



Dear Mr. President-Elect . . .

James J. Hoecker

If you want a friend in Washington, get a dog!
—*Sam Rayburn*

That is how the legendary Speaker of the House encapsulated the political environment at the federal level. Perhaps recognizing the truth of that maxim, President-elect Obama has promised his daughters a canine companion for the White House. For the moment, however, he is making lots of other new friends, judging by the published correspondence heading his way. The Washington establishment—the elected and otherwise paid (and often demonized) representatives of the diverse interests in our society—is clamoring for the attention of the new, and perhaps impressionable, transition team and administration.

In no policy area are Obama's pen pals more active than in energy.

REQUESTS FOR INNOVATION AND ACTION

For example, take the ambitious offering of the Institute for 21st Century Energy, an affiliate of the U.S. Chamber of Commerce headed

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by retired Marine Corps General James L. Jones. “President-elect, we offer you and your transition team this comprehensive set of energy policy recommendations because our country urgently requires a balanced and enduring strategy to meet our growing needs,” stated the Institute in a July Open Letter to the still-unknown new president. Under General Jones, who is entering the administration as Obama's national security advisor, the Institute subsequently followed up that letter with a “Blueprint” and then a timetable for implementing each specific recommendation. The range of those recommendations gives a sense that the business community, like Obama, believes that we must commit to fundamental change and bold action, although it is not clear whether the plan embodies the claimed “balance” and “diversity” of energy objectives or just our customary inability to set priorities. At a general level, the Chamber's Institute wants the administration to do the following:

- Aggressively promote energy efficiency
- Reduce the environmental impact of energy consumption and production
- Invest in climate science to guide energy, economic, and environmental policy
- Significantly increase clean energy technology research, development, demonstration, and deployment
- Immediately expand domestic oil and gas exploration and production
- Commit to and expand nuclear energy use

- Commit to the use of clean coal
- Increase renewable sources of electricity
- Transform the transportation sector
- Modernize and protect domestic energy infrastructure
- Address critical shortages of qualified energy professionals
- Reduce overly burdensome regulations and opportunities for frivolous litigation
- Demonstrate global leadership on energy security and climate change

(U.S. Chamber of Commerce Institute, [2008]. *A transition plan for securing America's energy future*, p. 4 [www.energyxxi.org])

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To its credit, this foray into serious energy policy by the Chamber of Commerce places all the critical issues on the table, suggesting the true magnitude of the job ahead. One might search in vain for the recipe of how to manage such an assortment of national energy programs—some of which are possibly at odds with others and some of which, like clean coal and an expansion of nuclear power, are likely to meet with skepticism from Obama loyalists. Policy choices and timetables are one thing; managing change in the face of political and technical obstacles is often quite another.

COORDINATION AMONG BUREAUCRATIC FIEFDOMS

On one strategic point, however, the Chamber is right on target. Energy policies are developed, administered, or otherwise impacted by a growing number of executive branch departments, in addition to the Department of Energy, by independent regulatory agencies, and by the highly influential state public service commissions. It appears that the Chamber would prefer that the administration create a domestic energy and environment policy mechanism within the White House to coordinate

the numerous bureaucratic fiefdoms that today govern implementation of federal energy policies. In fact, that is what is being contemplated. I will discuss more about that later.

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Although the Chamber's plan is the most ambitious and wide-ranging to surface thus far, it is by no means alone in explaining to Obama what he must do. Advocates ranging from Ted Turner and T. Boone Pickens to the liberal Brookings Institution to the neo-con Manhattan Institute to a variety of environmental and energy trade associations and advocacy groups are sharpening their pencils to address the president-elect. In most instances, those groups are focusing on individual priorities that the president-elect campaigned on: clean energy; reducing emissions of greenhouse gases; mandating greater reliance on renewable energy resources by dates certain; phasing out dependence on fossil fuel and especially foreign oil; and investing in energy infrastructure, including electric or natural gas vehicles and “the grid.”

ENERGY POLICY IS ENVIRONMENTAL POLICY

Underlying this set of priorities are core convictions that, in policy and the real world, energy and environmental policies are one and that, at this unhappy moment in our economic history, the path to a green and “decarbonized” energy economy will entail hundreds of thousands of new jobs in manufacturing and technology deployment. The swelling chorus of support for strengthening and expanding the electric transmission grid, principally (though not exclusively) to interconnect remotely located wind, solar, biomass, and geothermal electrical generators to consumers, is predicated on these convictions. Fulfillment of such expectations will, of course, require the new administration to confront the regulatory and physical realities of the grid, institutional barriers,

and a deeply parochial streak when it comes to programs of national scope and construction of infrastructure that has principally regional instead of local benefits.

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For instance, moving large amounts of such clean electric power to consumers across the country by means of a large transmission system will confront the fact that we do not have a genuinely national grid that replicates networks like the highway or rail systems. Ours is a transmission grid that is aging and that until very recently suffered from declining investment for a quarter century. It is relatively balkanized, with 500 different owners and almost as many regulators, and very few natural constituents. The substantial efficiency and environmental benefits of a strong grid are not often understood and even less often acknowledged. In any event, the ultimate challenge will be financing the vision of a “smart,” highly integrated, and strong grid in a capital-constrained economy. There are, in other words, some inherent limits on policy that will test the new administration’s resolve and creativity.

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But Obama will face disparate views in many areas of energy policy. Principal among the coming debates will be increased reliance on nuclear power and a meaningful solution to spent nuclear waste disposal and storage at Yucca Mountain, offshore drilling for oil to prevent our foreign oil dependence from escalating further, and who will pay the cost of an aggressive climate-change remediation program and research in carbon capture and the sequestration of CO₂ from the combustion of coal for electricity.

POLICY PRESCRIPTIONS VERSUS ADMINISTRATIVE REALITIES

What forces can the new president muster to take the bold actions and achieve the kind of fundamental change on which he campaigned? The principal cabinet-level agency responsible for national energy policy and execution of the president’s energy policies is the U.S. Department of Energy (DOE). However, energy is only one of its distinguishable statutory missions, the others being science and technology (the network of national laboratories are part of DOE), research and development, oversight of the vast federally owned utility establishment including the Tennessee Valley Authority and the Bonneville Power Administration, and civilian control of nuclear weapons and materials. In fact, management of the nation’s fissionable materials (and some imports from overseas) consumes fully two-thirds of DOE’s budget, causing it to bear the understandable moniker of the Department of Making Bombs and Cleaning Up After Making Bombs.

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Not surprisingly, each of DOE’s diverse mission activities and investments has a powerful constituency on Capitol Hill and in statehouses across the country. Moreover, with the exception of funding research and development of innovative energy technologies, issuing energy efficiency standards, publishing information on energy prices and trends, and formulating a national energy strategy at prescribed intervals, there is very little that DOE does or can do without the cooperation of multiple departments of government that administer environmental, land-use, rate-making, competitive market, and other laws. The phenomena are by no means unique, but the managerial challenges they produce for this vast department emphasize the regional and often localized nature of energy interests and philoso-

phies. Thus, the challenges create difficulty in devising a truly national energy policy.

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For these reasons, an energy and environmental coordinating body in the White House could significantly improve the chances of successfully implementing a transformative energy policy. The president will need a strong hand and an innovator as secretary, but he or she will need all his or her political skills to meet the expectations of the Obama agenda while remaining comfortable with a White House staff looking over his or her shoulder. At this writing, there are a number of governors under consideration for the challenging job of Energy Secretary. Obama will need to find not only a strong manager and negotiator but also someone truly capable of thinking outside the box.

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In the long run, only structural changes in the relationships among energy and environmental agencies and among the various elements of how we produce and consume energy are likely to prove effective—and energy issues have everything to do with the long run. Coming into office owing tribute to fewer interests than any president in recent memory, Obama is in a position to drive an energy efficiency and energy independence agenda across major segments of the economy. He will be less pressured to launch multiple programs region by region, technology by technology, fuel by fuel. However, certain questions persist about the ability of the department as it is currently configured to manage the transformative energy agenda that he appears to envision.

A dotted line connects DOE to the Federal Energy Regulatory Commission (FERC),

created in 1977 to succeed the Federal Power Commission. FERC is an independent agency; it is not within the executive branch and is often regarded by scholars as part of the legislative branch of government. Although its pedigree is as a traditional cost-of-service rate regulator, many of the procompetitive energy market innovations of the last quarter-century were administered or originated by FERC.

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The commission has moved away from its classic economic regulatory role and into a role as a facilitator of market competition as well as a partial role as overseer and enforcer in the mode of the Securities and Exchange Commission. FERC has shown itself capable of addressing complex economic regulatory problems at the case level and occasionally of cutting a national profile. When Congress in 2005 gave it responsibility to oversee the development of electric reliability rules for the entire country, including Texas (which has typically resisted federal authority over its separate electric interconnection), FERC stepped into that role with considerable creativity. As the principal federal energy regulator, FERC will play an important role in the new energy economy.

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Nevertheless, FERC has certain institutional and jurisdictional limitations. At the top, it is a collegial body of five commissioners whose deliberative habits are more conducive to due process than national initiatives. Moreover, FERC's limited jurisdiction does not prepare FERC to execute national policy in many areas. Although FERC regulates the wholesale electric power markets, for example, it cannot site electric transmission facilities except as part of

its licensing of hydroelectric projects or, more generally, under unusual circumstances involving the states' failure to act in timely fashion.

FERC has also been frustrated in its efforts to restructure the electric industry at the wholesale or "bulk power" level that it has abandoned substantial parts of that agenda. The commissioners have tended to compensate for that failure by straying into energy efficiency, smart grid, and demand-response issues over which the agency's jurisdiction is relatively limited, which has helped focus positive attention on such challenges. Finally, FERC is a small agency with fewer than 1,500 employees and a modest budget. FERC simply lacks the resources at present to respond to a major expansion of its responsibilities.

The probable departure of the current chairman and the advent of a Democratic majority at the commission may not produce an immediate shift in policy. In the final analysis, FERC has a menu of statutory responsibilities to carry out in the natural gas, hydroelectric, oil pipeline, and electric power areas that will need to be efficiently administered irrespective of the new agenda. Because of the Democratic majority in Congress, it is unlikely that the new administration will be motivated by the same level of distrust of independent agencies that its Republican predecessors have demonstrated, however. A substantial expansion of FERC authority may therefore not be so remote a possibility.

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WHAT ROLE FOR THE REGULATORS?

In part because of the atmospherics around the country's financial meltdown during late 2008, the incoming administration comes to its job with a greater appetite for regulating industry than its predecessors. There was much campaign rhetoric about disastrous effects of the deregulation of the financial services industry and the need for enhanced federal oversight of various businesses like the automotive industry receiving a federal bailout. This emphasis suggests that independent regulation of com-

mercial activity may become more important, at least in the near term.

Competitive energy markets are here to stay, it would appear, but the commoditization of certain essential services will be eyed with suspicion. As market mechanisms continue to evolve to meet demand for energy, they will be powerfully affected by the Obama administration's top-down pursuit of clean energy and national energy independence. If and when the new president were to enunciate a stronger vision of the future for regulated electric and natural gas markets, FERC could nevertheless be an important instrument for effectuating generic changes that promote an innovative energy economy. Like most regulators, however, FERC will be obligated to ensure that innovation and investment do not simply translate into increased costs to energy consumers beyond what is "just and reasonable."

BIGGEST CHANGES SINCE THE 1970S

President-elect Obama has struck an early and formidable pose in his effort to infuse the financial markets and the public with confidence in the future of the economy. And, from all appearances, his preparations for an action-packed first 100 days have begun to make new friends in that time-honored Washington way. But, even where there is consensus about the need for change, agreement about what it means and then achieving that change can be difficult.

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It will be critical to adequately staff the agencies that will do the work while conforming their budgets and legal authority to new policies and priorities. Such major realignments have not occurred since the 1970s, despite the intervening changes in the energy economy. An overlay of new political management will not be sufficient to make the kind of transformative change the electorate has been encouraged to expect. 

