Northeast Public Power Association

Legislative Update

September 2019

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FERC Readies Ruling on PJM Capacity Market Tariff

The Federal Energy Regulatory Commission (FERC) is poised to issue rules regarding PJM Interconnection's capacity market. Last year, FERC found that state subsidies for economically struggling nuclear plants and renewable energy resources in PJM's territory violate market rules because they suppress the cost of power in the capacity market. Following Commissioner Cheryl LaFleur's departure on Aug. 30 – which broke the 2-2 partisan deadlock on the commission – the new Republican majority is expected to follow up that finding with an order instituting a price floor, known as Minimum Offer Price Rule, that will deny subsidized resources access to capacity market auctions. Some state regulators within the PJM market, like Illinois, have warned that they may "seek alternatives" or withdraw from the capacity market if FERC blocks their nuclear plants from capacity market participation. Members of Congress have also weighed in. Senate Minority Leader Chuck Schumer (D-NY) and nine of his Democratic colleagues sent a letter to FERC Chairman Neil Chatterjee urging him not to issue a Minimum Offer Price Rule.

FERC may issue the rule in such a way that allows states to remove specific plants from the capacity market, rather than forcing the entire state out. However, such a carve out could end up being administratively burdensome and unworkable.

APPA Seeks Feedback on Comments to FERC's Performance Metrics Proposal

In late 2017, the Government Accountability Office (GAO) issued a report on capacity markets that urged FERC to improve the usefulness of data reported in its Common Metrics Report. On July 19, FERC proposed changes to its data collection process by establishing a standardized Input Spreadsheet for data collection. Further, it proposes changes to the list of metrics, suggesting the addition of some and the elimination of others, to focus more directly on organized markets and capacity markets in particular. Metrics related to reliability, interconnection and transmission processes, system lambda, billing controls, and customer satisfaction are eliminated in FERC's proposal.

APPA is preparing comments in response to FERC's proposal. It plans to ask for FERC to retain the customer satisfaction metrics, but is awaiting member feedback to determine whether it will ask for other metrics to be preserved. Additionally, APPA will recommend that FERC use metric reports to more critically consider organized markets rather than make sweeping conclusions on market benefits. APPA also recommends that FERC expand its New Capacity metric to include the technology and arrangement, and apply it to all organized markets.

APPA would like any member feedback on its proposal by Friday, Sept. 6. Comments are due to FERC on Monday, September 9.

FERC Grants ISO-NE Six-Month Extension for Market Reforms

ISO-NE now has until Apr. 15, 2020 to file its proposed market reforms aimed to enhance fuel security during cold winter months. The proposal was originally due Oct. 15, but the ISO requested a deadline extension due to the plan's complexity. State governments and market participants had urged FERC to extend the deadline, though some generators preferred a December 2019 deadline to instill better market certainty.

Testy Exchange Marks Commissioner LaFleur's Last FERC Meeting

FERC's July 18 meeting was Commissioner Cheryl LaFleur's last. Members of the Commission offered tributes for her service and contributions to the agency. Commissioner LaFleur's last day at FERC was Aug. 30. In a series of exit interviews with trade press, she decried the growing partisan influence on the independent agency's decision-making. Partisan divisiveness was on display at her last meeting. Commissioner Richard Glick once again dissented on the Commission's decision to approve an LNG project. He has repeatedly done so in protest of the Commission's May 2017 decision to no longer consider greenhouse gas emissions when weighing such projects. Commissioner Bernard McNamee responded by sharing his view that Congress has not given the Commission the authority to make those considerations. The exchange was more tense than in previous meetings. Chairman Neil Chatterjee concurred with Commissioner McNamee's interpretation.

TAPS, APPA, NRECA Join Letter to FERC on Transmission Dockets

On Aug. 23, a number of public utility commissions, public power entities, industrial power users, and consumer advocates sent a letter to FERC highlighting their shared concerns about the rising cost of transmission borne by ratepayers. Among others, APPA, NRECA, and several New England-based organizations signed on. Many of the signatories had submitted individual comments in one or both of the transmission-related Notice of Inquiry dockets open at FERC, including one requesting information on transmission incentives and another on return on equity (ROE) policies. The joint letter does not respond to technical questions but makes a point about the signatories' common interest in customer costs. The letter notes that some of the policy changes under consideration in the dockets could mitigate increasing transmission prices, while others could raise them.

FERC and NERC propose cybersecurity violation disclosure process

On Aug. 27, FERC announced it is seeking public comment on a white paper that proposes a plan to disclose limited information about utilities that violate federal cybersecurity standards. Over the past year, FERC has received many Freedom of Information Act (FOIA) requests to disclose the information about companies that have violated the North American Electric Reliability Corporation's (NERC) Critical Infrastructure Protection (CIP) standards. The commission has been reluctant to make public this information in its existing format because it often contains sensitive technical information about the power grid that could be misused by bad actors.

The white paper was prepared jointly by FERC and NERC staff, and proposes a new system to release company names and penalty amounts for violations of the standards for cybersecurity. However, further details about a company's violations would be shielded from public disclosure to maintain security. Responses to the white paper are due in thirty days.