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RTO Insider

YOUR EYES AND EARS ON THE ORGANIZED ELECTRIC MARKETS

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

COVER: The Supreme Court |

RTO Insider

Your Eyes and Ears on the Organized Electric Markets

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RTO Insider LLC
10837 Deborah Drive
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(301) 658-6885

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In this week's issue

Correction

A story in last week's newsletter, *ERCOT Board of Directors Briefs: June 21, 2022*, incorrectly reported that NPRR 1110 had increased the black start servicer procurement period from two to four years. The procurement period was actually increased to only three years.

Counterflow

By Steve Huntoon

Say It Ain't So, Joe!

By Steve Huntoon

As the story goes, Shoeless Joe Jackson was leaving the Cook County Courthouse in 1920 amid the Black Sox scandal when a kid yelled, "Say it ain't so, Joe!"[1]

I felt like that kid when I read that FERC proposes to wipe out competition in transmission.[2]

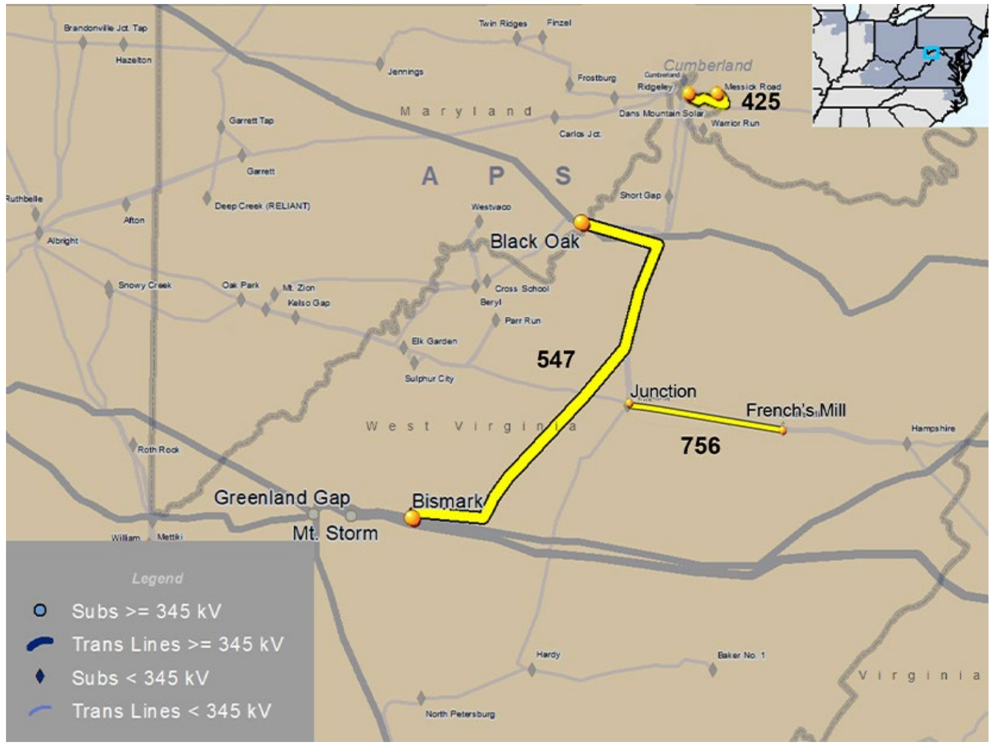
What's the public policy case for this? The oft-repeated claim that transmission competition isn't working. I call this truth by repetition.[3]

The reality, as I pointed out five years ago,[4] is that transmission competition works great — when and where it's allowed to work. The problem is that it's been hobbled since its advent in FERC Order 1000. As Professor Paul Joskow concludes: "The progress has been slow but promising."[5]

Transmission Competition Works

Let me give you an example of how transmission competition works. PJM biennially identifies highly congested facilities and has a competitive solicitation for solutions. The table below shows the most recent PJM evaluation of proposed solutions to one source of congestion.[6]

Proposal 756 is 100% effective at mitigating congestion and costs $770,000; Proposal 547 is 99.97% effective and costs $136,070,000.



Map shows three proposals in response to PJM's request for market efficiency transmission projects in the APS zone. Not shown are proposals to add capacitor banks at the Reston and Bull Run 230-kV substations. | *PJM*

Which should consumers have to pay for?

Here's the rub: Absent a transparent, competitive process, how would anyone know about the $770,000 solution? And no one being the wiser, if the notice of proposed rulemaking is correct that adding rate base is what incents transmission owners,[7] why wouldn't a TO want the $136,070,000 solution?

Proposal ID	102	425	540	547	756
Proposal Description	Reston 230kV Capacitor	Reconductor Messick Rd-Ridgeley	Bull Run 230kV Capacitor	Black Oak to Bismark 500kV Line	French's Mill - Junction Terminal Upgrades
Project Type	Upgrade	Upgrade	Upgrade	Greenfield	Upgrade
B/C Ratio Metric	Lower Voltage	Lower Voltage	Lower Voltage	Regional	Lower Voltage
In-Service Cost ($MM)	$1.89	$11.99	$5.73	$128.75	$0.77
Cost Containment	No	No	No	Yes	No
In-Service Year	2022	2025	2023	2025	2022
% Cong Driver Mitigated	0%	100%	0%	99.97%	100%
2025 Shifted Cong ($MM)	N/A	Bla-Bed Interface	N/A	Bla-Bed Interface	Messick Rd-Ridgeley, Bla-Bed Interface
15-Yr NPV NLP Benefit ($MM)	N/A	$99.64	N/A	$136.07	$97.45
Base Case B/C Ratio	N/A	7.86	N/A	0.60	119.03
No9A Sens. B/C Ratio	N/A	15.86	N/A	1.45	193.19
FSA Sens. B/C Ratio	N/A	N/A	N/A	N/A	N/A
Low Load B/C Ratio	N/A	N/A	N/A	N/A	N/A
High Load B/C Ratio	N/A	N/A	N/A	N/A	N/A
Low Gas B/C Ratio	N/A	N/A	N/A	N/A	N/A
High Gas B/C Ratio	N/A	N/A	N/A	N/A	N/A

PJM selected Proposal 756, which called for spending $770,000 on terminal equipment upgrades at the French's Mill and Junction 138-kV substations, to improve market efficiency in the APS zone. Proposal 547, a new 500-kV line found to be slightly less effective, would have cost more than $136 million. | *PJM*

Please note that consumers are not well protected by regulatory oversight. As Joskow observes: "FERC does not have a well-developed process to scrutinize the costs presented to it for inclusion in the transmission owners' revenue requirements or a history of disallowing unreasonable costs."[8]

Even when the competition is not in solutions, but simply in procurement of the same basic project, national and international experience suggests cost savings in the 20 to 30% range.[9] And this is capital cost savings, which does not include the additional savings from a lower cost, competitive capital structure for determining the annual revenue requirement.

Exceptions to Competition: NOPR Misdiagnosis and Misdirection

The NOPR says the problem with competition is that TOs are motivated to avoid it through exceptions, which leads to smaller, less expensive solutions.[10] As I said in my last column,[11] that can be a *good* thing! Why build large greenfield transmission lines when a simple upgrade relieves the problem (like the PJM example in the prior section)?

If there really is a problem with an incentive for

Counterflow

By Steve Huntoon

less expensive solutions because of exceptions, the right answer is to minimize the exceptions. Not go the other way and eliminate competition!

The NOPR's Substitute is Escher Stairs Leading to Synthetic Monopoly

Finally, a few words about the NOPR's proposed substitute for competition: Requiring some sort of joint ownership of a given project. For anyone concerned about delays in getting new transmission built, please read NOPR paragraphs 358-382, and contemplate the endless squabbling and litigation that this concept portends. The possibilities are endless!

As for the NOPR notion that joint ownership could somehow provide "at least some of the potential cost-related benefits of competitive transmission development processes,"[12] let's recognize that each joint owner would have a shared interest in building the most expensive project possible. That is a coordinated oligopoly, and it performs no differently than a monopoly.[13] Not to be confused with competition!

In Short

FERC, please preserve and expand competition, a better angel of our nature. ■

[1] Baseball buffs know that the story is mostly false. Some White Sox players were bribed to throw the 1919 World Series, but there's no evidence Shoeless Joe Jackson was one of them. And there probably wasn't a kid. More here: http://www.thisdayinquotes.com/2009/09/it-ain-so-joe-actually-wasnt-so.html

[2] Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection, Notice of Proposed Rulemaking, 179 FERC ¶ 61,028 (April 21, 2022) ¶ 351-353; https://www.rtoinsider.com/articles/30016-analysis-ferc-giving-up-on-transmission-competition

[3] For a compilation of transmission owner complaints about competition, please see the Reply Comment of the Harvard Electricity Law Initiative here, https://elibrary.ferc.gov/eLibrary/filedownload?fileid=708A1BD1-1F98-CFCD-9EE1-7D7298400000.

[4] https://www.energy-counsel.com/docs/FERC-Order-1000-Need-More-of-Good-Thing.pdf.

[5] https://ceepr.mit.edu/wp-content/uploads/2021/09/2019-004.pdf, page 55.

[6] https://pjm.com/-/media/committees-groups/committees/teac/2021/20211130/20211130-item-02-market-efficiency-update.ashx, slide 26.

[7] NOPR ¶¶ 350, 353, 355, 358, 375.

[8] https://ceepr.mit.edu/wp-content/uploads/2021/09/2019-004.pdf, page 17.

[9] https://www.brattle.com/wp-content/uploads/2021/05/16726_cost_savings_offered_by_competition_in_electric_transmission.pdf, page 1. In SPP's most recent competitive procurement, the successful bid was 43% less than the highest bid, and the successful bid had excellent other features. https://www.spp.org/documents/66929/minco-pleasant%20valley-draper%20rfp%20iep%20public%20report.pdf, pages 67-69.

[10] NOPR ¶¶ 350, 353, 355, 358, 375.

[11] https://energy-counsel.com/wp-content/uploads/2022/06/Stuff-That-Ain-t-so.pdf

[12] NOPR ¶ 358.

[13] https://saylordotorg.github.io/text_principles-of-managerial-economics/s07-03-oligopoly-and-cartels.html

FERC/Federal News

Biden Admin. Sees Climate Action Via Private Sector After Court Ruling

EPA 'Lost Flexibility,' Regan Acknowledges

By K Kaufmann

National Climate Advisor Gina McCarthy: "The private sector isn't sitting around twiddling its thumbs about one provision in the Clean Air Act." | *CNN*

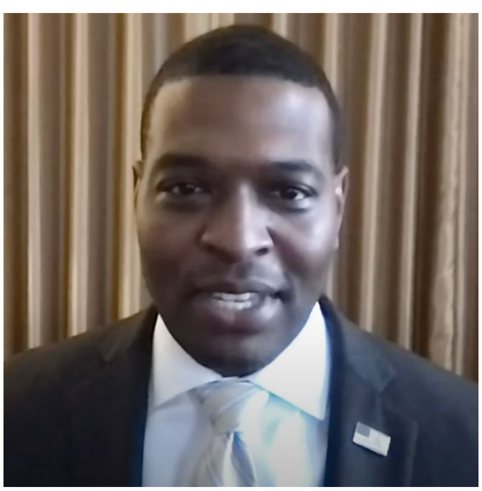
Before the U.S. Supreme Court ruled Thursday to limit the Environmental Protection Agency's ability to regulate carbon emissions from existing power plants, the White House released a *fact sheet* announcing that 61 major hospitals and health sector companies had pledged to cut their greenhouse gas emissions 50% by 2030.

These commitments, from some of the country's largest hospital systems, came in response to the administration's Health Sector Climate Pledge. With the health care sector accounting for 8.5% of the nation's GHG emissions, the fact sheet said, the administration "is committed to using every available tool to protect public health, while moving full-speed ahead with our mission to tackle the climate crisis."

Exactly what those tools might be, how they might be used and the role of the private sector in the fight against climate change quickly became a central theme in the administration's response to the court's ruling in *West Virginia v. EPA*.

In a statement Thursday, Biden promised continued action on climate, including a careful review of the decision to "find ways that we can, under federal law, continue protecting Americans from harmful pollution, including pollution that causes climate change."

EPA Administrator Michael Regan and National Climate Advisor Gina McCarthy



EPA Administrator Michael Regan: "The markets have already spoken." | *PBS*

amplified the administration's stand in media appearances. Speaking on *PBS New Hour* on Thursday, Regan called the ruling "devastating" and "frustrating," but said his agency still has the authority to regulate climate and "health-based pollution" from power plants.

"We have just lost some flexibility there," he acknowledged, adding, "we're hoping that, when they [generation operators] look at the regulation of waste and discharges in water, climate pollution, health-based pollution, they will see that it's not worth investing in the past and they will continue to do what they're doing now, which is invest in the future.

"The market is already moving in this direction. And it's our obligation as the government to be able to provide some certainty, so that they can make longer-term investments," he said.

In a June 28 *interview* with Time magazine, McCarthy anticipated the court's ruling, saying the administration would need to find "creative" ways to continue the climate fight.

"It can't just be about using regulations or using Congress to fix this," said McCarthy, who headed the EPA during the Obama administration, when the agency proposed the Clean Power Plan rejected by the court. She pointed to Biden's ongoing engagement with the private sector — the health care industry, for example — and the use of its own purchasing power and the Defense Production Act to promote investment in clean energy. (See *Biden Waives Tariffs on Key Solar Imports for 2 Years*.)

"We're making significant progress on the transition to clean energy, and that is not going to live and die by the Supreme Court's decision," she said.

The former EPA administrator was even more outspoken in *a June 30 interview* with CNN following the ruling. While the decision "sent a signal that the Supreme Court is interested continually in going backwards instead of forwards … the private sector is all in on this transition to clean energy because it makes them money," she said. "And we're interested in it because it creates jobs, it lowers costs for families that are trying to struggle with energy costs today … and we're succeeding, which is why this decision actually happened."

Separation of Powers

The Clean Power Plan sought to cut power sector carbon emissions by 32% compared with 2005 levels by substituting coal-fired generation with natural gas and renewables. The court's 6-3 ruling voided the CPP, saying that without "clear congressional authorization," EPA lacks authority to compel generation shifting to reduce carbon emissions. (See *Supreme Court Rejects EPA Generation Shifting.)*

The immediate impact of the ruling is minimal, as the Clean Power Plan was withdrawn by the Trump administration, and the Biden administration has said it would not attempt to implement it. Moreover, the Biden administration says the electric industry achieved the CPP's emission limits a decade ahead of its 2030 deadline, without the regulation.

But as the latest in a series of orders by the conservative-dominated court to limit executive agencies' discretion, it could act as a constraint on any future EPA action.

Noting that the decision is rooted in the concept of separation of powers, industry analysts ClearView Energy Partners said going forward, EPA "policy ambitions are limited to clearly expressed congressional authority."

Similarly, in a post-decision blog, Jay Duffy, an attorney with the Clean Air Task Force, said the ruling takes generation shifting, the "most efficient, cost-effective emissions reduction measure off the table."

But Duffy says the decision does uphold an essential tool for the EPA – its right to regulate carbon dioxide from power plants under the Clean Air Act. The agency has "ample authority to set stringent existing source standards based on directly applied pollution control technologies and techniques, such as carbon capture and sequestration and co-firing with zero-carbon fuels," he said.

Market mechanisms, such as emission trading — "as long as the trading is between power plants in the [same] source category" — could also be available, Duffy said.

Echoing Regan, ClearView pointed to EPA's ability to tighten rulemakings for health-based and other pollution — such as mercury and wastewater — that "could make the operation of coal plants more expensive." But ClearView cautions, in light of *West Virginia v. EPA*, Regan "may be well-served to downplay any potential climate 'co-benefits' associated with incremental tightening of those regulations and clearly articulate the wisdom and affordability of tightening each for their own sake."

West Virginia v. EPA has also intensified calls for congressional action on clean energy, specifically the portfolio of clean energy tax credits from the failed Build Back Better Act, now being renegotiated in the Senate. With the midterms looming and gas prices and inflation still high, the likelihood of Senate Democrats hammering out a compromise that can gain the support of party conservatives — particularly Sen. Joe Manchin (D-W. Va.) — and House progressives seems tenuous at best.

Private Sector

The private and tech sectors, which invariably move faster than regulators or law makers, are now providing major momentum for the clean energy transition, a momentum Biden clearly wants to accelerate and leverage.

In another pre-decision *fact sheet*, the White House heralded more than $700 million in private sector investments in electric vehicle charging manufacturing in the U.S., which would produce about 250,000 EV chargers per year.

Such investments have been catalyzed, the fact sheet said, by the $7.5 billion for EV charging infrastructure in the Infrastructure Investment and Jobs Act and the president's goal of having electric vehicles make up 50% of new car sales in the U.S. by 2030. State policy, like California's target of ending all sales of new gas-powered vehicles by 2035, are also moving the market.

The fact sheet cited a $450 million investment by Electrify America to expand its network of fast chargers with a "rapid deployment of up to 10,000 ultra-fast chargers at 1,800 charging stations, more than the number of high-power chargers available in the United States today."

Technology giant Siemens has also invested $250 million to increase its U.S. manufacturing capacity, with the goal of producing one million chargers over the next four years.

While policy can be a drag on the private sector, it has rarely stopped it. Or as McCarthy said on CNN, "The private sector isn't sitting around twiddling its thumbs about one provision in the Clean Air Act. It is worried about moving forward to capture the clean energy market of today." ■

Supreme Court Rejects EPA Generation Shifting

By Rich Heidorn Jr.

The Supreme Court | © *RTO Insider LLC*

The Supreme Court on Thursday ruled 6-3 that EPA lacks authority to compel generation shifting to reduce carbon emissions, saying the agency failed to provide "clear congressional authorization" for the rulemaking (*West Virginia, et al. v. EPA, et al.*).

The immediate impact of the court's ruling is minimal: It voided the Obama-era Clean Power Plan, which was withdrawn by the Trump administration, and the Biden administration has said it would not attempt to implement it.

But as the latest in a series of orders by the conservative-dominated court to limit executive agencies' discretion, it could act as a constraint on any future EPA action. The Biden administration told the court in oral arguments in February that it planned to issue a replacement for the CPP by the end of this year. (See *Supreme Court Hears Arguments on EPA Authority over GHGs*.)

President Biden called the ruling "another devastating decision that aims to take our country backwards." He said he has directed officials to review the decision "and find ways that we can, under federal law, continue protecting Americans from … pollution that causes climate change."

The CPP sought to cut power sector carbon emissions by 32% compared with 2005 levels by 2030 by substituting coal-fired generation with natural gas and renewables. EPA said it was permitted under Section 111(d) of the Clean Air Act, which empowers it to impose standards "for any existing source" based on limits "achievable through the application of the best system of emission reduction" (BSER) that has been "adequately demonstrated."

Chief Justice John Roberts authored the majority opinion, joined by Justices Thomas, Alito, Gorsuch, Kavanaugh and Barrett. | *U.S. Supreme Court*

The majority opinion, authored by Chief Justice John Roberts and joined by Justices Clarence Thomas, Samuel Alito, Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett, agreed with opponents who contended EPA's authority to regulate power plants is limited to steps individual plants can make "inside the fence line."

"At bottom, the Clean Power Plan essentially adopted a cap-and-trade scheme, or set of state cap-and-trade schemes, for carbon," the court said. It reversed the D.C. Circuit Court of Appeals' 2-1 ruling in 2021 that vacated the Affordable Clean Energy (ACE) rule, with which the Trump administration had proposed to replace the CPP. (See *DC Circuit Rejects Trump ACE Rule*.)

Roberts said the legality of the CPP was one of the "extraordinary cases" that require the court to weigh the "history and the breadth of the authority" claimed by an agency and the "economic and political significance" of its actions.

The court said the "major questions doctrine" was necessary to address "a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted."

It cited previous rulings denying the Food and Drug Administration from claiming authority over tobacco products (*FDA v. Brown & Williamson Tobacco*, 2000); rejecting the Centers for Disease Control and Prevention's authority to institute a nationwide eviction moratorium to prevent the spread of COVID-19 (*Alabama Association of Realtors v. Department of Health and Human Services*, 2021), and the Occupational Safety and Health Administration's mandate requiring employees obtain a COVID vaccine or undergo weekly testing (*National Federation of Independent Business v. OSHA*, 2022).

Before the CPP, the court said, EPA had always set emissions limits under Section 111 "based on the application of measures that would reduce pollution by causing the regulated source to operate more cleanly."

The Biden administration disputed that characterization, citing EPA's 2005 Clean Air Mercury Rule, which it says relied on a cap-and-trade mechanism to reduce emissions. But Roberts said that rule set an emissions cap based on what was achievable by technologies that could be installed on power plants. "By contrast, and by design, there is no control a

FERC/Federal News

coal plant operator can deploy to attain the emissions limits established by the Clean Power Plan," Roberts said.

EPA said it was operating within the law by limiting its regulations to those that will not be "exorbitantly costly" or "threaten the reliability of the grid."

"But this argument does not so much limit the breadth of the government's claimed authority as reveal it," Roberts wrote. "On EPA's view of Section 111(d), Congress implicitly tasked it, and it alone, with balancing the many vital considerations of national policy implicated in deciding how Americans will get their energy. EPA decides, for instance, how much of a switch from coal to natural gas is practically feasible by 2020, 2025 and 2030 before the grid collapses, and how high energy prices can go as a result before they become unreasonably 'exorbitant.' There is little reason to think Congress assigned such decisions to the agency."

While Congress amended the National Ambient Air Quality Standards statute to explicitly authorize use of cap-and-trade as a compliance mechanism, it did not do so regarding carbon or Section 111, Roberts said.

"Generation shifting can be described as a 'system' … capable of reducing emissions," Roberts acknowledged. "But of course almost anything could constitute such a 'system'; shorn of all context, the word is an empty vessel. Such a vague statutory grant is not close to the sort of clear authorization required by our precedents."

"When Congress seems slow to solve problems, it may be only natural that those in the executive branch might seek to take matters into their own hands," Gorsuch wrote in a concurrence with Alito. "But the Constitution does not authorize agencies to use *pen-and-phone regulations* as substitutes for laws passed by the people's representatives."

Dissent

Justice Elena Kagan wrote a dissenting opinion, joined by Justices Breyer and Sotomayor. | *U.S. Supreme Court*

The majority's ruling denies EPA "the power Congress gave it to respond to 'the most pressing environmental challenge of our time,'" Justice Elena Kagan responded in a dissent, quoting from the court's 2007 ruling that carbon dioxide and greenhouse gases are air pollutants under the Clean Air Act and can be regulated by EPA (*Massachusetts v. EPA*).

"The majority's decision rests on one claim alone: that generation shifting is just too new and too big a deal for Congress to have authorized it in Section 111's general terms. But that is wrong. A key reason Congress makes broad delegations like Section 111 is so an agency can respond, appropriately and commensurately, to new and big problems," said Kagan, who was joined by Justices Stephen Breyer and Sonia Sotomayor in the dissent.

"Section 111 does not impose any constraints — technological or otherwise — on EPA's authority to regulate stationary sources (except for those stated, like cost). In somehow (and to some extent) saying otherwise, the majority flouts the statutory text," she wrote.

"The current court is textualist only when being so suits it. When that method would frustrate broader goals, special canons like the 'major questions doctrine' magically appear as get out-of-text-free cards," Kagan continued. "Today, one of those broader goals makes itself clear: prevent agencies from doing important work, even though that is what Congress directed. That anti-administrative-state stance shows up in the majority opinion, and it suffuses the concurrence."

Kagan said even facility-specific controls dictate "the national energy mix to one or another degree."

"That result follows because regulations affect costs, and the electrical grid works by taking up energy from low-cost providers before high-cost ones. Consider an example: Suppose EPA requires coal-fired plants to use carbon-capture technology. That action increases those plants' costs, and automatically (by virtue of the way the grid operates) reduces their share of the electricity market. … Everything EPA does is 'generation shifting.' The majority's idea that EPA has no warrant to direct such a shift just indicates that courts sometimes do not really get regulation."

Kagan also challenged the majority's fear of the cost of the Obama plan, saying the CPP, "we now know, would have had little or no impact."

During arguments before the court in February, the Biden administration said the electric industry achieved the CPP's emission limits a decade ahead of schedule — without the regulation in place. Opponents countered that although the standards were largely met nationwide, 20 states had not met them. ■

National/Federal news from our other channels

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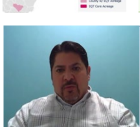
EQT CEO: Shale Gas Key to National Security, Hydrogen Economy — NetZero Insider



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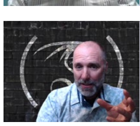

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What They're Saying About West Virginia v. EPA Decision

GOP Says Ruling 'Returns Power to the People'; Democrats Vow to Fight on

By K Kaufmann

Washington Gov. Jay Inslee | *© RTO Insider LLC*

Reactions to the Supreme Court's decision in *West Virginia v. EPA* came fast and, predictably, framed with an eye on upcoming midterm elections.

The 6-3 decision overturned a lower court ruling that had upheld the EPA's authority to regulate carbon emissions from existing power plants under the Clean Power Plan developed during the administration of former President Barack Obama and overturned by his successor, former President Donald Trump. (See related story, *Supreme Court Rejects EPA Generation Shifting*.)

"Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible 'solution to the crisis of the day,'" said Chief Justice John Roberts, writing for the majority. "But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in Section 111(d) [of the Clean Air Act]. A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body."

Republicans and fossil fuel industry groups praised the court, decried the Biden administration's regulatory "overreach" and linked federal efforts to cut greenhouse gas emissions to high gas prices and the threat of summer power outages.

Democrats and clean energy advocates meanwhile criticized the court for its backward-looking decision and called for federal and state legislative action in response.

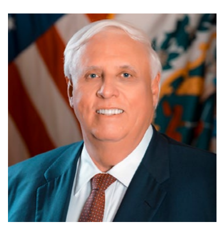
But on Twitter, and among legal and energy experts, the reactions were more measured, seeing the decision as a curb on EPA authority but far from gutting its ability to regulate greenhouse gas emissions under the Clean Air Act.

For many, the question is how the decision will affect President Joe Biden's goal of cutting greenhouse gas emissions 50% by 2030, the U.S. commitment under the Paris climate accords.

John Bistline, a program manager at the Electric Power Research Institute, said reaching that goal will mean policies will have to evolve. Bistline said the country still has "a lot of ways we could potentially reach those targets that could be combinations of federal and state policies, things like a CO_2 cap-and-trade system … regulation like performance standards, including the ones that were at the center of today's decision, as well as broader incentives, things like enhanced tax credits."

But Bistline also said the decision could create uncertainty for utilities and other businesses. Based on existing policies, the U.S. will only be able to cut GHG emissions 6% to 28% below 2005 levels by 2030, he said.

The Governors



West Virginia Gov. Jim Justice | *Office of Gov. Jim Justice*

West Virginia Gov. Jim Justice (R) was among the first to weigh in on the decision. "This ruling … will stop unelected bureaucrats in Washington, D.C., from being able to unilaterally decarbonize our economy just because they feel like it," Justice said. "Instead, members of Congress who have been duly elected to represent the will of the people across all of America will be allowed to have a rightful say when it comes to balancing our desire for a clean environment with our need for energy and the security it provides us."

Texas Gov. Greg Abbott (R) called the ruling a "landmark victory against an out-of-control administration" and "a big win for Americans who worry about skyrocketing energy costs due to expensive federal regulations that threaten our energy industry." Texas and West Virginia were among 20 states that joined in the court challenge.

But California Gov. Gavin Newsom (D) slammed the court for siding "with the fossil fuel industry [and] kneecapping the federal government's basic ability to tackle climate change. Today's ruling makes it even more imperative that California and other states succeed in our efforts to combat the climate crisis. While the court has once again turned back the clock, California refuses to go backward — we're just getting started."

Washington Gov. Jay Inslee (D) agreed in a Twitter post, saying the court had "dealt a blow to federal efforts to combat [the] climate change ravages of coal fired pollution. This means we, in our own state, need to up our game. We are fully up to the task. States like [Washington] have been leading on climate action, and we aren't done."

Capitol Hill

Congressional leaders on both sides of the aisle declared themselves ready to use their legislative authority, although with very different goals in mind.

"When Congress acts to address major policy questions affecting Americans and their livelihoods, it says so clearly, explicitly," said Cathy

FERC/Federal News

McMorris Rodgers (R-Wash.), ranking member of the House Energy and Commerce Committee. "It does not hide sweeping authorities of the executive branch in obscure provisions of the law … This decision restores power to the people through their elected representatives."

Rep. Cathy McMorris Rodgers | *House E&C Committee*

Sen. John Barrasso (R-Wyo.), ranking member of the Senate Energy and Natural Resources Committee, tweeted that the decision "rightfully reins in unreasonable and unlawful attempts to shut down American power plants and energy production."

Sen. Ed Markey | *Sen. Ed Markey via Twitter*

In response, longtime climate advocate Sen. Ed Markey (D-Mass.) said the decision "takes away the EPA's firehose and gives it a leaky bucket instead.

"We will fight in Congress and in the executive branch to do what we can and to not back down, but no one, not ISO-NE, not our state governments, not our city councils, can now sit out this crisis and wait for a climate chaos to arrive," Markey said at a Thursday press conference. "The Supreme Court will not and cannot be the last word on climate action."

"There is no doubt that this decision is the result of years of coordinated, calculated efforts by Republicans and polluting special interests to undermine Americans' right to clean, safe air," said Rep. Frank Pallone (D-N.J.), chair of the House Energy and Commerce Committee.

He called on Congress to "redouble our efforts to enact robust climate programs and investments to address the crisis we face. EPA continues to have many powerful tools at its disposal, and there is more both Congress and the president can do to meet the climate crisis head-on."

The Lawyers and Academics

Discussions on Twitter focused on the decision's "silver linings" and other pathways to GHG emissions reductions.

The court "did NOT go after EPA's authority to regulate GHGs," said Jesse Jenkins, a professor at Princeton University's Andlinger Center for Energy and Environment. "They just struck at the Obama EPA's outside fence line sectoral approach to regulate emissions under 111(d), which was always a 'creative' reading of statute, if we're being generous."

Jody Freeman, director of the Environmental and Energy Law Program at Harvard Law School, agreed, saying the decision does not strip the EPA of its authority. "The silver lining is EPA's authority to determine [the] best system of emissions reduction is intact and reinforced," she said.

Similarly, Michael Gerrard, director of the Sabin Center for Climate Change Law at Columbia University, said EPA can still regulate GHG emissions from motor vehicles and new power plants and factories. "The decision was basically about coal-fired power plants, but EPA can still regulate them in other ways, such as limiting their other air pollutants; coal ash; hot water discharges."

Trade Associations

Reactions from utility and fossil fuel trade associations supported the decision but were more moderate in tone and keyed to reflect consumer concerns.

Jim Matheson, NRECA | *NRECA*

Jim Matheson, CEO of the National Rural Electric Cooperative Association, said the decision puts the EPA back on an "appropriate regulatory path, requiring it to set achievable emissions guidelines that can be accomplished at existing power plants, while also allowing states to consider local factors and have the final say on compliance options.

"The energy decisions we make today will determine whether there are sufficient resources for the lights to come on tomorrow," Matheson said, linking early "disorderly" fossil fuel plant retirements to the threat of rolling blackouts through the summer months.

Michelle Bloodworth, CEO of America's Power, a coal industry trade association, echoed Matheson. "We urge EPA to avoid issuing a replacement rule that causes more premature coal retirements, especially as officials are warning about the prospect of electricity shortages that threaten grid reliability in many parts of the country."

America's Power CEO Michelle Bloodworth | *USEA*

While not directly commenting on the decision, the American Petroleum Institute (API), touted the industry's efforts to reduce its emissions, through "continuous innovation." The industry has already reduced its CO_2 emissions to "generational lows … outpacing the Clean Power Plan," and "will continue to work with policymakers across the federal government in support of smart regulations that build on the progress we've made on CO_2 emissions reductions while bolstering our energy security," API said.

The Advocates

Advocacy groups focused on the ripple effects the decision could have.

Sasha Mackler, executive director of the energy program at the Bipartisan Policy Center, said the ruling will cause uncertainty at a time "when greater clarity on national climate policy is needed."

"Administrative actions to reduce carbon emissions are important, but they have proven to be slow, contentious and inadequate," Mackler said. "With agencies now further constrained, the only path forward to a broad and effective program driving the transition to a national low-carbon energy system is for Congress to come together to enact durable, bipartisan energy and climate legislation."

Drew Bond, president of the Conservative Coalition for Climate Solutions, called the decision "a win for the climate and constitutional democracy.

"Innovation, not overregulation, is the solution to reducing global greenhouse gas emissions," Bond said. "Instead of looking to regulators to impose top-down mandates, activists on all sides should ask legislators to pass laws that encourage bottom-up solutions."

But Andrew Behar, CEO of As You Sow, a shareholder advocacy group, said the decision could put a damper on corporate commitments to reduce emissions "and will leave the U.S. economy behind Europe, China and other nations driving low-carbon technology development.

"Investors with trillions of assets under management are moving to decarbonize their portfolios to achieve net-zero emissions and thousands of the world's largest companies, many in the S&P 500, are setting targets for their operations and value chains to draw down their emissions to net-zero," he said. "An even playing field and clear regulatory guidelines from EPA are necessary to drive progress across the economy." ■

Southeast

SACE Says Southeastern US Unprepared to Decarbonize

By Amanda Durish Cook

None of the major utilities in the Southeastern U.S. are on track to decarbonize by midcentury or even by 2070, according to the Southern Alliance for Clean Energy's (SACE) fourth annual decarbonization tracking *report*.

The alliance said that based on the current rate of change, Duke Energy won't reach net-zero emissions until the next century. It said the Tennessee Valley Authority won't achieve the emissions target until 2088, with Southern Co., Dominion Energy and NextEra Energy decarbonizing in the early 2070s, the report said.

Although all five major utilities have announced net-zero emissions goals, only Duke Energy and NextEra have expressed them in their integrated resource plans.

SACE said Southeastern utilities will decarbonize more slowly from 2020 to 2030 than they did from 2010 to 2020.

"This is because utilities are seeing fewer and fewer emissions reductions from replacing coal generation with fossil gas," SACE said in the report. "Fossil gas has been the dominant fuel in the region for several years, so utilities looking to decarbonize at the pace seen in the 2010s must continue to retire remaining coal plants at a steady pace and replace fossil gas and remaining coal with clean, zero-carbon energy sources like wind, solar, storage and energy efficiency."

The organization said that current utility resource plans in the region indicate total CO_2 emissions will decrease only 15% from current levels by 2030. SACE said utilities would need to cut emissions by 67% by 2030 to help limit climate warming to 1.5 degrees Celsius. That would cut about 105 million tons of carbon emissions annually by 2030, it said.

SACE also warned that "some utilities may see increased emissions in the next few years as high fossil gas prices mean utilities may decide to burn more coal."

"If utilities had acted sooner, wind, solar and storage projects would have already been underway, avoiding some of this impact," the alliance said.

SACE said wind and solar generation and energy efficiency measures accounted for 6% of the Southeast's resource mix in 2020. Solar generation will account for all renewable energy's gain when it comprises 13% of the mix by 2030.

The report found that the region's total annual CO_2 emissions have dropped about 20% from their peak in 2005, driven mostly by a 35 to 40% reduction in carbon emissions from the electricity industry.

The group said it foresees a troubling increased reliance on natural gas generation in the Southeast. It also said based on Duke's and TVA's announced plans, the last coal units in the region would retire in the 2030-2035 time frame.

SACE said the Southeast is positioned "first and worst" for climate impacts.

"The Southeast is home to many frontline communities that are already being negatively affected by fossil fuels and the climate crisis. Stronger and more frequent extreme weather events, coastal flooding, poor air quality and unpredictable energy prices are likely to continue to harm our communities," the organization wrote.

SACE said the region's decarbonization could pick up if more people become interested in utilities' integrated resource planning. ■

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CAISO/West News

California Passes Sweeping Energy Policy Changes

Bills Aimed at Hastening Construction of New Generation and Storage

By Hudson Sangree

California Gov. Gavin Newsom signed major legislation Thursday that would expedite permitting for new generation and storage facilities and potentially extend the life of aging gas plants and the state's last nuclear power plant in an effort to maintain grid reliability during the coming summers.

Assembly Bill 205 and *Senate Bill 122*, introduced as placeholder measures in January, were rewritten and published as omnibus energy budget trailer bills June 26, with only a few days for public review. The State Legislature passed AB 205 on Wednesday night and sent it to Newsom to sign. Lawmakers voted on the Senate version Thursday and submitted it to the governor. Both bills took effect Friday, the start of the new fiscal year.

The measures approved Newsom's proposed $5.2 billion strategic reliability reserve consisting of "existing generation capacity that was scheduled to retire, new generation, new storage projects, clean backup generation projects, [and] diesel and natural gas backup generation projects." (See *Calif. Governor Proposes $5B 'Reliability Reserve'*.)

They also make the Department of Water Resources the backstop procurement agency for short- and mid-term reliability needs. That could mean purchasing energy from Pacific Gas and Electric's Diablo Canyon nuclear power plant, scheduled to retire in 2025, and a fleet of aging natural gas plants along the California coast. The once-through cooling plants had been scheduled to retire in 2020 because of their destruction of ocean life, but the state extended their lifespans to 2023 for grid reliability. (See *OTC Plants to Remain Open, Calif. Water Board Rules*.)

Continued reliance on the plants could extend their lifespans beyond the retirement dates, critics of the trailer bills said. The U.S. Department of Energy retains authority over Diablo Canyon, but Newsom's office has petitioned it for a share of federal funds to keep the plant operating, and the bills would set aside $75 million toward that goal.

The measures also enact sweeping changes to approvals of new energy projects by creating an "opt-in" process to allow the California Energy Commission (CEC) to consolidate permitting, including for larger solar arrays and battery installations, while mostly bypassing other federal, state and local permitting processes. The typically laborious review under the California Environmental Quality Act will also be streamlined.

Alamitos Generating Station | *California Energy Commission*

In a joint statement, environmental groups urged lawmakers to take more time to fix the bills, which they said give "unprecedented new authority and a blanket exemption for the Department of Water Resources to finance, construct and/or operate any type of energy project without compliance with existing local, state or federal laws."

The Nature Conservancy, Sierra Club and two dozen other groups also protested the creation of a new approval process at the CEC that "completely overrides the jurisdiction" of state, regional and local planning authorities.

During Wednesday night's floor debate, Democratic lawmakers, including some staunch environmentalists, defended the bills as necessary for maintaining reliability over the next several years as the state transitions toward 100% clean energy.

"We've looked at the data, and we realize that we're going to have or may have a shortfall," State Sen. Bob Wieckowski (D) said. "It may happen this summer. It may happen in 2023, 2024 [or] 2025. … It may mean in order to keep the lights on [for the residents] of California, we may have to procure some of these dirty fossil fuels."

After energy emergencies the past two summers, including rolling blackouts in August 2020, the state has struggled to bolster capacity to meet peak demand. Extreme heat, drought and wildfires have made that difficult, and state energy planners have said the state could face more shortfalls during the next four summers of 1,700 to 10,000 MW, depending on the severity of circumstances. (See *Heat, Fire and Supply Chain Woes Threaten Calif. Reliability*.)

Lawmakers previously accepted Newsom's broad energy plan in principle but left spending details to be worked out in closed-door negotiations between the governor's office and legislative leaders in recent weeks. (See *Calif. Lawmakers Offer Alternative Energy Budget*.) The result was the language in the budget trailer bills approved Thursday. ■

CAISO/West News

WEIM Governing Body Names New Member, Leaders

By Hudson Sangree

The Governing Body of CAISO's Western Energy Imbalance Market (WEIM) named a new chair and vice chair Wednesday and welcomed a new member, while honoring a longtime member who decided not to seek another term.

In its annual rotation of leaders, the *Governing Body* elected Robert Kondziolka and Jennifer Gardner to serve as its chair and vice chair, respectively.

Kondziolka, a veteran of Arizona's Salt River Project, joined the WEIM's five-member board in January 2020 and served as vice chair for the past year. On Friday he replaced outgoing Chair Anita Decker, who will remain on the Governing Body.

Kondziolka praised Decker for her efforts in a year when CAISO and WEIM reached a new power-sharing agreement and moved forward with plans for an the WEIM to launch an extended day-ahead market.

"Anita, thank you very much," Kondziolka said. "We appreciate your leadership."

Gardner, an attorney and independent energy consultant, was elected to her first term on the Governing Body in July 2021. She previously spent five years with environmental nonprofit Western Resource Advocates, where she directed its Regional Energy Markets Program.

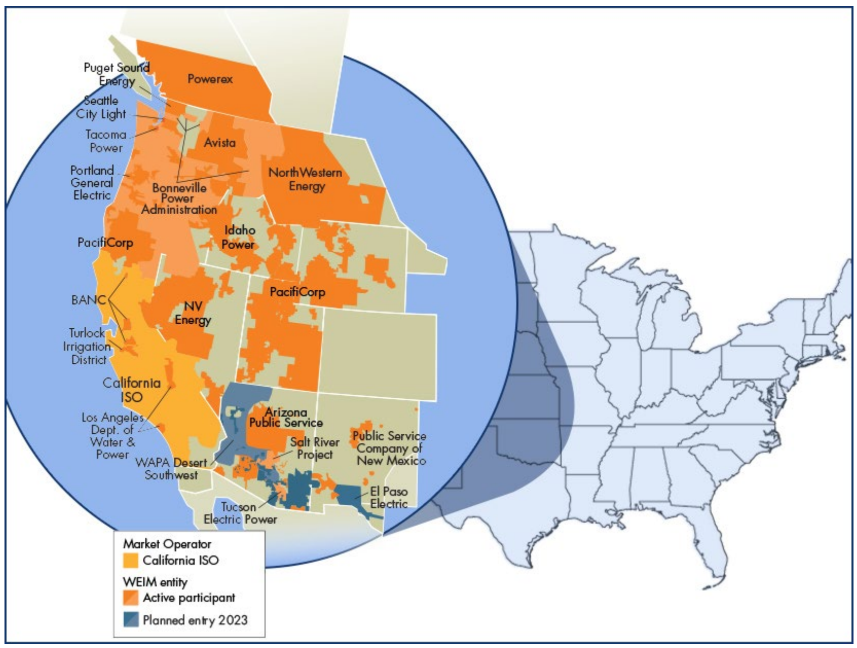
The body reappointed founding member John Prescott to a third three-year term. Prescott was CEO of Pacific Northwest Generating Cooperative until his retirement in 2016, when he joined the inaugural Governing Body.

It also appointed a new member, Andrew Campbell, executive director of the University of California, Berkeley's Energy Institute at Haas. He previously has worked as chief energy adviser to the California Public Utilities Commission.

WEIM Nominating Committee Chair Nicole Hughes said Campbell, who served on the WEIM Governance Review Committee for the past two years, was chosen from a group of well qualified candidates.

"Mr. Campbell has demonstrated wide-ranging expertise and experience that will help guide the ISO as it navigates issues relating to market rules of the Western Energy Imbalance Market and an increasingly changing energy and electricity market landscape," Hughes wrote in a memo to the body.

Campbell replaces outgoing member Valerie Fong, who has been on the Governing Body since it was formed in 2016 but decided not to seek another term. Her colleagues thanked her in a resolution for her "outstanding service and dedication" to the WEIM. ■



The WEIM includes 19 entities with three more set to join next year. | *CAISO*

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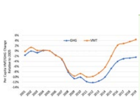

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ERCOT News

ERCOT Technical Advisory Committee Briefs

Members Continue to Work on Relationship with New Board

ERCOT stakeholders last week continued to review and tinker with their processes as they work to forge a stronger working relationship with the grid operator's new Board of Directors.

The Technical Advisory Committee has been directed by the board to come up with a procedural framework to "better involve the board and help educate the board." The committee's leadership has also been tasked with creating opportunities to interact with the board's newly created Reliability and Markets (R&M) Committee.

The new board group has not finalized its charter yet, but it will be responsible for overseeing ERCOT's core functions: planning, markets, reliability and resilience, and technology-related functions like information technology and project delivery.

That would seem to place another layer between the board and TAC. The stakeholder committee, comprising 30 market participant representatives in seven market segments, is assisted by four subcommittees and makes recommendations to the board regarding ERCOT policies and procedures. TAC is also responsible for prioritizing projects through protocol revision requests, system change requests and guide revision processes.

However, TAC Chair Clif Lange said the group will still have a direct line of communication with the board.

ERCOT's Kenan Ögelman explains unsecured credit issues to the Board of Directors. | *© RTO Insider LLC*

"[We'll] still report to the board any activities that we've undertaken, and any sort of decisions that we've rendered in terms of interacting with the R&M Committee," he said during TAC's monthly meeting June 27, basing his comments on discussions he and Vice Chair Bob Helton have had with Directors Bob Flexon and Peggy Heeg.

The board now comprises eight independent directors, the Office of Public Utility Counsel's interim public counsel and two nonvoting *ex officio* members. They replace a hybrid board of independent directors and market segment representatives that held office during the February 2021 winter storm and was criticized for not living in the state.

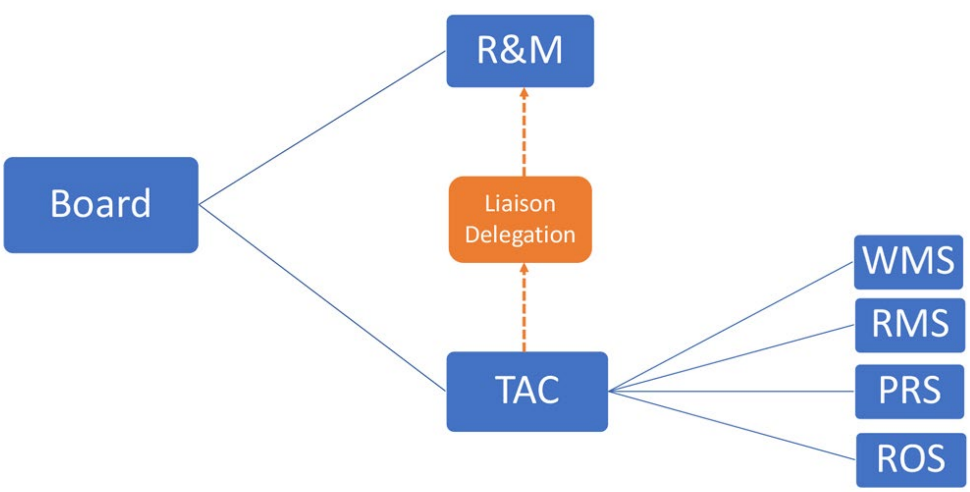
Flexon chairs the R&M Committee. He and Heeg will meet with Lange and Helton on July 11 to review TAC's proposed procedural framework.

To prepare for that meeting, TAC members reviewed and discussed the results of their recent whiteboard session. (See "TAC Reviews Structure, Procedures," *ERCOT Briefs: Week of June 13, 2022*.)

They agreed to put together a liaison delegation to advise and educate the R&M Committee on TAC decisions. The group would comprise TAC's leadership and seated members as chosen by the seven market segments, with two representing the customer segment.

TAC wants to avoid a rigid formal structure with the delegation. Instead, members are recommending a conversational dialogue and inviting the board and R&M Committee to attend or listen to TAC meetings.

Addressing board concerns that ERCOT's stakeholder-approval process takes too long,



TAC's proposed reporting structure to the board's Reliability and Markets Committee | *ERCOT*

ERCOT News

members have proposed a "shot clock" for revision requests by allowing a rule change's sponsor to request a decisive vote be taken at TAC or the subcommittee level. A seconding motion would not be required, and motions to table would not be allowed to trump the vote.

"The stakeholder process has been a very effective way to help ensure that we have as few unintended consequences as possible ... and having all of these different viewpoints weigh in. We actually get a better product because of that," Golden Spread Electric Cooperative's Mike Wise said, expressing the concerns of several other members. "I don't want to [bypass the stakeholder process]. I think we should be concerned about it. But to speed up the process, that's another issue."

TAC is also under pressure to accelerate directives from the Texas Public Utility Commission through the stakeholder process. Lange said the issue has been raised in several forums.

"Some commissioners have stated they have concerns with the time," Lange said. "The board has explicitly stated that this was something they wanted stakeholders to address."

The committee has responded by proposing that ERCOT continue to draft revision requests that result from commission orders and file them with the R&M Committee, which could endorse the request and advance it to the full board, refer it to TAC, or send it directly to a TAC subcommittee.

"I understand the commission's frustration with the time to get some things done, but the problem is the devil's really in the detail," said Nick Fehrenbach, who represents the city of Dallas in the consumer segment. "It may be a great idea what they're ordering us to do, but how do we change the protocols to where there's not unintended consequences? Are we going to end up with a situation where we're having to appeal approved protocols rather than the normal stakeholder process?

"The cure may be worse than the disease. We're on very thin ice and a very slippery slope," he said. "We need caution here."

The committee is recommending the appeals process of its decisions remain the same, with appellants taking their claims directly to the board. It is also proposing appeals could also be made to the R&M Committee, with it providing an opinion to the board.

TAC is also proposing its members have five years of experience in the electric industry, with OPUC's appointed representatives to a residential consumer seat being exempted. The members would be required to be certified by their employer that they are authorized to make segmental decisions, with alternate representatives expected to meet the same standards.

TAC leadership Bob Helton (left), Engie, and Clif Lange, STEC | *ERCOT*

"The board wants decision-makers, not note-takers," Lange said.

Members pushed back against an earlier suggestion last year that TAC comprise officer-level representatives from their companies. (See "Members Push Back Against Revamped TAC Structure, Conservative Ops," *ERCOT Technical Advisory Committee Briefs July 28, 2021*.)

TAC's subcommittees are completing self-assessments to determine whether the groups are still necessary and whether additional efficiencies can be added as part of an annual review process. The subcommittee's structural and procedural review meeting will be held in September.

SCT Project Moves Closer to Reality

TAC gave the Southern Cross Transmission (SCT) project — a merchant long-haul HVDC transmission line that would connect ERCOT with systems in the SERC Reliability region — its biggest boost yet by endorsing the final three ERCOT white papers addressing *PUC directives* to determine how to reliably interconnect the project. (See *Texas Regulators Boost Southern Cross Project*.)

The committee endorsed, without opposition:

- *Directive 1*: creates a new market participant type, "Direct Current Tie Operator," after consultation with stakeholders. SCT has told ERCOT it does not plan to join an appropriate market segment at this time, leading staff to conclude no bylaw revisions are needed at this time.
- *Directive 11*: finds that costs identified by the PUC have been appropriately addressed by resolving each of the commission's 14 directives and through a memorandum of understanding between ERCOT and SCT.
- *Directive 12*: determines that costs associated with DC tie exports have been sufficiently addressed by the other directives' resolution and that no further revision to any cost allocation mechanism is necessary.

Garland Power & Light, which owns the project's western endpoint and holds a certificate of convenience and necessity granted by the PUC in 2017, abstained from all three votes. Calpine and Luminant joined GP&L in abstaining from Directive 11.

Assuming the ERCOT board approves the white papers during its August meeting, that will only leave Directive 2, which requires the grid operator to enter a coordination agreement with the balancing authority on the eastern end of the SCT project. The project's developers *have said* that directive is not neces-

ERCOT News

sary to the PUC's review and can be completed and closed at a later date.

The project would be capable of carrying 2 GW of power between Texas and SERC over a 400-mile, double-circuit 345-kV line. The project has FERC approval and a waiver from its jurisdiction.

The project has been under regulatory review for more than seven years. PUC Commissioner Jimmy Glotfelty has taken the agency's lead on SCT and *filed* a memo in January that said it's time that the commission and ERCOT "close a chapter" on the project and allow it to "stand or fail on its own economic merits." He believes the review can be finished by the end of October (*46304*).

"It appears that both ERCOT and Southern Cross are on the same page and have been working well together over the years with the goal of completing the review [and] directives," Glotfelty wrote.

He suggested that interconnection and transmission planning issues associated with DC lines be included in a PUC rulemaking that would add a consumer benefit test for new transmission projects.

Staff Apologize for Credit Error

Kenan Ögelman, ERCOT's vice president of commercial operations, apologized to members for the math error that led to the board last month tabling a rule change endorsed by TAC that lowers counterparties' unsecured credit limit from $50 million to $30 million. (See *ERCOT Board of Directors Briefs: June 21, 2022*.)

"We should have caught that error. It's a relatively easy check. I should have caught it," Ögelman said. He said staff are developing a process going forward "where we triple check those results and catch errors before they make it out publicly."

Staff's June presentation to the board included a slide designed to show the drop in outstanding unsecured collateral as the limit is ratcheted down. Instead of decreasing the unsecured collateral for participants above the $30 million limit, the error decreased it to zero.

Ögelman said TAC would see the revised calculations during its meeting this month, with the board again taking up the issue during its August meeting.

"We pride ourselves in providing accurate analysis to both TAC and the board, and I don't think we met that standard with that presentation," he said.

Controllable Load Resource Changes

TAC took up only three changes during the meeting, endorsing a nodal protocol revision request (NPRR) and an accompanying other binding document revision request (OBDRR) on its consent agenda.

- *NPRR1131*: changes controllable load resource's participation in non-spinning reserve from offline to online non-spin. The change sets a bid floor of $75/MWh, equivalent to generation resources' offer floor when providing online non-spin. If a qualified scheduling entity also assigns responsive reserve (RRS) and/or regulation up service to a controllable load resource that has been assigned non-spin, the sum of RRS, reg-up and non-spin ancillary service resource responsibilities will be assigned a $75/MWh offer floor.
- *OBDRR040*: removes the controllable load resource providing non-spin schedules and regulation service schedules from the capacity calculations to align with NPRR1131.

The committee tabled *NPRR1127*, which clarifies the ERCOT entities required to have hotline and 24/7 communications with the grid operator and requires them to answer each hotline call. ■

— Tom Kleckner

The June Technical Advisory Committee meeting | *ERCOT*

Developer in ISO-NE Hit with FERC Fine for Capacity Market Fraud

By Sam Mintz

The company behind a Massachusetts gas plant has agreed to pay a $17 million penalty and hand back more than $26 million in profits after FERC found that it misled ISO-NE about the construction timeline of the project and took more than $100 million in capacity payments before it was in operation (*IN18-8*).

Salem Harbor Power Development received capacity payments from the grid operator for its New Salem Harbor Generating Station north of Boston during the 2017/18 capacity period, despite the fact that the project had not yet been finished or commenced commercial operation, FERC said June 27.

The company continually told ISO-NE that its planned commercial operation date was in May 2017, even as it became clear in internal discussions with construction partner Iberdrola that the project would be significantly delayed as it struggled to find welders. The plant ultimately went into operation in June 2018.

In the investigation, which started as an inquiry by ISO-NE's Independent Market Monitor before being referred to FERC's Office of Enforcement, the commission found that Salem Harbor failed to provide complete versions of its critical path schedule to the RTO as required by its tariff.

FERC also said that Salem Harbor made false claims regarding the project's schedule trajectory and violated its "duty of candor" when it officially became a seller in 2016.

Under the terms of the agreement, Salem Harbor, which is in bankruptcy proceedings, will pay a $17.1 million penalty to the U.S. Treasury and disgorge about $26.7 million in profits, which ISO-NE will distribute to market participants that were harmed by the violations.

New Details Emerge About ISO-NE Role

FERC's filing announcing the settlement agreement also contains new information about ISO-NE's communications with the project's developers.

The grid operator recently disclosed that it too is under investigation for allegedly helping Salem Harbor avoid the consequences of missing its commercial operation date (COD). (See *FERC Investigating ISO-NE over Gas Plant's Alleged Capacity Market Fraud*.)

According to FERC's investigation, ISO-NE's director of system planning encouraged Salem Harbor to keep claiming May 31, 2017, as its COD through 2016, even as the company was discussing and ultimately disclosing growing doubts about that timeline.

The director was not named in FERC's filing, and ISO-NE declined to identify the person in response to a question from *RTO Insider*.

In October 2016, the company issued a report which listed May 2017 as its COD but acknowledged delays were likely in the narrative section.

"She is fine with our narrative and just encouraged me to put in a few 'potential's' [sic] to make clear this [delay] is not a foregone conclusion," wrote a regulatory lawyer contracted with the project, after a meeting with the unnamed director.

The director later explicitly acknowledged the likelihood of the operation date slipping to ISO-NE senior management, saying that an asset management company working with Salem Harbor believed there could be delays of several months.

The director wrote that she believed the company was trying to improve its schedule and that she did not want to change the official COD because it would trigger the submission of a demand bid in the reconfiguration auction (ARA3) and force the company to give away its full capacity supply obligation.

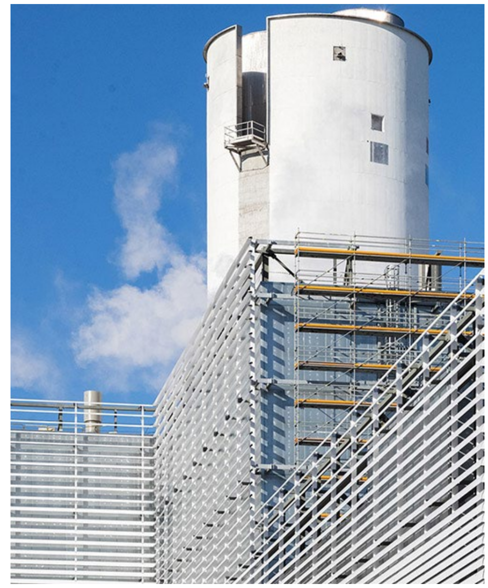
"In my opinion, they will likely be late but not significantly," the director wrote.

The director later told the lawyer that ISO-NE senior management "knows where things stand" and that her office was trying to keep others at the grid operator from "sniffing around," according to FERC's filing.

In January 2017, FERC said, ISO-NE's systems planning team declined to follow up on an employee's warning about delays in the project's development timeline.

In February 2017, a representative for Salem Harbor finally acknowledged to ISO-NE that the project's COD would have to be delayed by months. The company formally changed its COD in ISO-NE's online system in March, but only after demand bids were due for the reconfiguration auction and it could no longer be forced to shed its CSO.

FERC said that the settlement with Salem Harbor does not assert violations by anyone other than the company, but that the commission "reserves its right to make a determination as to the facts or issues of law that might give rise to any violation by any other such individual or entity."



New details emerged on ISO-NE's role in a fraud scheme by Salem Harbor. | *COOKFOX Architects*

ISO-NE Responds

ISO-NE said that it has been cooperating with FERC's investigation, but it denied wrongdoing and said it has asked the commission to drop its investigation into the grid operator's role.

The RTO has also changed its market rules since the incident to automatically penalize resources that are not in operation when their capacity payments start.

"To put it bluntly, Salem Harbor defrauded ISO New England and the region," RTO spokesperson Matt Kakley said.

He said that under the market rules at the time, "the ISO relied on the veracity of input received from market participants in determining the progression of projects in the capacity market."

Kakley also said that the conversations depicted in the FERC filing between ISO-NE staff and the company lack context.

"Market participants regularly reach out to the ISO for advice on how to navigate complex market rules," Kakley said. "In this instance, the settlement agreement fails to provide context regarding these conversations, and, at this point, our ability to respond is constrained by FERC's rules regarding confidential investigations." ■

ISO-NE News

Mass. AG Weighs in on Capacity Accreditation with Brattle Report

By Sam Mintz

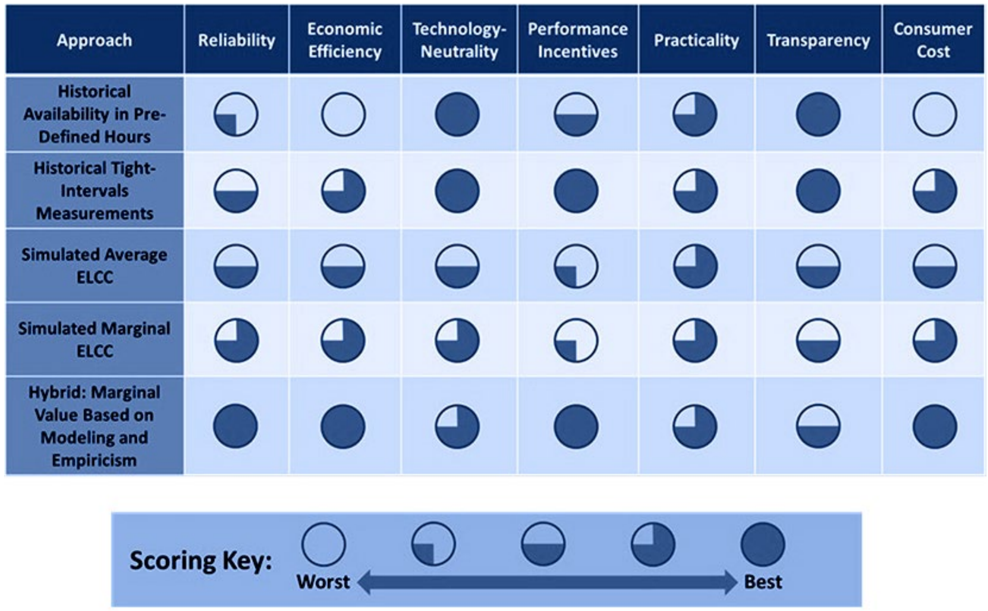
A new report from the Brattle Group, commissioned by the Massachusetts Attorney General's Office, has weighed in with recommendations for capacity accreditation as ISO-NE and NEPOOL are starting down the path of revamping how they value the contributions of energy resources.

ISO-NE first presented an outline in early June for how it plans to tackle capacity accreditation, starting what will be a yearlong stakeholder process on a significant change to the capacity market. (See *ISO-NE Starts its Capacity Accreditation Journey*.)

There will be opinions galore on the process, but the new report from the AG's office is an early and potentially influential one.

The report looks at a number of methodologies for capacity accreditation to replace the region's current Installed Capacity (ICAP) system, and lands on recommending what Brattle calls a "Hybrid Marginal Reliability Value based on Modeling and Empiricism."

That option would rely on both historical measurements of resources' performance and advanced reliability modeling, the report says, and tailor the specifics to New England's needs and the characteristics of different resources. For example, for resources like wind and solar without batteries, the hybrid system could simulate their performance for an initial estimate, and then use historical measurements to get more specific about how the resources differ from the average of their class.



A new report commissioned by the Massachusetts Attorney General weighs the options for capacity accreditation in New England. | *Brattle Group*

Accrediting other resources could rely primarily on historical data but also use model-based adjustments to account for outside factors like limitations on fuel. For each type of resource, the report acknowledges, "determining the best hybrid approaches to accreditation will require extensive development and calibration."

Brattle makes a number of recommendations for while ISO-NE is developing its new approach. For example, the report calls for immediately upgrading accreditation for thermal resources, and not waiting for the full process to be complete.

"We suspect that thermal resources lacking firm fuel backup are the resources whose capacity ratings are most substantially overstated by current ICAP-based accounting methods in New England and therefore pose the most immediate reliability concern," it says. Delaying application of a marginal value concept to these resources, while rushing it for others, "risks exacerbating present reliability concerns by amplifying economic incentives for resources with the most overstated capacity ratings."

The report also recommends that ISO-NE improve its reliability modeling and implement seasonal accounting of reliability needs. ■

MISO News

MISO Puts Finishing Touches on $10B Tx Plan, Hunts New Projects

By Amanda Durish Cook

MISO's $10.3 billion long-range transmission plan (LRTP) inched closer to approval Thursday as some board members advanced the project portfolio to the full board for its consideration later this month.

The Board of Directors' System Planning Committee voted unanimously during a special conference call to recommend the full board take up the package's approval.

The first of four LRTP portfolios contains 18 345-kV projects in MISO Midwest. The portfolio is considered an addendum to the RTO's 2021 Transmission Expansion Plan (MTEP).

"The portfolio shift is well underway," Aubrey Johnson, vice president of system planning and competitive transmission, said during the call. "The future energy mix requires a broad and holistic solution rather than the type of approach we typically use with our annual MTEPs."

Over the next 20 years, MISO conservatively expects 58 GW of mostly coal and gas resource retirements and about 90 GW of new gas and renewable resources, lowering the footprint's carbon emissions down 63% from 2005 levels.

Director Nancy Lange asked how long it will take for the projects to become "regulatory realities." Johnson said it should take about six to 18 months for the lines to gain state regulatory approval.

Johnson said his team will begin to prepare requests for proposals where state rights-of-first-refusal (ROFR) don't prohibit competitive bidding. In states with ROFR laws, incumbent transmission developers will need to seek construction approval from their respective regulatory bodies.

MISO estimates that just $1 billion of the portfolio will ultimately be open to competition. The grid operator said nearly $4 billion worth of the projects are considered upgrades to existing facilities, while another $5.5 billion worth of projects are in states with ROFR legislation. Michigan, Minnesota, Iowa and the Dakotas all have ROFR laws; Wisconsin lawmakers have *considered* one but haven't passed it.

Johnson said the RTO will likely manage multiple requests for proposals on the LRTP projects that can be competitively bid. "This will be the largest solicitation we've ever done," he said at an earlier System Planning Committee meeting.

At the same meeting, Senior Vice President of Planning and Operations Jennifer Curran said the projects are based on a two-year-old "haircut" of MISO members' resource planning. She said the projects are the product of a conservative future view and are crucial for reliability.

MISO's sectors *voted* earlier in June to recommend the LRTP portfolio to the board. None of the 11 sectors opposed the transmission buildout; two abstained and the power marketers and end-use customers did not participate in the vote. (See *MISO Makes Business Case on Long-range Tx Plan*.)

MISO is also preparing for the LRTP's second phase. The next round of projects will again be in the Midwest, much to some stakeholders' frustration. It's not until the third phase that the RTO will turn its attention to MISO South's needs.

The grid operator will update its three, 20-year planning futures for its second collection of long-range projects. Johnson said a lot has changed since MISO last updated its futures in 2020.

Johnson said should the board approve the first LRTP portfolio, staff will provide "regulatory support" for state regulators on the first set of projects while beginning the hunt for the second portfolio's projects.

"In many ways, we're just getting started," Johnson said.

Curran said MISO planners are expecting to defend the projects in front of state commissions. "We feel comfortable and confident that we've put together a strong case," Curran said.

To shorten construction timelines and ensure simpler regulatory processes, the first LRTP cycle made use of existing rights of way. However, during a June 3 Entergy Regional State Committee Working Group meeting, MISO Senior Director of Transmission Planning Laura Rauch said the RTO isn't sure it will take a similar approach in the South because there are benefits to "geographic diversity" of transmission lines in hurricane-prone areas.

Andy Kowalczyk, with the 350 New Orleans activist group, said MISO might consider building lines that could serve as alternative pathways to restore power in a post-hurricane blackout.

"How we get load back on is going to be critical," Rauch agreed.

Rauch said strategically placed transmission can lessen the amount of generation states must build. "Transmission lets you optimize the generation you're building," he said.

Texas Public Utility Commission economist Werner Roth said MISO might want to emphasize reliability over economic benefits to better make its cases in front of state commissions.

Rauch said MISO agrees and said playing up economic benefits works because dollars are motivating.

Simon Mahan, executive director of the Southern Renewable Energy Association, said though MISO is likely understating economic benefits, stressing the reliability component will likely be the piece that "gets everyone on board" in MISO South. ■

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MISO News

FERC Gives MISO More Time on Software Fix

FERC last week granted MISO an additional three months on two temporary tariff waivers after software-upgrade delays set back the grid operator's effort to ensure that regulating reserves take precedence over short-term reserves.

MISO Carmel, Ind., headquarters | © *RTO Insider LLC*

The commission approved extensions on the two waivers until Sept. 28, giving MISO additional time to temporarily override its short-term reserve product's demand curve and suspend some demand response resources eligible for fast-start designation. The waivers were to expire June 28 (*ER22-2150*).

MISO said it has encountered "unavoidable technical issues, which are attributable to the linear nature of software development." The grid operator said it has failed twice to upgrade its software and hardware but that it is working with vendors to install a software patch to resolve the issue.

MISO said the extension is "crucial to allow needed flexibility to potentially isolate a time window during peak summer operating conditions" to minimize risk as the upgrades are added. The RTO said it will notify FERC if it completes the software upgrades earlier than the waiver allows.

FERC said MISO "acted in good faith by addressing the software implementation delay as soon as it became evident that MISO was unlikely to meet the June 28, 2022, deadline." The commission said it had no problem adding 90 days to the limited-scope waivers. ■

— Amanda Durish Cook

NYISO News

NY State Agencies Support NYPA Smart Path Project

By Michael Kuser

New York's departments of Agriculture and Markets (AGM), Public Service (DPS, and Environmental Conservation (DEC) last month approved a joint *proposal* by them, the New York Power Authority (NYPA) and National Grid for completion of phase 2 of the 100-mile Smart Path transmission line rebuild project (*21-T-0340*).

The Smart Path project is part of NYPA's $1 billion Northern New York transmission line, which the Public Service Commission in October 2020 designated as a high priority for meeting the state's renewable energy goals, bypassing NYISO's public policy transmission planning process (*20-E-0197*). (See *NYPSC OKs NYPA Project, 'Priority' Tx Criteria*.)

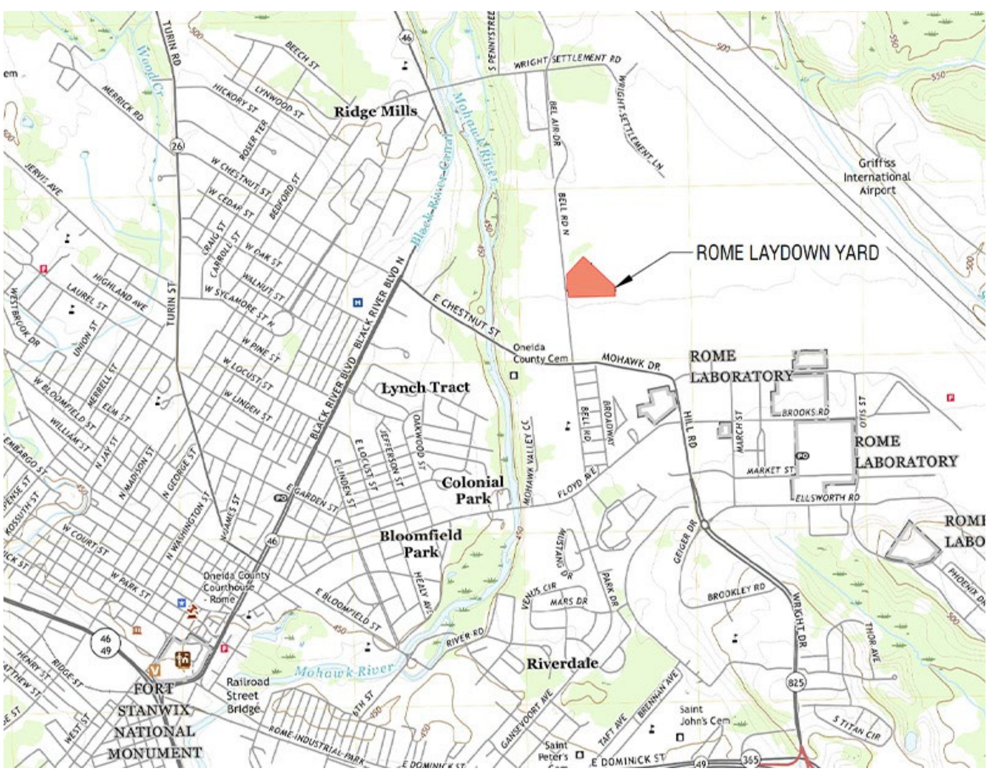
The AGM *said* that its concerns and issues were addressed in the proposal and its appendices.

"Environmental impacts have been minimized by siting the proposed transmission line within existing rights of way to the greatest extent practicable," it said. "Because the project predominantly uses existing ROW, there will be virtually no discernable change in land-use conditions along the transmission line portion of the project. Additionally, the project represents the minimum adverse impact on active farming operations, considering the state of available technology and the nature and economics of alternatives and other pertinent considerations."

The DEC *said* that "there are no further issues for litigation concerning the application."

John B. Donahue, a resident of Lyons Falls, about 30 miles north of the city of Rome, had *commented* June 8 that he and his wife, Bonnie, "are all for the upgrade to the power lines, but then they said they wanted another 12.5 feet of our property; we were taken by surprise because it sounded like it was a done deal and we had nothing to say about it. I know this project is huge and entails hundreds of miles of ROW and 12.5 feet is not very much, but this would severely impact our lives here."

In its letter of approval a week later, the DPS *commented* that Donahue's concerns will be addressed through project design changes made during development of the environmental management and construction plan that no longer require expansion of the ROW onto his property.



National Grid proposes leasing seven acres of paved yet unused runway at the Griffiss International Airport in Rome as one of two staging areas for Smart Path project construction. | *National Grid*

"The only remaining property acquisition at this location would be National Grid's acquisition of danger tree rights in order to comply with the proposed certificate conditions should they be adopted by the commission," DPS staff said.

A danger tree is defined by the commission as "any tree rooted outside of a ROW that due to its proximity and physical condition ... poses a particular danger to a conductor or other key component of a transmission facility."

By definition, a danger tree must exist outside of the ROW. Therefore, any necessary acquisition of danger tree rights would not constitute an expansion of the ROW and would only give National Grid the right to remove any trees that pose a risk to the transmission line, the DPS said.

Attorney Thomas S. West, representing the town of Burke, submitted a *letter* June 16 stating that the town is not able to support the proposal, as there are still outstanding issues under negotiation concerning the resolution of issues associated with potential impacts to local roads.

"We are in negotiations with NYPA and hope to conclude those negotiations in the near term. In the absence of finalizing those negotiations in a manner acceptable to the town, we reserve all rights to request a hearing concerning road impact issues," West said.

National Grid proposes leasing 7 acres of paved, but unused, runway at the Griffiss International Airport in Rome as one of two staging areas for Smart Path project construction.

Marcy resident Thomas N. Rastani Jr. *commented* June 24 that the project's design more than doubles the height of the transmission towers, to 135 feet, which would make them "clearly visible from the road approaching my home, or anywhere on my property."

In addition, increasing the voltage capacity from 230 kV to 345 kV for two lines will increase the noise levels substantially, along with an increase in electromagnetic waves, he said.

"Overall, this proposed line will disrupt the wildlife (which is why I purchased this property to begin with); it will disrupt the quality of life during construction; and it will leave a lasting impact with the increased electromagnetic waves and increased noise pollution that myself and my neighbors will be forced to endure," Rastani said. ■

NYISO Reviews Preliminary 'Grid in Transition' Study Results

By Michael Kuser

NYISO on June 28 reviewed with stakeholders the preliminary results and assumptions for the first *phase* of a two-part Grid in Transition study on the reliability effects of integrating increasing amounts of renewable resources into the power system.

"This first phase is really leveraging the Climate Change Phase 1 study case *work*, [which] was completed about two or three years ago," Nicole Bouchez, principal economist for market design, told the Installed Capacity/Market Issues Working Group. "Because of that, the second phase is going to be coordinating with the 2022 planning studies."

Phase one of the study is expected to be completed by end of this year.

For the second phase starting in August, the ISO will use its upcoming system and resource outlook *study* and policy case for scenario one (S1) and the NYSERDA integration *analysis* for the scenario two (S2) policy case. The 2022 effort will identify and quantify through a new study the potential level of system flexibility and grid attributes needed to reliably maintain system balance, Bouchez said. (See *NYISO Launches 2022 Grid Planning Study*.)

Load Shapes

NYISO staff incorporated stakeholder feedback into the study, including reliability and market considerations from Grid in Transition *work* performed last year. Staff also evaluated the results from phase one, including looking at load shapes, the distribution of hourly ramps and what multi-hour ramps look like, Bouchez said.

A graph of summer peak load shapes for 2030 and 2040 showed essentially the same shape for policy cases S1 and S2 for 2030, while 2040 shows an obvious difference with a midday dip being exacerbated by projected additional solar output during midday intervals, she said.

The graph of winter peak load shapes for 2030 and 2040 shows a notable difference in the underlying load between the two. While the 2030 load shape looks not that dissimilar from existing load, "the real difference comes when we look forward to 2040 and see that the overall load has grown a lot with electrification ... this is clearly a winter peaking scenario in 2040 between summer and winter, but because of the different builds you see the impact a different solar build has even in winter low solar circumstances," Bouchez said.

The first key finding in the nearly complete system and resource outlook study is that the total installed generation capacity to meet policy objectives within New York is projected to range from 111 to 124 GW by 2040, more than double the 51 GW of generation capacity that exists and is contracted today.

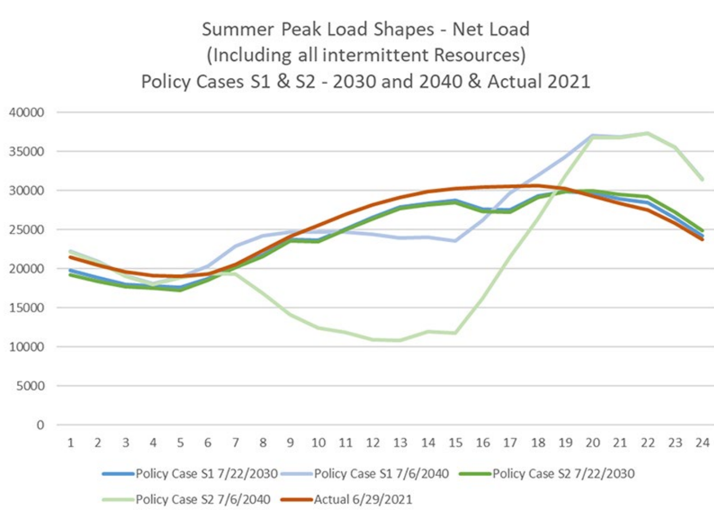
Second, the study finds that the capacity contribution of intermittent renewable resources declines as more are added to the system. The limited contribution of incremental resources inhibits the ability of the power system to effectively meet mandatory resource requirements and to serve load in hours in which renewable generation is limited or unavailable.

Third, the outlook study finds that "if resources are not built in excess of reserve requirements to meet reliability margins, New York will likely import significant amounts of energy that may or may not be renewable. Even with additional imports, there could be significant renewable energy that is not deliverable to customers during peak producing hours."

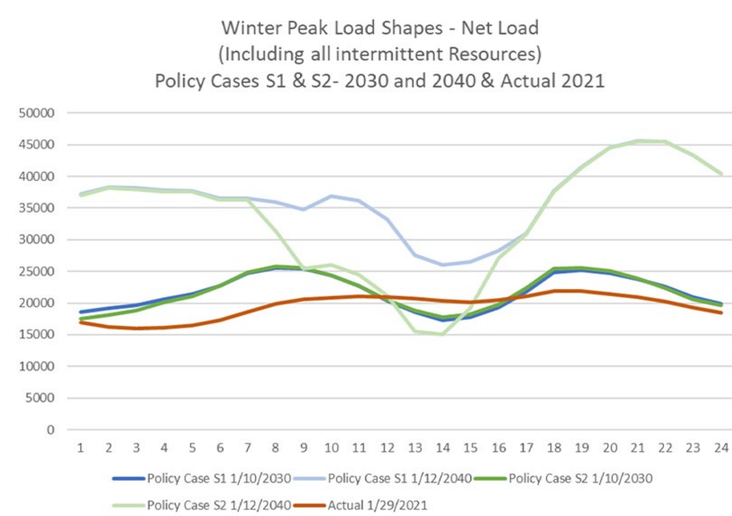
Next Steps

The ISO's next steps include expanding the analysis to look at ramps when the net load does not become negative, considering stakeholder feedback, and drafting the phase one analysis portion of the report in early August,

"We're going to be starting in July to work on the system and resource outlook study production cost data, which would be looking at both policy cases, but also will be looking at different loads at that point too, just like the outlook study looks at different loads in the S1 and S2 policy cases," Bouchez said. "Our intent is to attempt to finalize the study in September. It may be a bit of a stretch goal, but we are trying to aim for that." ■



The first phase of the study leverages the Climate Change Phase 1 CLCPA Case load data to look at the effects of integrating renewable energy resources into the resource mix. | *NYISO*



The first phase of the study is based on the Climate Change Phase 1 CLCPA Case load forecast data. | *NYISO*

Vegetation Eyed in AEP Ohio Outages Following Storms

By Rich Heidorn Jr.

VALLEY FORGE, Pa. — American Electric Power has identified vegetation as a likely cause of the transmission line failures that left more than 240,000 customers in Ohio without power for up to two days following violent storms in June, PJM officials said last week.

PJM ordered load sheds on three of AEP's 138-kV lines to prevent overloads and cascading outages June 14 after a storm identified as a derecho downed power lines. (See *AEP Under Fire as Load Sheds Persist in Ohio*.)

Although the cause of the line tripping remains under investigation, AEP said vegetation was a contributing factor, Paul McGlynn, PJM executive director of system operations, told the Markets and Reliability Committee on Wednesday. "Whether vegetation was blown into the lines or whether there were encroachment issues, we don't have the answers yet," he said.

Monday, June 13: Load Forecast Falls Short

McGlynn and other PJM officials gave the MRC an in-depth *briefing* on the RTO's challenges in mid-June, which began Monday, June 13, when load peaked around 136 GW, well above the forecasted 128 GW. McGlynn said PJM's under-forecast was 1,800 MW during the "valley" overnight, rising to 8,000 MW by noon.

The load forecast fell short because of weather that was warmer and more humid than expected, and storms expected to provide cooling did not arrive until after the evening peak. "If we had perfect weather knowledge, [the load forecast] would have been spot on," McGlynn said, citing backcasts the RTO did after the event.

The RTO also saw generation losses of about 1,150 MW and a constraint, followed by an overload, on the 500-kV Peach Bottom-Conastone line that impacted what resources the RTO could bring online. It responded by taking transmission loading relief procedures, "something we don't do all that frequently," said McGlynn.

It also called on little-used combustion turbines to maintain reliability. The RTO activated almost 26,000 MW of CTs, versus the 16,000 MW it had expected to use.

"It was tighter than we anticipated, but we were reliable through the whole operating day," McGlynn said. The result was "some fairly high prices through the peak period." LMPs peaked at $2,643/MWh in the 4-5 p.m. ET hour.

Paul McGlynn, PJM | *© RTO Insider LLC*

Independent Market Monitor Joe Bowring said PJM exported about 4,000 MW to MISO "when it was economically illogical."

"We will investigate the reasons," he said in an email after the meeting.

PJM dispatch also approved 35 shortage intervals between 2:55 and 6:05 p.m., said Phil D'Antonio, director of energy market operations.

"I'm surprised we would dispatch so tight to the timing of a thunderstorm," said Public Service Enterprise Group's Gary Greiner.

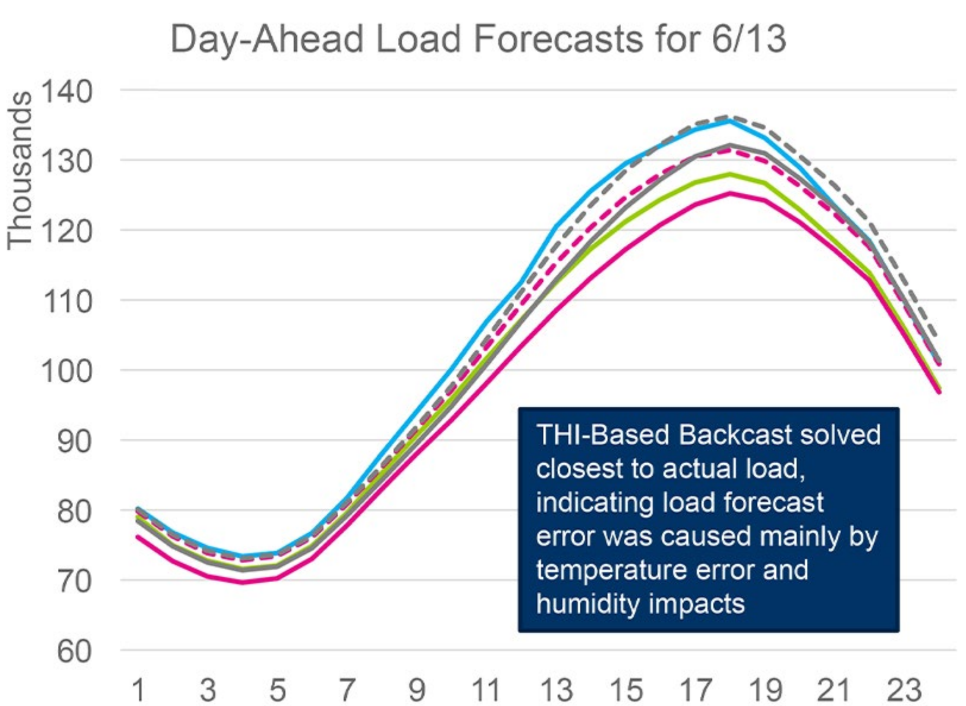
"Storms are sometimes a challenge to predict as to when they will occur" and where, McGlynn responded.

Tuesday, June 14: Storms Down Lines, Poles

When the storms finally arrived late Monday night and continued into Tuesday morning, they were violent and set off tornadoes in Ohio, McGlynn said. AEP Ohio reported wind gusts as high as 95 mph, which downed poles and lines across its service territory.

Between 1 and 2 p.m. June 14, nine 138-kV facilities tripped in the AEP zone, with loads on several facilities above their load dump rating.

Beginning at 2:02 p.m., PJM issued the first of several load-shed directives to AEP, triggering performance assessment intervals (PAIs), in which capacity resources face penalties for



PJM's day-ahead load forecast for June 13 fell short due to weather that was warmer and more humid than expected, and storms, which were expected to provide cooling, did not arrive until after the evening peak. | *PJM*

PJM News

shortfalls in output.

Fearing multiple cascading overloads, the RTO also called on pre-emergency and emergency demand response in the Marion area of AEP at 3:50, followed at 7:21 by an additional load-shed directive to prevent a potential N-5 cascading outage on the 138-kV Beatty-Bolton line.

Wednesday June 15: More Line Failures

In the early morning hours of June 15, AEP returned to service several lines that had tripped the previous day. PJM cancelled its load-shed directive at 3 a.m.

But over a 10-minute period ending at 10:40 a.m., three 138-kV lines in AEP tripped. PJM issued a load-shed directive to relieve an overload on the 138-kV Gahanna-Hap Cremean line at 10:41, just a minute before that line also tripped, triggering another PAI.

At virtually the same time, AEP restored service to the 345-kV HyattCS-Hayden line, which had been recalled on Tuesday from a maintenance outage. McGlynn said the timing of the restoration was a coincidence and that officials don't know whether an earlier restoration might have prevented the Gahanna-Hap Cremean overload. "It's certainly something we're looking at," he said.

At 10:50, PJM again called for pre-emergency and emergency DR in the Marion area, followed 50 minutes later by another load-shed directive issued to prevent a potential N-5 cascading outage for the 138-kV Kenney-Roberts line.

It wasn't until 10:25 p.m. that several lines returned to service and load decreased enough to end the load-shed directives and the PAI.

Thursday June 16: Hot Weather Alert

On Thursday, June 16, PJM issued a hot weather alert for the western part of the RTO. At 10:36 a.m. the 138-kV Corridor-Blendon line, which had tripped the previous day, tripped again, but there was sufficient generation to control the constraint.

PJM used contingency switching where it was able to manage thermal loading. But as load continued to increase, PJM — with no generation or switching available — issued several post-contingency local load relief warnings.

After the 138-kV Corridor-Morse line tripped about 12:18 p.m., PJM again called on DR for the Marion area about 12:30, initiating another PAI. The DR was canceled about four and a half hours later, following the return to service of the 138-kV Bexley-St. Clair and Morse-Spring Rd-Genoa lines.

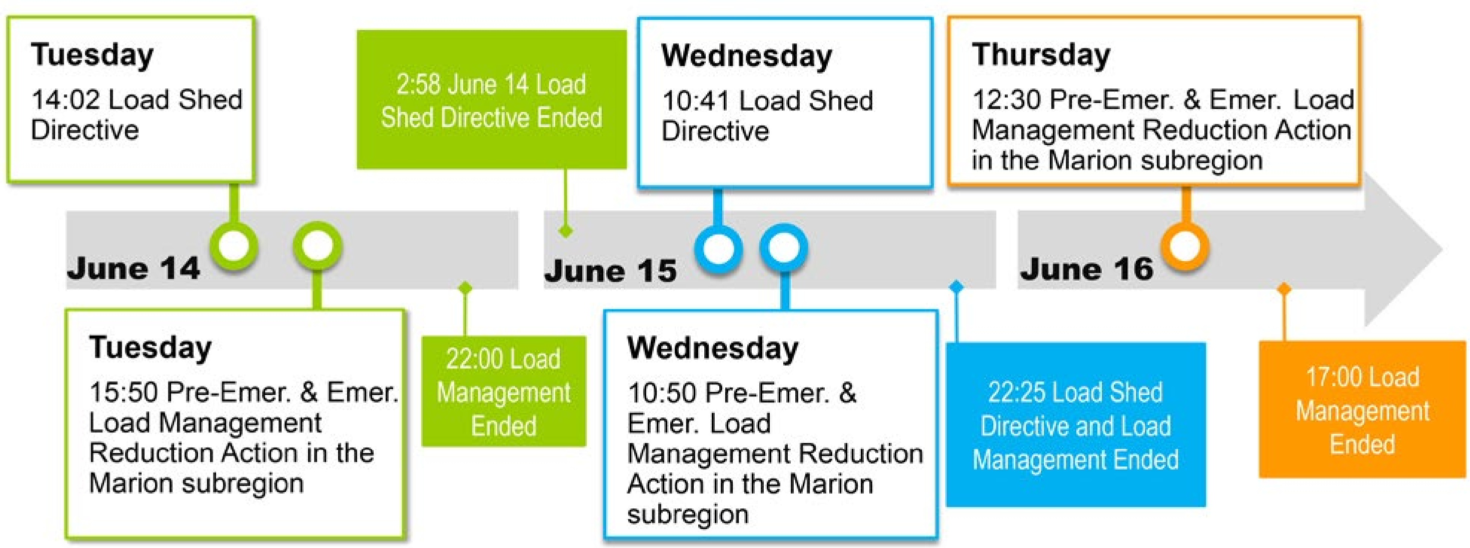
In total, about 100 MW of DR was called to reduce load, but because operators had not defined a closed-loop interface, DR did not set LMPs. Instead, price was set by the worst contingency in PJM's security-constrained economic dispatch.

McGlynn said the load sheds began with 160 MW and grew to "several hundred" megawatts.

Rebecca Carroll, senior director of market design, said there were 345 PAIs over about 11 hours during the week — the first PAIs since 2019, when 24 occurred.

Under PJM's confidentiality rules, officials said, balancing ratios will not be posted for the PAIs because there were a small number of generation owners with capacity resources in areas affected by the emergency actions.

Mike Bryson, senior vice president of operations, said AEP, PJM, NERC and ReliabilityFirst are investigating and will produce "lessons learned" in four to 10 weeks, with updates at monthly Operating Committee meetings. ■



Timeline of performance assessment intervals, June 14-16. | *PJM*

PJM Stakeholders Pump the Brakes on 'Clean Energy Expertise' for Board

Members Committee also Discusses Possible CBIR Changes

By Rich Heidorn Jr.

VALLEY FORGE, Pa. — PJM members will take more time to consider a proposal to require that at least one of the nine members of the RTO's Board of Managers has "expertise in the transition to zero-carbon energy resources."

Dave Kolata, executive director of the Illinois Citizens Utility Board (CUB), *proposed* the change to section 7.2 of the Operating Agreement at the Members Committee meeting Wednesday, asking that it be brought to a vote at the committee's July meeting. Albert Pollard, a former Virginia legislator who heads CUB's *CLEAR-RTO* project, said the change would allow "strategic-level peer-to-peer leadership."

After a lengthy discussion, the sponsors agreed to withdraw their request for an immediate vote; talks are expected to continue at the next MC meeting.

Kolata and Pollard noted that many of PJM's utilities and most of its states have clean energy commitments and that the RTO's interconnection queue is overwhelmingly solar, wind and storage.

"As the resource mix changes, PJM's board will need an ever deeper understanding of the risks and opportunities of balancing the spectrum of clean energy resources (nuclear, wind, solar, [distributed generation and demand response]), as well as the need for dispatch of thermal resources," CUB's presentation said.

Cypress Creek Renewables and Jim Davis of Dominion Energy endorsed the proposal. Brian Kauffman of Enel X North America said the proposal is a "common sense next step."

But John Horstmann of AES said he was concerned about changing the OA without going through the Consensus Based Issue Resolution (CBIR) process, with a problem statement and issue charge. "I have a concern about this setting a precedent," he said. "There's things many of us would like to change in the OA."

"I think policy questions of this narrow scope are appropriate" for this format, Pollard responded.

Constellation Energy's Jason Barker said his company supports the idea "in concept" and that the MC was the appropriate venue to consider such a change. But he said the proposal was vague as written. "It doesn't say how the Nominating Committee should assess" the qualifications, he said.

Paul Sotkiewicz, representing *J-POWER USA*, said he shared Hortsmann's concern over an immediate up or down vote and would oppose the proposal. "What about a board member for DR or combined cycle gas turbines or coal or nuclear units," he said. "Where does it stop?"

Kolata responded that his goal is ensuring reliability. "The intent is not to provide preferences for any kind of resource," he said.

Adrien Ford, of Old Dominion Electric Cooperative, said PJM should make sure any change doesn't delay its current search for a replacement for Manager Sarah Rogers, whom Ford said is likely to resign after the July meeting.

Kolata said the change would require FERC approval and thus wouldn't take effect immediately.

PJM's Dave Anders asked whether the proposal could mean "open season on rewriting the qualifications" for board members.

"We view this as discrete. We don't view this as open season," Kolata responded. But he acknowledged "others may make suggestions."

MC Chair Erik Heinle, who represents D.C.'s Office of the People's Counsel, said the committee would have further discussion on the proposal this month.

Dave Kolata, of the Illinois Citizens Utility Board (right), and Albert Pollard, head of CUB's CLEAR RTO project, speak to the PJM Members Committee. | *© RTO Insider LLC*

Members Debate Change to CBIR Matrix Procedure

The committee also discussed a proposal by Horstmann to revise the RTO's rules to allow PJM staff to "seed" the blank matrix used in the CBIR matrix with potential options before stakeholders begin work on it.

Horstmann said the *change* to Manual 34: PJM Stakeholder Process would improve efficiency as members consider options for each design component.

Ford said the change would be helpful. "It's hard to start from a blank sheet," she said. She said concerns that it would give the RTO an advantage in the subsequent debates were addressed by a change allowing other stakeholders to also submit options before the first meeting at which the matrix is developed.

But Independent Market Monitor Joe Bowring expressed concern. "I don't think it's a good idea. I think it does give PJM a first-mover advantage" even with the revised language, he said.

The committee will be asked to approve the change at its meeting this month. ■

PJM News

PJM TOs, Consumer Advocates at Odds over DEA Inquiry

By Rich Heidorn Jr.

VALLEY FORGE, Pa. — PJM consumer advocates and transmission owners appear headed for a showdown over a proposed initiative to review the RTO's use of designated entity agreements (DEA).

Denise Foster Cronin, East Kentucky Power Cooperative | *© RTO Insider LLC*

Consumer advocates narrowed their differences with TOs but were unable to "get across the finish line" with a consensus issue charge, Denise Foster Cronin, of East Kentucky Power Cooperative, told the Markets and Reliability Committee at its meeting Wednesday.

As a result, members will be asked at the MRC's meeting this month to choose between two competing issue charges for a review of the DEA and PJM's use of it, including potential changes based on the experience with the implementation of FERC Order 1000.

The major difference between the two issue charges, Foster Cronin said, was TOs' *insistence* that revisions to the rights and responsibilities of PJM and the TOs under the Consolidated Transmission Owners' Agreement (*CTOA*) be out of scope.

The initiative arose from a 2018 FERC order rejecting PJM's request to revise the Operating Agreement to exempt incumbent TOs from executing the DEA (*ER18-1647*). (See *FERC Rejects PJM Exemption for Incumbent TOs*.)

PJM had proposed two changes to the competitive proposal window process mandated by Order 1000. The commission approved PJM's request to allow transmission developers 60 days to accept a DEA after receiving it as the winner of a competitive project under Order 1000.

But the commission rejected the request to exempt incumbent TOs from executing a DEA for Regional Expansion Transmission Plan (RTEP) projects that the OA requires PJM to designate to an incumbent. Such projects include TO upgrades; projects that would alter the TO's use of its right of way; and those located solely within a TO's zone that are not cost allocated outside.

The commission rejected TOs' rehearing request in 2019, saying that breaching a DEA is more expensive for nonincumbent TOs, which are subject to meeting construction milestones that may be delayed for reasons beyond their control while incumbent TOs only risk breaking the terms of a CTOA by missing scheduled in-service dates.

Unlike incumbents, nonincumbents must also "obtain a letter of credit or other financial instrument equal to 3% of the incremental project cost in the event of a breach," meaning this extra cost must factor in project submissions, making the incumbent TO's proposal cheaper by default, FERC said. (See *Rehearing Denied on PJM Designated Entity Agreements*.)

Greg Poulos, Consumer Advocates of PJM States (CAPS) | *© RTO Insider LLC*

Greg Poulos, executive director of the Consumer Advocates of the PJM States (CAPS), said his group was unable to reach agreement on the scope of the issue charge despite six hourlong meetings with the TOs.

Poulos said the advocates question whether PJM is complying with schedule 6, section 1.5.8 of the OA, which requires entities assigned to construct and operate RTEP projects to comply with the DEA. PJM is not requiring incumbents to sign DEAs for all the situations identified in the OA, he said.

"We're concerned that the language of the issue charge brought by the TOs could eliminate some of the projects" FERC intended to have covered by DEAs, such as immediate-need projects, he said.

The advocates' *issue charge* includes a goal of ensuring "appropriate consumer protections" are followed by entities assigned to construct RTEP projects.

Steve Lieberman, of American Municipal Power, said PJM is "in a little bit of hot water" for not interpreting the OA as FERC directed.

"I'm not sure PJM would agree to that characterization," responded Stu Bresler, the RTO's senior vice president of market services.

Ken Seiler, PJM | *© RTO Insider LLC*

"Our goal is making sure we're treating everyone fair and equitably," said Ken Seiler, PJM's vice president of planning.

Foster Cronin said the TOs would like to review the DEA's security requirements and development milestones to see if there are opportunities to streamline it based on PJM's experience with Order 1000 over the last decade. "No developer should bear costs that don't provide benefits," she said.

Susan Bruce, representing the PJM Industrial Customer Coalition, said her group supports the broader look that CAPS proposed.

Alex Stern, PSE&G | *© RTO Insider LLC*

Alex Stern of Public Service Electric and Gas said the advocates' issue charge doesn't address the concern raised by FERC but raised a "new issue on how to apply more stringent requirements" on incumbents.

"It's too simplistic to say PJM should just comply with the language" of the OA, he said. "We're all confused." ■

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PJM News

PJM Markets and Reliability Committee Briefs

PJM Regroups After Opposition to Request for Service on FERC Filings

VALLEY FORGE, Pa. — Facing stakeholder opposition, PJM officials last week withdrew what they hoped would be a routine rule change requiring that the RTO be served with FERC filings affecting it.

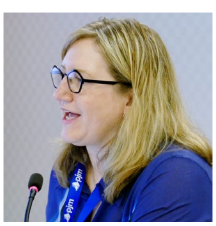
PJM attorney Steve Pincus told the Markets and Reliability Committee on Wednesday that the RTO sought the change to ensure it can respond within FERC's deadlines to any filings that affect it or its members.

The RTO's current rules require only that transmission owners serve it with any Federal Power Act Section 203 filings. The rules do not cover waiver filings, settlements or reliability-must-run requests, Pincus said.

"This is a really bad idea," American Municipal Power's (AMP) Steve Lieberman responded, saying PJM's proposed *issue charge* was overly broad and would create burdens for members. He recommended the RTO attempt a "more surgical approach."

"AMP has a team of people … that monitor the dockets that get filed. I don't know why PJM can't as well," Lieberman said. Members might inundate PJM with irrelevant filings out of concern that a failure to serve the RTO could lead to a FERC enforcement action, he argued.

Constellation Energy's Jason Barker said his company would support PJM's problem statement even though it disagrees with the RTO's proposed solution. He recommended the RTO convene a meeting of FERC practitioners from member companies to devise a solution.



Susan Bruce, representing the PJM Industrial Customer Coalition | © *RTO Insider LLC*

Susan Bruce, representing the PJM Industrial Customer Coalition, agreed. "The lawyers need to be in the room for this," she said. "We all have that risk [of missing a filing], and we all look at the *Federal Register*."

Adrien Ford, of Old Dominion Electric Cooperative, suggested that, rather than the MRC, the matter be considered by a special task force, the Risk Management Committee or the Governing Document Enhancement & Clarification Subcommittee, as others suggested.

PJM's Dave Anders (left) and Stu Bresler preside over the first in-person meeting of the Markets and Reliability Committee since the coronavirus pandemic began. | © *RTO Insider LLC*

Adrien Ford, Old Dominion Electric Cooperative | © *RTO Insider LLC*

Pincus assured members that PJM was not attempting to create a "compliance trap" for them but a "safety net" for itself. "We obviously monitor FERC filings, but the territory we have to cover is far greater than any other member," he said. "To me it seems like a no-brainer. It seems logical that PJM would receive service."

But Pincus acknowledged he was unaware of any instances in which the RTO was denied the ability to file comments because of missed deadlines.

"It's a solution in search of a problem," said Paul Sotkiewicz, representing *J-POWER USA*.

In the face of the opposition, General Counsel Chris O'Hara told members that the RTO would withdraw its request to approve the issue charge pending additional discussions.

But he said the rule change was needed, calling it "unconscionable that a generation owner can make a 203 filing [affecting PJM] and not serve us."

Independent Market Monitor Joe Bowring said he shares the RTO's concern about not being served in relevant dockets. "Whatever the solution is for PJM, we would like to apply to us as well," he said.

Revised Operating Committee Charter Approved

Members unanimously endorsed a five-word change to the Operating Committee's charter to reflect the RTO's changing generation mix. The revised *charter* adds the words "reliability attributes and pertinent conditions" to paragraph 7, which refers to the committee's oversight of operating practices and procedures relating to reliability.

Stakeholders Wary of 'Narrow' Change to Market Seller Offer Cap

Members and the Monitor expressed concern over PJM's proposal to revise the market seller offer cap (MSOC) in time for the 2024/25 capacity auction in December.

PJM's Pat Bruno said what he called a "narrow" change to the MSOC "seemed to have a broad consensus with stakeholders," citing discussions by the Resource Adequacy Senior Task Force (RASTF).

PJM News

Bruno said the change would ensure sellers are always able to represent the cost of their Capacity Performance risk when offering into the auction. The MSOC would be set at a level equal to the greater of the CP quantifiable risk (CPQR) or net avoidable-cost rate (ACR) inclusive of CPQR.

Pat Bruno, PJM | © *RTO Insider LLC*

The change would address circumstances in which a unit with a positive CPQR value has that cost offset by an otherwise negative net ACR, which could result in a $0 offer cap.

Bruno gave an *example* of a wind farm with an ACR (excluding CPQR) of $80/MW-day, a CPQR of $20, and an energy and ancillary services offset (E&AS) of $150.

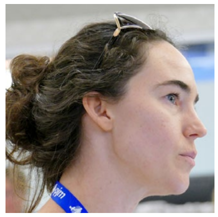
Under current rules, the generator would bid $0 ($80 + $20 - $150 = -$50). Under the proposed rules, the generator would offer at the CPQR: $20/MW-day.

"We think that's consistent with how a market seller would set a competitive offer," Bruno said.

PJM plans to seek endorsement of the change at the MRC's meeting this month.

Jeff Whitehead of GT Power Group and Becky Robinson of Vistra said they support the change. But Bowring called the proposal "premature and inappropriate," saying it would be a "significant redefinition" of the CPQR, undermining the capacity MSOC that protects against the exercise of market power.

"It's not a problem that needs to be fixed," Bowring said. "We haven't had a $0 capacity clearing price, and we're not likely to. But if we do, it would reflect competitive offers and a competitive outcome."



Becky Robinson, Vistra | © *RTO Insider LLC*

Market sellers can include the cost of mitigating risk under the existing rules, Bowring said in an email after the meeting. He said although PJM has not defined CPQR in this proposal, the RTO has proposed a significant broadening of the definition of CPQR in RASTF meetings.

"If PJM wants to propose a change, PJM should make a proposal with all relevant elements clearly defined so that the full implications can be understood," he said. "PJM has not explained why CPQR should uniquely not be part of gross ACR. PJM has stated, without explanation, that net revenues do not offset CPQR. That is not consistent with the definition of a competitive offer."

AMP's Lieberman also expressed concern, saying stakeholders should agree first on a definition of CPQR.

"Saying this is 'narrow' doesn't make it so," he said. "This is potentially setting a floor on the market seller offer cap."

"If we don't agree on what CPQR is, are we really moving anything forward with this proposal?" Robinson asked.

BRA Results Discussed

PJM's Pete Langbein gave members a brief *presentation* on the results of last month's 2023/24 Base Residual Auction.

Prices dropped by one-third to almost one-half in the auction, the first since the virtual elimination of the minimum offer price rule (MOPR) for subsidized resources and institution of a tougher offer cap. It was the RTO's lowest prices except for 2012/13 and 2013/14. (See *Low PJM Capacity Prices No Bargain, Coal & Gas Generators Say*.)

Langbein said the Commonwealth Edison and Duke Energy zones didn't bind, unlike in the prior BRA.

"We were concerned by the prices we saw," commented Aaron Breidenbaugh, of Centrica Business Solutions. "It's a disturbing trend if you're on the supplier side."

PJM Senior Vice President of Market Services Stu Bresler said total capacity offered was about 11,000 MW less than in the previous auction.

PJM Sets Workshops on Extreme Weather NOPR

Ken Seiler, PJM's vice president of planning, said the RTO will hold stakeholder workshops on July 21 and Aug. 12 on FERC's June 16 Notice of Proposed Rulemaking on transmission planning performance requirements for extreme weather (*RM22-10*). The NOPR would direct NERC to modify reliability standard TPL-001-5.1 (Transmission system planning performance requirements).

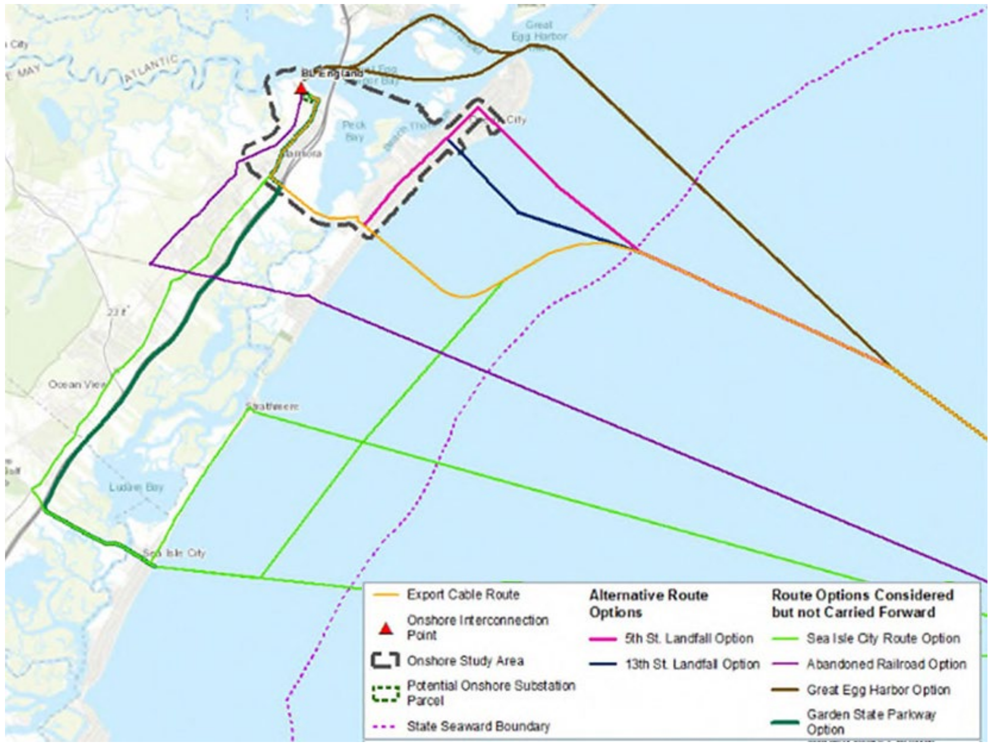
FERC issued another NOPR on June 16 to solicit one-time reports from transmission providers detailing their "current or planned policies and processes for conducting extreme weather vulnerability assessments and mitigating identified extreme weather risks" (*RM22-16, AD21-13*). (See *FERC Approves Extreme Weather Assessment NOPRs*.) ■

— Rich Heidorn Jr.

PJM News

NJ City Calls for Delay to Ocean Wind 1

By Hugh R. Morley



A map drafted by Ørsted showing different routes the developer considered for running cables from the turbines offshore to the land and then onshore and into a substation. The pink route is the developer's preferred route through Ocean City and the olive colored route is the one Ocean City suggests Ørsted use. | *NJBPU / Ørsted*

Ocean City, through which transmission from the first offshore wind project in New Jersey would run, argued on June 24 that the Board of Public Utilities (BPU) should delay the project while an administrative hearing and environmental studies of the line's route are conducted.

The city made its argument during an online public hearing on a petition filed by developer Ørsted asking the BPU to approve an easement for the line to run underground across land developed with state Green Acres money, which funds the development of parkland and natural areas.

Ørsted is seeking approval under a new law enacted last year that gives the BPU authority to override local government officials in land-use questions concerning offshore wind projects if the board finds that the land is "reasonably necessary" for the project's construction.

The case is the first test of the law, and the dispute over the easement is one of the most prominent challenges so far for the 1,100-MW Ocean Wind 1, the first of three offshore projects approved to date by the BPU.

Dorothy F. McCrosson, solicitor for the city, questioned the legitimacy of the law, saying it has "not yet been tested in the courts" and said the petition should be heard by the Office of Administrative Law.

"It remains to be seen whether it will survive judicial scrutiny," she said.

Ørsted is seeking a 30-foot-wide easement running the length of the city's main island, which is about 8 miles long, for a 275-kV cable that will connect Ocean Wind's turbines, about 15 miles offshore, to the PJM grid at a substation, sited on a closed coal-fired power plant in neighboring Upper Township.

Ocean City opposes the project, which was approved in 2019, as do local residents, who say the nearly 100 turbines will tarnish their ocean view. Also opposed are commercial fishermen, who say it will hurt their ability to fish, and tourism interests, who fear fewer visitors will come to enjoy a shoreline with turbines on the horizon. (See *Ørsted NJ Wind Project Faces Local Opposition*.)

Pristine Beach and Wetlands

BPU President Joseph Fiordaliso told speakers, however, that the hearing focused only on the narrow issue of whether the easement was reasonably necessary. Aside from attorneys from Ocean City and Ørsted, the only speaker was the director of the New Jersey Division of Rate Counsel, Brian O. Lipman. As in a court trial, each speaker was allowed an opening statement and time to rebut other speaker's comments.

Fiordaliso said the board will evaluate all the evidence presented and make a decision at a future, as yet undetermined, date.

McCrosson noted that the U.S. Bureau of Ocean Energy Management (BOEM), which last month released a draft environmental impact statement (DEIS), the National Marine Fisheries Service (NMFS) and Army Corps of Engineers are working on environmental impact statements.

"Any one of these agencies might determine that the environmental impact of the proposed route through Ocean City is unacceptable," McCrosson said. "In which case, the easements would not be reasonably necessary. Waiting until the environmental impacts can be addressed and understood would be prudent."

She argued that Ocean Wind 1 could avoid the conflict with Ocean City if it opted to send the transmission through a different route, which would go through nearby Egg Harbor instead. She said the route would present no disruption to Ocean City, but Ørsted had dismissed it earlier because it would be more expensive.

"The overwhelming benefit of utilizing the Egg Harbor route is the utter lack of disturbance to the citizenry of Ocean City," McCrosson said. "The city's pristine beach and wetlands would not be disturbed. The streets would not be excavated."

But attorney Gregory Eisenstark, representing Ocean Wind 1, said the developer has provided extensive testimony on the environmental and construction reasons why the Egg Harbor route was not suitable.

"The impacts to Ocean City and its residents will be minimal," he said. "The line will be underground. Once the construction is completed, you won't see it and you won't hear it. And quite frankly, it will be no different than the underground facilities that are already in Ocean City.

"I suggest to you that Ocean City's feigned objection to the route that we've selected has nothing to do with the actual onshore route. But it has to do with Ocean City's overall objection to offshore wind."

Eisenstark said the cost of the different routes evaluated had no bearing on the hearing because Ørsted will pay for it as part of its bid for the project and not ratepayers. He added that the "reasonable necessity" standard doesn't mean that the easement has to be "absolutely necessary" to the project.

"It doesn't mean it's the only alternative," he said. "It doesn't even mean it's the best alternative. It just means that the project evaluated different alternatives, and the alternative it has proposed is a reasonable one. It doesn't have to be the best one. It doesn't have to be the lowest-cost one."

Appraisal Offer

The three offshore wind projects approved by the BPU so far total about half the state's target of 7,500 MW by 2035. The other two, the 1,148-MW Ocean Wind 2 and 1,510-MW Atlantic Shores, were approved in June 2021. The state expects the first of three more solicitations to begin early in 2023. (See *NJ Awards Two Offshore Wind Projects*.)

BOEM's DEIS concluded that the project would not have a major impact on most of the 19 environmental and related categories scrutinized in the report. But the 1,408-page report did find that it would likely have a significant, and in some cases major, impact on marine navigation and vessel traffic. (See *BOEM Draft EIS Finds Potential Major Impacts from 1st NJ OSW Project*).

Eisenstark said Ørsted has discussed the needs of the project with Ocean City officials for three years. The developer filed its petition asking for the easement after sending a formal letter on Aug. 11 seeking the town's blessing for the easement. Ørsted also obtained an appraisal of the value of the easement and offered to buy it for 10 times the amount, but it has not received a response from the city, he said.

"Ocean Wind would prefer to reach a voluntary agreement with Ocean City," he said. "But unfortunately, we have not been able to reach an agreement."

In May, the New Jersey Division of Rate Counsel told a hearing on the plan that it had concerns about the Ocean City route and believes there was an acceptable alternative that would be longer but would result in fewer disturbances.

But at the hearing last month, Rate Counsel Lipman said he would like to contribute to the evaluation of the easement but could not because the division had not been able to obtain sufficient insight. He questioned the process behind the hearing.

"We have not had the opportunity to fully probe that issue," he said. "There was no discovery in this matter. We asked Ocean Wind if they would ask answer some questions, and they did answer some of our questions. But not all of our questions. And they didn't have to because there was no discovery in this process.

"Ocean City raises a number of issues that, quite frankly, we would have liked to have resolved if we'd known about them through discovery," he said. The cost of each route is relevant, and that is recognized by the state Supreme Court so that the board can determine whether it is reasonably necessary for the developer to opt for one route over another, he said.

"I understand this is the first case of its type. And so the process was going to be somewhat different," he said, adding, "We don't believe there's sufficient evidence in the record for that decision to be made." ■

NJ Solar Sector Calls for Speedy Grid Modernization Plan

Developers Welcome BPU Report, Urge Haste

By Hugh R. Morley

Solar developers embraced a new report by the New Jersey Board of Public Utilities (BPU) on how to modernize and upgrade the state's power grid to handle the expected dramatic rise in energy from wind and solar projects, but they told a public hearing June 27 that the state needs to act faster.

The *102-page report*, compiled for the BPU by consultant Guidehouse, of Lawrenceville, offers nine recommendations on how to improve what solar developers see as an aging grid that has limited capacity on the grid, which in some areas of the state can't accept new interconnections. (See *Solar Developers: NJ's Aging Grid Can't Accept New Projects*.)

The suggestions in the report, which was released June 24, include streamlining the interconnection process and improving the state's hosting capacity maps, which report how much generation can be added to a circuit. The report also suggested enabling developers to get a "pre-application study" that would allow them to see the available connection capacity in advance, rather than late in the development cycle.

Speakers from the solar industry, while welcoming the report, said the gravity of the situation requires additional moves.

"You've identified all the right things. We're with you; we want to work and collaborate on this and move forward," Fred DeSanti, executive director of the New Jersey Solar Energy Coalition, told the hearing. "Obviously, time is of the essence.

"My only comment would be is if we could have some kind of a parallel track where we could, as a triage measure, put money into opening some of the existing circuits that have been closed, where it's obvious, cost effective," he added. That would enable the industry to "open up some of these markets and will take a lot of pressure off the situation."

Lyle Rawlings, a solar developer and founder of the Mid-Atlantic Solar Energy Industries Association, echoed the call for the BPU to move quickly.

"We urgently need ventures near-term that will keep circuits open and reopen ones that are currently restricted," he said.

Clean Energy Surge

The hearing, the fourth to collect stakeholder input on current distribution grid interconnection policies and processes and potential improvements, was the last in the fact collection stage, which began in October. While stakeholders can submit written comments until July 19, the release date of the final report has not yet been set.

The effort is one of several New Jersey initiatives underway aimed at preparing, upgrading and improving the grid for the capacity expansion expected from the state's advancing solar and wind sectors. New Jersey's first community solar projects came online last year, and the state reshaped its solar incentive program. (See *New Jersey Shoots for Key East Coast Wind Role*.)

The state has so far approved three offshore wind projects — the 1,100-MW Ocean Wind 1, 1,148-MW Ocean Wind 2 and 1,510-MW Atlantic Shores — in two solicitations, and expects the first project to be operating in 2024. A third solicitation is planned for early 2023, and the state expects to approve further projects that will increase the state's wind capacity to 7,500 MW by 2035.

The BPU is close to finishing a solicitation process for suggestions on how to best connect the offshore wind projects to the grid, which attracted 80 proposals. (See *FERC Approves PJM-NJ Transmission Agreement*.)

And the state legislature is considering a bill that would levy a fee to generate millions of dollars to modernize the grid. At a hearing of the Senate Energy and Environment Committee in May, developers said they wait for months, even years, to get projects connected,

A solar project installed on a warehouse rooftop in Perth Amboy, N.J. | *Solar Landscape*

PJM News

and sometimes the connection never happens.

Yet those delays are not unique to New Jersey. The U.S. Department of Energy last month launched an initiative, Interconnection Innovation eXchange (I2X), designed to identify and develop solutions to speed up the interconnection of clean energy projects. (See *DOE Initiative Aims to Make Interconnection 'Simpler, Faster, Fairer'*.)

In April, PJM stakeholders overwhelmingly endorsed a plan for a new interconnection queue process amid concern over delays and heavy volume.

Abraham Silverman, strategic policy counsel for the BPU, opened last week's hearing by saying that addressing the grid issue is "absolutely critical." He added that the PJM queue problems show what happens when the sector doesn't get "the interconnection right."

"Projects get delayed. … The energy transition slows down," Silverman said.

Plans to Streamline, Fast track

The BPU report, and its presentation at the hearing, said there are a variety of opportunities to streamline the application process through which new interconnections are sought, including updating the forms and resolving the fact that each utility has a different system.

The report also suggested that the industry adopt a new, uniform application software and platform system, and introduce new fees on Level 1 projects — smaller projects that are not currently required to pay fees — to pay for the upgrades.

Other proposals in the report include a recommendation that utilities adopt a uniform system of hosting capacity maps, which report how much spare capacity is available in different areas of the state. The current maps are "inconsistent," resulting in the "quantity of closed circuits potentially being overestimated by stakeholders," the presentation said.

"Stakeholder support for capacity hosting maps is strong in New Jersey," the presentation said. "But the maps provide value only when updated with current data and relevant information regarding equipment costs."

The report also concluded that that "there is no way to accelerate interconnection projects" under the state's current system and no "fast track" process to speed up simpler projects. There is also no pre-application process that would enable a developer to learn in advance the availability of grid capacity and likely upfront costs, according to the report, which recommended such a process be implemented.

The report also suggested the state use the updated version of the recommended rules and regulations drafted by the Institute of Electrical and Electronics Engineers that govern interconnection and operability systems. And the report suggested that the state implement a systematic process that would "establish numerical cost and capacity thresholds" that would evaluate and determine, for example, whether an upgrade simply benefits certain distributed energy resources or has a benefit to all customers.

Reaching Energy Goals

Scott Elias, director of Mid-Atlantic state affairs for the Solar Energy Industries Association (SEIA), said the report reflects the feedback that his members have presented to the consultant. But he added that the "key consideration is not just identifying opportunities to improve interconnection, but moving forward with these types of reforms with the pace and scale necessary for New Jersey to achieve its goals."

"If we don't make major strides on interconnection reforms in the next few years, it will be impossible to achieve New Jersey's aggressive clean energy goals," Elias said. He added that "there's plenty of evidence that the status quo is not tenable."

Elias also called for the BPU to create "a clear timetable for how [it] will evaluate how grid modernization costs can be spread over a broader set of beneficiaries."

"I think moving to a system where developers pay an appropriate portion of upgrade costs and the remaining costs are socialized among all customer classes benefiting from that upgrade would help bring online much more clean energy on New Jersey's grid," he said.

Eric Miller, director of New Jersey energy policy for the Natural Resources Defense Council, said addressing interconnection issues will be key to reaching the goals in the state Energy Master Plan, and said the organization is "pleased" with the way the report is going.

"We recognize the significant importance of kind of tackling interconnection first, and we think, you know, the recommendations so far ... make significant progress on this front," he said. ■

SPP News

FERC Accepts SPP's 2nd Try at Zonal Planning Criteria

By Tom Kleckner

FERC on June 28 approved SPP tariff revisions that establish an annual process for each transmission pricing zone to develop a single set of uniform zonal planning criteria used to evaluate zonal reliability upgrades in the RTO's regional transmission planning process. The changes became effective Wednesday (*ER22-1719*).

The commission found the proposed process allows for the "collaborative development" of zonal planning criteria in multi-transmission owner zones that will then be used to determine the need for zonal reliability upgrades. It said SPP's proposal is just and reasonable as it would address concerns over the current process, which could lead to confusion and potential inequities because zones with multiple TOs can have multiple sets of local planning criteria for the same zone.

FERC's approval came after it rejected SPP's first attempt to change the zonal planning criteria in 2020. The commission sided with stakeholders' argument that the proposal would have given a pricing zone's lead TO "unilateral power" and "unduly" benefit them and the zone's largest network load customer. (See *FERC Rejects SPP's Zonal Planning Criteria*.)

The commission said SPP's revised proposal addressed its concern because it establishes a defined process by which a zone's TOs and transmission customers can provide input on potential planning criteria, and comment and ultimately vote on draft criteria developed by the facilitating transmission owner (FTO).

"SPP's proposed zonal planning criteria process provides for meaningful opportunities for input from interested stakeholders," FERC said.

The RTO has 18 transmission pricing zones, 10 with multiple TOs. The revised proposal designates an FTO responsible for facilitating that zone's development of a single set of planning criteria for that zone. SPP has recommended that the network customer with the zone's largest total network load be the FTO.

A zone's TOs and customers that receive long-term service can submit proposed planning criteria to the FTO by May 1 each year. The FTO will have until June 1 to post its draft criteria, and all interested parties will then have 30 days to respond with written comments. The FTO must hold at least one open meeting each year and conduct a two-step voting process that includes a load-weighted vote of all transmission customers receiving service to approve the final criteria.

FERC's approval culminates a process that began in 2018 with SPP's Holistic Integrated Tariff Team. The stakeholder group made 21 recommendations that included the zonal planning criteria. (See *SPP Board Approves HITT's Recommendations*.)

SPP's Board of Directors approved the revision request in January after it failed to pass the Markets and Operations Policy Committee. (See *SPP Board of Directors/Members Committee Briefs: Jan. 25, 2022*.)

The RTO's filing at FERC drew nearly two dozen intervenors, as well as protests from Oklahoma Gas & Electric, GridLiance High Plains and a group comprising Evergy's affiliates and ITC Great Plains. The commission disagreed with their arguments that SPP was replacing zonal planning with its regional planning process and violating FERC Order 1000's requirements, and that the proposed two-step voting mechanism is inequitable because either the FTO or a small transmission customer can effectively veto the criteria's adoption. ■

Xcel Energy service crews work on a new transmission line in West Texas. | *Xcel Energy*

SPP News

SPP Calls for Conservative Ops this Week

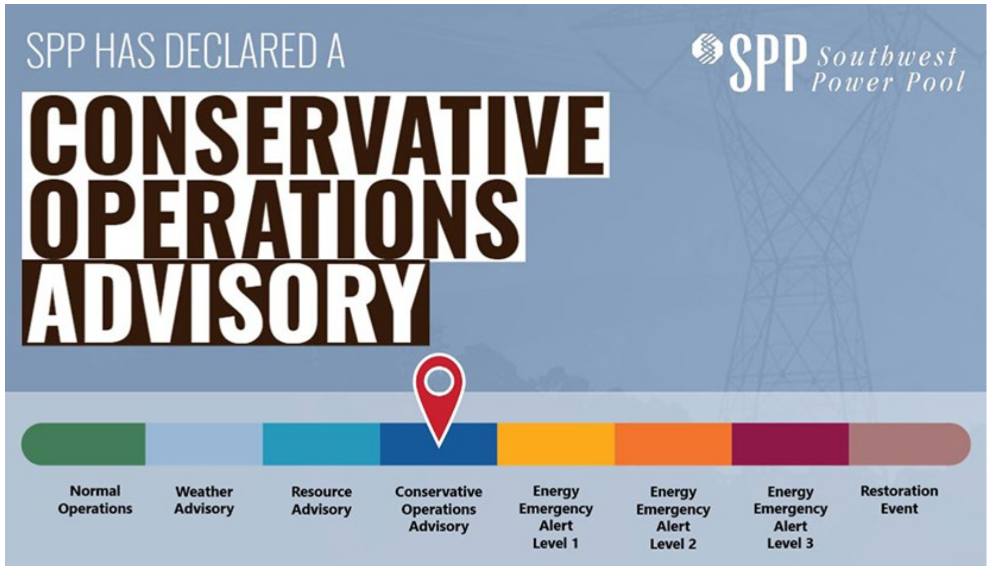
SPP on Saturday issued its second conservative operations advisory this summer for its entire 14-state Eastern Interconnection footprint, effective beginning at noon CT on Wednesday, through 10 p.m. Friday.

The grid operator said it declared the advisory because of high temperatures, high loads and wind forecast uncertainty. That allows the RTO's balancing authority to use greater unit commitment notification time frames that include commitments before the day-ahead market and/or committing resources in reliability status.

SPP issues conservative operations advisories when it needs to operate its system conservatively based on weather, environmental, operational, terrorist, cyber or other events. Generation and transmission operators have been provided instructions on applicable procedures and must report any limitations, fuel shortages or concerns.

July temperatures are expected to be above average, from the Texas Gulf Coast through the Central Plains and into Wyoming, according to The Weather Channel.

The Midwest Reliability Organization's *regional summer assessment*, released last week, included SPP among the region's balancing authorities likely to face capacity shortfalls this summer that would require external energy assistance or other emergency measures. (See *MRO Warns Energy Emergencies Likely in Summer*.)



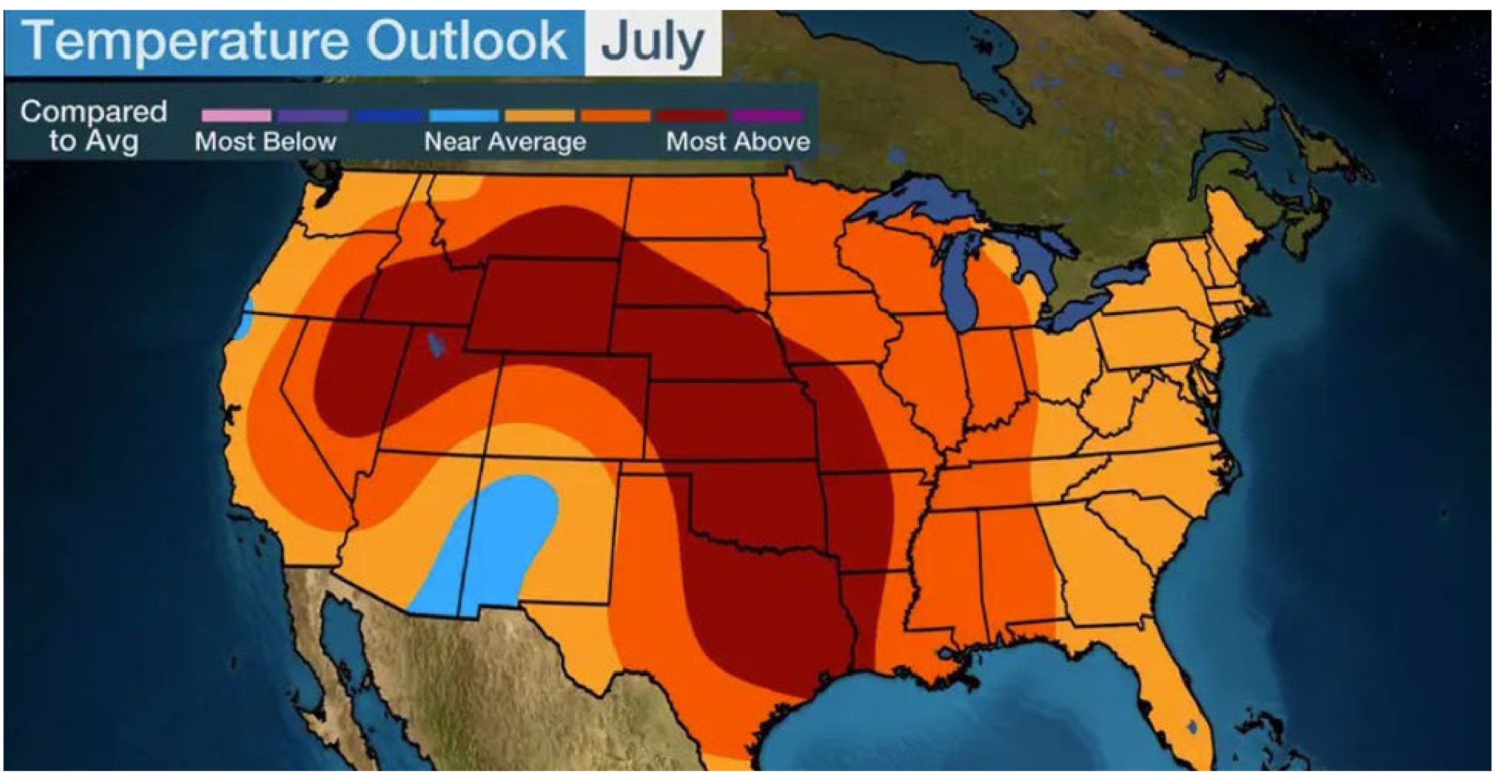
SPP has declared conservative operations this week. |SPP

Saturday's advisory replaced a resource advisory issued Friday for the same period.

SPP said conditions warranted the escalation to conservative operations. Neither advisory requires public conservation.

The RTO also declared a conservative operations alert for June 21-24. It has issued four resources advisories since late spring. ■

— Tom Kleckner



No surprise, July is forecasted to be another hot month. | *The Weather Channel*

SPP News

MISO, SPP Commit to Replacing Affected-system Studies

By Amanda Durish Cook

MISO and SPP revealed more details June 27 on their plan to replace their affected-system study process with regular interregional transmission planning studies.

The grid operators said in May that studies like their current $1.65 billion Joint Targeted Interconnection Queue (JTIQ) analysis can furnish more transmission capacity and interconnect generation more efficiently than performing affected system studies and assigning network upgrades to certain interconnection customers. (See *SPP, MISO Propose Scrapping Affected System Studies*.)

"I think generally the feedback has been pretty good," David Kelley, SPP's director of seams and tariff services, said during a teleconference with stakeholders.

The RTOs plan to assign a predetermined, dollar-per-megawatt charge, based on installed capacity, to generation projects in their queues when they fall within the JTIQ affected-system zone. That zone will be determined based on the current affected-system study screening criteria of a 5% distribution factor impact threshold on the neighboring system.

The per-megawatt charge will be disclosed when projects enter the queue. While the RTOs say the charge will be adjusted annually based on additional transmission projects, the charge to customers will not change once paid.

Currently, MISO's and SPP's affected-system studies process often produces expensive transmission upgrades for prospective generation projects near the seams and interferes with developers' ability to judge proposed generation's commercial viability.

"We're trying to provide that cost certainty upfront," MISO's Andy Witmeier said.

However, the grid operators are proposing to divide the JTIQ affected-system zone between MISO Midwest and MISO South. That will mean interconnection customers will pay different charges based on which MISO zone they're closest to.

Sumit Brar, MISO's principal engineer of resource utilization, said the transmission costs will be split "proportionally" by subregion. The RTOs' inaugural JTIQ study only focuses on the northern portion of their seam, where most congestion occurs.

Sequestering MISO Midwest from MISO South continues a planning tactic that MISO has used since adding the South in 2013. Through separate cost-allocation treatment and study deferrals, the grid operator keeps its South region from larger system planning and allocation decisions. (See *FERC OKs MISO's Bifurcated Cost-allocation Tx Design*.)

Witmeier said MISO South hasn't yet seen the prohibitively high interconnection costs necessary for a JTIQ portfolio along the southern seam. He said it doesn't make sense to have "one gigantic zone" when there isn't yet a need for a JTIQ study that covers the entire seam. Witmeier said the RTOs might eventually eliminate the two-zone approach if MISO increases the subregional transfer capability between the Midwest and South.

"We can't opine on how that project will look in the future," he said. Witmeier explained that the RTOs must currently factor MISO's subregional constraint in their interregional planning.

"I abhor that we're creating a new seam within MISO [and] SPP, when the goal should be a more seamless transmission system, as I'm sure MISO and SPP are striving for," said Adam McKinnie, chief regulatory economist for the Missouri Public Service Commission.

McKinnie said if MISO differentiates Midwest and South projects at the Missouri-Arkansas border, that would be "rough justice" because there are interconnection projects that stand to supply both southeast Missouri and northeast Arkansas.

Stakeholders asked whether the RTOs will reduce the per-megawatt charge when transmission projects fail to reach the finish line. Staff said the charge will only reflect projects that are built.

National Grid Renewables' Rafik Halim asked how the grid operators would make sure proposed interregional projects aren't an overbuild of the system.

"Who makes sure no one is trying to gold plate the transmission system on the dime of the interconnection customers?" he asked. "I'm being very frank. This is what everyone is thinking."

Witmeier said the RTOs' staff will continue to share constraints identified by studies with stakeholders and be "upfront with stakeholders about where the overloads" are and which upgrades will help.

Witmeier also said the RTOs cannot implement the affected-system replacement until their respective leadership signs off and they receive FERC approval. The grid operators plan to make a filing by the end of the year.

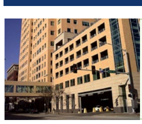
The earliest the proposal could be implemented is MISO's 2023 queue cycle, which will be kicked off in September, Witmeier said.

Halim said he "strongly suggests" MISO and SPP develop a joint model if they're going to conduct a JTIQ-style study once every two years.

"We're all smart people here, all engineers. Can't we agree on something? If you're trying to fix the same issues between MISO and SPP, can't we have the same model?" Rafik said.

"That sounds good in theory. In practice it's very problematic to implement. We've been down that road," Kelley said. He added that when MISO and SPP tried to develop a singular model a few years ago, it became a "barrier" to effective planning. ■

Midwest news from our other channels



MidAmerican to Pay $82k Penalty to MRO Over Facility Ratings

NetZero Insider

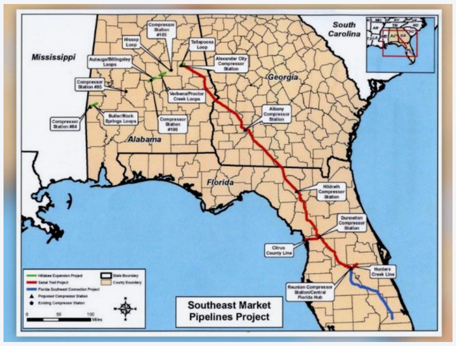
MRO Warns Energy Emergencies Likely in Summer

ERO Insider

RTO Insider subscribers have access to two stories each monthly from *NetZero* and *ERO Insider*.

Company Briefs

Sabal Trail Natgas Pipeline Begins Service in Florida



The behemoth Sabal Trail Transmission Pipeline, a 515-mile natural gas pipeline that cuts through Florida's wetlands and above the Floridan Aquifer, began operating last week.

The pipeline has been linked with the 126-mile Florida Southeast Connection, which brings natural gas from Osceola County to a Florida Power & Light plant in Indiantown. The pipeline will supply all the natural gas at the Riviera Beach power plant in Palm Beach County and will soon do the same at other FP&L plants in South and Central Florida.

More: *Miami New Times*

Tesla Cuts 200 Autopilot Workers as California Site Closes

Tesla last week laid off about 200 workers from its autopilot team as the EV maker shuttered its San Mateo office.

Teams at the office were tasked with evaluating customer vehicle data related to autopilot driver-assistance features and performing data labeling. Many of the staff were data annotation specialists, all of which were hourly positions. The automaker's downsizing efforts have focused on areas that grew too quickly.

More: *Yahoo Finance*

Striking Alabama Coal Miners Get Bonus from Union

About 900 miners, nearing 16 months on strike in Tuscaloosa County, last week received a $2,000 strike benefit from the United Mine Workers of America.

The UMWA's ongoing walkout against Warrior Met Coal began on April 1, 2021. Since then, the union says it has paid out more than $21 million to strikers. The $2,000 benefit is part of another $1 million in support from the union.

The old agreement with the union was negotiated as Warrior Met emerged from the 2016 bankruptcy proceedings of the former Walter Energy. Union members say they made many concessions in pay, benefits, holidays, overtime and other areas to keep the company going and get it out of bankruptcy. Those concessions, they say, have not been restored in subsequent offers from the company.

More: *Alabama.com*

Federal Briefs

OSW Installations Tripled in 2021

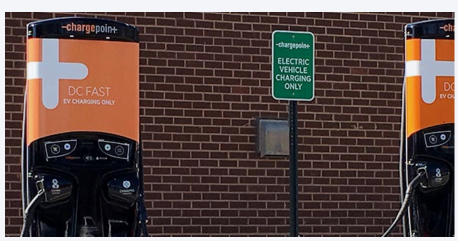
Countries connected 21.1 GW of new offshore wind capacity to the grid in 2021, or triple the amount installed in 2020, the Global Wind Energy Council said in a report last week. That brings the world's cumulative capacity of offshore wind power to 56 GW.

Furthermore, offshore wind power is on track to hit 504 GW in cumulative installations by 2035, a tenfold increase from last year's record numbers, *BloombergNEF* said in its offshore wind market outlook.

China added 17 GW of offshore wind power last year, or 80% of the global total, according to the report. The United Kingdom was second at 2.3 GW.

More: *Canary Media*

White House: Companies Investing to Boost EV Charger Production



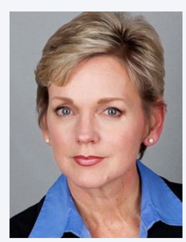
The White House last week said companies are planning to invest more than $700 million to boost U.S. manufacturing capacity for EV chargers.

The investments include $450 million from Volkswagen unit Electrify America and more than $250 million from Siemens to expand its Texas and California charger plants. FLO is also investing $3 million in its first assembly plant in Michigan.

The White House said the investments will help boost manufacturing capacity to more than 250,000 per year.

More: *Reuters*

OSC: Granholm Video Violated Hatch Act



The Office of Special Counsel, an independent federal watchdog, last week said Energy Secretary **Jennifer Granholm** violated the Hatch Act during a Marie Claire Instagram live video in which she said it was "good news" that Democrats had won a majority in Congress.

The Hatch Act is a federal law that prohibits executive branch employees from using federal resources to participate in some forms of political activity.

The OSC issued a warning to Granholm. A more severe punishment was not recommended because the watchdog determined she did not knowingly violate the act and she hadn't received proper training on the law before she made the comments.

More: *E&E News*

State Briefs

CALIFORNIA

PG&E Seeks More Time to Apply for Nuclear Subsidy

PG&E last week asked the Department of Energy for a 75-day extension to the deadline to apply for federal funds that could keep its Diablo Canyon nuclear plant open.

The utility's letter said "an extension is needed to provide PG&E the time to collect and analyze the information and prepare an application."

The two reactors at Diablo Canyon are scheduled to be shut down in 2024 and 2025, but Gov. Gavin Newsom in April said the state was open to keeping it running to shore up reliability.

More: *Reuters*

FLORIDA

FPL Consultant Obtained Personal Info, Surveillance Photo of Journalist

Matrix, an Alabama consulting firm that worked for Florida Power & Light during the attempted sale of utility JEA, possesses records on *Florida Times-Union* columnist Nate Monroe that show extensive research into his personal life and indicate he was under surveillance in the fall of 2020, according to leaked records.

Matrix owner Joe Perkins, whose firm serves a roster of political and corporate clients, said he didn't know about the background report or the photo until a search found them on a computer server that stored files of former employees who were acting without his authorization. He said the records were authentic.

The document for the background report shows the then-CEO of Matrix emailed it to FPL's vice president of state legislative affairs in October 2019. FPL said it did not find any records of the report or photo and said it has not sought that that kind of information on journalists.

More: *Florida Times-Union*

GEORGIA

Georgia Power Says Coal Ash to be Excavated for Construction Projects

Georgia Power last week announced plans to recycle more than 9 million tons of coal ash at Plant Bowen at a pace of about 600,000 tons per year.

The ash will be converted into concrete for constructing roads, bridges and buildings across the Southeast.

There is currently 20 million cubic yards of coal ash stored at Bowen.

More: *Capitol Beat News Service*

INDIANA

Duke Energy Rate Increase Approved by URC

The Utility Regulatory Commission last week unanimously approved Duke Energy's application for a rate increase to its electric and steam services due to fuel costs.

Residential customer rates will increase by 16%, or an increase of 24.6% from what customers paid from July to September 2021. Commercial rates will increase by less than 20.3%, while industrial rates will climb by less than 25.7%.

The new rates would take effect in July and remain through September.

More: *The Republic*

URC Approves CenterPoint's Plan to Build Gas Turbines

The Utility Regulatory Commission last week approved CenterPoint's request to replace its coal-burning A.B. power plant with new natural gas combustion turbines. The approval also means the utility can ask for a customer rate increase to cover the cost.

The project was originally estimated to cost $323 million, with monthly bills rising $23 a month, according to testimony filed by CenterPoint. Last week, the total cost was listed at $334 million. Despite that, the utility said customers will only see an increase of less than $10 per month.

Construction will start immediately, while the rate increase will be requested in a subsequent case and will not come until the rate review at the end of 2023.

More: *Evansville Courier & Press*

LOUISIANA

Entergy New Orleans Unveils Plan to Harden Grid for Storms

Entergy New Orleans on Friday unveiled a sweeping plan that would harden 33,000 structures and 650 miles of power lines to minimize power outages like the one that led to widespread misery after Hurricane Ida.

If enacted, the utility predicts the plan could save customers $2.6 billion over 50 years. But it would carry an eye-popping $1.3 billion price tag. The plan was submitted to the New Orleans City Council, which will also consider alternative proposals relying on microgrids.

Entergy engineers said they used computer modeling to run 1,000 simulations of a future with more and bigger storms. They identified the costs those storms could incur on customers, in terms of minutes of outages, and on the utility for repairs to infrastructure such as downed wires and utility poles.

More: *NOLA.com*

Natural Gas Well Rupture Leads to Voluntary Evacuations in Arnaudville

State police last week reported that a natural gas well rupture in Arnaudville led to road closures and voluntary evacuations within a half-mile of the well.

The fire stopped burning July 1, but officials warned it could reignite. The voluntary evacuation order remained in place. No injuries were reported.

More: *KLFY*

NEW MEXICO

PRC Orders PNM to Issue Rate Credits Upon San Juan Closures

The Public Regulation Commission last week ordered the Public Service Company of New Mexico to issue rate credits to customers upon the closure of each remaining unit of the San Juan Generating Station.

PNM will also be required to include a prudency evaluation of its decision to delay issuing bonds in its next rate case. If it is found that the delay led to increased interest rates, shareholders could be asked to absorb the costs of the increased interest rates.

The PRC alleged that PNM changed its plan so that it would not issue the bonds or remove the San Juan station from rates upon the plant's closure this year. Commissioners further said PNM chose not to inform the PRC about the decision.

More: *NM Political Report*

OHIO

Millions Facing Gas, Electric Rate Hikes

Utilities Columbia Gas, AES Ohio, Duke Energy and Aqua Ohio last week collectively asked the Public Utilities Commission for a $400 million rate increase related to gas, electric and water.

PUC staff has recommended granting slimmed-down versions of rate hike requests from Columbia Gas, Duke and Aqua Ohio, while the AES case awaits a ruling from a PUC judge. None of the four requests has reached a final decision.

The rates would affect more than 2.75 million customers.

More: *Ohio Capital Journal*

RHODE ISLAND

Gov. McKee Signs 100% Renewable Electricity Bill

Gov. Dan McKee last week signed legislation stating that 100% of the state's electricity should be offset by renewables by 2033. It is the first state to commit to 100% renewable power by that time.

The legislation calls for annual increases in the amount of electricity that should be generated from renewables, accelerating the increases under current law to achieve a 100% Renewable Energy Standard in 2033.

More: *Renewables Now*

VIRGINIA

Marine Resources Commission OKs Biogas Pipeline

The Marine Resources Commission last week unanimously approved Align RNG's 65-mile biogas pipeline network that would cross the Blackwater River and two swamps at seven locations in Surry, Sussex, Southampton and Isle of Wight counties.

The venture would turn methane from hog manure, also known as biogas, into pipeline-quality natural gas. Align's multi-locality pipeline network, which the company proposes to bury 14 feet, would connect participating Smithfield Foods farms to the regional Surry facility.

More: *The Smithfield Times*

Youngkin Appoints Wheeler Head of New Deregulation Office

Gov. Glenn Youngkin last week appointed former EPA Administrator **Andrew Wheeler** the head of the newly created Office of Regulatory Management months after lawmakers voted him down for another position.

Youngkin said the office will aim to reduce state regulatory requirements by 25%. A spokesman said Wheeler will not require General Assembly confirmation.

Wheeler, who served as EPA administrator from 2019 to 2021, was initially Youngkin's nominee as secretary of natural resources. The nomination faced immediate pushback in the Democratic-majority Senate due to Wheeler's history with the Trump administration and as a coal industry lobbyist.

More: *The Hill*

WISCONSIN

Amazon to Install EV Chargers at Delivery Center

The Village of Yorkville last week approved Amazon's plan to install around 400 EV charging stations at its delivery center in the Grandview Business Park.

Amazon moved into the business park last year with a facility that local officials estimated would bring in 50 delivery trucks a day while dispatching 268 vans.

The stations will not be open to the public or available for public use.

More: *The Journal Times*

WEST VIRGINIA

PSC Approves Appalachian Power's Solar Project

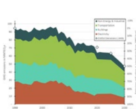
The Public Service Commission last week approved Appalachian Power's request to purchase and recover costs from a 50-MW solar facility in Berkeley County.

The PSC said it approved the facility because it did not expect rates to increase for customers who are not subscribing to solar energy.

Appalachian Power will acquire the facility from D.E. Shaw Renewables once it is completed.

More: *The Herald-Dispatch*

Northeast news from our other channels



Mass. Sets New 2025, 2030 Emissions Goals NetZero Insider

'Robust' Legislation Likely Outcome of Hydrogen Study, Conn. Rep. Says NetZero Insider

Conn. Environmental Regulator Launches EJ Advisory Council NetZero Insider

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