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FERC's Wellinghoff Could Clash With Feed-In Tariff Advocates

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FERC Chairman Jon Wellinghoff's recent comments on the difficulty of implementing feed-in tariffs (FIT) could signal an upcoming clash with proponents of the increasingly popular renewable energy incentives as legislation enabling greater action by the states on the tariffs is slated to be considered in the coming months or next year.

In recent comments, Wellinghoff argued that the implementation of feed-in tariffs would be problematic given existing federal laws, and that creating bid-based renewable energy solicitation processes would bring renewable energy onto the grid with less cost to consumers. But proponents of feed-in tariffs disagree, arguing that the certainty provided by the tariffs as well as the unaccounted costs of creating project bid proposals mean the tariffs bring renewable energy at lower costs to consumers.

Feed-in tariffs, which have been widely used in parts of Europe to expand solar and other renewable energy resources, provide generators -- including buildings and homes that install the technologies -- a guaranteed payment for their surplus electricity that utilities are required to purchase at the payment rate over a set period of time. The tariffs are gaining traction at the state level -- for example, the National Association of Regulatory Utility Commissioners recently adopted a resolution supporting state commissioners' role in promoting such programs -- but have faced implementation hurdles at the federal level due to constraints in the Public Utility Regulatory Policies Act (PURPA) and the Federal Power Act (FPA).

During the Gridwise Global Forum on Sept. 21-23, Wellinghoff responded to a question about feed-in tariffs by saying that, in general, "Feed-in tariffs, I think, are going to have some difficulty because of that PURPA issue, and I think there's an alternative to a feed-in tariff . . . it's called an RPS or renewable portfolio standard," adding that a properly structured RPS can be "an effective substitute to a feed-in tariff."

For this to occur, Wellinghoff said that a state could create a set-aside in its RPS for a particular resource, such as wind or solar, and then mandate that utilities acquire a certain amount of power by a certain date from that power resource. "You don't tell [the utility] what the price is, you just say 'go acquire it.'" With this RPS in place, Wellinghoff said that a market for that type of resource would be set up and operated on a bid basis. "Ultimately the consumer saves money. It's cheaper than a feed-in tariff because they get those resources at the best price," Wellinghoff said.

But proponents of feed-in tariffs -- including sources with the FIT Coalition, a leading national advocacy group on the issue -- say Wellinghoff's arguments ignore the "parasitic transaction costs" that are associated with bid solicitation processes, notably the high cost of creating a project proposal paired with the high percentage (more than 90 percent in California, for example) of projects that are rejected. With the costs associated with performing interconnection studies and other project needs in the range of $100,000 to $500,000, a source with the FIT Coalition says, tens and potentially hundreds of millions of dollars are lost by developers in just trying to get projects approved. Those dollars, the source says "evaporate in totally unnecessary transaction costs."

With their fixed, long-term price and transparent processes, proponents say feed-in tariffs are not only a more cost effective alternative to bid-based processes but can work in tandem with an RPS. A source with the left-leaning think tank Center for American Progress (CAP) says that setting the electricity price for the feed-in tariff at the avoided cost level and then creating a fixed credit through the RPS for the energy developer provides the developer with a rate of return and brings energy onto the grid. The CAP source adds as well that an auction or bid-solicitation process "sounds good, but it doesn't actually lead to everything you want," particularly a transparent process and certainty for project developers.

While proponents say that workarounds exist for states to implement feed-in tariffs within the confines of existing federal law -- including those noted in a recent report from DOE's National Renewable Energy Laboratory, recently-introduced legislation by Sen. Bernie Sanders (I-VT) would clear the way for states to implement feed-in tariff programs without those concerns. Similar to an amendment added by Reps. Jay Inslee (D-WA) and Kathy Castor (D-FL) to the House-passed energy bill, Sanders' legislation states that notwithstanding any other provision in PURPA or FPA, "a State legislature or regulatory authority may set the rates for a sale of electric energy by a facility generating electric energy from renewable energy sources pursuant to a State approved production incentive program under which the facility voluntarily sells electric energy."

"We thought it was important to have a stand-alone bill on this issue to continue to bring focus and attention to this issue," says a Senate source on the bill, saying that there has been a "new urgency" to address states' uncertainty about what program they can create since FERC released an order on July 15 concluding that California's feed-in tariff proposal was preempted by the FPA because it sets rates "for wholesale sales in interstate commerce by public utilities," and that states' role in setting wholesale rates "is limited to determining 'avoided cost' rates for qualifying facilities pursuant to [PURPA]."

The Senate source says proponents are hopeful that the bill can move quickly given that it simply clarifies to states that "the federal government won't stand in your way" in creating the program and will allow states that are interested in moving forward to do so.

Wellinghoff could not be reached for comment to react to the arguments made by feed-in tariff proponents.