Cornerstone Capital Group

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Flash Commentary: The Future of Energy

Supreme Court Ruling Highlights Clean Power Plan's Potential

- **In our July 2015 report *Scenario: What if Electricity Prices Fell?*, we outlined how radical changes in the US electricity market, including the then-draft Clean Power Plan (CPP) rule, could result in falling retail electricity prices.** The CPP rule, finalized in October 2015, proposed state-specific, rate-based goals for carbon dioxide emissions from the power sector. The accompanying regulatory assessment released by the EPA stated the impact of the proposed rule would be a 1.1-3.2% increase in average electricity bills to 2020 but a 3.2-5.4% **decrease** by 2025 compared to current US Energy Information Agency forecasts.

- **On February 9, 2016, the US Supreme Court (SCOTUS) granted a stay to the implementation of the CPP rule by the US Environmental Protection Agency (EPA).** Opponents of the rule, including 29 states and state agencies and several industry and trade groups, had appealed a decision by the D.C. Circuit Court not to stay the rule while litigation over it plays out. The stay application was approved by the Supreme Court along ideological lines – 5 to 4. D.C. Circuit oral arguments are scheduled for June 2.

- **Opponents of the rule point to the granted stay application as a sign that the majority of justices are likely to agree that the EPA doesn't have the authority under the Clean Air Act (CAA) to craft the rule.** The question of this authority, rather than whether the rule presents an unfair impact on different types of power generation (Figure 1), is the primary challenge from opponents. Yesterday's ruling supported the opponents' claim that the costs of implementing the CPP now could not be compensated for in the event that SCOTUS strikes down the EPA's authority, and therefore, implementation should be halted until the case is adjudicated.

- **The ruling does not, in itself, change the likelihood of CPP being struck down by SCOTUS but indirectly recognizes the possible impacts of the plan.** In our view, the intensity of the challenge from the states and certain industries, and the SCOTUS ruling that CPP should be halted while being litigated, demonstrates that the CPP has significant implications for the sector. Our view on possible falling retail electricity prices would change if the EPA's ability to implement the CPP is struck down, but we note that ongoing declines in renewable energy costs, as shown in Figure 2, could still result in flat or falling prices.

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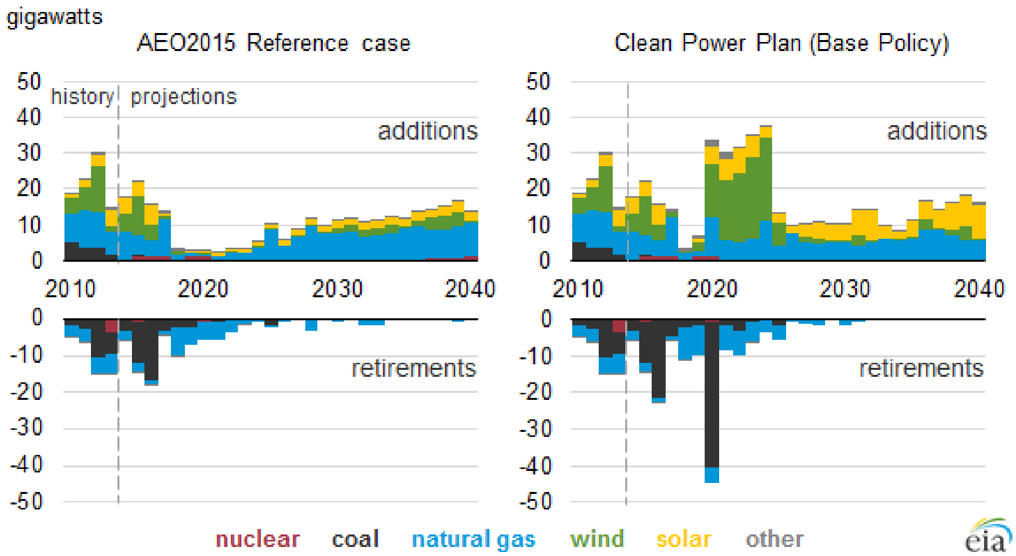
The impact of the CPP rules are shown in Figure 1 in contrast to the US Energy Information Agency (EIA)'s AEO2015 reference case.

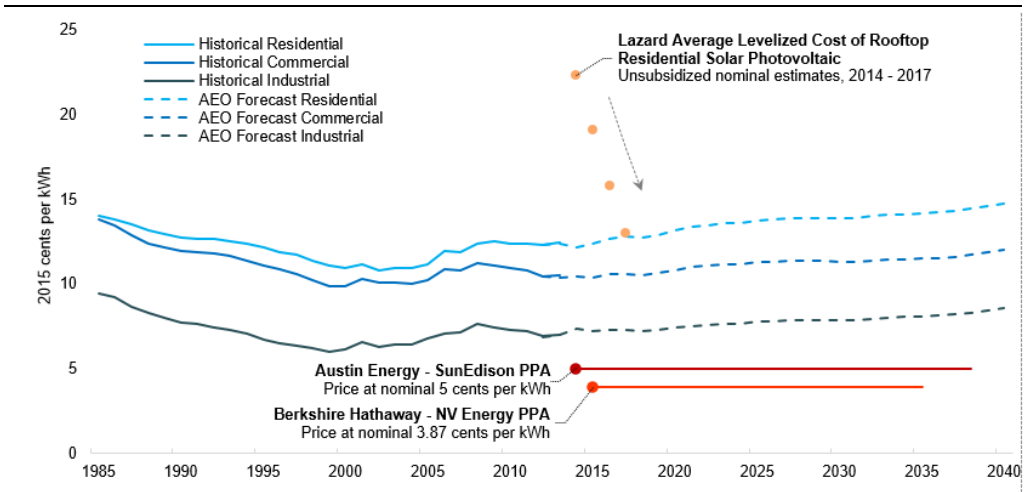
Figure 1: Projected US electric capacity additions and retirements, 2010-40



Source: US EPA, 2015

Key takeaways are higher renewable energy additions than currently forecast, lower forecast natural gas generation additions and major coal generation retirements. In addition, renewable energy prices continue to decline as shown in Figure 2.

Figure 2: Historical and forecast electricity prices, forecast levelized cost of energy and solar PPA announcements



Source: Cornerstone Capital Group, EIA, Lazard, SunEdison, and Berkshire Hathaway

*SunEdison and NV Energy PPA includes Investment Tax Credit benefits

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