

**NASEO GOVERNMENTAL AFFAIRS COMMITTEE CALL**

**THURSDAY, SEPTEMBER 22, 2016 (1:00 – 2:00 P.M.) (EASTERN TIME) (NOTE DIFFERENT TIME THIS MONTH)**

**CALL-IN NUMBER: 1-631-992-3444**

**CONFERENCE CODE: 4962036**

- 1) **BUDGET AND APPROPRIATIONS** – At the moment that I am writing this update, the Senate, House and White House are attempting to come to terms on a short-term Continuing Resolution (CR) to fund the federal government from 10/1/16 – 12/9/16. On Tuesday, 9/20/16, the Senate allowed the debate to go forward on the CR, but the bill text has not yet been publicly disclosed. The 89-7 vote to invoke cloture is further evidence that the CR is in sight. If successful, Congress would then adjourn until the election and return to address a new CR, and other items, after the election. It appears that funding for the two+ month period would be set at the FY'16 levels into FY'17 (roughly \$1.03 trillion for discretionary spending). Congress would then attempt to set the full-year appropriations bills for either the remainder of FY'17, or return with a new Congress and a new President, and address the issues. One of the issues that had been holding up agreement was whether funding to fight the Zika virus would be included, and at what funding level and with what restrictions. It appears that \$1.1 billion will be added to fight the spread of Zika (and \$300 million of that cost would be offset with reductions elsewhere), with Puerto Rico being permitted to allocate funds to Planned Parenthood clinics. Other significant anomalies or budget riders will generally not be entertained in the short-term CR. For funding, the State Energy Program (SEP) will likely receive \$50 million and the Weatherization Assistance Program (WAP) will likely receive \$214.5 million (both the same levels as FY'16 for FY'17). The Low-Income Home Energy Assistance (LIHEAP) program will likely receive the \$3.39 billion received in FY'16. The legislative vehicle for the end-of-year appropriations measure will likely be the Legislative Branch Appropriations Bill (H.R. 5325) and will probably include the Military Construction and VA bill for FY'17 (H.R. 2577). Other potential issues include campaign finance (preventing the SEC rule from going into effect which would require corporations to reveal campaign spending)(sponsored by Senate Majority Leader McConnell [R-KY]), international control over internet domain names (Cruz [R-TX]) and the ability of the Export-Import Bank to operate.
- 2) **ENERGY LEGISLATION** –The first meeting of the energy bill conferees was held on 9/8/16, with 41 members of congress offering their 2-minute views on what should be in the final package, and, of course, what should be excluded. Chair Murkowski (R-AK), Senate Energy and Natural Resources Committee, who is also chairing the conference, is pushing hard for a bi-partisan bill that the President can sign. In addition, Senate Energy ranking member, Cantwell (D-WA);

House Energy and Commerce Chair Upton (R-MI); and House Energy and Commerce ranking member, Pallone (D-NJ), all seem to be pushing for a bill. This is also a legacy issue for some of these members. If the House majority is retained by the Republicans, Upton is likely out as Committee Chair, since he served the 6 years allocated by the House Republican rules. On the Senate side, if the Republicans retain the Senate, then Chairman Murkowski would like hit her six-year limit as Chair. Apparently, the staffs have been meeting on a regular basis both during the August recess and since Congress returned.

- A) Among the state priorities, we really do not know what will be included. SEP and WAP reauthorization (Sections 1013 and 1012 of the Senate bill) are at risk if the Republicans will not agree in the House to authorize any appropriations. Otherwise, SEP has no controversy associated with it. With respect to WAP, we are still attempting to delete the “not less than” language contained on page 69 (lines 9-10) of the Senate bill, which modifies the new competitive program by making the small percentages floors rather than caps. In addition, we are attempting to hold the Senate language on building energy codes. Finally, Section 4002 of the Senate bill would modify the loan guarantee program contained in EPACT 2005, by permitting the states to access the funds.
- B) The flash points in the bill include 7 items from the House-passed bill that the White House indicated they would veto. Issues include hydropower licensing reform, the Land Water Conservation fund, streamlining LNG permitting, export and import issues. The House Democrats are pushing to get a broad energy infrastructure (smart grid + transmission facilities) included in the final bill. House Energy and Commerce Ranking Member Pallone is pushing for including the recommendation contained within the Quadrennial Energy Review (QER) for \$3-\$5 billion in state grants for electric system resilience and grid reliability.
- C) The staff has divided the bill into 4 categories: 1) items that the staff can agree upon; 2) disputes that could be resolved with some direction from the conferees; 3) matters that need to be resolved by the members; and 4) items that stand no chance of passage. Apparently, they have decided that they will push off the final package until after the election, but hopefully during the lame duck session.
- D) During the lame duck session of Congress, they will try to address the Water Resources Development Act (WRDA)(H.R. 5303/S. 2848), which may also include Louisiana flood relief and Flint, Michigan aid (depending on the what happens in the CR). As part of the Senate version of WRDA, a compromise on coal ash (coal combustion residuals from electric generation) was included. The lame duck session might also include consideration of the tax bill and the defense policy bill (NDAA)(H.R. 5293). The Trans-Pacific Partnership might also be considered during the lame duck
- E) On 9/13/16, the House passed the Advanced Nuclear Technology Development Act (H.R. 4979)(Latta [R-OH]/McNerney [D-CA]), which would direct the NRC and DOE to develop a new regulatory framework for licensing advanced nuclear designs. Also

on 9/14/16, the Senate Energy and Water Development Appropriations Subcommittee, led by Alexander (R-TN), held a hearing on nuclear power, with Energy Secretary Moniz as a lead witness.

- F) On 9/7/16, The House Energy and Power Subcommittee held a hearing on the future of the Federal Power Act, addressing electricity policy and regulation in a changing world.
- G) Many transitions will be occurring on the Hill with the upcoming election. Rep. Whitfield (R-KY), who had chaired the Energy and Power Subcommittee of the House Energy and Commerce Committee, resigned his seat effective on 9/6/16. Tom Carper (D-DE), will take over either as Ranking Member or Chair of the Senate Environment and Public Works Committee, from Barbara Boxer (D-CA), who is retiring.

**3) ENERGY EMERGENCY RESPONSE – COLONIAL PIPELINE (Jeff Pillon and David Terry)** – Due to a break in the Colonial pipeline in Alabama, the states in the region have responded. Executive orders have been issued by Governors waiving drivers’ hours, addressing price gouging, etc. NASEO staff and the state energy officials in the southeast have been talking via phone to address the emergency. A large amount of gasoline is delivered by the Colonial Pipeline to the southeast. NASEO has been coordinating closely with DOE to respond to this emergency. Jeff Pillon [jpillon@naseo.org] or David Terry [dterry@naseo.org] can provide more information. Jeff will also provide a briefing on the energy security issues more broadly.

**4) ENERGY TAX PROVISIONS** –Tax extenders will have to wait until after the election. The last “must-pass” legislative vehicle to handle the 55+ tax extenders was the FAA reauthorization. However, that was passed and signed by the President on 7/15/16, without dealing with taxes. Approximately 10 energy tax provisions need to be addressed, though not including the ITC for solar and the PTC for wind (which have 5 year reauthorizations). Last week, Senator Hatch (R-UT)(Chair of the Senate Finance Committee) and Rep. Brady (R-TX)(Chair of the House Ways and Means Committee, sent letters to 7 companies involved in solar development, requesting answers related to ARRA Section 1603 grants. Also, Rep. Langevin (D-RI) and Sen. Whitehouse (D-RI) introduced legislation to push for an extension of the Investment Tax Credit (ITC) for offshore wind until 2026. On 9/20/16, over 50 biofuels industry groups sent a letter to House and Senate leaders pushing for a three-year extension of the \$1/gallon tax incentive for biodiesel (put in place in 2004, P.L. 108-357) and the biofuel made from inedible biomass set-up in the 2008 Farm Bill (P.L. 110-246). The bills are being pushed by Senators’ Grassley (R-IA) and Cantwell (D-WA)(S. 3188), as well as Reps. Noem (R-SD) and Pascrell (D-NJ). On 9/21/16, the House Ways and Means Committee was scheduled to mark-up H.R. 5879, which would allow nuclear reactors put into service after 2021 to qualify for production tax credits (Rice [R-SC]/Blumenauer [D-OR]/Simpson [R-ID]/Marchant [R-TX]).

**5) ADMINISTRATION/JUDICIAL ACTIONS.**

- A) On 9/7/16, EPA released the Cross State Air Pollution Rule (CSAPRII) to address violations of the National Ambient Air Quality Standards in 22 states based on the 2008 ozone limit (FL, NC and SC were excluded in the final rule).
- B) On 8/31/16, EPA released a Notice of Proposed Rulemaking which would set the greenhouse gas emissions level that would be “significant,” thus triggering New Source Review (NSR) for Clean Air Act (CAA) major source Prevention of Significant Discharge (PSD) permitting.
- C) The White House Office of Federal Sustainability issued a call for fleet vehicle electrification commitments on 9/15/16.
- D) Also on 9/15/16, Secretary Moniz testified before the House Energy and Power Subcommittee to address energy security, cybersecurity, etc. He stressed the value of the Cybersecurity Risk Information Sharing Program (CRISP), new vulnerabilities associated with the consumer side of the electric system and he noted that QER 1.2 would be issued by the end of the year. Secretary Moniz also discussed DOE’s Grid Modernization Initiative and the grid of the future. He discussed the energy security features of the FAST (Fixing America’s Surface Transportation Act) Act passed in December of 2015, which included a number of programs supported by NASEO.
- E) On the cybersecurity front, last week the National Highway Traffic Safety Administration (NHTSA) issued a report urging car companies to enhance cybersecurity for self-driving cars, in order to keep them safe from hackers. Similar to the issues that have been raised on the electric system and energy management systems, NHTSA is suggesting that automotive technology needs to be strengthened. Also on the cybersecurity issue, Deloitte and Touche and the National Association of State Chief Information Officers issued a report this week, which found that 1/3 of the states don’t have a cybersecurity strategy for computer networks or a system to respond to cyber attacks.
- F) On the VW settlement front, Cassie Powers of the NASEO staff discussed at the NASEO Annual Meeting the \$4.5 billion fund(s) that will be created to address EV infrastructure and NOx reduction. If you have any questions, please contact Cassie Powers ([cpowers@naseo.org](mailto:cpowers@naseo.org)).
- G) The long-awaited Clean Power Plan (CPP)(Section 111d of the Clean Air Act) oral argument is set before the full panel of the U.S. Court of Appeals for the D.C. Circuit on 9/27/16. Also on 8/26/16, EPA pushed back the comment deadline for the Clean Energy Incentive Program (CEIP) under the CPP to November 1, 2016.
- H) The President continued to push for ratification by all countries of the Paris Climate deal during his speech to the United Nations General Assembly on 9/20/16. In addition to the earlier announcements by the US and China, and other countries, 30 countries announced their agreement on 9/20/16 at the UN (30 countries have already agreed – the agreement of 55 countries is necessary for the deal to advance).

**6) MISCELLANEOUS.**

- A) Report on NASEO Annual Meeting (9/11 – 9/14/16)(Providence, RI)(David Terry).
- B) Report from NGA.
- C) Report from regional governors' groups.
- D) On a sad note, long-time biofuels advocate, Bill Holmberg passed away on 9/8, at age 88. Bill held positions at EPA and DOE, with non-governmental organizations, and was a hero in both the Korean War and the Vietnam War.

**7) NEW BUSINESS.**

**8) NEXT CALL – THURSDAY, OCTOBER 27, 2016 (2:30 – 3:30 P.M.) (EASTERN TIME).**