October 10, 2017

ICYMI: DOE RESILIENCY PRICING NOPR – WHAT THE EXPERTS ARE SAYING

On September 28, 2017, U.S. Department of Energy Secretary (DOE) Rick Perry sent a Proposed Rule to the Federal Energy Regulatory Commission (FERC), calling for FERC to issue "Grid Resiliency Rules" pursuant to the Secretary's Authority under Section 403 of the Department of Energy Organization Act. This proposed rule is not supported by the facts or DOE's own Grid Reliability Study and if adopted, would dismantle competitive markets for electricity. Such an outcome would be extremely costly, discourage efficiency, and create perverse incentives for energy resources and technologies. Below is a collection of clips commenting on this proposed action.

- ***FUEL SUPPLY DISRUPTIONS ACCOUNT FOR ONLY 0.0007% OF ALL ELECTRIC DISTURBANCES***

  "Between 2012 and 2016, there were roughly 3.4 billion customer-hours impacted by major electricity disruptions. Of that, 2,815 hours, or 0.0007% of the total, was due to fuel supply problems. Interestingly, 2,333 of those customer hours were due to one event in Northern Minnesota in 2014. And it involved a coal-fired power plant."

  Trevor Houser, John Larsen and Peter Marsters of the Rhodium Group (From report: "The Real Electricity Reliability Crisis," October 3, 2017)

- ***THE PROSPOSED RULE IS NOT BASED ON SOUND ECONOMICS***

  "The proposal is incompatible with sound market economics. It actually promotes a gateway to expand cost-of-service regulation, where government substitutes for competition. Its definition of eligible units – those with a 90-day on-site fuel supply – is arbitrary and has no economic basis. Curiously, some coal plants wouldn't even qualify. Some hold roughly 30 days of on-site fuel supply; however, many hold 70- to 100-day supplies."

  Devin Hartman, Electricity Policy Manager, R Street Institute (From report: "DOE Proposal Misframes Grid Resiliency," October 1, 2017)

- ***THE PROPOSED RULE WOULD BE A BLOW TO CONSUMERS AND MARKETS***

  "This is an extremely important topic to delve into and it couldn't come at a more critical time, particularly given Energy Secretary Perry's ill-conceived and wholly unjustified effort to commandeer the Federal Energy Regulatory Commission's (FERC's) rulemaking process to provide unduly preferential and discriminatory rates to coal and nuclear generators. If adopted by FERC, it will certainly result in increased costs to consumers with no significant benefit and it will mark the beginning of the end of competitive electricity markets."

  "Secretary Perry's proposal represents an unprecedented attempt to usurp policy-making functions that belong to Congress and the states. His proposal is not about regulation and markets –which is what the Federal Power Act tasks FERC with—it's about subsidizing certain players in the electricity market at the expense of consumers and other generators who compete against the fuel types favored by the rule…. Worse still, this is a proposal that is not supported by the facts or even by the Secretary's own grid reliability report –and that's a view shared by many on both sides of the aisle. "

"I urge FERC to reject this proposal and hope that all my colleagues, on both sides of the aisle, will join me in helping move our policies forward toward a more resilient, reliable, and cost effective grid that benefits all consumer classes and the environment."

Statement of Energy and Commerce Ranking Member Frank Pallone, Jr. (D-NJ) (From Press Release on DOE Proposal at FERC, issued on October 5, 2017)

- ***THE PROPOSED RULE WOULD BE EXTREMELY COSTLY***

"It's gonna be as expensive as hell. Expensive as it can be because we will be paying the full freight on coal and nuclear plants."

Jon Wellinghoff, Former FERC Chairman (As reported in Utility Dive on October 2, 2017)

"The "lower bound" annual cost of $800 million ($6.6 billion net present value (NPV) at a 7% discount rate) assumes high natural gas prices, normal energy demand, and that units' fixed operations and maintenance costs are partially recovered in the market. The "upper bound" cost of $3.8 billion ($31 billion NPV) is based on an expectation of low gas prices and low energy demand with a minimum offer price rule for all regulated units.

ICF Analysis of Proposed Rule (As reported in RTO Insider on October 4, 2017)

"I think it is a dreadful policy proposal. [The proposal] appears to have immense cost implications for the market, for reliability and for customers."

Alison Silverstein, consultant who worked on the recent grid study for DOE (As reported in E&E on October 4, 2017)

- ***THE PROPOSAL IS ANTI-COMPETTIVE***

"The DOE proposed rule, to provide deregulated coal & nuclear plants with 'full recovery of costs,' will in our view not be implemented by FERC because it would bring an end to competitive power markets, is not clearly needed to ensure grid reliability & resiliency, and would be very expensive,"

Morgan Stanley Analysts (As reported in SNL on October 2, 2017)

"Effectively re-regulating a major portion of the currently de-regulated organized markets via a cost-of-service system would presumably render any existing discernable market pricing mechanisms irrelevant,"

J.P. Morgan Securities Analysts (As reported in SNL on October 2, 2017)

- ***THE PROPOSED RULE SETS AN UNREASONBLE TIMEFRAME***

A group of 14 energy trade associations/groups (including EPSA) asked FERC to establish a 90 day initial comment period and a 45 day reply comment period. A wide variety of other stakeholders have filed for similar extensions.

Additionally, all witnesses at the October 5, 2017 House Energy and Commerce Powering America Hearing took issue with the proposed rule on substance and process.

- ***THE PROPOSED RULE OVERLAPS WITH REFORM EFFORTS ALREADY UNDERWAY***

[DOE's interest] "in ensuring fuel security, resilience and proper pricing of reliability attributes aligns with the efforts underway between PJM and its stakeholders. Recent reforms, including PJM's capacity performance requirements ... offer confidence that market designs can evolve when needed to ensure secure fuel supplies and improvements to ensure generator availability."

PJM Interconnection (From PJM Inside the Lines on October 4, 2017)