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## Hopes diminish for climate bill as oil spill, coal state Dems pose hurdles

By Jay Hodgkins

Major U.S. utilities wanted the Kerry-Graham-Lieberman climate bill so bad they could taste it.

Convinced that the balanced and measured approach taken by Sens. John Kerry, D-Mass.; Lindsey Graham, R-S.C.; and Joseph Lieberman, I-Conn., could bridge the partisan divide in the Senate by wooing 60 votes and pushing climate legislation into the reconciliation process, power companies from the cleanest to most coal-heavy rallied behind the effort.

[PG&E Corp.](#) Chairman, President and CEO Peter Darbee on April 15 said the Kerry-Graham-Lieberman solution "must not fail" because 2010 is the Senate's last chance for many years to pass a climate bill, and said his company from here on out would **redouble its effort** to push the bill to the public and all stakeholders. That same week, [NRG Energy Inc.](#)'s president of Northeast region operations, Drew Murphy, said his company was "cautiously hopeful" about the bill's prospects. Even though the bill had not been unveiled, other large companies, including coal-heavy ones, expressed support for the bill based on details that had been shared with them.

And then "politics reared its head," as [American Electric Power Co. Inc.](#) Chairman, President and CEO Michael Morris said during the company's April 29 earnings call. Graham **split** from the effort on April 25, just hours before an April 26 news conference schedule to unveil the compromise climate and energy bill over a decision by Senate Majority Leader Harry Reid, D-Nev., to put immigration reform ahead of climate legislation.

Although Reid within days backed off and said climate would come before immigration amid the criticism that his immigration stance was only to help his own re-election, Kerry and Lieberman still have not been able to **convince Graham** to formally rejoin the team for what those senators want to be a bipartisan push for 60 votes.

The defection left many power company executives, who have lobbied relentlessly the past few years for Congress to act on climate change, somewhat dejected.

"While we are disappointed by this temporary setback, we remain hopeful that the issues will be resolved quickly, and that the U.S. Senate will make passage of an energy and climate bill an urgent priority," [Exelon Corp.](#) spokesman Paul Elsberg told SNL Energy in a written statement April 27.

Morris said AEP was "very, very strongly behind and very much in favor of" the Kerry-Graham-Lieberman bill because the company is the largest consumer of coal in the United States and the bill calls for full allocation of CO2 allowances. With AEP's belief that Congress is the only path to carbon rules that can protect customers and the economy, Morris said Kerry-Graham-Lieberman is "the only way to start."

Most utility executives were too cautious to comment on the near-term prospects for climate legislation following the Graham-Reid flap, but [Southern Co.](#) Chairman, President and CEO David Ratcliffe let his pessimism be known.

"I think the question is whether or not Lindsey Graham will re-engage in the discussions. And even if he does, remember, that's still a very steep hill to climb in a short period of time," Ratcliffe said. Noting that Southern and other business interests were still skeptical of the bill considering they had not seen its actual language, Ratcliffe

added that the business community's need to review the actual bill once it is released will also make it difficult to keep the bill on track in the constrained period of time.

"I think they have something like 40 to 45 legislative days left. They say they're going to try to do this and immigration," Ratcliffe said during the April 28 call. "Remember, this has to be scored through the [Office of Management and Budget] process, so it's got a long way to go, even if Lindsey does re-engage."

While not disagreeing with the sentiment that the Kerry-Graham-Lieberman climate bill faces a tight timeline, Steven Schleimer, director of energy and environmental regulation at [Barclays Capital Inc.](#), told SNL Energy on May 3 that the Graham departure might not really have that much fallout with regard to the schedule for considering the bill.

"The original plan was to get the bill on the floor by Memorial Day, debate it during June, and move it off the floor by the July 4th recess. Last week's news that Lindsey Graham was not going to support the bill if the Senate also moves forward with immigration reform has obviously set the timing back somewhat," Schleimer said. "However, last week John Kerry and Joe Lieberman sent the draft as it stands to the [U.S. Environmental Protection Agency] for a review and analysis. Since the EPA analysis was going to take four to six weeks anyway, we may not have lost that much time in reality."

While the EPA undertakes its scoping process, it now appears Kerry and Lieberman will go ahead with finally unveiling the bill next week. Environment and Public Works Chairman Barbara Boxer, D-Calif., on May 5 said Kerry will hold a news conference next week with or without Graham on board, *The New York Times* reported, and Kerry said Graham will continue to stand by the work done on the bill even if he does not rejoin the push to promote the bill in Senate negotiations.

Chris Miller, Reid's top climate aide, underscored the importance that the bill maintain its bipartisan tenor when he said at a conference in Washington, D.C., that the only real chance the bill has of passing this year is to ensure it draws some votes from Republicans, who have shown little interest in doing so to date, the *Times* reported.

But the typical partisan tussling is no longer the only roadblock for the climate bill. One of the key provisions Graham, Kerry and Lieberman negotiated in order to draw support from conservatives encourages offshore oil and gas drilling, which has swiftly fallen from grace in the eyes of the American public as [the scope](#) of the [BP plc](#) offshore oil spill in the Gulf of Mexico has become known.

"The events in the Gulf over the last week have created a significant question about whether and how offshore oil drilling will play a role in the Kerry-Graham-Lieberman bill," Schleimer said. "Inserting provisions for offshore oil drilling, especially allowing some revenue sharing between the states and the federal government, was one of the key currencies for possibly getting additional votes from moderate Democrats, as well as some Republicans. Now that it may be off the table for a while, getting to 60 votes may be that much harder."

Clues as to how offshore oil and gas drilling may have already become politically untenable have already come in the form of Republican governors Charlie Crist of Florida and Arnold Schwarzenegger of California both reversing their support, citing the BP oil rig catastrophe, and the U.S. Department of the Interior on May 6 said it was [indefinitely suspending](#) plans for an offshore oil and gas lease sale off the coast of Virginia, in response to the BP oil spill.

The Senate will also be distracted by hearings on a replacement for retiring Supreme Court Justice John Paul Stevens, Schleimer said, which combines with Graham's departure and the Gulf oil spill to add up to lost momentum on climate legislation.

ClearView Energy Partners in a May 6 report questioned Kerry's potential decision to release the long-awaited climate bill next week, considering the "splash" factor will be considerably dampened by the fact Capitol Hill will be focused on hearings regarding the original Deepwater Horizon oil rig explosion and ensuing oil spill.

"These are not ideal conditions for a politician hoping to make a big splash by unveiling an economy-wide redefinition of energy and environmental policy," ClearView analyst Kevin Book wrote, "unless that politician hopes to achieve one or both of two disparate strategic goals."

One of those strategic goals, Book said, would be to barrel ahead with Democratic leaders hoping to employ the oil spill hearings as a "political wedge" to force Republicans to support the climate bill because their opposition could be spun as rejecting pollution reductions and upgraded safety standards for coal and oil production. The other goal Book said could be accomplished would be to release the bill to bury it and allow Democrats to "quietly avoid dwelling on its biggest potential challenge: c-o-a-l."

"Senate prospects for climate and energy are weak without Sen. Graham and non-existent without coal-state Democrats," Book said.

Book said coal-state Democrats could choose to wedge Republicans into support or bury the new compromise climate bill, but said the latter is more likely.

Evidence that coal-state Senators could still go either way came when Sen. Robert Byrd, D-W.Va., waxed on the virtues of mine safety in a May 5 op-ed in a potential play to boost CO2 capture and sequestration dollars in the compromise climate bill, while Sen. Jay Rockefeller, D-W.Va., on the same day said he will "have a very hard time voting for anything that contains offshore drilling again," which Book said was a way to blame the drilling provisions at the heart of the Kerry-Graham-Lieberman bill.