



REGULATORY AND POLICY UPDATE

QUARTER 1 | 2022

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.

THIS QUARTER'S REGULATORY TREND: VEHICLE ELECTRIFICATION

A massive effort is underway across a wide variety of states to accelerate the adoption of electric vehicles (EVs). The policy and regulatory actions we are seeing are focused on:

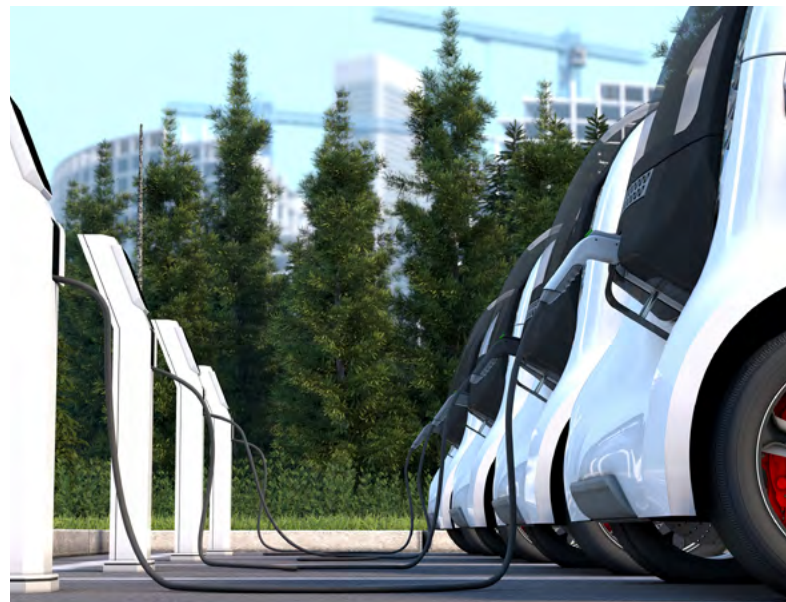
- **Regulatory status** – Creating clarity around acceptable ownership models and responsibilities when it comes to EV-charging infrastructure, and preventing local governments or communities from implementing rules that would hinder EV proliferation
- **Government action** – Directing state agencies to develop plans to support EVs
- **Government support** – Grant programs to offset the cost of EV infrastructure deployment

U.S. states with active EV policy/regulatory activity include but aren't limited to Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Maryland, Massachusetts, New York, Utah, Virginia, Washington, and Wisconsin.

U.S.

Federal – During his State of the Union speech, President Biden discussed plans for a 500,000-charger national network supported by the federal government.

The U.S. Energy Information Administration released its updated [Annual Energy Outlook](#), which predicts the share of U.S. power generation from renewables will increase from 21% in 2021 to 44% in 2050. This increase in renewable energy will mainly consist of new wind and solar power. Meanwhile, the outlook anticipates the total share of U.S. fossil fuel-fired power generation will decrease from 60% to 44% as a result of the continued retirement of coal generators and slow growth in natural gas-fired generation.



Nine U.S. electric utilities submitted briefs urging the U.S. Supreme Court to reject a plan for the Environmental Protection Agency (EPA) to regulate greenhouse gas emissions from power plants on a fleetwide basis. The utilities contend the Clean Air Act requires the EPA to regulate generating facilities by setting emissions standards individual power plants can meet. They want the Supreme Court to disallow a fleetwide approach. The court is expected to issue a ruling in June 2022.

Arkansas – Last year, the state's Public Service Commission opened a docket investigating utilities' preparation, response, operational performance, and communication regarding the winter weather events in February 2021. The investigation is to ensure utilities are doing all they can to make sure their systems are resilient, services are safe and reliable, and customers do not experience preventable loss of power or are responsible for bearing exorbitant utility costs. In February, Arkansas electric cooperatives submitted their reports on this topic.

California – In February, the California Public Utilities Commission approved long-term plans targeted at ensuring electric system reliability, requiring the development of more renewable energy and storage resources. The commission adopted a 2032 greenhouse gas emissions target of 35 million metric tons for the state’s electric sector, marking an almost 25% cut to the previous 46 million-metric-ton target.

Illinois – The Illinois Commerce Commission opened a docket to solidify performance metrics for Commonwealth Edison and Ameren, as mandated by the Climate and Equitable Jobs Act. The proposed metrics include System Average Interruption Duration Index, Customers Exceeding Minimum Service Levels, System Visibility Index, Load Reduction Capability, Arrearages, Interconnection Timeliness, First Contact Resolution, and Percentage of Spend with Diversity-Certified Suppliers. The commission also began a series of stakeholder-engagement workshops around the multiyear rate plans, as directed in the act.

Maine – Maine’s legislature introduced a bill directing the state’s Public Utilities Commission to establish minimum requirements for transmission and distribution utilities related to quantitative planning and operational standards. These include reliability of service, timeliness and responsiveness to customers, frequency of customer complaints, bill accuracy, responsiveness to interconnection requests, and timeliness of restoring service after storms. For failing to meet a standard, the commission may impose administrative penalties of up to \$1 million, or 10% of a utility’s annual gross revenue, whichever is lower. It remains to be seen how much traction the bill will receive, but it shows Maine lawmakers are interested in performance-based regulation as a concept.

Puerto Rico – Years after significant damage from Hurricane Maria, dozens of grid-modernization projects are scheduled to start this year, financed by federal relief dollars. In addition, more than \$1.9 billion will be used to improve the island’s power system, including the creation of small and large microgrids with the aim of helping lower-income households. More than 130 projects soon will be in the bidding phase or under construction, including repairs to substations.

Texas – The Texas Public Utilities Commission directed all electric utilities, transmission operators, and power generators in Texas to file Emergency Operations Plans by April 15, 2022, including strategies for improved communications, robust supply chains, cold-weather events, and cyberattacks. The commission will hold a workshop to assist utilities with their initial plans. In the future, these plans will be due annually on March 15.

AUSTRALIA

Distribution utilities shine a spotlight on resilience – In February, six distribution network service providers (DNSPs) across New South Wales, the Australian Capital Territory, Tasmania, and Northern Territory published a [collaboration paper](#) on network resilience. The aim of the paper was to seek views on how best to support communities in tackling the resilience challenges the networks were likely to face over the next 10 years.

The paper highlights that, while Australian DNSPs have improved their System Average Interruption Duration Index performance, there is an increasing trend in the number and scale of major event days that are excluded from reported reliability performance. The paper was particularly geared to seeking ideas in advance of the timetable for developing plans for the next regulatory control period, which will determine revenues for all six DNSPs from 2024-2029. The DNSPs will use the feedback to help inform their approach to the next regulatory period and beyond.

Western Power publishes five-year investment plans – On February 1, Western Power, which owns and operates the distribution grid for Western Australia, released its [application for investment](#) required to deliver services to customers over the next five years.

A number of themes are driving Western Power’s proposed investment, including maintaining overall network reliability but improving underperforming hotspots, modernizing protection, ensuring control and visibility of network operation and performance, and supporting more renewable connections. Overall, its proposals would result in a reduction of company revenues, but at the same time distribution capital expenditure is expected to rise by 34%.

The Economic Regulation Authority will now review Western Power’s proposals, which will be subject to public consultation. A final decision is due in March 2023.



NEW ZEALAND

Regulator launches review to ensure regulation is ‘fit for purpose’ – New Zealand’s competition, consumer, and regulatory agency – the Commerce Commission – has published a [notice of intention](#) of its plans to review both how key regulatory parameters, the “Input Methodologies,” are set and the information-disclosure requirements of the Electricity Distribution Businesses.

The present review is taking place in the context of significant changes to the energy sector, including the impact of climate change and the transition to a low-carbon economy. Feedback from stakeholders has highlighted that this requires a regulatory framework that is more forward-looking, provides greater flexibility to address enduring uncertainty, and creates more scope for innovation. At the same time, the commission has indicated the review of the information-disclosure requirements will focus on a series of themes, including measures of quality, decarbonization, and asset management.

CANADA

Ontario: Increased focus on innovation – In January, the Ontario Energy Board published details of changes it is introducing to its [Innovation Sandbox](#). Originally launched in 2019, the sandbox was designed to provide support to test new ideas, products, services, and business models that provide value to consumers and the grid in the electricity and natural gas sectors.

Among the changes being introduced are methods to increase Innovation Sandbox awareness and transparency and plans to explore partnerships with provincial and federal governments on the provision of dedicated funding for Sandbox projects. Overall, the increased focus on innovation is aimed at helping to relieve existing barriers that may be preventing the rollout of new products or services in Ontario.

GREAT BRITAIN

Ofgem RIIO-ED2 Open Hearings – British energy regulator Ofgem recently held open hearings with each of the electricity distribution companies for their RIIO-ED2 rate-case filings. These focused on two main topics: preparing the networks to meet Net Zero goals at the lowest cost to customers and delivering world class services while ensuring nobody is left behind.

Ofgem and other stakeholders questioned the utilities on a range of areas, including their approaches to facilitating the decarbonization of transport and heat; how they were targeting improvements in reliability, including both momentaries and longer-duration interruptions; and additional plans to target resilience following major storms that occurred in the UK between November 2021 and February 2022.

The discussions stressed the importance of balancing resilience, reliability, and decarbonization outcomes with affordability, given recent developments in the UK and international energy and commodity markets. Ofgem and the distribution companies are looking to make rate regulation more flexible to address the uncertainty around high levels of investment needed for decarbonization and to ensure the right investment takes place at the right time and in the right place.

The distribution companies are to undertake new roles as distribution system operators, serving as market facilitators and making use of new options such as the use of non-wires alternatives to manage the grid. Ofgem is considering the appropriate governance rules, roles, and responsibilities for this.



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