

Regulators Move Forward on Federal “Smart Grid” Policy and Seek Comments

On March 18, the Federal Energy Regulatory Commission (FERC) announced the next step in formulating federal “Smart Grid” policy. FERC will be accepting comments on a proposed policy statement on Smart Grid technologies and has invited comments from the industry, including companies that manufacture smart grid technologies or otherwise have an interest in the technological development of the interstate bulk power system. Comments on the proposed policy statement and action plan are due 45 days after publication in the *Federal Register*.

FERC, the U.S. regulator with jurisdiction over the interstate transmission system, will be working with the U.S. Department of Energy and other state and federal regulators to encourage the deployment of enhanced technology to support the nation’s electric transmission system, generally referred to as “Smart Grid.” Smart Grid received a significant boost recently when President Obama signed a stimulus package that included \$4.5 billion for Smart Grid-related grants and regional demonstrations. The Smart Grid effort will involve several government agencies, at both the federal and state levels. At the federal level, the Department of Energy (DOE) will be responsible for awarding grants for Smart Grid projects and developing a Smart Grid information clearinghouse. The National Institute of Standards and Technology (NIST) has primary responsibility for coordinating development of an “interoperability framework,” allowing Smart Grid technologies to communicate and work together. FERC will be responsible for promulgating standards on “interoperability,” or the ability of various Smart Grid devices and technologies deployed across the grid to work together.

FERC’s action could influence the types of Smart Grid technologies that are used in the future, and will create a regulatory forum for Smart Grid policy issues to be discussed and decided. Specifically, FERC issued a proposed policy statement and is seeking public comment on standards for four priority issues critical to the smooth operation of the Smart Grid:

- Cyber security;
- Communications among regional market operators, utilities, service providers and consumers;
- Ensuring that the bulk power system operators have “wide-area situational awareness” with equipment that allows them to monitor and operate their systems; and
- Coordinating operation of the bulk power system with new and emerging technologies for renewable resources, demand resources, electricity storage and electric transportation systems.

Accordingly, this policy development process will impact the following:

- Technology firms with products to offer the energy sector;
- Manufacturers of meters, sensors and other digital controls;
- Transmission developers; and
- Transmission-owning utilities.

After weighing public comments, FERC plans to adopt a final policy statement providing guidance to the electric power industry on standards in these areas. FERC also announced its intention to permit utilities to recover the costs of smart grid deployments that demonstrate system security and compliance with FERC-approved Reliability Standards and other criteria.

FERC's proposed policy statement can be found at <http://www.ferc.gov/whats-new/comm-meet/2009/031909/E-22.pdf>. Entities seeking to participate in the Smart Grid program or file comments in this new FERC proceeding can contact their Alston & Bird attorney or Tom Amis, Ken Jaffe, Andrea Wolfman or Chris Jones in Alston & Bird's Energy Regulatory group at (202) 756-3300.

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