

Bryan Cave Energy Update

December 18, 2009

Global Climate Talks

Draft Agreement Sets Groundwork for Emissions Targets, Does Not Include Binding Treaty

A climate deal was reached Friday night at the UN climate change negotiations in Copenhagen, according to an Obama administration official. The agreement provides a way to monitor and verify emissions cuts by developing countries. However, the climate targets are less ambitious than the United States and European governments had sought. The Obama administration official, who spoke to the Washington Post on condition of anonymity, said a “meaningful agreement was reached” after a meeting between President Obama and the leaders of China, India and South Africa. “It’s not sufficient to combat the threat of climate change, but it’s an important first step,” the official said. To reach the deal industrialized countries withdrew their desire to cut global greenhouse gas emissions in half by 2050, a goal developing countries would not agree to.

Under the agreement, developed and developing countries will list their national actions and commitments. In addition, the countries agreed to a finance mechanism and a mitigation target of 2 degrees Celsius. “No country is entirely satisfied with each element, but this is a meaningful and historic step forward and a foundation from which to make further progress,” the official said.

Issue 21

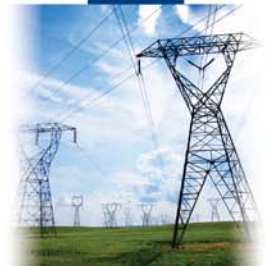
Developing Countries Walk Out on Talks

The agreement comes after developing countries had boycotting the talks on Monday, which brought the talks to a halt. A bloc of 135 nations refused to participate in the talks until rich countries agreed to discuss more deeper cuts in their emissions.

Congress

House Democrats Include Environmental Initiatives in Jobs Bill

House leaders have passed a jobs bill that will provide an influx of \$48.3 billion into infrastructure initiatives including clean water funding and renewable energy loans. For example, the package includes \$1 billion each for the Clean Water State Revolving Fund and the Safe Drinking Water State Revolving Fund. The bill also includes \$2 billion for the Energy Department’s Innovative Technology Loan Guarantee Program, which promotes renewable energy and electricity transmission initiatives. All of the funding in the bill is paid for by unused



Troubled Asset Relief Program money. Senate passage is expected shortly.

U.N. Talks Pushback Senate's Timetable for Climate Legislation

With the U.N. climate negotiations expected to end without an agreement in place, congressional leaders are considering a new target date for mid-to-late 2010 for completing climate change and energy legislation. While not a deadline, the timeframe will be critical for President Obama who put his credibility with world leaders at risk by pledging that he will have a commitment to reduce U.S. greenhouse gases. "By coming [to Copenhagen], and assuming there's an agreement with a deadline, he's effectively committing himself to getting the job done, getting the bill through Congress and getting to a final agreement," said Elliot Diringer, vice president for international strategies at the Pew Center on Global Climate Change. Senate Majority Leader Harry Reid (D-NV) has reserved floor time next Spring for energy and climate bills and Sen. John Kerry (D-MA), Sen. Lindsey Graham (R-SC) and Sen. Joe Lieberman (I-CT) are working on drafting legislation that can muster 60 votes to overcome a filibuster.

Murkowski Launches Effort to Veto EPA's Endangerment Finding

Sen. Lisa Murkowski (R-AK) announced she will introduce a resolution to retroactively block the EPA's recent finding that greenhouse gases endanger public health or welfare from having any force or effect. If approved by both the House and Senate, President Obama would need to sign the resolution for it to have the force of law. "Make no mistake – Congress is being threatened in a misguided attempt to move a climate bill forward," Murkowski said. "But this strategy is highly flawed because it assumes Congress will pass economically damaging legislation in order to stave off economically damaging regulations."

Sen. Barbara Boxer (D-CA), chair of the Environment and Public Works Committee, said the EPA's determination is an essential part of the U.S.' effort to address global warming.

Industry

Federal Solar and Wind 'Superhighway' Blocked by States

Federal Energy Regulatory Commission Chair Jon Wellinghoff has acknowledged that a potential federal superhighway of high-voltage transmission lines to power the nation's cities "has too much baggage with it" and will not move forward due to opposition from state and regional interests. Wellinghoff said he remains committed to the idea of a large-scale grid expansion to accommodate renewable energy sources. Advocates of renewable energy say that FERC's current case-by-case basis for apportioning costs for new transmission lines linked to wind resources is an obstacle to renewable energy. A U.S. appeals court earlier this year blocked FERC from authorizing transmission lines over the objection of state regulators. Wellinghoff is investigating other ways to address the issue, such as running direct current transmission lines along railroad rights of way.

Ethanol Interests Lobby to Stop California's Low-Carbon Fuel Standard

Washington-based ethanol lobbyists are pushing California regulators to reject a low-carbon fuel regulation by arguing that the state did not follow proper procedures when drafting the

rule. The Renewable Fuels Association wrote in a letter to the state's administrative law office that the Air Resources Board bypassed a mandatory administrative process when it tentatively approved a low-carbon fuel standard (LCFS). The LCFS requires producers to reduce the carbon intensity of their products by 10 percent by 2020. Ethanol producers are opposed because the formula would apply a life-cycle emissions test that considers effects on agriculture and land use. In its letter, RFA notes the board is required under state law to submit a "final statement of reasons" that should have included a justification on how the board addressed data submitted by the ethanol industry. RFA's letter noted: "ARB's decision to exclude this information from its analysis resulted in an LCFS regulation that creates an erroneous view of corn ethanol that is significantly disconnected from reality." The Air Resources Board is reviewing the letter.

Exxon Takeover of XTO Contingent on Congressional Action on Fracturing

Exxon Mobil's \$41 billion all-stock bid for natural gas producer XTO Energy will not proceed if Congress passes legislation to reduce the use of hydraulic fracturing drilling. Pending legislation in Congress (H.R. 2766 and S. 1215) would require companies to disclose the contents of their fracturing fluids in order to comply with the Safe Drinking Water Act. Hydraulic fracturing blasts water, chemicals and sand or plastic beads into compact underground rock formations to release the trapped natural gas. While the method has been used for decades, critics say the technique could contaminate water supplies, reduce local watersheds and release toxins into aquifers.

'Smart' Electric Meters Spur Consumer Backlash

Utility companies across the country that are installing "smart" meters are running into a consumer backlash against the devices, which critics say are billing for more kilowatt hours than are actually used. For example, officials in Connecticut and Texas are questioning whether the public benefits from the meter and customers in California are in "open revolt." Customers testified during a hearing on the

devices that the meters are logging more power usage even after homes have been insulated and new windows have been installed. Pacific Gas & Electric has run advertisements that tout the benefits of the new meters, noting the customers will save by paying rates based on fluctuations in the wholesale market. PG&E also contends the higher rates are due to rate increases and "quirks" in the California pricing system. Specifically, electricity is priced in tiers that bill consumption for the first few hundred kilowatt-hours at a low rate and the next kilowatt hours at a higher rate. Concern over the meters have convinced Connecticut officials to run a pilot program instead of a planned widespread installation.

Energy Costs Prompt Increase in Consumer Prices

A surge in energy costs has led to an increase in consumer prices, according to a Labor Department report released December 16. The Consumer Price Index reported a 4.1 percent increase in the energy index as gasoline, electricity, fuel oil, and natural gas prices rose.