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# Energy Law: Month in Review - April 2026

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Welcome to Dorsey's Energy Law: Month in Review. We provide this update to our clients to identify significant developments in the previous month. Please reach out to any of the authors, listed above, to discuss these issues.

## Related Capabilities

- Energy & Natural Resources
- Electric Power
- Environmental, Social, Governance (ESG)
- Sustainability

## LITIGATION AND DISPUTES

### Ohio Supreme Court Finds Submetering Company a Public Utility

The Ohio Supreme Court recently concluded that Nationwide Energy Partners, L.L.C. (NEP), a company that provides electric submetering services, fit within the definition of a "public utility" under state statute and was, therefore, subject to the jurisdiction of the Public Utilities Commission of Ohio (PUCO). PUCO's jurisdictional statute defines a public utility to include an entity "engaged in the business of supplying electricity … to consumers within this state," R.C. 4905.03(C). As interpreted by the court, submetering involves buying gas, electric, and other services from a public utility, and then reselling those services to the ultimate consumer. The court, therefore, held NEP was a public utility because: (1) NEP's profits depend on the difference between the price it pays for electricity and the resale price to tenants; (2) NEP is, for all practical purposes, the supplier of the tenants' electricity (with the power to disconnect tenants who fail to pay their bills); and (3) NEP pays the landlords for an exclusive right to sell electricity at each apartment building.

## REGULATORY DEVELOPMENTS

### FERC Orders American Efficient to Pay for Fraudulent Energy Efficiency Scheme

On April 15, 2026, the Federal Energy Regulatory Commission (FERC) ordered American Efficient, LLC and its affiliated companies to pay $1.1 billion, including a penalty of over $7 million and disgorgement of over $2 million, for running an allegedly fraudulent energy efficiency scheme. FERC found American Efficient violated Section 222 of the Federal Power Act, anti-manipulation rules, and the PJM Interconnection

(PJM) and the Midcontinent Independent System Operator (MISO)'s tariffs, through a scheme and course of business that extracted millions of dollars in capacity payments for a purported energy efficiency project that did not actually cause reductions in energy use. The fraud disrupted organized capacity markets and increased costs to customers.

**Terra-Gen Violates Duty of Candor Rule for CASIO Market Manipulation**

Pursuant to a Stipulation and Consent Agreement approved by FERC early this month, Terra-Gen, LLC, must pay $5.6 billion, including a $4.95 million fine and profit disgorgement, for its alleged manipulation of the California Independent System Operator (CAISO) market from July 2020 through April 2022. The case settles complaints related to Terra-Gen's "Sagebrush" 58 MW wind facility and 65 MW battery storage system in Kern County, California. The company offered resources from its Sagebrush facility into the CAISO day-ahead market to provide ancillary services, awards which were binding in the real-time market. But when CAISO later issued "regulation-down awards" ordering Terra-Gen to buy power and store it in the batteries, when real-time locational marginal prices were high, the company claimed outages or removed the batteries from CAISO's control. Terra-Gen admits in the settlement agreement and related compliance filings that this practice violated FERC's "duty of candor" rule but does not directly admit or deny that it violated FERC's anti-manipulation rule.

**FERC Approves Merchant Transmission Line Project with Physical Reservation System**

This month, FERC approved market rules for the Champlain Hudson Power Express project, a $6 billion, 1,250 MW merchant transmission line that is slated to deliver hydropower from the Hertel substation in Quebec, Canada, to the Astoria Annex Substation in Queens, New York, starting May 2026. The transmission line is under the control of the New York Independent System Operator (ISO) in the U.S. and Hydro-Quebec in Canada, but is owned by Blackstone-funded Transmission Developers Inc. FERC's approval included revisions to the New York ISO's Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff, that allow the merchant transmission facility to allocate transmission rights by physical reservation. The tariff revisions allow the integration of physical transmission service reservations managed by CHPE with the New York ISO's financial reservations and scheduling. Advocates noted that the project is key to meeting New York's mandate for 70% renewable energy generation by 2030.

**Minnesota Approves Xcel Energy's Capacity*Connect VPP Battery Program**

This month, the Minnesota Public Utilities Commission (MPUC) approved Xcel Energy's battery-based virtual power plant (VPP) that will deploy up to 200 MW of energy storage systems across its distribution grid by 2028. The program will be rolled out in partnership with the deployment services company Sparkfund and will support grid reliability by incorporating distributed energy resources via a network of batteries. The MPUC is requiring Xcel Energy to engage a third-party to conduct an independent evaluation and to report on whether the utility's behind-the-meter VPP pilot project in Colorado could also be applicable in Minnesota. Xcel Energy must further consider placing batteries in

underserved communities and partnering with Building Strong Communities, a multi-trade apprenticeship preparatory program, to expand access to construction careers.

**Georgia Approves Georgia Power's BYO Clean Energy Program**

Georgia's Public Service Commission approved Georgia Power Company's proposed "Customer Identified Resource Program" (CIR), a program that enables large customers to bring their own clean energy resources online in exchange for renewable energy certificates and credit for the energy value of the resource. Advocates have also called the program a "bring-your-own" or "BYO" power program, so designed to meet surging demand for clean energy while supporting critical grid infrastructure investments. Through the program, customers may identify and procure up to 3 GW of eligible projects through 2035. As long as the power generation can be interconnected and delivered to Georgia Power's system, it may be located in any state. The program builds on Georgia Power's existing "Clean and Renewable Energy Subscription" program, which allows customers to purchase a subscription for a pro-rata share of the utility's production of renewable resources.

**Nevada Approves NV Energy's Plan to Join EDAM**

On April 3, 2026, the Nevada Public Utilities Commission approved NV Energy's plan to join CAISO's Extended Day-Ahead Market, or "EDAM." The company will join in the fall of 2028. Joining EDAM will make it easier for NV Energy to comply with FERC's Order No. 2222, which aims to open wholesale markets to distributed energy resources, and the move is estimated to save the company $93.1 million a year in lower production costs, increased market sales revenues, and higher short-term wheeling revenues.

**PECO Energy Withdraws Pennsylvania Rate Request**

On April 16, 2026, Exelon's PECO Energy withdrew its proposed rate increase, responding to significant affordability concerns from customers and policymakers. PECO Energy stated it would instead "maintain electric distribution rates at current levels" through operational efficiencies. PECO Energy had filed an electric rate case with the Pennsylvania Public Utilities Commission on March 30, 2026, requesting a 12.5% rate increase ($429 million) on its electric operations. The rate increases were intended to further enhance safety and reliability of the company's services.

## LEGISLATION

**Colorado Legislature Passes Grid Optimization Act Requiring Utilities to Integrate ATTs**

Through a bipartisan vote, Colorado Legislators passed HB 1081 (the Grid Optimization Act). The bill is now awaiting the Governor's signature. HB 1081 is designed to deliver more affordable, reliable energy by optimizing the capacity of Colorado's existing transmission system. The state anticipates accomplishing this goal by requiring utilities to integrate advanced transmission technologies (ATTs) into long-term planning. Through further rulemaking by Colorado's Public Utilities Commission, electric utilities will need to include an analysis of ATTs in their biennial 10-year transmission plans.

**Maryland Legislature Passes Utility RELIEF Act Aimed at Reducing Customer Bills**

The Maryland General Assembly passed HB 1532, the Utility RELIEF (Reducing Energy Load Inflation for Everyday Families) Act, a bill aimed at reducing electric and gas utility bills by $150 per year through reductions in capital expenditures by investor owned utilities (IOUs). The bill requires utility companies to consider ATTs to increase the capacity and efficiency of existing transmission lines. Separate from ATTs, the bill requires the state's IOUs to join PJM, bars such utilities from using "future test years" in ratemaking, and cuts greenhouse gas emissions reduction targets from 2.5% to 1.75% for 2027 through 2029. The bill also changes the rate structure for and definition of large load customers, reducing the minimum monthly demand threshold to be considered "large load" from 100 to 25 MW, and lowering the minimum load factor from 80 to 60%.

**Virginia Enacts Grid Optimization Law Requiring Grid Utilization Data Tracking**

Virginia passed, and the Governor signed into law, HB 434, an electric grid optimization law. The bill requires the state's two major vertically integrated utilities (Dominion Energy and Appalachian Power) to employ and provide detailed electric grid utilization data to the Virginia State Corporation Commission, and such regulators to report utilization metrics annually. Key data the utilities must submit includes the ratio of peak system load to capacity, the ratio of delivered load to potential deliverable load, distribution losses by percentage, and an evaluation of the system performance during peak periods. Like other state initiatives, the bill was instigated by electricity customers' concerns about low utilization of the country's existing grid infrastructure.