

Northeast Public Power Association Legislative Update



July 2019

House Passes 10 of 12 FY20 Appropriations Bills Before July 4 Recess

The House of Representatives worked furiously during the week of June 24 to pass six FY20 appropriations bills. A five-bill minibuss which consisted of the Interior-Environment, Transportation-Housing, Agriculture, Commerce-Justice-Science, and Military Construction appropriations bills passed on June 25 on party lines, by a vote of 227-194. This packaged increased funding for the Environmental Protection Agency, along with more funding for programs focused on climate change. The House passed its Financial Services and General Government funding bill as a stand-alone measure on June 26, voting 227-196 in favor of the measure. Because they finished work on the minibuss package that included Energy and Water, Defense, State and Foreign Operations, and Labor-Health and Human Services-Education the week of June 17, the House has now passed 10 out of 12 appropriations bills for FY20. Only the Legislative Branch and Homeland Security funding bills remain outstanding.

The Senate has yet to schedule markups for any of their appropriations bills, as Senate leadership attempted to negotiate a budget framework with Democrats and the White House that would allocate spending levels for each of the 12 funding bills. A deal has not been struck, so it is likely that Senate Appropriations Chairman Richard Shelby (R-AL) will deem spending levels for each of the bills, following closely to last year's levels. Amid this ongoing stalemate and disagreement with Democrats on budget priorities, President Trump threatened to veto all of the House-passed appropriations bills should they reach his desk in current form.

House Panel Holds FERC Oversight Hearing

On June 12, the House Energy and Commerce Subcommittee on Energy held an oversight hearing of the Federal Energy Regulatory Commission (FERC) and all four sitting FERC Commissioners testified. In his opening statement Chairman Bobby Rush (D-IL) expressed his opposition to potential action FERC may take to prop up struggling coal and nuclear plants. FERC had unanimously rejected a proposal by the Department of Energy (DOE) in January 2018 to subsidize plants with at least 90 days of fuel on site. At that time, FERC opened a docket on grid resiliency. Chairman Neil Chatterjee, in response to a question by Rep. Marc Veasey (D-TX), said that the resilience docket is ongoing with no set timeline. He said the Commission will remain technology neutral in its approach and will be engaging RTOs and states in the near future on the topic.

Chairman Rush and full committee Chairman Frank Pallone (D-NJ) praised FERC for Order 841 on energy storage and both said they were looking forward to FERC addressing distributed energy resources because of the climate benefits of these technologies. Climate change was top of mind for many Democrats on the panel. Commissioner Richard Glick said that while FERC cannot regulate emissions, its decisions can shape

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how carbon-free technologies participate in energy markets. Chairman Chatterjee repeated his priorities for FERC: energy storage, grid security, and PURPA reform. In response to a question from Rep. Cathy McMorris Rodgers (R-WA) he acknowledged how hydro relicensing can be cumbersome, noting that FERC aims to be flexible and will not shut down hydro facilities that have not yet been relicensed.

FERC Commissioner LaFleur to Resign

Cheryl LaFleur announced on June 20 that she would leave her post as a FERC Commissioner at the end of August, creating a second vacancy on the five-member Commission. LaFleur has served as a Commissioner for nine years, having been first nominated to the position by President Barack Obama in 2010. Her departure will leave just three sitting members on the five-seat commission, two Republicans and one Democrat. It is unclear at this time when President Trump will nominate replacements – one Republican and one Democrat – for the two open seats.

House Ways & Means Committee Marks Up Extenders Bill

On June 20, the House Ways and Means Committee held a markup of a bill to extend more than 20 expired tax provisions – known as “tax extenders” – that had expired in 2017 and 2018, as well as a few that are scheduled to expire at the end of 2019. Among the tax extenders were tax credits for wind, solar, biomass, geothermal, and hydropower facilities. The wind and solar production tax credits (PTC) are scheduled to expire at the end of this year after a gradual phaseout that began in 2017. The investment tax credit (ITC) for wind energy is also scheduled to phaseout this year. The bill would extend these credits one more year, through 2020. The solar ITC is not addressed in the bill. That credit is scheduled to phaseout at the end of 2023.

The bill also includes provisions to provide tax relief to people affected by natural disasters since Jan. 1, 2018. While the disaster relief provisions are not offset with new revenue, the bill – authored by Chairman Richard Neal (D-MA) – would offset the cost of tax extenders by changing the expiration date for larger exemptions for the estate tax. The 2017 tax reform law doubled the estate tax exemption to \$10 million (plus inflation) through 2025. The bill would revert the exemption back to \$5 million three years ahead of schedule, drawing opposition from the panel’s Republicans. The committee ultimately reported the bill to the full House on a party line vote, 25-17.

Senate Passes Bill to Pilot Analog Tech for Grid Cyber Defense

The Senate on June 27 by unanimous consent passed the Securing Energy Infrastructure Act (S. 179) by Sen. Angus King (I-ME). The bill would establish a two-year pilot program at the national energy laboratories to study how analog technology could be used to safeguard the grid from cyber vulnerabilities. It would also create a working group made up of federal and state agencies, along with representatives from the national labs and electric sector to review the work of the pilot program. The Secretary of Energy would be required to submit a final report to Congress detailing the results of the pilot and the working group’s evaluation. The bill was co-sponsored by Sens. Jim Risch (R-ID), Susan Collins (R-ME), Martin Heinrich (D-NM), and Mike Crapo (R-ID). Companion legislation has been introduced in the House by Reps. Dutch Ruppersberger (D-MD) and John Carter (R-TX).

