K&L GATES

THE ENERGIZER

21 February 2020

In this issue:

K&L Gates' The Energizer – Volume 61

A biweekly update on blockchain technology applications, distributed energy resources, and other innovative technologies in the energy sector.

By Buck B. Endemann, Daniel S. Cohen, Molly K.D. Barker, Olivia B. Mora, Abraham F. Johns, Natalie J. Reid, and Matthew P. Clark

There is a lot of buzz around blockchain technology, distributed energy resources ("DERs"), microgrids, and other technological innovations in the energy industry. As these innovations develop, energy markets will undergo substantial changes to which consumers and industry participants alike will need to adapt and leverage. Every other week, K&L Gates' The Energizer *will highlight emerging issues or stories relating to the use of blockchain technology, DERs, and other innovations driving the energy industry forward. To subscribe to* The Energizer *newsletter, please click here.*

Local Swiss Blockchain-Based Electricity Market Pilot Reveals Impact on Pricing and User Behavior

- The Water and Electricity Works Walenstadt ("WEW"), an electricity supplier based in Walenstadt, Switzerland, completed the first year of a pilot program, called Quartierstrom, testing a local electricity market equipped with blockchain technology. The pilot created Switzerland's first market for locally-generated electricity trading by residential households. Through the pilot, thirty-seven participating households purchased and sold solar power through a blockchain-based platform. WEW enabled the solar power purchased to supplement the power supply with other sources, and purchased excess supply. The Swiss Federal Office of Energy ("SFOE") supported the project, allowing the SFOE to study user behavior as well as test the technology.
- The pilot nearly doubled solar power consumption, meeting 33 percent of electricity demand in the neighborhood. User reviews of the pilot were largely positive, appreciating the electricity market for its fairness, locality, and environmental cleanliness.

Virginia General Assembly and Senate Pass Similar Versions of the "Virginia Clean Economy Act"

- The Virginia General Assembly and the Virginia Senate have passed similar versions of the "Virginia Clean Economy Act", two versions of a bill that would set one of the largest state energy storage goals in the country. The General Assembly's version would require Virginia to reach 100 percent renewable energy generation by 2045, whereas the Senate version would mandate a deadline of 2050. Generally, the bills would also require Virginia to meet a 2,400 megawatt energy storage goal by 2035, and authorize the State Corporation Commission to promulgate implementing regulations.
- Additionally, the bills would replace the existing voluntary renewable energy portfolio system ("RPS") with a mandatory RPS that applies to electric utilities and licensed competitive suppliers, and direct the State Air Pollution Control Board to adopt regulations

establishing a carbon cap and trade program that complies with the Regional Greenhouse Gas Initiative model rule. Moreover, it would establish requirements regarding Dominion Energy Virginia's qualified offshore wind projects with an aggregate capacity of not less than 5,200 megawatts by January 1, 2034.

- Finally, the bills would remove the 16 megawatt limit imposed on offshore wind generation facilities that are declared to be in the public interest, and declare the construction or purchase by a public utility of offshore wind generation facilities up to 5,200 megawatts, located off the Virginia coast, to be in the public interest.

Certain Attorneys General File Amicus Brief in *National Association of Regulatory Utility Commissioners v. FERC*

- Attorneys general from California, Massachusetts, Michigan, Rhode Island, and Washington, D.C. ("Amici State Attorneys general"), and the California Air Resources Board filed a "friend of the court" brief in support of FERC Orders 841 and 841-A (collectively the "Orders") earlier this month. The Orders, issued in February 2018, require market operators to allow storage resources to participate fully in the wholesale electricity market.
- In the case at bar, *National Association of Regulatory Utility Commissioners v. FERC*, the plaintiffs argue that the federal regulators should have included an "opt-out" clause for states to avoid implementing such rules for resources connecting at the distribution level. To remedy the absence of an opt-out clause, the plaintiffs request the U.S. Court of Appeals for the D.C. Circuit to partially set aside the Orders to the extent they prevent states from "broadly prohibiting" participation of retail or distributed storage.
- The Amici State Attorneys General claim that an "opt-out" clause is unnecessary because the Orders' scope are limited, and the Orders are well within FERC's authority to regulate storage resources pursuant to the Federal Power Act. The Amici State Attorneys General further claim that orders such as these help lower electricity bills, reduce pollution, and support a clean energy economy. A date for oral arguments has not yet been scheduled.

British Petroleum Sets Carbon Neutral Emissions Goals

- On February 12, British Petroleum PLC ("BP") announced its plans to achieve carbon neutrality by 2050 by cutting the carbon intensity of its products in half over the next three decades. Currently, BP produces 55 million tons of carbon per year and contributes an estimated additional 350 million tons of carbon from private consumer consumption of its products.
- To achieve carbon neutrality, BP has established five goals: "1. [Achieve] [n]et zero [carbon emissions] across BP's operations on an absolute basis by 2050 or sooner; 2. [Achieve] [n]et zero on carbon [emissions] in BP's oil and gas production on an absolute basis by 2050 or sooner; 3. Cut…the carbon intensity of products BP sells by [50 percent by] 2050 or sooner; 4. Install methane measurement at all [of] BP's major oil and gas processing sites by 2023 and reduce methane intensity of operations by 50 [percent]; [and] 5. Increase the proportion of investment into non-oil and gas businesses over time."
- BP's plans to help the world achieve carbon neutrality by promoting "[1] [m]ore active advocacy for policies that support net zero, including carbon pricing; [2] Further [incentivizing] BP's workforce to deliver aims and [mobilizing] them to advocate for net zero [emissions]; [3] Set[ting] new expectations for relationships with trade associations; [4] Aim[ing] to be [recognized] as a leader for transparency of reporting, including supporting the recommendations of the [Task Force on Climate-related Financial Disclosures]; [and] [5] Launch[ing] a new team to help countries, cities and large companies [decarbonize]."

- BP's policy is a "new purpose and ambition" for the company, in which it will "fundamentally transform its whole organization, and maintain its commitment to performing while transforming."