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Biden Infrastructure Plan: "The American Jobs Plan"

Last week, President Biden released his comprehensive infrastructure proposal, the "American Jobs Plan," which aims to stimulate the economy in the wake of the COVID-19 pandemic by injecting roughly $2.25 trillion in funding towards American roads, bridges, and energy and broadband infrastructure. The Plan was released as a Fact Sheet, rather than legislative text, so many details remain to be worked out. Items of interest include:

Transportation: the proposal calls for $621 billion in spending on transportation infrastructure and resilience

- $174 billion to encourage the manufacture and purchase of EVs via tax incentives and sale rebates for American-made EVs
- Establishes grant and incentives programs to build out 500,000 EV chargers by 2030

Electricity Sector: the plan calls for $100 billion for the creation of a more resilient grid with lower energy bills with the goal of 100% carbon-free electricity by 2035:

- Establishment of the Energy Efficiency and Clean Electricity Standard (EECES) to achieve carbon-pollution free power, including "continuing to leverage…existing sources like nuclear and hydropower" by 2035
- Expand clean energy block grants with a focus on worker empowerment and environmental justice
- Expedite federal permitting (method not specified)
- Incentivizes transmission buildout via tax credits for at least 20 GW of high-voltage capacity power lines
- Calls for the establishment of a new "Grid Deployment Authority" at DOE that "allows for better leverage of existing rights-of-way…and supports creative financing tools to spur additional high priority, high voltage transmission lines."
- 10-year extension and phase down of an expanded, direct-pay PTC/ITC for clean energy generation and storage
- Will require 24/7 clean power for federal buildings
- Build 15 hydrogen demonstration projects (with a new hydrogen PTC), 10 CCS demonstrations (and reform and expand CCS tax credit)

R&D: In addition to the funds dedicated for electric sector upgrades, the $180 billion R&D section includes separate funds that would go toward energy innovation.

- $35 billion for a new ARPA-C
- $50 billion for the National Science Foundation to focus on fields including semiconductors and advanced computing and advanced energy technologies
- $15 billion for demonstration projects such as utility-scale energy storage, carbon capture and storage, hydrogen, advanced nuclear, rare earth element separations, floating offshore wind, biofuels, and EVs
- $46 million in federal procurement dedicated to EVs, charging ports, electric heat pumps, advanced nuclear.

Buildings: Establishes $27 billion in funding for the new Clean Energy and Sustainability Accelerator to encourage private investment in distributed energy resources; retrofits of municipal buildings, and clean transportation.

Broadband: $100 billion would provide subsidies for low-income households and prioritize service providers operated by public, non-profit, and cooperative entities with the goal of making broadband access universal.

The Administration intends to pay for the plan by raises the corporate tax rate to 28% and strengthening the Global Minimum Tax for U.S. Multinationals. Republicans balked at the idea of such significant tax hikes to pay for the infrastructure plan and are likely to oppose efforts in Congress to raise taxes. Democrats have been more enthusiastic about the proposal and would likely need to use budget reconciliation to move large parts of it in the narrowly controlled Senate.

Battle Erupts Over The Definition Of 'Infrastructure'

Adam Aton, E&E News reporter *Published: April 7, 2021*

Republicans are trying to draw the Biden administration into a fight over the meaning of "infrastructure." And Democrats seem happy to oblige.

With polls showing broad bipartisan support for infrastructure spending, Republicans are trying to recast President Biden's $2.3 trillion package as something else. Along with corporate tax increases, they're attacking the plan for lumping social and climate programs together with traditional public works.

It's more than semantics. These early days are the best chance for each side to define Biden's plan in the public imagination. And while the president has only fleetingly cast his package as a climate plan, his Cabinet has made it a bigger emphasis in their sales pitches.

Republicans hope to avoid a repeat of Biden's pandemic relief bill, the American Rescue Plan, which passed with broad public support despite no GOP lawmakers voting for it. Depending on who's counting, they've argued that somewhere between 5% and 30% of Biden's plan would address conventional infrastructure. (A Washington Post fact check found the number is closer to 15% to 40%.)

Biden Eyes First Major Tax Hike Since 1993 In Next Economic Plan

By Nancy Cook and Laura Davison *March 15, 2021*

President Joe Biden is planning the first major federal tax hike since 1993 to help pay for the long-term economic program designed as a follow-up to his pandemic-relief bill, according to people familiar with the matter.

Unlike the $1.9 trillion Covid-19 stimulus act, the next initiative, which is expected to be even bigger, won't rely just on government debt as a funding source. While it's been increasingly clear that tax hikes will be a component -- Treasury Secretary Janet Yellen has said at least part of the next bill will have to be paid for, and pointed to higher rates -- key advisers are now making preparations for a package of measures that could include an increase in both the corporate tax rate and the individual rate for high earners.

With each tax break and credit having its own lobbying constituency to back it, tinkering with rates is fraught with political risk. That helps explain why the tax hikes in Bill Clinton's signature 1993 overhaul stand out from the modest modifications done since.

For the Biden administration, the planned changes are an opportunity not just to fund key initiatives like infrastructure, climate and expanded help for poorer Americans, but also to address what Democrats argue are inequities in the tax system itself. The plan will test both Biden's capacity to woo Republicans and Democrats' ability to remain unified.

Federal U.S. revenues have trended lower since 1990s

The White House is expected to propose a suite of tax increases, mostly mirroring Biden's 2020 campaign proposals, according to four people familiar with the discussions.

The tax hikes included in any broader infrastructure and jobs package are likely to include repealing portions of President Donald Trump's 2017 tax law that benefit corporations and wealthy individuals, as well as making other changes to make the tax code more progressive, said the people familiar with the plan.

The following are among proposals currently planned or under consideration, according to the people, who asked not to be named as the discussions are private:

Raising the corporate tax rate to 28% from 21%
Paring back tax preferences for so-called pass-through businesses, such as limited-liability companies or partnerships
Raising the income tax rate on individuals earning more than $400,000
Expanding the estate tax's reach
A higher capital-gains tax rate for individuals earning at least $1 million annually. (Biden on the campaign trail proposed applying income-tax rates, which would be higher)

An independent analysis of the Biden campaign tax plan done by the Tax Policy Center estimated it would raise $2.1 trillion over a decade, though the administration's plan is likely to be smaller. Bianchi earlier this month wrote that congressional Democrats might agree to $500 billion.

The overall program has yet to be unveiled, with analysts penciling in $2 trillion to $4 trillion. No date has yet been set for an announcement, though the White House said the plan would follow the signing of the Covid-19 relief bill.

An outstanding question for Democrats is which parts of the package need to be funded, amid debate over whether infrastructure ultimately pays for itself -- especially given current borrowing costs, which remain historically low. Efforts to make the expanded child tax credit in the pandemic-aid bill permanent -- something with a price tag estimated at more than $1 trillion over a decade -- could be harder to sell if pitched as entirely debt-financed.

Democrats would need at least 10 Republicans to back the bill to move it under regular Senate rules. But GOP members are signaling they are prepared to fight.

As for timing, if passed, tax measures would likely take effect in 2022 -- though some lawmakers and Biden supporters outside the administration have argued for holding off while unemployment remains high due to the pandemic.

Democratic strategists see the next package as effectively the last chance to reshape the U.S. economy on a grand scale before lawmakers turn to the 2022 mid-term campaign.

New E.P.A. Head Says Agency Has Climate Regulations Underway

By Lisa Friedman March 15, 2021

WASHINGTON — Michael S. Regan, the new administrator of the Environmental Protection Agency, confirmed on Monday that the agency is preparing new regulations on the electricity sector in an effort to meet President Biden's aggressive climate change goals.

Mr. Regan said his immediate priorities for the E.P.A. are "rebuilding the morale" at the agency, restoring the role of science — and scientists — in developing air and water rules, and ensuring new environmental policies do not further hurt communities already disproportionately affected by toxic sites.

He was not specific on the precise new policies E.P.A. will undertake to rein in planet-warming carbon dioxide emissions, or when they will be made public. But, Mr. Regan said, the agency will "absolutely" develop new rules for power plants and automobiles and that E.P.A. staff is currently working on those plans.

Reducing carbon emissions from power plants and vehicles, which are the largest sources of planet-warming pollution in the United States, is critical to meeting Mr. Biden's goal of no net carbon emissions by 2050.

Unless Congress passes legislation — an unlikely scenario — it will be up to the E.P.A. to create new regulations for both sectors. The Obama administration sought to reshape the electric power sector by pushing utilities away from coal and toward electricity generated by natural gas, solar, wind and other lower or no-carbon sources. That rule, the Clean Power Plan, was halted by the Supreme Court.

But the Trump administration's efforts ran into trouble as well. The Clean Power Plan replacement — a far weaker rule that only asked utilities to make modest efficiency modifications at individual power plants — was struck down entirely by a federal court earlier this year.

That decision, by the U.S. Court of Appeals for the District of Columbia, affirmed that the E.P.A. has the authority to regulate carbon dioxide from the power sector. Mr. Regan said he intends to take advantage of that.

House Republicans Weigh Political Consequences of Earmark Return

By Emily Wilkins March 15, 2021

House Republicans' internal deliberations about whether to support the return of earmarks threaten to affect the party's ability to win back control of the chamber in 2022.

Democrats, who control both the House and Senate, are working to allow lawmakers to once again propose federal spending for specific issues in their districts after a decade-long ban. House Republicans would be free to participate, but they'd have to eliminate their own party's earmark prohibition, put in place in 2011.

The change has set off a fierce debate within the GOP conference, with practical and political concerns on both sides of the argument.

The political dilemma: Declining to sign on opens a potential line of blanket criticism — already being used in the aftermath of the coronavirus relief package — that Democrats are the party of wasteful spending. But touting the local projects a member got financed is traditionally one of the strengths incumbents bring into their re-election campaigns, so not taking advantage of this funding opportunity could weaken Republicans' case to voters in the midterms.

The optics among voters might be changing. In 2018, a quarter of Republican registered voters were opposed to earmarks, while 38% were in favor, according to a Morning Consult/Politico poll. And a declining number of U.S. adults say they think the federal budget deficit is a big problem, according to data from Pew Research.

Democrats are moving ahead with earmarks, with or without Republicans. A proposal released by House Appropriations Chair Rosa DeLauro (D-Conn.) would ban earmarks for for-profit companies and spending for earmarks would be capped at 1% of discretionary funding. Requests would be made public, searchable, and limited to 10 per member.

Democrats float $500B green transit package

Geof Koss, E&E News reporter Published: March 19, 2021

Leading House and Senate Democrats are proposing a $500 billion boost to transition public transit to all-electric vehicles and improve related infrastructure.

The "Better Utilizing Investments to Leverage Development and Generating Renewable Energy to Electrify the Nation's (BUILD GREEN) Infrastructure and Jobs Act," unveiled yesterday by Massachusetts Democratic Sens. Elizabeth Warren and Ed Markey, would provide $500 billion in grants over 10 years for electrifying public transit systems, including buses, rail cars and fleet vehicles, according to a summary.

Under the bill, led in the House by Reps. Mike Levin (D-Calif.) and Alexandria Ocasio-Cortez (D-N.Y.), grants would also be available to improve roads, bridges and rails that install electric vehicle supply equipment and public transportation systems that are powered by electricity.

Based on the Transportation Department's Better Utilizing Investments to Leverage Development (BUILD) grant program, the bill would require DOT to select projects that contribute to climate resiliency and mitigation, lower air pollution and greenhouse gases and achieve energy savings. Any eligible project using electricity must add renewable energy generation to cover its energy use.

It would direct a minimum of $150 billion for electric passenger rail, EVs and charging equipment, with eligible entities including state, local and tribal governments, as well as transit agencies and port authorities.

At least 40% of the program funding must go to projects that serve front-line or vulnerable communities, are located in areas that have experienced high adverse health and environmental impacts from pollution and/or contribute to adding new green space.

Under the legislation, DOT would provide up to 85% of project costs, which the summary notes is a 5% increase from the existing BUILD grant program to further incentivize green building.

Each state would be guaranteed at least $2 billion for eligible projects, with a cap of no more than $40 billion to any single state.

The bill is the latest legislative marker to be laid down ahead of the upcoming push to craft a climate-focused infrastructure package.

While Republicans are pushing back against Democrats for using infrastructure to advance their climate priorities, Levin yesterday embraced the Green New Deal in announcing the bill.

'Big Structural Change': What Greens Want On Infrastructure

Nick Sobczyk and Timothy Cama, E&E News reporters *Tuesday, March 23, 2021*

Environmental groups are calling for massive spending on an infrastructure package they view as a generational opportunity to address climate change, ramping up pressure on Democrats to deliver on campaign trail promises on clean energy and environmental justice.

As Democrats call for bipartisanship and Republicans demand a narrower and cheaper bill, greens will be warning the new congressional majority against giving in to GOP demands.

That tension came to a head yesterday when reports emerged in The New York Times and The Washington Post that White House aides were working on an ambitious $3 trillion infrastructure legislative effort encompassing climate, taxes and income inequality.

The Sunrise Movement said that wasn't enough. Sunrise noted Senate Energy and Natural Resources Chairman Joe Manchin (D-W.Va.) has suggested spending as much as $4 trillion on infrastructure (E&E Daily, Feb. 25).

It was a peek into the political forces Democrats face from the left as they begin work on President Biden's "Build Back Better" agenda. Environmentalists see infrastructure as an unprecedented

opportunity to address climate change, juice the clean energy transition and make progress on environmental justice priorities.

Green groups have offered up a flurry of policy reports and ramped up their public advocacy in recent weeks, with congressional Democrats turning in earnest to an infrastructure and economic recovery package widely expected to tackle a host of progressive policy priorities.

Talks on Capitol Hill remain in the early stages. Democrats have stressed bipartisanship but have not ruled out passing a large package via budget reconciliation, which would allow them to skirt Republican filibusters in the Senate.

The GOP, meanwhile, remains almost entirely opposed to additional spending that falls outside the scope of roads, bridges and highways (E&E Daily, March 22).

There's talk about splitting up the package into two separate bills, as top lawmakers have suggested, with significant spending on climate issues.

'Time for Congress to deliver'

While environmental groups have differing ideas about which policies to prioritize and how to push them through a closely divided Congress, greens are almost universally advocating investment-oriented legislation that strays from their emphasis on standards, regulation and carbon pricing in years past.

Evergreen circulated a report last week detailing $2.3 trillion in spending that could fit into an infrastructure investment package (E&E Daily, March 18).

It suggests pairing a clean electricity standard that shoots for 80% clean energy in the power sector by 2030 and 100% by 2050 paired with investing hundreds of billions of dollars in clean energy research, development and incentives.

Evergreen is also focused on selling climate policies — often seen as esoteric — to the public, particularly investments in energy efficiency and building retrofits that could drive consumer energy costs down, said Holly Burke, the group's press secretary.

The League of Conservation Voters joined with Climate Power and the Potential Energy Coalition last week to roll out an advertising effort worth more than $10 million to push for Democrats to go big on environmental priorities in the infrastructure bill (Greenwire, March 16).

LCV wants Congress to spend $2 trillion on climate-related efforts in the legislation, with priorities in economic recovery, reducing emissions and addressing racial disparities caused by pollution and climate change, said Matt Davis, the group's legislative director.

LCV is also in discussions about how a clean energy standard might fit into the bill. "We should be ready to do that, if we are able to build a coalition necessary to do so," Davis said.

The Natural Resources Defense Council isn't targeting a specific cost for the bill. But the group is asking for the legislation to do a lot: Put the nation on a trajectory to slash emissions, get its infrastructure ready for decades of climate impacts, pull it out of the economic depression and more.

Prospects
The green wish list could be difficult to pull off, with Manchin and other Senate moderates controlling much of what will pass.

There are also questions about what, exactly, could get done through reconciliation. For instance, the surface transportation reauthorization bill, a priority for lawmakers on both sides of Capitol Hill, is likely to have policy provisions that won't pass muster with the "Byrd rule" that controls reconciliation.

Federal Agencies Unveil Goal To Deploy 30 GW Of Offshore Wind In The U.S. By 2030

March 29, 2021 *Paul Ciampoli*

The Departments of Interior, Energy and Commerce on March 29 announced a shared goal to deploy 30 gigawatts of offshore wind in the U.S. by 2030.

At a White House forum, Interior announced the final Wind Energy Areas (WEA) in the New York Bight, an area of shallow waters between Long Island and the New Jersey coast.

The goal of the Department's area identification process is to identify the offshore locations that appear most suitable for wind energy development, taking into consideration coexistence with ocean users, Interior noted.

Interior's Bureau of Ocean Energy Management (BOEM) has identified nearly 800,000 acres as WEAs in the New York Bight. The BOEM will now initiate an environmental review, with public input, on these areas in federal waters for potential offshore wind leasing.

In addition, Interior said it is initiating an environmental review of the third commercial scale offshore wind project by announcing a notice of intent to prepare an environmental impact statement (EIS) for Ocean Wind LLC's proposed project offshore New Jersey.

Ocean Wind has proposed an offshore wind project with a total capacity of 1,100 megawatts.

In related action, the Department of Energy announced $8 million for 15 new offshore wind research and development (R&D) projects through the National Offshore Wind R&D Consortium.

The selections include projects to develop innovative support structures, support U.S.-based supply chains needed for wind turbine production, advance electrical systems innovation, and present solutions for impacts on wildlife and radar, DOE said.

DOE established the National Offshore Wind R&D Consortium in 2018 to address research priorities for offshore wind as defined in the National Offshore Wind Strategy, which was developed jointly by DOE and the BOEM.

In addition, DOE's Loan Programs Office (LPO) released a fact sheet to facilitate access for up to $3 billion in funding through LPO's Title 17 Innovative Energy Loan Guarantee Program.

DOE said that LPO is ready to partner with offshore wind and offshore transmission developers, suppliers, and other financing partners to scale the U.S. offshore industry.

Meanwhile, DOE and the Department of Commerce jointly announced a new partnership through the Northeast Sea Grant program that will fund $1.25 million in research into the impacts of ocean-based renewable energy on the fishing industry and Northeastern coastal communities.

Transmission Could Make Or Break Biden's Clean Energy Plan

E&E News reporters *Published: April 1, 2021*

A pioneering high-voltage transmission project linking Iowa wind farms to Chicago is a model of how President Biden's $2 trillion infrastructure plan hopes to dramatically ramp up a clean energy transformation.

But the proposed 2,100-megawatt SOO Green line also carries a warning of how the White House plan might fall far short.

A key to Biden's "American Jobs Plan" unveiled yesterday would be a new federal investment tax credit (ITC) to attract capital to big transmission projects tying wind- and solar-rich U.S. regions to distant cities.

A targeted ITC would "incentivize the buildout of at least 20 gigawatts of high-voltage capacity power lines and mobilizes tens of billions in private capital off the sidelines — right away," the Biden plan promised.

That's right, says the developer of the SOO Green line.

"The ITC has been incredibly effective at unleashing private capital for new technologies, and it can do the same thing for transmission," Trey Ward, CEO of transmission developer Direct Connect Development Co. LLC, said in a recent interview. "An ITC would also put union laborers to work building the grid of the future, which in turn unleashes the construction of large-scale renewables and remote and rural regions."

Most of Ward's 350-mile direct-current line would be buried along an existing Canadian Pacific Railway corridor. Biden would also create a Grid Development Authority within the Department of Energy to help power line developers make use of railroad and highway rights of way, easing the public opposition that repeatedly slows or stops power line projects.

But helping transmission line developers justify making multibillion-dollar investments is even more important for Biden, said Rob Gramlich, executive director of Americans for a Clean Energy Grid.

"Cost recovery is the No. 1 barrier. A tax credit for high-voltage regional transmission would be extremely helpful," said Gramlich. "That doesn't mean transmission siting problems go away, but dollars are the main problem."

But other experts see the fate of Biden's transmission strategy and his clean energy goals hinged to the third part of his infrastructure plan, one that currently has no political road map to its destination — a mandatory timetable for ridding U.S. power networks from fossil fuel-generating plants.

An Energy Efficiency and Clean Electricity Standard (EECES) was the heart of the climate plan Biden issued last summer to win the support of climate policy activists at a critical point in the presidential campaign. The goal was the elimination by 2035 of carbon emissions from gas, coal and petroleum power plants that now provide roughly two-thirds of the nation's electricity.

Yesterday, Biden renewed his pledge to establish the EECES, "increasing competition in the market, incentivizing more efficient use of existing infrastructure, and continuing to leverage the carbon pollution-free energy provided by existing sources like nuclear and hydropower."

Although the White House did not release details of the transmission strategy, Biden's approach would presumably ratchet up requirements on electricity sellers to keep reducing carbon emissions each year until the zero goal was reached.

The lack of a binding clean energy standard would undercut the impact of the ITC on advancing transmission projects, one expert said.

"It's a real challenge without a national clean energy policy."

Historically, large transmission projects have been bogged down or stymied altogether by political obstacles, including siting disputes and infighting over who will pay for the lines. And even those projects like SOO Green that avoid the usual pitfalls can encounter other delays (Energywire, March 25).

One of the biggest hurdles to building new transmission, especially interregional lines, is opposition from state and local governments. And it's unclear how Biden's infrastructure plan can overcome that.

And it's so far unclear how, or if, the Biden administration will seek to use provisions in federal law to get power lines built — a step that risks political backlash (Energywire, Feb. 11).

Another snag for developers is cost allocation, or how the price tag for a massive transmission line across multiple states is shared among utilities and their customers.

At a FERC-sponsored technical conference las
t October, witnesses put it more strongly: FERC has to lead the way to create a new planning process that helps states reach their clean energy goals and solves interregional grid challenges as wind and solar power deliveries climb rapidly.

FERC Chairman Richard Glick (D) has said he plans to reexamine provisions in Order No. 1000, the commission's 2011 landmark transmission rule, which critics say disincentivizes regional coordination. The independent agency could also choose to target reducing barriers for specific projects.

Three of FERC's five sitting commissioners are Republicans. Biden will have a chance to appoint a third Democrat when Republican Commissioner Neil Chatterjee's term expires in June. Dennis said while commissioners may argue over cost allocation, transmission development generally has bipartisan support.

While it remains to be seen how much the Biden plan moves the needle on transmission, it sends the right signal, he said.

"At the very least, it recognizes an important piece of further electrifying our economy," he said.

Bicameral, Bipartisan RUS Loan Repricing Bill Reintroduced

Senate and House leaders again have introduced bicameral, bipartisan legislation that would provide flexibility for Rural Utilities Service (RUS) borrowers through repricing of loans at lower rates. Enactment of the Flexible Financing for Rural America is an NRECA priority and would permit RUS electric and telecommunications borrowers to request an interest rate adjustment with no penalty.

Sens. John Hoeven (R-ND), Tina Smith (D-MN), John Boozman (R-AR) and Kyrsten Sinema (D-AZ) introduced the Senate bill. Reps. Tom O'Halleran (D-AZ) and Vicky Hartzler (R-MO) are expected to introduce the House bill today. Thank you to the electric co-op leaders who worked to get the support of these lawmakers.

"Many electric co-ops and their consumers are hurting as COVID-19 continues to bring health and financial hardships to rural communities," said NRECA CEO Jim Matheson. "Congress can provide substantial relief to millions of electric co-op members simply by letting co-ops do what other businesses already can do—refinance their debt at today's low-interest rates without a prepayment penalty. Every dollar co-ops save means more money in consumers' pockets."

The bill would provide flexibility for RUS borrowers to reprice loans at lower rates and potentially save $10.1 billion. Electric co-op leaders are encouraging lawmakers to support the measure that would provide much-needed relief to co-ops that have been hit hard by the financial crisis during the COVID-19 pandemic.

FERC Boosts Small Solar, Reversing PURPA Ruling That Had Upended 40 Years Of Precedent *Published March 19, 2021 Catherine Morehouse@cmorehouse10*

Dive Brief:

- Federal regulators on Thursday reversed a September decision to upend 40 years of legal precedent and deny a solar-plus-storage facility from receiving payments under the Public Utility Regulatory Policies Act (PURPA).
- The Federal Energy Regulatory Commission, including Commissioner Neil Chatterjee, who was chair when the original order passed, voted to allow qualifying facility (QF) status under PURPA to the Broadview Solar facility in Montana. In the September order, FERC had ruled that because the facility had a gross capacity of 160 MW, it could not qualify for PURPA payments, despite long-standing precedent that facilities with a net capacity of 80 MW, a standard this project met, should qualify.
- The Solar Energy Industries Association had requested a rehearing on the rule, which FERC granted during its open meeting, and effectively reversed its original decision.

Dive Insight:

Utilities and solar developers have long griped over technicalities with PURPA — power companies are reluctant to pay fees to small power providers, in some cases accusing them of rigging the system through aggregation or other means. Solar developers, meanwhile, often feel utilities don't pay them the fair price required by the 1978 federal rule, and argue that such companies are only interested in maintaining market dominance.

The September ruling sided with utilities on a question that will only become more relevant: As solar technology advances, and panels become more efficient, is a facility cheating the system if its gross capacity exceeds 80 MW, but the amount it can supply to the grid at any given time does not? In a 1981 case, FERC had ruled a facility's eligibility under PURPA should be based on net capacity, but Edison Electric Institute, the trade group of investor-owned utilities, had argued that evolving technologies no longer match Congress' vision for what should constitute a QF, and therefore the net capacity assumption should no longer be the standard.

But Chatterjee, in a reversal of the vote he had cast in September, argued that because the facility never provides more than 80 MW to the grid at any one time, it was an "error" to deny it status as a QF before.

Commissioner Allison Clements also weighed in on the ruling in her comments, noting it was the first time she's been able to do so as commissioner.

"PURPA exists to encourage the construction of small renewable energy and cogeneration facilities, and to create competitive pressure for monopoly utilities, to the benefit of customers," she said. "To further these policy goals, it is important that our policy clearly defines what facilities are eligible for compensation under PURPA." She added the previous order "unsettled decades of precedent and established difficult-to-administer tests that threaten to create uncertainty for future qualifying facilities or potential qualifying facilities."

SEIA commended the order, which favored arguments they raised in their request for rehearing. "This is good news for solar + storage facilities across the United States and will ultimately make sure that independent power producers are fairly evaluated when it comes to calculating their capacity and the value they bring to the grid," said Gizelle Wray, director of regulatory affairs for the group, in an emailed statement. "We are grateful to the Commission for reinstating this policy."

Commissioners James Danly and Mark Christie dissented on the order, which passed 3-2.

White House Will Seek Law To Require Carbon-Free Power From U.S. Utilities

By Reuters Staff

(Reuters) -The Biden administration said on Thursday it will seek to pass a law requiring utilities to source more power from renewable and other clean sources as part of an ambitious effort to address climate change through investing in infrastructure.

A so-called clean energy standard (CES) would help put the United States on a path to delivering on President Joe Biden’s campaign promise to decarbonize the nation’s electricity sector by 2035, and the whole economy by 2050.

Nuclear energy and carbon capture and storage technologies would be included in the policy, Gina McCarthy, White House national climate adviser, said during a briefing with reporters.

The administration did not give details on how it would seek to structure a national clean energy standard.

Democrats in Congress last month introduced a bill that would require 80% of retail power sales to come from sources that produce little or no carbon emissions by 2030, rising to 100% by 2035. Some Republicans have said the legislation would raise energy prices and destabilize the grid.

The federal government has lagged many states in developing policies requiring clean power sources. Most U.S. states have already set such goals, though fewer than 10 have set goals to move entirely away from fossil fuels and none would achieve net-zero emissions by 2035.

Many of the nation's biggest utilities, responding to investor pressure or state-mandated targets, have already pledged to eliminate all of their carbon emissions by 2050, with a few promising earlier timelines.

But the industry has said that rapid advances in technologies like batteries, carbon capture and advanced nuclear will be critical to reaching those goals.

Reporting by Nichola Groom, David Shepardson and Trevor Hunnicutt; Editing by Marguerita Choy and Alistair Bell