



SECTOR ANALYSIS

# The impact of the US 2014 mid-term elections on energy matters

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The US 2014 mid-term elections were significant because they gave the Republicans a majority in the Senate, which previously was controlled by the Democrats and also gave the Republicans the largest majority in the House since World War II.

## The 114th Congress

The Republicans, through majorities in the House and the Senate, can now control the legislative agenda. They can decide what legislation is proposed for committee hearings and for voting, and can simply refuse to act on legislation proposed by the White House or Democratic legislators. The Republicans do not have a sufficient majority in the Senate, however, either to override a Presidential veto of legislation or even to override a filibuster if the minority Democrats seek to use the filibuster to block a Senate vote on pending legislation. The



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Republicans may be able to achieve at least a portion of their legislative agenda by attaching amendments to appropriations and other key legislation, forcing the President to accept Republican policy goals as the price of achieving key legislation, especially, for example, on the federal budget. Also, the Republicans can now block Presidential appointments to Federal agencies with regulatory powers over energy and the environment and can use that blocking power to achieve compromise on legislative policy.

The President still retains substantial governing powers. He has the veto power over new legislation. Moreover, he has the power to advance the Administration's agenda, at least in part, through administrative action, such as through rulemaking by the Environmental Protection Agency (EPA) and (with respect to immigration policy) executive directives applicable to Homeland Security. The Republican majority can be expected to use Congress' authority over the budget and, especially, its agency oversight and investigatory jurisdiction, to seek to blunt the Administration's efforts.

We can expect the new Republican House and Senate majorities to pursue the following 'hot topics' in energy during the 114th Congress which

began on 6 January 2015:

*Approval of the Keystone XL pipeline.* The dramatic drop in oil prices since June last year might have a greater effect on the fate of Keystone, at least in the short term, than that of a Republican majority in both the House and Senate. Some producers have announced at least a delay in some Alberta tar sands projects as a result of lower oil prices. The effect may be to delay or ultimately cancel the \$8bn Keystone XL pipeline project on economic grounds. This is not clear. Nonetheless, the Republicans will make approval of Keystone a priority in 2015.

*Elimination of tax subsidies for wind electric generation.* The wind generation industry in the US has been subsidised in part through the production tax credit (PTC) which is granted under the Internal Revenue Code. Whilst some wind generation projects, particularly in the US Midwest, are now becoming competitive with conventional thermal power plants, even without the PTC, the \$23/MWh PTC remains very important for the industry. During last year's Congressional lame-duck session, Congress approved only a one-year renewal of the PTC and other tax incentives that expired at the end of 2013. The focus will now switch to 2015 for a longer-term renewal of the

PTC. However the conservative wing of the Republicans has come out against renewal of the PTC and other tax credits beyond 2014. It is possible, or even probable, that the PTCs will be lost to the wind power industry.

*Rollback of President Obama's climate agenda.* In the absence of action by Congress, the Obama Administration has pursued a climate change agenda, in part through efforts by the Environmental Protection Agency (EPA), to impose carbon emission restrictions on thermal power plants. The proposed Clean Power Plan announced in June last year, as part of President Obama's Climate Action Plan, aims to reduce greenhouse gas emissions at existing power plants by 30 percent from 2005 levels, by 2030. Once finalised on 2 June 2015, the Clean Power Plan is expected to result in an increase in natural gas-fired generation and renewables whilst reducing coal-fired generation. The Republican leadership in the House and the Senate have voiced opposition to the EPA's proposed rules on carbon emission reductions, arguing that they fall outside the EPA's statutory discretion and, in any event, are unnecessary, will not work, are impracticable and will have a detrimental effect on electricity prices and reliability. This will be a battle fought in the courts and Congress,



especially in the Senate where the incoming chairman of the Committee on Environment and Public Works, Senator James Inhofe (R-OK), is an outspoken sceptic on climate change. The strategic positioning of this issue also will be influenced by President Obama's agreement with China in November last year, which commits the US by 2025 to reduce carbon emissions by at least 26 percent, and as much as 28 percent, below 2005 levels. It is unclear whether that target can be met without Congressional action.

*Ending the ban on crude oil exports.* Congress undoubtedly will seek to end the 1970s-era legislation where US crude oil and natural gas exports have been essentially banned, except where the President determines otherwise. As hydraulic fracturing and horizontal drilling is unleashing record volumes of light oil from US shale formations, there have been calls to end the 40-year ban on US crude oil exports.

*Fast tracking approvals of LNG exports.* The push for facilitating

exports of LNG is driven not only by the industry, which naturally is seeking to attract the highest value for the large amounts of natural gas being produced in the US, but also by concerns over Europe's dependence on Russian natural gas. The present Administration has seemingly picked up its pace in approving LNG export terminals. Following a revamp of its approval process for LNG exports last year, the US Department of Energy's Office of Fossil Energy (OFE) has been moving faster to decide on projects after they have been through the environmental reviews at the Federal Energy Regulatory Commission (FERC). Senator John Hoeven (R-ND) has been working with Energy Secretary Ernest Moniz before reintroducing a bill to fast-track the approval process of LNG exports.

*Expansion of oil and gas drilling on federal lands and offshore.* Early last year, the House passed a bill which mandated the sale of new leases to drill in the Atlantic and Pacific coasts while limiting environmental reviews

and public comment on the new lease sales. The bill also required the Bureau of Land Management to auction off even more federal public lands for drilling. There have been calls by many House Republicans to open new federal waters to oil and gas leasing in the Interior Department's new Five Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2017-2022. However the current low oil price environment may make this less of a priority in the short-term.

*Development of energy infrastructure.* New sources of oil and gas in the US are not located in areas served by legacy pipeline and other infrastructure. Accordingly, much of the oil produced in North Dakota, for example, is transported by rail, not pipeline. Pipeline constraints are the primary reason for West Texas Intermediate (WTI) crude oil attracting lower prices than Brent crude oil. We expect the new Republican majority to support fast-tracking federal approvals for the development of new pipeline capacity and other required infrastructure. ■