

EBA Annual Meeting 2017

States Acting on Emissions Because Markets Can't Handle Them

By Rory D. Sweeney

WASHINGTON — They couldn't agree on much except for this: Today's electricity markets don't handle environmental externalities well because they're not designed to.

That was the rare moment of consensus during an otherwise fractious discussion about the growing pressures of state policy initiatives on FERC-regulated markets at the Energy Bar Association's annual conference last week.



Kathleen Spees of The Brattle Group said that state and provincial actions — such as Ontario's goal of reducing CO₂ emissions by 80% below 1990 levels by 2050 — will “fundamentally change the nature of our resource mix, how plants are built [and] how they're operated.”

“Markets today on their own won't achieve that, and so that's why we're seeing states basically taking different policy measures to achieve those objectives,” she said. “But my question is, ‘Can the markets help to support and achieve those ends?’ And I think the answer is, ‘they can.’ I think it will be hard to get there.”

Spees clarified that her perspective was based on economics, rather than the legal issues on which much of the discussion at the two-day conference focused.

Competing with a concurrent session on gas-electric coordination, the panel attracted the majority of attendees, requiring the addition of several rows of extra chairs in the back of the room.

Moderator Jeffrey Dennis, senior counsel with Akin Gump Strauss Hauer & Feld, teed



From left to right: Kathleen Spees, Brattle Group; Jeffrey Dennis, Akin Gump; David Dardis, Exelon; and Abe Silverman, NRG. | © RTO Insider

up the discussion by noting that the Supreme Court has ruled that retail and wholesale markets are so intertwined that a state can impact the wholesale market without violating federal jurisdiction. “These markets are not hermetically sealed,” he said.

Nick Martin, a manager of environmental policies with Xcel Energy, opened the discussion by explaining how Minnesota requires his company's integrated resource plan to factor in two carbon dioxide externality values: one that represents the potential future impact of carbon regulations on Xcel's system and another that represents the potential future damages from climate change. The first ensures the utility isn't making infrastructure investments without considering the potential impacts to customers of future regulatory costs, while the second takes a broader view.

“Sometimes, those are divergent,” Martin said. “These are both values used in planning. Neither of them represents a carbon price that would go directly into wholesale markets at the RTO level.”

Xcel is currently seeking regulatory approval to update those externality values, Martin said, but the 2007 regulatory commission order under which the utility operates values carbon emissions between \$9 and \$34 per short ton. The valuations help deter-

mine which planning alternatives are the best fit for Xcel's 15-year outlook.

He contended that the valuations aren't like the zero-emissions credits recently approved in Illinois and New York because they don't impact FERC-regulated electricity markets.

“They won't directly pay a higher price to our nuclear plants, but they will strengthen the rationale for retaining nuclear, retiring coal plants [and] adding renewables,” he said.

Exelon's David Dardis later argued on the panel that ZECs also don't impact RTO markets. He pointed to FERC's 2012 ruling regarding the Western Systems Power Pool, which concluded that stated renewable energy credits are separate commodities from capacity and energy (ER12-1144).

“So long as the REC is unbundled or sold independent of wholesale electric energy, the RECs are not payments in connection with wholesale sales and therefore fall under state jurisdiction,” Dardis said. “ZECs are clearly sold independent of energy and capacity.”

NRG Energy's Abe Silverman disagreed, arguing that the credits intrinsically intrude on FERC's jurisdiction over wholesale ener-

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Ex-Trump Transition Chief: EE ‘Had a Good Run’

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What would it include? “Anything that involves concrete,” he responded.

Changes at FERC?

Another questioner asked whether FERC was likely to be subject to the Trump requirement that agencies eliminate two regulations for every new one.

“I work in front of a lot of federal agencies like a lot of you do,” McKenna said. “The bottom line is, FERC process is, FERC people are the best in the government. So are the [FERC] nominees ... going to want to take a hard look at things? Of course. Are they going to wander in knocking things over? I don't think so.”

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Lifeline or Pipedream? Panels Debate Need for More Gas Lines in NE

By Rory D. Sweeney

WASHINGTON — More than three years and thousands of pages of analysis later, there is no consensus on how the electric industry should respond to the January 2014 cold snap that revealed weaknesses in the Eastern Interconnection.

The differences of opinion were on display during a panel discussion on gas-electric coordination at the Energy Bar Association's annual conference on last week.

Macdara Nash of National Grid and Todd Piczak of Kinder Morgan advocated for additional pipelines in the Northeast U.S., saying they would ensure sufficient gas

supplies for generators on high-demand days. David Ismay of the Conservation Law Foundation called for peak shaving and increased gas storage, saying additional pipeline capacity would reduce utilization of existing infrastructure most of the time.

One thing all the panelists agreed on is that



Nash



Ismay

thinking about what are solutions, what can we do," Nash said. "We think that natural gas is key."

He cautioned that pipelines require an extensive lead time, "so if you believe in the problem [of potential pipeline capacity shortages], the time to act is sooner than later."

Piczak said FERC has made progress on one half of the problem — ordering increased coordination between gas pipelines and gas-fired generators — but hasn't done much to facilitate the other half, which is adding capacity. A major issue, he said, is the need for the commission to develop criteria other than long-term contracts to support a finding of public convenience and necessity.

Piczak's company operates the Tennessee Gas Pipeline, one of the nation's most critical natural gas conduits because it runs from Houston to Boston and crosses two

natural gas has a place in the region's energy future and that action needs to be taken to better gird the grid against unforeseen events like the polar vortex.

"The region should be

prolific shale gas plays, the Utica and Marcellus in the region of Ohio, Pennsylvania and West Virginia.

Not a Capacity Problem

"This is fundamentally a regulatory problem," he said. "There's not enough gas for the generators when they need it. ... It's an important problem, and it's a growing problem."

Ismay said the issue isn't the availability of gas — he said gas was never unavailable, even during the polar vortex — but that constraints and high demand make it prohibitively expensive. A new pipeline would, on average, be about half full half of the year and wouldn't justify the installation costs, he said.

"Instead of a capacity problem ... it's a temporal, location-based problem of getting a certain amount of gas to a certain location ... on the pipeline system at time of year," he said. "We [will] always have days above the peak, even if we build a new pipeline."

LNG storage has been and should be the solution, he said, along with demand response and energy efficiency to shave

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gy sales. He noted that 95% of the time, all the units needed for wholesale dispatch are receiving a state-promulgated rate different from the FERC-regulated market. NRG has joined in lawsuit challenging the legality of the ZECs. (See [NY Legislators Frustrated by Lack of Answers at ZEC Hearing](#).)

"The fact that the state was trying to engage in the most noble of causes, in this case fighting climate change, does not — at least in my view — escape pre-emption," he said. "What does it mean for FERC to regulate wholesale rates if states take increasingly large amounts of generation out of the market?"

Spees said Ontario is a prime example of what happens when the market is marginalized. The Canadian province has reduced its carbon by more than 6% below 1990 levels

through resource- and technology-specific out-of-market contracts — and closing all of the province's coal-fired generation — but Spees said the costs are now escalating.

"It's really turned into a big challenge," she said. "Those do tend to be higher cost. They don't enable that competition and innovation that we really probably want in the system. ... [Markets] become much less important to the system and much less valuable in terms of achieving some of these benefits that you can get through competition and innovation."

They can also have unintended consequences of suppressing prices, which can squeeze out other clean technologies. As a result, the province faces a major redesign of its system to re-engage the power of the market, she said.

Silverman said New York's and Illinois' ZECs were an ill-conceived and potentially expen-

sive means of limiting carbon emissions.

"Nobody would remodel their kitchen without getting a couple of bids. Here we have \$10 billion of ratepayer capital committed to two states without ever testing it to see if it was actually the least-cost source of carbon abatement," he said. "If all we're doing is relying on ratepayer capital, we'll never get it done. We need that shareholder private capital to come into the market as well."

"If you are terrified of backsliding in year 1, 2 or 3, then ... nuclear is probably the best way to go," he said. "But if you're looking at a lifecycle analysis and really thinking about 2050, we need to go not just from coal to gas — which is probably what would happen if the nukes retire — but we need to go from coal to clean, which means FERC really needs to step up and create the kind of markets and really get markets to address the carbon problem."