

Energy Law and Metering

THE ENERGY POLICY ACT — ONE YEAR LATER

By Edmund P. Finamore



Recently, while on a visit to a small Midwestern municipal utility, I began to fully recognize the broad impact the 2005 Energy Policy Act will soon have on the utility industry from both a regulatory and operational point of view. While I was aware that the provisions of this act require utilities to offer net metering and time-of-use rates for all customers, I had until then failed to fully grasp the sweeping nature of the mandated requirements on all types and sizes of electric utilities, including municipals and rural electrics.

With the arrival of the first (one year) implementation milestone, the 2005 act has already generated substantial compliance activity, particularly the provisions requiring state regulators to initiate proceedings on demand response and advanced metering within one year of enactment. Also required within one year was the Federal Energy Regulatory Commission's (FERC) first annual assessment of regional demand response resources and capabilities. And within 18 months of enactment, electric utilities must begin offering customers time-based rates and provide advanced meters capable of recording time-differentiated energy usage. For many municipals and rural electric cooperatives, meeting this timetable will be difficult.

While changes to the Public Utility Regulatory Policy Act of 1978 (PURPA) that increase reliability standards and govern utility mergers and acquisitions have received the most attention, some lesser-known provisions, such as the requirement to offer net metering, will likely have significant implications for utility system operators and regional ISOs. Utility and ISO/RTO personnel will



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“For many municipals and rural electrics, advanced metering has not been considered a priority before now...”

be expected to monitor an increasing number of independent power producers (IPPs) and co-generators wanting a connection to their power grids. Previously, these suppliers were discouraged from doing so since utilities were only obligated to pay for independently generated power on an avoided-cost basis.

If the implications of the 2005 act remain difficult to understand for major investor-owned utilities, meeting the requirements is even more problematic for the large number of “non-regulated” utilities that do not fall under state regulatory commission oversight. Compliance must be ensured by each utility’s regulatory authority such as a municipality’s city council or a rural electric’s board of directors. For many municipals and rural electrics, advanced metering has not been considered a priority before now, and the time-of-use and net-metering requirements are going to take time to implement.

Looking at the current state of advanced metering deployment in the United States, it is also clear that many investor-owned utilities are a long way from implementing AMR systems that can deliver reliable interval usage data capable of supporting time-of-use rates for a majority of their customers. While many high-end customers with large commercial demands have installed advanced meters using dedicated cellular or telephone lines, this solution is not cost-effective or practical for large numbers of smaller customers who are frequently

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located in remote or rural areas. Lacking a reliable communications option for these customers, a return to broad-based use of chart recorders and on-site downloading of stored meter data is a distinct possibility. And one wonders if the large number of mobile AMR systems installed by many utilities will lead to a new category of stranded costs as utilities find that time-of-use rates cannot be adequately supported by their mobile systems.

Clearly, there is more to the new energy law than meets the untrained eye. The metering requirements and timetables prescribed in the act must be followed by the state public utility commissions and implemented by all electric utilities. Time-based rates must reflect a utility's varying costs of generating and buying power and be supported through the use of advanced metering systems that are available today or are still in the developmental stages. While regulators may have some latitude on implementation, Scott DeBroff, chairman of Smigel, Anderson, & Sacks Energy Practice Group in Harrisburg, Pa., recently advised me that utilities and regulators are expected to make every effort to fulfill the requirements of the Act. I hope the smaller, unregulated utilities are up to the task. ☒

Edmund P. Finamore, formerly with Duquesne Light, is president of ValuTech Solutions.

on topic

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Scott DeBroff, Smigel, Anderson & Sacks

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