

Northeast Public Power Association Legislative Update



December 2023

Congress Passes Continuing Resolution Averting Government Shutdown

During the week of Nov. 17, Congress passed a Continuing Resolution (CR) to extend government funding for FY23 Energy-Water, Agriculture, Transportation-HUD, and Military Construction-VA appropriations bills until Jan. 19 with the rest of the 12 areas of appropriations expiring two weeks later on Feb. 2. The two-tiered CR would extend farm bill programs until September 2024 and does not include any spending cuts or supplemental appropriations for disaster aid or for the conflicts in Israel and Ukraine. The CR passed in the House on Nov. 15 by a vote of 336-95 and in the Senate on Nov. 15 by a vote of 87-11, buying time for the two chambers to negotiate topline spending levels and conference their respective FY24 appropriations bills.

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House Freedom Caucus Agrees to Fiscal Responsibility Act's FY24 Appropriations Top Line Numbers

Several House Conservatives, who had previously demanded lower top line spending numbers for FY24 appropriations bills, agreed to the \$1.59 trillion top line number established in the Fiscal Responsibility Act (FRA) on Nov. 29. Freedom Caucus Chair Scott Perry (R-PA) told reporters that "\$1.59 [trillion] is too expensive for many of us, but we realized that \$1.47 [trillion] is not going to happen," which was the caucus' preferred top line. While there is now general agreement between the two chambers for the overall spending amount, the reconciliation process for each of the twelve spending bills is still expected to be difficult, as the House versions are written below the FRA's level and include riders that would cut spending for certain federal programs, including clean energy and environment programs at the Department of Energy and Environmental Protection Agency. The Senate's bills, meanwhile, are written above the FRA level.

House E&C Committee Advances Several Energy, Grid Bills

On Dec. 5, the House Energy and Commerce Committee advanced several energy bills including the "Protecting America's Distribution Transformer Supply Chain Act," which would block the Department of Energy (DOE) from implementing any new conservation standards for distribution transformers for five years. The bill passed on a partisan vote of 24-22, as did the "Guaranteeing Reliable Infrastructure Development (GRID) Act," which would require the Federal Energy Regulatory Commission (FERC) to review regulatory actions from other agencies that may hinder grid reliability. The committee also advanced the "Hydropower Clean Energy Future Act," with some bipartisan support (by a vote of 28-19), as well as a package of nuclear energy bills dubbed the "Atomic Energy Advancement Act," that would streamline



licensing processes and reduce licensing fees from the Nuclear Regulatory Commission (NRC) for the construction of new reactors. The package advanced with strong bipartisan support by a vote of 47-2.

EPA Considers Relief Mechanism for Greenhouse Gas Power Plant Rule

The Environmental Protection Agency (EPA) is floating the concept of a reliability relief mechanism for its greenhouse gas rules for power plants as it begins accepting comments on an Initial Regulatory Flexibility Analysis (IRFA). EPA had previously accepted comments on a Small Business Advocacy Review for the rule in which many utilities and grid managers submitted concerns that carbon capture and sequestration (CCS) or hydrogen co-firing technology is not yet commercially viable for large-scale implementation, and that the rule could result in premature closure for some power plants and impact grid reliability. These concerns may have a disproportionate effect on small utilities. EPA is now soliciting comments on a number of issues, including whether the agency should include specific mechanisms to address grid reliability needs during special circumstances such as extreme weather, generator outages, and permitting delays. Although the agency is looking at relief mechanisms across the board, it is also considering carveouts for small entities, particularly rural electric cooperatives. EPA is accepting comments on the flexibility analysis until Dec. 20.

DOE Issues NOPR to Streamline NEPA Reviews for Transmission, Storage, Solar

The Department of Energy (DOE) has issued a Notice of Proposed Rulemaking (NOPR) to streamline National Environmental Policy Act (NEPA) reviews by adding a categorical exclusion for certain energy storage systems and revising categorical exclusions for upgrading and rebuilding transmission lines and solar power systems. Projects that fall under a categorical exclusion do not have a “significant effect” on the environment and do not require an environmental assessment or environmental impact statement. The announcement comes after Congress and the Federal Energy Regulatory Commission (FERC) have been working to streamline the permitting review process for transmission and clean energy projects. The deadline for public comments is Jan. 2, 2024.

