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RTO Insider

YOUR EYES AND EARS ON THE ORGANIZED ELECTRIC MARKETS

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RTO Insider

Your Eyes and Ears on the Organized Electric Markets
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In this week's issue

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By Steve Huntoon

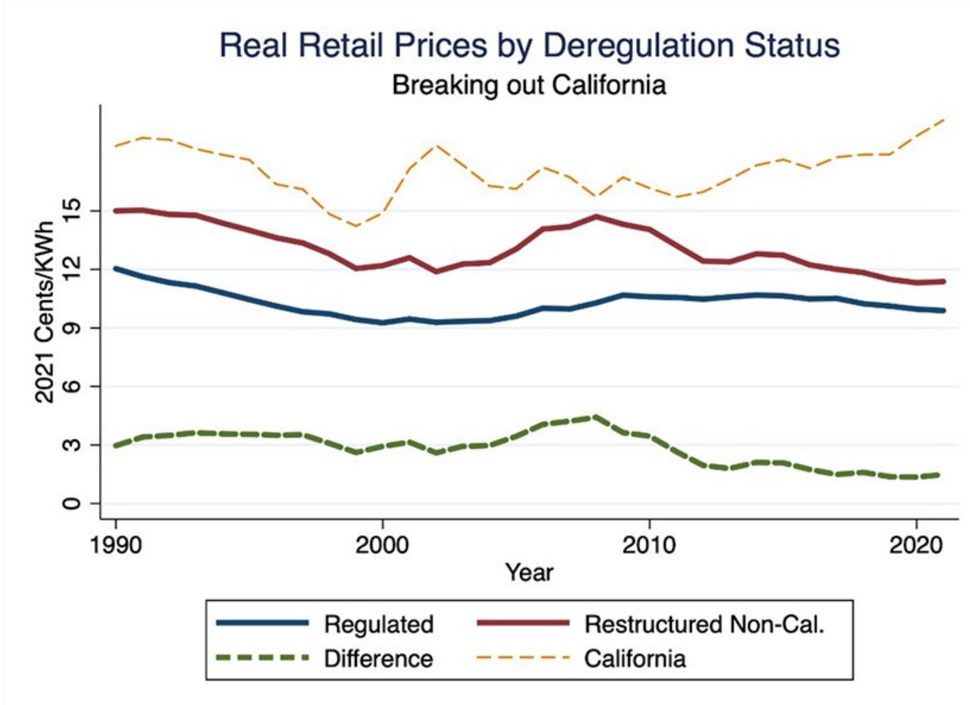
Competition Versus Monopoly

By Steve Huntoon

Steve Huntoon

One would have thought this answered many times over the last 25 years. Most recently with the poster child of the Vogtle nuclear plant in Georgia that is seven years late and a mere $16 billion over budget. And with regulatory capture resulting in regulated equity returns greatly exceeding the true cost of equity. But every so often the utility monopolies manage to get the opposite proposition back on the public policy radar screen.

So it was with a *New York Times* story in January this year claiming that 35 states that deregulated some or all of their electric system tend to have higher rates than the other 15 states. Where to begin?



| James Bushnell; data from EIA

What Matters

The sea change over the last 25 years has been the introduction of competition in the generation of electricity in some states — this is where the big money is and what warrants study. This should not be confused with the introduction of retail competition in some states — retail prices largely reflect generation (supply) prices. Or whether a state's utilities are in an RTO — largely irrelevant to whether generation remains a monopoly. Or whether competition in transmission is a good thing — which by the way I have argued ad nauseum is yes.

Reporting by *RTO Insider* revealed that the *Times* story relied on an analysis that defined as "deregulated" all states with utilities in RTOs — regardless of whether the utilities still had monopolies to supply customers with their rate-regulated generation. This is, for example, generally the case with the states/utilities in SPP and MISO. So the *Times* story was way off base at the get-go.

The Energy Institute Rebuttal

Two weeks after the *Times* story came out professor James Bushnell at Berkeley's Energy Institute posted a crushing rebuttal with these four insights:

1. Deregulation is best defined as the "the degree to which generation is compensated by market-based prices rather than cost-based regulation," a proposition Bushnell and Berkeley professor Severin Borenstein established in 2015. A cogent statement of what I suggested above.
2. Retail prices in states that deregulated generation were already very high. As Bushnell says, "That's a big part of why they deregulated!" So the measure of success isn't whether deregulated states' rates are still higher than other states, it's whether their rates are lower than they would have been if they hadn't deregulated. This is a subject I will return to below.
3. Prices in deregulated markets more closely follow the marginal cost of fuel, typically natural gas, so those prices are more volatile. When gas is expensive, deregulation can look bad. When gas is cheap, deregulation can look good. So when you measure makes a difference.
4. Generation is at most half the retail price of electricity. California has adopted policies dramatically increasing retail prices, as I've discussed in past columns. When Bushnell removed California from the "deregulated" group because of these policies, the data shows that the difference in price between the deregulated states and the regulated states has decreased over the years. As Bushnell says, "The gap between those two groups, in real terms, is now about half of what it was in 1998." In this graphic it's the bottom line (no pun intended) that matters.

Competition works!

Wait, There's More

I could stop here, and rest the case on Bushnell's insights and data. But I think there is another way to look at available data, based on the experience of the 13 PJM states.

We can divide the 13 PJM states into generation-deregulated states and generation-regulated states. For that I'll adopt the Energy Institute's division from a 2015 paper by Borenstein and Bushnell. Deregulated states are Delaware, Illinois, Maryland, New Jersey, Ohio, and Pennsylvania. Regulated states are Indiana, Kentucky, Michigan, North Carolina, Tennessee, Virginia and West Virginia.

According to EIA data, the average retail price in the deregulated PJM states was 7.42 cents/kWh in 2001 and 10.98 cents/kWh in 2021, an increase of 3.56 cents/kWh or 48%. The average retail price in the regulated PJM states

Counterflow

By Steve Huntoon

was 5.71 cents/kWh in 2001 and 9.93 cents/kWh in 2021, an increase of 4.22 cents/kWh or 74%. So the absolute price increase in the deregulated states, 3.56 cents/kWh versus 4.22 cents/kWh is less, and the relative price increase in the deregulated states, 48% versus 74%, is much less.

Is this proof positive that competition works? No. There are many factors and plenty of ways to slice and dice data. To paraphrase Ronald Coase, if you torture the data long enough it will confess to anything. But it is one more data set that supports competition over monopoly.

And Relative Carbon Emissions

I've discussed before how generation competition in PJM has dramatically decreased carbon emissions, largely by market-driven natural gas displacing coal.

I took a look at whether this might show up in relative carbon emissions of the deregulated states versus regulated states. According to Energy Information Administration data, average carbon emissions in the deregulated states went from 1,423 pounds/MWh in 2003 (first year of reported data) to 851 pounds/MWh in 2021, a 40% reduction. Average carbon emissions in the regulated states went from 1,641 pounds/MWh in 2003 to 1,214 pounds/MWh in 2021, a 26% reduction. Again, lots of factors, but I think this shifts the burden to those who claim that competition isn't good for the climate.

Key Takeaways

Deregulation/competition in generation works. And it's good for the climate. Win, win. ■

[1] https://www.bloomberg.com/graphics/2023-vogtle-nuclear-largest-clean-energy-plant-in-us/#xj4y7vzkg.

[2] https://energy-counsel.com/wp-content/uploads/2022/10/Nice-Work-If-You-Can-Get-It-Take-2.pdf; https://www.energy-counsel.com/docs/Nice-Work-If-You-Can-Get-It-Fortnightly-August-2016.pdf.

[3] https://www.nytimes.com/2023/01/04/business/energy-environment/electricity-deregulation-energy-markets.html.

[4] https://www.energy-counsel.com/docs/FERC-Order-1000-Need-More-of-Good-Thing.pdf; please see also https://www.energy-counsel.com/docs/waste-not-what-not.pdf.

[5] https://www.rtoinsider.com/31452-a-deregulation-debate-by-the-numbers/ ("In our interview, McCullough said the analysis he provided the Times wasn't really a comparison of retail electricity prices in deregulated versus regulated states, but between states operating inside and outside of organized markets.")

[6] https://energyathaas.wordpress.com/2023/01/17/more-breaking-news-california-electricity-prices-are-still-high/

[7] http://bushnell.ucdavis.edu/uploads/7/6/9/5/76951361/electricityindustry.pdf.

[8] https://energy-counsel.com/wp-content/uploads/2023/06/How-Many-Deaths.pdf; https://www.energy-counsel.com/docs/No-Carb-California.pdf.

[9] http://bushnell.ucdavis.edu/uploads/7/6/9/5/76951361/electricityindustry.pdf, footnote 16.

[10] For 2001, https://www.eia.gov/electricity/state/archive/062901.pdf. For 2021, https://www.eia.gov/electricity/state/. If you email me at huntoon@comcast.net I'll gladly send you my compilation of the underlying data (albeit in handwritten scribbles).

[11] https://en.wiktionary.org/wiki/if_you_torture_the_data_long_enough,_it_will_confess_to_anything; https://quoteinvestigator.com/2021/01/18/confess/.

[12] https://www.energy-counsel.com/docs/we-see-through-a-glass-darkly.pdf; https://www.energy-counsel.com/docs/NRDC-Prescribes-More-Carbon-Emissions.pdf; https://www.energy-counsel.com/docs/Scary-wrong.pdf.

FERC/Federal News

GOP Senators Call for FERC Conferences on EPA Power Plant Rule

Ex-FERC Chair Glick: Commission, EPA Talk Often

By James Downing

Two key Republican senators want FERC to play a more active, public role in evaluating the potential impacts of the power plant emissions rules EPA proposed in May. (See *EPA Proposes New Emissions Standards for Power Plants*.)

Energy and Natural Resources (ENR) Committee Ranking Member Sen. John Barrasso (R-Wyo.) and Environment and Public Works Committee Ranking Member Sen. Shelley Moore Capito (R-W.Va.) sent a *letter* to the commission Wednesday urging it to hold a series of technical conferences on the rule.

"The proposal presents unjustifiable claims about the future availability of technologies — including carbon capture, clean hydrogen and the related infrastructure — used to power our electric grids," Barrasso and Capito wrote in the letter. "In light of recent testimony before Congress and the projected impact of the Proposed Clean Power Plan 2.0, we ask you to convene as soon as possible a series of technical conferences to assess the potential impact of the proposed rule on electric reliability."

The Federal Power Act requires FERC to protect electric reliability through mandatory standards and Congress more generally looks to the commission to safeguard the quality of interstate electric and natural gas service, the two wrote.

The ENR Committee recently held a pair of hearings on FERC oversight and reliability. During one of them, the commission's two Republicans warned of a pending reliability crisis. (See *Senators Praise Phillips, FERC's Output at Oversight Hearing*.) Commissioner James Danly warned of "an impending, but avoidable, reliability crisis," and Commissioner Mark Christie said the crisis would occur if the rapid subtraction of dispatchable resources continued unabated.

Acting FERC Chair Willie Phillips told the committee he was concerned about the pace of power plant retirements and said the commission needed to keep an eye on it. Similar concerns were echoed by the heads of NERC and PJM at a later hearing. (See *Robb Warns of 'Serious Disruptions' from Grid Transition*.)

"These witnesses expressed the critical, consistent concern that the premature retirement of dispatchable generation is frequently driven by government actions, including rulemakings from the EPA," the letter said. "The Proposed Clean Power Plan 2.0 appears to pose a significant threat to the remaining dispatchable fleet when the nation can afford it least."

The Bucksport Power Station | *JERA*

Back when the original Clean Power Plan was finalized in 2015, President Barack Obama's EPA worked with FERC and the commission held a series of technical conferences on the plan's potential impact on reliability, which all included testimony from EPA leadership, the letter said.

The letter said that without a similar effort from FERC to a build a record, the commission's consultations with EPA on the rule "are likely to be ineffective."

"EPA clearly lacks the expertise to project accurately the impact of its rulemaking on electric reliability without deeply informed and engaged participation from FERC and those subject to its jurisdiction that are charged with the obligation to generate and deliver electricity in order to meet continuous demand for electric service," Barrasso and Capito wrote.

Behind the Scenes

While the letter argues for more public coordination between the two agencies, former FERC Chair Richard Glick said in an interview that the two closely coordinated on areas that implicated each other's jurisdictions.

"Behind the scenes, FERC and EPA have conversations often," Glick said. "FERC often provides technical assistance to agencies like the EPA, for instance, if there's a concern about a particular upcoming rulemaking that EPA is looking at and what that impact might be on the reliability of the grid."

Those kinds of conversations happened when Glick was at the agency, and he expects they have continued, though he acknowledged not having inside information about what has occurred since he left. It is ultimately up to Phillips whether he wants to go the more formal route of technical conferences as requested by the two senators, Glick said.

Any information shared between the agencies behind the scenes is going to be part of the public record anyway, Glick said.

The senators' letter also complained about EPA's decision to grant a brief extension for its comment deadline to Aug. 8, when many parties, including key trade associations and the ISO/RTO Council, had asked for an extension into the fall.

An EPA spokesman said the agency would respond to all comments in its final rule when it is issued. In the proposed rule itself, the EPA said it would coordinate with FERC and mentioned it signed a memorandum with the Department of Energy this spring that included consultation with the commission, NERC and state regulators. (See *DOE, EPA Team Up on Reliability Efforts*.)

Electric Power Supply Association CEO Todd Snitchler said in a statement that the trade group would support public coordination between FERC and EPA on the rule's potential impacts, of which the group has been critical since it was released.

"While we support and our members actively contribute to the expansion of cost-effective clean energy, EPSA remains deeply concerned about the potential impact of the EPA's proposed rules on critical natural gas power plants needed to provide reliable electric supply," Snitchler said.

No existing commercial power plants in the country are using carbon capture and sequestration and no current technologies can meet 24/7 demand that can be "deployed quickly, cost effectively and at scale to fill the gap left by existing resources likely to be put out of business by the EPA's aggressive new restrictions," he added. ■

FERC/Federal News

Gates, Musk Discuss Clean Energy Innovation for Starstruck EEI Audience

Entrepreneurs Working to Prod Electric Industry Forward

By Tom Kleckner

AUSTIN, Texas — Two of the world's richest men, who are using their billions to help the clean energy transition, drew gawkers and rubberneckers in the halls of the JW Marriott Austin hotel's event space during Edison Electric Institute's annual conference last month.


Bill Gates | *© RTO Insider LLC*

Bill Gates and Elon Musk each filled the main ballroom with their respective keynotes. Gates, dapper in a business casual blazer, needed little prodding to share his thoughts on a clean energy future. Musk, wearing a fashionable outfit that included an open zipper across his chest and cowboy boots, was a man of fewer words, but big thoughts.

Gates showed up the day before his appearance. Trailed by a camera crew, he slipped into the conference's networking center, which doubled as a trade show. It wasn't long before Gates was surrounded by scores of observers as he made the first of several stops to the booths.

"Hey, Bill Gates is over there," whispered one EEI staffer to another.

His first stop was at Antora Energy, a startup that uses thermal batteries to store renewable energy in carbon blocks that are then heated to 2,700 degrees Fahrenheit. The energy is discharged as zero-emission heat and/or power.

Antora is just one of more than 110 clean energy technologies that Gates' Breakthrough Energy has invested in, about a dozen of which set up booths at the conference. The organization, founded by Gates in 2015, is working to accelerate innovation in sustainable energy and other technologies to reduce greenhouse gas emissions and reach a goal of net-zero emissions by 2050.


Elon Musk | *© RTO Insider LLC*

"Great ideas are just the beginning," Gates explains on Breakthrough's *website*. "We need a plan — and the willingness to do the hard work — so we can get on track over the next decade."

"The key playbook of Breakthrough Energy has been to drive innovation and to drive policies for innovation," Gates said from EEI's main stage. "When we got this thing started in 2015, I didn't know if we would find the innovative ideas. We raised several billion dollars, and amazingly, mostly here in the United States, we found phenomenal entrepreneurs and scientists together applying [for investment]. And so in any area of emissions, we now see the path to get there with execution, particularly on the green grid, which will be two and a half times the size of what we have today because of massive electrification.

"Massive electrification is daunting, but you can see that there is a path, a path that doesn't involve saying to people, 'OK, you now have to pay a lot more money for all your goods, including electricity,'" he said.

Asked by Ameren's executive chairman, Warner Baxter, why he has such a rosy view that the 2050 net-zero goal will be reached, Gates pointed simply to civilization.

"The modern economy is about energy intensification. Crude oil and natural gas are magical things. The energy density there has allowed us to transform life in this very dramatic way," Gates said. "The idea that now we have this goal, that by 2050 will basically replace all those cement plants, steel plants, coal plants — there's no equivalent thing, even if you take the work that was done during World War II."

He said the multidecade effort will have to be coordinated to make it work. That includes the "incredibly complex" task of designing a new electric grid.

"Many people, when they look at the climate problem, they're like, 'OK, what can we do to make a little bit of progress?' But as you look at it, you'd say, "Oh, no, I need to get all the way to zero,'" he said. "You have to do the very hard things, and you have to do it not just in the rich countries but also in middle-income countries that now account for the bulk of the [world's] nations. We have a lot of work to do to get to

FERC/Federal News

that in a very short period of time.

"We're no longer able to say, 'OK, in the near term, it's business as usual,' and then that payment comes later. We are now in the time period where the rate of renewable build and the rate of transmission permitting is completely inadequate to this goal. And yet, people have worked with us to lead on this."

While obviously a fan of renewable energy, Gates said individual states' incentives for generation and transmission projects will make it difficult to ensure reliability as more renewables are integrated onto the grid.

"If a huge part [of generation] is renewable energy — offshore wind, onshore wind, solar — then you'll have parts of the United States where they will not be able to generate enough energy," he said. "And so the idea that this has been done overwhelmingly at the state level — here's a load; here's [a] generator that's fairly near that load — that paradigm does not work to get to zero emissions."

Musk: Demand to Triple by 2045

Musk focuses much of his energy on electric vehicles, batteries and solar panels. That is, when he's not exploring space, boring tunnels underground or attempting to manage his social media company.

He rose to fame and riches with Tesla, which dominates the EV market. Its massive *Austin Gigafactory* —driving past the 2,500-acre facility at the nearby state highway's speed limit takes about 45 seconds — produces *5,000 Model Ys a week*. Globally, more than *440,000 EVs* rolled off Tesla production lines during the first quarter of this year.

Just before Musk's appearance at EEI, Tesla announced it was *partnering with Ford and General Motors* and sharing charging infrastructure. Electrify America, the country's largest fast-charging network for other EVs, *has said* it will incorporate Tesla's charging standard into its stations as part of its commitment to "broaden charging solutions."

"I think opening up the chargers is morally right, and it was something that will help power sustainability," Musk told his audience. "We're really trying to do everything here. We will support all electric vehicles on equal footing. We're not advocating for special treatment of Tesla. We're trying to clear a path for sustainability."

However, Musk said, if the U.S. is to achieve a sustainable future, his back-of-the-envelope projections indicate electricity demand will triple by 2045.

Bill Gates visits with a staffer from Antora Energy, one of his Breakthrough Energy projects. | *© RTO Insider LLC*

"Everything is going to be electric," he told his EEI audience. "I don't know what your plans are for future electricity demand, but it's going to be much higher than you think. You should start to plan now. We're trying to work to a sustainable energy future, and it's going to take many technology solutions to get there.

"I think this is good news for everyone who produces electricity, but it entails a tremendous amount of work ahead," Musk added.

The key is the three pillars of a sustainable energy future, he said. They are sustainable power generation like solar, wind, hydro and nuclear; stationary batteries; and electric transportation.

"Once we have those three pillars in place, we'll have a sustainable future for as long as the sun shines and the wind blows," Musk said. "It will very much be a joint effort. The utilities have the wires; they're the distributors of electricity. It's hard work to actually put that generation in place and transport it to where it gets used, but we have to take advantage of the valleys of power production."

Of course, he pushed Tesla Energy's *Powerwall* as part of the equation. The sleek rechargeable lithium-ion residential battery stores solar energy for self-consumption, time-of-use load shifting and backup power. Aggregated together, they can be even more beneficial to the grid, Musk said.

"You're operating collectively and helping to stabilize and preserve everything. The Powerwall battery pack is a helpful part of solving the energy problem because there's a lot of neighborhoods where it's hard to get incremental power to that neighborhood because you need more substations and you need more wires. Local storage helps alleviate some very boring situations where it's just so frustratingly difficult to get more power to that neighborhood. It's really a big deal and really helpful because obviously, it's battery at scale, and it pumps electricity. We can do electricity better." ■

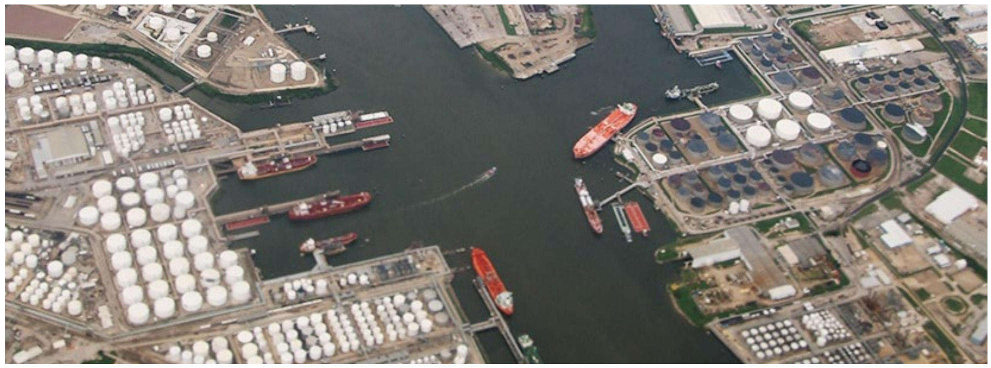
FERC/Federal News

FERC Approves Smaller Fine for BP After 5th Circuit Decision

5th Circuit Found It Lacked Jurisdiction on Intrastate Trades

By James Downing

FERC on Friday approved a new settlement with BP America over allegations that it manipulated interstate natural gas prices in 2008 after an appeals court found the regulator exceeded its authority in an earlier penalty order (*IN13-15*).



Aerial view of the Houston Ship Channel | *Shutterstock*

BP agreed to pay a $10.75 million civil penalty and will not seek the return of an additional $250,295 in disgorgement that it had already paid. Initially, FERC had assessed a civil penalty of $20.16 million, which the firm appealed to the 5th U.S. Circuit Court of Appeals.

The firm already paid that earlier fine, plus interest, under protest, so the deal effectively means FERC will not oppose BP seeking to reclaim $13.6 million through a suit in the U.S. Court of Federal Claims, or any other forum with jurisdiction.

The case involved natural gas prices in the Houston Ship Channel in the days following Hurricane Ike in 2008, when BP allegedly traded next-day, fixed-price natural gas to artificially depress them to benefit positions it held.

The 5th Circuit found in a *decision* in October that some of the transactions FERC was seeking fines for were intrastate trades, over which the court said it does not have jurisdiction. The new order limits the fines to the 18 transactions the court said were under FERC's authority to regulate.

FERC affirmed its finding that BP engaged in market manipulation but limited that finding pursuant to the court's order. The commission had argued that it was able to seek fines on any natural gas transaction, including intrastate gas deals, that affects the prices it regulates under the Natural Gas Act, but the court rejected that claim.

"The commission cannot exercise its jurisdiction merely because a manipulative scheme may affect the prices of interstate natural gas trades," the court said.

BP stipulated to the facts set forth in the deal and acknowledged that the 5th Circuit upheld FERC's findings of manipulation when it came to the 18 jurisdictional transactions.

FERC's Office of Enforcement started investigating BP after Ike during the period of Sept. 18 to Nov. 30, 2008, when it sought to determine whether the firm's trades were intentionally trying to depress Platts' Gas Daily index prices at the Houston Ship Channel to benefit bigger, financial spread positions BP held that settled off index prices.

The index positions BP held paid off when Houston Ship Channel natural gas was lower than the Henry Hub prices in Louisiana, which was the case when Ike hit and caused prices to plunge. Then the firm "engaged in a glut of physical sales" at the ship channel to keep the index profits rolling in for weeks after the hurricane hit, the court said. ■

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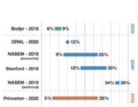

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CAISO/West News

Newsom Expresses 'Sense of Urgency' on Energy Buildout

Signs Bills to Make it Easier to Build Generating Resources and Transmission

By Hudson Sangree

California Gov. Gavin Newsom (D) on Monday signed a $311 billion state budget and infrastructure bills aimed at building generation and transmission to ensure reliability as the state transitions to 100% clean energy.

The fiscal year 2023/24 budget retains 95% of last year's $54 billion, five-year annual commitment for climate initiatives, including roughly $10 billion for electric vehicle infrastructure and incentives.

In his budget plan released in January, Newsom had proposed slashing $6 billion from climate commitment because of this year's tax revenue shortfall, but he agreed with lawmakers to cut only $2.9 billion.

Negotiations with lawmakers also produced the five-bill infrastructure package that Newsom signed Monday.

The bills included *Senate Bill 149*, which will streamline judicial review of clean energy and transportation projects by requiring that challenges to the projects under the California Environmental Quality Act (CEQA) be resolved by the courts within 270 days, including appeals. (See *Newsom Stresses Role of Permitting in Calif. Energy Transition*.)

Another bill, *SB 147*, will allow the incidental taking of fully protected species under the state's Endangered Species Act during the construction of infrastructure projects. It also declassifies the peregrine falcon, brown pelican and thicktail chub, a small fish, as protected species.

Environmental groups and some Democratic lawmakers opposed the measures, but Newsom said keeping the lights on and building out clean energy and transmission ought to take precedence over lengthy environmental reviews.

"We've got to move to build those projects, and we've got to remove some hurdles," Newsom said. "I know there's a purity of thinking … that we can live with rules and regulations that require nine years of processes to deliver the reliability that the people of the state deserve, but I just don't see that from the prism of where I'm operating from."

The last three summers, when the state struggled with blackouts and near misses, were "challenging," he said.

Avoiding future repeats will require adding thousands of new megawatts annually, CAISO and the California Public Utilities Commission have said. In May, the CAISO Board of Governors passed its 2022/23 *transmission plan*, which calls for 45 projects totaling $7.3 billion to add 70 GW of new resources over the next 10 years.

California Gov. Gavin Newsom signed infrastructure bills Monday surrounded by lawmakers. | *Office of the Governor*

"That's exactly why this infrastructure package was so important," Newsom said, thumping his lectern. "I want you to know that I have short-term confidence but long-term anxiety if we do not deliver on these large-scale utility" projects.

Newsom said he feels "a deep sense of urgency" about building out energy capacity. California needs to build faster, including to compete for billions of dollars in federal funding from the Inflation Reduction Act and programs.

"I don't want to just come up here and lament about extreme heat, extreme droughts, extreme weather," he said. "I want to actually deliver, not just on goals and ambition, but on projects. And so, I'm in a different mindset, sort of a hardheaded pragmatism. You know, let's get moving." ■

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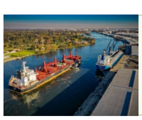

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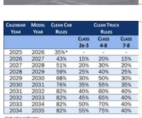

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ISO-NE News

Canadian Wildfires Trigger ISO-NE Capacity Deficiency

Company, Scientists Say Climate Change is Partly to Blame

By Jon Lamson

Forest fires in Québec forced the shutdown of a Hydro-Québec transmission line during New England's peak-demand evening hours Wednesday, leading to a capacity deficiency and requiring ISO-NE to take emergency actions to balance the grid.

The event marks just the third capacity deficiency event in New England since 2016; the most recent prior incident was on Dec. 24, 2022. ISO-NE was able to draw on operating reserves to avoid major issues.

"The transmission outage occurring in the midst of the evening peak meant that sufficient resources were not able to respond quickly enough to avoid the capacity deficiency," ISO-NE wrote in a *press release*, noting that the transmission issue coincided with higher-than-expected peak evening demand.

While calling on the region's reserve resources, ISO-NE declared an Energy Emergency Alert Level 1, the lowest of the RTO's three alert levels. These actions helped mitigate the capacity deficiency within a half-hour, and ISO-NE did not ask the public to reduce its energy consumption.

"In and of themselves, capacity deficiencies are not always emergencies," ISO-NE said. "They simply mean that ISO operators are taking additional actions to maintain system reliability."

A Hydro-Québec spokesperson told *RTO Insider* in a statement that the transmission outage was the result of forest fires in the Baie-James region of Québec, which caused a temporary shutdown of the company's Phase-2 line.

"Heat and smoke can trigger automated system protection mechanisms, which will essentially shut down the power line in order to protect it," Hydro-Québec said. "Our bulk transmission infrastructure has not suffered any damage as a result of the forest fires. We remain in constant communication with our ISO partners, providing as much visibility as we can on the current fire situation."

The company also highlighted the link between the accelerating consequences of manmade climate change and the massive early-season wildfires in Québec.

"While forest fires are not a new phenomenon, the intensity and increased frequency of these events in North America are the result of climate change," Hydro-Québec said. "The amplitude of this event should serve as a clear reminder that we need to accelerate every effort towards transitioning away from the burning of fossils fuels for electricity generation."

The wildfires have already broken Canada's *record* for most area burned in a single year, and government officials expect above-average fire conditions to continue through July and August in many regions of the country.

Kristina Dahl, principal climate scientist for the Climate & Energy program at the Union of Concerned Scientists, said that while a large range of factors have contributed to the massive Canadian wildfires, climate change is a major driver.

| © RTO Insider LLC

"There's a very clear connection between climate change and worsening wildfires," Dahl said. She noted that climate change exacerbates wildfire risks by increasing temperatures and drying out ecosystems, as well as enabling tree-killing insects to survive the winter, which creates additional fuel for wildfires.

"It's really alarming what's happened in Canada so far this wildfire season," Dahl added. "Wildfires have burned over 20 million acres of land; that's roughly an area the size of the state of Maine."

In early June, ISO-NE reported that wildfire smoke had led to reduced solar generation across the region. It emphasized the difficulty in forecasting demand amid the effects of this smoke because of the lack of historical data. (See *RTOs Report Diminished Solar Output, Loads as Wildfire Smoke Passes*.)

ISO-NE also recently released the *preliminary results* of its joint study with the Electric Power Research Institute about the grid reliability impacts of extreme weather, looking at the summer of 2027. While the study found no energy shortfall risk, it did not analyze the risks posed by wildfires to the grid.

"We did not directly consider wildfire risks, as the assessment was focused on resource adequacy risks where wildfires would not be expected to impact enough supply resources simultaneously in the region to be a primary hazard to consider for resource adequacy risk," Daniel Brooks, EPRI vice president of integrated grid and energy systems, said in a statement to *RTO Insider*. "Wildfire risks might be a contributing factor potentially during extreme heat scenarios in the future. One area we could add for future versions would be the import capability with wildfire impacting transmission from neighboring regions such as Québec."

Susan Muller, senior energy analyst for UCS, said the reliability issues experienced last week highlight the need to rapidly transition away from fossil fuels and to recognize the reliability attributes of nonemitting resources.

For clean energy sources, "you're getting power, but you are also reducing the likelihood of extreme weather because you're no longer adding carbon to the atmosphere," Muller said. ■

MISO News

Entergy Regulators Mount Challenge to MISO South Cost Allocation

MISO Supports Cost Sharing, but E-RSC Supports Cost Causation

By Amanda Durish Cook

State regulators from MISO South have publicly opposed a "postage stamp" cost allocation design, potentially setting the stage for a showdown between them and RTO planners preparing a third portfolio of long-range transmission projects.

The Entergy Regional State Committee (E-RSC) on June 30 adopted a *resolution* denouncing any use of postage stamp rates — in which costs are allocated across an entire footprint based on transmission customers' load-ratio shares — to pay for the third of four iterations of MISO's long-range transmission planning (LRTP).

Last month, MISO suggested eschewing a total subregional postage stamp design in favor of a half-subregional, half-zonal cost-sharing plan as it prepares to assemble a third LRTP portfolio that concentrates for the first time on the MISO South region. (See *MISO Suggests Changing Cost Allocation for South Projects*.)

But the E-RSC — which comprises the public utility commissions of Texas, Arkansas, Mississippi and Louisiana, as well as the New Orleans City Council, each of which regulates entities in one of the five cost allocation zones in MISO South — said any use of a postage stamp allocation is unacceptable. It called for "cost-causation and beneficiary-pays principles" and said parties who "receive negligible or negative benefits" should not owe anything.

For the third cycle of LRTP, "not all retail jurisdictions and loads are likely to be equal cost causers and beneficiaries," the E-RSC said. A postage stamp design will "not align LRTP-related costs with the expected beneficiaries." MISO should consider assigning costs to interconnecting generators that will benefit from LRTP lines through reduced network upgrade costs, it said.

The resolution called upon MISO to develop an allocation that metes out costs "based only on accurate, objective, measurable, quantifiable, non-duplicative, forward-looking and replicable metrics that are supported by data" to protect consumers. MISO's design should be shaped by benefit ideas from MISO South regulators and stakeholders, and each LRTP project should be able to pass a benefit-cost analysis on a stand-alone basis, as opposed to sizing up benefits from a portfolio perspective, it said.

MISO did not say whether the E-RSC's resolution will influence its cost allocation proposal. Via spokesperson Brandon Morris, the RTO said it appreciates the E-RSC's feedback and is reviewing its resolution.

"We are committed to working with our stakeholders to develop a cost allocation solution for tranche 3 that balances the different needs of our subregions," Morris said in a statement to *RTO Insider*.

In May, leadership of the Organization of MISO States said the RTO's allocation proposal for its South subregion sparked several questions and a need to understand MISO's end goal. State regulatory staffs said it was unclear whether the 50/50 allocation will completely replace MISO's subregional postage stamp rate going forward and whether the RTO is planning to use the design on the fourth LRTP portfolio.

At the time, multiple representatives from MISO state regulatory bodies also said they remain interested in adding a generator-pays component to LRTP cost allocation. ■

Entergy

MISO News

FERC Clears MISO, SPP's Affected-system Study Improvements

RTOs Hope to Install Regular JTIQ Studies

FERC has approved changes to MISO and SPP's affected-system study process to allow either RTO to order upgrades of limiting elements on tie lines.

In a June 30 order, FERC said the revisions to MISO and SPP's joint operating agreement regarding upgrades to tie line limits and more consistent modeling on SPP's part should bolster reliability (*ER23-1803*).

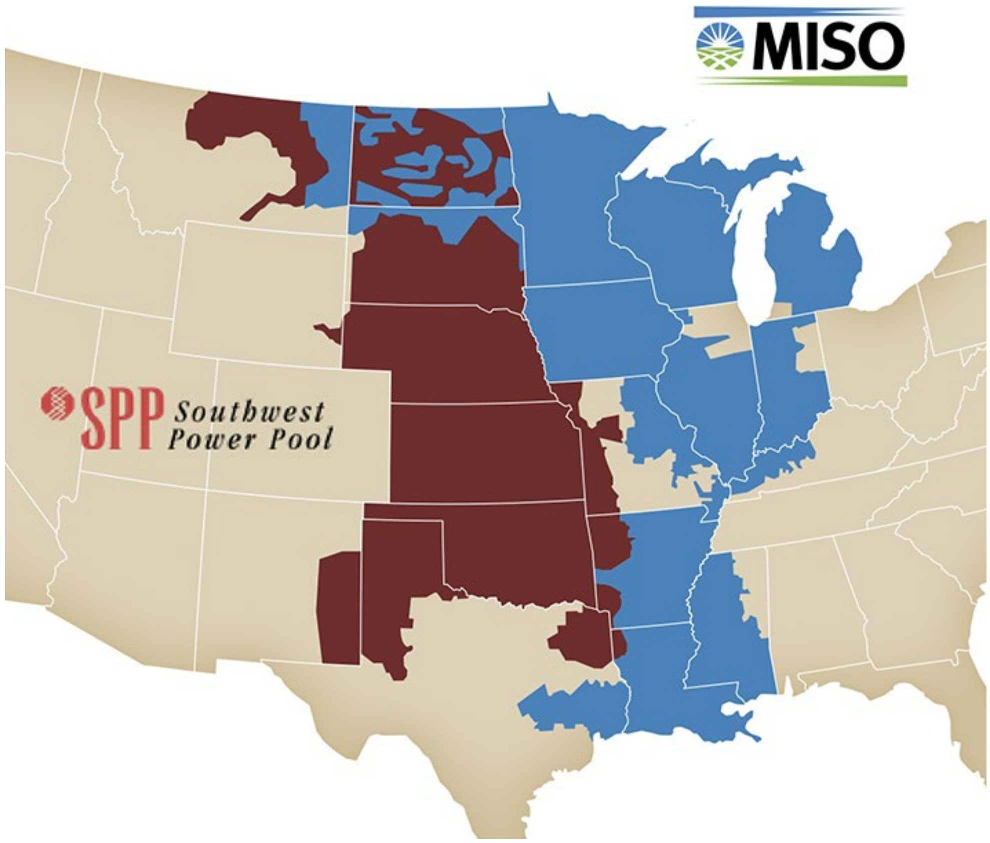
Now MISO or SPP can require all necessary tie line upgrades during the study process, regardless of on what side of the seam the limiting element is located. The upgrade then would be handled under the business practices and tariff of the RTO that has functional control over the limiting element.

Additionally, SPP pledged to conduct its affected-system studies using the actual amount of either network resource interconnection service or the non-firm energy resource interconnection service requested in MISO by interconnection customers.

The order stems from a complaint EDF Renewables made in 2017 over ambiguous affected-system study processes in MISO, PJM and SPP. (See *Affected-system Rules Unclear, FERC Says*.)

However, MISO and SPP's JOA revisions could be short-lived, as the RTOs are hoping to ditch their affected-system study process in favor of installing regular Joint Targeted Interconnection Queue studies. Both RTOs are readying tariff and JOA language for their first, $1.9 billion portfolio of 345-kV lines meant to bring more generation online at the seams. (See *MISO Stakeholders Request JTIQ Cost Containment Measures*.) ■

— Amanda Durish Cook



| *MISO and SPP*

NYISO News

NYSERDA Asks PSC to Revise REC Capacity Price Calculations

The New York State Research and Development Authority has *petitioned* the state's Public Service Commission to adjust how it calculates the reference capacity price (RCP) for renewable energy certificates to account for NYISO's new capacity accreditation construct (18-E-0071/15-E-0302).

The RCP is an input used to calculate how much generators who own index REC contracts are paid each month. The price, along with a reference energy price, is subtracted from the index strike price to determine the total amount paid. Thus, the lower the RCP, the higher the revenue.

NYSERDA told the PSC that some intermittent generators were having difficulty predicting the amount of capacity revenue they expected to receive because of the changes. The agency proposed eliminating the need for generators to predict their unforced capacity (UCAP) production factor, itself an input in the calculation for the RCP, and change the variable to a fixed value, unless a generator requests a specific value and the commission approves it.

"Eliminating the need for [REC bidders] to predict future UCAP amounts would reduce the risk associated with future variance between a resource's capacity revenue and reference capacity price," NYSERDA wrote.

But while "the proposed revised reference capacity price formula provides a more flexible and resilient hedge and is therefore expected to lower bid prices in future" requests for proposals, NYSERDA cautioned that it "is not able to reasonably predict the associated reduction in ratepayer costs."

NYISO received FERC approval in 2022 to adopt a new marginal capacity accreditation market design that placed more value on intermittent suppliers and generators providing marginal contribution to reliability, instead of their average contribution. (See *FERC OKs NYISO Capacity Market Changes Stemming from NY Climate Law*.) The new rules are scheduled to become effective May 1. ■

— John Norris

| NYSERDA

NYISO News

DC Circuit Appeals Sides with NYISO on Solar Interconnection Dispute

By John Norris

Hecate Energy lost a court appeal to have *FERC* review its petition that *NYISO* had charged it an unreasonable rate for upgrade costs to connect a solar power plant near the New York state capitol to the grid (*21-1192*).

A majority of a three-judge panel of the D.C. Circuit Court of Appeals on Friday ruled against the renewable energy developer and disagreed with its argument that NYISO's filed tariff with FERC was not detailed enough.

Hecate said it was surprised when NYISO charged it $10 million to interconnect a proposed solar facility in New York and initially challenged the decision with FERC after it was unwilling to pay for these upgrades.

FERC rejected Hecate's argument that it was not given enough notice that six non-jurisdictional projects could be included in NYISO's final bill for interconnection. FERC later affirmed its decision, denying Hecate's rehearing request.

In response, Hecate filed two petitions for review with the court. The first was filed after FERC did not act on Hecate's petition for a rehearing and the second was filed after FERC did address the request.

The court sided with FERC, however, finding NYISO's tariff detailed enough and that it gives fair notice that non-jurisdictional projects could be included in interconnection studies.

The court also noted that Hecate's contention that "FERC's reading of the tariff cannot be squared with other tariff provisions" is lost since the generator did not make the argument to FERC on rehearing.

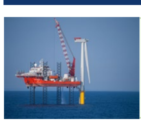
Hecate can raise its argument on appeal if it has "reasonable ground[s]," the opinion added.

| *Hecate Energy*

Circuit Judge Justin Walker's opinion included a quirky footnote for curious readers noting that Hecate is pronounced as "HEK-a-tee" like the Greek goddess of magic, not "HEK-ut," like the ruler of the witches in Shakespeare's "Macbeth." ■

— John Norris

National/Federal news from our other channels



Ex-BOEM Director Lefton to Lead OSW Development for RWE — NetZero Insider

Report: Planned OSW Fisheries Impact Studies Fall Short — NetZero Insider

Mass. DPU Greenlights Major Battery Projects After Delays — NetZero Insider

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NYISO News

NYISO Defends DER Aggregation Proposal, 10-kW Minimum

PSC, Clean Energy Groups Say Plan Falls Short of Order 2222 Requirements

By John Norris

NYISO asked FERC last week to reject protests by state regulators and clean energy groups over the ISO's proposal for integrating distributed energy resource aggregations into its markets, defending its call for a 10-kW minimum for participation (*ER23-2040*).

In June, NYISO proposed a 10-kW minimum capability for individual DER participation in aggregations, along with new metering and telemetry requirements for DERs. (See "DER Revisions," *NYISO CEO Delivers 'State of the Grid' to Management Committee*.)

The ISO said the 10-kW minimum was needed to save staff time reviewing aggregations for interconnection and enabling it to integrate new software and procedures without significant hassle.

But the New York Public Service Commission, Advanced Energy Management Alliance and Advanced Energy United said the ISO's proposals were unclear and ran afoul of FERC Order 2222 and that more time was needed to evaluate their impact.

In a *joint protest*, AEMA and AEU took exception to several of NYISO's proposals, including limiting the ability to use a third-party meter service in homogeneous aggregations, eliminating bid-based and locational-based marginal price-based reference prices, and the transition mechanisms through which transmission operators will upgrade their system to allow DER aggregations.

The two organizations were most concerned about the proposed 10-kW minimum requirement, calling it "fundamentally at odds with FERC's findings in Order No. 2222."

"Other wholesale markets, such as ERCOT, have developed rules that allow residential scale participation," they said. Despite pledging a "goal" to accommodate small DERs, NYISO's "filing gives no commitment or timeframe to do so," the groups said.

"Failing to allow such resources to provide wholesale services they are technically capable of providing absent an arbitrary and unjustified minimum capacity requirement is unjust and unreasonable and presents an undue barrier to market participation that will undermine competition and reliability to the detriment of customers," they added.

The PSC was also concerned about the 10-kW proposal, saying in its *protest* that the requirement was "unduly restrictive and inconsistent with the directives of Order No. 2222."

The ISO responded that it "has spent more than 15 months working with its stakeholders to develop the business practice manual provisions that detail how the DER and aggregation participation model will be implemented."

While saying it was "sympathetic" to stakeholder concerns, the ISO said their proposed remedies would be administratively burdensome and could further delay the introduction of DER aggregations into its markets.

The ISO has requested FERC rule on its proposal by July 31, saying it hopes to implement DER aggregation as early as Aug. 1. ■

| Shutterstock

PJM News

NJ's 1st OSW Project Gets BOEM Seal of Approval

Ocean Wind 1 Shoots for a Fall Construction Start

By Hugh R. Morley

The U.S. Bureau of Ocean Energy Management (BOEM) said last week that it had approved the construction and operations plan for Ørsted's 1.1-GW Ocean Wind 1 project, New Jersey's first offshore wind project and the third backed by the Biden administration.

After BOEM released its *Record of Decision*, the Danish developer said it expects to begin onshore construction in the fall with "offshore construction ramping up in 2024."

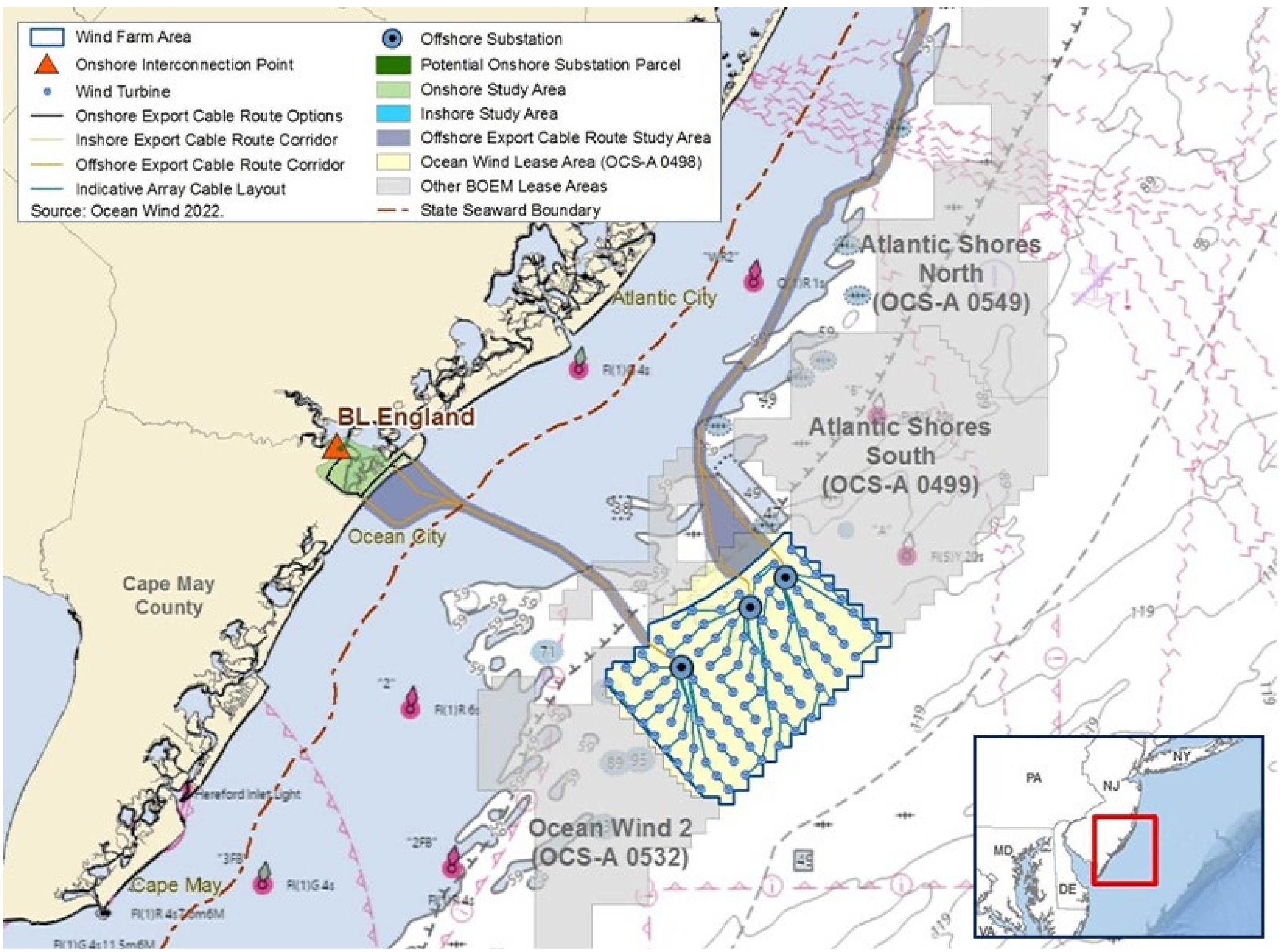
In a release put out by Ørsted, Gov. Phil Murphy called BOEM's approval "a pivotal inflection point, not just for Ørsted, but for New Jersey's nation-leading offshore wind industry as a whole."

The company said the project, located 13 miles from the Jersey coast and with 98 turbines, would power 500,000 homes when it begins commercial operations in 2025.

"Ocean Wind 1 is on the cusp of making history," said Ørsted Americas CEO David Hardy, adding that the project is set to begin "delivering on the promise of good-paying jobs, local investment and clean energy."

The project is the third OSW project in the U.S. approved by BOEM, as the nation seeks to reach a goal of 30 GW of wind energy in place by 2030. The other two approved projects are Vineyard Wind off the Massachusetts coast and South Fork Wind off Rhode Island and New York. Both projects recently installed their first monopile foundations, according to the Business Network for Offshore Wind.

"Ocean Wind 1 represents another significant step forward for the offshore wind industry in the United States," BOEM Director Elizabeth Klein said in a release put out by the Department of the Interior announcing the decision. "The project's approval demonstrates the federal government's commitment to developing clean energy and fighting climate change and is a testament to the state of New Jersey's leadership in supporting sustainable sources of energy and economic development for



The Ocean Wind 1 project is located on the Outer Continental Shelf, approximately 15 miles from the New Jersey coast. | *BOEM* coastal communities."

Approvals Still Needed

The announcement comes as Ocean Wind 1 faces continued opposition from OSW opponents who question the cost to the state, say it will hurt the state's commercial fishing and tourism industries, and have expressed concern about the impact on marine life, especially whales.

Nine dead whales have washed up on the state's beaches in recent months, but state and federal investigators say there is no evidence that the deaths are related to the developers' preliminary sonar mapping of the ocean floor. Some of the state's Republican congressmen have called for a moratorium on the OSW projects until any potential connection between them and the whale deaths is investigated.

Yet the projects have strong support from the state. On June 30, both houses of the Legislature approved a bill that would allow Ocean Wind 1 to reap the benefits of federal tax credits instead of those benefits flowing to the state and helping reduce costs to ratepayers, as is required by New Jersey law. The bill has yet to be signed by Murphy. (See *NJ Lawmakers Back Ørsted's Tax Credit Plea*.)

Stephanie Francoeur, a spokeswoman for Ørsted, said Ocean Wind 1 still needs approval from the Army Corps of Engineers, National Marine Fisheries and EPA.

"All of this is expected by the end of Q2 2024, which allows us to move forward with offshore construction," she said.

The project already has received "major state permits" from the Department of Environmental Protection (DEP), including a Coastal Area Facility Review Act Permit (CAFRA) and state and federal consistency under the Coastal Zone Management Act. The project already has site plan approval for onshore substations, she said.

Expanding Litigation

Ocean Wind 1 faces two appeals filed against the decision by the state Board of Public Utilities to grant the project an easement over property owned by Cape May County and Ocean City on which to lay underground cables tying the turbines to a nearby substation.

The BPU granted the approval under a new state law that allowed the agency to override local government agencies on an OSW infrastructure issue if it was "reasonably necessary" for the project to advance.

Michael J. Donohue, the attorney for Cape May in the case, said the county is "reviewing the 177 pages and dozens of collateral documents related to the Record of Decision of the Bureau of Ocean Energy Management and other federal agencies released today."

"Upon completion of that review, the county will determine what avenues for legal challenges, if any, exist to pursue," he said.

Bruce Afran, a Princeton attorney who filed suit to stop Ocean Wind 1 on behalf of three groups opposing the project, said BOEM's approval is "by no means a done deal, and the developer of the project is going to face expanding and growing litigation."

The June 8 suit filed by Afran on behalf of Protect Our Coast NJ, Defend Brigantine Beach and Save Long Beach Island appeals DEP's finding that the adverse marine impact expected from Ocean Wind 1 did not rise above the level allowed by state law. Afran said he expects to file a suit in federal court against the BOEM decision, saying that the agency's own environmental impact statement concluded that the project would damage marine life and hurt the tourist industry.

"The approval disregards BOEM's own findings of significant environmental harm to be caused by this project," he said.

BOEM's final, 2,300-page EIS concluded that the project combined with others will have a "major" impact on scenic and visual factors and on scientific research, but only a "moderate" impact on a host of other issues. The study found the impact on scientific research and surveys would be major, as would the cumulative impact of the project and others nearby, including on National Oceanic and Atmospheric Administration surveys that support commercial fisheries and protected species research programs. ■

Kentucky Power Denied Winter Storm Cost Recovery, Fines Possible

Other Utilities Get Approval for Cost Recovery

By Devin Leith-Yessian

Kentucky regulators last month rejected Kentucky Power's *request* to recoup $11.5 million in fuel costs incurred during the December 2022 winter storm, while also raising the prospect of penalizing the utility for its performance during the event.

Falling temperatures Dec. 23 caused a spike in demand among the utility's 163,000 customers in eastern Kentucky, forcing the company to import high-priced power from PJM. By the time the storm passed on Dec. 25, the utility had exceeded what it could recover for fuel and power costs through the non-Fuel Adjustment Clause (FAC) in its tariff.

In its request to the state Public Service Commission, the utility sought to establish a regulatory asset for recovery under a law approved in March that permits utilities to seek PSC approval to "finance extraordinary or other deferred costs" through securitization.

In denying the request, the PSC said Kentucky Power had not taken steps to procure adequate capacity, had failed to demonstrate that outages at its two generators were reasonable and had not proved its costs were properly incurred.

On the capacity issue, the commission pointed out that the utility let a contract with American Electric Power's (AEP) Rockport Power Plant expire in December without procuring replacement capacity, eliminating a key hedge against wholesale power price fluctuations and shifting risk to consumers.

"Kentucky Power took no action to address its capacity shortfall in regards to energy capabilities, including entering into agreements that could hedge against market power prices. The Commission concludes, as further explained below, that Kentucky Power has not met its burden in this matter, and therefore the request should be denied," the order said.

Facing Penalties

Along with denying the requested recovery,

Kentucky Power let a contract with AEP's Rockport Power Plant expire in December without procuring replacement capacity. | *Thomas Hughes, CC BY-SA 4.0, via Wikimedia Commons*

the commission issued a *second order* requiring Kentucky Power to show cause as to why it should not be subject to penalties for violating a state law that requires a utility to provide "adequate, efficient and reasonable service" to customers. The second order said the utility could be assessed penalties up to $2,500 per occurrence and per party.

The commission also argued that the utility had not shown that outages at its 1,560-MW coal-fired Mitchell and 295-MW gas-fired Big Sandy generators were reasonable. In response to a data request from the commission, the company said the Big Sandy generator was offline due to repairs that took longer than anticipated to complete, while Mitchell was operating at reduced capacity for reasons largely unrelated to the storm.

The commission additionally questioned the use of the new securitization law.

"Kentucky Power's request would alter the recovery mechanism for non-FAC eligible purchased power costs and is not an appropriate use of deferral accounting," the order said. "The existence of securitization legislation does not preempt the commission's broad authority related to regulatory assets and is not sufficient justification to defer expenses. In fact, securitization is only available for expenses for which deferral accounting has already been approved by the commission. Thus, it does not impact the commission's decision on whether to grant deferrals."

In a joint protest, the Kentucky Industrial Utility Customers and the Attorney General's Office of Rate Intervention argued that Kentucky Power's request was contrary to the FAC regulations and would preempt the

PJM News

six-month review of the clause — components of which both companies are protesting — and an administrative case investigating the FAC. The protest also posited that purchased power costs should be recovered through a base rate filing, rather than the FAC.

In an email to *RTO Insider*, Kentucky Power spokesperson Sarah Nusbaum said the company disagrees with the commission's findings, arguing that purchasing power during Winter Storm Elliott was more affordable than a long-term contract and that the company's decisions maintained reliability.

"Generation resources are selected based on least-cost principles, and it was less expensive to purchase energy when needed as compared to a long-term purchase power agreement," Nusbaum said. "Regarding the penalty statute, we do respectfully disagree that the penalty statute is implicated here. We kept the lights on during a record storm and did not willfully violate any Kentucky law, regulation or KPSC order."

Nusbaum said allowing the company to issue securitization bonds would have reduced carrying costs for the storm expenses and effectively reduced the interest rate compared with recovering those expenses through base rates. The company included securitization bonds in its June 29 base rate filing — along with other strategies for deferring the expenses — with the aim of reducing the immediate impact on ratepayers' bills.

"Securitization was not the only method we used to reduce rate impact in this case," Nusbaum said. "Kentucky Power is seeking a lower return-on-equity than was recommended by our expert witness, not proposing to increase depreciation rates, and extending the life of existing meters rather than replacing them with new meters. Additionally, several low-income benefits are proposed in this case, including an optional seasonal tariff to help reduce winter bills, an expansion of the company's energy assistance program, and a solar garden program that directly benefits low-income customers."

Utilities in Several States Petition Commissions for Cost Recovery

Several other utilities also are seeking approval to recover costs for expenses related to Winter Storm Elliott.

AEP spokesperson Scott Blake said the Public Service Company of Oklahoma and Appalachian Power in Virginia and West Virginia have filed to recover fuel costs, as well as costs for CCR and ELG work and other storm work.

In Kentucky, Kentucky Utilities and Louisville Gas and Electric received PSC *approval* for establishing a regulatory asset to recover costs related to a March 3 windstorm that caused nearly 400,000 customer outages. According to the utility's filing, the storm resulted in around $83 million in operating, maintenance and capital costs. Total operating and maintenance costs are around $23.2 million, of which $7.8 million are included in base rates.

Though the filing sought to create a regulatory asset, it did not include securitization. The commission's order found that the storm caused damage for which costs could not be reasonably anticipated.

"The commission finds that with regard to KU/LG&E's request for authorization to establish deferral accounting for the repair and restoration of the Major Storm Event, the costs to repair the damaged assets are extraordinary and nonrecurring and could not have been reasonably anticipated or included in KU/LG&E's planning," the April 5 order said. ■

PJM News

Ohio Legislators Raise Concerns About Cost Impact of Illinois' CEJA

NRDC Official: Legislators Playing Politics with Energy

By James Downing

J-Power's Elwood Energy Center, a 1,350-MW natural gas turbine in Illinois | *J-Power*

Ohio lawmakers are raising concerns about how Illinois' Climate and Equitable Jobs Act (CEJA) will impact their state's ratepayers after PJM last year found that power plant retirements stemming from the law could require $2 billion in new transmission to maintain reliability.

Ohio House Public Utilities Committee Chair Dick Stein (R) and Senate Energy and Utility Committee Chair Bill Reineke (R), along with 10 other colleagues, sent a *letter* to PJM's Board of Managers last month saying that while the RTO's markets have done well for the state in the past, they were worried that could be changing.

"We are becoming increasingly concerned that the actions of PJM, FERC and other PJM states may jeopardize the successful, competitive market model that Ohio has nurtured," the letter said. "We appreciate that PJM has brought concerns related to generation retirements and looming reliability challenges to our attention. Needless to say, we are quite concerned about reports that the PJM region is on the precipice of power shortages that could lead to blackouts for our consumers that need electricity." (See *PJM Chief: Retirements Need to Slow down*.)

The legislators said those looming reliability issues are exacerbated by CEJA provisions that mandate closure of fossil fuel plants, which requires the phaseout of coal and natural gas units by specified dates starting in 2030, with the last plants to shut down in 2045. The law requires the Illinois government to collaborate with PJM and MISO starting in 2025 to analyze the impact of its provisions on reliability.

PJM has released a "very initial *snapshot*" of what the retirements could mean, including increased east-to-west power flows and up to $2 billion in transmission upgrades. That analysis did not include any of the new generation that CEJA incentives are expected to bring online. (See *Illinois Climate Bill Could Force $2B in Tx Upgrades, PJM Says*.)

Stein met with PJM after sending the letter, to which the RTO said in a statement it would formally respond soon.

"The loss of affordable and reliable coal and oil energy generation and the implementation of 100% renewables could potentially put a strain on the energy grid," Stein said in a statement after the meeting. "Ohioans should not be burdened by cost increases that are caused by the policy choices of other states."

The $2 billion is very preliminary, and now is the time for PJM, and the experts on the grid that it employs, to look into the issue more formally, former Illinois Commerce Commissioner Erin O'Connell Diaz said in an interview.

"It's appropriate that the legislators of Ohio are concerned about it because there are a lot of costs that can flow out of different types of legislation," said O'Connell-Diaz, who now runs consulting company FutureFWD.

While plant retirements generally create some new transmission costs, she said, ratepayers in Illinois and other states with similar clean energy policies are going to be paying to bring on clean energy, which will produce cheap power for the grid that Ohio will benefit from in the form of lower prices. The RTOs can quantify those kinds of benefits going forward as well, she said.

'Shark-infested Waters'

The Natural Resources Defense Council supported CEJA, as it has similar laws in other states. Tom Rutigliano, of NRDC's Sustainable FERC Project, argued that the Ohio legislators were mostly concerned about attacking renewables, but he also called for more coordination from the RTO.

"This letter is more focused on partisan, anti-renewable jabs than meaningful transmission or reliability solutions," Rutigliano said in a statement. "Ohio officials' efforts would be better directed toward following Illinois's lead and working on collaborative, forward-looking reliability solutions, rather than attempting to close off their borders to clean, affordable energy. The request for further studies from PJM would be a distraction from what is needed to support a successful energy transition. Ultimately, this letter is a reminder that states need clear leadership, proactive planning and coordination from PJM."

Former FERC Commissioner Tony Clark, a senior adviser at Wilkinson Barker Knauer, said such disputes among states have regularly come up and are likely to continue, especially in regions like PJM with varying energy policies. It is not ultimately feasible to isolate the impact of one state's policies in regional markets, whether it is generation or (outside of the State Agreement Approach) transmission, he said.

"FERC has to allocate those costs based on court precedent with cost-causers and cost-payers being 'roughly commensurate,'" Clark said. He said PJM's strong minimum offer price rule (MOPR) represented "an attempt to try to isolate some of those costs, but the commission has backed off from that in recent years. It is, I think, taking a path where effectively the capacity markets are likely to wither a bit in terms of their revenue streams, and they seem to be more focused on trying to get more and more out of the energy and ancillary service markets. But even in those, you're going to have spillover effects from any sort of market [or] public policy intervention in one

PJM News

TO	Thermal Upgrades		Voltage Upgrades		Overall Upgrades ($M)
	2030 ($M)	2031–2045 ($M)	2030 ($M)	2031–2045 ($M)	
ComEd	98.00	161.50	52.50	472.50	784.50
FE	320.00	180.00	0	0	500.00
DLCO	180.00	0	0	0	180.00
AEP	63.75	178.83	0	0	241.58
NIPSCO	0	125.00	19.30	173.70	318.0
Total	**661.75**	**644.33**	**71.80**	**646.20**	**2,024.02**

A table from PJM showing the RTO's initial estimates of what transmission upgrades might be required to reliably retire the power plants in Illinois impacted by CEJA. | *PJM*

state; it's very hard to isolate it from others in an integrated market."

If FERC had tried to keep the MOPR in place, states with strong clean energy policies would have pulled out of PJM and other markets, which put the federal regulator in a no-win situation in terms of market integrity, he added.

PJM states have been at odds over other issues in the past. A dispute over cost allocation more than a decade ago led to the "roughly commensurate" court precedent Clark cited. O'Connell-Diaz said she hoped for compromise on the dispute because any litigation would take years to resolve, and the industry needs to be focused on the reliable transition to a cleaner grid.

"But again, you put the overlay of the politics on it, and it's shark-infested waters, isn't it?" O'Connell-Diaz said. "And so, again, I go back to we really need to kind of wipe that away. You know, utility regulatory bodies should really have to be above all that that pressure. They need to be able to think clearly without any kind of political connotations."

However, that is not an easy thing to do today, she added. ■

Devin Leith-Yessian contributed to this article.

SPP News

FERC Denies Rehearing over GridLiance Tx Recovery

By Tom Kleckner

FERC on Wednesday denied a rehearing request over its February decision approving SPP's tariff revisions that add an annual transmission revenue requirement (ATRR), a formula rate template and implementation protocols for GridLiance High Plains-owned facilities in Nixa, Mo. (*ER18-99*).

The commission said that according to precedent set by the D.C. Circuit Court of Appeals' *Allegheny Defense Project v. FERC* decision, the rehearing request is denied by operation of law. The 2020 order found FERC no longer could grant rehearing requests "for the limited purpose of further consideration."

FERC did modify the discussion in the February order but continued to reach the same result.

The commission's order affirmed an administrative law judge's 2021 decision finding SPP's proposal to incorporate the Nixa assets into one of its transmission pricing zones was consistent with cost-causation principles and was just and reasonable. (See "Order on GridLiance ATRR," *FERC Grants Rehearing of SPP Capacity Accreditation Proposal*.)

Several cities in Arkansas and Missouri and a group of SPP transmission owners (Evergy, American Electric Power and Xcel Energy subsidiaries and Western Farmers Electric Cooperative) filed a joint rehearing request in March. They argued that a cost shift associated with a zonal placement decision under SPP's tariff cannot be just and reasonable unless each customer or group of customers that will bear some portion of the assets' costs is deriving a benefit from those specific assets that is "roughly proportionate" to those costs.

The commission said it disagreed that rough proportionality is the only appropriate way to approach cost causation under SPP's zonal placement process. It sustained its decision not to adopt the requirement, saying the intervenors' approach "does not square with the existing zonal rate construct under the SPP tariff."

"SPP's zonal rate construct does not attempt to measure each transmission customer's benefit from each transmission asset included in the zonal ATRR. Nor does it charge each customer transmission costs on an asset-by-asset basis," FERC wrote. "Instead, under that zonal construct, the costs and benefits associated with network service in a zone are assessed on an aggregate level, with each customer paying for transmission service based on its load ratio share, which reflects its total use of the aggregate assets in the zone." ■

GridLiance High Plains owns about 10 miles of transmission lines and related facilities in Nixa, Mo. | *City of Nixa, Mo.*

SPP News

FERC Affirms Affiliate Status of Evergy, Bluescape

By Tom Kleckner

FERC last week affirmed Evergy's status as an affiliate of Bluescape Energy Partners, rebuffing rehearing requests from the Kansas City utility and the Edison Electric Institute (*ER20-67*).

The commission cited the 2020 *Allegheny Defense Project v. FERC* decision in denying the rehearing requests "by operation of law." The D.C. Circuit Court of Appeals' ruling in *Allegheny* found FERC no longer could grant rehearing requests "for the limited purpose of further consideration."

Evergy's operating companies filed a change in status with the commission in 2020, reflecting a change in their upstream ownership when Evergy's leadership said it would remain a standalone company after pursuing purchase offers. In February 2021, Dallas-based Bluescape said it *was investing $155 million* in Evergy and, in return, gaining two seats on its board of directors.

C. John Wilder | *C. John Wilder via LinkedIn*

Last October, FERC issued an order finding Evergy and its subsidiaries are Bluescape affiliates by virtue of the *board's new membership*. The commission found that Evergy's appointment of Bluescape executive chairman C. John Wilder as an independent director to its board to be a "concern" it previously had expressed in a proceeding involving CenterPoint Energy.

FERC also clarified that placing non-independent officers or directors on a utility's board of directors or its holding company — regardless of whether the ownership stake is 10% or more of the utility or its holding company — qualifies the entity placing those directors as an affiliate of the public utility. (See *FERC Clarifies When Board Appointees Make Companies Affiliates*.)

Evergy filed its rehearing request in November, alleging FERC's order contradicted its affiliate definition by not representing an independent basis from which to find affiliation and because its interpretation "confused the function of a rebuttable presumption." (The commission's definition of affiliate provides those "owning, controlling or holding with power to vote, less than 10% of the outstanding voting securities of a specified company creates a rebuttable presumption of lack of control.")

"If an entity owns less than 10%, it need make no further showing; unless an opponent adduces some evidence going to control, the issue is settled in favor of no control," the company argued. "If, however, [the commission] or a protestor adduces sufficient evidence that an entity controls a public utility despite owning less than 10%, the result is to rebut the presumption, i.e., to eliminate the presumption. But that's not what FERC's order does. FERC treats rebuttal as resolving the issue in favor of control."

FERC said it continued to find Wilder's appointment "overcomes the rebuttable presumption of a lack of control" under its affiliate regulations. It also said the appointment is a *per se* finding of control "further supported by other aspects of Bluescape's ownership of Evergy."

"This indicates … 'there is liable to be an absence of arm's-length bargaining in transactions between' Bluescape and Evergy 'as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that [Bluescape] be treated as an affiliate'" the commissioners said in the order.

FERC's acting chair, Willie Phillips, concurred with the order but also said that the commission should have opened a proceeding under Section 206 of the Federal Power Act or asked for further briefing.

"Perhaps after briefing we would reach the same result; perhaps not," he wrote. "Either way, that process would have allowed us to fairly examine what is an issue of first impression before the commission, helping ensure we reach legally durable results when exercising such an important aspect of our authority."

Commissioner James Danly dissented, saying the order failed to "fully and adequately" respond to Evergy's arguments raised in its rehearing request.

"It violates the Administrative Procedure Act," he said, referring to the process by which federal agencies develop and issue regulations.

EEI's rehearing request was dismissed after FERC rejected its late intervention motion, saying it failed to demonstrate good cause to intervene out-of-time. The commission ruled EEI was not a party to the proceeding.

Hearing Set for Evergy Asset Recovery

FERC also accepted SPP's filing on behalf of Evergy Kansas Central (Evergy KC) and Evergy Kansas South to establish regulatory assets and recover their unamortized balance through its tariff. The June 30 order was effective July 1, subject to refund, and established hearing and settlement judge procedures (*ER23-1762*).

The commission said its preliminary analysis found that Evergy's and SPP's filings have not been shown to be just and reasonable and may be otherwise unlawful. It said the filings raise issues of material fact more appropriately addressed in the hearing and settlement judge procedures. The hearing will be held in abeyance to provide time for settlement judge procedures.

Evergy KC requested FERC approval to establish three regulatory assets: catalyst costs, generation baghouse costs and critical infrastructure and cybersecurity costs. It also asked for approval to recover the unamortized balances for the assets' costs incurred in 2019.

Kansas Electric Power Cooperative (KEPCo) filed a formal challenge and complaint in November 2020 against Evergy KC's annual update to its rate schedule. It argued that the utility had included several regulatory assets' amortization expenses in the update without commission approval.

FERC in April 2021 granted the complaint and directed Evergy KC to remove from the formula rate inputs any amounts that represented the recovery of the costs. Evergy KC and Evergy Kansas South made a subsequent filing in a separate docket (ER22-1657) that again requested approval to establish the regulatory assets and recover the unamortized balance. FERC accepted the request, suspending it for a nominal period and establishing hearing and settlement judge proceedings.

Evergy KC made another filing to reverse the regulatory asset and immediately record and recover those costs as current operating expenses. FERC rejected that request in October 2022, but Evergy requested a rehearing.

The commission affirmed its finding in February but held that to "the extent … Evergy KC chooses to make an FPA section 205 filing seeking approval to recover the 2019 regulatory-asset related expenses in rates, the commission will evaluate its filing consistent with commission precedent." ■

Company News

Duke Energy Sells Distributed Renewable Business to ArcLight

Coupled with Earlier Utility-scale Deal, Company Will Have Firm Focus on Regulated Business

By James Downing

Duke Energy on Wednesday announced a $364 million deal to sell its commercial distributed generation business to an affiliate of ArcLight Capital Partners.

The deal follows a $2.8 billion transaction Duke announced June 12 to sell its utility-scale renewable business to Brookfield Renewables. Both are expected to close by the end of the year and will support Duke's focus on the growth of its regulated businesses, including plans to incorporate over 30 GW of regulated renewable energy onto its system by 2035.

"The sale of our commercial renewables businesses streamlines our portfolio and provides the resources to support the long-term needs of our customers in our growing regulated territories," Duke Energy CEO Lynn Good said in a statement. "Over the next decade, we plan to invest significant amounts of capital to fund the critical energy infrastructure necessary to serve our customers and support our clean energy transition."

Once the two deals close, Duke will be out of the competitive side of the business, having sold off its generation in PJM to Dynegy (now part of Vistra) in 2015.

Duke's utilities serve 8.2 million electric customers in North and South Carolina and four other states, along with 1.6 million natural gas customers. It has goals of getting to net-zero methane emissions in its gas utilities by 2030 and net-zero carbon emissions from its 50 GW of utility-owned generation by 2050.

The distributed generation business going to ArcLight includes REC Solar operating assets, a development pipeline and operations and management portfolio, as well as distributed fuel cell projects managed by Bloom Energy. Its employees will transition to ArcLight to maintain business continuity for operations and customers.

Duke has been working on the sale of its businesses for months, taking a $1.3 billion impairment on their sale in the fourth quarter last year and an additional $175 million impairment due to the sale in the first quarter this year. (See *Duke Energy Sees Earnings Fall on Warm Winter Weather*.)

"Our investment in Duke Energy's commercial distributed generation business supports ArcLight's longstanding strategy of acquiring operating assets from leading strategics and creating strong stand-alone renewable platforms," ArcLight Managing Director Marco Gatti said in a statement. "We believe this is an attractive opportunity to acquire a first-rate commercial distributed generation portfolio, partner with a talented team and build upon longstanding, high-quality customer relationships."

The deal is subject to customary closing conditions and will need to be approved by FERC due to the sale of the Bloom Energy distributed fuel cell assets. ■

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Company Briefs

National Grid to Pay for Damages Caused by Gloucester Gas Light Co.

National Grid last week announced that it has agreed to pay $5.38 million to Massachusetts and federal agencies to resolve claims over environmental damage caused by the defunct Gloucester Gas Light Co.

Hazardous chemicals released by the plant, which operated from 1854 to 1952, contaminated soil, groundwater and sediment in Gloucester Harbor, officials said.

Most of the settlement will be used for natural resource restoration projects.

More: *The Associated Press*

Amazon Hits 30 Renewable Projects, Miss.'s 1st Utility-scale Wind Farm

Amazon last week revealed that it has 30 solar and wind projects in the southeastern U.S. as part of its renewable energy portfolio.

With its five new solar and wind projects, Amazon expects to generate more than 7,500 GWh once fully operational. The new projects include a utility-scale wind farm in Mississippi and several solar farms in Arkansas and Georgia. It is also the largest purchaser in several states, including Kentucky, Missouri and Mississippi.

The company's new Mississippi project, the Delta wind farm, is a 184.5-MW project under construction in Tunica County, Miss., and will be the first utility-scale wind farm in the state. It will be owned and operated by AES Clean Energy.

More: *Power Engineering International, WMC*

Tesla Sees Production Beat Deliveries for Fifth Quarter in a Row

Tesla posted its second-quarter vehicle production and delivery report for 2023 last week, disclosing 479,700 vehicles produced and 466,140 vehicles delivered. It was the fifth period in a row that Tesla reported a higher level of vehicles produced compared with deliveries.

The numbers beat analysts' expectations and indicate that deliveries rose 83% year over year. About 96% of the reported in the quarter were of the Model Y crossover and the Model 3 entry-level sedan.

More: *CNBC*

Federal Briefs

United Auto Workers Union at Odds with Biden over Pay

The United Auto Workers union and its new leadership team have sounded a string of alarms in recent weeks about the Biden-backed push toward EVs, criticizing the relatively low pay workers are earning at one new battery factory and blasting the closure of older gasoline-vehicle factories.

The union has also directed unusual ire at Biden, asking why the government is using billions of taxpayer dollars to subsidize battery and EV factories without requiring strong pay. If progress isn't made on the multiyear contracts covering roughly 150,000 UAW workers, some plants could go on strike as early as September.

In contract negotiations with Ford, General Motors and Stellantis, the UAW said its priorities include ensuring workers at older factories can transition to new EV jobs, and securing pay and benefits for EV workers that match those in the gasoline era.

More: *The Washington Post*

Yellen Urges China to Fight Climate Change

The United States and China, the world's two largest economies, must work together to combat the "existential threat" of climate change, U.S. Treasury Secretary **Janet Yellen** told Chinese government officials and climate experts last weekend.

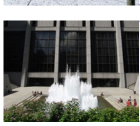
During a visit to Beijing, Yellen said previous cooperation on climate change between the U.S. and China had made global breakthroughs such as the 2015 Paris Agreement possible, adding that both governments wanted to support emerging markets and developing countries as they strive to meet climate goals.

China, classified as a developing country by the United Nations, has long said it was the responsibility of developed nations to help poor countries pay to address climate change. Yellen said financing for such initiatives should be coordinated efficiently and effectively, adding that Beijing's support for existing multilateral climate institutions like the Green Climate Fund and the Climate Investment Funds could boost their impact.

More: *Reuters*

National/Federal news from our other channels

FERC Explains Denial of Rehearing on Cold Weather Standard ERO Insider



FERC Approves $1.8M Penalty Against Exelon Utilities ERO Insider

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

State Briefs

CALIFORNIA

PG&E: Overheated Transformers to Blame for Outages

Pacific Gas and Electric last week said overheated transformers were the cause of power outages that affected as many as 10,000 customers.

Most outages were due to overheated transformers and PG&E "enhanced powerline safety settings," company staff said. The company initially described the outages as "heat-related," but then elaborated and said, "transformer failure is the top cause of heat-related outages."

More: *The Union Democrat*

PUC Declines to Review New Solar Panel Rules

The Public Utilities Commission last week denied an appeal made by several environmental groups to rehear and review a new rule change that decreased the incentives new owners get for giving excess energy back to the grid.

The rule, which took effect April 15, revolves around net energy metering and the commission updating the tariff that bolsters incentives provided by the federal government from the Inflation Reduction Act. But the Center for Biological Diversity, the Protect Our Communities Foundation, and the Environmental Working Group say the new tariffs slashed what rooftop owners get from sharing excess energy by 75% to 80%.

In May, the groups petitioned the First Appellate District to review the policy. That case is still pending.

More: *Courthouse News Service*

KENTUCKY

Kentucky Power Seeks Rate Increase

Kentucky Power last week applied to the Public Service Commission for an 18.3% rate increase.

In filings with the PSC, the utility said the increase is to help cover fixed costs associated with supplying electricity across the region, as continued population decline and the loss of customers have pushed it to look toward existing customers to cover costs.

According to data that tracks energy affordability, much of the area that Kentucky Power serves already has some of the highest electricity rates and poverty rates in Kentucky.

More: *Lexington Herald-Leader*

State Mandates Tesla for State-backed Charging Stations

Kentucky is requiring that EV charging companies include Tesla's plug if they want to be part of a state program to electrify highways using federal dollars.

In addition to federal requirements for the Combined Charging System, Kentucky mandates Tesla's plug, called the North American Charging Standard, at charging stations, according to the state request for proposal for its EV charging program.

The Department of Transportation earlier this year said that charging companies must provide CCS plugs to be eligible for federal funding to deploy 500,000 EV chargers by 2030.

More: *Reuters*

MARYLAND

Hoover Sworn in as Chair of PSC

Frederick Hoover last week was sworn in as chair of the Public Service Commission.

Hoover was appointed by Gov. Wes Moore for a five-year term and was confirmed by the state Senate in April 2023. He most recently served as Assistant People's Counsel in the Maryland Office of People's Counsel.

Bonnie Suchman was also appointed to the PSC in mid-June 2023 and was sworn in on June 28.

More: *Maryland PSC*

MICHIGAN

Consumers Energy Aims to Bury Power Lines in Six Counties

Consumers Energy last week submitted a plan to the Public Service Commission to bury several miles of power lines in Genesee, Livingston, Allegan, Ottawa, Montcalm and Iosco counties.

The company proposed the $4.1 million pilot program to help it study affordable ways to bury its lines. Currently, around 15% of Consumers Energy's lines are buried, which amounts to about 13,000 total miles.

More: *The Detroit News*

MINNESOTA

PUC Approves Xcel Energy's Battery Storage Plan in Becker

The Public Utilities Commission last week unanimously approved Xcel Energy's plan to test a battery system in Becker.

The utility is partnering with Form Energy on the project, which is next to its Sherco coal-fired plant. Xcel plans to retire the plant over the next seven years and is building a solar project on site.

Xcel expects the project to be operational in late 2025.

More: *MPR News*

NEW MEXICO

Supreme Court Upholds PRC Decision Rejecting Coal Share Transfer

The New Mexico Supreme Court last week affirmed a decision by the Public Regulation Commission to reject a proposal by the Public Service Co. of New Mexico to transfer shares in its Four Corners coal-fired plant to Navajo Transitional Energy (NTE).

NTE had sought to take over PNM's shares, saying that preventing an early closure of the plant would help soften the economic blow to communities. However, environmentalists protested the transfer over concerns that the plant would be allowed to operate longer.

The Supreme Court ruled earlier this year that the PRC's decision was reasonable and consistent with the state's Energy Transition Act. In rejecting PNM's plan in 2021, the commission said the utility failed to specify how it would provide replacement power it would no longer produce at the plant.

More: *The Associated Press*

OREGON

PUC Approves Wildfire Mitigation Plans for 3 Utilities

The Public Utility Commission recently approved wildfire mitigation plans for Idaho Power, PacifiCorp (Pacific Power) and Portland General Electric.

Plans must include identification of high-risk areas within each utility's service territory and actions to minimize those risks, as well as protocols for implementing public safety power shutoffs. Utilities also need to describe how they determined which risk reduction strategies to pursue.

More: *KTVZ*

WEST VIRGINIA

PSC Approves Appalachian Power Request to Receive Loan from AEP

Appalachian Power last week received approval from the Public Service Commission to receive up to $500 million in contributions from its parent company, AEP.

Appalachian Power filed the request in March, saying the capital would be used for its construction program, repayment of short-term debt and for "other corporate purposes." Spokesperson Phil Moye said the company didn't seek a rate change as part of its request, a separate case from the pending $641.7 million increase it requested in April.

More: *Charleston Gazette-Mail*