

Energy Law: Month in Review - July 2026

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by Zev Simpser, Brian Bell, and Tim Bagshaw

Welcome to Dorsey's Energy Law: Month in Review. We provide this update to our clients to identify significant developments in the previous month. Please reach out to any of the authors, listed above, to discuss these issues.

Litigation and Disputes

D.C. Circuit Court of Appeals Affirms FERC's Interconnection Queue Reform

The United States Court of Appeals for the District of Columbia denied the petitions for review of the Federal Energy Regulatory Commission's ("FERC") revised *pro forma* interconnection tariff ("Order No. 2023"), holding that FERC clearly acted within its authority to address growing interconnection backlogs. Among other things, Order No. 2023 requires: (1) generators to pay fines for withdrawing from the queue, (2) transmission providers to study interconnection requests in clusters and (3) transmission providers to pay a monetary penalty if they fail to finish a study on time. Challenges were brought by both transmission providers and generators. The court rejected arguments that Order No. 2023 (i) unlawfully imposes a one-size-fits-all system on transmission owners, and (ii) penalizes generation projects for withdrawing from interconnection queues. The court also rejected arguments that the delay penalties on transmission providers violates the due process clause of the 5th Amendment and constitutes an unconstitutional taking. "FERC acted under [Federal Power Act] section 206, which authorizes it to revise unjust or unreasonable rules, practices, or rates and to replace them with just and reasonable ones," the court stated. "The study-delay fees function as part of that ratemaking remedy, and the framework provides adequate process for transmission providers to appeal the late fees." Furthermore, the court noted that any claims from transmission providers that the delay penalties are confiscatory are premature. "The penalties they fear have not been imposed, and the rule provides multiple avenues for mitigating or avoiding uncompensated costs. Nothing in the record suggests that these procedures are illusory or incapable of preventing the speculative

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- Zev Simpser
- Brian Bell
- Tim Bagshaw

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confiscation.”

Regulatory Developments

Illinois Enacts Energy Legislation Targeting Utility-Bill Transparency, Need-Based Financial Assistance, and Renewables

Illinois Governor JB Pritzker signed two new energy bills into law, including new rules governing utility-bill transparency, need-based financial assistance, and renewables. HB 4456 expands low-income discounts for utility customers by increasing the eligibility ceiling from 200% to 300% of the federal poverty level and ensuring that discounts apply to the entire bill, rather than only covering certain charges. It also establishes a funding mechanism based on a fixed, per-customer charge rather than on a volumetric or usage-based charge. Under the law, beginning January 1, 2027, the base energy-assistance charge will be 80 cents per month for each utility that is required to implement a low-income discount program, and 40 cents per month for utilities that are not required to implement a discount program. HB 5524 requires the state Commission on Government Forecasting and Accountability (“Commission”) to compile a report detailing the charges that appear on a residential customer’s monthly electricity bill, including the statutory authority for the charge, the entity to which the charge is remitted, any services supported by the charge, and the full amount collected annually from the charge in 2025. The report must be submitted to lawmakers and posted online by January 1, 2027.

Texas Public Utilities Commission Approves “Ride Through” Rules for Data Centers

On July 9, 2026, the Texas Public Utilities Commission (“PUCT”) unanimously approved rules requiring large computational loads (“LCLs”), such as data centers and crypto-mining facilities, within the Electric Reliability Council of Texas (“ERCOT”) footprint to stay stable and connected to the grid through disruptions. The PUCT noted that, as LCLs increase, “similar events would be expected to increase in magnitude and frequency, leading to frequency instability and other reliability problems absent frequency and voltage ride-through requirements.” The rules do not immediately penalize facilities that fail to ride through a qualifying event but do impose on them an obligation to: (i) investigate and report on the root cause within 90 days of ERCOT’s request; (ii) develop a corrective-action plan within 90 days of completing the investigation; and (iii) implement the approval plan within 180 days, unless ERCOT approves additional time to comply. Finally, if ERCOT judges that continued operation poses an imminent risk to local or system reliability, it can order the LCL to disconnect (and stay disconnected) until showing compliance. In support of the rules, ERCOT noted that LCL loss is not hypothetical, stating that ERCOT has experienced 28 events involving LCL trips of at least 100 MW due to voltage and frequency excursions since the beginning of 2023. The growth in LCLs, it noted, will only increase this risk.

Data Centers Subject to Increased Oversight Under Pennsylvania Law

On July 12, 2026, Pennsylvania Governor Josh Shapiro signed a bill requiring data centers to report exact water and power usage annually to the state and requires PJM Interconnection to give state regulators additional insight into its demand forecasting. HB 1924, which was folded into Pennsylvania's 2026–27 budget, requires data centers to submit (i) total energy and water consumption for the previous calendar year; (ii) an estimate of the projected total energy demand for the following year; and (iii) any measures “undertaken to generate electricity on site or off site to reduce carbon emissions or impacts on the electrical grid, including the specific energy source, and any potential future measures to generate electricity or other form of energy on site or off site.” The state Department of Environmental Protection will publish an annual report on the aggregate energy and water consumption trends for data centers operating in the state, including environmental impacts and mitigation recommendations. The law gives the Pennsylvania Public Utilities Commission the authority to (i) review and validate load forecasts submitted by Pennsylvania utilities to PJM Interconnection, (ii) coordinate with the PJM Interconnection and other state regulators to ensure accuracy and to prevent duplicative counting of projects and contracts, and (iii) access all materials necessary to conduct the oversight.

New York Governor Signs Executive Order Imposing Moratorium on Data Centers

New York Governor Kathy Hochul signed Executive Order No. 62 imposing a moratorium on building hyperscale data centers by temporarily pausing environmental permits for these projects for up to one year while the state develops a general environmental impact statement (“EIS”) for data centers. The EIS will consider “the potential environmental impacts of the construction and operation of data centers in the state, including their effect on energy demand, water use and quality, and air quality.” Governor Hochul also announced that her administration is pursuing legislation to repeal sales-tax exemptions for “massive data centers” and directing the Department of Public Service to consider a potential New York Grid Acceleration Fund that would make data centers “invest in the state’s aging grid infrastructure and energy needs.” Additionally, Hochul gave the Empire State Development Agency 60 days to create a community-investment framework that would advise local entities on how to obtain community benefits for data-center projects.