

NRECA hoping the Clean Power Plan will go away

Trump administration could ask court for time to review rule

11/17/2016 by Wayne Barber

National Rural Electric Cooperative Association (NRECA) CEO Jim Matheson said Nov. 17 that he hopes the recent election will trigger “substantive review” of the Environmental Protection Agency (EPA) Clean Power Plan.

During a press call that featured Matheson and Tom Lorenzen, NRECA's outside counsel on the Clean Power Plan, the two stressed that they expect the incoming Trump administration to take a fresh look at the Obama EPA plan to have states cut power sector carbon dioxide (CO₂) emissions 32% by 2030.

Matheson said NRECA has been working for a year to build relationships with both major presidential candidates. That said, NRECA opposed the Clean Power Plan, as a regulatory “overreach,” Matheson said. NRECA is encouraged by President-elect Donald Trump's public opposition to the Clean Power Plan.

Rural cooperatives didn't like the CPP and the manner in which it was drafted, Matheson said. Electric cooperatives have been active in creative approaches to climate and clean energy, said the NRECA CEO.

“Rural America matters” and the election showed that, Matheson said. Rural America wants to be a part of the 21st century economy, he added. But as for the Clean Power Plan, “we'd like to see this go away,” Matheson said.

“We want our members again to have the flexibility to best meet their members' needs,” Matheson said. Various cooperatives are in all sorts of positions on carbon and green energy, including some that could end up with stranded assets under the Clean Power Plan, he added.

In the event that the U.S. Court of Appeals for the District of Columbia Circuit has not ruled on the legal challenge to the CPP by the Jan. 20 inauguration, it's possible the Trump Justice Department could file a motion that the court hold off on making a ruling.

“We are not in a position at this time to comment on litigation strategy,” said Lorenzen, who is with the **Crowell & Moring** law firm. If nothing is filed by court by Jan. 20, it's possible that the Trump Justice Department file something, Lorenzen said.

Justice might ask that the new Trump administration be given time to tweak, revise or revoke the rule, Lorenzen said.

The Clean Power Plan has been stayed pending litigation and EPA faces no judicial deadline to finalize regulation of CO₂.

It's not uncommon for new administrations to tweak, revise or revoke rules issued by prior administrations, Lorenzen said.

Lorenzen said the incoming administration must decide if it wants to reopen the rule; or does it want to undertake a new rulemaking. The legal advisor for NRECA said that any Clean Power Plan action by the Trump administration can result

in citizen suits by private citizens.

ABOUT THE AUTHOR

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Wayne Barber, Chief Analyst for the GenerationHub, has been covering power generation, energy and natural resources issues at national publications for more than 20 years. Prior to joining PennWell he was editor of Generation Markets Week at SNL Financial for nine years. He has also worked as a business journalist at both McGraw-Hill and Financial Times Energy. Wayne also worked as a newspaper reporter for several years. During his career has visited nuclear reactors and coal mines as well as coal and natural gas power plants.

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