

September 9, 2016

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

Regions 1-4 Kick Off 2016 Regional Meetings

[Regions 1 and 4](#) kicked off our 2016 regional meetings in Grand Rapids, MI, this week, and I appreciated the warm welcome from co-op leaders in those regions. We're headed next to the [Regions 5 and 6](#) meeting in Minneapolis on September 20-22. I look forward to hearing more discussion about the business and policy issues facing electric cooperatives across the country and meeting more co-op leaders.

EPA's Final Cross-State Pollution Rule Addresses Some Co-op Concerns

We're still reviewing the EPA's [final Cross-State Air Pollution Rule](#) aimed at reducing emissions in 22 states that contribute to ozone levels in downwind states. The final rule, effective May 2017, appears to address some but not all, issues we raised in comments and discussions with the Administration. We urged that the rule make realistic assumptions on the best performance of existing emission control devices, and raise baseline emissions inventory by correctly assuming a limited number of retired units (which reduces reduction obligations). We also pushed for a reasonable transition of banked allowances that carry over into this program, which will help ease the initial requirements. The rule is based on the ozone standard EPA tightened in 2008. It would require 886 power plants in 22 states from New York to Texas to curb emissions that contribute to the formation of ground-level ozone. EPA also issued a federal implementation plan for states that do not have an approved state implementation plan.

Co-ops Represented as Energy Industry Groups Meet with Trump Transition Team

NRECA joined other energy sector representatives in a meeting with Gov. Chris Christie, transition team chairman for Republican presidential candidate Donald Trump. Christie said the team plans to do a broad review of each federal agency's regulations as part of an evaluation of energy and environmental policies, but mentioned few details. The transition team is also meeting with other industry sectors. Transition teams for both the Clinton and Trump campaigns were established last month with personnel and office space in Washington, D.C. We'll continue to work with both transition teams to be prepared for the start of the next administration. NRECA staff and co-op leaders have steadily conveyed co-op positions to both campaigns through the *Rural Power* program and our outreach at the Democratic and Republican political conventions, and will continue to do so throughout the fall.

Top Energy Conferees Aiming for Final Legislation this Year

Senate Energy Chairwoman Lisa Murkowski (R-AK) and House Energy Chairman Fred Upton

(R-MI) opened the first energy bill conferees meeting with statements stressing compromise in the effort to pass legislation to update U.S. energy policy. However, Democratic and Republican conferees are pushing several hot button issues that will be difficult to resolve. We're urging the committee to ensure the final bill keeps consumers' costs affordable, promotes system reliability and avoids imposing burdens on electric co-ops.

Energy Panel Launches Review of Federal Power Act, State and Federal Jurisdiction

House energy leaders showed interest in reviewing the Federal Power Act, focusing on the increasingly blurred lines between state and federal oversight of electricity markets, during a House Energy and Commerce subcommittee [hearing](#). Rep. Frank Pallone (D-NJ), the full committee ranking member, questioned whether the law needs updating to address electricity market issues in an era of microgrids, smart meters, distributed generation and electricity storage. Full committee Chairman Fred Upton (R-MI) said the hearing begins an effort to ensure electricity markets function in a reliable and efficient manner.

The subcommittee's review is partly spurred by two U.S. Supreme Court decisions this year that expanded the Federal Energy Regulatory Commission's authority over wholesale power markets. NRECA will continue to express concerns about expanded federal involvement in issues traditionally under state and local regulation. The last major legislative reviews of the Federal Power Act were during the 2005 and 2007 energy debates.

Senate Takes Up Water Resources Bill, Aims for Final Votes Next Week

The Senate started work to clear amendments on a Water Resources Development Act (WRDA) reauthorization bill (S. 2848). Majority Leader Mitch McConnell (R-KY) is aiming for final passage next week. While the bill primarily focuses on water development projects, it also has compromise language on the coal ash issue. The bill includes narrowly focused language providing state environmental departments with the primary authority to enforce EPA's final non-hazardous coal ash rules, rather than having enforcement come solely through citizen lawsuits. Senate Environment and Public Works Committee Chairman Jim Inhofe (R-OK) and Ranking Member Barbara Boxer (D-CA) crafted the provision and highlighted its bipartisan support during floor statements. The Senate passing a WRDA bill would help build House interest in taking up a similar measure awaiting floor debate, but a final bill is unlikely to pass before November.

Senate Looks to Move FY17 Spending Bill Next Week

Senate Majority Leader Mitch McConnell (R-KY) said he plans to start floor debate next week on a continuing resolution to keep the government funded through December 9 and avoid the threat of a government shutdown when the new fiscal year starts October 1. Senate Democrats have expressed support for a short-term CR into December and then a long-term omnibus spending bill. House Republican leaders agree with that strategy, but party conservatives are pushing for a long-term CR until March 2017, when Congress may need to consider debt limit legislation. House Republicans met today to discuss the issue.

FWS Proposes New Policy on Paying for ESA Impacts

The Fish and Wildlife Service (FWS) issued a proposed Endangered Species Act (ESA) [Compensatory Mitigation Policy](#) for offsetting adverse, unavoidable impacts on endangered or

threatened species and their habitats. The FWS says the [CMP](#) would give agency staff direction and guidance in planning and implementation of compensatory mitigation that is focused on a landscape-level scale rather than project-by-project. Under the ESA, the FWS can propose reasonable and prudent measures or alternatives to avoid or minimize adverse impacts; however, they do not have statutory authority to require mitigation. The proposed [standards](#) would apply to all compensatory mitigation, including permittee actions, conservation banks, in-lieu fee programs, habitat exchanges and other third party arrangements.

EPA Reissues GHG Proposal for New Stationary Sources, Comment Period Starts Soon

EPA issued a [proposed greenhouse gas emissions \(GHG\) rule](#) for new and modified stationary sources under the Clean Air Act's Prevention of Significant Deterioration (PSD) new or modified construction and Title V operation permit programs. The proposal is a response to the 2014 U.S. Supreme Court [decision](#) that threw out EPA's "Tailoring Rule" that temporarily exempted smaller sources of CO₂ emissions from these permitting requirements. Importantly, the same decision also said that EPA could not impose GHG standards on facilities that are not already regulated for other emissions under these programs.

The proposal will open for 60 days of public comment when published in the *Federal Register* in a few weeks. The proposed rule clarifies, as the Supreme Court required, that PSD and Title V permit requirements for GHG emissions apply only to facilities already regulated under these permit programs for other emissions, such as nitrogen oxide and sulfur dioxide, and only for GHGs emissions above a threshold level proposed at 75 tons/year

EIA Asking Utilities to Complete Energy Supplier Survey

NRECA was contacted by a member co-op about an Energy Supplier Survey (ESS) request the Energy Information Administration (EIA) sent by mail (see attached NRECA advisory). EIA says co-ops are required to respond and should complete the survey by September 30. EIA is collecting data from co-ops listed as household electricity supplier by co-op member-owners in the agency's Residential Energy Consumption Survey. About 9,000 households across the nation received that survey and only utilities listed in the responses were mailed the ESS.

Attached: NRECA advisory on Energy Supplier Survey.