

Executive Order to Roll Back Clean Power Plan Promises Change in Nation's Generation Portfolio

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Tuesday, April 4, 2017

Putting aside the climate change politics swirling around US President Donald Trump's recent executive order on "Promoting Energy Independence and Economic Growth," what does the order mean for the nation's electric generation portfolio? Can the gradual decline in the role of coal-fired generation be reversed?

The executive order, released on March 28, 2017, calls for increased domestic energy production from coal, natural gas, nuclear material, and other domestic sources, explicitly balancing the need to "promote clean and safe development" of energy resources with "avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation." In addition to revoking various Obama-era executive orders on climate change and carbon emissions and rescinding various reports issued by federal agencies on these topics, the executive order also directs the Environmental Protection Agency (EPA) to review the Clean Power Plan in the context of the domestic production policy adopted in the executive order and to, "as soon as practicable, suspend, revise, or rescind" the rule.

Although implementation of the executive order is likely to play out over several years, dismantling the Clean Power Plan will likely reduce the speed with which coal plants have been shutting down. But the Clean Power Plan is only one of several factors reducing the role of coal-powered generation in the United States.

While there certainly will be legal challenges to any efforts to roll back the Clean Power Plan, major elements of the rule are likely on their way out. For example, even without withdrawing its earlier finding that carbon emissions (and those of other climate change constituents) endanger the environment, EPA has broad room to reconsider what manner and method of controls are practically available and feasible. This could potentially result in a much narrower, “inside the fence” approach to reducing emissions from coal plants rather than the novel statewide approach adopted in the Clean Power Plan, which essentially called for carbon-emitting generation to secure corresponding offsetting zero-emission generation to achieve low overall average emission rates. EPA never maintained that such an approach was required under the Clean Air Act, merely that it was a permissible reading of the Clean Air Act to let EPA do so. Given the wide discretion that agencies have in determining how to tackle a given problem, challengers to a new approach that takes a narrower view of the Clean Air Act could face a very steep uphill court battle.

But even assuming the Trump administration’s EPA successfully recalibrates the Clean Power Plan, for several key reasons it is unlikely to do more than slow the speed at which coal-fired generation is shrinking as a portion of the nationwide generation portfolio.

- Rescinding the Clean Power Plan will still allow states to adopt measures that foster a migration from coal to other resources, so the effects will likely be highly dependent on where particular plants are located. For states that have become unfriendly to coal power, legislative and regulatory pressure is likely to continue to drive reductions in coal generation.
- Coal is not as economical as it once was. Massive increases in renewable generation have led to gigawatts of generation with essentially no fuel cost. At the same time, depressed prices for traditionally sourced gas combined with more widespread exploitation of shale gas have driven down the price of natural gas such that coal is often not competitive with new natural gas plants. In this respect, it bears noting that the executive order does contain elements designed to make natural gas production and transportation easier to develop—the executive order is not “only about coal.”
- Coal’s major advantages over gas—the ability to store significant quantities on-site and what was once perceived to be greater ease and lower cost of transport, which together provide for enhanced reliability by reducing the likelihood of fuel supply disruptions—are not recognized by the market.

For an industry sector such as coal, removing the threat posed by the Clean Power Plan is unquestionably a bright spot. But the executive order may benefit sectors that compete against coal (for example, by directing that petroleum, gas, and nuclear regulatory burdens be reduced), resulting in no comparative net advantage to coal producers and consumers. And even if the Clean Power Plan were fully withdrawn, the current economics of natural gas and renewable generation as well as increasingly restrictive state regulation mean that the executive order may only slow—not halt—the coal’s decline in our nation’s generation mix.

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