The One Big Beautiful Bill: Turning Point for UK and EU Energy Players Operating in the United States

November 12, 2025 Shu Shu Wong, Kayley Rousell, Tram Nguyen

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On 4 July 2025, President Trump signed into law the One Big Beautiful Bill Act (**OBBB**), representing a sweeping reset of the United States (**U.S.**) energy policy. The act drastically pares back the energy transition tax credits for wind and solar, made available under the Internal Revenue Code of 1986 (as amended, **Code**) and further extended or created under the Inflation Reduction Act of 2022 (**IRA**), while largely preserving those for clean energies and energy storage in the near future. Complex fiscal incentive rules are further complicated by far-reaching restrictions on foreign ownership and assistance (the so-called **FEOC**, or "foreign entity of concern", requirements) that will reshape supply chains and financing across both renewable and clean energies. On the other hand, the OBBB presents clear wins for fossil fuels under a more permissive leasing and fiscal regime.

Incentives Rolled Back for Wind and Solar

The OBBB phases out the long-standing tax credits for wind and solar which were reinforced under the IRA regime, namely the clean electricity production credit under Section 45Y of the Code (**Production Tax Credits**) or the clean electricity investment credit under Section 48E of the Code (**Investment Tax Credits**). Under the OBBB, wind and solar projects may only retain eligibility for the Production and Investment Tax Credits if they begin construction before 5 July 2026 or are placed in service by 31 Dec. 2027. Developers are expected to rely primarily on the latter pathway, in which case they would have until the end of 2030 to place their projects in service to maximise their tax credits.

On 15 Aug. 2025, the US Department of Treasury further issued Notice 2025-42 (**Notice**) to tighten the criteria to determine when a wind or solar project is deemed to have begun construction for the purposes of the first pathway. In essence, developers of wind and solar projects with a maximum net output of more than 1.5 megawatts must demonstrate performance of physical work of a significant nature. Based on market experience, this requirement may be satisfied by performing off-site manufacturing work or ordering site-specific equipment such as main power transformers. In addition, once construction has begun, it must be continuous. This continuity test requires developers to place a project in service within four years after the end of the year in which construction starts or, failing that, demonstrate that construction has been continuous from the start.

The clearcut deadlines and short-term policy guidance are likely to accelerate pipeline wind and solar projects to lock in tax credits. The International Energy Agency estimates that U.S. renewable capacity additions will peak in 2027 before tapering in 2028 and levelling through 2030[1]. At the peak of activity, however, developers may be asked to satisfy more stringent requirements of significant upfront physical work and continuity to lenders and insurance providers to demonstrate the project's eligibility for tax credits (and thus its economic viability). Projects that begin construction after 2025 will also have to contend with FEOC constraints on supply chains, as explained below, adding significant procurement costs.

Extended Runway for Geothermal, Hydrogen, Nuclear and Energy Storage

The OBBB largely preserves the tax incentives for geothermal, hydrogen and nuclear in the near future. Full Investment and Production Tax Credits remain available for geothermal and nuclear projects that begin construction before the end of 2033, while hydrogen Production Tax Credits would still apply to projects that begin construction before the end of 2027. This extended runway is especially valuable for nascent technologies, such as small nuclear reactors, to develop and prove out before the incentives are withdrawn. Energy storage technologies, i.e. properties that receive, store and deliver energy for conversion to electricity such as battery storage, thermal batteries and hydrogen fuel cells will also retain Investment Tax Credits on a similar deferred phase-down schedule.

That said, clean energy and energy storage must still meet FEOC sourcing requirements. As explained below, this will strain supply chains for critical minerals and components, traditionally dominated by Chinese suppliers. Early BloombergNEF analysis indicates energy storage additions could fall about 7 percent versus prior expectations as FEOC limits narrow supply options[2].

FEOC Requirements: Ownership/Control and Material Assistance

The OBBB conditions tax credits eligibility on compliance with more stringent foreign ownership/control and material assistance rules. The latter stipulates that projects for which specified foreign or foreign influenced entities provide “material assistance” will not be eligible for the Production or Investment Tax Credits. “Material assistance” is determined based on the proportion of direct project or component costs attributable to the relevant entity. For example, starting in 2026, energy storage projects seeking to receive investment tax credits must ensure 55 percent or more of the total material costs are not sourced from specified foreign or foreign influenced entities. This threshold gradually increases for projects that begin construction in subsequent years, reaching 75 percent by 2030.

The designation of specified foreign and foreign-influenced entities include companies owned or controlled by the governments of China, Iran, North Korea or Russia, or by citizens of those countries or otherwise organised or having a principal place of business in one of those countries. For wind, solar and energy storage – sectors where Chinese inputs dominate key components – the “material assistance” restrictions threaten to further tighten already strained supply chains and elevate capex.

Clear Wins for Fossil Fuels

The OBBB is unequivocally supportive of oil and gas, primarily through mandating new lease sales across federal lands and waters. Under the IRA, offshore oil and gas lease sales are linked to those of offshore wind and, as a result, the administration only scheduled three offshore oil and gas lease sales for the 2024-2029 period. By contrast, under the OBBB, the federal government plans to add 30 oil and gas lease sales across the Gulf region over 15 years. In addition, the OBBB restores royalty rates to pre-IRA levels, reinstates full deductions for intangible drilling costs and delays the methane emissions fee until 2035. As key fossil fuel incentives are reinforced while those of renewable and clean energy are over time withdrawn, it is predicted that U.S. capital and service capacity will soon pivot into upstream and midstream opportunities.

Where Next for UK and EU Energy Companies Operating in the U.S.?

The combination of tax credit rollbacks and surging material costs due to FEOC "material assistance" requirements may result in companies redirecting capital away from U.S. wind and solar. According to BloombergNEF, U.S. investment in solar and wind in 2025 amounted to $35 billion, down 36 percent from the second half of 2024 – in contrast to a 63 percent increase in the EU[3]. The *Financial Times* further reported that Germany's RWE has halted U.S. projects, including three offshore leases, due to political developments, while TotalEnergies and Shell have also dropped planned U.S. wind investments since President Trump's re-election[4]. At the same time, Shell was reportedly planning to bid for new oil leases sale in December, the first under the new annual lease sale schedule set by Trump[5]. Despite the drastic shift in the U.S. energy policy, energy majors are swiftly following the lead of the administration's agenda.

As the regulatory frameworks continue to evolve, Haynes Boone's Energy Practice Group in both the UK and the U.S. are closely monitoring developments and prepared to support our clients. We provide counsel across the full oil and gas value chain, from upstream exploration and production to midstream and downstream operations, as well as in energy transition sectors such as carbon capture, wind, solar and energy storage. We encourage all those interested in the energy industry, whether it be as project owners, developers and investors, equipment manufacturers, construction companies or off-takers, to reach out to discuss risk allocation, regulatory requirements and other legal considerations.

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[1] Global solar and wind power surges despite US green cuts under Trump | Financial Times

[2] Donald Trump's attacks on renewables sector quash nearly $19bn worth of projects | Financial Times

[3] European green investment stands to gain at the US's expense | Financial Times

[4] European green investment stands to gain at the US's expense | Financial Times

[5] Shell says Trump administration's attacks on wind projects harm investment | Financial Times