

March 29, 2023

TO: Policy Makers Council

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SUBJECT: March PMC Call Summary

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H.R. 1 – House Republicans’ Energy Package (Energy Siting & Permitting Reform Legislation)

- The House is considering H.R. 1, the Lower Energy Costs Act. The House Republican-led package is a consolidation of energy production and permitting reform bills recently approved by several House committees. Most of the package is focused on expanding fossil fuel and mineral production. However, there are provisions that modify and reform the National Environmental Policy Act (NEPA) that could directly impact public power utilities.
- The bill will be debated, along with several relevant amendments to the electric sector, this week and is likely to pass by week’s end.
- Republican leadership intends to use passage of the bill to kick off comprehensive discussions on energy-permitting reforms with the Senate.

Tax

- Representatives Dutch Ruppersberger (D-MD) and House Ways & Means Committee member David Kustoff (R-TN) have begun seeking cosponsors for legislation to restore the ability to issue tax-exempt advance refunding bonds.
 - APPA has been whipping support for the letter and there are 18 sponsors as of March 24, but Reps. Ruppersberger and Kustoff are continuing to whip the bill in hopes of garnering more Republic support.
- The Internal Revenue Service (IRS) released in early March guidance related to the Code section 45J Advanced Nuclear Tax Credit.
 - The guidance could also be good news for public power utilities seeking to claim refundable direct pay tax credits if IRS remains consistent.
 - Specifically, 45J guidance is favorable to joint projects and joint action agencies, and APPA hopes the IRS applies the same rules when drafting direct pay tax credit guidance.
- In the meantime, APPA continues to work with other state and local stakeholders and rural electric cooperatives in seeking the best guidance for implementation of the Inflation Reduction Act. While we have a number of detailed suggestions and concerns, the key message is that guidance must be clear, simple, and reliable to incentivize the types of investments intended.

IRA & IIJA Implementation & Oversight

- Oversight of implementation of the Infrastructure Investment and Jobs Act (IIJA) remains a focus in both chambers. The Senate Energy & Natural Resources Committee held an oversight hearing in February, which included calls for increased oversight of the projects selected by the Department of Energy (DOE) for IIJA funding, particularly any companies with ties to China.
- The House Transportation & Infrastructure Committee held an IIJA oversight hearing on March 28 while the House Energy & Commerce Committee will hold an oversight hearing of the IIJA, IRA, and CHIPS and Science Act today, March 29.
- Notably, applications for the IIJA Charging and Fueling Infrastructure (CFI) Discretionary Grant Program opened earlier this month.
 - Public power is eligible to apply for these grants, which are designed to support deployment of electric vehicle and other alternative fuel (including hydrogen) vehicle infrastructure in communities. Applications are due May 30.

LIHEAP

- The appropriations season has started and there have been multiple letters asking for help in gathering signatures related to the Low Income Home Energy Assistance Program (LIHEAP).
- APPA believes that the chances for cuts to the program are slim, but is watching a Biden administration proposal to use LIHEAP funds for water assistance, and also for budget maneuvering, which could inadvertently hurt the program.

Senate Energy & Natural Resources Committee Cybersecurity Hearing

- On March 23, the Senate Energy & Natural Resources Committee held a hearing, “To Examine Cybersecurity Vulnerabilities to the United States’ Energy Infrastructure.” APPA submitted a statement for the record. Puesh Kumar, (DOE’s Office of Cybersecurity, Energy Security, and Emergency Preparedness), Robert Lee (Dragos), and Stephen Swick (AEP) testified.
- Key highlights of the hearing included: The cybersecurity risks associated with the changing grid (including new distributed energy technologies); the need for vendors and manufacturers of grid equipment and software to increase security and shoulder more liability; discussion of the shortage of distribution transformers; reliance on Chinese-made equipment; implementation of the Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program; and the cybersecurity of natural gas pipelines.

APPA Seeking Feedback on Draft Legislation Establishing Cybersecurity Standards for Distribution Utilities

- APPA is seeking member feedback on a DRAFT bill authored by Senate Energy & Natural Resources Committee Chairman Joe Manchin (D-WV) that would direct state regulatory authorities and non-regulated electric utilities (including public power utilities) to consider establishing baseline cybersecurity standards for distribution utilities. This would be accomplished by adding a new “must consider” provision to the list in section 111(d) of the Public Utility Regulatory Policies Act (PURPA).
- Section 111(d) of PURPA does not require a particular outcome, but it does compel state regulatory authorities and non-regulated utilities to go through a process of consideration. Further, it should be noted that the “must consider” requirements of section 111(d) only apply to electric utilities with total annual retail sales of electric energy in excess of 500 million kilowatt-hours.
- APPA’s position has long been that cybersecurity regulations need to be risk-based and, at least until recently, the biggest cybersecurity risk has been considered to be at the transmission and generation level. However, the political and regulatory atmosphere is changing. Given these dynamics, APPA believes it is in the best interest of public power to productively engage with Senator Manchin as he fleshes out this legislation.

Ask Your Delegation to Sign Letter Requesting Urgent Changes to Hydroelectric Incentive Implementation Guidance

- APPA encourages members with interest in hydropower to ask their congressional delegation to sign on to a letter written by Representative Annie Kuster (D-NH) to Energy Secretary Jennifer Granholm regarding implementation of hydroelectric incentives in the Infrastructure Investment and Jobs Act (IIJA) of 2021. **The deadline to sign onto this letter has been extended to Friday, March 31.**
- Section 40333 of the IIJA amended the Energy Policy Act of 2005 to establish section 247, which offers a new hydroelectric incentive payment to the owners and operators of qualified hydroelectric facilities for capital improvement projects directly related to supporting grid resiliency, improving dam safety, and environmental enhancements.
- DOE released [draft guidance](#) to inform its implementation of these incentives last month. APPA, along with the National Hydropower Association and Edison Electric Institute, found significant problems in the draft guidance.
- APPA believes that it would be helpful for members of Congress to signal their concerns with the draft guidance in a letter to Secretary Granholm and urge the adoption of these requested revisions into the final guidance (which is expected in May).

House Natural Resources Subcommittee Hearing on Water Resources

- On March 8, the House Natural Resources Committee’s Subcommittee on Water, Wildlife, and Fisheries held a [hearing](#) entitled “Benefits and Access: The Necessity for Multiple Use of Water Resources.”
- Scott Corwin (Northwest Public Power Association) was one of the witnesses. APPA submitted a statement for the record outlining the benefits of hydropower and highlighting challenges facing each of the Power Marketing Administrations.

Conservation Standards for Distribution Transformers

- APPA sent out an action alert to members last week asking them to reach out to representatives in the House urging Secretary of Energy Jennifer Granholm to withdraw DOE's (DOE) proposed rule to increase conservation standards for distribution transformers,
- The letter is being led by Representative Diana Harshbarger (R-TN). A similar effort will be undertaken in the Senate by Senator Bill Hagerty (R-TN). APPA will notify members when the Senate letter is ready for signatures.
- On December 28, 2022, DOE announced it was proposing new energy efficiency standards for distribution transformers.
- Almost all transformers produced under the new standard would feature amorphous steel cores, which the rule claims will be more energy efficient than those made of traditional, grain-oriented electrical steel.
- For over a year, the electric sector has repeatedly told DOE about the severity of the supply chain challenges that have prolonged and complicated distribution transformer production and availability. Increasing efficiency standards and changing production in the middle of a supply crisis will only further limit production.
- APPA submitted comments to DOE earlier this week urging it to "(r)econsider this proposed rule or delay the implementation of any final rule until the transformer supply base is strengthened enough to increase supply, reduce costs, and more diversity of component suppliers exist."