



ML
STRATEGIES

David Leiter DJLeiter@mlstrategies.com
Sarah Litke SLitke@mlstrategies.com
Jean Cornell JKECornell@mlstrategies.com
Bryan Stockton BStockton@mlstrategies.com
Jordan Collins JMCollins@mlstrategies.com
Neal Martin RNMartin@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 & ENVIRONMENT UPDATE November 11, 2013

ENERGY AND CLIMATE DEBATE

The House is back in session this week, and health care measures are expected to dominate both chambers. Three conference committees are reconciling differences between House- and Senate-approved bills. The first will tackle [S. 601](#) and [H.R. 3080](#), the Water Resources Development Act; the second will address the budget, giving a path forward for 2014 appropriations; and the third will focus on the farm bill. Of the three committees, the latter two have the most relevance to energy-related matters.

Looking to the future, tax reform is the next significant area of focus for Congress. Our team here at ML Strategies is monitoring the status of tax extender provisions scheduled to expire at the end of the year, including the production tax credit. Traditionally, these provisions are extended, sometimes retroactively; however, efforts to pass comprehensive tax reform have curtailed consideration of the extenders package this time around.

President Obama made several energy-related nominations this past week. At the Energy Department, he nominated Madelyn Creedon to serve as National Nuclear Security Administration Principal Deputy Administrator and Ellen Williams as Director of the Advanced Research Projects Agency-Energy. For the Department of the Interior, Tommy Beaudreau was nominated to serve as Assistant Secretary for Policy, Management, and Budget; Neil Kornze was nominated to serve as Bureau of Land Management Director; and Janice Schneider was tapped to serve as Assistant Secretary for Land and Minerals Management. Thomas Burke was nominated to serve as Environmental Protection Agency Assistant Administrator for Research and Development.

CONGRESS

Senate GOP Letter on IPCC Report, Social Cost of Carbon

A November 4 [letter](#) was sent by Senators David Vitter (R-LA), Jeff Sessions (R-AL), Jim Inhofe (R-OK), and John Barrasso (R-WY) to Environmental Protection Agency Administrator Gina McCarthy,

urging the agency to outline the administration's involvement in the most recent Intergovernmental Panel on Climate Change report. The group also asked about agency involvement in new estimates for the social cost of carbon.

Capito Pushes WV Listening Session

Representative Shelley Moore Capito (R-WV) [wrote](#) to Environmental Protection Agency Administrator Gina McCarthy on November 4, advocating for a listening session on upcoming greenhouse gas emissions rules for existing power plants in West Virginia. She said the agency could receive the best information from coal-reliant states.

WRDA Conferees Appointed

The Senate appointed eight members to serve on the Water Resources Development Act conference committee November 4. Conferees are Senators John Barrasso (R-WY), Max Baucus (D-MT), Barbara Boxer (D-CA), Ben Cardin (D-MD), Tom Carper (D-DE), Jim Inhofe (R-OK), David Vitter (R-LA), and Sheldon Whitehouse (D-RI). The Senate version of the bill, [S. 601](#), is similar to House language, [H.R. 3080](#), though earmark bans in the latter limit options for selecting and funding Army Corps of Engineers projects.

Stabenow, Wyden on Farm Bill, Wind

Senate Agriculture Chairman Debbie Stabenow (D-MI) and Senate Energy and Natural Resources Chairman Ron Wyden (D-OR) attended an agricultural event and a wind energy forum in Michigan November 4. Senator Stabenow advocated for passage of the Farm Bill and said that there are many economic opportunities for farmers to deal with the impacts of climate change. The two also promoted public-private efforts to improve sustainability as well as an extension for the production tax credit. Senator Wyden said wind power is a major way to spur rural development.

EPW Fugitive Methane Emissions

The Senate Environment and Public Works Subcommittee on Oversight held a hearing on fugitive methane emissions on November 5. Witness Sarah Dunham, Director of the Environmental Protection Agency Office of Atmospheric Programs, said methane, with 28 times the global warming potential of carbon dioxide, accounts for 9 percent of total U.S. emissions with the level expected to rise over the next few decades. The Climate Action Plan created an interagency panel to address the issue.

Heitkamp Requests ND Listening Session

Senator Heidi Heitkamp (D-ND) [wrote](#) to Environmental Protection Agency Administrator Gina McCarthy November 5, asking her to hold a listening session on upcoming greenhouse gas regulations for existing power plants in North Dakota. The state is in the top ten for coal production and electric consumption.

Landrieu on LNG Exports, Fracking

Addressing a November 7 forum on liquefied natural gas, Senator Mary Landrieu (D-LA) said the Energy Department should approve additional export terminals. She explained that the market would balance producer and consumer interests. She also supported state and local level environmental regulations for fracking.

Northwest Letter on BPA

In a November 8 letter, 23 Northwest members of Congress asked Secretary of Energy Ernest Moniz to ensure that Bonneville Power Administration remains independent of the agency. The group said that the administration supports the northwest energy market and that decisions should be made

locally. The letter, led by Senator Ron Wyden (D-OR) and Representative Doc Hastings (R-WA), is attached.

Bills Introduced

- On November 5, Senators Brian Schatz (D-HI), Lamar Alexander (R-TN), and Dan Coats (R-IN) introduced [S. 1652](#), the Utility Energy Service Contracts Improvement Act of 2013. The bill would clarify federal agencies' ability to enter into UESCs. In a UESC, a utility pays the upfront cost for efficiency improvements, and the agency pays back the company over a long period of time from the energy savings that result.

Upcoming Hearings

- On November 13, the House Energy and Commerce Subcommittee on Environment and the Economy will consider [S. 1009](#), the Chemical Safety Improvement Act.
- On November 14, the Senate Energy and Natural Resources Committee will consider the nominations of Steven Croley to serve as Energy Department General Counsel, Christopher Smith to serve as Assistant Energy Secretary for Fossil Energy, and Esther Kia'aina to serve as Assistant Interior Secretary for Insular Affairs.
- The same day, the House Energy and Commerce Subcommittee on Energy and Power will hold a hearing on Environmental Protection Agency proposed rules for new power plants as well as a [draft bill](#) by Representative Ed Whitfield (R-KY) and Senator Joe Manchin (D-WV).
- The same day, the House Science, Space, and Technology Committee will hold a hearing on transparency at the Environmental Protection Agency. Administrator Gina McCarthy will be a witness.
- The same day, the Manufacturing Caucus and the Natural Gas Caucus will host an event on domestic natural gas production and the manufacturing renaissance.

ADMINISTRATION

GSA RFI on Innovative Building Technologies

The General Services Administration issued on November 4 a [Request for Information](#) on emerging and innovative building technologies that can be tested in GSA's Green Proving Ground program. The GPG evaluates emerging building technologies that promise to reduce carbon emissions and improve the environmental performance of GSA's portfolio of real estate assets.

WAPA Proposes Region Joins RTO

The Western Area Power Administration [proposed](#) November 1 that one of its four regions join the Southwest Power Pool, a regional transmission organization. The Upper Great Plains Region covers MT, ND, and SD as well as parts of IA, MN, and NE. Comments will be accepted through December 16, and the administration plans to hold public meetings.

Utech Replaces Zichal

Deputy Assistant to the President for Energy and Climate Change Heather Zichal stepped down on November 8. In a [statement](#), President Obama praised Zichal's work. Dan Utech, who has been serving as Zichal's deputy, will permanently replace her November 11.

DEPARTMENT OF ENERGY

LBL Report on CA GHG Goals

[Estimating Policy-Driven Greenhouse Gas Emissions Trajectories in California: The California Greenhouse Gas Inventory Spreadsheet \(GHGIS\) Model](#), an October report by the Lawrence Berkeley National Laboratory, projected that California will not meet its greenhouse gas reduction goals by 2050. The state hoped to reduce emissions 80 percent below 1990 levels by 2050, but the report said that the goal would not be met if no new technology is introduced or if no new major policies are implemented. The study found that California will meet its goal to curb emissions to 1990 levels by 2020.

Advanced Biofuel, Bioproduct RFI Released

The Office of Energy Efficiency and Renewable Energy released a request for information October 30 for bioenergy technology validation for advanced biofuel, bioproduct, and biopower technology deployment. The request targets technologies at a Technology Readiness Level of 6 or higher. Responses will be accepted through December 6. The RFI is attached.

Solar Soft Costs Projects Funded

The Department of Energy [announced](#) November 6 that it had provided \$12 million to 8 Rooftop Solar Challenge teams. The money, in addition to \$4 million in outside funding, will support efforts to reduce solar panel installation bureaucracy. The agency is hoping to streamline solar permitting, zoning, and metering processes.

U.S.-Norway CCS Agreement

Secretary of Energy Ernest Moniz announced November 7 that the U.S. will enter into a bilateral agreement with Norway to promote information sharing on carbon capture and storage technology. The agreement is designed to share technical information, advance public awareness, and spur commercialization.

\$84 Million to 18 CCS Projects

18 carbon capture and storage projects will receive \$84 million from the Department of Energy, according to a November 7 [announcement](#). Industry members and universities will provide additional funding through cost-share agreements. Three of the projects will receive \$12.3 million to address pre-combustion processes efficiency at new coal gasification plants; the remaining 15 projects focus on existing power plants.

Moniz Tours Kemper

Secretary of Energy Ernest Moniz, along with Governor Phil Byrant (R-MS) and Norwegian Minister of Petroleum and Energy Todd Lien, visited the Kemper County carbon capture project on November 8. The coal-fired power plant is expected to come online in 2014.

DEPARTMENT OF INTERIOR

Court Dismisses Ocotillo Approval Case

The U.S. District Court for the Southern District of California dismissed a lawsuit November 6 involving the Bureau of Land Management's approval of the Ocotillo Wind Energy Facility Project. Protect Our Communities Foundation Against Dumps and Donna Tisdale said the agency violated several federal laws including the National Environmental Policy Act when it approved the 265 MW project. The dismissal was a third in a series involving the approval.

DEPARTMENT OF TREASURY

Treasury Responds to Coons MLP, REIT Letter

An October 23 letter from Assistant Treasury Secretary for Legislative Affairs Alastair Fitzpayne to Senator Chris Coons (D-DE) said the administration supports renewable energy development, citing a proposal in the FY14 budget to make the production tax credit permanent and refundable for qualified projects. He said the administration supports a level playing field for all energy resources. Senator Coons and 27 members had sent a letter to the agency advocating for extending master limited partnerships and real estate investment trusts to renewable energy projects.

ENVIRONMENTAL PROTECTION AGENCY

McCarthy on Climate Change Action

Addressing Gordon College November 4, Environmental Protection Agency Administrator Gina McCarthy said tackling climate change is a moral obligation. She cited recent natural disasters such as Hurricane Sandy that have displace the poor and have caused food and water scarcity. She also linked climate change action to protecting public health, saying reduced emissions will decrease the risk of lung and heart complications.

DC Listening Session Held

The Environmental Protection Agency held a listening session on upcoming greenhouse gas emissions rules for existing power plants at its Washington, DC headquarters on November 7. Senate Minority Leader Mitch McConnell (R-KY) urged the agency to hold another listening session in Kentucky, positing that the regulations will negatively impact coal-reliant and coal-producing states. Meetings were also held last week in Boston, Chicago, Dallas, Philadelphia, San Francisco, Seattle, and Lenexa, KS.

CSAPR Brief Filed by 11 State AGs

Nine state attorneys general filed an amicus brief with the Supreme Court on November 7, saying the Environmental Protection Agency failed to recognize cooperative federalism when issuing its Cross-State Air Pollution Rule. The brief argued that states were not able to create their own approaches and that states did not have the resources to compile needed data on the impact on downwind states. The states represented by the brief, written for a case between the agency and EME Homer City Generation, were AR, AZ, KY, MO, MT, ND, SD, WV, and WY.

EPA to Address 2011 RVOs

A November 8 brief filed in the U.S. Court of Appeals for the District of Columbia Circuit by the Environmental Protection Agency said the changes to the 2011 Renewable Fuel Standard mandates will be addressed in the upcoming 2014 obligations. The agency asked the court for a voluntary remand of the 2011 cellulosic obligation after the 2012 requirement, which used the same methodology, was overturned in January.

INTERNATIONAL

Emissions Gap Report Released

The United Nations Environment Program released the [Emissions Gap Report 2013](#) November 5, finding that emission levels in 2020 are likely to be above the set pathway to limit global temperature rise to 3.6 degrees Fahrenheit. The pace will create a gap even if all countries meet their emissions pledges. However, the pace could be slowed should dramatic action be taken.

Newfoundland and Labrador Fracking Announcement

Newfoundland and Labrador Natural Resources Minister Derrick Dalley commented November 4 that the government will not accept exploration licenses for onshore or onshore-to-offshore petroleum that use fracking. The government is currently reviewing regulations in other provinces as well as information on environmental impacts on the practice. Dalley said the province is attempting to balance economic development and environmental protection.

Canada Renewable Fuels Regulations Amended

Environment Canada published November 6 final [amendments](#) to its Renewable Fuels Regulations. The agency said the changes, which go into effect immediately, align with the original Environmental Protection Agency Renewable Fuels Standard but not the updated version. The amendments did not differentiate between fuels based on greenhouse gas emissions.

10FP Meeting Held in Bangkok

From November 7 to 8, the First Asia-Pacific Regional Meeting on the 10 Year Framework of Programs on Sustainable Consumption and Production was held in Bangkok. Overseen by the United Nations Environment Program, the meeting was designed to identify areas for cooperation on sustainability efforts. It resulted in the creation of five working groups to address buildings, consumer information, education, procurement, and tourism.

STATES

MI Coal Ash Report

The Clean Water Fund released [Toxic Trash Exposed: Coal Ash Pollution in Michigan](#) November 1. The report found that 19 or 29 known coal ash sites in the state are located near a Great Lake or bay of a Great Lake, and concluded that state policies are weak with limited funding for environmental protection programs.

IA Governor Goes to Washington

Governor Terry Branstad (R-IA) visited Washington, DC last week to meet with administration officials, including Agriculture Secretary Tom Vilsack and Environmental Protection Agency Administrator Gina McCarthy, on upcoming 2014 Renewable Fuel Standard requirements. The governor promoted the Renewable Fuel Standard and efforts to diversify the U.S. energy portfolio.

Governors Promote PTC

A November 6 [letter](#) from the Governors' Wind Energy Coalition to House of Representatives and Senate leaders urged Congress to extend the production tax credit. The group said uncertainty from the last extension caused a massive drop in investment. They advocated for a multi-year extension followed by a smooth transition to expiration. Governors John Kitzhaber (D-OR), Dennis Daugaard (R-SD), Terry Branstad (R-IA), Lincoln Chafee (D-RI), Jay Inslee (D-WA), Steve Bullock (D-MT), Martin O'Malley (D-MD), Pat Quinn (D-IL), Neil Abercrombie (D-HI), Mark Dayton (D-MN), and Sam Brownback (R-KS) signed the letter.

MISCELLANEOUS

Report Linking TX Earthquakes, CO2 Injection

A [report](#) linking 18 earthquakes to underground carbon dioxide storage in Texas was published in the Proceedings of the National Academy of Sciences November 4. The earthquakes, occurring between 2006 and 2011, coincide with carbon dioxide injection practices at the Cogdell oil field.

The study said the earthquakes with a magnitude of 3 or higher could not be explained by water injection.

Letter Opposing PTC Sent to Congress

Americans for Prosperity, Freedom Works, and 100 other organizations sent a [letter](#) to Congress about the wind production tax credit November 4. The groups urged Congress to allow the 2.3 cent per kilowatt-hour credit to expire at the end of the year, charging that the wind industry has become reliant on the 20 year old credit.

Future of USEC Project Uncertain

USEC President and CEO John Welch said on a November 5 investor call that the gap between the end of a cost-share agreement with the Department of Energy in late 2013 and a potential loan guarantee could severely hurt its American Centrifuge Project. The enrichment project in Ohio cannot be funded at current levels without government support. He said the company might be forced to demobilize or terminate the project in the near future. Welch cited the Fukushima Daiichi disaster and German and American reactor shutdowns causing depressed uranium prices.

State Energy Efficiency Report Card Released

The American Council for an Energy Efficient Economy released its [State Energy Efficiency Report Card](#) November 6. Massachusetts took the top spot, and Mississippi was identified as most improved. During a press call, Energy Secretary Ernest Moniz praised the report, saying he, the agency, and the administration as a whole consider energy efficiency a priority. He also said the department plans to release several dozen energy efficiency standards over the next few years.

Biofuels Groups on 2014 RFS

Addressing reporters on November 6, business leaders from Abengoa Bioenergy Corp., DuPont, and the Renewable Fuels Association said Renewable Fuels Standard mandate reductions could negatively impact ethanol producers. The groups said \$3.6 billion in sales could be lost in 2014 should the Environmental Protection Agency reduce the renewable volume obligations. Additionally, the reductions could chill investment in advanced and cellulosic biofuel technology.

CCS Forum Held

The Carbon Sequestration Leadership Forum was held in Washington, DC November 7. More than 20 countries participated in the event, which resulted in a [draft communique](#) to spur carbon capture and storage research and development. Energy Secretary Ernest Moniz said at the forum that U.S. technology is ready and viable; he also said the Department of Energy will release its final fossil energy loan guarantee solicitation before 2014. Southern Company CEO Tom Fanning said more engineering work could have offset the high construction costs of the Kemper County facility. International Energy Agency Executive Director Maria van der Hoeven said carbon capture and storage technology must be operational by 2020 in order to fully address climate change impacts, and said that she hopes that at least 30 large-scale projects will be in operation by 2020.

ISU Study on RIN Prices

[The Economic Role of RIN Prices](#), a November 7 Iowa State University Center for Agricultural and Rural Development report, said renewable identification numbers are serving their purpose of tracking compliance. While critics linked the recent increase in RIN prices to problems in the market, the study said the surge signaled that 2014 and 2015 mandates would be costly to achieve, exactly what the policy was designed to do, and found that high infrastructure investment will allow for better biofuel adoption.

Fracking Disclosure Report Released

As You Sow, Boston Common Asset Management, Green Century Capital Management, and Investor Environmental Health Network released [*Disclosing the Facts: Transparency and Risk in Hydraulic Fracturing Operations*](#) November 7. The report identified 24 companies that failed to disclose enough information about fracking practices, such as water management and corporate governance.

NextGen Keystone Summit Scheduled

NextGen Climate Action will hold a summit December 2 in Washington, DC, focusing on the Keystone XL pipeline and climate change. The event will address the project's carbon footprint, mitigation efforts, and the overall impact on climate change.