

Northeast Public Power Association Legislative Update



May 2021

Republicans, White House Signal Openness to Bipartisan Action on Infrastructure

Lawmakers returned from a spring recess ready to work collaboratively, at least conceptually, on infrastructure legislation. A bipartisan meeting at the White House on April 12 yielded productive discussions about how the President's infrastructure proposal could attract Republican support by focusing on "traditional" infrastructure and trimming non-infrastructure elements like home health care, as well as scrapping plans to pay for the package with corporate tax hikes. Lawmakers will continue discussions with the White House into May.

On April 22, several Senate Republicans, led by Senate Environment and Public Works Committee Chairman Shelley Moore Capito (R-WV), unveiled a counteroffer to President Biden's infrastructure proposal. Their legislation contains \$568 billion for what lawmakers have described as "traditional" infrastructure, including \$299 billion for roads and bridges, \$61 billion for public transport systems, and \$65 billion to expand broadband infrastructure. The proposal includes user fees for electric vehicles and repurposing of unused funds allocated in the American Rescue Plan which Congress passed in March. Discussions continue on a compromise bill that would not contain energy and innovation items contained in the President's proposal, although those elements might move in a different package later in the year.

Government Agencies Release Reports on Cybersecurity Threats; Biden Administration Announces 100-Day Cybersecurity Sprint

Two government agencies released reports in early April detailing cybersecurity threats to utility distribution systems and electricity networks. The first report, released by the Government Accountability Office (GAO), concluded that utility distribution systems are at risk of cyberattacks and that focusing security efforts solely on transmission and generation assets leaves distribution systems vulnerable. One reason for this, the report suggests, is that industrial control systems (ICS), which distribution networks use to manage the grid, allow remote access, providing hackers with additional channels to access systems. In a report released on April 13, the Office of the Director of National Intelligence (ODNI) identified the greatest threats to U.S. electricity networks. The report concluded that China, Russia, Iran, and "probably" North Korea all have the ability to significantly disrupt U.S. critical infrastructure, including by attacking software supply chains.

On April 20, the White House announced a 100-day cybersecurity effort to enhance grid security. The effort will be led by the Department of Energy (DOE) and the Cybersecurity and Infrastructure Security Agency (CISA). While details of the plan remain largely unknown, the White House has indicated that DOE will

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encourage electric utilities to improve their “detection, mitigation, and forensic capabilities.”

FY22 “Skinny Budget” Released; Committees Begin Hearings

On April 9, President Biden released a lengthy letter to Congress in which he highlighted certain priorities for his Administration, including some, but certainly not all, program funding requests for FY22. This “Skinny Budget” is a precursor to the formal request documents, which are expected sometime in May. According to the “Skinny Budget” letter, the FY22 Budget Request proposes funding aimed at combatting climate change – notably including funding increases for existing and new climate change programs throughout the entire government. DOE would see a 10% increase from the FY21 enacted amount under this proposal, to \$46.1 billion, and the EPA would increase 21%, to \$11.2 billion.

Following the release of the Budget, the House Interior-Environment Appropriations Subcommittee, led by Chairman Chellie Pingree (D-ME), hosted hearings on the FY22 budgets of the U.S. Forest Service (USFS), the Department of the Interior, and EPA. On April 20, Secretary of Interior Deb Haaland testified for the first time as a Cabinet member on the FY22 budget for the Department of the Interior. Finally, new EPA administrator Michael Regan came virtually before the subcommittee on April 21 to discuss the FY22 EPA budget.

Sen. Wyden Unveils Clean Energy Tax Overhaul

Senate Finance Chairman Ron Wyden (D-OR) released his highly anticipated clean energy tax overhaul on April 21, a revised version of the “Clean Energy for America Act” he has introduced for several years in a row. The legislation, which Sen. Wyden has said should be a “linchpin” of President Biden’s infrastructure proposal, aims to simplify the energy tax code by creating three technology-neutral incentives for clean energy projects. This version of the bill differs from previous years by including updated emission limits and eliminating tax cuts for the fossil fuel sector, among other things. Sen. Wyden noted that this bill is similar to provisions in President Biden’s infrastructure proposal, and expressed optimism over the potential to combine the provisions in the Administration’s plan with those in the Clean Energy for America Act. Not-for-profit utility groups expressed concern that the tax credits, while available as direct pay credits for investor-owned utilities, are not available at all to entities without a tax burden. The Senate Finance Committee will hold its first hearing on this legislation soon.

Senate Confirms Trottenberg, Mallory, and McCabe

On April 13, the Senate confirmed Polly Trottenberg’s nomination to be the Deputy Transportation Secretary. Trottenberg previously served as a senior official at DOT during the Obama administration, and most recently ran New York City’s transportation department. On April 14, the Senate voted to confirm Brenda Mallory to lead the White House Council on Environmental Equality (CEQ). Mallory’s nomination was approved in a 53-45 vote, with GOP Sens. Susan Collins (ME), Lindsey Graham (SC), and Rob Portman (OH) all voting in support of the nomination. Finally, on April 27, the Senate voted 52-42 to confirm Janet McCabe as Deputy Administrator of the EPA.

