REGULATORY AND POLICY UPDATE

Quarter 3, 2020

This brief update is designed to share with S&C's clients where we see important government-related drivers for change in electricity distribution. This is not meant to be a complete list of all legislative and regulatory changes in the energy sector, but a place to highlight those moves S&C believes are most interesting in terms of tracking trends. Any newly introduced legislation referenced below is legislation S&C believes is likely to pass.

UNITED STATES

COVID-19 Impact on the Energy Industry

Summer energy demand continued to be below the average for the time of year but picked up significantly since spring. In the U.S., the Department of Energy (DOE) predicts overall energy consumption will decrease by 2.4% in 2020 and that 2021 consumption may be similar. The department predicts commercial and industrial use will be down by approximately 6% but expects residential energy consumption to increase by 3.5%. Similar patterns are seen across a number of other countries.

Recent major storms also prompted line crews to follow precautionary measures during restoration procedures, illustrating COVID-19's continued impact on operations.

Electric vehicles (EVs)

- California lawmakers recently passed two bills that will accelerate the state's electrification of transportation. AB841 (passed by both houses and expected to be signed into law) streamlines the process for evaluating utility transportation-electrification infrastructure programs, fast-tracks the California Public Utilities Commission's approval for two pending utility program applications, and allocates $1 billion on green infrastructure for schools, including charging infrastructure for electric school buses. California Gov. Gavin Newsom also signed SB115 into law. It allocates $51 million for the Alternative and Renewable Fuel and Vehicle Technology Fund, which helps fund the California Electric Vehicle Infrastructure Project.
- Colorado Gov. Jared Polis signed into law HB1155, which requires single-family home builders to offer to install or prewire homes for EV charging. The home buyer would pay for the installation if accepting the offer.
- The Illinois Commerce Commission opened a notice of inquiry to investigate rate design related to transportation electrification and the beneficial impacts on electric service affordability.
- Indianapolis Power and Light parent company AES is launching an EV-subscription service in the greater Indianapolis area.
- New Jersey has enacted a law (S349) requiring developers to install an EV-charging station at certain new residential construction sites when a prospective owner chooses it. The developers must make prospective owners aware of the cost savings of EV ownership as well as any applicable rebates.
- New York approved the biggest EV-charging infrastructure program outside of California. The "Make Ready" program includes $701 million in incentives to facilitate installation of charging equipment and potentially stimulating millions of dollars in additional private investment.
- A Minnesota agency will fund the installation of 38 EV fast-charging stations to help build out the state's charging network.
- Vermont is enacting H0942, which allows for the use of federal COVID-19 funding for federally eligible projects with priority given to electric transit buses, grant programs for EV-charging infrastructure, and the state's partnership with Drive Electric Vermont.

Federal—The DOE is implementing President Trump's executive order on securing the bulk-power system and has issued a request for information to better understand the types of equipment that could be affected and how shutting down equipment supply from "foreign adversaries" could affect suppliers and utilities. The order only affects equipment operating at 69 kV and above and is generally focused on equipment with computerized controls. Once the DOE has completed its review, the department will create rules around sourcing and likely create a white list of approved products.

The Federal Energy Regulatory Commission (FERC) approved Order 2222 in September, opening wholesale energy markets to distributed energy resources (DERs), such as small-scale solar units and battery storage systems. FERC Commissioner Neil Chatterjee says the U.S. could see as much as 65 GW of DER capacity come online in the next four years and that "by relying on simple market principles and unleashing the power of innovation, this order will allow us to build a smarter, more dynamic grid that can help America keep pace with our ever-evolving energy demands." Order 2222 comes on the heels of a judicial ruling upholding FERC Order 841, granting similar access to wholesale markets for energy storage.

California—California has been dealing with blackouts caused by peak energy demand outstripping supply and strategic de-energization of lines to mitigate additional wildfire risk. The peak energy demand issue seems to stem from a combination of the state recording some of the hottest temperatures on record this summer and a transition away from fossil fuels.

While solar power creates energy when power-hungry air conditioners need it most, the shutting down of some fossil and nuclear plants meant the state had fewer additional resources to tap into to address the unprecedented demand. In response, Gov. Newsom signed an executive order to temporarily lift pollution controls on power plants in the evening, when the supply of electricity is tightest.

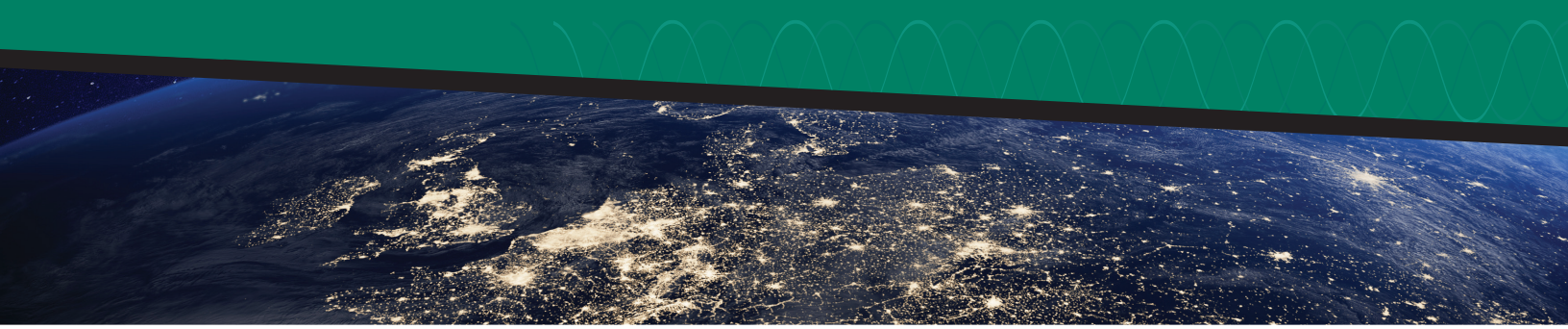
Illinois—Gov. J.B. Pritzker restarted "working group" discussions with the goal of passing strong clean-energy legislation, possibly in the fall veto session. The working group includes consumer advocates, renewable power producers, environmental advocates, the utility industry, and other stakeholders. The legislation developed through this working group will likely be formative for energy policy in the state and operational parameters for electric utilities.

Louisiana—Gov. John Bel Adams signed an executive order in August setting a state goal of net zero greenhouse gas emissions by 2050, drawing swift praise from environmental groups. The order creates a climate initiatives task force that will include members from state government, business, environmental justice, Indian tribes, academics, and other areas. A separate order established the position of a state resilience officer and directed all state agencies to work with that person toward protecting and restoring Louisiana's vanishing coast.

Maine—There is a growing movement for the state to purchase the transmission and distribution infrastructure owned by Central Maine Power and Versant Power (formerly Emera) and create the Maine Power Delivery Authority, a nonprofit that would operate it and be directly accountable to the public. A bill (L.D. 1646) passed out of committee. It calls for a task force to develop a business plan and a risk-reward analysis and answer essential operational questions. These questions include addressing how much it would cost to upgrade Maine's aging grid and how a project like this might be financed. The task force will also consider a scenario in which one of the state's large private utilities would go up for sale on its own, and the state's existing consumer-owned utilities would pool their resources to purchase it.

Michigan—A recent Michigan Public Service Commission review of distribution-system planning processes determined utilities should align their distribution plans and integrated resource plan filings. To make that happen, the commission is extending the submission dates for the next round of planning documents. Draft versions of distribution investment and maintenance plans are due to the commission on August 1, 2021, with final versions of those plans due September 30, 2021.

Vermont—The Vermont legislature passed a bill that sets strict greenhouse-gas reduction goals up to 2050 and allows Vermonters to sue the state if those goals are not met. The bill sets up a climate board that will create policies on how to reduce emissions. Under the legislation, the state must develop a plan to reduce greenhouse-gas pollution to 26% below 2005 levels by 2025. Emissions must be 40% below 1990 levels by 2030 and 80% below by 2050. Governor Phil Scott vetoed the bill, but the Vermont House of Representatives overrode his veto in September and made the bill law.



UNITED KINGDOM

RIIO-2 draft determinations—British energy regulator Ofgem has published its first draft determinations under its RIIO-2 performance-based price controls (rate-case arrangements) for the electricity transmission and gas transmission and distribution sectors. These price controls determine the allowed revenue network utilities can recover from customers from 2021 to 2026, the associated performance the companies are required to deliver, and financial performance incentives. There is a strong focus on upgrading network infrastructure as part of plans to build back the economy affected by COVID-19 and supporting the transition to Net Zero. Ofgem is proposing to allow £5.9 billion (US$7.3 billion) of expenditure by the three electricity transmission asset owners over the RIIO-2 period but has cut its proposed expenditure by 43% on average.

RIIO-2 sector methodology consultation for electricity distribution—Ofgem published a consultation on the methodology it will use to set revenues for the electricity distribution sector for the period 2023-2028. Ofgem highlighted the importance of maintaining and improving world-class reliability and is proposing to retain its interruption incentive scheme. It also is proposing new measures to monitor momentaries and a minimum performance standard for momentaries to ensure poor performance is addressed. The achievement of Net Zero carbon-emissions targets dominates most aspects of the proposals, including a new Strategic Innovation Fund targeted at this and new uncertainty mechanisms to allow investment in the management of the electrification of transport and the connection of large volumes of DERs.

AUSTRALIA

Regulator publishes update of market performance—In July, the Australian Energy Regulator (AER) published its annual update on the energy market. Its State of the Market 2020 report provided an overview of key developments for the wholesale and retail markets and for the regulated networks.

The report highlighted that investment in distribution grids increased for the third consecutive year and was 9% higher in 2019. The majority of the investment was for replacement and refurbishment of assets. The report also highlighted that the frequency of unplanned interruptions was 35% lower in 2019 than in 2009 but that the duration of interruptions was more variable, often reflecting severe weather events.

For the first time, the report also included a dedicated chapter on the energy transition. The overview highlighted a number of key developments, including the changing generation mix, technological advancements, and the role of key policy initiatives from the Australian government but also from state and territory governments. It highlighted the many economic and environmental benefits for Australians but also the challenges of keeping the power system reliable and secure as the transition takes place.

Change to regulatory timetable in Victoria—In August, the AER published an indicative position on how it will calculate revenues and price caps for the five distribution network service providers for a six-month extension period from January to July 2021. The publication follows a Victorian Minister for Energy, Environment, and Climate Change announcement in 2019 that Victoria gas and electricity price changes should operate on a financial year basis instead of one based on a calendar year.

The change, which will bring Victoria into alignment with other states in the national electricity market, will mean the start of the next regulatory period for the five distribution network service providers will be delayed to July 1, 2021.

S&C ELECTRIC COMPANY

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