



**BASIN ELECTRIC
POWER COOPERATIVE**

A Touchstone Energy® Cooperative 

Government Relations Update

November 9, 2021

Jean Schafer

Senior Legislative Representative

Changing Capability Portfolio

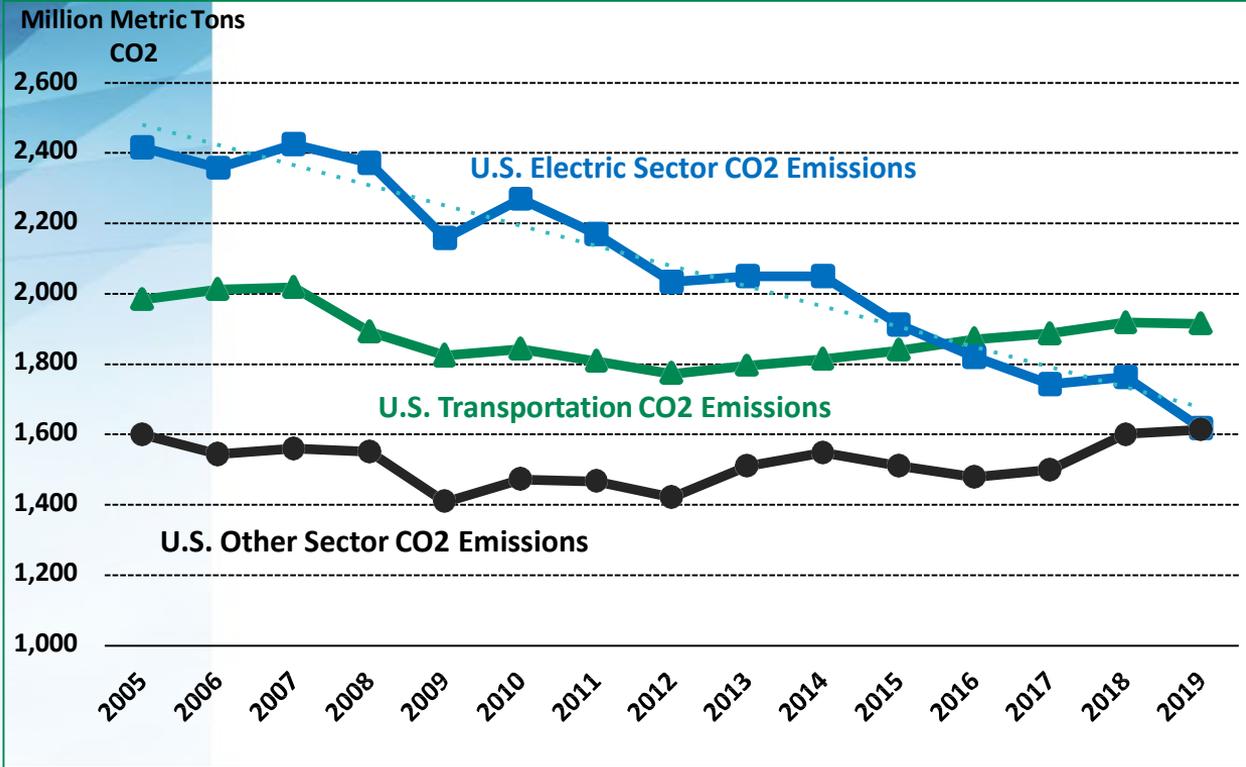
**YEAR
2000**
2,838.9 MW
MAXIMUM WINTER
GENERATION CAPABILITY



**YEAR
2020**
7,024.7 MW
MAXIMUM WINTER
GENERATION CAPABILITY



Comparison of Sector CO₂ Emissions, 2005-2019



- U.S. electric sector CO₂ emissions have been below transportation since 2015
- U.S. transportation sector emissions decreased by 69 million metric tons (3.5%) in 2019 compared to 2005
- U.S. Other Sectors CO₂ emissions from fossil fuel combustion increased 14 million metric tons (0.9%) in 2019 compared to 2005

Federal Issues



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Bipartisan Infrastructure Bill

- Bill passed last Friday night, President expected to sign this week
- Highlights:
 - \$100 billion energy title focused on grid reliability, clean energy, energy efficiency
 - *\$8 billion to establish 4 Regional Clean Hydrogen Hubs*
 - *\$2.5 billion forgivable loans for transmission development to enable renewables*
 - *\$12 billion for carbon capture development - large scale demonstration and pilot projects, storage, and transportation infrastructure*
 - No tax-related provisions in the BIF

Reconciliation Update

- **\$1.85 trillion package as of Nov. 3 - “Build Back Better Act”**
- Energy funding:
 - \$5 billion for “Energy Community Reinvestment”
 - \$2 billion in DOE grants for new high-capacity transmission lines
 - \$800 million in DOE grants to state siting authorities to analyze impacts of transmission projects and siting corridors
 - \$9.7 billion in USDA grants to electric cooperatives to install renewable energy, carbon capture, and/or retire debt from “facilities operating on nonrenewable energy”
 - Maximum credit per entity is 10 percent of the amount available
- Does NOT contain “Clean Electricity Performance Program” or other mandate for renewable generation

Reconciliation Update, cont.

- Tax Provisions:
 - Wind PTC and solar ITC extended at full rate through 2026 (phase-out repealed)
 - ITC extended to energy storage and high-capacity transmission facilities
 - Up to \$3/kg clean hydrogen PTC
 - 45Q credit reduced to \$17/ton for storage, but increased to \$85/ton for projects that satisfy prevailing wage requirements
- Full credit eligibility requires that laborers for construction and maintenance be paid prevailing wages
- Direct pay applies to all tax credits

Reconciliation Update, cont.

- Next steps:
 - House vote contingent on receiving official score from Congressional Budget Office, but no later than week of November 15
 - Per mutual agreement between moderate and progressive Democrats to allow for passage of BIF
 - Agreement is on bill as currently written - no changes before vote
 - Senate consideration expected to drag into late November/early December

Executive Order - OSHA

- **Biden's Path out of the Pandemic - Sept. 9**
 - Directs OSHA to issue an Emergency Temporary Standard (ETS)
 - Rule released from OMB
 - Federal Register - law
 - Federal OSHA State (ND, SD, MT, NE, CO) - immediate
 - State OSHA plan (MN, IA, WY NM) - 30 days
 - Employers over 100 workers
 - Mandates vaccines OR
 - Requires weekly testing
 - AGs from 24 states (MT, SD, ND, WY) posed to litigate
 - Multiple instances of workforce and legislative pushback occurring
 - Congressional challenge - Congressional Review Act (CRA)
- **RULE STAYED BY FEDERAL APPEALS COURT ON SATURDAY**

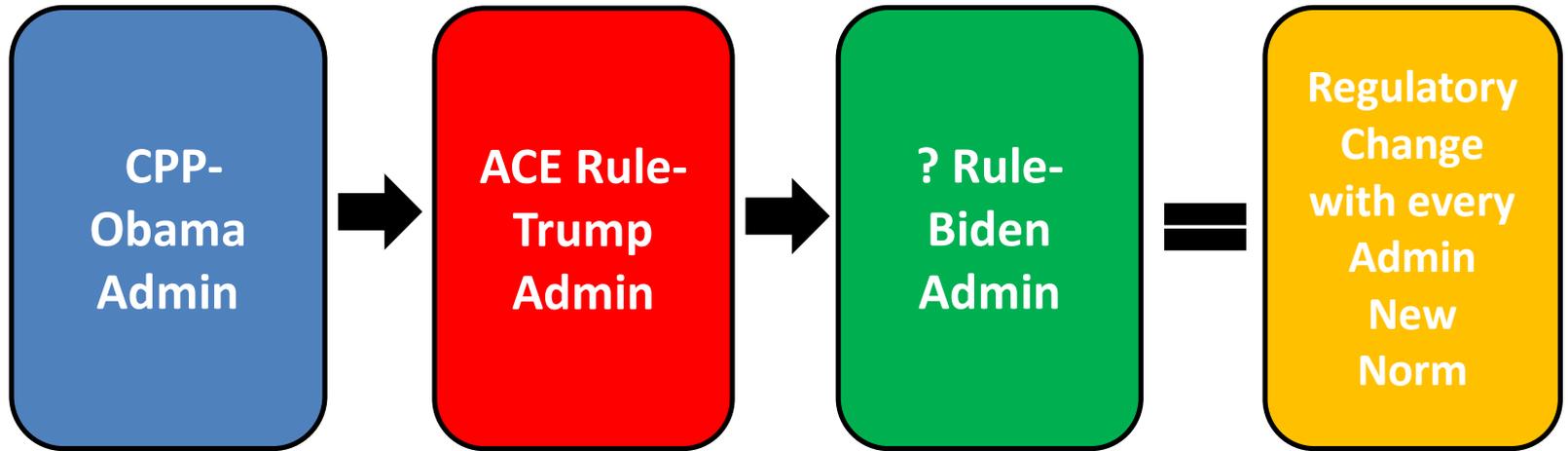
Executive Order 14042

- **Biden's Path out of the Pandemic - Sept. 9**
 - “Ensuring Safety Protocols for Federal Contractors”
 - Fully vaccinated, unless religious or medical exemption (no testing option)
 - Required by ~~Dec. 8~~ Jan. 4 or once performance on a covered contract begins
 - Adopts Standard definition of “federal contractor”
 - Co-op contracts with DOE, DOD, WAPA
 - Potential to apply to ALL employees at ALL facilities
 - Already doing vaccines and testing policies
 - Concerns for negative impacts to the workforce in power supply

Executive Order 14042 cont.

- Joint Utility Letter to congressional delegations - Oct. 20
 - MT, ND, SD, MN, WY
 - East River and SDREA also sent letter to SD delegation
 - Delegations are also hearing from other industries
- Discussions with AGs office on options for a legal challenge
 - Difficult to challenge this federal contractor rule
 - Need to find parties to claim standing
 - AZ, FL filed suits
 - Letter to Biden from 21 AGs
 - Attorney Generals from 10 states filed complaint in 8th circuit
 - » ND, SD, WY, MO, NE, AK, AR, IA, MT, NH
 - Sen. Blackburn Bill - “Keeping Our COVID19 Hero's Employed Act”
 - exempt essential workers from federal mandates
 - Several other bills, unlikely to help

Regulatory Uncertainty Continues



FERC Activities

FERC nominee Phillips uses 3-legged stool analogy in outlining regulatory approach to senators

Published Oct. 20, 2021

By Ethan Howland



Retrieved from [U.S. Senate Energy and Natural Resources Committee](#).

Dive Brief:

- A Senate confirmation hearing Tuesday for Federal Energy Regulatory Commission nominee Willie Phillips Jr. moved the agency a step closer to regaining five sitting commissioners.

- Nominated on Sept. 9
- Senate confirmation Hearing on Oct. 19
- Nomination was advanced by S-ENR last week
- Awaiting full Senate confirmation
- Brings FERC up to 5 Commissioners (3-2)

State Activities



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North Dakota



- **Legislation**
 - Legislative studies pertaining to utilities for the interim
 - Facility retirements (HB1455)
 - Public & PSC involvement
 - Site reclamation and bonding (HB1455)
 - Financial Assurance
 - EmPower Commission Study (HB1452)
 - Evaluate critical energy infrastructure and ensure policy supports electrical grid reliability and resiliency and;
 - Supports sufficient dispatchable generation capacity to avoid brownouts, blackouts, or outages
 - Grid Resilience Study via ND Transmission Authority (SB2313)
 - First report - Sept. 2022, annually after

North Dakota



Legislation

- HB 1412 – provides 5-year holiday from coal conversion taxes
 - Takes affect Aug. 1
 - Projected savings to Basin and DGC -

	DGC	BEPC	Total
2021 (half)	(2,404,000)	(3,213,000)	(5,617,000)
2022	(5,644,000)	(6,365,000)	(12,009,000)
2023	(5,731,000)	(6,428,000)	(12,159,000)
2024	(6,097,000)	(6,322,000)	(12,419,000)
2025	(5,963,000)	(6,383,000)	(12,346,000)
2026 (half)	(3,180,000)	(3,189,000)	(6,369,000)
Total	(29,019,000)	(31,900,000)	(60,919,000)

South Dakota



- **Legislation**
 - Session concluded March 11
 - No legislation directly impacting electric cooperatives
- **Public Utilities Commission**
 - Allowing utilities to amortize gas pricing charges from Winter Storm Uri over a longer period of time (most states are) to reduce impacts to consumer bills

Montana



- **Legislation**

- Legislature adjourned on April 29
 - Left 10 days for work on federal COVID relief funding
- Session priorities:
 - Allow co-ops to vote electronically and hold remote meetings'
 - Railroad Crossing utility permits - agreement vs legislation
 - Retain Status Quo in five areas:
 - Net Metering - prevent co-op mandates
 - Aquatic Invasive Species prevention - avoid co-op funding
 - Property Taxes - ensure no increase for co-ops
 - Energy Efficiency Mandates - ensure no mandates
 - Renewable Portfolio Standard - ensure not applied to co-ops

Wyoming



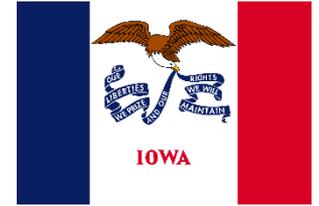
- **Legislation**
 - Interim Committees Priorities Established
 - Revenue Committee - Generation Taxes
 - Mineral Committee - Grid Reliability
 - Special session in October - focus federal mandates
- **CO2 Liability**
 - WY state law provides no state assumption of liability for CO2 storage
 - ND law allows state to take title to CO2 after 10 years post-injection
 - Began discussions with U of WY/CarbonSAFE team on potential effort to address this issue

Minnesota



- **Legislation**
 - No action was taken on Clean Energy First
 - Given differences between two bills and chambers, expectations for passage fell apart
 - Insiders say it is unlikely that it will be taken up in 2022

Iowa



- **Iowa Electric Cooperative Initiatives**
 - Vegetation Management Bill - unsuccessful
 - 2020 Derecho Storm outages opportunity
 - Applies to Distribution lines only
 - 10 feet (either side) city limits and 30 feet (either side) rural
 - Digital Products and Services Taxation Fix - unsuccessful
 - Computer software now a taxable item
 - 2019 Legislature granted exemptions for both for- and non-profits
 - Electric Cooperatives inadvertently left off exemption list
 - Support for Broadband - successful



Questions?