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ENERGY AND ENVIRONMENT UPDATE
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Energy and Climate Legislation

One blizzard after another kept the Federal government closed most of last week while lawmakers and Administration officials focused on jobs heading into the President's Day Recess. The historic snow storms dumped between fifty-five to eighty inches of snow on the Washington DC area within days, leading the House to adjourn early and the Senate to postpone almost all votes and hearings. The two chambers will reschedule their votes and hearings when they return February 22 from the President's Day Recess.

Even with the snow, however, Senators continued their negotiations on pending jobs legislation. On Tuesday, a draft copy of an initial economic stimulus/jobs measure included a variety of expiring energy tax incentives. On Thursday morning, Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Chuck Grassley (R-IA) released details of their \$84 billion package that included a number of expiring energy taxes on biofuels, biomass, alternative fuels, hybrid vehicles, coal, coke, electric utilities, marginal oil and gas wells, and home energy efficiency improvements.

Later that same day, Senate Majority Leader Harry Reid (D-NV), who had earlier signaled support for the measure, called for a different scaled-down \$40 billion bill instead of a broader package. Majority Leader Reid filed for cloture on an earlier House-passed tax measure (H.R. 2847) with placeholder amendments for a payroll tax break, an extension of federal surface transportation programs, the Build America Bonds program, and higher expensing limits for small businesses, setting up a cloture vote when the Senate Returns February 22. The move was a surprise to senators in both parties who have been heavily engaged in the discussions; it came admit pushback from some Democrats over giving too many concessions to Republicans.

Senator Reid also plans to use the smaller bill as a first step to build bipartisan efforts towards several additional tax extender and safety net measures, including unemployment insurance, COBRA extension, and several energy and infrastructure provisions. Also in the queue are new extensions of the Patriot Act, the Small Business Administration loan programs, a five-year reauthorization of the satellite home viewer legislation, and financial regulation legislation.

Following the death of Congressman John Murtha (D-PA) last Monday, Congressman Norm Dicks (D-WA) is expected to take over the chairmanship of the House Appropriations Subcommittee on Defense. To make the move, Congressman Dicks would have to relinquish the chairmanship of the Interior and Environment Subcommittee, which would require House Appropriations Committee Chair David Obey (D-WI) to designate a new subcommittee chairman. Congressman James Moran (D-VA) has the most seniority on the subcommittee.

The Administration continues to face hurdles in climate change mitigation regulation. Twelve House Republicans and 17 associations and companies filed a lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit February 10 challenging the EPA's finding that greenhouse gas emissions

endanger the public health and welfare. Senator Lisa Murkowski (R-AK), Ranking Member of the Senate Energy and Natural Resources Committee, criticized the Administration's energy budget priorities in a floor speech last week. But this fight is no where near settled. Though he favors Congressional action over EPA regulation or state and local action, the president of the Edison Electric Institute said the same day that the organization will continue its fight for legislation to reduce U.S. CO2 emissions by 80% by 2050 while limiting price increases on its customers.

The White House released the annual Economic Report of the President February 11 and in it stated that congressional passage of cap-and-trade legislation remains crucial to the Administration's efforts to cut U.S. greenhouse gas emissions and steer the economy away from fossil fuels and toward renewable energy sources. In a letter to Congress accompanying the report, President Obama wrote that the nation that leads the clean energy economy will be the nation that leads the global economy.

As Washington focused on jobs and snow, the United Nations announced last Friday the launch of a high-level panel to design and oversee a \$100 billion annual fund for climate mitigation and adaptation financing in poor countries. A key component of the Copenhagen Accord, the Advisory Group on Climate Change Financing will design a mechanism to channel funds from developed nations to projects aimed at protecting agriculture and infrastructure from rising seas and weather extremes and propose strategies for boosting renewable energy and clean technology investments in developing nations. Preliminary results of the group's negotiations are not expected until May, though a final plan will be in place by the December 2010 meeting of the UNFCCC Conference of Parties in Mexico. Earlier in the week, top U.S. climate negotiator Todd Stern warned that the success of the next round of negotiations will depend largely on whether China and other major developing nations embrace binding emissions caps.

Senate

Senate Energy Bill Will Transform FERC

About twenty five public and private utilities sent a letter February 9 to Senate Majority Leader Harry Reid (D-NV) and Senate Minority Leader Mitch McConnell (R-KY) expressing their concerns with the Senate Energy bill, The American Clean Energy Leadership Act (ACELA, S. 1462). The group, which represents some of the largest electric companies in the US, opposes language in the bill that they say would transform the Federal Energy Regulatory Commission into a national transmission planner that could override local, state, and regional interests. The group is also concerned about the allocation of costs for new projects, and believes that the Corker Amendment, which requires FERC to conduct cost-benefit analyses before allocating costs among ratepayers, should be retained in the legislation. Another group of utilities joined several environmental groups to form an advocacy campaign called the WIRES Coalition and sent their own letter to Senate leaders in November opposing the Corker amendment. The House-passed energy and climate bill (H.R. 2454) does not contain similar transmission language.

Upcoming Hearings

Due to the DC blizzards last week, all energy and environment related Senate hearings were postponed until after the President's Day recess.

House

Due to the snow and related weather conditions last week, all House votes and hearings were postponed until after the President's Day recess.

Administration

Multi-Agency Building Energy Efficiency Effort

The Obama Administration announced last week a multi-agency initiative to spur regional economic growth while making buildings more energy efficient. Seven federal agencies, including the Departments of Commerce, Education, Energy, and Labor, the National Science Foundation, and the U.S. Small Business Administration issued a combined Funding Opportunity Announcement of up to \$129.7 million

over five years to create a regional research center that will develop new building efficiency technologies and work with local partners to implement the technologies in area buildings. The agencies are working together to leverage funding and resources to promote regional growth through an Energy Regional Innovation Cluster that is centered around an Energy Innovation hub focused on developing new technologies to improve the design of energy-efficient boiling systems.

White House Seeks Public Comment on Consumer Options for Smart Grid

The White House Office of Science and Technology Policy is requesting public comment February 10-19 on home energy services that should be developed as part of the government's smart grid initiative. Individuals may contact Kevin Hurst, OSTP Assistant Director for Energy Technology, on issues related to the demand-side smart grid architecture, including potential costs, benefits, implementation hurdles, and the ways in which each option would support open innovation in home energy services.

Department of Commerce

NOAA Announces Plans for Climate Service

The National Oceanic and Atmospheric Administration announced February 8 that it has begun the process of forming a National Climate Service that will be fully operational by the beginning of fiscal year 2011. The service will be modeled on the National Weather Service and offer access to data, predictions, and research related to climate change that could inform both policy and business decisions.

Export Initiative to Include Energy Efficiency and Renewable Energy

Commerce Secretary Gary Locke announced February 5 that a new National Export Initiative, which President Obama announced during his State of the Union Address January 27, will include energy efficiency and renewable energy products. The Initiative seeks to double the number of U.S. exports in the next five years by increasing enforcement of trade pacts, robust government advocacy for U.S. exporters, and export financing. The Secretary's announcement comes as the Commerce Department increases its focus on helping clean energy manufacturers thrive in the U.S. by making it the chief goal of the department to expand clean energy exports in the global market.

Department of Treasury

On February 12, the Internal Revenue Service posted the Biodiesel and Renewable Diesel Fuels Credit (2009 Form 8864), which contains an updated definition of renewable diesel. The same day, the IRS posted several other energy-related tax forms for 2009 to its website, including the Alternative Motor Vehicle Credit (Form 8910), the Qualified Plug-in Electric Drive Motor Vehicle Credit (Form 8936), and the Nonconventional Source Fuel Credit (Form 8907).

Environmental Protection Agency

EPA Will Play a Key Role in CCS Plan

President Obama's February 3 creation for a new interagency task force to examine regulatory and other barriers to carbon capture and storage (CCS) sets the stage for greater engagement by the Environmental Protection Agency, Department of Energy, and other agencies on the issue. The memo establishes an interagency task force charged with developing a proposed plan aimed at addressing the barriers to widespread deployment of CCS technology within ten years, with a goal of bringing five to ten commercial demonstration projects online by 2016. The initial proposal is due within six months, and is likely to be similar to federal CCS boosting plans included in climate and energy bills in the House and Senate.

Recycling Experts Disappointed in Proposed FY11 EPA Budget Cuts

Recycling experts and environmentalists say a proposed reduction in EPA's fiscal year 2011 budget for voluntary programs aimed at increasing recycling is disappointing given the Administration's focus on reducing greenhouse gas emissions. The budget proposal shaves \$4.3 million from the EPA's waste

management program, the Recovery Conservation and Recovery Act recycling programs. The budget as a whole places a lower emphasis on voluntary programs than other efforts over the past several years.

Personnel

Three nominees for open seats on the Nuclear Regulatory Commission drew broad support at a confirmation hearing before the Senate Environment and Public Works Committee February 9. Nominees George Apostolakis, William Magwood, and William Ostendorff have a February 23 deadline to respond to some written questions, but no committee members expressed opposition to the nominees.

Four nominees for the Board of Directors of the Tennessee Valley Authority, including William B. Sansom, Marilyn Brown, Barbara Haskew, and Neil McBride, told the Senate Environment and Public Works Committee that the agency needs to pursue clean energy development including nuclear power.

Miscellaneous

Japanese Ministry Plans Assistance for Climate-Friendly Product Manufacturers

Japan's Ministry of Economy, Trade, and Industry announced February 8 plans to offer subsidies and loans to boost production of environmentally friendly goods, including lithium-ion batteries, LED light bulbs and solar panel cells. The ministry has requested about \$336 million for the subsidy program in the fiscal year 2009 second supplementary bill, and plans to set up a \$1.1 billion loan facility in the fiscal year 2010 budget to help large-scale manufacturers to develop and manufacture products that contribute to climate change mitigation.

Caterpillar Joins Effort to Build CCS Power Plant

Caterpillar Inc. announced February 8 that it has joined a growing list of organizations, the FutureGen Alliance, committed to full-scale development of a coal-fired power plant in Illinois that would capture and store its greenhouse gas emissions. The announcement follows a similar commitment by Exelon Corporation on January 30, and just weeks before Energy Secretary Chu is scheduled to announce a final decision on federal support for the FutureGen project.

Northwest Power Council to Focus on Efficiency and Conservation

According to a 20-year power plan the Pacific Northwest Power Council released February 10, the council plans to meet the growing demand for electricity in the region by focusing on energy efficiency conservation. The council is a four-state (Idaho, Montana, Oregon, and Washington) planning body that addresses power needs in the region concluded that although the region's population is expected to increase over the next 20 years, conservation should be able to meet 85% of the region's electricity demand growth and reduce CO2 emissions by 30%. Currently, most of the region's electricity comes from hydroelectric dams and coal-fired power plants.

WCI Members to Change

Arizona Governor Janice Brewer (R) issued an executive order 11 declaring that while Arizona will continue to be a member of WCI, the state will not implement the GHG cap and trade proposal advanced by WCI, which begins January 2012. Currently, California, Oregon, Washington, Arizona, Montana, Utah, New Mexico, Quebec, Ontario, British Columbia, and Manitoba are partner states in the WCI, but observers expect that Utah and Montana may follow Arizona soon.