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Federal

FERC Nominees to be Considered this Week

On July 15, the Senate voted to confirm President Obama's Federal Energy Regulatory Commission (FERC) nominees Cheryl LaFleur and Norman Bay. Norman Bay, FERC's current Director of their Office of Enforcement, is the Administration's choice to be the new FERC Chairman. LaFleur is the current acting chairwoman, whom many Senators would prefer remain as leader of the FERC because they question Mr. Bay's experience.

To address the impasse, a behind the scenes agreement has been struck allowing Commissioner LaFleur to remain as FERC Chairman for roughly 9 months after which Mr. Bay would ascend to the chairmanship. Cheryl LaFleur was confirmed for a second term on a 90 – 7 vote and Norman Bay was confirmed by a vote of 52-45.

For more information on the FERC confirmation process, click [here](#).

OMB and HUD Nominations Confirmed

After the resignation of Health and Human Services Secretary (HHS) Kathleen Sibelius, a string of nominations and confirmations followed. On July 10, the Senate confirmed the President's pick for the Office of Management and Budget (OMB), Shaun Donovan. Donovan will succeed Sylvia Mathews Burwell, who moved from OMB to take over HHS. In the vote, 23 Republicans joined with 50 Democrats and two Independents to approve Donovan.

Donovan has headed the Housing and Urban Development (HUD) Administration since January 2009 and served as chairman of the Hurricane Sandy Rebuilding Task Force. In his new role at OMB, he will have a hand in nearly all legislative activity and every regulatory proceeding or rule making.

To replace Donovan at HUD, the President nominated and the Senate confirmed San Antonio Mayor Julian Castro. To see a full list of current nominations, click [here](#).

Senate Intelligence Committee Approves Cyber Bill

After a closed-door mark-up on July 8, the Senate Intelligence Committee approved the Cybersecurity Information Sharing Act (CISA), by a vote of 12-3.

CISA includes the following provisions:

- Requires the director of national intelligence to increase the sharing of classified and unclassified cyber threat information to the private sector, consistent with the protection of sources and methods.
- Authorizes individuals and companies to monitor their own computer networks and those of their consenting customers for cyber threats and to implement countermeasures to block those threats.
- Authorizes the voluntary sharing of cyber threat information by individuals and companies with each other and with the government. Such sharing is for cybersecurity purposes only and companies must take appropriate measures to protect against the sharing of personally identifying information.
- Puts in place liability protections for individuals and companies that appropriately monitor their networks or share cyber information.
- Requires federal government procedures for the receipt, sharing and use of cyber information. This includes the establishment of a “portal” managed by the Department of Homeland Security through which electronic cyber information will enter the government and be shared with other appropriate federal entities.
- Limits the government’s ability to use information it receives on cyber-related purposes to ensure it does not engage in inappropriate investigations or regulation.

A link to the committee’s full announcement can be found [here](#).

Federal Energy Funding in Limbo

On July 9, the House voted to approve H.R. 4923, the bill to fund federal energy and water resources programs for 2015. The measure totals \$34.1 billion, which would be \$50.5 million less than in 2014 and \$326.9 million more than the President’s request. The Energy Department’s Energy Efficiency and Renewable Energy programs would receive \$1.79 billion, \$112.7 million less than the net 2014 appropriation and \$527.7 million less than requested. The office overseeing electric delivery and reliability would receive \$12.7 million more than enacted in fiscal 2014 and \$20 million less than requested. Within that amount, the bill would provide \$47 million for cybersecurity associated with energy delivery systems and \$32.7 million for clean energy transmission and reliability.

Despite being a funding measure, the bill also includes a handful of policy changes, including the following:

- Preventing any actions to halt the permit application for the Yucca Mountain Waste Repository.
- Preventing the use of funds to implement a proposed rule for efficiency standards for ceiling fans and ceiling fan light kits.

- Barring the Army Corps of Engineers from implementing a proposal to redefine the term “navigable waters” for the purpose of expanding which bodies of water are subject to Clean Water Act permit requirements.
- Barring the Corps from using funds to modify the definition of “fill material” or actions constituting the “discharge of fill material.”

The President has threatened to veto the bill and the Senate cancelled its own consideration for fear of amendments that would block the Environmental Protection Agency’s recently proposed carbon emission standards for existing power plants.

All federal spending authority expires on September 30. Given the ongoing partisanship in Congress as well as the upcoming elections, it is unlikely that few, if any, spending bills will pass. In their place, expect to see a temporary extension of current spending authority to allow government to stay open through the elections.

House Approves Permanent Bonus Depreciation Extension

On June 11, the House approved H.R. 4718, which permanently extends a tax benefit that allows companies to immediately write off more than half the cost of certain investments. The legislation also contains provisions that will allow companies to elect to take alternative minimum tax credits in lieu of bonus depreciation. Manufacturers have consistently pushed for the permanent extension while utilities remain split.

The President has threatened to veto the bill because it does not include any method of paying for the tax credit. The measure was first created in the 2009 American Recovery and Reinvestment Act and was intended to be a temporary economic stimulus.

Transportation Funding Compromise in the Works

According to financial analysts, the U.S. Highway Trust fund will run out of money by sometime in August. Both the House and Senate have been working on a potential fix, with votes scheduled for later this week. The House will take up a measure that would infuse additional funds for a temporary fix. Meanwhile, the Senate Finance Committee and House Ways and Means Committee have approved potential solutions for a longer-term fix.

The House bill, H.R. 5021, would raise \$9.93 billion through fiscal year 2024. The Senate draft would raise \$9.82 billion. Both measures include provisions such as pension smoothing and customs user fees:

- Pension Smoothing: Both plans would generate revenue by making changes to the way pension fund liabilities are calculated, effectively reducing the amount of money employers are required to contribute to employee pension plans in the short term.) The Senate’s provision would begin phasing out in 2016, raising a net \$2.69 billion through 2024. The additional revenue from pension smoothing would accumulate only through 2019; after that the Joint Committee on Taxation predicts the provision would produce revenue losses for the Treasury. In the House, pension smoothing would begin to phase out in 2018. That would raise a net \$6.39 billion through 2024.
- LUST Fund: Both plans would divert \$1 billion from the Leaking Underground Storage Tank Trust Fund to the Highway Trust Fund. In 2012, lawmakers transferred \$2.4 billion to help fund the last highway bill.
- Customs Fees: The measures would extend user fees collected by Customs and Border Protection, though the exact fees affected and the length of time differ. In the House bill, passenger and conveyance processing fees and a merchandise processing fee would be extended through September 30, 2024. The

Senate plan would extend the merchandise processing fee through January 7, 2024, as well as the .3464 percent rate on merchandise brought into the U.S.

Quadrennial Energy Review Meetings Announced

The Department of Energy (DOE) recently announced six new meetings on the Quadrennial Energy Review (QER). The QER is a new effort and is intended develop a comprehensive national energy infrastructure strategy, which will be revised every four years.

This summer's meetings include the following:

July 21 | Pittsburgh, PA | Natural Gas: Transmission, Storage and Distribution

<http://energy.gov/epsa/downloads/qer-public-meeting-pittsburgh-pa-natural-gas-transmission-storage-and-distribution>

July 28 | Denver, CO | Gas-Electricity Interdependence

<http://energy.gov/epsa/downloads/qer-public-meeting-denver-co-gas-electricity-interdependence>

August 8 | Chicago, IL | Rail, Barge, Truck Transportation

<http://energy.gov/epsa/downloads/qer-public-meeting-chicago-il-rail-barge-truck-transportation-0>

August 8 | Bismarck, ND | Infrastructure Constraints

<http://energy.gov/epsa/downloads/qer-public-meeting-bismarck-nd-infrastructure-constraints>

August 11 | Santa Fe, NM | State, Local and Tribal Issues

<http://energy.gov/epsa/downloads/qer-public-meeting-santa-fe-nm-state-local-and-tribal-issues>

August 21 | Cheyenne, WY | Infrastructure Siting

<http://energy.gov/epsa/downloads/qer-public-meeting-cheyenne-wy-infrastructure-siting>

State

Legislature Votes to Extend Renewable Energy Real Property Tax Exemptions

Before concluding the 2014 legislative session, both Houses of the Legislature passed bills to extend, through 2025, the authority for localities to offer a real property tax exemption for solar, wind, and farm waste energy systems. The property tax exemptions are scheduled to expire in 2015.

If a locality chooses to deny the right to the tax exemption, a resolution must be passed before construction begins. To qualify for the exemption, the bill provides that construction must have commenced prior to January 1, 1991. Construction is deemed to have begun upon the execution of a contract or interconnection agreement with the locality. Notice of the executed agreement must be provided to the locality for the owner and/or developer to receive the exemption.

This legislation was widely supported by a variety of stakeholders including the Energy Coalition of New York (ECNY) which represents New York's investor-owned utilities, the Independent Power Producers of New York (IPPNY), Alliance for Clean Energy New York (ACE NY), and SunEdison.

The bill has not yet been considered by the Governor. Once delivered, the Governor will have the option of signing the bill into law or issuing a veto.

A copy of the legislation can be found [here](#).

Legislature Directs New York City to Adopt a Comprehensive Emergency Management Plan

Legislation passed both Houses that would require New York City to adopt a comprehensive emergency management plan. The plan would have to include provisions for the deployment of home health care and hospice personnel during local emergencies. The intention of this legislation is to enable caregivers to obtain access to patients who are located in restricted areas.

According to the bill's sponsor, obtaining access to certain patients was a major problem for health personnel during Superstorm Sandy. The bill would help ensure that this is not a problem during the city's next major weather emergency.

This bill has not yet been delivered to the Governor. Once delivered, the Governor can either sign the bill into law or issue a veto.

A copy of the legislation can be found [here](#).

Legislature Passes The Climate Risk and Resiliency Act

In the final days of session, both Houses passed legislation that would require climate risk to be considered when the state makes Environmental Protection Fund decisions, issues major permits, and makes other state policy decisions.

The Department of the State, in conjunction with the Department of Environmental Conservation (DEC), would be required to prepare model local laws regarding climate risk including sea level rise, storm surges and flooding. DEC is also directed to promulgate regulations by 2016 that establish science-based state sea level rise projections.

The intention is to require New York to undertake advanced planning for extreme weather events, and to consider the effects of climate change. Con Edison worked closely with the Business Council of New York State and the bill's sponsors to ensure that the legislation would not adversely impact Con Edison's ability to obtain certain permits from DEC.

This bill has not yet been delivered to the Governor. Once delivered, the Governor can sign the bill into law or issue a veto.

A copy of the legislation can be found [here](#).

Legislature Passes Legislation to Study Last Winter's Price Spikes

The Senate and Assembly passed legislation which directs the Public Service Commission (PSC) and the New York Independent System Operator (NYISO) to undertake a study regarding the causes of this past winter's significant price increases for electric and gas supply. The PSC and NYISO are also required to make policy recommendations to help avoid, or at least mitigate, such extreme price increases in the future.

The significant price spikes resulting from this winter's "polar vortex" received a lot of attention in Albany during the 2014 legislative session. Legislators sought various ways to provide relief to their constituents including another bill which would require utilities to implement a credit to customers whenever the supply portion of the utility bill increases by 15%. Con Edison, in conjunction with ECNY, was able to convince legislators that the credit approach would not address the cause of this year's price spikes or prevent it from happening again.

The study, as proposed in this legislation, would enable the PSC to determine the best methods to address the price spikes and mitigate them going forward.

This bill has not yet been delivered to the Governor. Once delivered, the Governor can either sign the bill into law, or issue a veto.

A copy of this legislation can be found [here](#).

Legislation Enabling Electronic Service of Orders Delivered to Governor

A bill which allows PSC orders to be served electronically passed both Houses of the Legislature and was delivered to the Governor for consideration. Non-electronic service would continue to be permitted, but only upon request.

The legislation was introduced at the request of the Department of Public Service and seeks to conform the Public Service Law to the state's Electronic Signatures and Records Act (ESRA). If signed into law, this bill is expected to save money and improve efficiency within the Department.

Governor Cuomo has until July 23rd to either sign the bill into law or issue a veto.

A copy of the bill can be found [here](#).

Legislation Altering NYSERDA's Board Membership Delivered to Governor

A bill has been delivered to Governor Cuomo that would make changes to the membership of the Board of the New York State Energy Research and Development Authority (NYSERDA).

Introduced at NYSERDA's request, the bill would substitute the President and Chief Executive Officer (CEO) of the New York Power Authority (NYPA) for the Chair of NYPA as an ex-officio member of the NYSERDA Board.

Originally, the Chair of NYPA was also permitted to be the CEO of NYPA. In 2005, the law was amended to preclude the designation of the Chair of NYPA as CEO. According to the bill's sponsor, it is appropriate for the President and CEO of NYPA, rather than the Chair of NYPA, to be an ex-officio member of NYSERDA.

Governor Cuomo has until July 23rd to either sign the bill into law or issue a veto.

A copy of the legislation can be found [here](#).

Governor Cuomo Issues 'End of Session' Report

Shortly after the 2014 legislative session ended, Governor Cuomo released "Building on Success: End of Session Report 2014" which touts New York's accomplishments over the last year including the Reforming Energy Vision

(REV) proceeding, an accelerated phase-out of 18-a, the Green Bank, \$1 billion in solar funding, and the deployment of more electric vehicles (EV).

Reforming Energy Vision (REV)

The report highlights the Reforming Energy Vision (REV) initiative, which will “fundamentally transform the state’s electricity market through a shift in utility regulation.” According to the report, the REV proceeding, undertaken by the Public Service Commission (PSC), will be a process to consider changes that are aimed at increasing customer choice, improving energy system efficiency, and promoting greater energy efficiency and renewable energy generation technologies.

18-a

Phasing-out the temporary surcharge commonly referred to as “18-a” was also referenced as a great achievement of the 2014 session. The 2014-2015 enacted budget reduces 18-a for all utility customers. According to the Governor’s report, the phase-out will save businesses and residents approximately \$600 Million over the next three years. The surcharge is scheduled to expire in 2017.

Green Bank

The report also highlights the progress of the state’s \$1 billion Green Bank, which is intended to help advance the private market for clean energy by eliminating market barriers to the private financing of renewable energy and energy efficiency projects. The largest green bank in the nation, it issued its first Request for Proposals in February.

Solar

In April, Governor Cuomo announced a nearly \$1 billion commitment to NY-Sun over the next decade to help the industry grow and reach sustainability. In addition to providing long-term certainty, the program was redesigned to be more responsive to changes in market conditions.

According to the report, as more solar projects are installed and the costs for each project decrease, the level of state incentives will decline at a predictable and transparent rate, which will help the solar industry become self-sustaining in the long term.

Electric Vehicles

Last year, Governor Cuomo created the Charge NY initiative intended to install 3,000 new electric vehicle (EV) charging stations by 2018. There are now 900 EV charging stations across the state. New York is working with partner states - California, Connecticut, Maryland, Massachusetts, Oregon, Rhode Island and Vermont - to reach a collective target of 3.3 million zero emission vehicles by 2025, which will improve air quality, protect consumers against volatile fuel prices and promote job growth in the clean energy economy.

A copy of the report can be found [here](#).

City

New York City Debuts Nation’s First Urban Post-Disaster Housing Prototype

New York City Office of Emergency Management (OEM) and Department of Design and Construction (DDC) Commission recently debuted the nation's first Urban Post-Disaster Housing Prototype in Brooklyn. The prototype will test a new paradigm for temporary housing which will provide more suitable living space for New

Yorkers and residents in urban environments who find themselves temporarily displaced by disasters. The prototype will explore conventional interim housing solutions that are not commonly used in other parts of the country. The project aims to augment federal capability to deliver multifamily, multistory housing to urban areas in a post-disaster situation.

The Federal Emergency Management Agency (FEMA) does not currently provide urban temporary housing for dense areas, so traditional housing trailers are not well-suited for urban areas. The three-story prototype consists of three factory-built, post-disaster housing units, containing one, three-bedroom apartment, and two, one-bedroom apartments, and a public gallery that showcases the project's development process.

Polytechnic Institute of New York University (NYU-Poly) will study through 2015 how well the prototype performs as a living space, and Pratt Institute, through its Resiliency Adaptation Mitigation and Planning program, will look at how the buildings could be used in large numbers to restore neighborhoods.

The United States Army Corps of Engineers (USACE) is managing the project which was funded with \$850,000 from FEMA and \$450,000 in City funds. For more information visit NYC.gov/whatifnyc

NYCHA Reduces Repair Backlog

New York City Housing Authority (NYCHA) Chair and CEO, Shola Olatoye, recently announced that significant progress has been made to reduce the Authority's repair backlog from a January 2013 high of 423,000 to about 80,000 outstanding work orders-- representing more than an 80 percent reduction. She highlighted that NYCHA had exceeded its goal of responding to maintenance requests within seven days, bringing that number down from 150 days to an average of four days. NYCHA also reduced response times for requests for skilled trade work to 39 days, towards an ideal target of 15 days.