Client Note: Labor Movement Ends as Labor Market Softens

UAW, Big Three Tensions Cease At Last

After nearly two months at the picket lines, UAW has reached tentative deals with Ford, Stellantis, and GM. Although the negotiated agreements are different with each company, they generally provide a 25 percent base wage increase for UAW members, increase allowances for cost of living, and make improvements to retirement plans and pensions. Assuming the deals are ratified, this is a huge sigh of relief for President Biden, who stood behind the union throughout the movement – and still awaits their endorsement of his reelection campaign. It is also a win for workers at EV battery facilities, who will have parity in the high wages earned by other UAW members through the national bargaining agreement.

What remains unclear is if and how the strike will produce ripple effects throughout the EV market and economy writ large, including any future action by the UAW to unionize other automakers' plants. The economic cost of the strike was more than $10 billion, with the Big Three taking over $4 billion in losses. Ford and GM have already delayed plans to scale up their battery manufacturing investments, so it will be interesting to see if the increased overhead as a result of the wage agreements affect their ability to profit from and meet the nation's goals of deploying zero-emissions vehicles at a time when consumer spending is facing headwinds.

The end of the strikes pave the way for Treasury's release of 30D tax credit guidance interpreting foreign entities of concern (FEOC) – which is expected within weeks of ratification of the agreements.

Fed Leaves Rates Unchanged As Clean Energy Development Continues to Struggle

For the second straight month, the Federal Reserve left the federal funds rate unchanged on Wednesday. Chairman Powell was clear that future rate hikes were still on the table, but acknowledged the current monetary policy has the Fed on the right track to reach its 2 percent target rate of inflation. The Fed still expects some slowdown in economic growth and softening in the labor market, but said the central bank is not forecasting a recession. Some say the recent uptick in bond yields and mortgage rates may help do the Fed's job for them if they remain elevated for some time. The October jobs report released this morning reflected the Fed's actions to soften the job market, with the unemployment rate rising to 3.9 percent (the highest level since January). The U.S. economy added 150,000 jobs last month, less than the expected 170,000 and nearly half of the jobs added in September. Of note: the manufacturing industry lost the most jobs of any sector, reflecting the impact of the UAW strike.

The stock market has reacted favorably to the central bank's decision, betting an end is in sight for historically high borrowing rates. It jumped higher after the jobs report, which has given economists even more confidence that the Fed is done hiking rates. However, nobody knows when we will see interest rate cuts, with Chairman Powell saying they haven't even begun thinking about them.

As is increasingly clear, high interest rates are impairing clean energy deployment throughout the nation – across multiple energy technologies. Most notably, the offshore wind industry faces supply-chain constraints and capital financing issues; and state regulators have rejected helping shore up projects facing these challenges. Consumers are faced with high borrowing costs for car loans, dimming the appeal of transitioning to an EV, with some automakers cutting near-term forecasts for EV production. Republicans are framing the industry challenges as a lack of affordability in renewable energy, even with government subsidies. But the critical importance of IRA tax credits is even more apparent as developers confront the high cost of capital, which is also why the (in)flexibility of some Treasury guidance could be a deal-breaker for many of them.

Renewable Energy Projects in the Crosshairs of Basel III Implementation

After the 2008 financial crisis, regulators around the world came together to create banking regulations that would ensure such failures of the financial system would not be repeated. Enter the Basel III Endgame regulations, named for the Swiss city in which the multinational negotiations take place (not the Avengers) and applicable to banks with $100 billion or more in total assets. Given lengthy discussions (we're talking 2011 to 2019, give or take a few years for preliminary discussions and for subsequent revisions), delays in implementation, and a 5-year phase-in period starting in 2023, we're finally seeing how these new rules would play out in the U.S. market. One of the key tenets of the Basel III rules requires banks to set aside more capital for riskier investments to prevent them from running out of funds when they experience defaults (i.e., to incentivize banks to stop lending to sub-prime borrowers and, in the instances when they do take on such risky investments, to be covered with sufficient padding in reserves).

Treasury, FDIC, and the Fed jointly published a Notice of Proposed Rulemaking to implement the regulations in July, and we are coming to the end of the comment period on November 30. This is relevant to clean energy projects, which received a wave of tax incentives under the IRA, because tax equity is being regulated in the same way as other types of higher risk equity. That is, banks will have to put in reserve four times more capital than they do today for tax equity investments (which clean energy projects will still need even with the new transferability mechanism included in the IRA). Banks have been warning project participants that this would have a dampening effect on banks' involvement in these projects (we're hearing a number of investments are on pause). Tax equity is a separate beast from other types of equity, and critics of the proposed rule argue that regulations should not treat equity as one single bucket because tax equity isn't as risky as other forms of equity investments, and the 4x set aside will hinder the energy transition. They also note that tax equity investments effectively don't exist in other countries (so weren't considered in Basel III), and that other countries don't implement these regulations as strictly as the U.S. does – so ultimately, these rules put the U.S. at a competitive disadvantage. This puts some Dems in a difficult position, as they try to drive the shift to renewable energy forward while not wanting to look weak on bank regulation. Proponents of the stricter rules argue that the large banks need tough regulation and shouldn't be shown leniency.

Appropriations Advancements

With about two weeks until the next government funding cliff, both chambers are competing to see who can make more progress on the 12 appropriations bills:

- On Wednesday, the Senate passed its Military Construction/VA; Transportation, Housing, and Urban Development; and Agriculture/FDA minibus with bipartisan support, sending it to the House (which has failed to pass funding for USDA and FDA due to disagreements within the Republican conference).
- Today, the House passed their seventh appropriations bill – for Interior-Environment funding – after passing the Legislative Branch funding earlier this week and the Energy and Water funding bill last week.

Funding Opportunity Announcements (FOAs)

Although there weren't any relevant FOAs this week, deadlines to apply for the following funding solicitations are on the horizon:

- $16.4 Million Research FOA for Offshore Wind Noise Reduction and Reliable Moorings (Concept Papers due November 9)
- $150 Million for Critical Material Innovation, Efficiency, and Alternatives FOA (Applications are due November 10)
    - The program supports innovative bench- and pilot-scale RD&D projects that further the domestic production and refining of critical minerals and materials through new technologies.

Clients in the News

TIME highlighted how Charm Industrial, a leader in bio-oil sequestration and carbon removal, and CEO Peter Reinhardt are leading the effort to remove carbon dioxide from the air by turning biomass that would rot or burn into a liquid that is injected underground as a form of permanent sequestration.

Forbes highlighted several turquoise hydrogen startup companies including C-Zero, with CEO and co-founder Zach Jones discussing the uniqueness of their approach to clean hydrogen.

Next Week: Hearings to Watch

Tuesday, November 7

House Financial Services

"The Tangled Web of Global Governance: How the Biden Administration is Ceding Authority over American Financial Regulation"

(10:00AM EDT), watch here

House Ways and Means

"Hearing on Ensuring that 'Woke' Doesn't Leave Americans Broke: Protecting Seniors and Savers from ESG Activism"

(10:00AM EDT), watch here

Wednesday, November 8

Senate Homeland Security and Governmental Affairs

"The Philosophy of AI: Learning from History, Shaping Our Future"

(9:30AM EDT), watch here

House Small Businesses
"Burdensome Regulations: Examining the Effects of the Department of Energy Regulations on America's Job Creators"
(10:00AM EDT), watch here

Senate Environment and Public Works
"Accessing Clean Water Infrastructure Assistance: Small, Rural, Disadvantaged, and Underserved Communities"
(10:00AM EDT), watch here

Senate HELP Subcommittee on Primary Health and Retirement Security
"Avoiding a Cautionary Tale: Policy Considerations for Artificial Intelligence in Health Care"
(2:30 PM EDT), watch here

Thursday, November 9
Senate Energy and Natural Resources Committee
"Hearings to examine the implementation of federal coal mine land reclamation and abandoned coal mine land economic revitalization programs"
(10:00 AM EST), watch here

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