EDITOR-IN-CHIEF'S PAGE

There is so much frustration in the world.

There's the kind of frustration about every day life that the late Andy Rooney so accurately reported in his weekly program on "60 Minutes." The famed humorist and curmudgeon from CBS's highly acclaimed show regaled us with stories of winter gloves that went missing and cotton inserts in bottles of pills that seemed useless.

There's the kind of frustration reflected in the widely-reported vignette from the late Steve Jobs who reportedly told his official biographer that "[President Obama] is very smart. But he kept explaining to us reasons why things can't get done. It infuriates me."

What frustrates so many energy industry market participants? Continual, seemingly never-ending conflict, and the resulting uncertainty.

Dramatic changes in the U.S. electric power industry over the last fifteen years or so have meant a larger regulatory role for the Federal Energy Regulatory Commission. The agency's exercise of its broad jurisdiction under the Federal Power Act was the genesis of that increased role. Many state regulators and others have not been particularly happy with this turn of events, and on some issues FERC's increased role has led to particularly strong opposition from the states.

One impact of electric restructuring at the federal level is that the FERC has jurisdiction over a larger proportion of energy industry sales and revenue. Generation is the largest single component of electricity costs, thus states' losing some jurisdiction over generation purchases is significant. FERC's wholesale jurisdiction over a large share of utility power supply costs led to federal-state tension during the Western energy crisis a decade ago. FERC's open access transmission policies have also had an impact on state regulation. As a result of FERC's policies, utility transmission facilities are used far more, and in different ways, than approximately fifteen years ago because of unbundled transmission rates under FERC's jurisdiction. Thus, the use and cost recovery of a larger proportion of a utility's transmission facilities now are under the jurisdiction of the FERC, rather than the states.

In addition, the development of RTOs and ISOs has meant that the FERC has a prominent role in deciding some policy issues that used to be the exclusive province of state regulators. Because the fundamental transactions in RTOs and ISOs regard transmission and sales for resale, their rules and policies are subject to FERC jurisdiction. Those rules and policies can implicate numerous policy issues important to state regulators – such as resource adequacy, determining where new transmission lines will be sited and who will pay for them, and the ability of demand response resources to bid directly into RTO and ISO wholesale markets.

All of this has led to palpable tension, conflict, litigation, and uncertainty.

Now, some may argue, thoughtfully, that these types of federal-state conflicts are as old as our Nation and are to be expected. Indeed, there is something to that notion. But so much is at stake as we chart a path forward in a global economy, mired in economic distress, that this type of tired, uninspired response is neither constructive nor helpful.

As far as I'm aware, Andy Rooney never regaled us with a TV essay about the U.S. electricity industry. I wonder what he would have said? Perhaps, "Who in the world can understand all this stuff, and why are people so contentious? There's got to be a better way to deal with such an essential part of our lives as electricity!"

We need to focus more on solving problems and talking honestly and civilly about how we can get important things done in the energy industry. And I firmly believe we need more well-meaning, thoughtful curmudgeons with common sense who care deeply about our future.

Respectfully,

Bob Fleishman