

**Federal Climate and Energy Activities Weekly Roundup**  
**November 2—November 6**

Update on Senate Climate Legislation:

Tensions in the Senate Environment and Public Works (EPW) Committee came to a head this week when Chairman Barbara Boxer (D-CA) began the markup of the Senate climate change legislation she authored with Senator John Kerry (D-MA), and Republicans on the Committee followed through in their vow to boycott the markup. According to Committee rules, at least two minority party members must be present to establish a quorum necessary for the markup. After two full days of holding the markup open, but not actually considering any of the 80 plus amendments filed by Democrats (Republicans did not file any amendments as part of their boycott), on November 5, Boxer used a rarely employed procedural move to pass the bill out of her committee without the minority present. However, under this strategy, the committee is prohibited from amending the bill, so Democrats were unable to offer any changes to the legislation. One Democrat, Senator Max Baucus (D-MT) voted against the bill because he was unable to offer an amendment to lower the emissions reduction target for 2020.

Republicans on the Committee maintain the reason for their boycott is that they do not believe the Committee should consider the legislation without a more detailed analysis of the bill by the Environmental Protection Agency (EPA). EPA had provided a preliminary analysis, however, most of the data runs are based off the House-passed bill, not the Senate legislation, and some Republicans voiced concern that the analysis was too optimistic regarding nuclear energy and new technologies and therefore does not provide a realistic cost assessment. Democrats on the Committee, who are feeling pressure to move the legislation forward before the international negotiations in Copenhagen next month, maintain that Republicans are stalling. A number of GOP moderates have criticized Boxer for moving forward with the bill, including swing voters like Senators Lindsey Graham (R-SC), and Lisa Murkowski (R-AK), who may be critical to the legislation's passing. Earlier in the week, the six Senators that serve as ranking members on the committees that have jurisdiction over a portion of the bill (Murkowski, Saxby Chambliss (R-GA), Chuck Grassley (R-IA), Dick Lugar (R-IN), Kay Bailey Hutchison (R-TX) and James Inhofe (R-OK)) sent a letter to Boxer saying they are "deeply troubled" by Boxer's failure to accommodate Republican requests for waiting until more data was available before marking up the legislation.

At the same time, Kerry and Graham, as well as Senator Joseph Lieberman (I-CT), are working on what Kerry describes as a parallel track to develop "compromise language" on climate change. The three Senators met with Obama Administration on November 4. Senate Majority Leader Harry Reid (D-NV) would ultimately be charged with melding the compromise legislation developed by Kerry, Graham and Lieberman with whatever comes out of the committees of jurisdiction.

#### EPA Publishes Final Rule Requiring Emissions Reporting

On October 30, the EPA published in the Federal Register a final rule requiring that all sources of emissions exceeding 25,000 tons annually report those emissions to the EPA. The reporting requirements go into effect in 2010. According to EPA, approximately 10,000 facilities are covered under this rule, and they account for 85 percent of the nation's greenhouse gas emissions.

#### Chamber Supports Congressional Action on Climate, No Comment on Cap-and-Trade Approach:

On November 3, the U.S. Chamber of Commerce sent a letter to EPW Committee Chairman Barbara Boxer (D-CA) and Ranking Member James Inhofe (R-OK) in support of Congressional action to combat climate change, so long as the action recognizes regional differences, the state of technology and minimizes the overall economic impact of such legislation. The Chamber did not endorse a specific approach to climate change mitigation. However, it praised Senators John Kerry (D-MA) and Lindsey Graham (R-SC) for the principles they outlined in their October 11 *New York Times* op-ed piece. According to the letter, "The Chamber will continue to oppose bad policies that resemble the failed climate proposals of the past, such as bills that jeopardize American jobs, create trade inequalities, leave open the Clean Air Act, open the door to CO<sub>2</sub>-based mass tort litigation, and further hamper the permitting process for clean energy." The letter does not specifically address the cap-and-trade approach taken by both the House and Senate climate bills. Boxer called the Chamber's letter "a breakthrough." The Chamber has in the past opposed most climate change legislation, including the House bill. In recent months a number of high profile companies have left the Chamber of Commerce due to its opposition to climate change legislation. However, according to the Chamber's letter "The challenge of drafting comprehensive climate legislation is not whether to do something, but how."

#### Assessment of Senate Climate Bill Shows Southern Utility Companies at a Disadvantage:

Point Carbon, a consulting company specializing in carbon markets, issued a study on November 2 that analyses which U.S. companies would be winners and which companies would be losers if the Senate climate legislation were enacted. According to the analysis, the companies facing the greatest risk are Southern Company (a \$393 million loss), American Electric Power (a \$252 million loss), and Duke Energy (a \$125 million loss). The company in the most advantageous position is Exelon Corporation, based in Chicago. Exelon is the largest producer of nuclear power in the nation and could see net revenues from selling surplus allowances provided under the bill. According to the report, the oil and gas sector are risk exposed because those companies are the largest emitters of greenhouse gases. However, it is coal-based utilities that are most at risk because they don't have as much freedom to raise rates as oil and gas production companies do due to regulation.

#### International Negotiations Continue without Agreement:

International negotiations are on going this week in Barcelona, Spain in advance of the Copenhagen climate summit next month. However, as of this writing, disagreements are unresolved over adaptation funding and the extent to which developing nations would be required to cut greenhouse gases. Earlier this week, a number of African delegates walked out of the negotiations. They returned to the table after a compromise was reached to allow more time for negotiations on emissions targets for developing nations. However, no agreement has been reached. The Copenhagen summit is scheduled to begin on December 7.

New Legislation:

- On November 2, Representative Chris Van Hollen (D-MD) introduced H.R. 3985. The bill would amend the Internal Revenue Code of 1986 to provide for a second generation biofuel producer credit, and for other purposes. The bill was referred to the Committee on Ways and Means.
- On November 4, Senator Debbie Stabenow (D-MI) introduced S. 2729. The bill would reduce greenhouse gas emissions from uncapped domestic sources, and for other purposes. The bill was referred to the Committee on Environment and Public Works.