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Locke Lord QuickStudy: Congress May Not Build Back Better, ?but DOE Plans to Build a Better Grid

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Although President Biden's "Build Back Better" legislation faces daunting challenges in the Senate, the Administration continues to use the executive branch to push its clean energy agenda forward. Earlier this week, we discussed BOEM's upcoming offshore wind lease auction in the New York Bight, the first new offshore wind lease auction in over three years. On the same date that auction was announced, January 12, 2022, the Department of Energy ("DOE") announced its "Building a Better Grid" initiative, which ?allocates billions of dollars to develop new transmission lines and invest in smart grid ?technologies that will facilitate the development of onshore and offshore renewable energy ?projects.

Building a Better Grid Initiative

DOE has recognized that while there are multiple pathways to meet the Administration's clean energy ?goals, they all require upgrading and expanding the transmission system. The most cost-effective renewable ?resources are often located far from the load that they serve in metropolitan and industrial ?centers, creating a need for high-voltage lines to ?connect the independently operating grid regions. At the same time, energy efficiency initiatives can help reduce pressure on the grid and balance the load. DOE's "Building a Better Grid" initiative is designed to ? address these issues through a combination of financial investments and regulatory reform. It consists of the following five major initiatives:

?*1. Improve coordination between government agencies and stakeholders*

Transmission planning in the U.S. has been hampered by compartmentalization among regions, governmental agencies, and stakeholders. Currently, transmission planning, ?when it occurs, happens at organizations such as the independent system operators, regional ?transmission organizations, state regulatory commissions, and utilities. DOE intends to leverage ?existing regional meetings about transmission planning to identify nationally significant ?transmission lines, validate transmission modeling approaches, and provide its technical support. As part of this process, DOE is also partnering with BOEM to convene key stakeholders in ?offshore wind developments. They will discuss the transmission challenges that must be ?addressed to reach the administration's goal of 30 GW of offshore wind by 2030 and potentially ?establish capabilities to go well beyond that goal. In 2022, DOE and BOEM will hold a series of ?workshops, in consultation with FERC and other federal

agencies, to create a plan for the ?transmission challenges that the offshore wind industry faces.

??2. Initiate long-term transmission planning

To address a lack of long-term (beyond ten years) transmission planning and inter-regional ?solutions to transmission issues, DOE intends conduct a transmission needs study. That study ?will examine and identify high-priority national transmission needs to prevent future constraints ?that would limit the deployment of clean energy. In addition to the study, DOE will lead ?national, long-term (15-30 year) transmission planning. In partnership with the Pacific Northwest ?National Laboratory and the National Renewable Energy Laboratory, DOE will work with ?stakeholders to identify viable future grid realization pathways to a large-scale transmission ?system buildout that would help accomplish clean energy goals.?

?*3. Deploy financing for large-scale transmission projects*

To address the financial risk that is a significant barrier to large scale, multi-region transmission ?projects, DOE will provide more than $20 billion in federal financing tools. DOE will deploy ?those funds through new programs created under the 2021 Infrastructure Investment and Jobs ?Act ("IIJA"), such as its (1) Transmission Facilitation Program that has a $2.5 billion revolving ?fund to facilitate the construction of high-capacity new, replacement, or upgraded transmission ?lines; (2) a $3 billion expansion of the Smart Grid Investment Grant Program; and (3) its more ?than $10 billion in grants for states, tribes, and utilities to enhance grid resilience and prevent ?power outages. DOE will also use its existing programs to provide funding, including the $3.25 ?billion Western Area Power Administration Transmission Infrastructure Program and a number of ?loan guarantee programs through its Loan Programs Office.?

?*4. Improve the transmission permitting process*

To address the time needed to complete the transmission permitting process, DOE will ?coordinate with federal agencies to help streamline permitting. DOE intends to promote the use ?of existing rights-of-way that will also be part of its planning process to accelerate the timeline to ?receive the multiple permits transmission projects require. Where rights-of-way are not available, ?DOE intends to take other steps to speed up permitting. For example, DOE will work with ?relevant agencies to evaluate and recommend whether to include nationally-significant ?transmission projects on the Federal Permitting Improvement Steering Council's dashboard. ?DOE also states that FERC has authority, clarified by the IIJA, to issue permits for transmission ?projects in National Corridors designated by the Secretary of Energy. DOE goes on to explain ?that it can designate a National Corridor after it considers transmission needs. To expedite the ?designation of projects seeking a FERC-issued permit, DOE intends to provide a process for the ?designation of National Corridors on a route-specific, applicant-driven basis with particular ?consideration for proposed National Corridors that overlap with or utilize existing highway, rail, ?utility, and federal land rights of way. To expedite review, DOE plans to work with FERC to ?coordinate procedures for the pre-filing and application processes.?

?*5. Coordinate research, development, and demonstration for transmission technologies*

To address the cost and limitations of current technology, DOE will continue to perform ?transmission-related research and development to enable the transmission system to be used more ?efficiently. As part of this process,

DOE is working on improved analytical tools to more ?effectively support transmission deployment.?

Conclusion

Although the support of the Biden Administration has helped spur investment and growth in both offshore and onshore ?renewable energy development, transmission continues to be a major obstacle to achieving the Administration's renewable energy goals. DOE's "Building a Better Grid" initiative is designed to address those challenges. Although it does include significant funding for certain construction projects and smart grid initiatives, many of its components are conceptual and aspirational in nature. It remains to be seen how effective the planning and coordination elements of the plan will be, and whether they will persist for the length of time it takes to complete this kind of large-scale, long-term planning, or fall by the wayside with a future change in administrations or priorities. Thus, while the initiative represents an important step on the road to a more robust and resilient grid, it is only a first step and does not provide immediate relief to the transmission challenges facing the clean energy industry, independent system operators, and other stakeholders.

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