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Explore Together

Decarbonization 2.0: What Stays, What Retires, Who Pays, and Who Decides?

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The Clean Power Plan Is Gone

- No state implementation plans required.
- CPP repeal pending (comment period ended in April)
- CPP may or may not be replaced
- The focus on decarbonization shifts to states, some of which had been promoting it all along

State Decarbonization Strategies - Generation

- Renewable Portfolio Standards
- Energy Efficiency Standards
- Storage
- Distributed Energy Resources

State Decarbonization Strategies - Customer Behavior

- Demand Response
- Energy Efficiency
- Demand Side Management
- Direct Access and Community Choice Aggregation

State Decarbonization Strategies - Financial

- Carbon Pricing
- Subsidies
- Alternative Ratemaking/Decoupling
- Green Pricing

Impacts on the Grid

- Distant renewables require large transmission and expensive investments.
- These costs create disputes over regional cost allocation.
- Steeper ramps
- Distributed Energy Resources
  - Avoid need for grid upgrades
  - Require greater transmission/distribution coordination

Economic Impacts of Decarbonization Programs

- Lower prices
- Low or no load growth
- Generator retirements and stranded costs
- Expensive transmission upgrades plus smaller loads equals ratepayer frustration and battles over cost allocation
- Cost shifting among customers

Who Has Jurisdiction Over These Programs?

- Traditionally, generation choice and retail service are the province of the states—the Federal Power Act says so
- Programs affecting supply and demand can affect FERC – jurisdictional markets
- FERC is asserting jurisdiction more aggressively and into more areas usually considered to be state – jurisdictional

Centralized Capacity Markets

- Markets were organized on the principles of efficiency
- State decarbonization programs value other attributes, such as low carbon emissions
- What happens if state decarbonization programs affect, or are alleged to have affected, market prices?

State Efforts to Control Generation Mix

- *Hughes v. Talen Energy Marketing, LLC*
- Requiring a “subsidized” unit to bid into markets crosses a line.
- The *Hughes* Court insisted that it did not authorize pre-emption of state programs “untethered to a generator’s wholesale market participation”
- What does that mean?

State Programs After Hughes

- *Allco Finance Ltd. v. Klee*
- Contracts for renewables
- Not conditioned on bidding into markets.
- 2nd Circuit upheld

State Programs After Hughes

- Zero Emission Credit programs (“ZEC”)
- New York, Illinois, with other states following
- Reward nuclear generation for zero emissions by paying it for zero emissions MWhs. Load Serving Entities (“LSEs”) required to pay for their share of ZECs
- Upheld in District Courts
- Pending at appellate levels

RTO Capacity Market Accommodation of State Decarbonization Programs

ISO – New England

Competitive Auctions with Sponsored Policy Resources ("CASPR")

- Two stage forward capacity auction
- First stage uses Minimum Offer Price Rule ("MOPR") mitigation
- Second stage allows existing resources to exit and sell capacity obligations to sponsored policy resources not clearing the first stage
- Pay existing resources to retire
- FERC accepted . . . sort of

ISO – New England

- Waiver application due to “Fuel Security Risks”
- Retirement of 2 Exelon natural gas plants
- Loss of Distrigas LNG Terminal
- FERC has not yet acted

PJM

- “Jump Ball” proposals
- Reprice “subsidized” offers after a resource clears at subsidized price to keep prices paid to all cleared resources “competitive”
- Reprice state-subsidized offers through MOPR
- No majority support, though PJM prefers first
- Meanwhile, generators filed a complaint demanding “clean” MOPR for all “subsidized” resources

New York ISO

- Carbon Pricing straw proposal
- The concept is to incorporate a carbon price into the market.
- NYISO would debit energy suppliers a carbon charge, which would be embedded into energy offers
- Still in discussion stage

Political Reaction

- DOE NOPR – RMR contracts in organized capacity markets for coal and nuclear plants; FERC rejected, but initiated separate proceeding
- FirstEnergy request for section 202(c) emergency order—no action yet
- DOE memo on Defense Production Act and section 202(c)
- President Trump directs DOE to "prepare immediate steps" to stop coal and nuclear retirements
- FERC would have to accommodate federally-imposed requirements in its markets

It Isn’t Just a Centralized Capacity Market Issue

Energy Markets – Similar Impacts

- Lower prices
- Low load growth
- Steeper ramps
- Increased price volatility
- Baseload plant retirements

California Examples

- Resource Adequacy program
- Increased generation retirements result in RMR contracts.
- Increased pressure for market rule changes
- Self-scheduling example
- Hampers regionalization
- Encourages efforts to avoid costs

FERC Is Asserting Jurisdiction over New Areas

Demand Response

- FERC Order 719
- Relevant Electric Retail Regulatory Authorities (“RERRA”) Opt-Out/Opt-in mechanism
- Order 745 – Energy market compensation
- Supreme Court affirms FERC can set the price of DR in its markets

Storage

- Order 841 requires market participation model for storage
- Rule applies to “electric storage resources located on the interstate transmission system, on a distribution system, or behind the meter”
- No RERRA opt-out/opt-in mechanism
- Resources must be “contractually permitted” to inject energy back into the grid
- Distribution utility must be able and willing to meter

Distributed Electric Resources

- A "source or sink of power that is located on the distribution system, any subsystem thereof, or behind a customer meter"
- Order 841 punts on DERs
- Rulemaking still pending, FERC in information-gathering mode.
- Concerns as to similar broad assertions
- Will there be a limited RERRA?

Energy Efficiency

- Advanced Energy Economy petition for declaratory order in response to PJM RERRA
- FERC asserts exclusive jurisdiction over participation of EERs in wholesale markets
- Order 719 does not require a RERRA “opt-out”—this exists only when and if FERC says so
- Broad, pre-emptive assertion of jurisdiction

Distribution Interconnections

- How far can FERC actually reach?
- Order 2006 – most generator interconnections to distribution are "likely state jurisdictional."
- So, where do EER and storage orders take us?
- Order 2006 test for "second interconnection"

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Non-FERC Jurisdictional Entities

- Federal Power Act sets limits.
- Sections 210, 211, 211a, and 212 expanded possibilities for FERC to order interconnection.
- Reciprocity applies in some cases.
- PURPA obligation
- State and local requirements
- Political pressure

What Should a Public Power Utility Do?

- Get involved at state level in development of decarbonization policies
- Generator interconnection procedures
- Provide the decarbonization services your customers want