

August 11, 2017

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

FERC's Full Powers Restored with Two New Commissioners, Trump Taps Interim Chairman

The swearing in of new Federal Energy Regulatory Commission (FERC) Commissioners Robert Powelson and Neil Chatterjee restores the commission's decision-making powers and it can start work on a backlog of issues that built up during the six months it lacked a quorum. The commission's next monthly meeting will be on [September 20](#) and it could begin issuing decisions yet this month. President Trump appointed Chatterjee to take over as chairman until the Senate confirms FERC nominee Kevin McIntyre, whom the President has said he will designate as chairman. The Senate Energy and Natural Resources Committee plans a confirmation hearing for McIntyre, an energy attorney, and Richard Glickman, the committee's Democratic General Counsel, on September 7.

In other action on nominations, Deputy Energy Secretary Dan Brouillette was [sworn in](#). President Trump nominated Daniel A. Craig, a disaster recovery consultant and former NRECA Government Relations employee, to be the Federal Emergency Management Agency's Deputy Administrator.

EPA Issues Coal Ash Guidelines for State Programs, Comment Period to Start

EPA issued [interim guidelines](#) for states that want to set up coal ash permit programs. EPA will publish a *Federal Register* notice in a few weeks to start a 30-day comment period, and the guidelines will be updated based on comments. NRECA expects several states will apply to develop coal ash permitting programs, which is an opportunity to create permit and enforcement programs based on site-specific, risk-based factors. EPA's action will not directly impact electric co-ops until their states have approved programs.

The [guidelines](#) comply with 2016 legislation that gives states clear authority to create and enforce coal ash permit programs instead of relying on the federal program. The law also gives state environmental departments the authority to enforce coal ash rules, rather than enforcement only through citizen lawsuits. The guidelines include the review process for state coal ash program applications and what a program must show to prove it provides as much protection as federal requirements.

New Greater Sage-Grouse Plan to Give States More Flexibility

The Interior Department released a new [plan](#) to protect the greater sage-grouse and its habitats across 11 Western states. The agency said the plan is aimed at giving states greater flexibility to allow for economic development. The changes could address some electric co-op concerns in Western states about new limits in the Bureau of Land Management's (BLM) plans for greater

sage-grouse management. One major recommendation is to consider removing “sagebrush focal areas,” which have the strictest limits, from some current federal land-use management plans for sage-grouse habitat. That would require formally amending the BLM’s 98 land-use plans issued in 2015. NRECA is reviewing the plan for potential impacts on electric co-ops and will provide input to Interior Department officials regarding any changes co-ops would like to see in the management plan.

Interior Department Pulls Rule on Valuing Leasing Royalties

Interior Secretary Ryan Zinke issued a [notice](#) rescinding a 2016 [rule](#) that changed regulations on valuing coal, natural gas and oil produced under federal leases. Agency officials said the rule was unnecessarily complicated and burdensome to implement or enforce. The repeal takes effect on September 6, 2017, and will [reinstate regulations](#) in effect before January 2017. The rule was [stayed](#) on February 27, 2017. The Interior Department [said](#) it could develop another rule on valuing coal, natural gas and oil under federal land leases. The agency said the issue will be considered with input from the Royalty Policy Committee after it is re-established. Secretary Zinke is still considering nominations for the Royalty Policy Committee.

Courts Extends Hold on Lawsuits Challenging Power Plant GHG Rules

The D.C. Circuit Court of Appeals issued new orders to keep lawsuits challenging EPA rules for power plant greenhouse gas emissions on hold. The court keeps lawsuits on regulations governing both existing and new power plant in temporary abeyance at EPA’s request and ordered the agency to provide updates every 90 days on progress in reviewing the regulations. The court first suspended the lawsuits in April. An EPA [rule](#) to withdraw the Clean Power Plan (CPP) for existing power plants is at the Office of Management and Budget for review. The CPP has been stayed under a U.S. Supreme Court order since February 2016.

No Update Next Week

We’re going to break from the routine in sending the Friday “Notes from NRECA” memo next week. Look for another update on August 25 with developments important to electric co-ops.