



# Renewable Energy in 2009

## Great Hopes for Change and Capital

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The new administration will have taken office on January 20th, 2009. During the election, the Obama/Biden team made clean energy one of the major planks of their platform, based on environmental concerns and high fuel prices. As the election neared, the crash of the economy made jobs the main issue, with green energy being one of the premiere routes for reviving the economy and re-industrializing the US.

The "New Energy for America" platform of the Democratic candidates is, perhaps, the most ambitious energy policy undertaking in the history of the country. The proposals include an economy wide, auction-based cap and trade system to reduce carbon emissions to 80% below 1990 levels by 2050. Approximately \$150 billion from auction proceeds and other sources would be invested over 10 years to accelerate the commercialization of new clean energy technologies, and the related creation of five million new jobs.

Some of these funds would support plug-in hybrid technology and infrastructure, with the goal of a million such hybrids on the road by 2015. The plan also calls for an increase in fuel economy standards by 4% over current mandates. An expanded renewable fuels standard would require at least 60 billion gallons of advanced biofuels by 2030, with a mandate for all new cars to be flex fuel vehicles by the end of 2012. Related to the investment in renewable energy is a program for grants to states to identify and support local manufacturers to convert from existing or closed manufacturing facilities to new advanced clean technologies.

The new administration also supports both reduction in energy use and diversification of energy sources. They propose to reduce electric demand by 15% from projected levels by 2020, through a combination of programs including improved appliance efficiency standards, reduced federal energy consumption (with a goal of achieving a 40% increase in efficiency in new buildings within five years), regulatory incentives for utilities to invest in energy efficiency, establishment of a grid modernization commission to facilitate adoption of smart grid practices, and a smart grid investment matching program in the Department of Energy, and funding for weatherization of up to one million low income homes annually.

The administration supports a federal renewable energy portfolio standard requiring 10% of the electricity in the US to be from renewable sources by 2012, and potentially 25% by 2025. A five-year extension of the production tax credits available for wind, biomass, geothermal, and wave technologies is also being proposed. Clean coal technology is a likely beneficiary of a demonstration program to promote commercial-scale coal fired plants with carbon capture and sequestration.

The new administration's transition team has been meeting with all stakeholders in the energy community to identify issues and to gather ideas. While the commitment to building a new energy policy remains, the more urgent issue of the economy has been drawn into a sharper focus, with the immediate goal being to promote job creation. If the discussion in the late summer and early fall centered on reducing

dependence on foreign oil, the discussion coming into the new year is clearly directed at putting people to work as soon as possible.

In the renewable energy community, the unavailability of capital is the primary impediment to economic and employment growth. Traditional sources of construction and long-term funding have dwindled since September 2008, as banks have pulled back from providing debt and the number of tax equity investors has dramatically declined. The result of this decline of capital is delayed projects, deferred equipment orders and construction contracts, and job losses. So, when asked how to create more jobs, the industry's answer has been: provide more capital.

Leading the list for immediate action must be the need for improved tax benefits. Under current law, most of the federal support for renewable energy comes through tax credits and accelerated depreciation. These are fine incentives if there are taxpayers able to use them. But the combination of restrictive tax rules, which work against the use of credits by anyone other than large corporates, together with the implosion in the financial services sector, has resulted in a moribund market for these tax incentives. The number of active tax equity investors declined in 2008 from 18 to 6, and the volume of investment went from \$7 billion in 2007 to \$5 billion in 2008, and a forecasted \$4 billion in 2009—hardly the trend line of a thriving industry.

Many ideas have been proposed to the new administration to enhance tax equity financing, including:

- extending the PTCs for at least five years;
- making the tax credits refundable so that the federal government would make a tax-free refund of the credit to the taxpayer;
- permitting the use of financing leases for wind projects (the production tax credit currently can only be used by an active owner/operator), which would result in better use of accelerated depreciation by the investor;
- permitting carry back of tax credits for five or more years;
- expanding the pool of eligible investors by eliminating the passive loss and at-risk rules, which tend to preclude investment by individuals and small corporates;
- further expanding the pool of investors through the use of tax-free master limited partnerships for renewable energy projects; and
- making the credits transferrable so that the credits could be sold separately from an interest in the energy project.

Although it is unlikely all of these proposals will see the light of legislative day, at least at this point the extension of the production tax credit is likely to occur, and there is a reasonable possibility that some form of temporary relief will be part of an economic stimulus package. Refundability seems more likely than transferability, but is controversial because it is a more direct subsidy of renewables than the credits themselves, and would require the government to go out of pocket (as opposed to not receiving tax revenue in the first place). Refundability also does not resolve the use of accelerated depreciation and the resulting operating losses. Ideas being floated to make refundability a more palatable concept include having the refund made at a reduced percentage of the credit, and having a limited time period for refundability.

In a period when capital is difficult to raise, the federal government can play a significant role in financing of new energy technologies through government loans or guarantees. The existing federal loan guaranty program under the Energy Policy Act of 2005 has proven at best illusory. The mandate of this program is to support new technologies that would not obtain financing without the guarantee. The current program was first funded in 2007, but implementation has been slow—at the end of 2008 no application has been fully approved or funded.

There are many ideas being floated for the improvement of the federal loan guarantee program. These include improving the current program through increased staffing, reduced application costs, appropriations for the credit subsidy costs, and expediting application processes. A more ambitious proposal is to expand the program

to provide \$100 billion funding for commercialized technologies—so that the federal government could provide loans or guaranties for construction and long-term financing of any renewable energy project. Another suggestion is to move the loan guaranty programs to the Treasury Department, which has deeper experience in financing, and has a record of working with third party lend-

ers on other financing programs. At this point, the likely direction of changes to the federal loan guarantee program for renewables is not clear. What is clear is that the direction of energy regulation will change under this administration. The need for economic stimulus may trump longer term objectives in the near term. Hopefully, the stimulus provisions will increase the flow of capital

to the renewable energy sector, perhaps through some of the ideas outlined above. And in time, we may well view 2009 as the year in which this country embarked on a very different, very green path into the energy future.

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