Managing Energy Policy Risk – Industrials Need to Show Up

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Most industrials are paying more for energy than they should, and it is our own fault. In any given jurisdiction, one can identify a past rate case, regulatory or legislative matter where the concerns of industrials were insufficiently represented, and outcomes were implemented to our disadvantage. Too frequently we decide not to manage or mitigate our exposure to these energy policy risks.

Energy policy risks arise when either utilities or pipelines file a rate case, when a governmental agency initiates a new rule or regulation, or when a legislator proposes a new Bill. They arise more frequently in times – like now – when high commodity prices shift focus away from the subtler workings of energy policy. These risks usually begin with an innovative effort that is well-motivated, at least from the perspective of its proponent to 'fix' soaring prices. Depending upon the context, these "innovations" might include new rate designs or cost allocation methodologies, new rules or agency regulations, or legislation seeking to introduce new mandates or incentives. But when they are not fully vetted, these well motivated innovations cause structural cost increases that could plague industrials for years.

Industrials correctly assume that several other interests share their goal of limiting the costs of these innovations and decide to conserve their resources and allow these other interests to engage in the matter. In so doing, however, industrials neglect that cost is only the first question that must be resolved in setting rates or adjusting energy policy. Cost allocation is often more important than total cost. Industrials can always rely upon other parties working to limit the cost of an innovation, but only industrials will ensure that the industrials do not get stuck paying costs caused by others.

Industrials must ensure that their perspective and their needs are integral to the consideration of these well motivated innovations before they are approved – not after. In a rate case not too long ago, the utility was able to secure the revenue increase it sought by agreeing with a few parties to skew the cost allocation away from those parties and on to industrials who were not yet engaged in the case. By saving the comparatively small sum required to be effective in that case those industrials surrendered permanent cost concessions that they continue to pay years later. By being absent from the discussion they made themselves vulnerable. On the other hand, the opposite is also true. There have been rate cases, as well as legislative sessions, where industrials successfully protected their interests simply by showing up and demonstrating to all parties that they were engaged.

The lesson is simple. Only industrials can protect industrial interests. When their interests are at stake industrials need to show up. In the end, industrials weighing whether to pay to join a rate case or policy initiative need to realize that when you are not at the table, you are certainly on the menu.

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