



Government Issues and News of the Week

Federal

- [House and Senate Review TRIA Reauthorization](#)
- [Proposed Revisions to Definition of “Waters of the United States”](#)
- [EPA Carbon Rule Released](#)
- [House Appropriators Work on Multi-Billion Energy and Water Bill](#)
- [Con Edison Participates in Grid Security Roundtable](#)
- [Low Income Energy Assistance Funding Announced](#)

State

- [Net Metering Study Legislation Passes Both Houses](#)
- [Legislature Considers Joint Bidding Legislation](#)
- [Legislature Introduces Attorney General’s Storm Hardening Legislation](#)
- [Republican Gubernatorial Candidate Rob Astorino Blames Governor Cuomo for 18-a](#)
- [Lawmakers Look to Reform Port Authority Operations](#)

City

- [Con Edison to Testify At New York City Council Hearing](#)
- [New York City Comptroller to Hold Superstorm Sandy Oversight Hearing](#)

House and Senate Review TRIA Reauthorization

At the end of 2014, the Terrorism Risk Insurance Act (TRIA) is set to expire. TRIA was enacted following the 9/11 attacks to provide a federal “backstop” for insurance related claims linked to acts of terrorism. Congress is struggling to pass an extension and recent political developments make passage of this legislation – which is vital to New York City -more challenging.

A timely extension of TRIA is not only endangered by the general dysfunction of Congress, but there are other complicating factors at play in the House of Representatives. For example, Rep. Michael Grimm (R-NY) was the Republican champion of TRIA in the House. Following his recent indictment, he resigned his seat on the House Financial Services Committee and lost his ability to effectively advocate for the bill.

Fortunately, the Senate is moving a bipartisan extension bill sponsored by Senator Schumer (D-NY). The Terrorism Risk Insurance Program Reauthorization Act of 2014 (S. 2244) passed the Senate Banking Committee on June 3 by a unanimous vote of 22-0. A vote on the Senate Floor is expected soon.

While there is still hope for the House to pass its own version of a TRIA extension, the most likely path to success for TRIA is for the Senate to pass their bill and the House to pass the Senate bill after the November election.

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

Proposed Revisions to Definition of “Waters of the United States”

The Environmental Protection Agency (EPA) and the Army Corps of Engineers have proposed changes to the regulatory definition of “waters of the United States” for purposes of the Clean Water Act (CWA). The stated goal is to eliminate confusion resulting from three Supreme Court cases over the last decade. The utility industry and others are concerned that the proposal will dramatically expand the landscape features that would trigger CWA regulatory and permitting requirements. For utilities this could include generation construction and operations and transmission construction and maintenance. Subjecting these critical infrastructure projects to a lengthy new or expanded CWA permitting process would increase costs and regulatory uncertainty.

Congress is pushing back and two hearings on the issue have been held in the House. On June 11, the House Transportation Committee’s Subcommittee on Water Resources held a hearing on the potential impacts of the proposed changes. At the hearing, EPA and the Army Corps argued the proposed rule does not assert jurisdiction over anything not previously regulated. Representatives of several industries from agriculture to construction countered that the proposal would expand CWA jurisdiction, increase uncertainty for property owners and that the economic impact has not been properly assessed.

EPA and the Army Corps are currently conducting stakeholder meetings and have extended the public comment period until October 20. You can find a detailed background memo on this subject and watch the June 11 hearing [here](#).

EPA Carbon Rule Released

On June 2, 2014, Environmental Protection Agency (EPA) Administrator Gina McCarthy announced EPA’s proposed guidelines for states to regulate carbon dioxide (CO₂) emissions from existing electric generating units. The comment period will be 120 days from when it is officially published in the Federal Register. The proposal consists of two main elements:

- State-specific emission rate-based CO₂ goals (measured in lb CO₂/MWh)
- Guidelines for development, submission and implementation of state plans to achieve state goals

The proposed rule specifically references the greenhouse trading program (RGGI) used by most of the northeast states - including New York - as a means to reach the compliance goal. The current New York State emissions factor is approximately 978 pounds per megawatt hour and the EPA’s final (2030) goal for New York is 549 pounds per megawatt hour. How New York meets that goal will be determined by the State’s compliance plan, which is due by June 30, 2016, with the option to apply for a one year extension.

Ahead of the rule, Con Edison supported the efforts of the RGGI states to encourage EPA to develop an existing source standard that would allow the RGGI program to be the equivalent to compliance with the EPA final standard. To learn more about the RGGI collaborative, click [here](#).

The EPA’s fact sheet on the proposed rule can be found [here](#).

House Appropriators Work on Multi-Billion Energy and Water Bill

On June 10, the House Appropriations Committee's Energy and Water Development Subcommittee approved a \$34 billion spending bill commonly known as the Energy and Water Appropriations Bill. The measure would provide \$50 million less than 2014 and \$327 million more than the White House requested.

Bill Highlights:

- \$1.8 billion for Renewable Energy and Efficiency research programs, \$113 million less than 2014, while boosting fossil energy research by \$30.9 million to a total of \$593 million
- Level funding (\$280 million) for the Advanced Research Projects Agency-Energy, which provides grants and research funding for experimental energy technologies
- \$1.7 billion for Army Corps of Engineers construction projects and \$2.9 billion for operations and maintenance
- Prohibition of any changes to federal jurisdiction under the Clean Water Act

The spending bill must now be approved by the full Committee and both bodies of Congress. To read a full summary of the bill, click [here](#).

Con Edison Participates in Grid Security Roundtable

Con Edison Government Relations recently participated in an off-the-record grid security roundtable hosted by Mack McLarty, Former Chief of Staff to President Bill Clinton. The event was organized by the Center for the Study of the Presidency and Congress (CSPC) in conjunction with Tom Ridge, former Governor of Pennsylvania and former U.S. Secretary of Homeland Security.

The roundtable was the culmination of CSPC's year-long project on the security of the U.S. electrical grid. Participants examined the intersections between the physical, cyber, and electromagnetic threats to the grid, in the context of the reform and development of legislation, regulations, incentives, and investments that can encourage greater grid security. From this discussion, CSPC will finalize recommendations for grid security aimed at policymakers, utility industry and private sector leaders, and the American public.

To learn more about the CSPC, click [here](#).

Low Income Energy Assistance Funding Announced

On June 10, the Senate Housing and Human Services Appropriations Subcommittee passed their 2015 spending bill out of committee. The bill includes \$3.39 billion for the Low Income Homes Energy Assistance Program (LIHEAP), the same as the 2014 funding level. The committee cited severe weather coupled with a spike in the prices of home energy fuels as the driving reason to not cut funding for the assistance program.

Ahead of the bill release, Con Edison joined 550 supporters including dozens of utilities on a letter supporting no less than \$4.7 billion for LIHEAP in 2015. To learn more about these efforts, visit www.SaveLIHEAP.org.

State

Net Metering Study Legislation Passes Both Houses

After several years of hard work, legislation that directs the Public Service Commission (PSC) to conduct a cost-benefit analysis of New York's net metering programs has passed both the Assembly and the Senate. It will now be delivered to the Governor for consideration.

This legislation is part of Con Edison's proactive agenda and is intended to provide insight into the socialized costs imposed on energy consumers to support net metering programs, as well as the avoided costs realized by customer generators. Since the net metering law's enactment, there has been a proliferation of legislation aimed at expanding the program. This study will enable policymakers to make more informed choices about the net metering program.

The solar advocates attempted to amend the bill and substantially alter the study's focus. However, Con Edison and the Energy Coalition of New York (ECNY), the association which represents New York's investor owned utilities, were successful in derailing the advocate's attempts. The bill, as passed, is consistent with its original intent.

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

Legislature Considers Joint Bidding Legislation

When the City of New York undertakes a public works project, energy and telecommunications facilities almost invariably must be moved or protected in order for the municipal work to proceed on schedule. The municipal work can be delayed or stopped if the utility is required to separately negotiate the price of protecting or moving the utility infrastructure with the municipal contractor for the utility work. Such delays result in additional costs to municipal projects.

Joint bidding requires bidders to provide, within a single bid, separate prices for the municipal and private utility work, with the contract awarded to the lowest responsible bidder for the combined work. Joint bidding enables the City and utilities to better coordinate the planning and execution of construction projects to the advantage of City-based businesses and local residents who experience substantially less disruption to pedestrian access and utility services.

The benefits of joint bidding were recognized when it was authorized for Lower Manhattan in the wake of the World Trade Center attacks on September 11, 2001. The experience was extremely successful, resulting in reduced construction time and lessened adverse impacts on local businesses. The Legislature again recognized the benefits of joint bidding when it was authorized for construction of the City's third water tunnel in 2009. The work for that project occurred in highly congested tourist areas of the City thereby necessitating a quick and efficient approach to reduce the negative impact on the City's economy. Both authorizations are scheduled to end in December of this year.

Expanding joint bidding to all public works projects in all five boroughs has been a long-standing priority for Con Edison. Politics and opposition from the General Contractors Association previously hindered our ability to obtain city-wide authorization. However, we have made substantial progress on this issue with the Speaker of the Assembly introducing legislation to extend the Lower Manhattan program and to authorize joint bidding city-wide. Both Houses are taking action on these bills.

The Lower Manhattan extender can be found [here](#). The city-wide authorization can be found [here](#).

Legislature Introduces Attorney General's Storm Hardening Legislation

At the request of Attorney General Eric Schneiderman, the Legislature has introduced a bill which directs utilities to periodically prepare a climate change impact statement for the Public Service Commission (PSC).

The climate change impact statement would need to describe the utility's efforts to ascertain credible information about climate change, assess the possible impacts on the utility's infrastructure and operations over the next 20 years, and describe how the utility is considering these impacts in its planning. In addition to the PSC, the report would need to be submitted to the County Executive of each county in its service territory and the New York City Office of Emergency Management. The report would also be subject to public review and comment.

Schneiderman was critical of Con Edison's storm preparedness at a New York League of Conservation Voters event last month where he announced his intention to introduce this legislation. He simultaneously issued a press release stating, "New Yorkers learned the hard way after Sandy and Irene that many of our utility providers are unprepared for a future of more extreme weather... By requiring gas and electric utilities to assess their vulnerability to climate change and then explain in public their plans to protect their energy systems, we can ensure that utility providers are investing ratepayer dollars wisely."

A copy of the legislation can be found [here](#). Schneiderman's press release can be found [here](#).

Republican Gubernatorial Candidate Rob Astorino Blames Governor Cuomo for 18-a

In a press conference last week, Republican Gubernatorial Candidate Rob Astorino criticized Governor Cuomo for extending the temporary surcharge, known as 18-a, which was scheduled to expire earlier this year. 18-a is paid by all customers through their utility bills.

Astorino said the tax was an example of how the state is "nickel and diming" residents. "We have to realize that this state is dying," Astorino said. "Some days it's a slow death, other days it's a fast downward spiral."

In conjunction with these statements, Astorino created an online petition asking people to sign the petition if they think it's time for a change. "Andrew Cuomo's energy tax hurts families and small businesses that are already paying the second highest energy costs in the nation. Sign my petition if you think it's time for a change."

Enacted in 2009, the money collected through 18-a is directed into the State's General Fund and pays for a variety of items not related to energy. Last year, the State Budget extended 18-a to March of 2017, with annual scheduled reductions until then. This year's budget further reduced the annual surcharge. Con Edison has strongly opposed 18-a since it was originally proposed. Con Edison has been the only utility that continues to actively lobby for its repeal. With the help of Con Edison employees and retirees, approximately 2,000 e-mails were sent to the Governor and legislators this year urging them to support an immediate repeal of 18-a. While we haven't been successful in fully repealing the tax, we were instrumental in convincing the Legislature and the Governor to phase-out 18-a.

Astorino's petition can be found [here](#).

Lawmakers Look to Reform Port Authority Operations

Lawmakers from New Jersey and New York introduced the *Port Authority of New York and New Jersey Transparency and Accountability Act of 2014* which would increase public oversight and improve the operating practices of the bi-state public authority.

The proposed law would require Port Authority executives and board members to publicly disclose business interests and potential conflicts of interest in their service at the agency. It would also require the Port Authority to give advance public notice of any planned toll increases, and to hold public hearings on such proposals. The proposal would impose specific accounting standards, and require the authority to establish a whistleblower program.

In order for the law to go into effect, it must be approved by both the New York and New Jersey legislatures, and be approved by both Governor Cuomo and Governor Christie.

A copy of New York's legislation can be found [here](#).

City

Con Edison to Testify At New York City Council Hearing

The New York City Council Committees on Consumer Affairs, Economic Development and Environmental Protection will hold a joint public hearing Wednesday, June 18, to examine "The Economic Impact of New York's Failing Infrastructure: Gas, Steam and Water."

Scheduled to testify on behalf of Con Edison will be Senior Vice President of Gas Operations, Edward Foppiano, and Senior Vice President of Central Operations, Milovan Blair.

Following Superstorm Sandy, greater attention has been by paid by the Council to the state of the City's infrastructure relative to storm resiliency as well as the City's changing needs and structure.

New York City Comptroller to Hold Superstorm Sandy Oversight Hearing

New York City Comptroller Scott Stringer is scheduled on Tuesday, June 17, 2014, to hold an oversight hearing on the City's recovery efforts from Superstorm Sandy. The hearing is the most recent in a series of Town Hall meetings focusing specifically on affected neighborhoods with the purpose of soliciting community input on what his office should be examining as it develops an integrated audit plan of issues surrounding the City's response to Superstorm Sandy.

Comptroller Stringer created the Sandy Oversight Unit for the purpose of reviewing the progress of the City's 'Build it Back' program. The Unit will review how federal aid was spent on recovery and resiliency programs and propose policy recommendations to help the City enhance its emergency preparedness capacity. The Unit's overall focus will be to monitor the speed and quality of services delivered in the recovery and rebuilding of New York City and determine whether adequate control procedures have been implemented to detect fraud.