RTO Insider
Your Eyes and Ears on the Organized Electric Markets
CAISO ■ ERCOT ■ ISO-NE ■ MISO ■ NYISO ■ PJM ■ SPP

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FERC Rejects DOE Rule, Opens RTO 'Resilience' Inquiry

By Rich Heidorn Jr.

FERC on Monday rejected Energy Secretary Rick Perry's call for cost-of-service payments to coal and nuclear generators, instead initiating a broader review of grid operators' efforts to ensure "resilience."

The commission's unanimous order terminated the rulemaking initiated by Perry (RM18-1), saying he had not shown that existing RTO tariffs were unjust and unreasonable or that his proposed remedy would be. The order also opened a new docket (AD18-7) and gave RTOs and ISOs 60 days to respond to more than two dozen questions on their efforts.

"The [Federal Power Act] is clear: In order to require RTOs/ISOs to implement tariff changes as contemplated by the proposed rule, there must be a demonstration that the specific statutory standards of Section 206 of the FPA are satisfied. Thus, there must first be a showing that the existing RTO/ISO tariffs are unjust, unreasonable, unduly discriminatory or preferential," the commission said. "Then, any remedy proposed under FPA Section 206 must be shown to be just, reasonable, and not unduly discriminatory or preferential. … The proposed rule did not satisfy those clear and fundamental legal requirements under Section 206 of the FPA. Given those legal requirements, we have no choice but to terminate Docket No. RM18-1-000.

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Coal, Oil Use Surges, Gas Prices Spike in Weeklong Arctic Blast

Green Mountain Power's Woodford Road Substation in Vermont | © *RTO Insider*

Arctic air sent temperatures plunging to record lows — and electricity prices and demand soaring. But grid operators weathered the challenges and maintained reliability. **(p.3)**

ISO-NE Files CASPR Proposal

By Rich Heidorn Jr. and Michael Kuser

ISO-NE asked for FERC approval of its two-stage capacity auction Monday following months of negotiations that left the RTO's stakeholders split.

The RTO filed for approval of its Competitive Auctions with Sponsored Policy Resources (CASPR) proposal even though it fell short of the 60% support needed to win endorsement in a Participants Committee vote on Dec. 8 (ER18-619).

CASPR received a sector-weighted vote of 57.75%, with the strongest support coming from the Generation, Transmission and Supplier sectors and virtually no support from End Users. Publicly Owned Entities voted 45-0 in opposition.

'Cash for Clunkers'

CASPR arose out of the New England Power Pool's Integrating Markets and Public Policy (IMAPP) initiative, launched in August 2016 in response to state regulators' concerns over funding of their procurements of

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CAISO to Depart Peak Reliability, Become RC

By Jason Fordney

CAISO officials said last week they "reluctantly" plan for the ISO to become a reliability coordinator (RC) by spring 2019 and will depart from the ISO's current RC, Peak Reliability, which recently emerged as a potential market competitor.

The ISO cited as the reasons for the move Peak's decision to partner with PJM to provide market services and Mountain West Transmission Group's likely departure from Peak after it joins SPP. (See *PJM Unit to Help Develop Western Markets*.) CAISO said in a press release it could provide reliability services "at significantly reduced costs."

"The ISO reluctantly takes these steps and will collaborate with the rest of the funding parties to ensure continuity of reliability services and to avoid any party being adversely affected financially," CAISO CEO Steve Berberich said. Services would include outage coordination, day-ahead planning, and real-time reliability monitoring.

The ISO held a call on the proposal Jan. 4

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In this week's issue

Correction

In last week's issue, we incorrectly reported that the New England Power Pool's Participants Committee would vote Jan. 5 on the two-tier market concept called Competitive Auctions with Sponsored Policy Resources (CASPR). (See *New England Leads East in Renewables Transition*.) According to ISO-NE spokesperson Matt Kakley, the committee voted on the proposal on Dec. 8. The proposal received 57.75% of the vote, failing to reach the 60% mark needed for endorsement.

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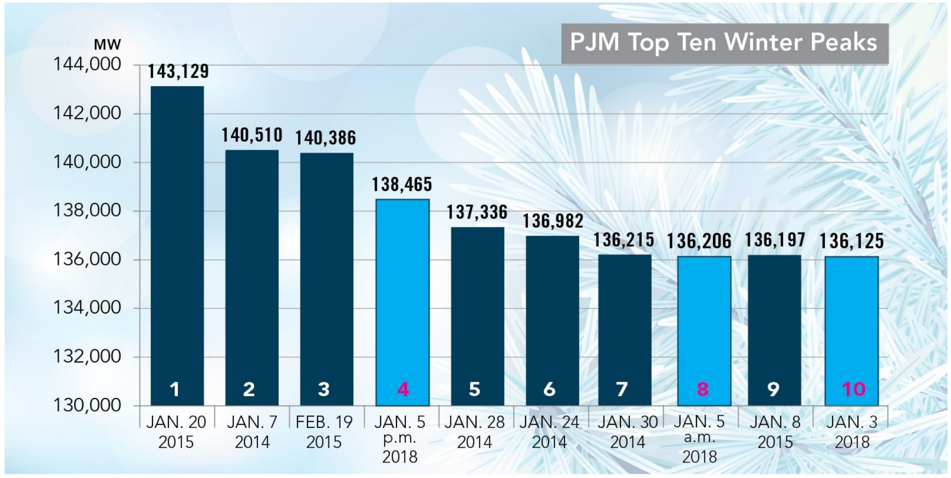
Coal, Oil Use Surges, Gas Prices Spike in Weeklong Arctic Blast

By RTO Insider Staff



| PJM

Grid operators turned to coal- and oil-fired generation last week as Arctic air sent temperatures plunging to record lows from the Great Plains to the Deep South.

The frigid temperatures caused a spike in demand for electricity, with ERCOT and SPP recording new winter demand peaks.

The most severe test of the grid since 2014, the cold blast came a week before FERC responded to Energy Secretary Rick Perry's call for price supports for struggling coal and nuclear plants in organized markets. Grid operators have managed to endure the cold weather and pinched fuel supplies, thanks in part to rule changes and winter preparations put in place after the cold snap of 2013/14.

The weather brought snow as far south as Florida and Texas, and a Nor'easter at the end of week caused blizzard conditions and coastal flooding from New Jersey to New England.

Temperatures were as low as minus 45 F, in Minnesota and North Dakota. The weather broke low-temperature records in several areas of the country. Wind chill records were also shattered. Mount Washington, N.H., recorded a temperature in the minus 30s, but with hurricane-force winds in place, wind chills were in the 80s and 90s below zero on Saturday morning. Wind chill warnings were in effect through Sunday morning in parts of the Northeast, with values expected as low as 45 degrees below zero.

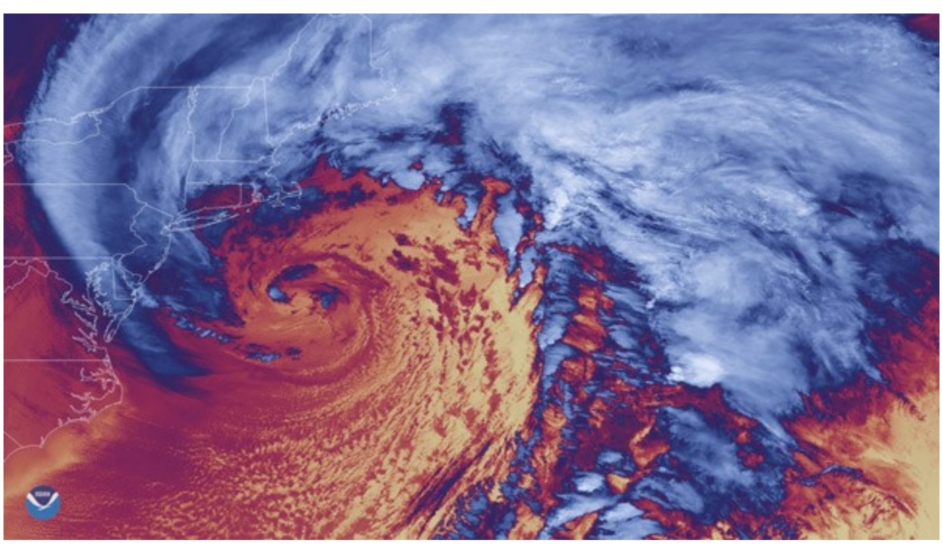
On Thursday, natural gas prices at Transco Zone 6 New York hit a record $175/MMBtu, according to Natural Gas Intelligence, and averaged $140, up almost $92 from the day before. Prices at other trading hubs in New York and New England also exceeded $100 on Thursday, Bloomberg and NGI reported, with New England Internal Hub prices topping $300.

By contrast, gas futures have averaged less than $3 on the New York Mercantile Exchange this winter.

ISO-NE

The New England grid was most challenged by the low temperatures. A combination of factors led ISO-NE to begin "posturing" generation units, in which the RTO staggers their operation in an effort to conserve fuel.

Nonetheless, the grid operated reliably throughout last week, according to spokesperson Marcia Blomberg.



From Friday to Sunday, ISO-NE sent out Cold Weather Watches, issued when extreme cold weather is in the forecast but the RTO still expects a capacity margin of 1,000 MW or greater.

By Monday, temperatures in the Mid-Atlantic and Northeast began to normalize and are expected to continue rising to above-average levels later this week. ISO-NE reported 1,381 MW of surplus capacity to meet Monday's expected peak of 20,000 MW.

But the cold, and the high demand for heating, led to pipeline constraints and a spike in natural gas prices, forcing the RTO to rely on oil-fired and dual-fuel resources. Oil was providing one-third of ISO-NE's electricity as of Saturday afternoon, with natural gas at 24%, nuclear 22% and coal at 5%. For all of 2016, by contrast, coal and oil generation together accounted for 3% of total energy production, with capacity factors of 15% for coal and 2% for oil. Gas-fired plants normally account for about half the region's generation.

"During this extreme cold, some power plants have either tripped offline or had to reduce their output, while other oil-fired and dual-fuel generators are quickly depleting their fuel supply," Blomberg said Sunday.

One of those plants was Entergy's Pilgrim Nuclear Power Station in Plymouth, Mass. It went offline Thursday after one of its interconnections failed during the storm, but the outage did not affect reliability, ISO-NE said.

Some oil units were also nearing their

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Coal, Oil Use Surges, Gas Prices Spike in Weeklong Arctic Blast

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emission limits Sunday, Blomberg said.

As a precautionary measure before the storm, the RTO on Wednesday issued a Master/Local Control Center No. 2 alert, which requires generation and transmission owners to stop any routine maintenance, construction or test activities on their equipment.

NYISO

NYISO experienced similar conditions as ISO-NE: increased natural gas prices and a reliance on oil generation. But the ISO also said it did not have any reliability problems, and it did not experience concerns of fuel scarcity or emission limits.

"We've had no forced outages of the high-voltage direct current transmission system," Vice President of Operations Wes Yeomans told reporters during a teleconference Thursday afternoon.

"The transmission system between central and eastern New York is fully loaded, as expected, bringing the less expensive energy from the western parts of the state to the high demand zones in and around New York City," Yeomans said. In addition, the ISO was reaching out to TOs in the southeastern part of the state, which was bearing the brunt of a blizzard.

NYISO's marginal cost of energy spiked to $229.62/MWh last Tuesday, up from $15.87 on Dec. 24. The ISO's real-time LMP zonal map showed power from Hydro-Québec priced at $226.87/MWh, compared with $15.41 a week earlier.

Gov. Andrew Cuomo on Thursday declared a state of emergency for the city, Long Island and Westchester County because of the storm. Meanwhile, Upstate saw lake-effect snow, followed by subzero temperatures. A wind chill advisory warned that temperatures could feel as low as minus 42 F.

PSEG Long Island on Thursday reported that about 3,818 of its approximately 1.1 million customers across Long Island and the Rockaways were without service. By Monday, that figure had dropped to about 100.

NYISO Executive Vice President Rich Dewey said during the press conference that Albany had endured six consecutive days during which the low temperature fell below zero and the average was 10 F. Such weather is not unusual, but extended periods of it are, he said.

Nearly 50% of New York's generating fleet is able to switch to oil, which helps grid reliability, Dewey said, adding that operational enhancements made after the 2013/14 cold snap include increased surveys of generators to ensure they have adequate fuel supplies. The storms also kept the 100 MW of nameplate wind running strong, he said.

PJM

PJM's peak demand hit 138,465 MW at 7 p.m. Friday, the fourth-highest peak on record. The RTO said demand was about 2,500 MW above the forecast because temperatures and wind chill factors were lower than expected.

Demand had hit 136,206 MW Friday morning and 136,125 MW on Wednesday, the eighth- and 10th-highest, respectively.

Coal supplied 39% of PJM's generation between Jan. 1 and 6, with a peak of 44% early Jan. 4. Nuclear provided 29%, with natural gas kicking in 21%, oil 5%, wind 3%, hydro 1% and other renewables 1%.

During all of 2017, nuclear led with 36% of generation, with coal representing 32%, and natural gas and oil at 27% and 0.3%, respectively.

Real-time LMPs were consistently above $250/MWh during the week and briefly exceeded $750/MWh in some zones.

PJM said it had been preparing for cold weather since the fall, when the National Weather Service noted that a dip in the polar vortex, which caused an unseasonably mild August, would likely return during the

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Coal, Oil Use Surges, Gas Prices Spike in Weeklong Arctic Blast

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winter. Chris Pilong, who manages PJM's dispatch, said the long-range forecast called for a mild winter overall with periods of extreme cold.

The RTO started issuing cold-weather alerts prior to the holiday break to ensure generators and transmission operators were prepared for frigid conditions. Communication is central to PJM's response, Pilong said.

PJM issued a heavy load voltage schedule warning Thursday as a precautionary measure to help maximize power transfer capability and reactive reserve for the evening peak. Despite the warning, the RTO reported having maintained adequate power supplies and operating reserve margins during the cold weather.

The RTO reported no concerns with fuel availability or reliability issues through the weekend.

ERCOT

ERCOT reported a new winter peak demand of 62.86 GW between 7 and 8 a.m. Wednesday, when freezing temperatures covered much of the state, exceeding last Tuesday's evening peak of 61.95 GW. Both broke the previous winter mark of 59.65 GW, set a year ago on Jan. 6.

ERCOT had more than 70 GW of capacity available during the morning hours. The ISO in November projected a winter peak of slightly more than 61 GW and said it would have as much as 81 GW of total resource capacity on hand to meet demand.

Wholesale prices peaked at $70.02/MWh during the interval ending at 9:30 a.m. but were as low as $32.40 in the early morning hours. Last Tuesday's prices peaked at $72.26 during the interval ending at 6 p.m.

ERCOT did not take any extreme measures in meeting the winter demand.

MISO

MISO on Monday said it navigated the extreme weather event without a single reliability issue. The RTO recorded a peak load of 104.7 GW during the week, set on Jan. 2.

"Lessons learned and applied since the polar vortex — including increased electric-gas coordination — improved MISO's ability to respond to challenging situations," spokesperson Mark Brown said.

The extended cold snap prompted MISO last Tuesday to issue a conservative operations order until Jan. 5. A cold-weather alert remained in place until Sunday "due to very cold temperatures, high system load and uncertainties in gas pipeline fuel supplies." MISO's all-time winter peak demand was 109.3 GW on Jan. 6, 2014.

The RTO has placed more weight on winter preparations since the 2013/14 winter, issuing winterization guidelines for generators and introducing heightened communication with gas pipeline operators. (See *FERC Approves MISO Plan to Share Generator Gas Data*.)

Last Tuesday, coal generation made up a 48% share of MISO's fuel mix, with natural gas supplying 22% and nuclear and wind generation contributing about 14% each. The RTO's mix is typically 34% coal, 41% gas, 8% nuclear and 14% renewables.

SPP

SPP on Monday reported a new winter peak demand record of 41,014 MW, set the morning of Jan. 2. The previous record was 40,322 MW.

The RTO issued a cold-weather alert for Dec. 29 to Jan. 4. Spokesman Dustin Smith said member companies were experiencing "slower-than-normal" start times and other temperature-related start-up issues at some units.

While the cold temperatures had some impact, SPP has not "encountered anything unmanageable," Smith said. Some gas units have been unable to procure fuel, resulting in outages and switches to more costly oil.

Michael Kuser, Rory D. Sweeney, Amanda Durish Cook, Tom Kleckner, Rich Heidorn Jr. and Michael Brooks contributed to this report.

CAISO NEWS

Report: Regulatory Failure Caused Oroville Incident

By Jason Fordney

A "long-term systemic failure" of regulatory and industry practices caused the Oroville Dam crisis in February 2017, an independent forensics team said in a new report that recommends a reworking of broader dam safety practices across the country.

There was no single cause or chain of events that provoked the failure of the dam's spillway, which was completed in 1968, the report says. The California Department of Water Resources (CDWR) was forced to use the dam's emergency spillway on Feb. 12 after the dam's main spillway failed, requiring the evacuation of 188,000 residents near Oroville in Butte County, about 75 miles north of Sacramento.

"The incident was caused by a complex interaction of relatively common physical, human, organizational and industry factors, starting with the design of the project and continuing until the incident," the report said.

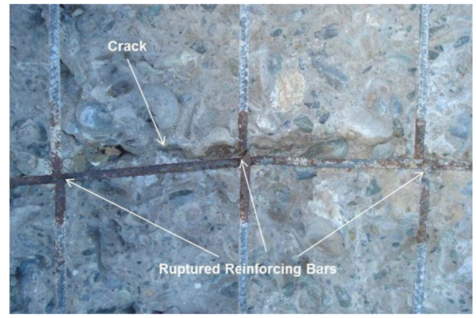
FERC required CDWR to create a forensic team to study the incident, with members recommended by the Association of State Dam Safety Officials and the United States Society on Dams. The team studied design and construction records, inspections, maintenance reports, investigations and other records.

Physical factors contributing to the failure included inherent vulnerabilities in spillway designs and construction of the dam, and the poor condition of the foundation rock underneath some spillway locations. There has also been inadequate attention paid to spillways, the report said, because spillway incidents don't usually lead to loss of life and spillway incidents have been under-reported. CDWR might have also become complacent because of a lack of previous failures outside of the state, but the department should have been aware of accidents in other states and countries, the report said.

The main spillway had problems right after construction, according to the report, including a large crack in the concrete chute slab, and high underdrain flows were observed. The cracking and underdrain flows were considered normal, but repairs were "ineffective and perhaps detrimental."

"The seriousness of the weak as-constructed conditions and lack of repair durability was not recognized during numerous inspections and review processes over the almost 50-year history of the project," the report said.

Ultimate damage at the service spillway | *Independent Forensic Team Report*



Corroded and ruptured steel reinforcing bars at a slab crack | *Independent Forensic Team Report*

It faulted the dam safety culture and program within CDWR, overconfidence and complacency regarding the dam's condition, inadequate usage of industry knowledge, and bureaucratic constraints on staffing and expertise. The report suggested CDWR was also under pressure from the State Water Contractors, a group of 29 California public agencies, to control costs.

Environmental groups had warned CDWR and FERC about the facility, requesting during its 2005 relicensing that the hillside below the spillway be paved, but those pleas were rejected.

Water levels behind the FERC-regulated dam fell to nearly 50 feet below the height of a severely damaged emergency spillway at the time of the incident. (See *Local Officials Appeal to FERC as Oroville Water Levels Recede*.)

The report said CDWR has been too dependent on regulators and the regulatory process, and more broadly, the report recommends a strong "top down" safety culture at dams, with one executive charged with condition awareness and new expert staffing. More frequent physical inspections are not always sufficient, and CDWR has been a "somewhat insular" organization, inhibiting technical expertise, it said.

The report also recommended periodic reviews of original designs, construction and performance — more in-depth than the current reviews mandated by FERC every five years. It noted that in regular inspections by CDWR, FERC and others, the spillway was observed only from the headgate structure where only the upper, flat portion of the

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CAISO NEWS

Harassment Flap Could Hinder Calif. Energy Bills

By Jason Fordney

SACRAMENTO, Calif. — Energy issues appeared to get the back burner on the opening day of the California State Legislature as allegations of sexual harassment and workplace retaliation dominated the beginning of the 2018 session.

State Senate President Pro Tempore Kevin de Leon (D) spent most of Wednesday's session meeting with fellow Democrats about allegations against Sen. Tony Mendoza (D), who agreed to temporarily step down. An aide to Mendoza filed a complaint with the state saying that she was fired after telling Senate officials he sexually harassed another female subordinate, a claim that Mendoza denies, *The Sacramento Bee* reported this week.

Since the 2017 session, the State Capitol has become a point of focus in a national debate on sexual harassment after nearly 150 women signed a letter complaining of inappropriate behavior in an elected body dominated by Democrats and known for progressive policies. De Leon, a former roommate of Mendoza, is tackling the controversy as he launches a campaign for the U.S. Senate seat held by Dianne Feinstein, another possible distraction from the energy policies he has championed. Senate Democrats say that in January they will elect San Diego Democrat Toni Atkins as the body's first female president pro tempore.

De Leon authored and is the chief proponent of SB100, the 100% clean energy bill that stalled late last year, frustrating envi-

The California State Assembly meets in its first session of 2018. | © *RTO Insider*

ronmentalists. (See *CAISO Regionalization, 100% Clean Energy Bills Stall*.) The Senate passed the bill in June of last year, but it was amended in September and re-referred to the State Assembly Utilities and Energy Committee, where it now sits. (See *California Senate Passes Bill Mandating 100% RPS*.)

Committee chairman Chris Holden told *RTO Insider* on Wednesday to refer questions on the status of the bill to de Leon's office, which did not respond to emails and phone calls regarding the status of the bill.

"It is his bill," Holden said. "We are waiting for him to come back with some amendments to address the issues that opposition had raised." Speaking of the opposition last year, Holden said, "It was intense."

Peter Miller, Western energy project director for the Natural Resources Defense Council, told *RTO Insider* that he thinks there is a good chance the bill will pass this year.

"There is uncertainty inside the building as to when it might move and how much attention de Leon might be able to pay to it," he said. But he added there is a "tremendous grassroots effort" and public campaign taking shape in 2018 and "a lot of pressure" to approve the legislation.

"There is broad support, and that is going to show up in offices around the capitol," he said.

The two CAISO regionalization bills Holden sponsored last year, AB726 and AB813, are currently in the Senate Rules Committee and would likely not be be taken up until May or June, according to an Assembly staff member.

"We are still formulating what that bill should look like," Holden said of the legislation that would explore regionalization. "It is important, and it is something we will be responding to with clear language, but right now we are formulating the language."

There are many issues around CAISO regionalization, and complicating the picture is an effort by CAISO to extend its day-ahead market to the Western Energy Imbalance Market (EIM). (See *CAISO Bid for Western RTO to Face Competition in 2018*.) But an RTO would be different, including other states in its leadership and creating worries among some lawmakers that California's aggressive pursuit of renewable energy could be diluted by other states with different goals and resources.

In a day that included several ceremonies, upon convening on Wednesday, the Assembly read the names of the victims of the 2017 wildfires, which have led to investigations into possible role of California utilities in the disasters.

Report: Regulatory Failure Caused Oroville Incident

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spillway could be seen. Repairs conducted in 2009 and 2013 were seen as routine and were not submitted for regulatory approval.

"The [independent forensics team] believes that both the California state and FERC dam safety regulations have been somewhat ambiguous regarding how comprehensive the five-year reviews were intended to be, which likely contributed to these reviews being overly relied upon but not sufficiently funded to serve as comprehensive reviews," the report said.

It also said that prior to the incident, "the geology of the right abutment of the dam, including the hillside downstream of the emergency spillway crest structures, was fundamentally misunderstood by DWR, its consultants, [the California Division of Safety and Dams] and FERC."

The 770-foot-high dam is part of the Oroville-Thermalito complex, which includes the Hyatt and Thermalito power plants totaling 933 MW, which had to be shut down during the incident, as well as power canals, afterbays and other facilities. The dam is part of the State Water Project, which provides water to 25 million people and 750,000 acres of irrigated farmland in California. It is the tallest in the U.S. and impounds one of California's largest manmade lakes.

FERC has an open proceeding on the incident and in June ordered inspections of dam spillways to be completed by the end of 2017.

CAISO NEWS

CPUC Targets CAISO's Calpine RMRs

By Jason Fordney

California regulators will this week vote on a proposal to replace out-of-market contracts between CAISO and Calpine, saying the ISO failed to follow its established procurement process and possibly distorted its electricity markets.

The California Public Utilities Commission's proposed Jan. 11 decision would replace the reliability-must-run contracts for Calpine's Metcalf, Yuba City and Feather River power plants in Northern California with energy storage and fast-acting "preferred resources" by 2019. Pacific Gas and Electric would procure the resources, which must be eligible to come online before the RMR contracts are renewed for 2019, the proposed decision says.

The commission noted that the RMR contracts were developed outside of its resource adequacy (RA) process and that CAISO's backstop Capacity Procurement Mechanism (CPM) was not initiated before awarding the contracts.

"Lack of competition ... can lead to market distortions and unjust rates for power," the CPUC said. "It is because of this concern that the commission is exercising its broad procurement authority with this resolution to authorize PG&E to conduct the solicitation for resources that can effectively fill local deficiencies and address issues identified."

The CAISO Board of Governors in November reluctantly approved the Metcalf RMR agreement, which was developed in an expedited timeline. (See *Board Decisions Highlight CAISO Market Problems*.) The board approved the Yuba City and Feather River RMRs last March, drawing some stakeholder criticism because such out-of-market payments indicate the market might not be sending appropriate price signals. (See *CAISO RMRs Win Board OK, Stakeholders Critical*.)

Additionally, in a Dec. 22 market notice, CAISO said it had used its CPM backstop authority for PG&E's 510-MW Moss Landing plant in the South Bay-Moss Landing sub area and for two units at San Diego Gas & Electric's Encinas plant in Carlsbad.

An RMR contract differs from a CPM designation in that it is involuntary for the generator, which receives a negotiated contract rate for a year. The voluntary CPM falls under a market-based price up to a cap and is riskier because the contracted megawatts can vary from month to month.

Calpine says RA capacity prices and CPM are not sufficient to sustain the plants, a claim that the CPUC has questioned. The company told CAISO in November 2016 that it planned to terminate generator interconnection agreements for the Feather River, Yuba City, King City and Wolfskill plants. In June, it told CAISO it was considering taking the 580-MW Metcalf off ISO dispatch.

In the case of Metcalf, Yuba City and Feather River, "Calpine did not enter into any bilateral RA contracts for 2018," the CPUC said. "Instead, the company elected to communicate to the CAISO that it was planning to make these resources unavailable for CAISO dispatch unless it was awarded an RMR contract." According to the CPUC, Calpine has said that RA capacity prices are not adequate, and that the CPM planning period does not allow sufficient time for maintenance, budget and other planning considerations.

Further complicating the situation is the fact that CAISO and Calpine are butting heads over the terms of the Metcalf, Yuba City and Feather River RMRs. CAISO and

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CAISO NEWS

CPUC Targets CAISO's Calpine RMRs

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PG&E filed protests regarding the contract terms Calpine filed with FERC, which last month set the matter for settlement talks. (See *FERC Orders Hearing, Settlement Talks for Calpine RMRs*.)

Having noted misalignments between its processes and the CPUC's RA program, CAISO last October launched an initiative to collaborate with the CPUC to address possible reforms. In its 2017 policy catalog, the ISO said that a rapid transformation of the fleet to more variable energy resources "is exposing inadequacies in the current resource adequacy framework."

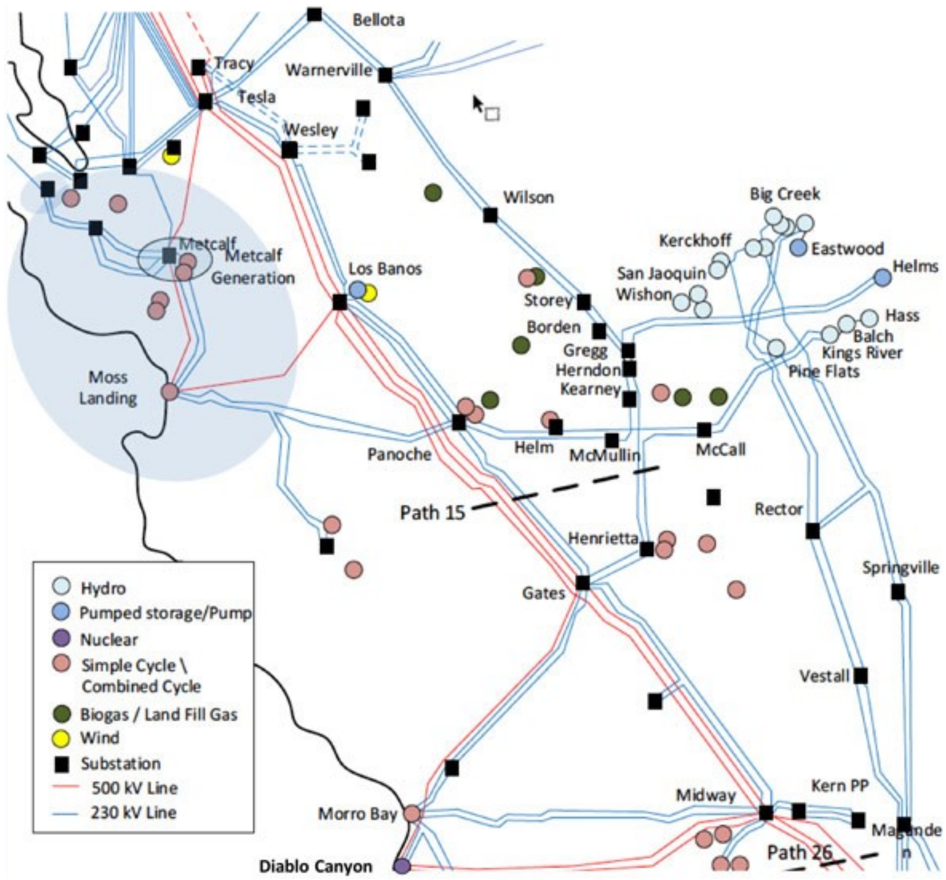
"I always call this a tale of two RA programs," Carrie Bentley of Resero Consulting — which frequently represents the Western Power Trading Forum in ISO matters — told *RTO Insider*. She noted that the CPM model has more risk than an RMR, and that the CPUC prefers market-based outcomes rather than RMRs.

Bentley noted that the growth of community choice aggregators (CCAs) has also compounded the problem because they procure resources on an incremental basis, rather than for the full output of a plant, which is not preferable for power plant owners. CCAs allow local governments to do their own electricity procurement and have been marketed heavily in the San Francisco Bay Area as clean energy alternatives to traditional utilities.

"I think it's a huge issue," Bentley said. "You can't count on building a book that way if you are a power plant owner."

The CPUC is expected to address the CCA issue at its Thursday meeting with a recently drafted decision that would make CCAs subject to RA requirements. The proposal would better align CPUC and CAISO resource planning, the commission said. (See *California Proposes Resource Adequacy Obligations for CCAs*.)

CCAs have grown rapidly in California since the launch of Marin Clean Energy in 2010. Over the five following years, two new CCAs were launched serving 135,000 customers. In 2016 and 2017, 12 communities either launched new CCAs or filed implementation plans, the CPUC said.



South Bay-Moss Landing subarea | *CAISO*

CAISO to Depart Peak Reliability, Become Reliability Coordinator

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and said it will conduct public meetings later this month in Folsom, Calif.; Phoenix, Ariz.; and Portland, Ore.

CAISO last month proposed to extend its day-ahead market into the territory of its regional Western Energy Imbalance Market (EIM), setting up a possible competition with Peak to provide an organized market to other areas of the West. (See *CAISO Bid for Western RTO to Face Competition in 2018*.)

RCs monitor compliance with NERC and regional standards, including monitoring risks, taking actions to preserve reliability and leading power restoration efforts.

Vancouver, Wash.-based Peak said it will have a business plan for its market offering in place by the end of March. The organization said last year it held more than 130 meetings, including some with public utility commissioners in Washington, Montana and Nevada; FERC; and the office of California Gov. Jerry Brown.

Peak in 2014 split off from the Western Electricity Coordinating Council, a NERC Regional Entity based in Salt Lake City, Utah. WECC recently began its own realignment toward core reliability functions. (See *WECC Finding New Direction in Old Mission*.)

ERCOT NEWS

Texas PUC Executive Director to Resign

By Tom Kleckner

The executive director of the Public Utility Commission of Texas told staff last week he intends to resign from the agency, effective March 1.

Brian Lloyd | © RTO Insider

Brian Lloyd is only the PUC's second executive director and has held the position for slightly more than seven years. In a letter to staff, Lloyd said his departure would ensure a smooth transition to a new director and allow the commissioners "sufficient time to be deliberate in considering the applicants they will have for this position."

"I have felt very strongly over the past several months that God has something else that he wants me to move onto, and while it is scary having absolutely no idea what that is, I've been comforted much over the holidays with reminders to place my trust there," Lloyd wrote.

"The most difficult part of this decision is how much I enjoy working with all of you on issues critically important to Texas and the high degree of integrity and ethical standards that I believe is ingrained in our culture here," he said.

Lloyd's resignation creates two vacancies among the PUC's senior leadership. Communication Director Terry Hadley retired from the commission just before the new year. Hadley had been with the PUC since Texas' electric restructuring legislation was signed into law in 1999.

The PUC is also entering 2018 with a new chair (DeAnn Walker) and a new commissioner (Arthur D'Andrea), who replaced the commission's longest-serving commissioners (Donna Nelson and Ken Anderson) last fall.

As executive director, Lloyd oversees the PUC's day-to-day operations and management, including developing its strategic plan, directing staff analysis of contested proceedings and rulemakings, and developing and implementing the agency's budget. Lloyd also coordinates the commission's interaction with other state agencies and represents it at the Texas Legislature and other forums.

Lloyd has served in roles of increasing responsibility during his 19 years in electricity and telecommunications market design, restructuring and deregulation, as well as areas of electric reliability and assessing the impacts of federal environmental policy on competitive and regulated electricity markets. Before joining the PUC in September 2010, he was Gov. Rick Perry's deputy director of budget, planning and policy.

Lloyd holds a bachelor's degree in economics from Louisiana State University and a master's degree in economics from the University of Texas at Austin.

LP&L Cites Competition as Reason for Migration to ERCOT

By Tom Kleckner

Lubbock Power & Light filed testimony with the Public Utility Commission of Texas in support of its proposal to move about 430 MW of load from SPP into ERCOT.

The move would make LP&L the first to join ERCOT's deregulated competitive market since it was created in 2002.

The PUC has scheduled a hearing on LP&L's migration Jan. 17-18 in Austin.

Meeting last Tuesday's deadline, LP&L filed testimony from former FERC and PUC Chair Pat Wood III, Lubbock Mayor Dan Pope, LP&L Director of Electric Utilities David McCalla and three industry experts.

Wood, who was integral in helping create the ERCOT market and now runs his own energy infrastructure development business, said he felt compelled to speak out on the ISO's benefits for LP&L's customers. He said he was concerned "that the focus on selected details of this proposal is obscuring its significance."

"We have in this proceeding the state's third largest municipal utility requesting to move three-fourths of its load to ERCOT, and further, evidencing its intent to open its retail franchise to competition — something no other municipal utility has yet elected to do," Wood said.

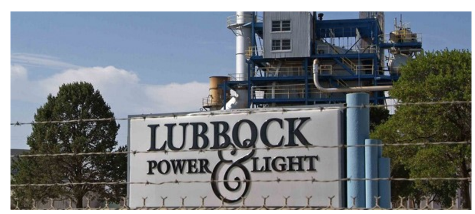
Pope said he is frequently asked by Lubbock citizens "to bring back competition for retail electric service."

"Personally, I believe in the principles of competition, and there is no question in my mind that the citizens of Lubbock desire to be given the right to freely shop the Texas retail electric market for a provider," Pope said.

The Lubbock City Council is expected to vote Jan. 11 on whether to conduct a study analyzing the effect of opening the retail market.

In his testimony, McCalla said giving customers a choice of retail providers was not a part of LP&L's original proposal.

"Customer choice is about more than simply economics," he said. "It is about allowing customers to decide what percentage of renewable energy they purchase, to choose whether they want long- or short-term service, and to select from many other features and options that are available from a multitude of different retail electric providers."



| *LP&L*

In September, LP&L filed its intention to integrate 430 MW of load with ERCOT by June 2021. That load is currently served through a wholesale contract with SPP member Southwestern Public Service; the contract expires May 31, 2021. ERCOT, SPP and LP&L have all filed studies in the case (Docket 47576), which began in 2015 when the municipality announced it intended to move 430 MW of its approximately 600 MW of load into ERCOT. LP&L is hoping for a decision before March, which will enable it to maintain its plan to integrate with ERCOT by June 2021, after extending a power purchase agreement with SPS. (See "LP&L Study: Production Costs Increase," *ERCOT BoD Briefs: June 13, 2017*.)

MISO NEWS

FERC Grants MISO 4th Winter Offer Cap Waiver

By Amanda Durish Cook

FERC has allowed MISO to waive its $1,000/MWh offer cap for the fourth straight winter, two months after the commission rejected the RTO's plan to permanently double its hard offer cap.

The commission on Friday said it had "good cause" to allow resources with incremental energy costs above the current $1,000/MWh offer cap to recover costs from Dec. 1, 2017, through April 30, noting that "some resources could face the untenable position of being forced to offer electricity at levels below their actual cost" if MISO wintertime demand spikes occurred when gas supplies were pinched (ER18-300).

MISO announced it would seek the waiver in November, days after FERC rejected MISO's Order 831 compliance filing, saying it wrongly prohibited resources from submitting cost-based offers above the required $2,000/MWh hard cap. (See *MISO to Seek Waiver After FERC Rejects Offer Cap Plan*.) The commission last week acknowledged that once MISO files an acceptable "long-term solution," it will no longer need temporary waivers.

FERC issued Order 831 in response to the unusually cold winter of 2013/14 that sent natural gas prices soaring and left generation owners complaining they could not recover fuel costs. MISO claims that offers above $1,000/MWh are a possibility when natural gas prices climb above $67/MMBtu.

In mid-December, the RTO asked FERC for clarification and rehearing of its offer cap filing, arguing that it should be permitted to exempt proxy offers of fast-start resources from the required offer caps because such offers are only used during emergency operating procedures. It contended that applying a raised offer cap to those resources is "inconsistent with previously adopted and articulated commission policies on price efficiency and reduction of uplift" (ER17-1570).

MISO's markets have yet to experience an energy offer exceeding $1,000/MWh. However, in March 2014, generation resources offered approximately 900 MW at the $1,000/MWh offer cap in both the day-ahead and real-time markets, "indicating that the offer cap may have constrained those offers," according to the RTO. Last week, the RTO's Midwest and South regions were tested with temperatures about 20 to 25 degrees below normal, and it issued a cold-weather alert and conservative operations instructions that it kept in place for most of the week. (See *Frigid Weather Tests Grid Operators*.)

Michigan Dam Faces Shutdown over Longtime Safety Concerns

By Amanda Durish Cook

FERC has given a small Michigan hydropower company until March 1 to correct serious violations of federal safety regulations or once again face an order to shut down.

Boyce Hydro Power last month filed an emergency motion for a permanent stay of FERC's November order that the 4.8-MW Edenville Dam in northern Michigan cease operation. On Friday, the commission denied the motion, citing Boyce's "lengthy, extensive record of noncompliance" with safety and other regulations, but it did hand the company a March deadline, allowing flows to continue through the powerhouse in order to safely control reservoir levels in the face of heavy ice (10808-057).

FERC said the violations for the dam, located between Wixom Lake and the Tittabawassee River, include failing to increase spillway capacity to address the increased likelihood of more frequent flooding; performing unauthorized dam repairs and excavation; neglecting to file a public safety plan or follow its own water monitoring plan; failing to acquire all property rights; and failing to construct required recreation facilities near the dam. The commission said it has spent more than 13 years trying to get Boyce, which has owned the dam since 2004, to increase spillway capacity, the most serious of the safety violations. The company only began abiding by its water quality monitoring plan last July.

Edenville Dam spillway

The Office of Energy Projects' Division of Dam Safety and Inspections "has determined that the failure of the project dam could result in the loss of human life and the destruction of property and infrastructure," FERC warned. It has repeatedly asked Boyce to construct two auxiliary spillways to reduce the risk of flooding. In return, Boyce last month filed a proposed funding plan for spillway construction and new draft maintenance plans.

The commission was unimpressed: "Boyce has repeatedly failed to comply with requests by the regional engineer and other commission staff to develop and implement plans and schedules to address the fact that the project spillways are not adequate to pass the probable maximum flood, thereby creating a grave danger to the public. … The public interest in ensuring that the dam is safe outweighs the potential economic harm to Boyce. We take our duty to protect the public extremely seriously."

MISO NEWS

Milwaukee Signals Fight Against Foxconn Interconnection Plan

By Amanda Durish Cook

A Milwaukee city official is questioning why We Energies ratepayers must pick up the $140 million tab to interconnect electronics manufacturer Foxconn's proposed plant to the southwestern Wisconsin grid — and the city could attempt to block the plan in the state approval process.

Milwaukee Alderman Robert Bauman and other city legislators are asking why ratepayers should pay for the Taiwan-based company's interconnection upgrades (137-CE-188) when it is the sole beneficiary. American Transmission Co. (ATC) has proposed constructing a 14-mile 345-kV transmission line, a new 345/138-kV substation and new underground 138-kV lines to connect the substation to a smaller Foxconn-owned substation near the proposed $10 billion manufacturing plant. (See *MISO Studying Tx. Upgrade for Massive Foxconn Factory in Wisc.*)

Foxconn manufacturers at work in China | *Foxconn*

Milwaukee City Hall

"Is it reasonable for ratepayers to pick up a portion of the costs when they'll see some economic benefit? Sure … [but] this is being built to serve one entity — a privately owned, for-profit foreign corporation. … It's a basic fairness issue," Bauman said in an interview with *RTO Insider*.

Bauman said not many customers are aware that the project will become part of We Energies' rate base. "It's very complicated, and it's inside baseball," Bauman said.

At a Jan. 4 Milwaukee Common Council hearing, Assistant City Attorney Tom Miller said Bauman's criticism boils down to a question of: "Is the project proposed for the needs of the public or for a single customer?"

"Bingo," Bauman replied.

If the project does not satisfy the reasonable needs of the public, Miller continued, the Wisconsin Public Service Commission could withhold project approval.

Alderman Michael Murphy said he has not yet seen a state plan to expand public transit in Milwaukee to grant the city's unemployed access to some of the 13,000 promised jobs at the Foxconn plant, which will be located about 26 miles south of the city.

Murphy also said he supported Bauman's arguments and a Milwaukee-led stand against We Energies customers paying for the upgrades.

"Admittedly, I think all of us know the PSC is really a stacked deck, but I still think we should make that legal argument based on the facts," Murphy said.

Despite what appears to be a majority consensus in opposing the Foxconn project, the council has yet to decide whether to object to the cost allocation. Any objection would be made through a resolution, then passed to the city's attorney, who could either intervene or lodge an objection to ATC's request for certificate of public convenience and necessity at the PSC. ATC will file its application sometime in February; a PSC hearing on the project is not expected until June.

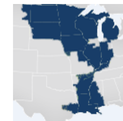
Costs for the Foxconn interconnection project will be passed from ATC to We Energies and then embedded in ratepayer bills. Milwaukee-based We Energies is a customer of ATC, which is not beholden to the ratemaking regulation of the PSC but is subject to PSC approval for facility construction.

'Pennies'

ATC spokesperson Alissa Braatz contends that the typical residential customer across the company's service area would pay "pennies each year over the projected lifespan of the line," noting that transmission charges average less than 10% of monthly electric bills. She said the line and substation are meant to "help meet the growing electric demands of current electric

Continued on page 13

MISO NEWS



Milwaukee Signals Fight Against Foxconn Interconnection Plan

Continued from page 12

users and accommodate the expected growth in businesses and homes in Racine County."

"In regard to the comments made by Alderman Bauman, any party has the right to file an intervention with the Public Service Commission of Wisconsin, and ATC encourages public input on proposed projects," Braatz told *RTO Insider*.

Braatz further pointed out that based on federal tariffs, it's common for a transmission-only utility like ATC to charge all customers in a service area for transmission projects that "improve the reliability and efficiency of the grid." By spreading the cost of the Foxconn project among all 5 million customers in ATC's service area, the "impact is minimal," she said.

The Streetcar Effect

In his arguments against ratepayers footing the bill for Foxconn's project, Bauman is drawing parallels to Milwaukee's new electric streetcar line, approved in 2015.

"In the political context of what's happened here, I'm absolutely opposed to ratepayers bearing any cost," Bauman said, referencing a two-year dispute over utility line relocation costs as part of the streetcar project. We Energies first estimated the cost to relocate utility lines at more than $50 million. The amount was later reduced to anywhere from $10 million to $25 million, and a judge in 2016 determined that the city — not We Energies — should fund the relocation. Bauman argues that We Energies essentially got "free infrastructure," and that because the city must pay for its streetcars' utility needs, Foxconn must finance its own utility needs associated with its manufacturing plant.

"There were these estimates grossly overstating this relocation," Bauman said. He sees history repeating itself with ATC's "pennies" promise. Similar promises were made on the streetcar project, he said.

However, at least one of Milwaukee's 15 aldermen supports the Foxconn interconnection plan.

"There is absolutely no comparison between Foxconn and our streetcar," Alderman Mark Borkowski said. "Ten years from now, whoever is still around, can see what the difference is. My money is on Foxconn."

Alderman Nik Kovac replied that he'd be surprised if Foxconn's Wisconsin plant was still open in a decade.

MISO Still Considering Expedited Request

Meanwhile, MISO still has yet to render a decision on ATC's request to grant the Foxconn interconnection project expedited status, which would ensure approval several months ahead of the RTO's 2018 Transmission Expansion Plan finalization in December.

On Friday, MISO spokesperson Mark Brown said the RTO has not reached any conclusions in studying the proposed project. The RTO will schedule a Technical Studies Task Force meeting in late January and set aside time at its February Planning Advisory Committee meeting to discuss granting the project an accelerated approval process.

NYISO NEWS

Cuomo Pushes Clean Energy in Annual Address

By Michael Kuser

New York Gov. Andrew Cuomo on Wednesday made clear that clean energy and the jobs it can create will continue to be a key part of his vision for the state's future.

In his annual State of the State address, Cuomo called for the approximately $200 billion New York State Common Retirement Fund to "end any investment in fossil fuel-related activities," saying "the future of the environment, the future of the economy and the future of our children is all in clean technology, and we should put our money where our mouth is."

"Last year we announced one of the largest offshore wind projects in the nation," Cuomo said. "This year I'm proud to announce we will be putting out at least two [requests for proposals] for at least 800 MW in offshore wind power, enough wind power to power 400,000 New York state households with clean energy. That's a great and clean step forward."

Anne Reynolds, executive director of the Alliance for Clean Energy New York, said the "announced commitment to a procurement in 2018 is a great step forward for growing this industry in New York. ... A 2018 solicitation makes this real for New York."

In his address last January, Cuomo set an offshore wind target of 2,400 MW by 2030. State policymakers are embracing offshore wind for both its utility-scale generation and its ability to be developed close to the major load centers of New York City and Long Island — as well as for its potential jobs. (See *New York Seeks to Lead US in Offshore Wind*.)

Norway-based Statoil in December 2016 bought the first offshore wind lease for New York, a nearly 80,000-acre site off the Rockaways in Queens large enough to generate up to 1 GW of power. Statoil dubbed the project Empire Wind and is working to sign a power purchase agreement with a U.S. utility.

Long Island could see the first offshore wind project in the state with the 90-MW South Fork Project off Montauk, which was approved by the Long Island Power Authority a year ago. Developer Deepwater Wind says construction could start as early as

New York Gov. Andrew Cuomo delivers his State of the State address. | *New York Department of Public Service*

2019, and the wind farm could become operational as early as 2022.

Easier Storage

The governor's office last Tuesday released Cuomo's clean energy jobs and climate agenda, which includes cutting emissions from high-polluting peaking plants and directing the NY Green Bank to invest $200 million toward meeting an energy storage target of 1,500 MW by 2025. Cuomo's Reforming the Energy Vision policy includes a Clean Energy Standard mandate to generate 50% of the state's electricity from renewable sources by 2030.

In November, Cuomo signed legislation requiring the Public Service Commission to establish targets for energy storage by early 2018. Cuomo is now also directing the New York State Energy Research and Development Authority to invest at least $60 million in storage demonstration projects and efforts to reduce barriers to deploying energy storage, including permitting, customer acquisition, interconnection and financing costs. (See *NYISO Readies Market for Energy Storage, State Targets*.)

A NYISO report in December laid out a three-phase plan for opening its wholesale markets to storage through integration, optimization and aggregation with other distributed energy resources. The ISO distinguishes between storage in front of the meter and behind the meter, with the former more likely to participate in wholesale market transactions, although BTM storage could become a wholesale player when aggregated with other distributed resources. (See *New York Sees Storage in Retail and Wholesale Markets*.)

In his speech, Cuomo also announced a zero-cost solar program for 10,000 low-income New Yorkers and directed the establishment of a state energy efficiency target by April 22 (Earth Day).

He also said New York will reconvene a scientific advisory committee on climate change that was disbanded last year by the Trump administration, and also adopt regulations to close all coal-fired power plants within the state. As cochair of the U.S. Climate Alliance and in collaboration with partners, Cuomo said he will reconvene the advisory committee to "continue its critical work without political interference and provide the guidance needed to adapt to a changing climate."

Clean Jobs, Clean Air

NYSERDA also plans to invest $15 million in clean energy job development and infrastructure advancement to train workers for offshore wind construction, installation, operation, maintenance, design and associated infrastructure. Cuomo is directing NYSERDA to work with Empire State Development and other state agencies to promote development of offshore wind port infrastructure to jumpstart development.

New York is one of the nine Regional Greenhouse Gas Initiative states that set out in 2013 to cut power plant emissions 50% by 2020. Last August, other RGGI states agreed to answer Cuomo's call to lower the emissions cap by an additional 30% by 2030.

Cuomo will direct the state's Department of Environmental Conservation to regulate beyond RGGI requirements in order to cover power plants under 25 MW, many of which are smaller but highly polluting peaker units that operate intermittently during periods of high electricity demand. The department will also adopt regulations banning coal-fired generation in the state's power plants by 2020.

Heather Leibowitz, director of Environment New York, said, "The message in today's State of the State was clear: By reducing pollution and shifting to clean energy, we can grow our economy while leaving a healthier, safer planet for our children."

NYISO NEWS

NYISO Seeks FERC Denial on Indian Point Review Deadline

By Michael Kuser

NYISO last week asked FERC to deny Entergy's request that the commission clarify the deadline for the ISO to complete a final market power review for the deactivation of the Indian Point nuclear plant (ER16-120, EL15-37).

At issue is the commission's acceptance in November of NYISO's revisions to its reliability-must-run program, adding a 365-day notice period for a generator to notify the ISO that it plans to retire. (See *FERC Approves NYISO Reliability-Must-Run Plan*.)

In a Dec. 18 filing with FERC, Entergy noted that NYISO failed to include a 120-day market power review deadline that was in an earlier filing. The company contended that without a clear deadline for review, its 2,311-MW Indian Point plant lacked certainty about authorization to exit the market. (See *Entergy Asks FERC to Clarify Indian Point Retirement Process*.) The company is seeking a March 13 deadline for NYISO to complete a market power study for the closure. Units 2 and 3 at the plant are slated to close in 2020 and 2021, respectively.

In its Jan. 2 response, NYISO said that requiring it "to complete physical withholding analyses years in advance of generator deactivation would clearly be unreasonable and unjustified on equitable or policy grounds." The ISO argued that market conditions could change "dramatically" over a two- or three-year period, "as could a generator owner's business plans as well as the plans of other generators."

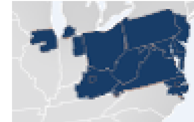
NYISO also contended that its previous references to completing market power studies within 120 days only applied to generating units closing within one year of providing notice.

"This focus on generators deactivating in 365 days, and the NYISO's rationale for proposing this time frame as the minimum notice period, is made abundantly clear in all of the NYISO's stakeholder presentations and all of its filings in this proceeding," the ISO said.

The Independent Power Producers of New York also filed in support of Entergy's request for clarification. IPPNY argued that without a clear deadline for the final market power assessment, "a generator owner will have difficulty planning when its generator will be able to deactivate. ... NYISO's completion of the final market power assessment may effectively operate as a bar on a generator's deactivation, which is entirely contrary to [FERC's] goal that generator owners know with certainty when they can deactivate their resources."

An ISO report in December found that new gas-fired and dual-fuel generation coming online in the next few years, led by the 1,020-MW Cricket Valley plant in Zone G, will be enough to maintain reliability after Indian Point shuts down completely. (See *New Builds to Cover Indian Point Closure, NYISO Finds*.)

PJM NEWS



Illinois ZEC Program Defenders Face Harsh Questioning on Appeal

By Rory D. Sweeney

Defenders of Illinois' nuclear subsidy program faced harsh questioning Wednesday as a federal appeals court judge challenged their assertions that the zero-emission credits (ZECs) avoid federal pre-emption concerns. But the judge also expressed doubts about the standing of those challenging the program.

A three-judge panel of the 7th U.S. Circuit Court of Appeals heard oral arguments in Chicago from attorneys for the Electric Power Supply Association and Illinois customers, who oppose the law, and Exelon and the state, who defended the ZECs legislation approved in 2016.

EPSA and retail ratepayers are asking the 7th Circuit to overturn a district court ruling that dismissed their challenge in July. (See *Illinois Zero-Emission Credit Suit Dismissed*.)

Under the law, Illinois ratepayers fund payments to supplement nuclear plants that don't earn enough other revenue to cover their operating costs. Although the subsidies would make up the difference, the legislation was careful not to condition the subsidies on the generators selling into wholesale markets — an attempt to avoid the pitfalls that led the Supreme Court to reject Maryland's attempt to subsidize construction of a gas-fired generator in its 2016 *Hughes v. Talen* decision.

The court ruled in *Hughes* that Maryland's contract for differences with the generator could distort price signals in PJM's annual capacity auctions, improperly intruding on federal jurisdiction over wholesale markets. (See *Supreme Court Rejects MD Subsidy for CPV Plant*.)

Judge Frank Hoover Easterbrook kept returning to the *Hughes* ruling, despite efforts by attorneys for the state and Exelon to differentiate their program.

"If you think you avoid *Hughes* by eliminating [the connection to wholesale markets], that again strikes me as fantasy," Easterbrook said. "There is no world in which these nuclear plants produce energy, but it's not sold onto the regional grid because that's the world in which they melt down."

Exelon's Matthew Price argued the plants don't have to sell their output into wholesale markets. He pointed to MidAmerican Energy, which uses its 25% stake in Exelon's Quad Cities nuclear facility near Cordova, Ill., to serve its customers in the region.

"When you sell at retail, you put your energy onto the grid and buy a transmission path to the user. That happens all the time," he said. "I don't think it's pure fantasy that this distinction matters."

> **"Every word out of your mouth makes this case sound more like *Hughes.*"**
>
> **Judge Frank Easterbrook, 7th Circuit**

Judge, State Clash

But Easterbrook pressed Illinois Assistant Attorney General Richard Huszagh to identify a nuclear facility that eschews wholesale markets. The question turned into a fiery exchange, with Easterbrook cautioning Huszagh on his wording and Huszagh repeatedly disagreeing.

Huszagh said plants could use bilateral contracts instead of markets to sell power but acknowledged that "I don't think that's likely."

"I don't think, as a practical matter, they could sell all of their output to retail customers. That seems unlikely given the volume" of output, he said.

"If it's not likely, if there's no nuclear plant in the country that does that, then the fact that the state has not formally said that 'it depends whether you sell in the auction' doesn't matter. They are going to sell in the auction," Easterbrook said. "Illinois may be entitled to do that, but I'm just perplexed at the denial that that's what's going on. It is what's going on."

"It is what's going on, but that's not the ultimate goal. It's a necessary step on its way to achieving its environmental goals," Huszagh responded. He noted that the U.S. goal during World War II wasn't to "deliver a bunch of money to [General Motors] for making tanks, but it had to do that to accomplish its greater goal."

"It's fine to say: 'Our aim is to defeat the signals being sent by that market and we've got a really good reason for doing that.' That's fine, but just go ahead and say that," Easterbrook responded.

Huszagh called that characterization a "false choice," saying that FERC can accommodate different state policies — even if they do affect price signals — without violating its mission under the Federal Power Act. He said it "doesn't make any sense" to create a carbon trading market in Illinois that would only have a few suppliers from which ratepayers must buy.

"Now it sounds like the state of Illinois just is against competition all together," Easterbrook said. "You need to be careful what you're saying. Every word out of your mouth makes this case sound more like *Hughes*."

"I disagree," Huszagh replied.

"You may disagree, but that's the effect you're having on your audience," Easterbrook shot back.

Huszagh contended that markets that don't account for the social cost of pollution are not economically efficient "in the broader sense of the word," but that it's not FERC's mission to promote those environmental concerns. "It's the state's … distinct regulatory authority over production to do so, and it may do so permissibly as long as it does not engage in wholesale rate setting," he said. "And it's not engaged in wholesale rate setting."

"This is the same line of argument that the state made in *Hughes* and it didn't work," Easterbrook said.

"I disagree," Huszagh responded.

Critique of Appellants

Judges Michael J. Reagan and Diane S. Sykes asked questions about the legal arguments but were less aggressive in their questions than Easterbrook, who was also critical of the appellants' positions.

Easterbrook questioned why the court should act when EPSA has already asked FERC to subject the subsidized nuclear plants to the minimum offer price rule (MOPR) in capacity market auctions.

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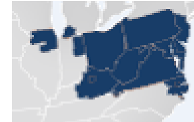
PJM NEWS



NJ Lawmakers Pass on Nuke Bailout in Lame Duck Session

By Rory D. Sweeney

Exelon and Public Service Enterprise Group will have to wait until the next session of the New Jersey Legislature for a vote on a bill to provide payments to the state's nuclear fleet (S3560).

Several sources have confirmed that Rep. Vincent Prieto (D) declined to post the bill for a vote Thursday in one of his final acts as speaker of the Legislature's lower house. The bill would provide upward of $300 million annually to operators of approved nuclear facilities for producing power.

PSEG has lobbied for the payments throughout the year, but the bill only materialized in December during Gov. Chris Christie's lame duck session. Opponents — including business, consumer, environmental and power generation interests — feared it would be rushed through before Governor-elect Phil Murphy, a Democrat, takes office. (See *NJ Nuclear Subsidy Bill Moves Swiftly out of Committee*.)

PSEG has three nuclear reactors between the Salem and Hope Creek facilities, while Exelon owns 43% of the Salem units. PSEG says the units' current profitability is attributable to sales hedges that expire within two years and that it will shut down the plants once they become unprofitable.

Opponents Cheer

Opponents cheered the news that the bill had stalled, calling it a victory for the state and praising Prieto, but keeping the door open for the issue to return later.

"Delaying action not only stands up to Chris Christie, it allows a new legislative session and a new governor to take the time necessary to carefully plan next steps and implement best practices if a bailout is needed," Dale Bryk, chief planning officer at the Natural Resources Defense Council, said in an emailed statement. "It's critical that any nuclear subsidies be done right so that New Jersey consumers, workers, communities and the environment are protected."

"We applaud the Legislature for seeing through PSEG's scare tactics and protecting our state's future," NJ Coalition for Fair Energy spokesman Matt Fossen said in an email. "The bottom line is that financial assistance should only be issued if it's necessary, and the last few months proved that there was no reason to provide hundreds of millions of dollars to these already-profitable plants."

The coalition, which includes Calpine, Dynegy, NRG Energy and the Electric Power Supply Association, on Wednesday released a sponsored economic study indicating the plants "have always been extremely profitable and will continue to be so through at least 2021 under current conditions." The study foresees market rules changing and New Jersey returning to the Regional Greenhouse Gas Initiative "that will more than cover [the plants'] costs of production going forward" before the sales hedges roll off.

That study was performed by Energyzt, which last year produced a similar report showing that Dominion Energy's Millstone nuclear plant in Connecticut would remain profitable into the next decade even without the state financial support being sought by the company. A Levitan & Associates study commissioned by Connecticut and released last month backed up that assessment. (See *Millstone Likely Profitable Through 2035, Conn. Consultant Says*.)

The Return of the Bill

But the New Jersey bill is likely to return in the next legislative session, NJ Spotlight reported, with new incentives for renewable and clean energy programs designed to win over current opponents who would stand to benefit.

Proponents aren't giving up the fight and argue the issue needs to be addressed sooner rather than later.

"The fate of New Jersey's nuclear generation is an urgent concern," PSEG spokesman Michael Jennings said. "PSEG will continue to educate New Jersey's legislators and policymakers on the economic threat facing the nuclear plants that serve our state — and the risk of increased air pollution, reduced resiliency, lost jobs and higher energy bills. These risks warrant greater attention."

Illinois ZEC Program Defenders Face Harsh Questioning on Appeal

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"The problem is the state has done something and the FERC so far has done nothing," Easterbrook told Donald Verrilli, representing EPSA. "And you're asking us, effectively, to predict that the FERC will do something."

He asked Verrilli, a former solicitor general in the Obama administration, to explain how the ZEC program is different constitutionally from a carbon cap-and-trade program.

"The means requires the purchase of credits," Easterbrook said. "That's what a cap-and-trade scheme requires. … And the price of buying those credits will affect prices bid in the energy auction. Both the Illinois scheme and the cap-and-trade establish prices in a separate trading market that inevitably affect the price in the auction."

"This scheme doesn't establish prices in a separate trading market. … It's just an additional payment for units of output sold into wholesale," Verrilli said.

Patrick Giordano, representing Illinois customers, argued that Exelon pushed for deregulation of its in-state generation to seek better returns in regional markets and cannot now request reregulation because it doesn't like the prices it's getting. He favored the approach of the Department of Energy's recent Notice of Proposed Rulemaking to address all nuclear plants "instead of one state singling out two favorite nuclear plants for subsidies and FERC reacting to it."

Easterbrook largely ignored Giordano's arguments and pressed him to explain why his clients have standing in the case given the Supreme Court's *Illinois Brick* doctrine (431 U.S. 720), which established that only

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SPP NEWS

Shifting Winds Drove Clean Line Plains & Eastern Sale

By Tom Kleckner

Clean Line Energy Partners said Thursday that market realities led the company to sell its Oklahoma assets to NextEra Energy and put a temporary halt on its Plains & Eastern Clean Line project.

In the meantime, Clean Line founder and president Mike Skelly told *RTO Insider*, the company will focus on its four other long-haul HVDC projects.

Mike Skelly | *© RTO Insider*

"We're adapting to the headwinds," Skelly said. "You have to adapt."

Clean Line announced in December that NextEra had purchased the assets of the Oklahoma portion of its $2.5 billion Plains & Eastern project, which was to deliver 3.5 GW of wind energy to Memphis, Tenn., and the Tennessee Valley Authority. (See *Clean Line Sells Okla. Portion of Plains & Eastern to NextEra*.)

The deal was sealed after it became apparent to Clean Line that TVA had little appetite to complete a six-year-old memorandum of understanding to purchase the project's wind power. Late last year, just weeks after TVA said it was still studying whether to sign the contract, agency President Bill Johnson said the Clean Line project didn't make economic sense, given TVA's flat demand and ample generating capacity.

"We fund these projects with investor dollars, not ratepayer dollars," Skelly said. "We were sort of hoping TVA would anchor this line by buying energy."

Skelly said Clean Line began considering its options when it was approached by renewable energy powerhouse NextEra regarding its Oklahoma assets. The purchase includes Clean Line's Oklahoma right of way.

"While getting that piece of the line built wasn't everything we wanted to get done, it's a significant thing," Skelly said. "Now, the biggest renewables provider in the country owns this [400] miles of right of way. We believe that will enable them, or them working with others, to build a few gigawatts of wind. Our goal has always been to get more gigawatts on the grid, and that's a positive outcome."

Clean Line had intervened in Public Service Company of Oklahoma's (PSO) $4.5 billion Wind Catcher project, which is currently before the Oklahoma Corporation Commission (Docket 17-267). Clean Line Executive Vice President Mario Hurtado called the Wind Catcher proposal "a good idea" in written testimony and suggested that PSO could take advantage of the easements his company has already secured.

"Schedule delays could jeopardize the size of the benefit to ratepayers from the production tax credit," Hurtado said. "The Plains & Eastern project could substantially mitigate the cost and schedule risks for Wind Catcher."

NextEra did not respond to a request for comment on its plans.

Clean Line has not entirely given up on Plains & Eastern, which has approval from the Tennessee Regulatory Authority and a "record of decision" from the U.S. Department of Energy to participate in its development under Section 1222 of the 2005 Energy Policy Act. (See *DOE Agrees to Join Clean Line's Plains & Eastern Project*.)

Clean Line has held on to the project's Arkansas right of way, although the company has encountered heavy opposition from lawmakers and landowners in the state. However, in the waning days of 2017, it also received a favorable ruling from a federal judge in a lawsuit that confirmed DOE's participation in the project.

"We've been working on this thing for eight years," Skelly said. "We've been working with and trying to convince the TVA and other Southeastern utilities of the merits of low-cost renewable energy. It's been a long, slow process."

Asked whether the decision to sell its Oklahoma assets was driven by a combination of TVA's reluctance and the need for funding, Skelly said, "That's not an unfair conclusion."

"It's more the market than the financing," he said. "Our read of the market is that … it doesn't appear [the Southeastern utilities] are going to do large renewable purchases in the short term. We would argue their customers want it, it's cost effective, it's technically feasible … we think there's demand, but they don't want to [meet it], and that's their choice."

Clean Line will now turn its attention to the proposed 780-mile Grain Belt Express, a $2.3 billion initiative that would deliver 4 GW of wind power from western Kansas through Missouri and Illinois to the Indiana border. The project is working its way through the appellate court process in Missouri, aided by former Gov. Jay Nixon. (See *Unfazed by Obstacles, Clean Line's Skelly Focuses on Future*.)

"It's been a somewhat protracted legal process, but we anticipate that will be sorted out second quarterish," Skelly said.

Clean Line's other three projects include:

- The Rock Island Clean Line, a 500-mile project from northwest Iowa to Illinois, delivering 3.5 GW of wind energy. The project was originally expected to be operational in 2017. But on Sept. 21, the Illinois Supreme Court rejected the Rock Island application because Clean Line held only an option agreement on a parcel for a converter station — rather than a completed purchase agreement — when it applied to the Illinois Commerce Commission. The company said the ruling will cause "great delay" for the project.
- The Centennial West Clean Line, a 900-mile project delivering 3.5 GW of renewable energy from New Mexico and Arizona to California. The company had expected construction to begin in 2017 and be operational in 2019. Development has slowed down while the company works on its other projects.
- The Western Spirit Clean Line, a 140-mile project complementing the Centennial West project, delivering 1 GW of renewable power from east-central New Mexico to markets in the western U.S. Clean Line acquired the project, originally named Power Network New Mexico, in 2013. Construction, which will take about one year, could begin by the end of 2018.

SPP News

M2M Payments from MISO to SPP Eclipse $32M

SPP's market-to-market (M2M) process with MISO again resulted in a large payment to SPP for November operations. The SPP Riverton-Neosho-Blackberry flowgate on the Kansas-Missouri border was once again responsible for the bulk of the payment.

Including November's total of $3.9 million, the permanent flowgate has resulted in $15.3 million of M2M payments to SPP from MISO, accounting for almost half of the $32.7 million SPP has or will receive since the M2M process began in March 2015.

The flowgate was binding for 296 hours in November after binding for 329 hours in October, when it racked up a $5.1 million charge to MISO. The flowgate is responsible for more M2M payments between the two RTOs than the next seven flowgates combined.

SPP staff told the Seams Steering Committee on Jan. 3 that they are analyzing data to determine what kind of project would address the historical congestion in the area and whether it would be worth forgoing the M2M payments.

"We may be getting $5 million a month from MISO, but how is that impacting load in the area?" SPP's Will Ragsdale said. "We want to understand the impact on the market as a whole, not just this one piece of data."

Ragsdale promised to bring results of the analysis to the February meeting.

As was the case in October, loading because of high wind combined with nearby outages produced the constraint. The flowgate is in the Empire District Electric and Westar Energy control zones.

SPP-MISO IPSAC to Meet in February

With no joint study scheduled this year, the SPP-MISO Interregional Planning Stakeholder Advisory Committee (IPSAC) will conduct an annual issues review with stakeholders Feb. 27 in Little Rock, Ark.

SPP Interregional Coordinator Adam Bell told the SSC that the IPSAC will review transmission issues identified by the RTOs or stakeholders, regional expansion plans and regional planning coordination. SPP and MISO have yet to agree on a single interregional project in two attempts.

Bell invited stakeholders to submit transmission issues and feedback on the RTOs' joint planning by Jan. 29.

"It's not limited to transmission issues," Bell said. "We'll listen to process improvements, lessons learned from joint studies and ideas on future planning."

Under terms of the RTOs' joint operating agreement, the IPSAC will meet every year that there is no joint study.

SPP staff will also meet with Associated Electric Cooperative Inc. in the first quarter to review the scope for a 2018 joint study.

— Tom Kleckner

FERC & FEDERAL NEWS

FERC Loses Again on 'De Novo' Review

By Rich Heidorn Jr.

A federal judge handed FERC another defeat in its battles with traders over how courts review market manipulation allegations.

U.S. District Judge M. Hannah Lauck, of the Eastern District of Virginia, ruled Dec. 28 that Kevin and Rich Gates' Powhatan Energy Fund is entitled to a *de novo* trial governed by the federal Rules of Civil Procedure and the federal Rules of Evidence rather than a more limited appellate-style review (Civil Action No. 3:15cv45).

The court noted its decision was consistent with rulings in five other district courts that have considered the issue, including FERC's cases against Barclays Bank, City Power Marketing and Maxim Power.

'Riskless' Trades

In 2015, FERC ordered the Gates brothers and their associates to pay $34.5 million in penalties and disgorged profits for allegedly making riskless back-to-back up-to-congestion trades in PJM to profit on line-loss rebates. The defendants contend their trades were not riskless and thus not market manipulation. (See *FERC Orders Gates, Powhatan to Pay $34.5 Million; Next Stop, Federal Court?*)

Powhatan and its codefendants opted out of what the court called the "default option" of challenging their penalties before an administrative law judge and, upon appeal, the D.C. Circuit Court of Appeals. Instead, they chose an "alternate" option under the Federal Power Act, forcing FERC to issue a show cause order and asking the district court to "review *de novo* the law and the facts involved."

FERC contended that the court's review should be limited to the "the extensive factual and legal findings in the commission's order and the substantial documentary and testimonial evidence contained in the administrative record." Commission lawyers said the "administrative record" should be defined as "the materials filed by the commission's Enforcement litigation staff and by respondents in the show cause proceeding as well as the commission's orders issued in that proceeding," and the commission's penalty order.

"Should the court decide that additional fact finding is required on a discrete issue, the court is free to permit limited discovery, testimony, argument, etc., on that discrete issue," FERC said. "Had Congress intended to require a trial, it could have done so … [and] has done exactly that in providing for trial *de novo* under other statutes."

Due Process Concerns

But Lauck said FERC's interpretation had "little basis in the statute or common sense" and could violate the defendants' due process rights.

The court said that although FERC's proposed "administrative record" includes almost 14,400 pages, "it does not include the entire investigative record, and the court has no ability to discern what products of the investigation FERC omitted or why."

While Powhatan submitted arguments and evidence to FERC during the investigation, they were not permitted to take discovery, and the materials in the administrative record "were never tested under any evidentiary standard and may not be admissible under the federal Rules of Evidence," Lauck wrote.

"Respondents have had, to date, no opportunity to compel any witnesses or documents or to cross examine any of the commission's witnesses. Neither have they been able to test the reliability or veracity of the commission's evidence through the evidentiary standards of either the federal Rules of Evidence or the [Administrative Procedures Act]'s requirement that 'irrelevant, immaterial or unduly repetitious evidence' be excluded in formal hearings."

The court ordered FERC to refile its complaint, or an amended complaint within 30 days, with Powhatan responding within another 30 days.

Lauck declined to rule on Powhatan's request for a jury trial, citing "the possibility that this action could be resolved [by settlement] before the court need decide the issue."

Mixed Success in Courts

FERC hasn't had an easy time prosecuting market manipulation, as defendants have become increasingly willing to make their cases in the courts.

Following a series of losses on procedural issues, FERC agreed in November to sharply reduce the penalty against Barclays over claims that it manipulated Western electricity markets a decade ago. (See *FERC Settlement Cuts Barclays Market Manipulation Fine*.)

In August, FERC closed its case against City Power over line-loss rebates for $2.7 million in fines after initially seeking more than $16 million. The settlement came after a U.S. district court rejected City Power's motion to dismiss and FERC's motion for summary judgment. (See *Trader Agrees to Pay $2.7M in Win for FERC*.)

Maxim Power agreed in 2016 to pay $8 million to settle a complaint that it manipulated the New England power market in a fuel-switching scheme. (See *Maxim Power to Pay $8M to Settle Fuel-Switching Case*.)

Dominion to Buy Distressed SCANA for $8B

By Amanda Durish Cook

Dominion Energy on Wednesday said it will buy SCANA for $7.9 billion in a stock-for-stock transaction, securing a utility troubled by a botched nuclear project.

SCANA, which owns South Carolina Electric & Gas, has been under financial pressure since it scrapped the two-reactor expansion of its V.C. Summer nuclear plant last July after spending about $9 billion on the effort. The nearly decade-long project fell victim to design flaws, cost overruns, construction delays and the bankruptcy of lead contractor Westinghouse Electric.

Dominion's $7.9 billion acquisition will include an additional $6.7 billion in assumed debt, valuing the sale at about $14.6 billion. The Virginia-based utility is offering reduced rates to SCE&G customers and a partial refund of the incomplete expansion at the Summer plant.

SCANA shareholders will receive slightly more than two-thirds of a Dominion share for each share they own, valuing the stock at about $55.35. SCANA shares lost almost half their value over the past year, falling to under $40/share early this week. Hours after the deal was announced, SCANA shares rallied from $39 to $48, while Dominion fell from $80 to $77.

Dominion Goes South

The resulting company would operate in 18 states, serving about 6.5 million regulated customers. The companies said the sale would be a strategic union that would help Dominion solidify a presence in expanding Southeast markets.

"SCANA is a natural fit for Dominion Energy," Dominion CEO Thomas Farrell II said. "Our current operations in the Carolinas — the Dominion Energy Carolina Gas Transmission, Dominion Energy North Carolina and the Atlantic Coast Pipeline — complement SCANA's … operations. This combination can open new expansion opportunities as we seek to meet the energy needs of people and industry in the Southeast."

SCANA has about 1.6 million electric and natural gas residential and business accounts in the Carolinas. Dominion currently operates two solar farms in South Carolina and a 1,500-mile network of gas pipelines purchased from SCANA two years ago for $497 million.

SCANA would become a Dominion subsidiary, with Dominion pledging to maintain the utility's South Carolina headquarters and protect SCANA's 5,000-plus existing jobs until 2020. Dominion has also promised to take up SCANA's plans to complete the purchase of the $180 million, 540-MW Columbia Energy Center natural gas-fired plant in Gaston, S.C., to fill energy needs expected to be met by an expanded V.C. Summer.

"Joining with Dominion Energy strengthens our company and provides resources that will enable us to once again focus on our core operations and best serve our customers," said SCANA CEO Jimmy Addison, who until last week was SCANA's chief financial officer. He replaced former CEO Kevin Marsh, who retired in the face of scrutiny of the failed V.C. Summer project.


V.C. Summer nuclear project | *SCE&G*

In response to concerns about the nuclear project, Dominion is offering $1.3 billion in refunds to SCANA customers, amounting to about $1,000 each. Dominion also claims the sale will cut the time that customers will be on the hook for paying for the unfinished reactors from 60 years to 20 years. The company has also promised to reduce rates for SCE&G customers by about 5%, or $7/month.

Customers are currently paying about $27/month — or 18% of their monthly bills — to finance the unfinished reactors.

Dominion is proposing to cut refund checks to customers based on 2017 electricity usage within 90 days of the finalized sale. Farrell said the move will "guarantee a rapidly

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Dominion to Buy Distressed SCANA for $8B

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declining impact from the V.C. Summer project" and called the refunds as the "largest utility customer cash refund in history."

However, consumer advocates are contending that at least some of the proposed 5% rate reduction is already guaranteed to customers to reflect company gains from the corporate tax cuts recently passed by the U.S. Congress. Last week, the South Carolina Office of Regulatory Staff requested that state utilities draw up plans to share their tax savings with customers.

Base Load Review Act

Another possible sticking point: Some South Carolina lawmakers claim the proposed deal is meant to compel South Carolina lawmakers to preserve the controversial Base Load Review Act, the 2007 law that allows SCE&G to continue to pass onto customers the costs of nuclear reactors that will never produce a kilowatt of power. The deal presumes that SCANA customers will continue to pay the reduced rate under the law for 20 years.

Meanwhile, federal and state investigators are reviewing whether the law's provision to charge customers for abandoned generation projects is reasonable, and South Carolina lawmakers next week will begin deliberating legislation that could halt customer collection altogether on the scuttled project (S 0754).

Last month, SCE&G formally asked the Nuclear Regulatory Commission for permission to withdraw its operating license for the reactors, a move intended to show the company has entirely given up on the project and is eligible for a $2 billion tax write-off.

The South Carolina Public Service Commission last week denied SCE&G's request to dismiss two proceedings related to the failed attempt to expand V.C. Summer. One case sought to eliminate charges that the SCANA subsidiary's customers are paying for the failed project, while the other sought refunds for what customers have already paid. The PSC has said it will hold a hearing this year to determine the merits of eliminating the charges and granting refunds.

Governor Reacts

South Carolina Gov. Henry McMaster, who has supported complete customer refunds of the nuclear project costs, said the proposed transaction represented "progress" but that there was "more work to be done," namely selling off state-owned electric and water utility Santee Cooper, SCANA's project partner in the unfinished reactors.

"Under the proposed agreement between SCANA and Dominion Energy, SCE&G ratepayers will get most of the money back they paid for the nuclear reactors and will no longer face paying billions for this nuclear collapse. But this doesn't resolve the issue," McMaster said in a statement.

"Over 700,000 electric cooperative customers face the prospect of having their power bills sky rocket for decades to pay off Santee Cooper's $4 billion in debt from this. The only way to resolve this travesty is to sell Santee Cooper."

Dominion and SCANA expect the deal to close this year, although the companies still require approval from several agencies, including FERC, NRC, the Federal Trade Commission, the Department of Justice and South Carolina, North Carolina and Georgia regulators.

The companies have set up a special website explaining the acquisition to SCANA customers at dominionenergysouth.com.

COMPANY BRIEFS

FERC to Investigate Great River's Reactive Rates

FERC on Friday opened hearing procedures to determine the fairness of reactive power rates for Great River Energy (EL17-33).

Last year, Great River requested permission to revise its circa-2010 annual revenue requirement from less than $5.3 million to an updated $5.2 million approximate to account for the shutdown of North Dakota's 198-MW Stanton Station and to reflect the addition of three new generating stations in Minnesota: Unit 1 of the 177-MW Cambridge Station just north of Minneapolis, the 19-MW Maple Lake Station in Maple Lake and the 21-MW Rock Lake Station in Pine City.

While the commission accepted the new figure effective May 1, 2017, it also instituted the proceeding under EL18-45 "because Great River is proposing a rate reduction and a further decrease may be warranted." FERC said Great River did not provide proper support behind the new rates. The commission also said that Great River "has not provided complete information about the reactive service capability of its generating units."

More: *EL17-33*

Lawsuit Alleges SCE Workers Started Thomas Fire

Southern California Edison is a defendant in a class-action lawsuit that alleges that construction activity by its workers started the largest wildfire in modern California history.

The lawsuit, which was filed last month in Ventura County Superior Court, alleges that SCE contractors and employees working near a Comcast facility ignited dry vegetation, setting off the Thomas Fire.

The city of Ventura and the Casitas Municipal Water District also are defendants in the lawsuit, which alleges that they didn't have adequate electricity to power the fire hydrants and pumping station needed to contain the fire in its early stages.

More: *The Tribune*

Former SCANA Execs Won't Get Severance, Other Payments

SCANA won't give severance packages to former CEO Kevin Marsh or former Chief Operating Officer Steve Byrne, who both retired last year after the company and Santee Cooper pulled the plug on their $9 billion attempt to build two new reactors at the V.C. Summer nuclear plant.


Byrne

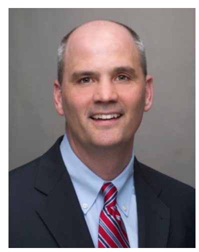
The two executives also won't be eligible for change-in-control payments that could be triggered if the purchase of SCANA by Dominion Energy, which was announced last week, goes through.

The severance and change-of-control payments would have been worth millions of dollars to the executives.

More: *The State*

Timothy Cawley Named Con Ed of NY President

Timothy P. Cawley has been named president of Consolidated Edison's Con Edison of New York subsidiary, which serves New York City and Westchester County.


Cawley

Cawley had been president and CEO of another Con Ed subsidiary, Orange and Rockland Utilities, and senior vice president of central operations for Con Ed. He replaces Craig Ivey, who retired after eight years as president of Con Ed of New York.

More: *Consolidated Edison*

Lavinson Named Pepco Senior Vice President


Lavinson

Melissa Lavinson has been named Pepco Holdings Inc.'s senior vice president for government and external affairs.

Lavinson had been vice president of federal affairs and chief sustainability officer for Pacific Gas and Electric. She replaces Ken Parker, who retired in December.

More: *Pepco Holdings Inc.*

Sempra Prices Public Offerings To Finance EFH Acquisition

Sempra Energy said Thursday it has priced a public offering of 23.4 million share of its common stock at $107/share and a separate public offering of 15 million shares of its 6% Mandatory Convertible Preferred Stock, Series A, at $100/share.

The company said it will use the proceeds of the offerings to pay off debt used to help finance its acquisition of Energy Future Holdings, which owns 80% of Oncor.

If the acquisition doesn't go through, Sempra will use the proceeds for general corporate purposes.

More: *Sempra Energy*

Consumers Energy Puts 2nd Phase of Wind Park into Operation

Consumers Energy has put Phase II of its Cross Winds Energy Park in Columbia Township, Mich., into operation.

Phase II has a 44-MW capacity and cost $90 million to build. It and Phase I have 81 turbines that can produce up to 155 MW and cost $345 million to build.

Consumers has gotten township approvals for a third phase and expect to put it into service in 2020.

More: *Mlive*

Entergy Louisiana Begins Phase 2 of Tx Project

Entergy Louisiana has begun the second phase of a $69 million upgrade to its transmission infrastructure in Jefferson Parish.

The company is replacing wooden H-frame structures with single-pole steel structures and the existing lines with those that can move power more efficiently.

The company expects to complete this phase of the three-phase project by June.

More: *The New Orleans Advocate*

Brookfield to Pay $4.6B for Westinghouse

Brookfield Business Partners said Thursday it and institutional partners will buy Toshiba's Westinghouse Electric subsidiary for $4.6 billion.

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COMPANY BRIEFS

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The subsidiary of Canada's Brookfield Asset Management said it and its partners plan to finance the purchase with $1 billion in equity and $3 billion in long-term debt financing.

Westinghouse is operating under bankruptcy protection after the collapse of two nuclear power plant expansions it was working on in Georgia and South Carolina.

More: Reuters

Entergy Texas Cuts Fuel Part of Bills

Entergy Texas lowered the fuel portion of its customers' electric bills by 8% on Wednesday.

The decrease will lower the fuel charge for the average residential customer using 1 MWh per month by $8.77 to $21.46 from $30.22. The charge will remain the same through March.

More: Entergy

CPV to Get $2.2M per Year For Grid Services in PJM

CPV's St. Charles Energy Center | *Charles County, Md.*

CPV Maryland's new 725-MW combined cycle generator in Waldorf will be paid $2.2 million annually for providing reactive power and voltage control in PJM in an uncontested settlement approved by FERC on Wednesday.

The settlement, effective Feb. 1, 2017, represents a 28% reduction from the $3.08 million CPV had sought in a December 2016 filing.

FERC responded by ordering hearing and settlement judge procedures, saying the company's calculations included excessive allocators for accessory equipment and "balance of plant," improperly included labor costs and operating insurance, and failed to provide support for emission cost allowances.

More: EL17-39, ER17-481-003

Santee Cooper Agrees to Early Payment for VC Summer

Santee Cooper agreed last week to accept early payment from Toshiba of its share of the $2.2 billion owed to it and SCANA because of the inability of Toshiba's Westinghouse Electric subsidiary to finish the nuclear reactors at the V.C. Summer nuclear power plant.

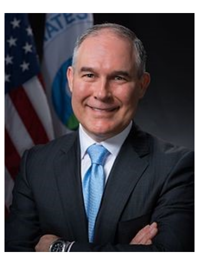
The action locks in a profit for a group of hedge funds that bought Santee Cooper's share of the Toshiba payment for a $171 million discount. But it also means the group may be responsible for most of the remaining bills from the failed nuclear reactor project once Westinghouse, which is in bankruptcy proceedings, and Toshiba pay more than $60 million of them.

It wasn't clear if SCANA had agreed to let Toshiba pay it its share of the $2.2 billion early.

More: Post and Courier

FEDERAL BRIEFS

EPA Chief Pruitt Interested in Becoming Attorney General



Pruitt

EPA Administrator Scott Pruitt has expressed interest in becoming attorney general to friends and associates, according to three people with knowledge of the discussions.

There are rumors that Attorney General Jeff Sessions is considering resigning, as he has come under fire from President Trump and House Republicans for the Justice Department's handling of the investigation into Russian interference in the 2016 presidential election. As a cabinet member already confirmed by the Senate, Pruitt would be able to serve as acting attorney general until he is formally nominated for the post should Sessions resign.

EPA said Pruitt isn't interested in becoming attorney general but "is solely focused on President Trump's agenda to protect the environment."

More: Politico

TVA Turns off Johnsonville Coal Plant

The Tennessee Valley Authority has turned off the last unit at its 10-unit Johnsonville Fossil Plant in New Johnsonville, Tenn.

The unit is the 30th coal-fired unit that TVA has shut down in the past five years at plants in Tennessee, Alabama and Kentucky.

TVA plans to shut down the Allen Fossil Plant in Memphis by the end of the year and replace it with a combined cycle natural gas plant.

More: Times Free Press

Power from Missouri River Dams Grew 23% Last Year

The Missouri River's six upstream dams generated 9.6 billion kWh of power last year, up 23% from 7.6 billion kWh in 2016, according to the Army Corps of Engineers.

Despite the increase, the Western Area Power Administration still had to buy $28.3 million worth of power to fulfill supply contracts.

WAPA, which buys and sells power from 56 hydropower plants in all, has had to spend more than $1.7 billion to fulfill contracts since 2000, mostly as a result of droughts that have reduced river levels.

More: The Bismarck Tribune

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FEDERAL BRIEFS

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US Coal Production Grew 6% in 2017

The amount of coal mined by U.S. companies increased 6% last year to 771 million tons, according to the Energy Information Administration.

The increase came after two years of declines. Production increased 13% in West Virginia, 10% in Illinois, 8% in Pennsylvania, 8% in Wyoming and 5% in Montana. It was flat in Kentucky.

More: The Associated Press

ITC Produces Report to Help Defend Solar Tariffs Before WTO

The U.S. International Trade Commission has given U.S. Trade Representative Robert Lighthizer a supplemental report to help the Trump administration defend any tariffs it might impose on imported solar cells before the World Trade Organization.

In the report, the ITC says its September recommendation to impose a tariff on foreign solar cells stems from actions taken by China that it couldn't have foreseen. In 2003, the WTO ruled that the U.S. hadn't proved that a tariff it placed on foreign steel was necessary because of "unforeseen developments" rather than ordinary market forces.

President Trump has until Jan. 26 to decide whether to impose tariffs and their size if he decides to impose them.

More: Houston Chronicle; Ars Technica; pv magazine

US Coal Mine Deaths Rose Last Year from Record Low in 2016

The number of people who died in U.S. coal mines rose to 15 last year from a record low of nine in 2016, according to data the Mine Safety and Health Administration released last week.

Eight people died in West Virginia coal mines, two died in Alabama mines and one each died in Alabama, Colorado, Montana, Pennsylvania and Wyoming.

West Virginia has led the nation in mining deaths for six of the past eight years.

More: National Public Radio

States to Hold 'People's Hearings' on CPP Repeal

Delaware, Maryland and New York will hold "people's hearings" next week on EPA's proposed repeal of the Clean Power Plan.

The states are holding the hearings in conjunction with the New York University School of Law's State Energy & Environmental Impact Center, which was formed last August to help state attorneys general fight regulatory roll backs and other Trump administration actions that the center thinks undermine efforts to fight climate change, promote clean energy or protect the environment.

EPA held public hearings on the repeal in West Virginia last month. (See No Unanimity in 'Coal Country' Hearing on CPP Repeal.) It plans to hold several more but none on the East Coast.

More: Maryland Matters

DOE Funds 6 Unconventional Oil and Gas Projects

The Department of Energy said Wednesday it has selected six projects to receive $30 million under the Office of Fossil Energy's Advanced Technology Solutions for Unconventional Oil and Gas Development funding opportunity.

The projects are in unconventional plays with current production of 50,000 barrels per day or less, such as the Tuscaloosa Marine Shale and the Huron Shale.

The entities that receive the funding must bear part of the projects' cost.

More: Energy.gov

STATE BRIEFS

CALIFORNIA

Bill Would Limit Utilities' Recoverable Disaster Costs

Seven lawmakers on Wednesday introduced legislation that would bar utilities from recovering the costs of disasters such as fires from their customers if negligent practices by the utilities were connected to the disasters.

Pacific Gas and Electric said Wednesday that even without the legislation it could be forced to pay for property damage and attorneys' fees related to the North Bay fires if its equipment played a substantial role in the fires, even if it properly maintained the equipment.

The utility said that practice, called inverse condemnation, needs to be reformed.

More: The Mercury News

Bill to Ban Fossil Fuel Powered Cars by 2040 Introduced

State Assemblyman Phil Ting on Wednesday introduced a bill that would prohibit the sale of new cars and trucks powered by fossil fuels by 2040.


Ting

Ting said last month that he planned to introduce the bill, which would only permit sales of vehicles that produce no emissions, such as vehicles powered by electric batteries and hydrogen fuel cells.

More: Bloomberg

DELAWARE

State to Sue EPA over Regional Air Pollution

The state said last week it intends to send four Notice of Intent to Sue letters to EPA concerning air that enters it from other states.

The state said EPA violated the Clean Air Act by not requiring Pennsylvania and West Virginia power plants to reduce air pollution.

More: Delaware

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STATE BRIEFS

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KENTUCKY

PSC Fines Co-op $20,000 For Employee Electrocution

The Public Service Commission has fined electric distribution cooperative Jackson Purchase Energy $20,000 for safety violations that it said contributed to the January 2017 electrocution of lineman Joshua Franklin.

In an order issued Wednesday, the PSC said it had found eight separate safety violations and assessed Jackson Purchase the maximum penalty of $2,500 for each one. The commission ordered the co-op to pay the fine within 30 days.

More: *WLEX*

LG&E, KU File Smart Meter Proposal

Louisville Gas & Electric and Kentucky Utilities have filed a proposal with the Public Service Commission that would require their customers to use smart meters or pay an opt-out charge.

Under the proposal, Kentucky Utilities customers who decline to use smart meters would pay a one-time fee of $72.71 and $32.45 per month. LG&E electric customers would pay a one-time $57.86 fee and $22.70/month; gas customers would pay $21.80/month.

Attorney General Andy Beshear said the proposal was premature and his office has serious concerns with smart-meter applications.

More: *Louisville Courier-Journal*

MARYLAND

Pepco Files for $41.7M Rate Increase with PSC

Pepco said last week it has filed a request with the Public Service Commission to approve a rate increase that would cover $41.7 million of the $229.7 million it spent last year to improve its safety, reliability and customer service.

The company said the increase would add $5.14/month to an average consumer's bill.

Pepco may end up reducing the requested increase. The company said the recently passed federal tax bill would result in "meaningfully lower tax costs" that it would pass on to consumers, and it plans to update the rate case by early February as a result.

More: *Montgomery County Media*

MISSOURI

Sen. Ryan Silvey Nominated to PSC

Silvey

Gov. Eric Greitens has nominated Sen. Ryan Silvey (R) to serve on the Public Service Commission.

Silvey is in his second term in the Senate, where he chairs the Committee on Commerce, Consumer Protection, Energy and the Environment. He served in the state House of Representatives from 2004 to 2012.

The Senate has 30 days from the beginning of the legislative session, which started Wednesday, to approve his nomination.

More: *St. Louis Post Dispatch*

NEW MEXICO

PRC to Reconsider PNM Rate Increase, Cost Recovery Denial

The Public Regulation Commission voted Wednesday to hold a new hearing in a Public Service Company of New Mexico rate case and rescind its Dec. 20 decision to grant the company a 9% increase in the case.

PNM had requested a new hearing because it had asked for a larger increase that allowed it to recoup $187 million it is spending to upgrade two coal-fired power plants in northwestern New Mexico. The PSC had denied its request to recover the cost of the coal plant improvements.

Intervenors in the rate case also asked for a new hearing, saying they were afraid it could end up in court, resulting in an even larger increase.

More: *Santa Fe New Mexican*

PNM Seeks Legislation to Recover Costs of Closing Plant

Public Service Company of New Mexico is proposing legislation that would enable it to recover much of the stranded costs it will incur from closing the San Juan Generation Station early.

The utility had expected to recover up to $560 million of the plant's cost over two decades through traditional financing methods but closed two of the plant's units in December and plans to close the remaining units in 2022.

Officials with the company say that financing undepreciated capital through highly rated bonds could enable it to recover nearly 60% of that amount for its shareholders while saving its customers $160 million.

More: *The Associated Press*

PENNSYLVANIA

DEP Orders Sunoco to Suspend Work on Gas Liquids Pipeline

The Department of Environmental Protection on Wednesday ordered Sunoco to suspend all work on its Mariner East 2 pipeline, which is being built to transport natural gas liquids from the Marcellus Shale in the western part of the state to a terminal on the Delaware River in Marcus Hook.

The department said the suspension was necessary "to correct the egregious and willful violations" it listed in its order, which include unauthorized drilling and failing to notify it about discharges or spills of drilling fluid.

"Until Sunoco can demonstrate that the permit conditions can and will be followed, DEP has no alternative but to suspend the permits," DEP Secretary Patrick McDonnell said.

More: *The Philadelphia Inquirer*

WASHINGTON

Inslee to Propose Carbon Tax

Gov. Jay Inslee plans to unveil a carbon tax proposal in his address to the state last

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Utilities Likely to Pass Tax Bill Gains to Customers

By Peter Key

Although electric utilities will see their tax rate fall from 35% to 21% under the Tax Cut and Jobs Act signed by President Trump last month, few are making plans to spend their savings.

State officials across the country are calling for utilities to pass the savings to their ratepayers, and some utilities already have said they will.

The Organization of PJM States Inc. said in a letter to FERC that it has "unanimously and continuously advanced the need to ensure cost containment in transmission rates, which should directly benefit ratepayers."

"The large reduction in the corporate tax rate effective Jan. 1, 2018, provides an opportunity to reduce rates to customers," OPSI said in its letter. "While the commission examines whether the tax changes will impact FERC accounting forms/procedures and how these changes might affect transmission formula rates in PJM, OPSI unanimously supports all efforts by the commission to flow this cost reduction back to consumers."

Of the 14 utility regulatory commissions in OPSI, at least three (Kentucky, Michigan and West Virginia) have started proceedings related to the tax bill, and at least one other (Indiana) is evaluating how the bill will affect utilities.

In Delaware, more than two dozen General Assembly members have sent the Public Service Commission a letter saying it should grant "in its entirety" a petition filed by the Division of the Public Advocate that utilities should pass their tax savings on to ratepayers.

Regulatory bodies have opened proceedings or taken other actions related to the tax bill in at least eight states outside PJM — Connecticut, Louisiana, Michigan, Minnesota, Missouri, Montana, Oklahoma and South Dakota.

In Oklahoma, the Corporation Commission's administrative law judges have recommended that utilities pass the savings along to their customers. South Dakota's Public Utility Commission has determined that investor-owned power and natural gas utilities should share the savings from the tax bill with customers.

Regulators have opened proceedings in Connecticut and Missouri, while the Louisiana Public Service Commission is reviewing utilities' rates to see if they can be cut in light of the bill. The Michigan Public Service Commission ordered utilities to study the tax cuts' impact and how they will pass the savings along to consumers. The Minnesota Public Utilities Commission plans to analyze how the law affects utilities and said it could undertake proceedings based on its findings. And the Montana Public Service Commission ordered utilities to calculate the change in their tax liabilities and come up with proposals for applying their savings.

In at least two other states, elected officials have called on regulators to take action.

Massachusetts Attorney General Maura Healey asked the Department of Public Utilities to recalculate rate increases it had granted Eversource Energy in November. The company responded by saying it would pass on almost $56 million in savings from the tax bill to its 1.4 million customers in the state. That inspired Rhode Island Lt. Gov. Dan McKee to send his state's Public Utilities Commission a letter saying National Grid should use its savings to lower its rates.

In New Hampshire, Consumer Advocate Maurice Kreis filed a complaint with the Public Utilities Commission to make sure the savings that the state's 13 IOUs realize from the tax bill flow back to their customers.

In some states, utilities are taking it upon themselves to proclaim they'll pass their savings from the tax bill on to ratepayers. The Edison Electric Institute called the tax bill "a huge win for customers as the drop in the corporate rate is mostly flowed back to them over time in rates."

In Maryland, Exelon's Baltimore Gas and Electric, Pepco and Delmarva Power subsidiaries said they intended to file requests with the Public Service Commission to cut their rates.

In Illinois, Commonwealth Edison, also an Exelon subsidiary, asked the Commerce Commission for approval to pass along approximately $200 million in tax savings to its customers this year.

In Utah, Rocky Mountain Power said it will pass the benefits of the tax bill on to customers, though it wouldn't commit to doing so by cutting rates.

And in Oregon, the Public Utility Commission said four electric and gas utilities had applied with it to track the tax bill's impacts so they could be accounted for in ratemaking, and two other utilities are expected to join.

STATE BRIEFS

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week, according to a tweet from Joseph O'Sullivan, the statehouse reporter for the *Seattle Times*.

Washington voters in 2016 rejected a ballot measure that would have imposed a carbon tax. The proposal by Inslee, who is a Democrat, would have to be approved by the Legislature, of which the Democrats recently gained control.

Inslee said last month that some of the money from the tax would go to funding education.

More: *Axios*

WEST VIRGINIA

County Official Asks Appalachian Power to Seek Rate Decrease

In a letter to Appalachian Power President Chris Beam, Kanawha County Commission President Kent Carper asked the company to "make an immediate filing" with the Public Service Commission to ask for a "significant" rate reduction to "avoid unjust enrichment" from the cold weather.

Carper also asked Appalachian to apply for a substantial but unspecified increase in its property tax assessment for the 2017-18 tax year.

Jeri Matheney, a spokeswoman for Appalachian Power, took issue with Carper's reasoning, saying that when customers use more electricity because of cold weather, the company uses more fuel to make that electricity and that a year is made up of 365 days, not 14.

More: *Charleston Gazette-Mail*

ISO-NE Files CASPR Proposal

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renewable generation and generators' fears that out-of-market resources will suppress capacity prices. Massachusetts, Connecticut and Rhode Island plan to procure more than 3,600 MW of nameplate renewable generation.

"The New England states have expressed concern that the [minimum offer price rule] may cause electricity consumers to 'pay twice': once for the cost of the capacity procured in the [Forward Capacity Market], and a second time for the additional generation capacity obtained through the out-of-market contracts with preferred policy resources," the RTO explained in its filing. "In other words, the region could develop more generation resources than the ISO requires to operate the power system — at an unnecessarily high total cost to consumers."

In the first stage, ISO-NE would clear the auction as it does today, applying the MOPR to new capacity offers to prevent price suppression. In the second Substitution Auction (SA), generators with retirement bids that cleared in the primary auction would transfer their obligations to subsidized new resources that did not clear because of the MOPR.

Because the SA will not use the MOPR, it will clear at lower prices than the primary auction, enabling existing resources to buy out their obligations at a lower cost in return for retiring. The savings would in effect be a "severance payment" to the retiring resources, ISO-NE said. The RTO has explained the SA as akin to a "'cash for clunkers' secondary market," referring to the Obama administration's 2009 program to encourage the retirement of older, gas-guzzling automobiles.

The proposal would phase out the current Renewable Technology Resource exemption, which has allowed ISO-NE to clear 200 MW of renewable generation in its capacity auction annually without regard for the MOPR.

The RTO asked that most of the CASPR rules become effective on March 9, 2018, when it will begin its planning for FCA 13 in 2019. "This auction is the first opportunity for FCM participation by up to 1,200 MW of nameplate clean energy supply to be procured by Massachusetts pursuant to statute," the RTO said.

States Split

Although state regulators have no votes in NEPOOL, they were engaged in the negotiations — and split over the result.

Vermont, Connecticut and Rhode Island opposed the final proposal, while Massachusetts, New Hampshire and Maine supported it, according to the New England States Committee on Electricity (NESCOE).

Massachusetts, New Hampshire and Maine are supporting the CASPR proposal "primarily based on the view that CASPR is not expected to have an adverse impact on their ratepayers, and they don't have the same requirement of state law to satisfy," NESCOE said in a statement read at the Dec. 8 meeting.

For Vermont, Connecticut and Rhode Island, on the other hand, "the assertion ISO-NE made at the outset — that CASPR is better than what was in place — has not been proven out," NESCOE said.

Change to Definition

ISO-NE upset many stakeholders when it agreed to a proposal by the Natural Resources Defense Council and Conservation Law Foundation to limit eligibility in the SA to renewable or clean energy resources receiving out-of-market revenue under state rules enacted before Jan. 1, 2018.

"We thought that the original SA supply definition was incommensurate with the goal of IMAPP, which was to integrate big purchases of low carbon/renewable purchases by states," CLF's David Ismay told *RTO Insider*.

"As originally proposed, CASPR would have allowed any generation — including traditional fossil fuel generation — to qualify in the new, second auction (as SA supply) as long as it was deemed desirable for some/any reason by some/any public entity."

But the change alienated the Public Power sector. In a memo to NEPOOL, Public Power representative Brian Forshaw said the revised definition abandoned ISO-NE's pledge to be "technology-neutral," which would have allowed it to cover resources meeting "broader policy objectives including fuel diversity, local area resiliency, maintaining competitive electric rates, and mitigating the volatility of capacity costs in addition to environmental stewardship objectives."

Connecticut also opposed the change, according to meeting minutes, saying the RTO's proposal did not "definitively allow" large-scale hydro the state may procure "through existing or future state law or regulations" to qualify for the SA.

Lack of 'Backstop'

The dissenting states also said the RTO's proposal was unacceptable without a proposed "backstop" provision that would have allowed up to 200 MW of state-procured renewables to enter the market annually even if there were no corresponding retirements in that year.

Illinois ZEC Program Defenders Face Harsh Questioning on Appeal

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direct customers can complain about excessive energy charges. Giordano attempted to respond without specifically addressing the case.

"If you want to address *Illinois Brick*, that would be helpful. If you don't know what *Illinois Brick* is because it hasn't been raised by any of the parties, just say so," Easterbrook said. "But filibustering won't help."

"I've read the case a long time ago, but it wasn't raised," Giordano said.

"That's what I thought," Easterbrook said.

Briefs Ordered

The court ordered supplementary briefs on three procedural issues that are due Jan. 17. The parties were asked to explain whether the court should defer to FERC's primary jurisdiction; whether Anthony Star, the director of the Illinois Power Agency, can be held liable for enforcing the law if it's found unconstitutional; and whether retail customers have standing given *Illinois Brick*.

FERC Rejects DOE Rule, Opens RTO 'Resilience' Inquiry

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"Although we terminate the proposed rule … we are not ending our work on the issue of resilience. To the contrary, we are initiating a new proceeding to address resilience in a broader context and are directing the RTOs/ISOs to provide information — followed by an opportunity for comment by any other interested entity — that will inform us as to whether additional actions by the commission and the ISOs/RTOs are warranted with regard to resilience issues."

The 18-page order included a brief history of how the electric system has changed with the advent of organized markets and the transition away from fossil fuels and toward renewables. The commission also noted steps it has taken to ensure the grid's stability, including tougher capacity market rules in PJM and ISO-NE, mandatory NERC reliability standards, improvements to gas-electric coordination and requirements that new renewable generation provide reactive power.

"While none of the commission's efforts described above were specifically targeted at 'resilience' by name, they were directed at elements of resilience, in that they sought to ensure the uninterrupted supply of electricity in the face of fuel disruptions or extreme weather threats," the commission said, adding, "The commission's endorsement of markets does not conflict with its oversight of reliability, and the commission has been able to focus on both without compromising its commitment to either."

Perry's Proposal

The Department of Energy's proposed rule, issued Sept. 29, would have required RTOs and ISOs with energy and capacity markets to make cost-of-service payments to generators that have a 90-day on-site fuel supply and are able to provide "essential reliability services."

Citing the high rate of generation outages in PJM during the 2013/14 cold snap, Perry contended the grid was at risk because of retirements of coal and nuclear generation. Perry ordered the commission to respond within 60 days, a deadline he extended for a month at the request of new FERC Chair Kevin McIntyre.

In addition to failing to demonstrate that current RTO/ISO tariffs are unjust and unreasonable, the commission said, Perry's proposed solution was also wanting. "The proposed rule would allow all eligible resources to receive a cost-of-service rate regardless of need or cost to the system," the commission said. "The record, however, does not demonstrate that such an outcome would be just and reasonable. It also has not been shown that the remedy in the proposed rule would not be unduly discriminatory or preferential. For example, the proposed rule's on-site 90-day fuel supply requirement would appear to permit only certain resources to be eligible for the rate, thereby excluding other resources that may have resilience attributes." Perry issued a statement after the ruling saying his proposal had "initiated a national debate" on resiliency.

New Proceeding

FERC said the new proceeding would document how each RTO and ISO assesses resilience and use the information "to evaluate whether additional commission action regarding resilience is appropriate."

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Praise from Green Groups, Dismay from Coal and Nuclear Interests

Trade groups and other energy stakeholders wasted no time offering their opinion of FERC's rejection of Energy Secretary Rick Perry's call for cost-of-service payments to coal and nuclear generators. Here's a sample:

Paul Bailey, CEO of the American Coalition for Clean Coal Electricity: "We are disappointed by FERC's decision because the electricity grid could become less reliable and less resilient while more information is being collected. Nonetheless we will continue working with FERC and ISO/RTOs to assure that wholesale electricity markets value the attributes of the coal fleet. The recent bomb cyclone is a reminder why we need a healthy coal fleet. Several grid operators relied on the coal fleet for more than 40% of the electricity this past week."

Maria Korsnick, CEO of the Nuclear Energy Institute: "We are disappointed that FERC did not take affirmative action that would preserve our nation's nuclear plants. America's nuclear fleet must remain a strategic asset contributing to energy security, resilience, reliability, economic growth and environmental protection. The status quo, in which markets recognize only short-term price signals and ignore the essential role of nuclear generation, will lead to more premature shutdowns of well-run nuclear facilities. Once closed, these facilities are shuttered forever. … We are committed to working with FERC, the Department of Energy and other federal and state policymakers to ensure that America's nuclear fleet continues to deliver electricity reliably and affordably. We believe the direction to the RTOs/ISOs to 'take a proactive stance on addressing and ensuring resilience' must lead to prompt and meaningful action, including on issues such as price formation."

John E. Shelk, CEO of the Electric Power Supply Association: "This decision is a victory for the independence of FERC as the regulatory agency charged by Congress with implementing the Federal Power Act. EPSA applauds FERC for reaffirming its commitment to well-functioning wholesale power markets."

Advanced Energy Economy: "We commend the FERC commissioners for rejecting an unwarranted bailout of uneconomic power plants in order to solve a problem that doesn't exist. We look forward to engaging in a holistic look at what it takes to keep the lights on, and to demonstrating the contribution of advanced energy technologies to an affordable, reliable, resilient grid."

Jim Matheson, CEO of the National Rural Electric Cooperative Association: "We support FERC's commitment to continuing this conversation on improving the resilience of the electric grid. This will be an important dialogue, and we appreciate Energy Secretary Perry for jump-starting the discussion. Electric co-ops put a premium on maintaining a diverse, affordable and reliable power supply for their members."

Former FERC Commissioner Tony Clark: "On the spectrum of next steps, the path FERC chose is relatively informal. No [Notice of Inquiry]. No [Advanced] NOPR. No further NOPR. No Section 206. No specific price formation reforms."

American Council on Renewable Energy, American Wind Energy Association, Energy Storage Association, Natural Gas Supply Association, Solar Energy Industries Association: "We are very encouraged by the action taken by FERC today. We look forward to engaging with FERC, DOE and grid operators in an examination of what resilience of the electric power system means and requires, and to demonstrating the contribution of our industries to ensuring reliable power for all."

Mary Anne Hitt, director of Sierra Club's Beyond Coal campaign: "This entire NOPR process has been a comically orchestrated ploy by unscrupulous coal and nuclear executives to handicap their competition because they were foolish enough to think that American electricity customers wanted their dirty, expensive power plants when cheaper, cleaner alternatives are available. We doubt that this will be their last attempt to bailout their failing plants, so we are preparing for their next round of dangerous proposals."

— Rich Heidorn Jr.

FERC Rejects DOE Rule, Opens RTO 'Resilience' Inquiry

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The commission also said it will seek to develop a common understanding "of what resilience of the bulk power system means and requires."

"There seems to be a general consensus that grid reliability and grid resilience are related but separate concepts, with the elements of grid reliability being better understood and defined. It also is evident that there is currently no uniform definition of resilience used across the electric industry," FERC said.

It invited comment on its own proposed definition: "The ability to withstand and reduce the magnitude and/or duration of disruptive events, which includes the capability to anticipate, absorb, adapt to and/or rapidly recover from such an event."

Questions for RTOs

The order asked RTOs to identify their resilience risks; whether they should assess their resource portfolios against contingencies from the loss of key infrastructure; and the bulk power system attributes that contribute to resilience.

It also asked RTOs to address how extreme weather, drought, and physical and cyber threats affect generation technologies differently. Large nuclear and coal plants can face curtailments if they lose their cooling water supplies because of drought.

"Each RTO/ISO should take a proactive stance on addressing and ensuring resilience," the commission said. "We are encouraged by efforts underway in PJM and ISO-NE to better understand vulnerabilities in their systems, and support similar efforts in other regions where analyses of potential resilience issues could be helpful. We also are encouraged by the ongoing work in MISO to develop a long-term plan to address changing system needs in light of an evolving resource mix."

Broader Look at Resilience

The commission said that while Perry's proposal focused only on on-site fuel, its inquiry would be broader, including market rules, planning and coordination, NERC standards, and transmission system outages.

It also noted that RTOs and ISOs share resilience concerns with transmission providers in areas that do not have centralized wholesale electricity markets, but it said "hearing from the RTOs/ISOs on this topic is an appropriate place to begin."

Chatterjee Sought Interim Relief


Neil Chatterjee | © RTO Insider

Although the commission ruled unanimously, Commissioners Cheryl LaFleur, Richard Glick and Neil Chatterjee issued concurring statements spelling out their own views of the issue.

Praising Perry's "bold leadership," Chatterjee, a Republican, reiterated his call for "interim compensation" of generation facing retirement during the commission's inquiry.

"Current RTO/ISO market design mechanisms are intended to incent generation resource owners to manage the fuel supply risks they can control — not the spectrum of fuel supply risks beyond their control," Chatterjee wrote, citing the risks of gas pipeline outages.

"The record clearly suggests that the latter class of risks are increasingly significant due to shifts in the generation mix and the fast-evolving national security threat environment. Neither current RTO/ISO tariffs nor the NERC reliability standards require RTOs/ISOs to assess these fuel supply risks or other significant resilience risks and mitigate their potentially significant impact on the bulk power system. This suggests that existing RTO/ISO tariffs may be unjust and unreasonable insofar as they may not adequately compensate resources for their contributions to bulk power system resilience."

LaFleur: Look to the Future, not the Past


Cheryl LaFleur | © RTO Insider

LaFleur and fellow Democrat Glick were far more critical of the DOE proposal.

"The proposed rule … did not make a factual showing of a defined resilience need or allow a market- or standards-based solution to solve that need. Rather, it presumed a resilience need and proposed a far-reaching out-of-market approach to 'solve' it," LaFleur wrote. "This proposed remedy, which simply designated resources for support rather than determining what services needed to be provided, would be highly damaging to the ability of the market to meet customer needs — including any demonstrated resilience needs — fairly, efficiently and transparently. In effect, it sought to freeze yesterday's resources in place indefinitely, rather than adapting resilience to the resources that the market is selecting today or toward which it is trending in the future. I believe the commission should continue to focus its efforts not on slowing the transition from the past but on easing the transition to the future."

Subsidizing Uncompetitive Generation

Glick said Perry's proposal "had little, if anything, to do with resilience, and was instead aimed at subsidizing certain uncompetitive electric generation technologies."

"The record demonstrates that, if a threat to grid resilience exists, the threat lies mostly with the transmission and distribution systems, where virtually all significant disruptions occur," Glick wrote.

He noted the resilience challenges coal generators face, such as frozen and flooded fuel supplies. "Initial reports indicate that coal-fired facilities accounted for nearly half of all forced outages in PJM during last week's period of extreme temperatures. Similarly, during the same period, the Pilgrim Nuclear Power Station was manually removed from service, complicating efforts to serve load within ISO-NE."

Glick also noted the "irony that the department's proposed rule would exacerbate the intensity and frequency of … extreme weather events by helping to forestall the retirement of coal-fired generators, which emit significant quantities of greenhouse gases that contribute to anthropogenic climate change."

The commissioner expressed sympathy for coal miners who have lost their jobs because of the fuel's declining share of the generation mix.

"We have a history in this country of helping those who, through no fault of their own, have been adversely affected by technological and market change," he said. "But that is the responsibility of Congress and the state legislatures. It is not a role that the Federal Power Act provides to the commission."

Glick concluded: "If the RTOs and ISOs demonstrate that the resilience of the bulk power system is threatened, we should act. If not, we should move on."