Understanding the Impact of US Withdrawal from the Paris Climate Accord on Renewable Energy Policy

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Paris Agreement Background

Basics

- Adopted within the United Nations Framework Convention on Climate Change (UNFCCC) in 1992, which:
  - Sets nonbinding limits on greenhouse gas emissions for individual countries
  - Outlines how specific agreements (like the Kyoto Protocol or the Paris Agreement) may be negotiated to meet the UNFCCC’s objectives

- 1997 Kyoto Protocol established legally binding obligations for developed countries to reduce their greenhouse gas emissions in 2008-2012
  - United States did not ratify
  - Extended to 2020 through 2015 Doha Amendment

- 2010 Cancun Agreement provides that global warming should be limited to below 2.0 C below pre-industrial levels

- 2015 Paris Agreement set non-binding greenhouse gas reduction commitments relative to pre-industrial levels after 2020
  - Effective November 4, 2016
Paris Agreement Background

Key Components of the Paris Agreement

- Keep global temperatures below 2.0 C pre-industrial levels and “endeavor to limit” below 1.5 C above pre-industrial levels
- Sets nation by nation voluntary targets for cutting greenhouse gas emissions (aka nationally determined contributions, or NDCs)
- Limit anthropogenic greenhouse gas emissions to the level that trees, soil and oceans can absorb naturally, beginning 2050-2100
- Review each signatory country’s contribution to cutting emissions every five years beginning in 2018
- Developed countries to help poorer countries by providing “climate finance” to adapt to climate change and switch to renewable energy
  - $100 billion in aid per year from 2020 through 2025
  - Intent is to encourage transition to low-carbon growth, developing climate-resilient infrastructure, R&D, economic development
  - Finance sourced from public, private, and public-private partnerships
Items of Note

- Kyoto set standards that nations had to meet; Paris allowed nations to set their own standards. So decisions were domestically, politically driven, rather than having legal force.

- Withdrawal permitted under Article 28 of the Paris Agreement

- Notice can be given no earlier than three years after the agreement goes into force in the country
  - Withdrawal is effective one year after notice to depositary

- In June 2017, the Trump administration announced that it will provide notice in November 2019 that the United States will withdraw from the Paris Agreement, effective November 2020 (i.e., as soon as legally permissible to do so)

- Withdrawal from the UNFCCC also possible, with immediate notice and one year until effectiveness
Renewable Generation Policy versus Integrated Resource Planning in the United States

The Public Utility Regulatory Policies Act of 1978 (PURPA) is arguably the only federal law that requires purchases from renewable energy generation facilities

- PURPA is implemented through “cooperative federalism” by FERC and state regulatory commissions
- Mandatory “Must Purchase” Obligation and other rights related to power sales and interconnection rights for Qualifying Facilities (QF), subject to certain regulatory exceptions

Traditionally, federal law has focused on incentives, Federal Tax Incentives, Subsidies and Grants that Drive Investment in Renewable Energy

- Production Tax Credit
- Investment Tax Credit
- Department of Energy Section 1603 Grant Program (program closed)
Integrated Resource Planning in the United States

- Integrated Resource Planning is a “bottom-up” process in the United States which is generally governed by the States and not the Federal Government.

- State Regulatory Commissions require utilities to file integrated resource plans (IRP) explaining how the relevant utility plans to most cost-effectively serve load over a certain period of time (usually 5-10 years)
  
  - Unregulated utilities such as electric cooperatives and municipal utilities may not be required to file IRPs under State law but may be required to submit informational filings.
  
  - These IRPs are often the forum in which State regulators apply specific state renewable policies, including state renewable portfolio standards or other renewable mandates.

- Arguably, the NDCs that the United States would seek to satisfy pursuant to the Paris Agreement concern issues that traditionally are governed by state law.

- This is one reason why the Obama Administration’s Clean Power Plan was considered key to the United States’ ability to satisfy NDCs.
Practical Impacts of Potential Withdrawal from Paris Agreement

— From a domestic energy perspective, the Trump Administration’s potential withdrawal may have limited impacts on the development of renewable energy generation in the United States
Practical Impacts of Potential Withdrawal Paris Agreement

– The growth of renewable generation was (and is) potentially more affected by domestic tax and regulatory policies
  • Potential revisions to the Production Tax Credits and Investment Tax Credit
  • Shifts in state renewable energy policy (continued growth versus concerns about over saturation)
  • Potential Tariffs on Foreign Equipment such as solar panels
    • Suniva and Solar world Americas Petition at the International Trade Commission
  • FERC policies promoting the successful interconnection and dispatch of renewable generation facilities
  • FERC and state policies promoting competitive PPAs (including PURPA contracts)
  • PURPA Reform (pending at FERC)
State Renewable Energy Policy

– Subject to new federal legislation being passed, States will continue to have primary jurisdiction over integrated resource planning and development and implementation of renewable generation policies

– Subject to new federal legislation being passed, State policies will continue to have the most influence on the development of renewable generation

– Arguably, the predictability and transparency of State renewable policies is one of the key market factors which results in the United States being such a desirable market to develop renewable generation
State Renewable Energy Policy

— Regulators may need to evaluate if they will continue to push renewable generation through periods of “flat” demand and lower wholesale prices

— Traditional “Retail” Politics?
  • What role will the potential withdrawal from the Paris Agreement have on State decisions?
  • Does cost sensitivity necessarily equate with an anti-renewable agenda?
State Renewable Energy Policy

— State renewable policies have historically driven demand for renewables “through” periods of higher demand and higher pricing

— Several States are facing “saturation” of renewable general projects and are struggling to balance competing obligations of encouraging renewables without saddling ratepayers with overly burdensome costs
State Renewable Energy Policy

— Retail Competition versus non-Competition States
  • How do Renewable Portfolio Standards impact energy policy in States with each model?

— Social Cost of Carbon - How do States price the social cost of Carbon?
  • Is there a role for a federal standard?

— What technologies are States incentivizing?
  • Energy Storage
  • Electric Vehicles
  • Energy Efficiency
Emergence of Corporate Renewable Energy Policy

— Growing interest of Institutional Investors in Climate Change Policies

• Emerging trend of large financial institutions imposing increasing climate-related demands directly on Boards of Directors of energy companies

• Environmental and Sustainable Stewardship plans and goals are being requested
  • Examples: BlackRock, Vanguard, State Street, Large State Pension Funds

• This is a relatively new trend that may grow (and evolve) based on political trends

— This is one of the growing trends to monitor in 2018
US Non-Federal Actors and State Alliances

— US Climate Alliance
   • 14 States and Puerto Rico that have committed to abide by Paris Accord GHG Goals
   • 36% of the US Population
   • $7 trillion in combined economic activity (enough to be world’s third largest country)

— Other Non-Federal Actors
   • Example: America’s Pledge (California Governor Edmund G. Brown and Michael Bloomberg)

— How do these States’ commitments reconcile with renewable initiatives that were in place before the Trump Administration announced its intent to withdraw from the Paris Agreement?
Corporate Renewable Policies

— Corporate Renewable Energy Goals
  • Increased pressure on electric utilities to satisfy customer demand for renewable energy
  • Revised IRPs
  • Corporate PPAs
  • “Green” Tariffs

— Certain large customers are lobbying to separate from the local utility and procure power directly in wholesale markets
  • Example: Microsoft Corporation and Puget Sound Energy
Municipal Energy Policy

— 50 cities, 5 counties have committed to transform to, among goals, 100% renewables by 2030 to 2050
  • Examples: Austin, San Diego New York City
    • Formal and informal Greenhouse Gas Reductions goals
    • Commitments to 100% Renewable Generation
    • Sustainable Transportation Plans
    • Energy Efficiency Policies
    • Car and Bike Sharing Programs

— Look for continued growth of municipal Electric Vehicle policies
Conclusion

— The potential withdrawal from the Paris Agreement may have a limited impact on the development of renewable generation in the United States

— Existing federal, state and municipal policies will continue to drive the development of renewable generation

— Increasing interest in climate policies and sustainable development at the Institutional Investor and Corporate leadership levels will likely continue to drive commitments to renewable energy and overall market demand