



Memorandum

To: ISO Governance/ADR Committee
From: Terri Moreland, Director of Federal Affairs
cc: ISO Board of Governors, ISO Officers
Date: October 12, 2005
Re: *Monthly Report of Federal Legislative Matters*

This is a status report. No Board action is required.

EXECUTIVE SUMMARY

Legislation:

Post-Hurricane Energy Legislation: On October 7 -- barely two months after passage of major national energy policy legislation -- the House of Representatives will hold a floor debate on a second energy policy bill. The measure, H.R. 3983 ("Gasoline for America's Security Act"), drafted by House Energy and Commerce Committee Chairman Joe Barton (R-TX), focuses largely on expanding refinery capacity and addressing soaring transportation and heating fuel costs in the aftermath of this summer's hurricane disasters. The bill also includes a controversial provision from the Administration's stalled "Clear Skies" initiative codifying exemptions for electricity generators, refineries and compressor stations from New Source Review environmental requirements when making certain types of plant repairs or modifications. This provision is unlikely to pass in the Senate.

The House bill also includes language establishing FERC as lead agency for siting crude and petroleum product pipelines (with review of FERC decisions under the exclusive jurisdiction of the D.C. Circuit Court) and a provision on "Critical Energy Assurance" that would enable the Department of Energy to give direct support to private sector entities that operate critical energy infrastructure, including emergency preparation and recovery assistance, power restoration assistance, and transportation and housing for critical employees.

In the Senate, Energy and Natural Resources Committee Chairman Pete Domenici (R-NM) will hold a hearing on October 6 to review the impacts of the hurricanes on the nation's energy infrastructure and to discuss industry recommendations on federal assistance for affected entities. The Senate is expected to move at a slower pace than the House in putting together its bill. However, both Houses are anxious to pass legislation addressing consumer concerns about energy costs and fuel availability in advance of the 2006 election cycle.

National Energy Policy Act Implementation:

FERC to Convene Regional Boards on Economic Dispatch: On September 30, FERC approved a framework for convening four boards to study the use of security-constrained economic dispatch on a regional basis. The FERC Order was responsive to a mandate contained in the National Energy Policy Act of 2005. A FERC commissioner will chair each regional board. Commissioner Suedeen Kelly will chair the Western board (made up of representatives from California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming). Chairman Joseph Kelliher will chair the Southern board, and Commissioner Nora Mead Brownell will chair both the Northeast and PJM/Midwest ISO boards. Initial meetings will be held in November. States must designate their representatives by October 14, 2005. Canadian provinces and Mexican states have been invited to participate in the meetings as observers.

Each board will study "what constitutes security-constrained economic dispatch" and address relevant benefits, issues and obstacles -- including cost recovery, transmission constraints, pricing and inter-regional bidding. The Act directs FERC to report the recommendations of the regional boards to Congress by August 7, 2006.

The September 30 FERC Order also notes that FERC will consider the results of the Department of Energy's congressionally-mandated report on economic dispatch, to be issued by November 7, 2005. The California ISO provided comments in response to DOE's request for stakeholder input and also worked cooperatively with other North American ISOs and RTOs on a joint response.

Other federal implementation activities of interest to the California ISO include:

- FERC Notice of Proposed Rule on electric reliability provisions – Issued 9/01/05; comments due 10/07/05: The California ISO will provide comments and will also submit joint comments with other North American ISOs and RTOs. FERC is required to issue final rules implementing reliability provisions within 180 days of the August 8, 2005 enactment date.
- FERC Notice of Inquiry on open access transmission by non-regulated utilities – Issued 9/16/05; comments due 11/22/05.
- FERC Notice of Proposed Rule on implementation of Public Utility Holding Company Act repeal – Issued 09/16/05; comments due 10/14/05.
- FERC hearing on Locational Installed Capacity Proposal (LICAP) – 9/20/05. New England officials presented oral arguments against the LICAP plan and recommended conceptual alternatives. The Commission has urged the parties to initiate settlement discussions.
- Department of Energy/Department of Interior Notice of Intent to Prepare Programmatic Environmental Impact Statement on energy corridors on federal lands – Issued 9/28/05; public scoping through 11/28/05.

- FERC Notice of Proposed Rule on utility merger reform – Issued 10/03/05; comments due 30 days after publication in the *Federal Register*.

Within the next six months, FERC is required to take several additional actions of interest to the ISO:

- FERC must issue a report on investigation of unreasonable charges during the California electricity crisis and payment of refunds. The report must include information on actions taken and timetables for further action.
- FERC and DOE must report to Congress on transmission system monitoring that will make available real-time information on the functional status of all transmission lines in the Eastern and Western interconnects.
- FERC and the Commodity Futures Trading Commission must enter into a Memorandum of Understanding on information sharing under the gas and electric market transparency provisions of H.R. 6.