

10:00 a.m. (EST)

1-866-362-9768

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**OMA Energy Committee Agenda
August 23, 2017**

Welcome and Introductions

Brad Belden, Belden Brick, Chair

Customer-Sited Resources Report

- Sustainability Peer Network
- PUCO PowerForward
- PJM Base Residual Auction

John Seryak, PE, RunnerStone, LLC

Counsel's Report

- PUCO case highlights
- First Energy ESP IV

Kim Bojko, Carpenter Lipps & Leland

State Public Policy Report

- Statehouse report
- Utility legislation / legislative proposals
- Customer campaign to protect competition

Ryan Augsburger, OMA Staff

Member Discussion

Electricity Market Trends

Susanne Buckley, Scioto Energy

Natural Gas Market Trends

Darin King, NiSource, Columbia Gas of Ohio

Lunch

**2017 Energy Committee Calendar
Meetings will begin at 10:00am**

Meeting sponsored by:

**Wednesday, August 23, 2017
Thursday, November 16, 2017**



To: OMA Energy Committee
From: Ryan Augsburger
Re: Public Policy Report
Date: August 23, 2017

Overview

Significant energy policy questions were debated by the General Assembly through Spring but did not advance. Lawmakers have been mostly on recess since completion of the budget process in late June. When they return later this fall, electric regulation topics are likely to be considered.

PUCO Gives FirstEnergy Subsidy / Sets Precedent

Earlier this month, the PUCO finalized its order awarding FirstEnergy a \$1B plus subsidy to prop up the company and its affiliate. Far be it from the \$9B sought by the Akron-based utility. The OMA Energy Group (OMAEG) opposed the proposal in every chapter and will continue to seek reversal in appeal. The case spawned copy-cat applications by Ohio's other investor-owned investors. See counsel's report.

Re-Monopolization

FirstEnergy and other investor owned utilities are calling for legislation to provide *re-monopolize* aspects of utility-owned generation. Significant conversations are ongoing with state leaders. Expect to see a second pro-utility bill introduced soon.

Zero Emissions Nuclear (ZEN) Credit = Nuke Bailout

Companion legislation has been introduced and is being considered by lawmakers in the Ohio House and Senate to require customers to provide a \$300 million bailout to subsidize the uneconomical nuclear power plants. HB 178 is sponsored by Representative Anthony DeVitis of Summit County. SB 128 is sponsored by Senators John Eklund of Lake County and Frank LaRose of Summit County.

FirstEnergy, long a champion of competition has publicly switched positions and is now calling for customers to bailout their (subsidiary's) two nuclear power plants. The proposal is similar to proposals in NY, Illinois and Pennsylvania. A detailed summary and cost-impact forecast was provided at the May meeting. The OMA strongly opposes the legislation and is working with other opponents to coordinate advocacy.

Financial Integrity Bailouts

In Spring of 2016, we reported on favorable Supreme Court decisions that protect customers from inappropriate utility overcharges. The Court decision pertained to both AEP and DP&L but also established precedent. In late 2016 Dayton Power & Light developed a legislative proposal to reverse Supreme Court decision that fairly protects customers from transition charges. The legislative proposal would authorize PUCO to impose riders on customers' electric bills to fund a utility bailout any time a utility claims their "financial integrity" is threatened. The legislation did not advance in 2016, but a remarkably similar proposal was amended into the state budget in late May of 2017. After a month of intense lobbying by opponents, the provision was stripped from the bill.

OVEC Bailout

Companion legislation was introduced in late May and was on the fast-track for possible passage prior to the summer recess but did not advance. HB 239 is sponsored by

Representatives Ryan Smith and Rick Carfagna, while SB 155 is sponsored by Senators Lou Terhar and Bob Peterson. The legislation provides \$256 million annually to the utility owners of aging coal plants (one in Ohio and one in Indiana) operated by the Ohio Valley Electric Corporation (OVEC). The bailout subsidies would be added to customer bills for 23 years. Sponsors and proponents justify this bailout as “national security” because the plants formerly supplied the Piketon uranium enrichment facility. The OMA opposes this bailout that will impose new above-market customer charges.

Protecting Competitive Electric Markets

In 1999, with the passage of Senate Bill 3, Ohio began a transition to deregulated generation. That transition which has taken over a decade, has delivered customer choice, cost-savings and innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. “Stranded costs” and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohioans for a second time. If approved in some form, the subsidy cases and Nuke bailout legislation would represent yet another above-market payment to utilities by customers who realize no benefit.

The OMA has been a proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in new above-market charges on manufacturers.

Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability. See attached resource materials. The opportunity to advance legislative reform to protect competitive markets has arrived. The OMA has been working with other customer groups to support House Bill 247 introduced by Representative of Mark Romanchuk from the Mansfield area. See attached summary of the three-part market protection plan. Manufacturers can engage policymakers and support a campaign to support the reform. Please contact OMA staff to learn how you can support the cause.

Natural Gas Infrastructure

The OMA continues to express industry support for the Rover Pipeline and Nexus Pipeline. Billions of dollars of pipeline investment are underway by several different developers. The Rover Pipeline secured FERC approval in early February. Natural gas production continues to grow in the Buckeye state even with depressed pricing. In fact, Ohio natural gas prices are among the lowest around the globe today.

Transportation Budget

Earlier this year, the transportation budget was amendment to increase the amount a gas distribution utility may collect to pay for economic development projects, such as line extensions to a new manufacturer.

Energy Standards Legislation

The Governor acted on his threat to veto House Bill 554 last December. The bill weakened the energy standards that had been frozen since 2015 by then SB 310. The OMA had a technical analysis of HB 554 produced. Together with over fifty co-sponsors, Representative Bill Blessing introduced HB 114 which is very similar to the vetoed legislation. The House passed the measure early in the year but it stalled in the Senate. Separately, a legislative reform to loosen restrictive wind setback requirements was halted by a budget conference committee.

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MEMORANDUM

TO: The Ohio Manufacturers' Association
FROM: Kimberly W. Bojko, Carpenter Lipps & Leland LLP
DATE: June 21, 2017
SUBJECT: Sub H.B. 49 "utility credit rating" amendment

Sub. H.B. 49 Amendment to R.C. 4928.143

The proposed statutory revisions included in the omnibus amendment (SC5466) do not codify current industry practice. The revisions allow a utility to obtain a financial integrity charge under an electric security plan (ESP) application. The revisions also specifically state that such a charge is not a transition charge and does not violate corporate separation laws. Specifically, the amendment makes two statutory revisions that are harmful to customers.

1) Proposed R.C. 4928.143(F) (line 251):

New language beginning at line 251 of SC5466, is very similar to attempts previously made by the Dayton Power & Light (DP&L) to modify PUCO ratemaking laws to add new riders on customers' electric bills if a utility's financial integrity is threatened. The bill allows the PUCO to establish a rider or upwardly adjust rates to ensure that the utility achieves and maintains a **minimum** credit rating. The language goes on to state that the amount of the rate adjustment would be an amount just and reasonable to achieve and maintain a **target** credit rating. **Target** credit rating is later defined as possibly being higher than a **minimum** credit rating. Thus, the bill language seems to contradict itself as to whether the PUCO is authorized to increase rates or add new riders at a level that achieves and maintains a minimum credit rating or something even higher, a target credit rating (also determined by the PUCO).

The legislative proposal specifically makes a legal determination that the rate adjustment does not constitute a transition charge and is not subject to other limitations set forth in existing Ohio law, including corporate separation prohibitions such as providing ratepayer monies to affiliated companies. This may effectively reverse recent Supreme Court decisions that were favorable to customers regarding transition charges and would moot current or imminent appeals regarding the PUCO's recent approval of FirstEnergy's credit support rider.

2) Proposed R.C. 4928.143(E) (line 218):

New language inserted beginning at line 218 of SC5466, permits the Public Utilities Commission of Ohio (PUCO) to modify the significantly excessive earnings test (SEET) that is required if an ESP lasts longer than 3 years. If the SEET test is conducted in year four of the ESP and if continuing the ESP will cause the utility to earn excessive profits, the PUCO may terminate the ESP. The amendment, however, allows the PUCO to consider the utility's credit rating when testing the ESP. In essence, authorizing the PUCO to find that the SEET test would not result in excessive earnings because of the utility's low credit rating as if a low credit rating somehow nullifies the utilities' excessive earnings. This is contradictory to the current law that requires the PUCO to find that the earnings will be excessive and terminate the ESP to prevent the utility from over earning in the future.

Remember, if the utility is found to have significantly excessive earnings under another provision in the law, those excessive earnings are required to be refunded to customers. Given that none of the utilities have ever invoked this provision and conducted this test since their ESPs have only been three years or shorter so as to preclude the necessity of such test, there is no way this amendment could be seen as codifying current practice as there has been no current practice to date. The only current practice surrounding a SEET test has been pursuant to R.C. 4928.143(F), where the PUCO conducts the SEET test after the end of the ESP to determine whether significantly excessive earnings occurred.

Conclusion:

The referenced budget amendment is a stunning request of the General Assembly by a utility company. The utilities continue to ask for more customer-paid subsidies due to an alleged fiscal crisis due to their parent company or affiliates' bad business decisions. **Once again the utilities are asking customers to bail them out, seeking to shift ordinary business risk from shareholders to ratepayers.**



Utilities Seek Another Bailout, This Time for Obsolete “National Defense” Assets

Legislation was recently introduced in the Ohio General Assembly that would allow Ohio’s investor-owned electric utilities (utilities) or their affiliates, who are part owners of the Ohio Valley Electric Corporation (OVEC) power plants, to collect from customers unwarranted subsidies to support the uneconomic power plants in which the utilities or their affiliates have an ownership stake, including an OVEC plant located in Indiana. The legislation would guarantee utilities recovery of all costs associated with the OVEC plants, including deferred costs. The legislation authorizes the utilities to collect these charges from all electricity users in Ohio under certain circumstances, which would remain in place until the assets are retired.

The utilities’ rationale for the necessity of this request is a red herring. The OVEC plants are no different than any other electricity generation resource currently bidding into the wholesale market against other generation resources. What is different is that the OVEC plants are inefficient, produce expensive power and cannot get a foothold in the market. The utilities want the Ohio General Assembly to provide subsidies so they can ignore the market, keep the plants open, have Ohioans purchase power from the plants and pay prices that are higher than for other sources of electricity, and avoid having to write down the value of these plants – as they should have done years ago.

If approved, this would not be the utilities’ first consumer-paid subsidy. Ohio’s investor-owned utilities received \$9.2 billion in “stranded assets” and “regulatory transition” payments from 2000 to 2010. Despite collecting these payments, utilities failed to write down their noncompetitive generating plants – including OVEC – which are the assets that were “stranded.” Now the utilities want more.

This is utility regulation right out of the pages of Laura Numeroff’s children’s book *If You Give A Mouse A Cookie*, the classic tale of a mouse that gets the cookie it asks for, but always wants more. From 2000 to 2017, the utilities received \$15.7 billion of cookies and are now asking for what some have estimated to be an additional \$300 million per year for the life of the plants. Another source, the Ohio Legislative Service Commission (LSC), has estimated the costs paid by consumers to be potentially as high as \$256.6 million per year for the 24-year period of the current OVEC contract.

Clearly, it’s time to put a lid on the cookie jar.

Ohio ratepayers should not be required to support uneconomic power plants operating at barely half-capacity, such as the OVEC plants. Requiring customers in Ohio to pick up this tab would increase operating costs for Ohio’s businesses and disadvantage these businesses compared to businesses in competing states with lower electricity costs. The subsidy would be levied on a significant segment of the population, including customers in AEP-Ohio, Dayton Power & Light, Duke Energy Ohio and FirstEnergy service territories.

Background

The Ohio Valley Electric Corporation is a company jointly owned by several electric utilities.¹ OVEC and its wholly owned subsidiary, Indiana-Kentucky Electric Corporation, own and operate two electricity generating complexes: Kyger Creek Power Plant, near Gallipolis, Ohio, and Clifty Creek Power Plant, near Madison, Indiana. Ohio's Kyger Creek complex has five electricity generating units, and Indiana's CliftyCreek complex has six generating units.

According to OVEC's website, OVEC was formed in the early 1950s by investor-owned utilities to generate electricity to meet the substantial electric power requirements of the uranium enrichment facilities then under construction by the Atomic Energy Commission (AEC) just south of Piketon, Ohio. Piketon's Portsmouth Gaseous Diffusion Plant was built from 1952 to 1956 and was one of the three large gaseous diffusion plants² constructed to produce enriched uranium to support the nation's nuclear weapons program and the U.S. Navy. For a short period of time much later, the Piketon plant produced enriched uranium for commercial nuclear reactors.

In October 1952, OVEC and the AEC entered into a 25-year power purchase agreement to ensure the availability of electricity to meet the needs of the Piketon plant. The agreement provided for excess generating capacity from OVEC (i.e., generation not needed by Piketon) to be available to the OVEC utility owners. The agreement was later extended through 2005.

However, with the Cold War ending in the early 1990s, the demand for enriched uranium for national defense purposes dropped. In September 2000, the U.S. Department of Energy (DOE) notified OVEC that the power purchase agreement with Piketon was being canceled. In May 2001, the Piketon plant ceased operations, with the remaining work going to Paducah, Kentucky, and Piketon relegated to "cold-standby" status. In 2003, the power agreement between OVEC and Piketon was terminated. Piketon's status was clarified in 2006 when the plant's status shifted from "cold-standby" to "cold-shutdown." In May 2011, the power agreement between OVEC and Piketon was amended to make OVEC's entire generating capacity available to the utility owners to supply other customers. The current power agreement extends to June 30, 2040. Today, the Piketon plant remains shut down and is preparing for decontamination and decommissioning.

The timing is critical. As far back as 2000 (prior to the implementation of electricity deregulation in Ohio), the utilities knew that OVEC's Kyger Creek and Clifty Creek Power Plants would no longer be used or needed to serve the demands of national defense.

What would the legislation do?

Essentially, what's being proposed is **a new utility giveaway bill** that would bail out OVEC based on the pretense of OVEC being a "national security asset" because it initially was created, in part, to provide electricity needed to produce enriched uranium to support the nation's nuclear weapons program.

Key provisions of the legislation include the following:

¹American Electric Power, Dayton Power & Light, Duke Energy Ohio and FirstEnergy Solutions all have equity stakes in OVEC.

²The other gaseous diffusion plants were in Paducah, Kentucky and Oak Ridge, Tennessee.

- Changes state policy to recognize OVEC resources as "national security generation" and preserves ongoing, yet unspecified, benefits associated with such resources.
- Guarantees cost recovery of all costs associated with OVEC, including deferred costs, which could potentially be substantial since the OVEC power plants are currently operating at partial load, they aren't efficient and they are likely losing money.
- Allows the PUCO no discretion – i.e., under the bill, the Commission must approve recovery for all costs.
- Approves cost recovery from customers of the utilities of all costs even if the OVEC ownership share is owned by an unregulated affiliate. The bill is silent as to how the affiliate will obtain the revenue from the utility to support its ownership share of OVEC.
- May allow a utility to serve its Standard Service Offer (SSO) with OVEC power
- Requires the Standard Service Offer (SSO) to include OVEC cost recovery.
- Allows a utility with an affiliate to use the affiliate-owned power to serve the utility's SSO – regardless of its price, regardless of the management practices of the operating utility, regardless of how it will affect regional markets for electricity generation, regardless whether an unregulated affiliate owns the share of OVEC, and regardless of whether the power is being produced from the Ohio-sited plant.
- Allows a utility to reopen and revise its current ESP to potentially collect more costs, even though the utility may already be receiving subsidies for OVEC.
- If the OVEC power is sold in the wholesale markets and revenues are credited to offset the costs to customers, the cost recovery rider will be non-bypassable. Although not stated, this implies that if OVEC power is used to supply the SSO, the cost recovery rider will be bypassable.

If the proposed legislation becomes law, and therefore, OVEC is getting full cost recovery for its operations, there would be no incentive for OVEC to operate more efficiently or compete on price in the wholesale market.

What's wrong with this picture?

The utilities and their affiliates want a subsidy to operate and maintain the OVEC power plants. They want Ohio customers, both businesses and individuals, to bail them out and support uneconomic power plants that are no longer used to support, or otherwise related to, national defense. These requests are unreasonable and unwarranted for a variety of reasons:

- Piketon no longer processes nuclear fuel for weapons, and hasn't for many years. It thus is not a national security asset. Such a claim is nothing more than "a rhetorical port in a financial storm."
- The utilities knew the risk of supplying Piketon from 2001 to 2006, and the closure of the defense facility should have been factored into the utilities' business decisions.
- The Piketon nuclear enrichment site was opened in 1952 and closed on September 30, 2006. The utilities were notified in 2000 that the contract with Piketon would be canceled. The contract terminated in 2003.
- The utilities have already been paid transition revenues to help transition to a fully competitive generation market.

- In other words, the utilities knew the risk involved, took money to offset the costs of stranded assets, and are now asking to be compensated for their bad debt.
- In 2016, Kyger Creek's annual output was 52 percent, while Clifty Creek's annual output was 44 percent. These two plants basically were running at, or less than half of, full load.
- If the utilities are pursuing a national defense rationale to offset their losses in the OVEC plants, the solution should be reached at the national level – i.e., the costs should be spread over the entire population.
- OVEC's capacity is 12.1 percent (or 289.9 MW) more than peak usage at Piketon. The additional 289.9 MW was built to service customers beyond Piketon and has continued to serve other customers after the closure of Piketon. This belies the argument that OVEC was built solely for national security purposes. And this is not a trivial amount – it's the equivalent of one generating unit.
- Under no circumstances should Ohio electricity users subsidize out-of-state power plants. Piketon's peak usage (before 2001) was 2,100 MW. Total OVEC capacity is 2,390 MW. Ohio-located Kryger Creek is 45.4 percent of OVEC capacity, and Indiana-located Clifty Creek is 54.5 percent of OVEC capacity. So, if the proposed subsidy is awarded to the utilities, the maximum subsidy should be based on 45.4 percent of 2,100 MW (i.e., Kyger Creek's share of peak usage), not 100 percent of OVEC's total capacity.
- No matter how you cut it, the legislative proposal is a subsidy for uncompetitive power. Subsidizing power produced with old, inefficient technologies should not be allowed.

What alternatives are there for addressing the problem?

Following are two ideas for resolving OVEC without rewarding OVEC's utility owners (using Kyger Creek as the example):

1. **Preferred approach.** Provide no subsidy and allow the markets to work. Allow the owners to decide whether to continue operating the OVEC units and sell the power into the wholesale market or sell the plants to a new owner at market value.
2. **Alternative approach.** If the owners cannot sell the plants, and the owners deem the plants to be unprofitable or uneconomic, and the owners decide to close the plants, the owners could seek assistance from the State of Ohio. The state could assist in the closure of the plants by forming a nonprofit Kyger Creek Decommissioning Corporation that could float bonds secured by a non-bypassable rider across Ohio ratepayers. This would be done only after OVEC turns over the title to the generating units free and clear for \$1 to the Decommissioning Corporation. The transfer of assets must include on-site transmission equipment and connections. The site would then be owned free and clear by the Decommissioning Corporation, which could sell or lease the land for economic development purposes. Proceeds from the sale or lease of the site would be used to accelerate payment of the Decommissioning bonds.

This alternative approach calls to mind the Troubled Asset Relief Program (TARP), which was signed into law in October 2008. TARP provided a vehicle for the U.S. Department of the Treasury to purchase toxic assets and equity from trouble financial institutions to strengthen the nation's financial sector. It was a key component of the government's actions to address the subprime mortgage crisis.

We've seen this movie before

The OVEC bailout proposal is the utilities' third attempt at forcing Ohioans to purchase above-market electricity. From 2014 through 2015 two utilities created regulatory mandated power purchase agreements to force Ohioans to consume power from their loss-making coal fired plants first. This included the OVEC plants. The PUCO agreed, but the Federal Energy Regulatory Commission stopped in its tracks this blatant attempt to re-monopolize the electricity generating market.

This year witnessed FirstEnergy's attempt to have Ohioans purchase expensive nuclear power first, with the prospect of Ohio electricity users being forced to bail out FirstEnergy's plant in Pennsylvania along with its two northern Ohio nuclear plants. That proposal is still in play.

Now we have a proposal that could funnel upwards of \$300 million more per year, indefinitely, to the owners of both the Ohio and Indiana OVEC plants.

What's the bottom line?

There is no compelling argument for having Ohio ratepayers, electricity customers, pay for uneconomic generation assets. Ohio should not reward OVEC's utility owners with the subsidies they seek for several reasons:

- Under Ohio law, utilities are not allowed to own and operate generation assets.
- Utilities had multiple decades to write down the value of their OVEC plants.
- Utilities have already collected stranded costs associated with their OVEC generation assets.
- Utilities should not be rewarded for their bad business decisions.
- More than half (54.5 percent) of the OVEC assets are in Indiana. Ohio consumers should not be required to subsidize Clifty Creek in Indiana.
- Utilities should not be permitted to impose on customers even more above-market charges.

The mouse has consumed enough cookies.

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**BEFORE THE
PUBLIC UTILITIES COMMITTEE
OF THE OHIO SENATE**

SEN. BILL BEAGLE, CHAIRMAN

**TESTIMONY
OF
ANTHONY SMITH
ENERGY COORDINATOR
COOPER TIRE & RUBBER COMPANY**

**ON
SENATE BILL 128**

JUNE 1, 2017

Chairman Beagle . . . members of the Senate Public Utilities Committee . . . Good morning. I appreciate this opportunity to present opponent testimony today on Senate Bill 128 and its proposed multi-billion-dollar bailout of FirstEnergy's uneconomic, uncompetitive nuclear power plants in Ohio.

My name is Anthony Smith and I am the Energy Coordinator at Cooper Tire & Rubber Company and I also serve as a Board Member of the Ohio Manufacturers Association Energy Group.

Cooper Tire is headquartered in Findlay, Ohio. In addition to its corporate headquarters, Cooper Tire also has one of its three USA-based tire manufacturing plants, its mold manufacturing plant, and its Global Technical Center located in Findlay. In addition, Cooper Tire's Mickey Thompson wholly-owned subsidiary is located in Northeast Ohio. Worldwide we employ 10,600 people, including 2,000 here in Ohio.

Cooper Tire's business is primarily focused on passenger car and light vehicle replacement tires in North America. We are the 12th largest tire manufacturer in the world and the 5th largest tire manufacturer in North America.

Over the past 30 years, 14 tire manufacturing plants have closed in the United States. And today, Cooper Tire's Findlay, Ohio plant is the ***only remaining*** light vehicle tire manufacturing plant in the state.

Access to reliable, affordable electricity is a significant competitive issue for our company. We are always looking for ways to reduce our costs – including what we spend on electricity – because that frees up resources that can be used to invest back into our business and create jobs.

In an industry like the global tire industry, manufacturing costs are high and profit margins are tight. Forcing Ohio's manufacturing plants to bear these higher utility costs adds risk to our business in Ohio and impedes our ability to sustain or grow our operations here.

Every day, Cooper Tire competes for business with other American tire manufacturers and with foreign tire manufacturers from lower-cost parts of the world.

Every day, Cooper Tire strives to sustain and improve its cost competitiveness through innovation, improved productivity and, in some unfortunate cases, staff reductions – all to stay competitive in the global market.

And every day, Cooper Tire determines, among its global network of manufacturing plants, where to allocate its production and where to invest its resources, with operational costs being a significant consideration.

The imposition of this additional, above-market generation-related charge would not decrease electric volatility or bring any added certainty to electricity pricing. Instead, it would increase companies' manufacturing costs and prohibit companies from taking

advantage of the market rates that are available. Senate Bill 128 would add non-market-driven costs, which would have significant impacts on the business decisions of many manufacturing companies in the state of Ohio.

An additional charge to electricity prices would create increased costs for manufacturing companies, which would either be borne by customers or cause the companies to sacrifice already thin profit margins as they cannot recover these non-market costs. This could also deter new business investment in the state of Ohio as new companies looking to invest may choose to go elsewhere in light of increased or high electricity prices that are above-market.

We are keenly interested in public policies that will drive lowest-cost energy resources and solutions – rather than policies that will impose billions of dollars of unwarranted, anti-competitive, above-market charges on our businesses.

If enacted as introduced, Senate Bill 128 would cost FirstEnergy's customers an estimated \$300 million a year, for up to 16 years, to subsidize two Ohio nuclear power plants operated by FirstEnergy's subsidiary, FirstEnergy Solutions. That adds up to \$4.8 billion.

SB 128 would create new above-market charges that all of FirstEnergy's customers would be forced to pay. They would not be able to "shop around" the charges. And the costs would not be insignificant.

For example, manufacturers in the FirstEnergy territory that use about 1 million kilowatt-hours per year, and now spend about \$100,000 per year for electricity, would see an annual incremental cost of \$5,700. Over the 16-year term, they would pay an additional \$91,000.

Large manufacturers that use 100 million kilowatt-hours per year, and now spend approximately \$6 million per year for electricity, would see an annual jump of \$567,000. They would pay more than \$9 million more over the 16-year life of the proposed term.

These non-bypassable charges are unwarranted.

While manufacturers support nuclear power as part of an “all-of-the-above” energy portfolio, we are strongly opposed to subsidizing certain generation plants and being saddled with billions of dollars of unjustifiable charges over the next 16 years.

The Ohio Manufacturers’ Association strongly believes in fair, market-driven competition. The subsidized charges imposed on consumers and manufacturers from SB 128 are simply not consistent with competitive markets and are not good for Ohio – in either the short term or the long term. For these reasons, the Ohio Manufacturers’ Association firmly opposes SB 128. It is anti-competitive and anti-consumer, neither of which is good for our state.

Before I conclude and take any questions you may have, I want to introduce an additional person who is here to help me respond to your questions.

I am pleased to be joined by Kimberly Bojko of the Carpenter Lipps & Leland law firm. Kim serves as the OMA's chief energy attorney, representing industry positions before the state and federal regulatory commissions.

Mr. Chairman . . . members of the committee . . . this concludes my prepared remarks. Thank you for your kind attention and the opportunity to share our concerns about SB 128. Together with Kim, I would be happy to respond to any questions you may have.

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FirstEnergy Solutions downgraded on bankruptcy expectation, FE parent seen as stable

Comment

Updated on August 21, 2017 at 3:34 PM Posted on August 21, 2017 at 3:06 PM



Standard & Poor's has downgraded the bond rating of FirstEnergy Solutions, the unregulated subsidiary of FirstEnergy Corp., because it believes the company will file for bankruptcy protection before 2018. S&P's in the same week raised its outlook for parent company FirstEnergy because it believes the corporation will sell off or somehow move its power plants into a regulated company. (*Plain Dealer file*)

By **John Funk, The Plain Dealer**

CLEVELAND, Ohio -- Standard & Poor's has further lowered its ratings for bonds sold by FirstEnergy Solutions because it believes the company's negotiations with creditors is a first step toward its seeking bankruptcy protection.

At the same time, S&P has revised its outlook for parent company FirstEnergy Corp. from negative to stable on the expectation that the corporation will be able to cover the bankruptcy costs as it sells off FirstEnergy Solutions or somehow is able to move it under the protection of a regulated company where the risk is minimal and growing profits certain.

FirstEnergy Solutions owns the power plants that traditional utilities such as Ohio Edison and the Illuminating Company built decades ago before becoming delivery-only companies.

FirstEnergy Solutions sells power both into wholesale markets and at retail rates to consumers and businesses. It's retail sales have actually increased in recent months, but results from wholesale

operations have continued to be a problem as gas turbine power plants continue to drive down market prices.

FirstEnergy Solutions has been closing or selling older coal-fired plants rather than upgrade their pollution equipment. But the surviving coal plants, along with the company's four nuclear reactors, are having trouble competing with the gas turbine plants while wind and solar farms disrupt their traditional practice of running flat out 24 hours a day.

Parent company FirstEnergy has unsuccessfully sought and continues to seek higher rates from customers -- as well as an assist from state and local governments -- to subsidize the continued operations of the old power plants.

The ratings and outlook changes come less than three weeks after Chuck Jones, FirstEnergy CEO, announced he would take part in the negotiations FirstEnergy Solutions had quietly begun with its creditors.

"I will be engaged in that discussion because, obviously, the creditors are interested in talking about what FirstEnergy might be willing to do to get this settled also. I think we always knew this was going to happen at some point in time. I think it is clearly the preferred route if we end up in a bankruptcy proceeding with FES to do it through a structured settlement that all parties are comfortable with," Jones told analysts during a July 28 teleconference to discuss the company's second quarter financial results.

That development led S&P to reconsider its negative outlook for the parent corporation even as it further downgraded the subsidiary, which has had a junk bond rating for several years.

"The stable outlook reflects the reduced probability of further downside risks to our ratings on FE as it seeks to exit its merchant generation business," the rating agency said in a release last week.

"This reflects sufficient cushion at the current [investment] rating level, supported by FE's low risk regulated utility businesses, and its ample capacity to absorb incremental costs associated with its planned exit from the merchant power business and a possible FES bankruptcy filing."

S&P lowered its ratings for FirstEnergy Solutions debt from CCC to CCC- with a negative outlook, saying its analysts see the talks with creditors "to potentially accelerate the time frame to default."

The agency also thinks a an emergency bailout from state lawmakers or the U.S. Department of Energy won't make a lot of difference for the fate of FirstEnergy Solutions.

"While uplift for nuclear assets via either a state subsidy or the Department of Energy study is possible, we consider neither in our base case, and believe that even these would not forestall bankruptcy indefinitely."



Ohio Capitol Building.

As Ohio legislature regroups, power plant subsidy debate to continue

WRITTEN BY Kathiann M. Kowalski August 16, 2017

PHOTO BY Jim Bowen / Creative Commons

As the Ohio legislative session [resumes next month](#), subsidies for nuclear generation and 1950s-era coal plants are expected to once again be on the table.

Other pending electricity bills deal with renewable energy, energy efficiency, corporate separation of utilities and consumer protections. The outcome could shape Ohio's electricity profile for decades to come.

"I anticipate that OVEC will be up first," said House Majority Floor Leader Bill Seitz (R-Cincinnati), referring to [House Bill 239](#). Seitz chaired the House Public Utilities Committee through its last hearings in June. Robert Cupp (R-Lima) was named to succeed him in July.

[OVEC](#) is the Ohio Valley Electric Corporation. Its shareholders include Dayton Power & Light and subsidiaries of FirstEnergy, American Electric Power and Duke Energy, along with utilities in several states bordering Ohio.

HB 239 and companion Senate Bill 155 would [subsidize Ohio utilities'](#) costs for OVEC's two coal plants — one in Ohio and Indiana. Although both plants date back to 1955, the utilities agreed in 2011 to keep OVEC going until 2040.

HB 239 and was introduced on May 23. Fast-track treatment led to a fourth hearing for the House bill by June 20.

Utilities previously asked regulators to guarantee cost recovery with charges for all utility customers by claiming they protect against rising costs. The current bill refers to a national security rationale from the 1950s. Consumer advocates, environmental groups and competitors oppose the bill.

“This is nothing more than another attempt by Ohio utilities to secure a financial [bailout](#) for their uncompetitive coal plants, one of which is not even in Ohio,” said Daniel Sawmiller at the Sierra Club. “It would force electricity customers to pay for these obsolete coal plants when cheaper and cleaner sources are available to meet their needs.”

Seitz said he supports HB 239 but does not agree that it is a “bailout.”

And nuclear

Similarly, Seitz took issue with a characterization of HB 178 as a “bailout” for FirstEnergy's nuclear plants. That bill and companion [SB 128](#) would make all of FirstEnergy's utility customers guarantee costs for the Perry and Davis-Besse nuclear plants.

“Maybe Rep. Seitz likes the term ‘tax’ rather than ‘bailout’ to describe his support for legislation that would subsidize his favorite (if uneconomic) technologies, coal and nuclear,” countered Dick Munson at the Environmental Defense Fund. “But whatever he calls the bills, they still benefit giant utilities and burden Ohioans.”

Although Seitz indefinitely [suspended hearings](#) on HB 178 in May, he denied that HB 178 is “permanently stalled.”

FirstEnergy “is considering significant changes that, if made, would give [FirstEnergy] a new chance to move forward with a revised bill that shortens the number of years and caps the riders more in line with the current version of the OVEC bill,” Seitz said.

“This anti-competitive bailout attempt is not in line with Ohio's regulatory structure and should not move forward,” Sawmiller said. “Even if revised for a shorter period of time with annual caps, this bill would have detrimental impacts to electricity customers' bills.”

“Instead of asking Ohioans to pay for bad business decisions, we should be focusing on energy sources of the future, providing Ohio jobs and long-term sustainability for Ohioans,” added Miranda Leppla at the Ohio Environmental Council.

Clean energy

Under Seitz's leadership, the House Public Utilities Committee had also fast-tracked [House Bill 114](#). Introduced on March 7, that bill would make Ohio's [renewable energy standards](#) voluntary and further weaken its [energy efficiency standards](#). A 2014 law had already weakened the standards and then delayed any extra requirements until this year.

The House passed the bill on March 30. "I would like to see the Senate pass HB 114," Seitz said.

"We believe the Senate will take a more deliberate approach, if it even comes back up at all," said Aryeh Alex at the Ohio Environmental Council. "The Governor has been a champion of renewable energy standards, and has signaled that he will veto this bill, continuing to put Ohio on a path to be a leader in renewable energy."

Gov. John Kasich vetoed a similar move late last year.

Ohio lawmakers may also revisit issues from [two budget amendments](#) that passed in the Senate but were rejected by the House. One would have allowed subsidies to support the credit ratings of utilities and their parents.

"A similar provision, I believe, is part of the as yet un-finalized bill that the utilities had earlier agreed to pursue this fall," Seitz said.

Another budget amendment rejected by the House would have dialed back the property line setback for wind turbines to roughly 10 percent more than the 2014 level. Among other things, Seitz said the amendment "had no place in a budget bill."

Seitz was the only proponent who spoke on the Senate floor in 2014 to support tripling of the previous property line setbacks. That change was made as a [budget bill amendment](#).

Except for a few "grandfathered" sites, wind farm development in Ohio generally came to a [halt](#) after the current restrictions took effect. A bill to deal with the setbacks may be introduced in the [Ohio Senate](#) this fall.

And more...

A consumer protection bill could also shape Ohio's electricity profile. HB 247 would specifically [require refunds](#) for any charges [later found](#) to have been "unreasonable, unlawful, imprudent, or otherwise improper."

Introduced in May, HB 247 would also end "[electric security plans](#)." Utilities have used those plans to add numerous [charges](#) to customer bills. Utilities' earlier efforts to get subsidies for the OVEC plants and other generating plants were also part of electric security plan proposals.

HB 247 would also prevent utilities or their affiliates from owning electric generation plants. In other words, it would require full [corporate separation](#), as opposed to spin-offs to other subsidiaries of the parent company.

The Office of the Ohio Consumer's Counsel has previously come out in favor of HB 247, and Mark Romanchuk (R-Ontario) gave his sponsor testimony on June 20.

"It is way too early to tell" what the fate of the bill will be, Seitz said. "When we broke, I urged the bill's proponents to spend their summer working with the utilities to find common ground between their proposals and the ones in the as yet un-finalized bill that the utilities intended to pursue this fall. However, I do not believe this has happened."

New natural gas power plant in Oregon opens



By [Tyrel Linkhorn](#) | BLADE BUSINESS WRITER
Published on Aug. 21, 2017 | Updated 9:41 a. m.



His voice slightly raised to get above the low thrum of the Oregon Clean Energy power plant behind him, Gov. John Kasich made clear on Monday where he stands on Ohio's electric future.

"This is the future. This is a big deal," the governor said of the Oregon plant.

On 30 acres, the gas turbines at Oregon Clean Energy generate 870 megawatts — nearly as much electricity as FirstEnergy Corp.'s sprawling Davis-Besse nuclear power station in Ottawa County, which produces 900 megawatts. And, thanks to a glut of natural gas in Ohio, Pennsylvania, and elsewhere across the United States, the new plant does so with significantly better economics.

That's been a boon to places like Oregon, where access to water, natural gas, and the electric grid have come together to lure in some \$1.7 billion in new investment from independent power companies.

VIDEO: [Tyrel Linkhorn discusses the opening of Oregon's new natural gas power plant](#)

About half of that went to the Oregon Clean Energy plant, which began producing electricity for customers on July 1 and is owned by investment funds Ares Management L.P. of Los Angeles and I Squared Capital of New York. The other \$900 million will go to a nearby second gas-turbine facility, owned and developed by Manchester, Mass.-based Clean Energy Future LLC, which is expected to start construction next year.

Speaking ahead of a ribbon-cutting for the Oregon Clean Energy plant, Mr. Kasich said the state must continue to be an attractive place for those kinds of projects.

“I think it’s important that Ohio stay in a deregulated environment which brings these investors,” Mr. Kasich said. “If all of a sudden you don’t have a level playing field, then you don’t have significant investment. People go in another place.”

While the governor didn’t mention FirstEnergy in his prepared remarks, the Akron-based utility seemed to be on his mind. The company has sought help from the state legislature to force customers to subsidize the operations of its two nuclear plants, including Davis-Besse.

Otherwise, FirstEnergy has said, the sites will close.

Mr. Kasich did take a question after the event on whether he could in any way support that company’s request for what critics have called a bailout.

“Not at this point,” Mr. Kasich said. “I think that economic decisions have to be made, and I just think they’re going to have to work their way through this themselves.”

The governor also said in a brief interview that he supports having renewable power sources as part of the mix and still sees a role for coal-fired plants. Even so, the area’s last coal-fired plant — FirstEnergy’s Bay Shore in Oregon — already has shut down its coal-fired generators. The plant is to close entirely in 2020.

In 1999, the Bay Shore plant produced 655 megawatts. But in 2001, the Bay Shore plant was one of four coal-fired plants in the Lake Erie region that First Energy considered selling. A proposed deal was scrapped in 2002.

Bay Shore production was decreased after that, reaching a low of 136 megawatts in 2016.

Oregon Clean Energy makes its power from natural gas. The site has three generators. Two are powered directly by natural gas, while the third is spun by steam that’s generated from the exhaust heat of the other two turbines. Water used for cooling and for steam generation is purchased from the city of Oregon. Oregon Clean Energy’s owners invested \$12 million into Oregon’s water infrastructure to pay for upgrades.

Peter Rigney, the plant's general manager, said the plant is twice as efficient as a traditional power plant. The plant generates enough power for 700,000 homes.

Mr. Rigney said the power that Oregon Clean Energy generated is sold to PJM Interconnection, the 13-state regional grid operator that oversees Ohio

"Every day we get our dispatch for the next day. We bid this into the market every day," Mr. Rigney said.

"That's what makes it so efficient. We have no subsidy, we have no captive ratepayers. We have to make our dollar every day."

Nearly 1,000 people were involved in construction of the power plant, though its full-time operational employment is 25.

Mr. Kasich spoke less than 10 minutes at the event. In addition to his remarks on Ohio's energy future, he spoke of the work his administration has done about the issue of toxic algae in Lake Erie.

But Mr. Kasich, the term-limited governor who has said he's not planning to run for any other office again, also went through what seemed to be the high points of a campaign speech. That included Ohio's rainy day surplus, job creation numbers since he's been in office, and — unprompted — an aside about the state's Medicaid expansion under the Affordable Care Act.

"One of the great things that we've been able to do is the expansion of Medicaid. Because what it's done, is it's opened opportunities for the mentally ill, the drug addicted, and the chronically ill," he said. "Think about this for a second, if one day you woke up and you had no health insurance. Can you imagine what your life would be like?"

Mr. Kasich made a brief reference to the recent events in Charlottesville, but he did not mention President Trump.

He did, however, suggest answers to many problems are going to be found locally.

"It's us and our neighbors. We wonder about the big leaders and all that," he said. "At the end of the day, it's not the big leaders, it's the people who live in the communities like Oregon who make such a big difference."

Contact Tyrel Linkhorn at tlinkhorn@theblade.com, 419-724-6134 or on Twitter [@BladeAutoWriter](https://twitter.com/BladeAutoWriter).

Electricity Ratemaking Reforms To Protect Consumers

The successes of Ohio's transition to a competitive market for electricity generation are now documented. They include billions of dollars in savings for standard-offer consumers, governmental aggregation and other shopping consumers, numerous robust new natural gas-fired generation plants planned and coming online, and more than adequate reserve margins for reliability as determined by the Regional Transmission Organization, PJM Interconnection.

Nonetheless, there are some ratemaking provisions in current law that are anti-competitive or unfair—and bad for consumers and Ohio's economy. A broad-based coalition of electricity consumers is working with legislators to resolve the concerns outlined in this document and thereby improve outcomes for consumers and for Ohio. The legislative solution we seek is enactment of House Bill 247 (Romanchuk, R-Ontario), which was introduced in the Ohio General Assembly on May 24, 2017.

PROBLEM #1: Customers Are Denied Refunds for Charges That Are Later Determined to Be Improper.

Current law allows a utility to keep what it has collected from customers, even if the Supreme Court of Ohio determines the charges were improper.

SOLUTION: House Bill 247 would allow refunds to customers for all charges that are later found to be improper by the Supreme Court of Ohio or other authority.

PROBLEM #2: Utility Charges to Customers Under Electric Security Plans (ESPs)

The ESPs, allowed in the 2008 energy law (SB 221), are enabling utilities to request of the Public Utilities Commission of Ohio (PUCO) customer charges that exceed market prices. The result: Ohioans may not benefit from the lower electric bills that should flow from the lower prices in competitive electricity markets. In Ohio's competitive electricity market, ESPs—essentially, rate plans for the supply and demand of electric generation—are unnecessary and should be eliminated. Instead, a market-based option should be used to price service to customers.

Eliminating ESPs will fix a number of provisions that are unfair and costly to Ohioans under current law, including the following:

- **Utilities Are Not Required to Refund Customers All of the Utilities' Excessive Profits.** Even if the PUCO determines that a monopoly electric utility has "excessive" profits, the utility is not required to return the excess profits to customers. Only if the utility's earnings are deemed "significantly excessive" is the utility required to refund the significantly excessive portion of profits to its customers.
- **Customers Are Charged for Non-Generation Charges in an ESP.** Utilities use ESPs to set the price of the standard service offer to customers. However, the law also permits a utility to propose additional distribution-related charges in an ESP. Utilities have used the law to collect a number of so-called distribution charges from customers through non-bypassable riders. (That is, customers cannot "shop around" charges that are non-bypassable.) But some of these riders have nothing to do with distribution service. For example, FirstEnergy

AARP

Ohio Farm Bureau

The National Federation of Independent Business/Ohio

Northeast Ohio Public Energy Council (NOPEC)

Office of the Ohio Consumers' Counsel

Ohio AgriBusiness Association

The Ohio Cast Metals Association

Ohio Chemistry Technology Council

Ohio Hotel & Lodging Association

The Ohio Manufacturers' Association

Ohio State Grange

was granted a “distribution modernization rider” to provide credit support to the corporation without a requirement to spend the consumers’ payments on distribution modernization. That is not the way a competitive, free-market system should work.

- **Customers Are Not Protected from Paying Too Much for Service Under an ESP.**

One consumer protection in the 2008 law provided that ESPs could not be approved unless the result is “more favorable in the aggregate” to customers when compared to the expected results from the market-rate option. But the PUCO has been considering both quantitative and qualitative factors to determine if the ESP is more favorable in the aggregate than a market rate—and the Supreme Court of Ohio has declined to prohibit the PUCO’s approach. The consideration of qualitative factors can allow above-market charges, and that has undermined the consumer protection that prices in ESPs should compare favorably to market prices.

- **Utilities Can Veto Any PUCO-Ordered Modification to Their ESPs.** If a utility doesn’t like a PUCO ruling that modifies its proposed ESP, the utility can withdraw its application. In effect, the 2008 law gave the utilities—but no other stakeholder—veto power in ESP cases. This is a decidedly anti-customer policy.

SOLUTION: House Bill 247 would eliminate language in Ohio law that permits utilities to file ESPs, which would eliminate above-market charges to customers now allowed in ESPs. Utilities then would provide customers the standard service offer through a competitive bidding process. Utilities’ distribution rates would continue to be set through distribution rate cases by the PUCO. This approach would allow the PUCO to review all expenses and revenues when a utility seeks a distribution rate increase, instead of the current approach that allows utilities to add charges to customers’ electric bills using single-issue riders.

PROBLEM #3: Customers Are Not Protected from Subsidizing the Operations of a Utility’s Corporate Affiliate.

Prior to the 1999 deregulation law (Amended Substitute Senate Bill 3, enacted with strong bipartisan support), utilities owned and operated generation plants. SB 3 changed that, prohibiting utilities from owning generation. Rather than complete divestment of the generating plants, however, several of the utilities spun off the assets to a corporate affiliate. In recent years, the utilities have used the poor financial performance of their unregulated generation affiliates to seek above-market charges from captive customers.

SOLUTION: House Bill 247 would protect Ohio customers from new and expanded above-market charges by clarifying that Ohio’s 1999 deregulation law means utilities and their affiliates cannot own generation.

The forgoing proposals will protect consumers by restoring balance in the ratemaking process through repeal of unfair provisions in the 2008 law and making other changes. The proposals will prevent anti-competitive results from the law. And, limiting above-market charges will free up money for business expansion and job creation, spurring Ohio’s economy.

PROTECTING OHIO'S COMPETITIVE ELECTRIC MARKETS: MANUFACTURERS' ACTION PLAN

Competitive retail electricity markets in Ohio are working and delivering documented cost savings and other benefits to customers across Ohio. Competition is delivering unprecedented customer choice, new energy technologies, innovative energy services and direct energy savings to business and residential customers – all while assuring energy reliability.

Savings from deregulation have been significant.

According to a study conducted jointly by Cleveland State University and The Ohio State University, from 2011 to 2015, Ohio consumers have saved about \$16 billion as a result of market-priced electricity, and are projected to save roughly \$3 billion per year going forward. These savings are, however, at risk.

Threat to Manufacturers

Aging utility-built power plants are unable to profitably compete against more efficient merchant power plants in today's market-based rate environment. As a result, the utilities are (1) seeking monopolistic protections for their parent companies and (2) continuing to force customers to pay billions of dollars in above-market charges to protect their earnings.

In recent weeks, legislation (SB 128 & HB 178) was introduced in the General Assembly that would undermine the many documented benefits of competition. (Read more about how markets are working.) Dubbed the FirstEnergy “nuke bailout bill,” the legislation would allow FirstEnergy’s operating companies to assess a non-bypassable monthly charge on customers’ bills for 16 years, generating approximately \$300 million annually in unwarranted revenues. This is the latest move by FirstEnergy Corp. to try to prop up its financially troubled business on the backs of Ohio consumers.

This is just one example of uncompetitive above-market charges levied on consumers. The Office of the Ohio Consumers’ Counsel has documented more than **\$14 billion** in PUCO-approved

above-market electric utility charges since 2000. These costs fell on customers of AEP-Ohio, Dayton Power & Light, Duke Energy Ohio and FirstEnergy operating companies. (Read more about above-market charges.) Without intervention, it won't end. Ohio manufacturers must respond aggressively – and soon.

Manufacturers' Response

In response to this most recent as well as ongoing threats, the OMA is planning an intensive, statewide communication campaign designed to (a) stop adverse legislation that disrupts competitive markets, (b) pass favorable legislation that improves market competition, and (3) build a broad understanding among manufacturers, lawmakers, media and the public that a competitive electricity market is in the state's best interest.

We have engaged the services of respected veteran communicator and strategist Curt Steiner to help us develop and execute the campaign.

- **Phase One** (April – June) will include research, public opinion polling, branding, message development and development of advocacy materials and supporter groups.
- **Phase Two** (July – December) will focus on engagement with legislators and the public and will include media outreach, legislator meetings, briefings for stakeholders and partners, digital media, an online petition and a “patch-through” telephone program connecting constituents with legislators.

An aggressive, effective statewide campaign will require an investment of approximately \$1 million.

How to Protect Your Cost of Electricity

The proposed communication effort requires manufacturers' support. The threat is real. The stakes are high. And the opponent is highly motivated – and well-funded.

Ohio's investor-owned utilities have substantial financial resources. During the last election cycle, they deployed more than 50 lobbyists. Additionally, utility and pro-utility PACs contributed more than \$1 million to various policymakers' campaigns.

The way that we can protect functioning, cost-saving electric markets is to “super-size” advocacy efforts. That means funding the communications campaign. The cost of the campaign is simply not in the OMA’s operating budget. Manufacturers have the strongest arguments, the most compelling data and the best experts. What is needed, however, are resources to fund the campaign.

Why make a contribution? Because if the investor-owned utilities prevail in derailing competition, manufacturers of all sizes will continue to pay the utilities billions of dollars in new and expanded non-bypassable, above-market charges for years to come. We have a great opportunity to invest some now in order to protect against significantly overpaying in the future.

Following are suggested investment levels based on annual electricity consumption:

Company Size	Annual Consumption (kWh/year)	Suggested Contribution
Small	1,000,000	\$5,000
Medium	7,500,000	\$12,000
Large	100,000,000	\$25,000
Extra Large	1,000,000,000	\$50,000

We have received early campaign contributions from The Belden Brick Company, Honda North America, Inc., OSCO Industries, Inc., and Whirlpool Corporation, ranging from \$5,000 to \$50,000. Thank you.

By any measure, competition is working in Ohio. Customers are saving money compared to what they would be paying in a monopoly generation market. System reliability has improved. New market entrants are investing in generating plants and equipment. And uncompetitive power plants are leaving the market. These benefits are at risk.

Here’s How to Contribute:

- Use the suggested investment level based on your electric usage.
- Make your check out to “**OMA Advocacy Fund.**”
- Mail your check to **OMA Advocacy Fund, 33 N. High Street, 6th Floor, Columbus, OH 43215.**

Please note: Contributions to the OMA Advocacy Fund are not tax deductible as a charitable contribution for income tax purposes. However, a portion of your contribution may be deductible as an ordinary and necessary business expense subject to restrictions imposed as a result of OMA’s lobbying activities. The OMA estimates that the nondeductible portion of your contribution – the portion that is allocated to lobbying – is 20 percent.

Thank you in advance for supporting this effort. Contributions during the next 30 days will be important and valued.

If you need more information, please contact Ryan Augsburger at raugsburger@ohiomfg.com or (614) 629-6817.

Energy

FirstEnergy Permitted to Collect New Rider

August 18, 2017

The Public Utilities Commission of Ohio (PUCO) rejected requests for reconsideration of an October 2016 ruling that grants FirstEnergy an above-market customer charge of approximately \$204 million per year for up to five years.

The **OMA Energy Group** opposed the ruling and requested that the PUCO reconsider its decision.

Even though the final order was issued this week, FirstEnergy began collecting the charge on customer bills in January.

The OMA Energy Group has 60 days to appeal the case to the Supreme Court of Ohio.

Read **an analysis** from OMA energy counsel **Kimberly Bojko** of Carpenter Lipps & Leland. *8/17/2017*

PowerForward Videos on YouTube

August 18, 2017

The Public Utilities Commission of Ohio (PUCO) has a new YouTube channel for its “PowerForward” series of events. PowerForward explores new technologies and their potential impacts on the electricity grid. The program just completed a three-day session on presentations by experts in the technologies.

View the videos. *8/14/2015*

Oil & Gas Boom Driving Jobs and Manufacturing

August 4, 2017

The American Petroleum Institute this week **released a study** quantifying the economic impact of the U.S. gas and oil industry.

The study includes economic impact state reports. The **Ohio fact page** touts an estimated \$38 billion in annual economic activity and an estimated 16,000 manufacturing jobs supported by the industry. *8/2/2017*

Funding Available to Help Reduce Energy Costs and Improve Energy Efficiency

July 28, 2017

The state’s Energy Loan Fund is now accepting applications. The fund helps entities including manufacturers implement energy efficiency improvements to lower energy use and costs. Eligible applicants receive low-interest financing to install efficiency measures that reduce energy by at least 15 percent. Technical assistance is available to facilitate the required energy audit for potential applicants.

Loan amounts vary depending on the project from \$250,000 to \$2.5 million. Technical assistance is also available to help eligible applicants identify energy efficiency measures for their facilities.

Learn **more here.** *7/25/2017*

PUCO’s PowerForward Features Leading Speakers

July 28, 2017

This week, the Public Utilities Commission of Ohio (PUCO) held **phase two** of its PowerForward examination into aspects of grid modernization, specifically exploring technologies including distributed generation, storage and micro-grids.

UTC, GE and Honda of America were among nearly two dozen presenters before members of the PUCO. Other speakers were from electric utilities, information technology firms and others.

Here’s **video of the presentations.** *7/27/2017*

Final Agenda is Set for PUCO’s PowerForward, July 25-27

July 21, 2017

The Public Utilities Commission of Ohio (PUCO) has added another round of speakers and presenters for PowerForward: Exploring Technologies, and **the final agenda** is all set.

PowerForward, July 25-27 in Columbus, Ohio, is open to all. There is no need to register and the event is free to attend. *7/14/2017*

Cupp to Chair House Public Utilities Committee

July 14, 2017



Rep. **Robert Cupp** (R-Lima) has been tapped to chair the House Public Utilities Committee. Serving in his second term in the House, Cupp will bring to the post his extensive experience as a leading member of the Ohio Senate, county officeholder, appellate judge and Supreme Court of Ohio justice.

Cupp succeeds Rep. Bill Seitz (R-Cincinnati) who was recently elevated to House Majority Floor Leader.

The Public Utilities Committee is considering multiple bills that will impact customer electric costs and affect competitive markets for power. The House is expected to convene a task force on energy policy over the summer. 7/13/2017

Conference Committee Eliminates Utility Subsidy Amendment

June 30, 2017

Earlier this week the OMA, together with AARP, NFIB, Ohio Chemistry Technology Council and the Office of Ohio's Consumers' Council, urged the state budget conference committee to strike language that would have created a new way for utilities to obtain consumer-paid subsidies. The conference committee did just that, protecting customers from unwarranted electricity cost increases.

The Senate had inserted language into the budget bill that would have allowed utilities to increase rates to improve their corporate credit ratings.

In a **press release** OMA president Eric Burkland said: "The OMA commends the Conference

Committee for recognizing that enabling Ohio's electric utilities to raise customers' electric rates to bolster the utilities' credit ratings is bad public policy. Eliminating this provision from the budget bill will thwart the utilities' latest ploy to seek a financial bailout by their customers by shifting ordinary business risk from shareholders to ratepayers." 6/29/2017

Supreme Court Affirms PUCO Order for Duke to Collect \$55.5 M from Customers

June 30, 2017

In March 2017, OMA, and others, requested that the Supreme Court of Ohio overturn a PUCO order that awarded Duke \$55.5 million from customers for cleanup costs associated with two former manufactured gas plants (MGP) that have not been in operation for 50-89 years.

OMA argued that the PUCO improperly applied the ratemaking statutes in Ohio that do not permit recovery of expenses associated with plants that were not used and useful in rendering service to Duke's distribution customers during the test year.

Last week, in a split 4:3 decision, the court affirmed the PUCO's order authorizing Duke to recover the cost to clean up the MGP plants.

Here is a **summary of the decision** by **Kim Bojko**, OMA energy counsel with Carpenter Lipps & Leland. 6/29/2017

Rover Pipeline Progresses in Ohio

June 30, 2017

The **Coalition for the Expansion of Pipeline Infrastructure** (CEPI) recently released a video on construction of the Rover Pipeline and the economic benefits that the project has created in Ohio. Watch **the short video here**. 6/23/2017

UCO Plans PowerForward Phase Two: Exploring Technologies

June 30, 2017

PowerForward is the Public Utilities Commission of Ohio's (PUCO) review of the latest in technological and regulatory innovation that could serve to enhance the consumer electricity experience. Through the series, the PUCO

intends to chart a path for future grid modernization projects, innovative regulations and forward-thinking policies.

Industry experts have been invited to provide presentations that will help the commission better understand the future electric distribution grid and how technological enhancements could affect different stakeholders.

The three-day phase one, "A Glimpse of the Future," was held in April, and [is recapped here](#).

The agenda and slate of speakers are now posted for July's [three-day phase two](#), "Exploring Technologies."

Interested parties are invited to attend all or part of the July 25-27 event in Columbus. There is no need to register and the event is free to attend. 6/26/2017

[House Bill 247 Protects Functioning Electricity Markets](#)

June 23, 2017



State Rep. Mark Romanchuk (R-Mansfield) [presented sponsor testimony](#) for House Bill 247 this week to a packed session of the House Public Utilities Committee. The bill would reform statutes that have led to huge above-market electricity costs for Ohio consumers.

"House Bill 247 is pro-consumer, pro-business, and pro-markets," Rep. Romanchuk said. "It creates an environment conducive to continued business investment, economic growth and job creation."

The OMA and a coalition of consumer groups support the legislation that would: 1) Enable

customers to obtain refunds of utility charges that have been collected from customers, if the Supreme Court of Ohio finds the charges to be improper, 2) Eliminate "electric security plans" that enable utilities to charge customers above-market prices for electricity generation, and 3) Clarify in the law that utilities and their affiliate organizations cannot own generation and, therefore, cannot layer generation-related charges on consumers' electric bills.

Here is the [coalition's summary of the bill](#).

Contact OMA's [Ryan Augsburger](#) to learn how you can support the effort. 6/22/2017

[Bill Proposes Consumers Pay to Protect Utilities' Credit Ratings](#)

June 23, 2017

Without any debate, members of the Ohio Senate Finance Committee this week adopted an omnibus amendment in the state budget bill that included a provision that would give electric utilities yet another path to obtain consumer-paid subsidies. This time it is for protecting their credit ratings.

The OMA with the Office of Ohio's Consumers' Counsel and other business and consumer groups [filed this letter of opposition](#) with the members of the state budget conference committee, explaining that: "... the language reverses rulings of the Ohio Supreme Court, that last year overturned PUCO decisions allowing utility charges to customers for financial stability for electric utilities ... and the Senate language could interfere with customer appeals now pending in the Ohio Supreme Court, to protect Ohioans from electric rate increases. "

Here is [an analysis of the provision](#) by OMA energy counsel, Kim Bojko, of Carpenter Lipps & Leland. She concludes: "The utilities continue to ask for more customer-paid subsidies due to an alleged fiscal crisis due to their parent company or affiliates' bad business decisions. Once again the utilities are asking customers to bail them out, seeking to shift ordinary business risk from shareholders to ratepayers." 6/21/2017

OMA Opposes OVEC Utility Bailout Scheme

June 16, 2017

As the General Assembly approaches summer recess, utilities are lobbying strenuously to pass a law that would force customers of multiple utilities to subsidize two unprofitable power plants, one in southern Ohio and one in Indiana. These power plants are owned by a coalition of utilities known as the Ohio Valley Energy Corporation (OVEC).

OMA Energy Counsel **Kim Bojko**, of Carpenter Lipps & Leland, **testified on behalf of OMA** before the Senate Public Utilities Committee about the bill's potential negative impact on the competitive energy markets, customers' energy costs, manufacturing competitiveness, and job creation in our state.

In in a joint communication with AARP-Ohio, Ohio Office of the Consumers' Counsel and Northeast Ohio Public Energy Council (NOPEC), OMA **documented concerns to lawmakers** saying Ohioans "will pay at least \$104 million, and as much as \$256 million (or more), per year in rate increases for decades if this legislation is passed."

Here is an OMA **white paper that describes the problematic legislation**. 6/14/2017

What's Wrong With This Picture?

June 9, 2017

Utilities seek another set of very expensive subsidies in the legislature, this time in the name of "national security." Their proposal, embodied in HB 239 and SB 155, would funnel upwards of \$300 million more per year, indefinitely, to the utilities.

Ohio's investor-owned electric utilities are part owners of the Ohio Valley Electric Corporation (OVEC) power plants. OVEC owns and operates two electricity generating complexes: Kyger Creek Power Plant, near Gallipolis, Ohio, and Clifty Creek Power Plant, near Madison, Indiana.

OVEC was formed in the early 1950s by investor-owned utilities to generate electricity to meet the substantial electric power requirements of the uranium enrichment facilities then under construction by the Atomic Energy Commission (AEC) just south of Piketon, Ohio.

The Piketon nuclear enrichment site was opened in 1952 and closed on September 30, 2006. The utilities were notified in 2000 that the contract with Piketon would be canceled. The contract terminated in 2003. The two plants ran at, or less than half of, full load in 2016.

Meanwhile, the utilities have already been paid transition revenues for these and other plants, collected from customers, to help transition to a fully competitive generation market. The utilities, thus, are seeking to be paid again for the same plants.

Read more in this **OMA white paper**. 6/8/2017

OMA Testifies in Senate Against Nuke Bailout

June 9, 2017

The OMA presented **opponent testimony** this week on Senate Bill 128 and its proposed multi-billion-dollar bailout of FirstEnergy's uneconomic, uncompetitive nuclear power plants in Ohio. The testimony was presented by Anthony Smith, Energy Coordinator at Cooper Tire & Rubber Company, and a member of the board of the OMA Energy Group.

Smith stated: "Senate Bill 128 would cost FirstEnergy's customers an estimated \$300 million a year, for up to 16 years, to subsidize two Ohio nuclear power plants operated by FirstEnergy's subsidiary, FirstEnergy Solutions. That adds up to \$4.8 billion." 6/8/2017

PJM Capacity Auction Results: More Reliability, Lower Prices

June 2, 2017

PJM recently completed its auction for electric capacity resources for the 2020/21 delivery year. PJM's capacity auctions procure, and pay for, future electric resources to ensure the grid can meet power needs on peak days.

This was the first auction in which PJM procured 100% "Capacity Performance" resources, a program intended to improve power plant performance and grid reliability in the wake of the "Polar Vortex" several years ago.

Prices for capacity dropped from about \$100/MW-day to \$76.53/MW-day.

Even with dropping prices and higher performance standards, PJM's reserve margin – the amount of extra electric generating capacity available at peak times – rose to 23.3%.

Duke Energy Ohio customers will see a slight increase in capacity prices in 2020/21, though, to \$130/MW-day. This higher, local capacity auction price is meant to create an incentive for building new power plants and transmission lines, or load reduction.

A similar price increase in FirstEnergy territory in previous years attracted new resources and prices eventually subsided.

The capacity auction had a slight increase in energy efficiency resources, including increases from all four Ohio investor-owned utilities, though there were fewer demand response resources bid in. 5/30/2017

HB 247 Fixes Anti-Consumer Electric Ratemaking Policies **May 26, 2017**

OMA and a diverse coalition of pro-competition consumer organizations announced support for electricity ratemaking reform legislation (HB 247), sponsored by Rep. **Mark Romanchuk** (R-Ontario) and introduced this week in the Ohio General Assembly. The bill would fix statutory provisions that have cost electricity consumers billions of dollars in above-market charges.

AARP Ohio (AARP), Northeast Ohio Public Energy Council (NOPEC), Office of the Ohio Consumers' Counsel (OCC), and the Ohio Farm Bureau Federation (OFBF) joined OMA in applauding the legislation, which will address anti-consumer provisions that date back to the implementation of Senate Bill 221 in 2008.

Three major reforms in the bill are: (1) Elimination of "electric security plans" that enable utilities to charge customers above-market prices for electricity generation; (2) Enable customers to obtain refunds of utility charges that have been collected from customers, if the Supreme Court of Ohio finds the charges to be improper; and (3) Clarify in the law that utilities and their affiliate organizations cannot own generation and, therefore, cannot layer generation-related charges on consumers' electric bills.

OMA president Eric Burkland said: "Enactment of HB 247 will help protect manufacturers from unwarranted, anti-competitive, above-market charges imposed by electric utilities. The major provisions of HB 247 will help protect the billions of dollars of savings that customers have realized thanks to Ohio's competitive market for electricity. Continued savings will spur economic growth, attract new business investment from manufacturers, and benefit the communities where they operate."

Read **the full press release here**. 5/25/2017

Another Utility Bailout Proposed, Fast-Tracked **May 26, 2017**

Lawmakers in both the House and Senate this week introduced identical legislation to bail out uneconomic power plants affiliated with the Ohio Valley Electric Corporation (OVEC), which is owned by a consortium of utilities.

House Bill 239 is sponsored by Reps. **Ryan Smith** (R-Bidwell) and **Rick Carfagna** (Genoa Township). **Senate Bill 155** is sponsored by Senators **Lou Terhar** (R-Green Township) and **Bob Peterson** (R-Washington Court House).

The house bill immediately received a hearing signaling that the bill has been fast-tracked. The bill sponsors justified the subsidies to the unprofitable power plants in Ohio and Indiana "to preserve a national security generation resource"; the plants at one time served the now closed uranium enrichment facility in Piketon.

The customer cost of the subsidy is not yet available. The OMA is reviewing the legislation. 5/25/2017

OSU Economist Testifies Against FirstEnergy "Nuke Bailout" Bill **May 19, 2017**

OSU economist Ned Hill **testified** this week against FirstEnergy's proposed nuclear generating plants subsidy bill, **HB 178**.

Hill stated: "All of the (investor owned utilities) share two goals. The first is to use the power of either the PUCO or the Ohio Legislature to mandate the purchase of

expensive existing Ohio power plants first and to ensure that competitive market forces do not force them to either write down the asset-value of their generating assets, protecting their stock values, or to close the plants. The second is to upend, circumvent, and destroy the competitive electricity generating market managed by PJM Interconnect.”

With regard to the massive subsidies proposed by the bill, he said: “Keeping expensive and technically obsolete nuclear power plants in subsidized operation will be a barrier to lower-cost, lower-carbon electricity production.”

The day after this week’s hearing, the chairman of the House Public Utilities Committee, Rep. Bill Seitz, announced that hearings on the measure will be suspended for now. *5/18/2017*

Commissioner Trombold Visits OMA Energy Committee
May 19, 2017



Public Utilities Commission of Ohio (PUCO) Commissioner Beth Trombold came to the OMA to talk about the commission’s initiative “PowerForward.”

PowerForward focuses on the grid of the future, and how to optimize deployment of new and emerging technologies. The commission has scheduled a series of meetings for input from expertise in multiple fields. *5/18/2017*

Pictured: M. Beth Trombold, PUCO Commissioner, and OMA Energy Committee Chairman, Brad Belden, VP Administrative Services, The Belden Brick Co.

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on August 21, 2017

- HB105 OIL AND GAS FUNDING LIMIT** (CERA J, HILL B) To limit the amount of revenue that may be credited to the Oil and Gas Well Fund and to allocate funds in excess of that amount to local governments, fire departments, and a grant program to encourage compressed natural gas as a motor vehicle fuel.
Current Status: 5/16/2017 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-105>
- HB114 RENEWABLE ENERGY STANDARDS** (BLESSING III L) To revise the provisions governing renewable energy, energy efficiency, and peak demand reduction and to alter funding allocations under the Home Energy Assistance Program.
Current Status: 6/14/2017 - Senate Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-114>
- HB143 ELECTRIC DISTRIBUTION COMPANY DEFINITION** (SPRAGUE R) To clarify the definition of "electric distribution company" for kilowatt-hour tax purposes.
Current Status: 3/29/2017 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-143>
- HB178 ZERO-EMISSIONS NUCLEAR PROGRAM** (DEVITIS A) Regarding the zero-emissions nuclear resource program.
Current Status: 5/16/2017 - House Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-178>
- HB225 ABANDONED WELL REGULATION** (THOMPSON A) To allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well.
Current Status: 6/20/2017 - House Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-225>
- HB239 ELECTRIC UTILITIES-NATIONAL SECURITY RESOURCE** (SMITH R, CARFAGNA R) To allow electric distribution utilities to recover costs for a national security generation resource.
Current Status: 6/20/2017 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-239>
- HB247 ELECTRIC UTILITY CONSUMER PROTECTION** (ROMANCHUK M) To require refunds to utility customers who have been improperly charged, to eliminate electric security plans and

require all electric standard service offers to be delivered through market-rate offers, and to strengthen corporate separation requirements.

Current Status: 6/20/2017 - House Public Utilities, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-247>

- HB249 RESIDENTIAL UTILITY RESELLING (DUFFEY M)** To permit the Public Utilities Commission to adopt rules governing residential utility reselling.
Current Status: 6/6/2017 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-249>
- SB50 WELL INJECTION-PROHIBITION (SKINDELL M)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-50>
- SB53 NATURAL GAS RESTRICTION (SKINDELL M)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-53>
- SB65 ENERGY STAR TAX HOLIDAY (BROWN E)** To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65>
- SB128 ZERO-EMISSION NUCLEAR PROGRAM (EKLUND J, LAROSE F)** Regarding the zero-emissions nuclear resource program.
Current Status: 6/8/2017 - Senate Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-128>
- SB155 ELECTRIC DISTRIBUTION COST RECOVERY (TERHAR L, PETERSON B)** To allow electric distribution utilities to recover costs for a national security generation resource.
Current Status: 6/28/2017 - Senate Public Utilities, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-155>
- SB157 PUBLIC UTILITY RESELLING REGULATION (BACON K)** To regulate the reselling of public utility service.
Current Status: 6/28/2017 - **BILL AMENDED**, Senate Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-157>

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MEMORANDUM

To: OMA Energy Committee
From: Kim Bojko, OMA Energy Counsel
Re: Energy Committee Report
Date: August 23, 2017

Active Administrative Actions in which OMAEG is Involved:

American Electric Power (AEP):

- **Application to Amend ESP III Case/New ESP (Case Nos. 16-1852-EL-SSO, et al.)**
 - On November 23, 2016, AEP filed its application to amend its ESP extending the term through May 2024 and to add several new riders and charges. AEP also requested an expedited procedural schedule.
 - The PUCO has set a procedural schedule requiring intervenor testimony to be filed by May 2, 2017, Staff testimony by May 30, 2017, and setting the evidentiary hearing to begin on June 6, 2017
 - OMAEG filed the testimony of OMAEG witness John Seryak opposing AEP Ohio's plans for microgrids, renewable energy, submetering, and electric vehicle charging stations.
 - Settlement negotiations are ongoing.
- **Global Settlement of Several Cases (Case Nos. 11-5906-EL-FAC, 14-1189-EL-RDR, 15-1022-EL-UNC, 11-4920-EL-RDR, et al.)**
 - On December 21, 2016, a Global Settlement was reached and filed with several parties, resolving several cases, including cases that were appealed to the Supreme Court of Ohio and remanded to the PUCO for reconsideration. OMAEG members and some other customers will see rate reductions as a result of the settlement.
 - Through OMAEG's participation in the cases and Settlement, OMAEG successfully negotiated one-time bill credits to offset the rate increases to those OMAEG members that would have been otherwise negatively affected. Other large customers will also see savings from the implementation of the Settlement due to negotiated rate design modifications. All customers will also see a rate reduction in the form of a credit for the significantly excessive earnings test (SEET) in 2014. The amount of the total SEET credit passed on to customers is \$20M. Additionally, those customers in the Ohio Power rate zone will receive a \$2/MWh reduction in their PIRR rate.

- Further, the parties negotiated early implementation of a limited Basic Transmission Cost Rider (BTCR) Pilot Program agreed to in AEP's purchase power agreement (PPA) rider case, and obtained an OMAEG participation level of 5 customer accounts for those members who may benefit from the program.
- On February 23, 2017, the PUCO adopted and approved the Global Settlement in its entirety.
- On March 29, 2017, the PUCO approved AEP's tariff to establish the interim BTCR Pilot Program for 19 of AEP's customers, including 5 OMAEG members, according to the terms of the Global Settlement. The BTCR Pilot Program is an annual program (the ICP is set from November 1st to October 31st). The approved tariff was effective with the first billing cycle of April 2017.

Duke Energy Ohio (Duke):

- **ESP Application (Case Nos. 14-841-EL-SSO, et al.)**
 - Order issued on April 2, 2015, wherein PUCO approved establishment of a PPA rider (Rider PSR), but Duke was not authorized to collect any PPA costs through Rider PSR.
 - Several parties, including OMA, filed applications for rehearing on May 4, 2015. The applications for rehearing are still pending.
- **2013/2014 EE/PDR Recovery (Case Nos. 14-457-EL-RDR and 15-534-EL-RDR)**
 - Duke and Staff filed a stipulation seeking to resolve the shared savings mechanisms relating to Duke's 2013 and 2014 programs.
 - OMA and others opposed the stipulation.
 - The PUCO issued a decision on October 26, 2016, approving the stipulation, which provides Duke \$19.75 million in shared savings incentives.
 - Rehearing is pending.
- **Shared Savings Mechanism Extension Case (Case No. 14-1580-EL-RDR)**
 - Duke sought PUCO approval of its request to extend the use of its shared savings incentive mechanism in 2016.
 - OMA and others opposed the proposal and filed reply briefs on September 8, 2016, and are awaiting a PUCO decision.
- **EE/PDR Portfolio Plan (Case No. 16-576-EL-POR)**
 - On June 15, 2016 Duke filed its EE/PDR plan.
 - OMA and several other intervening parties reached a settlement to implement Duke's comprehensive EE/PDR portfolio, effective from 2017 through 2019. OMAEG successfully negotiated a shared savings cap and tiered incentive levels. OMA also obtained language to prohibit Duke from collecting shared savings on banked savings, and to initiate a CHP program with positive incentives. OMA further obtained funding for EE programs in the amount of \$50,000 per year.

- Both PUCO Staff and the Office of the Ohio Consumers' Counsel (OCC) are challenging the plan proposing the adoption of a cost cap for program costs and additional limitations on shared savings incurred through FirstEnergy's energy efficiency portfolio plan. OMAEG does not oppose a cost cap or additional limitations on the amount of profit FE may earn.
- A hearing was held in February/March 2017 where OCC and PUCO Staff opposed the settlement. OCC and PUCO Staff also filed initial post hearing and reply briefs opposing the adoption of the amended stipulation and recommended an overall cost cap of \$33.8 million (3.5%) on program costs and shared savings incurred through Duke's EE/DRP plan. Approval of the settlement is pending before the PUCO.
- **Distribution Rate Case (Case No. 17-0032-EL-AIR)**
 - On March 2, 2017, Duke filed an application to increase its distribution rates. The application proposes to increase the rates starting on January 1, 2018. OMAEG and other consumer groups intervened.
 - On February 23, 2017, the PUCO issued a decision that granted Duke's request to waive certain filing requirements regarding the production of generation or fuel-related information. The decision also set April 1, 2016 through March 31, 2017 as the test period and June 30, 2016 as the date certain.
 - Discovery is ongoing.
- **MGP Remediation Rider (Case No. 17-596-GA-RDR, et al.)**
 - On March 31, 2017, Duke filed an application to recover 2016 costs for investigation and remediation of its Manufactured Gas Plant (MGP) site. In Duke's natural gas distribution case (Case No. 12-1685-GA-AIR), the PUCO approved up to \$55.5 million for investigation and remediation costs incurred from January 2008 through December 2012.
 - OMAEG intervene in April 2017.
- **Price Stabilization Rider (Case No. 17-872-EL-RDR, et al.)**
 - On March 31, 2017, Duke filed an application to populate its Price Stability Rider (PSR), which was established in its ESP case at \$0 (Case No. 14-841-EL-SSO et al.) Duke proposes to include in Rider PSR the net costs associated with its contractual entitlement in generating assets owned by the Ohio Valley Electric Corporation (OVEC). Rider PSR will be nonbypassable.
 - OMAEG and other parties filed a joint motion to dismiss Duke's application on the grounds that the PSR was already established on a zero placeholder basis in the 2014 ESP case and the PUCO does not have authority to review Duke's application outside of an ESP under its general authority over utilities. Alternatively, the parties requested the proceedings be stayed until the PUCO has decided the applications for rehearing in the ESP case and appellate review is completed.

- **ESP IV Case (Case Nos. 17-1263-EL-SSO, et al.)**
 - In June, Duke filed an application for its fourth ESP. In its application for a six year ESP, Duke proposes to continue its Distribution Capital Investment Rider (Rider DCI) and introduce several new riders. On June 19, 2017, OMAEG intervened.

FirstEnergy:

- **ESP IV Application (Case No. 14-1297-EL-SSO)**
 - FirstEnergy, Staff, Ohio Energy Group, OP&E, IGS, and others filed a stipulation seeking PUCO approval of FirstEnergy’s ESP IV Application together with authority to establish and populate a PPA rider (Rider RRS) with the costs associated with certain plants owned by its affiliate, FirstEnergy Solutions.
 - The stipulation also contains provisions addressing: grid modernization; energy efficiency; and a plan to transition to decoupled rates.
 - The PUCO modified and approved the stipulation.
 - On November 14, 2016, OMAEG submitted an application for rehearing of the PUCO’s Fifth Entry on Rehearing adopting Rider DMR, which will collect from customers approximately \$132.5 million per year, adjusted for recovery of taxes, for a total of three years, with a possible extension of two additional years.

The PUCO approved FirstEnergy’s implementation of its Rider DMR, effective January 1, 2017, and denied OMAEG’s request to stay the collection of Rider DMR revenues or in the alternative, permit collection subject to refund.
 - In August, the PUCO issued its Eighth Entry on Rehearing where it rejected FE’s request to modify the revenue collected under Rider DMR. The PUCO also rejected FirstEnergy’s request to reduce the scope of the Non-Market Based Services Rider (Rider NMB) Opt-Out program to just the signatory parties to the stipulation. The PUCO agreed with OMAEG that the NMB Opt-Out program should be open to all parties.
- **EE/PDR Plan (Case No. 16-743-EL-POR)**
 - On May 9, 2016, OMAEG filed a motion to intervene in the proceeding.
 - In December 2016, several parties reached a settlement with FirstEnergy in support of its revised EE/PDR plan. OMAEG agreed to not oppose the settlement in exchange for favorable language, limitations on shared savings that can be collected from customers, favorable CHP program incentives, and other consumer protections.
 - Both PUCO Staff and OCC are challenging the plans proposing the adoption of a cost cap for program costs and additional limitations on shared savings incurred through FirstEnergy’s energy efficiency portfolio plan. OMAEG does not oppose a cost cap or additional limitations on the amount of profit FE may earn.
 - Hearings have been held on the settlement and the parties have submitted briefs.
 - The matter is now pending before the PUCO.

Dayton Power & Light (DP&L):

- **Distribution Rate Increase (Case Nos. 15-1830-EL-AIR, et al.)**
 - The PUCO set June 1, 2015 to May 30, 2016 as the test period and September 30, 2015 as the date certain.
 - On March 22, 2017, the PUCO issued an unusual order seeking assistance for Staff in auditing DP&L's application to increase its distribution rates. The hiring of an auditor is occurring over a year and a half after DP&L's application was filed. The auditor will review DP&L's accounting accuracy, prudence, and use and usefulness of DP&L's jurisdictional rate base as presented in its application. The selection of the auditor should be complete by April 19, 2017 and a final audit report is estimated to be complete by September 29, 2017. OMAEG and other parties will have an opportunity to review any conclusions, results, or recommendations the auditor makes.
- **Electric Security Plan (Case Nos. 16-395-EL-SSO, et al.)**
 - DP&L filed an amended application on October 11, 2016, withdrawing its Reliable Electricity Rider (RER) request. Instead, it is now seeking a Distribution Modernization Rider (DMR) for a term of seven years to recover \$145 million per year from customers.
 - DP&L and certain intervening parties filed a stipulation on January 30, 2017, which was opposed by numerous other intervening parties, including OMAEG.
 - On March 13, 2017, a new settlement was reached between a majority of the parties, including PUCO Staff and OMAEG (as a non-opposing party). Under the new settlement, DP&L will receive from customers \$105M/year for 3 years with an option to request a 2 year extension of the DMR, totaling approximately \$315M over three years. The Distribution Investment Rider (DIR-B) rider was eliminated (which was estimated to cost consumers \$207.5M), and DP&L agreed to convert the forgone tax sharing liabilities to AES Corporation into equity payments (estimated by DP&L to be a \$300M gain for customers). DP&L will also provide several OMAEG members the economic development rider (EDR) credit of \$.004/kWh. For OMAEG members that do not qualify for the EDR credit, DP&L agreed to make those members see no increase in their current rates, plus a slight discount. Thus, those members will receive a collective total of \$18,000 per year in shareholder dollars to compensate them for the increase in rates due to the DMR.
 - A hearing was held in April 2017 and the parties have submitted briefs. The matter is now pending before the PUCO.
- **EE/PDR Portfolio Plan (Case Nos. 16-649-EL-POR, et al.)**
 - On June 15, 2016, DP&L filed its EE/PDR plan to continue its current EE/PDR POR for another year.
 - OMAEG, Staff, and all other intervening parties, except OCC, reached a settlement to continue DP&L's EE/PDR portfolio for 2017. OMAEG obtained continued funding for EE programs in the amount of \$30,000, more favorable language, limitations on EE/PDR portfolio costs and shared savings that can be collected from customers,

continuation of the CHP program and incentives, and other consumer protections. OCC is challenging the collection of lost distribution revenues.

- A hearing was held on February 7, 2017 to submit the settlement where OCC waived its right to cross-examine DP&L's witnesses. The PUCO's decision to approve the settlement is pending.
- **EE/ PDR Portfolio Plan (Case Nos. 17-1398-EL-POR, et al.)**
 - In accordance with the stipulation that was reached in DP&L's third EE/PDR portfolio plan case (Case No. 16-649-EL-POR, et al.), in June, DP&L filed an application for its proposed EE/PDR portfolio plan for years 2018-2020. As part of the new plan, DP&L proposes to implement non-residential programs, including Rapid Rebates (Prescription Rebates), Customer Rebates, Mercantile Self-Direct Rebates, and Small Business Direct Install programs. DP&L is also proposing to introduce new Stakeholder Initiatives and Non-Programmatic Savings programs, not currently part of the existing portfolio plan. Additionally, the proposed shared savings mechanism would apply to the extent DP&L exceeds its benchmarks.
 - In August, OMAEG intervened and filed objections opposing certain aspects of DP&L's EE/PDR portfolio plan.

Statewide:

- **Net Metering Rules (Case No. 12-2050-EL-ORD)**
 - OMAEG filed comments urging the PUCO to adopt rules that align the compensation schemes applicable to shopping and non-shopping customers.
 - Stakeholders await the PUCO's decision.
- **Submetering Investigation (Case No. 15-1594-AU-COI)**
 - The PUCO opened an investigation to determine whether the activities of submetering entities meet the definition of a public utility.
 - On December 7, 2016, the PUCO issued a decision to expand the application of the *Shroyer test*, used to determine if a landlord is operating as a public utility, to include condominium associations, submetering companies, and other similarly-situated entities. Additionally, the PUCO created new parameters for applying the test to determine whether those entities are acting as public utilities, and thus should be subject to regulation when they resell or redistribute utility service.
 - Concerned that this expansion may unlawfully classify entities that resell or redistribute electric, gas, and water utilities in commercial settings as public utilities, OMAEG joined other commercial groups to seek rehearing of the PUCO's Order that may affect commercial shared services arrangements.
 - In June, the PUCO issued an entry on rehearing wherein it limited the application of its Relative Price Test and adoption of a Safe Harbor provision to resellers servicing submetered residential customers, stating that it will not apply to arrangements between commercial or industrial parties.

- Several parties filed applications for rehearing. Importantly, no party challenged the applicability of the PUCO’s Relative Price Test and Safe Harbor provision to only residential submetered consumers. The PUCO’s decision on rehearing is pending.
- **PUCO Announces PowerForward**
 - The PUCO announced the launch of PowerForward: a PUCO review of the latest in technological and regulatory innovation that could serve to modernize the electric distribution grid and enhance the customer electricity experience. Through PowerForward, the PUCO will comprehensively explore technology and consider how it could serve to enhance the customer electricity experience. The PUCO will be hosting national experts through a series of phases.
 - In July, the PUCO held Phase 2 focusing on grid platforms, future grid technology, and distribution system safety and reliability. The dates for phase 3 of PowerForward will be released in the near future.

**Judicial Actions—Active Cases Presently on Appeal
from the PUCO to the Supreme Court of Ohio**

Duke Energy Ohio:

- **Increase to Natural Gas Distribution Rates, Case No. 2014-328 (Appeal of Case Nos. 12-1685-EL-AIR, et al.)**
 - OMA, OCC, Kroger, and Ohio Partners for Affordable Energy appealed a PUCO order to the Ohio Supreme Court that permitted recovery from ratepayers for environmental remediation costs associated with two former manufactured gas plant (MGP) sites.
 - On February 28, 2017, OMA’s energy counsel, Kim Bojko, argued before the Supreme Court of Ohio on behalf of the Appellants requesting that it overturn the PUCO order that awarded Duke \$55.5 million from customers for cleanup costs associated with the two former MGP sites that have not been in operation for 50-89 years.
 - The Court in a split 4:3 decision affirmed the PUCO’s order holding that the “used and useful” standard does not apply to the ratemaking statute for “the cost to the utility of rendering the public utility service for the test period” under R.C. 4909.15(A)(4).
 - Believing that the Court failed to consider the evidence that most of the MGP sites were either vacant or unused in rendering natural gas distribution service, on July 10, 2017, OMA filed a Joint Motion to Reconsider with the Court urging it to reconsider its decision and remand the case back to the PUCO to determine whether, all, part, or none of the remediation costs were incurred to render natural gas distribution service during the test period.

- **Appeal of DP&L Electric Security Plan, Case Nos. 2017-0204 and 2017-0241 (Appeal of Case Nos. 08-1094-EL-SSO, et al. and 12-0426-EL-SSO, et al.)**
 - In DP&L’s ESP II case, the Supreme Court of Ohio reversed the PUCO’s authorization of the Service Stability Rider (SSR) contained in DP&L’s ESP II on grounds that it was an unlawful collection of transition revenue for costs incurred by the utility before retail competition began that will not be recoverable through market-based rates. The Court found that these costs were no longer recoverable under Ohio law. Thereafter, the PUCO authorized DP&L to withdraw its ESP II after collecting SSR charges for nearly three years. The PUCO also concurrently authorized DP&L to revert back to its ESP I, but allowed it to retain certain aspects of the competitive bidding process approved under ESP II. Further, the PUCO allowed DP&L to reinstate the Rate Stability Charge (RSC), which was originally approved in DP&L’s ESP I, but later expired.
 - OMAEG and others filed applications for rehearing requesting that the PUCO reverse its decisions authorizing DP&L to revert back to its ESP I and to reinstate the RSC because it was an unlawful transition charge similar to the SSR that the Supreme Court of Ohio found to be unlawful. In December, the PUCO denied these requests.
 - In February, OMAEG jointly filed notices of appeal of the PUCO’s Orders and subsequent entries on rehearing regarding various issues raised in DP&L’s ESP I and ESP II cases. The issues in both appeals have been fully briefed. The matter is pending oral arguments.

American Electric Power (AEP):

- **Appeal of AEP’s ESP III and PPA Rider Expansion Cases (Case Nos. 2017-0749 and 2017 0752) (Appeal of Case Nos. 14-1693-EL-RDR, et al. and 16-1852-EL-SSO, et al.)**
 - In AEP’s ESP III case, the PUCO in its February 25, 2015 Order authorized AEP to establish a zero rate placeholder power purchase agreement (PPA) Rider.
 - The PUCO issued an Order on November 3, 2016, affirming its decision in the February 25, 2015 Order not to approve AEP Ohio’s recovery of costs under the PPA Rider, including OVEC costs (but authorized the recovery in the PPA Rider case on the same day). The PUCO also increased the Distribution Investment Rider (DIR) caps by an additional \$8.6M (in addition to the \$37.8M increased in the prior order, which was an increase over the amounts in the original order). Total authorized is \$589.6M from 2015 through May 2018.
 - In the PPA Rider case, AEP, Staff, Sierra Club, Ohio Energy Group, Ohio Hospital Association, IGS and others filed a stipulation seeking PUCO approval to populate the PPA Rider to recover costs certain plants owned by AEP Generation Resources as well as the costs of AEP’s entitlement to the OVEC output.

- The stipulation contained several other provisions unrelated to the PPA Rider, including: extension of the ESP III plan; expansion of the IRP program; and a proposal to develop wind and solar facilities.
- The PUCO modified and approved the stipulation in the PPA Rider case.
- Pursuant to the stipulation in the PPA Rider case, AEP filed an application to extend the ESP through 2024, and included other provisions agreed to in the stipulation, such as BTCR opt-out program, IRP extension and modifications, the Competition Incentive Rider, DIR extension and modifications, and a Sub-Metering Rider.
- On rehearing, AEP stated that in light of the FERC decision it was going to only pursue recovery of the OVEC PPA.
- In April, the PUCO denied OMAEG and others' applications for rehearing in both the ESP III case and the PPA Rider case. OMAEG appealed the PUCO's decisions to the Supreme Court of Ohio.

Federal Actions

FERC:

- **MOPR Expansion (EL16-49)**
 - On March 21, 2016, Dynegy and others filed a complaint against PJM requesting that the Minimum Offer Price Rule be expanded to apply to existing resources.
 - The complaint aims to protect against AEP and FirstEnergy offering the subsidized affiliate generating units into the capacity market below costs, which will suppress capacity prices.
 - Dominion, American Municipal Power, and others filed a motion to dismiss on mootness grounds given the FERC's order rescinding the waiver on affiliate sales restrictions previously granted to AEP, FirstEnergy, and their unregulated generating affiliates.
 - The Independent Market Monitor claims that the issues are not moot given the Staff's proposal adopted in the FirstEnergy ESP IV case for a DMR, and the pending DP&L DMR proposal.
 - The Complaint is still pending.

Summary of PUCO's Eighth Entry on Rehearing Regarding FirstEnergy's ESP IV

On August 16, 2017, the Public Utilities Commission of Ohio (PUCO) issued its Eighth Entry on Rehearing (Entry) in FirstEnergy's fourth electric security plan (ESP IV) case. The PUCO's Entry considered OMAEG, FirstEnergy, and others' applications for rehearing of the PUCO's Fifth Entry on Rehearing where, among other things, the PUCO adopted Staff's proposal to establish a distribution modernization rider (Rider DMR). In its Entry, the PUCO denied the applications for rehearing filed by OMAEG and several other intervening parties. The PUCO granted in part, and denied in part, FirstEnergy's application on rehearing.

Rider DMR

- **Affirmed decision to approve Rider DMR, authorizing FirstEnergy to collect up to \$1 billion from customers.**

The PUCO denied OMAEG and others' argument that the PUCO exceeded its authority to establish an entirely new rider proposal on rehearing that was not at issue in the PUCO's original Opinion and Order (Order). In rejecting the argument, the PUCO held that it had broad authority to modify its Order on rehearing to include alternatives to FirstEnergy's proposed ESP and that this authority is consistent with Supreme Court of Ohio precedent. At the current tax rate, FirstEnergy is estimated to collect approximately \$204 million per year for three years with a possible extension of Rider DMR for two more years. If FirstEnergy is authorized to collect the PUCO's approved rider amount for five years, FirstEnergy could collect from customers over \$1 billion.

The PUCO rejected arguments that Rider DMR is not grid modernization and is merely an above-market charge for credit support for its parent company and unregulated affiliates. The PUCO also disagreed that the rider is an unlawful subsidy to FirstEnergy. Further, the PUCO denied OMAEG and others' argument that there is no requirement for FirstEnergy to use Rider DMR revenues on distribution modernization. The PUCO clarified that it intends to review Rider DMR to ensure that its revenues are used to support grid modernization. Further, the PUCO directed Staff to prepare a request for proposal for a third party "monitor" to assist Staff to ensure Rider DMR funds are expended appropriately. Further, should FirstEnergy receive an extension of Rider DMR, additional reports will be filed and a final report will be filed after the termination of Rider DMR. However, the PUCO also clarified that Rider DMR revenues are not limited to the development of grid modernization programs.

The PUCO rejected arguments on rehearing that Rider DMR is an unlawful transition charge, rationalizing that because FirstEnergy has already transferred its generation assets to an affiliate and has utilized the competitive bidding process since its first ESP in 2009, Rider DMR is not a transition charge. Rather, the PUCO asserted that it is a distribution charge. The PUCO added that Rider DMR revenues will not be used to subsidize non-distribution functions of FirstEnergy Corp.

- **No modifications to Rider DMR.**

The PUCO rejected several of FirstEnergy's requests to modify the calculation of Rider DMR and to extend it through the eight year ESP term. The PUCO affirmed its decision to limit the term of Rider DMR to three years with possible extension up to five years. Second, the PUCO rejected FirstEnergy's assertion that it

failed to add a value to Rider DMR to account for the economic development impact of maintaining the FirstEnergy Corp's headquarters in Akron, Ohio. Third, the PUCO rejected FirstEnergy's argument that a 15 percent CFO to debt ratio should be used instead of 14.5 percent and that a three-year average of CFO to debt ratio should be used instead of a four-year average. Fourth, the PUCO rejected FirstEnergy's argument that it should increase the allocation factor to 34 to 40 percent for Rider DMR instead of 22 percent.

The PUCO denied OMAEG and others' argument that revenues collected under Rider DMR should be included in the SEET calculation. The PUCO also denied FirstEnergy's request to exclude Rider DMR from the SEET calculation while it is in effect. In the Entry, the PUCO affirmed its decision that revenue collection under Rider DMR should be excluded from SEET for the initial three-year period. The PUCO explained that it will reconsider whether to continue excluding Rider DMR revenues from SEET when evaluating any possible extension of Rider DMR.

ESP IV Provisions

- **Rider NMB Opt-Out program.**

The PUCO rejected FirstEnergy's request to reduce the scope of the Non-Market Based Services Rider (Rider NMB) Opt-Out program to just the signatory parties to the stipulation. The PUCO agreed with OMAEG that the NMB Opt-Out program should be open to all parties.

- **FirstEnergy to file a distribution rate case upon conclusion of ESP IV.**

The PUCO rejected FirstEnergy's argument that it was premature for the PUCO to direct it to file a distribution rate case at the end of ESP IV and affirmed its decision to require FirstEnergy to file a new distribution rate case at the end of its ESP IV.

- **Revenue cap on shared savings.**

The PUCO rejected FirstEnergy's request to increase the shared savings cap. In holding, the PUCO found that authorizing an additional \$15 million in annual shared savings revenue, in addition to other provisions of ESP IV, would be overly burdensome on ratepayers. The PUCO stated that the increase in shared savings cap will be stayed until FirstEnergy is no longer receiving Rider DMR revenue.

- **Revenue cap increases to continue until replacement ESP plan.**

The PUCO granted FirstEnergy's application for rehearing wherein FirstEnergy requested that the PUCO clarify that the Delivery Capital Recovery Rider (Rider DCR) and its revenue cap currently in place will continue until the PUCO establishes a new ESP.

- **PUCO disagrees that unlimited charges to customers does not violate Ohio law.**

In their applications for rehearing, OMAEG and other parties argued that the PUCO's ability to authorize provisions of any ESP that could result in virtually unlimited charges to customers violated Ohio law requiring all charges to be just and reasonable. The PUCO disagreed and held that it had great flexibility to approve ESP provisions relating to distribution service and that Ohio law requiring just and reasonable charges did not strictly apply.

- **ESP versus MRO test.**

The PUCO denied parties' applications for rehearing wherein the parties argued that FirstEnergy's ESP IV failed the MRO test. The PUCO found that the modified ESP IV would result in approximately \$51.1 million in benefits that would not otherwise be available under an MRO. The PUCO also emphasized FirstEnergy's purported need for immediate financial assistance. Further, the PUCO found that Rider DMR revenue could not be recovered through base distribution rates. As such, the PUCO granted FirstEnergy's request to consider the annual economic benefit of retaining FirstEnergy Corp's headquarters in Akron, Ohio and agreed that it should be considered in the ESP versus MRO test.

**Summary of the Supreme Court of Ohio’s Decision in the Appeal
of the Duke MPG Case**

PUCO Case Nos. 12-1685-GA-AIR, et al.

June 29, 2017

In March 2017, joint Appellants, OMA, the Office of the Ohio Consumers’ Counsel, Ohio Partners for Affordable Energy, and the Kroger Company, requested that the Court overturn a PUCO order that awarded Duke \$55.5 million from customers for cleanup costs associated with two former manufactured gas plants (MGP) that have not been in operation for 50-89 years. Appellants argued that the PUCO improperly applied the ratemaking statutes in Ohio that do not permit recovery of expenses associated with plants that were not used and useful in rendering service to Duke’s distribution customers during the test year. On June 22, 2017, in a split 4:3 decision, the Court affirmed the PUCO’s order.

1. The Court Held that the “Used and Useful” Standard Does Not Apply to R.C. 4909.15(A)(4).

In authorizing Duke to recover the cost to clean up the MGP plants, the PUCO relied on R.C. 4909.15(A)(4). In its decision, the Court held that because R.C. 4909.15(A)(4) contains neither the phrase “used and useful” nor any other language that ties recoverable costs to property that is used and useful, operating expenses are recoverable if they were incurred in rendering service during the test period and are prudent. The Court further explained that because Duke sought to recover costs and not its capital investment in the MGP plants, the Court agreed that the PUCO was correct to not require the plants to be “used and useful” during the test period. The Court also found that because Duke still had ongoing utility operations on the two MGP plant sites, this case was distinguishable from two prior PUCO cases where the PUCO denied recovery for environmental-remediation costs for plants that were no longer used to provide service to customers.

2. The Court Found that Non-Recurring Expenses May be Recovered Under R.C. 4909.15(A)(4) and Duke’s Remediation Costs were Related to its Current Distribution Service.

In its brief, Appellants argued that in an earlier case, the Court had previously held that a public utility may recover only “normal, recurring expenses” under R.C. 4909.15(A)(4). However, the Court seemed to backtrack when it explained that its previous statement was dictum, and not part of the Court’s holding. In other words, the Court found its prior statement was not binding on the Court here and that it was not required to follow that prior statement made in the earlier case.

Appellants also argued that Duke could not recover remediation costs under R.C. 4909.15(A)(1) because those costs were unrelated to Duke's provision of distribution service. In denying Appellants' assignment of error, the Court majority held that the PUCO had properly found that Duke was currently using the MGP sites for gas-distribution operations and that remediation was necessary for Duke to continue its operations at the properties.

3. Dissenting Decision

In the dissent, however, Justices Kennedy, O'Neill, and O'Donnell disagreed with the majority that Duke's limited ongoing utility operations at the MGP sites were sufficient to find that the remediation costs were related expenses. The dissenting justices noted that Staff had determined that most of the \$62.8 million in environmental remediation costs Duke sought to recover were incurred in areas of the former MGP sites that are not currently used and useful for natural gas distribution service and are thus not recoverable in natural gas rates. The justices explained that because Duke's remediation costs may not have been entirely incurred to remediate the property that was used and useful in rendering public utility service for the test period, **the PUCO's order should be reversed in order for the PUCO to consider whether all, part, or none of the remediation costs were incurred to remediate the property that was used and useful in rendering public utility service during the test period.**



CUSTOMER-SITED RESOURCES REPORT

ENERGY EFFICIENCY - DEMAND RESPONSE - CHP - RENEWABLE ENERGY - STORAGE

ENERGY COMMITTEE – AUGUST 2017

Sustainability Peer Network

- ❑ 9/20 – Sustainability tour @ Honda's Marysville Auto Plant
 - ❑ FULL!

Upcoming events

- ❑ December 6th – At OMA, Corporate GHG Initiatives



Join - <http://www.ohiomfg.com/omas-chpwerec-work-group/>

- ❑ Phase I – A Glimpse of the Future

- ❑ Phase II – Exploring Technologies
 - ❑ Including PPT from Honda Motor Co

- ❑ Phase III – Ratemaking and Regulation
 - ❑ First quarter, 2018



Solar Eclipse Presents First Major Test of Power Grid in Renewable Era

Aug. 19, 2017, at 8:03 a.m.



The Columbus Dispatch

ENTER NOW TO WIN
Prizes Totalling \$20,000
in Free Digital Marketing

ing for fall releases



COSI CEO and President Frederic Bertley talks about the eclipse



Photos: Solar eclipse coast to coast

SOLAR ECLIPSE 2017

6:13 AM

Ohio students' balloon aids NASA eclipse livestream

A Mental Health Crisis DOES NOT STOP for Summer Vacation

SCHEDULE A CONFIDENTIAL ASSESSMENT AT COLUMBUSSPRINGS.COM

Columbus Springs Hospitals

There's hope there's help!



FILE PHOTO -- An array of solar p

Utility operators ready for a quick decline in solar power during eclipse

America's Electrical Grid Prepares For The Shock Of A Total Solar Eclipse



James Conca, CONTRIBUTOR

I write about nuclear, energy and the environment [FULL BIO](#) ▾

Opinions expressed by Forbes Contributors are their own.



Questions?

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614-268-4263 x302

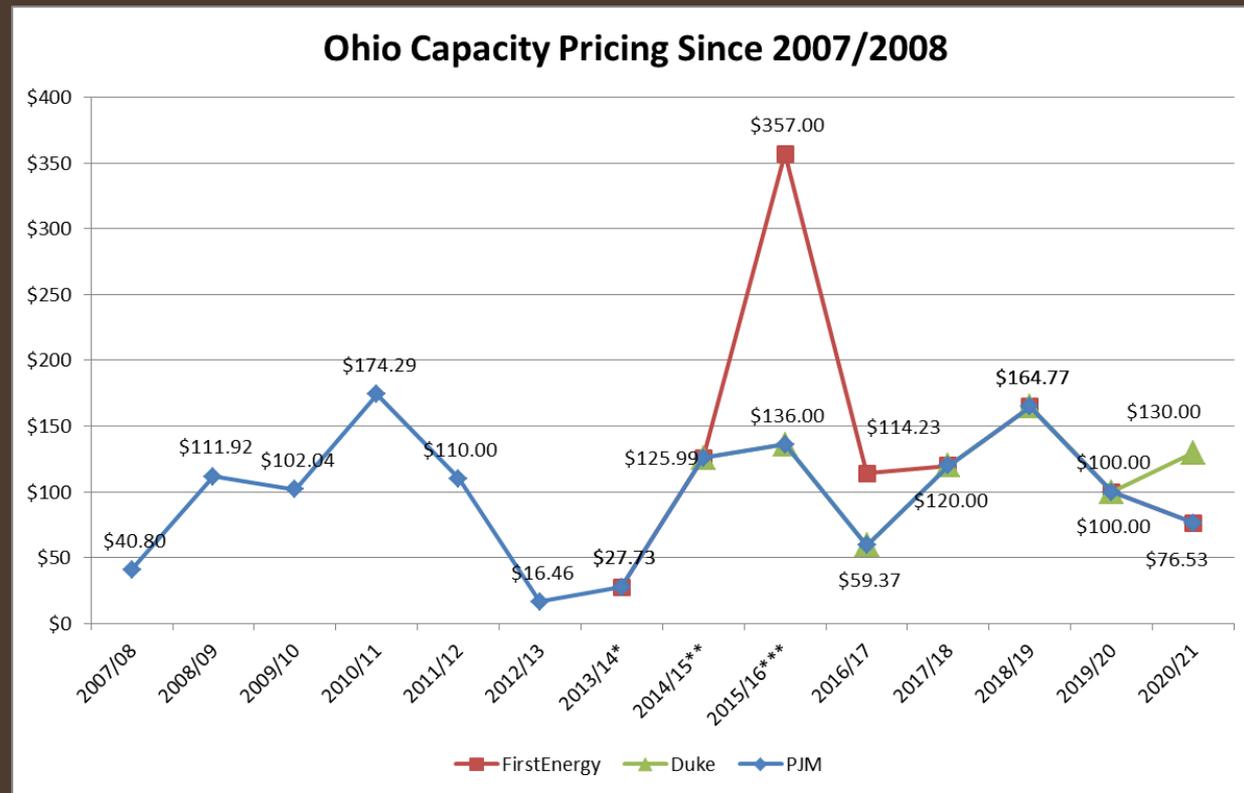
**THE ECLIPSE!!!
WILL THE LIGHTS GO OUT?!?!**

PJM's Base Residual Auction

- The BRA procures electrical power capacity
- Measured in kW or MW
- In PJM speak, capacity = reliability

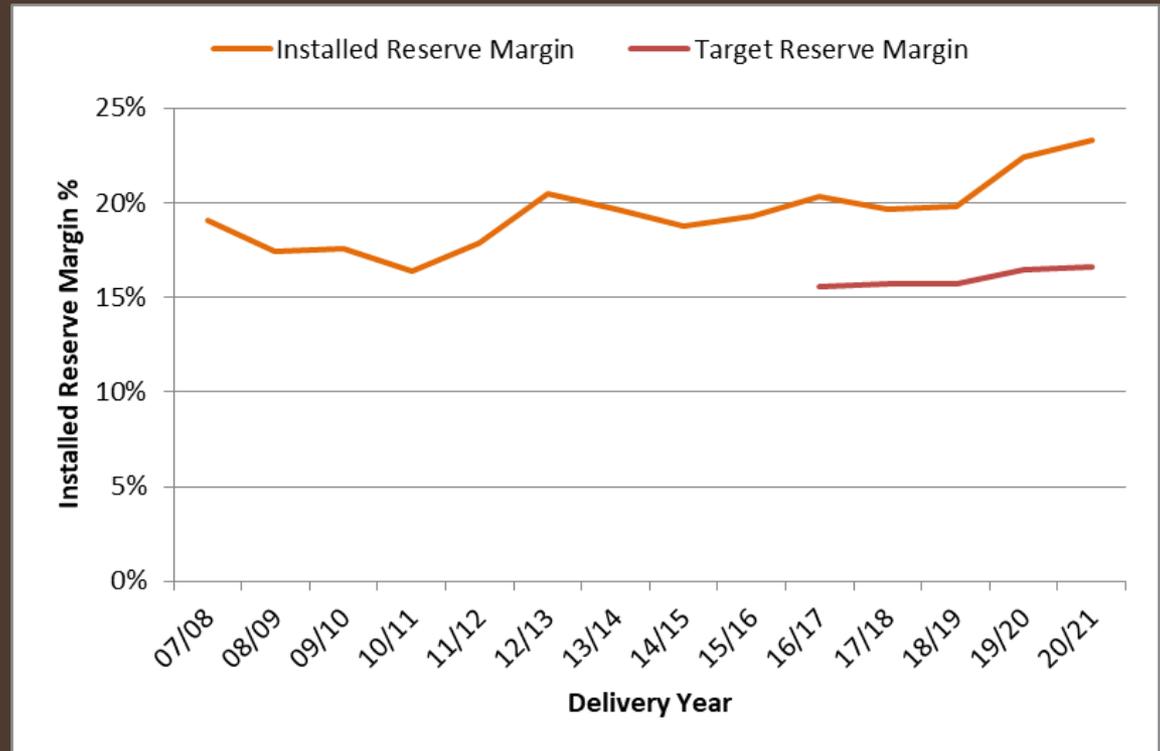
- Let's look at data and trends for
 - Price
 - Reserve margin
 - Resource mix
 - ...and did the solar eclipse crash the grid?

- ❑ Analyst expectations
 - ❑ ~\$100 /MW-day
 - ❑ 100% “Capacity Performance”
- ❑ Actual - \$76.53 /MW-day
- ❑ Duke separation - \$130 /MW-day



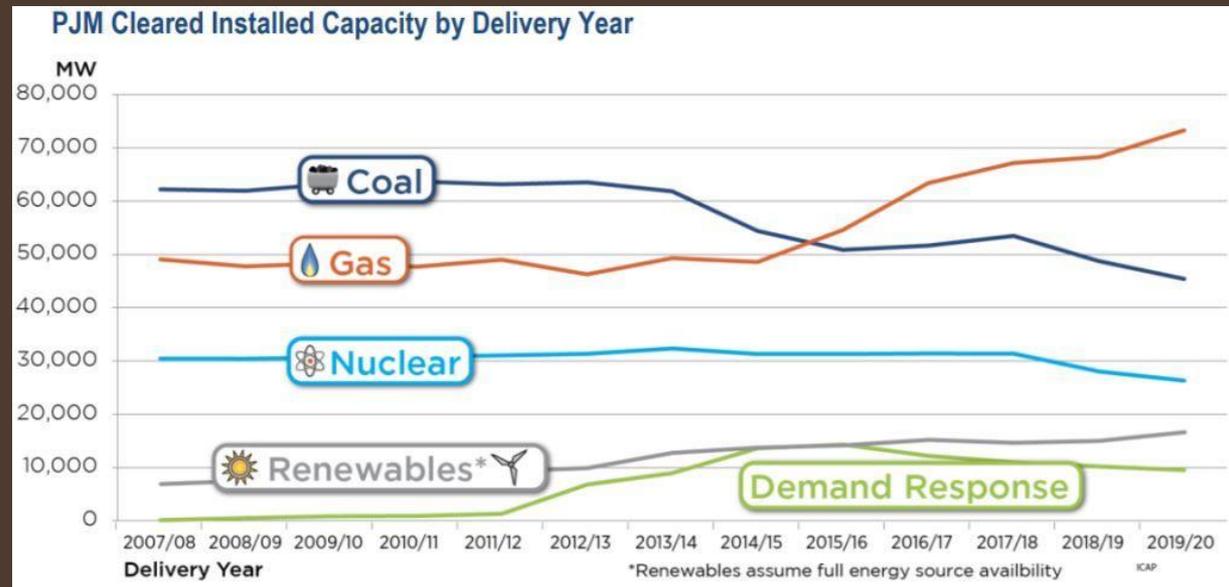


- ❑ Reserve margin is like a safety margin
- ❑ Record 23.3% reserve margin
- ❑ How much total? 165,109 MW



165,000 MW of capacity

- ❑ Demand response @ 9,047 MW
- ❑ EE up to 2,063 MW
- ❑ Wind up 45 MW to 1,452 MW
- ❑ Solar up 95 MW to 453 MW
 - ❑ 26% growth rate
 - ❑ 0.3% of capacity



165,000 MW of capacity

- ❑ Paired seasonal resources
 - ❑ 398 MW cleared
 - ❑ 1,670 MW of summer resources unaccounted
- ❑ Limited by lack of winter resources
- ❑ Increased wind would unlock those summer resources

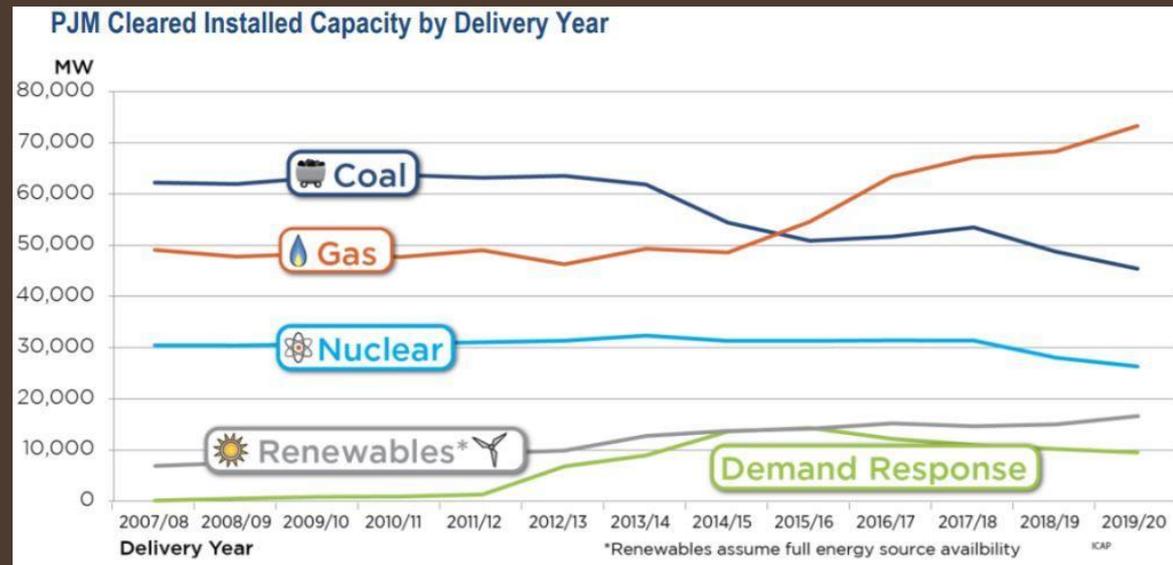
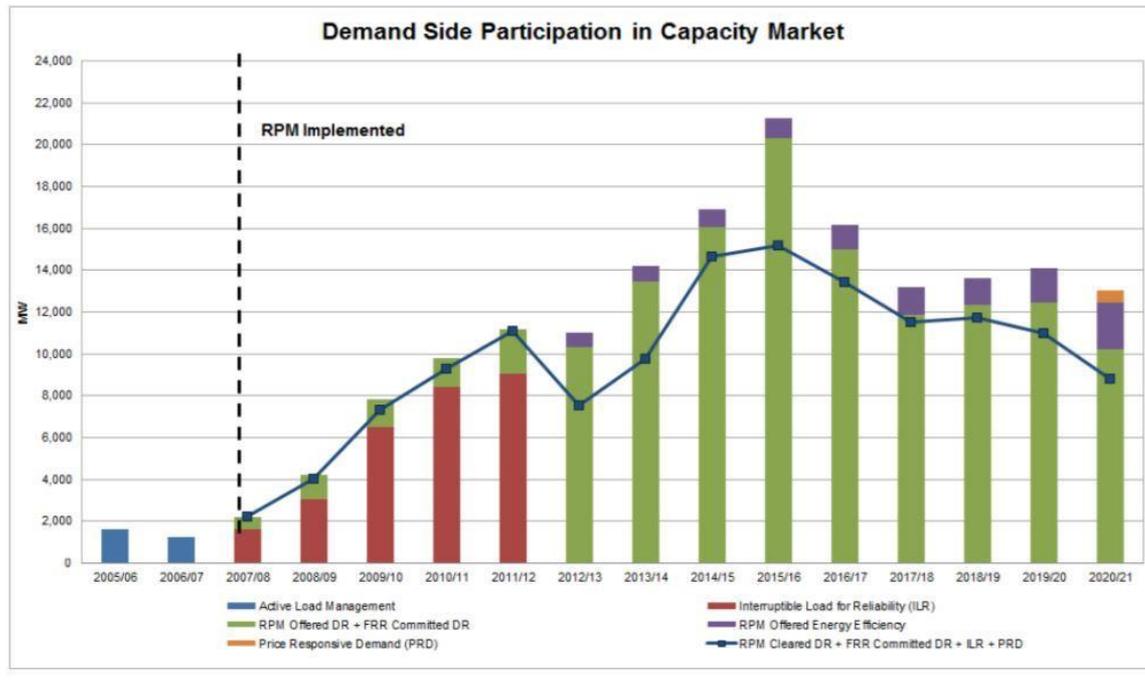


Figure 1 – Demand Side Participation in the PJM Capacity Market



2020/2021		
Cleared Demand Response		
	PJM*	Company
AEP	1,010.50	Not Reported
DP&L	164.6	Not Reported
DUKE	152.8	30
FE	688.7	Not Reported

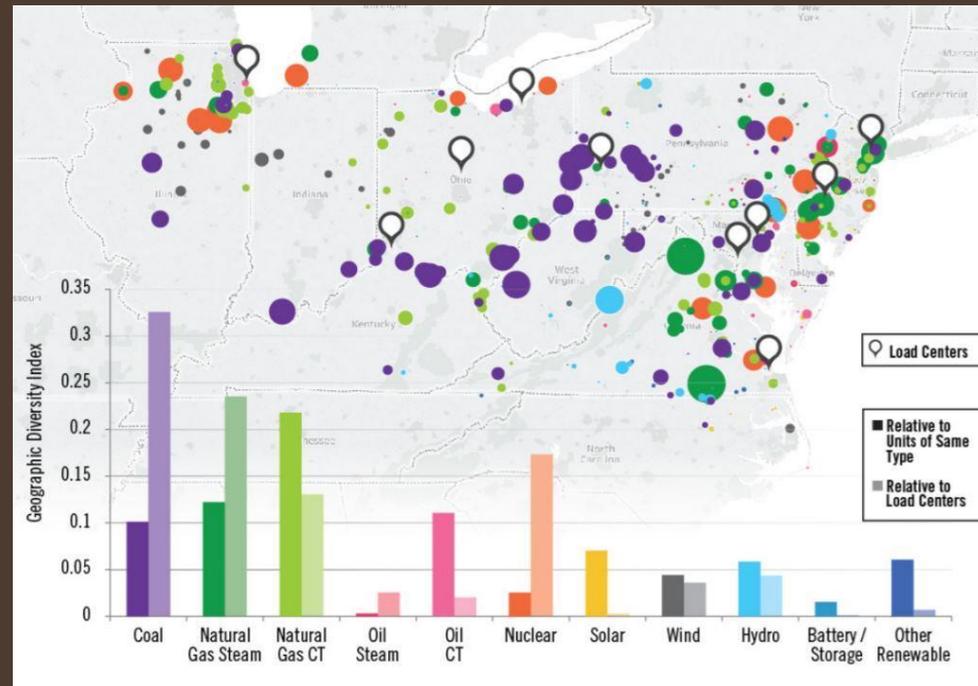
*Complete Zonal Cleared DR

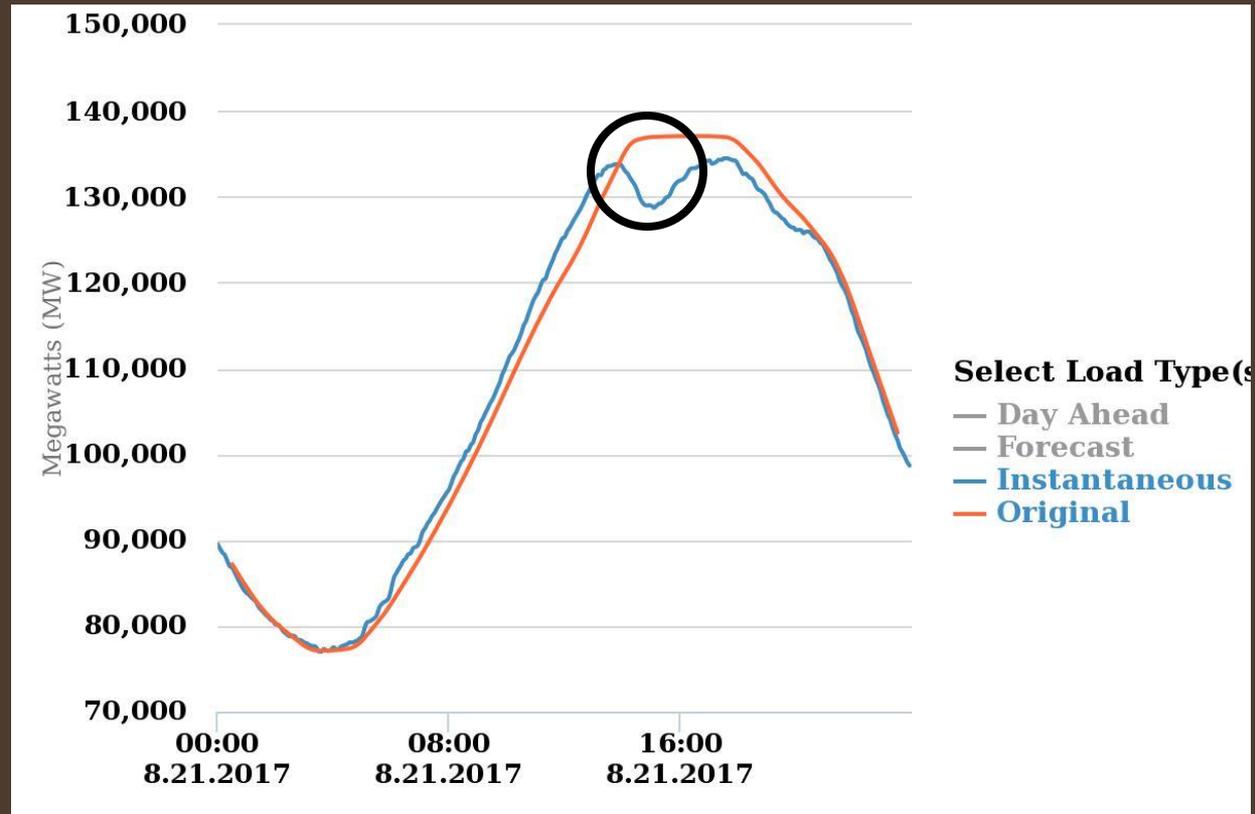
2020/2021		
Cleared Energy Efficiency		
	PJM*	Company
AEP	110.2	63.7
DP&L	33.1	30.2
DUKE	65.8	41.9
FE	33.2	Not Reported

*Complete Zonal Cleared EE

Takeaways

- ❑ Capacity prices within historical bounds, mostly relatively low
- ❑ 23% more capacity (and even more unaccounted for) than peak needs
- ❑ Growing diversity
 - ❑ More NG
 - ❑ Steady growth wind
 - ❑ High growth solar
 - ❑ Increase in efficiency
 - ❑ Steady demand response





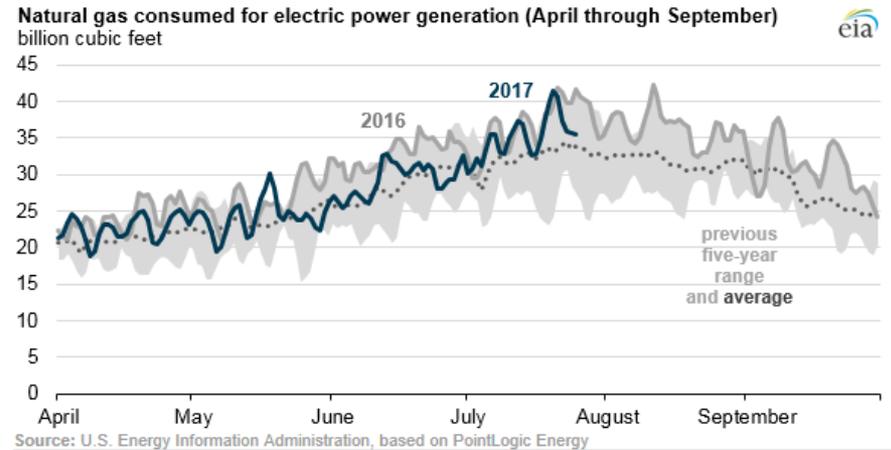
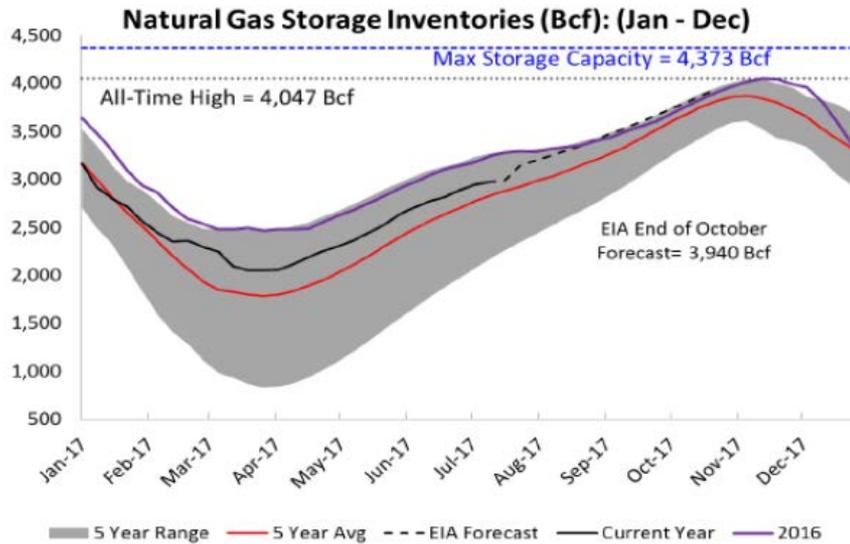
Electricity Market Update

August 2017



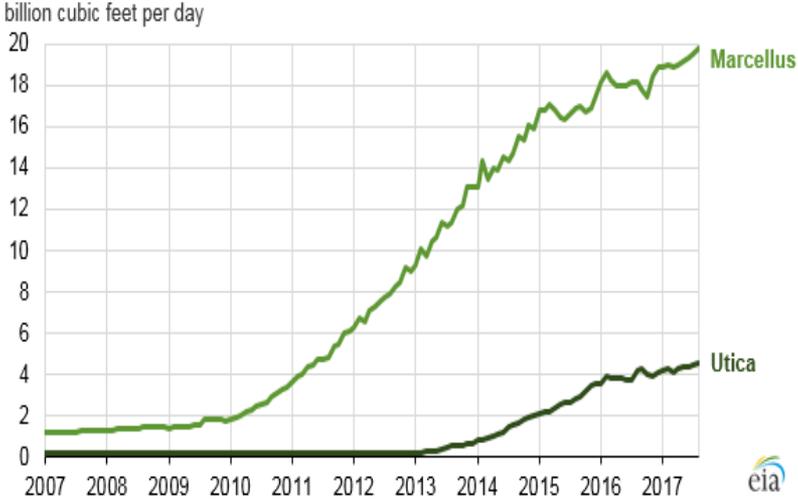
scioto energy

Storage and Demand



Production and Basis

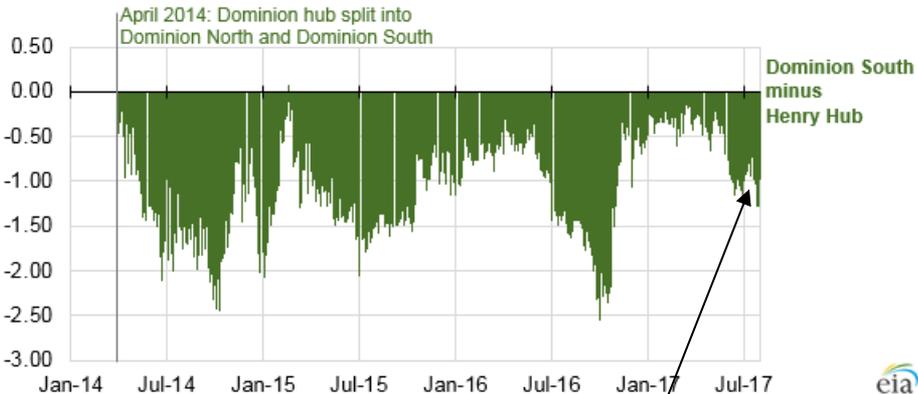
Natural gas production in selected regions (Jan 2007 - Aug 2017)



Source: U.S. Energy Information Administration, *Drilling Productivity Report*, August 2017



Daily natural gas spot basis between Henry Hub and Dominion South (Apr 2014 - Jul 2017)
dollars per million British thermal units



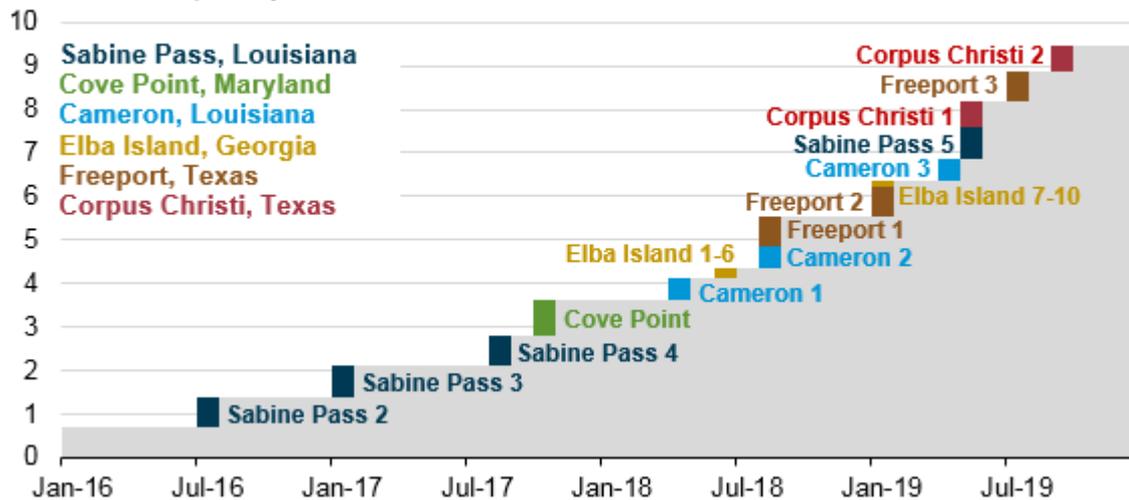
Source: U.S. Energy Information Administration, based on Natural Gas Intelligence



Impact of increased pipelines

Cove Point LNG Terminal 95% Complete

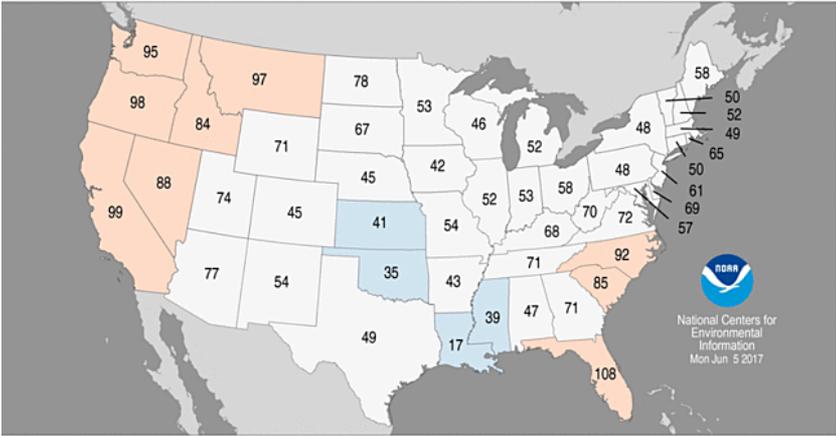
U.S. liquefied natural gas export capacity
billion cubic feet per day



- In service date Q4 2017
- 0.75 bcf/day export
- 2nd large scale export terminals in operation in lower 48

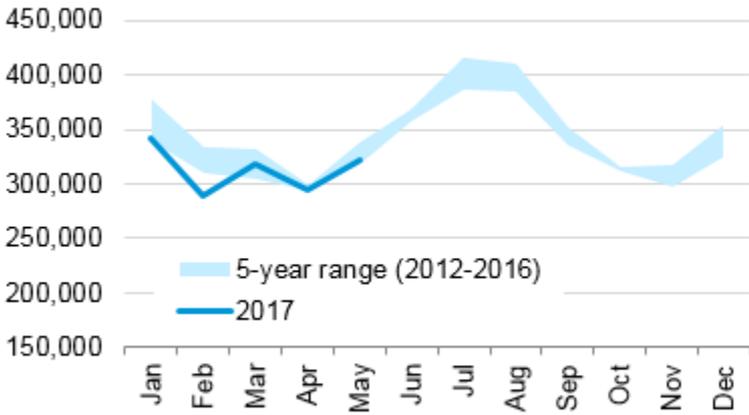
Normal Temps = Low Net Generation

Statewide Average Temperature Ranks
May 2017
Period: 1895-2017



- Record Coldest (1)
- Much Below Average
- Below Average
- Near Average
- Above Average
- Much Above Average
- Record Warmest (123)

Total net generation
thousand megawatthours



Source: U.S. Energy Information Administration

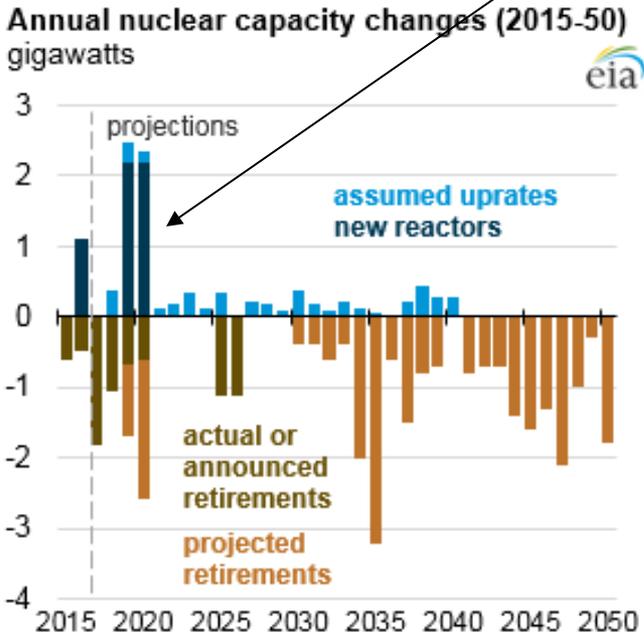
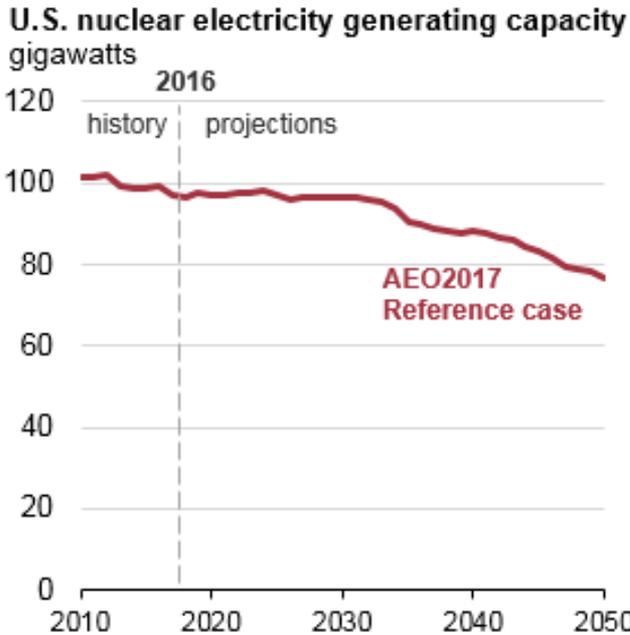
Nuclear Plant Closures

Retired nuclear power plants and nuclear power plants that have planned to retire



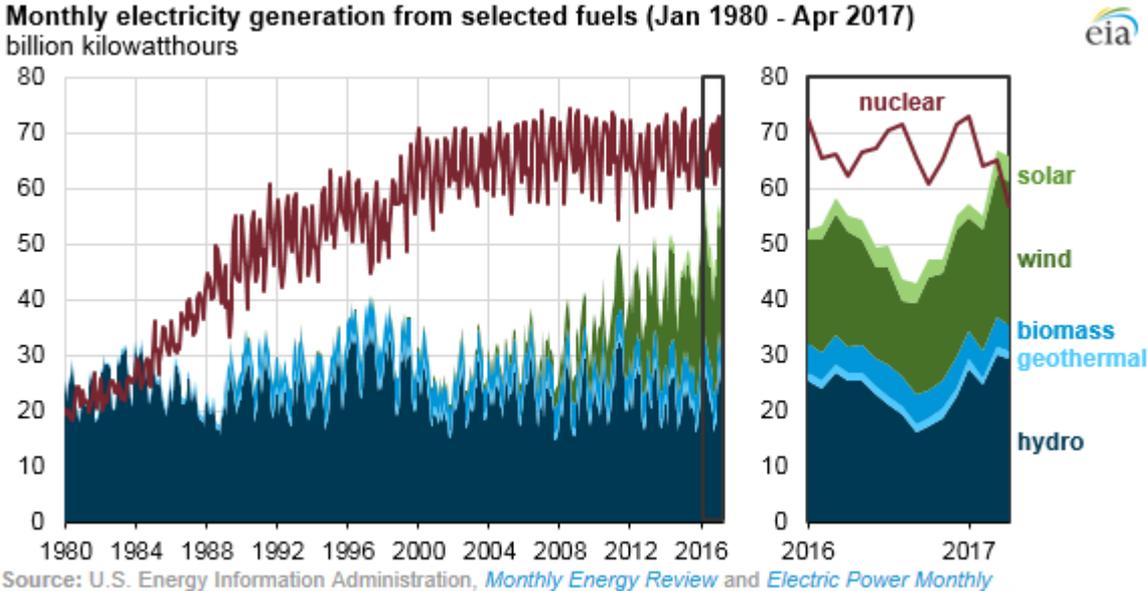
- Exelon’s Three Mile Island Nuclear power plant joined the list of six current nuclear generators that will retire in the next 9 years when it announced its planned retirement in late May.
- Since 2013, five nuclear plants with a combined capacity of nearly 5,000 MW have retired.

Nuclear Plant Closures



Construction cost overrun of \$7 billion has bankrupted Westinghouse. Original service date was 2017 and 2018. Projects are halted waiting for legislators and regulators to bail them out.

Renewables Surpass Nuclear – First Time



Variable Cost of Power Production = **(fuel price/mmbtu) * (heat rate mmbtu/MWh) * + O & M**

Coal Generation Inputs:

Fuel Price = \$2.75/mmbtu

Heat Rate = 10.500 mmbtu/MWh

O & M = \$5.75/MWh

Total = $\$2.75 * 10.5 + \$5.75 = \$37.25/\text{MWh}$

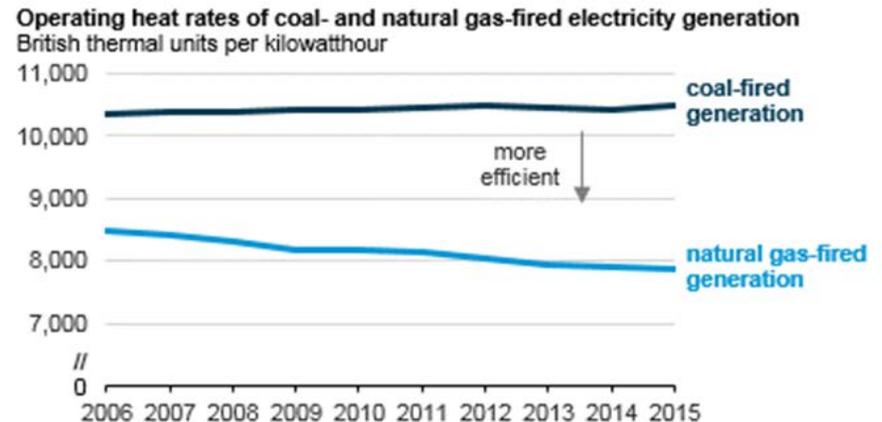
Gas Generation Inputs:

Fuel Price = \$3.00/mmbtu

Heat Rate = 7.900 mmbtu/MWh

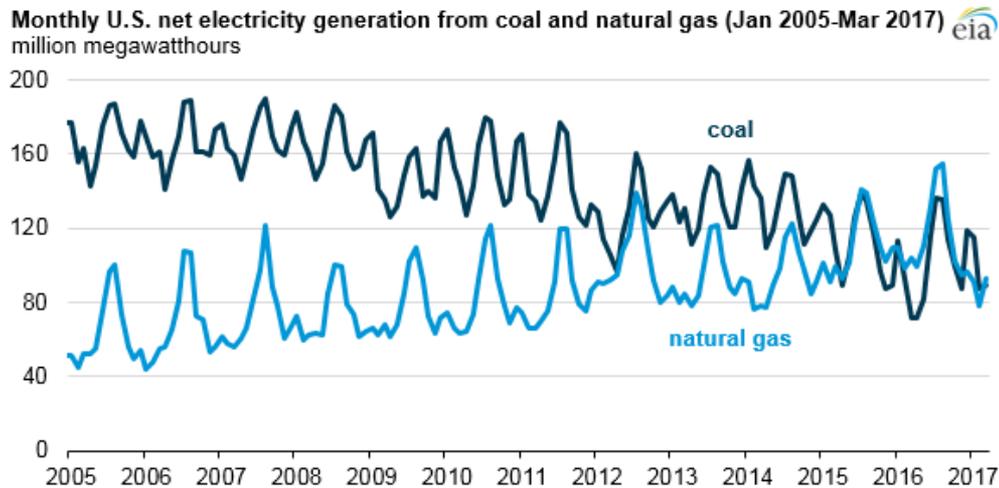
O & M = \$2.45/ MWh

Total = $\$3.00 + 7.9 + \$2.45 = \$26.15/\text{MWh}$

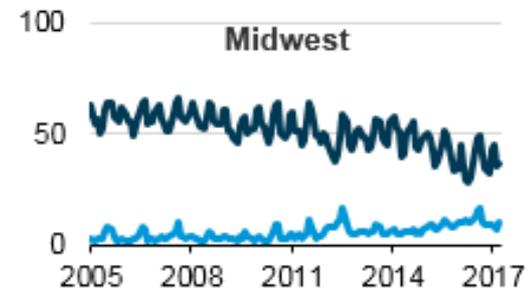


Source: EIA, Form EIA-923, Power Plant Operations Report

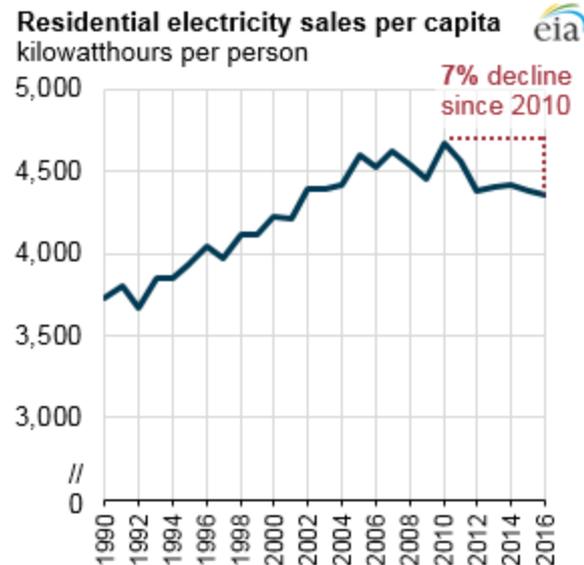
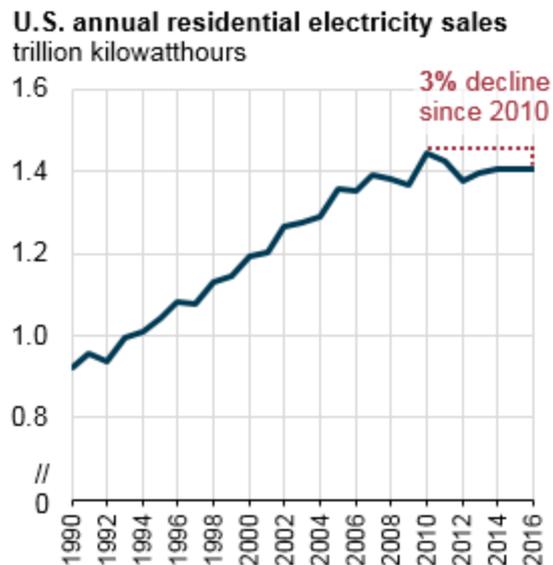
U. S. Total and Midwest Coal vs. Nat Gas Generation



Source: U.S. Energy Information Administration, *Electric Power Monthly*



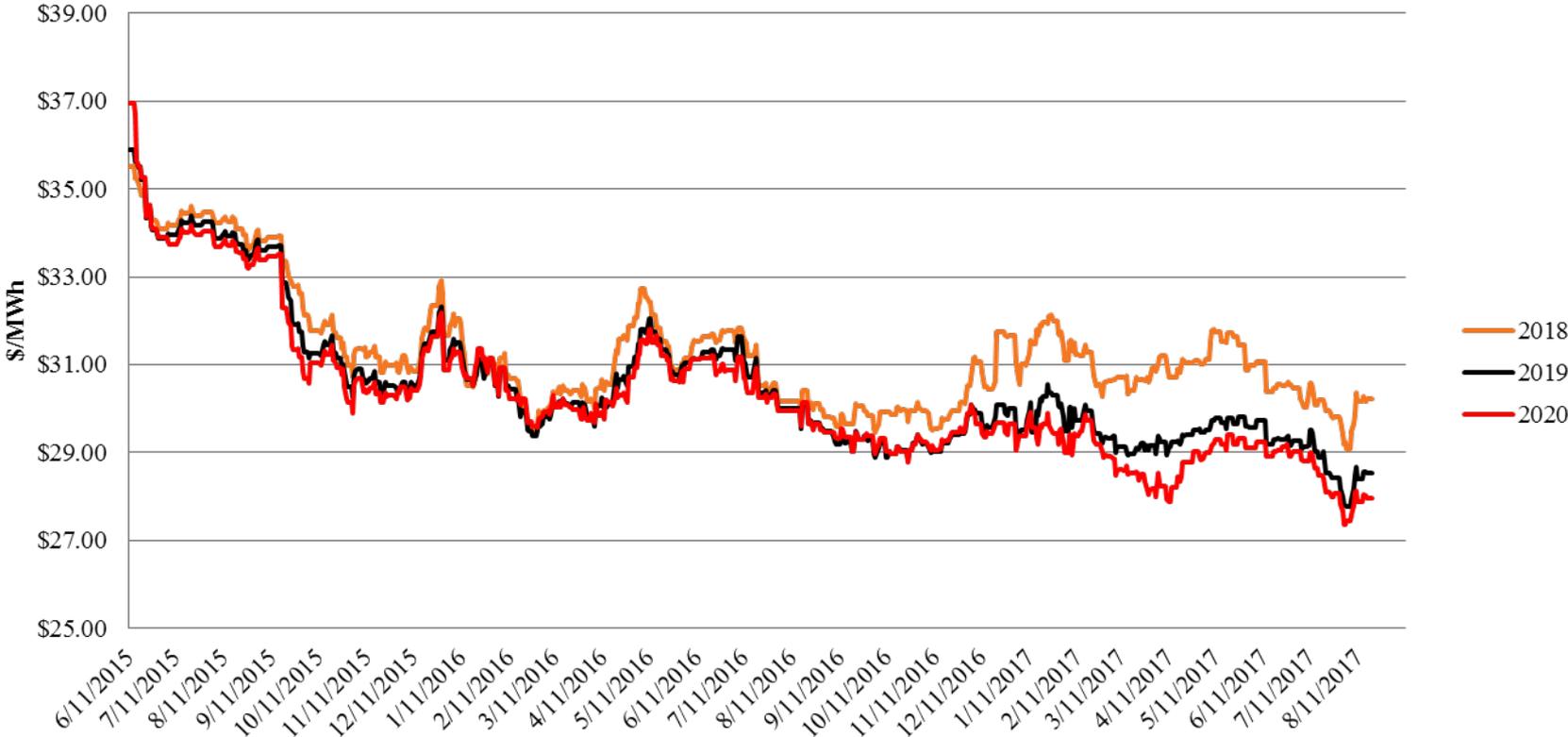
Per Capita Residential Electric Sales



Source: U.S. Energy Information Administration, [Electric Power Annual](#) and U.S. Census Bureau [Population estimates](#)

Energy efficiency and population migration to warmer areas.

AD Hub ATC Wholesale Prices



Natural Gas Update OMA Energy Committee

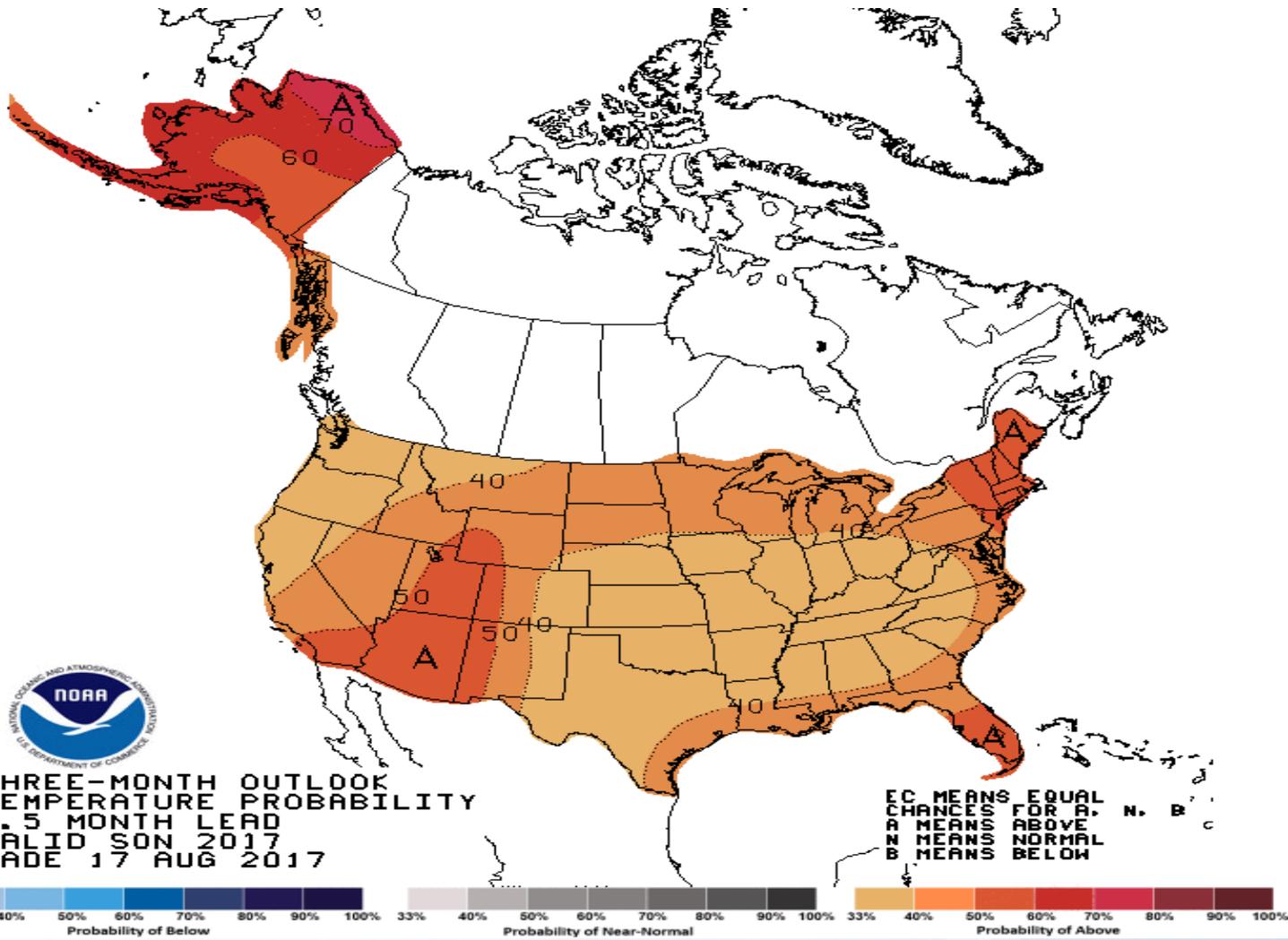
**Darin King
NiSource
August 23, 2017**

Agenda

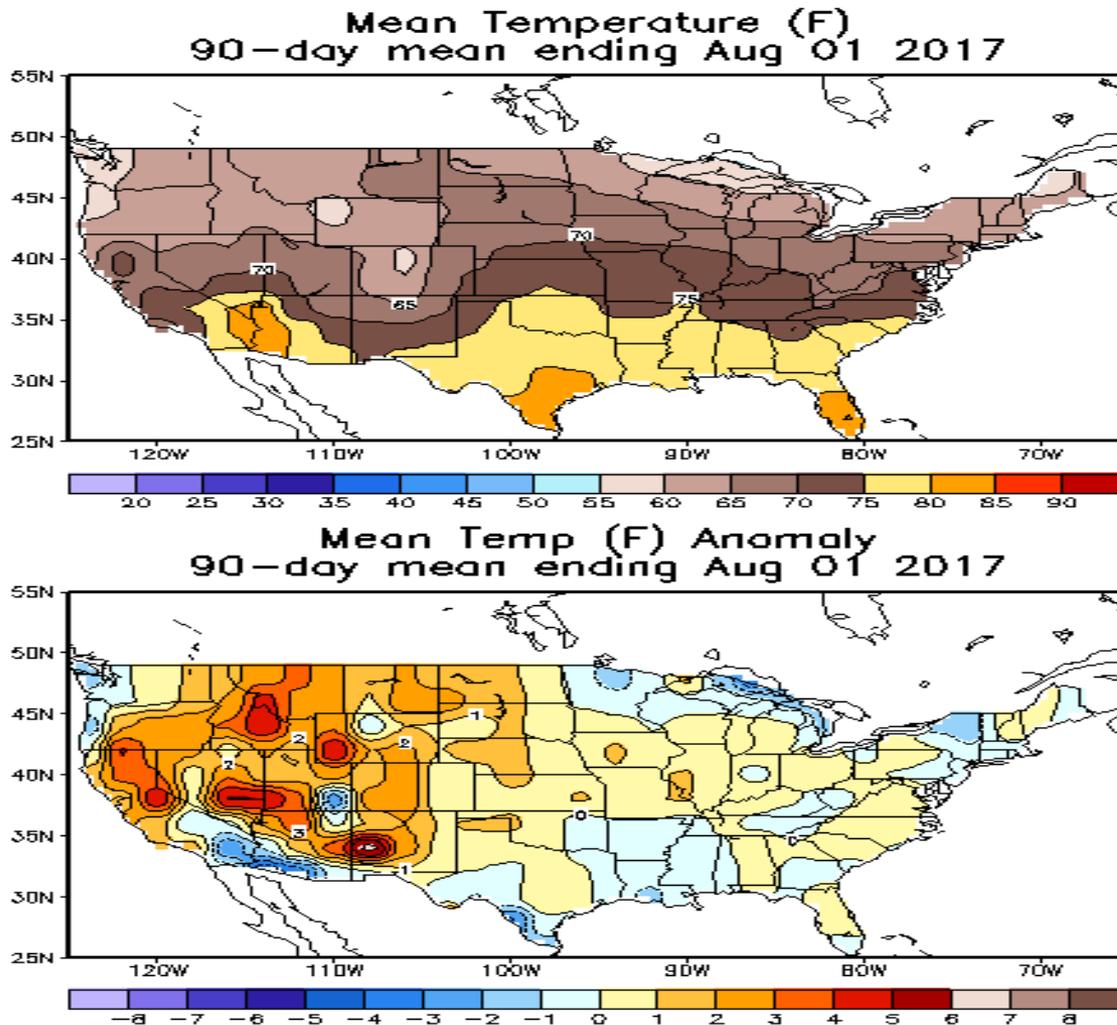
- **Weather & Outlook**
- **Gas Storage & Pricing**
- **Gas Demand, Production & Rig Counts**
- **Recent Developments**

Weather & Outlook

3 Month Temperature Outlook – Warm, again



Summer relatively normal in Midwest & East

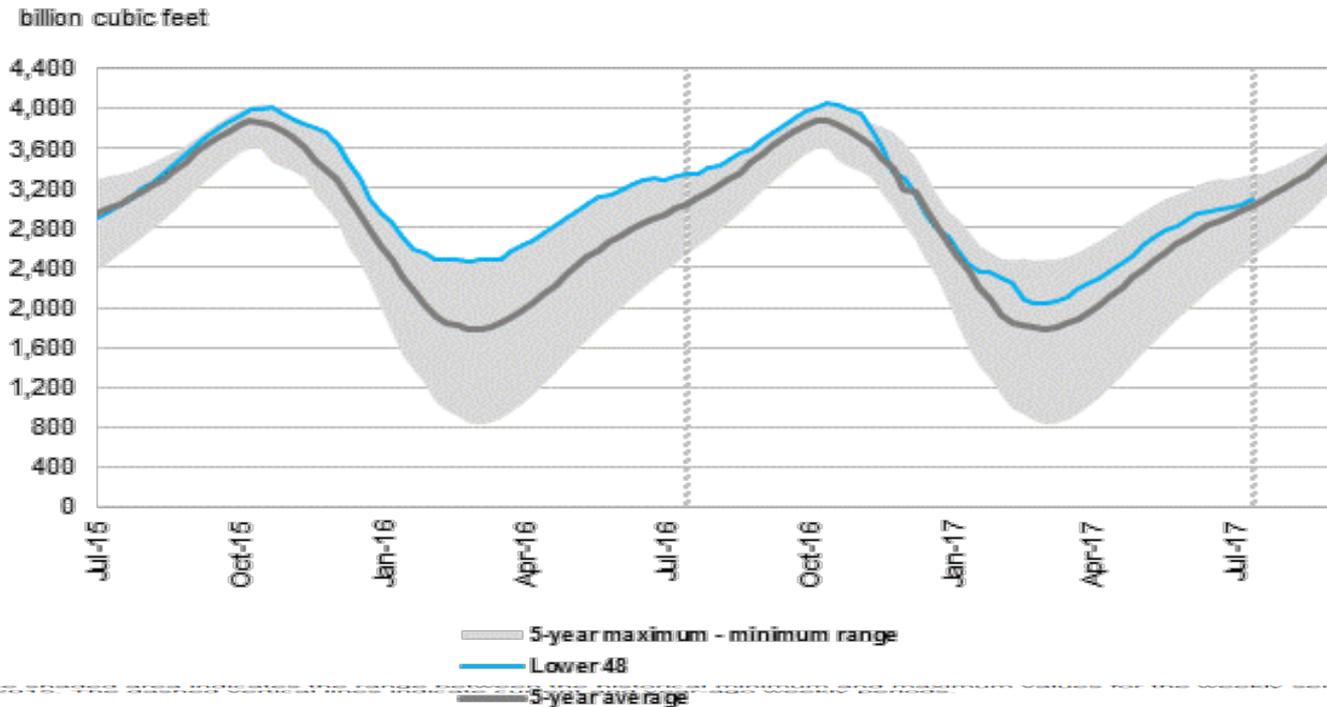


Storage & Gas Pricing

Storage – At the “5 Yr Average” Position

Working gas in storage was 3,082 BCF as of Friday, August 11, 2017, according to EIA estimates. This represents a net increase of 53 BCF from the previous week. Stocks were 254 BCF less than last year at this time and 55 BCF above the five-year average of 3,027 BCF. At 3,082 BCF, total working gas is within the five-year historical range

Working gas in underground storage compared with the 5-year maximum and minimum



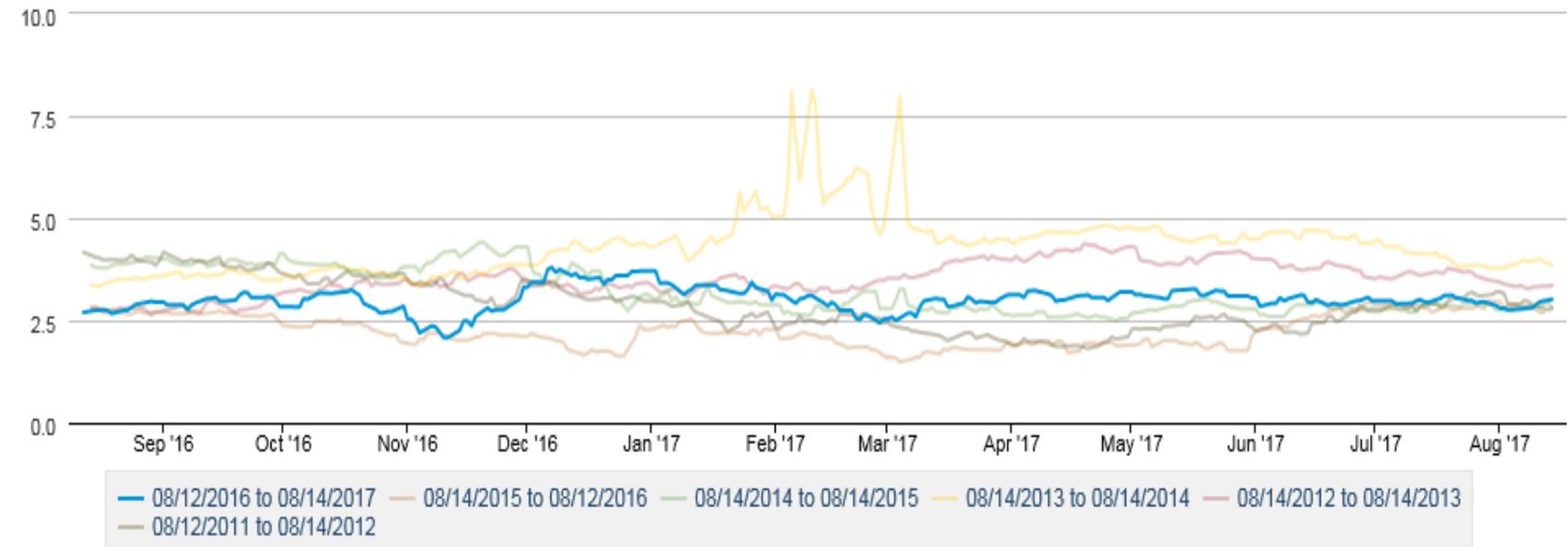
Source: U.S. Energy Information Administration

NYMEX Prompt Month Settlement – 5 Years

Henry Hub Natural Gas Spot Price

 DOWNLOAD

Dollars per Million Btu

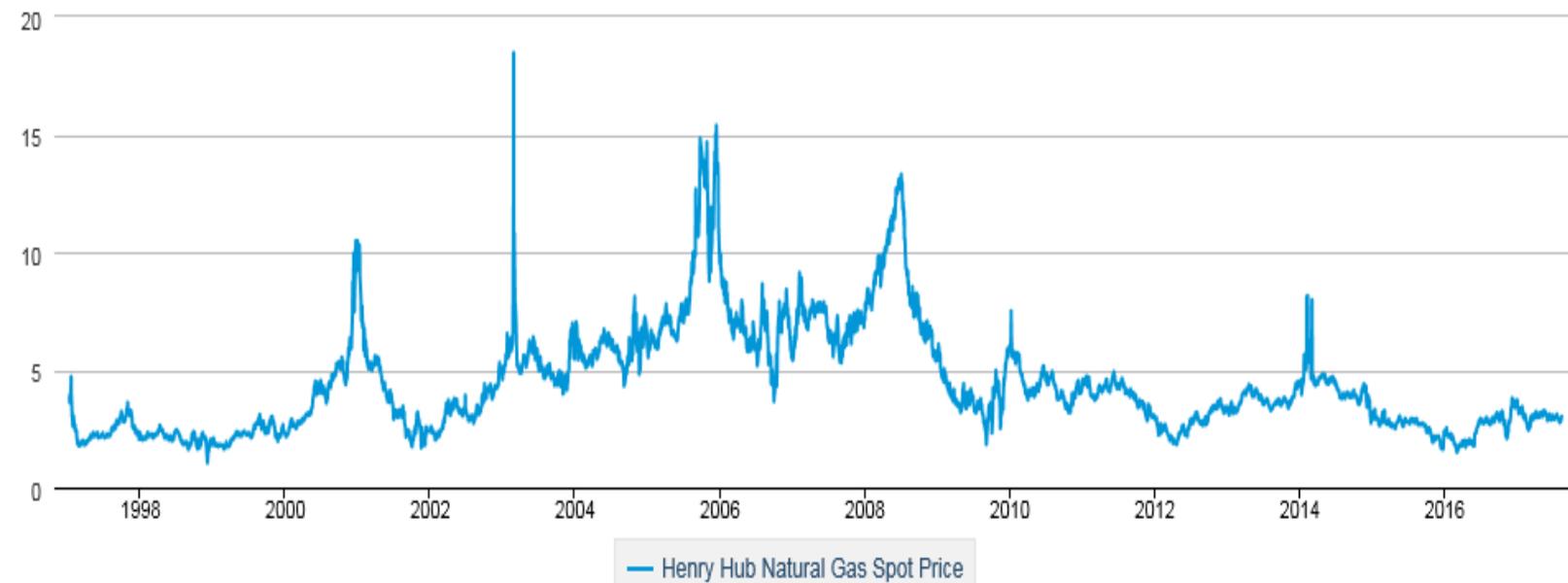


NYMEX Prompt Month Settlement History

Henry Hub Natural Gas Spot Price

 DOWNLOAD

Dollars per Million Btu

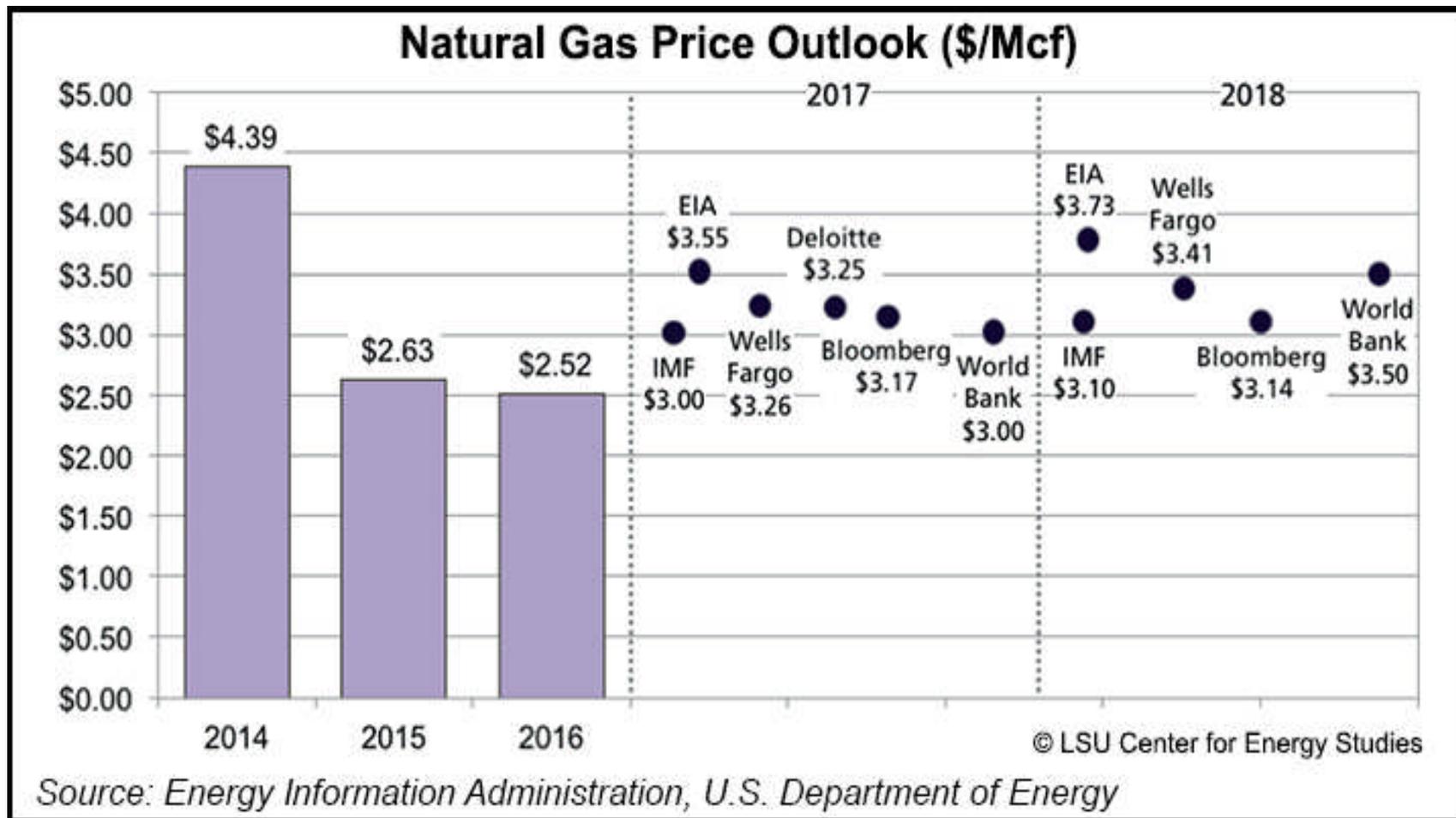


NYMEX Term Pricing – August 18, 2017

Cooler start to the summer supposedly depressed pricing

<u>TERM</u>	<u>PRICE 5-11-17</u>	<u>PRICE 8-18-17</u>
3 month	\$3.36	\$2.98 (-\$0.38)
6 month	\$3.39	\$3.11 (-\$0.28)
12 month	\$3.38	\$3.03 (-\$0.35)
18 month	\$3.23	\$3.02 (-\$0.21)

Some Recent Speculative Pricing Outlooks



Select Hub Pricing – Higher

May 11, 2016

<u>HUB LOCATION</u>	<u>5-11-17</u>	<u>8-18-17</u>	
Henry Hub	\$3.11	\$2.88	(-\$0.23)
TCO Pool	\$3.01	\$2.80	(-\$0.21)
Houston Ship Channel	\$3.20	\$2.87	(-\$0.33)
Dominion South Point	\$2.88	\$1.79	(-\$1.10)
TETCO M-3	\$2.94	\$1.86	(-\$1.08)
TGP Zone 4	\$2.74	\$1.76	(-\$0.98)

Dominion, TCO, TETCO, & TGP pricing is Marcellus Area.

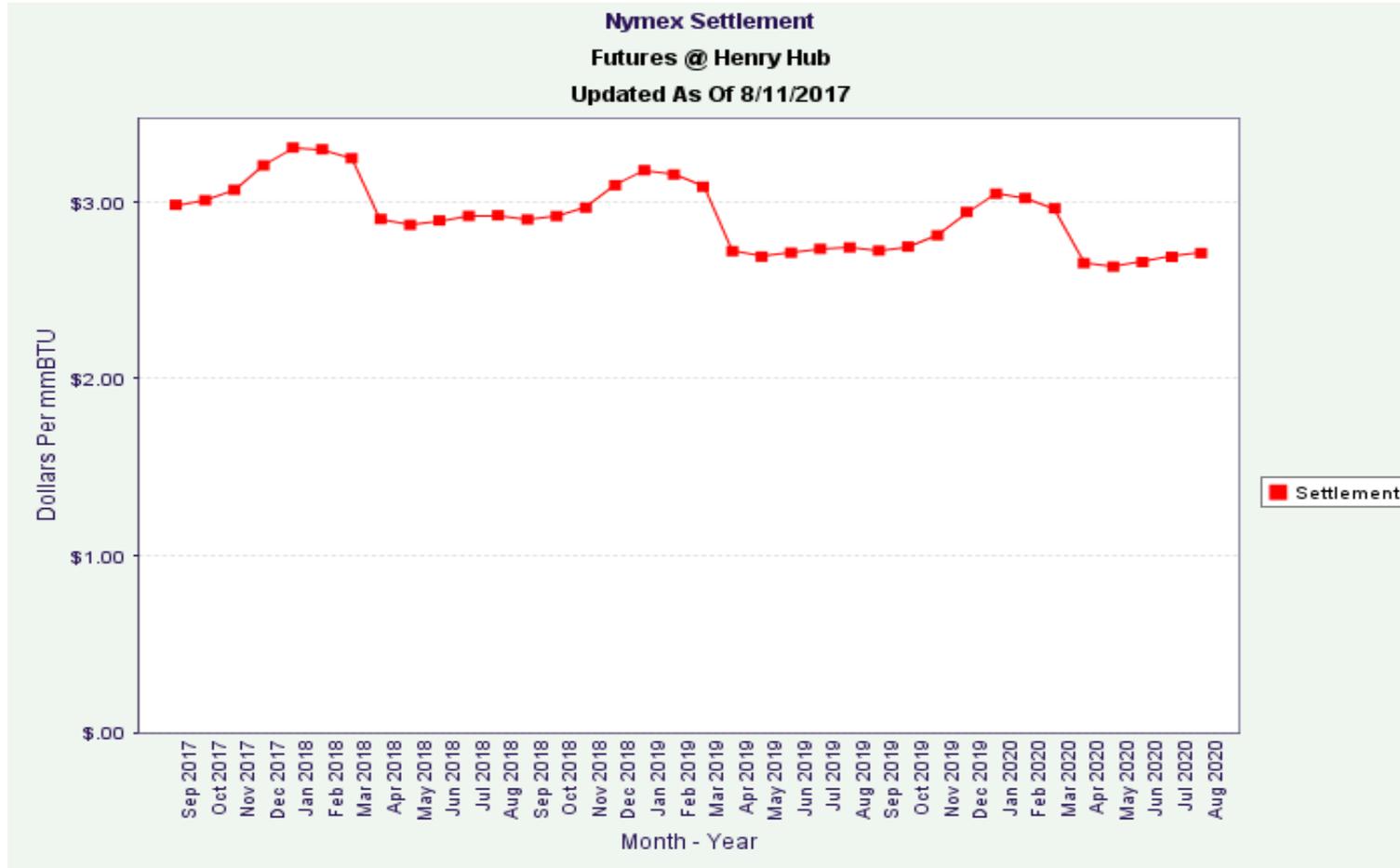
Appalachian trading discounts to Henry Hub widened. This was likely due to recent FERC lack of quorum and related pipeline infrastructure project delays.

Some Marcellus Pricing vs Henry Hub

Daily natural gas spot prices at selected hubs (Jan 2014 - Jul 2017)
dollars per million British thermal units



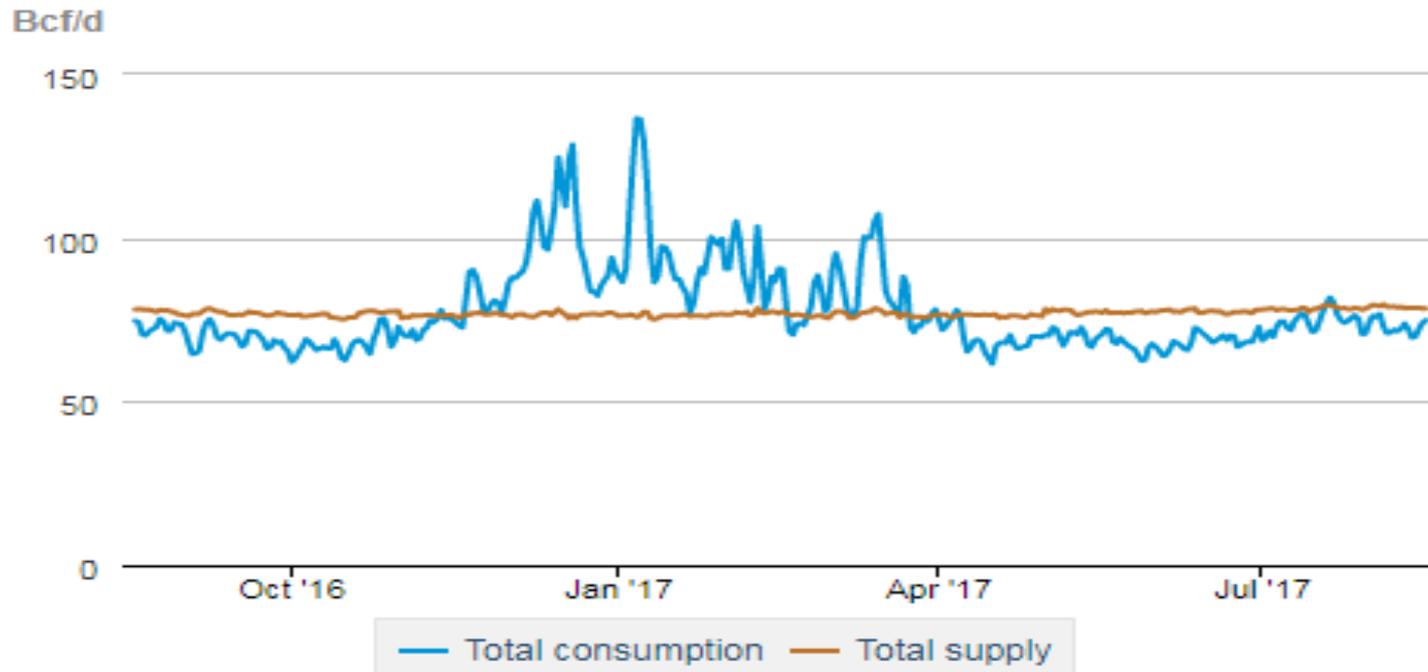
NYMEX Futures Settlement – 5-5-17



Demand, Production & Rig Count

Total Demand & Supply in US

Total supply/demand balance (last 365 days)



Source: OPIS PointLogic Energy, an IHS Company

US Gas Demand Summary

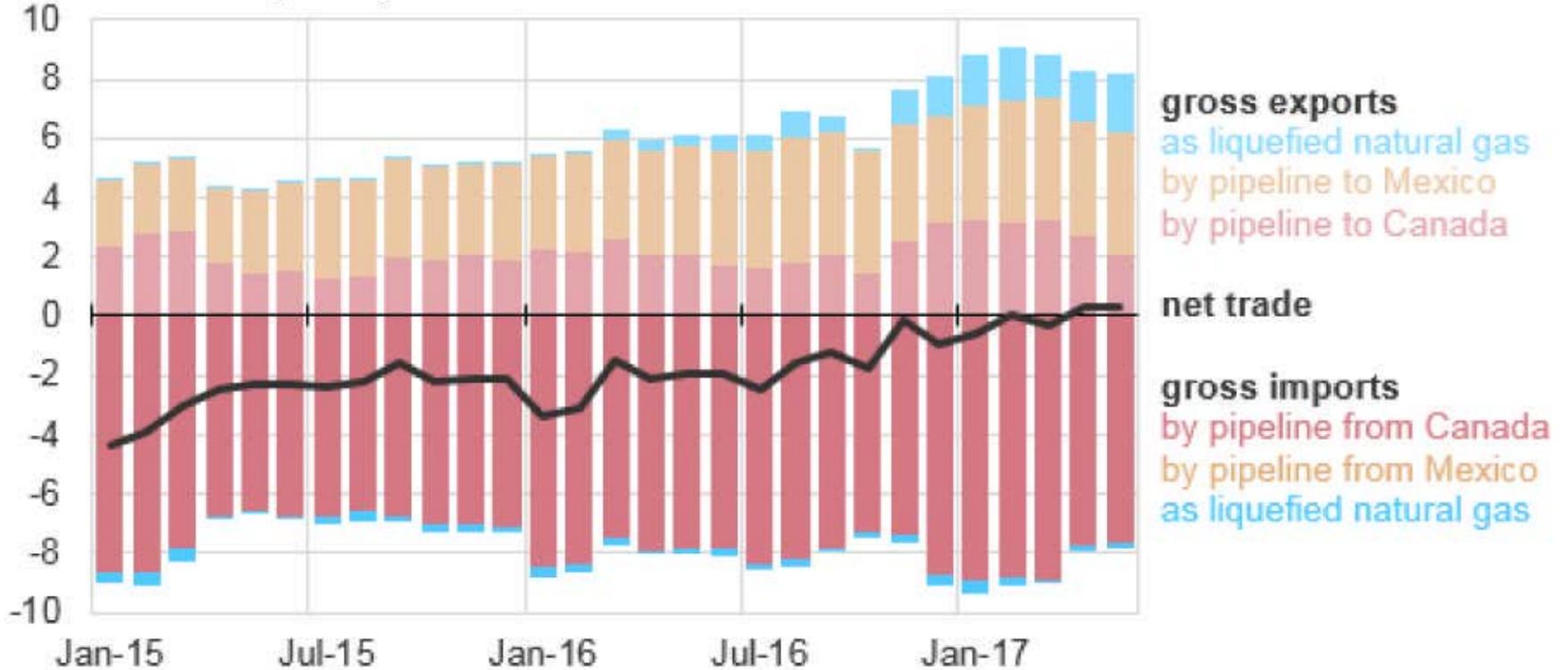
U.S. natural gas consumption - Gas Week: (8/10/17 - 8/16/17)			
Average daily values (Bcf/d):			
	this week	last week	last year
U.S. consumption	59.9	59.9	64.3
Power	33.5	33	38.9
Industrial	19.6	19.8	19.3
Residential/commercial	6.8	7	6
Mexico exports	4.3	4.4	4.3
Pipeline fuel use/losses	6.4	6.4	6.9
LNG pipeline receipts	1.8	1.8	1.1
Total demand	72.4	72.5	76.5

Source: OPIS PointLogic Energy, an IHS Company

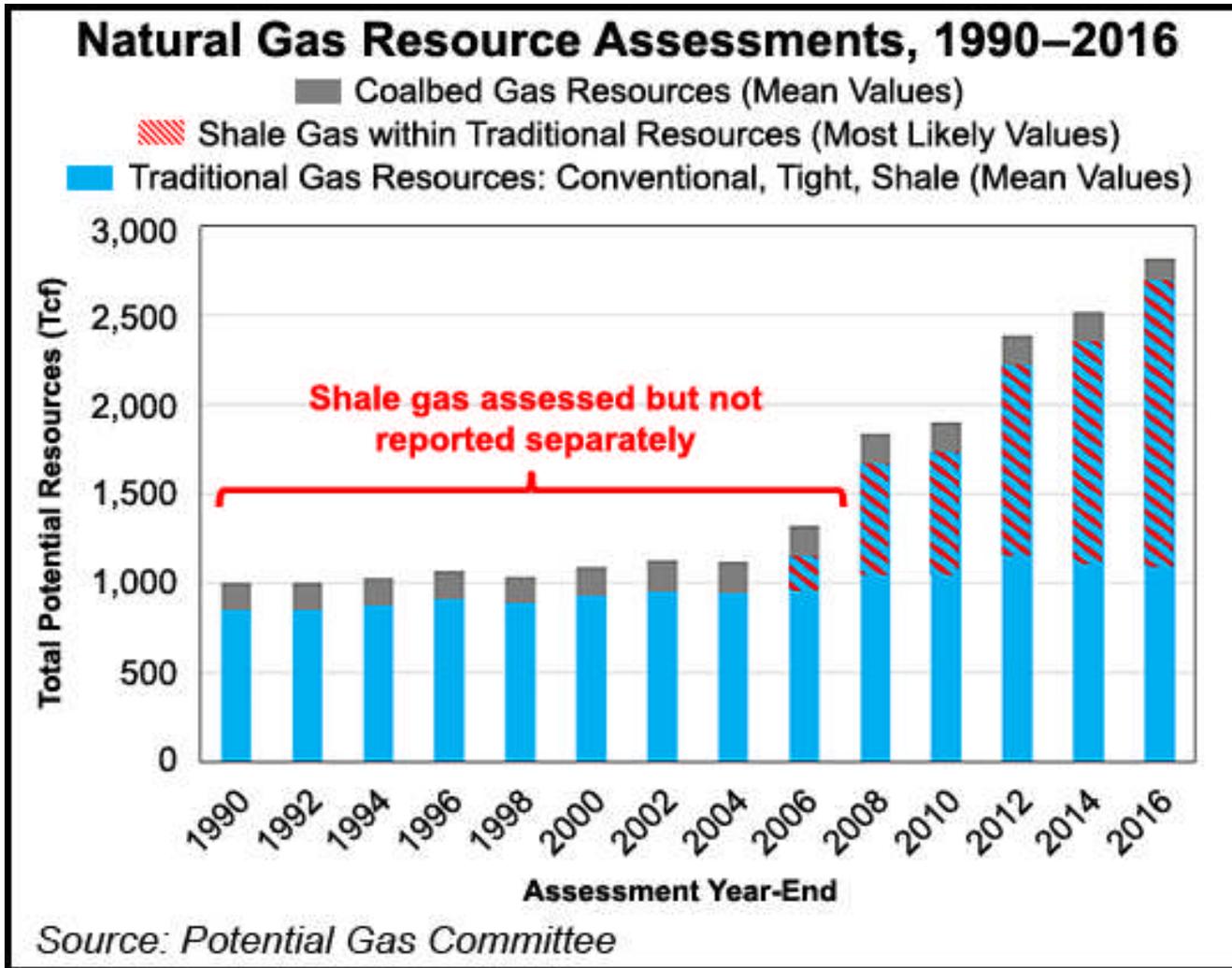
Note: LNG pipeline receipts represent pipeline deliveries to LNG export terminals.

US Natural Gas Exports & Imports

Monthly U.S. natural gas imports and exports (Jan 2015 - May 2017)
billion cubic feet per day



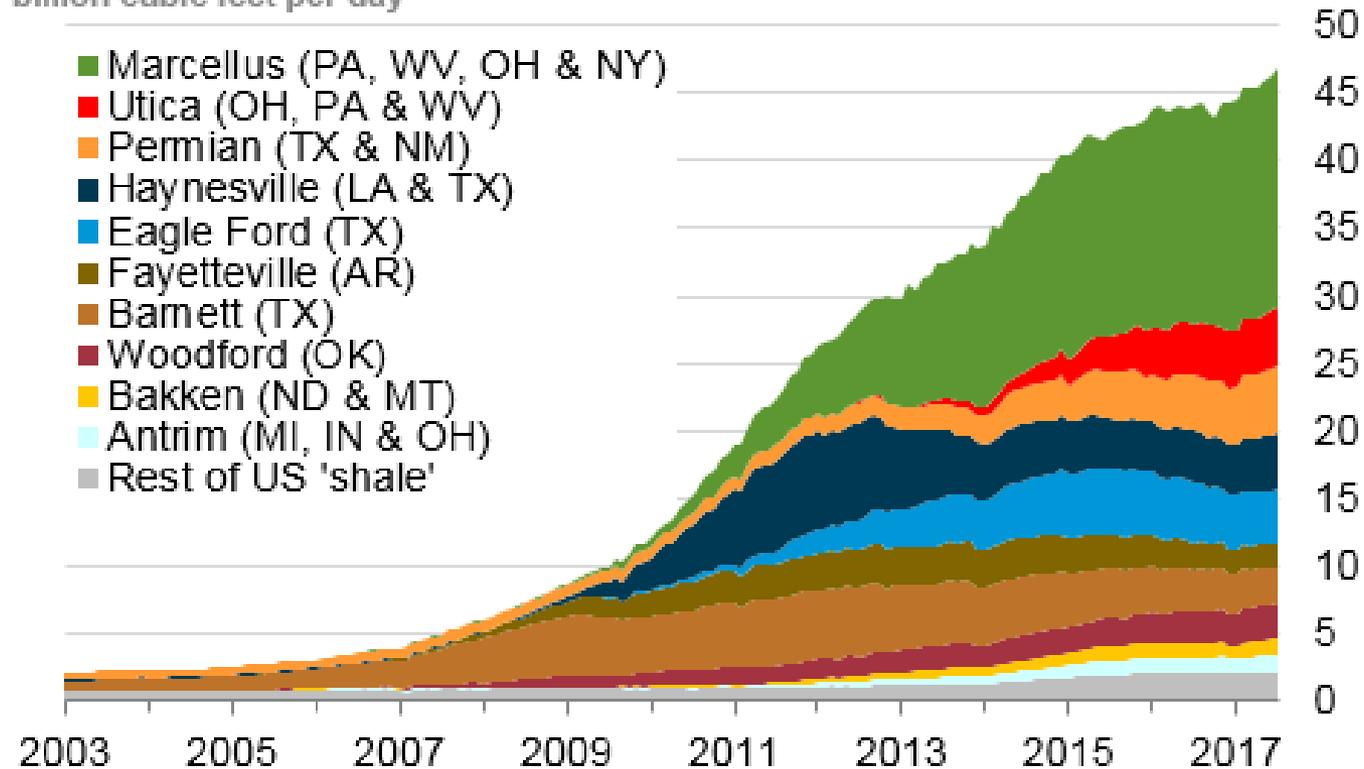
US Recoverable Natural Gas Quantity



Marcellus continues to dominate Production

Monthly dry shale gas production

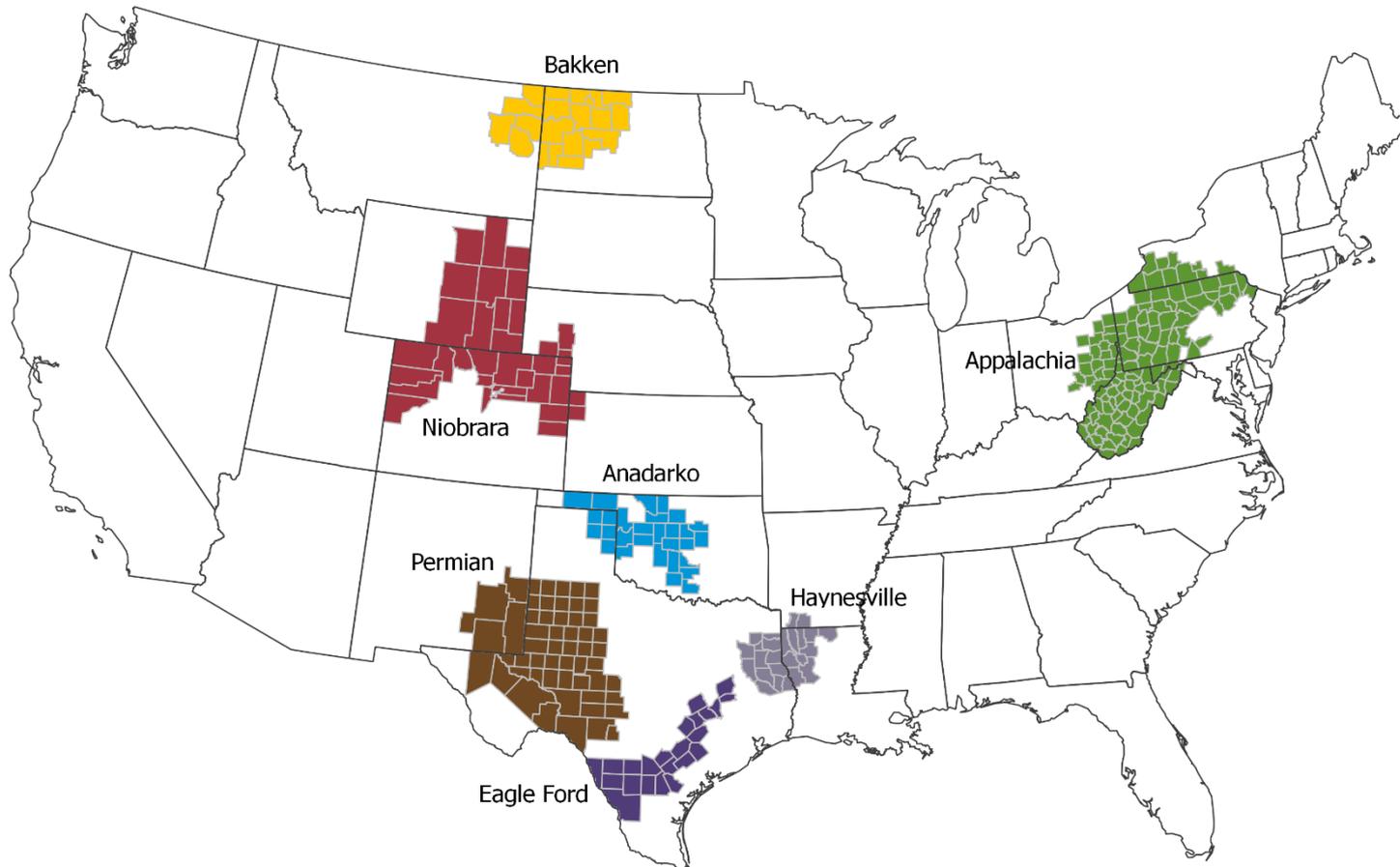
billion cubic feet per day



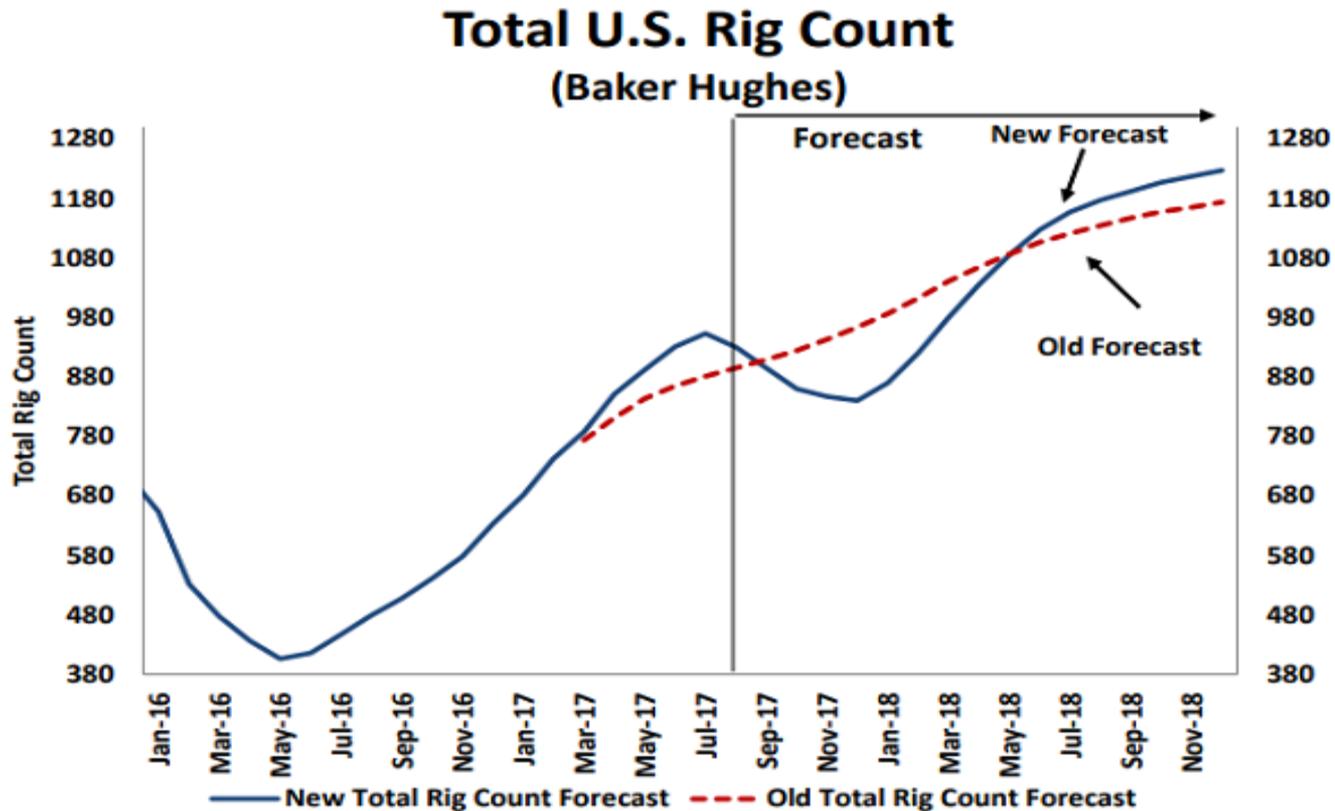
Sources: EIA derived from state administrative data collected by DrillingInfo Inc. Data are through July 2017 and represent EIA's official shale gas estimates, but are not survey data. State abbreviations indicate primary state(s).



The US Plays referenced for Oil & Gas Production



Rig Count – Very slight decline recently



Source: Baker Hughes, a GE Company, Raymond James estimates

Recent Developments

Natural Gas Related Developments

- **NOAA 2017 Hurricane outlook:** 60% chance of above normal; 14 to 19 named storms with 2 to 5 major ones (6 named storms so far in 2017)
- **Equitable buys Rice Energy** to become the largest natural gas producer in the US
- **Senate confirms FERC Commissioners Chatterjee & Powelson on 8-3-17 returning quorum to FERC;** two additional FERC Commissioner Nominees (McIntyre & Glick) sent to Senate on 8-2-17 for consideration also
- **Trump signs Executive Order** on 8-15-17 for Federal Government to expedite review & permitting of major infrastructure projects including oil & gas pipelines

Thank You