

**GRIDWISE ALLIANCE'S ENERGY AND ENVIRONMENTAL POLICY UPDATE****WASHINGTON IN REVIEW – JULY 2020****Congressional Developments****The House Select Committee on the Climate Crisis releases legislative recommendations.**

On June 30<sup>th</sup>, Democrats on the House Select Committee on the Climate Crisis released a comprehensive climate change report, which established a goal of reaching net-zero greenhouse gas (GHG) emissions by mid-century. While the Select Committee does not maintain any actual legislative authority, the Democratic staff report includes over 100 legislative recommendations for multiple House Committees. In some respects, the report's recommendations expand beyond just merely climate change, addressing environmental justice, water infrastructure and job creation.

The Select Committee's report comes amidst a busy several weeks with respect to Democrats articulating a vision for climate change. Former Vice President Joe Biden, the presumptive Democratic Presidential nominee, released earlier this month an updated clean energy and climate change plan that aims to achieve no later than 2050 a net-zero economy. And, House Democrats, on July 2<sup>nd</sup>, passed H.R. 2, The Moving Forward Act, a US\$1.5 trillion infrastructure package that extends renewable tax incentives and invests \$70 billion in clean energy.

As to the House Select Committee report, the majority of the legislative recommendations are unlikely to be passed into law this year. Yet, the report could serve as the basis for a climate change legislative agenda next year, especially if the Senate and Presidency come under Democratic leadership.

The House Select Committee report includes recommendations for tax credits, market reform, clean energy standards, grid modernization and carbon pricing, among other areas. Below is a summary of some of the key recommendations in each of the areas.

**Tax Credits**

- \* Extends the Production Tax Credit (PTC) and the Investment Tax Credit (ITC) for renewables
- \* Extends the offshore wind ITC at 30 percent and establishes an ITC for energy storage

**Market Reform**

- \* Amends the Federal Power Act to provide that rates that do not incorporate the cost of CO<sub>2</sub> emissions are unjust, unreasonable, unduly discriminatory and/or preferential
- \* Directs the Federal Energy Regulatory Commission (FERC) to conduct rulemaking that would require ISOs/RTOs better integrate renewable energy, battery storage, distributed energy resources, and demand response

### Clean Energy Standard (CES)

- \* Requires that utilities provide 100 percent clean energy by 2040. The report states that clean resources include renewables, hydro, nuclear and sources employing carbon capture
- \* Clarifies that a federal CES would not preempt state clean/renewable energy standards

### Grid Modernization

- \* Clarifies that FERC can exercise backstop siting authority for interstate electric transmission facilities within a National Interest Electric Transmission Corridor
- \* Establishes a DOE program to support states and local governments siting electric transmission lines
- \* Directs FERC to promulgate incentives to improve the capacity and efficiency of the bulk electric transmission system
- \* Authorizes Department of Energy (DOE) funding to identify and evaluate climate-related risks to electric grid infrastructure
- \* Establishes a competitive grant program for state and local governments to invest in technologies and strategies to improve the resilience of the electric distribution system

**Senators and industry stakeholders ratchet up calls for clean energy relief in COVID-19 legislation.** On Thursday, a group of seven Republican Senators sent a letter to Senate Majority Leader Mitch McConnell (R-KY) in support of policies “that will bolster jobs and innovation across the clean energy economy including renewables, nuclear, carbon capture, efficiency, advanced transportation, and energy storage.” The letter notes that the clean energy sector has experienced “massive job losses”, but that federal support can “leverage private funds to ensure large-scale direct employment gains and broader economic growth.” The letter, however, does not express support for specific policies to support the industry. Republican Senators signing onto the letter include Thom Tillis (NC), Lindsey Graham (SC), Susan Collins (ME), Cory Gardner (CO) and Martha McSally (AZ) who are all up for reelection this November. Senate Energy and Natural Resources Committee Chairman Lisa Murkowski (AK) and Senator Richard Burr (NC) also joined in the letter.

The Senate Republican letter builds upon growing stakeholder calls for relief for the clean energy sector. Earlier this week, a coalition of NGOs, industry associations and state and local officials sent a letter to Congressional leadership calling for the next COVID-19 bill to establish a Clean Energy and Sustainability Accelerator, which would leverage federal funding with private funding to support renewables, efficiency and grid modernization, among other projects. In addition, a group of large US corporations sent another letter to Congress this week urging lawmakers to establish a direct pay option for the PTC and the ITC, along with delaying the current phase-outs for these credits.

In contrast to these letters, a separate group of Senate Republicans, led by Kevin Cramer (R), sent a letter this week of Senate Finance Committee Chairman Chuck Grassley (R-IA) in opposition to any extension for the PTC.

Senate Republicans have outlined the broad outlines of the next COVID-19 measure, which could be broken up into a series of smaller bills. Currently, it does not appear that Senate Republican COVID-19 package will include any specific energy-related measures. McConnell is expected to release actual legislative text next week. It is worth noting that McConnell criticized the House's infrastructure bill, which includes substantial support for clean energy, calling it a "cousin to the Green New Deal."

**House Appropriations Committee advances fiscal year (FY) 2021 Energy and Water Appropriations Act.** On July 13<sup>th</sup>, the Committee approved the FY 2021 Energy and Water Appropriations Act, which provides funding for DOE. Highlights of the spending bill include:

- \* \$160 million for the Offices of Cybersecurity, Energy Security, and Emergency Response, a \$4 million increase from the FY 2020 appropriated funding level;
- \* \$12.1 million for cybersecurity infrastructure deficiencies at the DOE Office of Science;
- \* \$435 million for Advanced Research Projects Agency-Energy (ARPA-E) plus an additional \$250 million for ARPA-E demonstration projects;
- \* \$2.85 billion for the Office of Energy Efficiency and Renewable Energy, which is an increase of \$58 million above the FY 2020 level.

The full House will likely consider another "minibus" FY 2021 spending bill that includes the Energy and Water Appropriations Act.

### **Executive Developments**

**DOE extends public comment period on stakeholders providing information on Bulk Power System Executive Order.** On Tuesday, DOE published a notice in the *Federal Register* that it was extending by 17 days until August 24<sup>th</sup> the deadline for stakeholders to respond to a Request for Information (RFI) on President Trump's Executive Order on Securing the US Bulk Power System. The RFI requests input on how the electricity sector manages risks throughout their supply chains. The RFI also asks for information from industry stakeholders on the costs associated with implementing Trump's May 1st executive order.

In a related development, Senator Joe Manchin (D-WV) and Senator Jim Risch (R-ID) sent a letter to Energy Secretary Dan Brouillette requesting that the Department engage with the industry on the Bulk Power System Executive Order.

Under the order, DOE is directed to prohibit purchases of equipment from companies that are controlled by a foreign adversary that could pose an undue risk to the bulk-power system or US national security. DOE will establish a list of pre-qualified vendors. The executive order also

provides DOE with the authority to mitigate risks associated with existing equipment in the bulk-power system. The final pillar of the executive order requires that DOE establish a task force to address federal procurement of energy infrastructure.

**FERC overhauls Public Utility Regulatory Policies Act (PURPA) regulations.** On July 16<sup>th</sup>, FERC approved a final rule, on a 3-1 vote, that makes significant changes to PURPA regulations. Specifically, the final rule will: allow states to adopt variable rates for qualifying facilities (QFs) selling power; consider projects located more than one mile from each other as constituting as separate sites; rely more on competitive pricing and calculations outside of regional transmission organizations or independent system operators; allow legally enforceable obligations to be formed; revise the requirements for small power production facilities and expanded electric utilities' to terminate their purchase obligations; and lowers utilities purchasing threshold to opt out from purchasing from QFs from 20 MW to 5 MW.

**Federal Appeals Court upholds FERC's energy storage order.** Earlier this month, the US Court of Appeals for the DC Circuit upheld FERC's Order 841, which directed ISOs/RTOs to incorporate energy storage resources into their wholesale energy markets. The National Association of Regulatory Utility Commissioners and a group of states sued FERC arguing that Order 841 impermissibly encroached on states' authority to regulate local distribution. A three-judge panel on the DC Circuit, however, disagreed with the plaintiffs, finding that Order 841 did not overstep FERC's jurisdiction under the Federal Power Act.