



REGULATORY AND POLICY UPDATE

QUARTER 2 | 2022

This brief update is designed to share with S&C's clients. It describes 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 TREND: INCREASED FOCUS ON RESILIENCE

Both government and regulatory initiatives in recent years increasingly have featured energy system resilience. This reflects a number of factors but notably the impact of climate change, the challenges and opportunities presented by the energy transition, and often the need to replace aging infrastructure. This theme can be clearly seen this quarter in a range of federal and state measures designed to either support investment in initiatives to bolster resilience, or to protect end-customers from the impacts of resilience challenges.

This trend is not restricted to the United States. Similar themes are occurring in other jurisdictions. In Australia, Great Britain, and Ontario, Canada, regulators recently published documentation on resilience treatment within their respective regulatory frameworks.

UNITED STATES

Federal – The Department of Energy (DoE) provided further details on a [range of funding programs](#) that will be available over the next five years under the Infrastructure Investment and Jobs Act. It released a number of requests for information to seek input on several of these programs. Among these, it is seeking views on the structure of a \$2.3 billion grant (approximately \$459 million per year) to be allocated to states, territories, and tribes to strengthen and modernize the U.S. power grid. Ultimately, the information will be used to help develop a formula to determine grant awards. This is in addition to further funding the DoE will issue directly through a competitive program, a separate package on grid-reliability and resilience research, and another focused on technologies to enhance grid flexibility. More details on these programs are expected later in the summer.



In May, the Federal Energy Regulatory Commission (FERC) published an assessment of the challenges facing utilities and grid operators in responding to extreme weather events and the growing threat of power outages. The 2022 Summer Assessment suggested extreme heat and other weather events mean all regions may face energy shortfalls, but the conditions presented a particular risk this year to the grid in parts of the West, Midwest, and Texas.

FERC also announced proposals aimed at hastening development of high-voltage power lines. Among the proposals would be to require utilities to consider the impact of extreme weather events and changes in the mix of energy resources on infrastructure requirements. Transmission developers would be required to assess future infrastructure requirements over a minimum 20-year time frame and to consider tools to increase power flow efficiency. Final proposals are expected by the end of 2022.

California – In May, the California Independent System Operator reported a new record had been set when renewable energy served 99.87% of momentary demand. Although lasting for a short period, the record represents the continuation of a trend in the state where renewables are becoming a larger part of the generation mix. California now generates more than 15,000 MW of solar and approximately 8,000 MW of wind power. Storage has grown to approximately 4,000 MW, with further projects planned.

Colorado – House Bill 1249 requires the Colorado Energy Office to develop a grid-resilience and reliability roadmap by January 1, 2025. It also requires publishing a roadmap draft by January 1, 2024, to allow public comment. A key bill component is a focus on the role of microgrids in helping serve communities' electricity needs independent of the grid. The Colorado Energy Office, Department of Local Affairs, and Resiliency Office will be required to review and update the roadmap at least every five years. The bill has passed both houses and is awaiting final signature.

Connecticut – The Senate and House of Representatives passed House Bill 5327, which concerns the use of energy storage systems. It enables an electricity distribution company to seek preauthorization for building an energy storage system by first demonstrating the value to the customer and that such a system would increase the resilience of critical infrastructure. It also requires electricity distribution utilities, along with the Division of Emergency Management and Homeland Security, to make plans to maintain reliability backup power for critical infrastructure.

Illinois – A federal energy laboratory, the DoE's Argonne National Laboratory, has launched a study to predict how future weather threats are likely to affect Commonwealth Edison's network. The study is part of a wider three-year project being led by the Electric Power Research Institute (EPRI) to look at potential future weather impacts on U.S. utilities.

Maine – Following a series of amendments, a bill was signed into law on May 2 that directs the Public Utilities Commission to establish and report on minimum requirements for both transmission and distribution utilities with respect to planning and operational standards. These include reliability of service and arrangements that enable a transition to renewable energy. Among its provisions, Legislative Document 1959 makes provisions for the commission to impose administrative penalties for failure to comply with

the standards. The provisions also require that no later than December 31, 2023, and every three years thereafter, a utility must submit a 10-year plan for addressing the impact of climate change on its assets.

Michigan – A package of bills was raised that, if passed, would increase the financial support provided to customers during power outages. Among the proposals, House Bill 6045 would provide credits to customers based on the number of outages experienced. The proposals would give customers \$100 if they experienced four or more interruptions of more than an hour within a 12-month period, rising to \$200 for more than four outages. At the same time, House Bill 6047 would require the commission to conduct reviews of distribution grid plans and would allow advocates to intervene.

New York – The House introduced a bill proposing the establishment of a Smart Grid Advisory Council. Titled the "New York Grid Modernization Act," House Bill A00535 would require the council to report to the Public Service Commission on the feasibility of establishing a statewide smart grid. Further, the commission, in consultation with the council and other relevant stakeholders, would be required to approve an order no later than two years after the bill's implementation for a 10-year grid-modernization program to be undertaken by both transmission and distribution companies.

GLOBAL

Initiative focuses on climate resilience – The Electric Power Research Institute (EPRI) announced a three-year resilience and adaptation initiative, Climate READi™. The initiative aims to bring together thought leaders and industry stakeholders to develop a common framework to address challenges posed by extreme weather events.

Among the 13 founding members are Alliant Energy, Ameren, American Electric Power, Consolidated Edison Co., Exelon, New York Power Authority, Pacific Gas & Electric, Portland General Electric, Puget Sound Energy, Southern California Edison, Southern Company, WEC Energy Group, and National Grid PLC. The latter is the first international company to join the initiative.

[Climate READi](#) has been identified as being particularly important at a time when grid reliability and resilience will be essential to supporting a greater focus on decarbonization and increased electrification.



AUSTRALIA

Regulator publishes guidance on network resilience –

To support ongoing discussions on resilience, the Australian Energy Regulator (AER) published a short [guidance note](#) on network resilience and its treatment under the regulatory framework. Among the issues highlighted were:

- The importance of achieving a balance between ex-ante and ex-post funding to address investment challenges
- The potential to consider incentives for the impact of major events
- The importance of high-quality consumer engagement in ensuring service levels meet customers' needs

The issues outlined in the note will be relevant to distribution network service providers in lodging future revenue proposals and for the AER in reaching its associated decisions on funding.

NEW ZEALAND

Publication of performance summaries for all electricity distribution utilities –

The Commerce Commission, New Zealand's competition, consumer, and regulatory agency, published [performance summaries](#) for the fiscal year ended March 31, 2021, for all 29 electricity distribution businesses.

The annual publications provide a snapshot of the sector, including trends in relation to grid expenditure, asset condition, and network reliability. Among the key conclusions from last year's data are:

- A continued increase in capital expenditure of 4.8% on average over the last three years, with operating expenditure also rising by 3.2% over the same time period
- The regulatory asset base growing by 4% to \$13.5 billion
- A continued improvement in reliability, with average reductions in both the System Average Interruption Duration Index (9.8%) to 210 minutes and the System Average Interruption Frequency Index (7.4%) to 1.89 faults.

CANADA - ONTARIO

Regulator publishes its three-year business plan –

In April, the Ontario Energy Board published its latest [three-year rolling business plan](#) covering the period up to 2025.

Besides addressing issues such as the board's financial, staffing, and communications plans, the document sets out details of the regulator's strategic goals and objectives for the energy sector. Among the key themes outlined are plans to support energy sector evolution. The document also recognizes the challenges posed by climate change and thus the need for the regulatory environment to "support energy system resilience in the face of extreme weather events." Underlining both of these was a recognition of the importance of facilitating innovative solutions.

GREAT BRITAIN

Ofgem publishes its draft determination outlining funding for the electricity distribution utilities –

British energy regulator Ofgem published its [Draft Determinations](#) under its RIIO-ED2 Performance-Based Regulation arrangements. These determinations cover Great Britain's 14 distribution network operators (DNOs).

Ofgem is proposing to allow £20.9 billion (US\$25.3 billion) of expenditure for investment over the five years from 2023 to 2028. This represents a 17% cut in the expenditure the DNOs previously proposed. However, it represents a substantial increase in the average expenditure compared to the present revenue period. This includes a 90% increase to £2.7 billion (US\$3.3 billion) in investment for upgrading network infrastructure to increase capacity. This investment has been identified as critical to supporting the government's net-zero goals. There is also a strong commitment to reduce the number and duration of interruptions through a combination of incentives and guaranteed standards to improve network reliability.

The determinations have been published for consultation. Final determinations are expected by the beginning of 2023.

Ofgem considers measures to support future response to storms – Storm Arwen brought severe winds to the U.K. in November 2021. This had a significant impact on the British electricity distribution networks and resulted in more than one million customers losing power. Approximately 40,000 customers were without supply for more than three days, and approximately 4,000 customers were left off supply for more than a week.

The British energy regulator has reviewed the utilities' performance and has made a range of recommendations to improve future grid resilience. This includes development of proposals for an outcome-based resilience standard, a review of existing network-infrastructure standards, and a review of the guaranteed standard for severe weather. Under this guaranteed standard, distribution companies are required to compensate customers if their supplies are not restored within target timescales, typically 24 hours or 48 hours, depending on storm severity. Options Ofgem will consider include whether a compensation cap is still appropriate, the compensation payment structure, and whether the thresholds for different storm categories are appropriate.



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