Energy Policy Update

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Welcome to Constellation's Energy Policy Update. This publication is designed to provide Constellation customers and channel partners with an overview of recent and relevant regulatory and legislative matters affecting competitive energy markets.

Since the inception of retail competition in California in 1995, Constellation has been an active participant in regulatory and legislative matters affecting the development of competition, competitive markets, and customer choice.

Senate Finance Committee to Hold Hearing on Energy Taxes

The Senate Finance Committee is scheduled to hold a hearing this week on energy tax issues. Witnesses include former Senator Don Nickles and Heritage Foundation scholar David Kreutzer, both of whom strongly oppose the wind PTC. Other witnesses include former Northrup Grumman CEO Norm Augustine, Dr. Gilbert E. Metcalf of Tufts University, and Ethan Zindler of Bloomberg New Energy Finance. The Finance Committee approved a two-year extension of the wind PTC and other expiring tax provisions earlier this year, but they have been unable to move the legislation on the Senate floor. No action on the extenders bill is expected until a post-election "lame duck" session of Congress in December.

Senate Panel Approves NRC Nominees

The Senate Environment and Public Works Committee held a hearing on and approved the nominations of Stephen Burns and Jeffery Baran to be members of the Nuclear Regulatory Commission (NRC) this week. Senator Reid has scheduled a cloture vote for 9/15 and the Senate is expected to take up the nominations on 9/16. Due to a recent change in the nominations procedure, a simple majority vote is required for cloture and both nominees are expected to be approved.

During the confirmation hearing, Republicans expressed concern over Senator Reid's role and influence over the NRC and requested assurances of independence. Republican senators also raised questions about the qualifications of the nominees – lamenting that the Administration is replacing technical experts with lawyers. Burns, who spent 22 years on NRC's legal staff (including a term as General Counsel

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Inside this Issue

under Greg Jazcko), has been nominated for a five year term, while Baran, a long time aide to Rep. Henry Waxman (D-CA), will serve out remainder of Commissioner Magwood's term, which runs through June 2015.

House Energy Committee Scrutinizes 111(d) Rulemaking - The House Energy & Commerce Subcommittee on Energy & Power held a hearing last week on "State Perspectives: Questions Concerning EPA's Proposed Clean Power Plan" to examine states perspectives on legal and practical issues, impacts on rates, reliability and economic growth. Regulatory officials from Texas, Indiana, Arizona, Montana, Maryland and Washington participated. For the most part, the testimony and discussions represented a clear divide along partisan and geographic lines, as one would anticipate.

Of note, however, was the level of agreement and concern among witnesses and Members about the lack of credit for early action which was raised by several Democratic members and both state witnesses who were supportive of the overall rule. Commissioner Anderson of Texas raised the perverse outcome of increasing emissions as a result of ramping up CCNG and renewables - shutting down nuclear plants and running coal as peaking units.

STATE UPDATES

▶ CALIFORNIA

CPUC Seeks Modifications to San Onofre Nuclear Generating Station Settlement Proposal - The California Public Utilities Commission (CPUC) said they will not approve a settlement filed by Southern California Edison (SCE), San Diego Gas & Electric (SDG&E), The Utility Reform Network, Office of Ratepayer Advocate, the Coalition of California Utility Employees and Friends of the Earth.

The settlement is intended to resolve several cost recovery issues associated with the San Onofre Nuclear Generating Station outage, but Commissioner Florio and an Administrative Law Judge issued a ruling that says they do not believe that the settlement as filed is in the public interest due to the high percentage of insurance proceeds that would be retained by SCE and SDG&E shareholders, and because the ratepayer proportion of power replacement costs is too high.

The ruling says that these two features should be modified so that SCE and SDG&E: (1) retain only 50% of the insurance proceeds, and (2) pay 95% of the outage replacement power costs. The settlement parties may not agree to these modifications. Comments on the ruling are due next week.

West-wide Response to EPA's 111(d) Rules - The California Air Resources Board (CARB) held its first stakeholder meeting to discuss the impact of EPA's proposed 111(d) rules on California emission reduction programs and the cap and trade program. At the meeting, CARB expressed strong support for the rule, and a strong interest in working with western states to develop a joint implementation plan, if the details of such collaboration can be worked out. They noted that key issues to be worked out include how to account for renewable energy among the states, and all forms of imported and exported power.

CARB has asked interested stakeholder to provide comments on the 111(d) rules to help guide the development of comments they will submit to the EPA. Separately, the Western Electric Coordinating Council (WECC) announced that it would undertake phased studies to assess the reliability impacts of the rule across the western interconnection and make such information publicly available.

Pacific Gas & Electric Fined - A proposed decision has been issued by judges at the CPUC that imposes $1.4 billion in fines on Pacific Gas & Electric Company (PG&E) for over 3,800 safety violations that contributed to a 2010 pipeline explosion that killed eight people in San Bruno, California. PG&E has said that they will appeal. This fine is in addition to $635 million that PG&E has already been required by the CPUC to spend on pipeline improvement projects. None of this money is recoverable from ratepayers. In addition, PG&E faces criminal charges that could result in additional fines; PG&E has promised a "fierce defense" against the criminal charges.

CPUC Adopts Registration Standards for Core Transport Agents – On 8/28 the CPUC signed an order adopting registration standards for Core Transport Agents (CTA) who supply

Power and PSEG sought an advisory opinion from the PSC, and successfully argued that the law in question did not apply to them.

Aggregation - The PSC staff is coordinating an analysis of the potential benefits of adoption of an aggregation program and the Secretary of State has the authority to make the decision. The PSC has issued an RFP for a consultant to assist it in this evaluation. While an initial meeting has been conducted by the Secretary of State and PSC Staff, a second meeting has not yet been scheduled. The analysis being conducted is focused solely on residential and small commercial customers.

While this is being categorized as aggregation by Delaware, the State is considering aggregation of the entire Delmarva customer base - approximately 300,000 customers - which is ultimately a re-structuring of default service procurement. The Secretary of State indicated that he would like to have his analysis completed by the beginning of 2015.

ILLINOIS

IPA Public Hearing on Draft Power Procurement Plan - Last week, the Illinois Power Agency (IPA) held a public hearing to discuss its Draft Power Procurement Plan for a five-year period (June 2015 through May 2020) for the residential and small commercial customers of Ameren Illinois Utilities (AIU) and ComEd. The Draft Plan, consistent with past IPA Plans, will utilize a three-year laddered, block and spot, approach.

At the public hearing, the Illinois Competitive Energy Association delivered oral comments recommending to serve a portion of the load via full requirements products for a four-year trial period. The IPA continues to favor the block and spot approach, along with its own hedging program as opposed to reliance upon FR products. Written comments on the Draft Plan are due 9/15.

ICC Office of Retail Market Design Holds Workshop - On 9/4, the Office of Retail Market Design (ORMD) of the Illinois Commerce Commission held a workshop with specific focus on data access issues. ComEd and Ameren gave a presentation on proposed plans for providing suppliers with access to residential smart meter data, which has an implementation target date of Q2 2015.

There was also an active conversation around appropriate form and content of customer notice and authorization required for suppliers to access the data.

MAINE

Maine PUC Holds Hearing On Supplier Rules - On 9/3, the Maine Public Utilities Commission (PUC) held a public hearing on proposed changes to competitive supplier rules. Much of the discussion at the hearing centered on how to protect residential customers from rate shock when their fixed price offers expire and they find themselves on variable rates. The Commission will receive comments through 9/19.

MARYLAND

Myers Named Executive Director of Public Service Commission (PSC) - The Maryland PSC has named Anthony Myers as its new executive director. Myers has been with the PSC for 18 years. Most recently, he served as acting executive director in addition to assistant executive director. In this new role, Myers will lead the PSC's technical staff. Myers replaces former Executive Director Merwin R. Sands, who retired earlier this year.

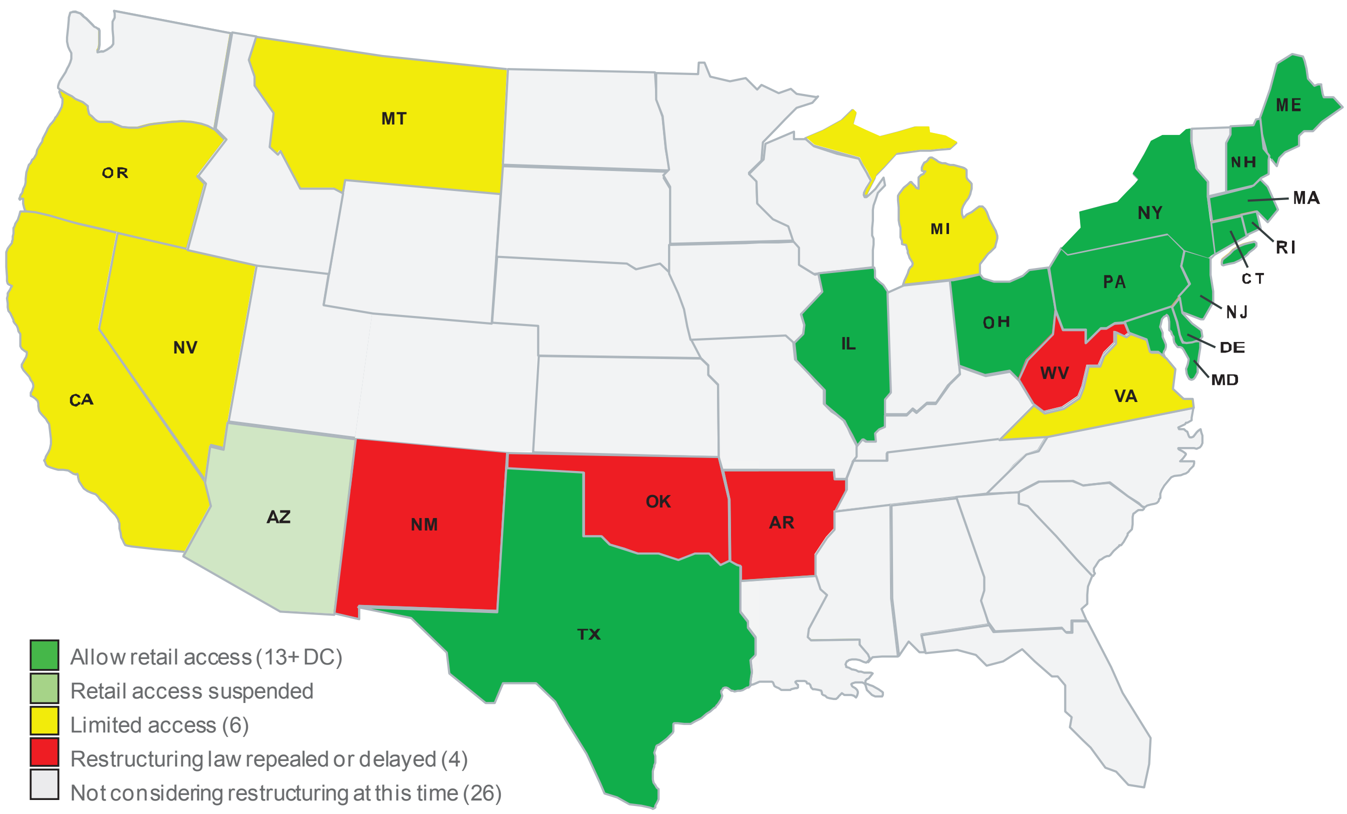
Vote on Ozone Season Delayed - The Maryland Department of the Environment Air Quality Control Advisory Council delayed a vote on proposed protections against air emissions until October. The proposed regulations addressed NOx emissions for coal plants, specifically those owned by NRG and Raven. Current regulations allow the sources to operate NOx controls intermittently, so long as mass emissions remain below their caps.

The proposed regulations would establish an ozone season and require affected units to meet 30-day rolling averages during that time - the practical result of which is that the units would be required to operate their NOx control almost continuously.

MICHIGAN

Public Service Commission (PSC) Approves Natural Gas Price Comparison Website - On 9/11, the Michigan PSC approved a natural gas price comparison website to help residential and small commercial customers make informed decisions about choosing an alternative natural gas supplier. Constellation participated in several collaborative sessions with staff, utilities and other suppliers to develop recommendations on website design and

Competitive US Retail Electricity Markets



residential and small commercial end-use customers with natural gas. The order establishes standards of financial viability and technical and operational ability for CTAs. Entities that offer natural gas service to residential and small commercial customers in California are required to register with the Commission within 90 days of the order. The order establishes a 30-day cancellation period for residential customers, with a 3-day period for all commercial customers. However, companies will be able to provide commercial customers the option to waiver their cancellation rights through a Commission-approved, separate waiver form.

DC, MARYLAND & VIRGINIA

Washington Gas Light (WGL) Company Seeks Tariff Changes - In response to the events of last winter, WGL made filings in DC, Maryland and Virginia seeking tariff modifications to take effect November 2014. The changes focus on strengthening the requirements for customers receiving interruptible service.

Competitive service providers will be subject to added restrictions with penalties for non-performance and mandatory capacity assignments.

▶ DC

Delmarva Transmission Lines - The Public Service Commission (PSC) decided unanimously to allow companies other than Delmarva to apply for the right to build a transmission line from the Salem and Hope Creek nuclear plants. LS Power and PSEG both expressed an interest in building the lines. Earlier this year, the Executive Director of the PSC had advised the PSC that current Delaware law may prohibit companies other than Delmarva from building the line.

Legislation was considered this summer to change that law, but the bill never made it out of committee. LS content. The new website is anticipated to be operational in time for the upcoming heating season.

NEW JERSEY

RGGI Resolution - The Senate Environment Committee is scheduled to consider Senate Concurrent Resolution 125 (SCR125) on 9/15. It is widely expected to pass out of committee. This is the resolution determining that the department of environmental protection's (DEP) proposed repeal of regulations concerning State participation in the Regional Greenhouse Gas Initiative is inconsistent with legislative intent.

The Resolution is expected to be voted out of the Senate on 9/22 and the Assembly will likely take it up in early October. Once it's passed by the Assembly, it will be transmitted to the DEP. The DEP will then have 30 days to amend or withdraw the relevant regulations. Or, the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the rules and regulations in whole or in part, or prohibit the proposed rules and regulations, in whole or in part, from taking effect.

Consumer Protection - NJ BPU staff held a working group meeting to discuss several questions with respect to improved consumer protections. Items discussed included utilizing a uniform manner of disclosure in marketing materials, increasing transparency and information provided with respect to pricing, accelerated switching. The meeting was generally positive and parties can submit written comments next week. Staff intends to go straight to a rulemaking with proposed changes.

NEW YORK

Carol Browner Keynotes at the Independent Power Producers of New York (IPPNY) Fall Conference - During the IPPNY's Fall Conference, the keynote speaker, Carol Browner, stated the nation must take climate change seriously and that nuclear energy is a vital piece of the nation's energy infrastructure and climate change strategy. She warned that other countries such as Germany, which aggressively shut down nuclear facilities, are now facing increased CO_2 emissions because that energy is now being supplied by fossil fueled energy sources. Going forward, she stressed that nuclear, which produces about 20% of energy generated in the United States, must remain part of the US energy infrastructure. Over 150 industry and government representatives attended the event.

Governor Cuomo Announces Solar Initiative for K-12 Schools - K-Solar is a new program under the $1 billion NY-Sun Initiative. The program will provide public school districts with tools, technical expertise and access to financing to make solar an affordable option for K-12 schools. To date, a total of 40 school districts have registered to participate in the program, representing nearly 200 schools in communities across the state.

K-Solar is a joint partnership between the New York Power Authority (NYPA) and the New York State Energy Research and Development Authority (NYSERDA), working with the New York State Education Department. NYPA is offering every New York State school district energy advisory services and expertise to collaborate with school personnel in determining if solar energy is suitable for their district.

These services will be free to schools, with the only costs being from the clean electricity generated from the installed solar panels. There is no limit to the number of public school districts that can participate in the program. NYPA issued a request for qualifications from developers who would install solar panels on school buildings. Responses are due by 10/9.

Withdrawal of Notice of Intent to Mothball Selkirk I and II - On 2/28, Selkirk Cogen Partners, LP (Selkirk) notified the New York Public Service Commission (NYPSC), the New York Independent System Operator (NYISO), and National Grid, LLC of their intent to mothball Selkirk I and Selkirk II facilities, effective 9/1. In a later filing to the NYPSC, Selkirk extended the effective date until 11/1. On 9/3, Selkirk provided notice that it no longer intends to mothball the facility and withdrew the prior notice. The 345 MW natural gas-fired, combined cycle cogeneration facility is located in Zone F of NYISO.

OHIO

PUCO Approves Results of AEP Load Auction – Last week, the Public Utilities Commission of Ohio (PUCO) approved American Electric Power (AEP) Ohio's third energy-only auction to provide electricity to AEP Ohio's standard service offer customers through May 2015. The bidding resulted in an average clearing price of $48.05 per megawatt hour for 25% of the utility's load.

There were nine registered bidders and five winning suppliers. As part of AEP's 2012 electric security plan, the PUCO required the company to provide an increasing share of its generation through auctions until the entire load is procured through the competitive market. AEP's movement to market-based default supply started earlier this year in February, with an auction setting prices for 10% of AEP's SSO load. A second competitive bid process took place in May and a final auction in November will set prices for the remaining 40% of the load to be delivered January 2015 through May 2015.

PUCO Market Development Working Group Holds Workshop on Retail Market Design -Last week, the Market Development Working Group (MDWG) of PUCO held a workshop to discuss bill format and customer portability issues arising out of the Commission's recent Retail Market Investigation final order. During the workshop, the Ohio utilities showed samples of new consolidated bill formats that include a prominent display of the supplier logo for customers taking supply from a competitive supplier.

The meeting also focused on the definitions of "Seamless Moves", "Instant Connect", "Contract Portability" and a process to move forward with a development of standards relating to customer switching of suppliers.

▶ OREGON

Re-entering the Retail Market - A shopping window for large commercial and industrial customers in Oregon to elect competitive retail supply service began on 9/1. If you are interested is considering your supply options, please contact your Constellation Business Development Manager.

▶ PENNSYLVANIA

PAPUC Issues Letter to Suppliers Regarding New Customer Switching Regulations - Last week, the Pennsylvania Public Utilities Commission (PAPUC) issued a Secretarial Letter reminding suppliers of their obligations under the new regulations for accelerated customer switching that are to be implemented by 12/15. Although Pennsylvania utilities have the most significant role under the new rules, the letter reminds suppliers of their obligations to ensure that a customer's requested switch occurs in a timely and effective manner. Specifically, when a customer contacts a utility to request a change of electric supply service, the newly selected supplier must notify the utility of the customer's supplier selection at the end of the 3-business day rescission period, or a future date specified by the customer.

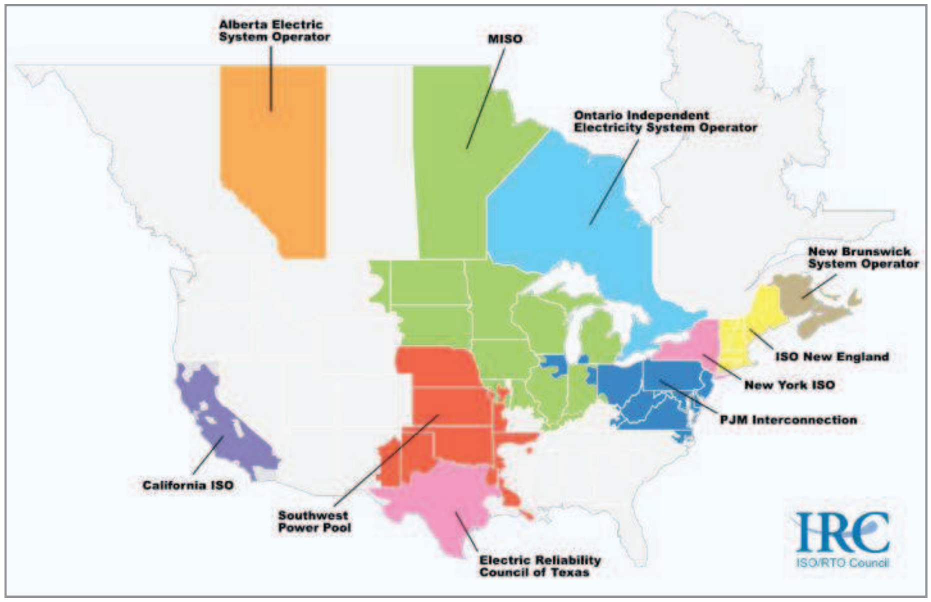
Upon customer consent, the selected EGS may notify the EDC by the end of the next business day following the customer contact. The purpose of the Secretarial letter is to make clear that, "A delay in the switching process is only acceptable if the customer requests and consents to a delay in the change of electric supply service."

PAPUC Approves Results of Default Service Auction - On 9/5, the PAPUC approved the winning bids in the final solicitation under PECO's second Default Service Program (DSP II). This solicitation procured full requirement Default Service tranches for the Residential, Small Commercial, and Medium Commercial classes. The supply period for the products starts on 12/1.

EPA "Coal Regulations" Hearing - The House Environmental Resources & Energy Committee has scheduled a hearing for 9/16, to hear from stakeholders on 111(d). Presenters are: the PA Coal Alliance, ARIPPA (tentative), EPGA, PennFuture, the PA Chamber, PJM, and the United Mine Workers of America.

Joint Petition of Partial Settlement Filed in PECO DSP Proceeding - On 8/28, a Joint Petition of settling parties, including PECO and the Retail Energy Supply Association (RESA), was filed with the Pennsylvania Public Utilities Commission in PECO's Default Service Plan (DSP) proceeding for the period of 6/1/15 through 5/31/17. The Partial Settlement largely keeps intact the procurement schedule originally proposed by PECO, but eliminates a long-term 53-month contract.

The primary issue reserved for litigation is related to RESA's position that would require PECO to: (1) acquire the costs of certain PJM non-market-based (NMB) charges for all load (which includes default service load served by wholesale default service suppliers and shopping load served by EGS); and, (2) recover the costs for these charges through a non-bypassable surcharge that would be paid by all distribution customers. While the Partial Settlement reserves for litigation how these NMB charges should be handled, PECO supports a position that would require the collection on a non-bypassable basis of certain NMB charges that were agreed to by FirstEnergy in its recently-concluded DSP proceeding. The Partial Settlement also includes some operational changes to PECO's Standard Offer (customer referral) Program, including a change to allow suppliers to participate on a per class basis, and a stakeholder process to address program improvements.



▶ TEXAS

Legislative Update - On 9/4, the Texas House State Affairs committee held an interim hearing and took routine testimony from ERCOT and the PUCT commissioners. The central message conveyed by all was there is currently sufficient capacity to meet anticipated short term needs and that the energy only market seems to be working fine.

FEDERAL REGULATORY

▶ FERC

FERC Order Accepting ISO-NE Winter Reliability Program - On 9/9, FERC accepted ISO-NE's 2014-2015 Winter Reliability Program. The Winter Reliability Program is a temporary, out-of-market solution intended to ensure that there are adequate fuel supplies. It creates incentives for dual-fuel resources by off-setting the carrying costs of unused firm fuel purchased by generators, and providing compensation for demand response.

Similar to the temporary Winter Reliability Program ISO-NE implemented last winter, this Program is expected to compensate primarily oil units this year for certain unused inventories, and does not compensate other firm-fueled resources such as nuclear. Concerns were raised over the out-of-market and discriminatory nature of the program as other resources - such as nuclear resources - provide the same degree of firmness as dual-fueled oil resources, but cannot earn any incremental payment. In its order, the Commission emphasized its preference for long-term, market-based solutions and requiring ISO-NE to satisfy a series of milestones, including initiating a stakeholder process in 30 days and submitting a progress report every 60 days for a year.

FERC Workshop on Uplift - On 9/8, FERC held the first in a series of technical workshops on price formation in the energy and ancillary services markets. The workshop focused specifically on the technical, operational, and market issues that give rise to uplift payments, the levels of transparency associated with uplift payments and possible means of minimizing uplift.

The workshop consisted of four panels: (1) the causes of uplift; (2) the impact of uplift on market participants; (3) price transparency and evolving market designs; and (4) broader price formation issues. Overall, the panelists emphasized that uplift causes inaccurate price formation and generally agreed that more accurate price formation will improve transparency and incent new and existing resource investments to support reliability. Uplift is caused primarily by mismatches between day-ahead dispatch and real time operations that result from operator interventions to ensure reliability; inflexible unit operating parameters; interchange uncertainty; thermal and voltage constraints; and fuel limitations.

While no one suggested that any reliability actions should be limited, there was general understanding that clearing prices need to better reflect the value of all such actions. Suggested solutions to reduce uplift included: convex hull pricing (or other pricing algorithm that would include more of the operational costs in market clearing prices); increased reserves or new reserves products; new products that value characteristics such as flexibility; improved real-time pricing; and operational improvements.

Commissioner Moeller expressed a sense of urgency to implement market changes that would minimize uplift before the winter of 2014-2015. The Chairman and Commission staff agreed that there is some urgency to reducing uplift, but prefer to continue working diligently to complete their analysis prior to acting. The Chairman emphasized that reliability is not optional; the issues raised are complicated and ultimately it will cost more to ensure reliability.

FERC intends to convene two additional technical workshops on price formation issues. The next workshop, to be held on 10/28, will focus on offer price mitigation and offer caps, as well as scarcity and shortage pricing in energy and ancillary services markets. Speaker nominations for this workshop are required by 9/23. The final workshop is likely to cover operator actions that impact prices. FERC has not announced the date of this workshop or confirmed the topic, nor has FERC announced its intentions for this initiative and it is difficult to predict, at this early stage in the process, what FERC will do going forward.

It is possible that the FERC will complete the remaining conferences, request comments from market participants on industry best practices to improve price formation, and issue a notice of proposed rulemaking on the best practices to implement changes by winter 2015-2016. While FERC continues this formal process, we anticipate that it will be receptive to region-specific market rule changes that will improve price formation in the energy and ancillary services markets in the near term.

FERC Approves ISO-NE Proposal that would Allow New Capacity Resources to Defer their Capacity Supply Obligation for One-Year - On 9/12, the FERC approved changes to the ISO-NE tariff that would allow a proposed new capacity resource that has already been accepted in a prior ISO-NE capacity auction to extend by one year the time in which it must complete its development and go into service. To qualify for the one year extension, the resource owner must first obtain a determination from ISO-NE that it is needed for reliability and then it must prove to the FERC that the deferral is critical to the resource's ability to achieve commercial operation and that the delay is due to factors beyond its reasonable control.

In approving ISO-NE's proposal, the FERC found that the potential termination of a resource that was not allowed the flexibility of an extension could result in inadequate capacity and threatened reliability in the region that could take years to resolve. We understand that Footprint Power, the developer of a plant in the northeast Massachusetts area has a capacity supply obligation that it is not likely to meet due to delays in obtaining certain permits. Footprint has already applied for and obtained a determination from ISO-NE that it is needed for reliability. We expect that Footprint will soon file at the FERC seeking approval of a one-year extension.

FERC Ruling on Transmission Complaint – Last week, FERC rejected a complaint filed by the Transmission Agency of Northern California (TANC) that asked FERC to direct Pacific Gas & Electric (PG&E) to continue to pay the California Department of Water Resources (CDWR) to maintain a remedial action scheme (RAS) that has provided system support at the California-Oregon Intertie (COI). TANC maintained that an operating agreement between TANC members and PG&E requires PG&E to maintain the services of the RAS, and that without it transfer capability at COI will be compromised. PG&E says that it is under no obligation to extend the RAS agreement, and that they were unable to reach any agreement with CDWR on an extension, and so the agreement will expire pursuant to its terms on 12/31/2014.

The CAISO has taken no position on the issues of whether PG&E has a contractual obligation to TANC, but has said that system reliability will not be compromised if the RAS is eliminated. However, the CAISO reports do suggest that there could be an increase in congestion that could lead to curtailments at COI, which could have significant impacts on intertie operations and the cost of power. FERC's ruling only addresses the contractual issue, and states that the existing contract does not require PG&E to extend and pay for the RAS. It remains to be seen whether there will be renewed efforts to reach agreement with CDWR to maintain the RAS.

PJM

PJM RPM Triennial Review - The PJM Board announced that it has directed PJM to move forward with filing a slightly-modified version of the PJM-sponsored RPM Triennial Review proposal. Key points:

- PJM will file increased Cost of New Entry values (although they will substitute lower IMM-proposed labor rates);
- PJM will file a reformed demand curve moving from a convex to a concave shape; and
- PJM will not file to institute a forward looking Energy & Ancillary Services offset, instead retaining the current historic offset.

PJM RPM/Capacity Performance Product - PJM completed scheduled Q&A sessions with members on its capacity performance proposal. PJM staff provided an overview of the proposal and embellished upon the responses to many of the questions posted to its rolling FAQ presentation. PJM emphasized that it is seeking input from stakeholder in comments that are due on 9/17, particularly on the applicable risk premium that eligible resources can include in their capacity offers as well as the potential application of a must-offer requirement for eligible resources.

While the topic of questions varied widely, many focused on distinguishing eligibility criteria for the Capacity Performance product from performance obligations for cleared Capacity Performance resources.

PJM Installed Reserve Margin (IRM) - PJM presented preliminary 2018 IRM results indicating no change from last year's 15.7% calculation. PJM's calculations used updated load shape and EFORd models and is a key component of establishing RPM capacity pricing. The PJM Board is expected to approve these inputs by January 2015 for incorporation into the 2015 Base Residual Auction Planning Parameters.

PJM Offer Caps - Stakeholder polling has commenced on three proposals to reform PJM's energy market offer caps. The reform effort stems from January gas price run-ups that resulted in generation costs in excess of the $1,000/MWh offer cap, which required PJM to seek a tariff waiver to lift the cap from FERC and litigation regarding generator costs incurred prior to the grant of the tariff waiver. PJM proposed uncapping cost-based offers, including the current 10% adder, and increasing market-based offers to the greater of cost or consistent with the Demand Response 30 minute offer caps ($1,849 as of 6/1/15). The Independent Market Monitor (IMM) proposed that cost-based offers be allowed above $1,000 MWh, if actual costs warrant, but without the 10% adder.

MISO

MISO Delays Implementation of ELMP - At a special meeting of the Market Subcommittee (MSC) on 9/10, MISO announced that it will be delaying the implementation of Extended LMP (ELMP). After asking for stakeholder feedback last week in light of the Independent Market Monitor's feedback on the parallel operations, MISO received responses 27-18 in favor of delaying.

MISO also stated that it thinks the delay is appropriate, as it believes that implementation of ELMP is being watched by other RTOs as a possible price formation solution, and would prefer to get it right. Changes to the ELMP algorithm will be discussed in the MSC with a possibility for special workshops. While MISO is hoping to have ELMP implemented by the end of the year, it said it is willing to take longer if necessary.

Responses Filed to Capacity Suppliers Motion for Expedited Action - Various answers were submitted in response to the Exelon, Dynegy, and NextEra (collectively, the "Installed Capacity Suppliers") 8/25 filing of a Motion for Expedited Action in which they: (1) requested that FERC issue an order on rehearing in this Resource Adequacy (RA) proceeding as soon as possible; and (2) provided supplemental information on the capacity situation in MISO, specifically the Organization of MISO States (OMS) Survey, showing that the need for an effective capacity market in MISO is even greater than when MISO filed its proposal in this proceeding in July 2011.

Ameren Services Company agreed that FERC should act expeditiously on this issue and require MISO to use a 3 to 5 year forward capacity procurement construct. There were seven responses in opposition filed by the Installed Capacity Suppliers, including the MISO Transmission Operators, OMS and MISO themselves. The overarching theme of the comments filed in opposition is that the Capacity Suppliers continue to overlook state jurisdiction over the planning process, that while there is a forecasted deficiency in the North and Central regions, it is offset by length in the South Region and that the results of the OMS survey are meant to provide increased transparency and the plans for future years have not been completed so the results cannot be utilized as a demonstration or admission of future resource deficiencies. MISO and OMS will be testifying at the FERC Open Meeting on 9/18 regarding the OMS Survey. Additionally there are ongoing discussions within the MISO stakeholder meetings regarding potential changes to the RA construct.

▶ NYISO

NYISO Study - NYISO hired consultant DNV GL to conduct a comprehensive review of Distributed Energy Resource (DER) technologies, technical potential and market drivers, regulatory and environmental policies, and treatment in other balancing authorities and utility regions. The intent of this study is to provide NYISO with a baseline for understanding what issues need to be more deeply assessed and studied to prepare the wholesale market for the integration of DER in New York.

The study defines DER as technologies that are behind the meter power generation and storage resources, typically located on an end-use customer's premises, and operated for the purpose of supplying all or a portion of the customer's load. Such resources may also be capable of injecting power into the transmission and/or distribution system, or into a non-utility network operating in parallel with the utility grid.

DER includes technologies such as solar photovoltaic, combined heat and power or cogen, microgrids, wind turbines, micro turbine backup generators and energy storage. DER resources became a focus of the NYISO dating back to the 2013 Sector Meetings when it came to light that there are roughly 800 MWs of these resources in the NYISO marketplace; however, there is no market product to allow them to participate at the wholesale level.

From this study, NYISO would like to get a better understanding of these resources and examine whether a new market product is needed or if DERs can participate through the current market structure. Several stakeholders made the point that NYISO should work with the NY Public Service Commission to ensure that work in the REV proceeding is complementary to whatever work NYISO intends to do from a wholesale perspective once this study is complete. The final study will be posted to the NYISO website once it is complete; no date was given for the completion of the study.

▶ ISO-NE

Forward Capacity Market – Peak Energy Rent (PER) - The PER adjustment rebates dollars back to load through a deduction to generators' and importers' capacity payments when real time LMPs exceed the PER strike price. In effect, the PER mechanism reduces capacity payments to supply resources when real time energy prices rise above the predefined PER strike price. The rebate is paid by resources regardless of which energy market they clear in or how much they are actually paid and has, at times, yielded inequitable results in certain situations such as when a resource clears in the day ahead energy market but must pay a PER rebate based on a much higher real-time price.

As part of its compliance with the FERC Order on ISO-NE's Capacity Penalty/Incentive mechanism, the ISO is required to raise the Reserve Constraint Penalty Factor's (RCPF) (shortage prices) for 30 minute reserves and 10 minute non-synchronized reserves to $1,000/MWh and $1,500/MWh respectively (currently these RCPF's are $500/MWh and $850/MWh). When these higher RCPF's become effective they will cause real-time LMPs to increase, which will result in increased PER adjustments and increase the number of PER events.

The Markets Committee failed to pass the change by a narrow margin. The ISO will bring the proposal to the senior Participants Committee for a vote this week. The merits of continuing the PER mechanism after the start date of ISONE's Capacity Penalty/Incentive mechanism (FCA 9, capacity auction run in February 2015 for implementation starting 6/1/18) is expected to be subject of a stakeholder process next year.

ERCOT

Greenhouse Gas Emissions (EPA 111 (d)) - Additional comments on the Public Utility Commission of Texas (PUCT) docket (42636) on greenhouse gas emissions were filed last week in response to the PUCT's initial workshop, two weeks ago. Many were supportive of the EPA and called for an additional workshop to discuss the cost of not complying with the EPA proposal. In addition, Ken Anderson, commissioner of the PUCT, continued his vocal attack on the plan by stating at a House Energy & Commerce Committee hearing that the state could be responsible for up to 25% of the nation's proposed reduction, while only producing 11% of the country's power.

Anderson and officials from three other states on the panel said EPA should delay the rule to give states more time to analyze the potential economic impact and respond adequately. Those representatives also told lawmakers the EPA needs to be responsive to the comments from each state. The officials from Arizona, Indiana, Montana and Texas said the rule, in its current form, is unworkable. ERCOT is currently studying the impact of the proposed rule on the system but won't be finished with a report until December, which is after the EPA's deadline for comment on the rules. Anderson said Texas would submit comments by the 10/16 deadline, but the full effect of the proposal would still be unknown. Representatives of two other states on the panel, Maryland and Washington, argued against delay.

Reliability Forecasts - ERCOT released two reliability forecasts, a final assessment for the fall and a preliminary outlook for the winter. The estimates, titled "Seasonal Assessment of Resource Adequacy" (SARA), look at weather patterns and new sources of electric generation. Both reports stated that the grid should have enough electricity to meet the state's biggest demands and avoid the threat of rolling blackouts.

The final fall forecast states that ERCOT will have more than 75,500 megawatts of generation available - 2,100 megawatts more than it had a year ago - while peak demand is expected to hover around 48,700 megawatts. In addition, ERCOT forecasts that autumn weather will be cooler than usual along with adequate rainfall. The preliminary winter forecast predicts sufficient generation, except under the most severe demand and outage scenarios. The final winter SARA, currently scheduled for release 10/31, will reflect a more near-term weather forecast and any other necessary updates.

SPP

Changes to Generator Offer Mitigation Rules - SPP's internal Market Monitoring Unit (MMU) continues to seek a middle ground with stakeholders on a change to market rules regarding generation offer mitigation. Currently, the SPP tariff states that resource offers are mitigated down to "short-run marginal costs" when a market participant fails a market power test. Stakeholders claim that the MMU defines "short-run marginal costs" as no more than immediate fuel costs, and this should be revised to include some variable operations and maintenance (VOM) costs. Like many other markets, SPP had issues in the spring regarding intra-day fuel cost volatility and these changes are meant to address that issue.

The MMU filed additional comments which suggest removing language that currently limits intra-day changes in fuel costs. While this change would allow resources to accurately reflect fuel costs, it opens up the ability of the MMU to lower mitigated offers when fuel costs fall. The MMU also suggested that resource owners contact the MMU directly when they anticipate failing the conduct test. The MMU stated that they will be available to approve intra-day mitigated offer increases to ensure that mitigation is not applied when it would result in resources clearing below their costs.

CAISO

NV Energy Participation in the Energy Imbalance Market - Nevada Energy (NV Energy), which received approval from the Public Utilities Commission of Nevada (PUCN) on 8/27 to join the Energy Imbalance Market (EIM) that is being operationalized by the CAISO and Pacificorp, has announced its first stakeholder meeting on 9/16 to begin the integration process. The CAISO/PAC EIM is expected to commence operations on 10/1; NV Energy will be the first regional entity to join the EIM market, and the integration is expected to be finalized by October 2015.

Other western entities, including those in Arizona and in the Pacific Northwest continue to evaluate the benefits of the EIM and are expected to decide whether they will join the EIM, form separate imbalance markets, or do nothing sometime in 2015.

DODD FRANK

Federal Bank Regulators Re-propose Bank Margin and Capital Rules for Bilateral Swaps - On 9/3, five federal bank regulators (Federal Reserve Board, the Farm Credit Administration, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, and the Office of the Comptroller of the Currency) issued a proposed rule to establish margin requirements for banks as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). The proposed rule would establish minimum requirements for the exchange of initial and variation margin between banks and their counterparties to non-cleared (bilateral) financially-settled transactions (swaps).

The proposed rule builds on the rule originally released by the bank regulators in April 2011. Of note, in a significant change from the 2011 proposal, the new proposed rule does not require banks to collect initial or variation margin from commercial end users, but rather leaves that decision to the bank, consistent with the bank's overall credit risk management. The proposed rule also expands the 2011 list of eligible collateral for initial margin to include not only cash, but also gold, certain government bonds, corporate bonds, and equities. Letters of credit are not included.

The proposed rule would only apply to transactions entered into after December 2015. There will be a 60-day comment period after the date of publication in the Federal Register. We expect the CFTC and SEC to follow suit soon with their respective re-proposed margin rules that would apply to the non-bank entitles registered with those respective Commissions.

COMPETE

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Contact Constellation

If you have any questions or inquiries, please contact your Business Development Manager directly or one of the numbers listed below.

Customer Care
888.635.0827

Government, Regulatory Affairs & Public Policy
David Fein
VP, State Government Affairs –East
Exelon Corporation
312-394-2116
david.fein@exeloncorp.com

General Questions or Request a Proposal

866.237.7693

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