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Powering Strong Communities

A Federal Legislative Update

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Overview

- Agenda of the 115th Congress
- Nominations
- Public power priority issues in 2017
- Other priority issues in 2017

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"Before I begin, one of the acronyms I'm going to use is completely made up. See if you can figure out which one."

Acronyms

- DOE – Department of Energy
- DOI – Department of Interior
- DER – Distributed energy resources
- DG – Distributed generation
- EEI – Edison Electric Institute
- ESCC – Electric Subsector Coordinating Council
- EMP – Electromagnetic pulse
- ESA – Endangered Species Act
- EPW – Environment & Public Works Committee
- E&C Cte. – House Energy & Commerce Committee
- FAA – Federal Aviation Administration
- FCC – Federal Communications Commission
- FERC – Federal Energy Regulatory Commission
- FY – Fiscal Year
- NRECA – National Rural Electric Cooperative Association
- NEI – Nuclear Energy Institute
- PURPA – Public Utility Regulatory Policies Act of 1978
- RTO – Regional transmission organization
- SENR – Senate Energy & Natural Resources Committee

Agenda of the 115th Congress

- Repeal and replace of Obamacare
- Tax reform
- Budget/Appropriations – remainder of FY 2017 and FY 2018
- Nominations
- Debt ceiling
- FAA reauthorization
- Infrastructure legislation

Public Power Priorities in 2017

- Seven Priority Issues Under APPA Increased Federal Regulations Strategic Initiative
 - Tax-exempt financing
 - Grid security
 - Infrastructure/energy legislation
 - Distributed energy resources
 - Environment
 - Power Marketing Administrations
 - Wholesale electricity markets
- Other priority issues – ESA reform, pole attachments, and drones

Nominations

- The Trump Administration has been pretty slow nominating candidates for sub-cabinet appointments.
- The Senate approved the nominations of Neil Chatterjee and Robert Powelson to be commissioners at FERC, restoring a quorum to the Commission.
- The SENR Committee has approved the nominations of Rich Glick and Kevin McIntyre to be FERC commissioners. They are waiting a Senate floor vote.
- The Senate has approved some key appointments to EPA, DOE, and DOI. Other nominations are pending before committees or waiting for floor votes.
- The slow pace of appointments has impacted the ability of the Administration to push its regulatory agenda.

Tax Reform

- The budget approved by the House last week includes reconciliation instructions for tax reform (\$1B).
- On Sept. 27, House and Senate leadership released their Unified Tax Reform Framework.
 - Assumes \$1.5 trillion tax cut.
 - Does not mention municipal bonds, but we are told tax reform will not seek to make such bonds taxable.
 - APPA will be on the look out for efforts to use municipal bonds as a pay-for for tax reform.
- The Senate Budget Committee last week approved budget with \$1.5 trillion tax reconciliation instruction.
- Tax reform done under reconciliation only requires 51 votes to pass in the Senate.

Grid Security

- Last Thursday, APPA, EEI, and NRECA hosted a briefing for House staff on grid security efforts by the electric utility industry.
 - Speakers from DOE, ESCC, NERC, and NEI.
- APPA, EEI, and NRECA, at the direction of the ESCC, have been working on legislation to allow electric utilities to access FBI database for background checks on employees with access to critical infrastructure.
- House-passed National Defense Authorization Act (NDAA) contains language to reconstitute the EMP Commission with members nominated by the House and Senate Armed Services Committees.

Infrastructure/Energy Legislation

- This is a top priority for the Trump Administration.
- Unlikely to come up before 2018.
- If both health care and tax reform efforts fail, there will be a lot of pressure for a legislative win on infrastructure.
- Key questions – what kind of infrastructure will be included? How much money and where does it come from? Does this include policy changes to facilitate infrastructure building?
- Concern is that much of the plan will focus on the shifting of public services to the private sector through:
 - Tax credits for equity investors
 - Expansion of access to private activity bond financing
 - Federal bonus payments to localities that sell infrastructure assets

Infrastructure/Energy Legislation

- We expect energy infrastructure will be included in any infrastructure package.
- House Energy & Commerce Committee moving stand-alone bills for potential inclusion in a package:
 - Hydropower licensing and relicensing reform
 - Interstate natural gas pipeline process coordination
 - Grid modernization
 - Vegetation management
- Modified version of Senate energy bill reintroduced by Senators Murkowski (R-AK) and Cantwell (D-WA) – S. 1460, the Energy & Natural Resources Act
 - Includes same public power energy priorities as individual House bills.

Distributed Energy Resources

- S. 1460 – DER-related provisions
 - Grid storage
 - Electric grid architecture, scenario development, and modeling
 - Microgrids
 - Voluntary model pathways
 - Performance metrics for electricity infrastructure providers
 - Voluntary state, regional, and local electricity distribution planning
 - Report by RTOs on DERs and interconnected microgrid systems
 - Study of combined heat and power
 - Technology demonstration on the distribution system
- What is NOT in S. 1460:
 - PURPA must-consider provisions.

Distributed Energy Resources

- Reps. Bob Latta (R-OH) and Jerry McNerney (D-CA) introduced H.R. 3290 – voluntary model pathway language from Senate energy bill from the 114th Congress.
- All of these provisions could be wrapped up in an energy title to an infrastructure bill.
- Both the House E&C and SENR Committees have held hearings looking at DERs and grid modernization.
- PURPA legislation being drafted by Rep. Tim Walberg (R-MI). Would:
 - Make changes to qualifying facilities (QF) language – Section 210(m)
 - termination of mandatory purchase requirements.
 - Make changes to the one-mile rule.

Environment

- Ozone – legislation introduced in the House and Senate (S. 263 and H.R. 806)
 - Approved by House on July 18
- Possible updates to Clean Air Act, including changes to New Source Review
- Endangered Species Act reform
 - Five bills approved this week in the House Natural Resources Committee.
 - Key priority of Senate EPW Committee Chairman John Barrasso (R-WY)

Power Marketing Administrations

- Heritage Foundation report called for the sale of the PMAs and TVA
- President's FY 2018 budget proposal – sell off transmission assets of PMAs
 - Letters from APPA/NRECA, House, and Senate
 - Rejected by Congress. Senate appropriations report stated proposal would “increase costs for millions of consumers, decrease reliability, and reduce services to rural communities.”
- Other threats lurking – energy savings performance contracts.

Wholesale Electricity Markets/Federal Power Act (FPA) Oversight

- E&C Committee has held seven “Powering America” hearings this year to educate Members on FPA-related matters.
- Issues that have been examined:
 - RTO markets from perspective of market participants
 - The operation and effectiveness of wholesale electricity markets
 - Reevaluating PURPA’s objectives and its effects on consumers
 - Defining reliability in a transforming electricity sector
 - Technology’s role in empowering consumers
 - Consumer-oriented perspectives on electricity markets
- The Senate Energy & Natural Resources Committee will not conduct similar hearings.

Pole Attachments

- Lots of interest in promoting broadband infrastructure, including roll out of 5G wireless.
- Wireless industry wants to repeal municipal exemption in Communications Act from federal regulation by Federal Communications Commission (FCC) on pole attachments.
- Mobilite proceeding – APPA filed reply comments.
- FCC issued two notices of inquiry and notices of proposed rulemaking that could impact public power – APPA filed comments on June 15 and reply comments on July 17.
- APPA meeting with FCC Commissioners' offices and Wireline and Wireless Bureaus on comments.
- The wireless industry is seeking legislative changes to pole attachment provisions of the Communications Act of 1934.

Drones

- A short-term (six months) FAA reauthorization bill was approved by the House and Senate at the end of Sept.
- The House and Senate long-term FAA reauthorization bills include language to encourage the FAA to improve regulations for beyond line-of-sight use, operations over people, and operations at night.
- We expect Rep. Jason Lewis (R-MN) to push for the inclusion of language in the long-term reauthorization bill that would give states and localities the ability to regulate drones in unclassified airspace (i.e., non-FAA controlled airspace).
 - The electric utility industry has concerns about this language and how it could inhibit the use of drones.

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