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# RTO Insider

**YOUR EYES AND EARS ON THE ORGANIZED ELECTRIC MARKETS**

**CAISO ▪ ERCOT ▪ ISO-NE ▪ MISO ▪ NYISO ▪ PJM ▪ SPP**

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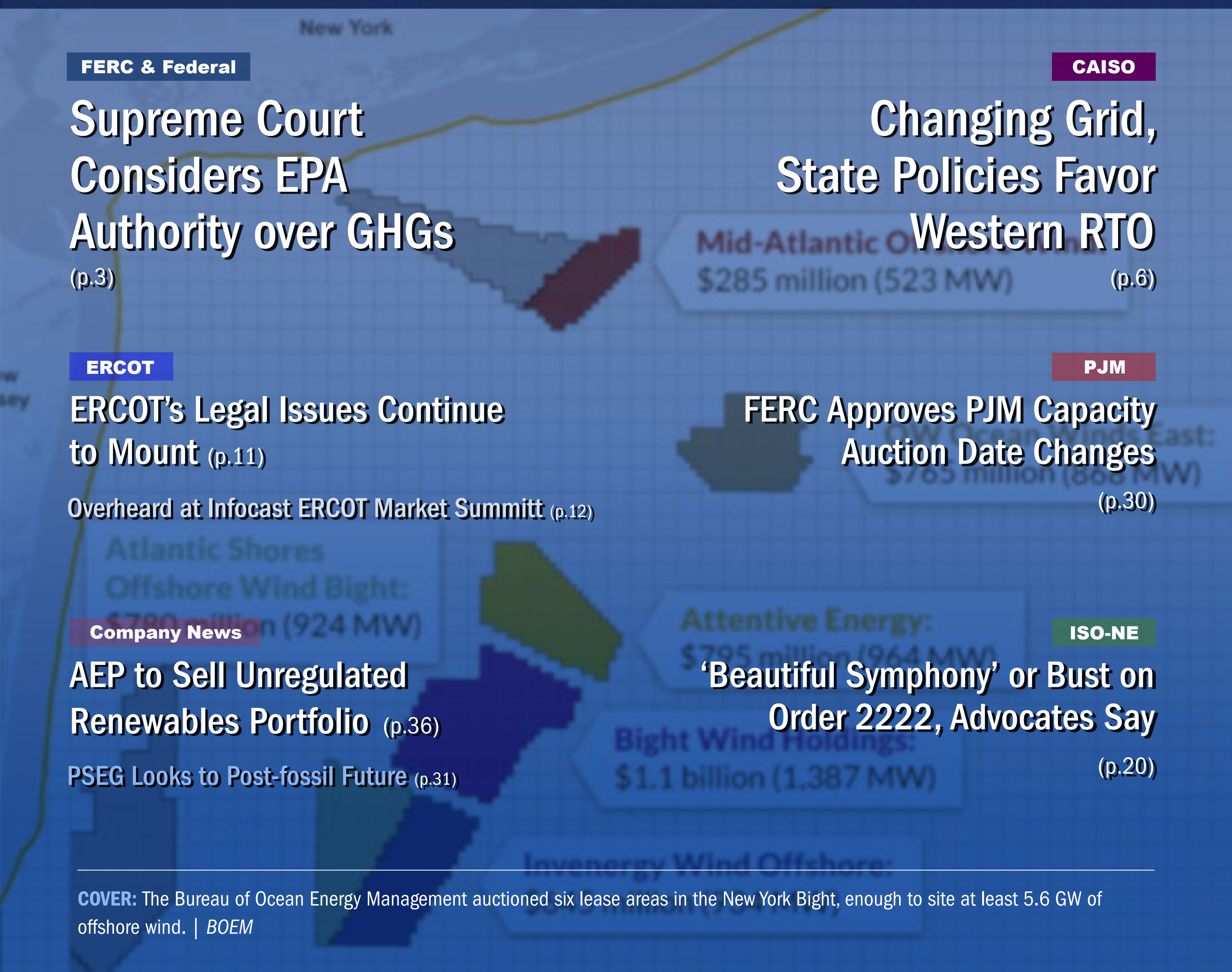


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# In this week's issue

## FERC/Federal News

# Supreme Court Considers EPA Authority over GHGs

## *'Beyond-the-Fence-Line' Regulations at Issue*

*By Rich Heidorn Jr.*

The Supreme Court's liberal wing defended EPA's authority to impose "beyond-the-fence-line" regulations on power plants Monday, while conservative justices provided fewer signals on their leanings during oral arguments in a challenge by the coal industry and 20 states.

The arguments focused on EPA's authority to regulate greenhouse gas emissions under the Clean Air Act and whether the Clean Power Plan (CPP), proposed by the Obama administration, was nullified in January 2021 when the D.C. Circuit Court of Appeals rejected the Trump administration's replacement, the Affordable Clean Energy (ACE) rule.

The D.C. Circuit's 2-1 ruling vacated the ACE rule and remanded it to EPA for further action. (See *DC Circuit Rejects Trump ACE Rule*.)

West Virginia Solicitor General Lindsay See | *The Federalist Society*

West Virginia Solicitor General Lindsay See told the court Monday that Section 111 of the Clean Air Act directed EPA to "partner with the states to regulate [emissions] on a source-specific level." But the D.C. Circuit ruling went far beyond that, See said, violating the "major questions" doctrine — that Congress must be explicit in giving an administrative agency the power to make "decisions of vast economic and political significance."

"Electricity generation is a pervasive and essential aspect of modern life and squarely within the states' traditional zone" of authority, she said. "Yet EPA can now regulate in ways that cost billions of dollars, affect thousands of businesses and are designed to address an issue with worldwide effect. This is major policymaking power under any definition."

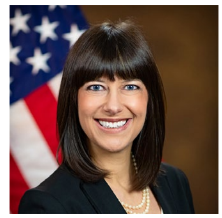
The court agreed to consider the matter in October, consolidating four challenges and saying it would hear one hour of oral arguments (*West Virginia v. EPA*, 20-1530). But — perhaps reflecting the case's potential implications beyond EPA's authority — Chief Justice John Roberts allowed the *arguments* to stretch on for two hours. Observers have said a ruling that concludes EPA lacks authority to decide matters of "vast economic and political significance" could have a wide impact on administrative law.

### Nothing to See Here

Justice Sonia Sotomayor | *Supreme Court*

Justices Stephen Breyer, Elena Kagan and Sonia Sotomayor asked most of the questions during the session, with Clarence Thomas and Samuel Alito leading the questioning by the conservative wing.

U.S. Solicitor General Elizabeth Prelogar said the court should reject the challenge because EPA has no plans to resurrect the CPP. "Petitioners aren't harmed by the status quo," she said. EPA expects to issue a replacement Notice of Proposed Rulemaking by the end of 2022, with a final rule likely about a year later, she said.



U.S. Solicitor General Elizabeth Prelogar | *Justice Department*

Prelogar also contended there is no "major question" at stake. "For all their criticisms of the CPP, we know that it wouldn't have had major consequences. The industry achieved the CPP's emission limits a decade ahead of schedule and in the absence of any federal regulation," she said.

But See said the D.C. Circuit's ruling vacated both the ACE rule and the Trump administration's repeal of the CPP.

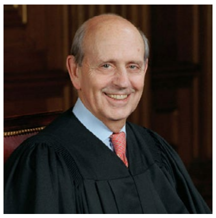
"We're injured by a judgment that brings back to life a rule that hurts us and it takes off the books a rule that benefits us," she said. She added that EPA's brief indicated "that they might enact the very same provision, and they have told you nothing different here today. … Even though nationwide, the emission levels have been largely met for the Clean Power Plan, 20 states have not met them.

"This is an area where the parties need certainty," she added. "The states and regulated parties make decisions decades in advance."

# FERC/Federal News

## 'Fence Line' Arguments

The CPP sought to cut power sector carbon emissions by 32% by 2030, compared with 2005 levels, through "generation shifting": substituting coal-fired generation with natural gas and renewables. The challengers say that EPA's authority to regulate power plants is limited to steps individual plants can make "inside the fence line."



Justice Stephen Breyer | *Supreme Court*

But Breyer, Kagan and Sotomayor said they disagreed with that interpretation, noting that Section 111(d) empowers EPA to impose standards "for any existing source" based on limits "achievable through the application of the best system of emission reduction" that has been "adequately demonstrated."

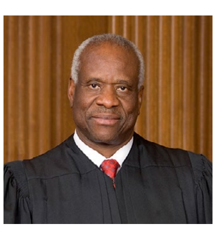
Breyer said he agreed that Congress did not give EPA authority to impose regulations that would change "the economic system of the United States."

"But you want to jump from there to the idea that [regulation] has to be plant by plant," he told See. "It's easy for me to think of a system that they might choose that isn't plant by plant or isn't within the fence, but isn't really a big deal." For example, he said EPA could order PJM to add a carbon fee to its security-constrained economic dispatch, which selects generation in least-cost merit order.

Kagan said an inside-the-fence regulation "can be very small, or it can be catastrophic."

"There are inside-the-fence technological fixes that could drive the entire coal industry out of business tomorrow. And an outside-the-fence rule could be very small, or it could be very large," she added. It "bears no necessary relationship to whether a rule is major in your sense of expensive, costly, destructive to the coal industry."

See responded that the law's requirement that EPA must use systems that lead to achievable emission reductions that are adequately demonstrated suggests Congress intended "source-specific" requirements. "They don't make sense when EPA is regulated at a grid-wide or nationwide level," she said.



Justice Clarence Thomas | *Supreme Court*

"'System' is a broad word," she acknowledged. "But Congress paired it with limits. … The D.C. Circuit's interpretation of the statute doesn't give EPA any place where it has to stop. The fact that it puts self-imposed handcuffs on in the Clean Power Plan does not mean it would need to do that in the next rule."

Justice Elena Kagan | *Supreme Court*

Kagan responded: "It does give EPA a place to stop, because the statute also says you have to consider cost and you have to consider various other factors. … It very clearly says that there are other constraints that have to be considered to impose reasonable limits."

"I agree with you if we are talking about measures that a particular source can take, because then you would be able to look at cost and make a reasoned determination," See countered. "But if EPA is looking at the national, or grid-wide level, and if it's dealing with an issue as massive as climate change, it's hard to see what cost wouldn't be justified. So that cost limit isn't really serving as a limiting factor."

## Cooperative Federalism

Kagan said the statute's reference to "system" suggests that Congress intended to give EPA flexibility, "understanding that this was an area that was going to move very fast [and] has lots of technical components to it; that it wanted to give the agency flexibility to regulate as times changed, as circumstances changed, as economic impacts changed, or things that they couldn't possibly have known at the time" changed.

West Virginia's interpretation, she said, would undermine the notion of "cooperative federalism."


The Supreme Court | © *RTO Insider LLC*

# FERC/Federal News

Justice Samuel Alito | *Supreme Court*

"If the state decides, 'This is what we want to do. … We actually think it's less costly than some of the inside-the-fence alternatives,' your reading essentially says, 'Too bad.'"

Prelogar referenced a brief by utilities including Consolidated Edison, Exelon and National Grid supporting EPA's position.

She said a system that involves carbon capture and sequestration paired with trading would allow plants to decide whether to make the carbon-capture investments to reduce emissions low enough to generate trading credits while others would find it more cost effective to buy credits.

"The system is … reducing emissions across the source category as a whole; it's just doing so in a very cost-effective way, which I think explains why the power plants by and large are on our side in this case," she said. "They want that kind of flexibility because this is business as usual for them."

See said "it's a false argument" to contend that giving EPA more options is better for states. "The Clean Power Plan set an aggressive system that said that there were options for the state, but really, there weren't, because states couldn't actually have other options other than generation shifting and reduced output."

## Conservatives Appear Wary of Broad Ruling

Alito made his suspicion of EPA's power clear, telling Prelogar, "If you take the arguments about climate change seriously … so long as the costs are not absolutely crushing for the society, I don't know why EPA can't go even a lot further than it did in the CPP."

But none of the conservative judges said they thought the D.C. Circuit had erred in rejecting the ACE rule. And there was little indication that they saw the case as a forum for a sweeping ruling on the major-questions doctrine.

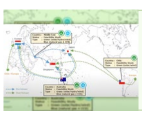
Justice Neil Gorsuch said Prelogar "makes a strong argument that states are not harmed here because, under the current state of affairs, there is no rule in place."

Justice Amy Coney Barrett distinguished the case from the court's September ruling that the Centers for Disease Control and Prevention lacked power to order a moratorium on evictions during the COVID-19 pandemic. That case, she said, concerned whether "the CDC can regulate the landlord-tenant relationship."

In the current case, she said, "if we're thinking about EPA regulating greenhouse gases, well, there's a match between the regulation and the agency's wheelhouse, right?"

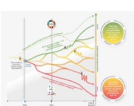
Justice Brett Kavanaugh noted the electric utilities' argument that cap-and-trade systems are more flexible and better than command-and-control rules. "I think those are all — you know, those are solid arguments that we … need to consider." ■

## National/Federal news from our other channels



*Japan Working to Make Hydrogen a Transportable Energy Commodity* — NetZero Insider

*Hydrogen-powered Commercial Air Service on the Horizon* — NetZero Insider



*IPCC Climate Report 'Half Measures No Longer an Option'* — NetZero Insider

*Carbon Capture Needed for 'Last-mile Decarbonization'* — NetZero Insider

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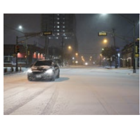

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*FBI: Conspirators Planned Grid Attack to Start Race War* — ERO Insider

*Dragos: Electric Industry Cyber Preparations 'Very Successful'* — ERO Insider

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## CAISO/West News

# Changing Grid, State Policies Favor Western RTO

By Robert Mullin

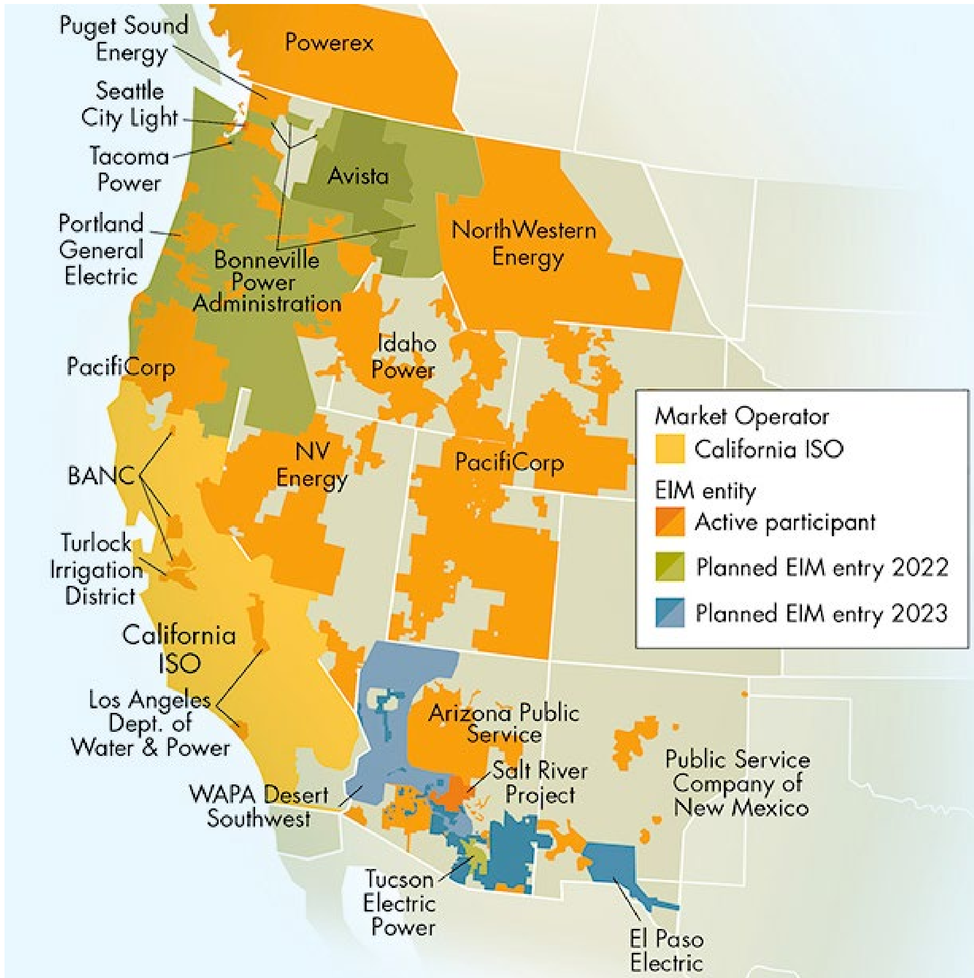
If history is any guide, any attempt to form a West-wide RTO would seem doomed to failure. But now the creation of such a market appears almost inevitable.

In the two and a half decades since the first try at creating an organized market in the Western Interconnection, multiple initiatives have faltered as utilities and their state regulators resisted the idea of turning over control of the grid to a central operator.

Now CAISO, SPP and the Western Power Pool (formerly the Northwest Power Pool) simultaneously maneuver to organize the Western electricity sector, and conditions finally seem ripe for change.

That was the view shared by the four industry insiders speaking during the first panel of a virtual conference hosted by the Western chapter of the Energy Bar Association on Thursday.

"The West has had plenty of fits and starts in this area over the last two decades or so, but there are several things that are happening today that I think are likely to make this time different," panel moderator Brian Cole, general manager of resource management at Arizona Public Service, said in opening the panel. "These include the need for clean energy integration, reliability and affordability, not to mention some state mandates that require [adoption of organized] markets in those particular states by the end of the decade."




In the seven years since it commenced operation, the Western EIM has grown to take in much of the Western Interconnection, indicating the appeal of increased integration across the region. | *CAISO*

Providing a rundown of the West's failed efforts was former Bonneville Power Administration (BPA) executive Steve Kerns, now senior technical adviser for the Public Generating Pool, an association of 11 publicly owned utilities in the Pacific Northwest. He tallied off IndieGo (1995-1998), RTO West (2000-2004), Grid West (2004-2006) and NWPP's MC initiative (2012-2016), which sputtered in the face of growing interest in CAISO's lower-cost Western Energy Imbalance Market (WEIM).

CAISO's three-year attempt to regionalize its own market stalled in 2018 after stakeholders and California legislators failed to resolve concerns over the ISO's governance, which is subject to oversight by California officials. (See *CAISO Expansion Bill Dies in Committee*.)

Kerns pointed out that organized electricity market design is fundamentally rooted in NERC's *Reliability Functional Model*, which envisions market structures that employ shared transmission planning, a single tariff and transmission service provider (TSP), a single balancing authority and a central market operator.

But implementing those has proved challenging in the West, Kerns said. For instance, shared transmission planning introduces the problem of how to allocate costs for new projects that may provide uneven benefits. Similarly, a single tariff will likely result in cost shifts for existing transmission, forcing some entities to fund transmission from which they derive no benefit.

Additionally, one of the region's largest transmission owners, BPA, faces statutory restrictions on transmission cost sharing, as well as on its ability to cede control of its lines to another TSP.

Furthermore, the NERC model's call for a single BA has long cut across the desire for local control in a region with dozens of BAs of varying size. Finally, as Kerns noted, the estimated cost of standing up a central operator has caused "sticker shock" among stakeholders, as in the case of the NWPP MC effort.

### 'Dramatic Shift'

But the changing energy landscape in the West could erode much of the resistance to an RTO, Kerns said.

Like Cole, Kerns pointed to the favorable impact of state clean energy policies, which simultaneously drive deployment of variable renewable resources and retirement of fossil fuel plants but also increase stress on the grid and raise concerns about regional resource adequacy.

# CAISO/West News

"There's also been an increase in independent power producers that are developing renewable generation at locations distant from load centers that require substantial investments in transmission," along with a growth in large power users that seek to be served by renewables, Kerns said.

In the Northwest, the power industry confronts a trend of decreased flexibility from the region's massive hydroelectric network, which is subject to greater operational restrictions to protect endangered species while at the same undergoing changes in streamflow patterns because of climate change.

Lastly there's the "missing money" problem, Kerns said. "This is the perception that there are inadequate incentives for market participants to develop capacity resources that will provide sufficient capacity and energy to meet demand. And the belief is that if you create an organized market with the correct price signals, that could help resolve that issue."

Phil Pettingill, director of regional integration at CAISO, agreed with his fellow panelists that a "dramatic shift" to renewables in the Western Interconnection has sparked renewed interest in a Western RTO.

"What we've already seen is wholesale electric markets can really, really help in terms of the integration of these renewables," Pettingill said. "In this footprint, we have now about [38] balancing areas, and so they're all operating basically independently, and one of the benefits we have with wholesale market is [to] actually start to integrate that operation and look at being able to facilitate a much more efficient dispatch in the system."

And while a real-time market such as the WEIM provides a foothold, Pettingill noted that real-time transactions represent less than 5% of the energy delivered in CAISO, indicating the "value" of adding day-ahead trading to the market, as the ISO is planning to do with its extended day-ahead market (EDAM) initiative.

"It is in the day-ahead where we actually decide which generation resources will be put online, in order to match or work with the renewable fleet that's now expanding," he said. "It also gives us an opportunity then to optimize the transmission that's being used across that larger footprint, because multiple balancing areas across multiple states are now working together."

Because they often operate at zero marginal cost, renewables are typically dispatched ahead of other, greenhouse gas-emitting resources.

"So it's not only the economic benefit, but also the environmental benefits that come from the success of the Western Energy Imbalance Market," Pettingill said.

The West will ultimately "land" with an RTO, Pettingill thinks, "but that's down the road. If there's one thing we've seen in the Western Interconnection, things go incrementally."

That incrementalism will entail "layering" new services onto the WEIM, such as EDAM, eventually leading up to inclusion of transmission planning in a full RTO, he said.

## Competitive Field

A layered approach is what SPP envisions for the Markets+ program it plans to offer on top of other services it's already providing in the West.

SPP is currently reliability coordinator for 11 entities in the Western Interconnection, and its Western Energy Imbalance Service (WEIS) has seven participants, many of whom plan to join the full RTO. In addition, the Western Power Pool last year selected SPP to operate the Western Resource Adequacy Program (WRAP), whose reach will extend across much of the West when it launches its nonbinding RA program later this year. (See *NWPP Rebrands as Western Power Pool*.)

Like CAISO's EDAM, SPP's Markets+ will add a voluntary day-ahead option to the RTO's WEIS, Kara Fornstrom, SPP director of state regulatory policy, explained. Markets+ will also be made available to participants in the WRAP, putting it in direct competition with the WEIM.

"If you're in the EIM and want to join Markets+, you'll have to leave the EIM to do so," Fornstrom said.

In developing Markets+, Fornstrom said, SPP identified three "buckets" that it thinks rekindled the West's interest in "market evolution": economics, reliability and the need to integrate clean energy resources. She touted SPP's experience in the third category.

"SPP was the first RTO to have wind as our primary fuel resource. ... Last year it was 36% of our total," she said. "We've got all of that energy into our system — a lot of it — because of our transmission availability, data transmission planning and our investment in transmission, along with our established cost allocation principles."

All three panelists agreed that governance remains a key impediment to forming a full RTO in the West, but Fornstrom, a Wyoming Public Service Commissioner before joining SPP, sees a positive development on that front.

"I think it's hard to overstate the positive impacts that the WRAP governance structure has made for the West," Fornstrom said, referring to the *progress* WPP and its stakeholders have made in developing the program's oversight bodies. "It's helped us come to the first time [of] being able to do something on a wide regional basis. And that really should not be overlooked." ■

## West news from our other channels

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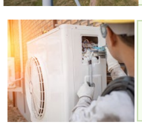

*California Sets 6-Million Heat Pump Goal* — NetZero Insider

*Fast-moving Bill Seeks to Win Hydrogen Hub for Wash.* — NetZero Insider

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## CAISO/West News

# Retail Anti-competition Bill Hits Snag in Ariz.

*By Elaine Goodman*

A bill that would close the door to electric retail competition in Arizona has hit a snag in the state legislature.

*House Bill 2101* sponsored by Rep. Gail Griffin (R) cleared two committees but failed 26-29 on the House floor on Feb. 14. Lawmakers approved a motion from Rep. Andres Cano (D) to reconsider the bill within 14 days, but as of Sunday, the bill hadn't been voted on again.

HB 2101 would repeal a 1998 law that was intended to give customers a choice of electricity service providers in the service territories of both investor-owned utilities and consumer-owned "public power entities" (PPEs).

But the competition envisioned by the law never materialized. Although the Arizona Corporation Commission (ACC) adopted rules to allow competition, the rules were shot down by a 2004 appellate court ruling.

Now, proponents of HB 2101 say competition should be rejected to maintain reliable electric service.

During a committee hearing January, many bill supporters cited the February 2021 winter storm in Texas that left millions of residents without power for days in subfreezing temperatures and contributed to the deaths of more than 200 people. Customers have retail electric choice in much of Texas.

"I'm not ready to gamble on a company that may not have a smart group of implementers," said Rep. Teresa Martinez (R), a member of the House Natural Resources, Energy and Water Committee. "We're literally playing with people's lives when it comes to water and energy."

Others expressed concerns that allowing competition would lead to "cherry picking" of lucrative accounts.

With competition, Arizona's existing utilities would serve as providers of last resort, being left to serve the costliest customers, said Molly Greene, senior director of state and local government relations for Salt River Project. The Tempe-based PPE with more than 1 million customers supports HB 2101, Greene said.

"The bill protects customers by eliminating the antiquated, defunct provisions that were contemplated a quarter century ago and never materialized," Greene said.

Arizona state capitol | *Shutterstock*

### Clean Energy Offerings

But Travis Kavulla, vice president of regulatory affairs for NRG Energy, said there would be safeguards to protect customers in the event of electric competition in Arizona. NRG is an energy producer and retailer, as well as the parent company of Green Mountain Energy, which wants to do business in the state. HB 2101 would cut off that opportunity, Kavulla said.

NRG customers continue to pay utilities' rates for upkeep of the grid, Kavulla said. In addition, Arizona customers would pay a "standby fee" for utilities' prior investments in generation.

"Monopolies don't like to be competed against, and in my experience they will do or say anything to deprive their customers of a choice in provider," Kavulla said in written testimony to the committee.

Green Mountain Energy provides customers with 100% renewable energy. In contrast, Kavulla said, Arizona's monopoly utilities have lagged in providing renewable energy.

The House NREW committee passed HB 2101 on a 10-2 vote on Jan. 18. The House Rules Committee then voted 8-0 in favor of the bill on Feb. 7.

Meanwhile, a companion bill in the Senate, SB 1631, was passed Feb. 16 by the Senate Committee on Natural Resources, Energy and Water on a 5-4 vote.

### Green Mountain Application

Green Mountain Energy submitted an *application* to ACC in August to provide competitive electric generation services within the territories of the state's largest investor-owned electric utilities, Arizona Public Service Co. and Tucson Electric Power.

Green Mountain Energy is licensed to provide electric service in 11 states, according to the application.

In its application, Green Mountain said it would offer annual fixed-price contracts to residential customers. Commercial and industrial customers would have a choice of fixed-price or indexed-price contracts. Green Mountain is asking the commission to approve a maximum price for the company's electric generation services.

The application is on hold while the commission waits for an attorney general opinion on how to proceed. ■

# CAISO/West News

# Energy Bar Weighs OSW in Oregon, California

## *New Oregon Call Areas Raise Possibility of West Coast Coordination*

*By Hudson Sangree*

Three newly proposed call areas off the Oregon coast mean offshore wind could be a multistate affair in the West, requiring integrated planning and transmission, panelists said at Thursday's annual meeting of the Energy Bar Association's Western Chapter.

The U.S. Bureau of Ocean Energy Management (BOEM) identified the Oregon call areas Thursday, shortly before the meeting. Last year, BOEM said it would offer leases in two offshore wind areas in Northern and Central California, the first offshore wind developments on the West Coast.

"The growing Pacific Coast scale of this, which has just been expanded [with that day's BOEM announcement] … sets in motion a whole set of speculation about coordination across the region," said Adam Stern, executive director of Offshore Wind California.

| Name | Approx. Offshore Wind Energy Capacity | | Area |
|---|---|---|---|
| | Megawatts | Gigawatts | Square miles |
| Coos Bay | 10,597 | 10.6 | 1,362 |
| Bandon | 2,881 | 2.9 | 371 |
| Brookings | 3,478 | 3.5 | 448 |
| Total | 16,956 | 17 | 2,181 |

Three newly identified call areas off the Southern Oregon Coast could eventually generate 17 GW. | *BOEM*

The three large areas off the coast of southern Oregon could support up to 17 GW of generating capacity total. BOEM said in a *presentation* last week it intends to consider 3 GW for "near-term commercial development." The presentation, which first identified the proposed call areas, was published Thursday in preparation for Friday's meeting of the BOEM Oregon Intergovernmental Renewable Energy Task Force.

Five study areas off California's north and central coasts could potentially support 21 GW of offshore wind, according to a *study* published in 2020 by the National Renewable Energy Laboratory (NREL). BOEM ultimately decided to pursue commercial development of 4.6 GW: 3 GW in the Morro Bay Call Area off the Central California coast, and 1.6 GW in the Humboldt Call Area off the Northern California coast. (See *BOEM to Offer Leases for Calif. Offshore Wind*.)

The northernmost point of the Humboldt Call Area and the southern boundary of Oregon's Brookings Call Area are about 60 miles apart.

An auction for the California's first offshore wind leases is expected this fall, pending approval by the state Coastal Commission.

The auction will be like last week's sale of six leases in the New York Bight, which drew competitive bids totaling nearly $4.4 billion. It was the "nation's highest-grossing competitive offshore energy lease sale in history, including oil and gas leases," the U.S. Interior Department said in a *news release*. (See related story, *Fierce Bidding Pushes NY Bight Auction to $4.37 Billion*.)

"These results are a major milestone towards achieving the Biden-Harris administration's goal of reaching 30 GW of offshore wind energy by 2030," the department said.

The New York auction's high prices are potential harbingers of lease prices in California, EBA panelists said.

### Ports Problematic

California, however, is different from the East Coast in several ways, including the need for more expensive floating wind turbines for its deeper waters and a lack of port infrastructure to build and support offshore wind farms, panelists noted.

"The ports are a huge issue in California," said Ella Foley Gannon, a partner at law firm Morgan Lewis in San Francisco. "Our ports are not well situated to these wind areas."

The NREL study found "distance to port" in California would be a major driver of construction, operation and maintenance costs for offshore wind farms. Major ports in Los Angeles, the San Francisco Bay Area and San Diego are either too distant, unsuitable or both.

Floating wind turbines can be assembled in port and towed to sea, saving time and money, but bridges in San Francisco and San Diego create obstacles, it noted. "The Golden Gate Bridge, for example, has an air draft limit of 67 meters, rendering all of the San Francisco Bay ports unsuitable for floating wind turbine assembly," it said.

Expanding and improving lesser ports that are closer to the wind areas is one possibility, but that will require large upfront investments.

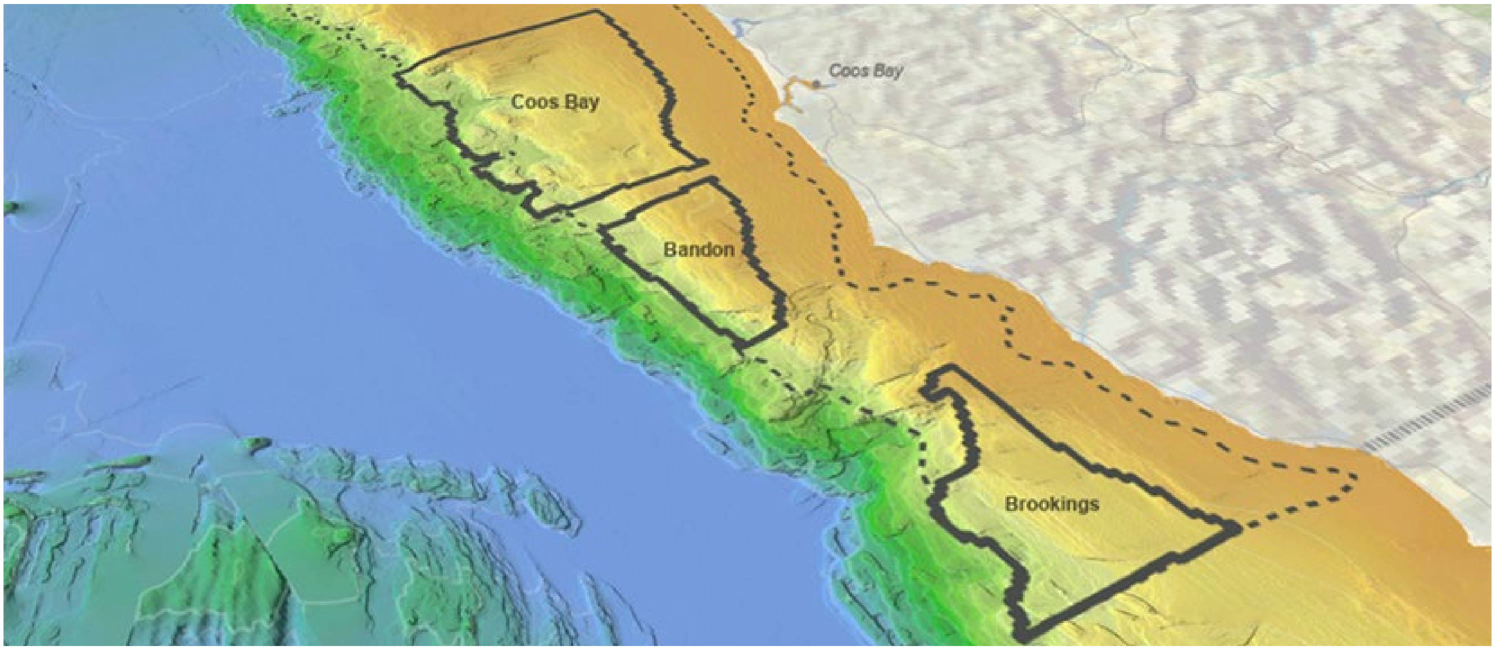
Theodore Paradise, executive vice president for strategy at Anbaric, a developer of offshore transmission, said the West Coast will need infrastructure more like the East Coast's to attract top-dollar bids.

"I think part of what we're seeing in the New York Bight today is a tipping point around confidence over infrastructure," Paradise said.

The East Coast had public-private partnerships emerge to develop port facilities, he said.

New Jersey is building the New Jersey Wind Port, which can serve the New York Bight and other East Coast wind development areas. The state appropriated $400 million for the first phase of the project, including channel dredging and establishing marshalling and manufacturing sites. Private companies such

# CAISO/West News




A 3D view shows water depth in the proposed Oregon call areas. | *BOEM*

as Siemens Gamesa Renewable Energy have applied to be tenants.

California Gov. Gavin Newsom's fiscal year 2023 budget includes $45 million for port development, but far more will be needed, panelists said. The $1.2 trillion infrastructure bill signed by President Biden in November contains $17 billion for port upgrades, some of which could go toward development for offshore wind, they said.

## 'Planning Big'

Another factor is transmission, which is more cost-effective when built to encompass larger offshore wind areas, they said. In Germany and the Netherlands, projects are being planned on a large scale with 2-GW cables, they said.

Early experience with smaller East Coast projects created a "spaghetti of cables across the ocean floor," costing far more to develop and more per megawatt, Paradise said. California and Oregon could learn from that experience and develop state or regional transmission plans, he said.

He likened offshore transmission to the Texas Competitive Renewable Energy Zones transmission project, which transports wind energy from West Texas and the Texas Panhandle to population centers in the eastern part of the state.

CAISO recently included offshore wind in its inaugural 20-year transmission plan, a positive step, panelists said. The ISO said the state needs approximately $8 billion for 500-kV and HVDC lines to carry 7 to 13 GW of offshore wind to major urban areas. (See *CAISO Sees $30B Need for Tx Development*.)

"I think a key thing is planning big and planning for scale," OSW California's Stern said. "We need to achieve a state-based supply chain in order for this to create the jobs and other benefits associated with offshore wind. And that's only going to happen if there are high targets and there is a supporting infrastructure investment that the state of California can make in its ports, in its grid and in some of the other resources that will be needed to make this possible." ■

## ERCOT News

# ERCOT's Legal Issues Continue to Mount

## *Texas Grid Operator Could Face More Lawsuits Without Sovereign Immunity*

*By Tom Kleckner*

ERCOT's legal woes intensified Wednesday, with a Texas appeals court ruling against the grid operator's long-held claim of sovereign immunity from civil litigation and blame being laid on Gov. Greg Abbott in a U.S. bankruptcy court for the high market prices that contributed to several electric providers going under following the February 2021 winter storm.

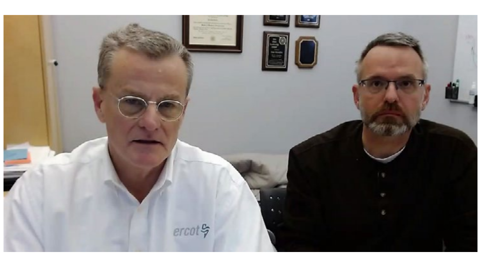
The Fifth District Court of Appeals in a 12-1 ruling found that the grid operator's immunity claim has no basis in Texas law. The case is destined for review by the Supreme Court of Texas. The high court last year avoided making a determination on ERCOT's claim to sovereign immunity. (See *Texas Supremes Sidestep Ruling on ERCOT Lawsuit Shield*.)

"The Supreme Court has not extended sovereign immunity to a purely private entity neither chartered nor created by the state, and this court will not create new precedent by extending sovereign immunity to ERCOT," Justice Erin Nowell wrote in the opinion (*05-18-00611-CV*).

Meanwhile in Houston, former ERCOT CEO Bill Magness testified that he was *following Abbott's orders* when he directed wholesale power prices to remain at their $9,000/MWh price cap for 33 additional hours. That resulted in $16 billion in market charges that the grid operator's Independent Market Monitor said were incorrect. (See *Texas PUC Won't Reprice $16B Error*.)

Magness said he was told by former Public Utility Commission Chair DeAnn Walker that Abbott wanted the commission and ERCOT to do everything possible to prevent further outages, even as generators were thawing out and returning to service.

Walker followed Magness to the stand



ERCOT's Bill Magness (left) and Dan Woodfin speak to the press after the February 2021 winter storm. | *ERCOT*

Wednesday. While she didn't exactly corroborate Magness' testimony, she did say Abbott had *told her* to "get the power back on" and keep it on. Walker spent several days at ERCOT's main operations center in Taylor, where she was joined by Abbott adviser Ryland Ramos.

According to Magness' log of contemporaneous notes, *tweeted* by *Houston Chronicle* investigative reporter Jay Root, Walker said Abbott had told her it was "imperative" that the outages not resume. "She was sent to make sure that did not happen, and to come up with solutions to potential problems that could send the system back into outages," Magness wrote.

Abbott has *disputed the account*. In statements to the media, Abbott's gubernatorial campaign has said that he only "instructed everyone involved that they must do what was needed to keep the power on and to prevent the loss of life."

ERCOT decline to respond to the developments, saying it can't comment on pending or active litigation.

At issue in the proceeding before the U.S. Bankruptcy Court for the Southern District of Texas is $1.9 billion in market charges ERCOT assigned to Brazos Electric Power Cooperative during the high-price period last February. Brazos is not disputing how much energy it bought to compensate for its own plants that did not run, but it argues it should owe about $800 million (21-03863).

The cooperative filed for Chapter 11 bankruptcy last March when it became evident it wouldn't be able to pay the billions it owed. As of December, ERCOT *said* Brazos was still $1.89 billion short to the market. (See *ERCOT's Brazos Electric Declares Bankruptcy*.)

Attorney Charles Gibbs, who represents Brazos' largest member, CoServ Electric, popped in to the Infocast ERCOT Market Summit last week to deliver a brief update on the case.

"This will play out over the next few years. That's the financial overhang of the storm," he said.

Gibbs predicted that the judge overseeing the case, David R. Jones, will likely find in favor of Brazos. He said Jones may find the charges are not a legal good, or associated with priority claims, but noted that what took place during the storm was hardly the ordinary course of

Chuck Gibbs, one of several attorneys representing clients in the Brazos Electric Cooperative's bankruptcy case, addresses the Infocast ERCOT Market Summit. | *© RTO Insider LLC*

business.

"It can't be a charge incurred during the ordinary course of business," Gibbs said.

What happens if the ruling goes against ERCOT? he was asked.

"How does ERCOT pay? They're a clearinghouse," Gibbs said. "What assets do they have?"

The Fifth District ruling only adds to the grid operator's legal problems. If upheld by the Texas high court, it would open the door to hundreds of lawsuits from Texas citizens seeking compensation for family members who died and property damage.

Attorney Majed Nachawati, with Fears Nachawati, said in a statement to *RTO Insider* that he looks forward to getting justice for his clients.

"We remain hopeful that state and federal prosecutors will hold the power companies and corrupt politicians accountable in the criminal justice system as well," he said. "The public demands accountability, and we all must do our part to eliminate corruption and greed that harms everyone."

The appeals court ruling stems from a lawsuit filed by energy investment company Panda Power Funds over $2.2 billion it said in invested to build three power plants in Texas. Panda said the decision was based on ERCOT projections that indicated energy supply shortages for years to come. The company has alleged the grid operator committed fraud and that Panda is selling power for less than what it expected because of the erroneous projection. ■

## ERCOT News

# Overheard at Infocast's ERCOT Market Summit 2022

## *PUC's Lake Clears up Market Redesign's Ambiguity*

AUSTIN, Texas — The state's top electricity regulator, Public Utility Commission Chair Peter Lake, last week addressed the "ambiguity" over the second round of changes at ERCOT meant to address shortfalls in the grid's performance during last February's devastating winter storm.

Delivering the keynote address during Infocast's ERCOT Market Summit on Feb. 23-25, Lake said the commission will develop two "products": a load-serving entity reliability mechanism (LSERM) and a backstop reliability service (BRS).

"It's not a contest; it's not a debate. We did all that," he said, referencing last year's series of PUC workshops on market changes. "We will develop those products and build them out."

When the PUC approved the two "Phase 2" mechanisms in December, it did so without addressing stakeholder comments it solicited on its *strawman* proposal. (See *PUC Forges Ahead with ERCOT Market Redesign*.)

However, Lake said the PUC will not accept any version of the proposals "sight unseen." He promised "a lot" of stakeholder engagement "to ensure we get those right." He promised to bring in consultants of the "highest caliber" to analyze the products' different versions and help develop a "turnkey product" for ERCOT's implementation.

"The commission is committed to adopting those proposals," Lake said.

He said the LSE reliability product will capture the best features of five different similar mechanisms. LSEs would be subject to a formal reliability standard and be subject to penalties for nonperformance to ensure they have sufficient resources meet this standard.

"All put the obligation on the retail market, not the centralized administrative entity of ERCOT," Lake said. "We believe the market is much better at procuring than a centralized governmental body. We will make it fungible, as easily integrated into the market as possible.

"We obviously want clear performance standards. We want forward pricing signals, for both investment and future generation of any kind and any form," he said.

Lake brought up what he refers to as ERCOT's "blue sky problem": those normal 75-degree days when wind and solar drop off and put the grid in a "near crisis" condition.

"A lot of that is due to the intermittency of our renewable fleet," he said. "We've been very deliberate as a commission to say we're going to address the strength and drawbacks, pros and cons, of each resource. One of [renewables'] drawbacks is they're not dispatchable. You can't turn them on on-demand.

"Those two problems, the blue-sky problem and extreme weather problem, that's what we've been addressing in the market design."

### Market Participants Respond to Lake

Lake's failure to include wind and solar resources among the PUC's dispatchable desired generation types, which also included hydrogen and geothermal, did not go unnoticed by some attendees.

Speaking on the panel following the chairman's comments, Erika Bierschbach, Austin Energy's vice president of energy market operations and resource planning, asked, "Do you want to incentivize future technology or some of those from the past?

"Some of those things out there … are just keeping things on support," she said.

Fellow panelist Resmi Surendran, with Shell Energy, put in a plug for energy storage.

"ERCOT should say what is the quality and the quantity of the megawatts that are needed, and anyone who wants to provide them, can provide them," she said. "Batteries can provide a lot of functions."

Vistra's Ned Bonskowski, senior director of Texas regulatory policy, addressed Lake's move away from the ERCOT market's previous " crisis-based" model, where prices jumped during supply-scarcity conditions.

The grid operator's conservative operations approach to managing the system by securing up to 8 GW of reserves at times has effectively dampened prices. Bonskowski said prices have largely stayed below $75/MW until an approaching cold front last week resulted in prices briefly hitting $4,000/MWh at one point.

"A very conservative operating theory … means more reserves are sitting there, which is more supply for relatively the same amount of demand. That tends to push prices down and you end up with a soft cap at $75," Bonskowksi said. "We're in a period right now that's pretty perilous from a market redesign standpoint. We got that little beacon of light this morning from what the market design ought to look like. Market participants had said they would like to see that sooner, but we understand this needs to be a robust process."

### A New 'Policeman of Electricity'

Barksdale English, who directs the PUC's Division of Compliance and Enforcement, said there is a new sheriff in town when it comes to enforcing the commission's rules on weatherization, one of the key changes that came out of last winter's storm.

"Or, as my daughter likes to say, I am the policeman of electricity," he said.

New rules required generators and transmission providers to file winter readiness reports by Dec. 1 for each of their units and their facilities, respectively. Eight companies failed to meet the deadline, with PUC staff recommending $7.68 million in administrative fees. (See "PUC Docks 8 Generators," *Texas PUC Chair Lake: 'The Lights Will Stay On'*.)

"The [state] legislature made it abundantly clear that they wanted, and their constituents wanted, their commission to take a different approach to the regulatory regime around preparing resources and facilities for extreme weather. One of the ways they signaled that was by changing rules around maximum penalties," English said.

"The commissioners, when they discussed it, made it abundantly clear that: a) they expect their staff to use the full range of that penalty authority to signal to the rest of the industry and citizens of Texas that we took that mandate from the legislature pretty seriously, and b) to use it as a stick to get folks to do their best to get in compliance with the rule," he said.

An audience member asked English why one 4.4-MW resource was assessed a $1.1 million penalty.

"If I allow one person with 4 MW to be out of compliance, I'll have a bunch," he said. "We have to treat everyone fairly and treat it seriously. If I don't take that outage seriously, how can I take the next one seriously?" ■

*— Tom Kleckner*

# ERCOT News

# CenterPoint Energy Turns in Solid 2021 Performance

## *Entergy Earnings down from 2020*

*By Tom Kleckner*

CenterPoint Energy continued its recovery from a disastrous 2020, reporting strong year-end and fourth-quarter earnings on Feb. 22.

The Houston-based utility last year *earned* $1.39 billion ($2.28/diluted share), compared with a loss of $949 million ($1.79/diluted share) a year earlier.

Fourth-quarter earnings were $641 million ($1.01/diluted share), up sharply from $151 million ($0.27/diluted share) for the same period of 2020.

Earnings adjusted for nonrecurring gains came in at 36 cents/share, exceeding Zacks Investment Research's consensus estimate of 31 cents/share.

"2021 was a great year for CenterPoint with quarter after quarter of meeting or exceeding expectations," CEO Dave Lesar said in a statement. "We have had seven quarters of execution … and are continuing to find ways to increase our capital plan over the course of our 10-year plan to benefit our customers and our investors."

Central to the utility's plans is the recently announced *regional master energy plan* with the city of Houston, labeled Resilient Now. CenterPoint is exploring the use of mobile electric stations that can power 200 to 300 homes while line crews restore damaged facilities and other grid and infrastructure hardening and modernization measures.

Lesar told financial analysts CenterPoint is now enrolling some of Houston's surrounding communities. "Our focus is, 'What does the grid need to look like in Houston and surrounding areas, given the fantastic growth we've seen in this market?'" he said.

CenterPoint Energy has reported strong earnings for 2021 and the fourth quarter. | *CenterPoint Energy*

In January, CenterPoint sold gas distribution businesses in Arkansas and Oklahoma for more than $1.6 billion. Future transactions could add to the utility's ability to complete Resilient Now.

"It's just a great option to have as we look at our ability to spend more capital here in what is essentially one of the crown jewels of CenterPoint, which is Houston Electric," Lesar said, referring to the Houston distribution company.

CenterPoint's share price closed at $26.49 Wednesday, 11 cents off Feb. 21's pre-earnings close.

### Entergy Earnings Down from Year Prior

Entergy on Wednesday *reported* fourth-quarter earnings of $259 million ($1.28/share) and year-end earnings of $1.12 billion ($6.02/share). That was down from 2020's fourth quarter of $388 million ($1.93/share) and the full year of $1.39 billion ($6.90/share).

The company's results-adjusted non-recurring gains came in at 76 cents/share, beating Zack's consensus estimate of 70 cents/share.

"Despite the unique challenges presented in 2021, we continued to deliver on our commitments and exceeded the midpoint of our guidance range," Entergy CEO Leo Denault said.

The New Orleans-based company set its 2022 EPS guidance at $6.15 to $6.45/share.

Entergy's share price ended the day at $104.74, giving away most of its gains. That was only a 23-cent gain from the day's previous close. ■

# ERCOT News

# ERCOT Technical Advisory Briefs

## Stakeholders Delay Decision on Changes to RUC Usage

AUSTIN, Texas — ERCOT's Technical Advisory Committee last week agreed to table discussion on a proposal to reduce the offer floor for reliability unit commitments (RUC) and remove opt-out provisions, holding its comments on the process until a *March 10 workshop*.

Despite pressure from the Texas Public Utility Commission to move quickly on market changes, commission staff said during Wednesday's meeting that they were amenable to tabling the proposed revision request (*NPRR1092*) given the substantive comments the proposal has generated.

"The use of RUC has changed over the last year. If we take a month to table, we might be able to come up with some middle ground," said Eric Goff, representing residential consumers.

Stakeholders have complained about ERCOT's use of RUCs since last summer as part of the grid's conservative operations management. They have said deploying more reserves to build up a healthy reserve margin only increases the wear and tear on generators not designed for frequent operations and hastens their retirements.

The subject quickly came up last week during a panel discussion on thermal generation as part of Infocast's ERCOT Market Summit.

"We used to use RUCs for reliability. Now, it's become commonplace way for ERCOT to provide an extra cushion of reserve margin," said Michele Richmond, executive director for the Texas Competitive Power Advocates trade association. "It's a problem we hope to see that rectified … so [gas units] come online in a manner they were supposed to run."

"The use of RUC is really a symptom," Calpine's Brandon Whittle said. "It's a symptom of a broken market design."

In a *study* contracted by Vistra, Texas' largest generation owner, London Economics said that 96% of RUC commitments last year were instructed to maintain additional online reserves and not for resolving local issues. The consulting firm said that were the RUC offer floor to be lowered from $1,500/MWh to $75/MWh, as NPRR1092 would mandate, RUC capacity offers would be dropped down in the dispatch stack.

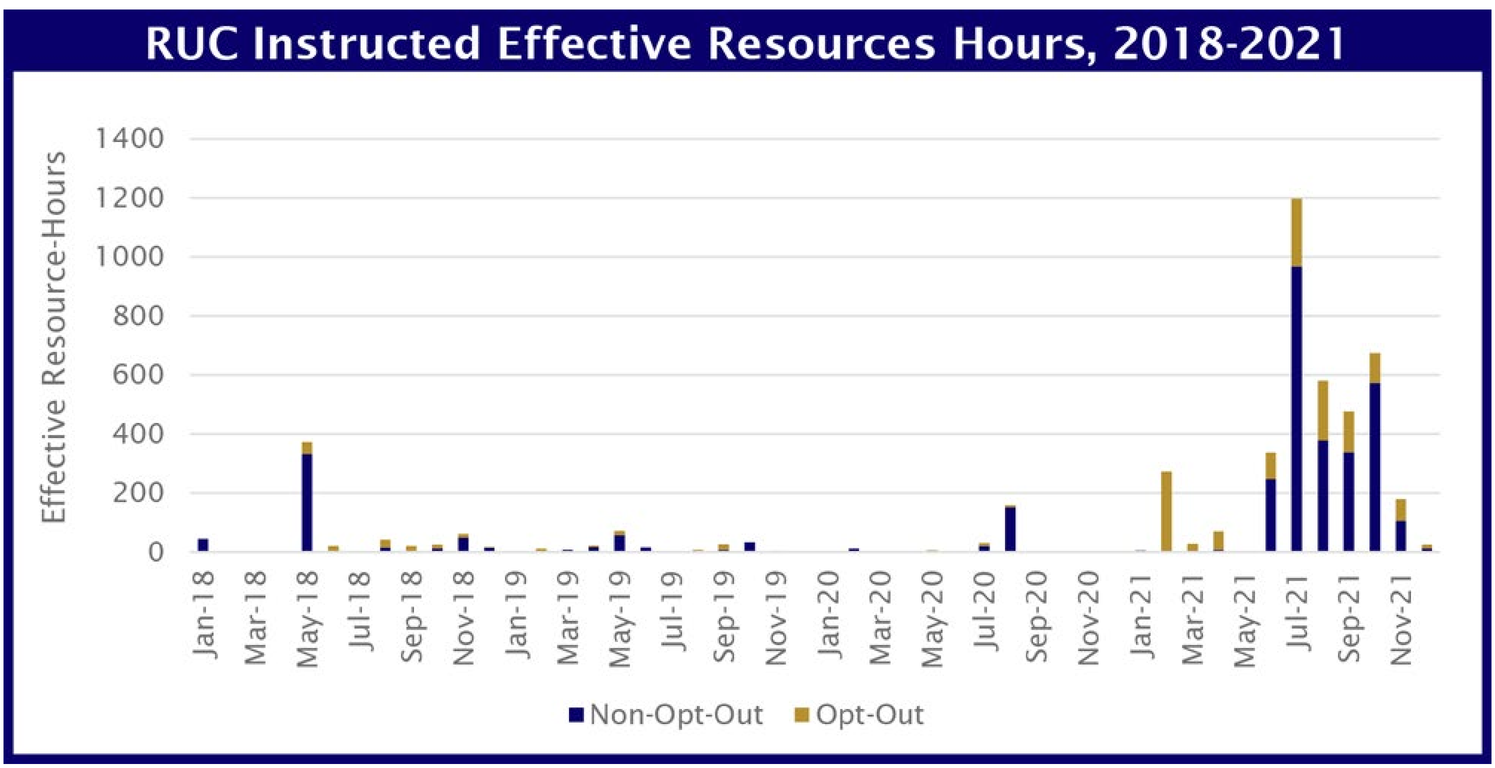
London Economics said that since June, system prices have only exceeded the $75/MWh threshold for more than 200 hours, or about 5% of the time. With the change in position, it said, more "out of market" RUC capacity would be dispatched, displacing other economic offers and leading to a lower clearing price.

It also said that were the lower RUC offer floor to increase the amount of energy produced by RUC resources, the real-time deployment price adder and the operating reserve demand curve (ORDC) would both be negatively affected.

Shell Energy's Resmi Surendran *filed* extensive comments opposing NPRR1092, asking her fellow stakeholders to "carefully consider" the proposed changes' unintended consequences.

"It is important to determine the need for the proposed changes in light of the impacts of, and expected market participant behavior changes that will result from, the market design changes that have already been directed by" the PUC, Surendran wrote.

She said Shell's comments will show why reducing the RUC offer floor would have been a possible solution if ORDC changes were not possible; why the reduction is not needed to address Independent Market Monitor-identified incentive problem; and a possible




ERCOT has made heavy use of RUCs to increase its online reserves. | *London Economics*

# ERCOT News

alternative if $1,500/MWh is considered a high offer floor for RUC resources.

## Members Approve Firm Fuel Measures

Committee members endorsed a pair of measures that would create a firm fuel product, as directed last year by Texas lawmakers and regulators. (See "Staff Rushes Firm-fuel Product," *ERCOT Technical Advisory Committee Briefs: Jan. 31, 2022*.)

*NPRR1120* would create a firm fuel supply service (FFSS) designed to provide additional grid reliability and resilience during extreme cold weather and to compensate generators that meet a higher resilience standard in the face of a natural gas curtailment or other fuel supply disruption. The PUC ordered that the standalone, auction-based product be procured similarly to ERCOT's black start program and serve as a stopgap should weatherization not be incorporated into a load-serving entity's obligation.

The change has a narrow scope so necessary changes can be made to ERCOT's settlement and billing system first in meeting the 2022-2023 winter deadline. The grid operator said in a *filing* with the PUC that if it meets the deadline, it would be the first ISO or RTO with a firm fuel product.

Staff said stakeholder concerns regarding qualifying technologies, pricing methods and desired FFSS quantities will be addressed as part of a larger discussion with the PUC and during the development of an FFSS request for proposals that will be issued later this year.

Resources providing FFSS would need to meet technical requirements specified in the proposal and also be prepared to deliver during fuel supply disruptions. A qualified scheduling entity representing an FFSS resource would, when deployed by ERCOT, have to restore its firm fuel service capability within the RFP's restocking period.

Demand Control 2's Chris Hendrix, representing the retail segment, cast the lone dissenting vote. "This is moving us to a capacity market," he said.

Hendrix also opposed the accompanying other binding document change (*OBDRR039*) that would remove FFSS-deployed resources' high sustained limits from the ORDC's reserve calculation. He was joined by South Texas Electric Cooperative (STEC) and Golden Spread Electric Cooperative.

STEC's Clif Lange said "it seems kind of odd" that the measure's language would pull assets that already have firm-fuel capability from the ORDC's reserves calculation.

"I think the assumption is that those assets would have been able to operate on their alternate fuel, but for the FFSS payments, and I don't know that that's a correct assumption," he said. "It's not logical to conclude that FFSS deployments are an out-of-market action."

IMM Carrie Bivens, who suggested the OBDRR's ORDC language, said she looked at the issue differently.

"It's not so much whether or not they would have been there without the service," she said. "The fact that if there's a small number of resources that are getting the side payment, then they really have no costs. And you've got other resources that are not allowed [side payments] because they are generating and providing a reliability service to the event and they're not being compensated appropriately on the scarcity pricing."

The revisions' quick development and passage drew praise from American Electric Power's Richard Ross.

"I never would have believed the revision request would have appeared to come through as easily as it did," he said. "I would have expected a lot more bloodletting."

In recognition of staff's ability to incorporate stakeholder feedback into the final proposals, Ross promised ERCOT staff working on NPRR1120 a Richard Ross Gold Star Award. Ross does not take dispensing the award lightly.

"It's a very sought-after award. It's something people can put on their performance reviews and comes with a certificate of authenticity," Ross said, his tongue apparently planted firmly in cheek.

The TAC also approved:

- *NPRR1097*, which would create reports posted three days after each operating day that document forced outages, maintenance outages and forced derates of generation and energy storage resources.
- A Planning Guide revision (*PGRR095*) that would establish minimum deliverability criteria over the entire real power capability range of each ERCOT resource whose output is primarily within the grid operator's control through dispatch instructions.


The coveted Richard Ross Gold Star award | *© RTO Insider LLC*

## ERCOT to Resume In-person Meetings

The TAC's next meeting, rescheduled from March 23 to March 30 at ERCOT's new MET Center facilities, will mark the resumption of in-person stakeholder committees.

The grid operator said Friday that all other in-person stakeholder meetings can resume in April. Voting members will still be able to participate and vote remotely and be counted toward the quorum.

The Board of Directors will hold the first in-person meeting at ERCOT's new facility March 7 and 8.

Staff said they continue to take into consideration its Travis County COVID-19 guidelines and will issue updates accordingly. ■

*— Tom Kleckner*

## ISO-NE News

# Maine Legislators Rethink Electric Utility Accountability in Bill Hearing

*By Jennifer Delony*

Maine's legislators began the task last week of sorting out how Gov. Janet Mills' recently proposed utility accountability bill differs from a similar one she vetoed last year and whether it does enough to protect consumer interests.

The bill's supporters say it would provide enhanced regulatory tools for ensuring that the state's investor-owned utilities deliver reliable and affordable electricity services. But opponents say the Maine Public Utilities Commission already has the authority to keep utilities in line.

"No matter what party you identify with, or what part of the state you live in, I think we can all agree that more transparency and accountability for the transmission and distribution monopolies is a smart and much needed step forward," Sen. Stacy Brenner (D) said during a Joint Energy, Utilities and Technology Committee public hearing Feb. 22.

Brenner, who sponsored the governor's bill (*LD 1959*), co-sponsored another utility accountability bill (*LD 1708*) last year that moved quickly through the legislature in June despite the governor's concerns. Mills vetoed LD 1708 in


Maine legislators took public testimony on a new utility accountability bill that would have a direct impact on Central Maine Power and Versant. | *Central Maine Power*

# ISO-NE News

July, saying that it was an important but hastily drafted piece of legislation.

While both bills contain a central provision allowing regulators to force the sale of an IOU if it does not meet certain service metrics, they diverge on the metric specifics and other methods of accountability. Mills' proposal would establish future performance guidelines to determine a utility's fitness to serve, and the previous bill looked primarily at historical utility performance.

Each bill addresses a potential utility asset sale differently. Mills wants the PUC to consider bids from potential buyers while also looking at a proposal for a consumer-owned utility (COU) from a state-appointed committee. Regulators would decide whether a COU would provide the best service to consumers.

LD 1708, on the other hand, sought to put the assets directly in the public's hands via a COU, without consideration for outside bids. Supporters of the consumer nonprofit model for Maine want the public to have more say in the business of electricity generation and distribution.

Allowing the PUC to set new performance metrics would only "shelter what should be a public process in a place where the public has very little access or ability to influence the outcome," said Sen. Nicole Grohoski (D), who co-sponsored LD 1708.

Maine Public Advocate William Howard, who supports the governor's bill, agreed with Groshoski in hearing testimony.

"There is an element of a closed club that handles most of the litigation before the PUC ... and it makes it very difficult for outsiders to understand much less participate," Howard said. "That is something I'm going to be working on."

## Other Provisions

The governor's bill would strengthen the PUC's authority for levying fines for poor service, establish financial audits and expand utility whistleblower protections.

"I think [protections for whistleblowers] may be the sleeper piece of this bill," Howard said. "I am very confident that the additional protections in this bill will lead to future whistleblowers, and that will help us control costs."

Under the bill, the PUC could "crack down" on Central Maine Power (CMP) and Versant Power through a provision that doubles current penalties, from $500,000 to $1 million or 5% of revenue to 10%, according to Dan Burgess, director of the Governor's Energy Office. But regulators already have leeway in setting fines, according to Sen. Steven Foster (R).

The penalty provision, Howard said, would be tied to performance metrics as an administrative procedure rather than hiding within a rate proceeding as set out by current guidelines.

"The headline will not be 'CMP or Versant rates raise 9%'; the headline will be 'CMP or Versant penalized for X million dollars for poor service,'" he said. "That will get their attention."

## In Opposition

Our Power, a nonprofit that supports the creation of a COU to replace CMP and Versant, is concerned about the reliance the governor's bill puts on regulators for utility accountability.

"In crucial decisions, [the commission] too often has to rely on whatever information is selectively provided by utilities," Andrew Blunt, legislative director at Our Power, said in hearing testimony. "It is simply the wrong body to look to for true accountability."

The nonprofit is behind a citizen initiative launched last August to force a public vote on LD 1708. By January, the group had collected 60,000 signatures for the initiative, but that was not enough to make the November ballot.

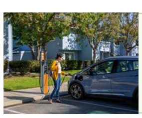
Mills' proposal, Blunt said, gives the state's IOUs a "blank slate that they do not deserve." The performance metrics in the bill, he added, are "astonishingly weak" and would not set minimum standards in statute.

CMP President Joseph Purington opposed the governor's bill during the hearing, saying that the legislature "already got it right."

"The PUC has the authority it needs to do its job to ensure safe, adequate service at just and reasonable rates," he said.

In recent history, he added, the PUC imposed the "largest financial penalty in Maine utility history" for CMP's poor service quality. CMP responded by reorganizing, and it is now "meeting and exceeding some of the most stringent metrics in the industry," he said. ■

## Northeast news from our other channels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## ISO-NE News

# FERC Doubles down to Deny Killingly Rehearing

*By Sam Mintz*

FERC on Wednesday issued an order affirming its decision to deny rehearing to NTE Energy on the termination of the company's capacity supply obligation for its Killingly Energy Center (*ER22-355-001*).

The decision brings ISO-NE one step closer to being able to move forward with releasing the results of Forward Capacity Auction 16, which have been held in limbo since the auction was held Feb. 7.

In its order, FERC again agreed with ISO-NE that NTE was not on track to meet a May 2024 critical path milestone for commercial operation of Killingly, using previously confidential documents submitted by the RTO to cement its case against the developer of the Connecticut natural gas-fired project.

The order includes the first public discussion of a report from Lummus Consultants International, which concluded that Killingly could achieve construction by 2024 on an "aggressive" schedule, but only by obtaining full notices to proceed without financing in place.

"The record does not support accepting this premise," FERC wrote, and the Lummus report also concluded that a "realistic scenario" would see Killingly miss the deadline by several months.

Also made public for the first time were details of a letter from Korea Western Power Co. that asserts it was seeking government approval for a financing deal for Killingly, but, as FERC notes, the company "makes no commitment to finance the … project … nor does it indicate the level of financing being considered."

FERC denied rehearing to NTE Energy on the Killingly Energy Center. | © *RTO Insider LLC*

Despite the resolution of the rehearing request, ISO-NE is still unable to announce the results of FCA 16 because a stay from the D.C. Circuit Court of Appeals remains in effect, an RTO spokesperson said. The grid operator has asked the court to dissolve that stay, given that NTE has also forfeited its financial assurance and therefore was on track to lose its CSO regardless of FERC's ruling.

The results of FCA 16 as well as the planning timeline for next year's FCA 17 have been thrown into doubt by the court's last-minute ruling, which upended the process. (See *Killingly Uncertainty Could Delay Capacity Auction Results Another Month*.) ■

## ISO-NE News

# RI Agency Approves PPL Acquisition of Narragansett Electric

*By Michael Yoder*

A Rhode Island agency overseeing the acquisition of Narragansett Electric by PPL provided its official approval on Wednesday, overcoming the last major regulatory hurdle in the $3.8 billion deal with National Grid.

The Rhode Island Division of Public Utilities and Carriers provided its final 334-page report and order on the acquisition after several months of public testimony and filings, determining that the deal would not adversely impact customers in the state.

"The division finds that after a thorough examination of the record in this docket, including the many public comments that were offered, the evidence demonstrates: that the facilities for furnishing service to the public will not thereby be diminished [if the petition is approved], and that the purchase ... [and] sale ... and the terms thereof are consistent with the public interest," it said.

The announcement comes just days after PPL's fourth-quarter earnings call in which the deal was a primary discussion topic among the company's leadership and stakeholders. (See *PPL Announces Losses, Dividend Cut in Q4 Call*.)

PPL spokesman Ryan Hill said the company was "pleased" that the division approved the sale of Narragansett. It will announce the completion of the acquisition upon close.

"We appreciate the division's thoughtful consideration of our petition for approval," Hill said. "We look forward to the successful close of this transaction and are excited about the opportunity the acquisition will present for PPL to drive significant value for Rhode Island families and businesses and advance a cleaner energy future."

PPL received FERC approval for the purchase of Narragansett in September, but the utility needed final approval from the division for the deal to go through. (See *FERC Approves PPL Acquisition of Narragansett*.)

In filings and *testimony* last year regarding the acquisition, staff from the office of Rhode Island Attorney General Peter Neronha opposing the deal, saying PPL provided insufficient information to ensure ratepayer protection and that more protections needed to be required as part of the approval.

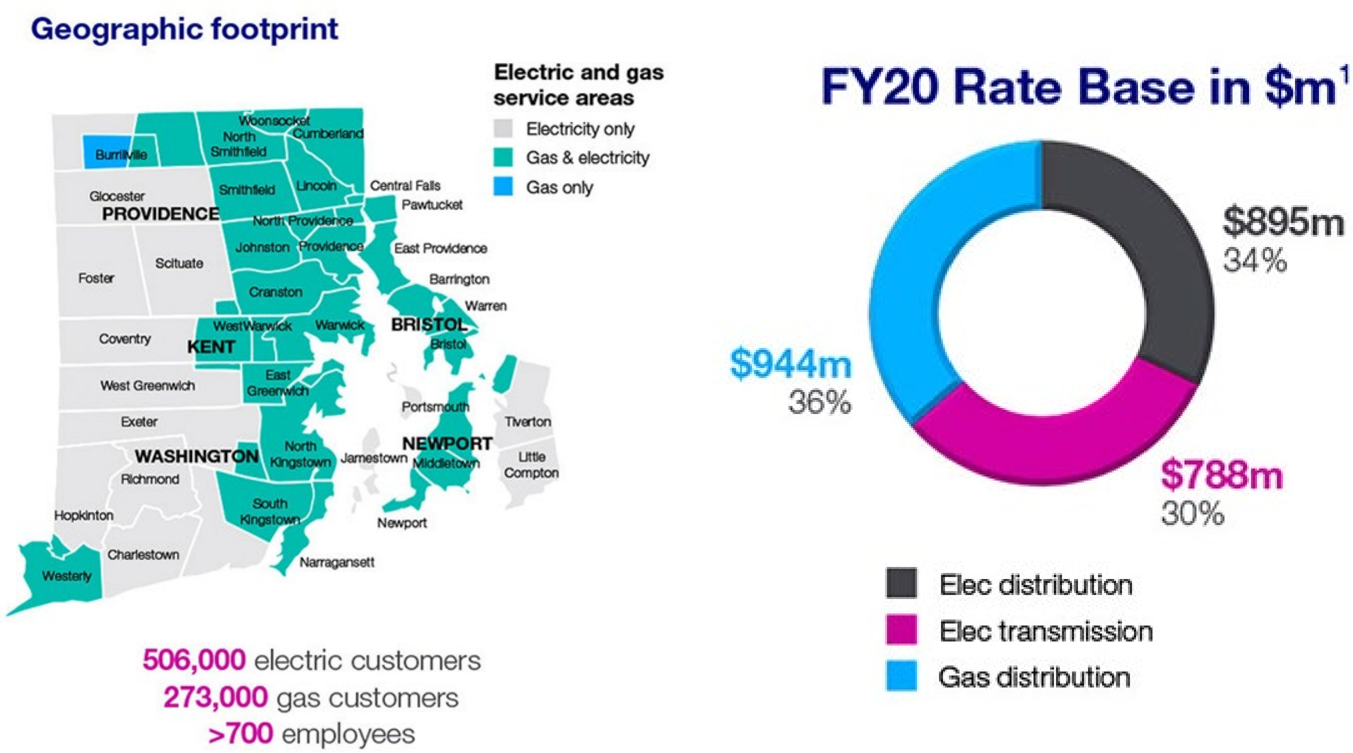
The AG staff also said compliance with Rhode Island's 2021 Act on Climate should be a condition of approval. The state climate law, signed in April by Gov. Dan McKee, requires a net-zero economy in the state by 2050, but National Grid and Narragansett have claimed the emissions-reduction statute does not apply to public utilities. (See *Rhode Island Makes 2050 Net-zero Target Legally Binding*.)

During last month's earnings call, Sorgi said the company was confident it would ultimately win approval for the acquisition. He said PPL has been a "clear leader" in the development and deployment of the kind of smart grid technology Rhode Island will need in achieving its decarbonization goals in the Act on Climate.

The deal was first announced almost a year ago. (See *PPL to Sell UK Business, Acquire Narragansett Electric*.) It gives Pennsylvania-based PPL its first foothold in ISO-NE after operating in PJM since its inception.

National Grid spokesman Ted Kresse said the sale is a transfer of "ownership of 100% of the outstanding shares of common stock" of Narragansett. Narragansett will continue to own and operate its assets and "maintain all of its franchise rights for the provision of electric and gas distribution service in Rhode Island, under the management and control of PPL Rhode Island."

"We look forward to completion of the sale," Kresse said. ■




Narragansett Electric's footprint in Rhode Island | *National Grid*

# ISO-NE News

# 'Beautiful Symphony' or Bust on Order 2222, Advocates Say

*By Sam Mintz*

Distributed generation advocates and developers are frustrated with ISO-NE's plan for complying with FERC Order 2222, but they say there are big prospects for improvement in a process that's only halfway done.

The grid operator's *compliance filing*, submitted to FERC last month (on the fitting date of 2/2/22), would create new market participation models aimed at meeting federal regulators' mandate to allow aggregated distributed energy resources to take part in its wholesale markets. (See *NEPOOL PC Approves Tariff Changes for Aggregated DERs*.)

Industry representatives, speaking at the RE+ Northeast conference last week, said it simply fails to meet that goal.

"For front-of-the-meter DERs, I think ISO's proposal has some benefits. For behind-the-meter DERs, it's problematic. We don't really think it accomplishes a whole lot, unfortunately," said Nancy Chafetz, senior director of regulatory and government affairs at CPower Energy Management.

The proposal doesn't allow resources behind a customer's meter to participate directly in the market unless they have sign off from distribution utilities, which are unlikely to give the OK in the near term, Chafetz said.

Activating behind-the-meter DERs in the market could be valuable because there are whole fleets of them, including batteries, electric vehicles, hot water heaters and other devices in customers' homes ready and waiting to be deployed to help stabilize the grid.

"If you're a grid operator, emergencies don't only happen between 4 p.m. and 8 p.m. every day on a weekday," said Michael Macrae, senior director of regulatory affairs for ENEL North America. "Sometimes they happen at 10 in the morning on a Tuesday. And there's no way to call all the [DERs] and say, 'The person who uses you would be totally clueless if you just stopped for an hour.'"

The ISO-NE filing fails to capture that flexibility, he said.

"We would love to have all these resources be available for ISO dispatch and earn capacity market revenues for providing that service," Macrae said.

## Still Time on the Clock

The good news, say advocates, is that ISO-NE's filing to FERC — and its counterparts from other regions — were just part of the conversation and not the end of it.

"Even though we were disappointed in all of the compliance filings that came in, I think we need to acknowledge that this is an ongoing conversation that will need to be iterative even after FERC rules," said Chris Rauscher, senior director of market development and policy at Sunrun.

For example, there are rules outside of 2222's scope that would prevent some resources from bidding into the market, like PJM's must-offer rule, which requires resources participating in the capacity market to also bid into the energy market.

Advanced Energy Economy has been one of the most vocal critics of ISO-NE's 2222 filing

Chris Rauscher, left, and Michael Macrae expressed frustration with ISO-NE's Order 2222 compliance filing last week. | © *RTO Insider LLC*

and is expected to protest it at FERC.

The trade group's managing director Jeff Dennis said last week that commission staff have been asking detailed questions about previous filings from California and New York.

"That said to me that the commission is digging in and looking very carefully at these compliance filings," he said.

## Potential for a 'Beautiful Symphony'

Despite their worries about the regulatory process, industry advocates see a bright future for DERs on the horizon.

"Bringing all of these DERs in aggregation to respond to wholesale markets, in my mind, is the biggest opportunity I've ever seen in my career for unlocking flexibility on the demand side," Dennis said.

He gave the example of school bus electrification, which could produce "incredible" resources for flexibility.

"In five years, if FERC and the markets get it right, it will be a beautiful symphony every day," Rauscher said. ■

## MISO News

# Entergy Regulators Ask FERC to Settle Grand Gulf Dispute

By Amanda Durish Cook

Three regulatory bodies are demanding answers on FERC's apparent delay in addressing a complaint over the management of a southwestern Mississippi nuclear plant.

Attorneys for the Louisiana Public Service Commission, Arkansas Public Service Commission and New Orleans City Council filed a motion Feb. 21 to again request FERC schedule a hearing on a complaint alleging maladministration at the 1,428-MW Grand Gulf nuclear station (EL21-56).

The regulators asked for a remedy for Entergy subsidiary System Energy Resource, Inc.'s (SERI) "significant customer harm arising from years of imprudent operations and mismanagement." They pointed out that their original complaint was filed almost a year ago, on March 2, 2021.

"Nearly every other complaint filed in the commission's docket year 2021 has been acted upon by the commission in some manner, yet this complaint is still pending initial commission review," lawyers for the regulators wrote.

The regulators reminded FERC that it has a duty under the Federal Power Act to act swiftly on complaints and said the D.C. Circuit Court of Appeals "has expressed dismay at the lengthy time lags experienced by litigants before the commission."

"What constitutes a 'reasonable' time to conclude a controversy may vary with the circumstances of each case; however, it is not reasonable for the commission to take over a year to evaluate whether or not a complaint merits further investigation," the regulators said, adding that they aren't aware of any reason for FERC's delay.

The bodies said they have supplied the commission with supporting evidence and sworn affidavits that could be used in a FERC investigation.

Grand Gulf station is the nation's largest nuclear reactor. Entergy sells the output at wholesale to its Arkansas, Louisiana, Mississippi and New Orleans subsidiaries.

Last year's complaint described "imprudent operation" and "subpar performance" at Grand Gulf and sought refunds and rate reform on more than $1 billion in costs passed on to Entergy customers.

The regulators tapped Critical Technologies Consulting (CTC) to investigate the plant's operations from 2012 to 2020. They said CTC uncovered costly safety issues and substandard output performance. They also said Entergy inappropriately used an outdated economic analysis in 2012 when it decided to undertake approximately $800 million worth of construction to bulk up the plant's capacity.

The Louisiana PSC said the uprate work paradoxically led to diminished electricity production from Grand Gulf. Entergy customers often found themselves paying for the plant's full fixed investment and operating costs in addition to replacement energy sourced from other plants, the New Orleans City Council said. The regulators said Grand Gulf's frequent outages drove shortages and upped energy prices in the MISO markets.

The Nuclear Energy Institute's *data* indicate Grand Gulf is the worst-performing nuclear plant in the nation, with a 66.3% capacity factor from 2018 to 2020. The plant's last-place finish is well below the 77.9% capacity factor of Michigan's Fermi 2, the other least-reliable unit.

The regulators estimate that their ratepayers are owed about $361 million for the added expense of Grand Gulf outages from 2016 to 2020. They also want the 2012 upgrades investigated and possibly refunded.

"We promised New Orleanians that we would hold Entergy accountable over their responsibility to provide reliable, affordable power to their ratepayers," New Orleans City Council President Helena Moreno said last year. "Grand Gulf is the single largest energy resource for the city of New Orleans, and we need it to be operating safely, at full capacity, and at a reasonable cost. We are asking FERC to help us get that plant running efficiently again as well as seeking refunds to make it right by our people."

"Entergy customers deserve a full look at the potential imprudent management of Grand Gulf and, eventually, appropriate refunds if it is found that Entergy passed unnecessary costs onto those customers," then-Louisiana PSC Chairman Craig Greene said.

Entergy said it doesn't see anything amiss with the yearlong wait.

"While we don't typically comment on pending litigation, this is a large, complex case, and we do not believe there has been any undue delay in setting the case for hearing. Further, we dispute the allegations that we have not prudently operated and managed Grand Gulf. In fact, this past year, Grand Gulf achieved all-time plant records for both gross generation and net generation in megawatt-hours," Entergy spokesperson Mike Bowling said in an emailed statement to *RTO Insider*.


Grand Gulf nuclear station | *Entergy*

Bowling said in 2021, Grand Gulf's net generation was nearly 12 million MWh, while its gross generation surpassed the 12 million MWh mark.

Entergy had not responded to requests for comments at press time on the year-long delay or how it plans to react should FERC set a hearing in the matter.

Grand Gulf's unit power sales agreement with Entergy's member companies is at the heart of another ongoing FERC complaint (EL20-72). In that docket, Louisiana, New Orleans, Arkansas and Mississippi regulators have accused Entergy and SERI of massaging accumulated deferred income tax numbers to overcharge customers for Grand Gulf's sale-leaseback arrangement and recovering in rates through the sales agreement the costs of lobbying, image advertising and private airplane use.

In recent testimony, Entergy Vice President of Regulatory Services Joshua Thomas characterized the proceeding as a "kitchen sink" complaint, covering "a wide range of complex subject areas over a 30-year time period." Thomas said the retail regulators "claims are vague, and the requested relief is undefined."

Entergy maintains it doesn't include below-the-line costs in ratemaking and that no overcollection occurred. ■

## MISO News

# MISO Adds Web Features to New Meeting Schedule

*By Amanda Durish Cook*

MISO's Carmel headquarters | © *RTO Insider LLC*

MISO is debuting more online interactions after scheduling fewer stakeholder committee meetings at the beginning of the year.

During a special workshop Feb. 22, MISO's Alison Lane said the RTO has launched more comprehensive, 18-month rolling workplans for its stakeholder committees and a webpage to review stakeholder feedback on agenda items and the grid operator's responses.

The features are meant to augment the abbreviated meeting schedule. (See *Stakeholders Call for MISO to Rethink Pared-down Meeting Schedule*.)

Lane said MISO will continue with consent agenda items at meetings. She said although these post-only documents will not get staff presentations, stakeholders can still pose questions and strike up discussions during meetings. The RTO said the post-only items are meant for "self-explanatory, non-controversial" updates.

Clean Grid Alliance's Rhonda Peters said some tariff and business practice manual changes have been "inappropriately" relegated to a post-only format when they merited dialogue.

Natalie McIntire, also from Clean Grid Alliance, asked that staff leave sufficient discussion time for post-only agenda items.

Lane said MISO's stakeholder relations team will begin keeping records on how long it takes to move through agenda items to better plan meetings.

Lane said topics that don't receive much stakeholder attention on the feedback webpage will be closed out. Topics that draw more responses or disagreement will receive more discussion time at upcoming meetings.

Stakeholders can use the feedback page to receive email notifications on agenda items that they want to closely monitor.

Staff said they have also streamlined the *MISO Dashboard*, formerly the issues-tracking tool, so it's easier to keep up with committees' focus areas.

Lane asked stakeholders to reach out to MISO with their thoughts on the webpage's features.

Coalition of Midwest Power Producers' Travis Stewart asked the RTO to consider giving stakeholders longer than the requisite two weeks after meetings to provide written reactions to discussions and presentations. Lane said the grid operator will likely stick with the two-week comment deadline to post "beefier" feedback responses that better explain staff's reasoning behind their positions.

MISO is resisting stakeholder calls to shelve its new stakeholder committee schedule, which puts fewer meetings on the calendar. Multiple committee chairs have warned that more infrequent meetings won't give the RTO enough time to flesh out the changes it needs to make to keep up with the energy industry's rapid transformation.

In May, MISO is due to check in with stakeholders and examine whether the new meeting schedule is working well enough to permanently continue.

During a Steering Committee meeting Wednesday, exiting Market Subcommittee Chair Megan Wisersky said she hopes stakeholders continue to evaluate whether fewer meeting dates are sufficient. ■

## MISO News

# MISO Long-range Tx Plan Overlaps with SPP Study

*By Amanda Durish Cook*

MISO will complete a draft portfolio of billions of dollars' worth of long-range transmission projects by the end of March, although two recommended projects bump up against its interregional planning effort with SPP to clear backlogs in their respective generator interconnection queues.

"We're shoring up business cases to proceed," Jarred Miland, senior manager of transmission planning coordination told stakeholders during a special workshop Friday on the long-range plan's Midwestern portion.

MISO will add a two-day workshop in late March to focus on the 345-kV projects' technical analysis and business cases. The Planning Advisory Committee will conduct an advisory vote on the package during its mid-April meeting. (See *MISO Promises Long-range Tx Project Reveal Soon*.)

Stakeholders expressed discomfort during the workshop with the project's overlap of routes being pursued in MISO's and SPP's Joint Targeted Interconnection Queue (JTIQ) study. They pointed out that the long-range plan's recommended lines in the Dakotas and Minnesota echo two JTIQ solutions. (See *MISO, SPP Roll out $1.755B Joint Tx Portfolio*.)

The proposed *projects*, Ellendale to Jamestown in southern North Dakota and a line from Big Stone South, S.D., to Cassie's Crossing, Minn., will solve thermal overloading issues and ease congestion on the existing system. MISO planners said solving those reliability issues has been on their radar for some time.

Miland said staff will recommend the two joint projects under the RTO's regional planning process. He said the projects might be in the distant future because the grid operators don't have a cost-allocation process in place.

"With the JTIQ, cost allocations are still in discussion, and it probably has a much, much longer time ahead of it," Miland said.

Aubrey Johnson, executive director of system planning, said MISO stands to benefit more than SPP from the two projects. He also said the long-range transmission plan takes precedence over the JTIQ effort in MISO's hierarchy of transmission planning.

"It is appropriate for the MISO customers to carry these costs," Johnson said.

The RTO's director of resource utilization, Andy Witmeier, said the JTIQ cost-allocation talks are in their "infancy." He said it would be "imprudent" to sit on beneficial projects while lengthy joint cost-sharing negotiations take place.

"It's a little unfortunate that not all the beneficiaries will be paying for these projects," Wolverine Power Supply Cooperative's Tom King said, referring to SPP members.

When asked, Johnson said MISO has not yet projected in-service dates for either the long-range plan or JTIQ projects.

However, staff said they intend to have the long-range projects in service as quickly as permitting and construction allow. Witmeier said the RTO envisions in-service dates within seven or eight years because of the immediate need for new transmission.

"Essentially, all of these projects have as-soon-as-possible in-service dates," he said.

### Billions in Costs, More Billions in Benefits

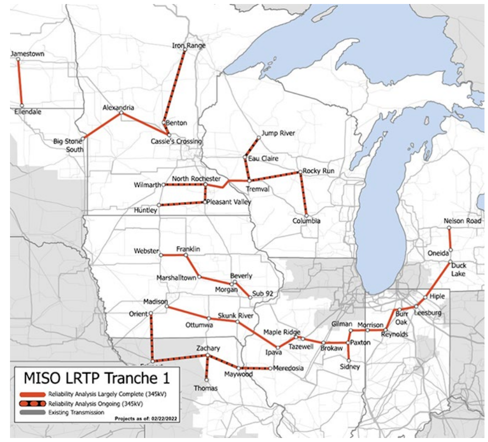
MISO said preliminary analysis of its first cycle of long-range projects "indicates total economic benefits significantly exceed cost." However, staff hasn't yet attached specific costs to individual projects or the portfolio. Johnson said a $12-$16 billion cost range contained in a MISO presentation was an "illustrative example" that "represented real numbers." Staff said they have more work ahead analyzing project alternatives before they can narrow costs.

Should FERC approve MISO's filed cost allocation for long-range projects, the cost splits will be based on postage stamp rates limited to either the RTO's Midwest or South regions.

The gird operator's analyses show that the first Midwestern projects can facilitate 20 GW in capacity additions and could save MISO Midwest $16.6 billion in congestion and fuel costs over the transmission projects' first 20 years.

Decarbonization benefits could range from $2.25 billion to almost $11.5 billion over a 40-year project lifespan, MISO said. It also said it could achieve $1 billion in savings because the first long-range projects would increase transfer capabilities between local resource zones, thereby lowering capacity-clearing requirements.

MISO said the projects might also prevent a few billion dollars' worth of load shed over 40 years, and significantly more if it raises its



MISO's near-final first cycle of long-range transmission projects in the Midwest | *MISO*

value of lost load beyond the current $3,500/MWh. Many stakeholders say that figure is an underestimate.

The RTO also said it continues to see value in including a massive 345-kV project corridor that would span Iowa, Illinois, Indiana and Michigan and not branch out into smaller city-to-city segments.

The grid operator said it could avoid about $760 million in additional transmission work by using a portfolio package instead of chasing standalone, incremental fixes.

"Past experiences with transmission studies like the multi-value projects indicate that a regional approach will be more cost effective than a purely local buildout," staff said.

The Midwestern long-term projects come as MISO state regulators face federal pressure to focus on new energy infrastructure.

The U.S. Department of Energy's Pat Hoffman appeared during a Feb. 14 Organization of MISO States (OMS) meeting to request that regulators concentrate on infrastructure buildout. Hoffman asked the audience to speak with "one voice" on how grid investment should look.

"It's going to take off, and I'm worried the system is not prepared on what's to come," Hoffman said of the MISO footprint. She said the industry is poised to shift rapidly due to fossil fuel plant retirements, integrating renewable energy, and extreme weather changes.

"You do a good job of walking that fine line between optimism and terror," OMS President Sarah Freeman said after Hoffman's presentation. ■

## MISO News

# MISO Steering Committee Blocks Adds to Stakeholder Guidelines

*By Amanda Durish Cook*

MISO stakeholder committee chairs last week elected not to adopt rules regulating stakeholder presentations during meetings.

On Wednesday, the Steering Committee, comprising chairs from *eight* MISO committees reporting to the grid operator's Advisory Committee, declined to advance a suggested insert drafted by Clean Grid Alliance's Rhonda Peters to its Stakeholder Governance Guide.

The *addition* would have dictated that stakeholders presenting during meetings must be "treated uniformly and without discrimination or preference." It also would have compelled the RTO to deliver its own presentations and discuss suggested changes by stakeholders before it could adopt them.

"Stakeholders cannot adequately and sufficiently represent MISO's interests or accountability," the language said.

Peters said the grid operator's adoption of stakeholder suggestions without fully vetting them with the larger stakeholder community has been an issue that has come up several times over the 14 years she's been participating in the stakeholder process. She said staff will sometimes file with FERC tariff modifications on stakeholders' recommended changes without addressing the edits with stakeholders.

Peters said the most recent example arose after a Planning Advisory Committee meeting when MISO filed tariff changes pertaining to transmission owners' reinstated option to self-fund network upgrades. She said staff should have vetted the edits pertaining to the self-funding option with the Interconnection Process Working Group before drafting and filing the changes.

MISO in 2018 acted on FERC's direction and reinstated TOs' right to self-fund network upgrades necessary for new generation. The decision has been a hot-button issue, spawning three years' worth of reopened contracts, refunds to interconnection customers and condemnation from one FERC commissioner. (See *FERC Upholds MISO Self-fund Order, Glick Dissents*.)

"There are some stakeholders that MISO feels represent them," Peters said. "All stakeholders should be treated in the same manner, and that has not been happening."

She implied that TO recommendations carry more weight with the RTO than those from other stakeholders.

Committee chairs said while they were sympathetic to the issue, they didn't see a need to add a section on stakeholder presentations to the governance guide.

"I'm worried if we try to add language to address every situation in the Stakeholder Governance Guide, it will become unwieldy and collapse under its own weight," WEC Energy Group's Chris Plante, the Resource Adequacy Subcommittee chair, said.

Plante said he'd rather see committee chairs handle these types of situations. Planning Advisory Committee Chair Cynthia Crane, with ITC Holdings, agreed that the new section would be "overly prescriptive."

Ameren's Ray McCausland, who chairs the Reliability Subcommittee, asked stakeholders to bring specific violations of stakeholder treatment to the Steering Committee instead of prescribing vague language in the governance guide.

Market Subcommittee Chair Megan Wisersky, with Madison Gas and Electric, said that the guide's addition could discourage some stakeholders from coming forward with presentations. In MISO's stakeholder process, any stakeholder is free to present in meetings if it gives the grid operator enough notice.

Clean Grid Alliance's Natalie McIntire asked how the issue could effectively be addressed by the committee chairs and vice chairs. "I just feel like there needs to be another solution, one that does function," she said.

Peters said if she couldn't get the language accepted, the next step might be taking the issue to MISO's alternative dispute resolution process.

Customized Energy Solutions' David Sapper said he'd be interested in hearing MISO's process for accepting stakeholder suggestions and making FERC filings based on them.

The Steering Committee has no current plans to further address the issue. ■

MISO Steering Committee meeting in November 2019 | *© RTO Insider LLC*

## MISO News

# MISO, SPP Regulators to Engage on Tx Cost Allocation

MISO and SPP state regulators plan to ensure they are involved in the grid operators' ongoing discussions about sharing costs from their joint targeted interconnection queue (JTIQ) study.

The RTOs last month identified a $1.755 billion portfolio of seven suggested projects. The portfolio would deliver $724 million and $247 million of adjusted production cost (APC) benefits to customers in the MISO and SPP footprints, respectively, with a cumulative benefit-to-cost ratio of 0.56. (See *MISO, SPP Roll out $1.755B Joint Tx Portfolio*.)

The JTIQ study team is finalizing its report and plans a series of cost-allocation workshops through midyear. Once it has agreed on a cost-sharing mechanism, it will be filed for approval with FERC.

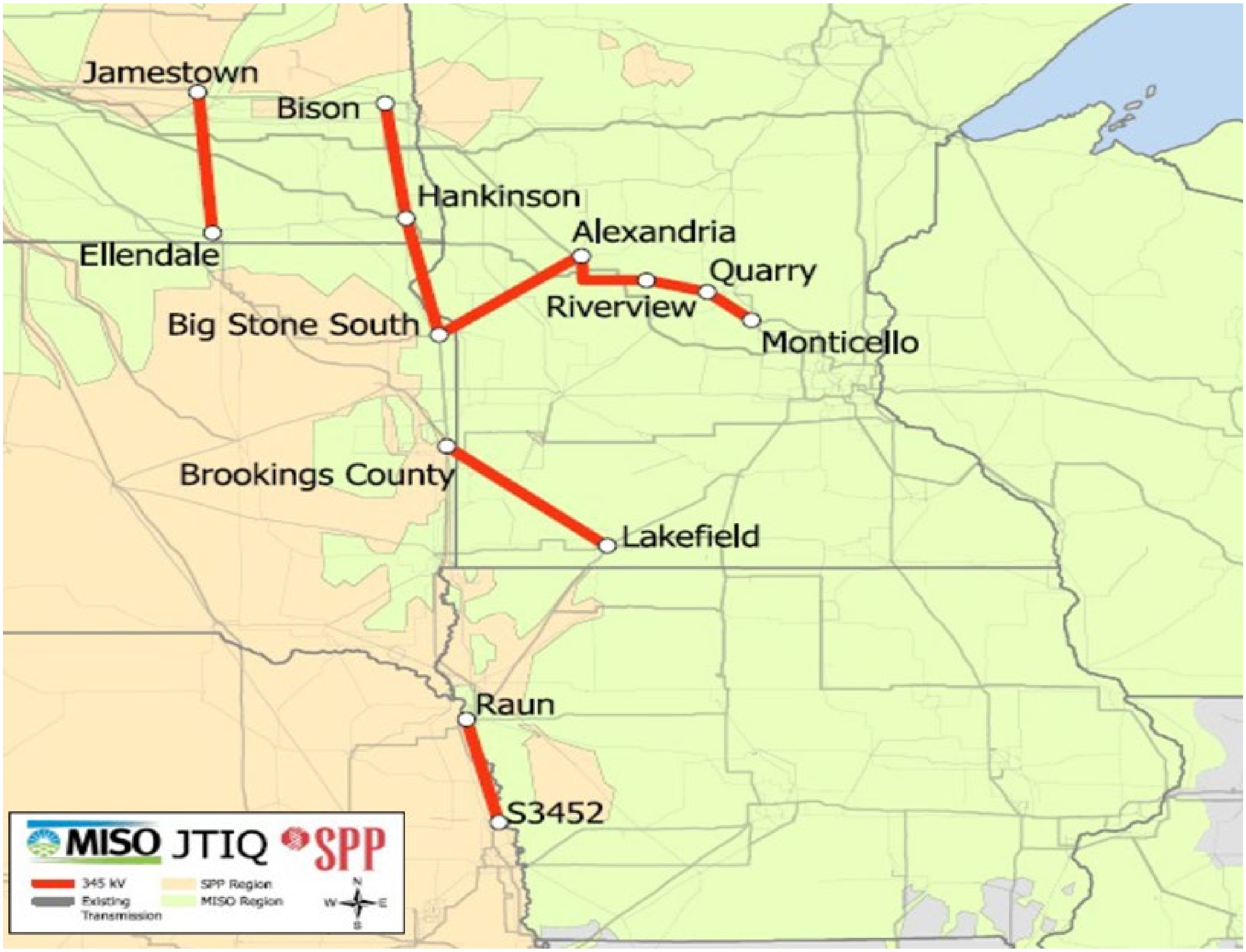
"Future comments to FERC need to be approved. I see us being involved in every meeting moving forward," Ryan Silvey, chair of the Missouri Public Service Commission, said during the Seams Liaison Committee's (SLC) meeting Feb. 22. Cost allocation is "something that we continue to talk about pretty much every time we get together."

"The biggest knot to untie is cost allocation," South Dakota Public Utilities Commissioner Kristie Fiegen said, noting differences between the RTOs' stakeholder processes. "That's been some of the issues the last few years. We just need to ensure we have a clear understanding of what that looks like in the near future."

The SLC, comprising members from the Organization of MISO States and SPP's Regional State Committee, also discussed early results from a working group inventorying rate-pancaking types along the MISO-SPP seam. Grandfathered agreements that result in "hundreds of megawatts flowing across the seam" remains an issue that hasn't been addressed yet, said Marcus Hawkins, OMS' executive director.

The working group and the SLC will regroup May 18 for additional discussion on pancaking issues. ■

*— Tom Kleckner*




Five of the proposed JITQ projects touch MISO's Dakotas, Minnesota and Iowa footprint. | *MISO, SPP*

## NYISO News

# NYISO Management Committee Briefs

### In-person Meetings to Resume in March

NYISO plans to resume in-person stakeholder meetings next week, CEO Rich Dewey told the Management Committee on Wednesday.

"Infection rates for COVID continue to drop regularly both in this area and in the region ... so Member Relations Manager Mark Seibert and his team will coordinate with each of the committee chairs to work out individual schedules," Dewey said.

As usual, the remote option will still be available for individuals who are uncomfortable meeting in person or are not ready to do so, and all visitors to NYISO must demonstrate proof of vaccination.

Dewey also reported that Vice President of Operations Wes Yeomans is retiring in May, and that the Board of Directors has approved Aaron Markham, currently director of grid operations, to succeed him.

"I think everybody who knows Aaron will agree that he's a very capable replacement," Dewey said. "We're lucky to have him, so congratulations to Aaron Markham."

### Survey Metrics Decline Slightly

The ISO's annual *survey* of customer satisfaction for 2021 posted a slight decline compared to the previous year, down from 91.5% to 91.1%. Assessment of performance also declined from 77.6% to 77%.

Nonetheless, the survey resulted in the second highest combined score — 85.5%, down from a record 86% last year — since adopting a new survey platform five years earlier, said Don Levy, director of the Siena College Research Institute. The combined score is calculated by combining 60% of the satisfaction score and 40% of the performance score.

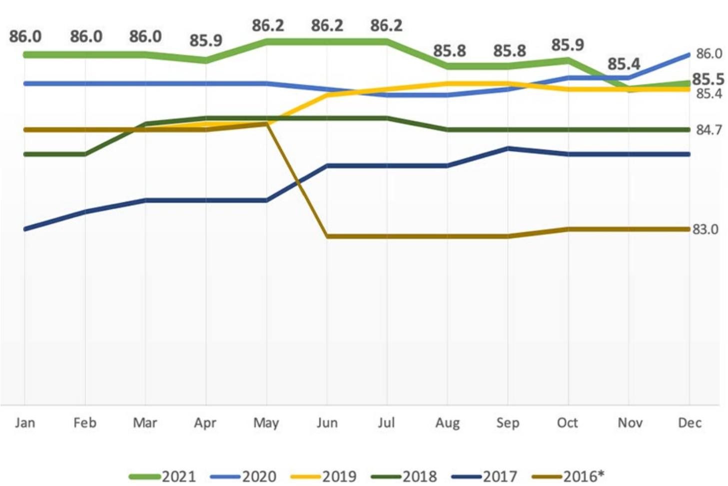
Areas with declines in satisfaction included transparent operations; explanation of policies and procedures; and considerations of individuals' input. In performance, NYISO saw declines in conducting comprehensive long-term planning; advancing the technological infrastructure of the grid; and providing factual information to policymakers, stakeholders and investors.

Areas that showed improvement included satisfaction with the professionalism of NYISO personnel; fair handling of all interactions; and timeliness in communicating key market issues. Performance improvements included reliably operating the grid and administering open and competitive markets.

### ISO Staff Get 3% Raise

NYISO has found it difficult to recruit and retain qualified employees in 2021 and 2022. To assist in those efforts, the Management Committee recommended that the board approve a *plan* to use roughly half the $10.7 million in funds remaining from the 2021 budget cycle to adjust staff salaries to more closely reflect market rates, including an immediate increase of 3%.

The ISO overcollected $7.9 million on 2021 Rate Schedule 1 revenues and underspent the budget by 1.7%, or $2.8 million, CFO Cheryl L. Hussey said.




A unified score is achieved by combining 60% of the Satisfaction Score and 40% of the Assessment of Performance. | *NYISO*

The MC recommended to the board that the ISO use $5 million for the staff raise and retain the remaining $5.7 million until a comprehensive salary benchmarking process is completed, in the event the results show additional salary actions or retention incentives are needed.

Any remaining funds from the 2021 budget cycle, following potential salary actions informed by the salary benchmarking, will be used to pay down the principal amount of outstanding debt in 2022.

Dewey explained that the ISO is exploring all avenues to recruit and retain qualified employees. "Increasingly it's not always just about the money; it's about the work schedule and degrees of flexibility and options that people have," Dewey said. "We're paying very careful close attention to what other companies are offering and trying to make sure that we remain competitive."

The MC last year recommended that if a Rate Schedule 1 overcollection and/or a spending under-run occurred, the related funds should be utilized to pay down the principal amount of outstanding debt or reduce anticipated debt borrowings.

### External Outreach Update

NYISO has been promoting its Comprehensive Reliability Plan (CRP), engaging lawmakers in Albany on bills of interest to stakeholders, *said* Kevin Lanahan, NYISO vice president for external affairs and corporate communications.

Those included outreach to lawmakers on the Pollution Justice Act (*S4378*), which would require peaker plants to be replaced by renewable resources and/or storage facilities within five years of the renewal of a facility operating permit or retire by the end of 2025.

The bill would allow for one five-year extension of the deadline if the transmission owner and NYISO both attest in writing to the discovery of a reliability need if the plant were to retire or be forced to convert to renewable resources.

The ISO also publicized its *CRP*, which highlights tightening reliability margins over the next decade.

"The response by and large has been excellent, thoughtful and everything we would have hoped for as we began the promotional program to draw attention to the CRP," Lanahan said.

The ISO received a lot of good, in-depth questions from U.S. Senate Majority Leader Chuck Schumer's (D-N.Y.) office, for example. State Senate Energy Committee Chairman Kevin Parker has also invited Dewey to address the committee at an upcoming meeting and go over the CRP findings in detail, Lanahan said. ■

*— Michael Kuser*

## PJM News

# Fierce Bidding Pushes NY Bight Auction to $4.37 Billion

### *Eager to Enter U.S. Market, European Companies Make Historic Bids*

*By K Kaufmann*

Six companies *offered* a record $4.37 billion for 5.6 GW of offshore wind capacity in the New York Bight Friday after three days of fierce bidding.

The bids for the six sites, in one case topping $1 billion, even exceeded previous federal auctions for offshore oil and gas leases, according to the Interior Department's Bureau of Ocean Energy Management (BOEM). The average cost per acre for the auction — $8,837 — was more than eight times the $1,083/acre average in BOEM's 2018 auction for three sites off the Massachusetts coast, which totaled $405 million.

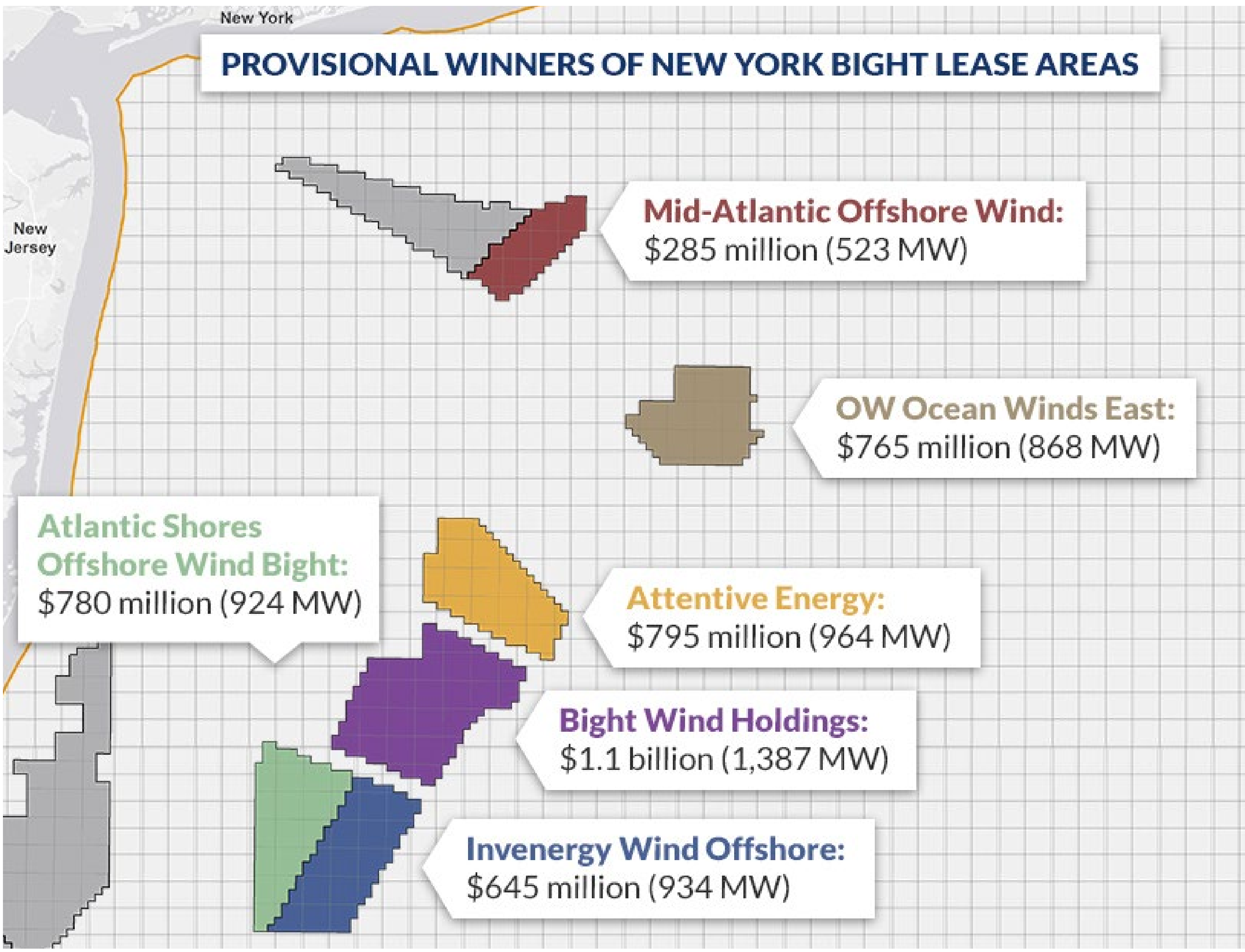
Interior Secretary Deb Haaland hailed the auction results as evidence that "the enthusiasm for the clean energy economy is undeniable, and it's here to stay."

The auction sites in the Bight — a bend in the coast of New York and New Jersey — vary from 20-69 nautical miles from shore, with minimum depths of 31 to 50 meters and maximum depths of 46 to 63 meters.

Covering more than 460,000 developable acres, the six sites have the potential to generate more than 19 million megawatt-hours of electricity per year, enough to power close to 2 million homes, based on BOEM's estimate of 3 MW/sq km. The 5.6 GW of capacity represents more than one-sixth of the 30 GW of offshore wind President Joe Biden wants online by 2030.

In descending order, the provisional winning bidders and bids are:

- Bight Wind Holdings | $1.1 billion | 1,387 MW
- Attentive Energy | $795 million | 964 MW
- Atlantic Shores Offshore Wind Bight | $780 million | 924 MW




The Bureau of Ocean Energy Management auctioned six lease areas in the New York Bight, enough to site at least 5.6 GW of offshore wind. | *BOEM*

- OW Ocean Winds East | $765 million | 868 MW
- Invenergy Wind Offshore | $645 million | 934 MW
- Mid-Atlantic Offshore Wind | $285 million | 523 MW

The online auction, which began Wednesday with 25 eligible bidders, was a rollercoaster ride for the nascent industry, with bids on some sites climbing precipitously in a matter of hours. Bidding on the largest site — labeled OCS-A 0539 — started at $12.6 million on Wednesday morning, hit $900 million on Thursday and broke $1 billion an hour after bidding opened on Friday morning. At different times during the auction, as many as six companies were vying for the lease, with bids jumping $15 million to $30 million between rounds.

According to BOEM, the next step in the leasing process for the provisional winners is an anti-competitiveness review of the auction, to be conducted by the Department of Justice and Federal Trade Commission. The companies will also be required to pay up on their winning bids and provide financial assurance to BOEM.

The New York Bight auction is the first of *seven potential offshore wind auctions* the DOI is planning over the next three years, according to a plan Haaland outlined in October. (See *BOEM to Auction Six New Lease Areas in NY Bight*.) The second auction, scheduled for later this year, will be for a single lease off the coast of North Carolina.

BOEM is also evaluating sites in Central and Northern California, the Gulf of Mexico, the Mid-Atlantic, Oregon and the Gulf of Maine. BOEM has identified three call areas off Oregon with a total capacity potential of 17 GW, according to a *presentation* the agency made at a Feb. 25 meeting of its Oregon Intergovernmental Renewable Energy Task Force. (See related story, *Energy Bar Weighs OSW in Oregon, California*.)

### Investors Confident in OSW

Bidders and other clean energy stakeholders celebrated the results and the infrastructure, supply chain and jobs it will create.

Prior to the auction, the U.S. offshore wind market had drawn in $6.7 billion in leases and other investments, according to the *Business Network for Offshore Wind*, an industry trade group. A *report* from the Special Initiative on Offshore Wind, another industry group, estimates it will require $109 billion in investments to create the supply chain needed to reach Biden's 30-GW goal.

Liz Burdock, CEO of the Business Network, said the auction reflected "the pent-up demand for new lease areas."

"The New York Bight benefited from clear political support, an emerging yet robust local supply chain and a years-long preparation window, which should allow the winning bidders to quickly begin the permitting process and put steel in the water by the end of the decade," she said.

New Jersey Gov. Phil Murphy has set a goal of developing 7,500 MW of offshore wind by 2035, and to date, the state's Board of Public Utilities (BPU) has held two solicitations, awarding three projects totaling 3,758 MW. New York's offshore wind goal is 9,000 MW by 2035. The state has *five offshore projects* in development, for a total of more than 4,300 MW.

In 2020, consulting firm Wood Mackenzie *predicted* lease auctions in 2020-2022 in the New York Bight, California, North Carolina and South Carolina could "support 28 GW of offshore wind development and generate $1.2 billion in U.S. Treasury revenue" — an estimate that turned out overly conservative.

Aaron Barr, one of the authors of the report, told *Grist* the high bids were "a clear signal that offshore wind developers and investors are convinced of the sound business case for offshore wind in the United States."

Indeed, RWE Renewables, one of the companies behind Bight Wind Holdings, said winning the $1.1 billion lease for the largest site in the bight is "an important step on the road to tripling our offshore wind capacity to 8 GW by 2030."

RWE Renewables, the U.S. subsidiary of German utility RWE, is partnering with National Grid on the project, reflecting the strong European interest in the U.S. market. OW East is a partnership between Global Infrastructure Partners, an infrastructure fund manager, and the offshore developer Ocean Winds, a joint venture between EDP Renewables, the U.S. subsidiary of Spain's EDP Renovavéis, and ENGIE, the French multinational utility.

According to a *report* on offshoreWIND.biz, an industry trade publication, other winning bidders with strong European ties include Attentive Energy, a joint venture of EnBW (Germany) and TotalEnergies (France), and Mid-Atlantic Offshore, which is owned by a Danish firm, Copenhagen Infrastructure Partners. Shell and EDF Renewables are the companies behind Atlantic Shores Offshore Wind.

### 'Too Much, Too Fast'

Strong business support notwithstanding, local environmental groups had mixed reactions to the auction results. Doug O'Malley, director of the Environment New Jersey Research and Policy Center, said the auction's "eye-popping valuations send the market a clear signal that offshore wind is poised to become the key driver of clean, renewable energy on the East Coast.

"Once we tap offshore wind, we'll be able to green our region's electric grid and cut the cord with fossil fuels," he said.

But Clean Ocean Action, a New Jersey-based coalition of fishing, recreation and other community groups, criticized the auction as "too much, too fast."

"The fast tracking of offshore wind puts marine life and a clean ocean economy at risk," the group said in a statement released on the first day of the auction.

"There are unanswered questions with this newly proposed industry, especially at the magnitude, scale, and speed of development currently proposed," the group said. "The leasing of these half million acres is too premature given the current gaps in scientific literature concerning the impacts of offshore wind turbines and related infrastructure on marine species and their habitats."

The Atlantic Coast fishing industry has also raised concerns that BOEM's requirements may not ensure that winning companies will seek and act on input from local business, community and environmental groups. (See *Fishing Industry Concerned About NY Bight OSW Plan*.)

### Local Economic Impact

New Jersey and New York have been investing heavily in offshore wind, with their own state-level auctions and investments in local infrastructure.

Both states are also providing financial incentives for offshore wind development and are planning port facilities, spurring an emerging supply chain of local businesses. For example, New Jersey has approved $350 million in tax credits linked to offshore wind-specific facilities in the state. New York has tied its awarding of offshore wind renewable energy credits (ORECs), in part, to economic benefits projects provide, including supply chain build-out, benefits to disadvantaged communities and workforce development programs.

The impact of offshore wind development in both states has already been significant.

In its *2022 U.S. Offshore Wind Market Report*, the Business Network for Offshore Wind analyzed its database of potential supply chain companies, finding that Massachusetts leads the East Coast with 387 firms listed, but New Jersey (361 companies) and New York (287 companies) are close behind. An analysis of the database also found that close to half of the companies listed are small businesses with fewer than 100 employees.

BOEM has similarly incorporated economic development into the leasing process for the New York Bight, requiring lessees to describe their plans for contributing to the development of a domestic supply chain. As outlined in the January *final notice* on the auction, lessees that "meaningfully and substantially" assemble or manufacture major components in the U.S. could qualify for a 50% reduction in the "fee rate" for five years, which would cut the fee rate from 2% to 1%.

The operating fee will be based on a proxy for the wholesale market value of the power generated from each project. The proxy will assume a 40% capacity factor for the first six full years of commercial operations, with potential adjustments based on actual generation in future years. BOEM will use the simple hourly average of the spot price for *NYISO*'s Zone J in New York City. At a wholesale power price of $40/MWh, the annual 2% fee for a 1,028-MW facility, would be $2.9 million.

Officials from the BOEM and the two states have created a supply chain working group that will meet quarterly to coordinate their efforts.

### The Transmission Imperative

Capitalizing on OSW's economic potential will require the states to develop efficient transmission to deliver power to customers.

In its final notice for the NY Bight Auction, BOEM urged strategic planning of transmission, noting that the agency is considering "the use of cable corridors, regional transmission systems, meshed systems, and other mechanisms." It said it may condition approval of construction and operations plans "on the incorporation of such methods where appropriate."

The National Renewable Energy Laboratory is partnering with the Pacific Northwest National Laboratory on an Atlantic offshore wind transmission study "to evaluate multiple pathways to offshore wind goals through coordinated transmission solutions." A final report is expected late in 2023, according to the *study webpage*.

PJM last year opened the first transmission-only solicitation for the U.S. offshore wind industry at the request of the New Jersey BPU. PJM is currently reviewing the 80 proposals received. Under PJM's state agreement approach, New Jersey would commit to paying 100% of the cost of the transmission but could seek to allocate some costs to other generation projects that use the additional capacity. (See *PJM, NJ Seek FERC OK for OSW Tx Process*.)

The Business Network anticipates even broader collaboration, not just between states, but between ISOs and RTOs in "concentric circles of transmission coordination," especially as offshore wind is developed on the West and Gulf coasts.

"The offshore wind transmission conversation is steadily expanding outwards in terms of complexity, geographic area covered and level of coordination needed by planning frameworks," the network's 2022 market report said. "All U.S. regions seeking to integrate offshore wind into their grids face a similar challenge — the electricity transmission system tends to be less robust in coastal areas." ■

## PJM News

# FERC Approves PJM Capacity Auction Date Changes

By Michael Yoder

FERC on Feb. 22 approved PJM's revised schedule for the upcoming Base Residual Auctions (BRAs), incremental auctions and associated pre-auction deadlines through the 2026/27 delivery year (*EL19-58*).

PJM's updated *schedule* proposed conducting the 2022/23 third incremental auction (IA) beginning on Monday, as originally scheduled, and continuing to use the forward-looking energy and ancillary services (E&AS) offset, as it was used in the 2022/23 BRA.

The 2022/23 BRA, originally scheduled for January, will now take place on June 8; the 2024/25 BRA moves from August to December; the 2025/26 auction moves from February 2023 to June 2023; and the 2026/27 auction moves from August 2023 to November 2023. The 2027/28 BRA will be back on schedule in May 2024.

The first and second IAs are canceled for the 2023/24, 2024/25 and 2025/26 BRAs, and the first IA is canceled for the 2026/27 BRA.

In a remand order issued Dec. 22, FERC reversed its approval of PJM's forward-looking E&AS offset. The commission said PJM must now revert to the previous, backward-looking offset. (See *FERC Reverses Itself on PJM Reserve Market Changes*.) The commission said it recognized PJM would need to delay the BRA to implement a revised E&AS offset, a key variable in calculating the net cost of new entry for resources in capacity auctions.

In the remand order, the commission directed PJM to submit a compliance filing proposing a new schedule for the 2023/24 delivery year and subsequent BRAs. PJM updated the schedule in the middle of January and made an official filing on Jan. 21. (See *PJM Reveals Preliminary Capacity Auction Timeline*.)

FERC last week said it found that PJM complied with its directive by filing an appropriate revised schedule and that it included "sufficient justification" for the schedule.

"PJM reasonably minimizes the delay of the

| Delivery Year | Base Residual Auction Timeline Current | Proposed | Incremental Auctions Canceled |
|---|---|---|---|
| **2023/24** | Jan. 2022 | **June 2022** | 1st and 2nd |
| **2024/25** | Aug. 2022 | **Dec. 2022** | |
| **2025/26** | Feb. 2023 | **June 2023** | |
| **2026/27** | Aug. 2023 | **Nov. 2023** | 1st |
| **2027/28*** | May 2024 | **May 2024** | |

*Back on schedule

PJM's proposed capacity auction timeline was approved Feb. 22 by FERC. | *PJM*

2023/24 BRA by proposing to revise only pre-auction deadlines impacted by the E&AS offset revision and the general delay of the auction, which necessitated the use of an updated load forecast," FERC said in its order. "PJM also reasonably proposes to allow capacity market sellers to update only the E&AS offset portion of their unit-specific requests. We agree with PJM that this approach will allow for administrative efficiencies by not requiring duplicative information to be resubmitted, potentially allowing PJM to avoid unnecessary delay."

The commission agreed with PJM's proposal to eliminate some of the IAs. It also said it found it "reasonable" for the RTO's proposal to retain limited discretion of up to 10 business days to set the specific deadlines associated with any pre-auction activities.

"We agree with PJM that it would be cumbersome and administratively inefficient to seek further amendments to the auction timelines for minor adjustments to the deadlines," FERC said in its opinion. "However, we recognize PJM's commitment to post the specific dates of pre-auction activities no later than eight months prior to the commencement of any associated BRA in order to ensure that all market participants are aware of the relevant deadlines."

### Danly Concurrence

In a separate concurrence, Commissioner James Danly said he agreed with the updated schedule, stating that PJM's capacity auctions "have been delayed for far too long." Auctions that have historically been looking three years ahead "have had their periodicity reduced to a year or less," he said

Danly said the commission in its role as regulator "bears most of the blame for the sorry state of PJM's auction schedule," but he also faulted the the RTO for the auction delays. He said PJM's filing made to "eviscerate its minimum offer price rule" in the summer and another auction delay it requested in September contributed to the limited timing of the auctions.

"This last delay is particularly galling," Danly wrote. "Given its role in causing and requesting auction delays, PJM's call for the commission to 'expeditiously' and 'promptly issue an order and provide much needed market certainty' is ... brazen." ■

## PJM News

# PSEG Looks to Post-fossil Future

## *Company Seeks 'Robust Opportunities' After Portfolio Sale*

*By Hugh R. Morley*

Fresh from closing the sale of its fossil generating plants, Public Service Enterprise Group executives told investors during the utility's fourth-quarter earnings call Thursday that they are looking at further investment in offshore wind projects and seeking a longer-term subsidy flow for their South Jersey nuclear plants.

The company on Wednesday completed the sale of its fossil plants in New York and Connecticut to a fund controlled by ArcLight Capital Partners, according to a company *release*, the last of its 6,750-MW portfolio of 13 fossil generating units, according to the company's earnings *presentation*.

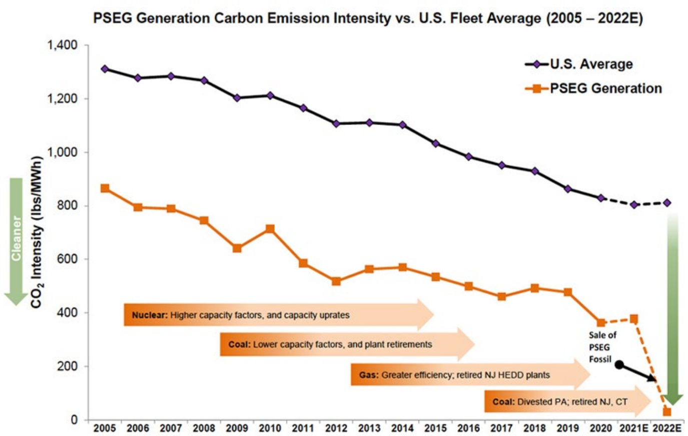
PSEG CEO Ralph Izzo said the sale will free up the utility to pursue a "robust set of regulated and contracted opportunities" that will enhance its "already compelling environmental, social and governance profile." The company is looking at clean energy and infrastructure investments "to drive regulated utility growth, with the vision toward powering a future where people use less energy, and it's cleaner, safer and delivered more reliably than ever," he said.

The sale of the fossil units capped a year of "significant accomplishments," Izzo said. Among the highlights: the sale of the company's 467-MW portfolio of 25 solar plants in 14 states; the acquisition of a 25% share of the Ocean Wind offshore wind project under development on the New Jersey coast by Denmark-based Ørsted; and the announcement of a new goal to reach net-zero emissions by 2030, 20 years earlier than its previous target. The company also submitted nine proposals into the joint solicitation by the New Jersey Board of Public Utilities and PJM for transmission project proposals that will facilitate offshore wind projects.

### Longer-term Subsidies

Izzo said he is looking to avoid the demands of applying every three years for subsidies to support the three nuclear generating plants — Hope Creek nuclear power plant and Salem 1 and Salem 2 — operated by PSEG in South Jersey, under the zero-emission certificate (ZEC) program. The approval in April of subsidies worth $300 million, the second three-year subsidy awarded to PSEG under the program, triggered sharp criticism from the New Jersey Division of Rate Counsel, the state's consumer advocate, and environmental activists, who questioned whether the utility needed the funds to keep the generators operating. (See *NJ Nukes Awarded $300 Million in ZECs*.)

Izzo said he would like to see a "longer term" incentive program developed at the state level, and he is hoping for talks to resume at a federal level about awarding tax credits that would help support the operators of nuclear plants, such as PSEG.




With the sale of its fossil fuel generation, PSEG is outpacing other U.S. utilities in reducing its carbon emissions. | *PSEG*

"In the last four years, we had the creation of the legislation for the ZECs, and we had two rounds of ZECs," he said, likening such a schedule to "sort of being masochists."

"My sense from policy leaders — elected officials, regulators, key staff members — is we need these plants to run, at least until 2050," he said. "The reality is, people have already expressed an interest in our nuclear plants. And they are outstanding assets. The issue is, how do you firm up the longer-term economic treatment beyond a three-year time frame?"

The U.S. Department of Energy last month invited public comment on the $6 billion Civil Nuclear Credit Program — funded under the Infrastructure Investment and Jobs Act — that will allow owners and operators of commercial nuclear reactors at risk of closure to competitively bid on credits to keep them in operation. (See *DOE Launches $6B Nuke Credit Program*.)

Izzo said the company also is in discussions that could lead to an increase in its offshore wind portfolio.

"We have a series of conversations underway that are related to Ocean Wind II, Skipjack [and] potential further upside of Ocean Wind I," he said. The 1,148-MW Ocean Wind II project was one of two projects awarded leases in New Jersey's second offshore wind solicitation in June. Ørsted, the project developer, also is developing two projects under the Skipjack name off the Maryland and Delaware coast. (See *NJ Awards Two Offshore Wind Projects*.)

Izzo said the company's "initial early caution" about investing in offshore wind projects has diminished, in part because of increased understanding of the "commitment of other states in the development of supply chain [and] some of the regulatory hurdles that have been eased by virtue of some state actions and some federal actions."

PSEG subsidiary PSEG Renewables is one of 25 companies that bid in the auction last week for six leases in the New York Bight in a solicitation held by the U.S. Bureau of Ocean Energy Management.

### Earnings

PSEG *reported* a net loss of $648 million ($1.29/share) for 2021, compared to net income of $1.905 billion ($3.76/share) for 2020. Non-GAAP operating earnings for 2021 were $1.853 billion ($3.65/share), compared to $1.741 million ($3.43/share) for 2020.

The loss in 2021 was from a pre-tax impairment charge of about $2.7 billion that stemmed from the sale of the fossil plants, the company said.

The company reported net income for the fourth-quarter of $445 million ($0.88/share), compared to net income of $431 million ($0.85/share) in 2020's fourth quarter. Non-GAAP earnings for the quarter were $352 million ($0.69/share), compared to fourth-quarter non-GAAP earnings of $392 million ($0.65/share). ■

## PJM News

# IMM Report: PJM Capacity Auction Results not Competitive

By Michael Yoder

The results of PJM's 2022/23 Base Residual Auction were not competitive, according to a *report* released last week by the RTO's Independent Market Monitor.

The 141-page report, coming nearly eight months after PJM announced the results, concluded that the noncompetitive nature of the auction came from "economic withholding by resources" that used offers consistent with the net cost of new entry (CONE) times the "expected average balancing ratio" offer cap, but not consistent with competitive offers based on the "correctly calculated" offer cap.

The Monitor concluded that market prices were "significantly affected by other flaws" in the capacity market rules and in PJM's application of the rules, including the shape of the variable resource requirement (VRR) curve, the "overstatement" of the capacity of intermittent resources, the treatment of demand response, the minimum offer price rule (MOPR), the inclusion of energy efficiency and EE addback rules.

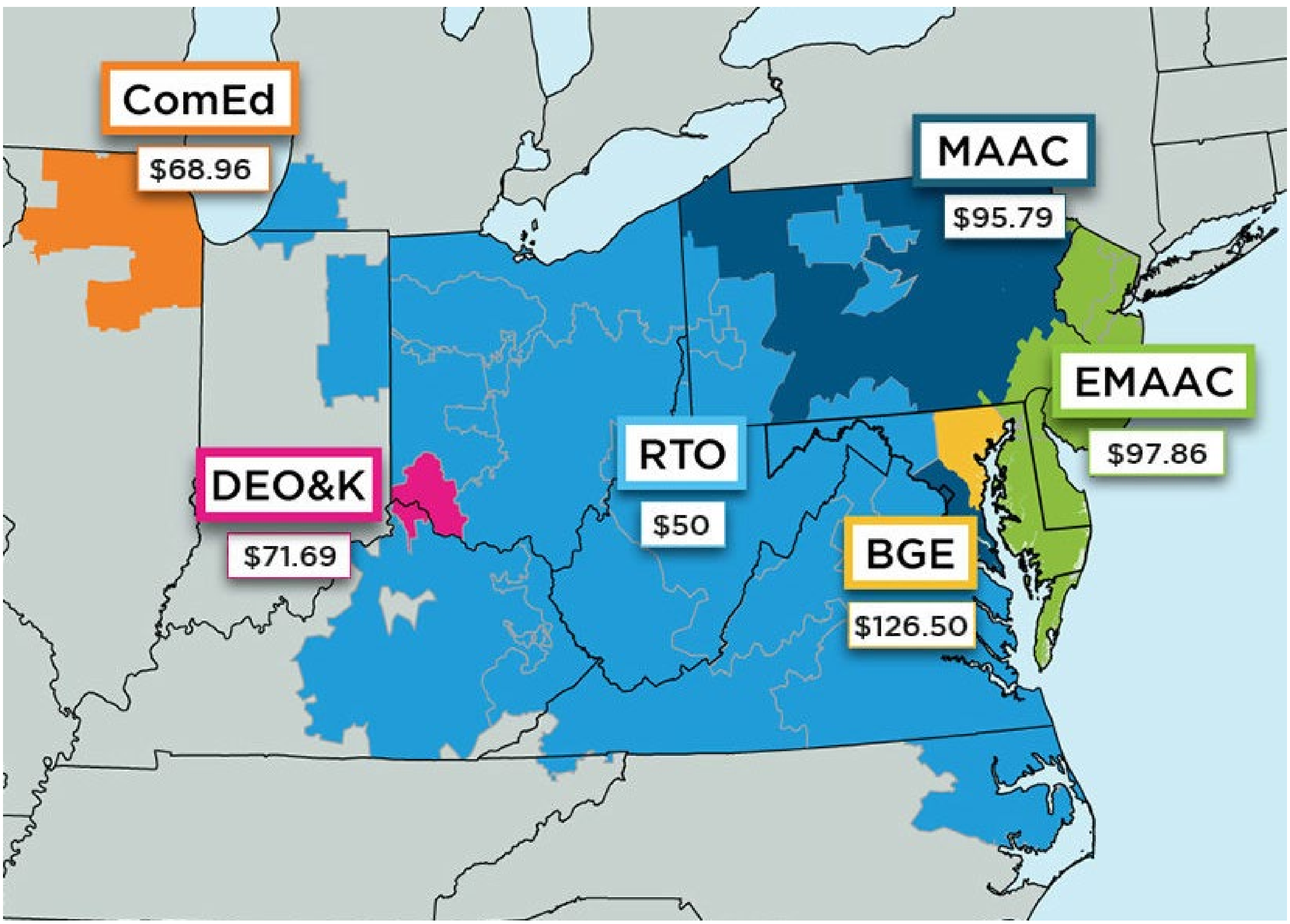
It also found that, although it played a smaller role in the 2022/23 auction compared to previous auctions, the rules "permitted the exercise of market power" without mitigation for seasonal resources "through uplift payments for noncompetitive offers, rather than through higher prices."

"Although the impact was small in the 2022/23 auction, the issue should be addressed immediately in order to prevent the impact from increasing and because the solution is simple," the Monitor said.

PJM's capacity prices dropped significantly for delivery year 2022/23, falling by nearly two-thirds to \$50/MW-day. Overall, the BRA, held May 19 to 25, cleared 144,477 MW of resources for the June 1, 2022, through May 31, 2023, delivery year, costing \$3.9 billion, which was \$4.4 billion less than the 2018 auction for 2021/22, after an adjustment for an increase in entities choosing to skip the auction by using the fixed resource requirement (FRR). (See *Capacity Prices Drop Sharply in PJM Auction*.)

### Findings

The Monitor found that the 139,666.7 MW of cleared and uplift generation and DR for the entire RTO resulted in a reserve margin of 21.1% and a net excess of 7,660.2 MW over




Capacity prices in most of PJM dropped by nearly two-thirds for 2022/23. | *PJM*

# PJM News

the reliability requirement, which is adjusted for FRR and price-responsive demand (PRD) of 132,006.5 MW. The net excess decreased by 530.1 MW from the net excess of 8,190.3 MW in the 2021/22 BRA.

The downward sloping shape of the VRR curve had a "significant impact" on the auction results, the IMM said, resulting in more capacity cleared in the market than would have cleared with a vertical demand curve. If PJM had used a vertical demand curve, it said, total capacity market revenues for the 2022/23 BRA would have been $2.65 billion, a decrease of $1.25 billion (32.1%) compared to the actual results.

"From another perspective, clearing the auction using a downward sloping VRR curve resulted in a 47.3% increase in RPM [Reliability Pricing Model] revenues for the 2022/23 RPM BRA compared to what RPM revenues would have been with a vertical demand curve set equal to the reliability requirement," the Monitor said.

Accuracy of the peak load forecast also had a significant impact on the results, the IMM said, showing that the forecast for the third incremental auction has been on average 4.3% lower than the peak load forecast for the corresponding BRA for the auctions between the 2017/18 and 2021/22 delivery years. Using the lower peak load forecast, the total capacity market revenues for the 2022/23 BRA would have been $3 billion, a decrease of about $900 million (22.4%) compared to the actual results.

The IMM said an increase in the Commonwealth Edison capacity emergency transfer limit (CETL) of 1,265 MW, or 22.7%, from its 2021/22 level also resulted in an increase of $128 million (3.3%) in revenues.

| Scenario | Scenario Description | RPM Revenue ($ per Delivery Year) | Scenario Impact RPM Revenue ($ per Delivery Year) | Percent |
|---|---|---|---|---|
| 0 | Actual Results | $3,916,990,303 | NA | NA |
| 1 | Impact of Downward Sloping VRR Curve | $2,659,527,128 | $1,257,463,175 | 47.3% |
| 2 | Impact of Forecast Peak Load | $3,038,859,236 | $878,131,066 | 28.9% |
| 3 | Impact of ComEd CETL | $4,045,468,797 | ($128,478,494) | (3.2%) |
| 4 | Impact of Dominion FRR | $4,009,821,399 | ($92,831,097) | (2.3%) |
| 5 | Impact of Intermittent Capacity | $4,209,145,809 | ($292,155,506) | (6.9%) |
| 6 | Inclusion of Demand Resources | $4,667,530,509 | ($750,540,206) | (16.1%) |
| 7 | Inclusion of EE Offers and EE Addback | $3,723,175,053 | $193,815,249 | 5.2% |
| 8 | Impact of Incorrect EE Addback | $3,860,997,114 | $55,993,189 | 1.5% |
| 9 | Inclusion of PRD | $3,971,098,221 | ($54,107,919) | (1.4%) |
| 10 | Inclusion of Seasonal Products | $4,088,669,913 | ($171,679,610) | (4.2%) |
| 11 | Inclusion of Seasonal Matching Across LDAs | $4,007,550,697 | ($90,560,395) | (2.3%) |
| 12 | Inclusion of Offers from External Generation | $4,227,125,093 | ($310,134,790) | (7.3%) |
| 13 | Impact of DR, EE, PRD, Seasonal Resources, Capacity Imports, and Intermittent Capacity Overstatement | $6,657,417,211 | ($2,740,426,908) | (41.2%) |
| 14 | Impact of Low MOPR Offers | $4,078,113,024 | ($161,122,722) | (4.0%) |
| 15 | Inclusion of Nuclear Offers | $3,480,464,207 | $436,526,096 | 12.5% |
| 16 | Impact of Noncompetitive Offers | $3,694,010,658 | $222,979,644 | 6.0% |

A scenario summary of RPM revenue in PJM's 2022/23 Base Residual Auction | *Monitoring Analytics*

Dominion Energy Virginia's election of the FRR lowered PJM's reliability requirement by 18,233.8 MW. The IMM said that if Dominion had participated in the BRA, total capacity market revenues would have been $4.38 billion and that, excluding FRR resources, total revenues for the rest of the PJM capacity market would have been $4 billion, an increase of $92 million (2.4%) compared to the actual results.

Finally, the Monitor said that if no offers for DR were included in the BRA, total capacity market revenues would be $750 million higher, a 19.2% increase compared to the actual results.

## Recommendations

The report included nearly two dozen recommendations for changes to the capacity auction.

The Monitor said PJM should evaluate the shape of the VRR curve because the current shape "directly results in load paying substantially more for capacity than load would pay with a vertical demand curve." Excess capacity procured in a BRA should not be sold back in any incremental auction "at much lower prices," it said, asserting that the sales suppress prices in IAs and "provide inefficient incentives for demand resource offer behavior."

"Given PJM's assertions of the benefits of over-procuring capacity, it has never been explained why load should pay a high price for capacity in a BRA and sell it back at very low prices in an IA," the Monitor said. "Such sales are inconsistent with PJM's assertion that additional capacity purchases have value."

The IMM said an "enforcement of a consistent definition of capacity resource" is needed by PJM. It recommended that the tariff requirement be "enhanced" to require a capacity resource to be a physical resource and "should apply at the time of auctions and should also constitute a commitment to be physical in the relevant delivery year."

The requirement to be a physical resource is not currently applied to DR and EE, the Monitor said, both of which are permitted to submit marketing plans rather than evidence of physical resources in the BRA. "The requirement to be a physical resource should be applied to all resource types, including planned generation, demand resources, energy efficiency and imports." ■

| Scenario | Scenario Description | Cleared UCAP (MW) | Scenario Impact Cleared UCAP (MW) | Percent |
|---|---|---|---|---|
| 0 | Actual Results | 144,477.3 | NA | NA |
| 1 | Impact of Downward Sloping VRR Curve | 132,006.7 | 12,470.6 | 9.4% |
| 2 | Impact of Forecast Peak Load | 138,811.6 | 5,665.7 | 4.1% |
| 3 | Impact of ComEd CETL | 144,581.9 | (104.6) | (0.1%) |
| 4 | Impact of Dominion FRR | 143,140.5 | 1,336.8 | 0.9% |
| 5 | Impact of Intermittent Capacity | 144,184.3 | 293.0 | 0.2% |
| 6 | Inclusion of Demand Resources | 138,083.6 | 6,393.7 | 4.6% |
| 7 | Inclusion of EE Offers and EE Addback | 139,272.3 | 5,205.0 | 3.7% |
| 8 | Impact of Incorrect EE Addback | 144,068.6 | 408.7 | 0.3% |
| 9 | Inclusion of PRD | 144,727.2 | (249.9) | (0.2%) |
| 10 | Inclusion of Seasonal Products | 144,052.8 | 424.5 | 0.3% |
| 11 | Inclusion of Seasonal Matching Across LDAs | 144,363.9 | 113.4 | 0.1% |
| 12 | Inclusion of Offers from External Generation | 143,951.3 | 526.0 | 0.4% |
| 13 | Impact of DR, EE, PRD, Seasonal Resources, Capacity Imports, and Intermittent Capacity Overstatement | 136,610.7 | 7,866.6 | 5.8% |
| 14 | Impact of Low MOPR Offers | 144,310.2 | 167.1 | 0.1% |
| 15 | Inclusion of Nuclear Offers | 144,581.9 | (104.6) | (0.1%) |
| 16 | Impact of Noncompetitive Offers | 144,477.3 | 0.0 | 0.0% |

A scenario summary of cleared UCAP in PJM's 2022/23 Base Residual Auction | *Monitoring Analytics*

## PJM News

# PJM MRC/MC Briefs

### Max Emergency Changes

Stakeholders expressed concerns at last week's Markets and Reliability Committee meeting over a PJM plan to address the extension of a temporary change to maximum emergency status for gas combustion turbines and steam generators.

Chris Pilong, PJM | © RTO Insider LLC

Chris Pilong, of PJM's operations planning department, reviewed proposed revisions to Manual 13: Emergency Operations in a problem statement and issue charge. To address concerns with fuel security and new emission standards in states that emerged in recent months, Pilong said, PJM made a temporary change to section 6.4 of Manual 13 in a "note" to modify the remaining hours under which a resource may be offered as maximum emergency generation.

The changes, which were endorsed in October, state that PJM may request a generation owner to move steam units, which are mostly coal-fired, into the maximum emergency category if their remaining run time falls below 240 hours, or 10 days. The units could be restricted from operating during that time unless required to meet reliability needs for the grid. (See *Global Fuel Supply Prompts PJM Manual Changes*.)

Units could remain in maximum emergency status until their fuel inventory rose above 21 days, or 504 hours, Pilong said, and the designation would only be implemented to address concerns with local or regional reliability resulting from fuel supply shortages. The previous run-hour threshold for maximum emergency was 32 hours.

Pilong said the manual change is set to expire April 1, but it needs to be extended to give PJM and stakeholders more time to work on a permanent solution. Additional work is being requested to take place under a new problem statement and issue charge titled "Max Emergency Changes for Resource Limitations."

The issue charge calls for reviewing and modifying existing rules in response to concerns with the fuel and non-fuel supply chain, as well as the increasing environmental restrictions on generators that are creating challenges with managing run hours. Pilong said PJM wants to spend four months working on the issue in the Operating Committee and have a solution in advance of the summer 2022 peak period.

"We want to allow PJM and stakeholders to take a step back and take a more detailed look at Manual 13 and make sure we have the right changes and have those discussions," Pilong said.

Susan Bruce, PJM ICC | © RTO Insider LLC

Susan Bruce, counsel to the PJM Industrial Customer Coalition (ICC), said she was concerned over what units the rules will apply to. It will be important for PJM and stakeholders to "take a big picture view" in discussions for any changes, she said.

"There are some really big issues that are going to be within this work effort that have implications for the nature of capacity," Bruce said. "We don't want to make decisions here that have ramifications in other places or that the work goes by the wayside because of efforts in other task forces."

PJM Monitor Joe Bowring | © RTO Insider LLC

Independent Market Monitor Joe Bowring said stakeholders should keep in mind scenarios in which a lack of fuel or other consumables resulted from contractual issues that were theoretically controllable by the generation owner and how those situations should be treated differently compared to supply chain issues.

Bowring also requested clarification of what PJM intends to include in the definition of "running for reliability" in the issue charge.

Pilong indicated that PJM will respond to the requests.

John Rohrbach, representing Southern Maryland Electric Cooperative, said resources following PJM's dispatch while also trying to preserve themselves for a reliability event and reserve run hours could experience a "conundrum" through the language in the issue charge.

"It can create a challenge for a resource to guess when there's going to be an event and to take itself out to procure fuel in advance of a switching event," Rohrbach said.

Pilong said Rohrbach's point is included in the expected deliverables of the issue charge for education on existing tariff language regarding unit eligibility and any practices and analysis for scheduling resources in max emergency.

Stakeholders will vote on the issue charges at the March 23 MRC meeting.

### CCSTF Sunset

Melissa Pilong of PJM presented a first read of the Capacity Capability Senior Task Force's (CCSTF) sunset. Pilong also presented the final report of the task force's work completed.

The task force was originally created in March 2020 to consider using effective load-carrying capability (ELCC) to set the capacity value of limited-duration resources such as battery storage.

Stakeholders ultimately endorsed a joint proposal in September 2020 to use the ELCC method to calculate the capacity value of limited-duration, intermittent and combination (limited-duration plus intermittent) resources. FERC approved PJM's proposal in August. (See *FERC Accepts PJM ELCC Tariff Revisions*.)

Pilong said work originally endorsed by stakeholders for a second phase of discussions has been moved to the Resource Adequacy Senior Task Force. The additional work includes a discussion of other rules or rule changes that may be necessary for limited-duration resources to participate in energy and ancillary service markets.

"It just made sense with all of the work that paralleled a lot of the efforts," Pilong said.

The committee will be asked to endorse the task force sunset at its March meeting.

### Minimum Run Time Guidance

Tom Hauske, principal engineer in PJM's performance compliance department, reviewed a proposal that includes adding language to Manual 11: Energy and Ancillary Services Market Operations to address pseudo-modeled combined cycle minimum run time guidance.

Hauske said market sellers can model a combined cycle generation unit as multiple "pseudo units" that are made up of a single combustion turbine and a portion of a steam turbine. But he said the potential exists for one or more of the pseudo-modeled units to operate for a period beyond the minimum run time parameter limit compared to an identical non-pseudo-modeled combined cycle unit if the market

# PJM News

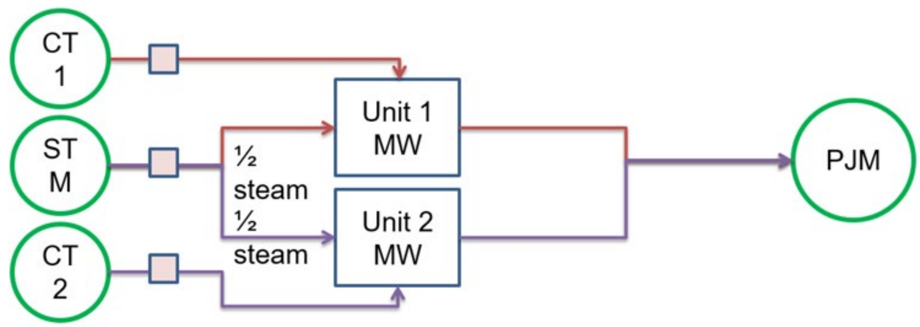
units of a pseudo-modeled combined cycle unit are dispatched at different times because the steam turbine takes extra time to reach operative levels.

Hauske said the proposed solution calls for adding language to Manual 11 to require market sellers to update the minimum run time of any subsequent pseudo-modeled unit to remove the associated steam turbine start-up time included in the parameter limit when it's dispatched.

PJM removed language calling for "hourly" updates of the minimum run time parameter in order to avoid creating a "compliance trap" for market sellers who have several pseudo-modeled combined cycle units.

Hauske said PJM wants to have a final endorsement by the March 23 MRC meeting because the RTO's unit-specific parameter adjustment process started Monday. PJM must provide a determination on the requests by April 15.

PJM will provide guidance developed in the initiative to any pseudo-modeled combined cycle unit requesting an adjustment the review period, Hauske said, or to existing pseudo-modeled combined cycle units with an approved unit-specific minimum run time parameter.




Example of a pseudo-modeled combined-cycle unit | *PJM*

## Manual 18 Revisions

Jeff Bastian, senior consultant in PJM's market operations department, *provided* a first read of revisions to *Manual 18: PJM Capacity Market* to conform with several recent FERC orders. The changes from the orders included:

- revisions to the application of the minimum offer price rule, which became effective by operation of law in September when the commission deadlocked (ER21-2582);
- an October compliance filing to amend several sections of Attachment DD of the tariff establishing a replacement market seller offer cap (EL19-47);
- restored tariff provisions restoring the prior backward-looking energy and ancillary services (E&AS) offset for the 2023/24 Base Residual Auction and beyond (EL19-58); and
- the removal of the 10% cost adder for the reference resource used to establish the variable resource requirement curve (ER19-105).

Bastian said language in section 3.3.2 was updated to reflect that the net E&AS of the reference resource combustion turbine will be calculated using the forward-looking methodology with application of the 10% adder for only the 2022/23 delivery year. The net E&AS will be determined using the historical approach and without application of the 10% adder for all other delivery years.

The revisions also delete language in section 5.4.5.2 describing the consequences of accepting a state subsidy after electing the competitive exemption or certifying that a resource is not state-subsidized.

"These are all conforming changes and the changes are all to be made effective with the 2023/24 BRA, which is scheduled to be conducted very shortly," Bastian said.

A final vote on the changes is scheduled for the March 23 MRC meeting.

## Manual First Reads

PJM staff presented several manual changes resulting from the periodic review for first reads. They included:

- *Manual 12: Balancing Operations* with a *review* of the language that included changes to attachment references and other minor revisions.
- *Manual 13: Emergency Operations* with a *review* of the language that added columns with winter values for estimated peak load and estimated load reduction in the voltage reduction summary table.
- *Manual 37: Reliability Coordination* with a *review* of the language that corrected Silver Run Electric to properly show as a transmission owner in Attachment A of the manual.

## MRC Consent Agenda

Members unanimously endorsed two manual revisions as part of the MRC consent agenda, the only voting items at the meeting. They included:

- conforming revisions to *Manual 27: Open Access Transmission Tariff Accounting* related to a recent FERC order in response to industrial customers' protest of PJM's proposed revisions to its administrative rates. The revisions included reorganized wording to distinguish between administrative rates and pass-through rates, and a new section to only be reconciliation for transmission owner scheduling system control and dispatch service.
- revisions to *Manual 40: Training and Certification Requirements* resulting from the periodic review. The change included the addition of Maureen Curley as manager of PJM's state and member training department. Curley replaced Michael Sitarchyk who retired as manager earlier this year.

## MC Consent Agenda

Stakeholders unanimously endorsed one set of revisions clarifying fuel-cost policy standards in *Manual 15* and Schedule 2 penalty language of the *Operating Agreement* as part of the consent agenda at last week's Members Committee meeting.

The changes require that generation unit market sellers verify that all intraday offer triggers are specified in the unit's fuel-cost policy. The Manual 15 updates include changes to the intraday update triggers. Fuel-cost policies will require providing a fuel price that can be calculated by the Monitor or PJM "after the fact with the same data available to the generation owner at the time the decision was made and documentation for that data from a public or a private source."

The proposal was endorsed at the January MRC meeting and will take effect upon approval by the PJM Board of Managers and FERC. (See "Fuel-cost Policy Standard Clarifications Endorsed," *PJM MRC/MC Briefs: Jan. 26, 2022*.) ■

*— Michael Yoder*

# Company News

# AEP to Sell Unregulated Renewables Portfolio

## Vistra, OGE also Report Positive 2021 Earnings

By Tom Kleckner

American Electric Power said last week that it intends to sell some or all of its unregulated contracted wind and solar energy resources and redirect capital previously allocated to that business to its transmission assets.

Executives told financial analysts during AEP's year-end earnings call Thursday that it plans to dispose of about 1.6 GW of renewable capacity. That will free up $1.5 billion in capital spending to its regulated transmission business between now and 2026.

CEO Nick Akins said during the call that the company is "fully confident" the portfolio's sale will "both simplify and derisk" the business and allow it to "assign additional capital to our regulated business."

The move doesn't affect AEP's regulated renewables business, which plans to add 8.6 GW of wind and 6.6 GW of solar by 2030. The company is allocating $8.2 billion of its current $38 billion, five-year capital plan to the regulated portfolio. The capital expenditure plan also includes $24.8 billion for grid investments.

"The migration from contracted renewables to significant increases in regulated renewables will ensure that AEP maintains the talent and resources to execute this plan," Akins said.

AEP expects to close the $2.8 billion sale of its Kentucky operations, Kentucky Power and AEP Kentucky Transco, in the second quarter. Akins said he doesn't think the recent withdrawal of a FERC filing related to a coal-fired power plant's operating agreement to affect the timing.

The Columbus, Ohio-based company *reported* its "strongest-ever" fourth quarter with earnings of $538.9 million ($1.07/share). A year ago, quarterly earnings were $435.5 million ($0.88/share).

AEP's year-end earnings were $2.49 billion ($4.97/share), compared to $2.2 billion ($4.44/share) in 2020.

Wall Street reacted favorably to the news, driving AEP's share price up 5.7%, from $84.64 before the earnings announcement to $89.46.

### Vistra Recovers from Winter Storm

Vistra on Friday brought a tough year to a close by *delivering* $1.94 billion in year-end adjusted EBITDA from ongoing operations. A year ago, the Texas-based company reported $3.77 billion in adjusted EBITDA from ongoing operations a week after February's devastating winter storm that eventually inflicted a $1.6 billion hit.

Vistra CEO Curt Morgan | © RTO Insider LLC

Last year "was undoubtedly a challenging year and, in many ways, a pivotal one for Vistra. … The financial strength we worked so hard to put in place was challenged," CEO Curt Morgan told financial analysts during a conference call. "I'm proud of how our team came together to not only confront and mitigate the impact, but to then shift to building a stronger company. That strong balance sheet we built and the resilience of our team helped us stabilize the company and ultimately get back on track within months."

Executives said Vistra was able to "derisk" the company after the storm and shift its strategic direction; begin an improved capital allocation plan with substantial share repurchases; and accelerate *Vistra Zero*, its portfolio of zero-emission resources. Vistra has announced plans to operate 7.3 GW of zero-carbon generation by 2026, a number that includes its 2.3-GW Comanche Peak Nuclear Power Plant. The company plans to bring two solar facilities offering 158 GW of power and a 260-MW energy storage facility online by this summer.

The company reduced debt by about $625 million during the fourth quarter and is on target to reduce debt by $1.5 billion by the end of 2022.

"We feel like we've turned the corner here and strengthened our company," Morgan said in closing the conference call.

For the quarter, adjusted EBITDA from ongoing operations was $1.17 billion, compared to $802 million for the same period in 2020.

Vistra's share price gained 22 cents Friday, closing at $21.90. It had dropped to $17.25 in February after the company disclosed its winter storm losses. (See *Vistra Stock Plunges After Market Losses*.)

### OGE Turns in Solid Year

OGE Energy on Thursday *reported* year-end earnings of $737.3 million ($3.68/diluted share), compared to a net loss of $173.7 million ($0.87/diluted share) for 2020.

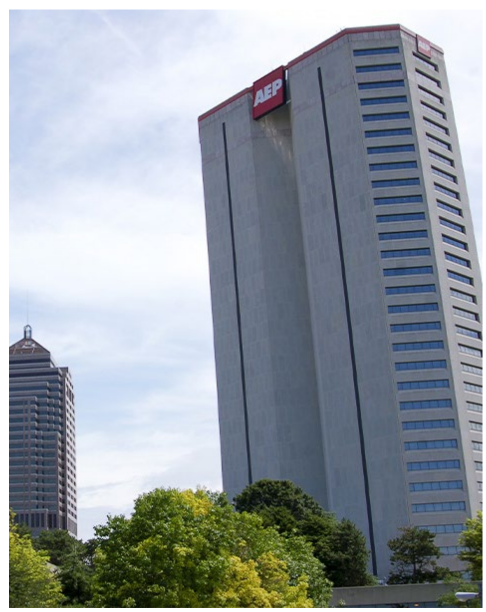
For the quarter, earnings were $319.2 million ($1.59/diluted share), up from $54.8 million ($0.27/diluted share) for the year prior.

Most of the gains came from OGE's Oklahoma Gas & Electric subsidiary, which turned in 2.4% load growth and increased revenues from capital investment recovery. That was partially offset by the February winter storm's effects and higher depreciation on a growing asset base.

"Every single employee contributed to the excellent results we delivered this year especially when you consider the headwinds we faced in early 2021," CEO Sean Trauschke said in a statement.

The Oklahoma City-based company forecasts long-term utility earnings growth of 5 to 7% per share.

OGE's share price gained $1.75 and finished the week at $37.18, a 5% increase following the earnings announcement. ■



AEP, headquartered in Columbus, Ohio, says it is selling some or all of its unregulated renewable energy portfolio and shifting the proceeds to its transmission business. | *Electric cat, CC BY-SA 3.0, via Wikimedia Commons*

# Company Briefs

## AEP Names 2 to Board of Directors

American Electric Power last week named Ben Fowke and Lewis Von Thaer to the company's board of directors.

Fowke, 63, was chairman and CEO of Xcel Energy for more than a decade until his retirement as CEO in August 2021. He remained executive chairman of the Xcel board until December 2021.

Von Thaer, 61, has been president and CEO of Battelle Memorial Institute since October 2017.

AEP also named Sara Martinez Tucker lead director following the resignation of Steve Rasmussen, who left the board for personal reasons. Tucker, 66, is the former CEO of the National Math and Science Initiative and has been a member of AEP's board since 2009.

More: *AEP*

## Ameren Accelerates Closure of Rush Island Power Plant

Ameren is targeting September for the closure of its coal-fired Rush Island Power Plant, according to legal filings. It would push up the 2024 deadline the company proposed in December.

Ameren said in the new court documents that it aimed to suspend Rush Island's operations "for economic reasons" starting on Sept. 1.

The early retirement comes after a decade-long legal battle over the power plant and years of Clean Air Act violations. Ameren has reached agreement with the Department of Justice and the Sierra Club — both plaintiffs in the legal case — on paperwork it will soon submit to MISO about charting the plant's shrinking future.

More: *St. Louis Post-Dispatch*

## LG Electronics to Exit Solar Module Business

LG Electronics last week confirmed it will exit the solar module manufacturing business and will shutter its assembly plant in Alabama.

The decision, which was approved by the company's board, followed what it described as a "comprehensive review" of the impact of soaring material and logistics costs on top of supply constraints on its solar business.

More: *PV Tech*

## Lightning eMotors Completes Colorado Facility Expansion

Lightning eMotors last week announced it has completed a 102,000-square-foot expansion of its manufacturing facility in Loveland, Colo. The expansion is part of a $5 million investment from the company to increase manufacturing efficiency in addition to overall capacity.

With the expansion, Lightning eMotors expects an output of 1,500 zero-emission vehicles and powertrains by the end of 2022; its goal is to scale to a capacity of 20,000 by 2025.

More: *Electrek*

## Tesla Fined by EPA for Pollution Violations

The EPA last week fined Tesla $275,000 following years of "high priority violations" of air pollution regulations at its Fremont, Calif., assembly plant.

The agency noted Tesla's use of toxic chemicals in its paint shop — formaldehyde, ethylbenzene, naphthalene and xylene — "known or suspected to cause cancer or other serious side effects." Every automaker's paint shop emits the same chemicals, but EPA regulations have been set to minimize emissions and to protect worker and public health.

Tesla has been a repeat violator of air pollution limits at the Fremont plant. In 2019, the EPA fined the company $31,000 for hazardous waste violations and required it to pay $55,000 to the Fremont Fire Department for emergency response equipment. In May 2021, Tesla was fined $1 million by the Bay Area Air Quality Management District after 33 violation notices, including pollution emissions that exceeded permit thresholds.

More: *Los Angeles Times*

# Federal Briefs

## Climate Scientists Warn of 'Global Wildfire Crisis'

The U.N. Environment Program last week released a study that claims the worldwide risk of highly devastating fires could increase by up to 57% by the end of the century, primarily from climate change.

The scientific assessment, which was produced by more than 50 researchers from six continents, is the first by the organization's environmental authority to evaluate wildfire risks worldwide and was inspired by a string of deadly blazes around the globe in recent years.

In a moderate scenario for global warming,

| © RTO Insider LLC

the likelihood of extreme, catastrophic fires could increase by up to a third by 2050 and up to 52% by 2100, the report estimates. If emissions are not curbed, wildfire risks could rise by up to 57% by the end of the century.

More: *The New York Times*

## Dakota Access Pipeline Suffers SCOTUS setback

The U.S. Supreme Court last week rejected a bid led by Dakota Access oil pipeline operator Energy Transfer LP to avoid additional environmental review of a section that runs under an artificial lake and is opposed by Native American tribes.

The justices left in place a lower court's decision that ordered the federal government to undertake a more intensive environmental study of the pipeline's route underneath Lake Oahe, which straddles the border of North Dakota and South Dakota. Energy Transfer said in court papers that the pipeline remains "vulnerable to a shutdown" with the new environmental review pending.

The U.S. Army Corps of Engineers said it expects to complete the review later this year.

More: *Reuters*

### IEA: Oil, Gas Facilities Could Profit from Plugging Methane Leaks

Plugging methane leaks from oil and gas facilities would be free of cost almost everywhere in the world and, in many cases, would produce a significant profit, the International Energy Agency said last week.

Governments have been underreporting emissions of methane to a dramatic extent, and those emissions are still rising fast, said the Global Methane Tracker report released by the IEA. Using satellites and other data, the energy watchdog found emissions were about 70% higher than governments had suggested.

About 40% of methane emissions from human activity come from the energy sector, mostly from leaky oil and gas wells and pipelines, or fracking operations, but in many countries few attempts are made to control emissions. Last year, leaks amounted to as much gas as Europe burns for power in a year. If that methane had been captured and used, the current gas crisis and soaring prices could have been largely avoided, the IEA said.

More: *The Guardian*

### NRC Puts Turkey Point License Extension on Hold

The Nuclear Regulatory Commission last week reversed its prior decision to allow the Turkey Point nuclear plant to continue running until 2053 and instead ordered a new review of potential environmental risks associated with its operation along Florida's Biscayne Bay.

The order is a flip-flop of a 2019 decision to extend Florida Power & Light's operating license for the two reactors to an unprecedented 80 years — until 2052 for one and 2053 for the other.

An NRC spokesperson said that after a utility submits its own EIS, its technical staff will use that to do its own examination and write a draft EIS. The public will then get a chance to comment on that draft before the NRC finalizes the statement and decides on the license extension request. The commission also ordered staff to change the expiration of the operating license back to 2032 and 2033 and asked FP&L to submit its opinion on the "practical effects" of the decision by March 31.

More: *Miami Herald*

### USPS Finalizes Plans to Buy Mostly Gasoline-powered Trucks

The U.S. Postal Service last week finalized plans to purchase up to 148,000 gasoline-powered mail delivery trucks, defying Biden administration officials' objections that the multibillion-dollar contract would undercut the nation's climate goals.

Postmaster General Louis DeJoy decided to replace the delivery fleet with 90% gas-powered trucks and 10% electric vehicles at a cost of as much as $11.3 billion. The contract, orchestrated by DeJoy, offers only a 0.4-mpg fuel economy improvement over the agency's current fleet.

DeJoy said the agency was open to pursuing more EVs if "additional funding — from either internal or congressional sources — becomes available." But he added that the agency had "waited long enough" for new vehicles.

More: *The Washington Post*

# State Briefs

## COLORADO

### PUC Approves Xcel's New Tx Line

The Public Utilities Commission last week approved Xcel Energy's plan to build a $1.7 billion transmission loop around the Eastern Plains.

Xcel Energy and other utilities proposed the "Power Pathway" to assist in the transition from fossil fuels to renewable energy; it calls for 560 miles of high-voltage transmission lines and four new substations. Once completed, Xcel said it will have enough capacity to transmit 5,500 MW of wind and solar power to the grid.

The company hopes to complete the first segments in 2025.

More: *CPR News*

## INDIANA

### Delaware County Commissioners Order Solar Farm Moratorium

Delaware County commissioners last week ordered a one-year moratorium on solar farm development in the wake of tons of local opposition to the Meadow Forge solar project.

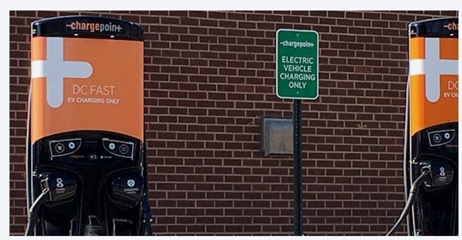
Commissioners also asked Marta Moody, Delaware-Muncie Metropolitan Plan Commission executive director, to create a study committee consisting of people on all sides of the issue to develop a way forward for solar energy in the county.

Meadow Forge is a proposed project by Invenergy, which estimated $50 million in landowner payments over the life of the project and $155 million in direct investment in the county.

More: *Muncie Star Press*

### EV Charging Sales, Pilot Program Funding Bill Passes Senate

The state Senate last week passed a bill that will allow businesses to offer electric vehicle charging without being subject to utility rules.




While the bill would allow places such as gas stations to offer charging, it would require those businesses to get their energy from their local utility.

The bill would also allow utilities to recover money from customers for public charging stations in pilot programs.

More: *Indiana Public Media*

## LOUISIANA

### PSC Says Entergy Can Pass Storm Costs onto Customers

The Public Service Commission last week voted to let Entergy borrow $3.2 billion via bonds to pay for repairs and restoration after storms clobbered the state in 2020 and 2021, effectively passing those costs on to ratepayers who must pay back the money on their monthly bills over 15 years.

Utility customers will see about an $8 increase on their bills. However, the $3.2 billion includes less than half the estimated costs Entergy said were incurred by Hurricane Ida. The company expects to seek at least another $1 billion.

Commissioner Foster Campbell chastised the utility, saying "I'm sick of the free ride y'all get. When all is said and done, Entergy will not pay one quarter ... it will all be paid by the ratepayers."

More: *Nola.com*

## MICHIGAN

### Indiana Michigan Power Proposes High-Voltage Line Projects

Indiana Michigan Power last week said it will invest about $56 million to enhance its transmission network across southwest Michigan, as it plans to build two power lines and upgrade two substations.

The White Pigeon Transmission Line Improvements Project involves building approximately 9 miles of 138-kV power line in St. Joseph County and upgrading the Stubey Road Substation, while the South Cass County Transmission Line Project involves building 3 miles of 138-kV line between an existing line and the Surges Road Substation.

More: *WTVB*

## MISSOURI

### St. Louis Region Logs Record Demand for Heating Help

Heat Up St. Louis, a nonprofit that works across 44 counties, last week said inquiries for heating bill aid this year have jumped by 60% compared to a year ago — growing to 56,000 from 35,000 at the same time last winter.

The jump comes as many continue to face economic hardships from the COVID-19 pandemic and after natural gas prices rose substantially heading into this winter's heating season. December rate adjustments raised bills for St. Louis-area gas customers by an estimated 25%.

Spire, the area gas utility, said its data on financial assistance seemed to match last year's, with about 20,000 to 25,000 customers looking for help. Its regional customers saw their rates driven higher in December by a 59% jump in gas costs, largely because of costs that the company incurred last winter.

More: *St. Louis Post-Dispatch*

## NEW MEXICO

### PRC Approves Plan to Keep San Juan Generating Station Open

The Public Regulation Commission last week approved a plan by the Public Service Co. of New Mexico to keep one unit at the San Juan Generating Station running through September rather than close it this summer as planned.

PNM said the extra capacity is needed to help lessen the risk of blackouts during hot weather.

The utility also said challenges remain to ensure customer needs are met in the summer of 2023 because of regulatory delays related to another case that involves the upcoming expiration of leases for power generated by the Palo Verde nuclear plant in Arizona.

More: *The Associated Press*

## TENNESSEE

### TVA Placed Bid on Memphis' Electricity Supply

Despite saying in 2019 that the Tennessee Valley Authority would not bid to supply Memphis, Light, Gas and Water with electricity, CEO Jeff Lyash recently admitted that the federal energy provider did indeed submit a bid last December.

TVA's bid included electricity pricing for 20 years and included several pages of presentations with some of the same inducements TVA offered Memphis in July 2020.

The proposal joined more than a dozen others that came from the private sector on Memphis and Shelby County's electricity supply. TVA currently supplies Memphis with all its electricity, but recently MLGW and Memphis have weighed whether it is time to leave TVA and purchase power elsewhere.

More: *Memphis Commercial Appeal*

## WYOMING

### Fourth Attempt at Coal Tax Cut Survives Committee

House Bill 105, which is aimed at reducing the state severance tax rate on coal, was approved last week by the Revenue Committee by a 44-15 vote.

The bill would lower the tax on surface coal from 7% to 6.5%. A half-percent severance tax reduction would save coal companies — and cost the state — an estimated $10 million annually.

HB 105 will return to the House floor for its next vote.

More: *Casper Star-Tribune*