

Northeast Public Power Association Legislative Update



May 2019

FERC Approves PJM's Revision to Variable Resource Requirement Curve

On Apr. 15, the Federal Energy Regulatory Commission (FERC) issued a series of orders affecting entities within PJM Interconnection. Among the orders, and of interest to NEPPA, FERC approved PJM's desired changes to its variable resource requirement (VRR) curve, which affect what clears its Reliability Pricing Model (RPM) capacity auctions. Every four years PJM is required to conduct a review of its RPM involving analysis and stakeholder feedback. Commissioner Glick dissented from the decision, noting that PJM's capacity market has been chronically oversupplied as a result of the price signals sent by the demand curve. He suggested that the Commission should "take a holistic review of the capacity market" given the evidence that it has resulted in PJM overproducing resources. He lamented the Commission did not hold a hearing to develop a record on the myriad issues at play and then address them accordingly.

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FY20 Budget Issues Dominate Agenda Before Easter Recess

Administration energy and environment officials were among the many questioned about their FY20 budgets in the days before Easter recess commenced. Most Members of Congress have expressed opposition to the deep cuts the Administration has proposed for energy programs and the Environmental Protection Agency (EPA), as well as the lack of focus on climate change-related research and development.

As committees focused on the President's request, the House of Representatives attempted to raise budget caps for the next two years. Progressive and moderate House Democrats were not able to come to agreement on what the levels should be for defense and non-defense accounts, so legislation was pulled and the House voted instead on a non-binding \$1.3 trillion level for FY20. This level will help appropriators begin writing FY20 bills after the upcoming recess, but Congress will still need to raise budget caps that are currently binding due to sequestration.

President Signs Executive Orders on Energy Infrastructure, Agrees to \$2T Bill

On Apr. 10, President Trump issued two Executive orders aimed at streamlining permitting for energy infrastructure projects (primarily natural gas pipelines, but also hydropower projects). The first directs EPA to revise its rules to limit state authority to reject or delay projects under the Clean Water Act and directs the Department of Transportation to allow trains to carry liquefied natural gas. The second order concentrates authority to approve cross-border projects in the President himself.



The move was immediately challenged in court by Washington State Governor Jay Inslee, and Democratic lawmakers such as Senate Environment and Public Works Ranking Member Tom Carper (D-DE) blasted the orders. Some organizations, such as the Western Governors' Association, took a more nuanced tone, expressing concerns about the new limits on state authority and interest in working with the Administration on different process improvements under the Clean Water Act.

Separately, the President and congressional leaders announced a general agreement to advance a \$2 trillion infrastructure bill that may include energy infrastructure. It is not yet clear how the plan will advance or how it will be paid for.

FERC Proposes Change to Cyber CIP Standard for Control Center Communication

FERC held its monthly public meeting on Apr. 18. At the meeting, the Commission proposed changes to a critical infrastructure protection (CIP) standard developed by the North American Reliability Corporation (NERC) relating to the cyber security of information and data communicated between control centers. While FERC proposed to adopt much of the standard as presented, it noted that some risks to the bulk electric system “may not be fully addressed.”

For example, FERC contends the standard does not clearly define “real-time monitoring,” which affects what type of communications would be covered by the standard. Additionally, the standard does not address communication links or data sent between bulk electric system control centers. The standard would apply to transmission operators and transmission owners of control centers, balancing authorities, generator operators, and reliability coordinators. The proposed changes will be published in the Federal Register and entities will have 60 days from then to submit comments.

New Chief of Staff Announced

Separately, FERC Chairman Neil Chatterjee announced that Maria Farinella has been appointed to be the new Chief of Staff for the Commission. She has worked at FERC for many years, most recently serving as a senior legal advisor in the Office of General Counsel. She also was an advisor to former Chairman Joe Kelliher. Farinella replaces Anthony Pugliese.

Report Examines Cyber Defenses of Small Utilities

On Apr. 15, Vermont Law School's Institute for Energy and the Environment released a report that casts a spotlight on the cyber vulnerabilities of small distribution electric utilities. Some states have begun imposing mandatory cybersecurity requirements on small utilities not subject to NERC/FERC standards, the report notes. California, for example, requires distribution-level utilities to report cyber intrusions to their systems. The Office of Utility Security at the New York Public Service Commission conducts regular cybersecurity audits of its small utilities. Most states, however, recommend voluntary cyber security defensive measures. Connecticut, for example, encourages small utilities to follow the Department of Homeland Security's cyber framework to assess their cyber vulnerabilities and report their findings. The report notes the costs of hiring cybersecurity experts and deploying sophisticated technical defenses are more expensive than what most small utilities can afford. While the report does not recommend a particular approach to enhance cyber defenses, it encourages states to consider making investments and “expand agency jurisdiction or create new agencies as needed” to address ever present and evolving cyber threats.

