EPA’s Power Sector GHG Regulations: What’s Next?

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Peter Glaser
Troutman Sanders LLP
202-274-2998
peter.glaser@troutmansanders.com
EPA 1/7/15 Fact Sheet

- EPA will finalize its proposed rules for new sources, for modified and reconstructed sources, and for existing sources in the “Summer.”

- EPA is commencing work on proposed federal plan to be issued in “Summer” for states that do not submit state plans for existing sources.
Major Elements of Rule

- EPA-established state-by-state emission rates calculated using 4 “building blocks.”

- State plans meeting EPA emission rates likely due in Summer 2016, with possibility of one or two year extension for complete plan.
Building Blocks

1. All coal units assumed to improve efficiency by 6%.

2. Redispatch coal to gas, up to 70% capacity factor for existing NGCC and 55% for under-construction NGCC, unless zero our coal first.

3. Preserve nuclear and amp up renewables.

Estimated Costs of Rule

**EPA:**

- Direct costs (including DSM): $7.4 billion in 2020, $5.5 billion in 2025, and $8.8 billion in 2030.

- Electric rates: nationwide average 5% increase, with some states double-digit, but declining in 2020.

**NERA:**

- $366 billion to $479 billion.

- 12% to 17% average increase in electricity prices; 14 states face peak year electricity price increases that could exceed 20%.
Estimated Costs of Rule

**EVA (for NMA):** Wholesale electricity costs increase by $274 billion; non-power natural gas costs increase by $80 billion; additional capital costs for replacement power will be $53 billion.

**MISO:** 20-year discounted compliance cost would be $55-$83 billion.

**ERCOT:** 20% retail rate increases by 2020.

**Kansas Corporation Commission:** $5-$15 billion to comply.
Grid Reliability Impacts

- SPP: “significant loss of load and violations of NERC reliability standards,” with “[s]ome overloads so severe that cascading outages would occur.”

- MISO: “The MISO region will face serious resource adequacy issues, which translate into reliability issues.”

- ERCOT: “likely to lead to reduced grid reliability for certain periods and an increase in localized grid challenges.”

- NERC: “concern[] that reliability-related enhancements may not be able to be completed for a 2020 implementation.”
U.S. EPA projections of U.S. coal generation capacity 2010-2035 (in gigawatts)

U.S. EPA projections of western coal production for electric generation, MATS and Proposed Clean Power Plan GHG Rule (Million tons/yr)

Benefits of Rule?

- EPA-projected reduction in CO2 emissions in 2030 is equal to 1% of global CO2e emissions today.

- EPA translates this into tens of billions of $ in annual benefit using Social Cost of Carbon values.

- EPA does not include increased methane emissions from increased natural gas production and transportation.

- Additional benefits from reducing PM2.5, by double-counting reductions from other EPA regulations and assuming benefits below the NAAQS.
Unilateral Disarmament?

Coal consumption by region
Million tonnes oil equivalent

Source: BP plc
Figure 7. Regional shares of world carbon dioxide emissions, 1990, 2007, 2025, and 2035

percent of world total
- United States
- Rest of OECD
- China
- Rest of Non-OECD
The Near Future

- How much will EPA change the proposed rule?
- Will some states “just say no”?
- EPA announcement of preparation of federal plan designed to discourage states from doing so.
Current Litigation

- Two Murray Energy appeals of proposed rule in D.C. Circuit.
- State AG challenge of settlement agreement behind proposed rule also in D.C. Circuit.
- Each challenges the authority of EPA to issue *any* power sector Section 111(d) rule given Section 112 regulation.
- Each alleges separate theory as to why it is appropriate to challenge the rule before it is finalized.
- Oral argument 4/16. Decision possibly this summer.
Litigation Once Rule Finalized

- Appeals due 60 days after rule is finalized in Summer.
- Typically, 1 ½ - 2 years for D.C. Circuit appeals.
- Will motions to stay rule be filed?
- Will motions for expedited briefing be filed?
U.S. Supreme Court in *UARG v. EPA* (2014)

“EPA’s interpretation is also unreasonable because it would bring about an enormous and transformative expansion in EPA’s regulatory authority without clear congressional authorization. When an agency claims to discover in a long-extant statute an unheralded power to regulate ‘a significant portion of the American economy’… we typically greet its announcement with a measure of skepticism. We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast ‘economic and political significance.’”