Northeast Public Power Association

Legislative Update

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House Natural Resources Republicans Propose NEPA Changes for Energy Permitting Reform

On Feb. 28, the House Natural Resources Committee held a hearing on a draft bill titled "The Building United States Infrastructure Through Limited Delays and Efficient Reviews (BUILDER) Act" which will serve as the blueprint of an energy permitting reform plan by the panel's Republican members. The bill seeks to make alterations to the National Environmental Policy Act (NEPA) to speed up environmental reviews for permitting energy projects and would require regulators to rely on "existing reliable data" rather than conduct brand-new analyses. The bill would also allow project sponsors to assist in conducting environmental reviews and limit any lawsuits that could slow down the approval process. In the hearing, Republicans sought for any support by the committee's Democratic members, with Committee Chair Bruce Westerman (R-AR) reiterating that they are aiming for a bipartisan bill to ensure a path forward in the Democratic-controlled Senate. Instead, Republicans were met with skepticism of the plan, with some Democrats voicing general support of energy permitting reforms, but were critical of the Republicans' approach. Others, including Ranking Member Raul Grijalva (D-AZ), were adamantly opposed, with Grijalva stating that, "accelerating environmental reviews for the fossil fuel industry would allow it to pollute when and where it wants without having to tell the public too much about it."

Treasury Releases Further Guidance on IRA Energy Tax Credits

On Feb. 13, the Treasury Department and the Internal Revenue Service (IRS) published two notices providing general rules and guidance on qualifying projects and procedures to claim the Advanced Energy Project Credit (Section 48C(e) program) and the wind and solar projects in low-income communities provision in the Inflation Reduction Act (IRA). Unlike other tax credits that can be claimed simply by undertaking a qualified project, the programs outlined in the notices instead establish competitive vetting processes at the Department of Energy (DOE) in order to receive an allocation.

The 48C program provides tax incentives to re-equip, expand, or establish manufacturing facilities to produce equipment used in renewable energy, energy efficiency, grid modernization, or energy storage projects, or critical minerals processing; or re-equipping a manufacturing facility with carbon capture or other significant emissions reduction technology. Of particular interest to utilities, transformers are a type of eligible equipment that could be manufactured at facilities earning this credit. Under the law, at least $4 billion must be allocated to "energy communities."

The low-income wind and solar credit is focused on projects with a nameplate capacity of less than 5 MW and will allocate credits totaling 1.8 GW of capacity. Treasury, IRS, and DOE will issue further guidance delineating additional criteria for prioritizing allocations, which "may include a focus on facilities that are owned or developed by community-based organizations and mission-driven entities, have an impact on encouraging new market participants, provide substantial benefits to low-income communities and individuals marginalized from economic opportunities, and have a higher degree of commercial readiness."

DOE Extends Comment Period on Distribution Transformer Proposed Rule

DOE has extended the comment period for its proposed conservation standard for distribution transformers by 14 days – to March 27 – after requests for more time from the American Public Power Association, National Rural Electric Cooperative Association, and others. The groups had requested 30 to 60 days additional time to respond to the new standards, which will require transformers to be manufactured with amorphous steel that is only available from one domestic source and could exacerbate the current shortage of grid components.

FERC, States Discuss Solutions on Physical Grid Attacks

On Feb. 15, the Federal Energy Regulatory Commission (FERC) held a state-federal task force meeting with several state utility commissioners on electric transmission and potential solutions to lower the impact of physical attacks on the electric grid. In the meeting, both FERC and state commissioners agreed that any new requirements should be carefully designed to minimize impacts and costs on energy consumers and providers. One of the solutions floated by the group would be to build more transmission lines and substations, which could limit the extent of damage from individual substation attacks. Another possible solution would be to promote more agreement among utilities to share equipment, such as transformers, so that damaged substations could be fixed more quickly. In December 2022, FERC directed the North American Electric Reliability Corp. (NERC) to conduct a study evaluating the current standards for physical grid security, which is expected to be completed sometime in April. FERC may mandate new infrastructure security requirements based on NERC's findings.

FERC Approves New Cold Weather Reliability Standards for Power Plants

During its monthly meeting on Feb. 16, FERC unanimously approved new rules requiring power plants to implement extreme cold weather reliability standards based on the temperatures in their area. The new and revised standards require generator owners to implement freeze protection measures, identify generator cold weather critical components susceptible to freezing, implement corrective actions so equipment freezing do not occur, and develop procedures to improve the coordination of load reduction measures during a grid emergency, among other things. Power plants that have experienced outages or other problems due to frozen equipment will have until July 1 to develop corrective action plans, and other power plants will have up to five years to develop a plan. The new and revised reliability standards come two years after Winter Storm Uri in Texas caused millions of people to lose power in below-freezing temperatures. In addition to the new rules, NERC is drafting another standard in response to Winter Storm Uri that is expected later this year.