



The Coming Postpartisan National Energy Policy

James J. Hoecker

During a typical presidential election cycle it is not hard to understand—as Howard Fineman aptly argues in his new *The Thirteen American Arguments*—that “we are the Arguing Country, born in, and born to, debate. The habit of doing so—the urgent, almost neurotic need to do so—makes us unique and gives us our freedom, creativity, and strength.” For the first time in 30 years, our energy future is a prominent part of almost every major campaign speech. In the rhetorical struggle between change and experience, change is emerging the winner and nowhere more so than in energy policy. What might that augur for what Messrs. McCain or Obama—both incumbent senators out to shake up Washington—would do in office?

ENERGY POLITICS ARE REGIONAL

Keep in mind some basics. First of all, energy politics are regional. Policy preferences can differ dramatically depending on the regulatory culture and resource base of particular parts of the country. There is an historic division between what fossil-energy-supplying states like Alaska or West Virginia want, including how

they understand the economic and environmental risks associated with energy production, and what costs and external consequences of energy use the energy-consuming states like California or Illinois can accept. The supply-side perspective is also heavily influenced by international market realities and priorities. And, on the demand side, the historic push for lowest prices to consumers at the expense of producers is not necessarily consistent with the drive for conservation and efficiency. Because our domestic energy market has several distinctly regional flavors, a national energy policy will inevitably have dissenters.

REGULATORY CERTAINTY

Second, irrespective of evolving federal policy, energy insiders will remain focused (as a matter of practical necessity they—and I—would argue) on the nuts and bolts of supply adequacy and reliability, what kind of expertise will be recruited to high office, how to support new technologies for drilling or generation or energy conservation, who pays for new infrastructure and the cost of environmental remediation, the impacts of international trade arrangements on energy commodities, and the risks that await those whose market innovations bleed over into market power and speculative excess. Politics aside, the industry asks, first and foremost, for a clear understanding of the rules that will affect its management and investment decisions.

Third, voters are sufficiently savvy to recognize that the quadrennial presidential pro-

James J. Hoecker

is senior counsel, Husch Blackwell Sanders LLP, and principal, Hoecker Energy Law & Policy (<http://helppllc.com>). He is a former chairman of the Federal Energy Regulatory Commission.

nouncements about our energy future are expressions of some collective political instinct formulated by skillful young staff and industry loyalists. The principal value that these “programs” have is not as predictors of the next administration’s actions, much less their probable success. They are important directional signals and early indicators of how the candidate would do business.

CONVERGENT POLICIES

It appears to me that in 2008 we are witnessing campaigns with energy policies that are highly convergent. The McCain and Obama campaigns are both committed to changing at least the atmospherics around national energy policy. Both talk of independence from “foreign oil”—which, by the way, never seems to include Canadian resources. Both trumpet the virtues of clean renewable energy resources, without also telling the public that major expansion of the electric transmission system will also be needed to bring those resources to consumers. Both elicit resolve and commitment to address global climate change, probably the single greatest driver of our emerging energy priorities. This level of agreement reflects an emerging U.S. consensus about where consumers want their leaders to take the country—toward cleaner energy, price stability, and national self-reliance. Of course, not much has yet been said about the investments and the sacrifices that will be required to get to that halcyon state.

Both talk of independence from “foreign oil”—which, by the way, never seems to include Canadian resources.

Thus, when two skilled staff spokespersons (Jason Grumet for Obama and Douglas Holtz-Eakin for McCain) debated energy policy before the members of the Energy Bar Association this past spring, their principal point of contention was who would and who would not support a summertime federal gas tax holiday. On several other issues, the argument was principally over character and respective perceptions of energy

challenges—e.g., which candidate has the deeper commitment and the best approach to addressing global warming through a cap-and-trade program; who believes most strongly in expanding our reliance on clean energy resources; who would blaze the boldest energy research and development trail to cleaner electrical generation (especially carbon capture and sequestration accompanying coal generation) and other high-tech solutions; and who was least likely to be duped by Middle Eastern oil interests. It is no wonder that offshore drilling—and, with the Palin candidacy, drilling on Alaska’s North Slope—has become a flashpoint of debate: it represents a clear difference of direction.

POINTED DISAGREEMENTS

This is not to say that the two candidates agree on most issues or that there will not be an argument about the details. Starting with the overall energy themes of each campaign—John McCain’s emphasis on energy security versus Barack Obama’s focus on green energy development—the campaigns present clear choices on several issues.

The Future of Nuclear Power

Both candidates seem to acknowledge the potential importance of nuclear energy to addressing climate change. Obama believes that no technology ought to be rejected outright but we must weigh the benefits and risks of nuclear energy carefully. Safety, storage of nuclear waste, and proliferation are still problematic. Along with Senator Reid, he opposes further investment in Yucca Mountain. McCain finds opposition to nuclear generation to be more political than technological and would promote construction of as many as 45 new nuclear stations by 2030.

Taxes on Oil Companies

Obama favors a windfall profits tax on oil companies. McCain opposes such a tax.

Climate Change

Neither candidate is a skeptic about global warming, and both have sponsored or cosponsored bills to address climate issues economy-wide. Both appear concerned about the com-

mitment of other polluting countries. Obama favors the Sanders-Boxer approach of mandating an 80 percent reduction in greenhouse gas emissions (from 1990 levels) by 2050, as well as reengagement with the U.N. Framework on Climate Change. Pollution credits should be auctioned and the proceeds used to provide relief to consumers and for clean energy investments. McCain advocates U.S. leadership in this area, using a market-based cap-and-trade system with targeted emissions reductions at intervals up to 60 percent by 2050. McCain is concerned that the costs of climate-change rules be minimized and that the sales of credits be used to promote advanced technologies. A commission should decide how pollution allowance should be allocated.

Offshore Drilling

While skeptical that loosening restrictions on drilling for oil and gas in the offshore Lower 48 would affect prices at the pump, Obama believes that future exploitation of those resources is possible if the science and facts favor it. McCain favors more offshore drilling and providing incentives to states to permit such exploration. Both appear to oppose exploration in the Alaska National Wildlife Refuge, but Governor Palin has staked out a very different position.

More Coal-Based Electrical Generation

Recognizing that coal still represents the largest domestic energy resource and 52 percent of current electric generation, both campaigns would support advanced technologies to burn it more cleanly, especially carbon capture and sequestration. Obama believes that construction of more coal plants is ill advised, especially under a carbon-constrained regime. McCain would commit \$2 billion annually to developing clean coal technologies. If new plants are built, he wants them “carbon capture ready.”

Renewable Energy

Obama thinks 10 percent of the country’s energy should come from wind, solar, geothermal, and other renewables by 2013 and 25 percent by 2025 and favors a five-year extension of the production tax credit for these resources.

McCain believes that alternative energy sources should be promoted but market forces and local initiatives are preferred to a legislated renewable portfolio standard.

Energy Efficiency

Both campaigns stress the importance of green buildings and greater efficiency. Not surprisingly, neither has suggested that price be used to incentivize more responsible energy use—that is the difference between policy and politics. Perhaps the greatest impact could be achieved in the automotive area, but no one seems ready to champion T. Boone Pickens’ advocacy for a massive switch to natural gas vehicles. Obama favors mandating that all new cars be flex-fuel and would aggressively support advanced technologies such as plug-in hybrids. To that end, he would use the tax code and \$4 billion in loans to encourage domestic manufacturers to build fuel-efficient cars. The target is 1 million 150-mile-per-gallon hybrid cars in six years. McCain also favors flex-fuel cars and would offer a \$300 million award for development of a “battery package” that would overtake even the commercially available hybrids of today.

The ideas already on the table probably allow us to predict federal energy policy for the next four years with some degree of certainty.

WHO IS THE AGENT OF CHANGE?

Readers can take heart that both candidates know an energy crisis when they see one and that each wants desperately to be the agent of change. There is no shortage of discussion about how to serve consumers’ immediate need for manageable energy costs and a stable climate, even if some old ideas are being recycled. Although our expectations for change and innovation may once again outrun the creativity of the candidates’ campaigns, the consensus ideas already on the table probably allow us to predict federal energy policy for the next four years with some degree of certainty. That is a gift, but it places a higher premium on competence and execution than on innovation. 