

Northeast Public Power Association Legislative Update



April 2019

FERC Issues NOIs on Transmission and Pipelines; Nomination Process Stalls

On Mar. 21, the Federal Energy Regulatory Commission (FERC) held its monthly public meeting and issued two notices of inquiry (NOI). The first NOI relates to Order 679 regarding transmission incentives. That order was first issued in 2006, and the Commission is seeking input on whether transmission incentives should still be provided based on project risks or whether they should instead be based on project benefits. The second NOI relates to the Commission's policy for determining return on equity for public utilities and oil and gas pipelines.

Both NOIs will be open to comment for 90 days following their publication in the Federal Register. NEPPA has advocated for transmission policies that avoid "rubber-stamping" transmission owners' requests for incentives, particularly when the incentive is available for something the transmission developer is doing anyway. NEPPA plans to participate in the development of comments by the Transmission Access Policy Study (TAPS) group, which often files comments at FERC on similar technical issues.

Separately, the expected nomination of attorney David Hill to the open Republican seat at FERC appears to have been scuttled amid pushback from Secretary of Energy Rick Perry and several coal company executives. Hill, a former DOE official and lobbyist for NRG Energy, is a noted supporter of organized energy markets. His opposition to DOE's proposal to aid coal and nuclear plants in organized markets prompted the Secretary and others to weigh in against him. The halt in his expected nomination means that the naming of a new nominee is likely now several weeks away. Rumored potential nominees include Barry Smitherman, a former Texas utility regulator; Ellen Nowak, a former Wisconsin utility commissioner; and Pat McCormick, a former advisor to Sen. Lisa Murkowski (R-AK). There has been no mention of a replacement for Commissioner Cheryl LaFleur.

President Sends FY20 Budget to Capitol Hill

On March 11, President Trump released a blueprint of his FY20 Budget Request, proposing an overall five percent cut for all non-defense discretionary programs. Congress will likely create funding bills that vary significantly from this proposal.

The President's budget request provides \$31.7 billion for the Department of Energy (DOE), down 11% from FY19 enacted levels. Nuclear weapons accounts are prioritized, while research is cut. Cybersecurity receives a small boost of \$10 million from FY19 levels. Funding for the EPA would be slashed, at \$6.1 billion, down 31% from the \$8.8 billion Congress appropriated for FY19. Plans for "infrastructure" saw \$200 billion in the budget, but the blueprint provides few details about how this money should be delineated. The President's Budget also proposes to cut a number of programs, including the 30D electric vehicle tax credits and the Low-Income Home Energy Assistance (LIHEAP) program. Congress will likely reinstate both.

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Senate Blocks Green New Deal Resolution

On Mar. 26, the Senate failed to gain the requisite votes to proceed to consideration of the Green New Deal resolution. Senate Majority Leader Mitch McConnell (R-KY) had scheduled the vote in an attempt to get Democrats on the record supporting the controversial measure, particularly those running for the Democratic nomination for President. However, 43 Democrats voted “present” on the procedural question, with Sens. Joe Manchin (D-WV), Kyrsten Sinema (D-AZ), and Doug Jones (D-AL) voting “no” along with all Republicans. The final vote was 0-57. Even the bill’s sponsor, Sen. Ed Markey (D-MA), decried the vote as a “sham.” However, debate on the resolution was notable in that McConnell acknowledged, for the first time, that climate change is real and man-made, and Sen. Lamar Alexander (R-TN) spoke at length about his proposal to address climate change with a “New Manhattan Project” focusing on clean energy innovation and research at the National Labs.

A few days prior to the Senate vote, Chairman Paul Tonko (D-NY) of the House Energy and Commerce Subcommittee on Environment and Climate Change released a set of principles intended to guide the development of legislation aimed at addressing climate change. The principles call for scientific targets for greenhouse gas neutrality by 2050; a strong and competitive economy; investment in sustainability; a just and equitable transition; protection for low-income households; empowering state, local, tribal, and territorial governments; community resilience, and stable and predictable policies. The principles echo many of the economic goals of the controversial Green New Deal, but Tonko’s effort is expected to court moderates and Republicans. In related news, staff for the Senate Energy and Natural Resources Committee indicated that introduction of a Clean Energy Standard was imminent, and that the Committee would be holding additional climate hearings in April that would discuss such legislation.

President Trump Issues Order to Address EMP Threat

Amid growing concern by national security and intelligence officials, President Trump issued an Executive order on Mar. 26 designating the Department of Homeland Security (DHS) responsible for defending the nation from an electromagnetic pulse (EMP), including the electric grid. The order primarily focuses on gathering more information on the potential impact of and existing vulnerabilities to an EMP event. It requires DHS to identify “National Critical Functions” whose disruption due to an EMP would cause severe damage to public health, safety, and national security. Additionally, it requires DHS to coordinate with DOE and other agencies to study the possible effects an EMP would have on the grid and to consider mitigation strategies. The order also requires DOE to consult with industry on existing standards and policies. Nevertheless, DHS does not have legal authority to compel grid operators to take any action.

