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Overseers' Undercurrent: D.C. Energy Frenzy is Just the Beginning

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Having set an arbitrary deadline for moving major energy legislation before or soon after July 4—ostensibly to promote "energy independence" on Independence Day and clear the decks for other issues—our lawmakers in Washington, D.C. are now facing the consequences.

Rather than reaching agreement on a solid platform of measures and policies for the future, they have spent the week throwing ideas (good and bad), tax provisions, and amendments against the wall to see what sticks. The wall looks like a bloody mess.

The measures that eventually reach votes on the floors of the Senate (passed 65-27 late June 21) and the House (perhaps by early next week) will be more notable for what's been left out than what's been included.

The evolving legislation has been especially difficult to follow from afar because there is not one major vehicle, but each chamber has been working separately through both a policy bill and a companion tax measure—with innumerable amendments being slapped on them at every step of the way.

Some of these amendments were meant to improve the major bills, while others were obvious attempts to scuttle them altogether. There are also bills, particularly in the House, which are making their ways through various subcommittees that are aimed to be incorporated into the larger vehicle through the mark-up stage. Plus, of course, there are the expected changes that will take place in order to bring House and Senate versions of the energy legislation into a single package later this year.

And, as if that were not complicated enough, significant elements of energy policy—such as provisions affecting oil and gas drilling leases—are being forged in the separate context of budget appropriations bills for land management agencies of the Department of Interior.

All of that is still a moving target.

So please forgive me if I defer from making definitive statements about what the 2007 energy bill will do or will mean. What I can offer is an update on what has been left on the cutting room floor.

In the House of Representatives, energy and climate change legislation was expected to be a major accomplishment for the new Democratic majority this session. House Speaker Nancy Pelosi (D-CA) had been pointing to a possible role model in the form of California's recent accomplishments and ambitious policies to curb energy use and greenhouse gases while promoting renewable resources and more stringent fuel efficiency standards than the federal government had ever before considered.

Perhaps not surprisingly, the biggest conflict over turning these ideas into federal law came not from the Republicans, who no longer exercise much influence at the committee level, but from fellow Democrats who represent the old-line interests of automobiles and fossil fuels.

In an announcement that stunned observers across the nation earlier in the month, Rep. John Dingell (D-MI), chair of the House Energy & Commerce Committee, and Rep. Rick Boucher (D-VA), chair of the Subcommittee on Energy & Air Quality, suggested that the House's energy package would include only a weak revision of corporate average fuel economy (CAFE) standards for cars and light trucks. In addition, they said, they would include measures that would pre-empt attempts by states (read California) to set tailpipe emission or fuel economy standards that are more stringent than those established by the federal government.

Tossing a bucket of water on a widespread celebration among green groups following the recent U.S. Supreme Court ruling, in Massachusetts v. USA, which held that the Environmental Protection Agency has both the authority and duty to regulate greenhouse gases under the Clean Air Act, the two lawmakers said their bill would specifically direct the Environmental Protection Agency not to take such action. Instead the regulatory authority would rest with highway safety administrators.

As a result of front-page headlines and closed-door arm-twisting from Pelosi and others, Dingell and Boucher relented this week. On Tuesday, they released a memo to other committee members effectively dropping the controversial proposals from the current debate, while promising to revisit them, along with a carbon cap and trade program, in a climate-change bill to be introduced in September.

The bill that Dingell and Boucher promised for debate in committees this week and next included titles on energy-efficiency standards, a smart grid, loan guarantees for new technologies, renewables fuels infrastructure, advanced batteries, and plug-in hybrid vehicles. Left for another day were coal-to-liquids, fuel economy standards, low-carbon fuel standards, and the role of federal/state programs. "Many of these issues are complex and difficult," Dingell wrote in the memo, "and it is our desire to avoid unnecessary delays in passing legislation that can accomplish much good."

Although Republicans on the air subcommittee tried to restore incentives for coal-to-liquids production, they failed. That means we'll have to wait until fall before the House seriously begins to take on climate-change issues, and we can expect a major confrontation over the role of coal in a carbon-conscious future.

Meanwhile, the House Ways & Means Committee debates a $16 billion energy tax package. There, the fights were more along traditional party lines, with Republicans attempting to scuttle the entire bill—because it is largely premised on taking tax benefits away from the oil and gas industry, while redirecting funds to support more efficient, and less fossil-fuel dependent energy technologies. The energy tax measure survived nearly all Republican-offered amendments, and passed out of the committee late June 20.

If anything, the Senate energy debates have been even more conflicted, with Democratic leaders pressing against the calendar and potential filibusters in order the get both the policy and tax packages in shape. The basis of the Senate bill is a previous House energy package, and it is still called H.R. 6, but large portions of the bill are also made up of Senate proposals previously raised in committee.

At this point, it's been a difficult encounter with reality, made harder by early intransigence over proposed national renewable energy mandates, and as usual, competing CAFE standards.

In addition, the Senate's $28.5 billion tax package, though successfully making it through the Finance Committee this week, was greatly bogged down by opposition, with Democrats unable to secure a cloture vote to limit debate. As with the House tax bill, all of the redirection of monetary incentives would have come at the expense of oil and gas producers and manufacturers, with most of the proceeds going to less-traditional alternatives

As of this writing, here's how things stand: The tax package has been set aside for the time being. Senate Majority Leader Harry Reid (D-NV) said he would like to resurrect it at some point, but he had to sacrifice it to secure the vote on the energy policy bill.

That measure will come to a vote, but without tax breaks for renewable technologies or an renewables portfolio standard. There also will be a watered down version of the original proposals for CAFE, which had been set at 35 miles per gallon for cars and light trucks by 2020, that seeks a 4 percent per year improvement.

As in the House, this encountered strident opposition from the Michigan contingent. By late Thursday, there was a compromise floated (specifics still unseen) but widely reported as accepting the 35 miles per gallon figure but dropping the yearly ratchets.

Next time, we'll let the dust settle to see what actually remains in a Congressional energy policy, and try to figure out if any of it will really matter.

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