

October 16, 2015

TO: NRECA Board of Directors  
Distribution CEOs  
Statewide Managers  
G&T Managers

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**WORKFORCE FACT:** Poor workforce planning has caused talent shortfalls, which in turn led to the inability to meet business goals, according to nearly three out of four respondents of a [Harvard Business Review Analytic Services Report](#). The author urges companies to start small, maybe with one division, and then build on the success and lessons learned to broaden the workforce planning efforts.

### ***Supreme Court Hears FERC's Appeal to Keep Demand Response Regulation***

The U.S. Supreme Court heard [arguments](#) on the Federal Energy Regulatory Commission's (FERC) appeal to keep its 2011 demand response rule ([Order No. 745](#)). The rule was intended to compensate demand response resources participating in an organized wholesale energy market at the market price for energy (the locational marginal price). Two key issues are: 1. Whether FERC has jurisdiction to regulate such demand response payments; 2. Whether FERC's methodology for regulating demand response payments is arbitrary and capricious.

FERC is challenging a lower court [decision](#) that overturned Order 745. That court agreed with NRECA, Old Dominion Electric Co-op and others that FERC exceeded its authority and intruded on states' jurisdiction in attempting to regulate retail markets. We continue to strongly support co-op demand response programs – but FERC should not be regulating retail transactions. We could see a decision at any time in the next several months. With Justice Samuel Alito recusing himself in the case, it's very possible the court could reach a 4-4 tie in the case. A tie would leave the lower court decision in place and would be a win for electric co-ops.

### ***Senate Action Possible on Cybersecurity Information-Sharing Bill***

We may see cybersecurity information-sharing legislation (S. 754) we support on the Senate floor next week. We joined a utility sector [statement](#) pushing the Senate to pass S. 754 and move it to conference with a similar bill (H.R. 1560) the House passed. It's an uphill push to get it passed this fall amid competing congressional priorities. This legislation would help businesses voluntarily share information about cybersecurity vulnerabilities, alerts and defensive measures without fear of lawsuits or burdensome requirements.

### ***House Speaker Successor Still Unknown, Pressure for Must-Do Legislation Builds***

The House returns next week with a decision on a new House Speaker still up in the air. Outgoing Speaker Boehner (R-OH) says he'll stay until a new Speaker is elected. That may not happen until after the October 30 date Boehner set for his resignation from Congress, and he could push back that date. Several lawmakers are working to gain enough support to take the

post. If Rep. Ryan (R-WI) would decide to run for the position, he almost certainly would be the next Speaker. And if he doesn't run, which is likely, there are a number of potential candidates. The struggle to choose a House Speaker leaves the outlook for quick action on legislation uncertain with several deadlines for must-do measures just ahead. The House Transportation and Infrastructure plans to mark up a long-term highway bill and move it to the floor only days before the current highway trust fund extension expires October 29. We expect another short-term extension to give Congress more time to develop a long-term bill.

House appropriators are still working on a deal for a FY16 spending package before the continuing resolution expires on December 11. Complicating matters, the Treasury Department says Congress must pass legislation to increase the debt ceiling by November 3 so the federal government can still pay bills. Getting all that legislation completed on a tight deadline would be a challenge even without the continuing leadership uncertainty.

### ***Environment, Distributed Energy Issues Top Statewide Regulatory Concerns***

We thank the Statewide Regulatory Group Chairman Michael Callahan, Electric Power Association of Mississippi CEO, and statewide CEOs and regulatory managers who brought good ideas to their meeting hosted at NRECA. We exchanged ideas on strategies for state plans under EPA's power plant GHG emission rules. The statewide representatives also outlined concerns about Distributed Energy Resource issues like net metering requirements and Distribution System Operator proposals for restructuring the distribution utility of the future.

Other issues of concern include avian protection plans compliance and ways to stay within the Federal Communications Commission's onerous rules on "prior express consent" to send co-op members information that they want in autodial calls and text messages.

### ***DOE Starts 'Energy-Water Nexus' Discussions with Industry***

NRECA participated in a DOE roundtable on the "energy-water nexus" with industry officials today. Energy Secretary Ernest Moniz opened the discussion on the points of intersection of energy and water resources, including fracking, cooling water, resilience and interdependence. Discussion topics included fuels, water infrastructure, electricity and systems integration. This "capstone" session is expected to result in recommendations on next steps.