## 1NC

### 1NC Violation – Procurement

#### Procurement is not a financial incentive

Czinkota et al, 9- Associate Professor at the McDonough School of Business at Georgetown University (Michael, Fundamentals of International Business, p. 69 – google books)

Incentives offered by policymakers to facilitate foreign investments are mainly of three types: fiscal, financial, and nonfinancial. Fiscal incentives are specific tax measures designed to attract foreign investors. They typically consist of special depreciation allowances, tax credits or rebates, special deductions for capital expenditures, tax holidays, and the reduction of tax burdens. **Financial incentives** offer special funding for the investor by providing, for example, land or buildings, loans, and loan guarantees. **Nonfinancial incentives** include guaranteed government purchases; special protection from competition through tariffs, import quotas, and local content requirements, and investments in infrastructure facilities.

#### Feed-in tariffs are distinct from financial incentives – they are government procurement

Marie Wilke (International Centre for Trade and Sustainable Development) November 2011 “Feed-in Tariffs for Renewable Energy and WTO Subsidy Rules” http://ictsd.org/downloads/2011/11/feed-in-tariffs-for-renewable-energy-and-wto-subsidy-rules.pdf

Feed-in tariffs differ substantially from the classical examples of a subsidy such as loan guarantees above market standard, research and development funds and direct investment. In fact, whether a FIT scheme can qualify as ‘financial contribution by a government or any public body’ is disputed. A FIT scheme could potentially qualify as a financial contribution in the form of ‘a governmental purchase of goods’ because, as established before, a FIT programme essentially is a purchasing guarantee for electricity.49 This may seem counterintuitive at first as some consider electricity a service rather than a good. However, irrespective of its physical properties, GATT 1947 defined electricity as a good in its Harmonized System (HS) Nomenclature.50 Concession schedules continue to follow this definition. Likewise, after years of debate, there seems to be a general recognition that the generation of electricity is a good while the transmission, distribution and related services are services.51 Certainly transmission and distribution services also play a role in FIT systems as the purchasing guarantee also involves a guarantee to feed that electricity into the general network – i.e. to ensure transmission. In fact, in FIT systems this guarantee takes the form of a right. Yet, the relationship that a FIT mechanism establishes between the electricity generator and the distribution companies concerns the purchase of electricity and not the services of transmission,52 the latter remains an issue that only distributing companies are concerned with. In theory, in line with their contractual obligations, they are probably free to not transmit the energy as long as the purchase is guaranteed. In either case, if one was to argue that the subsidy also entails the transmission guarantee, this could potentially be covered under the option to ‘provide a service’ within the same alternative (iii). For comparison of this provision with WTO government procurement provisions, see box 3 below.

#### Voter for limits and ground—procurement dodges core market controversies and guarantees a market while making us account for every facet of government operations—creates an unmanageable prep burden

#### And, precision—compensation for service might give reason for action but is not an actual incentive

**Grant 2002** – professor of political science at Duke University (Ruth, Economics and Philosophy, 18:2002, “THE ETHICS OF INCENTIVES: HISTORICAL ORIGINS AND CONTEMPORARY UNDERSTANDINGS”, WEA)

The use of `incentives' to speak of market forces is also problematic,¶ though it is easy to see the logic of this development within the language¶ of economics. If one company lowers the price of its product, we might¶ readily say that other companies now have an incentive to lower theirs.¶ But we would not say that the first company offered all other companies¶ an incentive to lower their prices.55 Market forces are not conscious and¶ intentional, and their rationale is intrinsic to the economic process itself.¶ We might just as well say in this situation that the first company's lower¶ price is a good reason for other companies to lower theirs given that they¶ need to remain competitive. The term `incentive' says nothing that¶ `reason' cannot say as well in this case. A similar logic applies to¶ speaking of loan conditions as incentives. The International Monetary¶ Fund may make a loan to a nation only on condition that it alter its¶ inflationary policies. If the reason for the condition is intrinsic to the¶ IMF's own financial aims, `incentive' may be a misnomer. The situation¶ is like that of requiring a certain training as a condition for the practice of¶ medicine; we would be unlikely to refer to this as an `incentive' to go to¶ medical school for people who wish to become doctors.56 When the IMF¶ is criticized for using financial incentives unethically to control the¶ internal policies of borrowing nations, it is because the critics suspect¶ that its real purposes are political rather than strictly limited to the¶ legitimate concern to secure the financial health of the Fund.

The distinction between market forces and incentives can be¶ illustrated further by considering the difference between wages as¶ compensation and incentives as bonuses in employment. Compensation¶ means `rendering equal', a `recompense or equivalent', `payment for¶ value received or service rendered', or something which `makes up for a¶ loss' ± as in the term `unemployment compensation'. Compensation¶ equalizes or redresses a balance, and so, to speak of `fair compensation'¶ is entirely sensible. But to speak of a `fair incentive' is not. An incentive¶ is a bonus, which is defined as something more than usually expected,¶ that is, something that exceeds normal compensation. It is an amount¶ intentionally added to the amount that would be set by the automatic¶ and unintentional forces of the market. An incentive is also a motive or¶ incitement to action, and so an economic incentive offered to an¶ employee is a bonus designed to motivate the employee to produce¶ beyond the usual expectation. It should be obvious then, that compensation¶ and incentives are by no means identical. The per diem received for¶ jury service, for example, is a clear case of compensation which is not an¶ incentive in any sense.

It is not difficult to see how it might have happened that the¶ boundaries were blurred between the specific conception of incentives¶ and conceptions of the automatic price and wage-setting forces of the¶ market. Both can be subsumed under very general notions of the factors¶ that influence our choices or motivate action, and `incentives' carries this¶ general meaning as well. Nonetheless, the blurring of that boundary¶ creates a great deal of confusion. Incentives, in fact, are understood¶ better in contradistinction to market forces than as identical to them. It is¶ only by maintaining a clear view of their distinctive character that the¶ ethical and political dimensions of their use are brought to light.¶ Moreover, conceptual clarity and historical understanding go hand¶ in hand in this case. It should no longer be surprising to find that the¶ term `incentives' is not used by Adam Smith in first describing the¶ operation of the market, but appears instead at a time when the market¶ seemed inadequate in certain respects to the demands presented by¶ changing economic circumstances. Other eighteenth and nineteenthcentury¶ ideas, often taken as simple precursors of contemporary analyses¶ of incentives, can now be seen in their distinctive character as well. For¶ example, Hume and Madison offer an analysis of institutional design¶ which differs significantly from `institutional incentives', though the two¶ are often confused. These thinkers were concerned with preventing¶ abuses of power. They sought to tie interest to duty through institutional¶ mechanisms to thwart destructive, self-serving passions and to secure¶ the public good. Contemporary institutional analyses, by contrast,¶ proceed without the vocabulary of duty or public good and without the¶ exclusively preventive aim. Institutional incentives are viewed as a¶ means of harnessing individual interests in pursuit of positive goals.57¶ Similarly, early utilitarian discussions, Bentham's in particular, differ¶ markedly from twentieth century discussions of incentives despite what¶ might appear to be a shared interest in problems of social control. Again,¶ Bentham is interested entirely in prevention of abuses or infractions of¶ the rules. The rationale for his panopticon is based on the observation¶ that prevention of infractions depends upon a combination of the¶ severity of punishment and the likelihood of detection.58 If the latter¶ could be increased to one hundred per cent, through constant supervision¶ and inspection, punishment would become virtually unnecessary.¶ This is a logic that has nothing whatever to do with the logic of¶ incentives as a means of motivating positive choices or of encouraging¶ adaptive behavior.

### 1NC CP

#### The United States Federal Government should establish a feed-in tariff that creates long-term purchase contracts for new qualifying facilities in the United States that use solar power for energy production to ensure a reasonable rate of return.

#### Significant increases in wind can’t be integrated – risks grid instability

Willem Post 7-1-2012; Willem Post, BSME New Jersey Institute of Technology, MSME Rensselaer Polytechnic Institute, MBA, University of Connecticut. Professional Engineer in Connecticut. Consulting Engineer and Project Manager. “Wind Energy CO2 Emissions Reductions are Overstated” http://theenergycollective.com/node/89476

ERCOT's capacity planning value of 8.7% does not mean the ENERGY of 8.7% of wind turbine rated capacity would be available at any specified “time-ahead” period. Because of the randomness of wind speeds, no one can accurately predict available wind energy at any future time. Hence, it's not available “on-demand”, i.e., not dispatchable. Variability: Because wind energy increases by the cube of the wind speed, any change in wind speed creates significant surges and ebbs of wind energy. If such energy were fed into the grid, it would create chaos. Thus, wind energy cannot stand on its own, has no value on its own, is completely useless, unless the grid has an adequate capacity of quick-ramping gas turbines and/or hydro plants that are required to inefficiently operate at part-load to be able to ramp up when wind energy ebbs and ramp down when it surges, which happens at least 100 times per day, to maintain grid frequency and voltage within required limits. If a grid does not have adequate capacity of such ramping plants, it either must acquire it, or connect to grids that do have it and do not need it for their own variable wind and solar energy. During periods of high wind energy generation, many grids, such as of Germany, the Bonneville Power Authority, Texas, Colorado, Germany, Spain, etc., do not have a sufficient capacity of such quick-ramping generators. As annual wind energy percents on the grids increase, the grid operators are unable to balance the wind energy and need totransfer it to neighboring grids for balancing, if possible, and/or implement curtailments, which upsets wind turbine owners, because subsidy payments may be at risk; in the US, the production tax credit, PTC, is 2.2 cent per kWh produced.

### 1NC China

#### The plan undermines Chinese wind competitiveness

**Chhabara 8** (Rajesh, Climate Change Corp, “Who’ll Solve the Wind Turbine Supply Crisis?” 4/29/8, http://www.climatechangecorp.com/content.asp?contentid=5344)

In April this year, China set a massive target of expanding wind power capacity to 100,000MW by 2020, from the current 5,600MW. Previously, in 2006, China passed the Renewable Energy Law, which requires power grid companies to buy the entire output of registered renewable energy producers in their areas. The National Development and Reform Commission (NDRC), China’s top industry planning body, sets the purchase price.

CLSA Research estimates that the US, Europe and China will be spending about $150 billion on wind projects in the next five years.

US dithers, China surges ahead

In the US, an unstable regulatory regime is one factor hindering turbine production.

Sporadic tax breaks for renewable energy projects, usually on a year-to-year basis, have discouraged US manufacturers from scaling up. Congress, for example, has stalled the extension of PTCs beyond the end of 2008.

In the past, when tax credits lapsed the demand for wind turbines came crashing down the following year. If the trend is repeated this time, it may actually result in overcapacity of turbine manufacturing in the US, at least for the domestic market.

Yet energy analysts say that if the US market slows down due to lack of tax breaks, China will more than compensate.

In the short term, massive demand from China may further tighten turbine supply, but expanding local production should ease the global crunch within a couple of years. Today, the Chinese market is dominated by the top three foreign manufacturers, Vestas, GE Wind and Gamesa, who enjoy a combined market share of 47%. However, this is set to change.  
Zhang Guobao, vice president of China’s NDRC, says: “We are planning several measures to support the wind power industry including localisation of equipment production.” According to the Global Wind Energy Council (www.worldenergy.org), China will become the top wind turbine manufacturer by 2009.

To encourage production, China increased tariffs on imported wind turbines in May, while slashing import taxes on components. The latter incentive, to help Chinese firms compete internationally for scarce parts, will put pressure on the industry in the rest of the world. But, again, this is a short-term problem. Government rules already require that turbines have at least 70% domestically produced components. As a result, leading manufacturers have been setting up factories in China.

As things presently stand, most Chinese manufacturers can produce only smaller turbines, up to 1MW. Chinese firms are trying to overcome this weakness by licensing agreements and joint ventures with western companies.

Goldwind, China’s largest wind turbine maker, raised $245 million through an Initial Public Offer (IPO) early this year to fund a huge expansion. LM Glassfiber of Denmark, which has a cooperation agreement with Goldwind, opened its second turbine blade factory in China in October last year.  
Other major Chinese turbine makers – Sinovel, Windey, Dongfang, MingYang and HEC – are also expanding capacities and shopping for joint ventures and licensing agreements with global players.

China High, the country’s largest manufacturer of gearboxes – the most critical and complex part in a wind turbine – plans a four-fold increase in production in the next two years. The company is aiming to become one of the top three global manufacturers of gearboxes, with half of revenue coming from exports.   
China High, which already supplies to GE, REpower, Nordex and Goldwind, raised $272 million through an IPO to fund massive expansion. The company is raising another $250 million through convertible bonds and plans to buy a special-steel plant to secure supplies and reduce costs. Special steel accounts for half the cost of gearboxes.  
Among the foreign players, Germany’s Nordex – the fourth largest wind turbine maker in China – announced in November that it would quadruple production capacity to 800MW by 2011 to meet growing demand.  
Currently, MingYang is China’s only turbine exporter. But in the next three to five years, the number of exporters is likely to grow as other firms aggressively expand and acquire technology. Foreign manufacturers may be scaling up their production in China, but in the longer term it is the emergence of Chinese turbine and component manufacturers that will probably change the global landscape of wind power.

Response from the big players

With over 8,000 parts required to make a wind turbine, requiring a large network of reliable suppliers, component supply is creating the most problematic bottleneck for turbine makers. In order to meet increasing demand, leading players are rushing to beef up their supplies by setting up new plants, signing long-term contracts with suppliers and even making acquisitions.

#### That solves Chinese poverty and unemployment

**Wang, 05** – Michigan State University (Joy, Wind Power in China: Social Acceptability and Development of a Domestic Manufacturing Industry”, http://forestry.msu.edu/China/New%20Folder/Joy\_Wind.pdf)

China does not necessarily require the development of its own domestic wind industry and market, but from the successes of various other countries utilizing wind power, it seems such development is key to the success of wind energy within a country.

“All leading turbine manufacturers are from countries with significant domestic wind power development, and most all have been very successful in their home markets…the size of the home market is a key determinant of global success in wind turbine manufacturing. Moreover,…the top 5 countries in terms of installed capacity are also home to 9 of the top 10 wind companies globally” (Lewis & Wiser, 2005, p. 58).

The wind power market and domestic turbine manufacturers support each other. To form a strong market, a government can formulate incentives for industry to become involved. “Companies facing unstable markets are less willing to spend money on R&D and product development” (Lewis & Wiser, p. 58). With a more stable wind market, more investor interest could be gathered, and more spending on long term manufacturing R&D could be stimulated.

2. Decrease costs to further the market

A domestic wind industry can lower costs and further the market. “As the market has grown, wind power has shown a dramatic fall in cost. Production costs have fallen by up to 50% over 15 years” (BTM Consult, 2005, p. 10). Wind turbines hold about 75% of the total cost of an onshore wind project (BTM Consult, 2005,). With localized production, not only would less be spent on transportation, labor costs would also be much cheaper in China than abroad. A significant savings could be realized in turbine production, bettering the economics and feasibility of large-scale utilization of wind energy in China.

3. Better accessibility to best available wind technology

With its booming economy and strong desire to prove itself, China is demanding better products with its increasing wealth. The wind industry will be no different. If no domestic turbine manufacturers develop cutting-edge technology, any technology China receives will be second rate. Products are likely tested intensely before placement on the global market, where their performance reflects upon the manufacturing company. All commercially sold turbines will generally be reliable, with the newest technology in continued research and testing.

If China relies on non-domestic wind turbine manufacturers to supply its wind power generation facilities, it cannot expect the best technology to enter its borders first. So far, the largest installation in China to date is 1.5MW at the Nanhui and Chongming wind farms in Shanghai by General Electric (GE Wind), while the largest wind turbine installation to date has been 300 MW in the United States (BTM Consult, 2005), 200 times larger. Higher turbine capacities will transform to land savings since more electricity is generated per turbine. With limited arable land, it would make sense for China to search for better and larger turbines to reduce land requirements for the same amount of generated electricity.

4. Opportunity to demonstrate technological prowess

With its economic rise, China has shown an increasing desire to prove itself. The 2003 launch of China’s first manned rocket demonstrates its drive to push domestic technology to further limits. The successful rocket launching caused a swell of national pride. A show of local technological prowess in wind energy could cause a similar effect (Lewis & Wiser, 2005), while also offering a relatively new global industry in which to make a presence. From this aspect, it is not surprising to see China’s desire to have its own domestic wind power industry.

5. Alleviate power shortages in areas of need

Wind power could be used to alleviate brown-outs and other electricity shortages in the more affluent east coast. Near the time of Wallace’s paper (1997), over 20 million households in the heavily populated areas were without electricity. With the largest wind resources located along the southeastern coast and an intense appetite for energy in the same region, it is likely wind power can help alleviate the lacking electricity supply there.

6. Employment opportunities

The creation of a domestic wind power market and industry could generate employment opportunities in both urban and rural areas. A strong domestic market and wind turbine manufacturing industry will create a demand and supply for wind power. By having a local manufacturing base, China could mobilize significant numbers of its currently unemployed

masses. In 2003, 8 million urban people registered unemployment. Once the numbers of unregistered urban unemployed is considered, the total could further increase. From 1998-2003, unemployment grew at an annual rate of 5.6% (“China Statistical,” 2004). With almost 60% of China’s 2003 population located in rural areas (“China Statistical,” 2004), the total unemployed number could be significantly larger. Wind Force 12 estimates that 444,000 individuals will be occupied in the Chinese wind power industry in 2020 (2005).

7. Poverty alleviation

Though the demand for electricity may be greatest along the coast, the wind turbine manufacturers may be elsewhere. Strategically placed manufacturers throughout rural China could provide higher paying work, alleviating poverty. The 2003 per capita net income of rural households in the 12 western provinces was 1966¥, less than 75% of the national per capital rural net income (“China Statistical,” 2004).

8. Catalyst for further infrastructure development

A domestic wind industry could provide an additional catalyst for the development of efficient transportation systems in which to transport wind related turbines. Factories in rural locations would not necessarily be distanced from the final product destination. With 23.9% of the national energy industry located in the 12 western provinces (“China Statistical,” 2004), a well-established energy transmission infrastructure must already exist. Much of China’s wind resources also are in the area. Not only will manufacturers to realize financial savings by being geographically closer to more final product destinations, the location of wind power manufacturers there could also stimulate the improvement and adaptation of existing infrastructure to suit new needs. This possibility might require large financial resources, but the reaped benefits might justify further exploration.

9. Environmental benefits

Other environmental benefits can be realized through localized production outside of the clean energy turbines produce. If turbine manufacturers locate to more rural areas, resident income and standard of living will increase. Farmland might be less stressed, as income no longer relies singly on the land’s goods. Grasslands could benefit similarly as flock size decrease when factory work is obtained. From such possibilities, wind energy could potentially benefit soil stability. As school fees become more affordable, educational levels will increase. Higher educational attainment could increase environmental consciousness and also lessen environmental degradation.

#### failure to deal with increasing unrest over living standards will collapse the CCP

**Pethokoukis 12-1-**08 (James, US News, “Bad Economy Could Cause China Crackup” <http://www.usnews.com/blogs/capital-commerce/2008/12/1/bad-economy-could-cause-china-crackup.html?s_cid=etRR-0126>)

I have written a series of blog posts warning about the geopolitical and economic fallout of a sharp slowdown in China's economy. Simply put: Slower growth could lead to dangerous political instability. The sole source of the authoritarian government's legitimacy has been its ability to deliver an even-rising standard of living for more than a generation. Don't believe me? Here is what President Jintao Hu said over the weekend at a party meeting:

*“In this coming period, we will starkly confront the effects of the sustained deepening of the international financial crisis and pressure as global economic growth clearly slows. ... Whether we can turn this pressure into momentum, turn challenges into opportunities, and maintain steady and relatively fast economic development is a test of our Party's capacity to govern.”*

This is why China has been hesitant to allow any dramatic appreciation by the yuan vs. the dollar. To the extent that a stronger currency slows the economy, the ruling Communist Party views a rapid yuan appreciation as an existential threat. This what journalist Will Hutton, author of *The Writing on the Wall: Why We Must Embrace China as a Partner or Face It as an Enemy*, [told me early last year](http://www.usnews.com/usnews/biztech/articles/070105/5china.htm):

*"Unrest is growing even under current conditions. Such a rapid appreciation of the yuan over a short period could be a tipping point for a wave of unrest, which could threaten the regime's stability. The party leadership sees the demand for fast yuan appreciation as an act of economic warfare. In these terms, you can see why. ... The World Bank estimates that if China's growth rate fell by just 2 percent, up to 60 percent of China's bank loans would become nonperforming–so threatening both China's and, via Hong Kong, Asia's financial system. The flow of saving to finance the U.S.'s deficit would dry up, probably forcing U.S. interest rates up–so worsening the economic slowdown. ... There is the risk of a credit crunch forced by the banking system being overwhelmed by nonperforming loans. ... The risk of political instability is low, but it exists."*

Me: Let's remember that China a) has been -- along with America -- one of the primary engines of global economic growth as well as buy of U.S. bonds, and b) has nuclear weapons. While no freedom-loving member of Western Civilization has any love for the current despotic regime, neither do we want to see political and economic chaos in China. Fun China Fact: Back in the 1990s, Pentagon analysts thought a bad economy could result in the fall of the Communists from power and the political dissolution of the country into maybe a dozen smaller nations. Hey, have fun, Hillary!

#### Chinese collapse causes World War III

**Plate 3**—Tom Plate, UCLA Poli Sci Professor, The Straits Times, June 28, 2003, lexis

But imagine a China disintegrating - on its own, without neo-conservative or Central Intelligence Agency prompting, much less outright military invasion - because the economy (against all predictions) suddenly collapses. That would **knock Asia into chaos**. A massive flood of refugees would head for Indonesia and other places with poor border controls, which don't want them and can't handle them; some in Japan might lick their lips at the prospect of **World War II Revisited** and look to annex a slice of China. That would send Singapore and Malaysia - once occupied by Japan - into nervous breakdowns.

Meanwhile, India might make a grab for Tibet, and Pakistan for Kashmir. Then you can say hello to **World War III, Asia-style**. That's why wise policy encourages Chinese stability, security and economic growth - the very direction the White House now seems to prefer.

### 1NC States CP

#### The 50 state governments should:

* establish a uniform Renewable Portfolio Standard requiring that twenty percent of electricity produced comes from renewable sources.
* establish a feed-in tariff that creates long-term purchase contracts for new qualifying facilities that use wind and solar power for energy production to ensure a reasonable rate of return.

#### States can do feed-in tariffs

[**Sawin**](http://www.sciencedirect.com.monstera.cc.columbia.edu:2048/science?_ob=ArticleURL&_udi=B6VSS-4NJP9CG-1&_user=18704&_coverDate=05%2F31%2F2007&_alid=772549448&_rdoc=27&_fmt=high&_orig=search&_cdi=6270&_sort=d&_docanchor=&view=c&_ct=67&_acct=C000002018&_version=1&_urlVersion=0&_userid=18704&md5=27e009d5980baf378f87e6ae10344e08#bvt2) **7** – Director of the Energy and Climate Change Program at the Worldwatch Institute, an independent org in D.C.

(Janet L.“If the Shoe FITs: Using Feed next term-in previous term Tariffsnext term to Meet U.S. Renewable Electricity Targets” The Electricity Journal, Volume 20, Issue 4, May 2007, Pages 73-86)

A second possibility is that states (or utilities) could use fixed-price tariffs to contract for utility-scale renewable energy generators, as suggested in California. Long-term contracts for bundled RECs and electricity are already in use in several regulated states, and have emerged in Texas as well. Further, NYSERDA procures RECs for large-scale generators through long-term contracts in New York State, and Connecticut's Project 100 Initiative offers 10-year, long-term contracts for up to 100 MW of renewable energy projects. Currently, all of these long-term contracts must be competed for or negotiated, rather than awarded automatically. Nevertheless, it is possible that states with existing long-term contracting could shift to more transparent and standard long-term contracts similar to feed-in tariffs.

#### The CP codifies status quo RPS trends to integrate coordinate with other states – it will rapidly spur renewable integration

**Byrne, 7** –Center for Energy and Environmental Policy (John, “American policy conflict in the greenhouse: Divergent trends in federal, regional, state, and local green energy and climate change policy” Energy Policy Volume 35, Issue 9, September 2007, science direct)

In addition to the creation of voluntary investments in renewables, a number of states have mandated that utilities supply a baseline amount of green power to their customers. Known as Renewable Portfolio Standards (RPS), these policies establish renewable energy procurement quotas for utilities according to a schedule typically running for 10–15 years. As of February 2007, 23 states and the District of Columbia have enacted renewable portfolio standards, while another fourteen states are considering RPS regulation (Fig. 3). No two RPS laws are alike and some policy regimes have performed better than others (van der Linden et al., 2005 N.H. van der Linden, M.A. Uyterlinde, C. Vrolijk, L.J. Nilsson, J. Khan and K. Åstrand et al., Review of International Experience with Renewable Energy Obligation Support Mechanisms, Energy research Centre of the Netherlands, Petten, Netherlands (2005).van der Linden et al., 2005). Generally speaking, however, there is a distinct trend towards stronger RPS policies and regional market integration. Only two states have voluntary standards—Illinois and Vermont—and both are now considering RPS mandates (DSIRE, 2007).Most states with RPS policies in place for three or more years have strengthened their laws, accelerated compliance schedules, or proposed new targets (Rickerson, 2005). For example, in 2006 New Jersey accelerated its compliance schedule and increased its target to 20% by 2020 (DSIRE, 2007). Utilities in Wisconsin over-complied with the initial 2.2% by 2012 goal, and in 2006 the state increased its target to 10% by 2015 (Governor's Task Force, 2004). California has accelerated its RPS schedule partly because one utility, Southern California Edison, is already close to the 20% requirement with 17.7% of its supply derived from renewable energy (California Public Utilities Commission, 2006). As a result, the state has revised its RPS schedule from 20% by 2017 to 20% by 2010 (Doughman et al., 2004).While Texas initially accounted for most of the renewable MW capacity installed in RPS markets (Petersik, 2004), renewable energy installations are now becoming more widely distributed as new and strengthened RPS regimes have appeared across the American landscape. The Union of Concerned Scientists (2006a) projects over 44,900 MW of new renewable capacity will be added to the grid by 2020 to satisfy current RPS mandates (see also Byrne et al., 2005b).Another sign of the growing maturity and momentum of state RPS policies is the trend toward regional coordination and integration. In order to encourage supply diversity, almost every state RPS policy in the US permits its utilities to procure renewable resources from neighboring states. As a result, markets for tradable renewable energy credits (RECs)5 have emerged to facilitate compliance in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, Texas and Washington, DC. The existence of a solar PV “carve out” requirement in New Jersey's RPS has created solar-specific REC prices above $200/megawatt-hour (MWh) (Holt and Bird, 2005, p. 2; Evolution Markets LLC, 2006), and similar requirements in Pennsylvania, New York and Washington, DC could drive solar PV market growth region wide. To support these markets, regional authorities have established credit-tracking systems in the Northeast, Mid-Atlantic, and Texas. Similar systems are also under development for the states of the West and the upper Midwest (Porter and Chen, 2004; Wingate and Lehman, 2003 M. Wingate and M. Lehman, The Current Status of Renewable Energy Certificate Tracking Systems in North America, Center for Resource Solutions, San Francisco, CA (2003) (Prepared for the Commission for Environmental Cooperation).Wingate and Lehman, 2003). These systems facilitate RPS compliance and encourage non-RPS states to develop resources for participation in regional RPS markets. To date, RPS has proven to be the most successful tool used by states in the US to realize rapid development of renewable energy options.

#### The combination solves best – allow states to set their rates effectively above the avoided cost

**Yaffe, 10** - member of Van Ness Feldman and resident in the Washington, DC, ofﬁce. He provides regulatory, contract, business, and dispute resolution counseling to participants in the market-oriented electric utility and natural gas industries“Are State Renewable Feed-in Tariff Initiatives Truly Throttled by Federal Statutes after the FERC California Decision?” Electricity Journal, October, Science Direct)

Moreover, states should think creatively about how to deﬁne avoided costs of utilities purchasing energy from QF/FIT-qualifying generators. For instance, those states that have adopted RPS requirements may well be able to defend setting the PURPA 210 avoided cost at the average cost of a new renewable resource rather than conventional generation because the RPS requires that the marginal capacity or energy come from renewable resources. Similarly, to the extent that forthcoming regulations from the U.S. Environmental Protection Agency to curb greenhouse gas emissions under the federal Clean Air Act impose new costs on conventional generation, such costs may well be factored into the avoided cost calculation.

### 1NC Obama Good Link

#### Obama PC high now – GOP softening now on fiscal cliff – but it will be a fight

Kimberly Atkins (writer for the Boston-Herald) November 8, 2012 “Prez returns to D.C. with more clout” http://bostonherald.com/news/columnists/view/20221108prez\_returns\_to\_dc\_with\_more\_clout

When President Obama returned yesterday to the White House, he brought with him political capital earned in a tough re-election fight as well as a mandate from voters — which means bold changes and bruising fights could lie ahead. The first agenda item is already waiting for him: reaching an agreement with lawmakers to avert the looming fiscal cliff. GOP lawmakers have previously shot down any plan involving tax increases. Obama’s win — based in part on a message of making the wealthiest Americans pay more — may already be paying dividends. In remarks at the Capitol yesterday, House Speaker John Boehner seemed to acknowledge the GOP has to take a different tack than the obstructionism that has marred progress in the past. “The president has signaled a willingness to do tax reform with lower rates. Republicans have signaled a willingness to accept new revenue if it comes from growth and reform,” Boehner said. “Let’s start the discussion there.” Obama’s fresh political clout could extend to longer term fiscal policies beyond the fiscal cliff, though don’t expect GOP pushback to vanish. House Republicans still have plenty of fight in them.

#### Ensures compromise now – but re-election PC is finite

Ron Kampeas (writer for Intermountain Jewish News) November 7, 2012 “Obama’s second term: More of the same, at least until Iran flares” http://www.ijn.com/presidential-elections/2012-presidential-elections/3530-obamas-second-term-more-of-the-same-at-least-until-iran-flares

The fiscal cliff and specifically sequestration is a major concern," Daroff said. "Our concern continues to be that as the nation and our political leaders continue to assess how to make cuts in spending that those cuts don't fall disproportionately on vulnerable populations that rely upon social service agencies that depend on our funding." Cuts of about 8.5 percent would immediately affect the viability of housing for the elderly, according to officials at B'nai B'rith International, which runs a network of homes. Officials at Jewish federations say the cuts also would curb the meals and transportation for the elderly they provide with assistance from federal programs. Obama and Congress would have had to deal with heading off sequestration in any case, but as a president with a veto-wielding mandate of four more years, he has the leverage to head off deep cuts to programs that his top officials have said remain essential, including food assistance to the poor and medical entitlements for the poor and elderly. David Makovsky, a senior analyst with the Washington Institute for Near East Policy, said Obama's priorities would be domestic. "While a victory in the second term tends to give you some political capital, capital is still finite," he said, citing George W. Bush's failure in 2005 to reform Social Security, despite his decisive 2004 triumph. "This suggests to me the president will keep his focus on the economy and health care," and not on major initiatives in the Middle East.

#### The plan links to politics – the CP is a superior option

**Dorsi 12** - Fellow, Phillips & Cohen LLP; J.D. Harvard Law School, 2011 (Michael, “Clean Energy Pricing and Federalism: Legal Obstacles and Options for Feed-in Tariffs” 35 Environs Envtl. L. & Pol'y J. 173, lexis)

Although potentially challenging in the current Congress, establishing legislative authorization for a feed-in tariff could resolve most of the issues presented in this Article. A federally regulated feed-in tariff may be politically infeasible, and would be undesirable because of the variety of state and regional systems where it would need to apply. The need to take into account regional differences within a federal feed-in tariff scheme only adds to the political challenge. Additionally, since state commissions control the administrative infrastructure that implemented avoided cost rates for QFs under PURPA, state commissions could serve well again for feed-in tariffs. A simple legislative option to authorize feed-in tariffs would be to amend PURPA to permit states to set rates above avoided cost for particular units. Federal permission for state regulation carries the strongest defenses against court challenges because it waives the dormant Commerce Clause while displacing any federal preemption. Additionally, because the activity ultimately rests with the state, it does not risk a commandeering challenge. Such legislation would also render moot any utility's opportunity to challenge FERC's decision.

If the federal government sought to direct state policy rather than to simply permit states to act, the federal government is limited, but has two primary options. First, the federal government could condition the grant of reasonably related funds to states on implementation of feed-in tariffs. The Court upheld this type of fiscal federalism with regard to highway funds and drinking age laws in South Dakota v. Dole. n125 Given current political conditions, such a policy seems politically challenging. A second option would be a cooperative federalism arrangement similar to the Clean Air Act. n126 Such an arrangement escapes the commandeering challenge by providing a backstop of federal [\*197] implementation should a state elect to not act. n127 Cooperative federalism in the model of the Clean Air Act, which codifies state plans in federal statutes, would also provide the opportunity to seek enforcement in federal courts. n128 However, in those instances where a state does not act, this policy would have the same faults as a federal feed-in tariff. What the federal government cannot do is require states to adopt feed-in tariffs. Given the recent treatment of FERC v. Mississippi, it is unlikely that the Supreme Court would even permit Congress to require that states consider establishing feed-in tariffs.

Advocates should not pin their hopes for renewable energy policy on the federal government. Congress, rather than exploring these policies, has recently discussed the possible relaxation or abolition of efficiency standards in order to ensure that customers can continue to purchase incandescent light bulbs. n129 At the same time, states have expanded their support for renewable energy. For example, in April 2011, California Governor Jerry Brown signed new legislation requiring California utilities to obtain a third of their energy from renewable sources. n130 Given the greater promise of state-level commitment to environmental policy, it is worth exploring the options for states to act if the federal government stands still.

#### Impact is global econ collapse

Harold Mandel (writer for the Examiner) September 27, 2012 “Fitch says fiscal cliff could set off global recession (Video)” http://www.examiner.com/article/fitch-says-fiscal-cliff-could-set-off-global-recession

The ratings agency stated, "The U.S. fiscal cliff represents the single biggest near-term threat to a global economic recovery." Fitch has gone on to warn, “A U.S. fiscal shock would be exported to the rest of the world via a sharply weaker U.S. dollar and asset prices, lower U.S. price and wage inflation and heightened risk of deflation, and the impact on commodity prices.” In the meantime leading U.S. executives have less confidence in the business outlook now than at any time in the past three years, with a primary reason being fear of gridlock in Washington over the fiscal deficit and tax policy. And so unless the fiscal cliff is confronted and avoided this could be bad news for everyone.

### 1NC Grid

#### The plan over-increases intermittent power—increasing electricity prices and causing blackouts

**Michaels, 08** - professor of economics at California State University and a senior fellow at the Institute for Energy Research. (Robert, “A Federal Renewable Electricity Requirement: What’s Not to Like?,” 11/13, <http://cato.org/pubs/pas/pa-627.pdf>)

Over the past 20 years, markets for “whole- sale” power have grown in scope and competi-tiveness. Instead of relying only on generation that they own, to varying degrees utilities everywhere can now obtain power by contracts with other generation owners (including non- utilities and industrial cogenerators). Utilities can also often use regional energy markets in which day-ahead and hourly prices equate supply and demand.

The case for competitive contracting and markets in electricity is the same as else- where—competition motivates the efficient use of resources, the efficient planning of investments for the future, and rewards inno- vation. Electricity markets, however, are con-strained by operating considerations. The production of power in an interconnected grid must equal its load at all times. Since a mismatch (in either direction) lasting only a single second can bring regional blackouts, the operator must have reserves available that can be brought on line quickly, and have units operating that can follow second-by- second changes in load.

Further, transmission constraints in elec- tricity differ in important ways from those in other networks. Unlike water or gas, power flows along individual AC lines follow physi-cal laws and cannot be directly controlled by the system operator. Instead the operator (often a computer algorithm) must some- times operate high cost generators in partic-ular locations in order to maintain regional balance and neither overload nor destabilize (underload) individual lines.

These technological requirements mean that the scope of power markets and the behav-ior of their participants must be constrained to maintain reliability. If there are no transmis- sion constraints and generators may be started and stopped on a moment’s notice, the least- cost production mix will ensure that those units with the lowest marginal costs will oper- ate before those with higher costs, a phenome- non known in the field as “dispatch by merit order.” A single utility that owned and operat- ed all of the generation in a control area would dispatch by merit order, and a competitive market where generators bid in their power at marginal cost would behave similarly. Security constraints, however, mean that strict merit order dispatch is impossible in both cases. Dispatch is also complicated by different “ramp rates” at which the outputs of different types of generators can be changed. Nuclear and coal units have low operating costs, but their output can not be altered quickly enough to match unexpected changes in load. Gas- fired units have higher operating costs, but the need to “follow” unexpected load changes will mean that some must operate even if lower marginal cost coal units are available. Hydro- electric power burns no fuel and renews itself with the seasons, but it does have a marginal opportunity cost—using part of a limited reser- voir at one date means that less will be available on others when it might be more valuable. In practice, hydro in the west is valuable for “shaping” power over the day to minimize the costs of bringing gas-fired units up to meet peaks and turning them down as demand falls in the evening.

Whether the system is centrally dispatched or market-based, a renewable—like hydro—can improve reliability and reduce operating costs. Renewables like biomass and geothermal may be base-loaded and integrated into either a market or a centralized system like conven-tional plants. Intermittent renewables, as we have seen, can bring operating problems to centralized systems if they are a large enough component of resources. They also, however, can constrain the use of markets.

The simple fact that wind units have a seeming marginal cost of zero (and that their output is not storable) does not unambigu- ously imply that they are beneficial.129 As not-ed above, for efficient operation, the net income to the producer of a wind-generated energy must equal the difference between the cost of the power it replaces and the increased costs of maintaining reliability that its inter- mittency imposes. As also noted above, this figure can become negative when wind looms large enough, meaning that the system’s avoidable costs would be minimized if the units were disconnected. In the absence of some method for assessing the wind’s actual contribution in real time, wind units will always bid into the market (at a zero price) while operating costs are higher than other- wise. The ancillary services will be priced at their scarcity value, but if wind is not, market prices will induce overinvestment in wind and require that more, rather than less, fuel be burned. Adding a production tax credit increases the distortion.

#### It could overload the entire grid

**Rutgers News, 08** (“Sustainable Energy Must Be Integrated Into Existing Power Grid, Says Rutgers–Camden Finance Scholar,” 11/18, <http://news.rutgers.edu/medrel/news-releases/2008/11/sustainable-energy-m-20081118/>)

CAMDEN --  Engineers and entrepreneurs are rushing to explore alternative sources of efficient and renewable energy in New Jersey and elsewhere in the country. A Rutgers School of Business—Camden professor has strong words of caution as projects involving wind farms and photovoltaic cells proliferate.

With the electric-power industry poised for its most dramatic changes in decades, too little thought is being devoted to coordinating these piecemeal initiatives, warns [Richard Michelfelder](http://business.camden.rutgers.edu/FacultyStaff/Directory/michelfelder.htm) in a recent edition of The Electricity Journal, the leading policy journal for the electric industry.

The consequence, he fears, might well be a disastrous overload of the nation’s electrical grid.

An assistant professor of finance at the Rutgers School of Business—Camden and former president and CEO of Quantum Consulting Inc., a national public utilities consulting firm based in Berkeley, Cal., Michelfelder comes to his assessment after a quarter-century in the energy-technology industry.

“When you start adding random assets to the grid, you also add the possibility of disruptions in the coordination of the flow of electricity,” says Michelfelder.

### 1NC Nuclear Reactors

#### No risk of nuclear meltdowns

**Beller 4** - Department of Mechanical Engineering, University of Nevada, Las Vegas, Dr. Denis E, “Atomic Time Machines: Back to the Nuclear Future,” 24 J. Land Resources & Envtl. L. 41, 2004)

No caveats, no explanation, not from this engineer/scientist. It's just plain safe! All sources of electricity production result in health and safety impacts. However, at the National Press Club meeting, Energy Secretary Richardson indicated that nuclear power is safe by stating, "I'm convinced it is." 45 Every nuclear scientist and engineer should agree with that statement. Even mining, transportation, and waste from nuclear power have lower impacts because of the difference in magnitude of materials. In addition, emissions from nuclear plants are kept to near zero. 46 If you ask a theoretical scientist, nuclear energy does have a potential tremendous adverse impact. However, it has had that same potential for forty years, which is why we designed and operate nuclear plants with multiple levels of containment and safety and multiple backup systems. Even the country's most catastrophic accident, the partial meltdown at Three Mile Island in 1979, did not injure anyone. 47 The fact is, Western-developed and Western-operated nuclear power is the safest major source of electricity production. Haven't we heard enough cries of "nuclear wolf" from scared old men and "the sky is radioactive" from [\*50] nuclear Chicken Littles? We have a world of data to prove the fallacy of these claims about the unsafe nature of nuclear installations. [SEE FIGURE IN ORIGINAL] Figure 2. Deaths resulting from electricity generation. 48 Figure 2 shows the results of an ongoing analysis of the safety impacts of energy production from several sources of energy. Of all major sources of electricity, nuclear power has produced the least impact from real accidents that have killed real people during the past 30 years, while hydroelectric has had the most severe accident impact. 49 The same is true for environmental and health impacts. 50 Of all major sources of energy, nuclear energy has the least impacts on environment and health while coal has the greatest. 51 The low death [\*51] rate from nuclear power accidents in the figure includes the Chernobyl accident in the Former Soviet Union. 52

#### Meltdowns don’t cause lasting damage

**Bosselman, 07** - Professor of Law Emeritus, Chicago-Kent College of Law (Fred, “The New Power Generation: Environmental Law and Electricity Innovation: Colloquium Article: The Ecological Advantages of Nuclear Power,” 15 N.Y.U. Envtl. L.J. 1, 2007)

In 1986, an explosion at the Chernobyl nuclear power plant in the Ukraine caused the release of large amounts of radiation into the atmosphere. 247 Initially, the Soviet government released little information about the explosion and tried to play down its seriousness, but this secrecy caused great nervousness throughout Europe, and fed the public's fears of nuclear power all over the [\*46] world. 248 Now a comprehensive analysis of the event and its aftermath has been made: In 2005, a consortium of United Nations agencies called the Chernobyl Forum released its analysis of the long-term effects of the Chernobyl explosion. 249 The U.N. agencies' study found that the explosion caused fewer deaths than had been expected. 250 Although the Chernobyl reactor was poorly designed and badly operated 251 and lacked the basic safety protections found outside the Soviet Union, 252 fewer than seventy deaths so far have been attributed to the explosion, mostly plant employees and firefighters who suffered acute radiation sickness. 253 The Chernobyl reactor, like many Soviet reactors, was in the open rather than in an American type of pressurizable containment structure, which would have prevented the release of radiation to the environment if a similar accident had occurred. 254 [\*47] Perhaps the most surprising finding of the U.N. agencies' study was that "the ecosystems around the Chernobyl site are now flourishing. The [Chernobyl exclusion zone] has become a wildlife sanctuary, and it looks like the nature park it has become." 255 Jeffrey McNeely, the chief scientist of the World Conservation Union, has made similar observations: Chernobyl has now become the world's first radioactive nature reserve... . 200 wolves are now living in the nature reserve, which has also begun to support populations of reindeer, lynx and European bison, species that previously were not found in the region. While the impact on humans was strongly negative, the wildlife is adapting and even thriving on the site of one of the 20th century's worst environmental disasters. 256 Mary Mycio, the Kiev correspondent for the Los Angeles Times, has written a fascinating book based on her many visits to the exclusion zone and interviews with people in the area. 257 She notes that the fear that radiation would produce permanent deformities in animal species has not been borne out after twenty years; the population and diversity of animals in even some of the most heavily radiated parts of the exclusion zone is similar to comparable places that are less radioactive. 258

### 1NC Warming

#### Can’t compete with fossil fuels

#### a.) Massive Fossil Fuel Subsidies

**Mormann, their author, 11** (Felix, German JD and JSD from University of Passau School of law, as well as an LMM from UC BerkeleySchool of Law and is a research Fellow at Stanford’s Steyer Center for Energy Policy and Finance, writing for Economic Law Quarterly, "Requirements for a Renewables Revolution." 05/02/11. [http://www.boalt.org/elq/documents/elq38\_4\_03\_2012\_0808.pdf)](http://www.boalt.org/elq/documents/elq38_4_03_2012_0808.pdf%29) Jacome

Impediments to the innovative process are not the only obstacles to a timely transition from fossil fuels to renewable sources of energy. Even when the level of innovation is such that renewable energy technologies become mature enough for their large-scale deployment, they have to overcome a number of economic barriers to successfully enter the electricity generation market. Where renewables compete with fossil fuels, they encounter an uneven playing field, tilted in favor of long-established, deeply entrenched incumbents. The latter benefit from a history of fossil fuel subsidies, discussed in Part II.B.1, a lack of product differentiation, discussed in Part II.B.2, and structural peculiarities of the electricity market, discussed in Part II.B.3.

1. A History of Fossil Fuel Subsidies

Across the globe, the generation of electricity from fossil fuels has long received and continues to receive substantial government subsidies, both direct and indirect. In fact, direct financial support for fossil fuels is estimated at $150 billion to $250 billion annually worldwide.79 In addition, producers of electricity from fossil fuels benefit from a multitude of indirect subsidies, ranging from tax privileges over export credit guarantees to government underwriting of power plant accidents.80 Most of all, in the absence of an emissions tax or a cap-and-trade system, energy incumbents are permitted to shift the environmental costs of their activities to society at large.

Subsidies tend to be highest in developing and transition economies to keep domestic electricity rates low for the benefit of low-income households.81 In practice, however, these rates mostly benefit affluent households and industrial electricity consumers, who tend to consume more electricity. Thus, these energy subsidies tend to foster increased energy consumption while delaying investment in energy efficiency and renewable energy technologies.82 They have brought forth economically and politically powerful energy incumbents and given rise to a political culture that assumes fossil fuels to be the basis of the economy.83 The result, in the words of two commentators, is a deeply felt public sense of entitlement “that cheap and readily available energy is part of the American birthright.”84

#### b.) the economics of the grid prevents renewables

**Mormann, their author, 11** (Felix, German JD and JSD from University of Passau School of law, as well as an LMM from UC BerkeleySchool of Law and is a research Fellow at Stanford’s Steyer Center for Energy Policy and Finance, writing for Economic Law Quarterly, "Requirements for a Renewables Revolution." 05/02/11. [http://www.boalt.org/elq/documents/elq38\_4\_03\_2012\_0808.pdf)](http://www.boalt.org/elq/documents/elq38_4_03_2012_0808.pdf%29) Jacome

3. The Electricity Market’s Physical and Virtual Barriers to Entry

Other barriers to the entry of renewables relate to the market structure of the electricity sector. Despite recent efforts to deregulate and liberalize the sector, the regionally or nationally defined power generation markets around the world still tend to be dominated by a limited number of big players, and in some cases by only one formerly government-run utilities company.92 In the absence of special incentives, these incumbents will be reluctant to give up their costly, well-established infrastructure of fossil fuel power plants for an increased share of renewables in their energy portfolio. Producers of electricity from renewable sources who enter the market will likely find themselves in a competition similar to that of David versus Goliath. To make matters worse, they need access to the grid in order to sell their power. Electricity distribution, however, represents a natural monopoly.93 Without a strong regulatory obligation to grant grid access to incoming players, producers of electricity from renewables are therefore left at the mercy of local network operators, who themselves tend to be electricity producers eager to eliminate additional competition.94

Successful grid integration of renewables depends not only on the local provider’s obligation to grant access to its network, but, just as importantly, on how the connection costs are distributed. The electricity market literature distinguishes between three different cost allocation models.95 Under the “deep” connection charging approach, the incoming power producer bears the cost for the transmission lines connecting the new plant to the grid as well as any grid reinforcements the newly added capacity may require. The “shallow” connection charging model requires the new power generator to pay only for the new electricity line to the closest grid connection point, while the grid operator is responsible for any upgrades to the grid infrastructure. At the extreme end of the cost allocation spectrum, the “super-shallow” approach requires the grid operator to pay for the connection to the new power plant and necessary grid reinforcement measures. Figure 1 illustrates these cost allocation models Traditionally, the “deep” connection charging practice has worked well for conventional large-scale plants, such as nuclear or coal-fired facilities.97 In relation to the overall cost of investment and the enormous output capacity of these projects, the financial burden of grid connection and reinforcement tends to be negligible. Furthermore, conventional power plants are far more flexible in their siting than, for instance, hydroelectric, wind or solar power plants that require very specific siting conditions to ensure the availability of the energy resource they aim to harness. As a result, fossil fuel power plant projects can limit the cost of grid access because their choice of location is less resource-dependent, and they can be sited based on existing grid availability, location, and capacity.

While the “deep” connection charging approach may make sense for conventional power plants, it represents a huge barrier to the deployment of plants that rely on renewable sources of energy.98 The generally smaller scale of renewables projects renders the cost of connection a much heavier burden relative to the plant capacity, thereby threatening its profitability. For offshore wind energy projects, for instance, the cost of grid connection can account for more than 25 percent of the overall investment cost.99 Many renewables, such as hydroelectric, wind, or solar power plants have very particular operating conditions that often require siting away from established grid networks. In addition, the intermittency of wind and solar energy is likely to require substantial grid reinforcements to handle the load peaks when these plants are operating at full capacity. Therefore, the cost of connection for many renewables plants is likely to be higher than for conventional plants, even in absolute terms. Successful grid integration of renewables thus requires not only a strong and enforceable right to gain grid access but also a departure from the presently prevailing “deep” connection charging regime.

#### Permits block timely solvency

**Mormann, their author, 11** (Felix, German JD and JSD from University of Passau School of law, as well as an LMM from UC BerkeleySchool of Law and is a research Fellow at Stanford’s Steyer Center for Energy Policy and Finance, writing for Economic Law Quarterly, "Requirements for a Renewables Revolution." 05/02/11. [http://www.boalt.org/elq/documents/elq38\_4\_03\_2012\_0808.pdf)](http://www.boalt.org/elq/documents/elq38_4_03_2012_0808.pdf%29) Jacome

In addition to the market-related barriers to entry, renewables have to overcome substantial obstacles that do not relate directly to the electricity market and its peculiarities. Before producers of electricity from renewable sources of energy can sell or produce electricity at all, they need to obtain all the permits to build and operate their power plants. The timeframe and complexity of the permit process vary considerably from one jurisdiction to another, directly affecting the cost of generation. The longer the lead-time and the greater the uncertainty of the permit process, the higher the cost of capital as banks and other investors will charge a premium for their financial support. The investment uncertainty and cost of capital directly influence the deployment rate of renewables. For instance, France offers similar rates to producers of electricity from wind power as Germany. Yet, as a result of the complicated and lengthy French permitting process, which involves a multitude of different administrative authorities, deployment of wind power plants in France has been much slower than in neighboring Germany.105 The problem is not one limited to France or Europe but hinders the deployment of renewables in the United States as well.106 Most of the difficulties that renewable energy power plant developers face center around fragmented permit procedures, discussed in Part II.C.1, spatial planning issues, discussed in Part II.C.2, and problems of acceptability among the local population, discussed in Part II.C.3.

1. Fragmented and Lengthy Permit Procedures

A high level of fragmentation greatly complicates and lengthens the permit process in many jurisdictions. In the past, large-scale power plant projects have traditionally been backed by strong government support, especially where they were run by government-owned utilities companies.107 Even in today’s liberalized electricity markets, large-scale power plants often receive preferential treatment in the form of a single, comprehensive permit process.108 Small-scale power plants, in turn, seldom benefit from such streamlined processes but, rather, require multiple parallel permit procedures.109

The appeal of many renewables technologies, such as solar photovoltaic, biofuel, or wind energy, lies partly in their suitability for micro-generation through decentralized, non-clustered and relatively small-scale projects. They not only have the potential to incur fewer distribution costs and transmission losses than many larger, centralized plants, but also to increase energy security through greater grid resiliency.110 Yet, it is difficult to exploit this potential if the complicated and fragmented permit process takes several years to complete.111 Wind turbine projects in the United States, for instance, have to comply with federal as well as regionally varying state and local regulations. At the federal level alone, acquiring the necessary permits for a wind power plant may involve no fewer than eight different agencies.112 At the state and local level, the situation is no better, as an October 2009 report of New Mexico’s Renewable Energy Transmission Authority recognizes. In its report, the Authority recommends “the establishment of a well-coordinated multi-state effort in the siting and permitting of transmission infrastructure” to avoid the time-consuming “multiplicity” of the state and local permit processes.113

Even where the same permit requirements apply to renewable energy plants and fossil fuel plants, the burden of multiple and often duplicative administrative procedures tends to weigh much heavier on renewable energy plants. Renewables plants usually have a several orders of magnitude loweroutput capacity and, hence, a lower earning potential, on the plant level, than their fossil fuel competitors. For instance, a residential solar photovoltaic rooftop installation rarely has a nameplate capacity of more than 10 kilowatts (kW).114 In 2010, the world’s largest installed wind turbine boasted a nameplate capacity of 6,000 kW.115 In contrast, the nameplate capacity of U.S. coal plants ranges from around 3,000 kW to more than 2,000,000 kW.116 These output differences are even more pronounced when accounting for the fact that the intermittency of solar and wind powered plants prevent them from operating at full capacity for most of the day. In relation to their considerably lower power output and earning potential, renewables plants frequently require considerably more time and money at the permit stage than large-scale fossil fuel plants.

Wind energy doesn’t reduce emissions – intermittency

Robert Bryce 8-23-2010; Mr. Bryce, a senior fellow at the Manhattan Institute, recently published his fourth book, "Power Hungry: The Myths of 'Green' Energy and the Real Fuels of the Future" (PublicAffairs). “Wind Power Won't Cool Down the Planet” Wall Street Journal 8-23-2010; Proquest

The wind industry has achieved remarkable growth largely due to the claim that it will provide major reductions in carbon dioxide emissions. There's just one problem: It's not true. A slew of recent studies show that wind-generated electricity likely won't result in any reduction in carbon emissions -- or that they'll be so small as to be almost meaningless. This issue is especially important now that states are mandating that utilities produce arbitrary amounts of their electricity from renewable sources. By 2020, for example, California will require utilities to obtain 33% of their electricity from renewables. About 30 states, including Connecticut, Minnesota and Hawaii, are requiring major increases in the production of renewable electricity over the coming years. Wind -- not solar or geothermal sources -- must provide most of this electricity. It's the only renewable source that can rapidly scale up to meet the requirements of the mandates. This means billions more in taxpayer subsidies for the wind industry and higher electricity costs for consumers. None of it will lead to major cuts in carbon emissions, for two reasons. First, wind blows only intermittently and variably. Second, wind-generated electricity largely displaces power produced by natural gas-fired generators, rather than that from plants burning more carbon-intensive coal. Because wind blows intermittently, electric utilities must either keep their conventional power plants running all the time to make sure the lights don't go dark, or continually ramp up and down the output from conventional coal- or gas-fired generators (called "cycling"). But coal-fired and gas-fired generators are designed to run continuously, and if they don't, fuel consumption and emissions generally increase. A car analogy helps explain: An automobile that operates at a constant speed -- say, 55 miles per hour -- will have better fuel efficiency, and emit less pollution per mile traveled, than one that is stuck in stop-and-go traffic.

#### Wind actually increases CO2 emissions – inefficient backup generator modes and restart effect

Louise Gray, 1-9-2012; environmental correspondent for the Guardian; Wind power is expensive and ineffective at cutting CO2 say Civitas <http://www.telegraph.co.uk/earth/earthnews/9000760/Wind-power-is-expensive-and-ineffective-at-cutting-CO2-say-Civitas.html>

A study in the Netherlands found that turning back-up gas power stations on and off to cover spells when there is little wind actually produces more carbon than a steady supply of energy from an efficient modern gas station. The research is cited in a new report by the Civitas think tank which warns that Britain is in danger of producing more carbon dioxide (CO2) than necessary if the grid relies too much on wind. Wind turbines only produce energy around 30 per cent of the time. When the wind is not blowing - or even blowing too fast as in the recent storms - other sources of electricity have to be used, mostly gas and coal. However it takes a surge of electricity to power up the fossil fuel stations every time they are needed, meaning more carbon emissions are released. “You keep having to switch these gas fired power stations on and off, whereas if you just have highly efficient modern gas turbines and let it run all the time, it will use less gas,” said Ruth Lea, an economic adviser to Arbuthnot Banking Group and the author of the Civitas report. “If you use less gas in a highly efficient gas turbine you use less carbon dioxide than having wind backed up by gas.” The Dutch report, published at the end of last year by retired physicist Dr C le Pair, also points to the carbon emissions produced in building wind farms, that last a relatively short period of time compared to conventional power stations. It concludes: “The wind projects do not fulfill 'sustainable' objectives. They cost more fuel than they save and they cause no CO2 saving, in the contrary they increase our environmental 'foot print'.” The UK Government want to build up to 32,000 wind turbines over the next 20 years, of which at least 6,000 could be onshore.

#### No extinction – empirically denied

**Carter 11–** Robert, PhD, Adjuct Research Fellow, James Cook University, Craig Idso, PhD, Chairman at the Center for the Study of Carbon Dioxide and Global Change, Fred Singer, PhD, President of the Science and Environmental Policy Project, Susan Crockford, evolutionary biologist with a specialty in skeletal taxonomy , paleozoology and vertebrate evolution, Joseph D’Aleo, 30 years of experience in professional meteorology, former college professor of Meteorology at Lyndon State College, Indur Goklany, independent scholar, author, and co-editor of the Electronic Journal of Sustainable Development, Sherwood Idso, President of the Center for the Study of Carbon Dioxide and Global Change, Research Physicist with the US Department of Agriculture, Adjunct Professor in the Departments of Geology, Botany, and Microbiology at Arizona State University, Bachelor of Physics, Master of Science, and Doctor of Philosophy, all from the University of Minnesota, Madhav Khandekar, former research scientist from Environment Canada and is an expert reviewer for the IPCC 2007 Climate Change Panel, Anthony Lupo, Department Chair and Professor of Atmospheric Science at the University of Missouri, Willie Soon, astrophysicist at the Solar and Stellar Physics Division of the Harvard-Smithsonian Center for Astrophysics, Mitch Taylor (Canada) (March 8th, “[Surviving](file:///C:\Users\Marc\Desktop\Surviving) the Unpreceented Climate Change of the IPCC” <http://www.nipccreport.org/articles/2011/mar/8mar2011a5.html>) Jacome

On the other hand, they indicate that some biologists and climatologists have pointed out that "many of the predicted increases in climate have happened before, in terms of both magnitude and rate of change (e.g. Royer, 2008; Zachos *et al*., 2008), and yet biotic communities have remained remarkably resilient (Mayle and Power, 2008) and in some cases thrived (Svenning and Condit, 2008)." But they report that those who mention these things are often "placed in the 'climate-change denier' category," although the purpose for pointing out these facts is simply to present "a sound scientific basis for understanding biotic responses to the magnitudes and rates of climate change predicted for the future through using the vast data resource that we can exploit in fossil records." Going on to do just that, Willis *et al*. focus on "intervals in time in the fossil record when atmospheric CO2 concentrations increased up to 1200 ppm, temperatures in mid- to high-latitudes increased by greater than 4°C within 60 years, and sea levels rose by up to 3 m higher than present," describing studies of past biotic responses that indicate "the scale and impact of the magnitude and rate of such climate changes on biodiversity." And what emerges from those studies, as they describe it, "is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to another." And, most importantly in this regard, they report "there is very little evidence for broad-scale extinctions due to a warming world." In concluding, the Norwegian, Swedish and UK researchers say that "based on such evidence we urge some caution in assuming broad-scale extinctions of species will occur due solely to climate changes of the magnitude and rate predicted for the next century," reiterating that "the fossil record indicates remarkable biotic resilience to wide amplitude fluctuations in climate.

#### Innovation solves resource wars

**Chang 11** – Graduated Cornell Law School (Gordon G., Feb 21, “Global Food Wars” http://blogs.forbes.com/gordonchang/2011/02/21/global-food-wars/)

In any event, food-price increases have apparently been factors in the unrest now sweeping North Africa and the Middle East. The poor spend up to half their disposable income on edibles, making rapid food inflation a cause of concern for dictators, strongmen, and assorted autocrats everywhere. So even if humankind does not go to war over bad harvests, Paskal may be right when she contends that climate change may end up altering the global map. This is not the first time in human history that food shortages looked like they would be the motor of violent geopolitical change. Yet amazing agronomic advances, especially Norman Borlaug’s Green Revolution in the middle of the 20th century, have consistently proved the pessimists wrong. In these days when capitalism is being blamed for most everything, it’s important to remember the power of human innovation in free societies—and the efficiency of free markets.

#### No Resource Wars – Three Reasons

* Trade
* Low Benefit
* Decline in nonrenewable costs

Deudney 99 – (Dan, Associate Professor of Political Science, Johns Hopkins, Contested Grounds: Security and Conflict in the New Environmental Politics, Eds. Deudney & Matthews p 205-6)

The hypothesis that states will begin fighting each other as natural resources are depleted and degraded seems intuitively accurate. The popular metaphor of a lifeboat adrift at sea with declining supplies of clean water and rations suggests there will be fewer opportunities for positive-sum gains between actors as resource scarcity grows. Many fears of resource war are derived from the cataclysmic world wars of the first half of the twentieth century Influenced by geopolitical theories that emphasized the importance of land and resources for great power status, Adolf Hitler fashioned Nazi German war aims to achieve resource autonomy. The aggression of Japan was directly related to resource goals: lacking indigenous fuel and minerals, and faced with a slowly tightening embargo by the Western colonial pow ers in Asia, the Japanese invaded Southeast Asia for oil, tin, and rub ber. Although the United States had a richer resource endowment than the Axis powers, fears of shortages and industrial strangulation played a central role in the strategic thinking of American elites about world strategy. During the Cold War, the presence of natural resources in the Third World helped turn this vast area into an arena for East-West conflict. Given this record, the scenario of conflicts over resources playing a powerful role in shaping international order should be taken seriously. However, there are three strong reasons for concluding that the familiar scenarios of resource war are of diminishing plausibility for the foreseeable future. First, the robust character of the world trade system means that states no longer experience resource dependency as a major threat to their military security and political autonomy. During the 1930s, the collapse of the world trading system drove states to pursue economic autarky, but the resource needs of contemporary states are routinely met without territorial control of the resource source. As Ronnie Lipschutz has argued, this means that re source constraints are much less likely to generate interstate violence than in the past. Second, the prospects for resource wars are diminished by the growing difficulty that states face in obtaining resources through territorial conquest. Although the invention of nuclear explosives has made it easy and cheap to annihilate humans and infrastructure in extensive areas, the spread of conventional weaponry and national consciousness has made it very costly for an invader, even one equipped with advanced technology, to subdue a resisting population, as France discovered in Indochina and Algeria, the United States in Vietnam, and the Soviet Union in Afghanistan. At the lower levels of violence capability that matter most for conquering and subduing territory; the great powers have lost effective military superiority and are unlikely soon to regain it. Third, nonrenewable resources are, contrary to intuitive logic, becoming less economically scarce. There is strong evidence that the world is entering what H. E. Goeller and Alvin M. Weinberg have labeled the “age of substitutability,” in which industrial technology is increasingly capable of fashioning ubiquitous and plentiful earth materials such as iron, aluminum, silicon, and hydrocarbons into virtually everything needed by modem societies. The most striking manifestation of this trend is that prices for virtually every raw material have been stagnant or falling for the last two decades despite the continued growth in world economic output. In contrast to the expectations widely held during the 1970s that resource scarcity would drive up commodity prices to the benefit of Third World raw material suppliers, prices have fallen.

#### Empirical Evidence

Salehyan 7 – Professor of Political Science at the University of North Texas. (Idean, 6-14 “The New Myth About Climate Change Corrupt, tyrannical governments—not changes in the Earth’s climate—will be to blame for the coming resource wars.” <http://www.foreignpolicy.com/articles/2007/08/13/the_new_myth_about_climate_change>)

First, aside from a few anecdotes, there is little systematic empirical evidence that resource scarcity and changing environmental conditions lead to conflict. In fact, several studies have shown that an abundance of natural resources is more likely to contribute to conflict. Moreover, even as the planet has warmed, the number of civil wars and insurgencies has decreased dramatically. Data collected by researchers at Uppsala University and the International Peace Research Institute, Oslo shows a steep decline in the number of armed conflicts around the world. Between 1989 and 2002, some 100 armed conflicts came to an end, including the wars in Mozambique, Nicaragua, and Cambodia. If global warming causes conflict, we should not be witnessing this downward trend. Furthermore, if famine and drought led to the crisis in Darfur, why have scores of environmental catastrophes failed to set off armed conflict elsewhere? For instance, the U.N. World Food Programme warns that 5 million people in Malawi have been experiencing chronic food shortages for several years. But famine-wracked Malawi has yet to experience a major civil war. Similarly, the Asian tsunami in 2004 killed hundreds of thousands of people, generated millions of environmental refugees, and led to severe shortages of shelter, food, clean water, and electricity. Yet the tsunami, one of the most extreme catastrophes in recent history, did not lead to an outbreak of resource wars. Clearly then, there is much more to armed conflict than resource scarcity and natural disasters

#### And the status quo guarantees a shift away, but the plan causes a quick shift that kills the economy and causes long term instability

**Eakin 11** – has a distinguished record as an academic, policy adviser, and strategist. Currently he is the President of the American Action Forum and was most recently, a Commissioner on the Congressionally-chartered Financial Crisis Inquiry Commission, was the Director of the Maurice R. Greenberg Center for Geoeconomic Studies and the Paul A. Volcker Chair in International Economics at the Council on Foreign Relations. (Douglas Holtz-Eakin, October 26th, “Who says this is a race?” <http://energy.nationaljournal.com/2011/10/is-america-losing-the-clean-en.php>) Jacome

This is becoming a common refrain: When it comes to helping our energy sector invest in critical technologies, the government should promote robust competition on a level playing field, reduce disincentives to investment and trade, and support basic research and development. Any government assistance beyond these basics increases uncertainty, distorts the market, and generates boom-bust cycles for some favored technologies (see: Solyndra).

Let’s back up. Anyone who speaks of “winning” a “race” in clean energy is assuming a rather abrupt and methodical shift away from fossil fuels. This is unrealistic. Fossil fuels are – and will continue to be – the backbone of our energy infrastructure. A rapid transition away from these fuels will be unduly expensive and economically damaging. Instead, I expect a slow shift toward new sources of energy fueled in large part by improving the ways we extract and burn fossil fuels. This is happening now, and America is undoubtedly winning this race.

When alternative energy sources become sufficiently abundant, cheap, and reliable, the market will start choosing them over fossil fuels. These alternatives might be the renewable, biotech, and battery technologies we’re working on today, or they could be something entirely different. A competitive and profit-driven private sector won’t forgo an opportunity to identify and bring to market the technologies that will win the future. So China can continue to manufacture and sell artificially cheap solar panels; that’s no evidence of an upper hand in the long march toward dominance in the energy market.

#### And they destroy an incentive to innovate – internal link turns their economy arguments

Schrider 11 – (William, December 8th, “Feed-in Tariffs: Just Another Renewable Energy Subsidy” <http://blog.heritage.org/2011/12/08/feed-in-tariffs-just-another-renewable-energy-subsidy/>) Jacome

Beyond the obvious problem of government distortion of the market, there is also the fact that there is little incentive to innovate. A [report](http://www.nrel.gov/docs/fy10osti/44849.pdf) by the National Renewable Energy Laboratory (NREL) points to the limitations of predetermined tariff reduction, stating that such a scheme could pose problems for policymakers faced with technologies that experience rapid changes in cost, either up or down.

Consider this real-world example. After a sudden reduction in the cost of solar energy, Germany reacted by reevaluating its solar energy tariff rates to prevent windfall profits for solar energy producers.

Why innovate, then? If rapid cost reduction causes a tariff readjustment (and keeps your profits around the government-determined 5 percent to 7 percent), there is no reason to waste resources attempting to develop technology any faster. And if the government is willing to adjust a tariff down, what is going to prevent a tariff increase if costs “unexpectedly” rise? After all, the objective of a feed-in tariff is not to make production affordable, but to increase the contribution of renewable energy to the energy portfolio. It is a political goal, not an economic one. Increased consumer costs are the least concern.

#### No impact to economic decline – even if it produces conflict, there’s no chance of all our war

**Jervis 2011** – professor, Department of Political Science and School of International and Public Affairs, Columbia University (December, Robert, Survival, 25.4, “Force in Our Times”)

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes?45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

#### Lessons learned from the 30s are durable—this card crushes

**Drezner 2011** – professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University (8/12, Daniel, Foreign Policy, “Please come down off the ledge, dear readers”, http://drezner.foreignpolicy.com/posts/2011/08/12/please\_come\_down\_off\_the\_ledge\_dear\_readers, WEA) \*note: charts and graphics omitted

So, when we last left off this debate, things were looking grim. My concern in the last post was that the persistence of hard times would cause governments to take actions that would lead to a collapse of the open global economy, a spike in general riots and disturbances, and eerie echoes of the Great Depression. Let's assume that the global economy persists in sputtering for a while, because that's what happens after major financial shocks. Why won't these other bad things happen? Why isn't it 1931?

Let's start with the obvious -- it's not gonna be 1931 because there's some passing familiarity with how 1931 played out. The Chairman of the Federal Reserve has devoted much of his academic career to studying the Great Depression. I'm gonna go out on a limb therefore and assert that if the world plunges into a another severe downturn, it's not gonna be because central bank heads replay the same set of mistakes.

The legacy of the Great Depression has also affected public attitudes and institutions that provide much stronger cement for the current system. In terms of publuc attitudes, compare the results of this mid-2007 poll with this mid-2010 poll about which economic system is best. I'll just reproduce the key charts below:

The headline of the 2010 results is that there's eroding U.S. support for the global economy, but a few other things stand out. U.S. support has declined, but it's declined from a very high level. In contrast, support for free markets has increased in other major powers, such as Germany and China. On the whole, despite the worst global economic crisis since the Great Depression, public attitudes have not changed all that much. While there might be populist demands to "do something," that something is not a return to autarky or anything so drastc.

Another big difference is that multilateral economic institutions are much more robust now than they were in 1931. On trade matters, even if the Doha round is dead, the rest of the World Trade Organization's corpus of trade-liberalizing measures are still working quite well. Even beyond the WTO, the complaint about trade is not the deficit of free-trade agreements but the surfeit of them. The IMF's resources have been strengthened as a result of the 2008 financial crisis. The Basle Committee on Banking Supervision has already promulgated a plan to strengthen capital requirements for banks. True, it's a slow, weak-assed plan, but it would be an improvement over the status quo.

As for the G-20, I've been pretty skeptical about that group's abilities to collectively address serious macroeconomic problems. That is setting the bar rather high, however. One could argue that the G-20's most useful function is reassurance. Even if there are disagreements, communication can prevent them from growing into anything worse.

Finally, a note about the possibility of riots and other general social unrest. The working papercited in my previous post noted the links between austerity measures and increases in disturbances. However, that paper contains the following important paragraph on page 19:

[I]n countries with better institutions, the responsiveness of unrest to budget cuts is generally lower. Where constraints on the executive are minimal, the coefficient on expenditure changes is strongly negative -- more spending buys a lot of social peace. In countries with Polity-2 scores above zero, the coefficient is about half in size, and less significant. As we limit the sample to ever more democratic countries, the size of the coefficient declines. For full democracies with a complete range of civil rights, the coefficient is still negative, but no longer significant.

This is good news!! The world has a hell of a lot more democratic governments now than it did in 1931. What happened in London, in other words, might prove to be the exception more than the rule.

So yes, the recent economic news might seem grim. Unless political institutions and public attitudes buckle, however, we're unlikely to repeat the mistakes of the 1930's. And, based on the data we've got, that's not going to happen.

## 2NC

### 2NC Uniqueness Wall

#### Presidential push for a fiscal bargain solves status quo divisions

Vicki Needham (writer for The Hill) November 7, 2012 “Business groups urge quick extension of tax policies in lame duck” http://thehill.com/blogs/on-the-money/economy/266701-business-groups-urge-quick-extension-of-tax-policies-in-lame-duck

A grand bargain will require complex negotiations that will take more time than the six or so weeks left before year's end. "What we need is action," Engler said. Engler, Casey and Jay Timmons, president of the National Association of Manufacturers, told reporters that Obama must lay out a blueprint for Congress that will tackle the long list of these issues hampering a more robust economic recovery. "This is going to take executive leadership," Engler said. Timmons said it is time for unity to help the country improve its global competitiveness. "Our goal is to grow the economy," he said. The president talked to congressional leaders on Wednesday about the legislative agenda less than a day after winning reelection. But congressional leaders immediately staked out the same positions that have created so much division on Capitol Hill. Speaker John Boehner (R-Ohio) said he would not yield to raising any taxes this year, while Senate Majority Leader Harry Reid (D-Nev.) argued for letting tax rates expire for wealthier earners. Still, both men hinted that they need to find a way to work togther toward a bipartisan compromise.

#### Obama has all the leverage now – Republicans are starting to cave

Jason Pye (writer for United Liberty) November 8, 2012 “Boehner willing to raise taxes in lame duck session” http://www.unitedliberty.org/articles/11841-boehner-willing-to-raise-taxes-in-lame-duck-session

It didn’t take long for the predicted sellout by Republican leadership after the election. With Boehner has already showing weakness, Obama and Senate Democrats are going to wind up with a clear advantage out of whatever deal is made and whatever revenue cuts are agree upon will, much like past budget deals, most likely never come to fruition.

#### Obama election victory gives him sufficient capital to negotiate solution to the ‘fiscal cliff’

Mike Lillis (writer for The Hill) September 29, 2012 “Democrats lay out second-term wish list for President Obama” http://thehill.com/homenews/campaign/259253-dems-lay-out-wish-list-for-a-second-obama-term

The presidential contest is far from over, but House Democrats are already readying their legislative wish-lists in hopes that President Obama is reelected. The lawmakers are floating a broad array of issues they'd like Obama to tackle immediately in a second term, placing a focus on jobs and the economy, but also thorny discretionary issues like immigration, climate change, housing – even a return to healthcare reform. An Obama victory in November would lend the president a new fistful of political capital as he confronts Republican leaders over how to avoid the fiscal cliff and steer the polarized country through the next four years. More than a month before November's elections, his allies in the House are already offering tips for how to spend it. “He's got to continue to concentrate on jobs,” Rep. Bill Pascrell said last week as the House was leaving town for a long, pre-election recess. “I'm hoping he'll do immigration reform,” said Rep. Henry Cuellar (D-Texas). “We should get back to an energy policy – one that acknowledges that climate change is real,” said Rep. Peter Welch (D-Vt.). “The critical issues will be revenue generation … and … a concerted push on immigration reform,” said Rep. Raul Grijalva (D-Ariz.). “I think he'd want his administration to start on healthcare,” said Rep. Mike Honda (D-Calif.). The remarks highlight the sheer variety of issues the Democrats are hoping to address after two years in the House minority – and foreshadow the degree of pressure a reelected Obama would be under to satisfy his allies after a bruising campaign season. The quotations also suggest some rising confidence among Democrats. The presidential contest remains a close one, but recent polls showing Obama with a growing lead in the key battleground states of Ohio and Florida are indication that GOP contender Mitt Romney has a hard road ahead to unseat the incumbent. National polls this week also showed Obama with a growing lead, while Republican criticism of Romney has intensified. Although the Republicans are expected to keep control of the House, an Obama win amid a lingering jobs crisis would – at least in the eyes of Democrats – validate some of the policies the president has adopted on the campaign trail and pressure Republicans to reach deals on them. Indeed, some leading Republicans have said an Obama victory would be “a referendum” for raising taxes on the country's highest earners, one of Obama's top priorities. The power of post-election momentum was evident four years ago when Obama was swept into the White House in a wave of Democratic victories that allowed the party to secure the early passage of their controversial economic stimulus package and paved the way for the enactment of sweeping healthcare reforms the following year. Although voter enthusiasm toward Obama waned, reelection would give the president new – if fleeting – leverage in his negotiations with GOP leaders over a range of issues. His House supporters are hoping he uses that leverage to fight for a long list of Democratic priorities that were lost to the partisan battles of the last Congress.

#### Time pressure – scheduling ensures small window

Chad Pergram (writer for Fox News) October 27, 2012 “The Hitchhiker's Guide to the Lame Duck Session of Congress” http://politics.blogs.foxnews.com/2012/10/27/hitchhikers-guide-lame-duck-session-congres

The Congressional schedule for this lame duck session is remarkably abbreviated. The House and Senate are both slated to next meet on Tuesday, November 13. That's a little later simply because that Monday is Veterans' Day. The Senate hasn't set any schedule other than a procedural vote at 5:30 pm on "The Sportsmen Act." But the House plans to be in session through the 16th and then take off the next week for Thanksgiving. The House then comes back November 27-30, December 3-6 and December 11-14. That's an incredible time-crunch. For starters, no one on Capitol Hill is anticipating the House freshman to start arriving until the week of November 13th. Then there are leadership elections in both bodies. House Minority Leader Nancy Pelosi (D-CA) says Democratic leadership elections won't hit until November 29. So in addition to figuring out which party is in charge of what (if electoral disputes linger), it doesn't look like Congress can truly get down to business on the pressing legislative issues until December.

#### Short-term aversion to fiscal cliff will get negotiated now – but it will be a political slugfest

The Hotline October 24, 2012 “Panic Cliff” Lexis

Lawmakers "are downplaying hopes that they will avert the so-called fiscal cliff," but "they suggest a partial fix is likely. Leading lawmakers have no intention of letting the sequester happen or all of the tax cuts expire. Nor will Congress vote to punt those events entirely, even for a few months," cong. aides said. Instead, cong. "leaders are discussing a plan to make a down payment of targeted cuts worth about half of the" $110B, "while establishing a framework for additional cuts." Rep. Chris Van Hollen (D-MD): "It will be very difficult to put together a comprehensive plan in just six weeks. Everyone's going to have to scramble" (Friedman/House, National Journal Daily, 10/23). Sens. Mark Warner (D-VA) and Saxby Chambliss (R-GA) "told the financial community on" Oct. 23 "that the industry's engagement is critical if the country is to avoid the 'fiscal cliff." Chambliss "said he expects a 'tough political slugfest' between Thanksgiving and Christmas as Congress and the administration race to beat the end-of-year deadline in an environment that will be politically charged no matter who wins the" WH.

### 2NC Impact - Economy Extension

#### Fiscal cliff collapses the economy

Maximillian Walsh (writer for the Australian Financial Review) October 25, 2012 “Good ship QE3 must reverse sometime” Lexis

Even though fiscal gridlock has meant Ben Bernanke has, in effect, been operating with one arm tied behind his back, his monetary strategy has been courageous and reasonably effective. The US still has a way to go but its recovery to date has been in line with the experience of previous systemic financial crises as outlined by Carmen Reinhart and Kenneth Rogoff in their timely study, This Time is Different: Eight Centuries of Financial Folly. Full recovery from such episodes averages out at about 10 years. Output in the US rose above its pre-crisis peak in the second half of 2011 - a result that put it ahead of most developed economies. Since then, however, the US, along with rest of the developed world, has lost some momentum. The IMF's World Economic Outlook, published this month, reports there is now a one in six chance of global growth falling below 2 per cent. For the US the biggest immediate risk is the so-called fiscal cliff - drastic and automatic tax increases and spending cutbacks - scheduled to come into effect on January 1. The conventional wisdom is that these measures will be postponed by Congress in the lame-duck session after the coming presidential election. Winston Churchill's observation that the US always does the right thing after all other options have been tried, is widely quoted to support the conventional wisdom. That wasn't the case in 1930, when Congress gave open slather to vested interests and brought down what was the most protectionist bill in US history - the Smoot-Hawley Tariff Act. This became the excuse for other countries to introduce "beggar-thy-neighbour" policies that exacerbated the contraction in global trade and deepened the Great Depression. This was the outcome predicted by economists who petitioned Congress against Smoot-Hawley. Not surprisingly, the approaching threat of the fiscal cliff and the absence of any engagement in the political area on its consequences is already having a significant impact on the capital investment and employment plans of American industry. It needs to be said that, considering the magnitude of the ongoing financial crisis, the two presidential candidates remain insouciance personified. It's not just the candidates. As John Hussman, an American economic analyst, wrote in his weekly commentary: "We've become desensitised to extraordinary large numbers - if hundreds of billions don't solve the problem, then a few trillion will - ignoring the magnitude of those figures relative to our actual capacity to produce economic output." If the fiscal cliff is not dealt with - and this would involve postponing most of the measures - then the US is headed for recession in 2013 and it will drag the rest of the developed world and quite a swag of the emerging economies down with it.

### Exts –Destroys the Military

#### Hollows the military

**Scarborough 11** – [Washington Times](http://en.wikipedia.org/wiki/Washington_Times) reporter for nearly two decades, graduated [summa cum laude](http://en.wikipedia.org/wiki/Latin_honors) from the School of Journalism at the [University of Maryland](http://en.wikipedia.org/wiki/University_of_Maryland,_College_Park). He served in the [United States Navy](http://en.wikipedia.org/wiki/United_States_Navy) as a [Hospital Corpsman](http://en.wikipedia.org/wiki/Hospital_Corpsman) (Rowan, September 29th 2011, The Washington Times “Report: Budget cuts would hollow military” http://www.washingtontimes.com/news/2011/sep/29/report-budget-cuts-would-leave-military-hollow/?page=all) Jacome

Bottom of Form

A new congressional report spells out in detail how the military would become “hollow” if [Congress](http://www.washingtontimes.com/topics/congress/)‘ supercommittee fails to agree on deficit reductions, triggering $1.2 trillion in automatic spending cuts.

The [Army](http://www.washingtontimes.com/topics/army/) and [Marine Corps](http://www.washingtontimes.com/topics/united-states-marine-corps/) would lose 200,000 troops, bringing active strength “well below” pre-Sept. 11, 2001, levels, and the armed forces would not be able to carry out its essential mission, says a 14-page analysis by the Republican majority staff of the [House Armed Services Committee](http://www.washingtontimes.com/topics/house-committee-on-armed-services/).

The report also says the cuts would deplete weapon systems, further degrading the fighting capabilities of the armed forces.

Defense Secretary [Leon E. Panetta](http://www.washingtontimes.com/topics/leon-e-panetta/) has warned repeatedly in recent weeks of a weakened, or hollow, military if a congressional supercommittee fails to agree on deficit reductions by Nov. 23. By law, the stalemate would require across-the-board slashing at all federal agencies, including the [Pentagon](http://www.washingtontimes.com/topics/pentagon/).  
[Mr. Panetta](http://www.washingtontimes.com/topics/leon-e-panetta/) has not offered many details, but the House analysis is now filling in the blanks.

According to the report, the base defense budget, minus actual war costs, would plunge from a planned $596 billion in the fiscal year be ginning Oct. 1, 2012, to $491 billion.

“Resultant force structure is insufficient to decisively win an engagement in one theater while defending vital national interests in another,” states the internal report, prepared for committee chairman [Rep. Howard P. “Buck” McKeon](http://www.washingtontimes.com/topics/howard-p-buck-mckeon/), California Republican.

“[This] jeopardizes ability to respond to potential contingencies in [North Korea](http://www.washingtontimes.com/topics/north-korea/) or [Iran](http://www.washingtontimes.com/topics/islamic-republic-of-iran/), and adequately defend allies [including [Israel](http://www.washingtontimes.com/topics/israel/) and [Taiwan](http://www.washingtontimes.com/topics/taiwan/)] and deployed U.S. forces,” the report states.

If there is no supercommittee agreement, the report says:

• The [Navy](http://www.washingtontimes.com/topics/navy/) fleet will shrink from about 300 ships to 238 vessels, with two fewer aircraft carriers to project power.

• The strategic bombing aircraft will fall from 153 planes to 101.

• [Air Force](http://www.washingtontimes.com/topics/air-force/) fighters, the backbone of gaining control of the skies in a conflict, would drop by more than half, from 3,602 aircraft to 1,512 planes.

The report does not predict what new weapon systems would be cut by the [Pentagon](http://www.washingtontimes.com/topics/pentagon/) to meet the budget law.

### Exts – Unpopular

#### Controversial – no one supports it

**Mulkern 9 –** (Anne C. March 24th,“Some see daylight at last for U.S. feed-in tariffs” <http://www.nytimes.com/gwire/2009/03/24/24greenwire-some-see-daylight-at-last-for-us-feedin-tariff-10271.html?pagewanted=all>) Jacome

But feed-in tariffs are controversial. They are blamed for sharply higher electricity prices in countries where they exist. Some question whether Americans accustomed to comparatively low electricity costs would tolerate paying more.

Utility companies also argue that they are not needed, since Congress is poised to pass legislation that would set financial penalties for carbon emissions from traditional power sources. And there might not be a political appetite for a fight over a national tariff.

It is sensitive enough that the Solar Energy Industries Association's president and spokeswoman did not want to talk about the question of lobbying for it, except to call the tariff "a heavy lift."

But Efird said that when the issue came up at the association's board of directors' meeting last month, there was "pretty much a consensus that the political atmosphere at this point would justify us investing some of our resources in a lobbying effort for a feed-in tariff."

Since then, a policy task force has been meeting about twice a week, Efird said, "working on the details of what we think the ideal feed-in tariff should look like."

'New ideas take time'

Congress does not appear likely to embrace a feed-in tariff anytime soon, however.

"There is no interest on the Energy Committee's part to examine the concept of feed-in tariffs," said Bill Wicker, spokesman for the Senate Energy and Natural Resources Committee, the most likely starting place for such discussions. "We believe a better way to accomplish the same goal -- creating a market for renewables -- is with a renewable electricity standard."

### a/t: compartmentalization

1. **Political capital empirically influences legislative outcomes**

**Sidlow and Henschen 8** - \*PhD, associate professor of political science at Eastern Michigan University \*\*PhD from OSU, professor at Eastern Michigan University (Edward and Beth, “America at Odds,” Cengage Learning, 2008, pg. 273, //deuce)

The expansion of the president’s legislative powers Congress has come to expect the president to develop a legislative program. From time to time the president submits special messages on certain subjects. These messages call on Congress to enact laws that the president thinks are necessary. The president also works closely with members of Congress to persuade them to support particular programs. The president writes, telephones, and meets with various congressional leaders to discuss pending bills. The president also sends aides to lobby on Capitol Hill. One study of the legislative process found that “no other single actor in the political system has quite the capability of the president to set agendas in given policy areas.” As one lobbyist told a researcher, “Obviously, when a president sends up a bill [to Congress], it takes first place in the queue. All other bills take second place. The Power to Persuade. The president’s political skills and ability to persuade others play a large role in determining the administrations success. According to Richard Neustadt, in his classic work entitled Presidential Power, “Presidential power is the power to persuade.”7 For all of the resources at the president’s disposal, the president still must rely on others if the administrations’ goals are to be accomplished. After three years in office, President Harry Truman made this remand about the powers of the president: “The president may have a great many powers given to him in the Constitution and may have certain powers under certain laws which are given to him by the Congress of the United States’ but the principal power that the president has is to bring people in and try to persuade them to do what they ought to do without persuasion. That’s what the powers of the president amount to.” For example, President Bush embarked on an ambitious legislative agenda following his reelection in 2004. His ability to win congressional support for his plans depended largely on his persuasive power. (As you will read in this chapter’s Perception versus Reality feature on page 274, however, President Bush did not rely solely on his persuasive powers to implement his agenda.) Persuasive powers are particularly important when divided government exists. If a president from one political party faces a Congress dominated by the other party, the president must overcome opposition than usual to get legislation passed.

### 2NC Obama PC Key - Generic

#### PC key

Janie Lorber and Kate Ackley (writers for Roll Call) November 8, 2012 “Lobbyists Eager for Short-Term Fiscal Deal” http://www.rollcall.com/issues/58\_35/Lobbyists-Eager-for-Short-Term-Fiscal-Deal-218891-1.html?pos=olobh

“The stakes over the fiscal cliff discussion just got significantly higher,” said David French, chief lobbyist at the National Retail Federation. “If Washington was looking to guidance from the voters on the path ahead, voters weren’t exactly clear.” As the nation approaches its debt ceiling yet again, lawmakers have less than 20 legislative days to decide what to do about the simultaneous expiration of the Bush-era tax cuts and the Social Security payroll tax holiday, as well as the first round of sequestration cuts. Every interest group has a stake. Business advocates argue that the tax provisions set to expire on Dec. 31 will stifle the still sputtering economy. Defense lobbyists fear that the longer the Pentagon budget remains up in the air, the harder it will be for contractors to recover. And unions and other liberal groups worry that emboldened Senate Democrats may agree to cuts in Medicare as part of a last-minute compromise. Add to that pleas from lobbyists representing municipalities ravaged by Hurricane Sandy that are desperate for federal funds to speed disaster relief efforts. “Folks in the business community believe it’s time to unite our country because America’s competitiveness is at stake,” Jay Timmons, the president of the National Association of Manufacturers, said on a conference call Wednesday. “I don’t think there’s anything more urgent than dealing with our fiscal crisis.” For the past year, defense giants and, to a lesser degree, technology firms, have begged lawmakers to avoid billions of dollars in cuts associated with sequestration. Michael Herson, a Republican lobbyist with American Defense International, said he is optimistic that lawmakers will delay sequestration until the next Congress and said most defense lobbyists will adopt a wait-and-see approach for the lame-duck session. The U.S. Chamber of Commerce, which fielded its largest voter mobilization effort ever and spent millions in support of Republicans this cycle, also urged the parties to come together on comprehensive tax and entitlement reforms. But with many of the same faces returning to Washington, D.C., next year, lobbyists wondered whether the illusive “grand bargain” is little more than a pipe dream. “[It] hinges on how Obama plays it. If he and his team really bear down and work with GOPers — an element sadly lacking the last four years — they can make a lot of progress,” said Jack Howard, a Republican lobbyist at Wexler & Walker Public Policy Associates. “If, however, he takes a hands-off approach, then I don’t really see much of a path forward. He has to be the arm-twister, the head-knocker to move things forward.”

### a/t: winners win

**Winners don’t win- political capital needs to be managed well**

**RYAN 2009** [Selwyn Professor of Social Science at the Sir Arthur Lewis Institute of Social and Economic Studies, University of West Indies. Ph.D. in Political Science from Cornell, Jan 18, http://www.trinidadexpress.com/index.pl/article\_opinion?id=161426968]

Like many, I expect much from Obama, who for the time being, is my political beast of burden with whom every other politician in the world is unfavourably compared. As a political scientist, I however know that given the structure of American and world politics, it would be difficult for him to deliver half of what he has promised, let alone all of it. Reality will force him to make many "u" turns and detours which may well land him in quick sand. Obama will, however, begin his stint with a vast accumulation of political capital, perhaps more than that held by any other modern leader. Seventy-eight per cent of Americans polled believe that his inauguration is one of the most historic the country will witness. Political capital is, however, a lumpy and fast diminishing asset in today's world of instant communication, which once misspent, is rarely ever renewable. The world is full of political leaders like George Bush and Tony Blair who had visions, promised a lot, and probably meant well, but who did not know how to husband the political capital with which they were provided as they assumed office. They squandered it as quickly as they emptied the contents of the public vaults. Many will be watching to see how Obama manages his assets and liabilities register. Watching with hope would be the white young lady who waved a placard in Obama's face inscribed with the plaintive words, "I Trust You." Despite the general optimism about Obama's ability to deliver, many groups have already begun to complain about being betrayed. Gays, union leaders, and women have been loud in their complaints about being by-passed or overlooked. Some radical blacks have also complained about being disrespected. Where and when is Joshua going to lead them to the promised land, they ask? When is he going to pull the troops out of Iraq? Civil rights groups also expect Obama to dis-establish Guantanamo as soon as he takes office to signal the formal break with Dick Cheney and Bush. They also want him to discontinue the policy which allows intelligence analysts to spy on American citizens without official authorisation. In fact, Obama startled supporters when he signalled that he might do an about-turn and continue this particular policy. We note that Bush is signalling Obama that keeping America safe from terrorists should be his top priority item and that he, Bush, had no regrets about violating the constitutional rights of Americans if he had to do so to keep them safe. Cheney has also said that he would do it again if he had to. The safety of the republic is after all the highest law. Other groups-sub-prime home owners, workers in the automobile sector, and the poor and unemployed generally all expect Obama to work miracles on their behalf, which of course he cannot do. Given the problems of the economy which has not yet bottomed out, some promises have to be deferred beyond the first term. Groups, however, expect that the promise made to them during the campaign must be kept. Part of the problem is that almost every significant social or ethnic group believes that it was instrumental in Obama's victory. White women felt that they took Obama over the line, as did blacks generally, Jews, Hispanics, Asians, rich white men, gays, and young college kids, to mention a few of those whose inputs were readily recognisable. Obama also has a vast constituency in almost every country in the world, all of whom expect him to save the globe and the planet. Clearly, he is the proverbial "Black Knight on a White Horse." One of the "realities" that Obama has to face is that American politics is not a winner-take-all system. It is pluralistic vertically and horizontally, and getting anything done politically, even when the President and the Congress are controlled by the same party, requires groups to negotiate, bargain and engage in serious horse trading. No one takes orders from the President who can only use moral or political suasion and promises of future support for policies or projects. The system was in fact deliberately engineered to prevent overbearing majorities from conspiring to tyrannise minorities. The system is not only institutionally diverse and plural, but socially and geographically so. As James Madison put it in Federalist No 10, one of the foundation documents of republicanism in America, basic institutions check other basic institutions, classes and interests check other classes and interests, and regions do the same. All are grounded in their own power bases which they use to fend off challengers. The coalitions change from issue to issue, and there is no such thing as party discipline which translated, means you do what I the leader say you do. Although Obama is fully aware of the political limitations of the office which he holds, he is fully aware of the vast stock of political capital which he currently has in the bank and he evidently plans to enlarge it by drawing from the stock held by other groups, dead and alive. He is clearly drawing heavily from the caparisoned cloaks of Lincoln and Roosevelt. Obama seems to believe that by playing the all-inclusive, multipartisan, non-ideological card, he can get most of his programmes through the Congress without having to spend capital by using vetoes, threats of veto, or appeals to his 15 million strong constituency in cyberspace (the latent "Obama Party").

Winners win is only true if Obama wins on a centrist policy

Pearlstein 10 Rick Pearlstein, Washington Post Columnist, February 17, 2010, “The current political disarray is a golden opportunity for Obama”, <http://www.washingtonpost.com/wp-dyn/content/discussion/2010/02/16/DI2010021602915.html>)

Annapolis, Md**.:** The funny thing is that if Obama started to show strong leadership instead of compromising, he would also get more respect from the Republicans. The one thing my conservative friends respond the best to is someone who has strong principles and sticks to them. Obama comes across as a push over (I am starting to think he just is) and that's something most people don't want to see in a president. Steven Pearlstein**:** I agree with that, with one caveat: The firm ground that he needs to stake out and hold is not the left-liberal ground, but more of a radical centrist ground. And the reason for that is political: it is what the American public at this moment in time can accept. That's the president's role -- to speak for the whole country. Not one party. Not one region. Not one ideology. And he can do so with some legitimacy.

## 1NR

### DA Impacts

#### The impact is nuclear conflict—it would escalate

London 10 (Herbert, president of Hudson Institute, June 28, 2010, http://www.hudson-ny.org/1387/coming-crisis-in-the-middle-east)

The coming storm in the Middle East is gaining momentum; like conditions prior to World War I, all it takes for explosive action to commence is a trigger. Turkey's provocative flotilla, often described in Orwellian terms as a humanitarian mission, has set in motion a gust of diplomatic activity: if the Iranians send escort vessels for the next round of Turkish ships, which they have apparently decided not to do in favor of land operations, it could have presented a casus belli. [cause for war] Syria, too, has been playing a dangerous game, with both missile deployment and rearming Hezbollah. According to most public accounts, Hezbollah is sitting on 40,000 long-, medium- and short-range missiles, and Syrian territory has been serving as a conduit for military materiel from Iran since the end of the 2006 Lebanon War. Should Syria move its own scuds to Lebanon or deploy its troops as reinforcement for Hezbollah, a wider regional war with Israel could not be contained. In the backdrop is an Iran, with sufficient fissionable material to produce a couple of nuclear weapons. It will take some time to weaponize the missiles, but the road to that goal is synchronized in green lights since neither diplomacy nor diluted sanctions can convince Iran to change course. From Qatar to Afghanistan all political eyes are on Iran, poised to be "the hegemon" in the Middle East; it is increasingly considered the "strong horse" as American forces incrementally retreat from the region. Even Iraq, ironically, may depend on Iranian ties in order to maintain internal stability. For Sunni nations like Egypt and Saudi Arabia, regional strategic vision is a combination of deal-making to offset the Iranian Shia advantage, and attempting to buy or develop nuclear weapons as a counterweight to Iranian ambition. However, both of these governments are in a precarious state; should either fall, all bets are off in the Middle East neighborhood. It has long been said that the Sunni "tent" must stand on two legs: if one, falls, the tent collapses. Should this tent collapse, and should Iran take advantage of that calamity, it could incite a Sunni-Shia war. Or feeling empowered, and no longer dissuaded by an escalation scenario, Iran, with nuclear weapons in tow, might decide that a war against Israel is a distinct possibility. However implausible it may seem at the moment, the possible annihilation of Israel and the prospect of a second holocaust could lead to a nuclear exchange.

#### Obama success on fiscal cliff key to second term agenda – that’s key to the economy, climate change, and immigration reform

Jackie Calmes (writer for the New York Times) October 16, 2012 “ Debt fight shadows campaign; Looming fiscal struggle in coming weeks will set tone for election victor” Lexis

Without agreement of some kind, more than $700 billion in automatic tax increases and spending cuts would occur after Dec. 31, scheduled by a mix of coincidence and bipartisan agreement. How the re-elected president navigates this ''fiscal cliff'' could determine how much political clout and budget resources he will have. ''I think it's the whole ballgame for the second term,'' said John D. Podesta, who was chief of staff to President Bill Clinton and led Mr. Obama's postelection transition planning four years ago. Politically, Mr. Obama would have to build trust with Republican leaders who had hoped to make him a one-term president, even as he remained in campaign mode, seeking to assert his claim to a mandate to make the necessary trade-offs on spending and taxes. The strength he shows in dealing with Republicans on Capitol Hill could also set the tone for debates on other knotty issues, like immigration and climate change. Any agreement in Congress, which opens a week after the election, could define the terms for how Mr. Obama and lawmakers move next year on efforts to contain the long-term costs of Medicare, Medicaid and Social Security, the programs that are often cited in forecasts of unsustainable debt. Such an agreement would determine how much money is available to address Mr. Obama's priorities like education, energy and health care through his term. ''Absent this kind of a deal, I really don't see what his second term does,'' said Vin Weber, a Republican strategist and former House member. To begin his fight for that deal, Mr. Obama would revive his dormant year-old deficit-reduction plan, which relies on tax increases on high incomes as well as spending cuts. Mr. Obama, advisers say, will travel the country to seek public support for his argument that his plan is a balanced and more economically prudent alternative than to simply allow automatic across-the-board spending cuts to take effect and all Bush-era income-tax rate cuts to expire. He will reinforce his vow not to sign another extension of the Bush tax cuts, which expire on Dec. 31, except for taxable income below $250,000. The Democrats hope that will force Republicans to drop their demand to continue tax cuts for high incomes, lest they get the blame for an impasse that causes taxes to go up for everyone. ''I think back in the vault is an Obama plan to put on the table,'' said Senator Richard J. Durbin, Democrat of Illinois. ''He's not going to let that opportunity on Nov. 13'' - when Congress returns - ''come and go without asserting some leadership.'' Absent a broad budget compromise, Mr. Podesta said, Mr. Obama's domestic agenda in a second term could be limited to finishing the main achievement of his first four years, his health care law. Its final stage takes effect in 2014, expanding private insurance to about 30 million uninsured Americans. ''He's got to win a battle for a fiscal framework that gives him the ability to make the kind of investments that he's out on the campaign trail talking about - whether that's education, innovation, science and tech, infrastructure,'' Mr. Podesta said. ''He can't go from one draining budget battle to the next.'' Senator Michael Bennet, Democrat of Colorado, said that because the budget impasse ''has become emblematic of Washington's dysfunction to people, I think their capacity to trust us here on a whole range of issues - on energy, immigration, education - is at risk if we don't figure out how to come together in a bipartisan way to solve this problem.''

#### Solves latin America instability

Robert Gittelson (Notre Dame Journal of Law, Ethics, & Public Policy) 2009 “The Centrists Against the Ideologues: What Are the Falsehoods That Divide Americans on the Issue of Comprehensive Immigration Reform?” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1400764

However, the above list of security enhancements is only a part of the overall security ramifications of CIR. For example, as everyone—including our enemies all over the world—knows, our military manpower is strained to the limit. Our troops are on a seemingly endless loop of deployments, with no imminent relief in sight. Our military recruiting officers are struggling to meet the vital new quotas for fresh servicemen and women, and scandals have started to come to light of instances where we have waived or lowered our induction standards.28 We are also offering record high bonus inducements to lure potential recruits to join the armed forces.29 CIR can really help us in this regard, with the potential addition of millions of military age, able-bodied men and women, should CIR allow them to legalize their status. This would not only increase the potential pool of new recruits; it would allow the military to once again raise standards, and— because of the laws of supply and demand—they could save much-needed revenue by lowering the bonuses that they are currently offering due to the short supply of potential seamen, soldiers, and airmen. The long-term benefit to our country through the addition of these potential recruits is that these young men and women would receive valuable training for advancement in life in whatever career path they should choose. They would be able to take advantage of the laws governing accelerated citizenship for immigrants who serve in the military, and, of course, our country—and by extension the entire world—would be safer because of this provision of CIR. In the alternative, should we fail to pass CIR, and instead opt to deport or force attrition on these millions of economic refugees through an enforcement-only approach to our current undocumented immigrant difficulties, what would be the net result? Forgetting for now the devastating effect on our own economy, and the worldwide reproach and loss of moral authority that we would frankly deserve should we act so callously and thoughtlessly, there is another important political imperative to our passing CIR that affects our national security, and the security and political stability of our neighbors in our hemisphere. That is the very real threat of communism and/or socialism. First of all, the primary reason why millions of undocumented economic refugees migrated to the United States is because the economies of their home countries were unable to support them. They escaped extreme poverty and oppression, and risked literally everything they had, including their lives and their freedom, to come to this country to try to work hard and support themselves and their families. Deporting our illegal immigrant population back to primarily Latin America would boost the communist and socialist movements in that part of our hemisphere, and if the anti-immigrationists only understood that fact, they might re-think their “line in the sand” position on what they insist on calling “amnesty.” Communism thrives where hope is lost. The economies of Latin American nations are struggling to barely reach a level of meager subsistence for the population that has remained at home; Mexico, for example, has already lost 14% of their able-bodied workers to U.S. migration.30 Without the billions of dollars in remissions from these nations’ expatriates working in the United States that go back to help support their remaining family members, the economies of many of these countries, most of whom are in fact our allies, would certainly collapse, or at least deteriorate to dangerously unstable levels. The addition of millions of unemployed and frustrated deported people who would go to the end of the theoretical unemployment lines of these already devastated economies would surely cause massive unrest and anti-American sentiment. The issue of comprehensive immigration reform is not simply a domestic issue. In our modern global economy, everything that we do, as the leaders of that global economy, affects the entire world, and most especially our region of the world. If we were to naively initiate actions that would lead to the destabilization of the Mexican and many Central and South American governments, while at the same time causing serious harm to our own economy (but I digress . . .), it would most assuredly lead to disastrous economic and political consequences. By the way, I’m not simply theorizing here. In point of fact, over the past few years, eight countries in Latin America have elected leftist leaders. Just last year, Guatemala swore in their first leftist president in more than fifty years, Alvaro Colom.31 He joins a growing list. Additional countries besides Guatemala, Venezuela,32 and Nicaragua33 that have sworn in extreme left wing leaders in Latin America recently include Brazil,34 Argentina,35 Bolivia,36 Ecuador,37 and Uruguay.38 This phenomenon is not simply a coincidence; it is a trend. The political infrastructure of Mexico is under extreme pressure from the left.39 Do we really want a leftist movement on our southern border? If our political enemies such as the communists Chavez in Venezuela and Ortega in Nicaragua are calling the shots in Latin America, what kind of cooperation can we expect in our battle to secure our southern border?

#### Independently causes regional war – escalates globally

James Francis Rochlin (Professor of Political Science, University of British Columbia Okanagan) 1994 “Discovering the Americas” p. 130-1

While there were economic motivations for Canadian policy in Central America, security concerns were perhaps more impotant. Canada possessed an interest in promoting stability in the face of potential decline of US hegemony in the Americas. Perceptions of declining US influence in the region – which had some credibility in 1979-84 due to wildly inequitable divisions of wealth in some US client state in Latin America, in addition to political repression, underdevelopment, mounting external debt, anti-american sentiment produced by decades of subjugation to US strategic and economic interest and so on – were linked to the prospect of explosive events occurring in the hemisphere. Hence, the Cental American imbroglio was viewed as a fuse which could ignite a cataclysmic process thoughout the whole region. Analysts at the time worried that, in a worst-case scenario, instability created by a regional war, beginning in Central America and spreading elsewhere in Latin Ameica, might preoccupy Washington to the extent that the United States would be unable to perform adequately its important hegemonic role in the international arena – a concern expressed by the director of research for Canada’s Standing Committee Report on Central America. It was feared that such a predicament could generate increased global instability and perhaps even a hegemonic war. This is one of the motivation which led Canada to become involved in efforts at regional conflict resolution, such as Contradora, as will be seen in the next chapter

### 50 state fiat

#### States can enact uniform energy policies with the same effect as federal policy

**Greenberger 12** (James, Executive Director of the National Alliance for Advanced Technology Batteries, “Efforts to Promote Energy Storage Should Look to the States”, March 2, <http://naatbatt.org/naatbatt-blog/efforts-to-promote-energy-storage-should-look-to-the-states/)>

Many of the barriers to deploying distributed energy storage arise, not from a lack of federal policy, but from inconsistent and antiquated state regulations that restrict how storage and other assets located on the distribution portion of the grid can be owned and used. While local regulation of purely local electricity service makes sense, as technology increasingly permits assets located on local distribution systems to impact the larger, national electricity grid, the inconsistencies and antiquated nature of many local regulatory schemes becomes an increasingly critical issue. The storage industry should spend this period of impasse in Washington addressing that issue.

One possible model for modernizing and making more uniform state regulations which inhibit the deployment of energy storage and smart grid technology is the National Conference of Commissioners on Uniform State Laws (NCCUSL). In the late 19th Century, it became apparent that wide variations in laws between separate states created confusion and inhibited commerce. The solution was the creation of the National Conference of Commissioners on Uniform State Laws (NCCUSL).

The NCCUSL consists of commissioners appointed by each state. It drafts model legislation, or uniform acts, which individual states can choose to adopt, and often do. The best known of these model acts is the Uniform Commercial Code, which has been adopted by all 50 states with only minor variations.

#### The States CP is the topic---jurisdictional questions are key to energy production debates

**Kay, 12** - Senior Extension Associate with the Community & Regional Development Institute-Cornell Dept. of Sociology (David, “Energy Federalism: Who Decides?,” http://devsoc.cals.cornell.edu/cals/devsoc/outreach/cardi/programs/loader.cfm?csModule=security/getfile&PageID=1071714)

Questions about energy production and consumption are acquiring renewed urgency in the 21st Century. Some go to the heart of our nation’s system of federalism, as an underlying but everpresent friction mounts over the way in which decision making power has been divided between central and more locally distributed political units. What is at stake? According to one author, “the choice of regulatory forum often seems to determine the outcome of the controversy. That may explain why Americans have traditionally shed so much metaphorical and genuine blood deciding what are essentially jurisdictional disputes between governmental institutions.” i

A number of factors have raised these issues into greater prominence. Energy specific influences include the depletion of low cost oil, advances in energy extraction technology, and increased awareness of the link between climate change and energy consumption and production. Another element is the long standing but increasingly hardened absence of a broad based consensus over energy policy at the federal level, despite calls for such a policy that date back to at least the Nixon administration. These have been superimposed on shifting political trends in other areas, including the expanding national political divide. After the crest of federal adoption of new environmental legislation in the 1960’s and 1970’s, powerful and complex cross currents arose. Mostly “conservative” and anti- (or anti-“big”) government forces mobilized in the devolution, deregulation, privatization, and property rights movements. In contrast, “progressive” movements evolved in response to increased globalization (of economic and environmental issues) and personalization (eg. of communications/information technology) by promoting global governance in some arenas and relocalization or local empowerment in others.

Several energy examples being played out in New York State, as well as in other states and on the national stage, serve as useful and representative illustrations of the fundamental but insufficiently appreciated tensions raised. The first involves the spread of the controversial hydraulic fracturing technology that is used to extract oil and gas from “unconventional” reserves of shale and other rocks. The second and third involve the generation and distribution of electricity: where the authority to site electricity generating stations is vested, and who has the authority to site transmission lines that move electricity from their mostly rural points of extraction or generation to their mostly urban points of consumption. ii These are but a few among many examples that highlight the extent to which the proliferating threads of debate about energy federalism are being cinched into an increasingly dense tangle.

### CP

#### States create federal follow on

**Dutzik, 11** - senior policy analyst with Frontier Group, specializing in energy, transportation and climate policy (Tony, “The Way Forward on Global Warming Reducing Carbon Pollution Today and Restoring Momentum for Tomorrow by Promoting Clean Energy”, <http://www.environmentamerica.org/sites/environment/files/reports/The-Way-Forward-on-Global-Warming.pdf>)

Over the past several years, vast resources have been devoted to winning comprehensive energy and climate legislation at the federal level, and for good reason— comprehensive federal legislation will be necessary to produce the emission reductions needed to put America and the world on track to prevent the worst impacts of global warming.

There are, however, countless additional opportunities to reduce emissions using existing federal statutes as well as the opportunities presented by action at state and local levels of government.

In this report, we estimate the potential impacts of 30 public policies, measures and initiatives to reduce global warming pollution, most of which can be adopted at the state level. With 50 states, that makes more than 1,000 potential opportunities to reduce global warming pollution.

State and local action on global warming is not a “second-best” solution to the climate crisis. Indeed, time and again, ambitious public policy action at the local or state level has created a precedent for strong action at the federal level. Moreover, as described below, state and local campaigns can involve and engage citizens in ways that federal legislative campaigns cannot. Under the right conditions, these policies can not only deliver concrete emission reductions, but they can also spur changes in infrastructure and transform economic conditions in ways that will make the goals of an eventual national program easier to meet.

#### An RPS alone solves better than the FIT – no solvency deficit

**Lacey 8** (Renewable Energy World, “Building a FiT Renewable Energy Market in the U.S.”, Stephen Lacey, 3/10/08, http://www.renewableenergyworld.com/rea/news/story?id=51798)\\TM

Most FIT supporters see the law as a supplement to existing promotion policies, not as a completely separate alternative. Drastically changing the many state programs around the country would hinder market growth rather than help it, said Paul Gipe, an industry analyst and FIT advocate.

“FITs create a relatively simple system and we absolutely need them if we are going to develop meaningful amounts of renewable energy. Will FITs necessarily replace our current promotion policies? No. But it will work along side them and allow us to meet any targets faster,” said Gipe.

Of course, not everyone believes that FITs are the best way to develop renewables. Jigar Shah, Chief Strategy Officer for SunEdison, the largest power purchase provider for PV in the North America, believes that FITs would be far too complicated to implement in the U.S. Shah has said that federal and state-level Renewable Portfolio Standards (RPS) are the most cost-effective way to develop solar and other renewables.

“Renewable energy industries and U.S. policy makers have been negotiating programs such as Maryland's RPS for at least the past five years. Questions such as interconnection, net metering, and utility reimbursements have largely been solved in the U.S.,” wrote Shah in a recent critique of FITs. “Those negotiations still lie ahead for Germany, and they won't be tackled until the FITs expire in 20 years. In essence, Germany is trying to drive from zero to 60 mph in second gear. Second gear may have brought the country its 30-mph success rapidly, but going from 30 to 60 is likely to be slow.”

#### Feed in tariffs are not mutually exclusive with RPS—feed in tariffs can be a mechanism for RPS

**Rickerson et al 08** - Principal at Rickerson Energy Strategies, LLC

(Wilson, Florian Bennhold, James Bradbury, “Feed-in Tariffs and Renewable Energy in the USA – a Policy Update” May 2008. http://www.boell.org)

From a technical perspective, feed-in tariffs in the US appear not to be mutually exclusive with RPS policies – unlike in Europe. The concept of RPS in the US has evolved and diversified to the point that it has no fixed definition, and the current RPS policies each rely on different compliance mechanisms to meet their targets. As a result, there is no monolithic definition of “RPS” against which feed-in tariffs must compete. Instead, feed-in tariffs can be seen as yet another mechanism to meet RPS targets, and most of the states that are considering feed-in tariffs already have RPS frameworks in place (Rickerson et al., 2007). Moreover, RPS policies have been frequently and iteratively revised during the past several years. During this revision process, there has been a trend towards technology differentiation, and towards long-term contracts or other mechanisms to protect investors from REC market volatility (Wiser and Barbose, 2008). Given this focus on technology differentiation and investor security, RPS policies appear to be converging with some of the design characteristics typically associated with feed-in tariffs. As a result, it could become increasingly possible to incorporate elements of feed-in tariffs into RPS policy making.

#### A hybrid system works best

[**Sawin**](http://www.sciencedirect.com.monstera.cc.columbia.edu:2048/science?_ob=ArticleURL&_udi=B6VSS-4NJP9CG-1&_user=18704&_coverDate=05%2F31%2F2007&_alid=772549448&_rdoc=27&_fmt=high&_orig=search&_cdi=6270&_sort=d&_docanchor=&view=c&_ct=67&_acct=C000002018&_version=1&_urlVersion=0&_userid=18704&md5=27e009d5980baf378f87e6ae10344e08#bvt2) **07** – Director of the Energy and Climate Change Program at the Worldwatch Institute, an independent org in D.C.

(Janet L.“If the Shoe FITs: Using Feed next term-in previous term Tariffsnext term to Meet U.S. Renewable Electricity Targets” The Electricity Journal, Volume 20, Issue 4, May 2007, Pages 73-86)

As in Europe, there are RPS policies in the U.S. that rely on short-term, tradable renewable energy certificate (REC) markets. In such cases, European critiques could be a useful starting point for analyses of the impact of risk on policy cost and effectiveness. However, European generalizations about the inherent inferiority of RPS need to be considered within the U.S. context. First, not all RPS laws look alike, and the diversity of RPS policy designs in the U.S. makes it difficult to generalize. European critiques of risk and cost, for example, are not easily transferable to those RPS markets in which long-term REC contract requirements can mute or eliminate price volatility. Second, there is no political pressure to harmonize policy in the U.S. as there has been in Europe. U.S. states have the flexibility to view RPS and feed-in tariffs as complimentary mechanisms rather than mutually exclusive tools, and U.S. states have successfully combined seemingly competing policies in the past.40

Rather than focusing on the weaknesses of RPS as designed and implemented in Europe, it may be more helpful for U.S. states to focus on the strengths of feed-in tariffs and on how elements of FITs can be synergistically integrated into the U.S. framework. This could mean introducing fixed-price elements into existing RPS policies or designing new feed-in tariffs or RPS/fixed-price hybrids for states that now lack policies to support renewables.

### Ferc

#### Federal preemption is no longer an issue as long as the state also has an RPS – a new FERC ruling means they can set rates in accordance with the higher cost of renewable mandates – this establishes price certainty

**Dorsi, 12** - Fellow, Phillips & Cohen LLP; J.D. Harvard Law School, 2011 (Michael, “Clean Energy Pricing and Federalism: Legal Obstacles and Options for Feed-in Tariffs” 35 Environs Envtl. L. & Pol'y J. 173, lexis)

In 2008, California enacted AB 1613, requiring the California Public Utilities Commission ("CPUC"), in collaboration with other state agencies, to establish what amounts to a new variety of feed-in tariff for energy from combined heat and power facilities ("CHP"). n65 While California is not the only state to enact a feed-in tariff; n66 California was recently involved in the litigation that may determine the fate of most other feed-in tariffs in the United States. n67 AB 1613 requires the CPUC to set rates at which regulated utilities must offer to purchase from CHP generators under twenty megawatts. n68 The CPUC adopted a two-tier structure to implement the feed-in tariff, with a standard contract for units up to twenty megawatts and a simplified feed-in tariff for units under five megawatts. n69

In May 2010, the CPUC sought a declaratory order from FERC stating that [\*188] California's feed-in tariff was not preempted. n70 Days later, the state's three main private utility companies, Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric (collectively "Joint Utilities"), sought the opposite order from FERC. n71 FERC consolidated the proceedings. n72 The Joint Utilities argued that AB 1613 is preempted by the FPA and impermissible under PURPA. n73 The CPUC argued that the policy goals of reducing greenhouse gas emissions suggest that FERC should read PURPA and relevant regulations in a way compatible with AB 1613. n74 The California Attorney General, filing separately, argued that the Federal Power Act only preempts regulations requiring a purchase of energy, not an offer to purchase, because it does not set a wholesale rate. The California Attorney General also argued, in the alternative, that even if such an offer was preempted, there is legal opportunity under PURPA and related FERC regulations for California to proceed with AB 1613. n75

FERC, without explanation, rejected California's argument that an offer to purchase would not set a wholesale rate. n76 However, FERC suggested that California could go forward in accordance with PURPA. n77 After a request for clarification, FERC elaborated that tiered avoided cost rates for different types of QFs (such as a higher rate for CHPs than gas-fired generators) and adders for location-constrained areas may be permissible if they reflect actual costs that would be incurred by utilities given other state policies. n78 The resulting policy may enable a feed-in tariff at a level that would subsidize preferred energy sources because the utility is required by other legal obligations to procure a share of power from more expensive preferred resources. Although that subsidy [\*189] could only match the level required by other policies, the feed-in tariff could establish the benefit of price certainty. For example, if a state established efficiency standards for generation, then the long run avoided cost of meeting these efficiency standards would be above the standard avoided cost for a typical generator. The utility could satisfy this requirement by procuring power from a QF, and the state would be permitted to include an estimate of this cost of compliance with the energy efficiency policy in the feed-in tariff rate. Initially this may seem useless; if the state already mandated the efficiency standard, then there should be no need for a feed-in tariff. However, because other state policies often fail to meet targets, n79 and because price certainty reduces the risk premium demanded by investors, n80 permitting states to create predictable revenue streams for preferred energy sources may serve as a valuable policy tool.

#### The FERC ruling set the stage for rapid state expansion of FITs – states can get around preemption – and, any difference in uncertainty also applies to a federal FIT. The fiat of the CP is a prerequisite to the aff’s solvency as well

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A feed-in tariff, also known as a CLEAN contract, n3 is a type of contract offer that allows an energy producer, usually from a renewable or otherwise preferred energy source, to connect to the grid and be paid a pre-determined rate. The feed-in tariff works by requiring the local utility or other intermediary to purchase, or at least to offer to purchase, energy at a set price per unit from producers who meet certain criteria. This stability has proven valuable for investment in renewable energy by creating certainty with regard to return on investments. n4

In Europe, several countries established feed-in tariffs, with some notable success in expanding investment in renewable energy. European feed-in tariffs have been established by national governments. In the United States, however, a handful of feed-in tariffs operate for states and cities but cover only a small [\*176] share of electricity producers. The primary obstacle to implementing feed-in tariffs is the division between state and federal roles in energy regulation. Absent federal action, several states began the process of developing feed-in tariffs, and now face the obstacle of federal preemption lawsuits. This Article argues that these obstacles present risks to state policies, but if states adhere carefully to statutory requirements and effectively advocate for their role in the federal system, states can establish effective feed-in tariffs.

In the United States, the state-federal divide in energy regulation tracks the distinction between retail and wholesale electricity. States have authority over retail sales and procurement decisions by utilities, such as requiring that utilities purchase energy from a certain mix of resources. States also regulate rates, assuring that utilities can recover their costs. However, the federal government retains the authority to regulate interstate commerce, n5 and under this authority, the Federal Power Act establishes that prices paid by utilities to purchase power at wholesale are to be regulated by the Federal Energy Regulatory Commission ("FERC"). n6 This division of authority between state and federal regulators creates ambiguity regarding who holds the authority to establish a feed-in tariff.

A federally-operated feed-in tariff, though constitutionally permissible, would encounter problems with the varied electric markets and regulatory regimes in different states. Due to state control over retail electricity and state participation in centralized electricity management organizations, known as Independent System Operators ("ISOs") and Regional Transmission Operators ("RTOs"), some states have electricity markets conducive to feed-in tariffs mandated on utilities, while others do not. Additionally, policies favoring cleaner energy have proliferated at the state level while such policy processes have largely faltered at the federal level. n7

Presently, states are authorized to create a kind of standard contract for Qualifying Facilities ("QFs") that provide power. The 1978 Public Utility Regulatory Policies Act n8 ("PURPA") requires state utility commissions to carry out FERC regulations to permit non-utility generators meeting certain requirements to connect to the grid and it requires utilities to purchase that power at a rate defined as avoided cost. n9 However, avoided cost is often insufficient to fund renewable energy. n10 The claimed benefits of renewable [\*177] energy are not that it is cheaper to produce, but that it is a better deal once social costs are considered. When states attempted to include externality costs in their avoided cost rates, FERC ruled that only those costs which the utility faces may be considered in setting avoided cost. n11 As a result, PURPA, absent legislative or regulatory innovation, is insufficient to develop feed-in tariffs. A new, more precise interpretation of PURPA by FERC in a case regarding California's feed-in tariff may provide a window for the expansion of feed-in tariffs.

Alternatively, some have proposed that the federal government could require or permit states to establish feed-in tariffs. While permitting state action would be permissible, requiring state action may not be. Although the Supreme Court upheld PURPA's avoided cost requirements in FERC v. Mississippi, n12 the Court has since shifted its federalism doctrine and no longer permits federal commandeering of state regulatory agencies. n13 Moreover, in the current political situation, new energy legislation may be difficult if not impossible, suggesting that regulatory options should also be explored.

#### The new FERC rule allows states to effectively set their own rates. They are still limited to only charging the avoided cost, but they can set the avoided cost for renewables higher than the normal avoided cost to comply with renewables mandates

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The FERC has given states "great latitude" to determine a procedure for calculating a utility's "avoided cost." n152 This latitude comes from the state's authority to implement PURPA. n153 FERC has stated that determining if a rate was "above avoided cost was best left to the appropriate state or judicial forum." n154 FERC provides the state with a list of factors within its regulations that should be used to calculate avoided cost and maintains that the "factors shall, to the extent practical, be taken into account." n155 States retain discretion over how they apply these factors. As the Idaho Supreme Court held, FERC "provides no precise formula for calculating a utility's avoided cost." n156 For example, one factor is the relationship between the availability of a QF's energy and capacity compared to a utility's ability to avoid costs associated with deferring construction of new capacity or reducing the use of fossil fuels. n157 When determining the utility's avoided costs, states may account for environmental costs that a utility actually incurs, but will avoid by purchasing from a QF. n158 The list of avoided cost factors also includes "the availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods." n159 The use of these factors when determining a utility's avoided cost makes the process individualized to a utility's operation at a specific place and time. Because FERC's regulations require individualized avoided cost calculations for each utility, feed-in tariff rates that mandate a uniform value for all utilities may be facially invalid under PURPA and FERC regulations.

When a state's determination of an avoided cost is challenged, state courts tend to give a fair amount of deference to their state's public service commission. For example, the supreme court of North Carolina found that the North Carolina Utilities Commission's methodology for calculating avoided cost was appropriate even though it resulted in a total avoided cost of $ 1.39 million less than the Virginia State Corporation [\*762] Commission's avoided cost calculation for the same utility and QF. n160 The court held that FERC regulations require that each state ensure that a utility does not pay more than its avoided cost. n161 Furthermore, each state may use its own measures for calculating avoided cost, even for a utility operating in multiple states. n162

The supreme court of Idaho upheld the Idaho Public Utilities Commission's decision to calculate avoided cost based on one type of generating facility instead of another because the first type of facility represented what the Idaho commission decided was the utility's "actual avoided" costs. n163 The court refused to overturn the state agency's determination of avoided costs unless "it appears that the clear weight of the evidence is against the conclusion." n164 In a separate case, the supreme court of Idaho also affirmed the Idaho Commission's decision to set an avoided cost rate that was fixed for the entire length of contract between a utility and QF and was "not subject to the Commission's continuing jurisdiction." n165

The supreme court of New Hampshire held that the state Public Utilities Commission had the authority to approve rates that reflected a utility's avoided cost at the time a QF applied for a rate, even if that rate exceeded the utility's avoided costs in the subsequent rate order. n166 Furthermore, the court upheld the commission's decision to issue a "front-end loaded, long-term rate order" whose rate exceeded the utility's avoided cost in the early years of the contract, then declined in the later years of the contract. n167 A justification for the greater front-end rate is that the risk to the utility's ratepayers is balanced with the benefits of the QF project. n168 The court stated that it "will not reverse a decision of the [commission] ... unless the appealing party demonstrates by a clear preponderance of the evidence that the order was unjust or unreasonable." n169

A state's wide latitude when calculating avoided cost means it can effectively achieve desired feed-in tariff rates by justifying a greater [\*763] avoided cost. A state should review its process for calculating avoided cost to ensure it is including all the costs the utility would actually avoid when it buys power from a QF. For example, a state will likely find additional authority to raise avoided costs under the "reduction of fossil fuel use" factor of FERC's regulations. n170 A state can take into account all aspects of reducing fossil fuel use when calculating an avoided cost. A determination of the present and future value of renewable energy credits that count toward a utility's required renewable portfolio standard could increase the avoided cost value. As the federal government progresses toward cap-and-trade and carbon tax measures, a state can reassess the likely economic cost to the utility of complying with future carbon regulation. However, FERC cautions states that they "may not set avoided cost rates ... by imposing environmental adders or subtractors that are not based on real costs that would be incurred by utilities." n171

A fundamental element of PURPA is that it requires a state to calculate each utility's avoided cost separately. A state will not be able to set a single feed-in tariff rate that applies to all QFs of a certain type and size. In addition, FERC regulations set limits as to what factors a state can consider when determining an avoided cost. Even after a state justifies a new maximum avoided cost, the resulting value may still be much less than the state's desired feed-in tariff rate. But, reevaluating avoided cost from a broader point of view can raise the rate paid to a QF and may make a QF's renewable resource project profitable.

#### Their preemption argument assumes the dormant Commerce Clause where state action that imposes greater costs on utilities from out of the state

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If not entitled to the market participant exception, in designing state programs, one goal is to avoid the strict scrutiny test, if challenged. n387 This test is almost always fatal to the program challenged, in the absence of the narrow, and seldom granted, quarantine exemption. n388 In recent Supreme Court precedent, where a state imposed greater cost disadvantage on certain out-of-state articles in commerce in the regulating state, it was found to be subject to strict scrutiny and to not satisfy the dormant Commerce Clause. n389

[\*107] If geographic discrimination is not facially incorporated in the statute or regulations, the Pike balancing test could be applied instead to any challenge, in which case there is an opportunity to demonstrate that the benefits to the state outweigh the burdens on interstate commerce. n390 More carefully drafting broader RPS and SBC incentive programs at the state level, exclusive of geographic restrictions and treating external locations equally, are an obvious means to this end to avoid strict scrutiny and constitutional challenge.

Of particular note, RPS and SBC discrimination does not confront the more formidable constitutional problem faced by state feed-in tariffs for renewable power. n391 In 2010, FERC issued a definitive ruling on state feed-in tariffs that made crystal clear their constitutional limits. n392 It reiterated that the Commission's authority under the Federal Power Act includes the exclusive jurisdiction to regulate the rates, terms, and conditions of sales for resale of electric energy in interstate commerce by public utilities. n393 State efforts to regulate wholesale power transactions, to set prices in excess of market prices, were entirely stricken. n394 Despite this, RPS and SBC programs, if structured consciously and carefully, remain two state renewable power incentives that can fit within the requirements imposed by the U.S. Constitution. Feed-in tariffs do not so fit. n395

In part, these jurisdictional and constitutional issues explain why twenty-nine states have adopted RPSs, eighteen states have adopted SBCs, and less than a handful of the contiguous U.S. states have attempted feed-in tariffs. n396 Although feed-in tariffs internationally are the most utilized type of renewable power incentive, n397 they work at the federal level but do not pass constitutional muster under the U.S. Constitution when implemented by states. They are also facing some skepticism on cost determinations internationally and in the U.S. n398

#### Their dormant Commerce Clause arguments don’t apply to the counterplan – they assume extremely limited instances of state cooperation that discriminate against other states

**Harvard Law Review, 06** – the author isn’t named but the qualifications are: John M. Olin Fellow in Law, Economics, and Business at Harvard Law School (119 Harv. L. Rev. 1855, “STATE COLLECTIVE ACTION\*”, April, lexis)

As an illustration, consider in more detail the doctrines that courts may apply to limit suboptimal state collective action. One is the Compact Clause, but as discussed above, the Court has circumscribed this provision of the Constitution, suggesting that it would not be an effective constraint in practice. A more vigorous Compact Clause would be a more effective constraint, but could limit desirable as well as undesirable state collective action. Similarly, the dormant commerce clause - which restricts the ability of states to burden interstate commerce through regulation on the logic that Congress generally favors interstate economic activity n76 - could limit state collective action. But it clearly would not prevent many potential instances of state collective action because the policies at issue often will be facially neutral with nondiscriminatory purposes and effects and thus will not run afoul of **[\*1871]** the doctrine and often also would survive an open-ended balancing test. n77 Thus, although these two doctrines provide an outer bound for state collective action, they provide little guidance for the broad range of difficult intermediate cases. Moreover, both of these fairly rule-like doctrines suffer from the familiar concern of over-and underinclusiveness, n78 an apropos concern here because deciding whether state collective action is good or bad is a fact-specific, context-dependent inquiry that rules are ill-equipped to handle.