State Activity Report

November 4, 2014

NARUC Annual Meeting
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NARUC Annual Meeting
The National Association of Regulatory Utility Commissioners (NARUC) will hold its Annual Meeting November 16-19 in San Francisco, CA. The draft agenda features sessions on several important topics including the integration of renewable energy projects and natural gas, securing long term physical gas supplies and the intersection between fugitive methane emissions and pipeline safety. We wanted to bring you an update on key agenda items, as well as proposed resolutions of interest.

Agenda
The draft agenda can be found by clicking here:
http://annual.narucmeetings.org/program.cfm

Staff Subcommittee on Gas
- Above or Below the Line: Where Should the Cut Be?
  o Imprudent expenses such as fines generally go below the line—but what about investor relations expenses, donations, perks, advertising, etc.? This session will examine questions such as whether or not ratepayers benefit from these expenditures and if regulators should address these items in the context of rate cases.

- Safety of LNG as a Fuel
This session will discuss LNG fire science in the context of LNG as a transportation fuel for marine, rail and heavy-duty trucks. The discussion will focus on the technical challenges and concerns for policymakers.

- **Natural Gas System Delivered As Promised During Record Winter**
  - AGA’s Richard Myer will present to the subcommittee on The Promise Delivered, a recent AGA report on the planning, preparation and performance of the natural gas system during the 2013-2014 heating season.

- **111(d) Gas Building Blocks**
  - CHP and natural gas end use equipment displacing less efficient electric resistance space and water heating are both potential building blocks in the implementation of 111(d). GTI’s Ron Edelstein will examine the following questions—how will natural gas end use equipment displacing electric end use equipment count toward CO2 reduction targets? How much will waste heat from CHP count in the CO2/MWH rate equation? If CHP units are considered “affected EGUs” how does this impact their acceptability under 111(d)?

**Committee on Gas**

- **Renewables & Gas Coordination: New Challenges or New Opportunities?**
  - This session will examine how natural gas and renewables are working together today and what is needed in the future to maintain a reliable grid. Speakers will discuss the increased role renewables are playing in serving utility loads, new emerging technologies, the role that gas is playing to backstop renewables and the policy changes needed to promote reliable service.

- **Securing Long Term Physical Gas Supplies**
  - Commissioner Kara Brighton (WY) will moderate this panel which will feature descriptions of the various models used to secure long term physical gas supplies at the most stable prices for ratepayers. Questar Gas Company’s Barrie McKay will participate on the panel.

**Concurrent Sessions**

- **Figuring Out the Infrastructure Challenge with Alternative Fuel Vehicles**
  - Panelists will discuss AFVs and the infrastructure necessary to bring the fuel to consumers. Participants will also discuss the business decisions associated with infrastructure development. AGA’s Kathryn Clay will provide the NGV perspectives on the panel.

- **How will EPA’s Clean Power Plan Impact Natural Gas?**
  - 111(d) is causing utilities and states to consider natural gas as the chief source of fuel for the nation’s power plants. The plan itself lists natural gas as a compliance option for states as they begin putting together their responses. This session will examine market impacts, infrastructure
challenges and other related issues. Kent Larson, Group President—Operations, from Xcel Energy Corporation will participate on the panel.

- **Fugitive Methane Emissions**
  - This session will examine the intersection between methane emissions and pipeline safety. Topics will include where there is common ground on the issues and where there is not. Hang Linginfelter, EVP—Distribution Operation, from AGL Resources will provide gas utility perspectives on this panel.

**Resolutions**
For a list of all of the resolutions that will be considered at the San Francisco meeting, please [click here](#).

We wanted to draw your attention to TC-1, which deals with access to spectrum for public safety. AGA supports this resolution and has asked that the NARUC Gas Committee request that it be jointly referred to their committee for a vote. We are also working with EEI to ensure its passage by the NARUC Board.

**TC-1 Resolution on Utilities Access to Spectrum to Promote Public Safety**

[Sponsor: Kane] The Resolution objects to the FCC’s findings that SCADA and smart grid systems are not dedicated to protecting the public safety and the prevention of human injury and property damage. It urges the FCC to allow utilities expeditious access to spectrum licenses in order to best serve the public interest by supporting SCADA and smart grid systems, which are inherently needed for protecting the safe, reliable and secure delivery of essential electric, gas and water services, upon which the public at large depends upon for electricity, light, heat, communications and water and which police, fire, emergency rescue and homeland security depend upon to carry out their public safety services.

**Western Conference Update:**
Due to health reasons, Commissioner Susan Ackerman (OR) recently stepped down from serving as NARUC’s elected 1st Vice President. An election was held within the Western Region to identify a replacement, and Commissioner Travis Kavulla (MT) won the balloting on the first round of voting.

**AGA Joins CHP Coalition Comments on 111(d)**
Last week, AGA joined with a diverse network of industry, labor and energy efficiency organizations to urge EPA to make it clear in the 111(d) carbon rule that states can include incentives for cost-effective combined heat and power (CHP) in their plans for reducing CO2 emissions from existing power plants. On October 27, AGA and other stakeholders submitted comments praising EPA for giving states the flexibility to consider emissions reductions through CHP, and further called on the agency to strengthen the rule to capture CHP’s full potential.

In particular, the comments suggest that if the final rule continues to rely on a system-wide approach to emissions reductions, EPA should consider the following three recommendations to strengthen and improve their proposal:

- EPA should clarify that CHP and WHP at unaffected units are eligible compliance strategies for EGUs;
- EPA should consider several modest changes needed to ensure the Rule recognizes CHP's and WHP’s benefits for affected units; and,
- EPA should provide guidance to states to enable them to most effectively incorporate CHP and WHP in their compliance plans to reduce emissions from unaffected units

The following stakeholder groups are part of the CHP coalition submitting comments: Advanced Energy Economy, Alliance for Industrial Efficiency, Alliance to Save Energy, American Council for an Energy-Efficient Economy, AGA, APGA, Center for Neighborhood Technology, Gas Technology Institute, Heat is Power and United Steelworkers.


**Updates from the States**

### CA: PG&E Cuts Pressure to Gas Lines Due to Safety Concerns

Eight natural gas transmission pipelines in California will see a reduction in pressure of up to 15 percent after PG&E discovered that the pipe or components used do not comply with federal rules for populated urban areas. PG&E reported the issue to the California Public Utilities Commission in October as part of an ongoing review. The pipelines run through the Bay Area, Sacramento and Southern California.

### IN: Commission Submits Energy Efficiency Recommendations to Governor

On October 9, the Indiana Utility Regulatory Commission (IURC) submitted its recommendations to Governor Pence to inform a new energy efficiency framework following the repeal of the state’s EERS in March of this year.

During its 2014 legislative session, the Indiana General Assembly approved legislation to terminate the state’s energy efficiency standard. **SB 340** provided that industrial customers of an electricity supplier may opt out of participating in an energy efficiency program implemented by the electricity supplier in response to an order of the utility regulatory commission concerning demand side management (DSM) programs. The bill eliminates a requirement for Indiana’s investor-owned electric utilities to reduce retail electricity sales by 2 percent every year through 2019.

Ultimately, Governor Mike Pence neither signed nor vetoed the measure, letting it take effect anyway and allowing the Energizing Indiana Program to expire. The Governor stated at the time that he supports the goals of energy efficiency and called on the IURC to develop recommendations for a new program that would provide an opt out for large electricity customers.
Submitted to the Governor on October 9, the IURC’s recommendations cover appropriate EE goals for the state, the cost-effectiveness of existing DSM programs, ways to improve existing programs, an analysis of the cost to ratepayers, and a provision allowing large electric customers to opt-out of ratepayer funded DSM programs. Of note, two points were stressed throughout the IURC recommendations: 1) the Governor and legislature should enact legislation requiring utilities to develop IRPs and use IRPs to set individual utilities’ EE and DSM goals; 2) EE is a means of complying with 111(d) and it is important to capture all utility and non-utility energy efficiency occurring in the state.

Natural gas utility energy efficiency programs were not impacted by the repeal of the EERs and do not appear to be impacted by the IURC’s recent recommendation. Gas utility programs will remain unaffected on a voluntary basis.

**LA: Energy Efficiency Programs to Begin Nov 1**

The Louisiana PSC has reinstated an energy efficiency program for utilities in the state after nearly two years of contention and false starts. Programs took effect on November 1st.

In an October 9 filing, the PSC staff gave the green-light for the program to move forward, saying that it had completed its review of utility EE plans following a suspension of the programs to allow for further examination of individual plans. The program was originally scheduled to begin on October 1, but five days prior, the staff issued a notice of suspension, warning that the delay could last anywhere from 30-90 days.

The PSC originally approved the statewide energy efficiency program in December 2012. Subsequently, the Commission repealed the program in February 2013. The move to repeal the program was led by Chairman Eric Skrmetta, who, though voting favorably for the original program, acknowledged his opposition on that time. In February 2013 Skrmetta stated that halting the program was necessary because proper research had not been conducted on its impact. He said at the time that the PSC would revisit the program to determine if there are alternatives that have less of an impact on the consumer.

The repeal vote prompted a lawsuit against the Commission in April 2013, with consumer and environmental groups arguing that the PSC had violated state opening meeting laws by overturning the rules without public comment. Shortly thereafter, Skrmetta announced that the Commission would reconsider its decision. In June 2013, it voted 3-2 to restore the program.

**MN: Minneapolis Approves City-Utility Clean Energy Partnership**

On October 17, the Minneapolis City Council unanimously approved new franchise agreements and partnerships between the city and its electric and natural gas utilities intended to aid in moving toward cleaner energy sources and cuts in GHG emissions.

In its decision, the Council approved agreements with Xcel Energy Inc. and CenterPoint Energy Inc. and allowed them to move forward with a “Clean Energy Partnership”. The
Partnership would create an eight-member board, half from the city and half from among utility representatives. As well, an Energy Vision Committee will review and provide comment on a work plan shaped by the city’s Climate Action Plan. Potential priorities of the Partnership could include establishing a multifamily housing energy efficiency program, implementing a community solar garden program and exploration of undergrounding and alternative transmission line designs.

Formation of the Clean Energy Partnership is tied to negotiations over Xcel and CenterPoint’s franchise agreements, which each had 20-year agreements previously set to expire at the end of 2014. As you may recall, during negotiations over whether to renew the agreements, some argued that Minneapolis should form its own municipal utility. Ultimately, the City Council instead decided to conduct a study of other alternatives. Part of that study recommended that renewed franchise agreements with the utilities should include separate “clean energy agreements” that directly incorporate the goals of the climate action plan.

Minneapolis has a plan for 15% and 30% GHG reduction goals over the next several years.

**NJ: Legislature Adopts RGGI Resolution**

On October 23, the New Jersey Senate and General Assembly adopted ACR 189/SCR 125, identical resolutions that would prevent the New Jersey Department of Environmental Protection (DEP) from adopting rules to allow the state to opt out of the Regional Greenhouse Gas Initiative (RGGI).

New Jersey’s participation in RGGI has been a point of conflict between Governor Chris Christie and the legislature over the last several years. In 2011, the Governor withdrew from RGGI, citing costs associated with participating in the program. In response, the legislature passed companion bills that would have prohibited the state from exiting the program by modifying existing statutory language to require, rather than allow, the state to participate. Governor Christie vetoed those bills, and subsequently vetoed a set of 2012 bills intended to do the same thing.

The legislature has taken up a similar bill in the 2014-15 session. S 151 passed the Senate in June of this year and awaits action in the Assembly. The bill would require the state to rejoin the program.

Of note, in March 2014 a NJ Superior Court ruled that the Governor and DEP illegally withdrew from RGGI, finding that they failed to “follow legal due process and safeguard the economic health and interests of New Jersey citizens.” To comply with the Court’s decision, the DEP has proposed rules that would repeal its CO2 Budget Trading Rules, claiming that the state’s withdrawal from the program rendered those rules inapplicable.

The New Jersey Constitution permits the Legislature to block an executive branch rule change that is inconsistent with legislative intent. The Legislature might do so via a concurrent resolution and providing the Administration with 30 days to amend or withdraw the proposed rule. The Legislature must then approve a second resolution responding to
the administration’s action. The passage of ACR 189/SCR 125 marks the first step in that process.

**PA: Philadelphia City Council Rejects PGW Sale to UIL**

On October 27, the Philadelphia City Council rejected UIL Holding’s Corporation’s proposed acquisition of Philadelphia Gas Works Co (PGW).

As you may recall, in March of this year, UIL agreed to acquire PGW from the city of Philadelphia for $1.86 billion in cash. The transaction was unanimously approved by UIL’s board of directors and has been consistently supported by Philadelphia Mayor Michael Nutter. In fact, Nutter has been trying to sell the municipal utility for a number of years.

In its October 27th decision, the City Council concluded that the sale agreement did not contain enough provisions that would mitigate rate and bill increases for customers; accelerate cast iron pipeline replacements; sustain employee wages and benefits beyond the current collective bargaining agreement; and prioritize the hiring of Philadelphia residents. Members of the Council also maintained that the loss of PGW’s $18 million payment annually to the city weakens the argument that the sale would be financially beneficial. Councilmembers further contended that UIL had not made enough contractual commitments to income-based assistance programs.

Since the decision, stakeholders have argued that the City Council has warded off future potential buyers and has possibly jeopardized efforts to improve pipeline safety in the city. PGW is a 178-year old utility that has a high percentage of pipelines no longer fit for service, including 1,501 miles of cast iron mains that represent 49.6% of its total system. PGW is presently replacing approximately 25 miles per year and in fiscal year 2014 spent approximately $55 million on cast iron main and associated services replacement. UIL had said previously that it would be able to invest in accelerating the replacement of pipelines no longer fit for service—but the Council countered that the company would then have to raise rates for PGW customers.

The City Council acknowledged pipeline safety risks in its decision and recommended that PWG up its approved DSIC from 5% of distribution revenues to 7.5%. Councilmembers also highlighted recommendations from a Concentric Energy Advisors analysis of the UIL transaction including directions to diversify PGW’s gas supply portfolio, optimize LNG assets, support the development of a regional NGV market, pursue opportunities in CHP, convert more customers to natural gas service and support energy industry workforce training programs.

UIL has had the right to terminate the asset sale agreement at any time since July 16. The deal would have automatically terminated on December 31, 2014 if the City Council did not issue an ordinance approving the transaction. The city also had the right under the terms of the asset sale agreement to terminate the deal. As of June 30 filings, UIL had incurred approximately $19.9 million in expenses relating to the sale—$5.6 million in legal, investment banking and due diligence costs and $14.3 million associated with a bridge term loan agreement.
In an October 28 statement, UIL CEO James Torgerson said that the company will decide within two weeks whether to exercise its contractual right to terminate the purchase agreement with Philadelphia.

**2014 Events**

A list of 2014 events can be found below. We will continue to update this list throughout the year as meetings and events are added and/or changed.

### November 2014

- **RLCC Policy Retreat**  
  Nov. 12-13 | Washington, DC

- **RAGA Fall National Meeting**  
  November 15-18 | Miami, FL

- **NARUC 125th Annual Meeting**  
  November 16-19 | San Francisco, CA

- **RGA Annual Meeting**  
  November 19-21 | Boca Raton, FL

### December 2014

- **ALEC States & Nation Policy Summit**  
  December 3-5 | Washington, DC

- **WGA Annual Meeting**  
  December 6-7 | Las Vegas, NV

- **NCSL Fall Forum**  
  December 10-12 | Washington, DC