

August 25, 2017

TO: NRECA Board of Directors  
Distribution CEOs  
Statewide Managers  
G&T Managers

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### ***Grid Study: Natural Gas Driving Power Shift, But Some Market Reforms Needed***

The Energy Department's [grid reliability report](#) found natural gas availability at low prices is the main reason behind an electricity sector trend in shuttering coal and nuclear power plants, and regulatory burdens and renewable energy subsidies are smaller factors. NRECA is reviewing the 187-page study, which also lists low or no growth in electricity demand among contributing factors in decisions to close baseload coal and nuclear generation facilities. Energy Secretary Rick Perry said in his [cover letter](#) that certain regulations and subsidies are having a large impact on the functioning of markets, and challenging the power generation mix. The report recommends that federal agencies make some minor energy market reforms to make the electric grid more reliable, rather than providing subsidies for coal and nuclear power producers.

The report recommends that the Federal Energy Regulatory Commission (FERC) and the Energy Department change rules that price electricity to reward steady production, which is common at nuclear and coal-fired plants. FERC is actively working on several of the recommendations in the report. It also suggested that FERC minimize regulatory burdens in the hydropower licensing process, and that EPA "allow coal-fired power plants to improve efficiency and reliability without triggering new regulatory approvals." Other recommendations include ensuring that power plants have a reliable source of fuel, even during cold weather when natural gas demand surges and pipeline deliveries can be impacted. After Secretary Perry [ordered](#) the study in April, NRECA reached out to DOE officials to provide electric co-op input.

### ***ACRE® Members Unanimous on Membership Year Change***

ACRE® members voted unanimously to change the ACRE membership year during a special meeting via conference call. Starting January 1, 2018, the membership year will follow the calendar year, rather than the current fiscal year that runs September 1 through August 30. The change will put membership reporting on a calendar year like all other ACRE operations. It only affects how ACRE participation is recognized, and will help reduce confusion over which year a contribution applies and make processing more efficient.

### ***Court: FERC Must Do More GHG Impacts Review for Pipeline Project***

The D.C. Circuit Court of Appeals [overturned](#) the Federal Energy Regulatory Commission's (FERC) approval of three related natural gas pipeline projects, and ordered the commission to conduct another environmental review with more analysis on climate change impacts. The Sierra Club lawsuit claimed that FERC's approval of the Southeast Market Pipelines Project – three pipelines to be built in Alabama, Georgia and Florida to move gas mostly to Florida – was in violation of the National Environmental Policy Act. The court ruled in a 2-1 decision that

FERC's environmental analysis should consider the GHG emissions from the power plants burning natural gas delivered by the pipelines. At a minimum, FERC should have estimated the power-plant carbon dioxide emissions the pipelines will make possible, the court said. It is unclear whether FERC will appeal the ruling to the full D.C. Circuit, seek U.S. Supreme Court review, or decline to further litigate the issue.

### ***FERC Approves MISO Market Rules as it Tackles Backlog***

FERC approved the Midcontinent Independent System Operator's (MISO) [proposal](#) to change its market rules to limit the ability of affiliated companies to physically and economically withhold available power from reserve auctions, which would affect power prices. There was concern that MISO's changes could prevent consumer-owned utilities from self-supplying with their generation, which could potentially be an issue for G&T co-ops. FERC also recognizes that standard affiliate definitions and rules do not apply to co-ops.

The MISO decision was among several by FERC as it started work on clearing its backlog. FERC also agreed to issue a notice for supplemental comments on a [proposal](#) that would require all new bulk power interconnections by large and small generators to install primary frequency response equipment to ensure reliability. The comments are due 21 days after the notice is published in the *Federal Register*, which is likely in September.

### ***NRECA Points Out Opportunities for ESA Reforms***

NRECA joined two coalitions in comments listing several opportunities for the National Marine Fisheries Service (NMFS) to reduce the burdens of environmental rules by streamlining regulatory processes. We recommended the agency work closely with the Fish and Wildlife Service, which has overlapping oversight on Endangered Species Act (ESA) issues that add significant costs and burdens for electric co-ops. We asked NMFS to streamline ESA consultations and improve the process for listing species and designating critical habitat. We urged the agency to make wildlife decisions based on best-available science and focus more on species de-listings.

### ***Interior Department Pulls Rule on Migratory Bird Incidental Take Permitting***

The Interior Department issued a [notice](#) to withdraw the migratory bird incidental take permitting rule. This rule would have established regulations to govern the incidental take of migratory birds from activities that result in the unintended takings of migratory birds, including bird electrocutions and collisions with transmission and distribution lines. NRECA sent comments opposing plans for this permitting rule, due to co-op concerns about costs and challenges in implementing a permit program.

### ***Court Puts Hold on Some Challenges to Power Plant Wastewater Rule***

A federal appeals court put a hold on industry legal challenges to a 2015 [power plant wastewater](#) (Effluent Limitation Guidelines) rule while EPA reconsiders three wastewater limits in the regulation. The order keeps those lawsuits in abeyance at EPA's request and ordered the agency to send updates on its rule review every 90 days. The court order did not stop a separate lawsuit filed by a coalition of environmental organizations seeking to reverse EPA's administrative [stay](#) of the rule's compliance deadlines. That lawsuit claims EPA stayed the rule without seeking public comment, violating the Administrative Procedures Act.

### ***NRECA Urges CFTC to Ease Harmful Reporting Rules for Commercial End-Users***

NRECA and the American Public Power Association filed comments urging the Commodity Futures Trading Commission to change swap contracts data reporting rules to reduce negative impacts on not-for-profit electric utilities. NRECA stressed our previous recommendation that CFTC reconsider all data reporting rules adopted under the 2010 Dodd-Frank Act and streamline reporting for non-financial swap contracts by commercial end-users, such as electric co-ops. NRECA recommends that CFTC continue to put a priority, and focus first, on financial commodity contracts by companies that are not commercial end-users. NRECA also repeated recommendations that CFTC consider narrowly-tailored, interim relief to suspend swap data reporting obligations for commercial end-users, or limit how much transaction data they must report for non-financial commodity swaps.