

Northeast Public Power Association Legislative Update



October 2017

FERC Nominees Advance

On Sept. 7, the Senate Energy and Natural Resources Committee met to hear testimony from two nominees for the Federal Energy Regulatory Commission (FERC) – Richard Glick and Kevin McIntyre – and other nominees. Many questions focused on FERC’s ongoing inquiry into the role of states and public policy; both nominees said resource decisions are the purview of states, not FERC. McIntyre noted that states have “an absolute right” to enact renewable portfolio standards, and both nominees emphasized that FERC must be fuel neutral. However, both expressed a view that interfering in market functions is problematic.

On Sept. 19, the Senate Energy and Natural Resources Committee voted to approve Glick and McIntyre. Upon Senate confirmation, Kevin McIntyre will serve as Chairman of FERC. A date has not yet been set for full Senate confirmation vote.

On Sept. 20, FERC held its first monthly meeting since January after a quorum was restored in August. The agenda was light, allowing for new Commissioners to get up to speed and as the full commission awaits the confirmation of McIntyre and Glick. The agenda included a discussion on the standard for emergency preparedness and operations by clarifying when and what type of damage to electric facilities are reported, notable in the wake of Hurricanes Harvey and Irma. Once the full Commission is in place, the FERC Commissioners will have a busy schedule in attempting to dig out of the current backlog of filings and pending standards.

“Powering America” Hearings Continue

House Energy & Commerce Subcommittee on Energy Chairman Fred Upton (R-MI) has continued the “Powering America” series of hearings. On Sept. 6, the Subcommittee held a hearing entitled, “Reevaluating PURPA’s Objectives and its Effects on Today’s Consumers,” and on Sept. 12, another on “Defining Reliability in a Transforming Electricity Industry.”

The Sept. 12 hearing featured Acting FERC Chairman Neil Chatterjee, DOE electricity chief Pat Hoffman, and Chairman of the North American Electricity Reliability Corporation (NERC) Gerry Cauley. Most of the witnesses’ testimony and Members’ questions focused on the grid’s ability to withstand and respond to outage events during extreme weather events such as Hurricane Harvey and Irma. The hearing was brief due to scheduled votes, but other questions included some on FERC’s ongoing inquiry into price formation and the role of public policy in wholesale markets, which Chatterjee said was a high priority.

On Sept. 26, the Subcommittee held the fifth hearing, entitled, “Technology’s Role in Empowering Consumers.” Witnesses included stakeholders within the electric sector, providing members the ability to examine the role consumers play in modern electricity systems.

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Full committee Chairman Greg Walden (R-OR) questioned the panel on what could be done to improve the integration of distributed energy resources (DER). Advanced Energy Economy's Arvin Ganesan suggested that the committee, "embrace competitive markets" to avoid "technology biases" within the United States. Upton concluded the hearing by arguing for the growth of innovative technology in providing a competitive energy market along with a more reliable and resilient electric grid.

The subcommittee is planning to hold another panel of its reliability hearing Oct. 3 and a hearing entitled "Consumer-oriented Perspectives on Improving the Nation's Electricity Markets" on Oct. 5 (a witness list has not been announced, but NEPPA plans to submit a statement for the record).

Tax Plan Released

On Sept. 27, the White House released its much-anticipated tax reform plan. The proposal is a framework that describes the Administration's goals and priorities for tax reform. The plan was worked out with Republican leaders of the House and Senate, though many details remain unresolved. The plan calls for sweeping tax cuts, slashing the top rate for businesses from 35 percent to 20 percent and reducing the top individual tax bracket rate to 25 percent from 39.6 percent, among other things. The plan does not mention the municipal bond exemption, but White House advisors informed members of Congress in a call on Sept. 26 that the plan assumes the exemption is maintained.

Republican congressional leaders still intend to use the budget reconciliation process to pass tax reform in order to avoid a filibuster by Democrats in the Senate. This process requires both chambers to pass and agree upon a budget resolution for the 2018 fiscal year. House leaders have signaled they may bring a resolution to the floor for debate next week, and the Senate is expected to follow shortly thereafter. Then the House Ways & Means Committee and Senate Finance Committee are expected to mark up bills, translating the proposed framework into legislative text and ironing out many yet unresolved details in the process. Senate Finance Committee Chairman Orrin Hatch (R-UT) has said that he does not feel obliged to adhere to any plan issued by the administration or House, but rather he will focus on crafting a bill that can win the support of his committee. There are divisions among Republicans about whether to combine tax reform with Obamacare repeal in the budget resolution. This could drastically complicate matters, and some members worry combining the two could result in no action on either priority.

Trio of Storage Bills Introduced

The Senate Energy and Natural Resources Committee plans to hold a hearing Oct. 3 to examine energy storage technologies, also the subject of a handful of recently-introduced bills. Three measures from Sen. Ron Wyden (D-OR) would direct DOE to identify grid fortification options, create cost-share programs for small projects, and fund DOE research on storage. Another bill from Sens. Al Franken (D-MN) and Martin Heinrich (D-NM) would create a new DOE program for storage and provide grants and assistance to local governments and utilities to install storage systems. Heinrich also introduced a bipartisan bill with Sen. Dean Heller (R-NV) to establish a 30 percent investment tax credit for storage projects (phasing down over five years). The bills face long odds to move, but represent a growing interest in storage technology in the wake of major hurricanes and resulting outages.

Separately, a new House caucus has formed to channel interest in distributed generation, led by a bipartisan pair of congressmen from Pennsylvania. The group plans to host informative briefings.

