

## FERC philosophy to be revealed in new rulings

### Clark, Moeller reflect at NEM event on trends

The power markets are going through some major changes now and with both federal and state regulators looking to influence the process, it could lead to some conflict, FERC Commissioner Tony Clark yesterday told the National Energy Marketers Assn's (NEM) 18th Annual National Energy Restructuring Conference. FERC and the states, especially in restructured regions, have had tension between them since Clark joined the commission and before.

"FERC has really tried to protect the fidelity of those wholesale markets and mostly, I think, successfully, but sometimes it's a challenge – there's no doubt," Clark said. "The trend in certain regions of the country, especially with what I see coming down the line with the Clean Power Plan, I think are going to increasingly create challenges both for the states and for us."

The Northeast is the best example of this, with ISO-NE and NYISO having fully restructured markets and the Regional Greenhouse Gas Initiative (RGGI) being the most likely compliance method with the EPA's Clean Power Plan (CPP). In a purely philosophical sense, a state would not need to do much more than let RGGI's cap-and-trade program do its work of cutting power sector emissions, Clark said.

"In practice, what's happening is sort of a third step," he added. "There's still what looks an awful lot like traditional, old, integrated resource planning, where the state will say: 'OK, we like markets. We like a merchant class serving us so we don't have shareholders tied to a certain asset class. RGGI is going to be our market mechanism for choosing that. Oh yeah, but we want to lock in and chose which exact resources are going to be the ones that serve our markets,'" Clark said.

That can be a "really tough construct to uphold," with FERC trying to maintain the integrity of wholesale markets on one side and states wanting to pick winners and losers on the other, he added. FERC has done a lot of "rear-guard actions" when it sees wholesale markets undercut in the past, Clark said.

"But we may just not have the tools if on a mass scale there's

going to be a change in philosophy that states have with regard to those markets. And we need to be working together because frankly, both the states and FERC have plenty of tools to go to war with each other, but at the end of the day, that's not very beneficial for consumers."

The New England states started to work together on regional energy issues, in part looking into building natural gas pipelines to alleviate the capacity shortages that cause winter price spikes there. But that work could also involve building out lines for hydropower from Quebec – or renewables.

ISO-NE CEO Gordon van Welie recently said the market will not build pipelines because it was never really designed to do that and it would make sense for the governors to get that work done (UMT, [April-24](#)).

New York and FERC clashed recently over a new capacity zone for the Lower Hudson Valley, which was upheld by the courts after a state challenge. The PSC there and FERC are also at loggerheads over reliability-must-run deals (UMT, [March-25](#)).

While Clark focused on New England and New York, other states are looking at bolstering generation that has not fared well in the markets. Illinois is considering legislation mostly aimed at propping up Exelon's nuclear plants there.

The Ohio PUC could consider riders to pay its utilities' generation more than the wholesale price, the PUC said, but so far it found the specific proposals lacking and denied them.

### New England struggles for gas

The New England states had wondered earlier whether they could deal with the gas pipeline issue through the ISO's tariff.

"I admired kind of the effort of the states getting together in the last iteration of the New England pipeline stuff, but we just would've had a really hard time approving that under the Federal Power Act because of discrimination," Commissioner Moeller told us after his remarks to the conference.

Going into last winter, New England had the highest natural

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gas prices in the world and it was just 100 miles from some of the cheapest, Moeller said in his remarks at the event. That obviously indicates a lack of transmission, he added.

It is good to see that some pipelines are coming to FERC with proposals to add more capacity to the region, Moeller told us, though he had yet to make up his mind on their capacity. He declined to comment specifically on the Illinois bill, which is still working its way through the legislature.

At least one of Exelon's competitors already asked FERC to use its buyer-side market power rules to insulate the wholesale markets from that bill (UMT, [March-27](#)).

The markets will get a good sense of where FERC is headed on the philosophy issues when it rule on PJM's capacity-performance proposal, Moeller said in his remarks at the event. He did not specifically comment on that proposal, but urged the audience to look at it and other items coming down soon to see what FERC's philosophy will be.

"The fact that we did grant the waiver shows that we needed more time to analyze things," said Moeller.

### Bay makes promising start

Beyond the emerging policies at FERC, Moeller commented on the recent changeover in leadership between Cheryl LaFleur, who is still a commissioner, and Chairman Norman Bay. Bay's early days at the helm have been promising, Moeller said.

"I am very encouraged by what I've seen so far. He appears to be opening up the deliberative process at the commission earlier so that we have more of a say in some of the options on big orders and on big rulemakings," he added.

That gives other commissioners more of an idea on the options FERC can take earlier in the process, which is a "great sign. He is also open to ideas on how we can run the commission better. That's good in terms of the quality of the orders that have been put out, our relationships with the outside world, the internal camaraderie – all starting on a very, very positive note," Moeller said.

Bay has been chairman for all of two weeks so it is still unclear exactly what his major agenda will be, with Moeller speculating he is probably figuring that out himself.