

Northeast Public Power Association Legislative Update



September 2020

Senate Responds to Saturday House Vote on Postal Service with COVID-19 Offer

Amid growing concerns about planned changes at the U.S. Postal Service and the resulting impact on the ability to vote by mail in November, House Speaker Nancy Pelosi (D-CA) called for a rare Saturday vote during the August recess on a bill to provide \$25 billion in funding to shore up operations and reverse planned operational changes. While Postmaster General Louis DeJoy has since said the agency will delay making the planned changes until after the election, Senate Majority Leader Mitch McConnell (R-KY) took the opportunity to release draft text of what is being called a “skinny” COVID-19 plan in response to the House Postal Service measure. The Senate bill includes provisions to provide \$300/week in unemployment benefits, liability protections for employers, and funds for the U.S. Postal Service, schools, and the Paycheck Protection Program. The measure is intended to restart discussions about moving smaller packages of pandemic response measures, something the Speaker had previously said she did not want to do.

In this edition:

- **Pandemic:** Senate Responds to Saturday House Vote on Postal Service with COVID-19 Offer...
- **Energy:** Menezes Confirmed to DOE Deputy Role, Senate Democrats Release Climate Recommendations Report, FERC Rejects SPP Tariff to Establish EIM ...
- **Cyber Security:** Senate Energy Panel Examines Cybersecurity Issues in the Electric Sector...
- **Telecommunications:** Ninth Circuit Rejects Challenge to Pole Attachment Order...

Menezes Confirmed to DOE Deputy Role

The Senate confirmed Mark Menezes for the Deputy Secretary role at the Department of Energy (DOE) yesterday. Menezes has served for several years in the Department as Under Secretary of Energy, in which he was responsible for overseeing DOE's energy programs and driving energy technology innovation. Prior to joining the Administration, he worked in the private sector and also previously served as chief counsel of the House Energy and Commerce Committee. The nomination was approved on a bipartisan vote of 79-16.

Senate Democrats Release Climate Recommendations Report

Senate Democrats released a 260-page report outlining their plan to get the U.S. to net-zero greenhouse gas emissions by 2050 and boost federal spending on climate change. The report focuses heavily on the economic fallout of climate change and emphasizes that inaction could permanently damage the economy. To mitigate that impact, the plan aims to create ten million new jobs, and would ensure that 40% of federal spending be directed to communities of color and low-income, disadvantaged communities. While the Senate report is less prescriptive than the report released by House Democrats in June, it touches on many of the same themes, including industrial emissions, electricity generation, and technological innovation.



FERC Rejects SPP Tariff to Establish Imbalance Market

On July 31, the Federal Energy Regulatory Commission (FERC) rejected the Southwest Power Pool's (SPP) proposed tariff to create a Western Energy Imbalance Service (WEIS) market, providing guidance to the RTO for a modified proposal but casting doubt on its plans to go live in February 2021. FERC faulted the proposal for its use of non-participating entities' transmission capacity, its assumptions that data on transmission availability will be accurately reported by third parties, its lack of resource adequacy incentives, the lack of data on marginal losses, and its market power mitigation strategy.

Senate Energy Panel Examines Cybersecurity in the Electric Sector

The Senate Energy and Natural Resources Committee held a hearing on Aug. 5 to examine efforts to improve cybersecurity for the energy sector. The hearing focused on improving critical infrastructure protection initiatives and improving collaboration and communication among the federal government and electric infrastructure owners and operators. Federal witnesses included Alex Gates, Senior Advisor for the DOE's Office of Policy for Cybersecurity, Energy Security, and Emergency Response (CESER), and Joseph McClelland, Director of the Office of Energy Infrastructure Security at FERC. Gates highlighted several DOE initiatives, including the Bulk Power Executive Order to protect the bulk power system and emphasized the Department's efforts to reach out to stakeholders to better inform agency decisions. McClelland focused on FERC's role in approving and enforcing reliability standards for the nation's bulk power system.

Court Rejects Challenges to FCC Pole Attachment Orders

On Aug. 12, the U.S. Court of Appeals for the Ninth Circuit rejected utility groups' challenges to the Federal Communications Commission's (FCC) 2018 declaratory orders on pole attachment policy. The ruling affirms FCC's policies on overloading, preexisting violations, use of third-party contractors, rates, and shot clocks. The court also rejected municipal utilities' argument that Sec. 224 of the Communications Act precludes FCC regulation of publicly-owned poles, a significant defeat. The Court sided with utilities on one issue, remanding to FCC a portion of its small cell order dealing with municipal decisions based on aesthetics. APPA and others have not yet indicated whether they will petition the Supreme Court for review.

