

# What's Next for Renewables at the Federal Level?

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# Agenda

- Review of 2005-2010
- Outlook for 2011-2015
  - **Congress**
    - Tax Policy
    - Renewable Portfolio Standards
    - Climate Change/Greenhouse Gas Emissions
  - **Executive**
    - White House
    - DOE Loan Guarantee Program
    - FERC VER NOPR
    - FERC Transmission Planning
    - BPA Environmental Curtailment Policy
    - Columbia River Treaty
  - **Judicial**
    - Private Nuisance Litigation

# 2005-2010: The Best of Times

- 2005: Congress increases solar ITC from 10% to 30% and creates Section 1703 Loan Guarantee Program
- 2005: EU cap & trade program begins
- 2007: Supreme Court decides Mass. v. EPA
- 2008: Obama elected plus Democratic Congress

## 2005-2010 (cont.)

- 2009: Recovery Act
  - PTC projects may claim ITC
  - Extended place-in-service deadlines for PTC and ITC
  - Treasury grants in lieu of tax credits (Section 1603)
  - New tax incentives for manufacturing of renewable energy technology in the U.S. (e.g. solar panels, wind turbines) (Section 48C)
  - Section 1705 DOE Loan Guarantee Program
- 2009: Waxman-Markey passes the House; Cap & Trade and RPS appear within reach
- Courts entertaining idea of nuisance liability for GHGs

# Congress

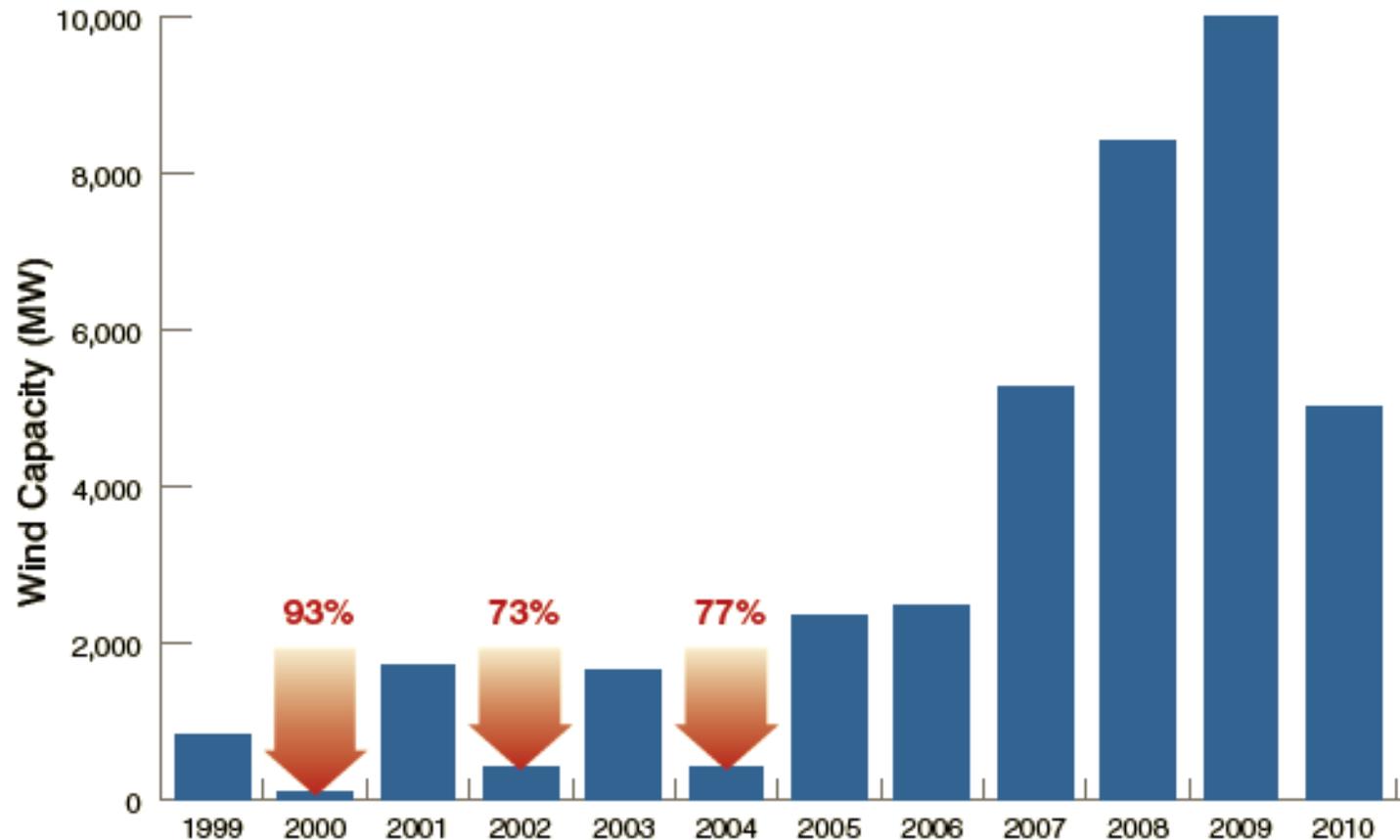


# Current Tax Policy

- **Wind:**

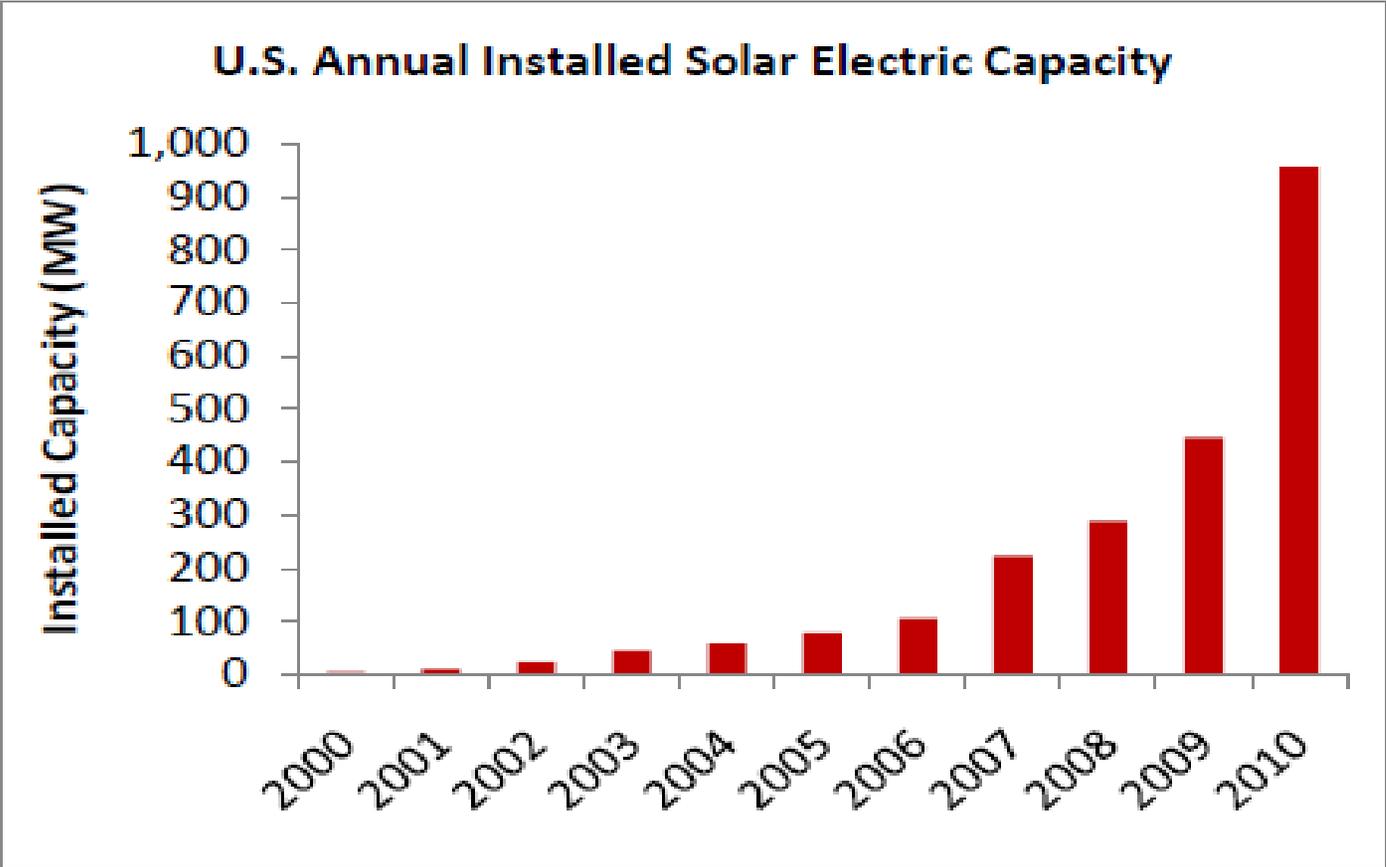
- PTC of 2.17 cents per/kw expires for projects not placed in service by end of 2012; slowdown has already begun
- Can elect to receive a 30% ITC instead of the PTC
- Can elect to receive 30% cash grant (for projects placed in service by end of 2012, where construction began before the end of 2011)
- All of the above expires for projects not placed in service by 12/31/12
- DOE loan guarantees for wind production or manufacturing of wind components

# Unpredictable PTC Extensions Stymy Investment



# Current Tax Policy (cont.)

- **Solar:**
  - No PTC
  - 30% ITC expires at the end of 2016; thereafter 10%
  - Can elect to receive 30% cash grant (for projects placed in service by end of 2016, where construction began before the end of 2011)
  - DOE loan guarantees for large solar facilities or manufacturing of solar components



Source: SEIA

# Arguments in Favor of Extending Tax Incentives for Renewables

- Small, perhaps even positive, net impact on the Treasury (says GE)
- Renewable energy tax expenditures only recently eclipsed fossil fuel tax expenditures
- Jobs

# Obstacles to Extending Tax Incentives

- Republican-led House, with Republicans likely to take Senate next year
- Two leading debt reduction proposals would cut PTC, ITC, Section 1603 Grants, and DOE's Section 1705 Loan Program
- Budget Control Act of 2011
  - Joint Select Committee of Congress
  - Requires vote on Balance Budget Amendment to Constitution

# Renewable Portfolio Standard

- Clean Energy Standard (CES) now in vogue, but Congressional action unlikely
- Even Waxman-Markey only created a floor, no national uniformity
- RPS rules will continue to be made at state level = inconsistency and “stickiness” in the REC market

# Attack on EPA Climate Change Efforts

- Congressional Republicans take aim:
  - Interior, Environment and Related Agencies appropriations bill (H.R. 2584) currently before the House
    - Prohibits EPA regulation of GHG for one year
    - Reduces EPA funding by 18%
- Democratic Senate and Obama will stave off significant rollback through the end of next year, but then?

# Executive



# White House

- How hard will Obama fight for renewables?
- Will he continue to support nuclear?
- Where will he stand on coal?

# DOE Loan Guarantee Program

- Section 1705 loan program:
  - March 2009-May, 2011: 19 loan guarantees or conditional commitments, totaling \$11 billion
  - Expires September 30, 2011; no longer accepting applications
  - Some investments may still be eligible for the 1703 Loan Guarantee Program, which recently received additional Congressional funding

# FERC Variable Energy Resource NOPR

- Purpose is to help integrate variable energy resources, particularly wind. It would require:
  - transmission providers to offer intra-hour scheduling
  - VERs to provide meteorological and operational data to transmission providers
  - transmission providers to offer regulation service

# Transmission Planning – Order 1000

- Process must consider public policy
- Inter-regional planning may help spread costs over larger geographical region
- What about BPA?

# BPA Environmental Curtailment Policy

- 3,400 MW of wind is connected to BPA transmission system; expected to double in next few years
- Spring run-off causes increased TDG if spilled, but some spill necessary for fish passage
- May 13, 2011: BPA adopts redispatch protocol on interim basis (until March 30, 2012)
- Wind producers losing money on PTC and REC; have filed complaint at FERC

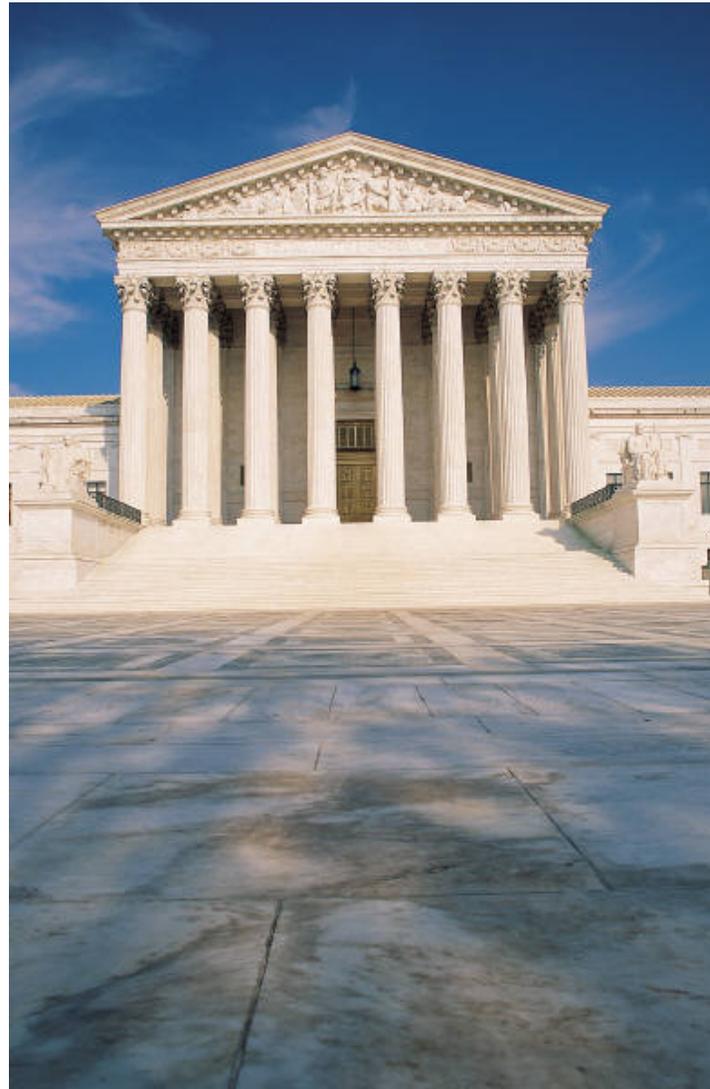
# Columbia River Treaty

- **1964:** Treaty implemented to coordinate flood control and energy production
  - Canadians built storage dams in exchange for share of enhanced U.S. power production
  - Resulted in more generation and Intertie to CA
- **2024:** Earliest date that termination can go into effect, upon 10 years' notice
  - Whether terminated or not, flood control operations change in 2024 to “Called Upon” model
  - U.S. will get less flood control and pay more

# Interaction Between CRT and Wind Production?

- Under “Called Upon”--
  - Minimal changes in generation forecasted, although some shifting of generation from spring or summer to winter
  - Might help firm wind in winter and reduce need for future BPA environmental curtailment in the spring and summer
- If terminated, Canada no longer receives ½ of downstream power benefits
- What if terminated and replaced with significant different operating regime?

# Judicial



# American Electric Power Co. v. Connecticut

- In Mass. v. EPA (2007), Supreme Court moved GHG regulation forward
- In American Electric Power (June 2011), Supreme Court overturns Court of Appeals, 8-0:
  - Federal common law nuisance claims based on GHG emissions are displaced by the Clean Air Act
  - Passed on deciding whether the Clean Air Act preempts state nuisance claims
- Next wave of GHG litigation– challenges to new EPA regulations

# Summary

- Wind: meet 12/31/12 construction deadline; continue transition to private capital markets
- Solar: strengthen political support between now and 2016 expiration date; accelerate transition to private capital markets
- Expect major tax reform; be prepared to make economic case for renewables
- Don't expect any help from federal climate change/RPS legislation for at least 5 years

# Potential Paths Forward

- Technology
- Policy
- Economic recovery

# For More Information:

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