May 24, 2023

TO: **Policy Makers Council**

FROM: **Steve Medved / SMedved@PublicPower.org / 202-467-2928**

SUBJECT: **May PMC Call Summary**

******This email and the information contained herein are confidential. The intended use is for APPA member utilities and their employees only. Do not distribute outside your organization.******

Energy Tax Credits:

- The U.S. Treasury released draft proposed regulations this month relating to domestic content bonus credits for investment tax credits (ITCs) and production tax credits (PTCs) as amended by the Inflation Reduction Act (IRA). Domestic content requirements must also be met for projects seeking refundable direct payment of ITCs and PTCs.
- The recordkeeping required by the rules to comply with the requirements could be quite challenging. Treasury did not include guidance for possible domestic content waivers for those seeking direct payment. Those waivers will likely be discussed in direct payment guidance expected in the next several weeks.
- As a result, APPA is withholding public comments until direct payment guidance is released.

Permitting Reform

- Congress remains engaged on efforts to reform permitting for energy infrastructure. Following the passage of H.R. 1, the Lower Energy Costs Act, in the House in March, efforts to craft a bipartisan, bicameral deal are now primarily focused on the Senate. Last week, Senate Environment & Public Works (EPW) Committee Chairman Tom Carper (D-DE) released a discussion draft, the "Promoting Efficient and Engaged Reviews (PEER) Act," which is the fourth major permitting proposal to be released in the Senate this year, along with EPW Committee Ranking Member Shelley Moore Capito's (R-WV) Revitalizing the Economy by Simplifying Timelines and Assuring Regulatory Transparency (RESTART) Act, the Spur Permitting of Underdeveloped Resources (SPUR) Actfrom Senate Energy & Natural Resources (ENR) Committee Ranking Member John Barrasso, and the Building American Energy Security Act of 2023 from ENR Chairman Joe Manchin (D-WV).
- The scope of the effort remains the major question, with H.R. 1 and other Republican-led efforts primarily focused on reforms to the National Environmental Policy Act (NEPA) and the PEER Act including language on electric transmission that would direct the Federal Energy Regulatory Commission (FERC) to establish regional and interregional transmission planning and cost allocation processes that account for a broad set of benefits, including meeting decarbonization goals and supporting renewable energy, requiring a minimum amount of transfer capacity between transmission planning regions, and broadly expanding FERC's authority to site and permit certain high voltage transmission lines.
- House Republicans have also pushed to include some form of permitting reform in discussion around raising the debt ceiling. It is unlikely Republicans would accept major changes to the way electric transmission is sited, permitted, or paid for as part of that effort, but should the debt ceiling package include some minor reforms to NEPA or other federal processes, it is possible that members of Congress will continue the broader permitting reform discussions into the summer.

Rural Renewable Energy Forgivable Loans

- The Rural Utility Service of the U.S. Department of Agriculture published last week a Notice of Funding Opportunity for the Powering Affordable Clean Energy (PACE) – a forgivable loan program.
- To be invited to submit a PACE loan application, applicants must first submit a Letter of Interest (LOI). A letter of interest can **be submitted beginning onJune 30, 2023**, and **must be submitted by September 29, 2023**. RUS estimates that roughly $2.7 billion in project financing can be accommodated by the $1 billion authorized for the program by the IRA.
- PACE loans must be for the benefit of rural customers – so rural utilities and non-rural utilities serving rural areas may qualify; are made at a rate equal to the average tax-exempt municipal bond rate of similar maturities; can be used to finance wind, solar, hydropower, biomass, geothermal or storage projects; and are 20 percent to 60 percent forgivable depending on certain criteria.
- APPA is hosting a webinar on **May 30, from 3-4 p.m. Eastern**, with RUS Assistant Administrator Christopher A. McLean. He will provide background information about the PACE program, provide a timeline and instructions about the application process, and offer an opportunity to ask questions.

Hydropower

1521, the Community & Hydropower Improvement Act

- Senators Steve Daines (R-MT) and Maria Cantwell (D-WA) recently introduced S. 1521, the Community & Hydropower Improvement Act.
- The bill is aimed at increasing hydropower production by streamlining the permitting and licensing process, coordinating federal decision making, as well as increasing tribal engagement.
- This bill is based on work done by the "Uncommon Dialogue" effort in which the National Hydropower Association (NHA), non-governmental organizations, and tribal nations have for the last few years worked together to address challenges, such as licensing/relicensing, dam safety, and valuing hydropower's grid services.
- We have not yet taken a position on the bill. Some members have come out in support, others have privately communicated concerns, specifically with the provision that would give mandatory conditioning authority to federally-recognized Indian tribes with respect to projects located on tribal lands.
- APPA would like to hear from members as to whether they share these concerns and, if they do, whether the concerns are significant enough for them to either refrain from supporting the bill or outright oppose it. Please contact Amy Thomas.

Hydropower Incentives Webinar

- The Department of Energy's (DOE) Grid Deployment Office recently announced the availability of $554 million in incentive payments for hydropower projects funded by the IIJA.
- The IIJA authorized $553.6 million in funds for 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.
- Incentive payments are limited to 30 percent of the cost of capital improvements, and only one incentive payment of no more than $5 million can be made to a single project per year.
- The application process involves two steps – applicants must file a letter of intent by **5:00 p.m. Eastern on June 22 prior** to filing a full application.
- DOE is hosting an information webinar on **May 24 at 1:00 p.m. Eastern.** Registration is available here.

Cyber

- Puesh Kumar, Director the Office of Cybersecurity, Energy Security, and Emergency Response (CESER) at DOE testified before the E&C Subcommittee on Oversight & Investigations hearing, "Protecting Critical Infrastructure from Cyberattacks: Examining Expertise of Sector Specific Agencies." APPA submitted a statement for the record.
- The hearing was aimed at showcasing committee leadership's support for the partnership model established in Presidential Policy Directive 21 – Critical Infrastructure Security and Resilience (PPD-21) and the benefits of having agencies most familiar with individual sectors serve as the day-to-day Federal lead for critical infrastructure security and resilience amid calls to overhaul the entire model.
- Moreover, committee leadership fears that it is losing jurisdiction over cybersecurity matters as the role the Department of Homeland Security, which is under the jurisdiction of the House Homeland Security Committee, plays in the issue writ-large through its Cybersecurity and Infrastructure Security Agency (CISA).
- APPA strongly supports the partnership model established in PPD-21, with DOE as the energy sector's SRMA. However, as noted in our statement, the partnership model is not without complications. This is especially true when it comes to cyber incident reporting. APPA urges Congress to pause from consideration of legislation to create additional cyber incident reporting mandates on the electric sector until the Cybersecurity Incident Reporting for Critical Infrastructure Act (CIRCIA) is fully implemented. That would allow for the evaluation of CIRCIA's implementation and a determination of whether further changes are needed.

Solar Tariff

- The House and Senate voted and passed H.J. Res. 39, that would nullify the two-year suspension, which currently runs until June 2024, of tariffs imposed on solar equipment imported from Malaysia, Thailand, Vietnam, and Cambodia. Findings from the Commerce Department indicate that Chinese solar companies are circumventing tariffs by routing their products through these countries.
- As expected, President Biden vetoed the resolution. The House may take up a veto override vote, but it is highly unlikely that there are enough votes in either chamber to override the presidential veto.