

Northeast Public Power Association Legislative Update



October 2022

Continuing Resolution Moves Forward Without Permitting Reform

Congress passed a Continuing Resolution (CR) on Sept. 30 to extend current levels of government funding through Dec. 16. The CR will be the last major piece of legislation passed until after the midterm elections as Congress has adjourned for recess until mid-November. The CR gives time to finalize appropriations for FY23 during the lame duck session. The bill includes \$1 billion for the Low-Income Home Energy Assistance Program (LIHEAP), as well as \$2 billion for disaster assistance, among other things.

Sen. Joe Manchin's (D-WV) energy permitting reform legislative proposal was originally included in the CR, however, Sen. Manchin asked Senate Majority Leader Chuck Schumer (D-NY) to strip the language ahead of the Senate's first procedural vote on the measure due to opposition from both parties in both chambers. Democratic leaders may attempt to attach Sen.

Manchin's permitting reforms to another piece of must-pass legislation before the end of the year, such as the National Defense Authorization Act or an end-of-year omnibus appropriations bill.

DOE Issues RFI on Defense Production Act Executive Order

The Department of Energy has issued a Request for Information (RFI) on the implementation of the Defense Production Act (DPA) to accelerate domestic production and manufacturing of solar technology, transformers and electric grid components, electrolyzers, fuel cells, and other equipment. The DPA, a wartime presidential authority used to increase production of supplies during national emergencies, was invoked by President Biden in June to help mitigate supply chain issues in the energy sector. The RFI seeks information from industry leaders and state and local governments on supply chain challenges, domestic manufacturing, workforce issues, and equality.

Biden Creates Clean Energy Office for IRA Implementation

President Biden issued an executive order on Sept. 12 to help with the implementation of the Inflation Reduction Act (IRA), establishing the White House Office on Clean Energy Innovation and Implementation. The new office will be headed by senior adviser John Podesta and is intended to help ensure that IRA funds are distributed and used effectively across the federal government. Podesta's office will also work in coordination with the White House Office of Domestic Climate Policy to help structure the law's grants and tax credits. Podesta has already received multiple requests from the energy sector to release guidance on the IRA as soon as possible to help spur its implementation, although no announcement for it has been

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CISA Seeks Feedback on Cyber Incident Reporting Requirements

The Cybersecurity and Infrastructure Security Agency (CISA) has issued a Request for Information (RFI) to gather feedback on cyber incident reporting requirements for critical infrastructure. Earlier this year, as part of the FY22 spending deal, Congress enacted the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) which mandates new cyber incident and ransomware reporting requirements for critical infrastructure operators. CISA is seeking input on definitions for and interpretations of the terminology to be used in the proposed regulations; the form, manner, content, and procedures for submission of reports required under CIRCIA; and information on requirements to report a description of the vulnerabilities exploited, among other things. In addition to the RFI, CISA will hold 11 public listening sessions to gather feedback. Comments to the RFI are due 60 days after publication in the Federal Register.

FERC Issues NOPR on Incentives for Advanced Cybersecurity Investment

On Sept. 22, the Federal Energy Regulatory Commission (FERC) held its monthly meeting. FERC issued a Notice of Proposed Rulemaking (NOPR) on incentives for advanced cybersecurity investment, with proposed rate incentives for investing in cybersecurity technology and participating in cybersecurity threat information sharing programs. The cyber incentives would take the form of either a return of equity adder or deferred cost recovery. In direct contradiction with the NOPR, Chairman Richard Glick said in the meeting that he had “significant concerns” about cyber threats and that they may be better addressed through mandatory standards instead of incentives for voluntary measures. The Bipartisan Infrastructure Law requires FERC to establish incentive rates on cybersecurity investments by May 2023. Comments are due within 30 days of the NOPR’s publication in the Federal Register.

