INTERSTATE Oil & Gas COMPACT COMMISSION

On the hill

With the election behind us and the lame duck session complete, a clearer picture is emerging of the 110th Congress and the Washington political landscape for the next two years. We are beginning to learn who will be in charge of the various committees and their priorities. Before taking a closer look at that, let's review what happened on the energy front in the Decenber 5-9 lame duck session. Both houses adjourned indefinitely in the early hours of December 9.

The Lame Duck

Produced Water. In September, the IOGCC had the opportunity to testify in support of HR 5110 – the More Water for More Energy Act of 2006. Introduced by Rep. Mark Udall of Colorado, it was a broadly supported bipartisan bill that easily passed in the House on December 5. It failed to have passed in the Senate, however, and so it likely will be introduced again in the new session of Congress. We will continue to keep everyone informed about this bill, the stated purpose of which is to "facilitate the use of produced water for irrigation and … to demonstrate ways to accomplish that result."

Appropriations. The House and Senate passed a continuing resolution (CR) that will run through February 15. The purpose was to keep the government running and let Congress boot the contentious issues of the unapproved appropriations spending bills for FY07 (all but two) to the new Congress. Under the CR passed, funding for the affected departments and agencies will be at the lower of the House or Senate FY07 passed bills or the actual FY06 level. This includes the agencies and departments covered by the Energy and Water and Interior subcommittees. However, the new appropriations leadership has announced they will not attempt to bring the unapproved FY07 bills to a vote but will instead extend the current funding levels for all affected departments and agencies until the FY08 fiscal year begins on October 1.

Offshore drilling. After several months of speculation about whether the more expansive House version or the more limited Senate version would prevail, the Senate bill was the only bill that could pass in the lame duck session. It was attached to a tax bill that required a simple majority – the "tax extenders bill" which extended a number of existing tax-cuts. Whereas the House bill had addressed all of the offshore United States, the Senate bill will open only portions of the Eastern and Central Gulf of Mexico as well as approximately 2.5 million acres under Lease Sale 181 and south of Lease 181. Sen. Pete Domenici claims the bill will result in an additional 1.26 million barrels of oil and 5.8 trillion cubic feet of natural gas coming to market in the next few years. From the IOGCC perspective, one key provision from the House bill that was not in the Senate bill was the program to maintain and encourage the growth of the energy and minerals workforce.

Pipeline Safety. Finally, the House and Senate both passed the Pipeline Safety Bill, giving the Department of Transportation authority to regulate "low-stress" pipelines that carry hazardous materials in addition to the "high-stress" pipelines it currently regulates. Although the bill was being negotiated by House and Senate committees before the oil spill by British Petroleum in Alaska this summer, the spill appears to have served as a catalyst for passage of a more sweeping version of the bill.

The Energy and Environment Landscape in the 110th Congress

The November election brought significant changes to the committees that oversee energy and environment issues in both the House and the Senate. These changes will present both challenges and opportunities to the IOGCC. The biggest challenge will be to establish new staff relationships on the House side with both the Resources and Energy and Commerce Committees.

IOGCC states will notice less of an impact in the Senate. However, there will be new leadership on all of the committees and subcommittees, and oil and gas development will no longer be a priority. An attempt might even be made to roll back provisions of the Energy Policy Act of 2005 (EPACT) that are perceived by some to be overly beneficial to industry.

On the priority list for the new House and Senate leadership will be conservation, renewable energy and climate change. Addressing each committee in turn:

U.S. House

Resources Committee. The new chairman of the House Resources Committee (which may be renamed) will be Rep. Nick Rahall of West Virginia, replacing Rep. Richard Pombo of California. Chairman Pombo was defeated in the election. As chairman, Rep. Rahall's priorities will undoubtedly be far different. The new ranking member will be Rep. Don Young of Alaska. The subcommittee of Resources with which we have dealt most regularly has been Energy and Minerals, chaired presently by Nevada Gov.-elect Jim Gibbons. The subcommittee structure and leadership status is not yet known due to possible restructuring. Likewise, membership assignments for all committees and subcommittees have not yet been made officially.

Energy & Commerce Committee. The chairman will be Rep. John Dingell of Michigan, returning to a position he held from 1981-1994. Outgoing Chairman Joe Barton of Texas will be ranking member. Rep. Barton made a brief run at majority leader, setting the stage perhaps for a run for majority leader or speaker in a future Congress. It remains to be seen if the subcommittee structure will change and who will lead them.

U.S. Senate

It is probable there will be much less difference in policy in the energy arena on the Senate side, although there could be a significant difference in environmental policy. This is all tempered by two realities: There is only a two-vote difference between Democrats and Republicans (51-49), and it takes 60 votes, not 51, to pass important and controversial legislation (it takes 60 votes to stop filibuster of legislation by the opposition). Thus, as in the 109th Congress, look to the Senate to potentially moderate whatever legislation the House passes on energy and the environment. The filibuster threat will work nonetheless to keep the Senate as a moderating force.

Energy and Natural Resources Committee. In the 110th Congress a New Mexico senator will continue to chair the committee, with Sen. Jeff Bingaman replacing Sen. Domenici. While it is expected that the committee under Sen. Bingaman will be more renewables and conservation-oriented, it will likely not be as hostile to the oil and natural gas industry as its House counterparts. The IOGCC can also look forward to a continued excellent working relationship with Sen. Bingaman's energy staff. They have long been very responsive and very pro-active in their support of the IOGCC and its member states. Sen. Domenici will be ranking member.

Environment and Public Works Committee. The shift of power on this committee – from Chairman James Inhofe to Chairman Barbara Boxer – is probably the most noteworthy. The change in policy focus will be dramatic. It is expected that Sen. Inhofe will be ranking member. Clearly the new chairman will be much more sympathetic to environmental groups and much more willing in to exercise the committee's oversight authority over the EPA. Given the Oklahoma connection with Sen. Inhofe, the IOGCC has always had a strong relationship with the committee's majority staff, and will now need to build its relationship with the new majority staff.

A clear focus of the committee will be climate change. While the new chairman would like to move national policy closer to that of her home state of California in curbing greenhouse gas emissions, she has conceded the process will be incremental. It makes more important than ever the ongoing IOGCC effort to develop model laws and regulations on carbon capture and geologic storage (CCGS) through its IOGCC CCGS Task Force. Sen. Boxer has already created a new subcommittee, which she will chair, called the "Public Sector Solutions to Global Warming, Oversight, Children's Health Protection and Nuclear Safety Subcommittee." Sen. Joe Lieberman will chair a new "Private Sector and Consumer Solutions to Global Warming and Wildlife Protection" subcommittee. Ranking members of these subcommittees have yet to be appointed.

Appropriations Committees – House and Senate. Leadership of the Appropriations Committee and its subcommittees will also shift. Sen. Robert Byrd will chair the Senate committee. On the House side, the roles will reverse, with Rep. David Obey of Wisconsin becoming chairman and Rep. Jerry Lewis of California becoming ranking member.

While the subcommittees may shift jurisdiction somewhat, the two subcommittees of most interest to IOGCC traditionally are Energy and Water and Interior. Even with the change from Republican to Democratic leadership, the IOGCC is hopeful that we will have at least as good if not a better opportunity to push for our appropriations priorities (R&D, Orphan Wells, etc.) with both subcommittees in the 110th Congress. The chairmen, respectively, of the Senate and House Energy and Water Appropriations Subcommittees, will be Sen. Byron Dorgan of North Dakota and Rep. Pete Visclosky of Indiana. Ranking members are expected to be Sen. Domenici and Rep. David Hobson. As for the Interior Appropriations Subcommittee, leadership is not yet clear. On the House side, Rep. Norm Dicks of Washington will likely chair the subcommittee. His Senate counterpart has not yet been appointed and neither Senate nor House ranking members has been identified.