

Northeast Public Power Association Legislative Update



September 2018

ISO-New England Files Interim Tariff to Compensate “Fuel-Secure” Generators

In the latest development in the ongoing dialogue about “fuel security,” on Aug. 31 ISO-New England filed an interim tariff with the Federal Energy Regulatory Commission (FERC) that would treat “fuel secure” generators as price-takers in the markets. The interim tariff is the ISO’s response to FERC’s earlier rejection of its bid to offer a cost-based contract to two units thought to be necessary for reliability reasons. If accepted, the tariff would be in effect for forward capacity auctions 13 through 15, covering years 2022-2025, while ISO-New England prepares a more robust, permanent tariff to respond to FERC’s directive.

Congress Makes Progress on Funding Bills

The Senate remained in session in August to process nominations and make progress on funding bills. On Aug. 1, the Senate passed a four-part “minibus” appropriations bill that contained Interior-Environment funding, as well as Transportation, Financial Services, and Agriculture spending bills. Though a number of amendments were debated and agreed to, Senate appropriators held steadfast against policy decisions, or riders, being added to appropriations bills. On Aug. 23, the Senate passed its third FY19 minibus funding bill – a large package containing nearly two-thirds of the federal discretionary budget. The bill, which includes Department of Defense funding and Labor, Health and Human Services, and Education funding, passed 85-7. Of interest to NEPPA, the bill allocates \$3.69 billion for the Low-Income Home Energy Assistance program, which was zeroed out in the President’s budget. No policy-related amendments were considered, in keeping with the Senate’s bipartisan effort to keep controversial issues off this year’s funding bills.

The Senate has now passed nine out of 12 appropriations bills, which Senate Appropriations Committee Chairman Richard Shelby (R-AL) noted has not happened since 1999. Members and staff from both sides of the Capitol are aiming to have at least some of the bills conferenced, passed, and signed before the Sept. 30 fiscal year deadline.

EPA Proposes Clean Power Plan Replacement: The Affordable Clean Energy Rule

On Aug. 21, the Environmental Protection Agency (EPA) announced a proposed rule titled the Affordable Clean Energy (ACE) rule, which will replace the 2015 Clean Power Plan (CPP) regulating carbon dioxide emissions from coal-fired power plants. The ACE rule uses the same statutory provision as the much-broader CPP, but would scale back the ambitious reductions sought by the previous administration that would transition the overall power sector away from coal-fired plants and toward renewable electricity generation.

The proposed rule would allow individual states to not only develop plans to reduce greenhouse gas emissions from existing coal-fired plants, but to set the performance standard for units within their borders (In contrast, the CPP featured state targets set by EPA). States may also be allowed to opt-out of regulation by setting a performance standard that does not require any emissions reductions. The rule includes a list of “candidate technologies” that can be applied to individual coal plants, which states can use to establish a standard of performance. The ACE rule contains an updated definition of the “best system of emissions reduction” (BSER) to include only on-site efficiency upgrades, or heat rate improvements, to reduce emissions per unit of electricity generated. The CPP envisioned a BSER made up of combined actions across the electric sector.

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In addition to the main text of the rule, the proposal includes revised applicability standards for the New Source Review (NSR) permitting regime that focus on monitoring changes to a plant's hourly emissions – thereby expanding the efficiency, physical, or operational upgrades that can be made to an existing plant without triggering the NSR process. The proposed rule will be available for public comment for 60 days after it is published in the Federal Register.

Senate Examines Cyber Threats to America's Critical Infrastructure

On Aug. 21, the Senate Judiciary Subcommittee on Crime and Terrorism held a hearing to discuss cybersecurity challenges to critical infrastructure. The hearing consisted of witnesses from varying industries including Thomas Fanning, CEO of Southern Company and Co-Chair of the Electricity Subsector Coordinating Council (ESCC). During his opening statement, Fanning stated that threats to the grid are constantly evolving, which necessitates a “defense-in-depth” approach. He noted that unlike other sectors of critical infrastructure, the energy sector is “subjected to mandatory cyber and physical security regulations” known as Critical Infrastructure Protection (CIP) standards. Ranking Member Sheldon Whitehouse (D-RI) also addressed his concerns with the need for a lead agency to work with Congress to avoid a cyber catastrophe that “everyone predicted but did nothing about.”

Senate Energy Panel Examines Impact, Potential of Blockchain Technology

On August 21, the Senate Energy and Natural Resources Committee held a hearing titled “Energy Efficiency of Blockchain and Similar Technology.” The hearing examined two main intersections of blockchain and energy, including the technology's intense electricity demands and its potential application in grid security and operations. Blockchain technology is the process of recording digital transactions in a virtual ledger distributed among individual computer networks to create secure and verifiable records. Closely associated with cryptocurrencies like bitcoin, the technology can enable peer-to-peer transactions without the need for a third-party authenticator such as a bank. Paul Skare, Chief Cyber Security and Technical Group Manager at the Pacific Northwest National Laboratory, testified how the intense computing process behind blockchain and cryptocurrencies has created immense new demands on the electric grid. As a result, individual cryptocurrency developers, or “miners,” seek out localities with cheap electricity costs as a base of operations. Dr. Narayanan of Princeton University discussed how local policies such as time of use rates and tax incentives can help to better manage the impact on the grid by steering the operations and location of cryptocurrency mining.

Another theme of the hearing was how blockchain can be applied across the energy sector in the future. Claire Henly from the Energy Web Foundation discussed how the distributed nature of blockchain makes it a valuable tool in developing a more decentralized electricity grid that would be less vulnerable to cyber attacks and disruption. She also highlighted how blockchain could be adapted to allow individual users to purchase energy directly from distributed renewable generators securely and efficiently. The witnesses generally agreed that many of the potential commercial applications of blockchain beyond digital payment management are still years away. They warned against attempts to regulate the technology on the federal level while it is still in its infancy, but encouraged more robust research investments by the Department of Energy and other federal entities.

Senate Commerce Committee Conducts FCC Oversight Hearing

Four of the five commissioners of the Federal Communications Commission (FCC) appeared before the Senate Commerce Committee on Aug. 16 to discuss the current direction of the agency. The hearing touched on many issues, including net neutrality and the expansion of highspeed internet access to rural communities. “The STREAMLINE Small Cell Deployment Act” (S. 3157), which seeks to assert federal regulations on pole attachments in the public right-of-way, was not the focus of the hearing, but Chairman John Thune (R-SD) referenced the bill in his opening statement. He went on to say the committee would seek to balance “accelerating broadband deployment” with “preserving local authority” as it continues to consider this legislation. A hearing on S. 3157 is expected in September.



