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TRANSLATING STATE EXPERIENCE INTO FEDERAL CLIMATE POLICY

by Jennifer M. Rohleder*

The debate over U.S. federal climate change policy has never been stronger. While a federal climate policy is being formulated, the states are developing climate experience and expertise that the federal government can leverage. This trend begs the question of whether state policies should be used as a template for federal climate policy.

One area where states have developed expertise is in the registration and tracking of greenhouse gas (“GHG”) emissions. Even though tracking GHG emissions has recently become a mainstream federal issue, Wisconsin has long been a leader in this area. Since 1993, Wisconsin has required any facility that emits more than 100,000 tons of carbon dioxide (“CO₂”) to report its emission levels to the state Department of Natural Resources. It is the only state with such a requirement.¹ Additionally, dozens of sources that fall well below the threshold voluntarily report their emissions, providing the state with a detailed, multi-year profile of its major CO₂ sources. The profile includes most major electric utilities in the state, a wide range of large industries, and a mixture of smaller sources.²

Moreover, several states have developed “carbon adders” to compare investment options with respect to the possible future costs of mitigating GHG emissions.³ A carbon adder is an expected future cost of CO₂ equivalent assumed during investment comparisons. Due to the highly uncertain and controversial nature of future damages of climate change, a carbon adder estimates only the future compliance costs of carbon restraint rather than the economic impacts of future climate change.⁴

Of the states with carbon adders, Oregon’s is the most broadly applied. The Oregon Public Utility Commission (“PUC”) requires all regulated utilities to include analysis on a range of carbon costs in their integrated resource planning process since 1993.⁵ Similarly, the California PUC requires the state’s investor-owned utilities to include a carbon adder in their resource plans.⁶ Colorado’s carbon adder only applies to one utility because the carbon adder resulted from a litigation settlement agreement with environmental groups.⁷

States have often led in policy development, which can influence federal action. States are often better positioned to reach consensus and act more quickly than the federal gov-

ernment. The political interests of most states are relatively cohesive when compared to the national policy-making process. State government units are smaller and closer to affected constituencies, thus states are better able implement policy responses more quickly.

Policy diffusion from the state to the federal level is known as vertical diffusion.⁸ Expanding effective state-level energy and climate policies to the national level seems to be a logical and efficient method of developing federal climate policy. The question is: how do we translate state experience into federal policy? The World Resources Institute conducted a study on how state

policies influence federal regulations. The study identified and evaluated several factors that contributed to successful vertical diffusion, the most important of which, particularly for environmental/energy issues, was state officials championing the cutting-edge policies their states have implemented in the federal policy debate.⁹ The study concluded that states can play a significant role in the development of a national policy. However,

no single factor can guarantee vertical diffusion although certain factors, such as the power of example and the extent of horizontal policy diffusion (from state to state) are cited strong factors informing federal policy.

States are considered the laboratories of democracy, testing new ideas and innovative policies that can be used by national policy-makers. Vertical diffusion is only effective if the federal policymakers learn from the experiences of the states and pull the best features together into an overarching national policy. Unfortunately for states, as climate policy discussions expand to the national level states risk losing their leadership status with respect to the policy agenda. In addition, a national discussion invites broader interests to the negotiating table. Further complicating vertical diffusion is the fact that states can only maintain their role as policy incubators and innovators so long as federal policy does not preempt state actions.

Endnotes: Translating State Experience Into Federal Climate Policy
continued on page 78

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ENDNOTES: TRANSLATING STATE EXPERIENCE INTO FEDERAL CLIMATE POLICY *continued from page 12*

¹ PewClimate.org, *Reporting and Crediting System for Greenhouse Gases*, <http://www.pewclimate.org/states.cfm?ID=39> (last visited Nov. 1, 2007).

² *Reporting and Crediting System for Greenhouse Gases, id.*

³ See PewClimate.org, Search Case Studies Database, <http://pewclimate.org/states.cfm> (last visited Nov. 1) (listing California, Colorado, Idaho, and Oregon using search term “adders”). The number of utilities to whom the carbon adder applies varies. *Id.*

⁴ PewCenter.org, *Oregon Carbon Adder*, <http://www.pewclimate.org/states.cfm?ID=57> (last visited Nov. 1, 2007).

⁵ *Oregon Carbon Adder, id.*

⁶ PewCenter.org, *California PUC Carbon Adder*, <http://www.pewclimate.org/states.cfm?ID=54> (last visited Nov. 1, 2007).

⁷ PewCenter.org, *Colorado Carbon Adder*, <http://www.pewclimate.org/states.cfm?ID=56> (last visited Nov. 1, 2007).

⁸ WORLD RESOURCES INSTITUTE, CLIMATE POLICY IN THE STATE LABORATORY 6 (Aug. 2006), available at http://pdf.wri.org/climate_policy_in_the_state_laboratory.pdf (last visited Nov. 1, 2007).

⁹ WORLD RESOURCES INSTITUTE, *id.* at 11-12.

¹⁰ WORLD RESOURCES INSTITUTE, *id.* at 21.
