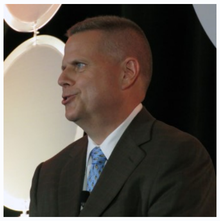
EBA Annual Meeting 2017

Ex-Trump Transition Chief: Energy Efficiency 'Had a Good Run'

By Rich Heidorn Jr.

WASHINGTON — Energy efficiency now accounts for about 1.9 million jobs in the U.S., with double-digit growth projected for 2017.

So how can the Trump administration reconcile its pledge to create jobs with the president's proposed budget cuts to the Energy Department's research programs, which have been credited with helping to improve energy efficiency technologies?



"The EE folks have had a pretty good run for the last eight years and it's time to rebalance a little bit," energy lobbyist **Michael McKenna** told the Energy Bar Association's annual meeting last week.

"You look at the DOE numbers, it tells you everything you need to know. $2.4 billion goes to EE and $670 million goes to the clean coal office and $430 million goes to the nuclear [power] industry [research]," said McKenna, president of MWR Strategies and former lead of President Trump's transition team for the Energy Department. "The vibe is, let's rebalance and to the extent possible take the government out of the equation. You can think that's a good idea or a bad idea. But that's the idea."

(Lowell Ungar, senior policy advisor for the American Council for an Energy-Efficient Economy, cites somewhat different figures for fiscal year 2016. The Office of Energy Efficiency and Renewable Energy received $2,069 billion, but that includes both efficiency and renewables: Nuclear received $986 million, which includes funding for research beyond power plants; fossil fuels — coal, oil, etc. — $632 million.)

"Of course, how much it makes sense to spend in a given area depends on the potential impacts of the technologies, on how developed the industries are and thus able to support their own research, and on DOE's capabilities to manage effective projects in the area," Ungar said.)

McKenna, a registered lobbyist who has represented Southern Co., Koch Industries and GDF SUEZ, resigned from the official transition team last November after Trump announced that no registered lobbyists would be permitted on the "landing teams" that met with agency officials.

McKenna and **Shannon M. Bañaga** — another lobbyist whose role on the official transition team was cut short by Trump's directive — recounted their experiences as members of the transition team and their predictions on the next four years for a luncheon audience. Thomas J. Pyle, president of the Institute for Energy Research and former lead of the Energy transition team, canceled his appearance because of an illness.

"What that really meant was that the lobbyists — I think were two or three of us — got about quadruple the amount of work, and the official transition and Tom Pyle, our colleague, was able to meet with DOE … and those of us unsavory lobbyist-types, we got to meet with the rest of the industry and hear about the issues that" concerned them, she said.

"I can't express to you how many man-hours were put into very specific ideas about what FERC should be working on in the next couple years; what DOE should and shouldn't be working on," said Bañaga, an attorney who worked previously for both FERC and Energy and now serves as TECO Energy's director of federal affairs.

Slow Start

McKenna acknowledged the new administration has been somewhat slow in filling vacancies.

"I know from the outside things look confused," he said. "Truth to be told, it isn't any worse than any other transition. The one thing that [they] had a little trouble with is the switch out from the campaign to post-election. And that has shown up in personnel. We have about 497 appointments throughout the federal government that require Senate confirmation. As of four or five days ago, we had about 43 guys in the queue.

"So we're a little slower than everybody else. It will probably get better as it goes along. But in all fairness, [he] came in with a Supreme Court justice waiting to happen so that absorbed a lot of mindshare."

'Ignore the Circus'

He had advice for those troubled by the Twitter-happy president. "Ignore the circus," he said. "The president is a fellow who's used to being on the camera and in the news and chewing up a lot of mindshare. And the media has not yet figured out that sometimes the best thing to do is just [ignore him]. I come from a large Irish Catholic family, and we have a tendency to say, 'Just give him the nod. Whatever you say, boss.'

"Ignore the circus. Pay attention to what … he actually gets done. And if you think about that, everything that's been done is pretty much everything you would expect that was going to be done. … From the first time he articulated … what he wanted to do on energy, he hasn't wavered a lot. … It's been pretty consistent."

Electric Role in Infrastructure Bill

Responding to an audience question, Bañaga said utilities are unlikely to seek federal funding for capital expenditures in the infrastructure legislation Trump has promised.

"So much of what we [utilities] do is critical infrastructure. From the pipes and wires … we tend to like paying for our own stuff. That's part of the business [model] and I don't think we're going to be very boisterous on saying that we want fed government money for an infrastructure project."

She said the industry would support efforts to increase workforce training in "STEM" fields — science, technology, engineering and mathematics — in the bill and perhaps cybersecurity.

"Depending on what we're asked to protect against and the standards we're going to be held accountable for, cyber and physical security, I think that might be one that gets rolled into an infrastructure package."

"We're going to get infrastructure built," McKenna promised. "The president didn't run on tax reform. He ran on infrastructure. We're going to build infrastructure."

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States Acting on Emissions Because Markets Can't Handle Them

By Rory D. Sweeney

From left to right: Kathleen Spees, Brattle Group; Jeffrey Dennis, Akin Gump; David Dardis, Exelon; and Abe Silverman, NRG. | © *RTO Insider*

WASHINGTON — They couldn't agree on much except for this: Today's electricity markets don't handle environmental externalities well because they're not designed to.

That was the rare moment of consensus during an otherwise fractious discussion about the growing pressures of state policy initiatives on FERC-regulated markets at the Energy Bar Association's annual conference last week.

Kathleen Spees of The Brattle Group said that state and provincial actions — such as Ontario's goal of reducing CO_2 emissions by 80% below 1990 levels by 2050 — will "fundamentally change the nature of our resource mix, how plants are built [and] how they're operated."

"Markets today on their own won't achieve that, and so that's why we're seeing states basically taking different policy measures to achieve those objectives," she said. "But my question is, 'Can the markets help to support and achieve those ends?' And I think the answer is, 'they can.' I think it will be hard to get there."

Spees clarified that her perspective was based on economics, rather than the legal issues on which much of the discussion at the two-day conference focused.

Competing with a concurrent session on gas-electric coordination, the panel attracted the majority of attendees, requiring the addition of several rows of extra chairs in the back of the room.

Moderator Jeffrey Dennis, senior counsel with Akin Gump Strauss Hauer & Feld, teed up the discussion by noting that the Supreme Court has ruled that retail and wholesale markets are so intertwined that a state can impact the wholesale market without violating federal jurisdiction. "These markets are not hermetically sealed," he said.

Nick Martin, a manager of environmental policies with Xcel Energy, opened the discussion by explaining how Minnesota requires his company's integrated resource plan to factor in two carbon dioxide externality values: one that represents the potential future impact of carbon regulations on Xcel's system and another that represents the potential future damages from climate change. The first ensures the utility isn't making infrastructure investments without considering the potential impacts to customers of future regulatory costs, while the second takes a broader view.

"Sometimes, those are divergent," Martin said. "These are both values used in planning. Neither of them represents a carbon price that would go directly into wholesale markets at the RTO level."

Xcel is currently seeking regulatory approval to update those externality values, Martin said, but the 2007 regulatory commission order under which the utility operates values carbon emissions between \$9 and \$34 per short ton. The valuations help determine which planning alternatives are the best fit for Xcel's 15-year outlook.

He contended that the valuations aren't like the zero-emissions credits recently approved in Illinois and New York because they don't impact FERC-regulated electricity markets.

"They won't directly pay a higher price to our nuclear plants, but they will strengthen the rationale for retaining nuclear, retiring coal plants [and] adding renewables," he said.

Exelon's David Dardis later argued on the panel that ZECs also don't impact RTO markets. He pointed to FERC's 2012 ruling regarding the Western Systems Power Pool, which concluded that stated renewable energy credits are separate commodities from capacity and energy (ER12-1144).

"So long as the REC is unbundled or sold independent of wholesale electric energy, the RECs are not payments in connection with wholesale sales and therefore fall under state jurisdiction," Dardis said. "ZECs are clearly sold independent of energy and capacity."

NRG Energy's Abe Silverman disagreed, arguing that the credits intrinsically intrude on FERC's jurisdiction over wholesale ener-

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What would it include? "Anything that involves concrete," he responded.

Changes at FERC?

Another questioner asked whether FERC was likely to be subject to the Trump requirement that agencies eliminate two regulations for every new one.

"I work in front of a lot of federal agencies like a lot of you do," McKenna said. "The bottom line is, FERC process is, FERC people are the best in the government. So are the [FERC] nominees … going to want to take a hard look at things? Of course. Are they going to wander in knocking things over? I don't think so."