

Legislative Update



March 2017

FERC to Hold Technical Conference on State Policies in Eastern Markets

The Federal Energy Regulatory Commission (FERC), still without a quorum to act, has announced a technical conference May 1 and 2 to explore ways the regions are working to accommodate state-level policy objectives to support particular resources or attributes. “In particular, Commission staff seeks to discuss long-term expectations regarding the relative roles of wholesale markets and state policies in the Eastern RTOs/ISOs in shaping the quantity and composition of resources needed to cost-effectively meet future reliability and operational needs,” the notice reads. “At one end of the spectrum, state policies would be satisfied through the wholesale energy and capacity markets. At the other end of the spectrum, state policies would be achieved outside of the wholesale markets, and the wholesale markets would be designed to avoid conflict with those state policies.”

In a statement supporting the intent of the conference, Commissioner Colette Honorable said, “The Commission’s whack-a-mole response to [state action] is inefficient and prolongs uncertainty. Through this broader effort, we hope to work with stakeholders to find ways to advance various policy goals – fuel security, environmental, or otherwise – while preserving valuable price signals and consumer benefits provided by regional electricity markets.” In acknowledging existing stakeholder efforts such as ISO-New England’s “Integrating Markets and Public Policy (IMAPP)” process, Honorable commented that FERC’s action is meant to “enhance existing conversations and provide another venue to arrive at a collaborative solution.”

Challenge to FERC’s Delegating Order Dropped

On Mar. 22, the Wyoming Pipeline Authority withdrew a challenge to FERC’s order granting its staff additional authority to act on the five-member commission’s behalf while it lacks a quorum. The “delegation order” gave FERC staff the authority to act on rate filings, time extensions, waiver requests, and uncontested settlements while the commission awaits a new member, but the staff orders carry questionable legal authority. Overturning the order delegating authority to staff, however, would create even more difficulty in advancing business at FERC, something the Wyoming agency may have realized after filing the challenge.

Supply Chain Standard Fails at NERC

On Mar. 8, the North American Electric Reliability Corporation (NERC) released the results of an initial ballot regarding a reliability standard addressing cyber vulnerabilities in the supply chain. The draft proposal stems from FERC Order No. 829, which called for utility participants to negotiate with vendors (including large corporations such as Microsoft) for additional assurances or risk liability for using unacceptable vendors. At the conclusion of balloting, NERC found that only 10.36% of voting industry members voted in favor of the standard. NERC will go back to the drawing board and attempt to propose a standard that can garner more support.

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President Trump Releases “Skinny Budget” Proposing Sharp Cuts

The Trump Administration sent its budget blueprint to Congress on Mar. 16. The so-called “skinny budget” is a document that outlines the young Administration’s broad spending priorities for fiscal year 2018, which begins Oct. 1. A more detailed proposal is expected later in the spring. Of the major federal agencies, only the Departments of Defense, Homeland Security, and Veterans Affairs would receive budgetary increases. The remaining agencies would face cuts: Environmental Protection Agency (EPA) by 31 percent and the Department of Energy by 6 percent, for example. The budget also proposes eliminating several programs, including the Low-Income Home Energy Assistance Program (LIHEAP). Despite significant cuts to Department of Energy’s research programs, the budget proposes \$120 million to revive the Yucca Mountain nuclear waste site project.

Republican Health Care Plan Stalls in House

On Mar. 24, House GOP leaders cancelled a vote on their plan to “repeal and replace” the Affordable Care Act (ACA) after many members of the conservative House Freedom Caucus said they would not vote for the bill despite last minute concessions from the Trump Administration. Previously, President Trump had demanded a vote on the bill and said that if it failed on the House floor, he would “move on” to tax reform. However, failure of the signature item raises serious challenges for other parts of the President’s agenda, particularly as tax reform would have been easier to manage if the health care bill had succeeded in changing the tax baseline.

Infrastructure Hearings Proliferate with Hydro in the Spotlight

Several committees have held hearings in anticipation of action on infrastructure, although the contours of such a package have yet to materialize. In many hearings, hydropower has been a central focus:

- On Mar. 1, the House Natural Resources subcommittee on Water, Power, and Oceans held an oversight hearing entitled, “Modernizing Western Water and Power Infrastructure in the 21st Century.” Much of the hearing focused on burdensome regulations that cost millions to companies and permitting processes that take years for approval.
- On Mar. 14, the Senate Energy and Natural Resources Committee held a hearing on “opportunities to improve American energy infrastructure.” Chairwoman Lisa Murkowski (R-AK) and Ranking Member Maria Cantwell (D-WA) in their opening remarks highlighted the bipartisan support for energy infrastructure development. Jeffrey Leahy, Deputy Executive Director of the National Hydropower Association, criticized Congress for extending tax credits for wind and solar energy and not hydropower. Witnesses also called for easier processes to build transmission lines across state and federal land, for investments in pumped storage technologies, and for Congress to work with the Trump Administration to act swiftly on expected FERC nominees.
- On Mar. 15, the House Energy and Commerce Subcommittee on Energy held a hearing entitled, “Modernizing Energy Infrastructure: Challenges and Opportunities to Expanding Hydropower Generation.” Committee members examined with the witnesses the problems with duplicative and lengthy licensing requirements, the potential for hydropower to be a boon for the economy of a region, the opportunities for a reliable renewable energy source to bring stability to the grid, and the potential for private investments in infrastructure.