

Lookadoo in Law360 on Biggest Energy Regulatory Moves of 2018

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Law360 quoted Haynes Boone Partner [Phil Lookadoo](#) in a mid-year report on the most significant energy regulatory moves to date in 2018, including President Trump's announced desire to support coal and nuclear plants.

Here is an excerpt:

President Donald Trump recently ordered Energy Secretary Rick Perry to "take immediate steps" to prevent closures of coal and nuclear plants. The move followed news reports of U.S. Department of Energy plans to use its emergency and national security authority to force regional grid operators to buy electricity from a list of coal and nuclear plants the department deems crucial to national security.

The plans have sparked fierce opposition from just about every stakeholder outside of staunch coal and nuclear advocates, with some saying it amounts to a nationalization of the U.S. grid. . . .

Devising a way to pay certain coal and nuclear plants without distorting regional wholesale electricity markets will be a difficult balancing act for the DOE, Haynes Boone LLP partner Phil Lookadoo said.

"You could minimize the impact, or you could have a painful impact," Lookadoo said.

To read the full article, click [here](#). (Subscription required)

Expanding on the issue, Lookadoo explains that FERC has an existing mechanism for providing cost-of-service recovery payments by an ISO/RTO to a generator needed for grid reliability purposes, which FERC calls an "RMR Agreement." Under an RMR Agreement, a generator that is not receiving sufficient revenues from the market to prevent it from shutting down, is awarded an RMR Agreement under which the generator receives a monthly fixed payment from the ISO/RTO to cover its actual cost of service.

Under that RMR Agreement (typically a 2-year contract), the generator is required to bid into the day-ahead and real-time markets administered by the ISO/RTO, but at a fixed price specified in the RMR Agreement. If the generator is dispatched as a result of those bids, then any revenues earned are credited against the monthly RMR payment, thereby reducing the fixed monthly payments by the ISO/RTO to the RMR generator.

An added benefit of this "fixed-price mandatory bidding" process is that the generator is required to bid into the ISO/RTO energy markets, but the generator, which is subsidized by the RMR Agreement, cannot bid at a lower price than the fixed price set by the RMR Agreement. This "fixed price" prevents a subsidized generator from bidding at very low prices and disrupting the effects of normal market forces which otherwise allow the ISO/RTO market prices to efficiently and fairly set market prices for electric energy.

Using such an RMR procedure, with mandatory fixed-price bidding, Federal regulators could provide subsidies to nuclear and coal power plants without disrupting the power markets relied on by solar, wind, other renewable, and natural gas powered generators of electric energy.