An Electric Storm: The Anti-Carbon Energy Policy

In Vermont and across the Northeast, there is an effort to supply the grid entirely with renewable energy and replace oil and gas used for heating and transportation with “decarbonized" electricity. This energy policy has gained wide acceptance as a “solution” to climate change and is behind the push for more heat pumps, electric cars, home chargers, and batteries. Vermont’s Comprehensive Energy Plan seeks to eliminate 10% of the combustion engine vehicles on Vermont roads by 2025, replacing them with 50,000 new electric cars. Similarly, there are plans to install 90,000 cold climate heat pumps over the next five years in Vermont homes and businesses currently using oilheat and propane.

While these lofty goals are unlikely to be realized, it is still a significant cause for concern. This all-electron policy, the so-called “beneficial electrification” strategy, is nothing short of an existential crisis for companies that sell liquid fuel. Boston Consulting group released a study that predicts 80% of the motor fuel retailer network will be "*unprofitable in 15 years.”* We are particularly vulnerable in Vermont, where state government, regulators, environmentalists and electric utilities are in solidarity in the pursuit of an all electric energy policy. The Vermont’s Public Utility Commission (PUC) is no longer guided by a least-cost analysis when approving wholesale power purchase contracts. Given the ambitious renewable energy goals established here in Vermont and across the Northeast, the increasing likelihood that key emission reduction benchmarks will not be reached, and the inevitable legislative mandate that will give these goals the force of law, we should anticipate legislation in the next five years that would penalize, limit or even ban combustion of fossil fuels, in thermal applications and in transportation.

Below is a summary of Vermont initiatives focused on taxing or eliminating fossil fuels.

GWSA

The Global Warming Solutions Act (GWSA) would give Vermont’s emission reduction goals the force of law. Legislation in the Senate (S.173) and House (H.462) did not receive a formal vote in 2019 but some version of this policy will be considered in 2020. The legislation would require that carbon emissions drop by 25% below the 1990 level. If this doesn’t happen by 2025, anyone “aggrieved” by climate change could bring a civil suit against any entity, get an injunction, and be paid punitive damages as well as court costs and attorney’s fees.

Does this mean a fuel supplier could be sued for delivering a legal product?
Yes, according to the Office of Legislative Counsel.

100% in a Decade

The Vermont’s Comprehensive Energy Plan calls for 90% renewable energy across all sectors by 2050. The environmental lobby claims that this goal lacks teeth and is not ambitious enough. Legislation is being written that would ***require*** Vermont to be 100% Renewable by 2030.

Fossil Fee-Bate
Another proposal to boost sales of electric cars and heat pumps is through the utilization of a fee-bate system. Vehicles with low MPG would pay a higher registration fee and that money would then be used to incentivize sales of electric vehicles. Similarly, a fee-bate could be attached to sales of oil and gas burning heating equipment with the money funding conversions to heat pumps. The PUC is studying this idea and will issue a report to the Legislature in December. The PUC is also trying to determine how EV owners should pay into the transportation fund and whether electric utilities should charge a tariff for selling electricity for transportation.

TCI
The Legislature will likely approve the adoption of the Transportation and Climate Initiative (TCI), an energy policy designed to shrink the use of gasoline and diesel fuel. TCI is a collaboration between 12 northeastern states that want to reduce greenhouse gas emissions from the transportation sector. The program intends to cap transportation emissions by requiring "prime suppliers" of motor fuels to purchase allowances when they sell more than the cap allows. It's not clear who the obligated party or "prime supplier" is under the still developing proposal. In many ways, this is a more complicated carbon tax for motor fuels. The twelve states hope to have a plan in place by December and enacting legislation in 2020. Early projections are that the allowance would cost between $5 and $18 per ton, which is approximately 5-cents to 18-cents per gallon. At current consumption this would give legislators in Montpelier between $20 to $75 million to spend on EV incentives— or anything else.

All Fuels
Another working group has convened to create an "All Fuels Efficiency Utility." At least a half dozen summer study committees have discussed similar proposals over the past 15 years. This time might be different. That's because the work is required by law (Act 62) and is under the jurisdiction of the Vermont Public Utility Commission. This is the same regulatory agency that created Efficiency Vermont twenty years ago. That action led to more than $600 million in fees on our electric bills in order to reduce electricity consumption. However, the goal is different now. Instead of using less electricity, the plan is to increase it by using more electrons for heating and transportation. The Public Utility Commission is expected to inform the Legislature how to design an entity that can accomplish that goal and reduce sales of oil and gas. The PUC is also tasked with coming up with a way to pay for this new program, which will most likely be a new tax on heating oil, propane, gasoline and diesel. This report and recommendation will be issued in January and provide a backdrop for legislation to create an 'All Fuels' utility and a tax on fuel we sell to pay for it.

EV Incentives
The Legislature and the Governor approved $1.1 million in funding to help low and moderate income Vermonters purchase or lease all-electric vehicles earlier this year. Expect more incentives in 2020. Vermont has already granted more than $1 million for 30 charging stations, including Level 2 (four-hour charge time) and Level 3 fast charging (20-minute charge time) stations. The new charging stations will join the existing 26

Level 3 fast charging sites and 191 Level 2 charging sites across the state. The Public Utility Commission is also examining how to regulate electricity sold for transportation with the intention of making it easier for commercial enterprises and utilities to dispense electrons for EV batteries. PUC Chairman Anthony Roisman recently declared that a "wartime" effort is needed if Vermont is ever going to meet its goal of reducing carbon emissions from transportation.

Excise Tax
The Senate Transportation Committee will consider raising the state excise tax on gasoline and diesel fuel in an effort to bolster the struggling Transportation Fund. In 2019, there was an effort to raise the excise tax by 5-cents a gallon and divert the money for EV incentives rather than road repairs. Meanwhile, the Vermont League of Cities and Towns backed a proposal that would also raise the tax by 4-cents a gallon and steer the money to towns so they that can fix local roads.

Act 250 Climate Criterion
Lawmakers working on Act 250 reforms have proposed a “carbon neutral” requirement. A developer or a business will not be able to get an Act 250 permit if the project is not carbon neutral, either through its building practices or through the purchase of carbon offsets. Either option will be prohibitively expensive and would likely defeat countless housing and commercial developments. The House Natural Resources Committee spent most of 2019 studying Act 250 reforms and will be back in 2020 to finalize.

Infrastructure Ban
The legislature will also consider ways to make it more difficult to store and transport fossil fuels, picking up H.51, which bans all new fossil fuel infrastructure. While there are exemptions for tanks connected to buildings and tanks connected to fuel pumps, construction of new underground and aboveground bulk storage facilities would be banned under the law as drafted.

Carbon Tax
At the 2019 Renewable Energy Vermont Conference, Burlington Mayor Miro Weinberger announced his support for a carbon tax that would raise the cost of gasoline, diesel, oilheat and propane. The tax would begin at $30 per metric ton and gradually increase to $170. This is translates into 30-cents a gallon and tops off at nearly $1.70 a gallon tax on heating and motor fuel. At current rate of consumption, this would raise nearly $200 million. At the high end, this would create a $1 BILLION new tax on Vermonters. The money would be "returned" to Vermonters in the form of a dividend check.

Net Zero
Burlington has declared a climate emergency and pledged to be Net Zero by 2030. The city is 95% heated with natural gas. They hope to convince the owners of all of these natural gas heated buildings to install cold climate heat pumps within the decade.

Expect similar declarations and efforts in local planning and zoning to focus on limiting of fossil fuel combustion.

Now What?

The challenge for those in the liquid fuel business is to identify the fallacies with the all-electron solution to our energy future. The complications inherent in manufacturing and disposing of lithium-ion batteries, the lack of security and reliability of the grid, the value provided by the combustion heat, these points need to be communicated far and wide. Electricity makes up just 17% of the energy we need in Vermont. Fossil fuels provides the rest. In order power up our economy without oil and gas, there would need to be a dramatic increase in electricity production. And since this is required to be renewable energy, it won't come cheap. These facts are not disputed, but they are overlooked in a political environment that is in a hurry to eliminate the fuel we sell. The cost argument is being met head on with the green youth lobby, the Extinction Rebellion and other powerful political forces that believe the proliferation of carbon combustion as the most pressing problem facing the world.

2020 Regulatory Issues

IFTA IRP CHANGES

The DMV is changing how carriers and drivers log miles and pay taxes on diesel and gasoline. New software will be rolled out in the spring for International Fuel Tax Agreement (IFTA) filers registered in Vermont. The system will make it easier report and pay taxes for carriers. The new software also incorporates the International Registration Plan (IRP), the reciprocal agreement that authorizes the proportional registration among the states. The software will also be how Vermont's gasoline and diesel taxpayers file their monthly statements.

Overweight Permits

VFDA is working with a broad coalition to find a better way for trucks greater than 24,000 pounds to legally travel on Class 2 and Class 3 roads. Currently, the permit process is controlled by individual towns and is wildly inconsistent. In several dozen Vermont towns, trucks need to pay the annual $5 fee (or $10 for an entire fleet) for the right to pass. Vermont is the only state in the country that has this type of system. Fuel dealers, trucking companies, tour bus operators, logging firms, and milk haulers are all in agreement that this two decade old system is not working and needs to be scrapped. Representatives from the Department of Motor Vehicles, Commercial Vehicle Enforcement, and the Vermont League of Cities and Towns also stated the system can and should be improved.

Entry Level Driver Training
On February 7, 2020, federal regulations will require anyone applying for a Class A or Class B commercial driver's license (CDL) to complete a new program of instruction before taking the test at the DMV. This also goes for anyone upgrading to a Class A or adding a hazmat endorsement. This training curriculum includes both theory and behind the wheel requirements, and must come from a training provider registered by the Federal Motor Carrier Safety Administration (FMCSA). If this sounds like another challenge to hiring new drivers, you are correct. On February 7, 2020, if you do not prove that you have taken a certified driving training course, you will not be able to take the CDL test. VFDA, VPA, VRGA, VTBA, and AGC are all working on developing a training program that will make compliance with this new federal regulation easier.

Clearinghouse
If you employ someone with a CDL, you must register with FMCSA's Drug and Alcohol Clearinghouse before January 6, 2020. This is the new electronic system for background checks to make sure current and prospective employees are not prohibited from getting behind the wheel of a truck. Employer use of the Clearinghouse is required for pre-employment CDL driver record investigation, annual drug and alcohol investigations for all current CDL employees, and to upload driver violations. It is highly recommended that employers register now rather than wait for the January 6, 2020 registration deadline.

Hours of Service
The Federal Motor Carrier Safety Administration (FMCSA) is one step closer to changing hours of service (HOS) regulations. These changes would lengthen the maximum distance limit and increase on-duty time for a CDL driver. Under the now published proposal, the distance a driver could travel under the short haul exception would lengthen from 100 air-mile radius to 150 miles. In addition, the maximum daily on-duty status for short haul drivers would increase from 12 hours to 14 hours. The changes would also eliminate the electronic HOS recording requirement for drivers who remain within 150 air-miles from their work reporting location at the start of their daily shift. The proposal also extends the 14-hour maximum on duty time for up to three consecutive hours to allow a single off-duty time break ranging from 30 minutes to no more than 3 consecutive hours (provided the driver has at least 10 consecutive hours off duty before the start of his or her next duty period). This means wait times at terminals for up to three hours would not count towards the 14 hour maximum on duty time provided the driver goes off-duty. *This is not law yet!* However, the Trump Administration is expected to look favorably on this ruling and could decide to adopt the proposal as early as January.