



ML
STRATEGIES

David Leiter DJLeiter@mlstrategies.com
Sarah Litke SLitke@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 AND ENVIRONMENT UPDATE

January 13, 2014

ENERGY AND CLIMATE DEBATE

Following a week during which energy and climate issues garnered significant national attention, via both Senator Lisa Murkowski's (R-AK) energy export white paper and the Environmental Protection Agency's release of greenhouse gas rules for new power plants, Washington will focus on budget and tax issues this week, while policymakers also nod toward a continued focus on energy issues.

House and Senate negotiators will release a \$1.1 trillion omnibus spending bill tonight, to fill in the blanks of the December budget agreement. In the meantime, the House will address Tuesday a three-day extension of the current continuing resolution, which will expire Wednesday. Leadership anticipates quickly moving onto the larger omnibus measure soon thereafter, with the hope of returning it to President Obama before the January 18 deadline.

Though the difficult work is far from complete, both parties appear determined to avoid risking another government shutdown, and both have something to gain in the process. Democrats may regain about \$20 billion cut from domestic agencies under last March's sequestration, and Republicans favor preventing deeper defense budget reductions.

As the tax reform and tax extenders efforts get underway, senior members of the House Ways and Means Committee said last week that they have no plans to begin work soon on a package to reinstate the tax extenders that expired at the end of last year, making more difficult the uphill battle for expired programs such as the production tax credit. The committee is likely to wait until they believe comprehensive reform is impossible this year before taking up an extender package. Senate Finance Committee Ranking Member Orrin Hatch (R-UT) urged January 9 a case-by-case review of each incentive, rather than a quick renewal of the entire package. Even so, with comprehensive tax reform uncommon in an election year, and with a shuffle of committee leadership in the Senate further complicating matters, movement on tax extenders is the most likely path forward for tax issues this year, as policymakers ready for more significant reform next Congress.

Also this week, House and Senate committee will hold hearings on a number of energy issues this week, including the president's Climate Action Plan and the Environmental Protection Agency's authority to regulate greenhouse gas emissions.

CONGRESS

Murkowski on Energy Exports

Senate Energy and Natural Resources Ranking Member Lisa Murkowski (R-AK) released a [white paper](#) January 7 outlining her effort to expand domestic energy exports around the globe. Senator Murkowski calls for lifting the decades-old ban on oil exports, for the Department of Energy to expedite its review of applications to export liquefied natural gas, and for a greater focus on the Federal Energy Regulatory Commission's role in approving the projects. Speaking at a Brookings Institution event that morning, she also said that federal agencies should not include potential climate impacts in environmental reviews of natural gas and coal export projects, and that the administration and Congress should articulate a clearer role for nuclear power in the domestic mix. Energy and Natural Resources Committee Chair Ron Wyden (D-OR) hopes to hold a hearing on the crude oil export ban sometime this month.

Murphy to Introduce Short-Lived GHG Reduction Legislation

Senator Chris Murphy (D-CT) announced January 7 that he would soon introduce legislation to reduce hydrofluorocarbon, methane, and other short-lived climate pollutant emissions. The measure would put the U.S. on record as supporting the gradual phase out of HFCs under the Montreal Protocol and would encourage other nations to adopt similar best practices.

Senate Climate Task Force Announced

Senate Environment and Public Works Committee Chair Barbara Boxer (D-CA) and Senator Sheldon Whitehouse (D-RI) announced the creation of the Climate Action Task Force January 8. The group will aim to put climate issues at the forefront of congressional debate again, and will undertake whatever actions are possible in the face of Congressional inaction, including encouraging regulatory efforts. They will also attempt to defeat anti-environmental legislative riders, as well as promote energy efficiency legislation. The two senators will hold regular brief climate change presentations during weekly policy lunches.

Legislation Introduced

- Senators Joe Manchin (D-WV) and John Hoeven (R-ND) introduced companion legislation (S. 1905) January 9 to a House bill ([H.R. 3826](#)) Representative Ed Whitfield (R-KY) introduced the same day to limit the Environmental Protection Agency's ability to regulate greenhouse gas emissions from new and existing power plants. The Electricity Security and Affordability Act would prohibit the agency from finalizing any regulations on existing plants until Congress approves legislation instructing when the standards would go into effect.
- Representative Erik Paulsen (R-MN) introduced legislation (H.R. 3838) January 9 to amend the Internal Revenue Code of 1986 to provide a consumer renewable credit for utilities that sell intermittent renewable power.

Upcoming Hearings

- The House Energy and Commerce Subcommittee on Energy and Power will mark up the Electricity Security and Affordability Act (H.R. 3826) January 14. The committee will have

opening statements on the legislation January 13 and reconvene a markup the following day.

- The Senate Environment and Public Works Committee will hold the first climate change hearing of 2014 on January 16 and will focus on regulatory actions in the absence of congressional action. Environmental Protection Agency Administrator Gina McCarthy will testify, as will Council on Environmental Quality Chair Nancy Sutley. Officials from the Fish and Wildlife Service and the General Services Administration will also testify. A second panel will include atmospheric and energy scientists from universities across the country.

ADMINISTRATION

QER Launched

President Obama launched the [Quadrennial Energy Review](#) January 9. The review directs federal agencies to conduct the most comprehensive effort to date to coordinate the country's energy goals and address climate change. The review establishes a Quadrennial Energy Review Task Force, co-chaired by the director of the Office of Science and Technology Policy and the director of the Domestic Policy Council. The first review, initially to focus on energy infrastructure, will be due the end of next January, and will involve more than a dozen agencies and rely on state and local governments more than ever. The second review is due in January 2019.

ENVIRONMENTAL PROTECTION AGENCY

Comments to Strategic Plan

In [comments](#) to the Environmental Protection Agency's draft 2014-2018 Strategic Plan, the Association of Metropolitan Waster Agencies said January 3 that the agency should consider climate change across its entire regulatory spectrum, including when addressing provisions of the Safe Drinking Water Act and the Clean Water Act during the rule development, implementation, enforcement, and review phases.

SAB Science Review of GHG Regs Unnecessary

The Environmental Protection Agency's Science Advisory Board Work Group sent a [memorandum](#) to the board January 7 reversing a November 12 decision, saying instead that a review of carbon dioxide standards for new fossil fuel-fired power plants would not provide additional benefit to the proposed rule. The Work Group will complete its discussion of whether to review the adequacy of the standard's science during a January 21 teleconference.

GHG Regs for New Power Plants Proposed

The Environmental Protection Agency published repropoed carbon dioxide [standards](#) for new power plants January 8. The proposal, initially released September 20, limits carbon dioxide emissions from future coal- and natural gas-fired power plants, requiring that new coal-fired plants capture about 30 to 60 percent of CO2 emissions. The proposed rule withdraws the April 2012 rule, which included a single standard for coal- and natural gas-fired plants, replacing it with separate standards of 1,100 pounds CO2/MWh for small gas plants and new coal plants, and 1,000 pounds CO2/MWh for new gas units. The new plant standards are not expected to result in significant emissions reductions directly because the power sector has been increasingly investing in cleaner, cheaper natural gas-fired units, but the standards will trigger a Clean Air Act requirement for the agency to issue similar guidelines for existing power plants, which are the largest source of GHG emissions in the country. The agency will hold a public hearing January 28, and will accept public comments on the proposed rule through March 10. Proposed guidelines for existing power plants are due June 1, with final guidelines scheduled for the following June.

CH4 Levels Cause Concern

The Environmental Protection Agency will meet with Texas state regulators this week to discuss complaints about methane levels in water sources near a Range Resources Corp. fracking operation. When the agency declared that a group of homes near the site did not have dangerous levels of CH₄ in their water, it relied on tests conducted by the natural gas driller, but independent tests from Duke University researchers have found potentially explosive methane levels in some wells, and homeowners want the agency to re-open the case.

FEDERAL ENERGY REGULATORY COMMISSION

Renewable Energy Financing Decision OK

The Federal Energy Regulatory Commission and the Midcontinent Independent System Operator filed opposition briefs January 8 claiming that a case upholding a tax scheme for financing the construction of new high-voltage power lines to assist renewable energy connection to the power grid does not warrant review by the Supreme Court. They both argue that the U.S. Court of Appeals for the Seventh Circuit decided fairly on the issue.

INTERNATIONAL TRADE COMMISSION

Chinese and Taiwanese Solar Case Launched

The International Trade Commission launched a material injury investigation January 3 on imports of allegedly dumped crystalline silicon photovoltaic solar products from China and Taiwan. The commission is expected to issue a preliminary injury decision in February.

INTERNATIONAL

Quarter of Chinese Companies Fail to Meet Energy Goals

China's National Development and Reform Commission released a report January 3 finding that almost a quarter of the 16,078 major companies evaluated as part of the Top 10,000 Energy Savings and Low-Carbon Action Enterprises program failed to meet their 2012 goals for reducing energy and carbon intensity. The program was launched during the previous five-year planning period, when it covered only 1,000 companies. Punishments will vary depending on the degree to which companies missed their goals.

UN Sustainable Development Agenda Shouldn't Harm Global Climate Efforts

Speakers at a January 6-10 United Nations [working group](#) meeting warned that the UN's post-2015 sustainable development agenda should complement but not duplicate efforts to reach a global climate change agreement. The group will meet again February 3-7 to discuss how oceans, forests, biodiversity, equality, and conflict prevention could be addressed in the development agenda, and the new goals will be finalized by September 2015.

EU Favors Backloading

Representatives of the European Union's 28 governments cast their final vote January 8 in favor of a plan to reduce a record excess of carbon dioxide permits via backloading, and the European Council and Parliament will now review the plan. The plan would temporarily cut by half the annual number of permits for the 12,000 power plants and factories in the European Union's Emissions Trading System, and return those 900 million permits from 2014-2016 to the market at the end of the decade. As a result, carbon prices are primed to rebound from a three-year slump.

European Climate Targets

The European Parliament's Environment and Industry committees adopted a [draft resolution](#) January 9 calling for binding climate and energy targets, including a 50 percent reduction in greenhouse gas emissions compared to 1990 levels by 2030, a 40 percent energy savings from projected business as usual levels through efficiencies, and a 30 percent renewable share in the consumed energy market. The European Parliament will address the resolution during a February 3-6 plenary session.

STATES

NY Green Roof Law Updated

New York enacted legislation ([A.B. 7058](#)) December 18 to increase the New York City green roof property tax abatement, expand it, and extend the application deadline. Individuals who install green roofs within the city are now eligible of a tax abatement of \$5.23/square foot so long as the abatement does not exceed the lesser of \$200,00 or the building's annual tax liability. The application deadline has been extended from last March 15 to March 15, 2019.

VA to Examine Fracking Regs

The Virginia Department of Mines, Minerals, and Energy announced January 6 that it would seek comment on a plan to require companies to disclose the chemicals they use in fracking. The [notice](#) of intended regulatory activity said that while fracking has been used safely in the state since the 1960's, the recent rapid increase in its use warrants a new look at the issue.

NY Energy Plan Released

New York released its energy plan January 8, calling for more renewable energy and touting efforts to keep utility bills low. The plan does not mention allowing fracking for natural gas in the Marcellus Shale; the state has had a moratorium on fracking since 2008, and Governor Andrew Cuomo (D) said last year that a decision on the practice was forthcoming. It also includes a \$1 billion Green Bank, already underway; a 50 percent reduction in energy sector carbon emissions by 2030; more efficient building codes; and funding for solar, wind, bioenergy, geothermal, and hydrokinetic energy sources. Following a 60-day public comment period, the plan is expected to be approved this spring.

ME Aqua Ventus Faces PUC Vote

The Maine Public Utilities Commission will vote January 14 on whether to grant initial approval for a state contract to the University of Maine and its partner companies to build a two-turbine, 12MW offshore wind pilot project off the coast of Monhegan Island. The commission's decision is significant for project financing as well as for helping it to receive a \$50 million federal energy grant.

IA Ethanol Hearing

Iowa Governor Terry Branstad will hold a hearing in Des Moines January 23 to consider an Environmental Protection Agency proposal that would reduce the amount of ethanol that must be blended with gasoline in 2014.

SUSTAINABILITY

Fuel Reserve Carbon Content Information Requested

A group of former Securities and Exchange Commission regulators [urged](#) December 10 that the Financial Accounting Standards Board to require oil, gas, coal, and power companies to disclose information on the carbon content of their fuel reserves. The board will consider the request.

Climate Change Resolutions

Walden Asset Management began a new initiative January 6 introducing resolutions challenging oil and gas companies and other issuers to evaluate their climate change public policy advocacy. One set asks fossil fuel companies and energy producers to conduct a board-level review of their policy positions and lobbying activities related to energy and climate policy. The other set asks companies to review their lobbying activities, including at a federal and state level.

MISCELLANEOUS

ACORE Announces CEO

The American Council on Renewable Energy appointed Michael Brower as president and chief executive officer January 10. Mr. Brower, who had been serving in the position on an interim basis, formerly served as senior federal policy director at Mosaic Federal Affairs, and has served on ACORE's board of directors. He is a retired naval officer who commanded a sea strike squadron in the first Iraqi war, and served in the secretary of the Navy's office as special assistant for air warfare. ACORE's previous head, Dennis McGinn, was confirmed August 1 to serve as assistant secretary of the Navy for energy, installations, and environment.