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New York regulators start to wrestle with ESCO controls

New York last week passed new rules dealing with complaints against ESCOs (RT, Oct-16).

While the final order is pending publication, state regulators are looking to find solutions that fall somewhere between the two options now available for handling ESCOs that don't play fair -- do nothing or strip them of their license.

One option includes negotiating with ESCOs to let unhappy customers part ways without penalty if complaints warrant that, the PSC told us.

This move wasn't pushed due to any one incident but instead was prompted by a series of complaints with at least a few ESCOs, the PSC reported.

The idea is to bring the benefits of the competitive market to customers while letting marketers function in the state without fear that a misstep will shut them out.

"As we head into the Winter Heating season, energy prices normally increase," NEMA President Craig Goodman told us. His association followed New York's proceedings closely.

"Given the current economic challenges, both consumers and suppliers need the most competitive energy services and technologies at the most competitive prices possible. We are pleased that the commission has recognized both of these issues."

Communication and understanding choice may be the deciding factor in keeping ESCOs strong in the Empire State.

"Every consumer in New York as well as across the country is well served by fully understanding their energy choices and being able to make the very best possible choices for their home or business," said Goodman.

"New Yorkers have dozens of energy suppliers to choose from and both NEM and the commission are actively encouraging accurate and timely consumer outreach and education. An informed consumer is not only the best consumer protection but they are also our best customers."

[Comments]

EPSA: Passive investments shouldn't trigger FERC reviews

EPSA Friday defended its petition to get guidance from FERC on transactions that could bring IPPs under review including market-based rate reviews due to new, non-controlling investments (RT, Oct-16).

Hedge funds and other investors have been buying stakes in multiple power firms -- that the SEC doesn't consider controlling investments but FERC might under its rules.

The association isn't looking to change all of FERC's reviews. It wants to see the bar raised for passive investments up to 20%, EPSA Vice President of Regulatory Policy Nancy Bagot said on a press conference call Friday.

That's the same ceiling the SEC sets for most firms on passive investments. To get that status, firms have to file a document with the financial regulator.

If they are on file at the SEC as a passive investor, EPSA would like FERC to use the same standard so financial deals don't throw authorizations from the energy regulator into question.

APPA, the National Rural Electrical Co-op Assn and the Transmission Access Policy Study Group made filings on the request that EPSA feels missed the mark.

The firm wasn't attacking FERC orders on market-based rates and other issues but rather was seeking guidance on the regulations in light of new moves in the market.

The protesters also argued that more regulation, not less was needed in this time of economic turmoil -- but EPSA believes the opposite is true.

The path should be made easier for investments in this tough market and removing lengthy FERC approval processes when firms aren't trying to influence another's operations in the wholesale power markets would help.

[Comments]

Ohio PUC filing at FERC denied on a technicality

FERC threw out the PUC of Ohio's challenge to FirstEnergy's market-based rate authority in the Midwest ISO (RT, Mar-18), saying it picked the wrong docket to bring up the issue.

FirstEnergy straddles the line of PJM and MISO -- with entities in both and has to file two separate requests to extend its market-based rate authority. The one the PUC sought to change was its PJM filing.

The PUC of Ohio will be able to bring up its concerns in the docket for reauthorization of FirstEnergy's MISO market-based rate authority.

FERC ended up finding that FirstEnergy passed the pivotal supplier screen for horizontal market power in PJM and PJM East, controlling below 5% in both cases while pivotal suppliers have to control 20% or more.

FirstEnergy was found not to have vertical market power either since the firm lets PJM control its power transmission and it has limited control over fuel for its generators.

[Comments]

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