



# LAMPAC Fall Conference Elections are Over – Now What? November 10, 2020

**Jonathan Weisgall**

Vice President, Government Relations



# Shawn Cooper 10-27: Post-2020 Election Federal Policy Trends

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## ■ **President Trump Re-Elect**

- COVID-19 recovery package
- “Return to Normal” in 2021
- Infrastructure
- Taxes (COVID recovery, Tax cuts & Jobs Act extenders)
- Deregulation agenda
- Trade (China focus)
- Healthcare (prescription drug pricing, repeal of ACA)

## ■ **Biden/Harris Win (plus Dem Control of Senate)**

- COVID-19 recovery package
- Infrastructure
- Climate change, “Re-Regulation”, Environmental Justice
- Foreign policy “reboot”
- Police reforms
- Economic inequality (taxes, expansion of Social Safety net programs)
- Healthcare (universal care, prescription drug pricing)



- No blue wave
- Moderation the winner? Biden comments:
  - “End the demonization”
  - “I’ve lost a couple times myself. But now, let’s give each other a chance. It’s time to put away the harsh rhetoric, lower the temperature, see each other again, listen to each other again.”
- Biden the FDR of clean energy? No
- Biden the LBJ of clean energy?
- Is divided government better for the USA?
- Outlook on global warming?

# Energy - general



- Federal government constraint → state policies
- Influence of market forces
- Renewable energy industry moving from defense to offense
- There are deals to be made – if the will is there
- What do Republicans want? What do Democrats want?
- Energy Policy Act of 2005 – 18 titles
- Everything Biden does on energy will tie in to jobs

# Lame duck session



- Republicans: Run out of the clock or take action?
- Appropriations: Must do; CR expires December 11
- Confirmation of more judges (district judges)
- National Defense Authorization Act (NDAA)
- Small Covid-19 relief bill? House-Senate far apart; GOP caucus not unified; nothing for renewable energy
- Infrastructure package? Wait for next Congress
- Tax extenders? Maybe. At best one year

# Energy – bipartisan agreement



- American Energy Innovation Act (S. 2657) 60 co-sponsors
  - Mostly R&D (renewables; energy storage; carbon capture; advanced nuclear; vehicle technologies) plus provisions on energy efficiency; minerals; cyber and grid security and modernization; workforce development (green job retraining)
- Nuclear Energy Leadership Act (S. 903) (13 Rs, 9 Ds)
- Land-use practices to sequester carbon (tree planting, reforestation, climate-smart soil management) (H.R. 5859) Trillion Trees Act (33Rs, 3Ds)
- Ratify Kigali Amendment (phasing down use of hydrofluorocarbons (S. 2754 – 16Rs, 17Ds)
- Carbon pricing: escalating price on carbon; some support – and growing
- Hydropower incentives; marine renewables
- Transmission upgrades

# Energy – taxes



- 2019: 4 losers (extension of ITC solar and EV credits; offshore wind; stand-alone energy storage). Winner: wind PTC (1-year extension)
- Democrats: tax incentives for most zero-carbon generation (all 5 above), plus direct pay options in lieu of tax credits (tax credit monetization)
- Republicans: tax credits for a more limited selection of technologies (carbon capture, direct air capture, and energy storage)
- S. 1142 (energy storage tax credit): 13Ds, 2Rs
- “Leap-frog” existing technology-specific credits in favor of technology neutral tax credits to support emerging technologies and existing renewable energy technologies?

# January 20, 2021 executive orders



- Coronavirus: national supply commander (testing, vaccines, PPE)
- Rejoin the Paris climate accord
- Rejoin the World Health Organization
- Restore the rights of government workers to unionize
- Reverse Trump's travel ban on travel from some Muslim-majority countries
- Reinstate DACA (Deferred Action for Childhood Arrivals program)
- No member of the administration to influence Justice Department investigations
- Restore wildlife areas (Bears Ears and Grand Staircase-Escalante national monuments and opening parts of the Arctic National Wildlife Refuge to oil exploration)



# Executive branch rulemakings



- Roll back Trump energy rollbacks
  - Methane regulation for oil and gas wells
  - Fuel economy standards
  - Tighten efficiency standards for appliances and buildings
  - NEPA rule with implications for infrastructure permitting
  - Need to avoid court reversal (Chevron doctrine; 6-3 Supreme Court)
- New agency orders:
  - Environmental justice (pollution monitoring in vulnerable communities)
  - Clean energy in government fleets and buildings (procurement)
  - White House climate office (coordinate agency actions)
  - Social cost of carbon in approving projects
  - SEC: disclose climate-related corporate information (financial risks, etc.)
  - Interior: advance offshore wind

# Climate moves - international



- World summit to press key leaders to cut emissions more aggressively
- Impose a carbon border fee on items imported from countries that lack strong climate policies?
- What if EU establishes its own border adjustment tariff on imports?
- Risk in linking trade and climate change: retaliatory tariffs from oil-producing nations (Russia, Saudi Arabia); WTO challenge
- Is using “green protectionism” a way of carrying out a trade war by a different name?
- Would these tariffs exacerbate already strained relations with China when the world’s two largest economies should be cooperating on clean energy? (Biden called Xi “a thug”)

# Role of Federal Energy Regulatory Commission



- Possible driver (mainstay?) for Biden's energy agenda
- Republican majority; will turn Democratic by June 2021
- Democratic chair effective January 20, 2021 (Rich Glick?)
- FERC already helpful on clean energy issues:
  - Transmission incentives (higher return on equity)
  - Willingness to incorporate state carbon pricing in wholesale markets it oversees
  - Allow small-scale distributed energy resources and storage to aggregate and bid into organized markets (Order 2222)
  - Planning an EV workshop
  - New: climate impacts when approving natural gas pipelines
  - Other market constructs to support renewables (EIM → Western RTO?)

# What won't happen?



- Federal clean energy standard
- Zero-carbon mandate; Obama couldn't when he controlled Senate and House (2010 Waxman-Markey bill)
- Biden \$2 trillion clean energy plan
- Repeal of Trump 2017 tax plan
- Biden tax plan: income and investment tax increases on top earners, higher taxes for corporations
- EV charging network and more deployment of EVs
- Expanding access to Obamacare
- Overhauling the nation's immigration system
- Expanding the Supreme Court



**Questions?**