

Northeast Public Power Association

Legislative Update



May 2020

Federal Reserve Expands Support Program for Municipalities

The Federal Reserve announced on Apr. 27 that it will reduce the population thresholds required to access the Municipal Liquidity Facility (MLF), allowing a single borrower from counties of at least 500,000 and cities of at least 250,000 to access the \$500 billion financing support mechanism. The MLF was initially announced on Apr. 9 and was limited to cities with a population of more than one million or counties with a population greater than two million. Under the lower population thresholds, many more municipalities will be eligible for support. Issuers must still have a high credit rating. In addition, the Fed indicated it was considering expanding the program to governmental entities that issue bonds backed by their own revenues, such as municipal utilities.

In this edition:

- **Pandemic:** Fed expands support program for municipalities, Phase 3.5 passed...
- **Energy:** Over 100 Dem Congressmembers sign letter calling for six months without utility disconnections...
- **Cyber Security:** President signs Executive order on Bulk Power System; NERC asks for delay of supply chain standards...

“Phase 3.5” Pandemic Aid Enacted; “Phase 4” Scope and Timing Uncertain

On Apr. 21, the Senate passed a \$484 billion “Phase 3.5” bill to replenish relief programs previously funded by Congress to respond to the novel coronavirus and economic shutdown. The bill provides \$310 billion to the new Paycheck Protection Program (PPP), the program that provides forgivable loans to businesses and nonprofits struggling to maintain business operations amid the pandemic. The bill authorizes PPP eligibility for agricultural enterprises (but does not clarify access for co-ops) and creates a set-aside for small- and medium-sized banks to make loans under the program. The bill also provides \$60 billion for the Small Business Administration’s longstanding Economic Injury Disaster Loan Program (EIDL), which typically provides low-interest loans to small businesses impacted by natural disasters and has been also tapped as part of the government’s coronavirus response. Further, the bill provides \$75 billion for hospitals and \$25 billion for testing.

The House has already begun work on another massive bill that is likely to include language halting utility disconnects (see story below), funding for state and local governments, election reform, hazard pay for essential workers, and possibly more direct payments. Senate Majority Leader Mitch McConnell (R-KY), however, has pushed for liability protection for businesses that reopen in the near term.

Over 100 Dem Members of Congress Sign Letter Calling for Six Month Suspension of Utility Disconnects Nationwide

On Apr. 17, congressional leaders received a bicameral letter signed by 113 Democratic Members of Congress calling for a nationwide moratorium on disconnecting power, water, and internet that would last six months after the coronavirus public health emergency concludes. The letter follows two similar letters to Members of Congress from environmental groups and a Senate letter sent earlier this month. The most recent letter acknowledges that such a policy should be accompanied by aid to utilities, although it lacks a specific policy proposal to that end.



House Energy and Commerce Committee staff is working with trade groups including APPA and NRECA on language they think is palatable to the industry: they believe the language they are working on would not apply to consumer-owned utilities, would be tied to the duration of the public health crisis, and includes a savings clause that the suspension does not absolve customers of debts owed. The committee has been working from draft language that appeared in Division X of the Speaker's alternative to the CARES Act, which also included different language, from the House Financial Services Committee, that would have disallowed all attempts to collect a debt and is seen as much more onerous for utilities. Discussions around providing some kind of direct aid to utilities are still ongoing, and NEPPA has been surveying its members to provide lawmakers data they have requested to justify including additional aid.

President Trump Signs Executive Order on “Securing the United States Bulk-Power System”

On May 1, President Trump signed an Executive order titled, “Securing the United States Bulk-Power System.” The order aims to reduce the ability of foreign adversaries to interfere with critical electric infrastructure by prohibiting federal agencies and U.S. citizens from acquiring, transferring, or installing Bulk Power System (BPS) equipment in which any foreign country or foreign national has interest – including an interest in a contract for providing the equipment.

The order authorizes the Secretary of Energy to work with the Cabinet and energy industry to establish criteria to create a “pre-qualified” vendor list of approved BPS equipment suppliers and to identify any now-prohibited equipment that is already in use. The order also establishes a task force on federal energy infrastructure procurement policies, with the goal to protect against national security threats by coordinating federal government procurement of energy infrastructure and the sharing of risk information and risk management practices. Members of the task force will include the Secretaries of Defense, Interior, Homeland Security, and Commerce, as well as directors of several other federal agencies committed to protecting U.S. national security.

NERC Requests Enforcement Delay for Supply Chain Standards

The North American Electric Reliability Corporation (NERC) has asked the Federal Energy Regulatory Commission (FERC) to provide a six-month enforcement delay for seven reliability standards and regulations scheduled to take effect this year due to the ongoing pandemic. Most notably, NERC has asked FERC to delay enforcement of three cybersecurity supply chain standards until Jan. 1, 2021; they are currently scheduled to take effect on July 1. Approved 15 months ago, the supply chain standards require covered utilities to develop plans for addressing medium and high cyber risks to industrial control system hardware and software, as well as network systems. The standards emphasize remote access protections and vendor risk management. Various federal agencies, including the Environmental Protection Agency (EPA) and Department of Labor (DOL) have announced delays in rulemakings as well as lifting certain regulations on a temporary basis because of the challenges of the pandemic. Representatives from utility trade groups expressed support for NERC’s request.

