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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

With the November elections just over a week away, energy issues continue to make headlines on the campaign trail and play a central role in the lame duck negotiation preparations.

President Obama's campaign released a document October 23 outlining his jobs plan for a second term. Among other things, the *Plan for Jobs and Middle-Class Security* renews the president's call for an 80 percent clean energy standard by 2035 and encourages Congress to renew the Advanced Energy Manufacturing Tax Credit. It also applauds the new fuel economy standards, a \$5 billion investment in clean coal research, and increased natural gas, oil, and renewable energy production. The president's energy plan is part of a goal to reduce net oil imports in half by 2020.

In anticipation of the lame duck session, policymakers continue to debate the inclusion various tax extenders measures into a larger fiscal cliff package. The Investor Network on Climate Risk sent a letter to House and Senate leadership last week urging Congress to extend the production tax credit, saying that allowing it to expire would significantly harm U.S. competitiveness and send hundreds of billions in investment dollars to other countries. Other potential energy-related items on the end of the year agenda include energy efficiency legislation, Defense reauthorization, which includes the Navy's use of biofuels, and the Farm bill.

Congress

Production Tax Credit Inquiries

Representative Ann Marie Buerkle (R-NY) sent a letter October 22 to American Wind Energy Association President Denise Bode pressing the industry to offer details on a phase out of the wind energy production tax credit. Representative Buerkle asked Bode about how long the phase out should last and what the "suggested value" of the credit should be.

High CA Gas Prices Hearing Sought

Senators Lisa Murkowski (R-AK) and James Inhofe (R-OK) sent a letter October 24 to Senators Jeff Bingaman (D-NM) and Barbara Boxer (D-CA) requesting the Senate Committees on Energy and Natural Resources and Environment and Public Works to conduct a joint hearing on the causes of the recent surge in California gasoline prices. Senators Boxer and Dianne Feinstein (D-CA) have asked federal agencies to investigate the spikes.

LNG Export Consideration

Senator Ron Wyden (D-OR) sent a letter October 23 to Energy Secretary Steven Chu asking him to explain how the agency will consider approving and revoking future exports of liquefied natural gas. He is particularly concerned with current and proposed exports' impact on domestic natural gas supplies, air pollutant emissions, domestic natural gas prices, electricity prices, U.S. employment and manufacturing, and economic growth.

Unused Drilling Leases

Representative Ed Markey (D-MA) released a report October 22 finding that more than 100 oil companies are not drilling on nearly 3,700 leases that they hold in the Gulf of Mexico. Representative Markey said that forty percent of those idle leases, which account for about 20 million acres, are held by the Big Five oil companies.

Department of Energy

Algal Biofuel Production Impacts

The National Research Council released a report October 24 finding that large-scale algal biofuels would place unsustainable demands on energy, water, and nutrients. The Department of Energy requested report, *Sustainable Development of Algal Biofuels in the United States*, concluded that sustainable production could be possible with further research and development into the improving processing methods.

Department of Interior

DE Offshore Wind Lease

The Department of Interior granted a commercial lease October 23 to NRG Bluewater Wind Delaware LLC for a 450 MW wind farm, even though the company halted the project last December because it was unable to find an investor. The lease, on more than 96,000 acres 11 miles off the Delaware coast, allows the company to conduct site assessment activities, including installing a meteorological tower or buoy.

Environmental Protection Agency

CAFE Standards Challenged

Plant Oil Powered Diesel Fuel Systems Inc. filed two lawsuits last week in the U.S. Court of Appeals for the District of Columbia Circuit challenging the Environmental Protection Agency and National Highway Traffic Safety Administration's joint fuel economy greenhouse gas emissions standards for passenger vehicles and heavy-duty trucks. The first lawsuit challenges the agencies' denial of the company's administrative petition to reconsider the combined fuel economy and GHG standards for medium and heavy-duty trucks, and the second challenges the joint fuel economy and GHG standards for model year 2017 through 2025 passenger vehicles.

MATS Opposed

A coalition of states, power companies, and mining groups filed a brief in the U.S. Court of Appeals for the District of Columbia Circuit October 23 charging that the Environmental Protection Agency failed to prove that toxic emissions from power plants endanger public health and should be regulated. The group asked the court to vacate the agency's mercury and air toxics standards for power plants, claiming that the agency's December 2000 finding that mercury from power plants should be regulated is "fundamentally flawed." The agency issued the standards this February.

TX Flexible Air Plan Approved

The Environmental Protection Agency published a final rule October 25 approving a revised version of Texas' Flexible Permit Air Quality Program under new source review requirements. The final rule gives flexibility to major sources by establishing sitewide emissions caps for existing pollution sources. The limits require continuous air monitoring for individual emissions sources within a plant so that the entire facility does not violate its Clean Air Act permit. The rule becomes effective November 24.

MATS Rule Finalization

White Stallion Energy Center, Sunflower Electric Power Corp., Tri-State Generation and Transmission Association Inc., Power4Georgians LLC, Deseret Power Electric Cooperative, and Tenaska Trailblazer Partners LLC asked the U.S. Court of Appeals for the District of Columbia Circuit October 19 to set a deadline by which the Environmental Protection Agency must finalize a rule reconsidering the mercury and air toxics standards for new power plants. The agency reiterated October 12 that it is on schedule to issue the final rule by March 2013, but the companies contend that it should be under a court order to ensure that it does. Legal challenges are on hold during administrative reconsideration.

Ozone Nonattainment Alternative Challenged

Medical Advocates for Healthy Air, Latinos United for Clean Air, the Sierra Club, the National Parks Conservation Association, and the Natural Resources Defense Council filed a lawsuit October 19 in the U.S. Court of Appeals for the Ninth Circuit challenging the Environmental Protection Agency's approval of the Ozone Nonattainment Mandate Alternative. Air quality officials in California's San Joaquin Valley adopted the rule as an alternative to a Clean Air Act provision mandating that major stationary sources pay significant penalties in certain ozone nonattainment areas that miss attainment deadlines.

Retirements for SC Fossil Fuel Units

Fueled by recent Environmental Protection Agency regulations to control mercury and air toxics, Santee Cooper, a South Carolina electric power utility, announced October 22 that it plans to retire six generating facilities at its two oldest units – four coal fired and two oil-fired – representing a total electrical generating capacity of 568 MW. The company will also retire two additional coal-fired units, with a combined 170 MW capacity. Some of the lost capacity will be made up by increasing a natural gas plant's generation.

Report Challenges Pollution and Coal Ash Regulations

The American Coalition for Clean Coal Electricity released a report October 26 finding that new Environmental Protection Agency rules on pollution control and coal ash management could cost power companies \$13 billion a year. The report, *Economic Implications of Recent and Anticipated EPA Regulations Affecting the Electricity Sector*, concluded that the regulations could cause 42 GW of coal-fired capacity to close by 2019, resulting in the loss of 1.5 million jobs over the next four years. The report pointed out seven regulations that affect the power industry: regional haze regulations, the mercury air toxics standards, proposed regulations for coal ash disposal, the national ambient air quality standards for sulfur dioxide, proposed regulations for cooling water intake towers, air quality standards for particulate matter, and air quality standards for ozone.

CRS Outlines Air Quality Standard Compliance Challenges

The Congressional Research Service argued in report October 25 that the U.S. Court of Appeals for the District of Columbia's decision to remand regulations designed to reduce power plant pollution that crosses state lines could make it more challenging for some areas to comply with air quality standards for fine particulate matter. The report, *2006 National Ambient Air Quality Standards for Fine Particulate Matter (PM_{2.5}): Designating Nonattainment Areas*, finds that certain areas could face difficulty due to the Environmental Protection Agency's delay of air toxics standards for boilers, its proposed two-year compliance delay for cement kiln air toxics standards, and its decision to delay mercury air toxics standards for new coal-fired power plants.

Final Nonhazardous Secondary Materials Rule Imminent

According to industry sources, the Environmental Protection Agency is likely to issue its final nonhazardous secondary materials standards for commercial and industrial incinerators soon but not before the November elections. Of main concern is whether the material will be categorized as waste or as fuel.

Federal Energy Regulatory Commission

Order 1000 Compliance Plans

The PJM Interconnection and the Midwest Independent System Operator filed lengthy documents October 25 detailing how they plan to comply with the Federal Energy Regulatory Commission's Order 1000 transmission planning rule. The commission is encouraging competition in the building of new high-

voltage transmission lines and more widely allocating the new transmission costs. Other groups have asked the commission for additional time to respond to compliance filings.

Nuclear Regulatory Commission

Protecting Nukes from Climate Change

During an October 25 appearance at the Center for American Progress, Nuclear Regulatory Commission Chairman Allison Macfarlane announced that she had asked staff to consider whether the country's 104 commercial nuclear reactors need to be better protected from climate-change fueled extreme weather events.

International

Local Energy and GHG Reductions Worldwide

The ICLEI Global Executive Committee and the World Mayors Council on Climate Change launched an initiative October 22 to reduce energy use and greenhouse gas emissions in cities and local governments around the world. The initiative calls for cities to reduce government operations' energy use by 2020 compared to 2010 levels and report on their reductions.

U.S. Global Climate Participation Needed

United Nations Framework Convention on Climate Change Executive Christiana Figueres said October 24 that the next U.S. administration will need to ensure that the country is not left behind as the world works to address climate change by embracing clean energy and energy efficiency. The U.S. has made a voluntary pledge to reduce emissions 17 percent below 2005 levels by 2020.

EU Emissions Declining

The European Environment Agency published two reports October 24 finding that greenhouse gas emissions from European Union countries continued to decline in 2011 and that the bloc should easily meet its 2008-2012 Kyoto Protocol target, but that it will fall short of its 2020 target unless it undertakes additional measures. The *Approximated EU Greenhouse Gas Inventory: Early Estimates for 2011* confirmed that EU emissions dropped 2.5 percent in 2011 compared to 2010, but *Greenhouse Gas Emission Trends and Projections in Europe 2012* predicted that Italy and Spain will miss their individual targets.

European RE Potential

Greenpeace and the European Renewable Energy Council released a study October 24 finding that the European Union could create half a million jobs by 2020 and reduce electricity costs 16 percent by 2050 if it prioritized an energy system based on clean energy and energy efficiency rather than fossil fuels and nuclear power. Increasing the share of renewable energy in the area's energy supply from roughly ten percent currently to 96 percent in 2050 would result in a 95 percent drop in greenhouse gas emissions. The German National Center for Aerospace, Energy, and Transport Research prepared the analysis, *Energy [R]evolution: A Sustainable EU27 Energy Outlook*.

Green Climate Fund HQ

Songdo, South Korea was chosen October 20 to host the permanent headquarters of the United Nations Green Climate Fund. The decision will be confirmed at the 18th Conference of Parties to the United Nations Framework Convention on Climate Change November 26-December 7.

EU Finalizes Doha Position

European Union environment ministers agreed during an October 25 meeting in Luxembourg that they would support a second Kyoto Protocol commitment period and make efforts to advance compliance with measures approved at last year's Conference of Parties to the United Nations Framework Convention on Climate Change. The group also agreed to advocate for a more extensive international accord to replace the Kyoto Protocol – to be decided on by 2015 and in effect by 2020.

Groups Challenge EU Carbon Allowance Reduction

In comments submitted to the European Commission, various industry groups expressed unease about a proposal to backload the number of CO₂ allowances auctioned at the start of the European Union's next period of emissions trading. In particular, the industry groups have argued that the Commission's proposal to intervene in the market for carbon allowances would increase uncertainty among businesses.

States

NY Energy Blueprint

New York Governor Andrew Cuomo (D) released the New York Energy Highway Blueprint October 22. The plan recommends \$5.7 billion in private investment to add 3,200 MW of electricity generating and transmission capacity, including \$250 million in state funding to leverage an additional \$425 million in private investments in renewable energy projects that would generate about 270 MW of power. Among other things, the plan calls for \$1 billion in private investment to develop 1,000 MW of new electricity transmission capacity, \$250 million to develop smart grid technologies, and the study of offshore wind development in the Atlantic Ocean.

CA GHG Reductions

The California Air Resources Board directed staff October 18 to report after the New Year what mechanisms are available to ensure that the state's GHG reduction goals are met and that emissions allowance prices under the cap and trade program do not exceed the highest set price. Major industrial sources, utilities, and retailers are seeking program specifics and a delayed implementation date for the first November 14 allowance auction. The first compliance period begins January 1.

State RPS' Prevail

The North Carolina Solar Center and the Interstate Renewable Energy Council, through the joint Database of State Incentives for Renewables & Efficiency, released information October 24 concluding that attempts to roll back state renewable portfolio standards in legislative sessions across the country were mostly unsuccessful this year. Of 19 bills introduced, five that would have repealed or frozen state standards and 14 that would have weakened them, only three were approved – in Ohio, New Hampshire, and Virginia. Twenty-nine states, the District of Columbia, and Puerto Rico have renewable portfolio standards, and the National Renewable Energy Laboratory predicts that related electric generation will exceed 150 million MWh by 2015.

CA Approves Solar Contracts

The California Public Utilities Commission approved October 25 two revised contracts permitting Southern California Edison to receive electricity from two solar power projects owned by BrightSource Energy. The contracts are for 1.3 million MWh annually and will allow for the avoidance of 400,000 MT CO₂ per year. The contracts are expected to produce more than 2,000 construction jobs and induce billions of dollars in direct investment in California's economy. The commission rejected proposals for three other BrightSource power-purchase contracts.

Miscellaneous

Plastics Recycling

The PET Resin Association introduced proposed voluntary guidelines October 16 for recycling polyethylene terephthalate that would help encourage recycling through more effective quality standards. The guidelines will help overcome testing barriers that have discouraged packaging innovation, but the Association of Postconsumer Plastics Recyclers fears that the guidelines will undermine testing standards.

Commercial Cellulosic Forthcoming

The Biotechnology Industry Organization announced last week that seven commercial scale cellulosic ethanol refineries with a combined annual capacity of almost 88 million gallons are scheduled to begin operation by the end of 2013. The projects would be the first commercial scale production facilities in operation, as the industry is rapidly moving toward commercializing ethanol from corn stover, wood chips, wheat straw, switchgrass, citrus peels, and municipal solid waste. INEOS Bio's Indian River BioEnergy

Center was the first facility to receive the necessary Environmental Protection Administration registration in August. The company completed construction in June, and expects to begin commercial scale production this year, producing 8 million gallons in 2013.

BP Biofuel Strategy

BP cancelled plans October 25 to build a commercial scale cellulosic ethanol plant in Highlands County, Florida, refocusing its domestic biofuel strategy away from production to concentrate on research, development, and licensing. The company announced the plant in 2008; it would have annually produced 36 million gallons of cellulosic ethanol. Instead, BP will continue to invest in and operate a biofuels research facility in San Diego and a demonstration plant in Jennings, Louisiana.

PACE Lawsuits

The U.S. Court of Appeals for the Second Circuit blocked two suits October 24 aimed at protecting local clean energy loans from federal financial regulator directives. The court held that the suits are barred by a federal statute and Article III of the U.S. Constitution. The ruling is the latest in connection with Property Assessed Clean Energy programs, which are critical for local governments in financing and encouraging clean energy projects. In 2010 directives, the Federal Housing Finance Agency and the Office of the Comptroller of the Currency warned Fannie Mae, Freddie Mac, and national banks about risks that the loans with senior liens might pose their own security interests.

Solar in Building Retrofits

In an October 24 Solar Vote Initiative webinar, solar power advocates detailed techniques for financing commercial building energy efficiency retrofits they believe to be perfectly suited to moderate sized facilities that may not have the ability to purchase their own systems. A hybrid approach combines Property Assessed Clean Energy methods for securing payments from building owners with third-party solar power lease or purchase agreements.

Negative Impacts from Water Issues

The Carbon Disclosure Project released a report October 23 finding that companies are reporting more negative impacts from drought and other water-related issues, but not more board oversight of them, nor are they informing investors more about the risks. The report, *CDP Global Water Report 2012*, considered data from 185 of the Global 500 companies, finding that 53 percent experienced negative impacts from water-related issues, up from 38 percent last year.

Coal Ash Regulations Vary

The Association of State and Territorial Solid Waste Management Officials released results of a survey recently finding that definitions and management of coal ash vary widely among states, but that most take an active role in regulating the material. The survey, *Beneficial Use of Coal Combustion Residuals Survey Report*, found that 48 percent of the 46 states that responded have a statutory or regulatory definition of coal ash, and 76 percent said they restrict the beneficial reuse of it.

Unconventional Oil and Gas Production

IHS Inc. released a study October 23 predicting that unconventional oil and natural gas production will be a key economic driver and job creator over the next two decades, adding three million jobs and \$2.5 trillion in government revenue. The study, *America's New Energy Future: The Unconventional Oil and Gas Revolution and the U.S. Economy*, predicts that the industry will invest more than \$5 trillion in capital spending through 2035 to develop the resources, mostly in the shale basins that have become economical in the last decade due to technology advancements like horizontal drilling and fracking.

Walmart Sustainability Efforts

In an effort to encourage global suppliers to assess the sustainability of their products, Walmart CEO Mike Duke announced October 25 that by the end of 2017, Walmart will purchase 70 percent of the goods it sells in U.S. stores only from merchants that use the company's sustainability index to evaluate their products. The Walmart Foundation will grant \$2 million to assist in the expansion of the Sustainability Consortium into China. In 2013, the company will begin using its sustainability index in Walmart brand product design.