

State Regulators Shape Energy Agenda

CARBON LOOMS LARGE // BY AL SENIA

WITH ENERGY COSTS STILL RISING AND energy regulations still in flux, industry regulators find themselves struggling to guide their states' energy policies during a period of great uncertainty. The nation's energy future looks more green, but the way to reach that path still lacks clarity. State regulators are focused on controversial issues as they balance the competing interests of utility companies, environmentalists and state and federal politicians. *EnergyBiz* recently sat down with seven state regulators to discuss evolving energy policies and the impact on the states. Their edited comments follow.

PARTICIPANTS

Tony Clark
North Dakota Public Service Commission

Thomas Wright
Kansas Corporation Commission

David Wright
South Carolina Public Service Commission

Rick Morgan
District of Columbia Public Service Commission

Dave Armstrong
Kentucky Public Service Commission

Lauren Azar
Wisconsin Public Service Commission

Matt Baker
Colorado Public Utilities Commission

ENERGYBIZ Has the Obama Administration made any real progress toward developing a national energy policy?

CLARK The 800-pound gorilla in the room is carbon and what's going to happen with that. And that's really what's driving a lot of the uncertainty. I think both the industry and regulators feel that you just don't feel like you have the information that you need to be able to make the decisions as regulators as far as guidance.

AZAR The monetization of carbon is probably the



Top row from left: Thomas Wright, Dave Armstrong, Matt Baker, Lauren Azar, Rick Morgan. Bottom row from left: David Wright, Tony Clark. Photographs by Gerry Lewin

most important unknown right now. I personally would prefer that Congress step in and actually come up with some sort of much more overarching type of regulation of carbon. Once we get a good sense as to how carbon is going to be limited ... we're then going to be able to start actually making some pretty significant decisions.





ARMSTRONG The Environmental Protection Agency seems to be moving faster than Congress, and some of those recent decisions in the EPA will challenge states like Kentucky and others, because for us to deal with nitrogen and sulfur oxide remediation at the levels recently prescribed is almost an impossibility. So we know it has to come, and it has to be something of a local input as well.

ENERGYBIZ Should Congress take a more active role in developing an energy policy?

CLARK It's a hard question to answer because I think the short answer is if Congress gets it right, I'd rather have Congress do it. I've thought some of the debate about cap-and-trade to a degree has been a little bit of a distraction because where the real action is coming is through EPA and a whole host of things. Not just on carbon, but also the regulation of the coal industry itself.

MORGAN The EPA would be the first to admit that they would much prefer to see Congress take action, and I feel very much the same way. If Congress gets it wrong, we could be worse off, but the EPA at this point would have to take action under the Clean Air Act, which is a rather blunt instrument. It is not well suited for solving these kinds of problems, especially a problem that's national and actually international. And the Clean Air Act is written in a way that involves basically moving state by state.

BAKER Between the actions of the EPA and some of the things that the FERC is doing right now, I think you've got the framework of what the future is going to

look like, and we can see that. The question is will we monetize carbon or won't we monetize carbon? I agree it's almost a sideshow because we're going to be treating some of these traditional resources very differently in the future than we are now. And I just think whether it's done through the EPA or done through Congress, we know what's going to happen and so now we as regulators need to start acting on it.

ENERGYBIZ What is the state of renewable energy

development right now? Should the federal government play more of a role?

BAKER Our legislature just upped our renewable standard from 20 percent to 30 percent; the state's largest utility, Xcel Energy, believes it can get there. A lot of it depends mostly on what the price of natural gas will be. As a state that has the potential to export a lot of renewables, we'd love to see a national renewable portfolio standard. I think, again, it needs to be flexible; it needs to be driven by the concerns of each individual state.



Rick Morgan
D.C. Public Service
Commission

DAVID WRIGHT We don't have the renewable resources in the south. We have no wind. We do not have the ability for solar. It would have to be backed up, which is not efficient. So that's why we're a heavy coal state, and that's why we're a heavy nuclear state. And so we think that a national RPS doesn't make a lot of sense because we would be a wealth-transfer region.



Lauren Azar
Wisconsin Public Service
Commission

CLARK North Dakota's been ranked as the highest wind potential state, so wind is our business, and business has been good the last few years. And we've gone from literally zero megawatts of commercial energy in about eight years to 1,300 megawatts. And it's because we have amazing capacity factors. Now having said that – and this will sound a little odd coming from somebody from a wind-rich state – I tend to not be a big fan of renewable portfolio mandates because I think it asks the wrong question, which is to assume that legislatures know exactly what the right percentage mix of generation resources is. It's a really political decision.



David Armstrong
Kentucky Public Service
Commission

ENERGYBIZ Won't mandates spur development?

CLARK Oh, it does spur development, but what I would prefer is that the environmental regulators set the rules and say, "Here's what you have to get to. Now you go figure it out." It's going to be each region of the country figuring out what makes sense for them at the lowest-cost fuel.

AZAR There's two reasons to have an RPS. Number one, to support the green economy so to speak, or number two, to jumpstart our efforts to get to less carbon emissions. If the goal is to get to less carbon emissions, do you need to take the baby step with regard to RPSs, or can you actually take the full step into carbon limits?

TOM WRIGHT By 2010, we had 10 percent of our power, about 1,100 megawatts, produced from wind. And we're probably on track on a voluntary basis to do 20 percent by 2020. But it is a little bit disconcerting when you think about the fact that if this is a standard, it's a standard that had no thought to it other than the fact that it made a wonderful political slogan at one point in time. So I'm a little skeptical about the RPSs and some of the goals of things.

DAVID WRIGHT It makes more sense to go toward a clean standard for energy independence or whatever caveat you want to put it under, than to have a renewable standard.

NewsFlash

HIRING FAULTED

Consumer advocates are complaining about a move by Duke Energy to hire Scott R. Storms, the general counsel at the Indiana Utility Regulatory Commission. The consumers groups said it raised questions about the relationship between utilities and state regulators, according to a report in the *Indianapolis Star*.

of a coal plant that was permitted probably six years ago.

CLARK There are re-licensing activities, and there are things that are being done to ensure that our existing fleet of nuclear especially, and in some cases, coal, is continued.

ENERGYBIZ Do you think the Gulf oil spill earlier this year made regulatory legislation or a cap-and-trade policy more or less likely?

BAKER I think there will be major legislation. I don't think it will be cap-and-trade. I think ultimately you

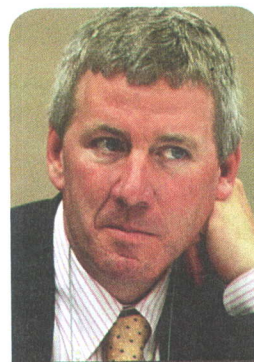
ENERGYBIZ What is the outlook for nuclear?

DAVID WRIGHT It's already in South Carolina. We have two plants that are approved right now. We just approved them and they're under construction.

AZAR In Wisconsin there's no need right now. We're actually just finishing up the construction



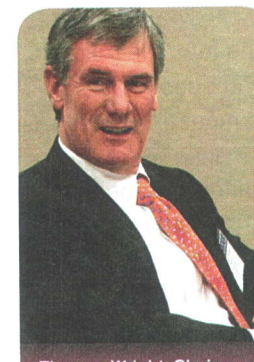
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Colorado Public Utilities
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Tony Clark
North Dakota Public
Service Commission



Thomas Wright, Chairman
Kansas Corporation
Commission

may end up with something closer to what Senator Lugar has proposed, which is this broad portfolio approach, or you'll end up with a national RPS, very good efficiency standards.

CLARK I think the more interesting question is will then there be an energy-only type policy that's able to pass, and that's really a question of whether the environmental community feels like they want to get behind that. And I don't know the answer to that, whether they'll say no, we have to price carbon or we're not going to have anything, with the understanding that if you pass something it probably takes carbon off for quite a few years.

TOM WRIGHT Isn't there political pressure to pass something dealing with the issue? I don't know what it would be, but I sense that there's a large pressure to do something.

CLARK If I had to guess, I think the politics are divided such that it's very tough to get anything substantive passed. Maybe what you get is a couple years' reprieve from EPA regulation to buy time.

ENERGYBIZ Is the lack of any Congressional action going to force EPA's hand?

ALL Yes.

BAKER And it may not be carbon specific — it may be air transport rules, it may be coal sludge processing. All of these things will add up to a more expensive and more top-down approach to deal with carbon.



Leadership
Roundtable