has stalled in a Senate committee amid outcries that it amounts to a tax hike that would hurt consumers.

Senate Bill 190, which is Ameren's second attempt to alter the state's rate-setting process, has stalled in the Senate Commerce, Consumer Protection, Energy and the Environment Committee after a testy hearing in which opponents argued there was no financial need for the legislation.

Ameren wants to launch a $1 billion, five-year infrastructure improvement plan that would cost the average customer about $1 extra per month, company vice president Warren Wood said.

More: *St. Louis Post-Dispatch*

NEW MEXICO

Court Hears Challenge to PNM Plan for San Juan

The state Supreme Court heard arguments last week regarding whether state regulators complied with the law in deciding a case on how Public Service Company of New Mexico will replace electricity lost when it shutters two units at its San Juan Generating Station later this year.

The environmental group New Energy Economy is challenging an agreement reached by the state, the utility, federal regulators and others to replace lost electricity with a mix of coal, nuclear, natural gas and solar-generated power. According to the group, PNM is relying too much on coal and nuclear power and failed to prove the plan's cost-effectiveness before state regulators approved it.

The plan "complies with the EPA rule on reducing regional haze, is the most cost effective for customers, helps ensure a reliable supply of energy and cuts carbon emissions at the plant in half," PNM spokesman Pahl Shipley said.

More: *The Associated Press*

NEW YORK

Energy Efficiency Projects Cut GHGs at 2 SUNY Campuses

Gov. Andrew Cuomo announced the completion of energy-efficient projects at two State University of New York campuses (Upstate Medical University and the College at Brockport) that will remove more than 3,200 tons of greenhouse gases and save $620,000 annually.

The work at Upstate Medical University includes upgrades to air-handling systems and LED lighting installations. At the College of Brockport, high-efficiency boilers, hot water pumps and air-handling improvements were installed at several campus buildings.

The New York Power Authority provided more than $12 million in financing for the upgrades. They were performed under Cuomo's BuildSmart NY program, which is a statewide initiative to increase energy efficiency in public buildings.

More: *Cuomo*

NORTH DAKOTA

Senate Bill Shifts 70% of Wind Farm Taxes to State Coffer


Brandenburg

A Senate bill would take 70% of taxes paid by wind farms away from local governments and deposit the monies in the state's general fund.

Senate Bill 2209 seeks to change the current system in which all taxes paid by wind warms go to the local governments where the farms are located.

Rep. Mike Brandenburg (R) said the bill could harm the state's wind energy industry because the tax revenues paid by wind farms to local governments are critical to obtaining local support for the projects.

More: *Forum News Service*

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Bay Resigns After Trump Taps LaFleur as Acting FERC Chair

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Bay's resignation made for "a pretty strange week."

"I'd already decided to serve out my term," she said. "I've been part of the Democratic majority ever since I've been here, and I knew that going forward I would be part of a Democratic minority, and if I was going to be here, and asked to lead, I thought I should."

Although the commission has not traditionally been marked by partisan divisions, the president gets to appoint members of his party to three of the five seats and to pick the chairman. Since Republicans Philip Moeller and Tony Clark left, the five-member panel has been all Democrats.

Bay's term would have expired in June 2018. LaFleur's term expires in June 2019. (See *CPP, FERC's Bay, Honorable Among Losers in Trump Win*.)

Carolyn Elefant, a former FERC attorney advisor and partner at a D.C. law firm specializing in energy regulatory issues, wondered why the Trump administration didn't have a Republican ready to fill the slot immediately. "I cannot recall a time in my 27 years of FERC practice that the commission has been down to two members," she said.

"I know that Sen. Murkowski has posted a statement on the Senate Energy Committee website about the importance of filling the seats promptly, but I don't know how much pull she has with the administration," Elefant said.

"The fact that Commissioner LaFleur — a Democratic appointee — was elevated to the chairmanship suggests to me that the administration hasn't given much thought to FERC appointments; if it had, I would have expected a Republican nominee for chairman right out of the gate."

Differences over Enforcement

LaFleur and Bay have always been cordial publicly, regardless of which one of them held the gavel. But they have had differences on policy.

When Bay was enforcement chief, FERC won more than $670 million in fines and disgorged profits from Morgan Stanley, Constellation Energy, Deutsche Bank and JPMorgan Chase.

Although LaFleur supported all of the settlements Bay brought to the commission, the two have not always seen eye-to-eye. In response to questions from the Senate, LaFleur detailed seven cases in which she issued separate concurrences or dissented from the majority on matters such as the way the commission applied its penalty guidelines or when it would share deposition transcripts with investigation targets.

Subjects in four of the cases LaFleur cited were represented by former FERC General Counsel William Scherman, who coauthored an *Energy Law Journal* article in May 2014 accusing Bay's unit of ignoring subjects' due process rights. Scherman and some other members of the energy bar had been criticizing Bay's enforcement tactics privately and in industry forums for months.

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Backlog, Delays Feared as FERC Loses Quorum

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Bay's resignation, effective Friday, will leave the agency with just two members — one short of the three-member quorum. While the commission can continue to issue decisions on routine items such as uncontested market-based rate requests, extensions of time and compliance filings, many rulings will be held up until at least one more member is nominated and confirmed.

Bay announced his resignation within hours of the Trump administration's naming of Commissioner Cheryl LaFleur as acting chair of the agency Thursday.

LaFleur said the commission would work to issue as many orders as possible while it still had a quorum. "I am confident that, with the strong team we have here at the commission, we can continue to do our important work," LaFleur said in a statement Friday. "We are evaluating how best to do the business of the commission after Commissioner Bay's departure."

On Monday, the commission posted an 11-minute Q&A podcast with LaFleur in an attempt to reassure FERC employees and those who deal with the commission.

"We are very focused on the next week" during which the commission will still have a quorum, she said. "Beyond that, we have already confirmed that all of the existing staff delegations that are in place, including such actions as hydro inspections, LNG safety reviews, audits and all the other things that staff does, will continue during

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OHIO

University of Toledo Joins DOE Study

The University of Toledo has joined a U.S. Energy Department study that will examine the potential for complex software to increase the reliability and efficiency of the national electric grid.

The project pairs the university's smart-building technology and 1 MW of solar generation on the Scott Park campus with department software that monitors energy prices, generation and demand in real time on the grid. The software will use the information to control whether campus buildings draw power from the grid, from the university's solar array, or from a battery that will collect excess power from the solar array. It also will time energy usage to put the lowest strain on the grid.

The project, which Case Western Reserve University is also participating in, has received $1 million in funding from the department through the Pacific Northwest National Laboratory.

More: *The Blade*

Backlog, Delays Feared as FERC Loses Quorum

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the period of non-quorum."

She noted that staff issues five times as many orders as the commissioners do and said the commission is "thinking about potential expansion of staff's delegated authority … basing that on past commission orders on the subject and the experience of other [federal] agencies."

Procedural, Jurisdictional Issues

The commission's website says "delegated" orders "may serve to determine a procedural matter in litigation. An order also may rule on a jurisdictional issue."

Carolyn Elefant, a former FERC attorney advisor and lead partner at a D.C. law firm specializing in energy regulatory issues, agreed with LaFleur that much of the work coming out of FERC is done by staff and doesn't need commission approval.

"Many of the commission's day-to-day actions are handled through delegated authority to offices like Office of Energy Projects [and] Office of Enforcement," she said. "The media picks up all of the contested actions, but the large majority of commission actions are routine approvals of uncontested market-based rate requests, extensions of time [and] compliance filings, which will continue as usual."

But attorney Ken Irvin, co-leader of Sidley Austin's global energy practice, said the loss of the quorum could mean that many rate filings become effective by default — decisions that he said cannot be appealed.

LaFleur

And law firm Baker Botts said it feared Bay's departure could mean a growing backlog of cases. "Given the backlog of Trump administration nominees currently pending before the Senate, it could take several weeks or months for a new FERC commissioner to be nominated and confirmed," said Jay Ryan, a partner in the firm's D.C. office.

Ryan said the lack of a quorum will be problematic for the commission's oversight and enforcement operations because it will be unable to issue orders approving audit findings, settlements of investigations and orders to show cause.

The Natural Gas Act and Federal Power Act require regulated companies to file rate and tariff changes 30 and 60 days, respectively, prior to their effective date, he noted. "If the FERC fails to act within the time that those rates go into effect, the changes become effective automatically, and if the FERC wishes to order further changes, it would have to do so under statutory provisions that place a heavier burden on the agency," Ryan said. "Further, any requests for rehearing of the FERC's orders under those statutes that are not acted upon by the FERC within a prescribed period are automatically denied."

Another Baker Botts partner, Brooksany Barrowes, said the shorthanded commission also will be unable to approve any natural gas pipeline projects currently pending, though FERC staff can continue to prepare environmental documents and do other permitting work. "Given the need for expanded gas infrastructure and the narrow construction window many projects face, this could be a major issue," she said.

Regulatory Freeze

The shuffle at the top of the commission came as FERC legal staff was evaluating the impact of the regulatory freeze announced by White House Chief of Staff Reince Priebus on Inauguration Day. Priebus' memorandum temporarily barred executive departments from sending new regulations to the *Federal Register* for publication.

On Friday, the commission issued a statement saying the memo was similar to those issued in past transitions, including the 2009 transition to the Obama administration.

"To the extent that the memo applies to the commission, a triggering event described in the memo is the presence of an official designated by the new president. That happened this week with the designation of Cheryl A. LaFleur as acting chairman," it said.

"Acting Chairman LaFleur has completed a review of new or pending regulations described in the memo. FERC now will send to the *Federal Register* previously voted commission items that need to be published there. Previously set comment deadlines will remain unchanged."

Bay Resigns After Trump Taps LaFleur as Acting FERC Chair

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The criticism became louder when the principals of Powhatan Energy Fund, which had been under investigation by Bay's unit for three years without being charged, released documents they say prove they had been unfairly hounded.

On Bay's last day as enforcement chief in August 2014 — before his swearing in to the commission — FERC issued a "notice of alleged violations" against Powhatan and its principals accusing them of market manipulation for making riskless back-to-back up-to-congestion trades to profit on line-loss rebates. In May 2015, the commission ordered Powhatan and its leaders to pay $34.5 million in penalties and disgorged profits in the case (IN15-3). The company is fighting the case in U.S. District Court for the Eastern District of Virginia.

Policy Changes?

Elefant said that once the Trump administration installs its three new members, FERC is likely to act swiftly to undo many of Bay's enforcement initiatives. "I think that many of his aggressive enforcement policies will be dismantled — if not immediately, then once other commissioners are appointed," she said.

But attorney Ken Irvin, co-leader of Sidley Austin's global energy practice, said he doesn't see anti-manipulation enforcement being significantly curtailed. "They've made a robust effort and collected a lot of monetary penalties," he said in a statement. "I don't expect to see any let-up."