

April 28, 2021

TO: Policy Makers Council

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SUBJECT: April PMC Call Summary

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### **Comparable Incentives**

- On April 21, Senate Finance Committee Chairman Ron Wyden (D-OR) [introduced](#) the [Clean Energy for America Act](#). It would convert the existing technology specific energy tax credits into a “tech-neutral” approach under which project developers can elect to receive an investment tax credit (ITC) or production tax credit (PTC). Public power utilities and other tax-exempt entities would not qualify for these tax credits, but would be able to issue taxable direct payment Clean Energy Bonds (CEB). Specifically, issuers would receive a tax credit of up to 70 percent of the interest paid on a CEB.
- H.R. 848, the [GREEN Act](#), takes a different approach—allowing public power utilities to receive discounted tax credits and PTCs on a refundable basis.

### **Grid Security:**

- On April 20, the Department of Energy (DOE), in collaboration with other federal entities announced, a 100-day [initiative](#) to enhance the cybersecurity of electric utilities’ industrial control systems (ICS) and secure the energy sector supply chain. This effort complements APPA’s existing partnership with DOE to help smaller public power utilities improve their cybersecurity postures.
- DOE also released a new [Request for Information \(RFI\)](#) to seek input from stakeholders to inform future recommendations for supply chain security in U.S. energy systems. With the release of the RFI, DOE is revoking the “Prohibition Order Securing Critical Defense Facilities.”

### **Climate**

- The House Energy & Commerce (E&C) Committee continues to hold legislative hearings on the CLEAN Future Act with the last two focusing on the bill’s environmental justice provisions. A legislative hearing in May is expected on the clean energy standard (CES) the bill would create. The bill will likely be considered in subcommittee later this spring.
- The Senate Environment & Public Works Committee recently held a [hearing](#) on the creation of a national climate bank, which aims to provide financial support for projects to reduce local greenhouse gas emissions, as well as help communities set up their own green banks to directly fund such local projects.
- There is still discussion of trying to include a CES in an infrastructure package. If Democrats work on a smaller package with Republicans, it will likely remain narrow in focus (i.e., surface transportation, water, wastewater, and broadband). If that occurs, Democrats may then move a second infrastructure package under budget reconciliation. That would likely be the package that would include provisions to address climate change. This could include provisions from the LIFT America Act to promote clean energy resources and electric vehicles. It could also include a CES or something similar to a CES (there is a lot of speculation on whether they would actually try to include a CES).

### **Infrastructure**

- An [outline](#), released on March 31, of President Biden's over \$2 trillion infrastructure plan, the American Jobs Plan, includes \$174 billion in electric vehicle infrastructure; \$27 billion for a "Clean Energy & Sustainability Accelerator" designed to leverage private investments in distributed energy resources, building retrofits, and clean transportation infrastructure; and \$100 billion for "power infrastructure," including through the creation of a "targeted ITC that incentivizes the building of at least 20 gigawatts of high-voltage capacity power lines." It further establishes a new Grid Deployment Authority at DOE to leverage existing rights of way, along roads and railways, to support high priority, high-voltage transmission lines. The Senate Appropriations Committee held a April 20 [hearing](#) on the plan.
- Senate Republicans released a narrower \$568 billion infrastructure framework, which does not include any energy-related infrastructure and instead focuses on roads, bridges, public transit, rail, drinking water, and broadband infrastructure.

### **FEMA Hazard Mitigation Grants**

- **APPA asks that utilities interested in this legislation contact their Senate offices to urge their support for the bill.**
- Senator Thom Tillis (R-NC) is seeking cosponsors in advance of introduction of legislation that would clear at last one hurdle for utilities seeking to use Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance grants. Under current guidance, any hazard mitigation project on which work has begun cannot qualify for a FEMA Hazard Mitigation Assistance grant. FEMA argues that once construction has begun, it cannot accurately complete a cost-benefit analysis necessary to approve such a grant.
- The legislation would overturn this ruling by providing that projects that otherwise qualify for a FEMA Hazard Mitigation Assistance grant would not be precluded from qualifying if planning, acquisition, or construction had begun prior to approval of that grant. This would also apply to property acquisitions. For construction projects, this relief would only apply to projects that are "categorically exempt" from a National Environmental Policy Act (NEPA) review. Generally speaking, for utilities, projects within the current "footprint" of utility lines and facilities are categorically exempt from NEPA review.

### **Transmission**

- Senator Martin Heinrich (D-NM) and Reps. Steven Horsford (D-NV) and Susie Lee (D-NV) have introduced the [Electric Power Infrastructure Improvement Act](#), which would create an ITC for "regionally significant" transmission projects that deliver power produced in rural areas or offshore. APPA is concerned this bill does not provide any kind of comparable incentive for tax-exempt entities, like public power.
- Senator Heinrich and Rep. Sean Casten (D-IL) have introduced similar legislation, the [Interregional Transmission Planning Improvement Act of 2021](#), which would require the Federal Energy Regulatory Commission (FERC) to issue a rulemaking on the interregional transmission planning process. Based on member feedback, APPA does not support this bill as it could lead to broader cost allocation requirements for interregional transmission projects.

**Nominations:** The Senate this month confirmed Brenda Mallory to be the Chair of the White House Council on Environmental Quality and Janet McCabe to be Deputy Administrator of the Environmental Protection Agency.

**6 GHz Court Proceeding:** On April 2, APPA and the other electric industry trade groups filed a joint reply brief to the U.S. Court of Appeals (D.C. Circuit) on Petitions for Review of the 6 GHz report and order (R&O) issued by the Federal Communications Commission. A timetable for oral arguments has not been set. The FCC R&O to open the 6 GHz band of spectrum to unlicensed usage went into effect in July 2020. The R&O allows two types of unlicensed operations – low powered indoor use and outdoor use

protected with automated frequency coordination technology. A broad coalition of incumbent license holders filed extensive comments raising concerns about interference to operations that could result from opening the band to unlicensed users and requesting further testing and protections from the FCC.