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David Leiter
Sarah Litke
DJLeiter@mlstrategies.com
SLitke@mlstrategies.com

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 USA
202 434 7300
202 434 7400 fax
www.mlstrategies.com

ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

The Senate will hold floor debates this week on several bills. The House will not meet for legislative business this week, but have planned two pro forma sessions—June 28 and July 1. The House will return to legislative business July 5.

The deficit reduction talks that have dominated Washington for the last month are consistently at an impasse, but the impasse has manifested itself in many different settings and with many different players. On June 23, House Majority Leader Eric Cantor (R-VA) announced his departure from Vice President Biden lead group over President Obama's indecision over whether tax increases would likely be included in a final deal.

This week, the main venue for the talks to reach a deal to reduce the budget deficit and increase the government's borrowing limit will move to the White House on June 27. Last Friday, the White House announced how the meetings would unfold, with Senate Majority Leader Harry Reid (D-NV) set for the morning and a meeting with Senate Minority Leader Mitch McConnell (R-KY) set for 5 p.m.

Even with a commitment to meet on Monday, neither side is softening their previously stated and irreconcilable positions, with Democrats insisting increased revenues be part of any final deal and Republicans reaffirming that tax increases would not pass Congress.

Congress

Rep. Whitfield to Introduce Bill aimed at Slowing Down EPA's Utility Emission Standards

Rep. Edward Whitfield (R-KY) is planning on introducing a bill in August that seeks to slow down the EPA's proposals to strengthen air emissions standards for coal-fired power plants. Rep. Whitfield also expressed interest in conducting a comprehensive review of the Clean Air Act, which has not had any major changes since 1990. Whitfield believes in nuclear power, clean coal, and natural gas, but questions the potential for wind and solar power. Whitfield is also skeptical of the Administration's fiscal 2012 budget request to increase funding for federal loan guarantees to develop new nuclear power plants.

Bipartisan Debate Continues on Repealing Ethanol Tax Credit

House Republican Conference Chairman Mike Pence's (R-IN) singled out the Volumetric Ethanol Excise Tax Credit, or VEETC, a key tax credit for ethanol, as he urged Congress to re-evaluate the value of federal subsidies in light of the nation's debt crisis. On June 23, Reps. Wally Herger (R-CA) and Joseph Crowley (D-NY), both members of the House Ways and Means Committee, introduced legislation (H.R. 2307) to repeal the 45-cents-per-gallon Volumetric Ethanol Excise Tax Credit, or VEETC. Meanwhile, Senate lawmakers recently adopted a very similar amendment repealing the credit, but the underlying bill failed to advance

through the chamber, and the amendment would have almost certainly faced a challenge on the grounds that revenue measures must originate in the House. Four senators including Amy Klobuchar, Dianne Feinstein (D-CA), Tom Coburn (R-OK), and John Thune (R-SD) are working on a compromise to repeal the 45 cents-per-gallon ethanol tax credit, and Senate Majority Leader Harry Reid (D-NV) plans to introduce a compromise measure that would come up for a vote.

Lugar Unveils Revised Energy Plan

Senate Foreign Relations Committee Ranking Member Richard Lugar (R-IN) released a fact-sheet version of the very ambitious "Practical Energy Plan" he debuted last year. The fact-sheet is far less ambitious than the original plan, with a focus on energy independence and efficiency. Lugar, one of few Republican senators to support cap-and-trade and considered key to large energy legislation succeeding in the Senate, plans to unveil the formal bill sometime this week.

Barton Plans to repeal "de facto" Ban on Incandescent Bulbs

Rep. Joe Barton (R-TX) said on June 22 that The Better Use of Light Bulbs Act (H.R. 91), introduced in January of 2011 and that would repeal Subtitle B of Title III of the Energy Independence and Security Act of 2007, will be brought to the House floor before the August recess. Among the requirements in the 2007 provision is a 30 percent efficiency improvement in the 100 watt light bulb beginning in 2012. Opponents of the requirement say it would ban the use of traditional incandescent bulbs. Companion legislation (S. 395) to Barton's bill was introduced in the Senate by Senator Mike Enzi (R-WY) in February.

EPA Regulatory Relief Act

On June 21, a bi-partisan group of representatives introduced The EPA Regulatory Relief Act (H.R. 2250) that would give the EPA an additional 15 months to revise emission standards for industrial boilers, incinerators, and process heaters. Reps. Morgan Griffith (R-VA), G.K. Butterfield (D-NC), John Barrow (D-GA), Jim Matheson (D-UT), Cathy McMorris Rodgers (R-WA), Pete Olson (R-TX), Mike Ross (D-AR), and Steve Scalise (R-LA) introduced the bill in response to a federal judge's denying the EPA the extra time it requested to correct flaws in the rules, and forcing the agency to publish the final rules on March 21. The bill would also give regulated industries a greater amount of time to prepare for the new standards, by expanding the amount of time before compliance becomes mandatory from 3 years to 5 years.

House Committee Advances Keystone Pipeline Project

The House Energy and Commerce Committee approved the North American-Made Energy Security Act (H.R. 1938) June 23. The bill would direct the Obama administration to expedite a decision on a State Department permit for a proposed crude oil pipeline from Canada to Texas. Introduced by Reps. Lee Terry (R-NE) and Mike Ross (D-AR), the bill would give the State Department until Nov. 1 to make a decision on whether to permit the Keystone XL pipeline expansion project. Six Democrats voted for the bill while only one Republican voted against it.

Republicans' Renewable Energy Bills Draw Opposition

The Obama administration expressed opposition to four Republican bills in a House Natural Resources Subcommittee hearing on June 23. The bills intend to speed the development of renewable energy on public lands by allowing some projects to avoid National Environmental Policy Act requirements. Rep. Ed Markey (D-MA) and Rep. Rush Holt (D-NJ) also expressed concern over the bills. Holt urged the committee to consider Democratic alternatives, such as the bill (H.R. 2196), introduced by Markey that would increase to 25 percent the percentage of electricity from renewables that the federal government is required to purchase by 2025. Representatives of environmental groups also opposed the four bills and suggested the committee focus on providing financial stability for the renewable energy industry through the extension of existing incentives such as a Treasury grant program.

House Members Urge EPA to Reconsider Ozone Standards

A letter supported by 91 House members urged EPA's Administrator Lisa Jackson to combine its reconsideration of the national ambient air quality standards for ozone with its regular five-year review of the standards. The EPA will soon complete a final rule to revise the ozone standards set in 2008, even though it has already begun the scheduled five-year review, which is to be completed in 2013 and could lead to further changes in the standards. The letter was signed by a bipartisan group of legislators.

House Bill Would Ban the Export Of Electronic Waste to Developing Countries

Reps. Gene Green (D-TX) and Mike Thompson (D-CA) introduced the Responsible Electronics Recycling Act of 2011 (H.R. 2284) that would bar exports of electronic waste to developing countries with the dual goals of fostering domestic recycling and preventing global dumping. A different version of the bill was introduced in September of 2010, but stalled. In the Senate, Sens. Lisa Murkowski (R-AK), Sheldon Whitehouse (D-RI), and Sherrod Brown (D-OH) introduced a companion bill the same day. The bill would add a provision to the Resource Conservation and Recovery Act creating a category of "restricted electronic waste" (DVD players, mobile phones, batteries, etc.) taking effect 24 months after the bill's enactment. Although Twenty-five states have already passed electronic-waste recycling legislation, Rep. Green said the bill would create a "national regulatory framework" to address management of electronic waste.

Upcoming Hearings

While no House committees are scheduled to meet during the June 27 week, several Senate committees have announced meetings. The Senate Environment Subcommittee on Clean Air and Nuclear Safety will hold a June 30 hearing on Environmental Protection Agency regulations. The subcommittee will examine rules to replace the Clean Air Interstate Rule and the Clean Air Mercury Rule.

Administration

Cyberspace Policies Could Help Develop Smart Grid

Nick Sinai, a Senior Advisor to the White House's Chief Technology Officer said on June 21 that the report recently released by the administration, *A Policy Framework for the 21st Century: Enabling Our Secure Energy Future*, can create a basis for continuing discussion among utility regulators, industry stake holders, and consumer advocates. The discussion can help create a framework that establishes effective cybersecurity policies that could speed the development of smart grid technologies for the electricity transmission system. Mr. Sinai said while smart grid technology and the utilization of broadband networks could effectively deliver energy usage information to consumers creating unprecedented energy efficiency savings, many challenges remain for federal and state regulators.

Federal Officials "On Call" to Resolve Permitting Problems for Renewables Initiative

White House Council on Environmental Quality (CEQ) Chair Nancy Sutley said on June 21 that as part of the administration's Renewable Energy Response Team's initiative, federal officials will be "on call" to address permitting and siting problems for renewable energy team. The White House said the goal of the initiative is to help develop the Smart Grid through enhanced federal coordination and ensured timely overview of proposed renewable projects. The agencies involved include: the Interior Department's Bureau of Land Management and Forest Service, the Department of Energy, and the CEQ.

Department of Commerce

Lubchenco Defends Climate Service Proposal Amid Republicans Concern

In testimony before a House Science, Space, and Technology Committee hearing, NOAA Administrator Jane Lubchenco said the proposed National Climate Service should continue to be funded despite a provision in the FY2011 Continuing Resolution (CR) prohibiting any funding for the initiative. Initially created in February 2010, the NCS was a rearrangement of existing NOAA offices under a unified office. Republicans are concerned the NCS is predisposed to support politically controversial climate change mitigation policies and that NOAA is in violation of the CR forbidding funding for NCS.

Department of Energy

Global Energy Efficiency Standard Recognized

The Department of Energy on June 20 supported the new global voluntary energy efficiency and energy management standard, ISO 50001 that aims to help organizations reduce energy costs in their buildings and industrial facilities. The standard will encourage organizations to adopt strategic measures in reducing the energy use, and emphasize the installation of highly efficient energy systems and equipment.

\$137.76 Million Loan Guarantee

Energy Secretary Steven Chu announced June 21 the offer of a conditional commitment for a \$137.76 million loan guarantee to Granite Reliable Power, LLC, for a new wind generation project in New Hampshire. The Project will generate enough electricity to power 20,000 homes and avoid over 124,000 metric tons of carbon dioxide annually.

\$1.4 Billion Loan Guarantee For Largest Solar Rooftop Project in the Country

On June 22, The DoE awarded a conditional commitment to provide Project Amp a partial guarantee for a \$1.4 billion loan to install approximately 733 MW of solar panels on industrial buildings around the United States. That number – nearly equal to the total amount of photovoltaic panels installed in the United States in 2010 – will generate and provide power directly to the electrical grid, instead of merely powering the buildings where they are installed. The \$1.4 billion guarantee will help facilitate about \$2.6 billion in private financing. The first installation is a 15.4 MW project on Southern California to be sold to Southern California Edison.

Group Files Suit Against DoE For Allegedly Obstructing Water-Energy Report

The Civil Society Institute sued the DoE in US District Court for the District of Massachusetts for allegedly blocking the release of the *Energy-Water Research and Development Roadmap* report on energy and water supplies. The report was drafted at Sandia National Laboratories and sent to DOE in July 2006, but has never been made publicly available. CSI believes that “DOE has blocked the issuance of the Roadmap over the last four years because it shows energy policy has not given adequate consideration to the nation’s limited resources.” The report was commissioned after Congress directed DOE under the Energy Policy Act of 2005 to study “water-related issues associated with the provision of adequate supplies, optimal management, and efficient use of energy.”

Environmental Protection Agency

Briefs Claim EPA Tailoring Rule Violates Air Act

Twenty-three industry and business groups and nine states, in separate briefs filed in the U.S. Court of Appeals for the District of Columbia Circuit, argued that EPA’s tailoring rule for greenhouse gas emissions for large stationary sources violates the Clean Air Act and should be eliminated. The nine states, led by Texas, said in their brief that EPA’s reasoning for issuing the tailoring rule, which is meant to exempt smaller sources of greenhouse gas emission from obtaining burdensome permits, is effectively a “rewriting of the Clean Air Act”. EPA claims the tailoring rule is a necessary step because the current permitting regime would result in 6 million new emissions sources needing to obtain permits.

EPA Calls for Renewable Fuel Increase In 2012, Lowers Cellulosic Biofuel Target

On June 21, The EPA released a proposed rule whereby the total amount of renewable fuel required in the nation’s motor fuel supply in 2012 would be increased from 2011 standards. For 2012, EPA is calling for 15.2 billion gallons of renewable fuel, approximately 9.2 percent of all fuel used in the United States. EPA also is proposing a volume requirement of 1.28 billion gallons for biomass-based diesel for 2013. The proposed 2012 overall volume and standards by category are: cellulosic biofuel—3.45 million to 12.9 million gallons biomass-based diesel—1 billion gallons, advanced biofuel—2 billion gallons, renewable fuel—15.2 billion gallons. Comments on the proposal are due by Aug. 11.

Comment Period for Utility MACT Extended, No Delay in Final Rule

On June 21, EPA extended the comment period by 30 days for its proposed utility MACT, but EPA Administrator Lisa Jackson said that extending the comment period “will not impact” plans to issue a final rule to reduce emissions of mercury and other air toxics from power plants in November 2011. Former House Energy and Commerce Chairman John Dingell (D-MI.) and 27 House Democrats called on Jackson earlier this month to provide 60 more days for the comment period, citing the complexity of the rule requiring coal-fired power plants and other power generators to use maximum achievable control technology (MACT) to curb emissions. EPA Deputy Administrator Robert Perciasepe, implied that EPA will likely resist calls for delaying the regulations, noting that there will be three years to fully comply and that states can provide industry an additional year after that. On June 21st, more than one hundred House Democrats including

Reps. Lois Capps (CA), Edward Markey (MA), and Bobby Rush (IL) signed on to a letter urging Jackson to move forward on the rule.

EPA Reconsiders Greenhouse Gas Rule On Reporting Electronics Makers' Emissions

The EPA published a final rule on June 22 that will reconsider portions of a rule requiring electronics manufacturers to report their GHG emissions. Additionally, EPA is extending until Sept. 30 (from June 30th) the period in which relevant manufacturers can calculate their emissions alternate methods without obtaining prior approval. These changes in reporting requirements came in response to a petition from the Semiconductor Industry Association. On the same day, EPA also issued a proposed rule to change the emissions monitoring and calculation provisions of the reporting rule. This change would provide the largest manufacturers more flexibility in how they report their fluorinated greenhouse gas emissions through 2011 and 2012.

Federal Trade Commission

Investigation on Market Manipulation of Gasoline Prices

The Federal Trade Commission on June 20 initiated an investigation to identify whether the increase in the price of gasoline and other petroleum fuels was involved in market manipulation. The investigation was requested by Senate Commerce Committee Chairman Jay Rockefeller (D-WV). Senator Rockefeller believed the high prices in early spring did not reflect true market conditions. In a letter sent June 20 to Senator Rockefeller, FTC Chairman, Jon Leibowitz, provided a framework for the investigation that seeks to examine the actions of producers, refiners, transporters, marketers, financial traders, and others that could influence petroleum product prices.

GAO

Report on Funding for Research and Technologies Related to Climate Change

The Government Accountability Office released a report on June 20, called *Improvements Needed to Clarify National Priorities and Better Align Them with Federal Funding Decisions*. The report concluded that U.S. funding of research and technologies related to climate change have increased twofold over the past seven years. The funding has been spread across various agencies and departments that do not follow a coherent strategy and rely on different methodologies for categorizing programs as climate-related. As climate change funding has increased over the years, Republicans have raised concern, saying that funding for climate change is too often allocated to programs that may not be directly related to addressing the issue of global warming.

U.S. Supreme Court

Supreme Court Declines Climate Change Law Suit

In an 8-0 decision, the U.S. Supreme Court issued a ruling on June 20 declaring that a group of states and conservation groups must work through the EPA and not through the federal courts, to achieve greenhouse gas reductions. The justices held that EPA's actions under the Clean Air Act displace the claims made under public nuisance laws.

Personnel

The Obama Administration recently hired Sarah Bianchi as the Senior Policy Advisor to the Vice President and also as a Deputy Assistant to the President. Ms. Bianchi was previously employed with Eton Park Capital Management. Ms. Bianchi has also served as a policy advisor to Vice President Gore, and was the associate director at both the Democratic Policy Council and National Economic Council, during the Clinton Administration.

Miscellaneous

S&P Asserts Midwest Wind Power Needs More Transmission Infrastructure

On June 20, Standard & Poor's released the report, "Renewable Energy Mandates Bring Winds Of Change To U.S. Midwest Power Transmission", which argues that it is uncertain whether the booming wind industry in the Midwest will be able to succeed given deficiencies in the area of transmission infrastructure. "Given the state RPS mandates and recent proposals in the Midwest, we believe significant development of renewable power generation in the region is likely, and a related transmission build-out would then be inevitable," S&P credit analyst Aneesh Prabhu said. The report argues that though Midwest states appear committed to their RPS mandates, it is unclear exactly what kind of transmission infrastructure will eventually emerge.

Disclosure of Hydraulic Fracturing Chemicals

Texas Governor Rick Perry (R) signed legislation on June 17th that requires oil and gas companies to publicly disclose chemicals in hydraulic fracturing fluids used in the production process. The law will become effective September 1, 2011. Oil and gas well operators will be required to post information about the fracturing fluids on the internet chemical disclosure registry, FracFocus.org, beginning in 2012.

Mandatory Cuts and Public Building Renovation in Proposed EC Efficiency Rule

On June 22, The European Commission proposed new energy efficiency legislation that would introduce mandatory power cuts by utility companies and quotas for the renovation of public buildings, but stopped short of mandatory member-state savings targets. The new proposal, which needs the approval of European Council of Energy Ministers and the Parliament, power companies would have to save 1.5%, on an annual basis, of their energy sales by volume through assistance to customers that will help reduce consumption. Pointing out that the government owns 12% of all buildings in the EU, the proposal would require energy efficiency renovations annually on 3 percent of the total floor space of each building as of 2014. The legislation also includes measures promoting more effective metering in households, mandatory energy auditing for large companies and incentives for small and medium-sized companies to audit as well. This proposed legislation comes in light of the EU's goal of reducing energy consumption via energy efficiency measures by 20 percent by 2020.

Coalition Calls for Better Enforcement of Lithium Air Transportation Rules

In a June 17 letter to Transportation Secretary Ray LaHood, a coalition of concerned companies called for more stringent enforcement of international and domestic safety standards for the shipping of lithium batteries. The transportation of batteries using lithium and lithium-ion is currently regulated by the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air and U.S. hazardous materials regulations. The coalition, which included battery, consumer electronics, and air freight companies, was prompted by an FAA report detailing 118 instances involving such materials since 1991.

CAP Reports Power Plants Voluntarily Reducing Mercury

On June 21, the Center for American Progress released a report titled *Mercury Falling: Many Power Plants Already Have Equipment to Slash Mercury, Toxic Contamination*, concluding that many power plants have already installed or are constructing pollution-control technologies to comply with existing mercury reduction requirements in 17 states.

EC Hopes Impact-Report Can Break Deadlock With Poland GHG Targets

At their July 11-12 meeting of the bloc's environment ministers, the European Commission will attempt to break a stalemate in EU discussions on climate change targets by unveiling a country-by-country analysis of the economic impact of more ambitious goals for reducing GHG emissions. Poland in particular, who will be hosting the meeting and taking over the EU Council presidency on July 1, has been reticent to embrace the more stringent GHG controls.

During Jamaica Visit, Clinton Outlines U.S.-Caribbean Initiatives on Climate, Energy

On a June 22 visit to Jamaica, Secretary of State Hillary Clinton outlined several energy efficiency, climate change, and renewable energy programs for cooperation between the United States and Caribbean nations. Clinton invited the Caribbean countries to join an Energy and Climate Partnership of the Americas, formed in 2009, initiative to encourage a smooth adaptation to climate change.

Secretary Clinton also invited Caribbean nations to join a Caribbean Climate Change Adaptation Initiative (a research collaboration between U.S. universities and the University of the West Indies) focused on collecting region-specific data to allow for better climate adaptation, climate policy, and overall planning. The US will also award six technical assistance grants for sustainable energy projects in the region. The projects (solar, geothermal, wind, solar water heating) are in Antigua and Barbuda, Dominica, the Dominican Republic, Grenada, Jamaica, and St. Vincent and the Grenadines. Finally, Secretary Clinton called for proposals by the Organization of American States for subsea cables between St. Kitts and Nevis and Puerto Rico that would allow the transfer of geothermal energy from St. Kitts and Nevis to Puerto Rico.

Report Calls Efforts to Reduce Emissions and Petroleum Dependence Inadequate

In a June 23 report, the National Research Council concluded that current fuel efficiency standards were not enough to significantly cut the sector's greenhouse gas emissions and reliance on petroleum-based fuel, and more ambitious transportation policies are needed. *Policy Options for Reducing Energy Use and Greenhouse Gas Emissions from U.S. Transportation*, suggested expanded financial incentives for purchasing fuel efficient vehicles, measures to discourage driving, and better land-use planning to promote compact development.

DE Increases Tax Incentives for Creators of New Clean Energy Manufacturing Jobs

On June 22, Delaware Gov. Jack Markell (D) signed [S.B. 40](#) into law, increasing the tax credits available to companies that create jobs in Delaware in general, but added extra incentives for manufacturers of clean energy systems. The new law, Delaware's Blue Collar Job Credit program, allows an eligible business that hired five or more workers and invested at least \$200,000 in a qualified facility could take a \$400 credit against the corporate or personal income tax for each qualifying job and each \$100,000 increment of qualifying investment. For clean technology businesses (producing anything from fuel cells or solar, wind, or geothermal power), the credit rises to \$750 and makes that company eligible for a lower gross receipts tax rate.

N.Y. Law to Streamline Siting of Power Plants, Require Solar Study

Both houses of the New York Legislature have approved A. 8510, a comprehensive energy bill, that would establish an expedited siting process for new power plants with a generating capacity of at least 25MW, require a study of solar power in the state, and allow "on-bill" financing of energy-efficiency retrofits. The bill is supported by Gov. Andrew M. Cuomo (D), environmental groups, power generators, and businesses.

U.N. Survey Shows Companies See Opportunity In Adaptation & Weariness of Climate Impact

On June 20, the United Nations Environment Program, the United Nations Global Compact, Oxfam, and the World Resources Institute released the report, "Adapting for a Green Economy: Companies, Communities and Climate Change" found that more than 80% of companies queried in a 2010 global survey said they see climate change response as a business opportunity and consider the effects of global warming to be a major threat to their operations. The report cited responses from a 2010 survey of 377 companies that support the Caring for Climate initiative, a joint United Nations Global Compact-UNEP platform. That study found that 86% of the companies, spread across 65 different countries, regarded responding to climate risks or investing in adaptation as a business opportunity, while 83% rated the impact of climate change as a major threat.

Development Bank Calls for Rapid Steps To Boost Asia's Renewable Energy, Efficiency

At a four-day forum, titled "New Business Models and Policy Drivers: Building the Low-Carbon Future," organized by the U.S. Agency for International Development, the World Resources Institute, and the Asian Development Bank, ADB president Haruhiko Kuroda told Asian nations there is an urgent need to move rapidly to enhance energy efficiency and increase investment in renewable energy. Kuroda detailed how Asia and the Pacific region's strong economic growth and increasing population are generating the world's fastest-growing appetite for energy, with demand expected to double by 2030. Nobel Peace Prize winner John Byrne applauded ADB's efforts to ramp up promotion of renewable energy. In 2010, ADB invested \$1.76 billion in clean energy and will likely meet its goal of reaching \$2 billion annually by 2013. ADB's Asia Solar Energy Initiative was launched in 2010 to help develop 3,000MW of new electricity capacity by 2013. Additionally, ADB revealed plans to inject \$60 million into three venture capital funds that will provide early

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stage financing support for new technology products for climate change mitigation and adaptation, and hopefully leverage over \$400 million in private sector investment.