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ENERGY AND ENVIRONMENT UPDATE
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Energy and Climate Debate

With Congress returning from their Thanksgiving holiday and the Administration heading to the 16th annual United Nations Framework Convention on Climate Change Conference of Parties, energy issues will continue to play heavily in the national conversation this week.

As Senators and Representatives return to Capitol Hill November 29th to continue the lame-duck session, they plan to vote on another continuing resolution (CR) for the fiscal year 2011 before the current short-term funding measure expires on Friday, December 3rd. The CR, in effect because Congress failed to pass any of the 11 regular appropriations bills by the beginning of the 2011 fiscal year, may be replaced by an omnibus package containing all 11 appropriations bills. If such a package is not approved, as is highly anticipated, Congress could also pass another continuing resolution that funds the federal government for an additional two weeks, until the 112th Congress convenes in January, or for some other determined length of time.

It is possible that a number of energy proposals will be included in either a tax extenders package or another moving piece such as omnibus appropriations or CR measures. A number of Senators continue to drum up support for the passage of a two-year extension of the 1603 Grants in Lieu of Tax Credits Program as well as a \$5 billion expansion of the Advanced Energy Manufacturing Tax Credit. Others are pushing for the inclusion of a renewable electricity standard, funding for the HomeStar energy efficiency home retrofit program, fixes to the loan guarantee program, and the creation of a Clean Energy Development Administration-like green bank. Should any of these pieces, along with any potential delay of the Environmental Protection Agency's authority to regulate greenhouse gas emissions under the Clean Air Act, not move forward during the lame duck session, which may go as late as Christmas Eve, they are certain to be on the agenda for the 112th Congress.

While federal comprehensive climate change legislation is likely to be shelved for the foreseeable future, American companies are working to reduce their energy use and improve their energy efficiency, and manufacturers are likely to build on earlier efforts to reduce their use of high-impact greenhouse gasses (GHGs) as much as possible. Even in the absence of a federal cap and trade program or other national carbon cap, many U.S. companies are finding that sustainability programs, including reporting and reducing GHG emissions, have become too much of a company protocol for them to be abandoned now, and companies are finding that other incentives, such as energy savings and the potential of EPA regulation, are serving as business drivers now.

On the Committee leadership front, House Energy and Commerce Committee Chair candidate Fred Upton (R-MI) sent a letter November 23rd to Energy Secretary Steven Chu seeking more details in \$40 billion in Recovery Act funds appropriated to the Department of Energy. Representative Upton is working to solidify his conservative status in a heated race for the Chairmanship against current Ranking Member, and former Chairman, Joe Barton (R-TX), as well as Representatives John Shimkus (R-IL) and Cliff Stearns (R-FL). Additionally, House Appropriations Committee Ranking Member Jerry Lewis (R-CA) is moving forward with legislation (H.R. 6403) that would rescind all unspent stimulus funding, despite

warnings from his colleagues and the Obama administration on the bill's negative impacts on renewable energy projects.

Obama administration representatives will meet with climate negotiators from around the world in Cancun, Mexico over the next two weeks in the hope of laying the groundwork for a future binding international accord. Though a Kyoto Protocol successor is not anticipated, negotiators hope to finalize a number of smaller agreements on financing, technology transfer, reducing deforestation, and transparency and verification of countries' actions to address GHG emissions.

Congress

Upcoming Hearings

The Senate Environment and Public Works Committee will mark up legislation November 30th to amend the Safe Drinking Act (S. 3874) and legislation (S. 3973) to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.

Administration

Office of Management and Budget (OMB) Completes Mobile Renewable Fuel Review

The White House Office of Management and Budget completed a review November 22nd of a draft final Environmental Protection Agency rule that would establish requirements for renewable fuel content in vehicle fuels for 2011. The final rule, which follows a July EPA proposal, has a lower requirement, at between 6.5 million and 25.5 million gallons, for cellulosic ethanol than is required by the Energy Independence and Security Act. The legislation requires 250 million gallons in 2011.

OMB to Review GHG Rules

The White House Office of Management and Budget announced November 23rd that it will review a notice by the Environmental Protection Agency and the National Highway Traffic Safety Administration that will refine the range of GHG emissions reductions and fuel economy improvements the agencies will target in an upcoming proposed rule for cars and light trucks. Last week's document is intended to supplement an October 1st initial notice of intent that outlined the agencies' plans to propose strict emissions and fuel economy standards for 2017-2025 model-year cars and light trucks.

OMB to Review State Implementation Plan (SIP) Rule

The White House Office of Management and Budget received November 23rd a draft final rule from the Environmental Protection Agency that would require states to revise their state implementation plans to allow them to issue pre-construction permits for new and modified sources of GHG emissions. The EPA intends to issue a final rule around December 1st.

President's Council of Advisors on Science and Technology (PCAST) to Release Energy Technology Report

The President's Council of Advisors on Science and Technology will release the Report to the President on Accelerating the Pace of Change in Energy Technologies through an Integrated Federal Energy Policy November 29th. Requested by Energy Secretary Steven Chu, the report centers around how to transform America's energy system within one to two decades through leadership in energy technology innovation.

Department of Energy

\$19 Million for Electric Grid

The Department of Energy announced November 17th that it will invest more than \$19 million in five projects aimed at optimizing the country's electric grid. The smart grid projects, which will leverage \$11 million in private investment, will apply technologies, tools, and techniques that are capable of making the grid cleaner and more efficient.

\$50 Million Loan Guarantee Committed

The Department of Energy announced a nearly \$50 million conditional loan guarantee to the Vehicle Production Group LLC on November 22nd. The commitment will support the development of a six-passenger, wheelchair-accessible vehicle that will run on compressed natural gas. Nearly 23,000 MV-1 vehicles will be produced at the AM General Plant in Indiana each year, and the project is expected to create more than 900 jobs.

Florida Retailer Fined

The Department of Energy fined Florida air conditioner retailer Air-Con \$10,000 November 23rd for selling air conditioners that consumed more energy than allowed by federal law. The fine comes as the agency intensifies its energy efficiency enforcement efforts after decades of inaction.

Solar Project Receives Draft Term Loan

Solar Trust of America announced November 24th that it received a draft term sheet for a loan guarantee from the Department of Energy for the Blythe solar thermal power project in California. The plant will be the world's largest solar facility when built, as well as the first parabolic trough solar facility approved on U.S. public land.

Solar Webinar Upcoming

The Department of Energy's Federal Energy Management Program and Solar Energy Technologies Program will present a webinar December 1st about procuring and integrating solar energy into Federal facilities.

Efficiency Modeling Software Released

The Department of Energy released updated versions of its EnergyPlus simulation software and OpenStudio Plug-in for Google SketchUp November 23rd. The software helps engineers and architects design better functioning, more energy-efficient buildings.

Department of Interior

Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) to Hasten Wind Development

The Department of Interior's Bureau of Ocean Energy Management, Regulation, and Enforcement launched a wind energy initiative November 23rd called Smart from the Start. The program is intended to speed offshore wind development on the Atlantic Outer Continental Shelf by facilitating how new projects are sited, leased, and constructed. The accelerated leasing process will be simplified through a regulatory change that would eliminate a redundant step in the lease approval process so that leases may be issued in 2011 or early 2012. Within the next 60 days, the Bureau will work with states to identify priority Wind Energy Areas (WEAs) off the coasts of Delaware, Maryland, Massachusetts, New Jersey, Rhode Island, and Virginia, and Requests for Interest will be issued in January, with additional WEAs to follow later in the year.

Redundant Offshore Wind Leasing Notice Eliminated

As discussed above, the Department of Interior published a direct final rule November 26th removing a redundant step in the approval process for renewable energy leases in the Outer Continental Shelf. The rule is scheduled to go into effect January 25th unless significant adverse comment is received.

Environmental Protection Agency

Injection Rules Finalized

The Environmental Protection Agency finalized two rules November 22nd aimed at addressing safety and emissions at sites where carbon dioxide is injected and stored underground to prevent global warming. The first rule establishes requirements for underground injection of CO₂ to ensure safety and prevent the GHG from causing groundwater contamination. The second rule requires GHG emissions reporting from geologic CO₂ storage sites and from sites where CO₂ is used for enhanced oil recovery and other purposes. The rules were issued under the Safe Drinking Water Act.

Miscellaneous

Wyoming to Test Storage Potential

Wyoming officials announced last week that they are studying whether a 25-square-mile site in the Red Desert and next to the state's largest emitter of CO₂ is the state's best option for carbon capture and storage. Wyoming's Carbon Management Institute will invest \$17 million in a multiyear study to test the area's potential storage capacity in its underground saline formations, and will drill deep test wells and complete seismic mapping of the state's aquifers.

United Nations Environment Programme (UNEP) Releases Emissions Study

The United Nations Environment Programme released a report November 23rd that concluded that nations could deliver nearly 60% of the emissions reductions needed to keep global temperatures under a 2-degree Celsius rise if they meet their Copenhagen pledges.

World Meteorological Organization (WMO) Finds High GHG Concentrations

The World Meteorological Organization released its latest Greenhouse Gas Bulletin November 24th. The report found that the globally averaged mixing ratios of CO₂, CH₄, and N₂O reached record highs in 2009, although the rate of growth was lower than in the previous year.

Massachusetts Approves Grid Contract

The Massachusetts Department of Public Utilities issued an order November 22nd approving a 15-year agreement under which National Grid will purchase 50% of the output from the Cape Wind offshore wind facility.