

**NORTHEAST ENERGY AND COMMERCE ASSOCIATION (NECA)  
LEGISLATIVE AND REGULATORY COMMITTEE**

**Recent Orders/Rulings/Legislation or Other Noteworthy Items  
May-June 2007**

The following table highlights recent regulatory orders, ruling, legislation and/or other items of potential interest to the Northeast Energy and Commerce Association's (NECA) membership. For more information on specific items, readers are encouraged to contact the appropriate individual(s) noted in the numbered bracket below the table. This publication and the opinions expressed herein are provided subject to the reader's understanding and full agreement that they do not constitute the rendering of legal advice or other professional advice by NECA, its members or any of their attorneys.

<b>JURISDICTION</b>	<b>UPDATE</b>
Administration	<ul style="list-style-type: none"> <li>• <b>Massachusetts v. EPA</b> – The U.S. Supreme Court ruled April 2<sup>nd</sup> that the U.S. EPA has authority under the Clean Air Act to regulate carbon dioxide and other greenhouse gas emissions from cars as pollutants. Eleven states joined in the suit. In light of the decision, Senator Boxer is calling on the EPA to set global warming standards for new and modified coal-burning power plants.<sup>[6]</sup></li> <li>• <b>New Source Review</b> - The U.S. Supreme Court ruled April 2<sup>nd</sup> that the 4<sup>th</sup> Circuit was wrong to rule that hourly emissions were vital to deciding whether Duke had made major modifications to certain coal plants. The case has been remanded. The NSPS rules require a source to use the best available pollution control technology when a modification would increase the discharge of pollutants measured hourly. As a result of the ruling, the EPA has proposed applying the annual emission test now used in those situations where an existing electric generating unit's hourly emissions would increase.<sup>[6]</sup></li> <li>• <b>PM Standards</b> – The EPA issued a rule that defines requirements for state plants located in areas that do not meet national air quality standards for fine particulate matter established in 1997. The state plans are due in April 2008. States must meet the PM 2.5 standard by 2010; however, states may seek a five-year extension.<sup>[6]</sup></li> <li>• <b>Mercury Reduction</b> - The six New England states and New York released a proposal to encourage the federal government to implement a nationwide mercury reduction plan under a provision of the Clean Water Act.<sup>[6]</sup></li> <li>• <b>Clean Energy Technology Loans</b> – The DOE issued a notice of proposed rulemaking on May 10<sup>th</sup> for a loan guarantee program authorized under the EPA of 2005 to spur investment. DOE will accept public comments on the proposed rule for 45-days after it is published in the Federal Register.</li> </ul>
Congress	<ul style="list-style-type: none"> <li>• <b>Electric Competition</b> – In a report to Congress mandated under the Energy Policy Act of 2005, a task force indicated that the markets have not developed as expected for all customer classes. The most notable deficiencies are in the development of the residential market.<sup>[6]</sup></li> <li>• <b>Climate Change</b> - The Senate Foreign Relations Committee passed Senate Resolution 30 which calls on the Bush administration to return to international negotiations on climate change “with the objective of securing U.S. participation in agreements that advance and protect U.S. interests...”<sup>[6]</sup></li> <li>• <b>Energy Diplomacy and Security Act</b> - The Senate Foreign Relations Committee passed S.193 that promotes partnerships with</li> </ul>

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	<p>consuming countries to increase the use of sustainable energy sources.<sup>[6]</sup></p> <ul style="list-style-type: none"> <li>• <b>Carbon Capture</b> – Senator Bingaman held a hearing to consider S. 731 and S. 962 aimed at accelerating federal research and demonstration projects with the goal of making carbon capture technologies available on a commercial scale.<sup>[6]</sup></li> <li>• <b>Carbon Legislation</b> – Senator Alexander and Senator Lieberman introduced the Clean Air/Climate Change Act of 2007, a four-pollutant bill for power plants that includes a cap-and-trade program for carbon dioxide.<sup>[6]</sup></li> <li>• <b>Biofuels, Carbon Capture</b> – The Senate Energy and Natural Resources Committee on May 2<sup>nd</sup> approved legislation incorporating four separate bills (S. 987, S. 1115, S. 962, S. 731) that will increase the use of biofuels, require more energy efficient appliances, authorize research and development of plug-in electric vehicles, and increase spending for carbon capture and sequestration research.<sup>[6]</sup></li> <li>• <b>Electricity Production Credit</b> – Senators Cantwell, Kerry and Smith filed the Clean Energy Investment Assurance Act to extend the renewable electricity production credit through 2013.<sup>[6]</sup></li> <li>• <b>Transmission Corridors</b> – More than 40 members of Congress wrote to Secretary Bodman on May 15<sup>th</sup> urging the DOE to hold public meetings in every congressional district affected by the draft mid-Atlantic transmission corridor. The proposal covers more than 116,627 square miles.<sup>[6]</sup></li> <li>• <b>Yucca Mountain</b> – Senator Domenici introduced legislation on May 23<sup>rd</sup> intended to allow the Doo expeditiously license and develop the Yucca Mountain nuclear waste repository.</li> </ul>
FERC	<ul style="list-style-type: none"> <li>• <b>Resource Adequacy</b> - The U.S. Court of Appeals for the District of Columbia ruled that FERC does not have the authority under the Federal Power Act to regulate generation resource adequacy, ruling in favor of the Connecticut DPUC in Case No. 05-1411.<sup>[6]</sup></li> <li>• <b>Contract Termination Fee</b> – FERC reduced the charge that the town of Norwood, Mass will have to pay for terminating a long-term contract with National Grid USA by as much as \$30-million.<sup>[6]</sup></li> <li>• <b>Capacity Payments</b> – FERC on May 17<sup>th</sup> denied a request for a stay in transition payments by ISO New England Inc. to capacity providers, saying it no longer has jurisdiction to issue a stay since the case is now pending before a federal appeals court.<sup>[6]</sup></li> <li>• <b>New Hampshire Hydro</b> – FERC is a new 40-year year license to Public Service Co. of New Hampshire for the continued operation of three hydroelectric facilities that the company owns along the Merrimack River.<sup>[6]</sup></li> </ul>
Connecticut	<ul style="list-style-type: none"> <li>• <b>Transmission</b> – The DPUC agreed to a five-year plan to replace equipment in its underground electric distribution networks in several communities. This is the final step in an investigation ordered by AG Blumenthal in 2006 following an accident.<sup>[6]</sup></li> <li>• <b>Smart Meters</b> – CL&amp;P filed information with the DPUC outlining how smart electricity meters could become standard</li> </ul>

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	<p>equipment for all of the company’s nearly 1.2M customers by 2010. <sup>[6]</sup></p> <ul style="list-style-type: none"> <li>• <b>Siting</b> – The Siting Council approved the addition of two splice vaults as part of CL&amp;P’s project to add an 8.7 mile 115kV transmission line. <sup>[6]</sup></li> <li>• <b>Transmission</b> – United Illuminating Co. is asking FERC to grant it incentive rate treatment for its share of the \$1.3B, 69-mile Middletown-to-Norwalk transmission project. <sup>[6]</sup></li> <li>• <b>New Capacity</b> – The DPUC has chosen four projects, totaling 787MW, in it’s RFP for new capacity. The projects include: <ul style="list-style-type: none"> <li>○ 620-MW natural gas fired, combined cycle baseload plant in Middletown offered by Kleen Energy Systems, LLC.</li> <li>○ 66-MW oil-fired peaking facility in Stamford offered by Waterside Power</li> <li>○ 96-MW gas-fired peaking facility in Waterbury by Waterbury Power</li> <li>○ 5-MW statewide energy efficiency project by Ameresco Inc. <sup>[6]</sup></li> </ul> </li> <li>• <b>Biomass</b> – Tamarack Energy and CL&amp;P agreed to a 15-year energy purchase agreement for the utility to purchase the energy from a planned 30-MW biomass plant in Watertown, Conn. <sup>[6]</sup></li> <li>• <b>Municipal Supply Contracts</b> – AG Blumenthal said May 15<sup>th</sup> that his office will investigate electricity contracts between municipalities and independent power brokers that he claims failed to deliver promised savings. <sup>[6]</sup></li> <li>• <b>Long-term Contracts</b> – The DPUC recommended on May 23<sup>rd</sup> continuing negotiated long-term contracts between qualified facilities and electric distribution companies to provide an appropriate mechanism for the electric power generation and financing needs of resource recovery facilities. <sup>[6]</sup></li> </ul>
Maine	<ul style="list-style-type: none"> <li>• <b>Independent Transmission Co.</b> – Energy East Corp., a subsidiary of Bangor-Hydro-Electric, is considering forming one or more independent transmission companies as the state explores option for participation in ISO’s energy market. Other options include developing a market with one or more of the Canadian Maritime provinces and working with current ISO framework to address and correct inequities. <sup>[6]</sup></li> <li>• <b>RGGI</b> – The Governor introduced L.D. 1851 (“Regional Greenhouse Gas Initiative Act of 2007”) to establish a statewide carbon dioxide cap-and-trade program for fossil fuel-fired generators greater than 25MW. <sup>[6]</sup></li> <li>• <b>Markets</b> – The Maine Energy Council said the state should expedite is evaluation of regional energy arrangements and participate at the regional and federal levels to protect the interest of Maine’s consumers and fully exercise Maine’s energy sovereignty. The Council supports the PUC’s look at alternatives to continued participation in the ISO NE energy market. <sup>[6]</sup></li> <li>• <b>Long-term Capacity</b> – The PUC and Representative Bliss have submitted Legislative Document 268 to amend a 2006 law that directs large investor-owned transmission and distribution utilities to enter into long-term contracts for capacity resources. LD 268 seeks to clarify the cost provisions of the law. <sup>[6]</sup></li> </ul>

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	<ul style="list-style-type: none"> <li>• <b>Long-term contracts</b> – Energy companies called on the PSC to seek proposals for long-term standard offer contracts for 2009-2019 in an effort to provide an incentive for investment in generation and transmission in northern Maine. <sup>[6]</sup></li> <li>• <b>Utility Owned Generation</b> – The Legislature debated L.D. 413 which would remove provisions in existing laws that prevent investor-owned transmission and distribution utilities from owning and operating generation facilities and from selling that energy to consumers at retail. <sup>[6]</sup></li> <li>• <b>Capacity Rule Change</b> - Maine Gov. John Baldacci has joined state regulators to protest a proposed rule change from the administrator of the transmission system and electric power markets in two of the state's northern counties. <sup>[6]</sup></li> <li>• <b>Gov's Task Force on Wind Permitting</b> – Gov. Baldacci on May 8<sup>th</sup> ordered the creation of a task force to explore the regulation of and barriers to the development of wind generation in the state. <sup>[6]</sup></li> </ul>
Massachusetts	<ul style="list-style-type: none"> <li>• <b>Green Communities Act (HB3965)</b> – There was an April 2<sup>nd</sup> hearing on the House Speaker's bill to change the Administration's structural oversight, broaden energy efficiency funding and increase renewable funding. The hearing drew a standing room only crowd that commented in opposition to the new funding mechanisms. <sup>[6]</sup></li> <li>• <b>Acquisitions</b> - AG Coakley has asked the DPU to investigate the impact that National Grid's proposed acquisition of KeySpan Corp will have on Massachusetts' consumers, although the DPU does not have authority over the deal. The proposal will require approval by New York and New Hampshire regulators. The DPU voted on May 21<sup>st</sup> to open an oversight investigation into the proposed acquisition. <sup>[6]</sup></li> <li>• <b>Solar Power</b> – Evergreen Solar announced that it will build a second plant in Westborough, MA. The company also announced an alliance with NSTAR to identify prospective customers and provide customers with information about photovoltaic power, referrals to installers and financing. <sup>[6]</sup></li> <li>• <b>DOE Suit</b> – AG Coakley filed suit against the DOE on May 7<sup>th</sup> over the agency's decision not to amend the energy efficiency standards for certain commercial heating, ventilation and air-conditioning systems. <sup>[6]</sup></li> <li>• <b>Cape Wind</b> – In a complaint filed May 25 in Barnstable Superior Court, The Ten Taxpayer Citizens Group asks that the Secretary of Environmental Affairs strike a certificate finding that the FEIS complies with the state's Environmental Policy Act. <sup>[6]</sup></li> </ul>
New Hampshire	<ul style="list-style-type: none"> <li>• <b>Renewable Standards</b> –The House and Senate approved bill 873-FN-LOCAL that would establish an RPS for the state. On May 11<sup>th</sup> Governor Lynch signed the bill. Electric utilities will have to procure a percentage of the supply in renewable energy certificates. In 2008, utilities will have to procure .5% from Class I sources; 3.5% from Class III sources, classified as existing biomass and methane facilities and .5% from Class IV or small hydroelectric sources. <sup>[6]</sup></li> <li>• <b>Senate Bill 140</b> – Lawmakers amended SB 140 removing language that gave PSNH the right to additional renewable generation assets and replaced it with language focusing on transmission upgrades in the North Country and a provision to streamline siting</li> </ul>

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	<p>of renewable energy facilities. <sup>[6]</sup></p> <ul style="list-style-type: none"> <li>• <b>Rates</b> – The PUC approved a roughly \$37.7 million increase to the Public Service Co. of New Hampshire’s delivery service revenue requirements to take effect July 1<sup>st</sup>. <sup>[6]</sup></li> </ul>
Rhode Island	<ul style="list-style-type: none"> <li>• <b>Wind Resources</b> – RI Economic Development Corp. issued the “Final Report RIWINDS Phase I: Wind Energy Siting Study” that evaluated the viability of wind sites in the state. <sup>[6]</sup></li> <li>• <b>Public Utility Commission</b> – In an effort to better represent the poor, advocacy groups are calling on the Governor to appoint two additional members to the PUC, making it a total of five members. <sup>[6]</sup></li> </ul>
Vermont	<ul style="list-style-type: none"> <li>• <b>Electric Cooperative</b> – Vermont regulators approved Vermont Electric Cooperative Inc.’s integrated resource plan and a memorandum with the DPS setting forth the interpretation and scope of the plan, including the use of more mid-term and long-term resources. <sup>[6]</sup></li> <li>• <b>Green Mountain</b> – announced three programs under the choose2bgreen program, Greener GMP, CoolHome and CoolDriver, to allow customers to neutralize their carbon footprint through renewable power, home heating and driving offsets. <sup>[6]</sup></li> <li>• <b>Fuel Efficiency Bill</b> – The state legislature passed H. 520 on May 16<sup>th</sup>. The bill would impose a 35% tax on certain gross revenues of the Vermont Yankee nuclear plant to raise money for the state’s proposed new all-fuels efficiency utility. <sup>[6]</sup></li> <li>•</li> </ul>

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