

WILL THE RESULTS OF THE MID-TERM ELECTIONS CHANGE THE COURSE OF U.S. ENERGY POLICIES?

JEFF GENZER SPEECH TO THE ANNUAL CONFERENCE OF THE NATIONAL ASSOCIATION OF ENERGY SERVICE COMPANIES

INTERCONTINENTAL HOTEL
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I AM PLEASED TO HAVE THE OPPORTUNITY TO SPEAK TO THE NAESCO ANNUAL MEETING REGARDING U.S. ENERGY POLICY AND WHAT MIGHT HAPPEN AS A RESULT OF THE ELECTIONS. FROM AN OVERALL PERSPECTIVE WE MUST REMEMBER THAT WHILE THE HOUSE OF REPRESENTATIVES IS SOLIDLY IN DEMOCRATIC HANDS, THERE ARE A NUMBER OF MODERATE TO CONSERVATIVE DEMOCRATS THAT WILL NOT WANT BIG CHANGES IN ENERGY POLICY. IN THE SENATE, WITH A 51-49 MAJORITY, IT WILL BE TOUGH ON THE DEMOCRATS. IN THE SENATE, 60 VOTES MAKES THE BIG CHANGES. OF COURSE WE MUST REMEMBER THE PRESIDENT RETAINS THE VETO PEN. HE DIDN'T NEED IT UNTIL NOW, BECAUSE HE GENERALLY GOT WHAT HE WANTED. THERE ARE 40 NEW DEMOCRATS IN THE HOUSE AND 13 NEW REPUBLICANS. THE SENATE HAS 9 NEW DEMOCRATS (6 REPLACING REPUBLICANS) AND 1 NEW REPUBLICAN, REPLACING ANOTHER REPUBLICAN (SANDERS, KLOBUCHAR, TESTER, BROWN, CARDIN, MCCASKILL, WHITEHOUSE, CASEY AND WEBB) (CORKER IS THE REPUBLICAN FROM TENNESSEE).

THAT SAID, I EXPECT TO SEE A NUMBER OF CHANGES. SPEAKER PELOSI HAS INDICATED THAT ENERGY IS ON HER SHORT LIST OF ITEMS TO BE TAKEN UP WITHIN THE FIRST 100 HOURS. SHE IS TALKING ABOUT A PROPOSED EXPANSION IN ALTERNATIVE ENERGY. THEY ARE STILL FORMULATING WHAT THAT MEANS.

THERE IS STILL SOME WORK LEFT ON THE TABLE FROM THIS YEAR. THERE WILL BE AN EFFORT TO PASS THE SENATE VERSION OF THE OFFSHORE DRILLING BILL (S. 3711) TO OPEN LEASE SALE 181 IN THE GULF OF MEXICO WHEN CONGRESS RETURNS IN EARLY DECEMBER. THIS SHOULD ALLOW ROYALTY SHARING WITH THE GULF COAST STATES (OTHER THAN FLORIDA) AND MAY BE CONNECTED TO SUCCESSFUL BIDDERS BEING REQUIRED TO PAY FOR ROYALTIES THAT WERE LEFT OUT OF LEASE SALES IN 1998-1998. THERE ARE STILL 10 ANNUAL APPROPRIATIONS BILLS TO MOVE THIS YEAR, INCLUDING THE BILL TO FUND THE DEPARTMENT OF ENERGY (HR. 5427). CONGRESS CAME IN THIS WEEK, AND LEAVES ON DECEMBER 8. THE CONTINUING RESOLUTION TO FUND THE NON-MILITARY ASPECTS OF THE GOVERNMENT WILL BE PASSED THIS WEEK AND IS SET TO EXPIRE ON 12/8. WE WILL SEE WHAT IS LEFT. CONGRESS HAS ALREADY PASSED AND THE PRESIDENT HAS SIGNED THE DEPARTMENT OF DEFENSE BILL (P.L. 109-289) AND THE HOMELAND SECURITY BILL (P.L. 109-295).

BEYOND THE GENERAL PRONOUNCEMENT BY SPEAKER PELOSI THAT THEY WANT TO ACT ON ENERGY, WHAT MIGHT BE INCLUDED. THE DEMOCRATS WANT TO REPEAL THE OIL AND NATURAL GAS TAX INCENTIVES CONTAINED IN THE ENERGY POLICY ACT OF 2005 AND UTILIZE THOSE FUNDS TO PAY FOR MORE ALTERNATIVE ENERGY RESEARCH AND POSSIBLY DEPLOYMENT PROGRAMS. THERE IS A LONG LIST OF ITEMS THAT ARE BEING CONSIDERED, INCLUDING: 1) EXPANSION OF THE RENEWABLE FUELS STANDARD TO 15 BILL GALLONS FROM 7.5 BILLION GALLONS AND AN ACCELERATION TO 2010; 2) EXTENSION OF THE RENEWABLE ENERGY AND ENERGY EFFICIENCY TAX CREDITS, COMMERCIAL BUILDING TAX DEDUCTIONS, PRODUCTION TAX CREDIT (PRIMARILY FOR WIND) AND INVESTMENT TAX CREDIT (E.G. FOR SOLAR). THEY WOULD LIKE THIS TO GO FOR 10 YEARS FROM THE PRESENT EXPIRATION AT THE END OF 2007. THE REPEAL OF THE OIL AND NATURAL GAS BENEFITS MIGHT PAY FOR THIS. I EXPECT THIS TO BE A NEAR-TERM MEASURE. WE HOPE THAT A LONG-TERM EXTENSION WOULD PROVIDE THE IMPETUS TO THE IRS TO CLARIFY THE DEFINITIONS OF ELIGIBLE ENTITY UNDER THE COMMERCIAL BUILDINGS DEDUCTION. IN ADDITION, WE ARE AWAITING GUIDANCE ON HOW ARCHITECTS CAN GET THE DEDUCTION FOR DESIGN WORK ON ENERGY EFFICIENT GOVERNMENTAL BUILDINGS.; 3) INCENTIVES FOR GAS STATIONS TO DEVELOP E-85 PUMPS; 4) SENATOR BINGAMAN – THE INCOMING CHAIR OF THE SENATE ENERGY COMMITTEE – WILL PUSH HIS RENEWABLE PORTFOLIO STANDARD ON A

NATIONAL BASIS TO GET TO 10% OF RENEWABLES BY 2020. IT IS STILL UNCLEAR WHETHER HE HAS THE VOTES. 4) THE 2002 FARM BILL WILL BE REWRITTEN THIS YEAR, AND THE LAST TIME IT INCLUDED AN ENERGY TITLE FOR THE FIRST TIME. OF GREATEST RELEVANCE TO THIS GROUP, WOULD THE SECTION 9006 PROGRAM TO PROVIDE GRANTS AND LOANS FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY FOR FARMERS, RANCHERS AND RURAL SMALL BUSINESS. THEY MAY EXPAND THAT TO RURAL SCHOOLS. 5) EITHER IN THE CONTEXT OF THE FARM BILL REWRITE OR A SEPARATE ENERGY BILL, THERE WILL BE AN EFFORT TO EXPAND THE USE AND PRODUCTION OF CELLULOSIC ETHANOL AND BIOFUELS GENERALLY. 6) SENATOR BINGAMAN IS LIKELY TO BE MORE AGGRESSIVE PUSHING CERTAIN ENERGY EFFICIENCY PROGRAMS, SUCH AS INCENTIVES FOR BUILDING CODE IMPROVEMENTS. 7) ANWR IS CERTAINLY OFF THE TABLE.

ON INDIVIDUAL BILLS, THE BI-PARTISAN FUEL CHOICES FOR AMERICAN SECURITY ACT OF 2005 (H.R. 4409) FOCUSED ON THE TRANSPORTATION SECTOR AND WITH DIVERSE SUPPORT, SUCH AS SENATORS LUGAR AND OBAMA AND REPRESENTATIVES KINGSTON AND PRICE COULD HAVE LEGS. THERE MAY BE A MOVE TO PASS PRICE GOUGING LEGISLATION (HR. 3936), EVEN THOUGH IT IS NOT CLEAR THAT I HAS BEEN DEFINED. PIPELINE SAFETY LEGISLATION PROBABLY WILL MOVE NEXT YEAR. S. 3628, THE EXTEND ACT, IS THE BILL NUMBER FOR

THE TAX EXTENDERS BILL INTRODUCED BY SNOWE, FEINSTEIN AND KERRY, WITH A SIMILAR (THOUGH NOT AS LARGE BILL) PUSHED BY GRASSLEY AND BAUCUS). REPRESENTATIVE HOYER'S BILL (ALONG WITH DINGELL, UDALL AND OBERSTAR) IS CALLED THE PROGRESS ACT, WHICH STANDARDS FOR PROGRAM FOR REAL ENERGY SECURITY – HR 5965: 1) IT WOULD ESTABLISH A NATIONAL ENERGY SECURITY COMMISSION; 2) A CENTER FOR HIGH EFFICIENCY VEHICLES; 3) NATIONAL BIOFUELS INFRASTRUCTURE DEVELOPMENT PROGRAM; 4) A TRANSIT USE AND RAIL INFRASTRUCTURE PROGRAM; AND 5) PROMOTE ALTERNATIVE FUELS USE IN FEDERAL FLEETS. ON THE SENATE SIDE, SENATOR CANTWELL INTRODUCED THE CLEAN ENERGY DEVELOPMENT FOR A GROWING ECONOMY (EDGE) ACT (S. 2829). IT WOULD MANDATE EXPANDED ALTERNATIVE FUELS USE AND THE INSTALLATION OF ALTERNATIVE FUEL PUMPS. IT WOULD ESTABLISH A REFUNDABLE TAX CREDIT FOR RESIDENTIAL ENERGY COSTS FOR THE POOR. IT WOULD REVOKE MAJOR OIL SUBSIDIES, EXTEND THE RENEWABLE ENERGY AND ENERGY EFFICIENCY INCENTIVES, AND PROVIDE ENHANCED BONDING AUTHORITY TO STATES AND LOCAL GOVERNMENTS FOR GREENHOUSE GAS EMISSIONS REDUCTION PROGRAMS AND OIL CONSUMPTION REDUCTION ACTIVITIES. THE SENATE VERSION, S. 2829 IS MORE COMPREHENSIVE, HAS THE SAME GOALS OF EXPANDING BIODIESEL, ETHANOL AND FUEL EFFICIENT VEHICLE USE AND DEALS WITH R&D, MANDATES AND FINANCIAL INCENTIVES.

THERE WILL BE AN EFFORT BY THE INCOMING CHAIR OF THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE, BARBARA BOXER OF CALIFORNIA, TO ADDRESS GLOBAL WARMING. WITH JOHN DINGELL OF MICHIGAN TAKING OVER AS CHAIR OF THE HOUSE ENERGY AND COMMERCE COMMITTEE, I EXPECT HE WILL NOT BE TOO THRILLED ABOUT A ROBUST CLIMATE CHANGE BILL. SENATOR BOXER SUPPORTS MANDATORY EMISSIONS REDUCTION PROGRAMS. THE BIG ISSUES WILL BE HOW MANDATORY SHOULD IT BE, WHAT GASES SHOULD BE INCLUDED, WHAT SHOULD BE INCLUDED IN A TRADING PROGRAM, WHAT INDUSTRIES WOULD BE INCLUDED, WHAT IS THE TIMETABLE, AND HOW DO YOU DEAL WITH REGIONAL DIFFERENCES. SENATOR COLEMAN, A REPUBLICAN OF MINNESOTA RECENTLY INTRODUCED A BILL TO PREVENT STATES, SUCH AS CALIFORNIA AND THE NORTHEAST (THROUGH THE REGIONAL GREENHOUSE GAS INITIATIVE) TO REGULATE CARBON EMISSIONS AND OTHER GREENHOUSE GASES. I THINK HE WAS PUTTING A MARKER DOWN, BUT EVEN IF CONGRESS DOESN'T ACT, I THINK YOU WILL SEE EXPANDED EFFORTS AT THE STATE LEVEL AS THE NORTHEAST, MID-ATLANTIC, CALIFORNIA, THE REMAINDER OF THE WEST-COAST, AND POSSIBLY THE WESTERN STATES GENERALLY MOVE FORWARD ON EXPANDED ENERGY EFFICIENCY AND RENEWABLE ENERGY PROGRAMS. THE WESTERN GOVERNORS MOVE TO IMPLEMENT THE CDEAC PROGRAM CALLING FOR A DRAMATIC EXPANSION OF ENERGY EFFICIENCY AND

30,000 MW OF RENEWABLES ARE EXAMPLES. HOW IT WILL BE IMPLEMENTED IS THE BIG QUESTION. I EXPECT STATES TO CONTINUE TO TAKE THE LEAD IN THIS AREA, AND YOU MIGHT SEE AGGRESSIVE MOVES, LIKE GOVERNOR SCHWARZNEGGER'S INTERNATIONAL DIPLOMACY WITH TONY BLAIR AND REGIONAL EFFORTS WITH NEW YORK AND THE NORTHEAST AND MID-ATLANTIC.

IT WILL ALSO BE DIFFICULT TO PASS AN EXPANDED CORPORATE AVERAGE FUEL ECONOMY BILL WITH CHAIRMAN DINGELL SUPPORTING DETROIT'S POSITION. THE LEADERS OF THE DOMESTIC AUTOMAKERS VISITED THE WHITE HOUSE YESTERDAY TO BEMOAN THEIR FATE. THEY ARE REALLY PUSHING FOR RELIEF ON HEALTH CARE COSTS, WHICH THEY SAY COSTS THEM \$1,000/CAR. IN ADDITION, THEY ARE LOOKING FOR HELP ON BREAKING DOWN TRADE BARRIERS (SUCH AS IN KOREA). ON THE TRADE SIDE, THE ENVIRONMENTAL COMMUNITY WILL LIKELY PUSH FOR STRONG ENVIRONMENTAL PROTECTIONS IN TRADE DEALS. THIS MAY ALL LEAD TO STALEMATE. IN THEORY, IF THERE IS A GRAND COMPROMISE ON HEALTH CARE IT COULD BE TIED TO INCREASING CAFÉ STANDARDS. I WOULDN'T HOLD MY BREATH.

ONE ELEMENT OF MR. DINGELL'S HISTORY IS FEROCIOUS OVERSIGHT. I EXPECT INVESTIGATIONS OF THE ADMINISTRATION'S SLOW EFFORT AT IMPLEMENTING APPLIANCE ENERGY EFFICIENCY STANDARDS

TO BE FRONT AND CENTER. I DON'T THINK THE SETTLEMENT BETWEEN NRDC AND THE ENERGY DEPARTMENT, WHICH REQUIRES DOE TO ISSUE ENERGY EFFICIENCY STANDARDS FOR TWENTY-TWO APPLIANCES OVER THE NEXT FOUR AND ONE-HALF YEARS WAS ACCIDENTAL (IT OCCURRED ON MONDAY). THIS DEALS WITH DISHWASHERS, HEATERS AND AC, LIGHTING, INDUSTRIAL BOILERS, ETC. I EXPECT AN AGGRESSIVE EFFORT IN OTHER AREAS. MANAGEMENT OF THE FEDERAL ENERGY MANAGEMENT PROGRAM (FEMP) IS ANOTHER AREA THAT MIGHT BE RIPE FOR OVERSIGHT IN EITHER THE HOUSE OR SENATE.

CHANGES OF PERSONNEL ON CAPITOL HILL

THE BIG FIGHT WAS THE JACK MURTHA OF PENNSYLVANIA AND STENY HOYER OF MARYLAND FOR THE NUMBER TWO SLOT (MAJORITY LEADER) AMONG DEMOCRATS. THE SPEAKER SUPPORTED JACK MURTHA. STENY HOYER DID INTRODUCE A PRETTY PROGRESSIVE ENERGY BILL EARLIER THIS YEAR. THEY ARE BOTH APPROPRIATORS. WE WILL SEE WHAT HAPPENS.

AMONG THE RELEVANT COMMITTEES, CHARLIE RANGEL TAKES OVER FROM BILL THOMAS ON THE HOUSE WAYS AND MEANS COMMITTEE. THERE MAY BE AN EFFORT TO MAKE SOME OF THE ENERGY TAX CREDITS REFUNDABLE TO POTENTIALLY HELP A LOWER INCOME CONSTITUENCY. SENATE BAUCUS TAKES OVER FROM GRASSLEY OF IOWA IN THE SENATE FINANCE COMMITTEE. THEY WORK VERY WELL

TOGETHER, AND THEY GENERALLY SUPPORT EXTENSION OF THE ENERGY EFFICIENCY AND RENEWABLE ENERGY TAX CREDITS AND THE COMMERCIAL BUILDINGS DEDUCTION.

JOHN DINGELL TAKES OVER FROM JOE BARTON OF TEXAS, AND AS NOTED EARLIER, HE IS LIKELY TO BE GENERALLY SUPPORTIVE OF MORE ENERGY EFFICIENCY AND RENEWABLE ENERGY, BUT IS NOT LIKELY TO SUPPORT ROBUST CLIMATE CHANGE LEGISLATION OR AN INCREASE IN CAFÉ STANDARDS.

OVERALL, WHAT WE ARE SEEING IN THE HOUSE IS THE REPUBLICAN CONFERENCE SMALLER AND MORE CONSERVATIVE AND THE DEMOCRATIC CONFERENCE LARGER AND, WITH THE NEWCOMERS, MORE MODERATE.

INDIVIDUAL MEMBERS WHO HAVE AN INTEREST IN ESCO ISSUES MIGHT GET KEY SEATS TO HELP. JACK REED OF RHODE ISLAND IS IN LINE TO GET ON APPROPRIATIONS IN THE SENATE AND HE HAS TAKEN A VERY ACTIVE INTEREST IN THE ENERGY EFFICIENCY ISSUES FOR PUBLIC HOUSING. THE NEW SENATOR FROM MINNESOTA, AMY KLOBUCHAR, HAS AN INTEREST IN PUSHING FOR INNOVATIVE ENERGY POLICIES. JON TESTER, THE NEW SENATOR FROM MONTANA GOT INTO POLITICS BECAUSE OF THE FAILED ELECTRIC RESTRUCTING EXPERIMENT IN MONTANA.

OTHER ISSUES TO WATCH FOR

- A) I ALSO THINK IMPLEMENTATION OF THE WESTERN GOVERNORS ASSOCIATION, CLEAN AND DIVERSIFIED ENERGY ACTION PLAN (CDEAC) AND THE REGIONAL GREENHOUSE GAS INITIATIVE, THE EPA/DOE ENERGY ACTION PLAN AND VARIOUS EPA PARTNERSHIPS PROVIDE AN OPPORTUNITY FOR THE INDUSTRY.
- B) I THINK THE BIGGER ISSUE IN THE NEXT CONGRESS AND IN ENERGY POLICY GENERALLY ARE THREE KEY ITEMS: 1) THE DECISION BY RUSSIA TO USE OIL AND GAS AS A WEAPON AND THE VARYING RESPONSES FROM THE EUROPEAN UNION AND THE FORMER SOVIET REPUBLICS AND EASTERN EUROPEAN SATELLITES. IT ALREADY FORCED A GOVERNMENT CHANGE IN UKRAINE. THE SQUEEZE IS BEING APPLIED TO THE BALTICS, TO HUNGARY, GEORGIA, POLAND, ETC. I THINK THE PRESSURE TO INCREASE ENERGY EFFICIENCY AND RENEWABLE ENERGY INVESTMENTS ON THE EU WILL BE ENORMOUS. THE MULTI-NATIONALS IN THE U.S. THAT NEED TO COMPETE IN THE EU, WILL WANT A BENEFIT FOR DOING SO. 2) THE SECOND ITEM WILL BE HOW DO WE COMPETE WITH CHINA AND INDIA AND WHAT WILL THEIR NEEDS BE AND HOW WILL IT BE SATISFIED; AND 3) WHAT TYPE OF PRICE VOLATILITY WILL WE EXPERIENCE OVER THE NEXT TWO YEARS.

- 2) ENERGY LEGISLATION PASSED IN 2006 – NOT MUCH SIGNED INTO LAW. A NUMBER OF BILLS PASSED THE HOUSE, BUT DIDN'T PASS THE SENATE: A) GULF OF MEXICO AND OCS LEASING (HR. 4761-S. 2253; B) CAFÉ RULES (HR. 5534) AND 5539 – TO DIVIDE CARS BY WEIGHT; C) HR 5632 – RATING SYSTEM AND EDUCATION PROGRAM FOR RATING TIRES; D) HR. 2730 – JOINT RESEARCH PROGRAM WITH ISRAEL; E) ENERGY EFFICIENT COMPUTERS; F) HR 5611 – NEW PARTNERSHIP WITH AUTO INDUSTRY TO CONSERVE FUEL; G) HR5254 – SPEEDING UP PERMITTING FOR REFINERY EXPANSION.
- 3) POTENTIAL IMPACT OF FERC INITIATIVES ON ENERGY MARKET: VERY COMPLICATED ISSUES. A NEW PROPOSAL IN CALIFORNIA TO CREATE NEW OPPORTUNITIES FOR A THIRD TYPE OF PRICING SCHEME FOR TRANSMISSION FOR RENEWABLES MIGHT HAVE AN IMPACT. IF THE TRANSMISSION CORRIDORS ISSUE THAT DOE HAS DELAYED SIMPLY LOOKS AT THE ECONOMICS OF LINES AND DOESN'T CONSIDER OTHER FACTORS, OR FERC DOES NOT CONSIDER OTHER FACTORS, THEN ENERGY EFFICIENCY'S ROLE MAY BE MORE LIMITED. I THINK THE JURISDICTIONAL PUSH AND PULL BETWEEN STATE COMMISSIONS AND FERC IS IN NO WAY SETTLED, AND REQUIREMENTS FOR NEW CAPACITY DEVELOPMENT (RENEWABLES) IS NOT YET CLEAR. FERC WILL HAVE A BIG ROLE TO PLAY.

4) WITH RESPECT TO THE COMMERCIAL BUILDING TAX DEDUCTION AND GUIDANCE: WE ARE STILL WAITING FOR GUIDANCE FOR GOVERNMENTAL ENTITIES AND A&E CREDITS. THERE REMAINS A LACK OF CLARITY ON THE ELIGIBILITY. I THINK THIS DEDUCTION AND THE OTHER ENERGY EFFICIENCY AND RENEWABLE ENERGY TAX CREDITS, PRODUCTION TAX CREDITS AND INVESTMENT TAX CREDITS WILL BE EXTENDED NEXT YEAR. IT IS SIMPLY NOT CLEAR HOW LONG THEY WILL BE EXTENDED FOR.