

ML Strategies Energy and Environment Update: Week of 1/5/2015

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ENERGY AND CLIMATE DEBATE

Congress returns for the 114th session January 6, and efforts are underway to prepare for an eventful two years on Capitol Hill as well as the final two years of the Obama Administration.

Energy and environment issues, in particular, are likely to play a key role in 2015, much like they did in 2014, from the Keystone XL debate to international climate negotiations to a host of Environmental Protection Agency regulations.

New Senate Majority Leader Mitch McConnell (R-KY) vowed late last year to make the Keystone XL pipeline the first order of business for the upper chamber, and his colleagues are already moving quickly on the issue. The Senate Energy and Natural Resources Committee will hold a hearing January 7 to consider **legislation** approving the Keystone XL pipeline and will take a vote on the measure the following day, setting the stage for a floor vote as early as next week. The committee approved identical language from Senate Energy and Natural Resources Chair Lisa Murkowski (R-AK) in June. Senate Democrats are expected to introduce several amendments to the bill, but only a few will ultimately vote for the measure – how many that few actually is remains the key question, with many predicting that there are at least 61 votes for the bill, including seven Democrats. If the upper chamber does approve the legislation and the president vetoes it, both sides are confident that they could win the fight, as getting to the necessary 67 votes to override a presidential veto will be the truly difficult battle. The House, which has passed several pro-Keystone measures in the past couple of years, will take up similar language in the near future. President Obama last month expressed skepticism over the project's economic benefits, but the White House has yet to outright threaten to veto Keystone legislation. The president did say December 29 that he expects to veto legislation this year that would block or impede his climate and environmental policies. In the meantime, the Nebraska Supreme Court will soon rule on the route approval process, and a federal decision is likely to follow soon thereafter.

The Lima climate negotiations, and the United States' and Chinese climate pledges just weeks prior, served as preparatory stages for the main event in Paris this December. Just before the close of 2014, the United Nations reached its \$10 billion goal for the Green Climate Fund, though the United States and others still must make good on their commitments. International climate negotiators will have serious work to do to hammer out a new global climate change accord before the end of 2015, as most of the contentious issues are still unsolved.

As part of President Obama's "year of action," the Environmental Protection Agency had a big year in 2014, releasing, among many other regulations, the Clean Power Plan in June. Administrator Gina McCarthy and other Administration officials continue to reiterate that they will finalize the rule this summer, despite the facts that there are millions of comments to sort through and an ugly legal battle is already underway. The Administration has also repeatedly asserted that the proposed rule is legally defensible, a statement that is certain to be tested as litigation piles up once the rule is final. In the meantime, the Republican Congress is planning efforts to attack the regulation, and other agency efforts as well, via oversight hearings and the appropriations process. In addition to the Clean Power Plan, we expect that Congress is likely to target revisions to the National Ambient Air Quality Standards for ozone and a jurisdictional rule defining the scope of the Clean Water Act, and methane standards are forthcoming from the agency later this month.

In other judicial branch news, the Supreme Court will hear this spring arguments in a suit challenging the Environmental Protection Agency's Mercury and Air Toxics Standards. The agency has a near impeccable success rate in recent high court history, but we expect this case to see a lot of focus in the coming weeks and months. The Supreme Court may also take up the Federal Energy Regulatory Commission's Order No. 745, which appellate judges struck down last year and the Solicitor General is planning an appeal.

Not every issue will leave the executive and legislative branches at odds, though. Just before the end of the year, President Obama and Senate Majority Leader McConnell identified trade, long term infrastructure financing, and the possibility of tax reform as areas of potential agreement. Senate Finance

Committee Chair Orrin Hatch (R-UT) intends to pursue broad tax reform before considering another short-term extension, and Ranking Member Ron Wyden (D-OR) plans to work with him to find compromise over which incentives to keep, improve, and discard, while he also hopes to encourage new energy technology via a continuation of the production tax credit or other renewable energy and energy efficiency tax provisions. Another area that may afford some amount of bipartisan support is energy efficiency legislation, and Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) are planning to reintroduce their legislation early this session. We will know more about how the legislative schedule will proceed this Congress after Democrats and Republicans take their retreats in the next couple of weeks.

CONGRESS

FERC/EPA Collaboration

Senate Energy and Natural Resources Committee Chair Lisa Murkowski (R-AK), House Energy and Commerce Committee Chair Fred Upton (R-KY), and Energy and Power Subcommittee Chair Ed Whitfield (R-KY) sent a [letter](#) December 22 asking the Federal Energy Regulatory Commission to describe meetings and exchanges with the Environmental Protection Agency regarding the proposed Clean Power Plan.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a hearing January 7 on [legislation](#) to approve the Keystone XL pipeline. Witnesses include Association of Oil Pipe Lines President and CEO Andrew Black, Center for American Progress Vice President Greg Dotson, and Laborers' International Union of North America Legislative Director David Mallino. The committee will hold a business meeting the following day to markup the legislation.

DEPARTMENT OF ENERGY

LNG Export Opposition

114 environmental organizations sent a letter December 22 to Energy Secretary Ernest Moniz urging him to oppose Senator John Hoeven's (R-ND) legislation, the Natural Gas Export Certainty Act (S. 2638), to accelerate exports of liquefied natural gas by requiring the Department of Energy to make a decision on an export license within 45 days of a company filing for a construction permit with the Federal Energy Regulatory Commission. The groups charge that the practice only increases global methane emissions.

FEDERAL ENERGY REGULATORY COMMISSION

New Energy Capacity

The Federal Energy Regulatory Commission released its monthly update last week in which it found that wind power was the leading source of new electric generating capacity in November, with 333 MW out of 873 MW of new capacity coming from wind power, followed by solar power at 294 MW, natural gas at 140 MW, and 106 MW from new coal sources. Natural gas led the way for the first eleven months of the year, making up just over half of the nearly 11 GW of new capacity brought online through November.

The weekly *Energy & Environment Update* from ML Strategies provides an overview of what's happening on and off Capitol Hill and around the world that may impact energy and environmental policies and industry players. [Read the update here.](#)

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