

# Northeast Public Power Association Legislative Update



## May 2018

### Energy and Commerce Panel Hears from FERC Commissioners in Broad Hearing

On April 17, the House Energy and Commerce Subcommittee on Energy hosted all five members of the Federal Energy Regulatory Commission (FERC) for a wide-ranging hearing on energy issues and the agency's budget for FY19. Top themes included cyber security of the grid, market structures, the Public Utility Regulatory Policies Act (PURPA), and the transformation of the industry.

Members of Congress thanked the Commissioners for their thoughtful response to the Department of Energy's Notice of Proposed Rulemaking (NOPR) on resilience, but had differing areas of concern about organized markets. For example, Ranking Member Bobby Rush (D-IL) expressed concerns about the NOPR favoring coal and nuclear power while "disrupting" markets, while full Committee Chairman Greg Walden (R-OR) lamented the markets' inability to differentiate between varying attributes of generation sources, which is becoming increasingly important.

On the interplay between markets and state public policy, Commissioner Powelson said he would be evaluating state policies based on their impact to wholesale markets, and Commissioner Chatterjee suggested that the Commission's ability to respond to these challenges is constrained by statute – noting that Congress could act to change those constraints. Commissioner Glick emphasized that the Federal Power Act gives states authority over resource decisions.

In the question and answer period, all five Commissioners indicated they thought PURPA needed reform, but did not give details on how they might pursue such reform or how Congress could amend the act.

### Perry Testifies on FY19 Budget for Department of Energy (DOE)

Secretary Rick Perry testified on both sides of the Capitol regarding his agency's FY19 budget request. On April 11, he appeared before the Senate Appropriations Subcommittee on Energy and Water. Perry defended President Trump's FY19 budget request, despite members from both sides of the aisle expressing concern over the proposed severe cuts to science and research and development programs. On April 12, Secretary Perry testified before the House Energy and Commerce Committee. Many of the same concerns about sharp cuts to the Office of Science – especially affecting National Labs – were brought before the Secretary. Cybersecurity was another topic on many members' minds, and Perry took the opportunity to tout the DOE's new Office of Cybersecurity, Energy Security and Emergency Response.

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## **Embattled EPA Administrator Testifies Before Two House Subcommittees**

On April 26, Environmental Protection Agency (EPA) Administrator Scott Pruitt appeared before two separate House Subcommittees in back-to-back hearings intended to address the agency's FY19 budget request, but they became forums on recent controversies concerning Pruitt's use of taxpayer funds and alleged misconduct.

At the first hearing, House Energy & Commerce Subcommittee on the Environment Chairman John Shimkus (R-IL) focused on Superfunds and largely steered clear of the controversies, but Full Committee Chairman Greg Walden (R-OR) said he was concerned that the agency's agenda was being undermined by the headlines about Pruitt's behavior. Ranking Member Paul Tonko (D-NY) and other Democrats expressed concern about the agency's recent move to restrict the types of scientific studies EPA may rely on in future rulemakings, with Pruitt justifying the action by saying that EPA had gotten into the practice of relying on third-party summaries rather than studies with hard data.

Administrator Pruitt's testimony focused on the agency's progress toward environmental outcomes while removing red tape for companies. He also spoke to the numerous headlines, taking responsibility for some of the decisions he made while pushing back on "half-truths" in the media. The House Interior Appropriations Subcommittee met less than an hour after the conclusion of the Energy and Commerce hearing. There, Pruitt further noted that although he is still learning how to handle the agency, he is proud of the work that the Trump Administration is doing to relieve regulatory burdens. Several members questioned Pruitt on current allegations within the media as well as the agency's decision to roll back air quality standards. Pruitt responded that he will continue to work with states to improve air quality, and he highlighted the agency's intent to use the Water Infrastructure Finance and Innovation Act (WIFIA) to strengthen water infrastructure.

## **Energy Subcommittee Marks Up Four Cyber Bills**

On April 18, the House Energy & Commerce Subcommittee on Energy marked up four bills related to cybersecurity and unanimously reported them to the full committee. One of the bills (H.R. 5174) would codify Secretary Perry's new Office of Cybersecurity, Energy Security, and Emergency Response (CESER). Another bill (H.R. 5175) would help states improve the security of natural gas pipelines. Of interest to NEPPA, H.R. 5240 would have DOE provide training and technical assistance to utilities to enhance their cybersecurity preparedness. This is similar to an existing pilot program between DOE and the American Public Power Association and the National Rural Electric Cooperative Association. The fourth bill, HR 5239, would create a voluntary testing program to identify products and technologies that are secure for the electric grid.

## **Agencies Sign Agreement to Streamline Environmental Reviews**

Twelve federal agencies, including DOE and FERC, have signed a memorandum of understanding (MOU) to consolidate and expedite federal environmental reviews for permitting infrastructure projects. The MOU follows an Executive order issued by President Trump on Aug. 15, 2017 to streamline environmental reviews required under the National Environmental Policy Act (NEPA) for major infrastructure projects, those requiring multiple permits and approvals from federal agencies. One federal agency will take the lead for coordinating a single federal review, setting deadlines for other agencies and aiming to complete the review within a two-year period. The lead agency will also coordinate the concurrent completion of reviews, as opposed the current sequential process that can greatly extend the length of time of the process.

