

Energy Law: Month in Review - October 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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Related Capabilities

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

LITIGATION AND DISPUTES

United States Sues SoCal Edison for Negligence in 2019 Saddleridge Wildfire

On October 7, 2025, the federal government sued Southern California Edison (SoCal Edison) for allegedly causing the 2019 Saddleridge Fire in Los Angeles County, California. The complaint alleges that the utility's negligent maintenance of its powerlines caused a transmission tower to fail and an attached powerline to fall onto a lower arm of the tower, resulting in a wildfire that damaged over 800 acres of federal land and miles of U.S. Forest Service roads, among other damages to the Angeles National Forest System. The U.S. Attorney's Office for the Central District of California brought this suit and similar suits filed last month seeking a combined \$77 million in damages for alleged negligence related to the 2022 Fairview Fire and 2025 Eaton Fire.

Michigan Appeals Court Vacates Solar Farm Permit in Macon Township

A subsidiary of Invenergy, Mustang Mile Solar Energy LLC, recently applied for a special use permit and amendment to a zoning ordinance for its proposed industrial-scale solar farm in Michigan. The local advisory planning commission concluded the project's site plan failed to meet all zoning ordinance standards, but the Macon Township Board of Trustees rejected the planning commission's recommendation. Landowners challenged the zoning ordinance changes and permit issuance. On review, a Michigan district court, the Lenawee Circuit Court, affirmed the township's decision. But on October 6, 2025, the Michigan Court of Appeals reversed. The appeals court vacated the special use permit. The court explained that the district court had incorrectly concluded that the advisory planning commission had recommended approving the permit, when in fact it had not. The court also concluded that the township board failed to sufficiently explain its decision and to reconcile its decision with the planning commission's recommendation. Concurrently, the appeals court issued a separate decision upholding amendments that Macon Township had made to its zoning ordinance.

REGULATORY DEVELOPMENTS

Senate Confirms FERC Republican Nominees David LaCerte and Laura Swett; Trump Taps Swett as FERC Chair

The U.S. Senate recently confirmed President Donald Trump's Republican selections for the Federal Energy Regulatory Commission (FERC): Laura Swett and David LaCerte. Swett was most recently energy regulatory counsel at Vinson & Elkins LLP and previously served as senior legal and policy advisor to former FERC Chairman Kevin McIntyre and Commissioner Bernard McNamee. Her term will expire June 30, 2030. LaCerte was principal White House liaison, senior advisor to the Office of Personnel Management director, and special counsel at Baker Botts LLP. His term will expire June 30, 2026. The new confirmations give FERC a full complement of five commissioners and Republicans a 3-2 majority.

Of the confirmed nominees, Trump has tapped Swett as the new FERC Chair. Swett would replace David Rosner, a Democrat whom Trump named acting chair in August following the departure of former Chairman Mark Christie. Commenting on agency independence at the confirmation hearings, Swett stated that FERC's independence "is

exactly what Congress directed” when it moved the agency out of the U.S. Department of Energy (DOE)’s jurisdiction in 1977, and that she “will not exceed the jurisdiction that Congress has given the agency.”

Minnesota PUC Approves \$6.2 billion Private Equity Sale of Allete

On October 3, 2025, the Minnesota Public Utilities Commission (MPUC) approved a \$6.2 billion sale of ALLETE, Inc., to BlackRock’s subsidiary Global Infrastructure Partners, and a Canadian pension fund, the Canada Pension Plan Investment Board. ALLETE argued in its application for approval of the sale that it needed financing for aging infrastructure and to transition to a carbon-free energy system, particularly to replace two coal-fired units Minnesota Power plans to retire. According to ALLETE, the deal will bring about \$200 million in ratepayer benefits. An Administrative Law Judge recommended denying the approval, citing the risks to ratepayers and ALLETE’s long-term financial health. But the Commission found the deal in the public interest due in part to several “unprecedented” conditions. Such conditions include requiring investors to fund Allete’s \$5 billion, 5-year capital plan and provide \$50 million for firm clean power. Allete also agreed to freeze its base rates for a year, reduce its Return on Equity (ROE) until the utility’s next rate case, and to cap ROE at 9.78% through 2030.

FERC Directs MISO to Better Analyze Merchant Transmission Projects like Grain Belt Express

On October 16, 2025, FERC partially granted Invenergy Transmission LLC (Invenergy)’s complaint against the Midcontinent Independent System Operator, Inc. (MISO), regarding development of Invenergy’s Grain Belt Express (GBX), Docket No. EL22-83-000. The project is an approximately 800-mile high-voltage direct current (HVDC) transmission line spanning Kansas, Missouri, Illinois and Indiana, that will add around 5,000-MW of U.S. energy delivery capacity. But the GBX has faced significant legal and political challenges; just three months ago, the DOE pulled a \$4.9 billion conditional loan guarantee slated for the project. Invenergy’s complaint at FERC argued that MISO did not properly implement its rules when it rejected the company’s bid to have the GBX considered in MISO’s two most recent tranches of transmission projects under the MISO Transmission Expansion Plan (MTEP), and that MISO’s tariff—the Open Access Transmission, Energy and Operating Reserve Markets Tariff—is insufficiently clear as to how and when it incorporates merchant transmission projects into planning models. FERC’s order directs MISO to better account for merchant transmission projects like GBX in its grid expansion planning process; however, FERC denied the complaint in part, concluding that Invenergy had not met its burden of demonstrating why MISO’s tariff and MTEP analyses are unreasonable and unjust.

FERC Rejects NV Energy Plan to Allow Penalty-Free Withdrawal from Interconnection Queue

On October 20, 2025, FERC rejected NV Energy’s request for permission to let pending

interconnection customers withdraw their interconnection requests without paying a penalty and with immediate return of their commercial deposit. NV Energy had requested the waiver to remove projects from its interconnection queue rendered unviable because of the Trump administration's revocation of certain clean energy tax credits. The withdrawals would also make way for other resource types. In mid-October, NV Energy had 69 projects totaling about 23.1-GW in its interconnection queue, with geothermal projects growing 30% in the last three months. FERC concluded the waiver was "not limited in scope because it is not limited to a discrete number of interconnection customers with a demonstrated need for relief."

DOE Cancels \$700M in Battery and Manufacturing Project Grants

The DOE's Office of Manufacturing and Energy Supply Chains canceled over \$700M in battery and manufacturing project grants this month. The battery grant cancellations are part of the agency's larger cancellation of \$7.6 billion in funding for clean energy projects. DOE based the cancellations on the failure of the battery projects to "adequately advance the nation's energy needs," align with the Congressional budget framework, and generally provide a return on investment. Developers affected by the grant recessions likely include ICL Specialty Products, which had received a \$197 million grant for a new battery plant in St. Louis, Missouri, and American Battery Technology, which had received a \$57.7 million grant for its lithium mine and refinery in Esmeralda County, Nevada, among others.

Groups Challenge MISO Cost Allocation Plan for Running Coal-Fired Power Plant Past its Retirement Date

The 1,560-MW coal-fired J.H. Campbell plant in West Olive, Michigan, is facing legal and regulatory hurdles as it continues to run past its retirement date. Using its powers under the Federal Power Act and citing the need for capacity retention and resource adequacy, the DOE ordered the Campbell power plant's continued operation for a 90-day energy emergency in May of this year. In August, FERC approved MISO's preliminary cost-recovery plan for the owners of the Campbell power plant to recover their compliance costs associated with the extended emergency operations; the Campbell power plant owners themselves have not yet asked to recover costs. FERC is now facing a final decision on MISO's cost-recovery plan itself, Docket No. EL25-90. Industrial, business and environmental groups argued this month that FERC should reject the plan because ratepayers should not have to bear the cost of DOE's decision to continue operating a coal-fired power plant; a demand-based, instead of an energy-based load ratio as MISO has proposed, would better comport with cost-causation principles.

West Virginia PSC Says Pole Owners Must Replace Old Utility Poles

The West Virginia Public Service Commission (WVPSC) recently got ahead of the pole-replacement debate—an issue concurrently before the Federal Communications

Commission—and declared it is the sole responsibility of the pole owner, “not the responsibility of the attaching company,” to pay for pole replacement. The WVPSC is concerned about the timely completion of broadband expansion projects in the state that are funded in part by federal funds limited to particular fiscal years of spending. Utility poles that have been “red tagged” for replacement in West Virginia must now be replaced by whoever owns them, not the utility that is paying to use them.

PUC of Texas Approves Entergy’s 500-kV SETEX Transmission Project

On October 2, 2025, the Public Utility Commission of Texas (PUCT) approved the route and authorized Entergy Texas to move forward with its Southeast Texas Area Reliability Project (SETEX). SETEX is a 145-mile, 500-kV transmission line that will cross Lake Livingston and is estimated to cost \$1.4 billion. The selected route had the lowest estimated cost and affected the fewest number of habitable structures. At the same hearing, the PUCT also selected six projects to receive \$381 million from the Texas Energy Fund’s Outside ERCOT Grant Program. The goal of these projects is to harden transmission and distribution lines to build reliability and resiliency in response to extreme weather events.

California Governor Newsom Vetoes Energy Bill on Virtual Power Plants

California Governor Gavin Newsom signed into law several energy bills recently passed by the California legislature, including bipartisan legislation that would extend the state’s cap-and-trade program and enable the Western regional Extended Day-Ahead Market (EDAM). But this month, he vetoed AB 740. The California legislature’s passage of AB 740 would have required the state to adopt a virtual power plant (VPP) deployment plan. Trade and environmental organizations supported the bill, arguing VPPs could save Californians \$750 million per year in electricity system costs and provide more than 7,500-MW of energy capacity. Governor Newsom cited financial strains on the state energy commission as the basis for vetoing AB 740.