

INSIGHTS

Boucher-Dingell Bill Would Have FERC Run Cap-and-Trade Carbon Market

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If the "discussion draft" carbon cap-and-trade bill recently released by Congressmen John Dingell (D-MI) and Rick Boucher (D-VA) becomes law, then FERC would run the carbon market. Within FERC, the bill would create a new Office of Carbon Market Oversight possessing jurisdiction over brokers, dealers and certain others involved in carbon trading. The draft bill would amend the Federal Power Act to add provisions empowering FERC to regulate carbon markets. One might fairly ask what expertise or special competence FERC brings to running a carbon market. Only some of the emission sources are energy utilities that FERC historically has regulated. Why not instead the EPA, with its expertise in administering the Clean Air Act? Alternatively, in recognition that carbon allowances may need to trade internationally, comparable to currency, why not the Department of the Treasury? Some suggest that the answer is politics. By selecting FERC, representatives Dingell and Boucher appear to take jurisdiction over the program away from the Senate Committee on the Environment and Public Works, chaired by Sen. Barbara Boxer (D-CA), and transfer it to the Senate Committee on Energy and Natural Resources, chaired by Sen. Jeff Bingaman. Sen. Bingaman is on record favoring less aggressive carbon controls less than Sen. Boxer, a position more in sync with the Boucher-Dingell discussion draft. Congressmen Dingell and Boucher have stressed that their "discussion draft" is aptly named; it is a draft only, and it is meant to stimulate discussion. Indeed, the bill contains blanks on some fundamental elements. For example, it proposes ""and asks for comment"" on four different mechanisms for allocating emissions allowances, running the gamut from free allocations to auctions.