Today marks the filing deadline for comments on the U.S. EPA's proposed 111(d) rule under President Obama's Clean Power Plan. Under the Clean Air Act, the proposed 111(d) rule seeks to limit carbon emissions from existing power plants. Already, more than one million comments have been filed on this rule and thousands more are expected before the filing deadline tonight. In addition, the rule for new generation facilities under 111(b) of the Clean Air Act is already complete, though litigation is sure to follow. And, on November 25, the United States Supreme Court agreed to take up the question of whether the U.S. EPA should have considered the cost of implementation of the Mercury and Air Toxics Standard in formulating that rule, further complicating the regulatory landscape for power generators and consumers.

POTENTIAL IMPACT ON COAL

As commenters have had more time to evaluate the proposed rule and estimate its practical and financial impacts, industry experts now expect more than 60 GW (60,000 MW) of coal fired generation will shut down as a result of this rule. SNL Energy notes that 24.8 GW of coal capacity was retired from 2009-2014. What is more, another 23.6 GW of coal capacity is expected to be retired between now and 2022. What are the potential costs of these retirements? One study calculates the total cost to the energy system could exceed $366 billion. National Economic Research Associates, Inc., the primary author of the study, also took exception with some of the EPA assumptions which impact the difference in its calculations and those savings proffered by U.S. EPA. The four building blocks are designed to be the means to comply with the carbon emission reductions, but NERA's analysis suggests that compliance simply won't allow for compliance and the rule is flawed as a result.

CANADIAN STUDY

At the same time as these issues are being debated in the United States, the Canadian Nuclear Association ("CNA") recently published a study that shows nuclear power produces lower greenhouse gas emissions than wind farms backed up by natural gas generation. John Barrett, President of CNA, reported that the study found the combination of wind-plus-gas generates 20 times more greenhouse gas than does nuclear power. As a part of the EPA's 111(d) proposal, several commenters have already questioned the approach taken by EPA which puts nuclear generation at risk, and favors renewables like wind and solar. The CNA study draws attention to the tension between zero emission nuclear facilities and renewable sources using coal or natural gas as firming power during periods of intermittency.

COAL GENERATION INCREASING IN ASIA

And finally, outside of North America, Asia is expected to increase its coal fired demand by more than 100 percent from 2014-2035. China leads the way in growth of coal demand, but countries like Vietnam and India are also building new coal fired plants, says a report from Woods Mackenzie. China's coal fired capacity is expected to increase to 1,677 GW by 2035 (up from 819 GW in 2014). The report states clearly that generation from coal "will continue to grow despite the environmental initiatives being pursued by China." India is expected to see an increase from 155 GW to 398 GW of coal capacity in the same time period. Vietnam will see the highest percentage increase in coal growth with an increase from 7 GW to 43 GW. What is more, Indonesia is also expanding coal use rapidly as it seeks to electrify 90 percent of its households by 2020.

WORLDWIDE ENERGY DEMANDS CONTINUE TO RISE

Without question, the world's energy demands continue to increase. In the summer of 2014, 600 million people lost power in India. Those consumers aspire to have reliable power, which means additional supply will be needed to satisfy demand. The growing middle class in China and the rest of Asia also want affordable, reliable power. As a result, the demand for coal and other generation sources, including nuclear and renewables, continues to grow in Asia. In places like Europe and the United States, the push for renewables and efficiency continues as a matter of state and federal policy. What is more, Japan and Germany are working to dramatically reduce their reliance on nuclear power, while simultaneously integrating a larger amount of renewable power into the grid and allocating the costs to ratepayers.

As the weeks and months progress, these issues will continue to percolate and policy decisions will be made that will profoundly impact energy producers and consumers. Our Energy Practice Group continues to monitor these issues and assess their impact to consumers of all varieties and to the suppliers who bear the obligation to provide them energy.

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ENERGY PRACTICE

Many of the attorneys in our Energy Group have spent more than a decade serving public utilities and/or oil and gas clients and therefore offer a unique perspective in understanding the legal issues currently presented in the energy industry. Our clients include public utilities, renewable energy companies, energy developers, the oil and gas industry, industrial companies and suppliers. Our Energy Practice has a multi-disciplinary approach to counseling our clients and covers litigation, governmental affairs, real estate law, environmental law, capital markets and other practice areas.

ENVIRONMENTAL PRACTICE

The attorneys on our environmental team offer the regulatory, technical and business experience necessary to help clients meet the complex challenges posed by environmental laws and regulations. We represent a wide range of clients in all aspects of regulatory compliance and transactional activities involving solid and hazardous waste, air, wastewater, underground storage tanks, site assessments and remediation, voluntary cleanups, wetlands, asbestos, and lender and corporate officer liability.