

Northeast Public Power Association Legislative Update



March 2018

FERC Approves CASPR Proposal for ISO-NE

On March 9, the Federal Energy Regulatory Commission (FERC) approved ISO-New England's proposal to address state public policy objectives with a second capacity auction known as Competitive Auction with Sponsored Policy Resources (CASPR). The CASPR proposal sets up a second capacity auction in which resources that clear the market can offer to accept payouts to exit the market and make way for "sponsored" resources that are supported by state laws in place as of Jan. 1, 2018.

Chairman McIntyre and Commissioner Chatterjee approved the order, which endorses the use of the Minimum Offer Price Rule (MOPR), while Commissioner LaFleur concurred with reservations about widespread use of the MOPR as a "standard solution," and Commissioner Glick dissented in part, saying a better solution is to only use the MOPR to prevent buyer-side market power. The lack of consensus on the use of the MOPR means that its use as a standard solution did not gain a majority of votes, although it could set some precedent in other markets. Commissioner Powelson dissented from the order in its entirety, saying the new auction and the capacity market are at fundamental odds with one another and that the MOPR should apply to sponsored resources even after the first year.

While the outcome may be troubling for public power, Commissioner Glick's partial dissent is reminiscent of former Chairman Bay's approach. Commissioner Glick said, "a Commission policy of 'mitigating,' rather than facilitating, state public policy preferences places the Commission in a role that Congress never intended it to play."

RTOs Submit Filings on Resilience

Separately, on March 9 RTOs submitted filings in response to FERC's request for a report on the state of the markets' "resilience" – itself a response to the Department of Energy's proposal to allow coal and nuclear units to recover their full cost of service because of their "resiliency attributes." Several other groups submitted general comments on the definition of resilience, which is commonly thought of as a system's ability to withstand and recover from extreme weather events.

FERC Clears the Way for Storage in RTOs

FERC held a public meeting on Feb. 15 at which it unanimously approved a final rule requiring RTOs and ISOs to develop a regime of market rules that recognize the physical and operational characteristics of storage assets. The rule further specifies what the market regimes must address and provides the RTOs and ISOs nine months to submit their plans to FERC, with an additional three months before the changes must take effect.

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Initially, FERC had planned to allow distributed energy resource allocators to participate in RTO/ISO markets. However, the Commission decided that it requires more information before finalizing those provisions. The Commission will host a technical conference on April 10 and 11 to inform a final decision on its distributed energy resource aggregation proposals.

Trump Administration Releases FY19 Budget, Infrastructure Plan

On Feb. 12, the President released his FY19 Budget Request along with a long-awaited infrastructure investment plan. Both proposals come on the heels of the passage of a large continuing resolution (CR) that extended current FY17 funding levels until March 23, nearly six months after the start of the FY18 fiscal year.

The proposal would give the Department of Energy a slight boost from FY17 enacted levels, mostly for nuclear security, and, similar to last year, decreases by over 30% the budget for the Environmental Protection Agency (EPA). Funding for Yucca Mountain was included, while the proposal eliminates the Title XVII Innovative Technology Loan Guarantee Program and the Low Income Home Energy Assistance Program (LIHEAP), as in last year's proposal.

The infrastructure plan proposes a few different investment programs to encourage infrastructure development. The programs are mostly focused on surface transportation projects, but would make hydropower facilities eligible for a \$100 billion program for infrastructure modernization and rehabilitation. The proposal also includes a rural infrastructure incentives program, and government-run electric infrastructure projects would be eligible for funding. Several hearings on the infrastructure proposal have been held, but it appears to lack significant momentum in Congress due to cost considerations and concerns about shifting costs to state and local entities.

President Trump Imposes Tariffs on Steel, Aluminum Imports

On March 7, President Trump signed an order imposing 25 percent tariffs on steel imports and 10 percent tariffs on aluminum imports. The tariffs were first announced on March 1 and were met with opposition from many corners. Canada, America's largest trading partner and largest source of imported steel, demanded the U.S. exempt its products from the tariffs, which the order temporarily does. The European Union has threatened retaliation on U.S. exports if the administration follows through, prompting talk of a "trade war."

EPA Holds Listening Session on Clean Power Plan in Kansas City, MO

On Feb. 21, the Environmental Protection Agency (EPA) held a "listening session" in Kansas City, MO, to hear interested parties' thoughts on the agency's intention to repeal the Clean Power Plan. More than 180 witnesses signed up and spoke on the plan.

