North Sky CAPITAL

Policy Update

2H 2024

Our Sustainable Infrastructure strategy aligns investments with federal, state and local policies designed to stimulate private investment, promote environmental sustainability and address critical infrastructure needs in order to capitalize on the economic benefits of these incentive programs. We continually monitor the policy landscape to stay abreast of relevant program developments and are pleased to provide you with this Policy Update to discuss key activities that support our current portfolio and pipeline investments.

Key Updates to Policies Supporting Current Portfolio

NYSERDA Energy Storage Roadmap 2.0

The New York State Public Service Commission (PSC) has given the green light to the anticipated Energy Storage Order aimed at achieving 6 GW of energy storage by 2030. The framework includes a series of recommendations to expand energy storage programs and refreshing the funding for the Retail and Bulk Storage Incentive programs. To date, over $200 million has been awarded for energy storage projects, and additional funding is earmarked for long duration energy storage solutions. This approval by the PSC provides further evidence of their emphasis on long duration energy storage to support the integration of renewable energy onto the power grid.

- **Impact on our Orenda JV:**
  - While the industry awaited the order, NYSERDA released a round of bridge financing that was made available to retail battery energy storage system (BESS) projects based on timing of interconnection deposit. The 2024 projects in the Orenda JV were awarded bridge financing in the amount of $125/kWh of installed capacity.
  - Since the Order was finalized, NYSERDA released the Implementation Plan to increase the runway of the $125/kWh of installed capacity incentive for Retail Projects in NYC and Westchester and provides a $175/kWh incentive for the rest of the state. This news is creating a rush of investors previously waiting on the sidelines, expanding the potential buyer market for BESS projects.
- **Additional NY Energy Storage Roadmap 2.0 details:**
  - Procurement of 3,000 MW of new Bulk Storage.
  - Target of 1,500 MW of new Retail Storage and 200 MW of new residential storage.
  - 35%+ of funding to support projects benefiting Disadvantaged Communities (DACs).
  - Utilities to study potential of high-value energy storage projects.
  - Continued investment in R&D for reliable long-duration energy storage technologies.
  - Prevailing wage requirement for energy storage projects with a capacity of 1 MW and above.

Chevron Doctrine Ruling on IRA 45z Tax Credits

The Supreme Court's decision to end Chevron deference has significant implications for the hydrogen tax credit rules, particularly under the tax code Section 45z's "3 Pillars" guidance. The "3 Pillars" requires renewable electricity supplying hydrogen plants to meet stringent criteria: being from the same regional grid, built within 3 years and purchased on an hourly basis. These rules are somewhat controversial, with supporters arguing they are vital for reducing emissions, while critics saying they hinder clean hydrogen development and economic viability. As elections approach and with potential changes in presidential leadership, the Treasury faces mounting pressure to revise these rules before legal challenges take place.

SIF IV Related Policy Updates

Storage

- **Maryland Public Service Commission** will be establishing the Maryland Energy Storage Program by July 2025 to meet its energy storage target of 3 GW of storage capacity by 2033. The program is anticipated to provide incentives on top of its current state income tax credit for residential and commercial customers.
- **The Ontario government** and Ontario's Independent Electricity System Operator (IESO) announced that their recent procurement secured 2,195 MW of capacity, sufficient to meet the peak energy needs of 2.2 million homes. This total includes 1,784 MW of clean energy storage from ten projects, with individual projects ranging from 9 to 390 MW in size.

FERC Rulemaking

- **Order 1920**: The mandate requires each transmission operator to engage in long-term planning for regional transmission facilities. This involves the creation of a regional transmission plan spanning at least 20 years, aimed at identifying long-term requirements and the infrastructure necessary to fulfill them.
- **Order 1977:** Interstate Transmission Siting Rule will streamline the approval process for interstate transmission projects with broad benefits, preventing delays or blockages by states. It will enforce the "backstop" siting authority from the Bipartisan Infrastructure Law, allowing FERC to intervene if a state or local authority fails to approve a transmission line within a designated National Interest Electric Transmission Corridor.

California 1440

Recently, Southern California Gas Company became the first utility in California to submit requests, known as Advice Letters, to the California Public Utilities Commission to approve Biomethane Procurement Agreements for three projects.

The three RNG projects, two from landfill gas and one from organic waste diversion, are all seeking Tier 3 contracts under SB 1440 for gas prices above $26/mmbtu.

Organic Waste

- **National Strategy for Reducing Food Loss and Waste and Recycling Organics:** The USDA, EPA, FDA and White House announced plans to achieve the goal of reducing food loss and waste by 50% by 2030. The strategy emphasizes four main objectives: preventing food loss, preventing food waste, increasing the recycling rate for all organic waste and supporting policies that incentivize and encourage food loss and waste prevention and organics recycling.
- **CFR National Landfill Gas Recovery:** Canada's Environmental and Climate Change Canada (ECCC) announced they will be accepting a 36% landfill capture rate for calculating the carbon intensity (CI) of fuels. This rate reflects the proportion of methane emissions captured from landfills, which directly influences the CI score for Canadian landfill gas. In the US, the California Air Resources Board (CARB) has a 75% capture rate, suggesting a much lower CI score for the same fuels.

Canadian Clean Economy Investment Tax Credits (ITC)

These credits represent $93 billion in federal incentives by 2035. Following 2023's introduction of the ITCs and subsequent December 2023 draft legislation, the Budget 2024 announces further details on these previously announced ITCs.

- **Clean Electricity ITC:** Budget 2024 elaborates on the design and implementation details for the Clean Electricity ITC. Draft legislation was not included with these announcements but has given indications for a fall 2024 release.
- **NEW Electric Vehicle Supply Chain ITC:** A new 10% credit on building costs for electric vehicle supply chain segments, supplementing the Clean Technology Manufacturing ITC.

Election Special

The U.S. Presidential election season is in full swing. We believe, consistent with most research on this topic as well as with precedent, that the existing federal policy framework for the energy transition to renewables, including the Inflation Reduction Act (IRA), will remain robust. Since the 2005 passage of the Energy Policy Act, which created the basic architecture of renewable energy incentives still existing today, sustainability-related federal legislation has only expanded through all political climates.

Party Platforms

The **Democratic Party** released its approved platform in late August following its convention. It contains a full chapter (out of nine) on Climate Crisis, Lower Energy Costs and Energy Independence. The Democratic Party credits clean energy progress and job creation to the IRA and pollution control and wastewater management to the Bipartisan Infrastructure Act. Indeed, the IRA has helped lead to $303 billion in U.S. energy transition financings in 2023 and over 300,000 clean energy jobs through June 2024 since its passing in August 2022.[1]

The **Republican Party** platform, updated in July 2024, contains no mention of the IRA or other renewables incentives programs. The only renewables-related language calls for ending the "Biden EV Mandate," which is understood to mean the March 2024 Environmental Protection Agency (EPA) regulation regarding tailpipe emissions. This platform is consistent with outcomes during the 2017-2020 Trump Administration which generally pursued an "all of the above" philosophy regarding energy resource development and saw significant renewable energy additions to the U.S. energy mix.

Congressional Analysis

Both party platforms strongly indicate either continuity or expansion of the present mix of federal incentives during the next Presidential term. Nonetheless, we analyzed alternative cases. Regardless of the November election results, there may be further Congressional attempts to amend funding for certain provisions of the IRA. Since its passage, Republicans have voted at the Committee level 42 times to change parts of the law. To date, none have been successful at impacting the IRA despite the current Republican House majority. Several of these Resolutions have passed the House and have done so along party lines with a narrow Republican-led voting majority. For the few Resolutions taken up by the Senate, the language impacting the IRA has been amended out of final approved bills. These bills have passed the Senate with bipartisan support, reflecting that IRA-reducing language has not been an important part of the Republican position during legislative debate.

White House Scenarios

If former President Trump wins the election, he may seek to limit funds made available by the IRA through a process known as impoundment which attempts to restrict funding appropriated by Congress. President Nixon attempted this in 1973 in an effort to block funds for environmental assistance, public housing and disaster relief but was ultimately rejected by the Courts. Congress followed by enacting the Congressional Budget and Impoundment Control Act of 1974 (ICA) to provide limited circumstances whereby funds could be impounded. These circumstances are not anticipated to apply to those surrounding the IRA funding, so any attempt by Trump to impound would be based on the argument that the ICA represents an unconstitutional limitation of the President's authority. To date, the courts have sided with the ICA.

Election Special *(continued)*

It is conceivable a Republican administration could reduce Department of Energy (DOE) or EPA funding and/or reduce regulations that limit emissions through the EPA's rulemaking authority. Note that the Administrator of the EPA is an appointed member of the President's Cabinet, so it is reasonable to assume that the Administrator would support the President's platform.

- We view Electric Vehicle (EV) tax credits and related funding programs as the likeliest sector facing rollback under this scenario. Under President Biden, the Treasury Department has allowed for broad interpretation of tax credit eligibility across several industry sectors. Without requiring a change in law, a Treasury Department under President Trump would likely seek to tighten the interpretation and thereby limit eligibility. North Sky's infrastructure team does not expect deals sensitive to increasing EV-deployments to be a significant part of its portfolio in 2025.
- Offshore wind will also face challenges with a Trump victory with anticipated higher tariffs on components that would exacerbate what is already a sector facing major ratepayer pushback for significant cost overruns. The President can raise tariffs without Congressional approval using Section 232 of the Trade Expansion Act of 1962 if the Department of Commerce determines that the imports pose a threat to national security. We also think offshore leasing would slow. Given the major capital cost, long development timelines and binary project risk, North Sky does not target offshore wind projects.
- The largest impact of reduced program funding at the DOE and EPA would be a delay in the development of emerging clean technologies. This funding reduction would be done largely through the annual Federal budgetary approval process and corresponding appropriations by Congress. While this may prolong the timeline to reaching long-term environmental goals, North Sky's infrastructure team does not target emerging technologies and instead focuses on proven equipment and processes.

Conclusion

Any substantial change in present law will require landslide election victories by either party. Republicans currently outnumber Democrats 49 – 46 in the Senate, but independent Senators that caucus with the Democrats have tilted the control to the Democrats. Further, state-level constituents of both parties continue to substantially benefit from IRA-induced infrastructure build.

North Sky has delivered stable, attractive returns over our 20-year history of investing in the energy transition, through all political environments. Our deal sector focuses have successfully evolved over that time, and our underwriting analyzes various government regulations and policies according to their specific statutory standing. We do not underwrite to future hoped-for legislation or policies that have material risk of being reversed in our investment timeframe.

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[1] Clean Energy Boom Soars Past 300,000 Jobs, Climate Power, June 24, 2024