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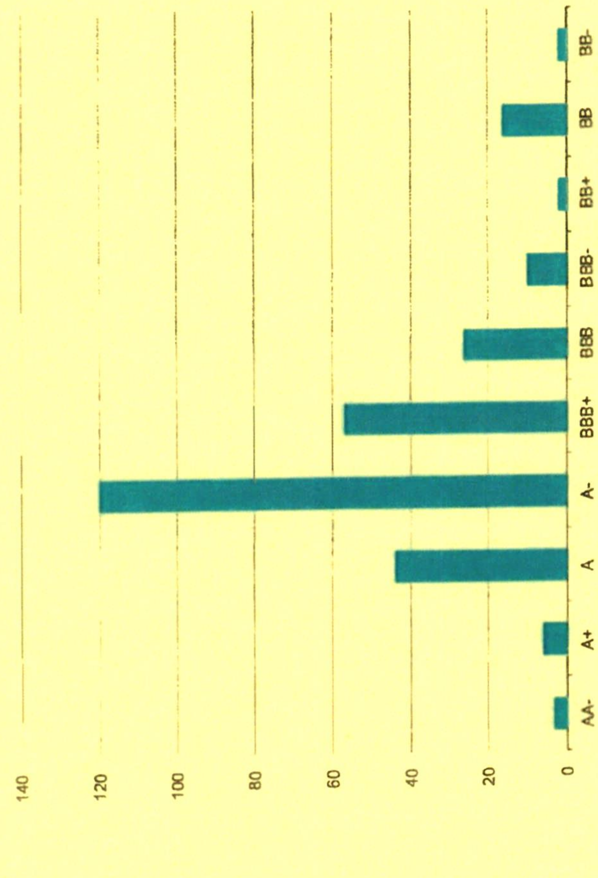
North America Regulated Utilities Rating Distribution



As of Jan. 8, 2021. Source: S&P Global Ratings.

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S&P Global
Market Intelligence

RRA Regulatory Focus
State Regulatory Evaluations

Assessments of regulatory climates for energy utilities

Regulatory Research Associates, a group within S&P Global Market Intelligence, evaluates the regulatory climate for energy utilities in each of the jurisdictions within the 50 states and the District of Columbia, a total of 53 jurisdictions, on an ongoing basis. The evaluations are assigned from an investor perspective and indicate the relative regulatory risk associated with the ownership of securities issued by each jurisdiction's energy utilities.

Each evaluation is based upon consideration of the numerous factors affecting the regulatory process, including gubernatorial involvement, legislation and court [redacted] r regulatory decisions

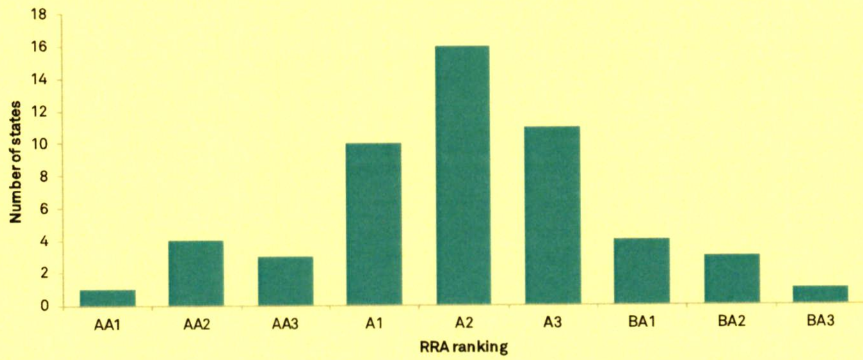
An Above Average designation indicates that, in RRA's view, the regulatory climate in the jurisdiction is relatively more constructive than average, representing lower risk for investors that hold or are considering acquiring the securities issued by the utilities operating in that jurisdiction.

At the opposite end of the spectrum, a Below Average ranking would indicate a less constructive, or higher-risk, regulatory climate from an investor viewpoint.

A rating in the Average category would imply a relatively balanced approach on the part of the governor, the legislature, the courts and the commission when it comes to adopting policies that impact investor and consumer interests.

Within the three principal rating categories, the designations 1, 2 and 3 indicate relative position, with a 1 implying a more constructive relative ranking within the category, a 2 indicating a midrange ranking within the category and a 3 indicating a less constructive ranking within the category.

State regulatory rankings distribution*



As of Dec. 3, 2020.
* Graph is based on rankings of regulatory climate for energy utilities only.
AA = Above Average; A = Average; BA = Below Average
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

RRA attempts to maintain a "normal distribution" of the rankings, with the majority of the states classified in one of the three Average categories. The remaining states are then split relatively evenly between the Above Average and Below Average classifications, as seen in the accompanying chart that depicts the current ranking distribution.

For a more in-depth discussion of the factors RRA reviews as part of its ratings process, see the Overview of RRA rankings process section that begins on page 9.

Rankings changes

In the previous "State Regulatory Evaluations" report, which was released Aug. 19, 2020, RRA announced two rankings changes.

RRA lowered the ranking of the Ohio regulatory environment, to Average/3 from Average/2, to reflect legal developments associated with 2019 power plant subsidization legislation. Specifically, federal prosecutors and the Federal Bureau of Investigation charged former House Speaker Larry Householder for his alleged involvement in a bribery scheme to garner support for the 2019 bill.

The ranking of the Wyoming regulatory climate was moved to Average/2 from Average/3 to recognize constructive outcomes in recent base rate proceedings and the Wyoming Public Service Commission's swift action to allow the state's utilities deferred accounting treatment of coronavirus-related costs.

In conjunction with the release of the instant review, RRA is making two changes. RRA is raising the ranking of Colorado regulation to Average/1 from Average/2. Rate orders issued earlier this year for the electric and gas operations of the largest utility in the state incorporated equity return components in their authorized capital structures that were above average. The commission also recently permitted the state's utilities to defer bad debt expense associated with the coronavirus pandemic. In addition, voters in the City of Boulder gave final approval to an extension of Xcel Energy Inc. subsidiary Public Service Company of Colorado's franchise in the city, putting to rest recent initiatives to municipalize city's electric system.

The ranking of New York regulation is being lowered to Average/2 from Average/1, reflecting adoption of well-below industry average equity returns in November 2020 electric and gas rate case decisions for Avangrid subsidiaries New York State Electric & Gas and Rochester Gas & Electric, as well as decisions issued earlier in 2020 for Consolidated Edison Co. subsidiary Consolidated Edison Co. of New York. The move also reflects the prospects for heightened regulatory scrutiny stemming from Governor Andrew Cuomo's creation of a statewide special counsel for ratepayer protection combined with other political interference by the governor that continues to intensify and thereby compromises the independence of the New York PSC.

RRA State Regulatory Evaluations

State-by-state listing — Energy

Jurisdiction	Ranking	Jurisdiction	Ranking	Jurisdiction	Ranking
Alabama	Above Average/1	Louisiana—NOCC	Average/2	Ohio	Average/3
Alaska	Below Average/1	Louisiana—PSC	Average/1	Oklahoma	Average/3
Arizona	Average/3	Maine	Average/3	Oregon	Average/2
Arkansas	Average/1	Maryland	Below Average/2	Pennsylvania	Above Average/2
California	Average/2	Massachusetts	Average/2	Rhode Island	Average/2
Colorado*	Average/1	Michigan	Above Average/3	South Carolina	Average/3
Connecticut	Average/3	Minnesota	Average/2	South Dakota	Average/2
Delaware	Average/3	Mississippi	Average/1	Tennessee	Above Average/3
District of Columbia	Below Average/2	Missouri	Average/3	Texas—PUC	Average/2
Florida	Above Average/2	Montana	Below Average/1	Texas—RRC	Average/2
Georgia	Above Average/2	Nebraska	Average/1	Utah	Average/2
Hawaii	Average/2	Nevada	Average/2	Vermont	Average/3
Idaho	Average/2	New Hampshire	Average/3	Virginia	Average/1
Illinois	Average/2	New Jersey	Below Average/1	Washington	Average/3
Indiana	Average/1	New Mexico	Below Average/2	West Virginia	Below Average/2
Iowa	Above Average/3	New York**	Average/2	Wisconsin	Above Average/2
Kansas	Below Average/1	North Carolina	Average/1	Wyoming	Average/2
Kentucky	Average/1	North Dakota	Average/1		

As of Dec. 3, 2020.
NOCC = New Orleans City Council; PSC = Public Service Commission; PUC = Public Utility Commission; RRC = Railroad Commission
* Ranking raised since Aug. 19, 2020.
**Ranling lowered since Aug. 19, 2020.
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

Issues to watch

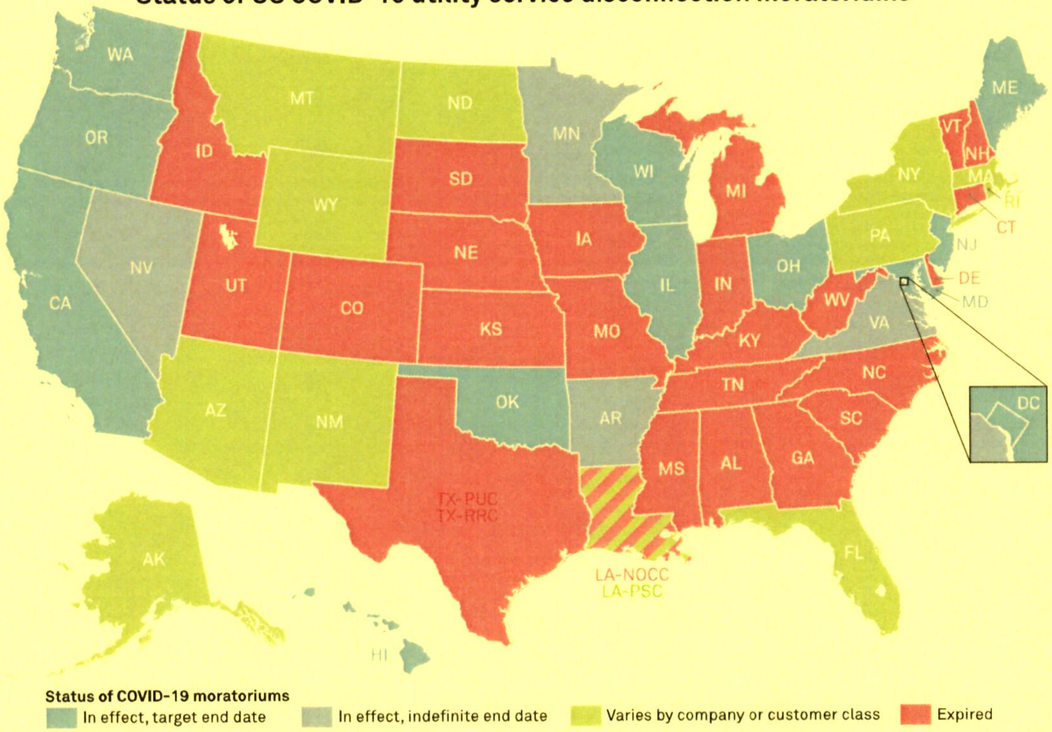
Coronavirus/COVID-19

The COVID-19 pandemic has dominated the U.S. regulatory sphere for most of the year and is likely to continue to be a distraction at a time when utility and regulatory agendas and resources are already stretched tight.

Moratoriums on utility service terminations were implemented in March and April by utilities in each of the 53 state-level jurisdictions followed by RRA. In some instances, the moratoriums were mandatory, in others voluntary and in others it has swung back and forth between the two.

RRA released an update Nov. 10 showing that moratoriums on utility service terminations had expired for all customers in 25 of the 53 covered jurisdictions.

Status of US COVID-19 utility service disconnection moratoriums



Data compiled Nov. 9, 2020.
NOCC = New Orleans City Council; PSC = Public Service Commission; PUC = Public Utility Commission; RRC = Railroad Commission
Map credit: Elizabeth Thomas
Sources: Regulatory Research Associates, a group within S&P Global Market Intelligence; National Association of Regulatory Utility Commissioners; company websites

S&P Global
Market Intelligence

As of Nov. 10, in 12 jurisdictions, moratoriums remained in place for all customers but with a specific target end date. Some of these dates go out as far as April 30, 2021. However, moratoriums in place in Alaska, Maryland and Massachusetts expired Nov. 15, and in Oklahoma, the moratorium expired Nov. 22.

In 12 jurisdictions, the status of shutoff bans varies by company, customer class and/or service type. So, the moratoriums remain in place for certain customers but not for others. In four jurisdictions, the moratoriums remain in place with no specific end date.

At the national level, President-elect Joe Biden has indicated that changing the way the country is dealing with the pandemic is among his first priorities.

However, it is unclear whether the Biden administration will ultimately support the nationwide moratorium on utility service disconnections that many Senators have been calling for.

While the pandemic and its effects are unique in terms of their scope and duration, regulators and utilities have dealt with similar issues before. In RRA's view, the most analogous situation to COVID-19 would be severe weather events such as hurricanes.

Generally, utilities have been permitted to defer the direct costs associated with major storms that are significantly above those that are baked into rates. Recovery is then addressed in base rate cases and typically occurs over five to seven years, with some type of return on the unamortized balance.

Incremental uncollectibles have also generally been recoverable, but for the most part, utilities have not been permitted to recoup lost revenue associated with storm-related outages.

There are some tools already in the regulatory toolbox that can, if not solve, at least mitigate the impact of the pandemic on utilities without a base rate case per se, including expedited uncollectibles cost recovery or tracking mechanisms, full revenue decoupling mechanisms, formula rate plans and earnings sharing plans.

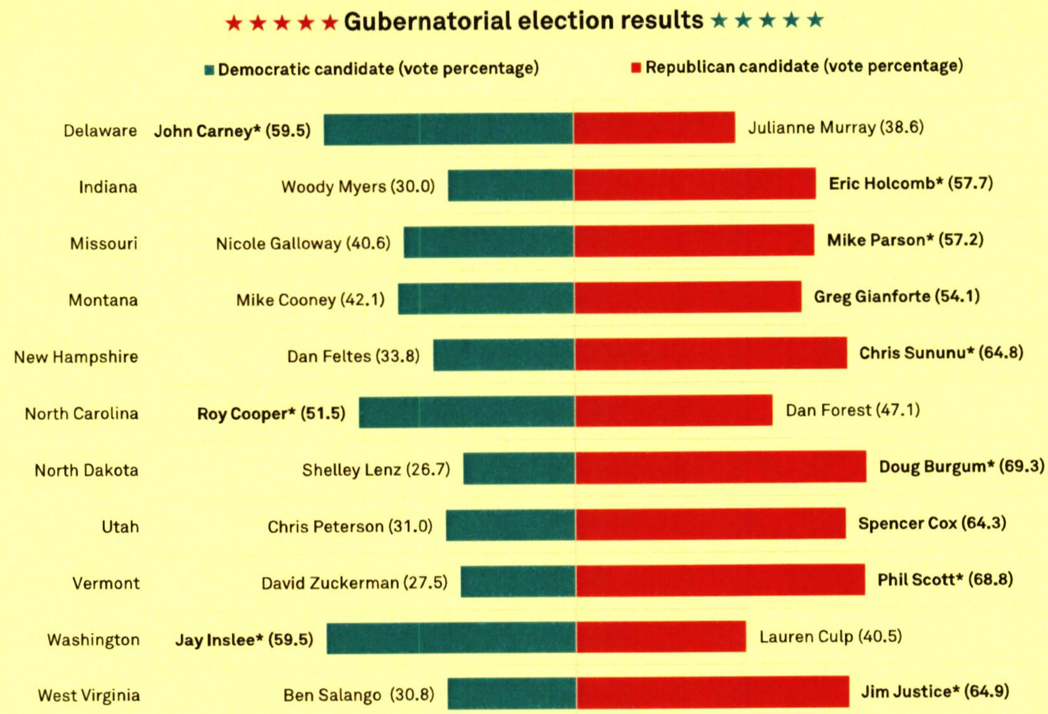
In addition to the existing mechanisms, regulators have been addressing COVID-19 cost recovery on an issue-specific basis to varying degrees. So far, 32 of the 53 state-level regulatory jurisdictions followed by RRA have authorized deferral of COVID-19-related costs for at least one if not all companies. Many of the related accounting orders are unclear on whether or not lost revenues are eligible for deferral, and one state, California, has approved securitization of COVID-19 deferrals.

In the three cases RRA is aware of where recovery of lost revenue has been addressed directly, California and Kansas utilities have been authorized to defer lost revenue, while the Indiana Utility Regulatory Commission denied the request. Allete Inc. subsidiary Minnesota Power Inc. has filed for approval to defer lost revenues, and commission review of the request is pending.

Elections

In addition to the U.S. presidential election, gubernatorial elections were held in 11 states on Nov. 3, 2020. In those elections, nine incumbent governors that ran for reelection all secured a second term. All else being equal, RRA views this as an indicator of consistency for energy regulatory policy in these jurisdictions.

New governors were elected in two states, Montana and Utah. In Montana, party control changed, but in that state, commissioners are elected rather than appointed, so the change in governor will have less of a direct impact on the make-up of the commission.



Data as of Nov. 4, 2020.
Official results may vary.
* Incumbent
Source: The Associated Press

The new governor elected in Utah was of the same party as the outgoing governor, and though commissioners are appointed in that state, it is less likely that the makeup of the commission will change significantly.

Commissioner elections were held for 18 positions across 11 states. Of the 16 races where the results have been finalized, incumbents won in 10. Run off elections are going to be held in Louisiana and in Georgia.

States to watch

In addition to the ranking changes and COVID-19 and election impacts noted above, there are several jurisdictions where ongoing issues could signal a shift in the level of regulatory risk for investors.

RRA will be closely monitoring the actions of the **Arizona** Corporation Commission, or ACC, as it finalizes rules that would alter the regulatory framework in the state. The rules include expanding energy efficiency and carbon-free resource goals. While RRA does not take a view on whether this move is in and of itself constructive or restrictive, experience shows that the generation portfolio transition process can present risks for utility investors.

In addition, a recent court decision could impact the tenor of the relationship between the ACC and the state legislature. The commission, as an entity created by the state's constitution, has historically formulated its own policies and rules governing the state's utilities. The ACC has generally operated independent of the state legislature and has viewed some regulatory statutes established by the legislature as interfering with the commission's constitutional ratemaking authority. However, the Arizona Supreme Court has apparently determined that the state legislature's authority can supersede that of the ACC in certain cases.

RRA is also currently monitoring regulatory enforcement activity in **California** as it relates to conditions attached to PG&E Corp.'s reorganization plan. The president of the California Public Utilities Commission recently informed the company of an investigation to determine whether a recommendation to place subsidiary Pacific Gas & Electric, or PG&E, into the enhanced oversight and enforcement process is warranted. The move is in response to concerns over "what appears to be a pattern of vegetation and asset management deficiencies." The process could potentially result in a state takeover of the utility. While PG&E is the main target of the activity, there could be longer term implications for other utilities in the state.

The responses of the state's electric utilities in **Connecticut** to Tropical Storm Isaias, which knocked out power to millions of households in the Northeast, drew the ire of Gov. Ned Lamont as well as other politicians. The Connecticut Public Utilities Regulatory Authority has opened an investigation. Regulatory reform legislation was enacted in October that requires the establishment of performance-based regulation for the state's electric distribution companies, addresses executive and incentive compensation, extends existing statutory deadlines for the Connecticut Public Utilities Regulatory Authority to adjudicate rate cases and render decisions on merger and financing applications, and outlines storm response penalties and ratepayer restitution. The team will be monitoring and assessing the implications for utility investors.

Despite the overall constructive framework, the level of pending activity and the pace of change makes Virginia one of the jurisdictions that bears watching. **Virginia** regulators have a full complement of issues in front of them to adjudicate. There are 14 pending energy base rate case and limited issue rider proceedings pending before the commission.

The SCC recently issued a decision in a periodic earnings review for American Electric Power Co. Inc. subsidiary Appalachian Power Co., or APCO, and the company has notified the commission that it plans to appeal the decision to the Virginia Supreme Court. A similar proceeding is to commence for Dominion Energy Inc. subsidiary Virginia Electric and Power Co., or VEPCO, in March 2021.

There are also several proceedings pending related to the requirements of the 2020 Clean Economy Act, or CEA. Among other things, the CEA 100% of the power supplied to VEPCO customers must be sourced from renewable and carbon-free resources by 2045; for APCO, the mandate is 100% by 2050. Both companies have filed for SCC approval of their plans to comply with these requirements.

In addition, as required by the CEA, proceedings are underway related to net metering, electric vehicle infrastructure deployment, the creation of universal service fees for APCO and VEPCO, implementation of retail aggregation pilot programs in APCO's and VEPCO's service territories, energy storage and rules for shared solar generation projects.

In 2021, the Virginia General Assembly will have to both fill a vacancy on the Virginia State Corporation Commission created by Chairman Mark Christie joining the Federal Energy Regulatory Commission and decide whether to retain interim commissioner Jehmal Hudson, who was appointed by Gov. Ralph Northam in June 2020 to fill a vacancy on an interim basis.

The potential for such significant change to the make-up of the commission at such a critical time, in RRA's view, further justifies close scrutiny of this jurisdiction.

Other jurisdictions that bear watching include the **District of Columbia**, where Exelon Corp. subsidiary Potomac Electric Power Co. filed its first ever multiyear rate plan. Intervenors to the case have called for the commission to reject the proposal and instead issue a decision based on a traditional test year filing. A final order is expected in early 2021.

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Similarly, in **Maryland**, RRA is monitoring the Maryland Public Service Commission's progress as it implements its new policy allowing the use of multiyear rate plans to mitigate regulatory lag. Proposals filed by Exelon Corp. subsidiary Baltimore Gas & Electric Co. for its electric and gas business and by affiliate Potomac Electric Power Co. for its electric operations are pending.

RRA is also continuing to closely monitor developments in **Ohio** with respect to bribery allegations involving FirstEnergy Corp. and its operating utilities, the electric industry restructuring process and legacy plant subsidy provisions. Similar allegations are also being investigated in Illinois with respect to Exelon Corp. subsidiary Commonwealth Edison Co. In **New Jersey**, the Board of Public Utilities has opened an investigation to look at the potential impact on Jersey Central Power & Light's credit ratings, including whether additional ring-fencing measures are appropriate.

Regulators in **Texas** and **New Mexico** are currently reviewing applications filed by Iberdrola SA subsidiary Avangrid for approval of its proposed acquisition of PNM Resources, parent of Texas-New Mexico Power Co. and Public Service Co. of New Mexico. Both jurisdictions are known for their robust scrutiny of merger transactions.

Notably, one commissioner, Shelly Botkin, on the Public Utility Commission of Texas is serving beyond the end of her term, and her reappointment is awaiting confirmation by the Senate when it reconvenes after being adjourned for all of 2020. Chairman DeAnn Walker's term expires in 2021. While neither appears likely to be replaced, increased scrutiny of the commissioners could impact the merger review. Separately, the legislature is poised to consider a bill that would implement an enhanced renewable portfolio standard.

In **Kansas** and **Missouri**, Evergy Inc.'s recent decision to change its business model on a stand-alone basis rather than pursuing a merger partner is the subject of ongoing review by regulators.

RRA State Regulatory Evaluations — Energy*

Above Average/1	Above Average/2	Above Average/3	Average/1	Average/2	Average/3	Below Average/1	Below Average/2	Below Average/3
Alabama	Florida	Iowa	Arkansas	California	Arizona	Alaska	Maryland	Dist. of Columbia
	Georgia	Michigan	Colorado	Hawaii	Connecticut	Kansas	New Mexico	
	Pennsylvania	Tennessee	Indiana	Idaho	Delaware	Montana	West Virginia	
	Wisconsin		Kentucky	Illinois	Maine	New Jersey		
			Louisiana — PSC	Louisiana — NOCC	Missouri			
			Mississippi	Massachusetts	New Hampshire			
			Nebraska	Minnesota	Ohio			
			North Carolina	Nevada	Oklahoma			
			North Dakota	New York	South Carolina			
			Virginia	Oregon	Vermont			
				Rhode Island	Washington			
				South Dakota				
				Texas—PUC				
				Texas—RRC				
				Utah				
				Wyoming				

As of Dec. 3, 2020.
NOCC = New Orleans City Council; PUC = Public Utility Commission; RRC = Railroad Commission
* Within a given subcategory, states are listed in alphabetical order, not by relative ranking.
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

*For a complete listing of RRA's in-depth reports, see the **Energy Research Library**.*

For further insight on individual state regulatory practices and policies, refer to the Commission Profiles.

Overview of RRA rankings process

RRA maintains three principal rating categories, Above Average, Average and Below Average, with Above Average indicating a relatively more constructive, lower-risk regulatory environment from an investor viewpoint and Below Average indicating a less constructive, higher-risk regulatory climate. Within each principal rating categories, the numbers 1, 2 and 3 indicate relative position. The designation 1 indicates a stronger or more constructive rating from an investor viewpoint; 2, a midrange rating; and 3, a less constructive rating. Hence, if you were to assign numeric values to each of the nine resulting categories, with a "1" being the most constructive from an investor viewpoint and a "9" being the least constructive from an investor viewpoint, then Above Average/1 would be a "1" and Below Average/3 would be a "9."

Methodology

While numerical scores are employed, the rankings are subjective and are intended to be comparative in nature. RRA endeavors to maintain an approximate normal distribution with an approximately equal number of rankings above and below the average.

The rankings are designed to reflect the interest of both equity and fixed-income investors across more than 30 individual metrics. The individual scores are assigned based on the covering analysts' subjective judgement. The scores are then aggregated to create a single score for each state, with certain categories weighted more heavily than others.

The states are then ranked from lowest to highest and distributed among the nine categories to create an approximate normal distribution. This distribution is then reviewed by the team as a whole, and individual state rankings may be adjusted based on the covering analysts' recommendations, subject to review by a designated panel of senior analysts.

The variables that RRA considers in determining each state's ranking are largely the broad issues addressed in our State Regulatory Reviews/Commission Profiles and those that arise in the context of rate cases and are discussed in RRA Rate Case Final Reports.

The rankings not only reflect the decisions rendered by the state regulatory commission, but also reflect the impact of the actions taken by the governor, the legislature, the courts and consumer advocacy groups. The policies examined pertain largely to rate cases and the ratemaking process, but issues such as industry restructuring, corporate governance, treatment of proposed mergers and the ongoing energy transition are also considered.

Please note: In the charts within this report that show the rankings by category, the jurisdictions in each category are listed in alphabetical order rather than by relative position within the category.

The summaries below provide an overview of the variables RRA looks at, including a brief discussion of how each can impact the ranking of a given regulatory environment.

Governor/Mayor

The impact the governor, or in the District of Columbia the mayor, may have depends largely on the individual; the issue of elected versus appointed commissioners is evaluated separately.

RRA takes no view on which political party is the more or less constructive option. However, attributes of the governor or the gubernatorial election process that can move the needle here are: whether energy issues were a topic of debate in recent elections and what the tone/topic of the debate was, whether the governor seeks to involve himself or herself in the regulatory process, and what type of influence the governor is seeking to exert.

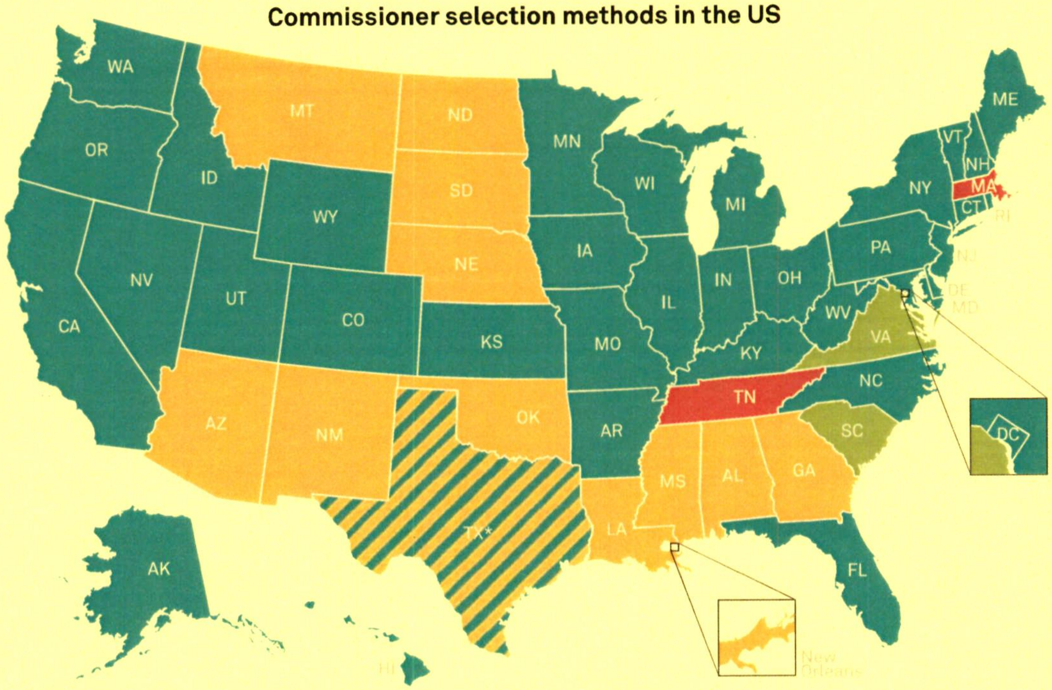
Commissioner selection process/membership

RRA looks at how commissioners are selected in each state. All else being equal, RRA attributes a greater level of investor risk to states in which commissioners are elected rather than appointed. Generally, energy regulatory issues are less politicized when they are not subject to debate in the context of an election.

Realistically, a commissioner candidate who indicates support for the utilities and their shareholders or appears to be amenable to rate increases is not likely to be popular with the voting public. In addition, there might not be specific experience requirements to run for commissioner; so, a newly elected candidate may have a steeper learning curve with respect to utility regulatory and financial issues, which could make discerning what decisions that individual might make more difficult and could increase uncertainty.

However, there have been some notable instances in which energy issues played a key role in gubernatorial/senatorial elections in states where commissioners are appointed, with detrimental consequences for the utilities, e.g., Illinois, Florida, Maryland, and more recently New York, all of which were downgraded by RRA at the time in order to reflect the increased risk associated with increased political scrutiny of the regulatory process and policies within the jurisdiction.

Commissioner selection methods in the US



Appointed | Direct voter elections; elected by district | Elected by General Assembly | Other

Data as of May 15, 2020.
* The Public Utility Commission of Texas members are appointed by the governor, while members of the Railroad Commission of Texas are elected in statewide elections
Map credit: Jose Miguel Fidel C. Javier
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

S&P Global
Market Intelligence

In addition, RRA looks at the commissioners themselves and their backgrounds. Experience in economics and finance and/or energy issues is generally seen as a positive sign. Previous employment by the commission or a consumer advocacy group is sometimes viewed as a negative indicator.

In some instances, new commissioners have very little experience or exposure to utility issues, and in some respects, these individuals represent the highest level of risk, simply because there is no way to foresee what they will do or how long it will take them to "get up to speed." Controversy or "scandal" surrounding an individual and/or the potential for a conflict of interest are also red flags.

Similarly, a high rate of turnover or the tendency to allow vacancies to stand unfilled for a long period of time add to the level of regulatory risk in RRA's view.

For additional information concerning the selection process in each state and the makeup of the commissions, refer to the RRA Regulatory Focus Topical Special Report entitled The Commissioners.

Commission staff/consumer interest

Most commissions have a staff that participates in rate proceedings. In some jurisdictions the staff has a responsibility to represent the consumer interest, and in others, the staff's statutory role is less defined. In addition, there may or may not be: additional state-level organizations that are charged with representing the interests of a certain class or classes of customers, such as the Attorney General or the Consumer Advocate; private consortia or lobbying groups that represent certain customer groups; and/or large-volume commercial and industrial customers that intervene directly in rate cases.

Generally speaking, the greater the number of consumer intervenors, the greater the level of uncertainty for investors. The level of risk for investors also depends on the caliber and influence of the intervening parties and the level of contentiousness in the rate case process. Even though a commission may not adopt an extreme position taken by an intervenor, the inclusion of an extreme position in the record for the case widens the range of possible outcomes, reducing certainty and increasing the risk of a negative outcome for investors. RRA's opinion on these issues is largely based on past experience and observations.

Settlements

In most instances, the ability of the parties to reach agreement without having to go through a fully litigated proceeding is considered constructive, particularly since it reduces the likelihood of court review after the fact. However, RRA also endeavors to ascertain whether the settlements arise because of a truly collaborative approach among the parties, or if they result from concern by the companies that the commissioners' views may be more extreme than the intervenors', or that the intervenors will take a much more extreme position in a litigated framework than in a closed-door settlement negotiation, resulting in a less constructive outcome.

Rate case timing

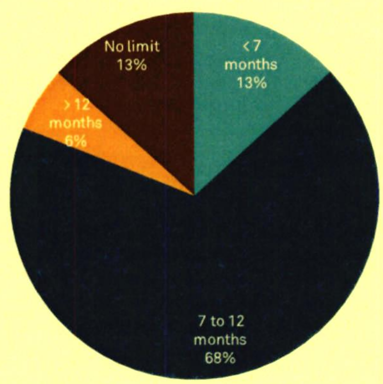
For each state commission, RRA considers whether there is a set time frame within which a rate case must be decided, the length of any such statutory time frame and the degree to which the commission adheres to that time frame.

Generally speaking, RRA views a set time frame as preferable, as it provides a degree of certainty as to when any new revenue may begin to be collected.

About two-thirds of state commissions nationwide have a rule or statute that requires a rate case to be decided within seven to 12 months of filing.

Shorter time frames may apply for limited-issue proceedings, but there are very few states where a rate case will take less than seven months to be decided.

Rate case time frame



Data gathered as of Dec. 3, 2020.
Source: Regulatory Research Associates, and a group within S&P Global Market Intelligence

In addition, a shorter time frame for a decision generally reduces the likelihood that the actual conditions during the first year the new rates will be in effect will vary markedly from the test period utilized to set new rates, thus keeping regulatory lag to a minimum.

Interim procedures

The ability to implement all or a portion of a proposed rate increase on an interim basis prior to a final decision in a rate case is viewed as constructive. However, should the commission approve a rate change that is markedly below the rates implemented on an interim basis, the utility would be required to refund any related over-collections, generally with interest.

In some instances, commission approval is required prior to the implementation of an interim increase and may or may not be easy to obtain, while in others, state law or commission rules permit the companies to implement interim rate increases as a matter of course. In some instances, the commission may establish a date prior to the final decision in the case that will be the effective date of the new rates. In these instances, the company may be permitted to recoup any revenue that was not collected between the effective date and the decision date.

Rate base

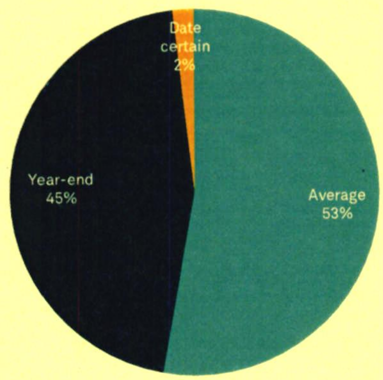
A commission's policies regarding rate base can also impact the ability of a utility to earn its authorized ROE. These policies are often outlined in state statutes, and the commission usually does not have much latitude with respect to these overall policies.

With regard to rate base, commissions are about evenly split between those that employ a year-end, or terminal, valuation and those that utilize an average valuation, with one using a "date certain." In some instances, the commission may employ a different rate base valuation method depending on the utility type or the type of case — general rate case or limited-issue proceeding — or based on the test year selected by the company.

In general, assuming rate bases are rising, i.e., new investment is outpacing depreciation, a year-end valuation is preferable from an investor viewpoint.

Again, this relates to how well the parameters used to set rates reflect actual conditions that will exist during the rate-effective period; hence, the more recent the valuation, the more likely it is to approximate the actual level of rate base being employed to serve customers once the new rates are placed into effect.

Rate base valuation method



Data gathered as of Dec. 3, 2020.
Source: Regulatory Research Associates, and a group within S&P Global Market Intelligence

Some commissions permit post-test-year adjustments to rate base for "known and measurable" items, and, in general, this practice is beneficial to the utilities.

However, the rules with respect to what constitutes a known and measurable adjustment are not always specific, and there can be a good deal of controversy about what does and does not pass muster.

Another key consideration is whether state law and/or the commission generally permit the inclusion in rate base of construction work in progress, or CWIP, for a cash return. CWIP represents assets that are not yet, but ultimately will be, operational in serving customers.

Generally, investors view inclusion of CWIP in rate base for a cash return as constructive, since it helps to maintain cash flow metrics during a large construction cycle. Alternatively, the utilities accrue allowance for funds used during construction, which is essentially booking a return on the construction investment as a regulatory asset that is recoverable from ratepayers once the project in question becomes operational.

While this method bolsters earnings, it does not augment cash flow and does not support credit metrics. For a more in-depth look at rate base issues, refer to the RRA report entitled *Rate base: How would you rate your knowledge of this utility industry fundamental?*

Test period

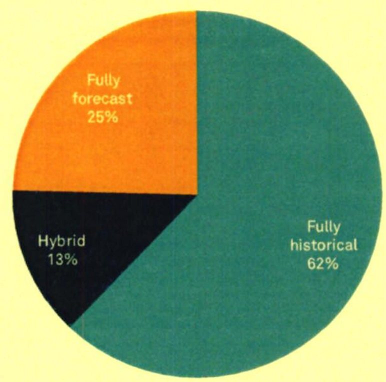
With regard to test periods, there are a number of different practices employed, with the extremes being fully forecast at the time of filing, which is considered to be most constructive, on the one hand, and fully historical at the time of filing, considered to be least constructive, on the other.

Some states utilize a combination of the two, in which a utility is permitted to file a rate case that is based on data that is fully or partially forecast at the time of filing and is later updated to reflect actual data that becomes known during the course of the proceeding.

In these cases, the test year is historical by the time a decision is ultimately rendered, and so regulatory lag remains something of a problem.

Almost two-thirds of the 53 jurisdictions covered by RRA utilize a test year that is historical at the time of filing. As with rate base valuation, in some states, commissions use different test period types for different types of proceedings or for different utility types. The accompanying map shows the predominant treatment in each state.

Rate case test year



Data gathered as of Dec. 3, 2020.
Source: Regulatory Research Associates, and a group within S&P Global Market Intelligence

Many of the jurisdictions allow for known and measurable adjustments to the test year, but the statutes governing the definition of known and measurable can be ambiguous, and there can be wide disagreement among the rate case parties as to which adjustments qualify.

Return on equity

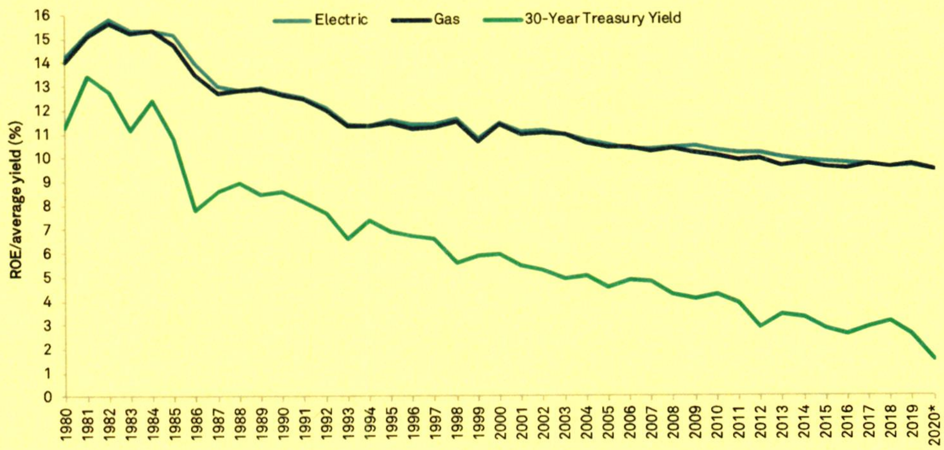
ROE is perhaps the single most litigated issue in any rate case. There are two ROE-related issued that RRA considers when evaluating an individual rate case and the overall regulatory environment: (1) how the authorized ROE(s) compares to the average of returns authorized for energy utilities nationwide over the 12 months or so immediately preceding the decision; and (2) whether the company has been accorded a reasonable opportunity to earn the authorized return in the first year of the new rates.

With regard to the first criterion, RRA looks at the ROEs historically authorized utilities in a given state and compares them to utility industry averages, as calculated in RRA's Major Rate Case Decisions Quarterly Updates. When referring to these "averages," RRA means the average ROE approved in cases decided in a particular year; returns carried over from prior years are not included in the averages.

Intuitively, authorized ROEs that meet or exceed the prevailing averages at the time established are viewed as more constructive than those that fall short of these averages. However, ROEs overall have been declining steadily since 1980, falling below 10% for the first time in 2011 for gas utilities and 2014 for electric utilities, and remaining below that benchmark since.

Looking at the average for cases decided during the first nine months of 2020, overall authorized ROEs for electric utilities fell to 9.5% and for gas utilities fell to 9.45%, the lowest levels seen in the 40+ years RRA has been calculating the averages.

Average authorized ROE in the U.S. /30-year treasury bond yields
Calendar years 1980-2019,Q3'20



Data compiled as of Dec. 3, 2020.
* As of Sept. 30, 2020.
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

Interest rates have been a key factor driving authorized ROEs downward, but commission determinations that various alternative or innovative ratemaking mechanisms have reduced risk for the companies and their investors across the board have played a role as well.

Consumer advocacy organizations continue to argue that lower returns on equity are warranted because of risk-reducing factors, such as limited-issue riders, decoupling mechanisms, alternative regulation constructs and changes to basic rate design.

This presents a stark contrast to views held by both fixed-income and equity investors that utilities are becoming more risky because of large capital spending plans, limited sales growth potential, changes in the structure of the industry and the regulatory framework occasioned by new technologies and the public policy shift favoring renewable resources, federal tax reform impacts, interest rate volatility and now the challenges being posed by overall market volatility as the coronavirus pandemic drags on.

With regard to the second consideration, in the context of a rate case, a utility may be authorized a relatively high ROE, but factors such as capital structure changes, the age or "staleness" of the test period, rate base and expense disallowances, the manner in which the commission chooses to calculate test year revenue, and other adjustments may render it unlikely that the company will earn the authorized return on a financial basis.

With respect to capital structure, most commissions utilize the company's actual capital structure at a given point in time, but in some instances the commission may rely on a hypothetical capital structure that represents a mix of debt and equity that the commission views as more reasonable or economically efficient. If the commission uses a capital structure that is more highly leveraged than the company's actual structure, this will lower the overall return authorized and the revenue requirement ultimately approved, and may render it more difficult for the company to earn the authorized return on its actual equity.

Even if a utility is accorded a "reasonable opportunity" to earn its authorized ROE, there is no guarantee that the utility will do so. The revenue requirement and ROE established in a rate case are targets that the commission believes the established rates will allow the utility to attain.

Various factors such as weather, management efficiency, unexpected events, demographic shifts, fluctuations in economic activity and customer participation in energy conservation programs may cause revenue and earnings to vary from the targets set.

Hence, the overall decision may be restrictive from an investor viewpoint even though the authorized ROE is equal to or above the average. For a more detailed discussion of the rate case process, refer to the RRA report entitled *The Rate Case Process: A Conduit to Enlightenment*.

Accounting

RRA looks at whether a state commission has permitted unique or innovative accounting practices designed to bolster earnings. Such treatment may be approved in response to extraordinary events such as storms or for volatile expenses such as pension costs. Generally, such treatment involves deferral of expenditures that exceed the level of such costs reflected in base rates. In some instances, the commission may approve an accounting adjustment to temporarily bolster certain financial metrics during the construction of new generation capacity.

From time to time, commissions have approved frameworks under which companies were permitted to, at their own discretion, adjust depreciation in order to mitigate under-earnings or eliminate an overearnings situation without reducing rates. These types of practices are generally considered to be constructive from an investor viewpoint.

Federal tax law changes enacted in 2017 and effective in 2018, particularly the reduction in the corporate federal income tax rate to 21% from 35%, had sweeping impacts on utilities, with a flurry of ratemaking activity during 2018 and 2019. While the issues have been addressed for most of the RRA-covered companies, there are still some that have not.

For most of the companies that have already addressed the implications with regulators, rates have been reduced to reflect the ongoing impact of the lower tax rate, refunds to return to ratepayers related deferred over-collections are occurring over a relatively short time period, and amortization of the related excess accumulated deferred income tax liabilities is occurring over varying time periods — generally over the lives of the companies' assets for protected amounts and most often five to 10 years for unprotected amounts. RRA has been monitoring these developments and their impact on credit ratings and investor risk.

The prospect for changes under the Biden administration that would reverse, at least in part, the 2018 corporate income tax rate reduction raises the level of risk for all companies across the sector.

Alternative regulation

Generally, RRA views as constructive the adoption of alternative regulation plans that are designed to streamline the regulatory process and cost recovery or allow utilities to augment earnings in some way. These plans can be broadly or narrowly focused. Narrowly focused plans may: allow a company or companies to retain a portion of cost savings relative to a base level of some expense type, e.g., fuel, purchased power, pension cost, etc.; permit a company to retain for shareholders a portion of off-system sales revenues; or provide a company an enhanced ROE for achieving operational performance and/or customer service metrics or for investing in certain types of projects, e.g., demand-side management programs, renewable resources, new traditional plant investment.

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Select alternative regulation plans in the U.S.[1]

Formula-based ratemaking	Multi-year rate plans	Earnings sharing	Incentive ROEs	Electric fuel/ Gas costs	Capacity release/ Off-system sales
Alabama	California	Alabama	Colorado	Indiana	Colorado
Arkansas	Connecticut	Arkansas	Iowa	Idaho	Delaware
Georgia	Dist. of Columbia[2]	Connecticut	Kansas[2]	Iowa	Florida
Hawaii	Florida	Florida	Mississippi	Illinois	Indiana
Illinois	Georgia	Georgia	Montana[2]	Kansas	Iowa
Louisiana—NOCC	Hawaii	Hawaii	Nevada	Kentucky	Kentucky
Louisiana—PSC	Louisiana—NOCC	Idaho	Ohio	Maryland	Louisiana
Maine	Maine	Iowa	Virginia	Missouri	Massachusetts
Maryland[2]	Maryland[2]	Kansas	Washington[2]	Montana	Missouri
Massachusetts	Massachusetts	Louisiana—NOCC	Wisconsin	New Jersey	New Jersey
Minnesota	Minnesota	Louisiana—PSC		Oregon	New York
Mississippi	New Hampshire	Maine		Tennessee	North Dakota
Pennsylvania	New York	Massachusetts		Rhode Island	New Jersey
Tennessee	Ohio	Mississippi		Utah	Oklahoma
Texas—RRC	Pennsylvania[2]	Nevada		Vermont	Pennsylvania
Vermont	Rhode Island	New Mexico		Virginia	Rhode Island
	South Carolina	New York		Wyoming	South Dakota
	Utah	Oklahoma			Tennessee
	Vermont	Oregon			Texas—PUC
	Washington[2]	Rhode Island			Texas—RRC
	Wisconsin	South Dakota			Utah
		Vermont			
		Virginia			
		Washington			
		Wisconsin			

As of Dec. 3, 2020.
NOCC=New Orleans City Council; PSC=Public Service Commission; PUC=Public Utility (ies) Commission; RRC=Railroad Commission.
[1]Mechanism in place for at least on utility in the state, unless otherwise noted.
[2]Specifically permitted by rule, law or commission order; no mechanism currently in place.
Source: Regulatory Research Associates, a group withinn S&P Global Market Intelligence.

The use of plans with somewhat broader scopes, such as ROE-based earnings sharing plans, is, for the most part, considered to be constructive, but it depends upon the level of the ROE benchmarks specified in the plan and whether there is symmetrical sharing of earnings outside the specified range.

Some states employ even more broad-based plans, known as formula-based ratemaking. Formula-based ratemaking plans generally refer to frameworks where the commission established a revenue requirement, including a target ROE, capital structure and rate of return for an initial rate base as part of a traditional cost of service base rate proceeding. Once the initial parameters are set, rates may adjust periodically to reflect changes in expenses, revenue and capital investment. These changes generally occur on an annual basis, and there may be limitations on the percentage change that can be implemented in a given year or period of years.

Others use multiyear rate plans, under which the commission approves a succession of rate changes that are designed to take into account anticipated changes in revenues, expenses and rate base. The commission may approve a static authorized ROE or the plan may provide for adjustments to the ROE during the plan's term. These plans often include true-up mechanisms to ensure that the company makes the investments it has committed to make at the inception of the plan. The plans often include earnings sharing mechanisms and may also include performance-based ratemaking provisions.

Court actions

This aspect of state regulation is particularly difficult to evaluate. Common sense would dictate that a court action that overturns restrictive commission rulings is a positive. However, the tendency for commission rulings to come before the courts and for extensive litigation as appeals go through several layers of court review may add an untenable degree of uncertainty to the regulatory process. Also, similar to commissioners, RRA looks at whether judges are appointed or elected, as political considerations are more likely to influence elected jurists.

Legislation

While RRA's Commission Profiles provide statistics regarding the makeup of each state legislature, RRA has not found a specific correlation between the quality of energy legislation enacted and which political party controls the legislature. Of course, in a situation where the governor and legislature are of the same political party, generally speaking, it is easier for the governor to implement key policy initiatives, which may or may not be focused on energy issues.

Key considerations with respect to legislation include: how proscriptive newly enacted laws are; whether the bill is clear or ambiguous and open to varied interpretations; whether it balances ratepayer and shareholder interests rather than merely "protecting" the consumer; and whether the legislation takes a long-term view or is a "knee-jerk" reaction to a specific set of circumstances.

Legislative activity impacting utility regulatory issues has been robust in recent years, as state policymakers, utilities and industry stakeholders seek to address "disruptors" that challenge the traditional regulatory framework. RRA follows these developments closely with an eye toward assessing whether the states are taking a balanced, sustainable approach and how legacy utility providers will be affected by the policies being adopted.

Corporate governance

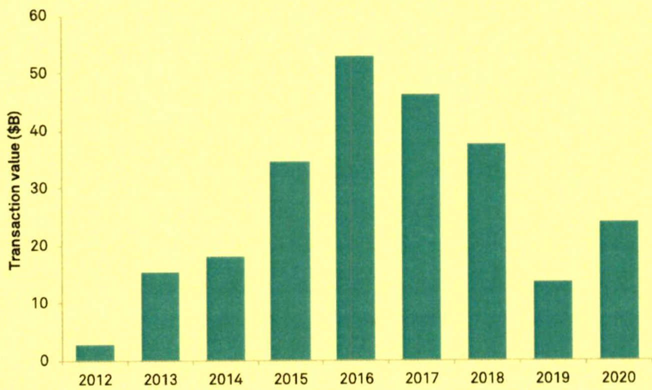
The term corporate governance generally refers to a commission's ability to intervene in a utility's financial decision-making process through required preapproval of all securities issuances, limitations on leverage in utility capital structures, dividend payout limitations, ring fencing and authority over mergers. Corporate governance may also include oversight of affiliate transactions.

In general, RRA views a modest level of corporate governance provisions to be the norm, and in some circumstances, these provisions, such as ring fencing, have protected utility investors as well as ratepayers. However, a degree of oversight that would allow the commission to "micromanage" the utility's operations and limit the company's financial flexibility would be viewed as restrictive.

Merger and acquisition activity

Though merger and acquisition activity slowed during the first have of 2020, it was fairly robust in prior years, with more than 55 deals aggregating to $208 billion in transaction value announced between 2012 and 2019. Thus far in 2020, seven transactions aggregating to $24 billion have been announced.

Utility mergers announced, 2012-2020



Data gathered as of Dec. 3, 2020
Source: S&P Global Market Intelligence.

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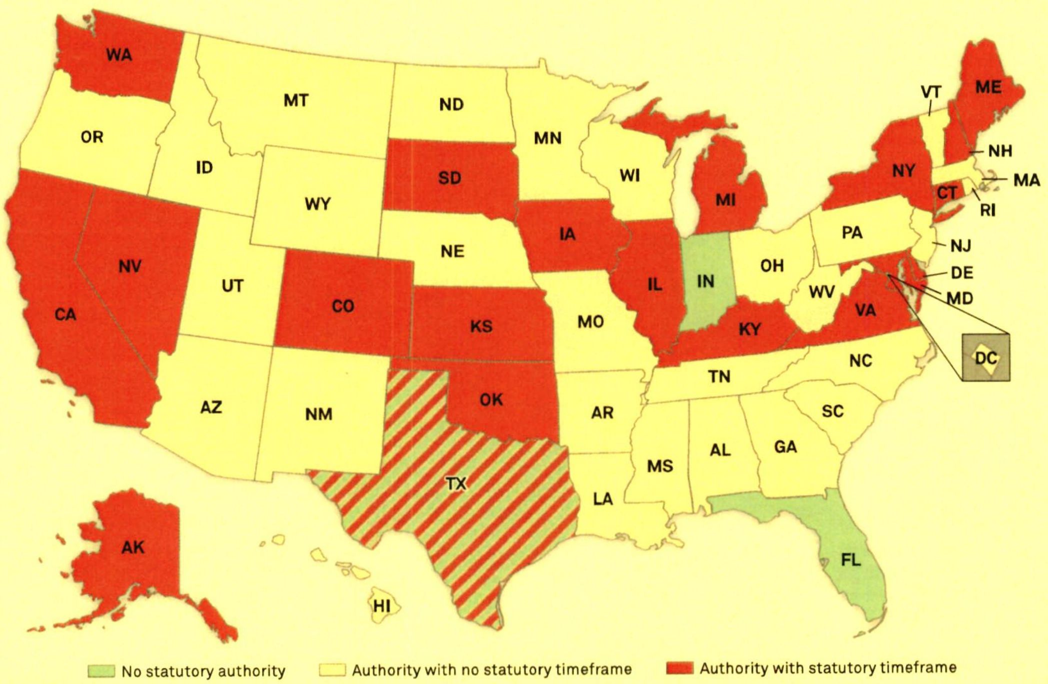
Aside from the involved entities' boards of directors and shareholders, deals involving regulated utilities must pass muster with some or all of a variety of federal and state regulatory bodies. The states generally look at the day-to-day issues such as the impact on rates, safety and reliability.

Looking more closely at the role of state regulators, 50 of the 53 non-federal jurisdictions RRA follows have some type of review authority over proposed mergers. In Indiana and Florida, preapproval by state regulators is not required before a transaction can proceed. In Texas, prior approval by the Public Utility Commission of Texas is required before a transaction involving an electric utility can take place, but Railroad Commission of Texas approval is not required for a transaction involving a local gas distribution company.

In evaluating a commission's stance on mergers, RRA looks at several broad issues such as whether there is a statutory time frame for consideration of a transaction and how long the process actually took.

For the 50 jurisdictions where commission preapproval is required, the review process and standards vary widely. In 20 of the jurisdictions, the commission must complete a merger review within a prescribed period of time, but in the remaining jurisdictions there is no timeline for their merger reviews, which means a commission could effectively "pocket veto" a transaction by delaying a decision until the merger agreement between the applicants expires or until pursuing the transaction is no longer feasible.

Utility mergers — statutory authority



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As of Aug. 14, 2019.
In Texas, commission review of mergers involving electric utilities are subject to commission review; mergers of local gas distribution companies are not.
Source: Regulatory Research Associates, an offering of S&P Global Market Intelligence
Map credit: Arleigh Andes

In addition, RRA considers whether a settlement was reached among the parties and, if so, whether the commission honored that settlement or required additional commitments. RRA also examines how politicized the process was: Did the governor, or in the District of Columbia the mayor, play a role? Did the transaction garner a lot of local media attention in the affected jurisdiction?

The definition of what constitutes a transaction that is subject to review can vary widely and may include sales of individual assets or a marginal minority interest as well as larger transactions where a controlling interest or the whole company is changing hands. State law often lacks specificity with respect to what constitutes a transaction that is subject to regulatory review.

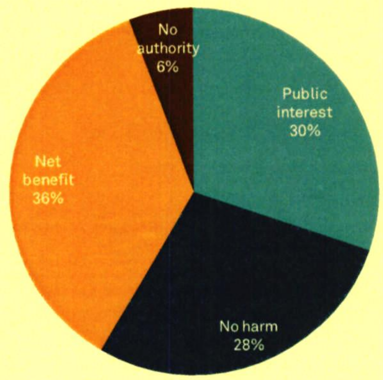
In cases where the state commission has authority over mergers, RRA reviews the type of approval standard that is contained in state law and/or has been applied by the commission in specific situations.

For discussion purposes, RRA groups the statutory standards into three general buckets: public interest, which is generally thought to be the least restrictive, no net ratepayer harm, which is somewhat more restrictive, and net ratepayer benefit, which is the most restrictive.

In many instances, regulators have broad discretion to interpret what the statutes may mean by these terms. So, the standard of review is often more readily apparent by looking at how prior transactions were addressed than by reading the statutory language — one commission's public interest might be another's net ratepayer benefit.

More narrowly, RRA reviews the conditions placed on the commission's approval of these transactions, including: whether the company will be permitted to retain a portion of any merger-related cost savings; if guaranteed rate reductions or credits are required that are or are not directly related to merger savings; whether certain assets were required to be divested; what type of local control and work force commitments are required; whether there are requirements for certain types of investment to further the state's public policy goals that may or may not be consistent with the companies' business models and whether the related costs will be recoverable from ratepayers; and whether the commission placed stringent limitations on capital structure and/or dividend policy or composition of the board of directors.

State commission merger review standards



As of Dec. 3, 2020.
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

See the Merger activity section of each Commission Profile for additional detail on statutory guidelines for merger reviews and detail concerning approved/rejected mergers and the associated conditions imposed.

Electric regulatory reform/industry restructuring

By electric industry restructuring, RRA means implementing a framework under which some or all retail customers have the opportunity to obtain their generation service from a competitive supplier. In a movement that began in the mid-1990s, about 20 jurisdictions have implemented retail competition for all or a portion of the customers in the utilities' service territories. The last of the transition periods ended as recently as 2011, when restructuring-related rate freezes concluded for certain Pennsylvania utilities.

RRA classifies each of the regulatory jurisdictions into one of three tiers based on their relative electric industry restructuring status.

Now that transition periods are completed, RRA has focused more on how standard-offer or default service is procured for customers who do not select an alternative provider and how much, if any, market-price risk the utility must absorb.

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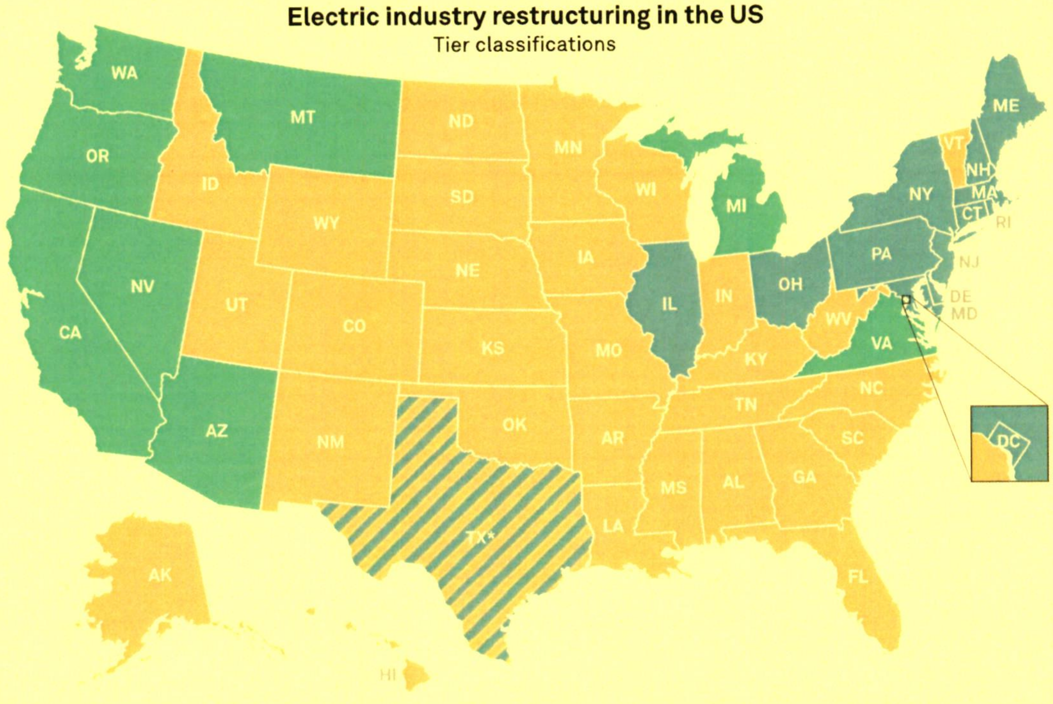
However, initiatives are underway in Arizona and Virginia that could lead to an expansion of retail competition in those jurisdictions.

RRA is also monitoring states where initiatives are underway to revamp the way the transmission and distribution system is configured. These efforts have arisen from expansion of renewables and a focus on grid reliability/resiliency. RRA refers to this trend as electric industry restructuring phase two.

Electric industry restructuring in the US

Tier classifications



Tier 1 Power prices are competitively determined for all retail customers within the jurisdiction; both standard-offer-service and retail-access customers. Retail access is permitted for all customers. For the most part, the utilities in these jurisdictions do not own generation.

Tier 2 Retail access is permitted to at least some customers/customer classes. Competitively priced power is limited to retail access customers. Power prices for standard-offer-service customers remain regulated. For the most part, utilities remain vertically integrated.

Tier 3 Power prices are fully regulated for all retail customers. All retail customers must purchase their power from the franchised utility. Utiities are vertically integrated.

Data gathered as of May 11, 2020.
* In Texas, retail competition was implemented only within the ERCOT footprint, but within that footprint, power is competitively priced for all customers. Outside of ERCOT, power prices are regulated and the utilities are vertically integrated.
ERCOT = Electric Reliability Council of Texas Inc.
Map credit: Jose Miguel Fidel C. Javier
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

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Similar to phase one, the recovery of stranded costs and ways to ensure universal service are real concerns. In phase two, the conversation is further complicated by the need to ensure not just the physical, but also the cybersecurity of the grid.

Several states got out in front of these issues and are addressing them in a broad-based way, while others are taking a more piecemeal approach dealing with deployment of advanced metering, distributed generation and net metering, time-of-use rates, cybersecurity and other issues on an individual basis.

The pressure to resolve these issues is increasing, as customers and policymakers want the changes in place yesterday. As these issues unfold, the same issues that were of concern in the first phase of restructuring will warrant close attention.

Gas regulatory reform/industry restructuring

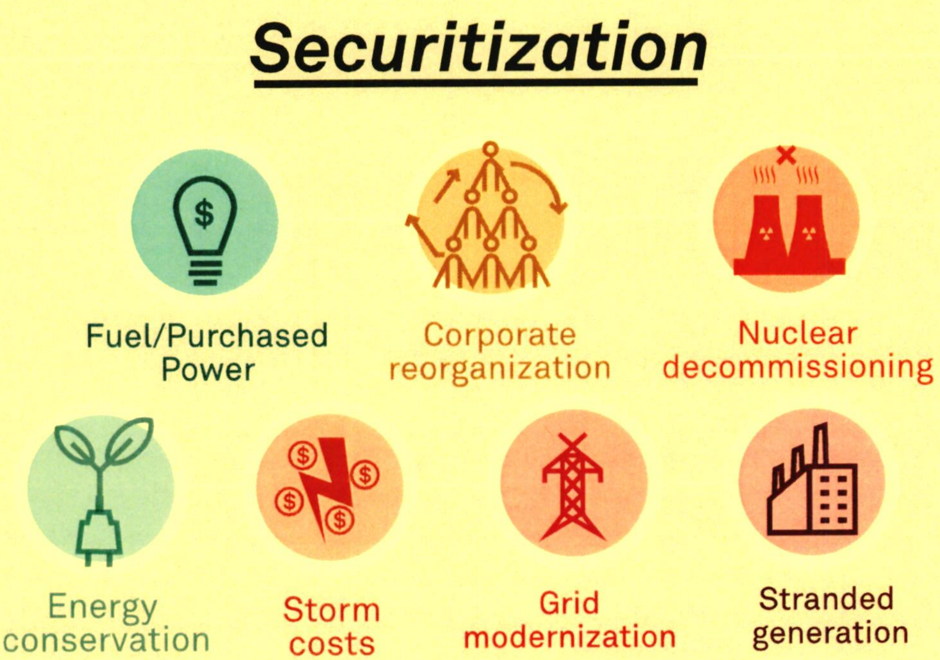
Retail competition for gas supply is more widespread than is electric retail competition, and the transition was far less contentious as the magnitude of potential stranded asset costs was much smaller. Similar to electric retail competition, RRA generally does not view a state's decision to implement retail competition for gas service as either positive or negative from an investor viewpoint. RRA primarily considers the manner in which stranded costs were addressed and how default-service obligation-related costs are recovered.

Securitization

As it pertains to utilities, securitization refers to the issuance of bonds backed by a specific existing revenue stream that has been "guaranteed" by regulators and/or state legislators.

Securitization generally requires a utility to assign the designated revenue stream to a "bankruptcy remote" special-purpose entity or trust, which in turn issues bonds that will be serviced by the transferred revenue stream. The funds

Use of securitization by US utilities



Data as of May 15, 2020.
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence.

raised by the bond issuance flow to the utility, and in many cases are used to retire outstanding higher-cost debt and/or buy back common equity, thus lowering the company's weighted average cost of capital.

While it is unclear if securitization requires legislation, a specific legislative mandate generally improves the rating accorded the securitization bonds and lowers the associated cost of capital, given that a legislatively supported revenue stream may be more difficult to rescind than a stand-alone order of a state commission. In RRA's experience, no state commission has authorized securitization in the absence of enabling legislation.

Securitization is viewed as an attractive option because it allows regulators to minimize the customer rate impacts related to recovery of a particular utility asset. The carrying charge on the asset would be the lower interest rate applied to a highly rated, usually AAA, corporate bond rather than the utility's weighted-average cost of capital or even the interest rate on typical utility bonds, which are generally rated BBB and carry higher interest rates.

At the same time, securitization simultaneously reduces the investment risk for the utility by providing the utility up front recovery of its investment in what are usually non-revenue-producing assets. The company can then redeploy those investment dollars elsewhere.

The energy industry's introduction to asset securitization occurred in the mid-1990s, when legislation was enacted in certain states enabling utilities to securitize mandated conservation investments.

In the late 1990s and early 2000s, several states that implemented retail competition for electric generation enacted legislation allowing securitization to be used for recovery of uneconomic generating or other physical assets, above-market-priced purchased power contracts, regulatory assets, nuclear decommissioning costs, etc., that had the potential to become unrecoverable, or stranded, in a fully competitive market for generation supply.

In recent years, changing industry dynamics have once again begun to raise concerns about the prospects of stranded costs, and securitization is being used to address generation facilities that are retired prematurely.

Securitization has also been used as part of reorganization plans, to finance fuel/purchased power balances, distribution system improvements and extraordinary storm costs.

Adjustment clauses

Since the 1970s, adjustment clauses have been widely utilized to allow utilities to recover fuel and purchased power costs outside a general rate case, as these costs are generally subject to a high degree of variability. In some instances, a base amount is reflected in base rates, with the clause used to reflect variations from the base level, and in others, the entire annual fuel/purchased power cost amount is reflected in the clause.

Over time, the types of costs recovered through these mechanisms were expanded in some jurisdictions to include such items as pension and healthcare costs, demand-side management program costs, Federal Energy Regulatory Commission-approved regional transmission organization costs, new generation plant investment, and transmission and distribution infrastructure spending.

RRA generally views the use of these types of mechanisms as constructive but also looks at the frequency at which the adjustments occur, whether there is a true-up mechanism, whether adjustments are forward-looking in nature where applicable, whether a cash return on construction work in progress is permitted and whether there may be some ROE incentive for certain types of investment.

Another class of adjustment clauses, revenue decoupling mechanisms, allow utilities to adjust rates between rate cases to reflect fluctuations in revenues versus the level approved in the most recent base rate case that are caused by a variety of factors.

Some of these factors, such as weather, are beyond a utility's control, and the mechanism can work both ways — in other words it can allow the company to raise rates to recoup revenue losses associated with weather trends that

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reduce customer usage and can also require the company to reduce rates when weather trends cause usage to be higher than normal.

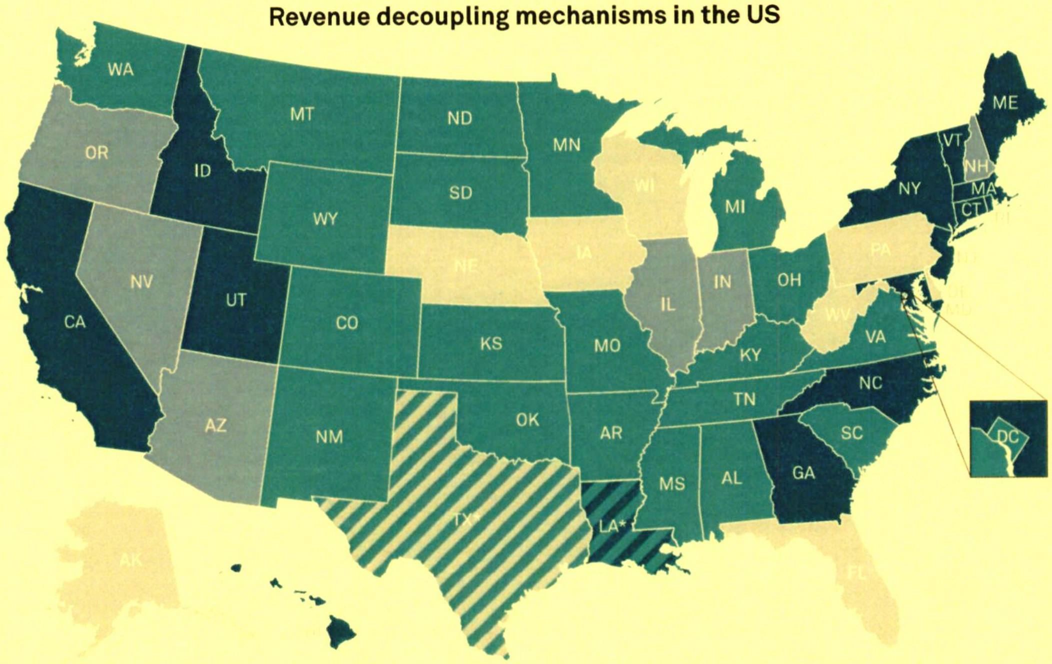
As energy efficiency initiatives have expanded, decoupling mechanisms have also been implemented to reduce the disincentive for utilities in pursuing energy conservation programs by making the utilities whole for reductions in sales volumes and revenues associated with customer participation in these programs.

Some of these mechanisms also allow the utility to adjust rates to reflect fluctuations in customer usage that are brought about by broader economic issues, such as demographic shifts, the migration of large commercial/industrial customers to other service areas, the shutdown of such businesses due to changes in their respective industries, recessions and, theoretically, crises such as the current COVID-19 pandemic.

RRA considers a decoupling mechanism that adjusts for all three of these factors to be a "full" decoupling mechanism and designates those that address only one or two of these factors as "partial" decoupling mechanisms.

Generally, an adjustment mechanism would be viewed as less constructive if there are provisions that limit the utility's ability to fully implement revenue requirement changes under certain circumstances, e.g., if the utility is earning in excess of its authorized return.

Revenue decoupling mechanisms in the US



As of March 31, 2020.
* In Louisiana and Texas, there are two different regulatory commissions, with differing policies.
Map credit: Jose Miguel Fidel C. Javier
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

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Integrated resource planning

RRA generally considers the existence of a resource-planning process to be constructive from an investor viewpoint as it may provide the utility at least some measure of protection from hindsight prudence reviews of its resource acquisition decisions. In some cases, the process may also provide for preapproval of the ratemaking parameters and/or a specific cost for the new facility. RRA views these types of provisions as constructive, as the utility can make more informed decisions as to whether it will proceed with a proposed project.

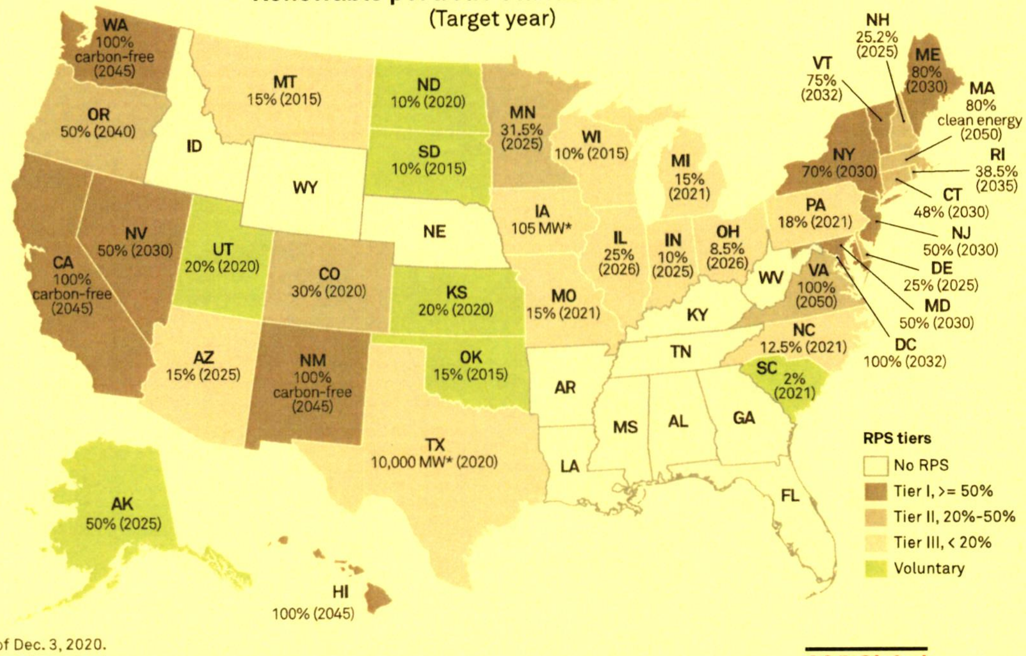
Renewable energy/emissions requirements

As with retail competition, RRA does not take a stand as to whether the implementation of renewable portfolio standards, or RPS, or an emissions reduction mandate is positive or negative from an investor viewpoint. However, RRA considers whether there is a defined preapproval and/or cost-recovery mechanism for investments in projects designed to comply with these standards.

RRA also reviews whether there is a mechanism such as a rate increase cap that ensures that meeting the standards does not impede the utility's ability to pursue other investments and/or recover increased costs related to other facets of its business. RRA also looks at whether incentives, such as an enhanced ROE, are available for these types of projects.

Renewable portfolio standards in the US

(Target year)



As of Dec. 3, 2020.
* Already reached.
Map credit: Elizabeth Thomas
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence

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In recent years, the focus on renewables has surged across the United States, with all but 12 jurisdictions developing some type of RPS. The proliferation of renewables, particularly those that are customer-sited or distributed resources, and the related rise of battery storage and electric vehicles have raised questions regarding the traditional centralized industry framework and whether that framework needs to change, perhaps ushering in a second phase of electric industry restructuring. How these changes are implemented is something RRA will be watching closely.

With respect to emissions, the threat of a federal carbon emissions standard for utilities and the spread of state-level initiatives have caused many companies to rethink legacy coal-fired generation, causing plants to be shut down earlier than anticipated. How the commissions address these "stranded costs" also poses a risk for investors and bears monitoring.

The zero-carbon movement has also caused utilities/states to reexamine investments in nuclear facilities and, in some cases, to develop programs designed to support the continued operation of those facilities even though they may not be economic from a competitive-markets standpoint. How these issues are addressed is something that RRA is also monitoring.

Rate structure

RRA looks at whether there are economic development or load-retention rate structures in place and, if so, how any associated revenue shortfall is recovered.

RRA also looks at whether there have been steps taken over recent years to reduce/eliminate interclass rate subsidies, i.e., to equalize rates of return across customer classes.

In addition, RRA considers whether the commission has adopted or moved toward a straight-fixed-variable rate design, under which a greater portion of a company's fixed costs are recovered through the fixed monthly customer charge, thus according the utility greater certainty of recovering its fixed costs.

This is increasingly important in an environment where weather patterns are more volatile, organic growth is limited due to the economy and the proliferation of energy efficiency/conservation programs, and large amounts of non-revenue-producing capital spending is required to upgrade and strengthen the grid.

Fixed vs. variable costs

Fixed	Variable
Depreciation	Gas commodity
Delivery O&M	Electric commodity
Property taxes	Generation O&M
Return on investment	
Customer service	

As of Dec.3, 2020.
Source: Regulatory Research Associates, a group within S&P Global Market Intelligence.

In conjunction with the influx of renewables and distributed generation, the issue of how to compensate customer-owners for excess power they put back into the grid has become increasingly important and, in some instances, controversial. How these pricing arrangements, known as net metering, are structured can impact the ability of the utilities to recover their fixed distribution system costs and by extension their ability to earn their authorized returns.

Contributors: Charlotte Cox, Jim Davis, Russell Ernst, Lisa Fontanella, Monica Hlinka, Jason Lehman, Dan Lowrey and Amy Poszywak

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April 16, 2021

HAND DELIVERED

Mr. Adam J. Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket 20210034-EI, Petition for Rate Increase by Tampa Electric Company

Dear Mr. Teitzman:

Enclosed for filing in the above docket are the original and seven (7) copies of Tampa Electric Company's Request for Confidential Classification and Motion for Protective Order of certain information contained in Exhibit KDM-1, Document Nos. 4 and 7 to the testimony of Tampa Electric witness Kenneth D. McOnie.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer via the runner delivering same.

Thank you for your assistance in connection with this matter.

Sincerely,

Malcolm N. Means

Malcolm N. Means

MNM/bmp
Enclosure
cc: Richard Gentry, Public Counsel (w/encl.)
Jon Moyle, FIPUG (w/encl.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric Company	)	
for an increase in its base rates and service	)	DOCKET NO. 20210034-EI
charges and other relief	)	
	)	FILED: April 16, 2021

TAMPA ELECTRIC COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
AND REQUEST FOR TEMPORARY PROTECTIVE ORDER

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, hereby requests confidential classification of the yellow highlighted information contained in the following described document(s) ("the Document(s)") stamped "CONFIDENTIAL" and all information that is or may be printed on yellow paper stock stamped "CONFIDENTIAL" within the Document(s), all of said confidential information being hereinafter referred to as ("Confidential Information.").

Description of the Document(s)

The information for which confidential treatment is requested is highlighted in yellow on Exhibit KDM-1, Document Nos. 4 and 7, to the testimony of Tampa Electric witness Kenneth D. McOnie. In support of this request, the company states:

1. Subsection 366.093(1), Florida Statutes, provides that any records "found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1), Florida Statutes [requiring disclosure under the Public Records Act]." Proprietary confidential business information includes but is not limited to: (a) trade secrets; (b) internal auditing controls and reports of internal auditors; (c) security measures, systems, or procedures; (d) information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or

services on favorable terms; (e) information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information; and (f) employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. §366.093(3)(c)-(f), Fla. Stat. The Confidential Information that is the subject of this request and motion falls within these statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

2. Attached hereto as Exhibit "A" is a justification for confidential treatment of the Confidential Information contained in the Documents.

3. Attached hereto as Exhibit "B" are two public versions of the Documents with the Confidential Information redacted, unless previously filed as indicated.

4. The Confidential Information contained in the Documents is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

5. For the same reasons set forth herein in support of its request for confidential classification, Tampa Electric also moves the Commission for entry of a temporary protective order pursuant to Rule 25-22.006(6)(a) of the Florida Administrative Code.

Requested Duration of Confidential Classification

6. Pursuant to Rule 25-22.006(9)(a), Tampa Electric requests that the Confidential Information be treated by the Commission as confidential proprietary business information for 18 months. If, and to the extent that the company is in need of confidential classification of the Confidential Information beyond the 18-month period set forth in the Commission rule, the justification and grounds for such extended confidential treatment are set forth in Exhibit "C" to this request and motion.

WHEREFORE, Tampa Electric Company respectfully requests that the Confidential Information that is the subject of this request and motion be accorded confidential classification for the reasons set forth herein and for 18 months. The company further moves for the entry of a temporary protective order pursuant to Rule 25-22.006(6)(c), Florida Administrative Code, protecting the Confidential Information from public disclosure.

DATED this 16th day of April, 2021.

Respectfully submitted,

Malcolm N. Means

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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion, filed on behalf of Tampa Electric Company, has been furnished by electronic mail on this 16th day of April, 2021 to the following:

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Gabriella Passidomo
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Malcolm N. Means

ATTORNEY

JUSTIFICATION FOR CONFIDENTIAL TREATMENT

Document Description	**Bates Page Nos.**	**Detailed Description**	**Rationale**
Direct Testimony of Kenneth D. McOnie Exhibit KDM-1 Document No. 4	27	Entire Page	(1)
Direct Testimony of Kenneth D. McOnie Exhibit KDM-1 Document No. 7	39-63	Entire Page	(1)

(1) The confidential information contained in this document contains the proprietary work product of S&P Global Market Intelligence ("S&P"). This work product is proprietary research that is only available to clients that subscribe to S&P news, research, and data. Public disclosure would be inconsistent with the terms of the subscription and could impair the ability of Tampa Electric Company to access this and other similar information. Public disclosure would also impair S&P's competitive interests. As a result, this constitutes "information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." §366.093(3)(d)-(e), Fla. Stat. This information is protected by Section 366.093(3), Florida Statutes.

PUBLIC VERSION(S) OF THE DOCUMENT(S)

Attached hereto (unless previously filed as may be noted below) are two public versions of the Document(s) with the Confidential Information redacted.

Public Version(s) of the Document(s) attached ___

Public Version(s) of the Document(s) previously filed 4/16/21