Federal ruling on new capacity market rules threatens to complicate electricity planning and raise prices for Connecticut

On March 9, 2018, the Federal Energy Regulatory Commission (FERC) approved a proposal from ISO-New England, Inc. (ISO-NE) to revise the rules of the regional electric capacity market. Electric *capacity* markets are intended to compensate power plants and other resources for their availability to produce power, including during shortage periods, and are a supplement to the regional market for electric *energy*. The design of the electric capacity market is important to the financing of new power plants, the retention of existing power plants, and ultimately to customer electric bills. Our regional capacity market began operation in 2006.

In theory, ISO-NE and some other stakeholders would prefer that the development of new resources be driven solely by the capacity market rules and financed through expected market revenue. In practice, however, expectations of capacity market revenue have only driven the construction and financing of a small number of power plant units since 2006. The rest of our power plants either pre-existed before the capacity market or were built with a long-term contractual backstop. Numerous renewable energy and fossil fuel power plants have been built in Connecticut over the last decade and financed with confidence based on the expected revenue in a long-term contract. In the last few years, States across New England have been conducting procurement processes for new renewable energy plants based on long-term contracts.

Why have the states been procuring power plants under contract when the capacity market is in theory supposed to be helping achieve the goal of competitive resource selections? The problem lies in the fact that the capacity market is not designed, and really cannot be designed, in such a way as to achieve all of the complex goals that the various states have for their electric system. The states, to varying degrees, want the power system to be cleaner and supportive of aggressive renewable energy and emissions reduction goals, reliable in all weather and resilient enough to recover from storms, inclusive of a diverse set of resources to reduce fuel risks, supportive of new and in-state technologies, respectful of land use goals, avoiding unsightly developments, respectful of public health concerns, and of course, given all those other goals, as inexpensive as possible. The capacity market can only be designed to choose from a small set of those variables, and is for example used to decide which natural gas plant should be built and where. It does little else, and in OCC's view, probably can't be expected to do much else. Most power plant decisions are, again in OCC's view, inherently and inevitably policy decisions, or if you like, political decisions.

Now, because of the situation there is an increasing tension or conflict. As the States continue to add contracted-for resources (and there is presently a major effort by Massachusetts to attract both Canadian hydropower resources through new transmission lines and offshore wind plants) owners of existing generation, and potential developers of new fossil fuel generation, are concerned that the capacity market prices and revenues will be dampened by state-subsidized resources. To try to resolve what may be a fundamental tension, ISO-NE and others engaged in a conversation beginning in 2016 called the "Integrating Markets And Public Policy" or IMAPP talks among states, generation owners, traditional utilities like Eversource and United Illuminating, and others. It soon became clear that some had the goal of trying to make sure that the capacity market in particular would contain the elements necessary to *accommodate* the entry of state-sponsored resources, while others had the more ambitious, and OCC would say profoundly unrealistic and well nigh impossible, goal of insisting on the development of market rules that would *achieve* the multiple state goals noted above.

Ultimately, ISO-NE developed, with input from stakeholders, a compromise proposal, dubbed Competitive Auctions with Sponsored Policy Resources or ("CASPR"), that is designed to accommodate state-sponsored resources. CASPR is a complex proposal whereby a second annual capacity auction would be held, with state-sponsored policy resources being matched with resources that would like to retire, with the latter potentially receiving sizable severance payments. The proposal received mixed reviews from stakeholders, and Connecticut's three involved agencies (OCC, the Public Utilities Regulatory Authority, and the Department of Energy and Environmental Protection) were all opposed. Among the problems we had with the proposal was the fact that it removed a prior (and relatively recent) compromise that allowed 200 megawatts a year of renewable energy to enter into the regional capacity market unimpeded. We also had concerns that the severance payments, potential opportunities for market manipulation, and the complicated design of the new rules will end up raising overall capacity market prices, without adequate identification of a real and potent existing problem with the current situation that was being solved through CASPR.

In its March 9 ruling, FERC approved ISO-NE's filing without change, although there were interesting comments filed in concurrence and dissent. These comments revolve around what has been perhaps the central debate of our times in this field, that is, limits of, and split between, state and federal jurisdiction over electric resource adequacy and power plant development. The Federal Power Act left substantial power to the states to shape the power generation mix, as Commissioner Glick's statement duly notes, but numerous groups, and some FERC decisions, have sought to limit those powers, particularly in areas where a regional transmission organization (like ISO-NE) exist, and in areas where the states like Connecticut that chose to restructure electricity by having their traditional utilities divest their power plants. Many confident pronouncements are made by these FERC Commissioners and others about the profound benefits of markets and regional transmission organizations, but it remains true that some of the cheapest and most reliable power in the country is available in the deep South and the Northwest of the country, which have never developed organized regional markets. There are admittedly a variety of reasons for this, but if organized electricity markets are as essential as claimed, why are the areas lacking them thriving, and not suffering? Be that as it may, it is now up to Connecticut how it wants to navigate going forward. OCC maintains that Connecticut should continue to fight for state jurisdiction over our energy future, and accept the responsibility for assuring resource adequacy. In truth, the responsibility for mapping out our electricity future never really shifted, as a mountain of electric legislation passed by the Connecticut General Assembly over the last fifteen years has demonstrated.

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