Northeast Public Power Association

Legislative Update

June 2023

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Debt Ceiling Deal Passes Congress, Signed into Law

On May 27, President Biden and Speaker Kevin McCarthy (R-CA) reached an agreement to lift the debt ceiling and avert a financial crisis. The final deal suspends the borrowing cap until Jan. 1, 2025, sets discretionary spending caps for the next 6 years, claw back unspent COVID spending, and includes some project permitting reforms, among other things. Of interest to municipal utilities and rural cooperatives , the deal would not rescind energy tax credits or direct pay provisions of the Inflation Reduction Act. The agreement drew significant criticism from both sides of the political aisle, with conservative Republicans expressing frustration that the bill doesn't go far enough to curb future spending and budget reforms, and progressive Democrats frustrated with work requirements being tied to social aid programs and the lack of legislation to address new transmission needs.   However, the House passed the "Fiscal Responsibility Act" on May 31 by a bipartisan vote of 314-117. The bill then saw expedited consideration in the Senate and passed June 1 by a bipartisan vote of 63-36.

47 Senators Send Letter to DOE on Proposed Distribution Transformer Conservation Standards

On June 1, a bipartisan group of 47 Senators sent a letter to Energy Secretary Jennifer Granholm urging reconsideration of the proposed conservation standards for distribution transformers. The letter, led by Sen. Bill Hagerty (R-TN), asks that the Department of Energy (DOE) allow manufacturers to continue to use grain-oriented electrical steel. DOE's proposed rule, which would take effect in 2027 if finalized, would require that many distribution transformers be made with the slightly more efficient — but much less domestically available — amorphous steel cores. The letter says that the new requirement "could put the administration's electrification goals at risk by exacerbating an existing grid vulnerability," and, "meaningfully worsen the current supply chain shortage by requiring manufacturers to change production lines to less readily available amorphous steel." The Senate letter follows a letter written in April and signed by more than 60 House members similarly urging DOE to withdraw the proposed rule.

In related news, the American Public Power Association (APPA), National Rural Electric Cooperative Association (NRECA) and the Edison Electric Institute (EEI), among other utility and industry advocacy groups, sent a letter to President Biden concerning the domestic electrical steel shortage that is creating challenges for restoring power after outages, the clean energy transition, and construction of residential and commercial buildings. The group requested that Biden host an "Electrical Steel Summit" with utilities, manufacturers, and other stakeholders to discuss solutions to the supply crisis. The letter also noted that even with the recent agreement from domestic electric steel manufacturers to increase production, supplies of domestic steel, "will still fall far short to meet electrification goals," and that manufacturers' plans to expand "are now in flux" due to DOE's proposed conservation standards for distribution transformers.

EPA Proposes New Power Plant Emissions Rules

On May 11, the Environmental Protection Agency (EPA) proposed five separate actions regulating greenhouse gas emissions from fossil-fueled power plants under Sec. 111 of the Clean Air Act: 1) standards for new plants; 2) standards for plants that undergo significant modification; 3) standards for existing plants; 4) special standards for the largest plants operated as baseload resources; and 5) repeal of the Affordable Clean Energy rule. New and reconstructed plants would need to either use highly efficient generation or install carbon capture technology (CCS) or co-fire with hydrogen, depending on the capacity factor of the resource. Existing large natural gas units (over 300 MW with a capacity factor over 50%) would be subject to a standard equivalent to either 90 percent capture of CO_2 using CCS by 2035, or co-firing of 30% hydrogen beginning in 2032 and co-firing 96% hydrogen beginning in 2038. Existing coal plants that plan to operate after 2040 would need to capture 90% of their emissions, but those that commit to closing earlier would be subject to a less stringent standard. Critics have hit hard at the reliance on CCS, which is not in operation at any U.S. plant currently, and the rule's legal footing in the wake of West Virginia v. EPA, which told the agency it needed clearer direction from Congress before issuing a rule with sweeping economic consequences.

DOE Issues NOI, RFI on National Interest Transmission Corridors Program

On May 10, DOE issued a Notice of Intent to establish a program to designate "National Interest Electric Transmission Corridors" (NIETC) for large power lines to help with transmission buildout, promote resilience, and connect more renewables to the grid. The program would provide federal financing and siting assistance to projects that would be built or expanded in DOE-designated corridors. Power lines in federally designated corridors are eligible for $2.5 billion under the Infrastructure Investment and Jobs Act and $2 billion through a transmission loan program authorized under the Inflation Reduction Act. Comments on the program, including recommendations on proposed corridors, are due by June 29, 2023.

IRS Issues IRA Domestic Content Bonus Credit Guidance

The Internal Revenue Service (IRS) has unveiled its initial guidance to qualify for and claim the domestic content bonus credit for clean energy projects. Under the Inflation Reduction Act (IRA), an additional 10 percent "bonus" credit is provided for projects and facilities that meet domestic content requirements and can be stacked on top of the investment and production tax credits as well as other bonus credits, including the energy communities bonus credit. Notice 2023-38 provides guidance on the domestic content requirement applicable to steel or iron, for which manufacturing processes must take place in the U.S. For manufactured products, 40% of the attributed cost, except for offshore wind, must be mined, produced, or manufactured in the U.S. as well. The guidance, among other things, also describes