

Federal Electricity Policy Update

Electric Power in the West
April 14, 2022



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Federal Electricity Policy – Big Picture



- FERC
 - Chairman Glick's priorities
- DOE
 - Infrastructure Investment and Jobs Act implementation
- Congress
 - Energy tax credits in slimmed down version of budget reconciliation package?
- Supreme Court
 - *West Virginia v. EPA* – EPA authority on CO₂ emissions
- EPA
 - Regulation under CAA, and CWA, and RCRA
- SEC
 - Proposed climate disclosure requirements
- Government procurement of clean electricity
- Wild cards – Ukraine, inflation, supply chain

Washington Context



- Democrats currently have narrow 12 seat majority in the House
- The Senate is split 50/50
 - With VP Harris breaking ties
- Midterm elections in November
- Biden Administration energy agenda
 - Climate change and clean energy
 - Job creation/preservation
 - Environmental justice
- New complications
 - Response to invasion of Ukraine
 - Inflation and gasoline prices
 - Supply chain

FERC – Structure



- Independent agency
- Five commissioner slots
 - No more than 3 commissioners from one party
 - Serve for staggered 5-year terms
 - Appointments require Senate confirmation
- Chairman
 - Designated by the President from among sitting commissioners
 - Sets agenda

Composition of FERC



- Chairman Richard Glick
 - Longest tenured commissioner – appointed in Nov. 2017
 - Term expires June 2022
- Two other Democratic commissioners
 - Comm’r Allison Clements (term expires June 2024)
 - Comm’r Willie Phillips (term expires June 2026)
- Two Republican commissioners
 - Comm’r James Danly (term expires June 2023)
 - Comm’r Mark Christie (term expires June 2025)

FERC Agenda



- Biden Administration energy themes
 - Address climate change
 - Clean energy transition
 - Promote infrastructure investment
 - Environmental justice
- Translation to FERC agenda – areas to watch
 - Transmission policies – planning, cost allocation, generator interconnection
 - Transmission rate incentives
 - Organized market expansion
 - Resource adequacy, capacity markets and relationship to state clean energy policies
 - Pipeline certificate policies – NEPA and need

Transmission Investment - Issues on FERC's Plate



- Transmission ANOPR
 - Transmission planning
 - Cost allocation
 - Generator interconnection and network upgrades
- Transmission incentives
 - NOPR under Republican leadership
 - SNOPR under Democratic leadership
- Base return on equity policy
 - Evolving policy in series of FERC decisions over the past decade

Order No. 1000 Implementation



- ROFR and competitive developer selection
 - Nature of competition
 - Competing solutions for identified problem (PJM)
 - Competing bids for a given project (CAISO, SPP, MISO)
 - Projects chosen to avoid competition?
 - State ROFR policies
- Interregional transmission project planning

IIJA



- Infrastructure Investment and Jobs Act (IIJA)
 - Bipartisan support
 - Authorizes \$970B over 5 years to support infrastructure investment
- Elements of particular interest to power sector
 - Transmission Facilitation Program (\$2.5B revolving fund)
 - Grid resilience grants (\$5B)
 - Smart grid grants (\$3B)
 - Hydrogen hub grants (\$8B)
 - CCUS (\$8B)
 - Electric vehicle charging (\$7.5B)
 - Amendments to FPA 216 on backstop siting

DOE Implementation of IIJA



- Building a Better Grid Initiative
 - New IIJA funding:
 - \$2.5B Transmission Facilitation Program
 - \$3B expansion of the Smart Grid Investment Grant Program
 - \$10B in grants for states, Tribes, and utilities to enhance grid resilience
 - Plus \$3B WAPA Transmission Infrastructure Program
 - Loan guarantees through the Loan Programs Office
- DOE reorganization in response to IIJA
 - New Undersecretary of Energy for Infrastructure

Budget Reconciliation Package?



- Senate Democrats are considering a possible slimmed down budget reconciliation package
 - Reconciliation process allows Senate passage with simple majority
 - Key Democrats are Sens. Manchin (D-WV, Chair of Senate Energy and Natural Resources Committee) and Sinema (D-AZ)
- If enacted, expected to include new/extended/expanded energy tax incentives for:
 - Renewable energy
 - Transmission investment
 - EV charging

West Virginia v. EPA



- Supreme Court granted cert. and heard oral arguments on *West Virginia v. EPA*
 - Case relates to the Obama Administration’s Clean Power Plan
- Key issues
 - Sustain *Mass v. EPA* holding on CO₂ as a pollutant under CAA?
 - “Major questions” doctrine
 - Interpretation of CAA 111(d) to be limited to “inside the fence” measures?
- Decision expected by summer

Key EPA Activity Affecting Power Sector



- Biden Administration goal of carbon-free power sector by 2035
- Greenhouse gas performance standards for existing fossil generators under CAA 111(d)
 - Would replace vacated ACE rule (and CPP)
 - NOPR expected in fall (after Supreme Court decision)
- Draft white paper on options to limit GHG emissions from new natural gas plants to inform CAA 111(b) regulations
 - Will CCUS be “best system of emission reduction”?
- HAP regulation under CAA 112
 - Reaffirming MATS rule
 - Possible further action on hazardous air pollutants from coal plants
- Cross-state air pollution requirements based on 2015 ozone NAAQS
- Reconsideration of the ozone and particulate NAAQS
- Coal combustion residuals regulation under RCRA
 - NOPR on legacy impoundments expected summer 2022
- Effluent limitation guideline revisions for steam plants under CWA
 - NOPR expected late 2022

SEC Proposal on Climate Disclosures



- Proposed rule for mandatory climate risk disclosure
- Applies to public companies
- Notice-and-comment rulemaking
 - Comments due ~ May 20
- Phased-in compliance starting with FY 2023 (2024 filing)
- Rationale:
 - Information on climate risk and climate risk management is material
 - Consistent, comparable, and reliable disclosures would aid investors and capital markets
 - Proposed rule builds on/standardizes existing reporting formats

Required Disclosures



- Proposed disclosure requirements include:
 - Oversight and governance of risks
 - Likely impacts of risks on consolidated financial statements
 - Effects of risks on strategy, business model, and outlook
 - Quantified financial impacts of climate-related events/transition on the line items of financial statements
 - Scope 1 and Scope 2 emissions
 - Scope 3 emissions, if material, or if the registrant has set a target or goal that includes Scope 3 emissions
 - Would require companies with gas-fired plants to report methane emissions from gas supply chain
 - Description of any emission targets or goals

Federal Procurement of Carbon-Free Electricity



- Executive Order No. 14057, issued in Dec. 2021
 - “Through a coordinated whole-of-government approach, the Federal Government shall use its scale and procurement power to achieve:
 - (i) 100 percent carbon pollution-free electricity on a net annual basis by 2030, including 50 percent 24/7 carbon pollution-free electricity”
 - “Carbon pollution-free electricity” means electrical energy produced from resources that generate no carbon emissions, including marine energy, solar, wind, hydrokinetic (including tidal, wave, current, and thermal), geothermal, hydroelectric, nuclear, renewably sourced hydrogen, and electrical energy generation from fossil resources to the extent there is active capture and storage of carbon dioxide emissions that meets EPA requirements”
 - “24/7 carbon pollution-free electricity” means carbon pollution-free electricity procured to match actual electricity consumption on an hourly basis and produced within the same regional grid where the energy is consumed”
- DOD/GSA Request for Information issued Feb. 2022

Wild Cards



- Invasion of Ukraine, and European efforts to secure alternatives to Russian natural gas supply
 - US LNG exports part of the response
- Inflation and elevated gasoline prices
 - Focus on rising energy costs for consumers
- Supply chain issues
 - Delayed development and increased costs

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Questions?

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