

The Politics of National Energy Policy Reform

David Spence, Associate Professor, Department of Business, Government & Society and Co-Director, EMIC



Professor Spence's research and teaching focuses on business-government relations and the regulation of business, particularly energy and environmental regulation. He received his Ph.D. in political science from Duke University, and his J.D. from the University of North Carolina.

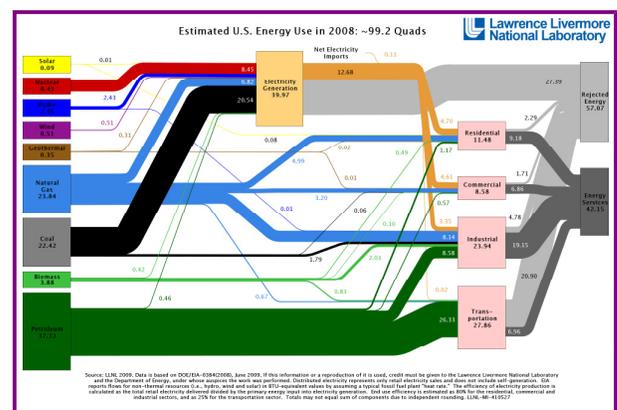
The Lieberman-Kerry energy bill unveiled last Wednesday represents an attempt to build Senate support for the passage of energy legislation. The politics of energy reform are particularly difficult right now, and there are good reasons to suspect that Congress will have a particularly difficult time passing the kind of transformative legislation that advocates of fundamental energy reform favor.

The Reform Impulse

It has been more than three decades since Congress, the president and regulators last sought to fundamentally change the way Americans produce and consume energy. During the last wave of reform, policymakers were motivated primarily by energy security concerns: namely, the price increases and oil shortages of the 1970s, and the widespread perception that the United States was running out of natural gas. Environmentalism, which was at its peak as a motivating force for legislation in the 1970s, provided an additional impetus for energy policy reform. The result was a large portfolio of legislation and other regulatory initiatives that collectively represented an attempt to drastically reduce the United States' dependence on oil and to steer the economy toward cleaner, more efficient energy alternatives. While this burst of regulatory activity did not lead to the kind of wholesale transformation of the American energy system for which some hoped, it did stimulate a great degree of change, including increased entrepreneurial activity in the energy sector, and improvement of both pollution control technology and the efficiencies of solar generators, wind turbines and gas-fired turbines and cogeneration facilities.

Nevertheless, in the early 21st century Americans continue to rely heavily on imported oil and coal-fired power. Of the roughly 80 million barrels of oil consumed daily in the world, Americans consume about 20 million barrels, about three-fifths of which is imported. Coal remains the dominant source of electric power in the United States, comprising about half of our total generating capacity. Renewable sources like wind and solar are growing faster than coal-fired generation, but they remain a tiny percentage of American electric generation. The lion's share of growth in electric generating capacity since the 1970s has been taken by natural gas-fired plants, which are relatively inexpensive to build, produce fewer pollutants per unit of energy produced than coal, and have benefited from advances in turbine design.

Estimated U.S. energy use in 2008.
Click to enlarge.



Over the last decade, increasing dissatisfaction with this state of affairs has provoked renewed calls for comprehensive and fundamental energy policy reform. We can discern three sets of objectives driving

the current wave of energy policy reform in Congress and the executive branch: environmental goals, including the reduction of greenhouse gas emissions; security concerns, including the reduction of dependence upon imported oil; and efficiency and reliability concerns, such as the desire to use energy efficiently or to maintain a reliable energy delivery system. At the same time, cost concerns are the primary constraint preventing legislative action to date.

Can we or should we bear the costs of reform now, such as higher energy prices and higher prices for energy intensive products? Will the benefits exceed the costs? Collectively, these questions have been the focus of a great deal of scholarly attention over the last decade or more. While that attention has not produced consensus on these cost-benefit questions, there is no shortage of support for the notion that the social, environmental and political costs of reliance on fossil fuels (particularly coal and oil) may be very great indeed.

The Prospects for Reform in 2010

Even if we assume that the logic of energy policy reform is sound – i.e., that the net benefits of strong action to reduce American reliance on fossil fuels are positive — distributional problems remain. Energy policy reform may yield positive net benefits to the world, but the world is not a unitary actor. Real action will need to be taken by a combination of government and private sector actors, both individual and collective. The U.S. government cannot simply throttle up or throttle down greenhouse gas emissions, oil imports or efficiency in consumption; rather, it must rely on law and regulation to steer private investment in favored directions, or to induce changes in production and consumption patterns.

Congress has enacted many *policy carrots* – tax incentives, subsidies and the like – in an attempt to induce change. It is the *policy sticks* from which Congress has tended to shy away. For example, we could regulate producers of greenhouse gas emissions, like vehicles and stationary sources. We could tax their emissions. We could impose a so-called “cap-and-trade” or “tradable permit” system, auctioning or distributing progressively fewer marketable permits to emitters over time. Or we could focus on consumers of energy, mandating that they purchase energy from less polluting sources (as would a national renewable portfolio standard, “RPS,” for electricity, or mandatory efficiency standards for vehicles, appliances and buildings), or require investment in smart grid technology so as to enhance electric grid reliability.

Some states (primarily, relatively left-leaning “blue” states) have enacted strong laws to address these issues. Several northeastern states have created a cap-and-trade system for greenhouse gas emissions called the Regional Greenhouse Gas Initiative. California has enacted AB32, statute which imposes limits on emissions within California. However, Congress has not yet been able to enact legislation containing these stronger measures.

In the summer of 2009, [the House of Representatives passed H.R. 2454](#), also known as the “Waxman-Markey bill.” Among other things, the bill:

- establishes a national RPS effective in 2012 (with an ultimate goal of requiring utilities to secure 20 percent of their electricity from renewable sources by the year 2020),
- requires the EPA administrator to promulgate regulations creating a tradable permit system for greenhouse gas emissions effective in 2012, (with an ultimate goal of reducing emissions to 17% of 2005 levels by the year 2050),
- requires a 65% reduction in carbon dioxide emissions from electric generating units by 2020, authorizes the EPA administrator to establish greenhouse gas emissions standards for new heavy-duty vehicles, and
- authorizes the Secretary of Energy to establish national building code energy efficiency targets

hand to oversee a program of peak demand reduction for electric utilities.

However, the ACES bill was pronounced “dead on arrival” in the Senate by various commentators. During the spring of 2010, Republican Lindsey Graham, Democrat John Kerry and Independent Joe Lieberman — known as the “Gang of Three” — worked to reconfigure the bill so as to increase its chances of Senate passage. Graham left the gang in May of 2010, leaving Kerry and Lieberman to unveil their bill on May 12.

There are good reasons to be pessimistic about the prospects for the enactment of national legislation mandating reductions in greenhouse gas emissions, or the use of cleaner energy sources. When studying Congressional behavior, political scientists often assume that (i) while members of Congress are motivated by a mix of goals, the desire to be reelected is preeminent among them; and (ii) voters are rationally ignorant — that is, they remain relatively uninformed about most policy decisions, and delegate the process of making informed decisions to their elected representatives.

Therefore, for each policy choice a legislator faces, including questions of energy policy reform, she must try to anticipate the electoral risk of her action alternatives.

That calculation, in turn, will depend upon several factors, including:

- (a) the legislator’s electoral vulnerability (the safety of the legislator’s seat and the reservoir of trust, or leeway, the legislator has developed among her constituents),
- (b) how salient the issue is to voters (how much voters know about the issue, and how likely it is that voters will become aware of the legislator’s choice),
- (c) voters’ preference intensity (that is, how important the issue to voters relative to other issues on which the legislator has taken a position), and
- (d) the traceability of the consequences of the vote, both negative (the risk of blame) and positive (the ability to claim credit).

All else equal, rational legislators tend to respond to the activated portions of their constituency, those voters to whom an issue is particularly salient or important.

Some contend that this dynamic gives relatively wealthy, organized, business interests disproportionate influence over the policy process. Speaking long ago about the role of interest group pressure in the policy process, [political scientist E.E. Schattschneider](#) said, “The flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper class accent. Probably about ninety percent of the people cannot get into the pressure system.” [Economist Mancur Olson offered a logical explanation for this perception](#), arguing that small, organized groups face fewer transaction costs when organizing and have more to gain from organizing to pressure government; hence, they will have an easier time being heard by government officials. When legislators attend to the interests of these highly motivated, better informed minorities, Congress can produce decisions that deviate from majority opinion, or from the fully informed preferences of the median voter.

On the other hand, we know from experience that organized interests can be overcome. The history of American environmental law has seen instances in which “political entrepreneurs” find a way to activate the general public so as to overcome entrenched local interests, producing major regulatory legislation. A groundswell of support for environmental protection produced one major piece of environmental legislation after another during the 1970s. The growth of mass media and popularization of the science of ecology helped make environmental issues especially salient to the general public. More importantly, voters ascribed to Congress the power and responsibility to remedy the problem of environmental pollution, since neither states [nor courts had been able to do so](#). In this setting, members of Congress concluded that it was to their political advantage to respond to this groundswell.

Why, then, haven't political entrepreneurs been able to activate the greater mass of voters in favor of fundamental energy policy reform today? If climatologists are nearly united in favor of the propositions that the earth is warming, and that human activity is significantly contributing to it, why are average voters so much less united in favor of those same propositions? If most economic analyses suggest that the costs of continuing to consume fossil fuels at current rates (in terms of energy security, climate change, etc.) are likely to be large, and likely to exceed the costs of combating climate change, why hasn't Congress enacted major energy policy reform?

The short answer is that both the issue environment and the political environment are different now than they were in the 1970s. Organized interests have even more at stake now than they did then, and the central issues in the energy policy debate are, technically and politically, more complex now than then. It was easier for voters in 1972 to see how the Clean Water Act would clean up their rivers and lakes than it is for today's voters to see how the ACES bill will improve their lives. Greenhouse gases are invisible, and they do their damage to humans indirectly. Moreover, members of Congress know that while their constituents will bear all the costs of the regulations they enact, the beneficiaries of that regulation will include others—future generations who cannot vote for or against today's legislators, as well as citizens of other countries who will benefit from avoided climate change. All of which makes a strong energy policy reform in 2010 much more difficult to produce than the regulation of the 1970s.

Of course, the only constant in politics is change: if the costs of reliance on fossil fuels or the benefits (avoided costs) of legislation become more evident and salient to voters over time, the political calculus could shift, improving the chances of the general public overcoming entrenched local interests, producing major energy legislation.

Photo from Plain Dealer files. Former reporter Richard Ellers dips his hand into the pollution on Cuyahoga River in the 1960s. Many say the 1969 fire was a catalyst for Congress to pass the Clean Water Act in 1972 and for the creation of agencies like the EPA.

