

# Energy Law: Month in Review - July 2025

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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.

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## LITIGATION AND DISPUTES

**Ninth Circuit Court of Appeals Affirms FERC's Decision to Deny Grid Incentive to PG&E**

## Related Capabilities

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

In a July 11, 2025, unpublished decision from a three-judge panel, the Ninth Circuit Court of Appeals declined to disturb the Federal Energy Regulatory Commission's (FERC) decision to deny a Pacific Gas & Electric Co. (PG&E) request to include an incentive adder in its transmission rates designed to incent public utilities to join a regional transmission organization. It concluded that PG&E did not need an incentive to encourage it to participate in the California Independent System Operator (CAISO), because California law already mandates participation. California law mandates that utilities "shall participate" in CAISO, and because members cannot withdraw from CAISO, "their participation is not voluntary." The court also rejected PG&E's contention that federal law preempts section 362(c) of the California Public Utilities Code, the rule mandating CAISO participation. California's CAISO mandate regulates within a domain that Congress assigned to the states in a way that "indirectly affects interstate wholesale rates." These "indirect effects do not trigger field preemption."

## REGULATORY DEVELOPMENTS

### FERC Approves Fast-track Interconnection Reviews

On July 21, 2025, FERC approved a fast-track interconnection proposal from the Midcontinent Independent System Operator, Inc. (MISO). In proposing the process, MISO emphasized the necessity for bringing power supplies online quickly to meet near-term grid needs. State utility commissions or other "relevant electric retail regulatory authorities" would assess potential projects being considered in MISO's review process. State regulators mostly supported the proposal, but renewable-energy companies and public-interest groups criticized FERC's approval arguing, in part, that the proposal violates FERC's principles of providing nondiscriminatory access to the grid. Furthermore, critics argued, the proposal could disrupt development for projects waiting in interconnection queues. The approved proposal will allow planned resources meeting certain eligibility requirements to sidestep MISO's standard interconnection-queue reviews. Critics contend that gas-fired power plants will be the main beneficiaries of the fast-track process.

### State Utility Regulators Ask FERC to Reject MISO's \$21.8 Billion Transmission-development Plan

In a complaint filed on July 30, 2025, state utility regulators from Arkansas, Louisiana, Mississippi, Montana, and North Dakota have requested that FERC reject MISO's \$21.8 billion transmission-development plan, contending that MISO overstated the benefits and underestimated the costs associated with the latest tranche of its Multi-Value Project (MVP) program. MVPs are transmission projects MISO has identified as having regional economic, reliability, or public-policy benefits that are, therefore, eligible to have their

costs shared across MISO's footprint. The latest MVP tranche contains 24 transmission projects covering more than 3,600 miles of MISO's Midwest subregion. MISO claims its benefits could exceed \$72 billion. The complaining states contend that MISO used unreasonable metrics overstating the benefits of the latest MVP projects. They further contend that the MVP projects impose unreasonable costs by allowing states with more aggressive clean-energy goals to shift transmission costs to states that do not share those same goals or that have decided to build their renewable and other resources closer to load.

### **David LaCerte to fill FERC Vacancy**

On July 16, 2025, President Donald Trump named David LaCerte, an official from the U.S. Office of Personnel Management (OPM) to fill a vacant position at FERC. LaCerte has served as the principal White House liaison and senior advisor of OPM, which serves as the primary human-resources agency for the federal government, since January 2025. He also served as acting Managing Director of the U.S. Chemical Safety and Hazard Investigation Board at the end of President Trump's first term in office. LaCerte was special counsel at Baker Botts for two years beginning in January 2023, where he worked on energy litigation and environmental, safety, and incident-response issues. If confirmed, LaCerte would serve the remainder of former FERC Chair Willie Phillips' term that expires June 30, 2026, and he would break a 2-2 tie and give Republicans a 3-2 FERC majority.

### **Administrative Law Judge recommends that the Minnesota PUC to Reject \$6.2 Billion Private Equity Deal**

On July 15, 2025, Administrative Law Judge (ALJ) Megan McKenzie recommended that the Minnesota Public Utilities Commission (MPUC) reject a \$6.2 billion private-equity deal. Under the deal, the Canada Pension Plan Investment Board and Blackrock's Global Infrastructure Partners would buy Allete, parent company of Minnesota Power and Superior Water, Light and Power. In a recommended decision, ALJ McKenzie concluded that the deal does not meet Minnesota's public-interest standard and poses foreseeable risks to Minnesota's energy transition, Allete's long-term financial health, and ratepayers. Allete and its buyers, she stated, failed to adequately support primary arguments for supporting the deal, including improving access to capital and expertise. Allete criticized the recommendation, contending that ALJ McKenzie did not fully consider the benefits of a July 11, 2025, settlement agreement with the Minnesota Department of Commerce, in which Minnesota Power would freeze its base rates for one year and reduce its return on equity from 9.78% to 9.65% until a future rate case. Allete contended that this reduction would provide immediate ratepayer benefits. However, ALJ McKenzie cited September 2024 warnings from "FERC that asset managers like Blackrock could hurt ratepayers by trying to maximize profits from utilities their portfolios, concluding that "[o]n balance, the risks of the deal, as proposed, outweigh the possible benefits."

### **Executive Order Tightens Restrictions on Wind and Solar Development**

On July 7, 2025, President Donald Trump issued an executive order curtailing federal subsidies on wind, solar, and electric vehicles. The order states that renewables have distorted markets, undermined grid reliability and national security by reliance on foreign-controlled supply chains, and imposed unsustainable costs on taxpayer. The order instructs the Secretary of the Treasury to publish guidance within 45 days “to ensure the policies concerning the ‘beginning of construction’ are not circumvented” by wind and solar projects whose eligibility for clean-energy tax credits were significantly reduced in the July 4, 2025, budget legislation. The legislation restricts the ability of renewables projects to qualify for the 48E investment tax credit or the 45Y production tax credit, shortens the timeline for those credits, and terminates residential-solar and electric-vehicle tax credits by the beginning of 2026. The order directs the Treasury to strictly enforce the termination of these credits and to focus on closing perceived loopholes in “beginning of construction” definitions and safe-harbor provisions that may otherwise be used to lock-in benefits through minimal pre-development work. Treasury must also implement the Foreign Entity of Concern restrictions in the budget legislation to ensure that projects with ownership, financing, or supply-chain links to specified foreign states are ineligible for clean-energy credits.

### **Ohio Regulators Approve AEP Data Center Interconnection Rules**

The Ohio Public Utilities Commission (OPUC) unanimously approved a July 9, 2025, settlement agreement between AEP Ohio and various stakeholders setting new terms and conditions for connecting data centers to the power grid. The OPUC ordered AEP Ohio to file updated tariffs and to lift a moratorium on connecting new data centers. The order sets minimum monthly bills for new data centers larger than 24 MW based on a percentage of their highest previous monthly billing demand over the past eleven months or their contract capacity. Those data centers will need to pay for at least 85% of the energy they expect to need each month, even if they use less, to cover the costs associated with infrastructure needed to bring electricity to the facilities. The order also requires data centers to show that they are financially viable and to pay an exit fee if their project is cancelled. The Ohio Consumers Council, which represents ratepayers; the Ohio Partners for Affordable Energy; and others supported the agreement. The Data Center Coalition—an industry group representing, among others, Google, Amazon, Microsoft—opposed the agreement, contending that it would dampen investment by inflating data centers’ costs and imposing unnecessary regulation on behind-the-meter energy generation.

### **Michigan’s Palisades Nuclear Power Plant Closer to Restarting after Recent NRC Approvals**

On July 24, 2025, the U.S. Nuclear Regulatory Commission (NRC) granted multiple

approved needed for the 800-MW Palisades Nuclear Power Plant (Palisades) in Michigan to restart later this year. The former owner, Entergy, shut the plant down in May 2022 and sold it to Holtec in June 2022. Holtec began plans to restart Palisades in late 2023. With NRC's decision, Holtec is now authorized to receive new fuel and to formally transition licensed reactor operators to on-shift status. In May, NRC concluded that Holtec's efforts to restart Palisades poses "no significant impact" to human health or the environment. NRC noted that there are still several licensing actions under review, and additional requirements will need to be met before Palisades can begin producing under the original operating license, which expires March 24, 2031.

### **FERC Rejects Petition to Limit Market Monitor's Transmission Planning Oversight**

On July 18, 2025, FERC rejected a petition from MISO and its transmission owners calling for MISO's independent market monitor to be effectively barred from transmission-planning oversight. FERC's petition followed the market monitor's (Potomac Economics) criticism of MISO's needs and cost-benefit analysis supporting its \$22 billion Tranche 2.1 transmission portfolio that FERC approved in December 2024. Potomac Economics contended that MISO overstated its transmission needs and the benefits flowing from its proposed project portfolio. In rejecting the request, FERC emphasized that MISO's tariff "unambiguously" authorizes MISO's market monitor to review and analyze MISO's actions affecting the competitiveness, economic efficiency, and operation of the grid operator's markets and services, and transmission planning is among those actions subject to review.

### **Oregon Legislature Approves First-in-Nation Microgrid Framework**

To improve grid reliability and combat rising energy costs, the Oregon House of Representatives and Senate passed two bills designed to make communities more resilient as the state's grid faces rising electricity demand, extreme weather events, and power shutoffs to mitigate wildfire risk. Governor Tina Kotek signed the bills on July 17, 2025. HB 2065 seeks to reduce bottlenecks to microgrid deployment by allowing third-party consultants or contractors to evaluate customer requests to connect to the public power grid and by requiring public utilities to approve or deny microgrid applications "based on safety, reliability and compliance with published standards." HB 2066 directs the Oregon Public Utility Commission (OPUC) to develop a regulatory framework for community-owned and private microgrids. It also requires the Department of Consumer and Building Services to establish rules allowing existing buildings to connect to community microgrids and allows local governments to design "microgrid zones" with special land-use regulations, subject to local utility or OPUC. Community microgrids

combine individually owned solar, batteries, and other energy-generation or -storage systems located at facilities that have high reliability or “uptime” needs, such as hospitals, schools, police and fire stations, wastewater-treatment plants, critical infrastructure facilities, data centers, grocery stores, and other businesses.

### **DOE Retracts \$4.9 Billion Conditional Loan Commitment to Grain Belt Express**

On July 23, 2025, the Department of Energy (DOE) revoked its conditional commitment to a \$4.9 billion loan guarantee for the first phase of the Grain Belt Express, a transmission line proposed to traverse parts of Kansas, Missouri, Illinois, and Indiana. DOE stated that the conditions needed to issue the loan guarantee were unlikely to be met and that federal support for the 5,000-MW direct current transmission line is not critical. Grain Belt Express had argued that the 800-mile, open-access transmission line would increase grid reliability and significantly reduce energy costs for ratepayers. In response, DOE stated that the conditional commitment was among those “rushed out the door” at the end of the Biden Administration.