Northeast Public Power Association

Legislative Update

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ISO-NE, PJM Consider Reform Proposals

On Aug. 11, the New England Public Power Pool gathered to consider a series of presentations containing proposals for reforming the region's market structures to better account for various public policy goals. Dubbed "Integrating Markets and Public Policy" (IMAPP) in New England, the effort is also underway in the PJM region, styled as "Grid 20/20."

The discussions acknowledge the inability of the markets to effectively address public policy goals such as carbon reduction, resource diversity, and affordable consumer costs. The groups considered various proposals to modify the markets, create even more markets, or revert to residual markets. They are currently identifying areas of focus, with the goal of moving forward on a framework before the end of the calendar year.

CA Legislature Will Not Consider Regionalization in 2016

On Aug. 8, California Governor Jerry Brown announced in a letter to the Governors of five Western states that the California Legislature would not consider a proposal to move forward with a regionalization plan to transition the California ISO to a regional grid operator. Citing "unresolved questions that would be difficult to resolve in the remainder of California's current legislative session," Brown pledged to continue working with the ISO and stakeholders to present a plan in January, 2017.

The California Legislature previously approved the expansion in concept, aiming to provide a way for California's renewables to reach a wider market. After a proposed governance structure was released and revised, many legislators had concerns about environmental impacts, maintaining control, and increased transmission costs.

Municipal utilities, regulators, and Congressional leaders from the West have been sharply skeptical of market structures since the energy crisis of 2000. The Bonneville Power Administration (BPA) does not intend to join an expanded ISO, but made positive comments about the proposal's envisioned role for PMAs and suggested revisions to increase the voice of public power and PMAs in the policy formulation process.

NY Approves Clean Energy Standard with Subsidies for Nuclear

In the wake of several premature nuclear retirements – many due to the challenges posed by flawed regional markets prevalent in the East – the New York State Public Service Commission unanimously approved on Aug. 1 a Clean Energy Standard (CES) that requires 50% of the state's electricity to come from renewable sources by 2030 and guarantees income for three upstate nuclear power plants to keep them from closing. The plan guarantees a 1.7¢ per kWh subsidy to upstate nuclear reactors and calls for further energy market reforms.

FERC Issues Common Metrics Report on RTOs/ISOs

Staff to the Federal Energy Regulatory Commission (FERC) on Aug. 9 released a Common Metrics Report for the period 2010-2014, which it said is the latest activity "in an initiative to examine the performance and benefits of RTOs and ISOs," compared to several individual investor-owned utilities.

A summary of key "insights" include findings that RTOs and ISOs managed dispatch of energy from a diverse set of generation types; maintained adequate power supplies, in accordance with planned reserve margins; and reported the approval of a large number of transmission projects for reliability purposes; and that administrative costs per megawatt-hour varied across RTOs and ISOs, with the lowest in SPP and the highest in ISO-NE.

Energy Trades Weigh in Supporting Hydropower Licensing Improvements

On Aug.15, four energy trade associations –the National Hydropower Association (NHA), American Public Power Association (APPA), Edison Electric Institute (EEI) and National Rural Electric Cooperative Association (NRECA) – sent a letter to the lead conferees working to reconcile versions of the energy bill, jointly advocating for the inclusion of "a strong hydropower title that improves the licensing and regulatory approval process for new hydropower development and relicensing of existing projects."

Specifically, priority improvements the groups advocated for in a final conference report include:

- Directing FERC to lead the coordination of the many approvals needed for hydropower projects and to work with agencies and other licensing participants to set timely schedules;
- Holding all participants to the schedule by providing consequences for undue or unjustified delays, while also providing sufficient resources and time for decision makers to complete their work;
- Protecting and improving licensing improvements achieved in the Energy Policy Act of 2005 for trial- type hearing and alternative conditions;
- Clarifying that certain mandatory conditioning authority is limited to addressing actual project effects; and
- Providing new, more efficient approval processes for low- impact projects, such as environmentally beneficial license amendments, building on non-powered dams, and closed- loop pumped storage.

DOE Releases Hydropower Vision Report

On July 26, the Department of Energy's (DOE) Wind and Water Power Technologies Office released its Hydropower Vision report, subtitled "A New Chapter for American's 1st Renewable Electricity Source." The report looks at the future of the U.S. hydropower sector with a focus on technological advances, increased energy market value, and environmental sustainability. It also mentions the need for additional improvements in the licensing/relicensing process.

New NEPA Guidance Asks Agencies to Consider Climate Effects

On Aug. 2, the White House Council on Environmental Quality (CEQ) released long-anticipated final guidance on how federal agencies should assess climate change impacts of major federal actions under the National Environmental Policy Act (NEPA). The non-binding guidance aims to provide a more uniform approach to assessments across agencies and makes a number of specific recommendations, including that agencies should quantify a proposed action's projected GHG emissions, using them as a "proxy" for potential climate effects. It does not set a threshold for the amount of emissions that is cause for concern; however, it cautions agencies against assuming that a project's relatively minor emissions would not meaningfully contribute to climate change in the aggregate.

D.C. Circuit Announces Oral Argument Schedule in Clean Power Plan Case

On Aug. 17, the U.S. Court of Appeals for the D.C. Circuit issued an order setting the oral argument format for the case challenging the Clean Power Plan. The Court will hear a total of three hours and 38 minutes of oral arguments on Sept. 27, an uncommonly lengthy hearing. The order establishes several distinct issues to be argued, including, among other things, whether the Plan impermissibly forces generation shifting, whether the rule is Constitutional under other standards, whether aspects of the rule were properly subject to notice and comment, whether the controls required have been "adequately demonstrated," and whether the cost-benefit analysis was adequate.