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ENERGY AND ENVIRONMENT UPDATE **March 6, 2011**

Energy and Climate Debate

After the House and Senate passed the measure last week, President Barack Obama signed into law a bill March 2 that will keep the federal government operating through March 18, temporarily averting a shutdown while a longer-term spending plan is negotiated.

House Republicans rejected a late bid to stretch the extension to 30 days and passed (335-91) the short term continuing resolution last Tuesday, with the Senate following (91-9) the following day, just two days before the previous CR was set to expire March 4. The measure will continue current funding for most programs, while also cutting \$4 billion from the FY2011 levels; the final cuts represented a compromise as they were drawn primarily from President Obama's own budget blueprint. It also did not contain any of the policy riders included in the longer CR passed by the House last month.

The House passed a seven-month bill (H.R. 1) in February that contained \$61 billion in cuts from the fiscal year 2010 budget, roughly \$100 billion from the requested FY 2011 levels, and last week Senate Democrats released their own version of the funding proposal that includes \$51 billion in reductions from the president's proposed fiscal year 2011 budget. Senate Majority Leader Harry Reid announced March 4 that the Senate will consider both the House-passed measure and the recently introduced Senate proposal this week. A cloture vote on a motion to proceed to H.R. 1 could occur as early as March 8.

Congress

ARPA-E Funding Approval Unlikely

Senator Lisa Murkowski (R-AK) told participants of the ARPA-E Energy Innovation Summit March 1 that Congress is not likely to approve President Obama's \$550 million budget request for the Advanced Research Projects Agency – Energy. The agency, which funds the research and development of risky long-term energy projects and is a top priority of Energy Secretary Steven Chu, was provided \$389 million in stimulus funding in 2009, and is authorized at \$306 million for fiscal year 2010.

Brown Sends Letter to Obama

Senator Sherrod Brown (D-OH) sent a letter to President Obama February 28 asking him to consider the economic impact of GHG regulations on manufacturing, farming, power plants, and other industries. The Senator does not support the EPA delay legislation (S. 231) introduced by Senator Jay Rockefeller (D-WV), but he is concerned that any approach to GHG reduction must consider the unique situation of energy-intensive industries competing in a global market, and that he supports financial and technical transition assistance for manufacturers and border adjustment measures.

Conrad Calls for Energy Legislation

During a committee hearing on the president's fiscal year 2012 budget request for the Department of Energy, Senate Budget Committee Chairman Kent Conrad (D-ND) said March 2 that passage of broad energy legislation and strong deficit reduction measures should be the top priorities for the 112th Congress. Energy Secretary Steven Chu defended the administration's \$29.5 billion budget request for

the department, a \$3.1 billion increase, as a necessary investment in new technologies. He also talked about the importance of hastening the loan guarantee process and the need for a clean energy standard.

Legislation Introduced

Congresswoman Michele Bachmann (R-MN) introduced legislation (H.R. 849) March 1 to provide for the repeal of the phase out of incandescent light bulbs unless the Comptroller General makes certain specific findings.

Congressman Bruce Braley (D-IA) introduced legislation (H.R. 851) to amend the Internal Revenue Code of 1986 to extend certain renewable fuel tax incentives and to repeal fossil fuel subsidies for large oil companies.

Congressmen Fred Upton (R-MI) and Ed Whitfield (R-KY) introduced legislation (H.R. 910) March 3 to prohibit the Environmental Protection Agency from regulating greenhouse gas emissions under the Clean Air Act. Senator James Inhofe (R-OK) introduced companion legislation in the Senate. In an effort to win the support of some of their moderate colleagues, the congressmen included small tweaks to their original proposal such as language to preserve the renewable fuel standard as well as to clarify that the legislation will not impact the 2009 auto deal or the greenhouse gas emissions registry.

Representatives Gene Green (D-TX) and Charles Boustany (R-LA) introduced a resolution to urge Interior Secretary Ken Salazar to streamline and speed by the review process for drilling permits. The text is companion legislation to a measure Senators Kay Bailey Hutchison (R-TX) and Mary Landrieu (D-LA) introduced last month.

Congressman Ken Calvert (R-CA) introduced legislation (H.R. 903) to terminate long-standing Federal prohibitions on the domestic production of certain offshore supplies of oil and natural gas.

Congressman Devin Nunes (R-CA) introduced legislation (H.R. 909) to expand domestic fossil fuel production, develop more nuclear power, and expand renewable electricity.

Congressman Ed Markey (D-MA) introduced legislation (H.R. 927) to direct the Secretary of Interior to establish an annual production incentive fee with respect to Federal onshore and offshore lands that are subject to a lease for production of oil or natural gas under which production is not occurring.

Upcoming Hearings

The Senate Energy Committee will hold a March 10 hearing on a pair of bills that promotes energy efficiency: the Better Use of Light Bulbs Act (S. 395) and a bill (S. 398) that would improve the energy efficiency of certain home appliances.

Administration

Climate Office Dissolved

Heather Zichal, President Obama's new top aide on climate and energy policy, said last week that the White House climate and energy office will be dissolved into the Domestic Policy Council, with everyone staying except Carol Browner, who is expected to leave mid-month. The staff of six will focus on the clean energy agenda President Obama laid out in his State of the Union speech.

Adaptation Planning Guidance Released

The White House Council on Environmental Quality issued guidance March 4 to help federal agencies develop climate change adaptation plans. The *Federal Agency Climate Change Adaptation Planning, Implementing Instructions* guidance directs federal agencies to establish an adaptation statement by June 3; identify the impacts of climate change on the agency's mission and programs; assess how climate change will affect agency missions, programs, and operations and undertake a high level analysis of agency vulnerability; and issue a formal adaptation plan by June of 2012.

Department of Energy

Technical Assistance for Fleets

The Department of Energy announced an initiative February 28 to provide technical assistance for federal agencies to provide the analysis needed to efficiently meet their vehicle fleet mandates to reduce fossil fuel use and increase the use of alternative fuels. The Federal Energy Management Program's technical assistance will ensure that federal agencies invest their appropriated funds efficiently by using DOE expertise to support fleet analysis.

FutureGen Storage Site Selected

FutureGen Industrial Alliance announced February 28 that it will build a carbon storage facility for a coal-fired power plant in Morgan County, IL. The FutureGen 2.0 storage site will make use of existing geological features in the area to store below ground CO₂ collected from the American Energy Resources power plant nearby.

DOE and DOD Collaborate on Storage Project

The departments of Energy and Defense announced March 2 that they will collaborate to develop a grid-scale energy storage device for future defense systems. The joint effort, to be initiated in fiscal year 2012, will use the technological expertise of the Energy Department's Advanced Research Projects Agency – Energy, and will be funded by approximately \$25 million, pending congressional approval, from both of the agencies over five years.

\$102 Loan Guarantee for Maine Wind

Energy Secretary Steven Chu offered a conditional loan guarantee commitment March 3 to Record Hill Wind LLC. The \$102 loan guarantee will support the Record Hill wind project, which includes a 50.6 MW wind power plant and an eight mile transmission line and associated interconnection equipment near the town of Roxbury, Maine.

DOE and Masdar Test PV Modules

The Department of Energy and Masdar, Abu Dhabi's renewable energy initiative, announced February 28 that they will test the performance of specially coated solar photovoltaic modules together. The National Renewable Energy Laboratory developed the modules to avoid the moisture and cementation problems faced by PV module producers worldwide. The project is a direct result of a Memorandum of Understanding that DOE and Masdar signed in April 2010 to promote collaboration on clean and sustainable energy technologies.

Department of Interior

First New Deepwater Permit Issued

On February 28, the Department of Interior approved the first new deepwater drilling permit since last April's Gulf Coast oil spill. The permit for Noble Energy to drill about 70 miles southeast of Venice, LA, comes more than four months after the agency lifted its deepwater drilling moratorium, and it complies with new rules to strengthen drilling safety and ensure companies can respond and contain oil in the case of a blowout.

Environmental Protection Agency

Grandfathering Hearing Scheduled

The Environmental Protection Agency will hold a public hearing on a proposal to grandfather a proposed power plant in California from several emissions control requirements, including those for greenhouse gases. The agency filed a notice in a case (Avenal Power Center, LLC v. EPA) in the U.S. District Court for the District of Columbia March 1, saying that it will hold the hearing in California April 12.

Electronics Recycling Input Sought

The Environmental Protection Agency, General Services Administration, and Council on Environmental Quality published a notice in the March 1 Federal Register requesting input from the public on how to best

keep used electronics out of the waste stream. An interagency task force has been established to seek input on how to increase electronics recycling in the U.S., encourage greener electronics, and track electronics until disposal.

GHG Reporting Deadline Postponed

The Environmental Protection Agency announced March 1 that its Greenhouse Gas Reporting Program has completed extensive work to develop GHG data reporting requirements for a wide range of different industries in response to Congressional mandates. The agency also announced that it will extend this year's reporting deadline – originally March 31 – indefinitely, and plans to have the final uploading tool available this summer.

\$1.3 Trillion in Health Benefits

The Environmental Protection Agency released a report, *The Benefits and Costs of the Clean Air Act from 1990 to 2020*, March 1. The report found that the Clean Air Act's standards prevented more than 164,500 premature deaths from ozone and particulate matter exposure in 2010 and provided \$1.3 trillion in health benefits in 2010 at a cost of \$45 billion to affected industries. The annual health benefits are projected to reach \$2 trillion, including an estimated avoidance of more than 237,000 deaths in 2020 at a cost of \$65 billion.

Suits Challenge EPA GHG Regs

The Utility Air Regulatory Group filed lawsuits February 28 in federal appeals court to challenge two Environmental Protection Agency rules to facilitate greenhouse gas emissions permitting in seven states. The lawsuits challenge EPA rules that enabled the agency to impose a federal implementation plan on seven states whose own laws and regulations would have prevented them from initiating GHG permitting on January 2.

IG Finds EPA at Fault

Inspector General Arthur Elkins said March 2 that the Environmental Protection Agency is not able to show that some grants awarded to reduce emissions from existing diesel engines are achieving the desired reductions. According to the report, the agency could not provide documentation proving that the grants awarded under the Diesel Emissions Reduction Act actually reduced emissions.

Government Accountability Office

GAO Releases Duplication Report

The General Accountability Office released a report March 1 that concluded that federal tax credits and other policies to support domestic ethanol production are largely unneeded given an existing federal renewable fuel standard that requires production of several billion gallons each year. The report, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, also found that the web of federal mandates requiring government purchases of more efficient vehicles, plug-in hybrid vehicles, and alternative fuel vehicles are often conflicting and do not always result in efficient purchases.

Federal Energy Regulatory Commission

Renewable Promotion Plan Receives Comments

Stakeholders submitted almost 100 filings individually and jointly last week on a Federal Energy Regulatory Commission draft rule (Docket No. RM10-11-00) that would make operational changes to the bulk power grid so that variable energy resources, specifically wind and solar power, can be more easily integrated into the nation's electricity transmission system.

Frequency Regulation Compensation Rule Proposed

The Federal Energy Regulatory Commission published a proposed rule on frequency regulation compensation last week. The rule, first announced February 17, is intended to level the playing field for new technologies in the energy market that can respond more quickly than generators in providing

frequency response. A uniform federal rule may open new markets to demand response, grid-scale storage, and other emerging energy technologies.

Wellinghoff Defends Transmission Plan

Speaking at an EnergyBiz conference February 28, Federal Energy Regulatory Commission Chairman Jon Wellinghoff said that he intends to answer critics in Congress who believe that he is going too far in trying to spread the costs for building new high-voltage transmission lines across the country. He defended the commission's proposal to require adjoining regional grid operators to coordinate their transmission building plans, and to allow the regions to allocate more broadly the costs for building new high-voltage lines on the bulk power grid.

Miscellaneous

Climate Change Has Security and Economic Implications

The United Kingdom's climate and energy security envoy, Rear Adm. Neil Morisetti, and the vice chairman of CNA's Military Advisory Board, retired Navy Adm. Dennis McGinn said February 28 during a Pew Center panel on national security, energy, and climate that the government needs to work to prevent climate change to stave off negative security and economic ramifications.

BASIC Ministers Decry Lack of Funding

Ministers from Brazil, South Africa, India, and China gathered in New Delhi for their sixth annual meeting February 27. At the end of the conference, the BASIC countries expressed their dismay at developed countries' failure to disburse agreed-upon funding to help developing countries take steps to mitigate climate change and adapt to its effects. Among the outcomes of the 2009 Copenhagen climate talks was an agreement on the creation of a \$30 billion fund to support climate adaptation and mitigation in poorer countries between 2010 and 2012.

EU Revisits GHG Target

European Union Climate Action Commissioner Connie Hedegaard said February 28 that the EU should increase its 2020 GHG reduction target to 25 percent below 1990 levels in order to reduce its emissions by up to 95 percent by 2040. In order to stay on track, the EU will also need to reduce its emissions 40 percent by 2030. The Commission will publish the figures in a low-carbon roadmap for 2050 on March 8, at which time it will also release an energy efficiency plan.

MS Companies Face \$2 Million Fine

Three Mississippi-based companies agreed February 28 to jointly pay a \$2 million civil penalty to resolve claims that they violated the Clean Air Act by illegally importing engines from China. The companies, PowerTrain Inc., Wood Sales Inc., and Tool Mart Inc. illegally imported from china and sold nearly 80,000 nonroad engines and equipment that were not covered by emissions-related certificates of conformity.

RGGI Funds Energy Programs

The Regional Greenhouse Gas Initiative released a report February 28 concluding that the 10 northeastern states in the initiative are spending 78 percent of the proceeds from CO2 allowance auctions on energy efficiency, renewable energy, and programs to benefit energy consumers. RGGI states have raised \$789 million over the past two years from the auctions, with \$631 million going to various energy programs, while roughly 17% of the proceeds are directed toward budget deficit reduction.

Project Bonds Explored

The European Commission and the European Investment Bank launched an initiative February 28 for project bonds to help finance large infrastructure projects in energy, transport, and information technology networks in the European Union. By taking on part of the risk, the EU and EIB would help private project consortia to emit the project-specific bonds to otherwise risk-averse institutional investors at a lower borrowing cost.

WI Defeats Wind Siting Rule

Wisconsin's Joint Committee for Review of Administrative Rules March 1 voted down (5-2) a negotiated set of rules that would have implemented uniform standards for the develop of wind energy systems. The decision could derail wind energy projects in the state for years. The rules were scheduled to take effect March 1, and were required under the state's 2009 wind energy statute.

CO Utility and Solar Industry Negotiating

The Colorado Governor's Energy Office offered to facilitate settlement negotiations March 4 between Xcel Energy of Colorado, the state's largest utility, and representatives of the solar energy industry over the suspension of the company's solar systems rebate program. The parties will report on the results of the negotiations at a status conference before the Colorado Public Utilities Commission March 11. At issue is a decision by Xcel to set an aggregate cap of 3 MW on new applications for the rebate, effective February 16; the limit was reached within 24 hours.