



REGULATORY AND POLICY UPDATE

Quarter 1, 2021

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.

IEA Publishes Updated Findings on the Impact of COVID-19

In January, the International Energy Agency (IEA) published an update on the impact of COVID-19 on the electricity sector through the end of 2020. The report found that, following significant reductions in energy demand, especially during the spring and summer, demand was above 2019 levels in many jurisdictions by the end of the year.

The other key trend demonstrated in the report was an increase in the share of renewables as a proportion of the electricity generation mix during periods of depressed electricity demand. As demand recovered, the report found the generation mix returned to something closer to pre-COVID-19 levels, with the contribution made by fossil fuels and nuclear increasing. In the United States, the report found natural gas remained the leading source of electricity.

UNITED STATES

The 2020 U.S. Elections

Federal—In March, the Biden administration outlined its proposed American Jobs Plan. This \$2 trillion infrastructure plan includes investments in energy efficiency, electric vehicles, clean energy manufacturing, and energy-related research and development. The plan provides a clear focus (in both the verbiage and funding) on improving the resilience of our systems in the face of mounting threats. Finally, the plan proposes a \$100 billion investment in power infrastructure. Democratic committee leaders are working now to turn this plan into legislation.

Meantime, multiple subcommittees of the House Energy and Commerce Committee continue to focus on the CLEAN Future Act. This act authorizes \$565 billion in spending over 10 years aimed at putting the U.S. on the path to a net-zero greenhouse gas economy by 2050. There is also a slate of recently introduced energy-resilience focused bills. It remains to be seen whether they will be rendered moot by other legislation, be combined into a single bill, or get individual votes on the floor. These bills include:

- HB448: Energy Resilient Communities Act—Requires the Department of Energy to establish a program that awards grants to make critical energy infrastructure more resilient to climate change hazards
- SB704: Disaster Safe Power Grid Act of 2021—Requires the Secretary of Energy to establish a grant program to improve the resilience of the power grid to natural disasters and reduce the risk of wildfires caused by power lines, and for other purposes
- HR2482: The Microgrid Act: Amends the Internal Revenue Code of 1986 to provide 30% investment tax credits for microgrids

The Biden administration has also issued multiple executive orders targeting energy issues. These orders include:

- Establishing climate considerations as an essential element of U.S. foreign policy and national security
- Establishing the National Climate Task Force to enable a whole-of-government approach to combating the climate crisis
- Directing federal agencies to procure carbon-pollution free electricity and clean, zero-emission vehicles, and requiring those products to be made in America
- Directing federal agencies to develop a plan to increase the resilience of their facilities and operations to the impacts of climate change
- Directing the Secretary of the Interior to pause new oil and natural gas leases on public lands or offshore waters, review existing practices related to fossil-fuel development on public lands and waters, and identify steps to double renewable energy production from offshore wind by 2030
- Directing federal agencies to eliminate fossil-fuel subsidies and identify new opportunities to spur clean-energy technologies and infrastructure
- Revoking the Presidential permit for the construction and operation of the Keystone XL Pipeline
- Suspending EO13920, "Securing the United States Bulk-Power System," for 90 days while the administration reviews it.

In January, the U.S. Court of Appeals, District of Columbia Circuit, struck down the 2019 Affordable Clean Energy (ACE) rule, the Trump administration's effort to replace the Obama Clean Power Plan (which itself was delayed by legal challenges and never took effect). The court found the ACE rule violated elements of the Clean Air Act. The Biden administration now has an opportunity to propose its own plan, but there will undoubtedly be legal challenges to whatever plan is proposed.

Arizona—The Arizona Senate is considering House-passed HB2248, which would revoke the Arizona Corporation Commission's authority to adopt or enforce any policies that directly or indirectly regulate the type of critical electricity-generation resources on the Arizona energy grid without express legislative authority. The House amended the bill in February to state Arizona requires Public

Service Corporations pursue clean-energy resources and reduce carbon emissions, provided the mix of generation resources is the lowest-cost method of providing safe and reliable electricity when considering systemwide costs to meet customer demand.

California—In January, the California Public Utilities Commission issued Decision D2101018, adopting rates, tariffs, and rules for large investor-owned utilities facilitating the commercialization of microgrids pursuant to Senate Bill 1339 and resiliency strategies. As a result, the state's utilities shall form a new microgrid tariff for their service territories, shall develop a Microgrid Incentive Program, and shall develop pathways for the evaluation and approval of electrical isolation methods. Additionally, this decision creates a Resiliency and Microgrids Working Group, among other findings.

Colorado—The Colorado legislature was busy with a slate of energy-related legislation, including bills that would provide \$40 million for clean-energy programs, change how renewable projects are taxed, and encourage beneficial electrification. One bill with considerable momentum is SB072. Recently passed by the Senate, SB072 would direct the Colorado Public Utilities Commission (PUC) to approve utilities' applications for constructing or expanding transmission facilities within 180 days, or the application would be automatically approved. This bill also would create the Colorado Electric Transmission Authority and require utilities in the state to join a regional transmission organization by January 1, 2030, unless the PUC finds it is not in the public interest or cannot find one to join.

Delaware—In February, Gov. John Carney signed SB33, which will raise the state's renewable portfolio standard (RPS) to 40% by 2035. The state's previous RPS goal, created in 2005, was 25% by 2025. This goal applies only to the state's lone regulated utility, Delmarva Power, but the state's electric cooperatives and municipal utilities are encouraged to aim for this goal as well.

Indiana—In April, Gov. Eric Holcomb signed HB1520, which requires utilities in the state to submit reports outlining the capacity, location, and fuel source for each utility-generation facility, the amount procured under contract, and the amount of demand response resource available under contract and tariff. The Indiana Utility Regulatory Commission must submit a report to the governor about whether the public utility is able to provide reliable electric service and meet planning reserve margin requirements for the next three planning years.

Massachusetts—In March, Gov. Charlie Baker signed an act creating a next-generation roadmap for Massachusetts climate policy. This omnibus climate bill sets statewide greenhouse gas (GHG) emissions limits of net zero by 2050, with specific limits every five years. It mandates industry-specific GHG limits and includes benchmarks for specific clean-energy technologies. The act also requires utilities to purchase an additional 2,400 MW of offshore wind.

Texas—In the wake of the power outages in February, there has been a flurry of regulatory and legislative activity to address system shortcomings. SB2 strips power from the Electric Reliability Corporation of Texas by requiring approval by the Public Utility Commission of Texas prior to adopting any new market rules or revisions to existing rules. SB3 would establish a variety of requirements relating to preparing for, preventing, and responding to weather emergencies and power outages in Texas. Included in those is the establishment of a Texas Energy Reliability Council to ensure high-priority human needs are met in the event of necessary curtailment of natural gas distribution or supplies. Both bills have passed in the Senate.

Virginia—Virginia's legislature approved a raft of energy-related measures. They included five bills focused on electric vehicles, including authorizing the state's Air Pollution Control Board to adopt and enforce any model-year standards relating to the control of emissions from new motor vehicles. There were also bills supporting the deployment of energy storage, including ensuring storage receives the same permitting and tax treatment presently afforded to solar and onshore wind.

AUSTRALIA

Distribution utilities in Victoria publish updated revenue proposals—In December, the five distribution network utilities in Victoria published updated proposals on revenues and investment in their networks for the period from 2021-2026.

The proposals came in response to draft decisions published by the Australian Energy Regulator (AER) in September, under which overall revenues would drop by between 6% and 14% in real terms from those provided to the five utilities from 2016-2021.

Despite this reduction, at approximately A\$11 billion (US\$8.52 billion), the revised revenue proposals would still represent a significant level of investment in the distribution networks in Victoria. Among the areas of focus, the proposals highlighted the companies' spending plans with respect to network reliability as well as how they are preparing for the energy transition. Approximately A\$1.8 billion (US\$1.39 billion) is earmarked for replacing aging assets, A\$700 million (US\$542 million) for network growth, and A\$230 million (US\$178 million) for the integration of DER.

The AER published its final decision in April 2021, ahead of the start of the next regulatory period from July.

CANADA

OEB stakeholder session considers next steps for remuneration and DER—On February 3, the Ontario Energy Board held a stakeholder conference focused on plans for the electricity sector's evolution, both in respect to the approach to utility remuneration and to support an increase in distributed energy resources (DER). The proceedings included a study by London Economics on utility financial health and energy consumption as well as a distributed energy resources impact study by consulting firm ICF.

The OEB's stated next steps include the establishment of two new workstreams. One will focus on DER use, including to "support utilities' use of DERs they do not own." The other will consider DER integration to ensure "utilities' planning is appropriately informed by DER penetration and forecasts." The workstreams will proceed under the renamed "Framework for Energy Innovation: Distributed Resources and Utility Incentives."

GREAT BRITAIN

RIIO: Electricity Distribution Annual Report—In December, the British energy regulator Ofgem published its latest annual reports for all network sectors, including for the 14 electricity distribution network operators (DNOs). The electricity distribution report summarized the performance of the DNOs for the fourth year of the RIIO-ED1 period, from April 1, 2019, to March 31, 2020.

The report highlighted that each of the DNOs continued to perform strongly against their targets in the areas subject to incentives i.e., connections, social obligations, and customer satisfaction; reliability and availability; and the environment.

With respect to reliability, the report demonstrated that all DNOs had met their targets for planned interruptions. Overall, in RIIO-ED1, the number of customer interruptions (SAIFI) has dropped by 19%, while the duration of interruptions (SAIDI) has fallen by 15%.

In relation to the environment, the DNOs' combined Business Carbon Footprint decreased by 7.9% from the previous year, while levels of sulfur hexafluoride (SF6) emissions were also down by 6.7%. Customer satisfaction scores were found to have risen in 2019/20, reflecting strong performance among the DNOs with respect to areas that include stakeholder engagement and addressing complaints.

Industrial Decarbonization Strategy—In March, the British government published its net-zero industrial decarbonization strategy. The report covers the full range of UK industry sectors, from metals and minerals to chemicals and food and drink manufacturing. The government is targeting a 66% reduction in carbon emissions by 2035 and net-zero emissions by 2050. The report highlights that the 2020s will be a crucial decade in terms of laying the bedrock

for deep decarbonization, with a focus on moving away from fossil-fuel combustion to low-carbon alternatives, such as moving toward electrification of transport and heat, introducing markets for negative-emissions technologies, ensuring data transparency on carbon content, and creating measures to encourage industry and customers to switch to lower-carbon choices.

NEW ZEALAND

Regulator announces outage-performance findings—In February, New Zealand's competition, consumer, and regulatory agency announced its decisions with respect to the network-reliability performance of two distribution utilities, Horizon Energy and Unison Networks. Both companies were found to have not met the required standards with respect to the frequency and/or duration of outages for periods between 2017 and 2018.

Following an investigation, the factors driving both contraventions were found to be largely outside of the companies' control. However, for Horizon there were specific areas where longstanding reliability issues were found and where network upgrades could have mitigated the impact on consumers. In the case of Unison, the commission found there had been an increase in the number of equipment failures and that Unison should undertake analysis with the aim of preventing subsequent faults.

Under the rules, a financial penalty can be imposed on a company for contravening its quality standards. In this case, neither company received a fine. Unison was issued compliance advice, while Horizon received a warning letter that noted stronger enforcement action may be taken in the future if the concerns raised were not addressed.



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