

Northeast Public Power Association Legislative Update



January 2023

118th Congress Sworn In

On Jan. 3, the 118th Congress convened, with several new delegation members representing New England. In the Senate, former House Representative Peter Welch (D-VT) was seated in the Senate seat formerly held by now-retired Sen. Patrick Leahy. Becca Balint (D-VT) will be sworn in to take over as Vermont's at-large Representative.

As of this writing, Republican Leader Kevin McCarthy (R-CA) has thrice failed to secure the Speakership, with all Democrats voting for Minority Leader Hakeem Jeffries (D-NY) and 20 Republicans voting for Rep. Jim Jordan (R-OH) on the third ballot. The vote marks the first time in roughly a century that a Speaker was not elected on the first ballot, and no business can proceed in the House until a candidate reaches a majority of 218 votes.

Congress Passes FY23 Omnibus Spending Package

On Dec. 22, the Senate passed the \$1.7 trillion FY23 Omnibus appropriations spending bill by a vote of 68-23 with the House passing the package by a vote of 225-201 on Dec. 23. President Biden was able to sign the bill into law just hours ahead of the midnight deadline, averting a government shutdown. The bill includes a 10% increase to domestic spending generally, including a significant boost to the Department of Energy. However, it did not include funds to accelerate action under the Defense Production Act to spur domestic manufacturing of transformers and other grid components.

Guidebook Released for Inflation Reduction Act

On Dec. 15, the Biden administration released an official Guidebook for the \$369 billion in clean energy and climate investments in the Inflation Reduction Act (IRA). The Guidebook includes one-page descriptions of the IRA's clean energy tax incentives and provides additional information on its grant funding and energy efficiency programs, including eligibility and programmatic requirements, period of availability, and other key details. The Guidebook also acts as a roadmap of agency contacts and clarifying information that is similar in nature to the one published for the Bipartisan Infrastructure Law. The Administration is expected to make updates to the Guidebook as relevant announcements, including Treasury Notices on clean energy tax incentives implementation and Funding Opportunity Announcements, among other things, are published.

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Sen. Manchin's Permitting Reform Bill Dies

Sen. Joe Manchin's (D-WV) energy permitting reform legislation was left out of the FY23 National Defense Authorization Act (NDAA) despite support from President Biden and Democratic leadership. On Dec. 5, Sen. Manchin made some adjustments to the draft to help facilitate integration of additional renewable and other clean energy resources into the grid. However, too many progressive Democratic lawmakers stood in opposition, voicing concerns that the bill would undermine environmental protections and other environmental justice issues. Ultimately, Democratic leadership elected to exclude the reforms from the base bill to ensure it would be able to pass. Sen. Manchin also unsuccessfully attempted to add the reforms by amendment to the NDAA or as an addition to the FY23 Omnibus appropriations package, leaving it unattached to any must-pass legislative vehicle before the conclusion of the 117th Congress. However, permitting reform is likely to be a top agenda item for Republicans in the 118th Congress, who are likely to seek advancement of their own version.

DOE and FERC Hold Joint Technical Conference on Supply Chain Security

On Dec. 7, the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) held a joint technical conference on supply chain risk management. The main theme of the conference was cyber and physical security of the power grid, and the recent attack on two North Carolina substations was frequently referenced. Panelists discussed FERC's supply chain standards and whether new updates were needed, although at the conclusion of the conference, there was not an established consensus. FERC Chair Richard Glick expressed support for new critical infrastructure protection (CIP) standards, saying that "there are people out there, whether they be people here in the United States or people around the world, that are out there trying to do damage to the grid," and that "the supply chain threat has evolved and become more serious over time."

However, several panelists cautioned DOE and FERC against adopting new standards that are overly prescriptive. They contended that time and flexibility is needed to consider existing standards, and that the industry is already facing multiple security regimes such as the Office of Management and Budget's memo on federal agencies' software supply chain risk management and the cyber incident reporting language from the Critical Infrastructure Act of 2022.

