

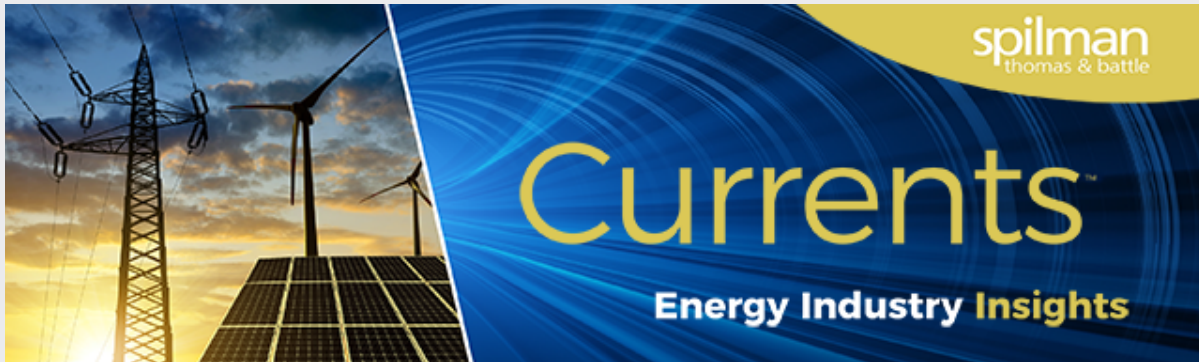
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## Volume 6, Issue 5

### ● Welcome

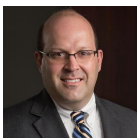
Welcome to our fifth *Currents* issue of 2022.

We are very pleased to welcome a new attorney to our team.

[Robert J. Dobkin](#) is an Associate in our Wheeling, WV office. Bob's primary areas of practice include mineral law, corporate and business law, and real estate. His experience includes assisting oil and gas exploration and production clients throughout the Appalachian region with oil and gas transactional projects, including title opinions, due diligence, and title abstracting; advising clients on land development, zoning and planning issues; assisting clients with the purchase, sale, or lease of all types of real property interests, including easements, licenses, and surface use agreements; and advising clients on business formation and organization, business succession planning, business transactions, regulatory compliance and general business issues. He is a graduate of West Virginia Northern Community College, received his B.A. from Wheeling Jesuit University, attended China University of Political Science and Law in Beijing, and received his J.D. from Duquesne University School of Law. Bob is admitted to the state bars in West Virginia and Pennsylvania, the United States District Court for the Southern District of West Virginia, and the United States District Court for the Western District of Pennsylvania.

Bob's addition brings experience and insight for all of our clients. Please join us in welcoming him to the firm.

As always, thank you for reading.



**[Nicholas S. Preservati](#)**

**Co-Editor, *Currents***

**Co-Chair, Energy Practice Group**



**Joseph C. Unger**  
Co-Editor, *Currents*

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## ● [Cap and Trade Gets a Big Win in Pennsylvania. Will It Last?](#)

*"Pennsylvania Gov. Tom Wolf (D) announced that his administration had finalized a regulation to join the Regional Greenhouse Gas Initiative, a cap-and-trade program for power plants encompassing 12 Northeastern states."*

**Why this is important:** The Regional Greenhouse Gas Initiative ("RGGI") is a cap and trade program designed to reduce greenhouse gas emissions. There are currently 11 states that participate in RGGI: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Virginia. In October 2019, Governor Wolf issued an executive order instructing the Pennsylvania Department of Environmental Protection ("DEP") to join the RGGI. To effectuate this order, DEP drafted and submitted regulations through the regulatory review process. The Pennsylvania General Assembly voted on a concurrent regulatory resolution to oppose the regulations, which was subsequently vetoed. Since there were insufficient votes to override the veto, the final regulations were published in the Pennsylvania Bulletin on April 23, 2022.

Despite the publication of the regulations, there are still obstacles that may prevent Pennsylvania's entry into RGGI. There are currently two lawsuits before the Commonwealth Court. The Secretary of DEP filed suit against the Legislative Reference Bureau prior to the publication of the regulations. Numerous entities have filed suit against DEP and the Pennsylvania Environmental Quality Board seeking an injunction to prevent Pennsylvania from joining RGGI. The Commonwealth Court has scheduled a status conference on these matters for today - May 5, 2022.

This November, Pennsylvanians will elect a new governor who may impact future participation in the program. In Virginia, Governor Youngkin has committed to withdraw from RGGI and is exploring strategies to effectuate the removal.

Although the publication of the regulations is a significant step in the process, there are obstacles that have the potential to derail Pennsylvania's continued participation in RGGI. --- [Annmarie Kaiser Robey](#)

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## ● [Michigan AG, Consumers Energy Reach 'Historic' Deal to End Coal Use in 3 Years](#)

*"A proposed settlement could lead Michigan's largest energy provider to end its use of coal 15 years earlier than it originally planned."*

**Why this is important:** While coal has seen a rebound in electric generation in the U.S. primarily due to high natural gas prices, utilities continue to close coal-fired generation. The Michigan Attorney General and Consumers Energy have reached an agreement to end all coal-fired generation by 2025 in Michigan. That is 15 years sooner than planned and must be approved by the state's Public Service Commission. By 2040, Michigan's largest electric utility -- with 1.9 million customers -- plans to be powered by 90 percent clean energy. The utility plans to add 8,000 MW of solar and will add battery storage for future energy needs. --- [Mark E. Heath](#)

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## ● [CNX and Evolution Well Services Announce Long-Term Contract Extension for Electric Fracturing in Appalachia](#)

*"In 2018, Evolution and CNX began negotiating a long-term agreement to utilize Evolution's 100 percent electric, natural gas-fueled, gas turbine-powered fracturing fleets for strategic basin development."*

**Why this is important:** The continued development and utilization of reduced carbon technologies in the energy production sector is a key component to increasing long-term stakeholder value because it addresses environmental, social and economic issues that affect the industry.

Electric hydraulic fracturing systems are replacing diesel driven conventional systems by powering the pressure pumps with gas turbine generators. These turbines can be powered with natural gas produced on-site, thereby reducing greenhouse gas emissions. Replacing diesel with site-produced natural gas not only creates a cost reduction, but it also reduces truck traffic. These systems require less of a physical footprint compared to a conventional diesel system and require less manpower to operate.

Operating in the Appalachian Basin comes with its own challenges. Those challenges grow exponentially when operations move to a more urban environment, increasing the social and environmental impacts. Utilizing electric hydraulic fracturing systems reduces greenhouse gas emissions, operational costs, traffic and site size. At a time when the industry faces labor shortages, inflationary costs risks, and increased scrutiny over its environmental impact and social responsibility, carbon and cost reduction innovations are paramount. --- [Robert J. Dobkin](#)

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## ● [Virginia's Energy Transition: More Power from the Sun than from Coal in 2021](#)

*"Virginia was number four in the country among the states in installation of solar facilities, and in 2021 we actually generated more electricity using solar energy than we did using coal!" he says."*

**Why this is important:** As Virginia's two investor-owned electric utilities take steps to comply with the Virginia Clean Economy Act ("VCEA"), which was enacted in 2020 and seeks to transition Virginia to a carbon-free electric grid by 2050, the utilities will continue to pursue an exponential increase in the amount of solar (and wind) installed in Virginia. The link suggested by the article's title between the growth in renewable energy in Virginia and coal-fired power is somewhat misleading. As the author notes, most of the coal produced in Virginia supports other manufacturing operations like steel and has for some time, while coal for electric output is largely imported from other states. In other words, it is simply true (and has been for some years) that a relatively small percentage of energy produced in Virginia is supported by Virginia coal, thus there is little nexus to new solar installations in the state. --- [Carrie H. Grundmann](#)

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## ● [Coal Processing Company Announces Mason County, WV Location](#)

*"The company says it plans to complete construction by the end of 2023, processing more than 2.7 million tons of coal a year."*

**Why this is important:** Mason County, West Virginia will be the site of a new plant that produces cleaner coal and other liquids. The Frontiers North America FASForm plant, will be a 500-employee facility near a new Nucor Steel Mill being built in WV. It uses a process called solid carbon fractionation that refines coal, waste plastic and hydrogen by removing volatiles, moisture and other contaminants, producing clean coal along with gas and liquid products. The company announced they had already built

and operated a test plant in West Virginia using West Virginia coal. The new plant, which will use 2.7 million tons of West Virginia coal a year, will be operational by the end of 2023. --- [Mark E. Heath](#)

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## ● [As Natural Gas Prices Rise, Should We Send Less of It Abroad?](#)

*"Some are asking if the U.S. should hold on to more of the LNG it's been exporting to keep down energy costs at home."*

**Why this is important:** In the short term, rising natural gas prices are beneficial. The Russian-driven crisis in Europe has made an increase in the global market price for gas inevitable regardless of our LNG exports. In fact, cutting back exports of lower-cost domestic shale gas could push global prices even higher. Exports of LNG by U.S. producers allow our country to aid our European allies in a time of crisis and use that energy source as a potent tool of international diplomacy. Domestically, the same price spike will encourage the exploration for and development of more U.S.-based gas reserves that will ensure our long-term energy security. When the Ukrainian conflict is resolved and the resultant impact on Europe subsides, the global price of gas will settle to more normal levels and the long-term expansion of our domestic supply will ultimately serve to benefit U.S. consumers. --- [William M. Herlihy](#)

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## ● [Nuclear Energy Generation Holds Potential for West Virginia, Former Coal Plants Sites](#)

*"Earlier this year, Gov. Jim Justice signed Senate Bill 4 into law, opening the door for nuclear-power generation facilities to be built in West Virginia."*

**Why this is important:** West Virginia has repealed its ban on nuclear power plants. A nuclear advocate believes coal-fired generation sites in West Virginia could see new life as sites for advanced nuclear plants. Old large-scale nuclear plants produce 1,000 MW and are now too expensive to build. New advanced nuclear reactors are smaller and in the 100-300 megawatt range. The smaller reactors can be built in factories to save costs and are safer as they include non-mechanical cooling systems to control reactions. The Department of Energy is helping develop a \$2 billion modular plant with Terra Power at a closed Wyoming coal-fired plant site. Closed plant sites are attractive for redevelopment as their transmission lines and other infrastructure can be repurposed for nuclear plants. --- [Mark E. Heath](#)

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## ● [Renewable Energy Can Also Boost the Economy](#)

*"Beyond the environmental impacts, a clean energy transition can provide financial and health benefits too."*

**Why this is important:** This article is sponsored by Clean Choice Energy, a company that seeks to transition consumers to clean energy. It notes that a transition to clean energy can produce economic and health benefits, which is at least theoretically true. Indeed, Virginia's renewable energy statute, the Virginia Clean Economy Act, expressly recognized the economic benefits associated with a transition to clean energy. One of the concerns with this transition, however, is reliability. Because renewable resources (wind and solar) are necessarily intermittent and weather-dependent, realizing these benefits needs to be balanced against the need to ensure sufficient power supply is available at all times for consumers, and the potential economic cost of not doing so. --- [Carrie H. Grundmann](#)

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## ● [W.Va. Coal Production on the Rise for 2022](#)

*"According to Hamilton, Europe's desire to rotate away from Russian energy, the soaring cost of natural gas, and what he called failures in the green energy sector have pushed up demand and the price for coal."*

**Why this is important:** Russia's illegal invasion of Ukraine has created havoc in the world energy markets. That is leading to more U.S. coal exports to Europe and half of those U.S. exports now come from West Virginia. European demand and high natural gas and oil prices have led to a resurgence in U.S. coal-fired electrical generation. However, it is difficult for West Virginia to add more coal production due to difficulty in getting capital, permits and workers for new coal mines. The new demand is, however, pushing West Virginia back to pre-pandemic coal production numbers. In 2019, West Virginia mined 110.3 million tons, but that declined 40 million tons in 2020 to 69.3 million tons. That increased in 2021 to 80.8 million tons and 2022 production will be over 90 million tons and could approach 100 MT. ---

[Mark E. Heath](#)

## ● [EIA Energy Statistics](#)

*Here is a round-up of the latest statistics concerning the energy industry.*

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#### [This Week in Petroleum](#)

#### [Weekly Petroleum Status Report](#)

### [NATURAL GAS](#)

#### [Short-Term Energy Outlook - Natural Gas](#)

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