

January 10, 2023

TO: Policy Makers Council
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SUBJECT: January PMC Call Summary & 2023 Legislative Rally

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2023 Legislative Rally Meeting

When & Where: The PMC will meet in person at the 2023 APPA Legislative Rally on **Monday, February 27 from 3:00-5:00 p.m. ET** at the Mayflower Renaissance Hotel (1127 Connecticut Avenue NW) in Washington, D.C.

Meeting Agenda: The meeting agenda will include a welcome from PMC Chair Jim Brooks (Evansville, WI) and the PMC Officers, introductions, a legislative overview from APPA's Government Relations team, a review of proposed APPA resolutions to be considered at the 2023 Legislative & Resolutions Committee meeting, and an update on the 2023 PMC summer meeting (to be held in July 2023; the exact date will be determined via an availability poll later this month).

New Member Orientation: A 15-minute new PMC member orientation will directly follow after conclusion of the PMC meeting at the Legislative Rally from 5:00-5:15 p.m. This will be an opportunity to meet APPA staff, PMC officers, and network with fellow PMC members, and ask any questions you may have.

Registration: [Register here](#) for the Legislative Rally if you have not yet registered but plan to attend. Detailed information is available [here](#) about the event.

Legislative Update

NDAA

- President Biden signed the Fiscal Year 2023 National Defense Authorization Act (NDAA) into law late last year. Incorporated into the bill is the text of the Water Resources Development Act of 2022.
- APPA is pleased that the negotiated text includes a provision originating in the Senate that directs the Governmental Accountability Office to review how the Army Corps of Engineers determines joint operation and maintenance costs.
- A cloture vote (a vote to end debate and move forward to a vote) on an amendment offered by Senator Joe Manchin (D-WV) to streamline energy infrastructure permitting failed 47-47; 60 votes were required for advancement.

Sequestration

- In the Consolidated Appropriations Act, 2023, Congress also postponed for two years, the looming sequestration caused by the 2021 enactment of the American Rescue Plan Act.
- Without this action, beginning in January 2023, Pay As You Go Act – or PAYGO – sequestration would have cut to zero spending on all but a handful of mandatory spending programs.
 - This includes payments to issuers of Build America Bonds and payments under the newly created refundable direct pay tax credits.
 - APPA is still reviewing the law and its implications, but it would appear:

- The immediate effect will be to kill any chance a public power utility will seek ownership of a project relying on the production tax credit – which pays out over 10 years and so would clearly be vulnerable to sequestration.
- Public power utilities likely will also be unwilling to seek ownership of investment tax credit (ITC) projects that cannot be placed in service soon enough to ensure that the ITC is paid before January 2025, when PAYGO sequestration is now scheduled to begin.
- APPA will immediately begin outreach to potential allies on this issue and develop a regulatory and legislative strategy.
 - For example, we will likely ask Treasury to provide in regulations that an owner can file for a refundable direct pay tax credit can immediately file for a refund upon a facility being placed into service, rather than having to wait until the tax filing season following the tax year the facility was placed into service.

Supply Chain

- APPA was beyond disappointed that, despite intense lobbying by the electric and building industry trade associations, funding was not included for use under the Defense Production Act (DPA) to immediately address the production of distribution transformers (DTs) in the end-of-the-year omnibus appropriations bill for fiscal year 2023.
- APPA, the Edison Electric Institute, and National Rural Electric Cooperative Association continue to educate federal policymakers on the urgency of the issue and the need to address it.
- APPA will continue to look for opportunities to secure funding for use under the DPA to help address the distribution transformer supply chain crisis.
- DOE announced a pre-publication notice of proposed rulemaking to potentially amend conservation standards for distribution transformers requiring stricter standards and a potential change in material usage.
 - DOE claims it had to issue a notice on the docket due to court rulings. However, both the manufacturers and electric utilities see this as tone-deaf to the crisis at hand and further exacerbating the problem.
 - APPA is currently reviewing this pre-publication notice and weighing the next steps on this potentially misguided effort.

IIJA

- As part of APPA's ongoing effort to make members aware of recent federal agency and department activity related to implementing the Infrastructure Investment and Jobs Act (IIJA), members can access recent federal activity related to the IIJA, and other resources, including APPA summaries and statements, at www.publicpower.org/InfrastructureFunding. Also, a listing of all Department of Energy (DOE) IIJA program and funding announcements can be found [here](#).

Nominations

- On December 22, 2022, the Senate confirmed Evelyn Wang by voice vote to be director of DOE's Advanced Research Projects Agency-Energy, an office that may play a key role in the Biden Administration's efforts to develop and deploy clean energy technologies.