

Northeast Public Power Association Legislative Update



April 2021

FERC Technical Conference Signals Policy Shift on Capacity Markets

On March 23, the Federal Energy Regulatory Commission (FERC) held a virtual technical conference on resource adequacy that signaled big changes ahead for how the three eastern RTOs procure capacity. Chairman Rich Glick and other panelists echoed not-for-profit utility groups' characterization of mandatory capacity markets as "administrative constructs" that have become unsustainable in their tension with states' energy policies, and Commissioner Neil Chatterjee made waves by saying he is "not wedded" to the Minimum Offer Price Rule (MOPR) that frustrates self-supply and state-sponsored resources from competing in the markets, even though he has voted multiple times to uphold that policy. Commissioner Danly, however, cautioned against the potential reliability consequences of driving conventional resources that provide baseload, integration, and peaking services out of the market if the MOPR is eliminated.

Biden Announces \$2.25 Trillion Infrastructure Plan

On March 31, the White House unveiled a \$2.25 trillion infrastructure and jobs plan that contains money for roads, the power grid, broadband, and more. This plan includes \$100 billion for investments in clean energy production and related infrastructure, including a 10-year extension of renewable energy tax credits, expansion of credits for energy storage, and a proposed grant program for state and local government to build out a network of 500,000 EV chargers by 2030. The proposal also includes a "Energy Efficiency and Clean Electricity Standard" that would include nuclear power and hydropower technology. To pay for this package, the administration has proposed eliminating tax breaks for the fossil fuel industry and raising \$2 trillion in corporate taxes over the next 15 years.

Committees in both chambers have been holding hearings examining infrastructure needs in anticipation of the package. March 18 and 24 saw hearings in the Energy and Commerce Committee on Democrats' "Clean Future Act," a bill focused on clean energy and climate provisions. Chairman Frank Pallone (D-NJ) highlighted the bill's \$7 billion investment over 10 years to promote grid resilience and efficiency, as well as provisions that invest in microgrids and enable responsible buildout of the electricity transmission system. Chairman Pallone emphasized throughout the hearing that an improved transmission system is key to reliability, resiliency, and achieving clean energy goals, which was echoed by witnesses. Republicans on the Committee expressed frustration at the lack of bipartisan input, and a theme of the hearing became how the electric sector will eliminate carbon emissions without technology breakthroughs that enable reliable operation of the grid without fossil fuels. Energy and Commerce Republicans also released a package of climate-focused bills dealing with nuclear, hydropower, and carbon capture meant to serve as a counterproposal to the Democrats' bill.

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On March 22, the Energy and Commerce Committee held a hearing on Committee Democrats' infrastructure proposal, the "LIFT America Act," which authorizes \$3.87 billion per year for five years to modernize and shore up the electric grid, tens of billions for energy efficiency improvements to new and existing infrastructure, \$41.8 billion to support deployment of electric vehicle infrastructure nationwide, and several provisions aimed at boosting domestic manufacturing of battery storage.

Senate Homeland Security Examines Agency Response to SolarWinds Hack

On March 18, the Senate Homeland Security Committee held a hearing to examine the response to the SolarWinds supply chain attack from federal agencies. Witnesses at the hearing were Christopher DeRusha, Federal Chief Information Security Officer at the Office of Management and Budget (OMB), Brandon Wales, Acting Director of the Cybersecurity and Information Security Agency (CISA), and Tonya Ugoretz, Acting Assistant Director of the Cyber Division of the Federal Bureau of Investigation (FBI). When asked what specific actions CISA is currently taking to mitigate future attacks, Wales spoke to the difficulty of determining where the attack was coming from, but said that with funds from the recently-passed COVID-19 rescue bill, CISA will be working to improve its capabilities in this area. Ugoretz testified that the FBI is taking action alongside CISA's mitigation efforts to provide a post-attack report that will help prevent future attacks, and emphasized that cross-agency coordination is crucial.

Senate Panel Holds Hearing on FEMA Nominee; EPW Advances Mallory to Full Senate

On March 25, the Senate Homeland Security and Governmental Affairs Committee held a hearing on the nomination of Deanne Criswell to be Administrator of the Federal Emergency Management Agency (FEMA). During the hearing, Chairman Gary Peters (D-MI) referenced studies that show six dollars in future disaster cost can be avoided for each dollar invested in hazard mitigation, even though disaster mitigation only plays a small part in our nation's disaster spending. Criswell agreed that reducing risk is a priority, especially as the impacts of climate change increase. She stated she hopes to understand how jurisdictions utilize the newly implemented Building Resilient Infrastructure and Communities (BRIC) Program to reduce risk, and to help ensure disaster mitigation plans are taking climate change's growing impact into account. Criswell committed to promoting engagement and coordination between FEMA and state and local governments.

Separately, on March 24, the Senate Environment and Public Works Committee favorably reported the nomination of Brenda Mallory to Chair the Council on Environmental Quality.

