



# RENEWABLE ENERGY HAS BENEFITTED, BUT STUMBLING BLOCKS STILL EXIST

**D**espite severe economic recession, the renewable energy industry has seen significant expansion in the past year, due in some measure to the Obama administration's emphasis on forward-looking policies to promote the development of new renewable energy resources. Much remains to be done, however, before renewable energy will be in a position to compete with traditional forms of energy. The major impediments to the large-scale deployment of new renewable energy resources remain: The amount of time it takes for utility-scale projects to receive the necessary permits and approvals for development, the lack of available transmission facilities to convey the energy produced and the current shortage of available capital to finance the development of new renewable energy resources. The Obama administration has taken steps to address each of these issues, some of which have been more effective than others. Overall efforts continue to be hampered, however, by the absence of a comprehensive national energy policy designed to further the transition to renewable forms of energy. In the absence of such a policy, the industry remains subject to a

hodgepodge of uncoordinated and sometimes conflicting state and federal laws and regulations that fail to provide the requisite degree of consistency and predictability to achieve the full potential of renewable energy development.

The centerpiece of the Obama administration's efforts to promote the development of renewable energy production is the American Recovery and Reinvestment Act (ARRA), which has helped to offset the shortage of available capital to fund the development of new renewable energy resources. The primary objective of ARRA is to promote economic recovery through the creation and preservation of jobs, the

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investment in new technology and infrastructure, and the stabilization of state and local government budgets. Much of the \$787 billion in ARRA funding has therefore been allocated to state and local governments to implement programs designed to stimulate those sectors of the economy that will result in the greatest number of jobs in the shortest period of time. The Department of Energy accordingly has been allocated up to \$16.8 billion to provide direct grants for energy efficiency and research programs to promote greater energy conservation in building construction and transportation. A portion of the direct funding is allocated to applied research into biomass and geothermal technologies, but most of the support in ARRA for the development of new renewable energy sources is in the form of tax credits, grants in lieu of tax credits and loan guarantees, which must be utilized within a specific period of time before the authorization for such assistance expires. Despite the indirect nature of these incentives, they have provided a measure of support and stability for a number of projects that would otherwise not have been financially viable in the current economic climate.

Available tax incentives and loan guarantees are useless if the projects depending on such incentives cannot obtain the necessary approvals to commence construction before the end of 2010. The Obama administration has responded to the need to expedite the approval process by assigning additional personnel to review applications and by entering into agreements with state governments to coordinate review for projects that are subject to both state and federal jurisdiction. The federal Bureau of Land Management (BLM) has accordingly identified a fast-track list of 31 renewable energy projects located on federal lands (14 solar, seven wind, three geothermal and seven transmission) for expedited review and approval. The BLM also has established renewable energy coordination offices in California, Nevada, Arizona and Wyoming, to assist in the processing of applications for new renewable energy projects on public lands. The Department of Interior and the BLM also have entered

into memoranda of understanding with states such as California to seek ways to streamline the approval process for projects that are subject to review under both state and federal statutes and regulations. It remains to be seen whether these efforts will be sufficient or whether it will be necessary to further expedite the review process or extend the deadlines for utilizing tax credits and other incentives.

### Additional Facilities Necessary

The Obama administration is addressing the need for upgraded energy transmission facilities by funding research into smart grid technologies. The transmission grid can operate more efficiently and with greater stability by responding to energy demand rather than maintaining constant loads regardless of usage. The BLM and the United States Forest Service also have eased the regulatory process somewhat by designating energy corridors for new transmission facilities on federal lands within the eleven contiguous western states. Although additional studies will be required prior to the construction of new transmission facilities in the designated corridors, at least a portion of the planning is already complete, thereby hastening the ability to extend new transmission into remote areas that are suitable for the development of renewable energy resources.

As a further sign of the administration's resolve, the EPA has adopted an endangerment finding, according to which the emission of greenhouse gasses can be regulated as a pollutant. Although the endangerment finding applies specifically to emissions of greenhouse gasses from mobile sources such as vehicles, it nevertheless sets the stage for the EPA to adopt regulations restricting the emission of greenhouse gasses from a wider range of sources, thereby increasing pressure to implement less polluting renewable energy technologies. It remains to be seen whether the endangerment finding will withstand the challenges that have been mounted by a range of interests in the federal courts, but it is clear that the Obama administration is serious in its efforts to address the effects of global warming through the development of

new alternative energy sources.

Despite its efforts to date, the administration remains unsuccessful in its efforts to achieve new legislation promoting the development of renewable energy. In order to be successful, such legislation must establish, at a minimum, an aggressive national renewable portfolio standard and a mechanism for the implementation of a feed-in tariff.

### A New Standard

The renewable portfolio standard (RPS) will require utilities to obtain a portion of all energy sold to consumers from renewable sources. For example, California has established an RPS of 20 percent by 2010 and 35 percent by 2020. Although the national RPS need not necessarily be that high to be effective, it must be significant enough to be meaningful. In order to encourage the development of new renewable energy resources, new legislation also must remove barriers to the implementation of feed-in tariffs which are designed to provide a higher amount utilities must pay for renewable energy, which is more expensive to produce than energy generated from traditional fossil fuels. Current law does not provide for a national feed-in tariff, and restricts the ability of states to implement feed-in tariffs within their jurisdictions. Implementation of a feed-in tariff, in the short term, will establish grid parity between energy produced from renewable sources and energy produced from fossil fuels until such time as the cost of renewable technology decreases or the cost of fossil fuels equals or exceeds the cost of renewable sources. Absent legislation, the renewable energy industry will continue to struggle to achieve its full development potential in the short term.

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*Patrick Perry is a partner and chair of the land use and government relations practice group in law firm Allen Matkin's Los Angeles office. Perry, who is a LEED-accredited professional, focuses primarily on real estate, land use, environmental, natural resources and energy law. For more information, send e-mail to [pperry@allenmatkins.com](mailto:pperry@allenmatkins.com).*