

Energy Policy After the 2018 Midterms

November 7, 2018

The voters have spoken. It's time to listen to them and focus on policies that expand the availability, affordability, and reliability of energy, rather than on policies that make energy more scarce, more expensive, and less reliable.

For partisans on either side, the 2018 midterm elections will go down as a mixed bag. Democrats won control of the House, though not by the landslide they hoped. Republicans gained seats in the Senate, though mostly at the expense of red-state Democrats who were on the defensive. At the state level, Democrats claimed numerous victories in governor's races, but pending a couple races still to be called, those wins likely won't even get them back to 50-50 parity.

On energy issues, however, the 2018 election results look clearer. At the state level, destructive anti-energy ballot measures were defeated in Arizona, Washington, and Colorado. Only Nevada and California stand as the outliers in trending negative, against favorable energy measures. Unfortunately, with the Democrats gaining control of the House of Representatives, a larger threat looms for those who stand for pro-energy policies. House Democrats will surely do everything in their power to thwart the president's energy agenda. At the same time, the increased pro-energy majority in the Senate bodes well for the nomination prospects of conservative judges and administration officials. Overall, the 2018 elections may slow but will hopefully not reverse the positive energy policy environment of the last two years.

The Senate pro-energy majority increases

The Republican victories in North Dakota, Missouri, Indiana, and Florida all represent significant pro-energy shifts for the Senate. While the Democrats who lost would occasionally cross the aisle on the odd energy issue, the shift to the 'R' column is an unequivocal improvement in each case. Also important is the loss of Sen. Heller in Nevada. One of the most unreliable

Republican senators on pro-market energy issues, he lately became the face of permanently extending the wasteful electric vehicle tax subsidy. In addition to the Heller loss, two other Republicans with inconsistent energy voting records, Senators Flake and Corker, have also been replaced. Tennessee Senator-elect Marsha Blackburn has a long record of staunchly pro-energy positions, representing a major upgrade. While Arizona Rep. Martha McSally (who narrowly leads at the time of this writing) has a less clear record, there is reason to believe she would be more consistent on energy issues than Senator Flake was. The exit of these three senators combined with the increased Republican majority means that future nominees and votes will be less likely to be held hostage or swayed by moderate Republican senators.

With the Arizona seat too close to call, Republicans will likely increase their total to 54 seats in the Senate (including the likely victory in the Mississippi special election runoff). This increased Republican majority will be better able to overcome Democratic obstruction on nominees, which will mean more and stronger pro-energy officials making regulatory decisions.

Democrats narrowly take the House

While not unexpected, the flipping of the House of Representatives to Democratic control represents a serious setback to the energy progress we've made at the federal level since 2016.

The Democrats in Congress will make it their mission to try and drive up the costs of the electricity and transportation that Americans rely upon. Quite candidly, the party platform calls for the elimination of natural gas,

coal, and oil from our society. We see this in a number of forms. One is the drive to marginalize the internal combustion engine through the use of taxpayer funds to subsidize expensive technologies like electric vehicles and the setting of impossible-to-reach mandates on fuel economy. Contrary to what they'd have you believe, these policies don't help average people—they directly benefit the politically connected and the wealthy, while limiting transportation options for the rest of us.

Another front in this war on energy is electricity generation, where the Democrats will attempt to spend taxpayer money on their preferred sources of generation, namely, windmills and solar panels. The Democrats are "committed to getting 50 percent of our electricity from clean energy sources within a decade, with half a billion solar panels installed within four years and enough renewable energy to power every home in the country." This flies in the face of reality, it will threaten the reliability of our electricity grid, and it will send electricity bills through the roof.

Fueled by the environmental left, today's Democratic Party has unambiguously turned its back on abundant, affordable and reliable energy. The Democrat-controlled House will do whatever it takes to thwart the president's progress towards unleashing our energy potential and deny American families the economic benefits that come from affordable and reliable domestic energy.

To add insult to injury, the Democrats have made it clear they will seek to single out conservative 501(c)4 organizations like the American Energy Alliance with unjust scrutiny and harassment. But we've stared down these challenges before, and we stand ready to do so again.

Fortunately, the Republican controlled Senate and the threat of a Presidential veto will at least contain the Democratic controlled House.

One other note about last night's House results is the fate of the Climate Solutions Caucus (CSC). Combined with previously announced retirements, the CSC is set to lose at least 20 Republican members, including its co-founder and figurehead Rep. Carlos Curbelo. The failure of Rep. Curbelo's carbon tax proposal gambit and the decimation of the CSC should be a lesson to Republican elected officials: backing more taxes and regulation is not going to help reelection prospects. Ultimately what the CSC stands for is raising energy prices for consumers—something that will not win favor with Republican supporters.

Washington state carbon tax fails again

The third time was not the charm in Washington State, as voters again rejected an attempt to impose a carbon tax. In 2016, voters rejected what was billed as a "revenue-neutral" carbon tax. Further, during the last session of the legislature, legislation to create a carbon tax foundered as legislators faced the true costs such an idea would impose on the state's economy. This election season, the environmental left proposed a carbon tax of its own, promising to redistribute the revenue to various pet causes.

In 2016, large parts of the environmental left came out against the "revenue-neutral" carbon tax ballot initiative mainly because it failed to spend the new revenues on growing government. This exposed the game that some carbon tax proponents play, pretending that a carbon tax is about helping the environment when it's really about imposing new taxes. With the 2018 initiative, proponents at least get points for honesty, transparently seeking to use the potential \$1 billion a year to spend on new government programs. But voters once again showed their disapproval, defeating the initiative by a wide margin.

Colorado voters are wise to the game

In Colorado, voters decidedly rejected a ballot proposition that would have increased setback distances for new oil and gas wells (setbacks are regulations

requiring wells to be a certain distance from a given class of buildings, which vary by state: residences, schools, water sources, etc.). The proposition was designed to sound innocuous by claiming to add protections for health and safety, but the effect of the setbacks would have been anything but innocuous. State energy regulators estimated that more than 85% of all non-federal acreage in the state would have been made off limits by the expanded setback requirements. This near-ban on oil and gas development was not accidental. The whole point of the proposition was to ban hydraulic fracturing in the state after other efforts failed. Thankfully, voters saw through the ruse, rejecting the proposition by a lopsided 14-point margin.

A second question on the ballot, to compensate landowners for losses from legal and regulatory actions, also failed. That question was primarily placed on the ballot in reaction to the potential damage from the setback proposition. Its failure is rendered far less significant given the rejection of the setback proposition.

Nevada votes for higher electricity bills

Voters in Nevada simultaneously rejected a ballot question that would have required an end to the state's monopoly electricity system while approving a question to mandate 50% electricity generation from renewables by 2030.

Question 3 proposed to require the legislature to pass a law to open up the state electricity market to competition. The Nevada electricity market is a state enforced monopoly in that consumers have no choice in their electricity provider. The lack of competition and captive consumer base means that the utilities are insulated from any market signals. Common effects of such a system include regulatory capture, where the regulators and utilities collude against ratepayers, and what is known as gold-plating, where a utility builds expensive, often unneeded, new facilities or infrastructure, knowing they can raise rates to pay for it.

Ballot Question 6 purports to require that electricity generation in Nevada be derived from 50% renewable energy by 2030. The question takes no account of how much this would cost taxpayers and ratepayers. Nevada is already about halfway to that 50% threshold (mainly thanks to geothermal generation), so they are better placed than, for example Arizona, to reach it. However transitioning to 50% renewables is going to raise costs for ratepayers since some sort of backup capacity will have to exist for when the wind is not blowing and the sun is not shining. That backup may come from natural gas or coal plants sitting idle until needed (while costing money to maintain) or it may come from constructing expensive battery capacity. Wherever it comes from, it will cost a significant sum of money, and that is on top of the costs of installing and maintaining vast acres of new wind and solar capacity. Fortunately, Question 6's victory is not the final story. Nevada law requires constitutional amendments to be passed by voters in two consecutive elections. In order for the renewable mandates to go into effect, Question 6 will need to win as a ballot proposal again in 2020.

Gubernatorial seats and state legislatures hold in some states, fall in others

Democrats made substantial gains in gubernatorial races where they flipped control of Illinois, Kansas, Maine, Michigan, Nevada, New Mexico, and Wisconsin. This is not surprising as Republican control of many of those offices was the result of historic performances by the GOP in previous elections. Republicans maintained control over the governor's office and the state legislature in the key battleground states of Florida, Iowa, and Ohio. This is encouraging as going into election night, the governor's office was considered to be in play in all three of these states.

Two states that are worth a deeper discussion are California and Colorado as they have been battlegrounds for energy issues in recent years. The situation in California appears to have worsened as the newly elected Governor Gavin Newsom's approach to

energy issues will make Jerry Brown's policies appear moderate in comparison. Newsom has promised to accelerate "decarbonization" in California and has promised to put the state on a path to 100 percent renewable energy. He has also promised to achieve zero diesel emissions by 2030, ensuring that residents of California should expect higher energy prices in the foreseeable future. The election of Newsom as well as voters rejecting a measure to undo recent increases to state gas taxes and vehicle registration fees is emblematic of the broader gap between California and the rest of the country when it comes to energy policy.

We should celebrate the defeat of Proposition 112 in Colorado, but the broader political trends in the state are concerning. The election of Rep. Jared Polis to the governor's office is a setback for the state as he has characterized America's use of affordable energy as an "addiction" to fossil fuels. Democrats also won control over the state Senate, giving them complete control over the state's governor's office and legislature. This shift means we have not seen the end of the Keep it in the Ground movement in Colorado, and proponents of free market energy policies should be prepared to battle proposals like 112 in the state legislature.

Conclusion

This election can perhaps best be understood as a reversion to the mean. The average loss for a

president's party in the first midterms since World War II has been about 30 seats in the House. The Republicans will probably lose a bit more than that but nowhere near the washouts of 1994 (52 seats during the Clinton Administration) or 2010 (63 seats during the Obama Administration).

As for ballot measures, the 2018 midterms were mostly positive for our cause of affordable, abundant energy through freer markets. The continued disdain from voters in a variety of states for the more foolish energy policy ideas shows that there is still a strong bedrock of common sense that a free market energy policy has to build on. The opportunity to consolidate and improve upon the policy gains of the last two years, thanks to a pro-energy Trump Administration, is still very much alive.

While the flip of the House of Representatives is indeed a concern and will mean a larger threat of interventionist policies that hurt consumers, the midterm elections proved that when put to a vote, voters reject policies that threaten the affordability and reliability of the energy they depend upon. The American Energy Alliance will continue its fight for affordable, abundant, and reliable energy for American consumers and businesses no matter which way the political winds blow.

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