

Energy Law: Month in Review - June 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.

LITIGATION AND DISPUTES

DC Circuit Upholds Refund Order for Midwest Utility Customers

On June 5, the D.C. Circuit Court of Appeals upheld the Federal Energy Regulatory Commission (FERC)'s refund orders against a group of transmission companies in the Midcontinent Independent System Operator (MISO). The court had ruled in 2022 that the companies were required to refund customers for years of overcharges on electricity delivery rates, but the companies again challenged the calculation of the refund. Rejecting the companies' argument that federal law limits refunds to a single 15-month period, the court found that FERC is authorized to order retroactive multi-year refunds when the agency is following court orders to correct previous faulty orders.

Ohio Supreme Court Rules Utilities Lawfully Recovered \$115 Million in Coal Plant Costs

The Ohio Supreme Court unanimously ruled that three utilities were lawfully reimbursed for \$115 million spent in 2020 to keep two aging Ohio coal plants operating. Critics argued the plants should have shut down when power prices were too low to cover operating costs. But the court found that a strategy of continuous operation was "prudent and reasonable" in compliance with a 2019 state law. The court affirmed the Public Utilities Commission of Ohio (PUCO)'s decision to issue the reimbursements. Opponents have signaled they will continue to challenge further PUCO audits on the issue.

DC Circ. Rejects PJM Transmission Owners' Bid to Change Grid-Planning Rules

On June 6, a federal appeals court upheld FERC's rejection of a proposal that would have let PJM Interconnection (PJM) make planning decisions without approval from its

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member utilities. FERC had rejected the proposed changes to PJM's operating agreement based on its determination that eight provisions were "not just and reasonable." Rejecting PJM's argument that FERC should have only considered whether the entire package was "just and reasonable" when PJM had presented it as an all-or-nothing package, the court affirmed FERC's decision, leaving PJM's current governance structure in place.

D.C. Court Orders DOE to Restore \$82 Million in Clean Energy Grants

A federal judge in Washington, D.C. ordered the Department of Energy (DOE) to reinstate \$82.1 million in clean energy grants that it had cancelled in October 2025 to 11 projects in New York, Oregon, Connecticut, Minnesota, and Colorado. The judge found that the cancellations likely targeted projects in states that voted Democratic in the 2024 presidential election, violating constitutional equal protection and First Amendment guarantees. The ruling follows a January 2026 case in which DOE reversed \$27.6 million in similar grant cancellations without contesting that the primary reason for cancellation had been the projects' location in states that voted for former Vice President Kamala Harris in 2024.

REGULATORY DEVELOPMENTS

FERC Approves New Fast-Track Transmission Access for Data Centers in the Midwest and Plains

On June 5, federal energy regulators approved a new program allowing large electricity users in the Southwest Power Pool (SPP)'s 17-state region to be served by the grid far more quickly. The Conditional High Impact Large Load Service (CHILLS) program creates a new transmission service, allowing large customers to connect to the grid for up to 7 years before necessary longer-term upgrades are completed, subject to condition that their power can be cut during grid emergencies to maintain SPP's grid reliability.

FERC Tells Grid Operators to Update Rules for Connecting Large Electricity Users

On June 18, FERC ordered six regional grid operators, including MISO and SPP, to update their rules for connecting large electricity users like data centers to the power grid, rejecting a one-size-fits-all national rule. Each grid operator must show its current rules are reasonably tailored to large loads or revise them within 60 days. Although FERC issued orders specific to each operator, all operators are expected to satisfy general principles ensuring that existing customers won't be subject to higher bills, that new large demand facilities can be co-located with generation facilities, and that transmission services remain efficient.

FERC Approves Fast-Track Interconnection Process for Large Power Projects in PJM

FERC also approved PJM's new expedited process allowing up to 10 large power projects per year to connect to the grid in approximately 10 months. To qualify, a project must generate at least 250 megawatts and have support from the applicable state's permitting authority to come online within three years. FERC rejected objections from several utilities and state regulators, finding the program is not unfairly biased towards utilities and that concerns about delays to other projects were too speculative. Projects

may be selected as early as October 2026, with the program set to expire at the end of 2027.

New York Announces Initiatives to Support Nuclear Energy

Various agencies and utilities in New York launched initiatives in June to support Governor Hochul's goal of generating 5 GW of new sources of nuclear energy to increase in-state generation and reliability. The New York Power Authority issued a Request for Qualifications, calling for experienced developers to present plans to deliver at least 1 GW of nuclear power in Upstate New York. Meanwhile, the New York Public Service Commission (NYPSC) established a Nuclear Reliability Backbone Process to investigate and facilitate pathways for generating 4 GW of nuclear energy. The NYPSC requested public comments on the initiative by August 10 and plans to draft a corresponding report policy options by November 11.

DOE Commits \$850 Million to New and Modernized Coal Power Plants

On June 4, DOE announced it would issue two separate grants totaling \$850 million for 17 coal-related projects using authority from the Defense Production Act. The funding targets include two brand-new coal plants in Alaska and West Virginia, which would be the first new U.S. coal plants built since 2013. Money will also go towards constructing a new coal export terminal in California and to upgrade existing plants in Arizona, Arkansas, Indiana, Kentucky, Maryland, North Carolina, North Dakota, Oklahoma, Puerto Rico, Tennessee, West Virginia, and Wisconsin. Opponents continue to challenge whether the funding is permissible under federal law.

DOE Orders Florida Municipal Utility to Keep Coal Plant Running

Citing concerns about future electricity demand from potential data centers, DOE also ordered Orlando's municipal utility to keep a 465 MW coal-fired power plant operating despite existing plans to convert the plant to natural gas. The order lasts through September 1, 2026, and directs the utility to file necessary tariff revisions to recover compliance costs. Similar orders at other plants around the country are being challenged in court and seem likely to follow in Florida given that a recent federal reliability assessment had just rated the state as having only "normal risk" for power shortages.

LEGISLATIVE DEVELOPMENTS

New Jersey Governor Mikie Sherrill signed three bills meant to make energy bills more affordable. A796 requires "large-load data centers," defined as data centers with at least 100 MW in load, to pay for their own energy use and associated grid infrastructure. The legislation also incentivizes data centers to bring lost cost renewable energy onto the grid. A5188 requires a Certificate of Public Convenience and Necessity (CPCN) for supplemental transmission projects. Supplemental transmission projects are typically designed to replace outdated transmission lines and are planned outside PJM's process

and previously did not require a CPCN. Supplemental transmission projects totaled \$14.7 billion from 2008 to 2025, amounting to 79% of ratepayers' transmission expense. A2757 mandates that New Jersey utilities join a regional transmission organization (RTO). This removes New Jersey utilities' entitlement to a financial incentive offered by FERC for utilities to voluntarily join an RTO.