

Chinook or Polar Vortex? Canada and the Biden Energy Plan

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The global energy sector is in a state of complex transformation in response to initiatives and policies that address climate change. One trend is the long-term directional shift to incorporate and deploy different technologies throughout the energy sector, including hydrogen fuel, small modular nuclear reactors (SMR) and battery storage.

President Joe Biden and Vice President Kamala Harris campaigned on an energy plan that proposes sweeping policy and regulatory changes from the approach adopted by the previous Trump administration. President Biden moved quickly on January 20, 2021 through executive orders that:

- revoked the permit granted to TransCanada Keystone Pipeline, L.P. in March of 2019 to construct, connect, operate and maintain pipeline facilities at the international border of the United States and Canada (the Keystone XL pipeline); and
- ordered the heads of all federal agencies to review certain regulations and policies that are inconsistent with the President's new policy objectives regarding climate and the environment.

On January 27, 2021, the President executed additional executive orders that:

- established a council of advisors on science and technology that includes an advisory function on energy;
- directed the Secretary of the Interior to review siting and permitting processes on public lands and in offshore waters to identify steps that can be taken to increase renewable energy production with the goal of doubling offshore wind by 2030; and
- established an interagency working group to coordinate the identification and delivery of federal resources to "revitalize the economies of coal, oil and gas, and power plant communities."

Notably, the same executive order issued on January 27, 2021 directed U.S. federal agencies to adhere to the requirements of "Made in America Laws" (known as Buy American in making "...clean energy, energy efficiency, and clean energy procurement decisions."

In addition to policy and regulatory changes, the new administration is proposing, subject to Congressional approval, \$2 trillion in spending to achieve climate change objectives that includes \$400 billion over 10 years for clean energy and innovation.

The United States appears to be pivoting towards new policies and a comprehensive regulatory and advisory framework focussed on climate change. The new administration's objectives may be significantly enhanced through congressional support with federal funds.

Canada previously announced federal funding for hydrogen and an action plan for SMRs without any specified financing commitments. The activity in the United States, both current and proposed, presents potential opportunities and challenges for participants in Canada's energy sector. For example, Canada may benefit through spin-off opportunities from U.S. projects and access to new technologies in order to meet its own climate change objectives. However, an accommodating U.S. federal regulatory structure paired with the potential power of U.S. federal spending and "Buy American" policies may severely strain Canada's ability to attract and retain investment capital, intellectual and technical expertise to support its own hydrogen, SMRs and battery storage industries and initiatives. An additional complicating domestic factor in Canada is that the procurement of new electrical generation (and its associated technology) falls within the jurisdiction of Canada's provinces, a number of which have ceased large-scale procurements for reasons that vary by province.

The new U.S. energy policy may act as a catalyst, inhibitor or fall somewhere in between with respect to its effects on Canada. Canada's policy and fiscal challenge, at both the federal and provincial levels, will be to determine its response and what investment it is prepared to make.

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