



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 & ENVIRONMENT UPDATE February 18, 2014

ENERGY AND CLIMATE DEBATE

With Senator Max Baucus' (D-MT) confirmation as ambassador to China, Senators Ron Wyden (D-OR) and Mary Landrieu (D-CA) assumed the chairmanship of the Senate Finance and Energy and Natural Resources Committees, respectively, last week. Also part of the committee leadership shuffle include Senator Maria Cantwell (D-WA) succeeding Senator Landrieu as chair of the Small Business Committee and Senator John Tester (D-MT) succeeding Senator Cantwell as head of the Indian Affairs Committee; the Senate approved the moves February 13. As the senators take some time to organize their staffs and legislative agendas, Senator Landrieu has already pledged to promote domestic energy production, while Senator Wyden has said that he hopes to begin work on the tax extenders package as a precursor to addressing comprehensive tax reform at a later date.

Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) announced last week that they would formally reintroduce their energy efficiency package (S. 1392) the week of February 24, with Senate action likely to follow in March. The measure will include ten bipartisan amendments in an effort to garner additional support. House leadership has taken an interest in similar bipartisan legislation (H.R. 2126) from Representatives Peter Welch (D-VT) and David McKinley (R-WV).

The Senate concluded its work period before the Presidents' Day recess last week by quickly clearing House-approved bills to raise the federal debt limit (S. 540) and provide a fix for military retirees' pensions (S. 25). The chambers will return next week, and the Senate is planning to address the minimum wage bill soon thereafter, as well as a host of nominees that await confirmation. Additionally, momentum may be building to begin addressing the tax extenders package that was allowed to expire at the end of last year; other bipartisan measures that could see floor time this spring include education legislation and manufacturing proposals.

CONGRESS

Labor Urges Energy Infrastructure Investment

Speaking before the Good Jobs, Green Jobs conference February 10, AFL-CIO President Richard Trumka urged the government to make significant investments in water, energy, and waste

infrastructure in order to promote job creation as well as mitigate the impacts of climate change. Labor and environmental leaders discussed the need to unite behind a model that would address climate change while ensuring worker protections.

Electric Reliability Paper

Senator Lisa Murkowski (R-AK) released a [white paper](#) on electric reliability while speaking at the National Association of Regulatory Utility Commissioners February 11. The paper, "Powering the Future: Ensuring that Federal Policy Fully Supports Electric Reliability," focuses on the impacts of environmental regulations on baseload generation, related tax policies, and intermittent fuel source issues. During the event, Senator Murkowski also expressed her frustration about the slow pace at which Congress is moving on energy legislation.

CCS Could Dramatically Increase Energy Prices

Testifying before the House Energy and Commerce Oversight and Investigations Subcommittee February 11, Julio Friedmann, deputy assistant secretary for clean coal at the Department of Energy, [said](#) that requiring carbon capture and sequestration technologies at coal fired power plants could increase the wholesale price of electricity between 70 and 80 percent. The first generation technologies have a CO2 captured cost of \$70-90/ton for wholesale electricity production, but a second generation could drop the cost to \$40-50/ton.

LCV Scorecard Released

The League of Conservation Voters released its annual [scorecard](#) February 11, and concluded that House Republicans have received the lowest average score ever recorded. The league has issued an environmental scorecard every year since 1970 with input from 20 environmental and conservation organizations.

Markey Joins EPW

Senator Ed Markey (D-MA) will join the Environment and Public Works Committee, following Senator Max Baucus' (D-MT) departure. Senator Markey's top issues as a new committee member include climate change, nuclear safety, superfund, and reauthorization of the transportation bill.

Hastings to Retire

Representative Doc Hastings (R-WA) announced February 13 that he will not seek reelection. Congressman Hastings has been in Congress since 1995, and has chaired the House Natural Resources Committee the last two terms.

Climate Hearing Requested

California House Democrats sent a [letter](#) February 18 to House Energy and Commerce Committee Chair Fred Upton (R-MI) and Subcommittee on Energy and Power Chair Ed Whitfield (R-KY) calling on the committee to hold a hearing on global climate change and the devastating California drought.

Holt to Retire

Congressman Rush Holt (D-NJ) announced February 18 that he would retire at the end of the term. The eight-term Democrat, a senior member of the House Natural Resources Committee and the ranking member of its Energy and Resources Subcommittee, has long advocated for renewable energy programs and addressing climate change.

All-Night Climate Session Forthcoming

Senate Democrats are planning to hold an all-night session in March to discuss climate change and urge action to address it. Senator Brian Schatz (D-HI), a member of the Senate Climate Action Task Force, is organizing the event.

Legislation Introduced

- Representative Dave Loebsack (D-IA) introduced legislation ([H.R. 4051](#)) February 12 to establish a competitive grant program to fund renewable and alternative fuel infrastructure projects under the Farm Security and Rural Investment Act of 2002.
- Senators Maria Cantwell (D-WA) and Chuck Grassley (R-IA) introduced legislation (S. 2021) February 14 to lengthen and strengthen the biofuel production tax incentive that expired with the other tax extender measures at the end of the year. The measure would extend the \$1/gallon tax credit through 2017 and increase the credit to \$1.10 for the first 15 million gallons made by small producers that generate less than 60 million gallons a year, as well as redefine qualifying material as biodiesel made from any biomass-based feedstock or recycled oils and fats.

ADMINISTRATION

Federal-State Climate Cooperation

Speaking at a Council on Watershed Health and Climate Resolve February 12, Mike Boots, chief of staff of the White House Council on Environmental Quality, said that the administration is committed to working with state and local agencies to implement climate change mitigation strategies in an attempt to address extreme weather, drought, sea level rise, flooding, and wildfires. President Obama's Task Force on Climate Preparedness and Resilience met with California Governor Jerry Brown (D) and Los Angeles Mayor Eric Garcetti February 13 to discuss adaptation projects.

US-France Climate Collaboration

President Obama and French President Francois Hollande discussed climate change as one of four major key themes for the United States-France relationship during the French president's visit last week. In what is likely to become a repeated theme of the United States encouraging the rest of the world to increase their climate efforts, the presidents addressed expanding cooperation on protecting the environment and addressing climate change, including via standards for overseas coal fired power plant funding.

Efficient Trucks Requested

President Obama asked the Environmental Protection Agency and the Department of Transportation February 18 to improve fuel efficiency for medium and heavy-duty trucks. The agencies are expected to issue the next set of efficiency rules by March 2016.

DEPARTMENT OF ENERGY

Climate Policies Necessary to Promote Nuclear Investment

Speaking to the National Association of Regulatory Utility Commissioners conference February 10, Department of Energy Deputy Assistant Secretary for Nuclear Energy John Kelly said that the small modular reactor program has potential, but that it is struggling in an inexpensive energy environment, and that a strong national commitment to clean energy policies will be necessary to create a market and attract the necessary \$900 million in industry investment.

Metal Halide Light Efficiency Standards

The Department of Energy published a [final rule](#) February 10 requiring metal halide lamp fixtures to be about 2.5 percent more energy efficient. The standards, which go into effect February 2017, will reduce emissions by up to 28 MMT and save consumers \$1.1 billion on their energy bills over 30 years.

LNG Export Terminal Approved

The Department of energy [approved](#) February 11 an export license for a proposed liquefied natural gas terminal in Louisiana. The Cameron LNG facility, the fifth to be approved since 2011, received conditional authorization to export up to 1.7 billion cubic feet/day of natural gas for 20 years to countries that do not have free trade agreements with the United States. The Federal Energy Regulatory Commission will need to grant a construction permit to Sempra Energy for the project to proceed. The project will be built on the site of an existing import terminal.

No Support for Yucca Mountain

Energy Secretary Ernest Moniz told the National Association of Regulatory Utility Commissioners February 12 that the Obama Administration believes that Yucca Mountain is not a desirable solution to the nuclear waste storage problem, saying that they should focus instead on developing interim storage sites. Secretary Moniz appeared at the conference to highlight plans for the administration's quadrennial energy review that the president authorized in January. The first review will focus on challenges to energy infrastructure. Secretary Moniz and Acting Federal Energy Regulatory Commission Chair Cheryl LaFleur have begun discussing the review and working to expand the interagency relationship.

EEI-NRDC Agreement

Edison Electric Institute and the Natural Resources Defense Council announced a [joint agreement](#) at the National Association of Regulatory Utility Commissioners conference February 12 supporting policies intended to encourage utilities to promote innovative smart grid technologies while allowing companies fair cost recovery.

Commercial Equipment Efficiency Standards

The Department of Energy [proposed](#) February 14 to revise regulations for certifying that commercial and industrial equipment complies with energy efficiency requirements. The proposal is the latest in a series of rulemakings based on a working group's recommendations that focused on certification procedures for commercial heating, ventilation, and air conditioning, water heating, and refrigeration equipment.

DEPARTMENT OF STATE

Novelli Confirmed

The Senate confirmed Catherine Ann Novelli as U.S. undersecretary of state for economic growth, energy, and the environment February 12. The Senate also confirmed her as U.S. alternate governor of the International Bank for Reconstruction and Development for a five-year term. Ms. Novelli has most recently served as vice president of worldwide government affairs, and from 1991 to 2005 at the Office of the U.S. Trade Representative.

Kerry Launches Climate Talks

Secretary of State John Kerry began a series of speeches February 16 in Jakarta calling on the world to address climate change. Secretary Kerry highlighted the impacts of climate change on Asia specifically, and called on the global community – nations and individuals, alike – to do more now

because addressing climate change threats will require a global solution; he is instructing U.S. diplomats to make climate change a top priority.

ENVIRONMENTAL PROTECTION AGENCY

GHG Regulations on Schedule

Addressing the Good Jobs, Green Jobs conference February 10, Environmental Protection Agency Administrator Gina McCarthy said that the agency is on track to issue its proposed CO2 emissions standards for existing power plants in June 2015. Administrator McCarthy said that the country will not have to choose between environmental protection and a strong economy, pointing to the 1990 Clean Air Act amendments and the fuel economy standards as examples where environmental efforts have increased economic activity and hastened job creation.

OK Haze Plan Approved

The Environmental Protection Agency approved February 10 Oklahoma's plan to control regional haze pollution from two coal fired power plants in the state, withdrawing a federal plan to reduce haze. The Public Service Company of Oklahoma will retire one of the units and install additional controls at the other by April 16, 2016, while also requiring NO and SO2 limits for the remaining unit, which will be retired by the end of 2026.

Fracking with Diesel Guidance Released

The Environmental Protection Agency released its [final guidance](#) February 11 on fracking when diesel fuels are included in the fluid for an oil or natural gas well. The guidance instructs federal and state regulators on an extra layer of necessary permitting if a company does not avoid using diesel. Industry officials have indicated that they could avoid using the fuels for fracking, depending on how the agency defines diesel fuels; the definition is based on five Chemical Abstracts Service registry numbers.

Power Plant Emissions Stagnate

The Environmental Protection Agency released [data](#) February 14 demonstrating that NO and SO2 power plant emissions leveled out between 2012 and 2013, following years of significant and consistent reductions. Utilities emitted 3.2 million tons/SO2 in 2013, down from 3.3 million tons in 2012; emissions were 10.2 million tons in 2005 and 15.7 million tons in 1990. NO emissions increased slightly in 2013, measuring at 1.8 million tons instead of 1.7 million tons. CO2 emissions measured at 2.2 billion tons in 2013, a level that has been fairly consistent in recent years. Emissions have leveled out as plants have come into compliance with the Clean Air Interstate Rule and the acid rain program.

Methane Emissions Underestimated

According to a study published February 14 in *Science*, the Environmental Protection Agency has been significantly underestimating methane leakage. Leakages from natural gas lines and other sources may be 50 percent higher than current data indicate, and are likely to be tied to superemitters, spots that leak high methane concentrations.

TX GHG Permitting Authority

The Environmental Protection Agency [proposed](#) February 18 to approve revisions to a Texas air pollution implementation plan that would allow the state to begin issuing Title V and prevention of significant deterioration permits for greenhouse gas emissions. The state had previously refused to update its implementation plan to include GHGs, saying it would be inconsistent with state law; as a result, the agency has been the GHG permitting authority for the state.

GOVERNMENT ACCOUNTABILITY OFFICE

Difficult Weather on the Rise

The Government Accountability Office released a [report](#) February 12 concluding that weather disasters will only worsen as climate change accelerates. The report finds that as a result, the Department of Agriculture needs to consider the related financial impacts due to its role as a reinsurer for private crop insurance companies.

INTERNATIONAL

Ralls Corp. Argues Wind Farm Case

Ralls Corp. submitted a [brief](#) to the U.S. Court of Appeals for the District of Columbia Circuit February 7 urging the court to reverse the U.S. District Court for the District of Columbia's rejection of a constitutional challenge to a presidential order directing the Chinese-owned firm to divest its interest in an Oregon wind farm project. The government's opening brief is due March 10.

US-India Climate Collaboration

Participants in an Aspen Institute panel said February 11 that discussions between United States and India nongovernmental organizations about how the two countries collaborate on climate change and energy are likely to focus around hydrofluorocarbons, air quality, and renewable energy. The panel, "India-U.S. Perspectives on Energy and Climate Change: Opportunities for Cooperation," preceded the start of the fourth session of "Track II Dialogues," which took place last week.

US-India Solar Trade Case

India's Ministry of New and Renewable Energy Joint Secretary Tarun Kapoor said February 11 that the country will dispute a United States complaint at the World Trade Organization that it unlawfully restricts solar equipment imports, saying that American panel makers have access to most of its market. The country required about 10 percent of new PV projects permitted in the last year to use domestically made solar cells and modules. The World Trade Organization said the following day that the new United States Trade Representative case will be folded into the case the U.S. filed last February. The Office of the United States Trade Representative [requested](#) a World Trade Organization consultation with India on the domestic content policy for solar goods February 10, triggering a 60-day consultation window.

Global Climate Accord Suggestions Submitted

The United States [submitted](#) the first suggested outline of the global climate deal to be reached in Paris in 2015 to the United Nations February 12. The submission recommends that the deal be built to last by ensuring that future changes do not require formally reopening the accord for more rounds of multiyear negotiations. The submission recommends that the accord go into effect by the end of 2020 and require action on climate change from developed and developing nations. The submission also avoids the issue of whether the agreement will be legally binding.

ITC Advances China, Taiwan Solar Cases

The International Trade Commission moved forward trade cases on solar products from China and Taiwan February 14 by releasing an affirmative preliminary subsidy and antidumping [ruling](#). The Department of Commerce's preliminary countervailing duty determination is expected around March 26, and the preliminary antidumping duty determination may come around June 9.

STATES

WA Amends Incentive Program

The Washington Department of Revenue [amended](#) rules February 6 for the renewable energy cost recovery incentive program to add solar stirling converters to the list of qualified renewable energy devices or components. The program authorizes a payment to customers using qualified renewable components or devices in order to offset some of the cost associated with purchasing a qualified renewable energy system in the state.

CARB Proposes Strategic Updates

The California Air Resources Board [proposed](#) a new round of clean air policies February 10 designed to continue reducing greenhouse gas emissions from major industrial sectors beyond 2020. The draft document is the first effort to update the initial Global Warming Solutions Act of 2006 (A.B. 32) scoping plan, which the agency adopted in 2008. The board will vote on the proposal in October.

NY Green Bank Opens

New York Governor Andrew Cuomo announced February 13 that formal business operations for the [New York Green Bank](#) have begun. The governor announced the \$1 billion bank in his 2013 State of the State Address, and it begins with a \$210 million capitalization from the Regional Greenhouse Gas Initiative, redirected funding from the New York State Energy Research and Development Authority, and administrative oversight from the Public Service Commission. At the same time, the bank issued a [request for proposal](#) to engage with the private sector on what financial instruments and arrangements would most impact the state's clean energy industry.

NY Smart Grid

The New York State Energy Research and Development Authority awarded a contract February 14 to Smart Grid Solutions to work with Con Edison to develop technologies to increase electric grid resiliency during potential contingencies and emergencies. The contract was funded under the authority's Electric Power Transmission and Distribution Smart Grid Program.

MISCELLANEOUS

Economic Benefits of Climate Change Preparations

Con Edison announced February 10 that it will conduct an economic analysis later this year to quantify the benefits of preparing its energy infrastructure for climate change impacts. Calculating the benefits could help the company justify its \$1 billion plan to fortify its infrastructure against extreme weather events.