Resilience and Renewal in Energy Communities
A Comparison of Policy Responses in the U.S. and the E.U.

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Wyoming State Bar Energy & Natural Resources Section
University of Wyoming College of Law

Energy Communities and Resource Peripheries

Energy Communities: Coal Mining, Power-Plant, and Oil and Gas Production centric communities

Resource Peripheries: A region, some distance from economic core areas, where development is focused on extraction and provision of natural resources to economic core areas.
A Historic Perspective on Energy Transitions

La Pact Charbonnier-December 20, 1994

- Agreement proposed by the government between Charbonnages de France and trade unions, after consultation with social partners.
  - Commitment to gradually reduce volumes of production over 10 years and adapt to the impacts, prioritizing successive closure of most loss-making operations.
  - Guaranteed employment to coal miners, including end of career leave or retirement, and continued provision of free housing within mining communities
  - Development of programs to address the reindustrialization of coal mining regions with public financing
ReIndustrialization & the 3rd Industrial Revolution

- Regional development strategies to counter unemployment
- Support to new economic sectors
- Modernization of productive assets
- Development of human resources and workforce through promotion of innovation and development of competences
- Promotion of a better quality of life through communication infrastructures, brownfield restoration, and urban renewal
- Promotion of Tourism and Culture including local heritage

The Cohesion Policy: An anti-periphery perspective

- Aim of improving economic well being and avoiding regional disparity
- Prioritizes Investments to:
  - Counter Economic Crisis
  - Reduce Unemployment
  - Promote Economic Renewal

Many of the coal slag heaps in northern France’s Nord-Pas-de-Calais mining region have been rehabilitated, drawing visitors to unique cultural and natural attractions.

Photograph by EDOUARD BRIDE, HANS LUCAS/REDUX
Resilience, Recovery, and Renewal: Supporting the transformation to a zero-carbon economy

Protecting People and Regions: The EU Just Transition Mechanism

- Intended to address distributional impacts of transition to a climate-neutral economy
- Provides targeted support to Member States that are the most carbon intensive or have the most people working in fossil fuels
- Funding is based on territorial just transition plans to address social, economic, and environmental challenges
Investor Production or Poison Pill?
The Energy Charter Treaty

Provides remedies to investors in energy companies whose investment will be lost due to early closures of production or generating facilities.

- 1990’s agreement on trade, transit, and investment in the energy sector to encourage investment in emerging economies and encourage cross-border cooperation
- 53 parties for Europe and West and Central Asia
- Allows foreign entity investors to sue if their investments are negatively affected by state actions
- In Germany and the Netherlands, litigation has led to settlements between coal and nuclear companies and the state regarding phase-out policies. Solar companies have also brought claims.
- Some states are withdrawing from the treaty to avoid liability.

Preferencing Local Production

The EU Border Carbon Adjustment Mechanism

Sectors covered in the first phase of the CBAM - our environmental policy tool to help maximise the European and global impact of our fight against climate change.

- Cement
- Iron & Steel
- Aluminium
- Fertiliser
- Electricity

EU importer declares the emissions embedded in its imports and surrenders the corresponding number of certificates each year. If importers can prove that a carbon price has already been paid during the production of the imported goods, the corresponding amount can be deducted.
French Circular Economy Law

Strengthens producer responsibility for end use consumer waste
Prioritizes reuse or recycling over disposal
Encourages local production and disposal

Prioritizing Energy Communities in the U.S.

- Create Good Paying Jobs
- Provide Federal Investments to Catalyze Economic Revitalization
- Support Energy Workers by Securing Benefits and Providing Opportunity
- Prioritize Pollution Mitigation and Remediation
- Government-Wide Approach
- Formalize Stakeholder Engagement
Wyoming legislature has been proactive enacting legislation to support development of new industries in Wyoming to provide legal certainty, address regulatory gaps, build state capacity, and streamline projects.

- **Nuclear:**
  - Wyo.Stat. 35-11-1506: Siting high-level radioactive waste storage facilities (2022)

- **CCUS:**
  - Wyo. Stat. 35-11-319: Transfer of Title and Custody to stored CO₂ (2022)
  - Ownership of Pore Space: Wyo. Stat. 34-1-152
  - Ownership of Injected CO₂: Wyo. Stat. 34-1-153

- **Blockchain and Digital Assets:** 34-29-101

- **Pipeline corridors:** Initiated in 2012; BLM amends resource management plans in 2021

Zero-Carbon Wyoming?

The CarbonSAFE Project in Campbell County hopes to provide a future for coal

What about workers? A Just Transition law for Wyoming:

• Even though the energy transformation affects the entire state, some communities will be disproportionately impacted.

• Other states in the west have put in place just-transition laws
  • Require workforce transition planning as part of asset changes
  • Provides local and regional funding to prevent fiscal rupture
  • Create agencies to pursue federal just-transition funding

• Address capacity gaps and promote culture of innovation through investments
Supporting Energy and Natural Resource Clients

- Obtaining Public & Private Funds:
  - Accessing federal funds will require new skills including supporting clients with preparation of Justice40, DEI, and community engagement plans
  - Consortium model requires partnership with state and private entities
  - Familiarity with tax-credit provisions of 45Q including workforce requirements and treasury regulations
- Navigating new regulatory landscapes
  - Working to coordinate state and federal agencies with developing governance programs
  - Proposing new laws or rules where needed
  - Solutions-minded and adaptive approach
- Coordinating Land Access:
  - Title and notice requirements for permits
  - Obtaining surface and subsurface rights within private and federal lands
  - Addressing conflicts with existing land uses

Contact

**TARA RIGHETTI, J.D., CPL**

*University of Wyoming*

*Professor of Law*

*Occidental Chair in Energy and Environmental Policies*

*Co-Director, Nuclear Energy Research Center*

TARA.RIGHETTI@UWYO.EDU