



REGULATORY AND POLICY UPDATE

QUARTER 4 | 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: FOCUS ON GRID MODERNIZATION

During the last quarter, there was an increased focus on a range of projects aimed at supporting grid modernization. This was evident in the latest updates from the U.S. Department of Energy (DOE) with respect to funding provided under the Bipartisan Infrastructure Law (BIL). It also appeared at the state level, with various states submitting grid-modernization plans. Some states focused on a range of initiatives supporting improvements in several aspects of grid performance, including both reliability and resilience. Globally, similar trends are evident in regulatory bodies' priorities. We expect this theme to continue in future quarters.

UNITED STATES

Federal – The DOE opened the application process for a first round of funding under three programs that collectively make up the Grid Resilience Innovation Partnership program. The BIL funding will provide \$10.5 billion to modernize the U.S. power grid by enhancing grid flexibility and improving the resilience of the power system. In the first phase, \$3.8 billion was made available for fiscal years 2022 and 2023 (to be allocated in 2023). Initially, applicants were required to submit concept papers by December 16, 2022, for two of the component programs, or by January 13, 2023, for the grid-innovation component.

The North American Electric Reliability Corporation released its annual winter reliability assessment.

The statement, a review of how prepared regions are to withstand severe winter weather, highlighted an increased reliability risk for large parts of U.S. and Canada. A combination of higher peak demand and



the loss of large-scale generation capacity drove the increased risk. As it had in the past, the assessment predicted Texas, the Midwest, and New England will face increased reliability risks, but the report also identified growing challenges in the Southeast and in both Canada's Alberta and Maritime provinces. Shortages of distribution equipment, including transformers, were among the issues identified as impacting restoration times.

Hawaii – The Hawaii Public Utilities Commission issued an order approving Hawaiian Electric Company Inc.’s Innovation Pilot Workplan. The plan addresses how the company will identify, prioritize, approve, and track pilot projects testing new technologies and business models. As part of this process, Hawaiian Electric committed to collaborating with stakeholders in making project decisions. A key part of this process will be developing scorecards for how it will assess and prioritize proposals.

The commission issued an order approving revised Hawaiian Electric performance reporting. The changes streamline the reporting on a number of metrics established as part of the state’s performance-based regulation framework by removing unnecessary duplication. The revised arrangements retain a number of performance-incentive mechanisms, scorecards, and metrics designed to track and, where appropriate, reward/penalize companies for their performance.

Illinois – In October, the Illinois Commerce Commission issued orders approving a range of performance metrics. The metrics cover incentives focused on reliability, customer service, and an affordability, with an emphasis on reducing customer disconnections. In addition, both ComEd and Ameren proposed additional metrics across areas such as grid flexibility, emissions reduction, and equity to help track performance and to support decisions on the development of future performance metrics in those areas.

Maine – The state’s Public Utilities Commission initiated a proceeding to identify grid-plan priorities for Maine’s two investor-owned electric utilities to assist in the transition to a clean, affordable, and reliable electric grid. This work is in its initial stages, with a focus on how priorities should be determined and how they would be incorporated into grid-modernization plans. Each utility will be required to submit a filing to the commission that addresses the priorities identified in the proceeding

Massachusetts – The Massachusetts Department of Public Utilities issued orders approving the grid-modernization plans of NSTAR Electric Company, Massachusetts Electric Company, and Nantucket Electric Company for the period 2022-2025. The

\$450 million in approved funding focused on areas such as advanced distribution-management systems, advanced distribution automation, and power-quality monitoring.

New Mexico – The Public Service Company of New Mexico filed an application with the New Mexico Public Regulation Commission to implement various components of its comprehensive grid-modernization plan. The application outlined plans for an 11-year deployment of new technology, including advanced meter infrastructure and distribution upgrades. The program starts with a focus on its six-year Grid Modernization Implementation Plan. The stated drivers of the plan are to enhance reliability and system resilience, allow better integration of “carbon-free resources,” and improve the overall customer experience.



AUSTRALIA

Regulator launches processes for revenue-setting

– In November, the Australian Energy Regulator published a notice seeking views on the framework and approach to set revenues and prices for electricity distribution and transmission services and associated incentive schemes for the 2025-2030 period. The review impacts three electricity distribution networks—SP Power Networks (South Australia), Energex, and Ergon Energy (Queensland)—as well as Directlink, which owns the transmission interconnector between Queensland and New South Wales. The submission deadline ended in November 2022.

NEW ZEALAND

Report published on decarbonization

– Boston Consulting Group published a report on how New Zealand’s energy sector could evolve to meet the country’s decarbonization objectives. Titled “[The Future Is Electric](#),” the report was commissioned by energy sector participants, including a number of utilities, retailers, and generators. Among the report’s recommendations are the need to update regulatory frameworks to support vital network investment (transmission and distribution) and to introduce new innovation funding and support mechanisms.



CANADA

Ontario regulator updates distribution reporting requirements

– The Ontario Energy Board (OEB) updated grid reliability [reporting requirements](#) for distribution utilities. The changes are the direct result of guidance from the OEB’s Reliability and Power Quality Working Group and include the introduction of new definitions and measures to increase the clarity of existing definitions, including those for “loss of supply,” “major events,” and “interruption cause codes.” The changes also include the addition of new definitions for “sustained interruptions” and “momentary interruptions.” Most of the performance data covered by these definitions are required to be filed each year by April 30 and form the basis for the annual distributor scorecards published for all distribution utilities in late September.

Ontario Government announces priorities for the energy sector

– At the end of October, the Ministry for Energy in Ontario informed the OEB of the government’s priorities for the upcoming three-year business planning period. In its Letter of Direction, the ministry outlined both near-term priorities as well as work continuing throughout the business planning period. Priorities include supporting electrification, distribution sector resilience, and arrangements to support readiness for electric

vehicle adoption. Over the business planning period, areas of focus include facilitating innovation, regulatory changes for net metering, and support for demand-side management. The OEB will provide quarterly progress updates on these and a range of other areas identified in the letter.

GREAT BRITAIN

British regulator publishes final determination on revenues for the electricity distribution utilities

– British energy regulator Ofgem published [Final Determinations](#) under its RIIO-ED2 performance-based regulation arrangements, which cover Great Britain’s 14 distribution network operators (DNOs). Under its decision, Ofgem is allowing £22.2 billion (US\$26.6 billion) of expenditure for investment through 2028. This represents a 12% cut in the expenditure the DNOs proposed in their draft business plans. However, it represents a substantial increase, 17%, in the average expenditure compared to the present revenue period.



The package contains a strong commitment to reduce the number and duration of interruptions, with ongoing incentives to improve network reliability through a combination of incentives and guaranteed standards. Further, there is an enhanced focus on resilience, with the companies expected to prioritize spending on resilience for severe weather events.

Regulator launches review of network companies' revenue-setting process

– Ofgem published an [Open Letter](#) seeking views on the framework it uses to set the revenues for electricity and gas network companies.

The consultation is aimed at identifying whether it moves away from the existing performance-based RIIO (Revenue = Incentives + Innovation + Outputs) framework it has used since 2013. The review was prompted by the scale and range of challenges facing those networks that include threats from climate change; substantial shifts in energy supply and demand; and opportunities offered by the energy transition, including taking advantage of improved data and digitalization. Among the alternative models suggested in the open letter were an alternative ex-ante incentive regime; an ex-post regime with allowances set based on a predetermined rate of return; or a model involving greater stakeholder participation, including through negotiated settlements.

The deadline for submissions ended in October, with plans for a further, more detailed consultation in early 2023.



BRAZIL

Joint protocol to foster cooperation between regulators – Brazil's ANEEL and Great Britain's Ofgem signed a protocol of intent to foster cooperation between the two energy regulators. The initiative is aimed at addressing opportunities and challenges associated with the energy transition as well as sharing Britain experiences. The planned activities include discussion of revenue regulation (Britain's RIIO performance-based regulation model), adapting regulation, regulatory sandboxes, modernizing the electrical system, reliability, and innovation.



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