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2024 Pre-Election Analysis: Energy and Sustainability

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The last several weeks of unexpected and unprecedented political events have thrown even more confusion into the presidential election. While the outcome of a now Harris-versus-Trump race is maybe even more uncertain, we do believe that the stakes and potential results are relatively well-defined from an energy and sustainability standpoint. We open our pre-election series on the November 2024 election with a discussion of how the outcome will impact the legislative and regulatory landscape in this key policy area.

The 2024 election has the potential to usher in significant changes that could dramatically reshape the nation's energy policy. With growing concerns over climate change, economic growth, and energy security at the forefront, the outcome of this election at both the presidential and congressional levels will dictate to what degree the United States pursues aggressive renewable energy initiatives, embraces new technologies, or continues to support traditional fossil fuel industries. The stakes are high with implications that extend far beyond the political sphere and regulated industries, communities, and the environment nationwide.

No matter the results of the November general election, developments in energy policy within the next administration and the 119th Congress will be built upon two key pillars: tax policy and funding and regulatory support of clean energy and traditional energy sources.

With some provisions of the 2017 Tax Cuts and Jobs Act (TCJA) set to expire in 2025, there will be an extended debate on a new tax package in the next Congress. With a new tax package, Congress could have the opportunity to shape climate policy through the tax code, such as by layering on a modest carbon fee or expanding tax credits for the power sector and for nuclear energy.

The new Congress and administration will also grapple with how and whether to promote clean energy sources while ensuring the stability of the existing electricity grid, which is heavily reliant on fossil fuels and being put under increasing strain due to AI-driven demand and climate change.

The upcoming election also stands to potentially influence the future of three key achievements under President Biden: the Bipartisan Infrastructure Law (BIL), the Inflation Reduction Act (IRA), and the CHIPS and Science Act. A Republican sweep of the White House and Congress could potentially jeopardize all three initiatives, although the implications may be more complex than commonly perceived.

The BIL and the CHIPS and Science Act are likely to encounter less immediate jeopardy compared to the IRA. Despite initial Republican opposition to the BIL, the implementation phase of the legislation is well underway, with Republican lawmakers, even those who opposed the measure, expressing interest in securing funding opportunities for their constituencies. The CHIPS and Science Act, which predominantly addresses challenges posed by China, enjoys broader bipartisan support, mitigating some concerns about its continuity regardless of electoral outcomes.

Significant portions of the IRA are tax-related, so they will be open to revision in the expected tax debate next year. However, in general, Republicans are reluctant to take away tax benefits to individuals or corporations, and no specific IRA tax incentives are due to expire in the next Congress. However, guidance on key IRA programs and incentives is still pending. Notably, the Treasury Department has yet to release final rules for the Clean Hydrogen Credit (Section 45V) due to disputes among industry stakeholders, the Department of Energy, and environmental groups. This delay, originally expected to be resolved in 2023, raises concerns about fully utilizing the credit before it sunsets in 2033. Additionally, final guidance for the Section 45X Advanced Manufacturing Production Tax Credit is still awaited. These could be significantly impacted or delayed if the Democrats lose the White House.

In terms of the non-tax-related portions of the IRA, much of this funding is for manufacturing or other large capital projects that are benefitting Republican districts. Some estimates put this ratio at about 4:1 over Democratic districts. We think, therefore, that calls to broadly rescind IRA funding and eliminate whole offices within the Department of Energy (DOE), as featured in the high-profile **Project 2025 plan**, are politically unrealistic. Some programs, however, will be impacted. Previewing this potential, the House Appropriations Committee Fiscal Year 2025 bill for the Energy and Water Development and Related Agencies contained language partially rescinding $8 billion from the Loan Program Office's (LPO) IRA

loan authority and redirecting it toward advanced nuclear projects. The full impact of the bill, if passed, would likely be minimal since LPO's ability to fully allocate the authority to eligible projects before the legislation expires is not certain.

Energy Policy in a Harris Administration

With President Biden's decision to withdraw his candidacy for reelection, Democrats have rallied to Vice President Kamala Harris as the party's standard-bearer in November, although her nomination at this point still requires approval by delegates to the Democratic National Convention. Assuming the vice president is nominated to be the Democratic candidate for president, her administration's energy policy would largely build upon the foundations laid during the Biden administration, characterized by promoting clean energy, addressing climate change through international cooperation, advocating for environmental justice, and supporting a robust regulatory agenda to protect the environment and public health.

As the successor to the Biden administration, a Harris administration would focus energy policy on the continuation and potential expansion of initiatives aimed at transitioning to a clean energy economy, such as achieving net-zero greenhouse gas emissions by 2050 and investing in renewable energy technologies like wind, solar, and battery storage. A Harris administration would also likely seek increased funding for research and development in clean energy technologies, as well as incentives for renewable energy deployment at both the federal and state levels. For instance, the Biden administration has had a robust program to advance the adoption of heat pumps. In a Harris administration we would almost certainly see a continued commitment to heat pumps as part of a broader commitment to clean energy technologies and reducing carbon emissions. A Harris administration would also likely continue to promote energy efficiency measures and support the electrification of transportation as part of its broader climate strategy.

Environmental regulations and climate policies rolled out in the Biden administration, such as rejoining the Paris Agreement and implementing stricter emissions standards for vehicles and power plants, would likely be reinforced, and expanded upon. Harris proposed a "climate pollution fee" for greenhouse gasses "as far upstream as possible" as part of her 2019 presidential campaign, and as California's attorney general, Harris filed numerous lawsuits against utilities and oil companies for conventional pollution. A Harris administration would also likely emphasize addressing cumulative and legacy pollution.

The approach to fossil fuels would likely continue to involve a push towards cleaner alternatives while acknowledging the role of natural gas as a bridge fuel. Harris has a stronger track record than Biden in opposing offshore drilling and fracking. Policies aimed at reducing methane emissions from oil and gas operations could be strengthened, reflecting a commitment to addressing both climate change and air quality concerns. Depending on if there was a Democratic majority in both chambers of Congress, the administration might even push forward on an IRA 2.0 that would extend tax incentives and program funding that were due to expire and also fund new initiatives.

International energy diplomacy would likely prioritize cooperation on climate goals, potentially working towards global agreements on carbon pricing and clean energy investment. This could include greater engagement with China and India on energy deployment and expanded work with allies to ensure access to critical minerals.

Energy Policy in a Second Trump Administration

In a second Trump administration, energy policy would likely continue to reflect the priorities and approaches seen during his first term, which emphasized deregulation, promoting domestic production, and reducing dependence on foreign energy sources.

Central to the former president's energy policy has been the encouragement of domestic fossil fuel production, particularly oil and natural gas. Policies aimed at expanding offshore drilling, easing regulations on fracking, and opening federal lands for expanded energy exploration would be revived. A second Trump administration would likely end the current temporary pause on new LNG export permits and remove or significantly alter the DOE's role in future approvals. The new administration would also redo the US Interior Department's program to expand the size and scope of drilling auctions, which are currently at a record low as part of the Biden administration's broader efforts to usher in a transition to cleaner energy sources.

In his broader attacks on inflation, former President Donald Trump is currently focusing voter attention on rising utility bills. Trump has frequently criticized renewable energy sources for driving up consumer electricity costs. Renewable energy sources, such as wind and solar power, would likely receive less emphasis compared to fossil fuels in a second Trump administration, though that would be balanced by the interests of a significant and growing renewable energy industry. However, Trump may cut budgets for DOE and Environmental Protection Agency (EPA) programs that support the carbon capture ecosystem, such as for CO2 transport infrastructure and storage. During his administration, Trump proposed sharp cuts to DOE carbon capture storage and research. Trump is also expected to attack IRA EV consumer tax credits while leaving electric vehicle (EV) manufacturing tax credits alone since their utilization have been concentrated in Republican states. Heat pumps would likely see reduced support and incentives compared to the current administration's policies, potentially impacting their adoption.

While the former president has expressed support for an "all of the above" energy strategy, his previous administration was criticized for rolling back incentives for renewable energy development and withdrawing from international agreements aimed at combating climate change, such as the Paris Agreement — which Trump has promised to again pull the US out of if reelected. This time around, the nation's exit would be faster because withdrawing from the 1992 United Nations Framework Convention on Climate Change would automatically trigger a departure from the Paris deal and any other obligations under the convention, including regular reporting of emission inventories. Any corresponding US funding cuts to the U.N. Green Climate Fund would come just as countries gather for the COP29 climate talks.

Environmental regulations could see further streamlining or reduction, continuing the trend of Trump's prior term, where the administration sought to repeal or weaken regulations seen as burdensome to the energy industry. A second Trump term would likely attempt to scrap an incoming rule from the EPA to charge the oil and gas industry a $900-$1500 per ton fee for methane emissions, a measure adopted to reduce greenhouse gas emissions but facing stiff resistance from drillers and pipeline companies concerned it will hurt their bottom line. This deregulatory approach aims to lower costs for energy producers and stimulate economic growth, although it has been contentious due to concerns over its environmental impact and public health consequences.

Nuclear energy would likely see increased support and is an opportunity for collaboration with Democrats, who have also been vocal in their support of nuclear as a zero-GHG-emitting energy source. While he was president, Trump also emphasized nuclear power as a source of clean and reliable electricity and viewed it as an essential component of the nation's energy portfolio. His administration supported initiatives to advance nuclear technology, including next-generation nuclear reactors. The administration also advocated for regulatory reforms to streamline the licensing process for new nuclear projects and encouraged private sector investments in nuclear energy development.

A second Trump administration would almost certainly seek to renegotiate trade deals and agreements related to energy exports and imports. The administration's transactional approach to diplomacy would influence energy policy decisions, particularly with respect to China, which will impact significant portions of the energy industry's supply chain.

Republican Leadership Energy Policy Priorities for the 119th Congress

Congressional Republican energy priorities are similar to what would be put forward by a Trump administration, and will generally focus on promoting domestic energy production, reducing regulatory burdens on fossil fuel industries, and advocating for market-driven solutions over government subsidies for renewable energy. For example, as the Speaker of the House, Rep. Mike Johnson, who represents Louisiana, has consistently supported measures aimed at expanding domestic energy exploration, including offshore drilling and development of fossil fuel resources. Republicans will frame energy policy within the context of energy security and economic development, emphasizing the importance of maintaining reliable and secure energy supplies to keep prices lower for consumers and generate US jobs. Republicans will likely continue their resistance to stringent environmental regulations that they argue stifle economic growth and job creation, particularly in energy-producing regions. This includes opposition to carbon pricing mechanisms, stringent emissions standards, and regulatory actions perceived as overreach by federal agencies.

At the committee level, Rep. Cathy McMorris Rodgers (R-WA), chair of the House Energy and Commerce Committee, is not seeking reelection. Rep. Brett Guthrie (R-KY), Chair of the E&C Health Subcommittee, is seeking to replace her. First elected in 2010 and having served seven terms on the Energy and Commerce Committee, Rep. Guthrie describes himself as an advocate for an "all-of-the-above energy strategy," with an emphasis on nuclear energy, to preserve American energy independence and lower

energy costs.

With Senate Minority Leader McConnell (R-KY) giving up his leadership post at the end of this Congress, senators vying to take over as Republican leader next year include Sen. Rick Scott (R-FL), Sen. John Cornyn (R-TX), and Sen. John Thune (R-SD). All three have taken stances on energy policy that align with traditional Republican priorities, emphasizing energy independence and regulatory reform.

Republicans at the Senate Energy and Natural Resources Committee will also see new leadership, with current chairman Sen. John Barrasso (R-WY) indicating he intends to run for Republican Whip in the 119th Congress. His likely replacement, Sen. Mike Lee (R-UT), has consistently opposed government subsidies for renewable energy sources and is a vocal advocate for limited government intervention in energy policy, emphasizing free market principles and reducing regulatory barriers.

Democratic Leadership Energy Policy Priorities for the 119th Congress

Congressional Democratic energy priorities are similar to what would be forward by a Harris administration and will generally focus on addressing climate change, promoting clean energy technologies, enhancing environmental protections, and advancing energy equity. Democrats will continue to place a strong emphasis on transitioning to clean and renewable energy sources such as solar, wind, hydroelectric, and geothermal power while also supporting increasing federal investments in research and development (R&D) for clean energy technologies such as advanced nuclear, carbon capture and storage (CCS), and renewable energy innovation. Congressional Democrats will continue to strongly support the acceleration of the adoption of EVs through incentives for consumers and manufacturers, expanding charging infrastructure, and promoting zero-emission vehicles in addition to prioritizing policies aimed at improving energy efficiency in buildings, transportation, and industrial sectors. Democrats will also advocate for using regulatory measures and market mechanisms to drive clean energy adoption, including supporting carbon pricing mechanisms, emissions trading programs, and strengthening environmental regulations on fossil fuels and other polluting industries. Democrats may seek to reinstate the Chevron doctrine as a means to enhance regulatory authority and strengthen the ability of federal agencies to interpret and enforce environmental and administrative regulations. However, this move could face significant opposition from Republicans and business interests who argue that it undermines judicial oversight and limits regulatory accountability.

House Minority Leader Hakeem Jeffries (D-NY), in line to become Speaker if Democrats win the House majority in November, has taken a progressive stance on energy policy that prioritizes renewable energy sources and sustainability. Rep. Jeffries supports robust investments in clean energy technologies, such as wind, solar, and battery storage, as part of a broader strategy to combat climate change and reduce carbon emissions.

House Energy and Commerce Committee Democrats will continue to be led by Rep. Frank Pallone (D-NJ), who is currently the Ranking Member. The congressman has been a leading voice for progressive energy policies aimed at addressing climate change and promoting clean energy solutions, emphasizing the economic benefits of clean energy innovation and job creation in renewable energy sectors.

Sen. Chuck Schumer (D-NY), as the Senate Majority Leader, has championed progressive energy policies aimed at combating climate change and advancing clean energy initiatives. The senator supports significant investments in renewable energy technologies like solar, wind, and electric vehicles, viewing them as crucial steps towards reducing greenhouse gas emissions and transitioning to a sustainable energy future.

The current chair of the Senate Energy Committee, Joe Manchin (D-WV), is not seeking reelection this year. Sen. Martin Heinrich (D-NM) is expected to replace him as the Democratic leader on the committee next year. Sen. Heinrich has championed legislation aimed at expanding renewable energy incentives, promoting energy efficiency measures, and transitioning away from fossil fuels towards cleaner alternatives. If the Democrats hold on to the Senate, this could be the most consequential leadership change within the party. While Manchin was widely credited as shaping the IRA, WV's heavy dependency on the coal industry put him frequently at odds with the rest of this party.

The Senate Environment and Public Works (EPW) Committee will see new Democratic leadership in the next congress, with the current chairman Sen. Tom Carper (D-DE) not seeking reelection in 2024. Assuming that Sen. Bernie Sanders (I-VT) wins reelection and chooses to retain his leadership position at the Senate HELP Committee, next in line to replace Carper is Sen. Sheldon Whitehouse (D-RI). Senator Whitehouse has used his current chairmanship of the Senate Budget Committee to advance his

progressive views on climate change.

Opportunities for Bipartisan Collaboration

While there are plenty of policy differences, the 119th Congress will also be presented with significant opportunities for bipartisan collaboration on key issues such as permitting reform, domestic manufacturing, and grid resilience and security. Both parties recognize the need to streamline the permitting process to accelerate energy infrastructure projects of all types, which can boost economic growth. On the issue of domestic manufacturing, there is a shared interest in reshoring and expanding energy-related production within the United States to boost domestic job growth and reduce dependency on foreign suppliers, especially China. Additionally, grid resilience and security are critical concerns for both parties, as they seek to protect the nation's energy infrastructure from cyber threats and ensure reliable power supply amid increasing demand and extreme weather events.

Closing Thoughts

As we look ahead to the effects of the upcoming election on energy policy, one certainty remains: the choices made by elected officials will profoundly influence the nation's energy future for years. Whether the priority lies in strengthening renewable energy infrastructure, increasing domestic fossil fuel production, or finding a balanced strategy that promotes both economic growth and environmental stewardship, the stakes are significant. Understanding and influencing these policies will be crucial.

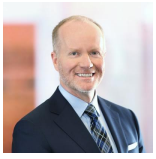
ML Strategies is well-equipped to assist stakeholders in the energy sector in achieving their policy objectives and welcomes the opportunity to initiate a dialogue about how we can support your efforts.

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John Lushetsky draws on over 30 years of experience in government and industry to help clients identify strategic opportunities, secure federal funding, and position innovative technologies for success within evolving energy and infrastructure policy landscapes. He has successfully helped clients navigate complex issues through a variety of federal agencies.



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