

December 4, 2015

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

Co-ops Get Several Wins in Highway Bill Conference

Electric co-ops scored several wins in the five-year highway bill (H.R. 22) conference report the House and Senate passed. Leadership allowed several energy-related provisions to be worked into the must-pass transportation bill. We worked with conferees to keep provisions that protect utilities from potential Clean Air Act penalties and citizen lawsuits when voluntarily complying with DOE emergency orders to maintain grid reliability. We've been pushing for this bipartisan legislation, frequently referred to as the Olson bill, since 2012.

The highway bill also includes a provision to streamline the permit review process for energy infrastructure – including electricity projects. NRECA also supports language in the final bill that 1) exempts critical electric infrastructure information from Freedom of Information Act disclosure, 2) directs DOE to create a strategic transformer reserve plan, 3) clarifies DOE's authority to address grid security emergencies and 4) creates a working group to develop guidelines easing state border crossings for vehicles involved in emergency response and recovery. The bill will be signed by the President today.

Disapproval Resolutions on GHG Rules Clear Congress, Showdown with White House Ahead

The House quickly passed two Senate resolutions to roll back EPA's Clean Power Plan final rules for existing and new power plants. Both measures passed mostly along party lines: S.J. Res. 24 (242-180 [vote](#)) to stop the final existing power plants rule and S.J. Res. 23 (235-188 [vote](#)) to block the new plants final rule. The President is expected to veto both resolutions. The resolutions send a symbolic message on the President's agenda during the international climate talks in Paris and the 2016 congressional and presidential campaigns.

We thank House Energy and Commerce Committee Chairman Upton (R-MI) and Reps. Whitfield (R-KY), Latta (R-OH) and McKinley (R-WV) for their leadership. During the debate, Rep. Bilirakis (R-FL) gave a great [floor statement](#) highlighting Seminole Electric to demonstrate how the GHG rules will affect electric co-ops' ability to provide safe, reliable and affordable electricity. NRECA and several member co-ops joined a coalition [letter](#) supporting the resolutions.

House Passes Energy Bill with Co-op Provisions, But More Work Needed

The House passing (249-174 [vote](#)) the North American Energy Security and Infrastructure Act (H.R. 8) is a good start and we'll be working for improvements in the Senate energy bill debate. Significant provisions would require independent reliability impact statements on major proposed or final rules and create a DOE plan for a strategic transformer reserve and resiliency

technologies program. However, the House approved several amendments that NRECA opposed in a letter (attached), including a provision require utilities to consider interconnection access and net billing for community solar projects. Another amendment on electromagnetic pulses that passed would cause uncertainty and conflicts with FERC's standards process.

In other energy-related action, NRECA and several electric co-ops joined a coalition [letter](#) with 125 signers to congressional leadership supporting hydropower as a clean, renewable energy resource and bipartisan efforts to modernize the hydropower licensing process.

House Passes Bill for Transparency on Funding Citizen Lawsuits

We support the Open Book on Equal Access to Justice Act (H.R. 3279) the House passed on a voice vote. The bipartisan bill requires greater transparency and congressional oversight of taxpayer dollars awarded under the Equal Access to Justice Act (EAJA). The EAJA is abused by some environmental groups to advance their agenda at taxpayers' expense. The Senate Energy and Natural Resources Committee passed a bill (S. 556) with similar provisions before Thanksgiving; we're urging the Senate to take up this legislation. Ending abuse of the EAJA through accounting of all attorney fees paid by the federal government will help reduce the unintended incentive for well-funded environmental organizations to file frivolous lawsuits.

Co-ops Working to Stop Harmful Pole Attachment Language in Broadband Bill

The House Energy and Commerce Communications and Technology Subcommittee considered a discussion draft broadband infrastructure bill with several provisions that would adversely affect electric utility pole attachment regulations. NRECA flatly opposes the discussion draft due to significant concerns over a number of provisions. We'll continue to work with Chairman Walden (R-OR) to remove them before a bill is reported by the full committee and we expect that objectionable provisions will be removed. Every statewide association joined NRECA on a letter (attached) to the committee urging their assistance in changing the bill. If the committee does not produce amendments to make this bill acceptable in the full committee, we'll engage our grassroots and fight this with all our strength.

Appropriators Push to Finish Omnibus

We could see a final FY16 omnibus spending bill next week as House and Senate conferees push to finish their conference report. The current bill funding the government expires next Friday – December 11. Republican leaders say differences on policy riders have slowed progress and they could move a short continuing resolution for a few more days. Policy rider negotiations continue on Clean Power Plan, coal ash, ozone, Waters of the U.S. and Endangered Species Act regulations, among dozens of others.

Variance Proposed for Co-op PCB Remediation Waste

EPA is [proposing](#) to approve NRECA's application for co-ops to send low concentrations (under 50 parts per million) of polychlorinated biphenyl (PCB) remediation waste to modern, engineered municipal solid waste landfills. The [approval](#) would be consistent with past EPA findings and rules that managing low-concentration PCB materials in non-hazardous landfills protects human health and the environment. The approval would apply only to co-ops that asked to be in the application. We'll file comments supporting the proposal by the December 18 deadline. A February 2016 final decision is expected. Contact [Dorothy Kellogg](#) with questions.

Co-op Wins Challenge of Broadband Access Ruling

There's good news from Co-Mo Comm, Inc., a Co-Mo Electric subsidiary, and United Services, a United Electric subsidiary, in Missouri on their challenge of a federal Wireline Competition Bureau broadband access ruling. Earlier this year, the bureau ruled that part of Co-Mo Electric's service territory was "unserved" in terms of broadband, even though the co-op's subsidiary is providing broadband to member-owners. This ruling opened the door for a for-profit telecom services company to apply for Connect America Fund (CAF) Phase II grants and undercut the co-op. Co-Mo Comm and United Services challenged the ruling before the full Federal Communications Commission, explaining the co-ops' concerns about CenturyLink's overreach. The FCC reversed the "unserved" ruling; the decision prevents CenturyLink from collecting CAF funds for providing service in areas served by Co-Mo Comm and United Services.

Cross-State Rule Update Proposal Open for Comment

The *Federal Register* [notice](#) on EPA's [proposed](#) update of the Cross-State Air Pollution Rule starts the 45-day comment period that ends January 19, 2016. The proposal is designed to help achieve the 2008 ozone standard of 75 ppm rather than the recently tightened standard issued in 2015. Portions of 913 coal, natural gas and oil-fired power plants in 23 states would be required to curb nitrogen oxide emissions. EPA also proposed a federal implementation plan for states without an approved plan. A hearing in Washington, D.C., is set for December 17.

Attached: Energy bill letter, pole attachments letter.