

Northeast Public Power Association

Legislative Update



June 2019

House Readies First FY20 Appropriations Measure

The House passed the long-awaited disaster supplemental bill by a broad margin of 354-58 on June 3. The bill will provide emergency relief for parts of the U.S. suffering from the aftermath of floods and hurricanes, as well as providing \$720 million to the Forest Service for 2018 wildfire suppression activities. The Senate had passed the bill just before Memorial Day recess, and President Trump signed it into law on June 6. In addition, the House Rules Committee has readied the first package of FY20 appropriations bills for floor consideration the week of June 10. This five-bill “minibus” appropriations package includes the Energy-Water bill. Senate appropriators have yet to schedule subcommittee markups of their FY20 bills, electing to wait and see if a bipartisan agreement can be reached on spending levels - including a path forward on how to avoid deep “sequestration” cuts from being enacted.

Debate on Infrastructure Begins and Abruptly Halts

On May 22, the House Energy & Commerce Committee held a hearing on “the Leading Infrastructure for Tomorrow’s (LIFT) America Act,” an infrastructure bill from Chairman Frank Pallone (D-NJ) that authorizes \$40 billion for infrastructure developments, including grid modernization, renewable energy deployment, electric vehicles, and increased access to high-speed broadband. Simultaneously, top congressional Democrats met with President Trump to iron out funding details of a \$2 trillion infrastructure package, which could presumably include the LIFT America Act. These talks fell apart shortly after they began, when the President refused to discuss an infrastructure package until Democrats agreed to halt congressional investigations surrounding his campaign and business dealings. This significantly jeopardizes the chances of a broad infrastructure package that could serve as a vehicle for the LIFT America Act.

Congress Continues Focus on Climate with Introduction of Clean Energy Standard

Climate change remains a focus in Congress, with congressional committees continuing to review proposals to address energy storage and clean energy proposals. On May 8, Sen. Tina Smith (D-MN) and Rep. Ben Lujan (D-NM) introduced legislation to set a national clean energy standard (CES) by requiring utilities to reduce the emissions of their fleets each year until reaching net zero emissions. The requirement applies to retail sellers of electricity and would initially mandate 2.75% annual growth in the share of clean energy provided, set from a 2019 baseline. “Clean” sources are renewables, hydro, nuclear, qualified biomass, qualified waste-to-energy, and qualified combined heat and power systems, or ones that use carbon capture and storage. Small entities (defined as selling 2 million MWh or less annually) would be required to meet a 1.5% growth standard.

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Additionally, several Republican senators, eager to lead on climate issues rather than cede the issue to the Democratic Party, have introduced a suite of bills aimed at decreasing greenhouse gas emissions and promoting clean energy solutions. One of the bipartisan bills, “the Best Energy Storage Technology Act,” introduced by Sens. Susan Collins (R-ME) and Martin Heinrich (D-NM), would authorize nearly \$300 million over 5 years for the Department of Energy (DOE) to explore cost reductions in energy storage technologies. Another bill, “the LEADING Act,” would spur research and development of carbon capture technology for natural gas plants. Other efforts include a bill by Sen. Lindsey Graham (R-SC) to create a fund for clean energy, and legislation crafted by Sen. Cory Gardner (R-CO) to improve energy efficiency at federal facilities. Senate Energy and Natural Resources Committee Chairman Lisa Murkowski (R-AK) has already held several climate hearings this year and appears interested in continuing to bring clean energy legislation before the Committee for discussion and consideration.

NERC Submits Report on Cyber Supply Chain Risks

On May 28, the North American Electric Reliability Corporation (NERC) submitted a report to the Federal Energy Regulatory Commission (FERC) in accordance with Order 850, a prior action that also approved three supply chain standards developed by NERC. The report evaluates supply chain risks that are not currently subject to the standards and makes several recommendations. NERC staff recommends revising the standards to address Electronic Access Control Monitoring Systems (EACMS) and Physical Access Control Systems (PACS) to high and medium impact bulk electric system cyber assets, and recommends further study on whether to further revise the standards to include low-impact systems with external routable connectivity. It further calls for guidelines to help utilities evaluate their protected cyber assets to determine if additional supply chain guidelines are needed.

Municipal Finance Caucus Advocates for Tax Exempt Bonds, Advance Refunding

On May 13, Reps. Dutch Ruppersberger (D-MD) and Steve Stivers (R-OH), co-chairs of the House Municipal Finance Caucus, sent a letter to House Ways and Means Committee Chairman Richard Neal (D-MA) and Ranking Member Kevin Brady (R-TX) expressing support for tax-exempt municipal bonds. The letter notes the importance of tax-exempt municipal bonds to infrastructure development and conveys members' request that the committee “carefully consider the impact of changes to the tax status of municipal bonds.” The letter was signed by an additional 109 members of the House, including several members of NEPPA's delegation. On the heels of sending the “Dear Colleague” letter, Reps. Ruppersberger and Stivers introduced legislation (H.R. 2772) on May 15 that would restore the tax-exemption for advance refunding municipal bonds. Advance refunding is a financing tool that effectively allows a bond issuer to refinance a bond when interest rates are lower.

Thune-Schatz Legislation on Pole Attachments Reintroduced

On June 4, Senators John Thune (R-SD) and Brian Schatz (D-HI) introduced the Streamlining the Rapid Evolution and Modernization of Leading-Edge Infrastructure Necessary to Enhance (STREAMLINE) Small Cell Deployment Act. They introduced this bill last year during the previous Congress, though it never received a hearing and was not marked up. The bill aims to address perceived barriers to broadband deployment by imposing federal requirements on municipal utilities for pole attachment fees and application processes. The requirements contradict public power's longstanding statutory exemption from federal pole attachment regulation. The bill would require pole attachment applications to be processed within 60 days and would undermine many public power utility fee structures. The bill resembles the September 2018 order by the Federal Communications Commission, which took effect in January and is subject to a legal challenge by the American Public Power Association.

