

# RTO Insider

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

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

**FERC & Federal**

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# RTO Insider

Your Eyes and Ears on the Organized Electric Markets

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## FERC/Federal News



# Supreme Court Ends Chevron Deference to Administrative Agencies

By James Downing

The U.S. Supreme Court on June 28 overturned the doctrine of deference to federal agencies in interpreting statutes when issuing rules, ending 40 years of legal precedent and putting into question numerous existing agency rules, including those from FERC.

In a 6-3 decision, with Chief Justice John Roberts writing the majority opinion, the court said that the doctrine, known as *Chevron* deference after the 1984 case *Chevron v. Natural Resources Defense Council*, cannot be squared with the Administrative Procedure Act (APA), in which Congress said that the reviewing court — not the administrative agency in a case — is to “decide all relevant questions of law.”

“*Chevron* cannot be reconciled with the APA by presuming that statutory ambiguities are implicit delegations to agencies,” the court said. “That presumption does not approximate real-

ity. A statutory ambiguity does not necessarily reflect a congressional intent that an agency, as opposed to a court, resolve the resulting interpretive question. Many or perhaps most statutory ambiguities may be unintentional.”

The ruling came in the case of *Loper Bright Enterprises v. Raimondo*, which dealt with requirements from the Department of Commerce that commercial herring fishers pay for federal employees on their ships to monitor their catch to prevent overfishing. (See [Supreme Court Hears Oral Arguments on Overturning Chevron](#).)

The department’s National Marine Fisheries Service (NMFS) based its rule on the Magnuson-Stevens Fishery Conservation and Management Act of 1976. *Loper Bright Enterprises*, a New Jersey-based herring fishing company operating off New England, challenged the agency’s authority under the law to issue such a rule, arguing that the statute’s wording was ambiguous.

Under *Chevron*, if congressional intent in the wording of a law was ambiguous, courts would defer to agencies’ rules as long as they found they had reasonably interpreted Congress’ intent.

While Magnuson-Stevens explicitly authorized fees on industry for federal monitoring of foreign and Pacific Ocean fisheries, it did not do so for those in the Atlantic Ocean. The D.C. Circuit Court of Appeals found in favor of NMFS in 2022 under *Chevron*.

But the Supreme Court said *Chevron*’s presumption is misguided because agencies do not have special competence in resolving statutory ambiguities; courts do.

“Even when an ambiguity happens to implicate a technical matter, it does not follow that Congress has taken the power to authoritatively interpret the statute from the courts and given it to the agency,” the court said. “Congress



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# FERC/Federal News



expects courts to handle technical statutory questions, and courts did so without issue in agency cases before *Chevron*.”

Until *Chevron*, courts would only defer to agencies’ expertise for “fact-bound determinations” that did not involve statutory interpretation. When the APA was enacted in 1946, Congress specifically said that when agency actions are appealed, “the reviewing court shall decide all relevant questions law,” without any deferential standard for courts to use.

Thus, *Chevron* requires a court to ignore, not follow, “the reading the court would have reached” had it exercised its independent judgment as required by the APA, the Supreme Court said.

When it comes to deferring to an agency’s technical expertise, Roberts wrote that it does not follow that Congress has taken the power to authoritatively interpret the relevant statute from the courts and given it to the agency. Congress expects courts to handle technical statutory questions.

“Courts, after all, do not decide such questions blindly,” Roberts said. “The parties and *amici* in such cases are steeped in the subject matter, and reviewing courts have the benefit of their perspectives. In an agency case in particular, the court will go about its task with the agency’s ‘body of experience and informed judgment,’ among other information, at its disposal.”

The court also said that *stare decisis* is overcome because *Chevron* has proved fundamentally misguided by reshaping judicial review of agency action without grappling with the APA. “*Chevron* was a judicial invention that required judges to disregard their statutory duties.”

Justices Clarence Thomas and Neil Gorsuch wrote individual concurring opinions.

Thomas joined the majority’s opinion in full, but he wrote “separately to underscore a more fundamental problem: *Chevron* deference also violates our Constitution’s separation of powers. ... It curbs the judicial power afforded to courts, and simultaneously expands agencies’ executive power beyond constitutional limits.”

“Today, the court places a tombstone on *Chevron* no one can miss,” Gorsuch wrote. “In doing so, the court returns judges to interpretive rules that have guided federal courts since the nation’s founding.”

## Liberal Justices Dissent

Justice Elena Kagan wrote the dissenting opinion, on which she was joined by Justices Sonia

Sotomayor and Ketanji Brown Jackson.

*Chevron* was a “cornerstone of administrative law” for 40 years, Kagan wrote. If Congress’ intent was clear in the law, that was how the court based its decision, and the agency’s view made no difference. The doctrine covered the situations when Congress left an ambiguity or gap in the law.

“The answer *Chevron* gives is that it should usually be the agency, within the bounds of reasonableness,” Kagan said. “That rule has formed the backdrop against which Congress, courts and agencies — as well as regulated parties and the public — all have operated for decades. It has been applied in thousands of judicial decisions. It has become part of the warp and woof of modern government, supporting regulatory efforts of all kinds — to name a few, keeping air and water clean, food and drugs safe, and financial markets honest.”

Congress cannot write perfectly complete regulatory statutes, Kagan said. “It knows that those statutes will inevitably contain ambiguities that some other actor will have to resolve, and gaps that some other actor will have to fill. And it would usually prefer that actor to be the responsible agency, not a court.”

Agencies have scientific and technical subject matter expertise that courts lack, and some decisions demand a detailed understanding of interdependent regulatory programs that agencies know “inside-out,” Kagan said.

“In one fell swoop, the majority today gives itself exclusive power over every open issue — no matter how expertise-driven or policy-laden — involving the meaning of regulatory law,” Kagan said. “As if it did not have enough on its plate, the majority turns itself into the country’s administrative czar.”

## Reactions to the Decision

It is unclear how much the end of *Chevron* will impact FERC, but at the Energy Bar Association’s meeting in April, the general counsels for the commission and the Department of Energy both argued they would be able to defend their regulations without it. (See [Energy Lawyers Debate the Impact of Losing Chevron Deference.](#))

Republicans and some industry groups welcomed the court’s decision, while Democrats and clean energy groups decried the decision.

“In overruling *Chevron*, the Trump MAGA Supreme Court has once again sided with powerful special interests and giant corporations against the middle class and American families,” Senate Majority Leader Chuck Schumer (D-N.Y.) said. “Their headlong rush to overturn

40 years of precedent and impose their own radical views is appalling.”

Minority Leader Mitch McConnell (R-Ky.) said the decision makes clear that no federal agency can co-opt Congress’ authority to make the law.

“Congress’ willingness to outsource legislative responsibilities to the most unaccountable corners of the executive branch weakened both its own Article I powers and the link between the American people and a responsive federal government,” McConnell said. “The days of federal agencies filling in the legislative blanks are rightly over.”

U.S. Chamber of Commerce CEO Suzanne Clark said that the decision will help create a more predictable and stable regulatory environment.

“The Supreme Court’s previous deference rule allowed each new presidential administration to advance their political agendas through flip-flopping regulations and not provide consistent rules of the road for businesses to navigate, plan and invest in the future,” Clark said. “The Chamber will continue to urge courts to faithfully interpret statutes that govern federal agencies and to ensure federal agencies act in a reasonable and lawful manner.”

Advanced Energy United CEO Heather O’Neill argued just the opposite, saying it was incumbent on Congress to ensure the decision does not undo decades of progress in the energy transition.

“While the march to clean energy will continue, today’s Supreme Court decision to radically overturn 40 years of judicial precedent is a blow for effective and efficient government,” she said. “Technology and regulation go hand-in-hand in making America a prosperous, safe and clean place in which to live. Overturning the so-called *Chevron* doctrine will invite chaos, inefficiency and added cost to everyday people.”

White House Press Secretary Karine Jean-Pierre said the ruling is “another deeply troubling decision that takes our country backwards.”

President Joe Biden “has directed his legal team to work with the Department of Justice and other agency counsel to review today’s decision carefully and ensure that our administration is doing everything we can to continue to deploy the extraordinary expertise of the federal workforce to keep Americans safe and ensure communities thrive and prosper,” she said. ■

## FERC/Federal News



# Supreme Court Issues Pause of EPA 'Good Neighbor' Rule

By Jon Lamson

In a 5-4 [decision](#) on June 27, the U.S. Supreme Court issued an emergency pause on the implementation of EPA's "Good Neighbor Plan," which is aimed at reducing ozone pollution, a key component in the creation of smog.

The plan stems from a 2015 update of ozone air quality standards. Based on these tightened standards, EPA ruled in 2023 that 23 states had not submitted adequate plans to prevent harmful levels of pollution flowing to downwind states.

Lower courts already had temporarily paused the plan's implementation in 12 states, and the Supreme Court sided with a coalition of Republican-led states, along with industry groups, in its ruling that the EPA likely has not justified the applicability of its plan to a smaller subset of states than initially proposed. (See [Supreme Court Skeptical of EPA's Good Neighbor Plan.](#))

The legal challengers included Ohio, Indiana and West Virginia, along with Kinder Morgan, the American Forest and Paper Association, and U.S. Steel.

The opponents contended that the emissions-prevention measures required by the plan are contingent on the states included in the plan, and therefore the exemption of one or more of the states invalidates the cost-benefit analysis the rule was based on.

Responding to this argument, EPA said the plan's requirements are independent of the other states included.

Justice Neil Gorsuch — joined by Chief Justice John Roberts and Justices Brett Kavanaugh, Clarence Thomas and Samuel Alito — wrote that a stay on the plan is warranted because its opponents "are likely to prevail on their argument that EPA's final rule was not 'reasonably explained.'"

"EPA did not address whether or why the same emissions-control measures it mandated would continue to further the [Federal Implementation Plan's] stated purpose of maximizing cost-effective air-quality improvement if fewer states remained in the plan," Gorsuch wrote, adding that the 12 states already excluded from the plan account for most of its targeted emissions.

Justice Amy Coney Barrett broke with her fellow conservatives on the court to author the dissent, supported by the court's three liberal justices. She said the majority based its decision on "an underdeveloped theory that is unlikely to succeed on the merits."

Barrett noted that none of the 23 states proposed to take any action to reduce ozone emissions to comply with the 2015 regulations, and because no state has been permanently exempted from the plan, it "may yet apply to all 23 original states."

She added that the Good Neighbor Plan does consider differences between states when establishing state-specific emissions budgets; that EPA relied on national data when setting the rule's emissions limits; and that the agency "did not depend on the number of states in the plan."

Fossil fuel and industry groups applauded the decision, arguing that the plan would hurt grid reliability and increase electricity costs in the affected states by driving coal plants into retirement.

"We are pleased that the court recognized the immediate and irreparable harm this rule would do to utilities and ratepayers," Michelle Bloodworth, CEO of the coal lobbying group America's Power, said in a statement.

Bloodworth called the rule "yet another example of EPA overreach," and expressed her hope the courts will permanently strike down the rule.

Jim Matheson, CEO of the National Rural Electric Cooperative Association, said the decision "directly speaks to the gravity of EPA's unlawful ozone transport rule which directly threatens the American economy and way of life."

Meanwhile, climate and environmental advocacy groups said the court's ruling will have major climate and public health consequences.

Conservation Law Foundation President Bradley Campbell told *RTO Insider* that the rule is "another example of the Supreme Court's new majority using its 'emergency powers' to obstruct EPA rules it doesn't like."

"This is going to directly impact the health and life expectancy of communities in downwind states that historically have been overburdened by pollution," Campbell said. "It's clear that the new Supreme Court majority is going to use every tool at its disposal either to overturn or at least significantly delay new EPA protections and safeguards, and that's going to result in a lot more illness and premature death."

The decision comes as the Supreme Court appears poised to overturn or significantly roll back the *Chevron* doctrine, which directs courts to defer to the reasonable judgment of regulatory agencies in the absence of clear direction from Congress. (See [Supreme Court Hears Oral Arguments on Overturning Chevron and Energy Lawyers Debate the Impact of Losing the Chevron Deference.](#)) ■



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# FERC/Federal News



## FERC ANOPR Seeks to Move the Ball Forward on Dynamic Line Ratings

By James Downing

FERC is moving forward on its examination of dynamic line ratings (DLRs), with the issuance of an Advance Notice of Proposed Rulemaking (ANOPR) on June 27 indicating the commission is considering requiring the transmission industry to adopt the technology (RM24-6).

DLR technology uses the latest weather forecasts and monitors other conditions — such as sunlight and wind speed — to more accurately reflect transmission line ratings, allowing for more efficient power flow and reducing congestion.

“Our success in ensuring reliability and operability of our nation’s transmission grid requires work on many fronts,” FERC Chair Willie Phillips said in a [statement](#). “Last month, we took the major step of issuing Order No. 1920 to determine how to plan and pay for transmission facilities that our nation will need. Today, we are looking to wring efficiencies out of the grid so we can make the best and most efficient use of what we already have.”

The ANOPR reflects public comments FERC received from a Notice of Inquiry issued in early 2022 alongside Order 881 that required transmission line ratings to reflect ambient air temperatures. (See [FERC Opens Inquiry on Dynamic Line Ratings](#).)

FERC will collect more information on DLRs based on specific questions it asks in the ANOPR before potentially moving forward with a proposed rule. Comments are due 90 days after the ANOPR’s publication in the *Federal Register*, and replies are due 30 days after that.

Despite its earlier work, some implementation issues for DLRs still need to be worked out, Phillips said at a press conference that followed FERC’s monthly open meeting.

“We look forward to moving as quickly as possible ... to get a final rule in place,” Phillips said. “We can’t just build our way to where we need to go. We have to get as much as we can out of our existing system if we have any hope to not just reach goals, but to also serve our consumers reliably.”

The factors that can change a line’s capacity include solar heating, cloud cover, wind speed and direction. The ANOPR asks whether hourly solar conditions should be reflected in all transmission line ratings and how to determine which lines would benefit from reflecting



Chair Willie Phillips and Commissioner Allison Clements at FERC’s open meeting June 27. | FERC

hourly wind conditions.

The ANOPR had not been published as of press time. But a FERC fact sheet noted that reflecting hourly solar conditions would not require utilities to install any equipment to monitor them. But it “would go beyond the simple day/night considerations in Order No. 881 by requiring hourly forecasts of solar intensity and cloud cover events.”

Wind conditions have the highest impact on line temperature out of any weather condition, but reflecting them does require the installation of sensors and communication equipment. “Recognizing this potential added cost, the ANOPR specifies that transmission providers could be required to reflect wind conditions in ratings only on lines that ... are heavily congested and located in geographic areas with windy conditions,” FERC said. It seeks information on how congestion levels and environmental factors could identify the lines that would most benefit from better monitoring wind conditions.

It also seeks comment on new methods for measuring congestion and other related data.

Commissioner Allison Clements said that not implementing DLRs leaves significant benefits and cost savings on the table.

“This has been a long time coming,” Clements said. “We first voted on DLR issues in December 2021. That’s nearly three years to move the ball forward several yards — with most of the field yet to cover. Best case, we are looking at another year for the NOPR and then a final rule, plus compliance and implementation after that. All of this emphasizes the need for good, thoughtful comments in response to this ANOPR, which sets up a promising framework.”

LineVision, which makes the sensors that are sometimes required by DLRs, welcomed the

ANOPR.

“With demand spiking, extreme weather intensifying and increasing congestion straining overall grid capacity, today’s decision by FERC to initiate a rulemaking will help to ensure that dynamic line ratings become an even more critical tool in the toolbox to achieve a commonsense solution: squeezing all the capacity that we can out of our existing grid,” LineVision Vice President of Policy Hilary Pearson said in a statement. “We appreciate FERC’s continued leadership in advancing transmission line ratings solutions and pursuing criteria for DLR to help support just and reasonable rates.”

Advanced Energy United also welcomed the proposal.

“Transmission operators aren’t maximizing the potential of our power lines, leading to unnecessarily high energy costs for consumers,” Managing Director Caitlin Marquis said. “Dynamic line ratings are one of the most cost-effective tools we have for getting more out of our existing power grid infrastructure.”

### Clements’ Last Meeting

The meeting marked Clements’ last as a commissioner; her term ended June 30.

She said she was particularly proud of the commission’s recent major orders: 1920 on long-term transmission planning and cost allocation and 2023 on generator interconnection rules. Also, she was glad to help set up the Office of Public Participation.

“At this moment in time, when facts on the ground are changing so quickly, it is difficult to regulate at the pace necessary to keep up,” Clements said. “I urge the new commission to lean in and take a proactive approach to reliably and affordably adapting to the energy transition that is underway. Regulation will fail if it is deemed ‘ideological’ to try and skate where the puck is going. More than any time in our memory, the commission’s regulations must be nimble in the face of a changing energy system and new threats.”

New Commissioner David Rosner sat in on the meeting, though he did not vote on any items because he had not had enough time to properly review them since being sworn in. His taking office means FERC is at no risk of losing a quorum once Clements leaves. Lindsay See was sworn in the day after the meeting. The commission will be completed by Judy Chang once she is sworn in. ■

## FERC/Federal News



# FERC Orders Further Cold Weather Standard Modifications

## Commission Says Feb. 2023 Order not Fully Satisfied

By Holden Mann

NERC will go back to work on another revision to its most recent cold weather standard after FERC on June 27 accepted *EOP-012-2* (Extreme cold weather preparedness and operations) while ordering additional “targeted modifications” to be completed by next March (*RD24-5*).

The approval of *EOP-012-2* brings to an end what FERC Chair Willie Phillips called the “second round on this particular standard” at the commission’s monthly open meeting. Phillips commended NERC for its efforts to improve the grid’s resilience to cold weather impacts while observing that there is still a lot of work left to achieve the goals in the commission’s cold weather preparedness [dashboard](#).

“The standard ... has helped close some ongoing reliability gaps and address many of the outstanding commission recommendations on winterization,” Phillips said. “Nevertheless, I would be remiss not to note that there are still changes that need to be made to help the standard reach its full potential.”

NERC’s Board of Trustees approved *EOP-012-2* in February. The standard’s 12-month development period began after FERC accepted its predecessor *EOP-012-1* last year.

The first version, which has yet to take effect, outlined several measures for generator owners to implement to prevent their units from freezing during extreme cold weather events, along with situations in which GOs would need to submit corrective action plans. However, FERC said the standard should be further revised to clarify language and enhance some of its requirements.

*EOP-012-2* underwent three formal comment and ballot periods before finally receiving the blessing of industry in January. (See [Industry Approves New Cold Weather Standard in Final Vote](#).) NERC’s Board of Trustees had warned that it might have to step in to approve the standard if it looked like the ERO might miss FERC’s deadline — an authority it possesses under section 321 of NERC’s [Rules of Procedure](#) — but the successful ballot averted this possibility.

FERC called the new standard an “improvement” to *EOP-012-1* but said “some elements ... are not fully responsive to the commission’s February 2023 order.” While it did not agree with the ISO/RTO Council’s request to remand

*EOP-012-2* to NERC for further revisions — which FERC observed would leave *EOP-012-1* to go into effect Oct. 1 “despite its ambiguities and other identified issues” — the commission did identify some remaining shortcomings that still need to be overcome.

FERC’s order directs NERC to submit another revised standard within nine months that:

- ensures that the standard’s generator cold weather constraint declaration criteria “are objective and sufficiently detailed” so that entities understand the requirements. NERC is to remove phrases such as “reasonable [or] unreasonable costs” and “good business practices” in favor of “objective, unambiguous and auditable terms.”
- allows NERC to evaluate and confirm the validity of cold weather constraints invoked by generator owners “to ensure that such declaration cannot be used to avoid” compliance with the standard or corrective action plans.
- shortens and clarify implementation time-

lines and deadlines for corrective action plans.

- ensures that any extension of a corrective action plan deadline beyond the maximum time frame provided by the standard is preapproved by NERC, and that GOs inform relevant entities of resulting extreme cold weather operating limits.
- implements more frequent reviews of generator cold weather constraint declarations to ensure the declaration is still valid.

Noting the urgency FERC has “repeatedly expressed” for implementing cold weather standards, and the fact that the above directives are meant to “fully address issues identified in the commission’s prior February 2023 order,” FERC mandated that the ERO complete revisions to the standard within nine months.

In a [statement](#), NERC said it “appreciates FERC’s focus on reliability matters and will continue to work toward assuring the reliability and security” of the electric grid. ■



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## FERC/Federal News

# FERC Order 1920 Faces Hurdles in Implementation

By James Downing

ARLINGTON, Va. — FERC Order 1920 could help move the ball significantly on more efficiently expanding the transmission grid, but its ultimate success depends on how it and other policies are implemented.

Grid Strategies President Rob Gramlich told attendees of Infocast's Transmission & Interconnection Summit on June 26 that Order 1920 is the biggest energy policy the U.S. has seen since the Inflation Reduction Act. Getting planners focused on lines with clear benefits and allocating costs to those who receive those benefits should help get transmission built, he said.

"Order 1920 really does that in a very well-crafted way," Gramlich said.

But a big part of the order's success will depend on how it is implemented, Gramlich said. Some areas, such as CAISO and MISO, already largely do what FERC has directed, but some regions lack any history with the kind of long-term planning Order 1920 envisions.

"I think the biggest industry challenge now is to get consensus with states and those other stakeholders to get busy doing it, figuring out who's going to do it and how," Gramlich said.

Order 1920 builds on earlier FERC orders, most directly Order 1000, which tried to set a floor for regional and interregional planning more than a decade ago but fell short on implementation.

"I think what we've seen in the West in the past with implementation of FERC Order 1000 is that the utilities convert that floor into a ceiling in their compliance filings, and it becomes sort of a straitjacket to doing innovative transmission planning," Maury Galbraith, executive director of the Colorado Electric Transmission Authority, said during a webinar hosted by Advanced Energy United last month.

Galbraith argued that in planning processes under the new rules, utilities should not be allowed to use their FERC-regulated tariffs as a way to get out of running scenarios requested by other stakeholders.

Even if Order 1920 is perfectly implemented, the transmission expansion many say is needed to meet rising demand and connect new sources of supply will still need other policy changes, said Patrick Bond, senior policy adviser for Sen. Angus King (I-Maine).



Grid Strategies' Rob Gramlich addresses the Infocast Transmission & Interconnection Summit as (from left) Greg Mathe, Dominion Energy; Mike Tabrizi, Zero-Emission Grid; and Grid United President Kris Zadlo listen. | © RTO Insider LLC

"The biggest concern I have is going to be permitting: Even if there's a plan, and cost allocation is all approved, and you don't have lawsuits or anything like that, we're still going to have siting and permitting challenges," Bond said at the Infocast event. "And I think that those still need to be addressed."

Congress has given the federal government the ability to overrule states that reject transmission lines in National Interest Electricity Transmission Corridors (NIETCs), for which FERC issued rules to implement its share of that process with Order 1977 simultaneously with 1920. But the U.S. is going to need more new transmission lines than the NIETC process can handle, Bond said.

King is a member of the Senate Energy and Natural Resources Committee, whose leaders from both parties have been working on a bill to update U.S. permitting laws. While any legislation is difficult to pass, permitting is an issue that is holding back other policy preferences, Bond said, so there could be bipartisanship.

The chances of passing a major bill in 2024 are not that great, as just six weeks are left with Congress in session before the election. But Gramlich said energy-related legislation could move forward in 2025, with the need to pass a budget and the individual income tax cuts under the Tax Cuts and Jobs Act of 2017 expiring at the end of that year.

Politics overlays a lot of the issues, and while Gramlich argued that the rhetoric does not line up with Order 1920's requirement that only beneficiaries of transmission lines pay their fair share of the costs, others were less optimistic.

"I think the landmine here is that somehow 1920 is a partisan issue," Grid United Pres-

ident Kris Zadlo said at the Infocast conference. "And I think energy security is national security. And we need to think about it from that mindset."

Industry needs to work quickly to accommodate the rapid growth in load in many parts of the country, he added. A 7% annual growth rate means that in just five years, demand grows by 50% overall, Zadlo said.

Much of the political blowback on Order 1920 is coming from states. Many of them filed for rehearing, essentially asking FERC to go back to the drawing board.

But Michigan Public Service Commission Chair Dan Scripps said on the AEU webinar that many did not. The two RTO-wide state regulator groups the PSC belongs to (the Organization of MISO States and the Organization of PJM States Inc.) asked for some clarifications, but they did not seek rehearing on the bulk of the order.

"We may have differences among the states around whether or not FERC should have done this, but now that they have, how do we ensure compliance?" Scripps said.

The order directs transmission providers, including ISO and RTOs, to give states in their footprints six months to come up with cost allocation rules, but it stops short of requiring them to file them with the commission as an alternative proposal. That is one area Scripps would like to see changed on rehearing. OPSI and other parties made similar requests in their filings.

"I do think that where states can come together and agree on an approach ... there should be a requirement that that at least gets filed and considered and not ignored," Scripps said. ■



## FERC/Federal News



# Phillips and Christie Debate Loper Bright's Impact on Order 1920

By James Downing

The Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* is already making waves in the rehearing process on FERC Order 1920, with commissioners releasing dueling statements about what the end of *Chevron* deference will mean for the transmission rule. (See related story, [Supreme Court Ends Chevron Deference to Administrative Agencies.](#))

Commissioner Mark Christie released a [statement](#) after the court's ruling June 28 arguing that the commission should reform the order on rehearing given the lack of *Chevron* deference, while Chair Willie Phillips released a [statement](#) July 1 arguing that 1920 is on firm legal footing even with the doctrine's end. Ultimately, the issue will come down to a different commission than the one that approved the order, as three new members will have joined.

Phillips argued that FERC's authority to regulate regional transmission planning and cost allocation has long been recognized by bipartisan majorities of the commission and the D.C. Circuit Court of Appeals.

"It could hardly be otherwise," Phillips said. "Both regional transmission planning and cost allocation are practices that have exactly the type of 'direct effect' on commission-jurisdictional rates that the U.S. Supreme Court has held brings a matter within this commission's jurisdiction. Indeed, our authority to

regulate regional transmission planning and cost allocation is essential to the commission's ability to ensure that customers have access to reliable, affordable supplies of electricity — our most fundamental statutory responsibility."

Order 1920 builds on Order 1000, which was upheld by the D.C. Circuit in *South Carolina Public Service Authority v. FERC* using *Chevron* deference. The Supreme Court held in *Loper Bright* that settled precedents would not be disturbed by its decision, so Order 1000 is safe.

"Order 1000 is the sort of the foundation for this Order 1920," Christie told *RTO Insider* on July 1. "But the *Chevron* deference is not available, and so my point is that lifeline is now not available on court challenges to Order 1920. So ... we're going to have the opportunity to do substantial amendments to 1920 when we get to the rehearing stage, and I hope that we'll be able to do that."

Phillips argued that Order 1920 fits easily into the *South Carolina* precedent in that it does not promote particular public policies, dictate specific outcomes or include any selection mandate, and its cost allocation proposals rest on well-established principles.

"As such, Commissioner Christie's assertions about *Loper Bright*'s implications for Order No. 1920 cannot be squared with the court's actual holding in that case," Phillips said. "As always, I respect Commissioner Christie's regulatory perspective on how we should exercise the

regulatory 'discretion' that Congress vested in this commission. But his disagreement with how the commission exercised that discretion in Order No. 1920 does not provide a logical or reasonable basis for calling into question whether we have that authority in the first place."

Christie argued that it was clear when Order 1920 was issued that it would not work, and that was made more clear by the many petitions to strike it down, many of which came from states and their organizations, such as the National Association of Regulatory Utility Commissioners.

But they were also joined by PJM, the National Rural Electric Cooperative Association and more. Given *Loper Bright*, FERC should fix its issues before it winds up before the courts, Christie said.

"The commission still has an opportunity to amend Order No. 1920 into a true compromise that will promote sensible long-term transmission planning while protecting consumers and respecting and elevating the important role of states throughout the process," Christie said.

Two major issues Christie would like to see changed are the requirement that regional plans take into account the supply preferences of large customers, which he argued would spread the costs of their choices to every customer impacted by the cost allocation, and Order 1920's language around state input in cost allocation.

While the order requires developer to give states six months to hash out an agreement on cost allocation, FERC did not require the relevant transmission providers to file it. That was based on yet another court case, *Atlantic City v. FERC*, which said transmission owners have the right to file their own rates. In their requests for rehearing, parties argued FERC could get around that.

Christie also noted that the order stops short of requiring transmission providers, which include the ISO/RTOs, from even reporting on their efforts to get states to agree to a cost allocation method.

"It says that even if the states in a region agree, the transmission provider does not even have to file it," Christie said. "I absolutely object to that, because that totally goes against what was promised in the [proposed rule]: that state agreements would be recognized." ■



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## CAISO/West News

# FERC Rules for CAISO on Capacity Deliverability Rights Complaint

## Complainant Argued ISO Unlawfully Ended Rights for Gas-fired Plant in Mexico

By Robert Mullin

FERC on June 27 denied a complaint alleging CAISO unlawfully terminated the full capacity deliverability rights associated with a Mexico-based gas-fired generating unit that previously was interconnected with the ISO's grid (EL24-92).

At issue in the order was the CAISO deliverability status of Unit C, a 181.5-MW combustion turbine plant operated by energy conglomerate Saavi. Under California rules, a resource with full capacity deliverability rights is entitled to count 100% of its output as qualifying capacity in the state's resource adequacy program.

According to the complaint, since 2003, Saavi has operated Unit C under a FERC-approved nonconforming participating generator agreement (PGA) that gave the company the right to dispatch the plant into either CAISO or the territory of the Federal Electricity Commission (CFE), Mexico's state-owned utility and national grid operator. The PGA outlined a process by which the unit could switch its dispatch location, with the option to reconnect to the CAISO grid after a disconnection.

"Saavi explains that these nonconforming terms were negotiated to accommodate legal and jurisdictional issues, as well as electrical configuration issues, which are unique to Unit C's situation as a generator normally connected to and serving the CAISO grid, but that is physically located in Mexico," the commission wrote.

Saavi said that in 2017, after providing the required contractual notice, it disconnected Unit C from CAISO in order to connect the plant to CFE's grid to address reliability issues. In subsequent years, the company provided the ISO with semiannual updates on the unit's interconnection status and continued to extend its disconnection from the California grid.

The company said CAISO expressly approved each extension and that the approval letters stated the ISO would "permit the continued disconnection and future reconnection of [Unit C]," but it also noted that "during the time period it is connected to CFE, [Unit C] will no longer be available or eligible to meet resource adequacy requirements in the ISO balancing authority area." At no time during Unit C's connection to CFE did CAISO indicate the plant



Saavi is an independent power producer with generating plants across Mexico. | Saavi Energia

was at risk of losing its deliverability status, Saavi contended.

### Replacement Generation

The complaint goes on to describe that, in 2022, Saavi began developing a battery electric storage system (BESS) that would be connected to the CAISO grid using the same 230-kV Saavi-owned transmission line that connects Unit C to the ISO, saying that the BESS would act as replacement generation for the plant. The first phase of that project, designed to provide 185 MW of power, would reach commercial operation in third quarter of 2027.

Saavi said it was during the initial discussions with CAISO about the BESS project that it learned that Unit C had lost its deliverability status in the ISO because it "has been disconnected from and has not been scheduled into the CAISO system nor operated at the capacity level associated with its rated deliverability for over three years, which is required to retain such rights," a stipulation CAISO said is laid out in the reliability requirements section of its Business Practice Manuals (BPMs). But the plant still retained its interconnection service capacity rights, the ISO noted.

Saavi argued that CAISO's termination of Unit C's deliverability status was unlawful under the Federal Power Act because it contradicted the procedures laid out in the PGA to accommodate Unit C's status as a grid-switching resource. The company contended that it well

exceeded the notice requirements of the PGA because it regularly consulted with CAISO regarding Unit C's status and that the ISO repeatedly approved the continued connection with CFE.

Saavi also contended CAISO misapplied the BPM language by finding that Unit C's temporary connection to CFE amounted to a valid reason to terminate full deliverability status, in part because the manual stipulates that a plant will lose that status after being unable to operate at its rated level for three consecutive years.

"However, Saavi states that this BPM section also makes an exception for a holder of the deliverability priority to retain its rights after the expiration of the three-year period if it can demonstrate that it is actively engaged in the construction of replacement generation to be connected at the bus associated with the deliverability," FERC noted.

### CAISO Response

In an April 9 answer urging the commission to deny the complaint, CAISO argued that Saavi's arguments are not supported by the language of the PGA, the ISO's tariff and the BPM for reliability requirements. And while CAISO noted that the PGA stipulates that Saavi can disconnect and reconnect with the ISO grid after providing written notice, the agreement also states that it "will be subject to the requirements of the CAISO tariff at all times." Included in those requirements is the

## CAISO/West News

obligation for a generating unit to maintain an association with a CAISO-certified scheduling coordinator, something Unit C failed to do after disconnecting from the ISO in 2017 through July 2020, meaning the unit could not have had deliverable output for the consecutive three-year period.

CAISO also argued it was Saavi's responsibility to stay compliant with its obligations under the tariff and BPM, and therefore it should have known about the requirement to remain associated with a scheduling coordinator and that it would lose deliverability status after three years of not providing RA to California.

The ISO additionally contended that Saavi was mistaken in assuming the disconnection approval letters constituted an exemption from applicable tariff or BPM rules, or indicated continued deliverability status.

### FERC Denial

In ruling in favor of CAISO, FERC found that in revoking Unit C's full deliverability status, the ISO had not violated its tariff or unlawfully discriminated against Saavi.

"The tariff and the function of deliverability within the overall California resource adequacy framework support a finding that CAISO appropriately revoked Unit C's deliverability

rights after a three-year consecutive period of disconnection from the CAISO grid, during which time Saavi remained disassociated from any scheduling coordinator and was, therefore, incapable of operating in the CAISO markets," the commission wrote.

The commission said it found "unpersuasive" Saavi's contention that, in the CAISO BPM, the "capable of operating" provision for retaining deliverability "means merely that the generating unit can produce electric power up to its rated capacity, because this position ignores that, under the tariff, operating as a generating unit includes the ability to deliver the electric power that the generating unit produces to the CAISO grid."

Rather, the commission found, the tariff "expressly links a resource's deliverability to its eligibility to provide resource adequacy capacity."

FERC additionally agreed with CAISO that revocation of Unit C's deliverability rights did not violate the PGA because the agreement specified that the plant would be subject to ISO tariff requirements "at all times."

The commission also said Saavi's reliance on CAISO disconnection approval letters was "misplaced."

"Nothing in these letters implies that Saavi was exempt from otherwise applicable requirements under the tariff and, therefore, cannot be interpreted as an affirmation of Unit C's continued deliverability status," it wrote.

The commission also agreed with CAISO that Unit C's former deliverability allocation cannot be transferred to Saavi's BESS project.

"First, as a practical matter, Unit C lost its deliverability in July 2020, three years after it disconnected from the CAISO grid and disassociated itself from its scheduling coordinator," FERC said. "Consistent with its tariff, CAISO accounted for that development and reallocated the deliverability formerly associated with Unit C to other generators in the same electrical area. In essence, therefore, there is no deliverability available to transfer to the BESS."

Second, FERC found, Saavi missed the window for starting such a discussion about replacement generation, which CAISO's BPM stipulates must be initiated before expiration of the three-year period.

"Here, however, Saavi did not initiate discussions about the planned BESS until summer 2022, almost two full years after the three-year deliverability retention window closed," the commission concluded. ■

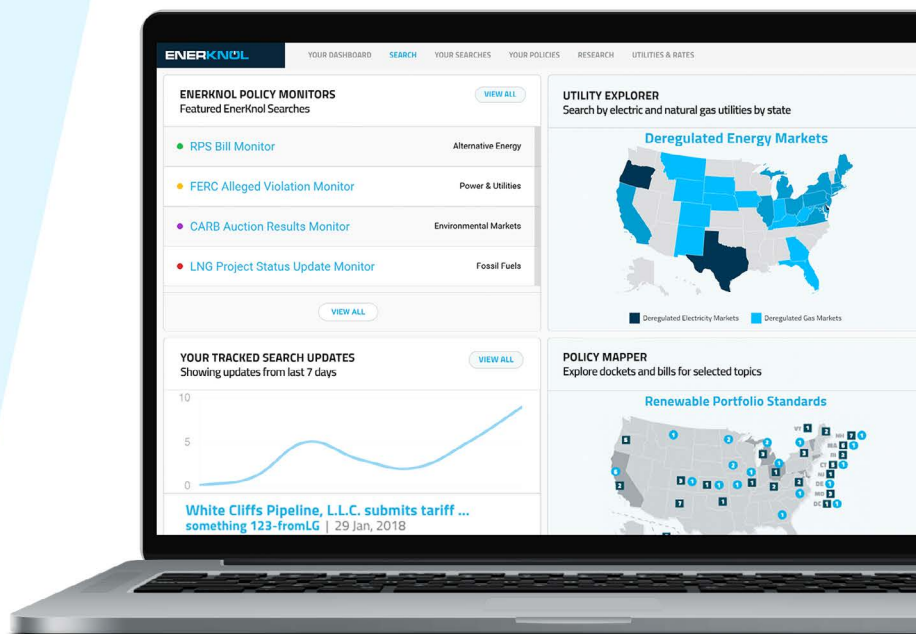
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# CAISO/West News

## FERC Grants SoCal Edison Incentives for 2 Transmission Projects

By Ayla Burnett

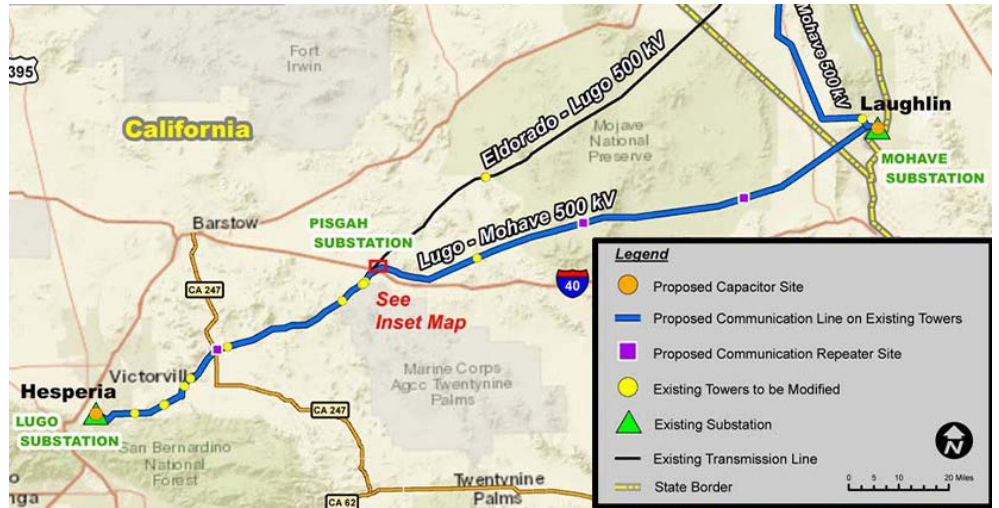
FERC on June 27 approved two transmission incentives requested by Southern California Edison (SCE) that would offset potential costs associated with building the Del Amo-Mesa-Serrano and Lugo-Victor-Kramer projects (EL24-71).

In an order issued at its monthly open meeting by a 2-1 vote, FERC found the projects satisfy the Order 679 requirement for incentive rate treatment because they improve reliability or reduce congestion, as both projects are included in CAISO's 2022-2023 Transmission Plan.

FERC approved use of the construction work in progress (CWIP) and the abandoned plant incentives mainly because of the long lead times and potential local opposition for both projects. As has become common in transmission rate incentive requests, Commissioner Mark Christie dissented.

The Del Amo project will extend through Los Angeles, San Bernardino and Orange counties. It includes constructing a new 500/230-kV substation with three new transformer banks and new 500-kV transmission line segments, including two approximately 13-mile segments from SCE's Del Amo and Serrano substations. It will also include another 13-mile 500-kV line from the Del Amo substation and a 2-mile 500-kV line from the Mesa substation to create the Del Amo-Mesa line. Finally, the project will require a loop of SCE's 230-kV Alamitos-Barre No. 1 and No. 2 transmission lines into the Del Amo substation.

The Lugo project was selected by CAISO to increase access to solar resources and will help California meet its clean energy mandates, as well as increase reliability by addressing certain constraints and voltage instability identified in the region. The project will include the construction of a new 500/230-kV transformer, reconductoring of four 230-kV transmission lines, reconstruction of SCE's



FERC granted Southern California Edison two incentives for its Del Amo and Lugo transmission projects. | Southern California Edison

115-kV Kramer-Victor line to increase it to 230 kV, and looping a remaining old segment of the Kramer-Victor line into SCE's Roadway substation.

SCE requested to "include 100% of prudently incurred construction work in progress for the projects in rate base" and "recover 100% of prudently incurred costs of the projects if they are abandoned for reasons beyond SoCal Edison's control."

The latter incentive is to account for the long lead times from the extensive licensing processes required by the California Public Utilities Commission for the projects, in addition to potential local opposition. The utility also argued that the projects qualify for the CWIP incentive because of the time between the commencement of construction and the anticipated final in-service dates in 2033.

"SoCal Edison contends that requiring the investors to wait years before seeing a return on their investments would diminish the attractiveness of these investments, which CAISO has deemed necessary in its transmission plan,"

FERC said. "SoCal Edison maintains that this rate treatment will provide upfront regulatory certainty, rate stability, improved cash flow at a time when SoCal Edison is financing significant wildfire mitigation-related capital expenditures, and substantial infrastructure replacement activities needed to support system reliability."

SCE also highlighted that the CWIP incentive would decrease the likelihood of "rate shock" to its customers. Without CWIP recovery, FERC said, all of SCE's rate increases will apply to its customers at one time.

The CPUC filed a protest against SCE's request for the CWIP incentive in March. "While the CPUC does not oppose FERC granting SCE the abandoned plant incentive for these projects, the CPUC protests this filing because SCE has not demonstrated that the CWIP incentive should be granted here," it told FERC. "The CWIP incentive has shown to be harmful to California ratepayers, providing premature and excessive rate recovery. Granting the incentive goes beyond the intended scope of Order 679 and would not result in just and

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## CAISO/West News

reasonable rates.”

The CPUC further explained that, with projects having longer lead times and higher costs than forecast when the incentives were granted, the incentives end up being costlier to customers, “resulting in customers effectively serving as lenders to the utility, with the benefit being one-sided toward the company.”

The state commission also argued that SCE has a history of long delays and cost overruns associated with its projects and that CWIP removes the utility’s incentive to complete them on time. The CPUC requested that, should FERC grant the incentive, CWIP eligibility be capped at the cost of the project and be rescinded once CAISO’s in-service date has passed.

In its answer to the protest, the utility asserted that the CPUC “ignores that CWIP is intended to address the very risks that the CPUC derides as SoCal Edison’s failures, disregards the benefits of CWIP to ratepayers and improperly

requests that [FERC] implement widespread policy changes.”

FERC granted the incentive without conditions.

“We find that SoCal Edison has shown a nexus between the proposed CWIP incentive and its investment in the project. We agree that recovering CWIP expenditures in transmission rate base will help cash flow and smooth the projects’ rate impact,” FERC said. “The commission has also found that allowing companies to include 100% of CWIP in rate base would result in greater rate stability for customers by reducing the ‘rate shock’ when certain large-scale transmission projects come online.”

SCE expects to start construction for the Lugo project in 2027 and the Del Amo project in 2030.

While Commissioner Christie noted in his dissent that he continues to urge revisiting FERC’s policies under Order 679, he was particularly incensed by the majority’s approval

of incentives because the CPUC has not yet approved the projects themselves. Under 679, the commission presumes that projects included in an RTO/ISO transmission plan will enhance reliability or reduce congestion.

“Although regional transmission planning process is only one rebuttable presumption established in Order No. 679 allowing qualification for incentive rate treatment, reliance on regional transmission planning in lieu of state approval to construct is one of the major problems with FERC’s policy. This practice is indefensible and always has been,” Christie wrote.

“With all due respect to CAISO’s transmission planning process — and I do respect it along with planning processes in other RTOs/ISOs — the regional planning process in a transmission planning organization is not remotely the equivalent of a serious litigated state [approval] process, which includes witness cross-examination and is open to intervenors such as consumer advocates.” ■

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# ERCOT News



## ERCOT, IMM Share Details on Ancillary Services Study

By Tom Kleckner

ERCOT staff have made a pair of preliminary recommendations as part of their collaboration on an ancillary services study that is due to Texas regulators before the end of the year.



Jeff Billo, ERCOT | © RTO Insider LLC

Jeff Billo, ERCOT director of operations planning, told the Stakeholder Advisory Council on June 24 that staff have been “thinking through this stuff” and running the analyses. ERCOT is working with the Independent

Market Monitor and Public Utility Commission staff on the study.

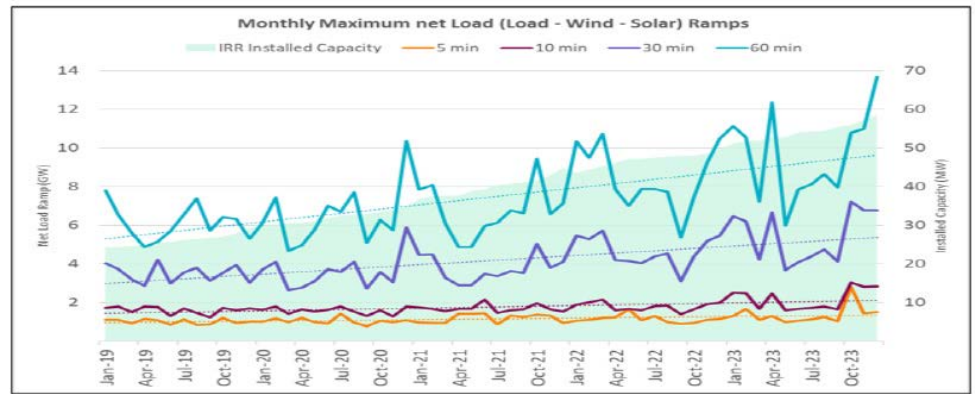
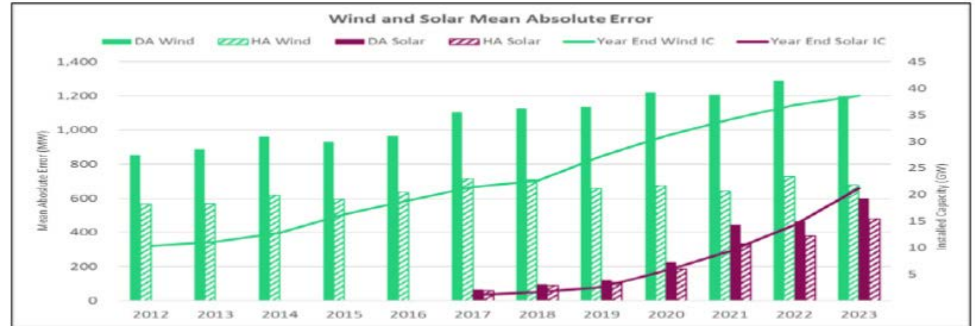
“We really think that we have the right services and the right methodology for quantifying those services today,” Billo said. Unsurprisingly, he said ERCOT plans to use the current mechanisms and is not proposing any changes to those products.

Billo said the first preliminary recommendation covers the frequency control portion of ancillary services: regulation, responsive reserve service and the frequency-response portion of ERCOT Contingency Reserve Service (ECRS). Staff’s other recommendation is to examine the benefits of determining some portion of AS quantities closer to the operating day based on days-ahead forecast conditions rather than an annual calculation.

Some ERCOT stakeholders and the IMM have objected to the heavy use of ECRS since its first use last year, saying it has added billions of dollars in costs to the energy-only market. The grid operator procures capacity resources that can be brought online within 10 minutes and sustained at a specified level for two consecutive hours. (See “Contentious NPRR Revising ECRS Passes over Monitor’s Objections,” [ERCOT Board of Directors Briefs: June 17-18, 2024.](#))

Billo reminded TAC of where ERCOT was in 2021, when he told the committee that staff were going to a conservative operations approach, setting aside larger amounts of operating reserves than before.

“[I said we] were going to not walk up right to the edge of the cliff, but we were going to take a few steps back, and we were going to operate with higher reserve margins in real time,” he said. “The idea there is that we’re op-



ERCOT data show renewables' effect on ramp. | ERCOT

erating with a lower risk compared to how we historically operated, and that has also driven a change in the amount of ancillary services that we’re getting.”

ECRS and other products have become necessary with the increased addition of renewable resources and the resulting growth in load variability, Billo said. He said ECRS was needed to address increasing net load ramps causing greater intra-hour risk and fewer online reserves available to recover frequency after a large unit trips.

“We see the greater exposure when we have forecast misses and so that’s why you’ll see, during especially those ramp times, that we’re getting higher amounts of ECRs to cover that kind of higher exposure,” Billo said.

Also playing a role in the increased use of AS was the public’s anxiety over ERCOT’s ability to meet demand following the disastrous and deadly 2021 winter storm that nearly brought down the Texas grid.

“I think that prior to Winter Storm Uri, there were lots of times where we had watches or we went into [energy emergency alerts] and the public didn’t really notice and didn’t really care,” Billo theorized. “Post-Uri, I think as we saw in 2021, there were times where we

would go into a watch and that there’d be a lot of attention on that from the public, but also from state leadership. I think the message that we got ... was, ‘ERCOT, we don’t want you to go into a watch and an EEA as much as you have in the past.’

“In my mind, that is a criteria change for how we operate the system and the amount of reserves we’re procuring,” he added.

The IMM’s deputy director, Andrew Reimers, told TAC the IMM’s study is intended to estimate the reliability value of different levels of reserves to inform AS procurement targets. He said the Monitor is focusing on reserves that are responsive within minutes to hours.

The IMM is using 10,000 random draws of a Monte Carlo simulation for each hour in the study period to determine how reserve levels influence loss-of-load projections, given probabilistic distributions of unplanned outages and net load forecast errors. Its staff are using historic hours from June 2023 to June 2024 to compare the capacity at risk to different reserve levels.

“The timeline is definitely a challenge,” Reimers said. “We’re trying to triage this to do the best study that we can given the relatively limited amount of time we have to go on. Ultimately,

## ERCOT News



that means prioritizing what we can get the results that we can and then figuring out what things have to be left for future work.”

“We’ve had a lot of really good conversations with the IMM. I don’t know if by this September that we’ll agree on all of the details, but conceptually, I think we agree on the framework,” Billo said. “Some of the things we still need to think through are around data. It’d be great if we used 10 years of data, but the forecasts have improved. I’m trying to quantify what my risk is of a forecast error; I really don’t want to use forecast data from 10 years ago.”

Billo asked for stakeholder input before he presents a study update to the Board of Directors during its Aug. 19-20 meetings. An AS workshop will be held after the Aug. 28 TAC meeting and a final report posted to the commission before October.

The PUC also plans an AS workshop in the latter half of October. It’s asking for TAC feedback on which ERCOT and IMM information presented Aug. 28 would be most helpful in filing comments at the commission (55845).

The study is a requirement of legislation passed last year by Texas lawmakers. It directs the PUC to review the type, volume and cost of AS and determine whether those services are necessary in the ERCOT market. The law also requires the commission to evaluate whether additional services are needed for reliability.

Separately, ERCOT staff will begin discussions

with stakeholders in July on the grid operator’s 2025 AS methodology. (Billo said ERCOT won’t have time to incorporate learning from the PUC study’s results.)

Staff plan to present its proposal during the October board meeting, allowing for PUC review before next year. ERCOT’s annual requirement to update its AS methodology now includes commission approval.

### Members Endorse 7 Changes

TAC approved a protocol change (NPRR1190) that would recover demonstrable financial loss arising from a manual high dispatch limit (HDL) override to reduce real power output, should the output be used to meet qualified scheduling entity load obligations.

The change’s approval came after an attempt to table NPRR1190 until further IMM review came up short. The measure passed 22-6 with an abstention.

The consumer segment provided all six opposing votes over concerns that the change incorrectly expands the opportunity for entities to receive compensation for scheduled-but-not-provided energy under out-of-market ERCOT actions. Supporters noted the infrequent occurrence of the conditions covered by the NPRR and the language that prevents recovery of lost opportunity costs stemming from an HDL override, according to the committee’s report.

The motion to table failed 8-19 with a pair of abstentions. The consumer segment favored tabling.

Members also endorsed three other NPRRs, an Other Binding Document revision (OBDRR) and single changes to the Planning Guide (PGRR106) and the Verifiable Cost Manual (VCMRR) that, if approved by the Board of Directors, would:

- **NPRR1215**: clarify that the day-ahead market’s energy-only offer credit exposure calculation zeros out negative values, with any zeroed-out values being included in the calculation of the percentile difference.
- **NPRR1216**, **OBDR051** and **VCMRR039**: align the protocols with the PUC’s order establishing an emergency pricing program for the wholesale market. During an emergency offer cap (ECAP) effective period, the systemwide offer cap is set to the ECAP, with a value equal to the low systemwide offer cap.
- **NPRR1225**: update the protocols to align with the PUC’s declaratory order on ERCOT’s settlement systems. The ISO added revisions to meet the commission’s order that exclusions be effective March 4, 2024, when the transfer of Lubbock Power and Light retail customers to retail electric providers began.
- **PGRR106**: clarify which transmission projects are included in the Transmission Project Information and Tracking report. ■

## Texas PUC Adds OPUC’s Hjaltman as 5th Commissioner

Texas’ Public Utility Commission is back to its full five-commissioner complement with the appointment of Courtney Hjaltman, CEO of the Office of Public Utility Counsel (OPUC) since 2022.

Texas Gov. Greg Abbott named Hjaltman to the PUC on June 24 for a term that expires Sept. 1, 2025. She fills the seat left vacant by Will McAdams, who stepped down from the PUC in December to focus on his family and health.

Abbott said Hjaltman’s service to the state and her legal expertise makes her the “ideal choice” to serve on the commission. “Courtney will ensure that Texans in every corner of our state have access to quality utility services for years to come,” he said in a [statement](#).

As OPUC’s CEO, Hjaltman advocated for



Courtney Hjaltman’s appointment to the PUC brings the commission to full membership. | © RTO Insider LLC

Texas’ residential and small commercial customers. During the ERCOT Board of Directors’ meetings June 17-18, she voted against a protocol change revising an ERCOT ancillary service over concerns it would raise consum-

ers’ rates. That likely means she will have to recuse herself when the PUC considers the protocol change.

Hjaltman was Abbott’s deputy legislative director when she was appointed to OPUC and has more than 17 years of state service, much of it in the legislature. She holds bachelor’s degrees in both corporate communications and government from the University of Texas and is a graduate of the governor’s Executive Development Program at UT’s Lyndon B. Johnson School of Public Affairs.

State lawmakers increased the size of the PUC from three commissioners to five after the disastrous and deadly 2021 winter storm. The three incumbents at the time lost their jobs in the storm’s aftermath. ■

— Tom Kleckner

# ISO-NE News

## NEPOOL Holds Summer PC Meeting amid Heat Wave, Climate Protests

### Patton Presents State of the Market

By Jon Lamson

BRETTON WOODS, N.H. — Government officials, RTO leaders, industry representatives and climate protesters from New England and beyond descended upon the Mount Washington Hotel in New Hampshire’s White Mountains for the 21st annual NEPOOL Participants Committee summer meeting June 25-28.

During a multiday stretch of extreme heat just days prior to the meeting, the ISO-NE grid hit its highest demand of the year at 23,324 MW, which caused the RTO to issue an *abnormal conditions alert* that extended across three days. The outage of a large generator as the system approached the daily peak on June 19 forced the RTO to dip into its operating reserves to stabilize the grid.

The peak loads throughout the heat wave were significantly reduced by the recent progress of behind-the-meter solar in the region. Preliminary data from ISO-NE indicate BTM solar reduced the peak on June 20 by about 2,500 MW, while also shifting the peak later in the day.

But the proliferation of distributed renewables is not without its challenges for grid operators. Previewing the RTO’s preliminary 2025 budget, ISO-NE CFO Robert Ludlow projected a 13.5% increase — a \$37 million bump — in

ISO-NE’s annual revenue requirement, largely because of increasing demands of the clean energy transition.

This increase would result in a 17.1% increase in the per-kilowatt-hour rate charged to consumers, or an approximately 25-cent increase in the monthly charge to the average ratepayer.

“The main driver of the 2025 budget is the need to add personnel to the organization to address the modeling, analysis, processing, operational and communication needs directly resulting from the clean energy transition,” Ludlow said.

The preliminary budget proposal comes on the heels of a 21% revenue increase for 2024, which also was based on needs associated with the changing resource mix. (See *ISO-NE Proposes 21.5% Budget Increase for 2024*.)

Ludlow said the energy transition creates new technology and cybersecurity needs and requires better modeling and forecasting “to account for net load characteristics and trends that have rapidly evolved in recent years and are anticipated to change even more significantly in the coming decades.”

ISO-NE’s ongoing work to significantly reform its capacity market, along with a greater focus on long-term transmission planning, also

contributed to the proposed budget increase, Ludlow said. (See *Stakeholders Support ISO-NE Long-term Tx Planning Filing, with Caveats*.)

### Recommendations from the External Market Monitor

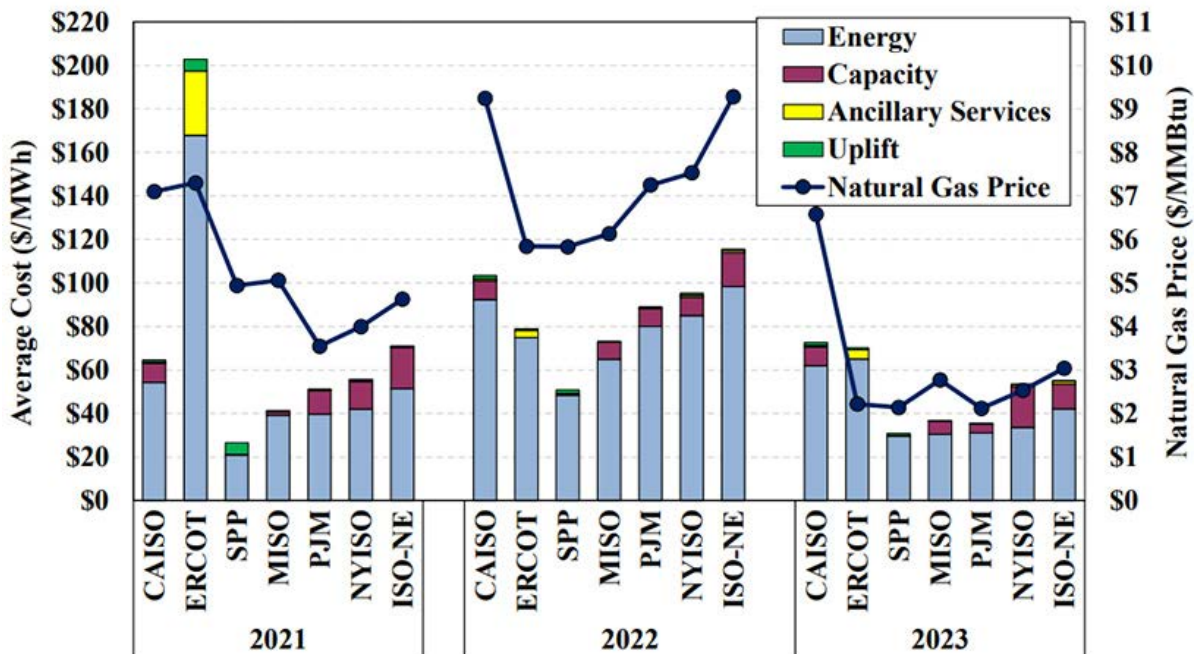
David Patton of Potomac Economics, ISO-NE’s External Market Monitor, presented his annual report on the markets along with several recommendations for improvements.

“We find that the markets performed competitively but identify key improvements that will be increasingly important in the coming years,” Patton said, adding that there was “no market power abuse or manipulation affecting clearing prices.”

He noted that New England has high energy costs relative to other RTOs because of higher gas prices, along with higher capacity costs “because of over-forecasted demand ahead of the [Forward Capacity Auctions], which are slow to correct in the” capacity market.

Congestion costs remain extremely low in the region because of transmission investments made in the past 10 years, although this has led to significantly higher transmission costs, Patton said.

Patton added that ISO-NE’s wholesale markets are “fundamentally robust and structured



All-in prices across RTOs | Potomac Economics



# ISO-NE News

to handle” the increasing influx of intermittent renewable generations because of “efficient shortage pricing” and the ongoing work to improve the accreditation of resources in the capacity market.

He said ISO-NE could drive more efficient prices by adopting a “look-ahead dispatch model to optimize multiple hours into the future.” Such a model could provide important signals for slower-ramping resources to prepare to come online and for storage resources to optimally dispatch, Patton said.

Patton also provided a pair of recommendations based on the assessment of a capacity deficiency event in July 2023, which was triggered by the shutdown of a Hydro-Québec transmission line because of nearby wildfires. (See [Canadian Wildfires Trigger ISO-NE Capacity Deficiency](#).)

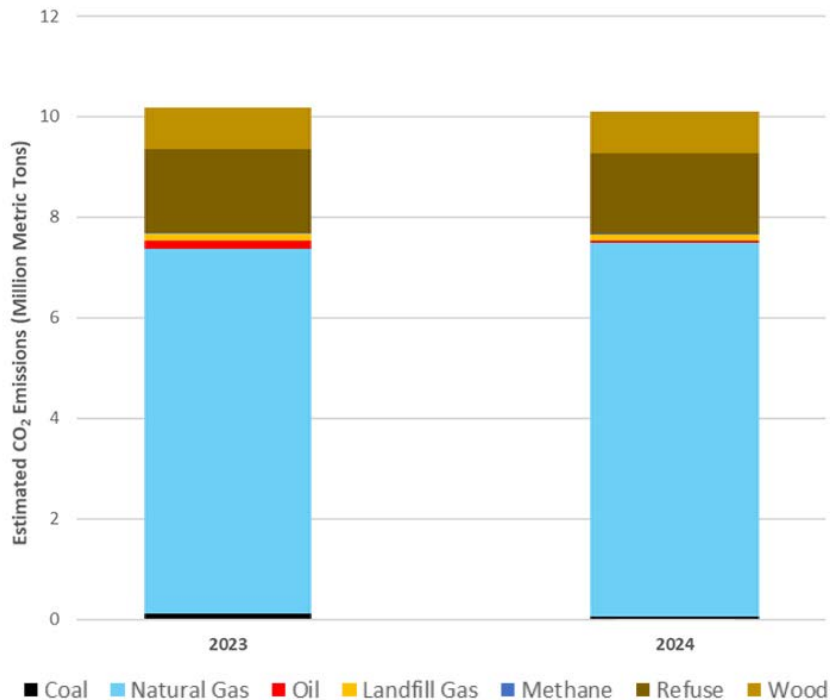
While ISO-NE curtailed some exports during this event, the structure of the Pay-for-Performance (PFP) pricing enabled some generators to profit while simultaneously exporting their power to neighboring regions. To close this loophole, the Monitor proposes charging all exports the PFP rates, effectively canceling out any PFP profits they could make from New England for exported power.

He also said ISO-NE should adjust how it scales PFP prices, arguing that “fixed, escalating PFP rates and shortage pricing together set prices much higher than efficient levels during most shortages, inciting suppliers to self-commit high-cost units inefficiently and retire longer-lead-time units inefficiently.”

With winter risks projected to surpass summer risks in the 2030s, Patton said ISO-NE’s proposed transition to a prompt and seasonal capacity market will help the region cope with winter challenges. However, he stressed the importance of ISO-NE’s ongoing resource capacity accreditation (RCA) changes to mitigate winter reliability risks.

Patton said the RCA project should rely on “conservative assumptions” related to LNG inventories to account for historical inventory variability associated with LNG prices. He said this would increase incentives for generators to enter firm fuel contracts.

Finally, Patton said ISO-NE’s proposed accreditation model does not explicitly include fuel inventories, and that this could lead to reliability issues during extended winter cold snaps. Failing to model fuel inventories would cause the capacity market to significantly overestimate the winter value of storage resources and undervalue the contributions of offshore



Estimated ISO-NE emissions through May 19 | ISO-NE

wind, Patton said.

The inventory recommendation spurred some concern from NEPOOL members representing storage companies, who have stressed that the accreditation framework already outlined would result in a major reduction in capacity revenue for storage resources, potentially undermining state policy objectives regarding storage. (See [ISO-NE: RCA Changes to Increase Capacity Market Revenues by 11%](#) and [Panel Provides Update on Energy Storage in Mass.](#))

## Operations Report

ISO-NE COO Vamsi Chadalavada reported that the May energy market value was up by about 12% compared to May 2023, and by about 9% relative to this April.

His report also noted that 832 MW of solar and battery storage projects were added to the ISO-NE interconnection queue, which now totals over 47,000 MW.

New England power sector emissions for this year are tracking at a similar level as 2023 emissions, at just over 10 million metric tons of CO<sub>2</sub> equivalent through mid-May. Coal and oil emissions are down significantly, while natural gas emissions have increased, Chadalavada’s report said.

## Climate Activists Join the Party

NEPOOL members were joined at the Mount

Washington Hotel by several climate activists from the organization No Coal No Gas. They attended because “FERC sent us,” they said.

The commission recently denied No Coal No Gas’ petition of the results of FCA 18, ruling that the activists’ concerns about a structural bias of the auction in favor of fossil fuels were outside the scope of the proceeding ([ER24-1290](#)). (See [FERC Accepts Results of New England Capacity Auction.](#))

Instead, these concerns should be raised in the stakeholder process, FERC wrote. Because NEPOOL is the official stakeholder advisory group for ISO-NE, the activists pitched in for a hotel room to bring their concerns to the summer meeting, they said.

The activists largely refrained from interfering with the NEPOOL goings on, instead distributing informational fliers in front of the meeting room about their capacity market concerns and sat at the periphery of the catered dinner and open bar eating trail mix.

They did, however, take aim at NEPOOL’s annual golf tournament. Eluding security guards by taking cover in the marshes surrounding the golf course, the activists left notes and planted coins and saplings in golf holes to express their disapproval of the grid’s continued reliance on fossil fuels and the lack of public transparency into NEPOOL meetings. ■

## ISO-NE News

# Galt Power Fined \$1.5M Following Anti-manipulation Investigation

By Jon Lamson

FERC has approved a \$1.5 million civil penalty on Galt Power following an investigation finding manipulation violations in the creation of renewable energy credits (RECs) (*IN20-5*).

The commission's Office of Enforcement determined that Galt, a wholesale power marketing company, conducted prohibited "wash" trades — transactions designed to cancel each other out, carrying no financial risk — to generate RECs in Massachusetts.

"Galt repeatedly prearranged its two schedules between ISO-NE and NYISO for the same volumes during the same time intervals, a hallmark of wash trades," the Office of Enforce-

ment found.

The office determined that Galt generated RECs by sending power from two New York wind farms from NYISO to ISO-NE, while scheduling imports to NYISO from ISO-NE that would kick in when the prior transactions were projected to lose money.

"Galt willingly lost money on the NYISO-to-ISO-NE transactions to obtain Class I RECs but did not absorb those losses or flow the power on net. Instead, it scheduled the ISO-NE-to-NYISO transaction to mitigate or eliminate any losses," the office found.

The office also found that Galt made false statements concealing the wash trades to APX, the operator of the NEPOOL Generation

Information System.

"We do not want to let them know about hedge transactions," read one internal email from an APX employee.

Following the office's findings, Galt has agreed to pay a \$1.5 million fine to the U.S. Treasury, along with about \$372,000 to the state of Massachusetts for disgorgement and interest. The company also will be required to submit two annual compliance reports.

According to the agreement, Galt "neither admits nor denies the alleged violations."

FERC accepted the agreement June 28, finding it "is a fair and equitable resolution of the matters concerned and is in the public interest." ■



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## MISO News

# MISO Vouches for 2nd, \$25B Long-range Tx Portfolio

*RTO Confirms Re-examination of 1st LRTP Projects in Iowa Following ROFR Defeat*

By Amanda Durish Cook

EAGAN, Minn. — MISO reaffirmed its commitment to its second, approximately \$25 billion long-range transmission plan (LRTP) portfolio while stakeholders asked MISO to be mindful of river crossings and whether it may reassign developers for the first LRTP portfolio's projects in Iowa.

"We've got the landing gear down," Vice President of System Planning Aubrey Johnson told MISO board members of the near-final second LRTP portfolio during a June 26 System Planning Committee meeting, part of MISO's quarterly Board Week.

Last month, MISO announced it would take some stakeholders' project suggestions and add seven more lines to its second LRTP, bringing the portfolio to between \$23 billion and \$27 billion. That's up from an original estimate of \$17 billion to \$23 billion. (See *MISO's 2nd Long-range Tx Portfolio Jumps to About \$25B.*)

Great River Energy's Matt Ellis said the larger portfolio "is a significant but still very necessary step forward" in MISO transmission planning.

Johnson said he believes MISO's current LRTP work, coupled with its annual Transmission Expansion Plans, "puts us in a position to be generally compliant with FERC Order 1920." He said MISO nevertheless will conduct a gap analysis to unpack the 1,300-page rule and determine how it might need to alter its current planning processes to be in full compliance.

MISO Director Todd Raba said MISO deserves congratulations for having a strong-enough planning process that FERC used it as example.

"I've been a firm proponent that we stay in front of the line," Raba said during the June 27 board meeting.

FERC Commissioner Allison Clements has said the commission modeled some of the comprehensive transmission planning rule on the planning MISO already conducts. (See *MARC 2024 Displays Mixed Feelings on Transition Feasibility.*)

Johnson said MISO is further preparing for intensive system planning by transitioning its modeling to Energy Exemplar's more sophisticated PLEXOS tool. He said MISO's current capacity expansion modeling tool — the Electric Power Research Institute's Electric Generation Expansion Analysis System (EGEAS) — is "at



MISO's executive system planning team from left Jennifer Curran, Christina Drake, Aubrey Johnson and Laura Rauch | © RTO Insider LLC

the very limits" of the variables it can simulate as the system becomes more complex.

"That was in use when I was in college," MISO Director Trip Doggett joked of EGEAS.

Board members asked MISO when they can expect to see H lines in LRTP portfolios.

Johnson said MISO remains open to planning HVDC lines, but the second portfolio wasn't an appropriate jumping-off point.

"We're able to move to a 765-kV dominant voltage because of our work on the 345-kV system," he said, implying that each portfolio builds on previous planning.

Johnson also said MISO would be best served by HVDC lines that are at least 300 to 400 miles long. The second portfolio's longest lines don't exceed 300 miles, he said.

Board members also expressed interest in the extent MISO uses artificial intelligence to chart new transmission.

"I have a confession to make: I had really pushed against AI technology," Johnson said, adding that he prefers to focus on making the

system resource adequate first.

However, Johnson said his thinking has changed of late and said MISO can use "tip of the iceberg" artificial intelligence now. For instance, he said MISO can feed an AI application with all past interconnection queue study results to create a search engine database and answer interconnection customers' questions without sacrificing more staff attention.

### LRTP Mississippi Crossing Raises Specter of Cardinal-Hickory Creek

Xcel Energy's Carolyn Wetterlin said she was apprehensive over the second LRTP portfolio calling for a line crossing the Mississippi River from Wisconsin's Driftless Area into Minnesota. She said the line was reminiscent of the beleaguered 345-kV Cardinal-Hickory Creek's controversial river crossing in the same region.

Cardinal-Hickory Creek's final mile to intersect Upper Mississippi River Wildlife and Fish Refuge remains tied up in litigation. The line was approved in 2011 as part of MISO's Multi-Value Project portfolio. (See *Cardinal-Hickory*

*Continued from page 21*

# MISO News



## MISO Members Stress Need for Speed to Manage Load Growth, EPA Carbon Rule

By Amanda Durish Cook

EAGAN, Minn. — Members of MISO's Advisory Committee have emphasized that all players in the footprint need to act swiftly to position themselves for "hyperscale" load growth and EPA's new carbon rule.

The Advisory Committee decided both topics were worthy of discussion at its quarterly meetup June 26.

### Carbon Rule

Multiple MISO members framed EPA's carbon rule as not as industry-altering as it seems. They said the directives generally were where the industry is headed but underscored that the rule makes the inevitable play out faster.

Minnesota Public Utilities Commissioner Joe Sullivan said some MISO states are less concerned about the rule because they've been gearing up for a decarbonized fleet. Other states in MISO are not as prepared, he said.

Sullivan said to quote former Mississippi Public Service Commissioner Brandon Presley, "Where you sit on this is relevant to where you

were standing."

"The rule might just be the current flavor of the uncertainty we've all been experiencing anyway," Sullivan said. He added the rule "definitely" adds pressure to MISO's capacity anxieties amid its first meaningful load growth in years.

Ameren's Jeff Dodd said the carbon rule's 2031 implementation is a tall order and construction needs to move quickly.

LS Power's Sharon Segner said the rule underscores MISO's obligation to hold developers to high standards so they meet project milestones on time with quality work.

"We are indeed in serious times, and serious times need serious oversight," Segner said.

The Union of Concerned Scientists' Sam Gomberg celebrated the carbon rule as the government "finally beginning" to address the perils of climate change.

"This rule will protect what's left of our functioning ecosystem that society depends on. ... To quote my favorite scientist, Ray Stantz of 'Ghostbusters,' we're talking real, rapid 'wrath-

of-God type stuff," he said. "The opportunity is one to save our own asses."

Gomberg said the most difficult thing about the rule might be wading through disinformation campaigns and politically motivated rhetoric. He acknowledged that members should redouble efforts around new transmission and generation projects alongside demand-side management. But he said he believes the expansion can happen swiftly and reliably.

"I think everyone would like some more flexibility [on the rule], but that ship has sailed when everyone has ignored the scientific evidence of the last 50 years," he said.

But Paul Bailey, of coal lobby group America's Power, said the rule means "massive coal retirements very soon" with only about a 2% resulting reduction in carbon emissions nationwide. He said the rule rightfully concerns many, as evidenced by extensive litigation.

Gomberg retorted that the coal industry's trajectory isn't affected much by the rule, save for the utilities that plan to keep coal plants online past 2039.

"It doesn't necessarily change the future all that much. We've been talking about the phaseout of coal for quite some time now," Gomberg said.

Wisconsin Public Service Commissioner Marcus Hawkins said the rule introduces concerns about the costs of stranded thermal assets. Sullivan agreed the potential for "ratepayer shocks" is worrying.

### Load Growth

Equally urgent is the need to address massive load growth from new data centers, members decided.

Stakeholder Services Executive Director Suzie Jaworowski said the MISO region is experiencing data center growth, manufacturing reshoring and "big hyper-scale industry that needs unblinking power."

Tract's Nat Sahlstrom, a guest speaker who was Amazon's first hire dedicated to energy procurement, said utilities and RTOs aren't equipped for the data center load growth that's coming. He also said data center energy procurement is no longer as simple as a "tech guy in flip-flops and a baseball cap" approaching Dominion for an additional 5 MW.

Utilities' integrated resource plans are insufficient to meet the "scale and speed of cloud



From left John Liskey, Citizens Utility Board of Michigan; Sam Gomberg, Union of Concerned Scientists; and Beth Soholt, Clean Grid Alliance | © RTO Insider LLC

## MISO News



energy demand dynamics,” Sahlstrom said. He said the tech industry is partly to blame for distrust among utility planners because in the past, representatives would “clandestinely” approach utilities with promises for big demands for power that didn’t materialize.

These days, Sahlstrom said data centers are more transparent about their needs and using “every electron that they’re asking for.” He also said though data centers are hungry for clean electricity, some run the risk of “greenwashing” by using utilities’ thermal units, then investing in far-flung renewable generation and deeming their renewable energy targets met.

MISO Director Barbara Krumsiek asked if the industry is anticipating a public backlash to the “hyper-scale” of data centers and their zoning.

“Frankly, I don’t want a data center near my church. They’re not horrible, but nobody wants that in their backyard in the same way they don’t want transmission lines in their backyard,” Sahlstrom said. He added that data center campuses these days are sited more thoughtfully and remotely.

Clean Grid Alliance’s Beth Soholt said data

centers share some of the characteristics associated with renewable energy development in terms of expanding tax bases, growing infrastructure and creating jobs.

Soholt said there might be an opportunity for data center developers to build where renewable energy is flush and locational marginal prices are lowest in MISO.

UCS’ Gomberg said MISO might need a new process to study large load additions and their impact on the system. He said he wondered if data centers might help pay for the manpower MISO may require to study new loads.

MISO Director Phyllis Currie urged load-serving entities to recalibrate their load forecasts and update them more often with MISO with legitimate economic development.

But Sullivan said he believes MISO regulators are anxious that utilities might “gild the lily” if probabilistic load forecasts are introduced and overstated load to pad bottom lines. He said it would help regulators’ distrust if data center representatives appear alongside utilities to assure commissions that the growth is real.

“The solution to this has got to be more transparency and collaboration,” Sullivan said.

Sahlstrom said data centers could stand to double a rural cooperative’s system demand within months after decades of stagnant load growth. He said developers are willing to pay for a “bespoke” integrated resource plan for their needs if the interconnection is a sure thing.

NextEra Energy’s Erin Murphy said her company and others want MISO to create a designated market participation and registration for co-located load and generation behind the same point of interconnection. She said MISO should harmonize its load growth studies completed under annual Transmission Expansion Plan (MTEP) with its studies for new generation through its interconnection queue.

NextEra has suggested that the connected studies be reserved for “mega loads” and that MISO institute a minimum size requirement to consider the studies simultaneously. (See “NextEra Asks MISO to Study New Load and Generation Duos,” [MISO Starting from Scratch on New Schedule for Reviewing Expedited Tx Projects.](#)) ■

# MISO Vouches for 2nd, \$25B Long-range Tx Portfolio

## RTO Confirms Re-examination of 1st LRTP Projects in Iowa Following ROFR Defeat

*Continued from page 19*

*Creek Developers Appeal Injunction on Line’s Final Mile.)*

Clean Grid Alliance’s Beth Soholt said she similarly was “deeply concerned” about a new 765-kV line’s chances of crossing the river. She urged MISO to reflect on its route assumptions before it finalizes the portfolio.

But ITC’s Jeff Eddy said Cardinal-Hickory Creek developers ITC and Dairyland Power Cooperative are “doing the hard work” to blaze a trail for future transmission development in the area.

LS Power Senior Vice President of Transmission Policy Sharon Segner said the portfolio of 765-kV greenfield projects will be “tough by any standard” to get built.

### Variance Analyses for Iowa LRTP Projects

Finally, MISO announced it has embarked

on *variance analyses* for the first LRTP projects located in Iowa because of uncertainties over who will develop the projects. MISO Deputy General Counsel Kristina Tridico said MISO doesn’t yet have a timeline to offer on the studies.

Already-approved LRTP projects in Iowa have been in limbo since last year, when an Iowa court struck down the state’s right of first refusal (ROFR) law and halted regulatory permitting for LRTP lines that incumbent developers ITC Midwest, MidAmerican Energy and Cedar Falls Utilities elected to build under the ROFR law. (See [MISO Asks Court for Injunction Reversal on Iowa LRTP Projects.](#))

During the June 25 System Planning Committee meeting, Segner stressed the importance of conducting variance analyses on the Iowa LRTP projects. She noted that Iowa’s legislative session wrapped for the year with new ROFR legislation failing to gain traction ([HF 2551](#)). Segner said the inaction on a new ROFR law makes for “an appropriate time” for MISO to re-evaluate the project and assign new

developers, if necessary.

MISO performs variance analyses on transmission projects when they encounter schedule overruns, significant design changes or a 25% cost increase from original estimates. After completing the analysis, MISO can let projects stand, cancel them or assign them to different developers.

Alliant Energy’s Mitch Myhre asked that the board remain focused on how the first LRTP portfolio’s lines are faring in state regulator processes. He said though the more expensive second LRTP is drawing the most attention now, it’s MISO’s obligation to encourage and assist regulators and developers as the first, \$10 billion batch of 345-kV lines progresses.

“There’s a role for the board to continue to monitor and assess ... timelines and barriers,” Myhre said.

MISO Director Nancy Lange agreed with the RTO community that the first LRTP portfolio is not in the rearview mirror. ■

# MISO News

## MISO: Calm Spring no Indication of Expected Summer Challenges

By Amanda Durish Cook

EAGAN, Minn. — MISO said a quiet spring isn't a portent for the months to come. Meanwhile, its Independent Market Monitor insists the RTO needs to penalize renewable generators that do not bridle output when asked.

Speaking during a June 25 Markets Committee of the MISO Board of Directors meeting, Executive Director of Market Operations JT Smith said between predicted summer heat, an active hurricane season and the seasonal capacity auction returning a shortfall in spring and autumn, MISO anticipates tense months ahead.

"We should expect probably a nice, stressful summer for our operating folks," Smith said. "A couple of capacity advisories shouldn't be surprising."

Smith said MISO's Planning Resource Auction in April showed the RTO's capacity surplus eroded 30% when compared to last year, falling from an overall 6.5 GW to 4.6 GW. The auction returned sufficient capacity in all but Missouri's Zone 5, where prices topped out at a \$720/MW-day seasonal cost of new entry in fall and spring. (See *Missouri Zone Comes up Short in MISO's 2nd Seasonal Capacity Auction, Prices Surpass \$700/MW-day.*)

However, Smith said MISO should have "a lot of other resources" at its disposal, referring to its load-modifying resources and imports. Soon after Smith spoke, MISO issued its first conservative operations instructions of the summer for about two hours in the North region.

Board member Phyllis Currie pressed MISO on the health of MISO's relationships with its neighbors, asking in particular about the potential for the Tennessee Valley Authority and

MISO to forge a symbiotic relationship.

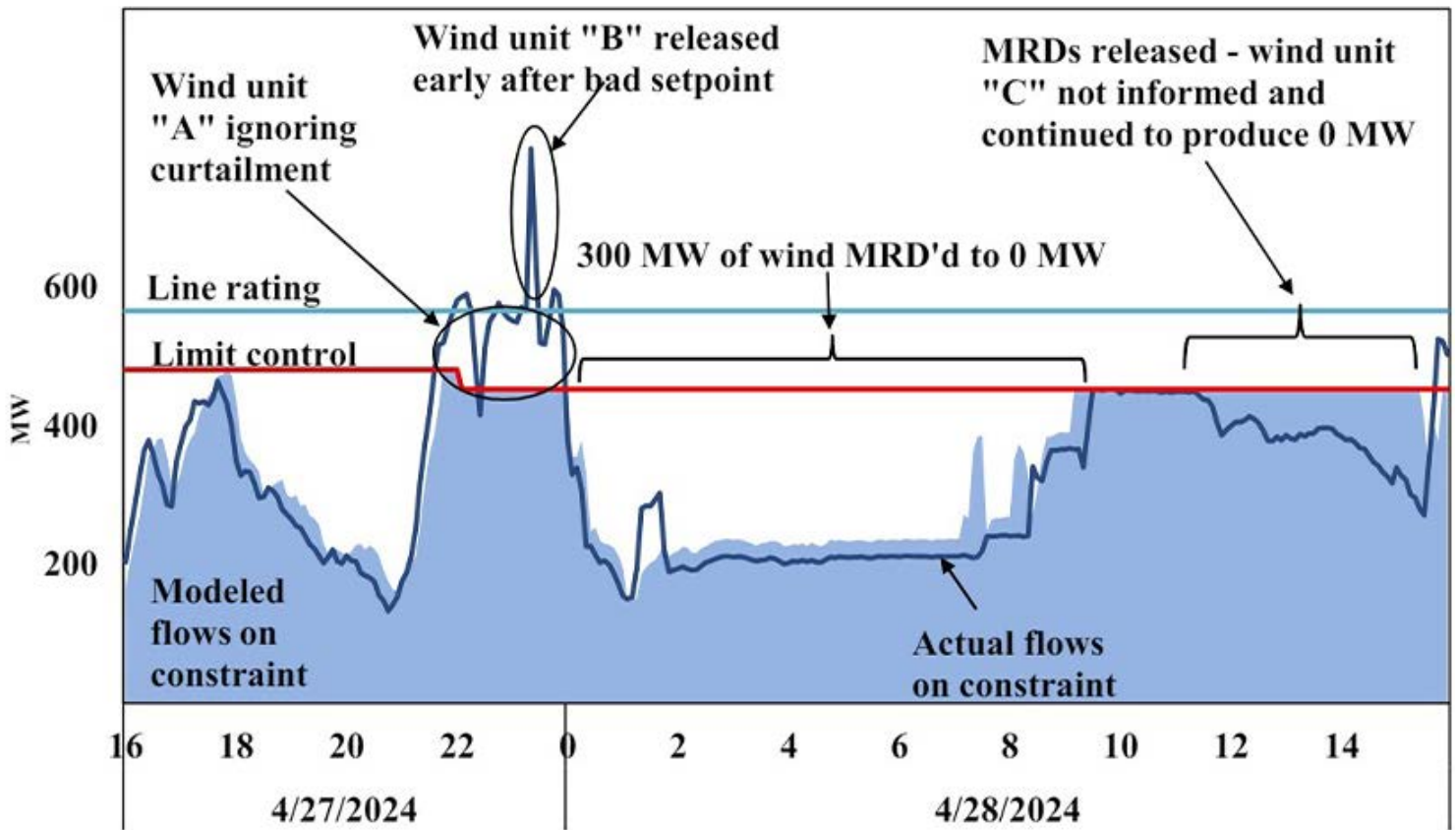
Recently, MISO leadership have expressed disappointment in TVA because although MISO has assisted TVA with exports — especially during the December 2022 winter storm — TVA as a rule doesn't flow power to MISO.

"TVA is an interesting animal in the Eastern Interconnect. They are limited in who they can sell power to," Smith said.

Smith said MISO and TVA are working toward an emergency purchases agreement so the two can transact power when one is experiencing risk.

"Not only is the coordination between PJM and MISO and SPP and MISO good, it's as good as it's ever been," MISO CEO John Bear reassured board members of MISO's RTO neighbors.

In a spring lookback, Smith called April's solar



The IMM's example of transmission constraint challenges from wind generation on the Fenton, Nobles and Chanarambie substations in Minnesota in late April. 'MRD' refers to manual redispatch. | Potomac Economics

## MISO News

eclipse a good learning experience on solar forecasting. He also said MISO staff enjoyed the eclipse because MISO “walked out of it without hassle.”

“This is the first time we’ve had a significant amount of solar on our system to have an impact,” Smith said.

MISO also reported its system performed as expected May 11 during the largest, most severe geomagnetic disturbance across the footprint since 2005.

Otherwise, Smith said MISO experienced a mild spring. He said spring’s peak at 97 GW on May 21 fell short of MISO’s forecasted 100-GW peak for the season. Load averaged 69 GW, in line with the previous three years, and real-time prices averaged \$24/MWh, \$2 lower than in 2023. Daily generation outages averaged 51 GW, a few gigawatts better than in previous years.

Predictably, MISO set another all-time solar peak May 25 at 6.2 GW.

“Expect that every board meeting for the next couple of years,” Smith told MISO’s board and stakeholders.

### IMM Says MISO Should Rein in Renewable Operators

Carrie Milton, of the Independent Market Monitor, said the spring saw a rise in unpredictable output because of renewable energy operators disregarding MISO’s instructions to curtail.

Milton said control room operators were forced to manually intervene “extensively” this spring, with double the rate of manual redispatches and capping wind generation dispatch to bring flows under control of last spring.

She stressed the IMM’s oft-repeated position that unchecked flows from renewable generation exacerbate transmission constraints, with wind operators having little incentive to dial back energy production when told by MISO. That leaves MISO operators having to intervene to maintain system integrity and bring flows back within line ratings.

“It’s effective but very inefficient, and unfortunately, that inefficiency is felt throughout the system,” Milton said. She said not only does manual redispatch raise costs to serve energy, it prevents MISO’s dispatch from pricing

congestion accurately and increases uplift payments to generation.

Milton said MISO should introduce software that flags renewable energy owners when their output is exacerbating a constraint and is deviating from their dispatch instructions. If the dispatch flag is ignored, MISO should levy financial penalties, she said.

“They don’t always know when there’s a constraint,” Milton said of wind operators.

Milton said MISO’s wind forecasting also is to blame, and MISO needs to work to reduce forecasting errors. She also said MISO should train its control operators to adjust transmission constraints so its dispatch model can manage constraints optimally.

Over spring, MISO said it experienced \$449 million in real-time congestion while wind operators churned out 26 TWh. MISO has acknowledged that uninstructed deviations are worse now than before it introduced the rules to curb them and said it will work with the IMM on potential new rules and software. (See *MISO: Worsening Uninstructed Deviation Needs Attention.*) ■



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# MISO News



## FERC Approves Sloped Demand Curve in MISO Capacity Market

By Amanda Durish Cook

After two requests for more information and nine months, FERC has greenlit MISO’s plan to exchange its current, vertical curve for sloped demand curves in its seasonal capacity auctions (ER23-2977).

FERC said use of a downward-sloping curve in MISO should “reduce volatility in auction clearing prices, increase the stability of the capacity revenue stream over time and render capacity investments less risky, thereby encouraging greater investment and at a lower financing cost.” The commission pointed out that it has approved similar sloped curves in the PJM, NYISO and ISO-NE capacity markets.

“We find that using the proposed sloped demand curve will result in capacity price signals that reflect the marginal reliability impact of incremental capacity additions, provide better incentives for efficient resource entry and exit and, as a result, improve resource adequacy and economic efficiency across the MISO footprint,” the commission said in an order issued at its monthly open meeting June 27.

MISO CEO John Bear announced the approval during the Board of Directors’ meeting the same day in Eagan, Minn., to applause from stakeholders.

FERC addressed arguments from Midwestern transmission-dependent utilities and the Mississippi Public Service Commission that it focused on the possibility for a sloped demand curve when it consistently found in previous orders that the RTO’s vertical curve

was just and reasonable.

FERC said that its past orders finding the vertical curve sufficient did not mean that it would not entertain a proposal from MISO to change the design of the curve.

Prior to its approval, the commission twice said it needed more information before it could judge the plan. (See *MISO’s Sloped Demand Curve Plan Draws 2nd Deficiency Letter*.) Both times, the commission focused on MISO’s proposal to remove its annual price cap for auction clearing prices as part of the move to sloped demand curves. It said it required more explanation for the RTO’s proposal to eliminate the yearly cap.

The commission ultimately found that it is appropriate under the sloped demand curve for clearing prices to reach as high as four times the cost to build new generation. It said MISO is free to scrap its current annual price cap of 1.75 times the cost of new entry (CONE) for local resource zones (LRZs).

MISO has said that once it implements the sloped curves, the total annual price for an LRZ could reach as high as four times CONE, depending on whether capacity shortages occur in all four seasons of the auction. The RTO didn’t explicitly list an annual price cap in its new tariff language, telling FERC it isn’t necessary because its plan limits clearing prices to seasonal CONE values. It also said there’s only a small chance a zone would experience shortage conditions in all four seasons, and if that occurred, the more than \$1,300/MW-day prices that ensue would properly reflect an “extreme” situation.

This year’s CONE value averages \$330/MW-day. MISO has said its sloped demand curves won’t allow prices to automatically jump to CONE values for small capacity shortages below reserve requirements, unlike the current, unyielding vertical demand curve.

FERC agreed that sloped curves will result in a more nuanced pricing of shortages, rendering an annual price cap no longer necessary.

“Given that the sloped demand curve more accurately reflects the value of the increase or decrease in reliability of one additional (or one fewer) megawatt of capacity, under a small megawatt shortfall scenario, the auction clearing price will increase more gradually than it would with a vertical demand curve, and the capacity price will not rise to CONE unless MISO is experiencing a severe capacity shortage,” the commission reasoned.

It agreed with MISO that sloped curves will moderate pricing extremes and produce more “graduated and meaningful” price signals.

Commissioner Allison Clements wrote a concurrence to express a longstanding concern with the design of MISO’s seasonal capacity auction. She said that while downward-sloping demand curves in the auctions are a sound idea, she remains apprehensive over MISO appearing to allow sellers to compress their full annual costs into the seasonal offers they make.

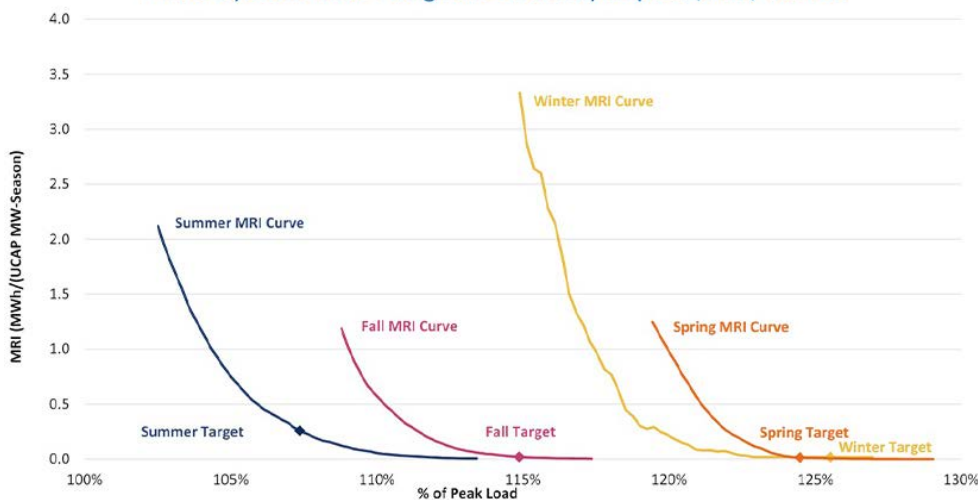
Clements said that in the 2023 order accepting MISO’s seasonal auction design, the RTO’s testimony appeared to contradict its tariff language that seasonal offers may include only costs associated with providing capacity for that season. (See *FERC Affirms MISO’s Seasonal Auctions, Accreditation*.)

“My concern at the time was that if sellers can include their full annual costs into each and every seasonal offer, and they clear multiple seasons, they could receive in excess — potentially up to two, three or four times — their actual costs of providing capacity,” Clements wrote. “This risk is a direct result of MISO’s choice to conduct the four seasonal auctions for each delivery year simultaneously.”

Clements ended by asking MISO to consider conducting its auctions sequentially.

MISO had not responded by press time to RTO Insider’s request for comment on whether it allows sellers to recover yearlong resource costs in a single seasonal offer. ■

MISO System-wide Marginal Reliability Impact (MRI) Curves



Examples of sloped demand curves by season that MISO previously presented | MISO



## MISO News

# MISO Leadership Issues Urgent Call for In-service Dates



MISO CEO John Bear takes notes during MISO Board Week June 25-27 in Eagan, Minn. | © RTO Insider LLC

By Amanda Durish Cook

EAGAN, Minn. — MISO's system is at the mercy of faster interconnections of new resources and retirement delays, executives said in a quarterly address to the board and stakeholders.

MISO CEO John Bear said he wants to get to the bottom of why resources can't be built sooner. MISO is sitting on a stockpile of about 50 GW across 316 projects that have been approved to connect to the system but are experiencing holdups in construction. According to MISO, the projects experience an average of 650 days to commercial operation.

Bear said the mostly intermittent generation in the queue isn't a full substitute for the baseload generation that continues to fall off its system.

"You've got a mismatch of reliability attributes coming on the system," Bear said during a June 27 board meeting. "We've got a lot of work to do to slow down the retirements and speed up the additions coming onto the system."

Senior Vice President and Chief Customer Officer Todd Hillman likened the "enormity"

of MISO's transition to a Rubik's cube where members twist cubes to get one side monochromatic and then realize other sides remain multicolored. He said he expects hitches as utilities work out how to solve the puzzle.

Hillman said members want to achieve decarbonization while paying attention to reliability and affordability. But he also said MISO expects anywhere from 12 GW to 14 GW of load growth in coming years from data centers alone.

"That would be like adding 11 million homes. And these have much higher capacity factors than homes. That's just a gigantic addition to a grid that's already stressed," Hillman said. He added that "poor visibility into the magnitude and timing of large load additions is putting at risk our ability to reliably accommodate them."

MISO said announced load additions in the footprint from manufacturing projects and data centers total more than 8 GW. Broken down, the projects account for 3 GW apiece in MISO's South and Central regions and 2.4 GW in the North region. All projects aim to be online by 2030.

Stakeholder Services Executive Director Suzie Jaworowski said MISO maintains and updates

a *list* of announced load additions so members can decide how to prepare.

Last month, MISO and the Organization of MISO States said if members don't delay retirements or bring more resources online than typically occur historically, a potential 2.7-GW deficit next year could balloon to 14 GW in 2029. (See *OMS-MISO RA Survey: Potential 14-GW Capacity Deficit by Summer 2029*.)

Bear said MISO should delve into probabilistic load forecasting. He said it's clear its deterministic load forecasting based on historical experiences won't keep MISO best prepared.

Despite striking more than 20 GW in generator interconnection agreements last year, MISO experiences an average of just 5 GW per year of nameplate capacity coming online. In a separate meeting, Vice President of System Planning Aubrey Johnson also said longstanding construction lags persist and MISO and developers need to find ways to accelerate in-service dates.

"The number of gigawatts coming online is insufficient for what we're seeing coming," he said during a June 25 meeting of System Planning Committee of the MISO Board of Directors. ■

## MISO News

# MISO Warns Members of Rising Budgets

EAGAN, Minn. — MISO said its cost of doing business is set to escalate within the next four years, spawning bigger operating budgets and heftier member dues.

According to its own estimates, MISO said its base operating expenses could range from \$412 million to \$447 million by 2028, reflecting a 5.4 to 7.2% compound annual growth.

By 2028, the tariff rate MISO charges to its members could be 56 cents to 68 cents/MWh. Currently, MISO's tariff rate is 47 cents/MWh. The RTO assumed a flat load profile of 717 TWh to make its estimate.

MISO also said project investments and other operating expenses combined could add more than \$100 million to its annual budgets over four years. CFO Melissa Brown said salaries, benefits and computer maintenance comprise nearly 80% of MISO's cost structure today and are expected to rise. She said the RTO going



MISO CFO Melissa Brown answers questions during the Advisory Committee's meeting June 26 in Eagan, Minn. | © RTO Insider LLC

forward will have little opportunity to reduce costs to make up for heightened expenses.

"The labor market for MISO remains tight. A lot of our staff is getting poached, especially

our experienced staff," Brown said during the Advisory Committee's meeting June 26. "It's a challenge."

MISO's 2024 base operating budget stands at \$357 million, though it estimates it likely will end the year \$5 million underbudget because of a higher-than-expected employee vacancy rate and stiff competition for staff.

Brown said MISO is recruiting new college graduates, even with the understanding those employees may leave within three to five years.

Members asked whether the RTO is using longevity bonuses for its employees.

"Right now, on the benefits side, there is nothing we're not considering," Brown said with a laugh. She confirmed MISO offers retention bonuses. ■

— Amanda Durish Cook

# Extensions Likely for MISO's Term-limited Board Members

## 10-Member Board Faces 5 Falloffs in 2 Years

By Amanda Durish Cook

EAGAN, Minn. — MISO and its board are scrutinizing the steps they can take to preserve institutional knowledge on the board of directors as they confront half of the board members reaching term limits this year or next.

Three MISO board members' terms are ending at the end of this year; two of them are restricted by MISO's three-term limit. Board members Phyllis Currie and Mark Johnson have been fixtures on the board since 2016 and are prevented from seeking additional terms. MISO Director Nancy Lange is up for re-election for her third and final three-year term.

Beyond that, directors Todd Raba, H.B. "Trip" Doggett and Barbara Krumsiek will conclude their third and final terms at the end of 2025.

However, MISO has said it's open to retaining board members using waivers, which allow a director to stand for election to one more three-year term beyond the three-term limit. (See "Waivers May be Necessary to Retain Directors Past Term Limits," *MISO Board of Directors Briefs: March 23, 2023*.)

MISO last used a waiver for board members in

2017, when members retained Baljit "Bal" Dail for an additional three-year term to keep his IT expertise on the board. Dail served 12 years on the board. (See *MISO Board of Director Briefs: Dec. 10, 2020*.)

At a June 26 Advisory Committee meeting, Alliant Energy's Mitch Myhre, who sits on MISO's Nominating Committee, said MISO is evaluating how it can be "proactive" about maintaining experience on the board by securing seasoned candidates and making sure terms overlap.

Myhre said the Nominating Committee's work to search for suitable replacements and to pursue waivers will begin in earnest this month.

Wisconsin Public Service Commissioner Marcus Hawkins said he was worried about the potential for the board to experience a "knowledge cliff" anyway if MISO chooses to exhaust all possible term-limit extensions for term-limited members. He joked that he saw something similar occur within his homeowners' association.

MISO's Nominating Committee is charged with vetting and selecting MISO Board of Director candidates, who are put to a vote of membership. The committee's members



MISO's directors listen to Advisory Committee members during Board Week in Eagan, Minn., in late June. | © RTO Insider LLC

change yearly, and the committee is composed of three MISO board members and two MISO stakeholders, one of whom typically is from a state public service commission. This year, directors Bob Lurie, Jeff Lemmer and Theresa Wise sit on the Nominating Committee. All three were *elected* at the end of 2023.

Lurie said the committee this year is taking a "multiyear view of the search," with MISO having so many important reliability initiatives ongoing simultaneously and the impending exodus of board members. ■

# NYISO News

## NYISO Reveals Bids in NYC Offshore Transmission Solicitation

By Vincent Gabrielle

NYISO last month received four bids in response to its Public Policy Transmission Need solicitation to deliver up to 8 GW of offshore wind power to New York City.

Each developer proposed multiple options, differing by size, number of offshore platforms and HVDC cables, or interconnection points. They are:

- energyRE Giga-Projects USA, with three options for its Clean Borough Power Link;
- Viridon New York, with three options for its Liberty Link;
- New York Transco, with 10 options for its Energy Link New York; and
- the New York Power Authority and LS Power, with 12 options for its Five Boro Energy Connect.

Most project options propose to connect to Consolidated Edison's Brooklyn Clean Energy Hub, expected to be completed in 2028. But many others propose to interconnect via DC-to-AC converter stations that have not yet been approved.

NYISO issued its solicitation in response to an order by the New York Public Service Commission in June 2023. The PSC mandated that projects accommodate at least 4,770 MW of offshore wind, with options to expand up to 8 GW. (See [New York PSC Calls for More Transmission for Long Island OSW.](#))

Viridon and energyRE proposed in-service dates of December 2032 for all of their proposals, while NY Transco proposed January 2033. NYPA and LS Power's proposed dates vary by option, with the earliest being Septem-



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ber 2032 and latest December 2033.

New York's Climate Leadership and Community Protection Act calls for 9 GW of offshore wind by 2035. The state's — as well as the U.S.' — first utility-scale project, the 130-MW South Fork Wind Farm, began operating in March. The 924-MW Sunrise Wind project received federal approval last month. (See [Sunrise Wind Cleared to Begin Construction.](#))

"The investment in transmission is needed so that we are prepared for the future state," said Susan Craig, spokesperson for NYPA. "The expectation is that generation sources will be there to connect."

NYISO will conduct a viability and sufficiency analysis on all the proposals that is expected to conclude in the fourth quarter. The Board of Directors will select a proposal in the second quarter of 2025.

Craig compared the Five Boro project to Propel New York Energy, which included the construction of new underground transmission lines and substations. Developed by NYPA and

NY Transco, Propel was selected by NYISO's solicitation in June 2023 to meet the PSC's order for projects to connect up to 3 GW to Long Island. (See [NYISO Selects Propel Project for Long Island Transmission.](#))

"New transmission is essential for the reliable deployment of offshore wind, and energyRE is ready to modernize New York's electric grid in support of the state's clean energy goals," company COO Ryan Brown said in a [statement](#).

"As New York develops more renewables, we will need the necessary transmission to carry that clean energy to homes. Energy Link NY is the best project for the job," said Will Hazelip, vice chair of NY Transco's board and president of National Grid Ventures.

"LS Power's joint proposals with NYPA will deliver state-of-the-art transmission solutions that provide New York City with more renewable generation to integrate into the electric grid and increased reliability to meet power demand, while also minimizing environmental impacts," LS Power CEO Paul Segal [said](#). ■

### Northeast news from our other channels



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[Trade Group Wants NY to Press Distributed Solar](#)

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## PJM News



# PJM Consumer Advocates File Complaint on EE Market Design

By Devin Leith-Yessian

Three state consumer advocates filed a complaint against PJM with FERC last month, alleging that the RTO's treatment of energy efficiency resources is unduly discriminatory and is not properly documented in its governing documents (EL24-118).

The complaint contends that PJM treats EE resources differently from any other class by removing EE that clears in the Base Residual Auction (BRA) from the supply stack and adding those megawatts on top of the load forecast, a process known as the "addback." By not counting cleared EE toward meeting the reliability requirement and instead increasing the amount of overall capacity procured by the amount of EE, the advocates argued the RTO is robbing consumers of the ability to lower their capacity costs through EE programs.

"This places unjustified upward pressure on prices, deprives the marketplace of the benefits of energy efficiency and foists unreasonable costs onto PJM consumers to pay for that energy efficiency out of the market," the complaint said. It was jointly filed by the New Jersey Division of Rate Counsel, Maryland Office of People's Counsel and Illinois Citizens Utility Board.

The advocates requested that FERC hold a technical conference with PJM, stakeholders and member states to reconsider how EE participates in the market.

The complaint also argued that a change as significant as the addback is not appropriate for PJM to make through its manuals and should have been filed as a tariff revision. Without FERC oversight of the change, the advocates argued there has been no ruling on whether it comports with past orders requiring EE participation in capacity markets.

"The addback should have been filed with the commission for review because it profoundly alters how an entire class of resources par-

ticipates in the Reliability Pricing Model and affects capacity clearing prices," the advocates wrote.

The advocates' filing joins a complaint the Independent Market Monitor filed May 31 arguing that 10 EE providers had not demonstrated their resources met the BRA participation requirements and asked the commission to either bar those market participants from receiving BRA revenues for the 2024/25 delivery year or order PJM and the Monitor to open investigations to determine their eligibility (EL24-113). (See [Monitor Alleges EE Resources Ineligible to Participate in PJM Capacity Market](#).)

The same day, PJM sent an email to EE market participants stating that it planned to delay approval of post-installation measurement and verification (PIMV) reports and defer capacity payments until the Monitor's complaint is resolved. A second email said the PIMV reports continue to be under review, but the RTO did not plan to subject affected entities to capacity market deficiency charges and will continue payments to those companies, subject to refund depending on the outcome of the complaint. Replacement transactions will also be allowed for EE providers.

"Any capacity payment associated with [EE] resources for the 2024/2025 delivery year is not evidence of the validity of the PIMV report or represent evidence that PJM has or will approve the provider's PIMV report," the email states. "Additionally, PJM is continuing to review the sufficiency of the PIMV report during the pendency of the Market Monitor's complaint, and any rejection of the PIMV report will result in capacity resource deficiency charges for any shortfall determined. Finally, PJM may further initiate audits of M&V plans and PIMV reports submitted by energy efficiency providers for the 2024/2025 delivery year, which could result in billing adjustments based on the outcome of such additional review."

Four U.S. senators sent a letter to the commission in response to the Monitor's complaint recommending a technical conference to consider the "proper role for energy efficiency in FERC-jurisdictional wholesale electric markets."

The letter, signed by Sens. Angus King (I-Maine), Martin Heinrich (D-N.M.), Sheldon Whitehouse (D-R.I.) and Chris Van Hollen (D-Md.), said EE has the potential to shrink capacity procurements, delay or avoid transmission upgrades, and reduce consumer bills.

"FERC has, on several occasions, expressed support for energy efficiency participating in the wholesale markets. We are concerned, however, that in some regions, energy efficiency is not fully participating in wholesale markets, and other regions are considering rule changes that may negatively impact energy efficiency's role in the future," the senators wrote. "For instance, PJM recently announced that it was intending to suspend payments to energy efficiency providers until a complaint recently filed by the PJM Independent Market Monitor concerning energy efficiency is resolved. The status quo is becoming untenable."

While many EE providers have spoken out against the Monitor's complaint and PJM's actions on PIMV reports throughout the stakeholder process, some expressed support to *RTO Insider* for the consumer advocates' complaint on the grounds that removing the addback could allow EE to demonstrate its potential as a competitive resource. Those individuals requested anonymity to discuss the pending complaints the Monitor has filed against their companies.

In a protest to the Monitor's complaint, attorneys representing Affirmed Energy said FERC's Office of Enforcement has opened an investigation into the company based on a referral by the Monitor and makes identical claims to the Monitor's complaint. It asked the commission to consider the overlap between the two in how it proceeds.

"The reality here is that both the IMM and the Office of Enforcement are seeking now to enforce their own policy preferences for rules that do not exist. Our position, in both the complaint case and the investigation, is that Affirmed Energy fully followed the market rules," the company argued. "The IMM claims the conduct of Affirmed Energy and other sellers violates the tariff; the Office of Enforcement makes the same claim about Affirmed Energy. They are both wrong."

The company said PJM has approved EE programs offered by Affirmed for the past 10 years, and the complaint follows stakeholders rejecting proposed changes to the EE market participation rules. (See "Stakeholders Reject Changes to EE Measurement, Verification," *PJM MRC/MC Briefs: March 20, 2024*.)

It argued that the complaint and investigation both delve into "fundamental policy questions" that should instead be considered through a public proceeding such as a technical conference. ■



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# PJM News



## NJ Senate Energy Committee Backs PJM Interconnection ‘Skip’ for Solar Groups Protest PJM Order 2023 Compliance

By Hugh R. Morley

New Jersey’s Senate Environment and Energy Committee on June 20 passed a bill (S3308) supporters said would allow grid-scale solar projects of up to 20 MW to bypass PJM’s interconnection queue and connect to the grid through their local utility.

The committee voted 5-0 to advance the bill, which would require electric utilities to “accept, process and approve” solar projects of 2 MW to 20 MW to the transmission and distribution system, unless the application is incomplete or the utility believes the interconnection would be “unsafe or a risk to the stability of the utility’s electric distribution or transmission system.” In those cases, the utility would have to provide the developer with recommendations on how to modify the proposal to make it complete or “reconfigure, downsize or otherwise modify” it to remove the risk.

The bill would require the utility to “timely process any complete interconnection applications received.” The owner or developer of an approved project would be required to pay all the interconnection costs that are “identified by the electric public utility” and would be compensated for the electricity supplied by the utility, according to the bill.

Committee Chair Bob Smith (D) said the bill, “in a nutshell, in some ways allows interconnectors to skip the PJM process.” He added, however, that he is “not 100% sure of that.”

Fred DeSanti, executive director of the New Jersey Solar Energy Coalition, said the bill would provide an alternative to the extensive delays experienced by projects in seeking interconnection through PJM’s process.

“We’ve got projects that are viable, that are just sitting there waiting,” he said. “And so all this bill does is, it says, ‘Hey, if the public utility has jurisdiction over the line, and if we meet all the requirements of the public utility ... why shouldn’t they be able to approve it?’ We don’t necessarily need PJM at that point.”

Joseph Gurrentz, director of external affairs for the New Jersey Utilities Association (NJUA), said one question still to be resolved is whether the bill defines the “electric transmission and distribution system to apply only to the electrical systems within New Jersey,” and therefore under the jurisdiction of the Board of Public Utilities. If not, he said, the projects

could “inadvertently butt up against the jurisdiction over regional transmission infrastructure” of FERC.

Asked for comment about the bill, PJM spokesman Daniel Lockwood said the RTO “has requirements to interconnect into the transmission system that have been approved by [FERC].”

“Whether a prospective resource is required to follow that process depends on the size of the resource and where it wants to interconnect,” he said. “All of our states have their own interconnection processes, as some resources interconnect into the grid that is overseen at the state level.”

Like all grid operators across the U.S., PJM has an interconnection queue clogged with proposed renewable resource projects. FERC approved a PJM proposal to overhaul its interconnection queue process in late 2022; the commission then issued Order 2023 last July, which required grid operators to revise their processes to include a “first-ready, first-served” cluster methodology, among other changes.

PJM in May told FERC the RTO’s new commission-approved process already complies with Order 2023, as it “parallels many reforms PJM has already implemented” (ER24-2045). It argued it was eligible for “independent entity variations” under the rule. (See [PJM Reaches Milestone on Clearing Interconnection Queue Backlog](#).)

But on June 20, several clean energy and environmental organizations filed joint protests against PJM’s compliance filing.

“PJM stretches the meaning of the ‘independent entity variation’ beyond any reasonable interpretation or application,” argued [one group](#) that included the American Clean Power Association. “Should the commission accept the compliance filing, PJM would completely avoid compliance with significant portions of” Order 2023.

“The queue is so badly backlogged that PJM is not reviewing any new applications — and will not do so until 2026 at the earliest,” said another group that included the Natural Resources Defense Club. “At the same time, PJM is sounding the alarm about a reliability crisis because new generation cannot come online quickly enough to replace retiring

power plants.”

But “PJM resists reform to its interconnection process. PJM proposes very few changes to comply with Order No. 2023, and the few changes it proposes do not meet the order’s rigorous standards.”

The RTO has not stopped accepting applications, Lockwood said, but new interconnection requests “will be studied starting in 2026 as we move the previously existing projects through the process.”

### Other State Efforts

The New Jersey bill follows other efforts by the state to improve and speed up the interconnection process for renewables as it strives to meet its aggressive clean energy goals.

The state is seeking to install 12.2 GW of solar energy by 2030; it had about 4.85 GW of installed solar capacity at the end of April, according to the [latest figures](#) publicized by the BPU.

The BPU on April 30 approved a package of rules designed to streamline the utility interconnection application process. Part of it included enabling applicants to get an early indication of the project feasibility and costs. (See [New Jersey Opens 4th Offshore Wind Solicitation](#).)

At the senate committee hearing June 20, NJUA’s Gurrentz said the organization was “not taking a position on the bill today,” but it is concerned that [it] could detract from some of the progress that’s gone on at the BPU and ship the application backlog that existed at PJM to a similar problem at home at our utility companies.” Another concern is the requirement to handle “very large” solar projects, up to 20 MW.

“Undertaking these studies to determine the impact of such large interconnections on power quality, reliability and the stability of the electrical grid will take time, and it may divert time and resources that could be spent elsewhere,” he said.

Gurrentz was the only person to testify in person on the bill, but it drew written expressions of support from Environment New Jersey, the New Jersey Division of Rate Counsel, the Mid-Atlantic Solar Energy Industries Association and the New Jersey Sustainable Business Council. ■

## PJM News



# PJM MRC/MC Briefs

## Markets and Reliability Committee

### Stakeholders Endorse Revised Proposal to Align Energy, Gas Schedules

VALLEY FORGE, Pa. — PJM's Markets and Reliability Committee last week endorsed a *proposal* to align the day-ahead energy market commitment cycle with the daily gas nomination deadlines in order to give gas generators more certainty on when they should procure fuel. (See "PJM Presents Electric Gas Coordination Proposal," *PJM MRC Briefs: May 22, 2024*.)

The package would time three intraday commitment runs for gas generators, targeted to be commensurate with the three gas nomination deadlines under the North American Energy Standards Board. PJM would attempt to notify any generators picked up during those runs of their commitment before the corresponding NAESB deadline.

The committee initially rejected the proposal, which fell below the two-thirds threshold with 51% sector-weighted support, after stakeholders raised questions around language asking generators to notify PJM of whether they have or plan to procure the fuel necessary to meet their commitments.

After the proposal was rejected by the MRC, members suggested removing the notification provisions, and a second vote approved the package by acclamation.

Paul Sotkiewicz, president of E-Cubed Policy Associates, said the draft manual revisions did not reflect language in the proposal approved by the Electric Gas Coordination Senior Task Force (EGCSTF) stating that the notification process is voluntary, does not carry penalties and is not meant to be punitive if notification is not provided.

PJM's Brian Fitzpatrick said the language was intended to appear in the manuals and would be added before a vote. He said the notification process was meant to give PJM dispatchers additional insight into the status of the gas fleet.

He also argued that regardless of PJM's intent, the Independent Market Monitor had said it may view the notification as mandatory and that generators failing to provide their fuel status to PJM could face a referral to the FERC Office of Enforcement.



Brian Fitzpatrick, PJM | © RTO Insider LLC

"We're faced with this direct threat that it's voluntary and if we don't do it, we're going to get a FERC referral," Sotkiewicz said.

Monitor Joe Bowring said there had been no threats to market participants. He said that while it was his view at the EGCSTF that the notification should be mandatory, he recognized that the proposal would make it voluntary and stated the Monitor would enforce the rules as written and approved by stakeholders.

"The fact that stakeholders voted to remove any provisions about the notification that generators should provide to PJM about whether they have procured the gas to meet their commitments is surprising," he said.

Bowring told *RTO Insider* that part of the misalignment between the electric and gas markets stems from the difference between the daily cycle the gas industry operates on, which starts at 10 a.m., and the midnight starting time for the daily electric market cycle. He argued that proposals drafted by the EGCSTF have sought to shift the risks created by that misalignment from gas generators to load.

While shifting market times to align with the gas cycle would resolve many of the issues, Bowring said generators could also reflect pipeline requirements in their parameters,

which would mitigate their risk and provide PJM additional visibility on when resources can operate.

### First Read on Expanded 'Know Your Customer' Rules

PJM presented a *proposal* to widen the scope of its "know your customer" (KYC) requirements to include a new "beneficial owners" definition, which would require due diligence checks on individuals who hold 10% of the voting power within a member entity.

The MRC is set to vote on the tariff revisions on July 24, with the Members Committee vote on Aug. 21.

Assistant General Counsel Eric Scherling said the proposal is intended to improve PJM's understanding of which individuals contribute to the most risk profile of an entity and to align KYC definitions with corporate standards.

The beneficial owner definition is applicable to those who own, control or hold 10% or more voting power of an entity, either directly or together with family members. While the overall KYC design was based on the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) rules, Scherling said PJM determined to use a lower 10% threshold for

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the beneficial owners definition.

The proposal also requires that PJM conduct background checks on beneficial owners, board of director members and principals of non-publicly traded members. Those entities would be responsible for providing a list of names for each of those categories and government-issued identifications, though the latter does not apply to boards unless requested by PJM.

For publicly traded entities, municipal power authorities and co-ops, only a list of principals, beneficial owners and board members would be required, though background checks could also be requested by PJM.

PJM Chief Risk Officer Carl Coscia said less information is requested for public entities because those data are already captured by Securities and Exchange Commission regulations, and the RTO's aim is to have members validate that the information is timely and accurate.

Stakeholders questioned whether the proposed definitions could inadvertently capture shift supervisors or staff on real-time desks that have operational control over significant company assets but don't necessarily make long-term strategic decisions.

## Monitor, PJM Present Processes to Enable Multi-schedule Modeling

PJM and the Monitor presented two proposals to revise how the Market Clearing Engine (MCE) selects energy market offers to enable the implementation of multi-schedule modeling. (See "Stakeholders Discuss Path Forward on Multi-Schedule Modeling," *PJM MIC Briefs: June 5, 2024*.)

Stakeholders considered both packages last year during a process to determine a methodology for winnowing generator schedules down to the most cost-effective offer forwarded to the MCE. Those discussions resulted in a PJM proposal using a formulaic approach being filed at FERC, which was rejected in March. (See "Stakeholders Endorse Multi-schedule Modeling Solution," *PJM MRC/MC Briefs: Dec. 20, 2023*.)

The commission stated that PJM's proposal would compromise market power mitigation by only considering the cost of market-based offers on the EcoMin parameter, even if that offer would be more expensive than a cost-based offer at higher outputs. The Monitor described the issue as the "crossing offer curves" scenario throughout the stakeholder process and in protests to the PJM proposal at FERC.

During the Market Implementation Committee meeting June 5, PJM's Keyur Patel said the RTO planned to advance a *proposal* co-sponsored by it and GT Power Group, which received the second-highest degree of support during an October 2023 vote. The joint proposal retains PJM's formulaic approach and seeks to address the crossing curves issue by selecting generators' market-based offers only when they pass the three-pivotal-supplier (TPS) test under nonemergency conditions and select cost-based offers only when a resource fails the TPS test.

A joint *proposal* offered by the Monitor and GT would replace the formula with having market sellers choose the most economic cost-based offer to forward to the MCE.

Deputy Monitor Catherine Tyler said the formula in the PJM/GT proposal ignores market realities and retains some of the same problems that led FERC to reject the RTO's original proposal. She argued that the formula would commit dual-fuel generators to operate on less economic fuels when the relative costs of fuels change during the operating day.

Bowring told *RTO Insider* that he considered a central flaw in PJM's proposed formula to be that it only considers the highest-cost hours equal to the minimum run time and could therefore select the higher-cost fuel for the entire day rather than recognizing that, for example, gas was cheaper in the morning and oil was cheaper in the afternoon.

"That is not a logical, competitive or least-cost solution," he said.

Bowring said that his goal is to try to reach a consensus before the next MRC meeting.

Responding to questions about why market sellers might prefer PJM's formula over selecting from their own offers, GT's Tom Hyzinski said some participants may prefer to have the RTO make that determination.

The "IMM wants the market participant to pick the schedule. PJM uses a formula to pick the schedule for the market participant. The market participant likely does not want to pick the schedule but would prefer PJM to pick the schedule. [The] IMM has not proposed an alternative formula that either PJM or the market participant can use to make the selection," Hyzinski said.

Bowring said any market participant can use PJM's formula, which has been provided in a spreadsheet, to make the choice.

"The generation owner ultimately and appropriately makes the decision about what fuel to

burn. The Market Monitor's proposal provides more flexibility to generation owners, including the option to use the PJM formula if they think that is preferable," he said.

During the June 5 MIC meeting, Constellation Director of Wholesale Market Development Adrien Ford said her company was concerned about the precedent of PJM reviving past packages after a stakeholder-endorsed proposal was rejected by the commission. She said she may seek to waive the truncated voting rules to allow both proposals to be voted on alongside each other. She added that action would not presuppose Constellation's position on the two proposals; rather, her concern was retaining options for stakeholders under the unusual situation.

Ford told *RTO Insider* on July 1 that the company plans to move the PJM/GT package at the MRC's next meeting.

## Consumer Advocates Seek Wider Scope for Deactivation Task Force

The Maryland Office of People's Counsel and Illinois Citizens Utility Board proposed *revisions* to the issue charge framing the work of the Deactivation Enhancement Senior Task Force (DESTF) to include several areas of concern around the future of resource retirements in PJM.

Phil Sussler, of the Maryland OPC, said there are stakeholder processes focused on allowing new generation to clear the interconnection queue faster, proactive transmission planning, responding to localized load growth and thermal generation retirements promoted by economics and government policies, but none of those deliberations are occurring in a coordinated manner.

Clara Summers, of the Illinois CUB, said the advocates' proposal is not meant to slow any of those discussions, but rather to rework the scope of the DESTF to allow it to take on a wider slate of issues.

"Our effort is really meant to supplement, not supplant, that existing work," she said.

Several consumer advocates have argued that PJM's existing stakeholder processes around resource retirements have been scattershot and siloed into subcommittees in a way that prevents holistic solutions.

The expanded key work activities and scope section of the issue charge would include:

- education on transmission technologies that can resolve transmission violations prompted by deactivations, including

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grid-enhancing technologies and energy storage;

- education of the alternatives other RTOs have to reliability-must-run contracts that pay generators to continue operating past their deactivation date;
- updates and follow-up on any revisions to PJM's process for transferring capacity interconnection rights, which are being drafted through the Planning Committee; and
- drafting proposals to establish cost-effective alternatives to RMR agreements.

The out-of-scope section of the issue charge would also be widened to exclude proposals focused on expanding the justifications for entering RMR agreements with generators, particularly for resource adequacy purposes.

## First Read on 2 PJM Proposals to Revise Reserve Markets

PJM presented two *proposals* to enable the RTO to have the 30-minute reserve requirement dynamically change to reflect system conditions without affecting other reserve procurement categories and how deployment signals are conveyed to market participants.

The MRC is slated to vote on the proposals during its July 24 meeting; if endorsed, they will advance to the MC on Aug. 21.

The changes to the reserve requirement defi-

nition would shift the 3,000-MW procurement target to a formula selecting the greater of the peak load forecast times the average forecast error and forced outage rate, the primary reserve requirement or the largest active gas contingency.

PJM's Emily Barrett said the static requirement doesn't account for the varying risks PJM experiences day to day, which can often lead the reserves that the RTO actually requires to exceed 3,000 MW.

The proposal would allow PJM to increase specific extended reserve requirements without having to scale up all three requirements and over-procure reserves. Barrett said the primary use case would be extending the 30-minute reserve requirement without also having to procure a correspondingly higher amount of synchronized and primary reserves.

Allowing the three to be increased individually would align operational decisions with the markets to reduce out-of-market commitments, PJM's Kevin Hatch said.

The second package would send reserve deployment instructions through resources' basepoints as the primary notification that they are being called on to provide reserves. PJM would continue using the existing automatic notifications and all-call signal; however, the basepoint instructions would be considered the starting point for resources' commitments and the 10-minute window in which they are expected to ramp up.

## Members Committee

### Stakeholders Elect Sector Representatives to Nominating Committee

The MC elected representatives to the Nominating Committee for each of the five sectors. The committee identifies candidates to serve on the PJM Board of Managers and advances them to be voted on by the MC. The 2025 sector representatives are:

- Rory Sweeney, of the Northern Virginia Electric Cooperative, represents the Electric Distributor sector;
- Jordan Nader, of the North Carolina Utilities Commission, represents the End Use Customer sector;
- Marji Philips, of Rolling Hills Generating, represents the Generation Owner sector;
- Sean Chang, of Shell Energy North America, represents the Other Supplier sector; and
- Denise Foster Cronin, of the East Kentucky Power Cooperative, represents the Transmission Owner sector.

In addition to the five sector representatives, three members of the board serve on the committee: two voting members and one non-voting member who serves as the committee chair. The board selected Jeanine Johnson to serve as chair in May, while David Mills and Charles Robinson serve as voting members. ■

— *Devyn Leith-Yessian*

# ENERGIZING TESTIMONIALS



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## Company News

# AEP Selects Industry Veteran as Next CEO

## Fehrman Brings CEO Experience at 5 Companies

By Tom Kleckner

American Electric Power, one of the nation's largest utilities, said June 26 its Board of Directors has selected industry insider Bill Fehrman as its president and CEO, effective Aug. 1.

Fehrman replaces Julie Sloat, who parted ways with AEP in February after just a year in the top job. Former Xcel CEO and AEP board member Ben Fowke, who has been running the company on an interim basis since then, will serve as a senior adviser during the transition. (See [Interim CEO Fowke Explains AEP Leadership Change](#).)

AEP's new leader brings decades of industry experience. As infrastructure services company Centuri Holdings' CEO, he helped launch the organization as a public company. Before that, he led Berkshire Hathaway Energy, Mid-American Energy, PacifiCorp Energy and the Nebraska Public Power District.

Fehrman said in a [statement](#) he was honored to join a "renowned industry leader" during the energy transition's "pivotal time."

"AEP has built a strong foundation with a long history of solid operational and financial results and a focus on customers," he said. "I see incredible potential in this company, and I look forward to working with the best-in-class team at AEP to continue delivering safe, reliable and affordable service to customers and advancing our long-term growth strategy."



Industry insider Bill Fehrman has been selected to lead American Electric Power. | © RTO Insider LLC

"Bill is an accomplished leader and industry veteran with a proven ability to drive operational excellence, produce strong financial results and deliver for customers and stakeholders," board Chair Sara Martinez Tucker said. "His expertise and unique perspectives will help AEP implement new solutions as we build the energy system of the future to power our communities."

AEP has 5.6 million customers in 11 states and several RTO markets. The Columbus, Ohio-based company says it plans to invest \$43 billion over the next five years to make the electric grid cleaner and more reliable. It plans to reduce carbon dioxide emissions 80% from 2005 levels by 2030 and to achieve net zero by 2045. ■

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## Company Briefs

### SCE, Fervo Energy Agree to Geothermal Deal



Fervo Energy last week announced it has

secured power purchase agreements with Southern California Edison (SCE).

SCE has agreed to buy 320 MW of power from Fervo's \$2 billion Cape Station geothermal project currently under construction in Utah. The project is expected to generate nearly 400 MW when it reaches full production in 2028.

The agreement will play out over two 15-year contracts.

More: [Canary Media](#)

### Ameren Purchases its Largest Solar Facility



Ameren last week announced the purchase of the Cass County Renewable

Energy Center in Illinois.

The 150-MW project, which Ameren bought from Savion, is expected to come online later this year.

Ameren is also in the process of adding two other solar facilities to its portfolio: the 200-MW Huck Finn in Northeast Missouri, and the 150-MW Boomtown in Southern Illinois. Both are expected to start up this year.

More: [St. Louis Public Radio](#)

### American Battery Factory Moving Forward on New Arizona Factory

American Battery Factory last week said it is still on track to start construction this fall on its \$1.2 billion advanced battery "gigafactory" in Tucson, Ariz.

The company said the factory will use Honeywell's latest artificial intelligence with automated manufacturing equipment to produce the startup's proprietary lithium-iron phosphate battery cells.

With a targeted completion in 2025, the first ABF gigafactory will include the company's headquarters, a research-and-development center, and a 1,500-foot-long factory module capable of producing 20 GWh worth of battery cells annually, the company said.

More: [Arizona Daily Star](#)

## Federal Briefs

### Supreme Court Won't Hear Case in Georgia PSC Elections

The U.S. Supreme Court last week said it will not hear a case challenging Georgia's system of electing utility regulators.

The high court rejected claims that the power of Black voters was illegally diluted because the five members of the Public Service Commission are elected statewide. A lower court said such statewide votes were discriminatory and would have mandated elections by district, potentially sparking challenges to statewide elected bodies in other states with large numbers of Black voters. However, a three-judge panel of the 11th U.S. Circuit Court of Appeals overturned the ruling in November, saying Georgia was free to choose its form of government for the commission.

The PSC has gone years without having elections because votes were paused during the lawsuit.

More: [The Associated Press](#)

### Vineyard Wind 1 Becomes Largest Operating OSW Farm in US

Five more wind turbines recently came online at Vineyard Wind 1, making it the largest operating offshore wind farm in the U.S.

Vineyard is now delivering more than 136



MW to Massachusetts with 10 turbines in operation. New York's South Fork Wind, the U.S.'s first complete utility-scale offshore wind farm, is at 132 MW.

Vineyard currently has 47 foundations and transition pieces installed, as well as 21 turbines, with the installation of the 22nd underway. Once completed, the project will consist of 62 turbines.

More: [Electrek](#)

### Trump Would Withdraw US from Paris Climate Treaty Again, Campaign Says

Donald Trump would pull the U.S. out of the Paris Agreement for the second time if he wins the presidency again in November, Karoline Leavitt, campaign press secretary, said last week.

Another possible order would remove the

U.S. from the U.N. Framework Convention on Climate Change, which is the underlying framework that serves as the basis for the global climate talks. Removing the nation from the 1992 U.N. treaty would require Senate approval for the U.S. to rejoin and might freeze the U.S. out of the system indefinitely.

More: [POLITICO](#)

### USDA Puts \$375M Toward Rural Renewables



The U.S. Department of Agriculture last week announced \$375 million in funding for renewable energy projects, predominantly through the Inflation Reduction Act, for rural areas.

The two largest awards will go to battery energy storage systems in Fairbanks, Alaska, and the Soldotna Substation in Alaska's Kenai Peninsula, both of which will receive \$100 million; \$55.2 million will go toward three battery storage projects in Benson, Ariz.; \$16.6 million for a hydroelectric plant on the Kentucky River; and \$3.6 million toward a community solar facility in Madison, Neb.

USDA will also award \$100 million in grants and loans across 39 states and Puerto Rico.

More: [The Hill](#)

# State Briefs

## CALIFORNIA

### Lawmakers Approve Newsom's \$400M Loan to Diablo Canyon



State lawmakers last week agreed to loan Pacific Gas and Electric an additional \$400 million to extend the life of the Diablo Canyon

nuclear power plant, ceding to Gov. Gavin Newsom's push after initially refusing the money in a budget spat.

Legislative leaders questioned the necessity and cost-effectiveness of keeping the plant open, initially rejecting the loan out of concern that taxpayers and ratepayers could end up footing the bill for substantial parts of \$1.4 billion in loans. But the budget deal released last week after weeks of negotiations between the governor and lawmakers includes the \$400 million allotment, along with a requirement for the Department of Water Resources to report on how the money will be spent and unpaid balances.

Diablo Canyon contributes roughly 9% of the state's energy on a given day.

More: [Fresno Bee](#)

### Tesla Ordered to Stop Releasing Toxic Emissions at San Francisco Plant



The Bay Area Air Quality Management District last week ordered Tesla to fix air quality problems at its electric vehicle manufacturing facility in the San Francisco Bay Area after racking up

112 violations for allegedly releasing toxic emissions into the atmosphere over the last five years.

The board ordered Tesla to hire an independent consultant and develop a proposed implementation plan for approval, which it then must execute to stop the toxic emissions.

More: [The Associated Press](#)

## COLORADO

### Xcel Requests \$1.9B for Wildfire Prevention

Xcel Energy last week filed a \$1.9 billion wildfire mitigation plan with the Public Utilities Commission aimed at preventing future wildfires.

The utility is facing nearly 300 lawsuits over the Marshall Fire that destroyed 1,084 homes and killed two people at the end of 2021.

The request would increase the average residential bill by \$8.88 (9%) per month.

More: [The Colorado Sun](#)

## IOWA

### Utilities Board Approves Summit Pipeline Permit

The Utilities Board last week approved the Summit Carbon Solutions pipeline and will allow the company to use eminent domain to acquire landowners' property.

The pipeline, which would be the largest of its kind in the world, would carry liquified carbon dioxide from ethanol plants in Iowa and surrounding states to a site in North Dakota. Summit hopes for reconsideration and approval of a previously denied permit. The company says it has signed voluntary easement agreements with 75% of the Iowa route's landowners. However, it cannot begin construction until the necessary permits are secured in South Dakota and North Dakota.

The company expects the pipeline to operational in 2026.

More: [Iowa Capital Dispatch](#)

## MARYLAND

### OPC Report: Spiking Utility Bills Linked to Gas Infrastructure Spending

A new report by the Office of People's Counsel linked growing residential utility bills to massive gas infrastructure spending by state utilities.

According to the report, state utilities are spending an average of more than \$700 million a year on gas infrastructure. Spending on gas infrastructure investments has been steady since 2023 and is expected to remain so in 2025, as "utilities will be recovering around \$2.5 billion from customers against that level of investment in the coming decades."

The report states that gas delivery rates for some utilities, particularly Baltimore Gas & Electric and Columbia Gas, have more than tripled since 2010. That has correlated to spiking delivery costs for customers.

More: [Inside Climate News](#)

## MASSACHUSETTS

### Easthampton Seeks Comment on Climate Action Plan

Easthampton, which has been working on a Climate Action Plan, recently made a draft available to the public and sought comment on the final product.

The plan contains 46 actions the city can take to combat climate change, which are classified into four areas: municipal actions, actions to support residents, actions to support businesses, and state and regional collaboration. The city is aiming to be 100% emission-free by 2050.

Public comments on the plan had to be submitted by June 28.

More: [Daily Hampshire Gazette](#)

### Senate Approves Bill to Expand Reliance on Renewable Energy

The Senate last week approved a bill aimed at expanding the adoption of renewable energy and help the state meet its climate goals, including reaching net-zero greenhouse emissions by 2050.

Supporters say the proposal will help lower utility bills by directing providers to offer discounted rates to consumers with low and middle incomes and give the state more flexibility to negotiate contracts with providers. The bill would also ban "competitive electric suppliers," which cost consumers more than \$577 million over the past eight years, according to a report from the attorney general's office. It would also expand electric vehicle infrastructure.

The bill now heads to the House of Representatives.

More: [The Associated Press](#)

## OHIO

### HB 6 Updates: Regulators Continue Piecemeal Review



The Public Utilities Commission last week said it will

continue to consider four FirstEnergy cases related to HB 6 separately, despite requests by the utility, customer advocates and others to combine the cases.

FirstEnergy wanted issues in three HB 6 cases to be considered together next year,

and would have split a fourth case over whether the company improperly used ratepayer money to subsidize affiliated businesses. The Office of the Ohio Consumers' Counsel, Ohio Manufacturers' Association Energy Group and several other parties urged the PUC to consolidate all four cases. Regulators stayed all four cases in mid-2022 after a request from the federal prosecutor's office. Administrative Law Judge Jacky St. John ruled last week that the commission would not order further consolidation beyond its combination of the two rider cases when the stay was lifted in late February.

The PUC set schedules that call for testimony in the rider cases to be filed in early August, with an evidentiary hearing set to start later that month.

More: [Energy News Network](#)

## VIRGINIA

### Corporation Commission Approves Appalachian Power Tx Project

The State Corporation Commission last week approved Appalachian Power's three-

phase, \$423.5 million Stuart Area Improvements Project.

The plan aims to replace aging equipment with a more reliable system by building 25 miles of new 138-kV line and upgrading 48 miles of line in Carroll, Floyd, Henry and Patrick counties, as well as retiring 20 miles of line in Franklin County.

Appalachian hopes to begin construction on phase 1 in 2026 and for the project to be in service in 2031.

More: [Cardinal News](#)

### Lawsuit over State's Withdrawal from RGGI

Circuit Judge Randall Lowe last week denied a request by the Attorney General's Office to throw out a lawsuit that accuses the state of illegally withdrawing from the Regional Greenhouse Gas Initiative.

Lowe's rulings on preliminary motions — which were essentially the same as those made by another judge who later recused himself over a potential conflict of interest — moved the case toward a final decision.

Lowe later scheduled a Sept. 16 hearing on the ultimate issues.

The lawsuit, filed by the Association of Energy Conservation Professionals, alleges the State Air Pollution Control Board and the Department of Environmental Quality acted illegally in pulling out of RGGI at the behest of Gov. Glenn Youngkin.

More: [The Roanoke Times](#)

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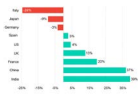
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