States Assuming Momentum in Energy Policy Formerly Led by Feds

Paul A. DeCotis

One does not have to look far to see how US energy policy is being advanced. While the federal government has led many major energy and environmental policy initiatives over the past several decades, and Congress passed and presidents signed several pieces of major energy legislation, energy policy leadership has now nearly fully transitioned to the states. At each of the last half-dozen or so energy-related conferences attended in the last six months, there was little or no representation by the federal government. A federal employee was present and did speak at one of the conferences attended, but as a career industry professional sharing a personal interest and point of view rather than a representative of the federal government.

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Paul A. DeCotis (pdecotis@westmonroepartners.com) is senior director and head of the East Coast Energy & Utilities Practice for West Monroe Partners LLC. Previously, he oversaw the Long Island Power Authority's (LIPA's) market policy, including participation in the NYISO, PJM, and ISO-NE regional transmission organizations and interactions with the Federal Energy Regulatory Commission while vice president of power markets and managing director at LIPA. He also was a founding member of the Eastern Interconnection States Planning Council. Prior to this, DeCotis was energy secretary and senior energy advisor for two New York governors.

FEDS DID GROUNDBREAKING WORK WHEN NEEDED

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A groundswell of political unrest and change ensued from enactment of the Clean Air Act in 1970, the OPEC (Organization of the Petroleum Exporting Countries) oil embargo in October 1973, the oil embargo following the Iranian Revolution in 1979, and the restructuring of the utility industries, starting with enactment of the federal Public Utility Regulatory Policy Act in 1978 (PURPA). Over this period, energy issues became politicized, polarized, and incorporated into broader political debates over the role of free markets and environmental stewardship and the appropriate role of government. The United States was driving toward a coherent and consistent energy policy—one that recognized the critical link between energy policy and environmental compliance and health, and job creation.

For the first time, the Energy Policy and Conservation Act of 1975 established Corporate Average Fuel Economy (CAFE) standards and required labeling of vehicle fuel economy

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information to consumers. And as noted, energy issues became more prominent in the late 1970s because of oil embargos and a high dependency on energy imports. As a result, PURPA was enacted to incent non-utility-owned electricity generation to increase competition in the industry and improve efficiency of electric generation. The federal government focused its attention on improving the efficiency and reducing harmful pollutant emissions from both stationary and mobile sources, and as a result, incentives were provided to encourage the manufacture and purchase of alternative fuel vehicles under the Alternative Motor Fuels Act of 1988.

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Other major pieces of energy legislation enacted by the federal government included: the Intermodal Surface Transportation Efficiency Act of 1991 and its amendments; the Energy Policy Act (EPAct) of 1992 (amended several times, through the Energy Conservation and Reauthorization Act of 1998, and EPAct of 2005); the Energy Independence and Security Act of 2007, which included provisions to increase the supply of renewable fuel sources and raise CAFE standards; the Emergency Economic Stabilization Act, which authorized the Energy Improvement and Extension Act of 2008; and the American Recovery and Reinvestment Act of 2009.

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The United States was driving toward a coherent and consistent energy policy—one that recognized the critical link between energy policy and environmental compliance and health, and job creation. Had the federal government not provided the forum for debating and enacting comprehensive energy legislation complete with funding being provided for key initiatives administered by the states, the United States would not have the policy and program infrastructure in place today that is responsible for much of the country's success in commercializing energy innovations and creating new cleantech industries.

A national forum for discussing such issues ensures transparency and consistency.

After observing the debates surrounding energy policy and having participated in both state and national dialogues to improve energy efficiency, spur technological innovation, reduce harmful pollutant emissions, and generate job growth, one can conclude that addressing energy issues at the federal level has advantages. While it might take five or more years for any major piece of legislation to work its way through Congress and make its way to the president's desk for signature, a national forum for discussing such issues ensures transparency and consistency in hearing from all stakeholders. Comprehensive energy bills, like health care and tax reform, are complicated and need to address national security, economic prosperity and job growth, and fairness and equity among divergent stakeholder groups. These needs are best debated and enacted at the federal level. In the absence of federal leadership, many states have picked up the mantel and are now going their own way.

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TODAY—STATES MOVING IN

Absent strong federal leadership, the goals of states vary and lead to a patchwork of policies that might be inconsistent across states and regions of the country, leading to confusion and higher costs of doing business in some states. Many states are looking to meet energy needs more economically while supporting in-state energy industries and job growth. This conflict creates an environment in which states often compete for new businesses and or ban certain industries or energy projects from being developed—even though they might be in the nation's or region's best interest.

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Managing energy policy and market intervention has become a far more difficult task than simply protecting consumers from competitive markets and developing a clean energy economy. Today, through the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, US Department of Energy, and Environmental Protection Agency, the federal government is attempting to reduce its oversight and regulation of energy industries and markets. Without taking a position on the merits of this approach, it should be recognized that by taking away federal leadership, states have no choice but to go it alone.

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States are now grappling with issues around increasing customer choice and energy service offerings while spurring technological innovations to meet the changing demands of an energy industry in transition. While challenges remain to meeting energy needs in a cost-effective and environmentally responsible manner, issues of energy independence, national security, and environmental stewardship should not be abandoned. Yet some states are pursuing a more aggressive coal or nuclear strategy, while others are pursuing cleaner and more distributed energy solutions. Still others are banning use of fossil fuels to meet energy demand, and making it difficult for new energy infrastructure projects to materialize.

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Without staking out a position, citing some specific examples, several states have banned hydro-fracking for natural gas extraction. States are also making it difficult to site new energy infrastructure projects, including natural gas pipelines, new power generation facilities, be they fossil, nuclear, or renewable, and transmission lines moving power from one region to another. Some states are encouraging and subsidizing nuclear power, while some are trying to close existing nuclear power plants. Some are prioritizing coal over cleaner energy forms due to their competitive advantage of having coal reserves.

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The federal government and states, through their respective energy, environmental, and economic development agencies, need to work together for a more coherent and consistent energy policy—one that meets national needs and interests. This joint effort should be done with respect and in concert with states' rights and the states' own competitive advantages. We need a shared sense of purpose, regulatory rules, and oversight that support desired industry and market behaviors, and a unifying vision of driving

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change to meet future energy needs in support of economic prosperity.

States have every right to forge their own path forward and will continue to do so. However, some form of overarching federal guidance or direction would serve us all well. The federal government does not need to dictate state actions, but it can support a national energy policy, consistent with environment and economic development policy to provide a framework going forward, for states to work in partnership with the federal government in nations' best interests.

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Highlighting activities in California, Illinois, and New York, one can see that states are not sitting by idly waiting for the federal government to articulate a coherent and comprehensive energy policy. The America's Energy Future (AEF) initiative at the National Academies provides an expert and consensus analysis of technology options, and costs, and impacts to support informed policymaking on energy. The AEF initiative benchmarked and level-set recently completed studies on energy use and technology's potential for reducing dependence on oil imports and carbon emissions, to provide direction for ensuring that energy remained reasonably priced, and that economic growth could be achieved in a sustainable manner. California, Illinois, and New York, along with many other states, are enacting laws and policies that support the basic tenets of the AEF initiative.

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California

SB32 and SB350 in California, respectively, update the target initially set in 2006 by AB32 to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030, and expand executive order S-14-08 requiring the state to increase its renewable energy share to 50 percent and double the energy efficiency of existing buildings by 2030. These initiatives alone are driving significant progress toward a cleaner, more sustainable energy future.

Illinois

In Illinois, the Future Energy Jobs Bill (Public Act 99-0906) was enacted, amending key provisions of the Illinois Public Utilities Act and the Illinois Power Agency Act, with far-reaching impacts across energy markets in Illinois and beyond. This is the most significant piece of legislation enacted since the state restructured the electric industry in the late 1990s. The legislation also provides funding mechanisms for wind and solar installations, and modifies energy-efficiency programs run by utilities to spur greater investment in cleaner and distributed energy resources.

New York

Having been a leader in energy innovation and clean energy job creation for decades, New York is supporting clean energy and distributed energy development through policy and regulation rather than legislation. Microgrid development through the NY Prize program, solar energy development through NY Sun, and financing provided by the Green Bank are examples of how New York is partnering with the private sector to create new industries and new business models for providing energy services. The Regional Greenhouse Gas Initiative, Clean Energy Fund, utility efficiency programs investments, and customer programs round out a comprehensive program supporting clean energy development and job growth.

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BETTER WITH FEDERAL COORDINATION

While states need not wait on the federal government to advance their own energy policies and initiative, evidence over the past several decades suggests that states working in concert with the federal government will achieve more, faster, than individual states going it alone.

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