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Federal

Senate Committee Holds Hearing on DOE Nominee

On September 11, the Senate Energy and Natural Resources Committee approved President Obama's pick for the Department of Energy's (DOE) Deputy Secretary: Elizabeth Sherwood-Randall. Sherwood-Randall will replace Daniel Poneman, who announced in June plans to leave DOE after serving five years in the role. During the hearing, Sherwood-Randall indicated that a timely review of LNG export applications was one of her priorities.

Prior to her nomination, Sherwood-Randall was a special assistant to the president on nuclear weapons and arms control beginning in 2013. Prior to that she advised Obama on European affairs.

DOE Awards Seven Microgrid Grants

On September 9, the Department of Energy (DOE) announced the award of \$8 million in microgrid projects. The goal of the program is to better prepare communities for extreme weather. The winning projects include the following:

- ALSTOM Grid will research and design community microgrid systems for the Philadelphia Industrial Development Corporation and the Philadelphia Water Department, using portions of the former Philadelphia Navy Yard as a test bed.
- Commonwealth Edison will develop and test a commercial-grade microgrid controller capable of controlling a system of two or more interconnected microgrids. The project includes a mix of facilities and critical loads, including police and fire department headquarters, major transportation infrastructure, healthcare facilities for seniors and private residences.

- The Electric Power Research Institute will develop a commercially viable standardized microgrid controller that can allow a community to provide continuous power for critical loads.
- GE Global Research will develop an enhanced microgrid control system by adding new capabilities, such as frequency regulation. This system will be used to provide resilient, high-quality power to critical loads in Potsdam, N.Y., including emergency service providers, utilities and other essential services, during power disruptions.

Congress Mulls Short-term Funding Deal

Federal spending authority expires again on September 30, 2014. The Senate has yet to pass an appropriations bill, while the House has passed seven. In response, House Appropriations Chairman Hal Rogers (R-KY) introduced a short term funding bill (known as a Continuing Resolution) to prevent a government shutdown on October 1.

The funding resolution continues funding for government programs and services at the current annual cap of \$1.012 trillion until December 11, 2014. This rate of funding will remain in place for the length of the measure, or until Congress approves the annual Appropriations legislation for 2015. Both the House and Senate are expected to pass the extension by Friday, September 19, the target recess date. The exact timing of passage has become complicated by the President's recent request for additional funding to mitigate the crisis in Syria.

House Committee Hears State's views on the Environmental Protection Agency's (EPA) Carbon Rules

On September 9, the House Energy and Power Subcommittee held a hearing on "State Perspectives: Questions Concerning EPA's Proposed Clean Power Plan".

Six state entities testified as witnesses: Public Utility Commission of Texas; Indiana Department of Environmental Management; Arizona Department of Environmental Quality; Maryland Public Service Commission; Washington Utilities and Transportation Commission; and Montana Public Service Commission.

During the hearing, Chairman Whitfield (R-KY) expressed concern about "federalization" of the generation and consumption of electricity, potentially locking states into rigid federal plans that deprive them of their ability to adapt to changing circumstances. He also raised issues about EPA's legal authority and the workability of its proposal. When he asked whether states would welcome a delay in the comment deadline, all but Maryland and Washington said they would.

Witness testimony, archived webcast, Committee staff memo, and other background materials can be found [here](#).

Obama Nominates FERC Commissioner

The White House announced its nominee to fill the most recent Federal Energy Regulatory Commission (FERC) open seat, which was vacated by Commissioner John Norris who is leaving his post early. The president selected Colette Honorable, current Chair of the National Association of Regulatory Utility Commissioners (NARUC) and Arkansas utility regulator. The timing for a Senate confirmation vote is uncertain given the fact that the Senate plans to be in session less than three weeks in September in addition to the untimely death of Honorable's husband.

Once a date is set, her confirmation is not expected to be controversial.

Con Edison's CFO Participates in TRIA Roundtable

Congressman Pete King (R-NY) recently convened a small group of industry leaders to discuss extending the Terrorism Risk Insurance Act (TRIA). Con Edison's CFO, Robert Hoglund, was among those participating.

Following the September 11 attacks, insurance coverage from terrorist attacks became very expensive if insurers offered it at all. Terrorism insurance was largely unavailable for most of 2002, and some have argued that this adversely affected parts of the economy.

Congress responded by passing TRIA, a temporary three-year Terrorism Insurance Program in which the government would share some of the losses with private insurers should a foreign terrorist attack occur. Without TRIA, businesses – including Con Edison – would have a very difficult time procuring adequate terrorism insurance limits and the costs for the insurance would increase significantly. TRIA has been extended twice and is scheduled to expire once again at the end of this year.

Congressman King's policy meeting was intended to bring both insurance and policyholder executives together to discuss how to get TRIA reauthorization across the finish line. TRIA will likely be considered by the full Congress after the November mid-term elections.

DOE Holds QER meeting in New Jersey

The Quadrennial Energy Review (QER) is a new Department of Energy (DOE) effort launched in January and is intended develop a comprehensive national energy infrastructure strategy, which will be revised every four years. The QER will be broken down into three segments: transmission and distribution; energy end users; and generation. The first segment will result in a report of findings and policy recommendations on everything from suggested program funding levels to private sector coordination and is due by January 31, 2015.

Starting in April, DOE held a number of meetings around the country to explore the various aspects of transmission and distribution. The meetings have covered topics from infrastructure siting to gas-electric interdependencies. The New Jersey Institute of Technology hosted DOE's twelfth public meeting on September 8. This most recent meeting was focused on electricity transmission, storage and distribution. All aspects of transmission were explored – from its role in bulk power reliability to managing cost allocation.

The DOE has indicated that only two more public meetings remain prior to the issuance of the first report:

- Finance and Market Incentives: New York, NY; and
- Final Meeting: Washington, DC

Comments on the QER are due October 10. For more information, click [here](#).

State

New York, New Jersey Governors Announce Joint Effort to Enhance Security

On the 13th anniversary of the September 11, 2001 terrorist attacks, New York Governor Andrew Cuomo and New Jersey Governor Chris Christie announced an effort to coordinate anti-terrorism efforts with federal officials to enhance security preparedness and coordination in the New York-New Jersey region.

Earlier this week, the Governors were joined by US Homeland Security Secretary Jeh Johnson and New York City Mayor Bill de Blasio for a bi-state meeting of federal, state and local law enforcement agencies. Following the meeting, Cuomo and Christie announced that they have directed their state's respective Homeland Security Advisors and State Police Superintendents to immediately lead a bi-state review of current safety and security procedures. The review will be conducted in coordination with the U. S. Departments of Homeland Security and Justice, the FBI, the New York Police Department, and the Port Authority.

Initial recommendations will be given to both Governors within 10 days. The group will report all findings and recommendations within 30 days.

A copy of the announcement can be found [here](#).

PULP Critical of PSC's New Consumer Advocacy Group

The New York State Department of Public Service (DPS) is developing a new consumer advocacy organization, and is looking to hire a Director for this new entity. The director will serve in a senior leadership position at DPS, reporting directly to the Chair of the Public Service Commission.

The job posting indicates that the new entity will “advocate for consumer policy matters, including low-income and special needs programs, service quality, advanced technologies including renewable and energy efficiency, and other timely policy-related development,” and “represent consumer interests in regulatory proceedings and policy matters before the Commission.”

The Public Utility Law Project (PULP) has expressed skepticism over the new position. In a recent blog post, PULP welcomes any “new emphasis on consumer and low income concerns by the PSC”, but criticizes the position arguing that “even a new official ‘zealously advocating’ for consumers and ‘representing consumer interests’ nonetheless will ultimately be under the control of the PSC and will not be truly independent.”

PULP, along with the American Association of Retired Persons (AARP), pushed a proposal last year that would have created a new independent “State Office of Utility Consumer Advocate”. While the proposal ultimately failed to advance, PULP’s blog clearly states that it remains a priority.

The blog also calls for the creation of a statutory utility intervenor compensation program which would set up an intervenor process for utility rate cases. PULP cites the California program as an example. A similar proposal was touted during the 2014-2015 budget negotiations as an alternative to the creation of a new State Office of Utility Consumer Advocate, but it never advanced.

The PULP blog can be found [here](#).

Governor Approves Coordinated Construction Act Extender

Governor Cuomo approved legislation to extend the *Coordinated Construction Act for Lower Manhattan* through 2024.

The *Coordinated Construction Act for Lower Manhattan* (CCA) originally authorized the practice of joint bidding for Lower Manhattan projects in 2004. Joint bidding allows the utility interference work to be included in the city's public bid, lowering costs to the company and reducing project delays. The bill signed into law extends this authorization, and the CCA's other provisions, through 2024.

Governor Cuomo also recently signed into law a bill authorizing joint bidding for all other public works contracts throughout New York City. Con Edison worked to obtain this authorization for more than 15 years. The city-wide authorization also expires in 2024.

A copy of the CCA extender can be found [here](#). A copy of the city-wide authorization can be found [here](#).

Governor Approves Renewable Energy Tax Exemption Extender

Governor Cuomo approved legislation that extends through 2025 the authority of local governments to offer real property tax exemptions for solar, wind and farm waste energy systems. This optional local tax exemption for renewable energy generating systems was first enacted in 1996 and has since been extended twice.

Several changes were also made to the process. The bill requires that any local law or resolution denying the right to a tax exemption must be passed before construction on the system in question has begun. The "start of construction" is defined as the execution of an interconnection agreement with the utility company and written notification of such execution to the local jurisdiction.

The bill also provides that once the taxing jurisdiction is notified of the start of construction, it has 60 days to require a payment in lieu of taxes (PILOT).

These additions to the law are intended to provide surety and a guarantee of fair play for both the taxing jurisdiction and the developer. The sponsors argue that these assurances are important so that the rules are clear and not subject to change mid-stream.

The future of similar tax credits at the federal level are less certain. A 30 percent solar investment tax credit for residential and commercial properties is currently scheduled to expire at the end of 2014. It is possible that this federal tax credit may be modified, or not extended at all.

A copy of the approved state legislation can be found [here](#).

Governor Approves Extender of Tax Exemptions for Nuclear Facilities

Governor Cuomo approved legislation extending the authority of local governments to enter into tax agreements with nuclear generating facilities. This authority was first granted in 2001 and will now be extended through 2031.

Local governments such as the town of Cortland and the village of Buchanan in Westchester County, where the Indian Point Energy Center is located, enter into tax agreements with these facilities as a way

to stabilize the local property tax base. Before this authority was granted, local governments often faced expensive and time-consuming challenges to their assessments.

Pursuant the current Indian Point “PILOT” (“payment in lieu of taxes”), Entergy paid \$29 million in 2013 to Hendrick Hudson schools, the village of Buchanan, the town of Cortlandt, Westchester County and the volunteer Verplanck Fire Department.

A copy of this legislation can be found [here](#).

Attorney General Issues Report Highlighting Need to Tackle Climate Change

State Attorney General Eric Schneiderman released a report that details the increasing frequency of extreme rainfall events across New York State. The report highlights the need to focus on greater resiliency planning and response measures for infrastructure, neighborhoods and landscape in order to promote a safer and more sustainable New York.

In recent remarks at Pace University, Schneiderman also discussed the “unique efforts” his office has taken over the last three years to combat climate change and make New York State more sustainable. Activities that were highlighted include:

- Intervening in Con Edison’s storm-hardening proceeding which resulted in the PSC requiring Con Ed to ensure that new infrastructure built can withstand more extreme coastal storms and rising sea levels.
- Introducing legislation to requiring utilities to assess their vulnerability to climate change, and to document how they intend to protect vital public services from climate impacts.
- Successfully defending the Regional Greenhouse Gas Initiative, a multi-state agreement that puts a price on carbon pollution in order to reduce emissions.
- Leading a coalition of seven states in filing a notice of intent to sue the EPA for violating provisions of the Clean Air Act by failing to address methane emissions from the oil and gas industry, including those from fracking.
- Leading a coalition of 10 states, the District of Columbia and New York City to intervene in a lawsuit defending a 2010 settlement that requires the EPA to establish emissions standards for fossil-fuel fired electric generating facilities.

The report can be found [here](#).

Comptroller’s Report: Local Spending on Infrastructure Declines

State Comptroller Tom DiNapoli released a report which finds that local government capital spending on roads, bridges and water and sewer systems declined by some 8% between 2010 and 2012.

The Comptroller’s Office estimates that local governments should be spending about \$3.9 billion annually to keep up with deteriorating capital assets, but they are spending just \$1.2 billion each year - less than one-third of what is necessary to keep these assets in good working order.

The report includes a number of recommendations for local officials, including:

- Identifying long-term and short-term infrastructure needs using a comprehensive capital planning process, and then working with the applicable state agencies to coordinate their approach to address these needs;

- Partnering with state policymakers and work with federal agencies to develop strategies to provide additional funding for water, sewer and transportation systems;
- Seeking additional grant funding and state and federal expertise as a component of the local capital planning process; and
- Exploring the potential of public-private partnerships to address specific infrastructure needs.

A copy of the report can be found [here](#).