

Northeast Public Power Association Legislative Update



August 2022

Energy and Climate Title Added to Reconciliation Deal, Includes Direct Pay

On July 6, Senate Democrats submitted language on prescription drug pricing to the parliamentarian, making it the first section of a new package to be reviewed for its comportment with strict reconciliation rules. News outlets have reported that Majority Leader Chuck Schumer (D-NY) and Sen. Joe Manchin III (D-WV) were considering a “\$300 billion ceiling” for energy tax incentives. However, on July 14, Sen. Manchin surprised Democratic leaders by saying that he would not vote for new spending on climate change or tax increases in the reconciliation bill that Democrats have been negotiating for weeks.

In a grand turn of events, Sen. Manchin and Majority Leader Schumer reached a reconciliation deal on July 27, now called the “Inflation Reduction Act of 2022,” that includes \$369 billion for energy and climate. In a huge legislative victory, access to refundable direct pay tax credits for not-for-profit electric utilities was also kept in the bill. The deal also includes an extensive list of extended and new tax incentives for renewables, carbon capture, standalone energy storage, nuclear, and EVs, as well as \$60 billion in funding for clean energy manufacturing, \$27 billion for a green bank, and \$9.7 billion for the cooperative transition fund, among other things. To help pay for the bill and reduce deficits, the package would include a 15 percent corporate minimum tax, prescription drug pricing reforms and stepped-up funds for IRS enforcement.

The Senate parliamentarian is now reviewing the bill’s provisions to ensure they comply with the Senate’s budget rules. With every Democrat vote needed to advance the bill, Senate Democrats are awaiting Sen. Kyrsten Sinema’s (D-AZ) position, as she has not yet indicated whether or not she would vote in favor of the deal. While Sen. Sinema has voiced her opposition to raising individual and corporate tax rates in the past, she supported the 15 percent minimum book income tax during Reconciliation negotiations back in December, which is a major source of revenue in the Manchin-Schumer bill.

The House Passes Minibus of Six Appropriations Bills

The House passed its first package of appropriations bills for FY23—a six-bill minibus totaling \$402 billion. The package includes the Energy and Water, Interior-EPA, Transportation-Housing and Urban Development, Agriculture-Rural Development, Financial Services-General Government, and Military Construction-Veterans Affairs spending measures. The Energy and Water bill provides \$56 billion – an increase of \$3.4 billion from FY22 spending levels – for the Department of Energy (DOE), the U.S. Army Corps of Engineers, the Bureau of Reclamation, and related federal programs. Democrats successfully fended off Republican efforts to de-fund President Biden’s executive actions on climate as well as to make across-the-board cuts to spending at the EPA, the DOE, and the Department of the Interior. The Senate has begun releasing text for its appropriations bills for FY23, but hearings will not be scheduled until after the August recess.

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Congress Passes “Chips and Science” Innovation Bill

On July 28, the House passed the “Chips and Science” Innovation bill after the Senate’s passage on July 27 that would bolster competition with China and address shortages of chips and semiconductors. Previously named the “US Innovation and Competition Act” (USICA) in the Senate and the “America COMPETES Act” in the House, the bill had undergone weeks of negotiations in a joint committee to reconcile the bills’ various differences. However, after a push from President Biden and other stakeholders, Majority Leader Chuck Schumer (D-NY) pared off the chips portion of the USICA to boost domestic manufacturing sooner rather than later due to supply chain shortages, and includes \$52 billion for semiconductor manufacturing. After a series of procedural votes in the Senate, Leader Schumer added \$200 billion in research authorizations for the Department of Energy’s Office of Science and the National Science Foundation—representing a slimmed down version of the USICA and America COMPETES. The bill now awaits signature from President Biden to become law.

House Panel Advances Power Plant Permitting Bill

On July 20, the House Oversight and Reform Committee advanced the “Justice in Power Plan Permitting Act” (H.R. 6548) on a party-line vote after a contentious markup. The bill, sponsored by Chairwoman Carolyn Maloney (D-NY), would prevent the permitting of fossil fuel-fired power plants within one mile of an existing major air pollution source and establish a \$10 billion “Just Energy Transition Fund” to replace plants that are not eligible to be permitted or re-permitted under the legislation, among other things. During the markup, the panel rejected several amendments proposed by Republicans including one by Ranking Member James Comer (R-KY) that would have removed a provision of the bill that gives preference to renewable energy projects constructed by labor union-friendly firms. The House Energy and Commerce Committee, which also has jurisdiction over the bill, has not yet scheduled a markup. In another effort to curb power plant emissions, Rep. Alexandria Ocasio-Cortez (D-NY) is circulating a bill, “The EPA Regulatory Authority Act of 2022”, which would give the EPA broad authority to regulate greenhouse gas emissions from power plants that was stripped by the Supreme Court’s West Virginia v. EPA ruling last month. However, several of Rep. Ocasio-Cortez’s Democratic colleagues seem reluctant to make changes to the Clean Air Act during an election year, and it is highly unlikely that the bill would pass in the Senate.

DOE Announces New Staff Appointments

On July 19, the Department of Energy (DOE) announced several new appointees to head various clean energy offices and oversee the implementation of grant programs newly created under the Bipartisan Infrastructure Law (BIL). Maria Robinson, a former nominee to lead the Office of Electricity, will be the first-ever director of the new Grid Deployment Office. In her role, Robinson will be responsible for the modernization and upgrade of the nation’s electric transmission system as well as efforts to deploy reliable and affordable clean electricity. Zachary Valdez has been tapped for the role of chief of staff for the Office of Manufacturing and Energy Supply Chains to help lead the agency’s efforts to address energy supply chain issues and distribute funding to domestic battery production. Since last year, DOE has been on a hiring spree to disburse and implement \$62 billion in funding for clean energy investments under the BIL.

