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Washington Energy Report

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MARCH 21, 2018

[FERC Addresses Impact of Tax Cuts on Rates for Energy Companies and Eliminates Income Tax Allowance for Master Limited Partnerships](#)

By [Meghan Mandel](#) & [Jasmine Hites](#) on March 20, 2018

POSTED IN [MARKET POLICY](#), [NATURAL GAS](#), [TRANSMISSION](#)

On March 13 and March 15, 2018, FERC took actions to address tax law changes resulting from the Tax Cuts and Jobs Act of 2017 for electricity, natural gas, and oil companies. In addition, on March 15, 2018, in response to a federal court remand, FERC stated that master limited partnership ("MLP") interstate natural gas and oil pipelines will no longer be allowed to receive an income tax allowance in cost of service rates.

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[FERC Certificate Orders Address Estimates of Pipeline Impacts on Downstream GHG Emissions](#)

The Washington Energy Report is a weekly publication written by the Troutman Sanders Federal Energy Regulatory Commission ("FERC") practice that monitors and reports on significant developments in FERC and energy-related matters around the country.

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By [Russell Kooistra & Christopher Zentz](#) on March 20, 2018

POSTED IN [NATURAL GAS](#)

On March 14, 2018 and March 15, 2018, FERC issued separate orders (1) reinstating the certificate for the Southeast Market Pipelines Project ("SMP Project") and (2) authorizing DTE Midstream Appalachia, LLC's ("DTE") Birdsboro Pipeline Project. In approving the projects, FERC held that determining the significance of the indirect effect of a pipeline on downstream greenhouse gas ("GHG") emissions is not possible for purposes of FERC's National Environmental Policy Act ("NEPA") analysis, and that the Social Cost of Carbon tool is not appropriate for estimating a project's downstream impacts in FERC's NEPA analysis. In partial dissents, Commissioners Cheryl LaFleur and Richard Glick asserted that GHG emissions estimates and the Social Cost of Carbon tool can inform FERC's Natural Gas Act ("NGA") section 7 evaluation.

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[A Divided FERC Approves ISO-NE's Capacity Market Changes to Accommodate State Subsidized Resources](#)

By [Adrienne Thompson & Thomas DeVita](#) on March 20, 2018

POSTED IN [MARKET](#)
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On March 9, 2018, a divided FERC approved the Competitive Auctions with Sponsored Policy Resources ("CASPR") proposal submitted by the ISO New England Inc. ("ISO-NE"). Developed through an extensive stakeholder process that began in 2016, CASPR was promoted by ISO-NE as a mechanism to integrate out-of-market state resource policies that might otherwise suppress capacity market prices in ISO-NE's capacity market. A divided FERC approved the proposal as a just and reasonable accommodation of state policies, with Commissioner Powelson dissenting, arguing that the proposal dilutes market signals and "threatens the viability" of ISO-NE's capacity market. Commissioners LaFleur and Glick concurred with the outcome, but



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criticized the order's guidance on adapting markets to state energy policies, and reliance on minimum offer pricing rules ("MOPRs") as the "standard solution" to achieve that end.

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Second Circuit Affirms FERC Ruling that NY DEC Waived Authority on CWA Permit for Pipeline Project

By [Russell Kooistra](#) & [Jasmine Hites](#) on March 20, 2018

POSTED IN [NATURAL GAS](#)

On March 12, 2018, the U.S. Court of Appeals for the Second Circuit ("Second Circuit") held that the New York Department of Environmental Conservation ("NY DEC") waived its authority to act on Millennium Pipeline Company, L.L.C.'s ("Millennium") application for a Clean Water Act ("CWA") section 401 water quality certification by not acting on the application within one year of receipt. In doing so, the Second Circuit rejected the NY DEC's argument that the one-year statutory deadline begins when a state agency deems the application complete, rather than when the application is received.

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FERC Issues Orders Regarding SPP's Allocation of Existing Facility Transmission Costs for New Transmission Owners

By [Jamond Perry](#) & [Christopher Zentz](#) on March 20, 2018

POSTED IN [TRANSMISSION](#)

On March 15, 2018, FERC issued three interrelated orders regarding the creation of a new Transco within the Southwest Power Pool, Inc. ("SPP"), the integration of a new Transmission Owner within SPP, and the allocation of existing transmission costs for new transmission owners within the region. The package of orders stems from South Central MCN LLC's ("South Central")

acquisition of transmission facilities from a public power entity, the City of Nixa, Missouri.

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