

# On the Grid: The (De)regulatory State 7/01/22

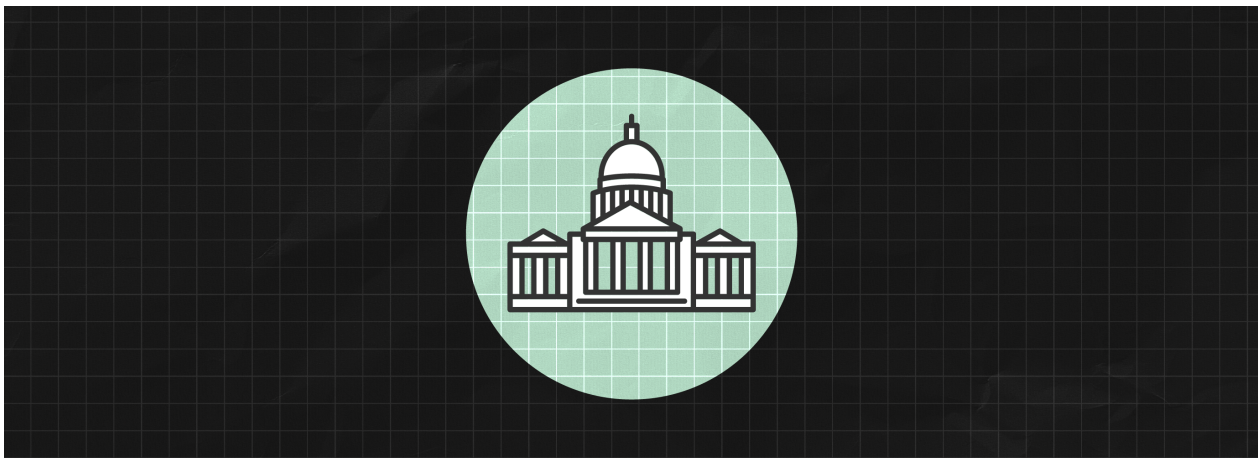


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## 1. West Virginia v EPA



On Thursday, the Supreme Court, following a pattern of deeply concerning decisions, dropped its ruling on *West Virginia v EPA*. The outcome is nothing to celebrate, but on the heels of a ruling that stripped away women's autonomy over their own medical decisions, it could have been worse. Let's set a few things straight.

## **What was the main decision here?**

The Supreme Court's decision interpreted Section 111 of the Clean Air Act, ruling that the Environmental Protection Agency (EPA) does not have the authority to develop a sector-wide emissions standard, which would have forced utilities to close coal and natural gas plants and replace them with clean generation like nuclear, solar, wind, hydro, or geothermal. .

## **How does this impact the US decarbonization strategy?**

Under this new ruling, the EPA still has the authority to regulate greenhouse gas (GHG) emissions, both under the Clean Air Act and other provisions, by ordering every individual power plant to reduce emissions using viable technologies. This could be through installation of carbon capture technology, co-firing fossil fuels with hydrogen or natural gas, or instituting efficiency upgrades. Even emissions trading and averaging remain on the table.

## **What is the larger issue with this ruling?**

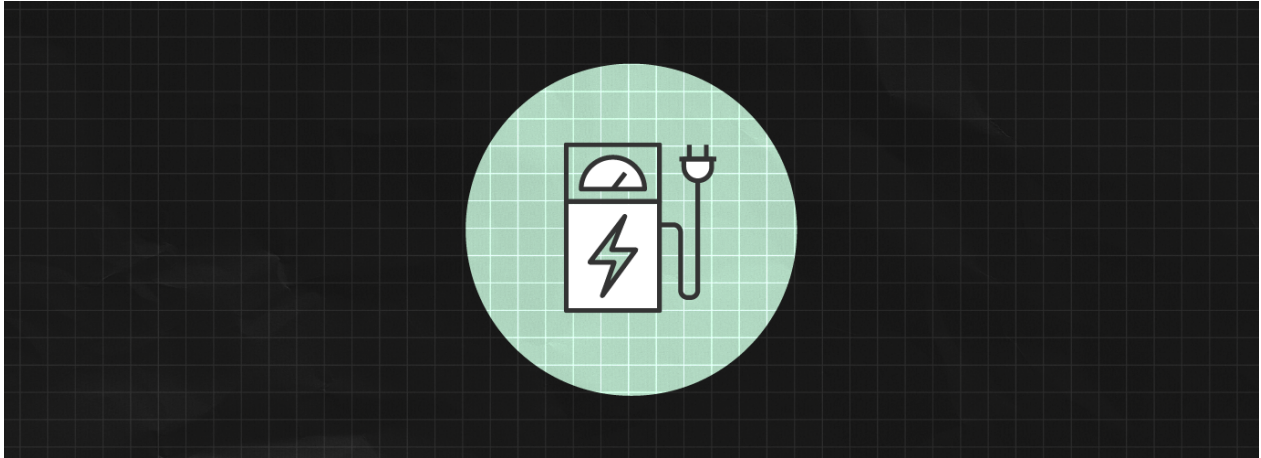
The Court's decision relies heavily on the notion of the "Major Questions Doctrine." A legal theory favored by Conservative judges, the doctrine states that agencies cannot implement any policies or address legal questions that would have "major" economic or political impact without specific authorization from Congress. This is an issue because Congress and the Courts have traditionally recognized their own limitations and deferred to agencies, and their specialized expertise, to interpret and carry out policies. Now, agencies are likely to be much more cautious in interpreting the scope of their authority unless it is explicitly spelled out by Congress. This could have a chilling effect on federal agencies. With Congress in increasing gridlock, it is unlikely the legislature would be able to come to the rescue and resolve the confusion.

## **What's Next?**

Thankfully, the EPA has not lost its ability to regulate emissions and as such, must continue to do so through smart policies that will target heavy-polluting sectors like industry and transportation. Congress must work alongside the EPA, and other agencies, and pass a robust budget reconciliation package that will help roll out the clean energy technology we need to make serious dents in our emissions. We still have the capability of addressing climate change and we need to use every tool at our disposal to do so.

Read Josh's take [here](#).

## 2. Medium- And Heavy-Duty Vehicles



While there are already over 10 million electric vehicles (EVs) on the road today, we've still got a long way to go when it comes to decarbonizing our transportation sector. And this isn't *just* about rolling more Model 3's into everyone's garage, but instead, ensuring that the trucks that bring us our produce or deliver our packages are run on cheaper, cleaner energy.

We've already begun to see the shifting sentiments from truck owners and operators who have realized the long-run savings of a zero-emissions vehicle compared to traditional fossil fuel-powered counterparts. But if we want to accelerate the transition from a diesel pump to an electric plug and make clean trucking a cheaper and more readily available option, then we need more government support.

In a new [memo](#), Alex Laska, Third Way's Senior Policy Advisor for Transportation, and Dr. Ellen Hughes-Cromwick, Third Way's Senior Resident Fellow map out the current electric truck manufacturing landscape to better understand our capacity for electric truck manufacturing. Additionally, they provide some strategic policy recommendations such as expanded federal funding and target tax credits that can be used to fuel progress on zero-emissions trucking and sector-wide decarbonization.

## 3. Creating Jobs While Decarbonizing the Economy



A few weeks ago, we released the latest installment of our Decarb America Research Initiative and the results couldn't be clearer: slashing emissions and transitioning to a clean energy economy will create over 2 million jobs economy-wide by 2050. This is a *big deal* and we're excited to see the role our research will play in steering conversations around clean energy forward, especially as Congress continues to deliberate on budget reconciliation package.



Last week, Policy Advisor Isabelle Chan sat down for a recorded conversation with World War Zero to further unpack our data and the steps forward. Watch [here](#)!

## **4. Government Funding: A Status Update**



Over the past two weeks, the House Appropriations Committee has been diligently working on its fiscal year 2023 (FY23) funding legislation. A number of the bills propose boosting funding for key clean energy innovation and deployment programs at the Department of Energy (DOE) and the Department of Transportation (DOT).

While it's an arduous process, we are excited about what we've seen so far. The appropriated baseline funding complements and sustains the crucial decarbonization and clean energy activities authorized by the Infrastructure Investment and Jobs Act (IIJA). Now, the bills will move onto the House floor for final passage.

In July, the Senate will consider its own appropriations legislation to fund these same activities, along with funding for the government as a whole. Afterward, it will be on *both* chambers to come to an agreement and pass government funding legislation before the fiscal year ends on September 30. As we have said before, letting this deadline pass and enacting a stopgap measure—or heaven forbid, shutting the government down again—would be disastrous for our efforts to scale-up and deploy the clean energy solutions of the future.

## 5. What We're Reading and Listening To



- Gideon Rachman, in the *Financial Times*, discusses how Russia's reshuffling of the global energy landscape has faded its' position as a global energy superpower and the outlook for American production and leadership.
- Robinson Meyer, in *The Atlantic*, offers a criticism of corporate "greenwashing" and the value sustainability has for America's modern workforce.
- Tom Standage, in *The Economist's* podcast series *The World Ahead*, sits down with Nat Keohane, President of the Center of Climate and Energy Solutions and a former White House policy adviser, and Catherine Brahic, *The Economist's* environment editor, to discuss sustainable aviation fuels, the future of carbon markets and how we can reduce the environmental impact of flying.