

Northeast Public Power Association Legislative Update



June 2022

Sen. Manchin Still Weighing Bipartisan Support for Climate and Energy Package

Sens. Joe Manchin (D-WV) and Lisa Murkowski (R-AK) have hosted several meetings in the past several weeks on a potential bipartisan energy-climate package. Sen. Manchin is seeking 60 votes for a bill that would include some measures from the Build Back Better Act alongside provisions that would increase domestic production of oil and gas. During the meetings, the small, moderate group of Senators have discussed a potential border adjustment tax on imports of carbon-intensive goods to pay for the package, and have had talks about the clean energy tax credits that were included in last year's Build Back Better Act. In a meeting on May 18, Sen. Kyrsten Sinema (D-AZ) joined the group for the first time. Sen. Sinema helped broker the Bipartisan Infrastructure Law (BIL) last year, but held up the Democrats' Build Back Better Act (along with Sen. Manchin). While details on the most recent meeting's topics were minimal, Sen. Kevin Cramer (R-ND) noted that there was consensus arising in the group to improve federal permitting review timelines.

Sen. Manchin Speaks Publicly on Budget Reconciliation Agenda

At the World Economic Forum in Switzerland on May 23, Sen. Joe Manchin reiterated his priorities for a budget reconciliation bill, with a focus on addressing inflation, reducing the cost of prescription drugs, and energy and climate. He defended fossil fuels, maintaining that they are still important in preserving energy reliability and security, and shouldn't be immediately swapped out for renewable energy sources. Sen. Manchin also pushed for increased domestic output of critical minerals needed for battery manufacturing to decrease dependence on China and other countries. Although he predicted that Congress would be able to pass meaningful legislation before the midterms in November, many Senate Democrats had considered Memorial Day to be the 'soft deadline' to reach a deal on a reconciliation bill, as the legislative calendar becomes more constrained through the summer and leading up to November's elections. Discussions on reaching agreement for a reconciliation bill among Senate Democrats continue, as well as private talks between Sen. Manchin and Senate Majority Leader Chuck Schumer (D-NY).

DOE Releases NOI for Transmission Facilitation Program, Vehicle Technologies

As part of its "Building a Better Grid Initiative" under the BIL, the Department of Energy (DOE) issued a Notice of Intent (NOI) for its Transmission Facilitation Program (TFP) on May 10. The \$2.5 billion program provides DOE with new authorities and tools to provide capacity contracts and loans as well as undertake public-private partnerships for the construction of new or upgraded high-capacity transmission lines. The NOI is accompanied by a Request for Information (RFI) on the application process, criteria for qualification, and selection of eligible projects to participate in the TFP. The NOI is the latest in a series of actions by the Biden administration to spur transmission buildout.

On May 12, DOE issued another NOI to provide funding through cooperative agreements for various research, development, demonstration, and deployment (RDD&D) activities through the Vehicle Technologies Office Program. The NOI lists 13 areas of interest that the agency is looking to fund, including the advancement of electric drive

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technologies, clean energy mobility solutions for underserved communities, deployment of low-cost sharing solutions for drivers that do not have access to dedicated residential charging options, and projects that support working with owners and operators of multi-family housing developments to develop replicable programs for providing cost-effective EV charging for residents, among other things. DOE plans to issue a Funding Opportunity Announcement in July 2022.

FERC Chair Richard Glick Renominated for Second Term

On May 20, President Biden announced his intent to renominate Federal Energy Regulatory Commission (FERC) Chair Richard Glick to a second term at the Commission. Since joining FERC in 2017 and being elevated to the Chair role last year, Glick has launched an ambitious energy and climate agenda, including its current notice of proposed rulemaking (NOPR) on long-term transmission planning and cost allocation requirements. Glick's renomination process may be contentious as members of the Senate Energy and Natural Resources Committee, including Chairman Joe Manchin, have criticized Glick in recent months for the Commission's controversial gas policy proposals and siting of gas pipeline infrastructure. Glick's current five-year term ends June 30 and if confirmed by the Senate, is expected to serve on the Commission until sometime in 2027.

FERC and NERC Release Grid Reliability Assessment and Risks for Summer

In its 2022 Summer Reliability Assessment issued May 18, the North American Electric Reliability Corporation (NERC) warned of potential increases in forced outages this summer in multiple regions. The combination of factors including above-average seasonal temperatures, wildfires, and extended drought may heighten reliability risks for parts of the Midwest, South, and West. As grid operators prepare for challenging summer conditions, NERC encourages the consideration of all available tools to keep systems in balance as well as factoring in extreme weather conditions in long-term planning to continue to have a reliable and resilient bulk system.

The same day NERC's summer grid assessment warned of forced outages proliferating this summer, Federal Energy Regulatory Commission's (FERC) Chairman Richard Glick advised utilities and grid operators to adjust to the "new normal" as severe heat waves, drought, and wildfires are becoming more commonplace. FERC also released an analysis on summer grid conditions that reached similar conclusions to NERC's: the Midwest, West, and Texas are at risk of power outages due to extreme heat. After the report's release, Glick contended that there is a need for more transmission lines and changes in the power markets driven by the transition of energy resources from fossil fuels to renewables.

Supreme Court Ruling Denies Request to Block Social Cost of Carbon

On May 27, the Supreme Court denied a request from ten states to block the Biden administration from using the social cost of carbon, an environmental metric that estimates the societal costs of increased greenhouse gas emissions. An interagency working group was directed to use the tool by executive order in January 2021. The states sued in federal court in Louisiana, and in February, a U.S. District judge temporarily blocked the use of the cost estimates. The federal government appealed, and the 5th U.S. Circuit Court of Appeals issued a stay of the ruling. Following the Supreme Court decision, the interagency working group is expected to propose in the coming months a broader update of the social cost metric, which will be factored into pending rulemakings and environmental reviews of energy infrastructure projects.

