What The Supreme Court ‘Stay’ Means For The Clean Energy Sector

TN Note: Obama’s outright war on carbon-based energy took an unexpected turn when the Supreme Court abruptly stopped his Clean Energy Plan from moving forward. This plan called for the removal of 33% of productive electrical capacity off the grid by 2020, just 4 years from now. In the process, it would shutter 48% of all coal-fired plants. The U.S. Supreme Court voted 5-4 this week to stay the implementation of the U.S. EPA’s Clean Power Plan, until the carbon rule has been fully reviewed on its merits.

A federal appeals court in Washington, D.C. is currently reviewing the regulation, with oral arguments scheduled to begin on June 2. A final ruling is expected by the end of the year.

Regardless of the outcome, the case will likely go to the Supreme Court, with either proponents or opponents challenging the appellate court’s decision. The stay issued this week is designed to halt implementation...
until the Supreme Court makes a final ruling. The stay itself could be a signal that the justices are leaning in favor of the Clean Power Plan (CPP) opponents.

So what does this mean for states and businesses impacted by the CPP?

For wind and solar companies, the decision doesn’t mean much — right now. The renewable energy sector saw record capacity additions in 2015 as prices continued to fall, and the recent extensions of the federal Investment Tax Credit for solar and the federal Production Tax Credit for wind will continue to drive growth over the next five to seven years.

However, the ITC and PTC extensions are intended to be a policy bridge until the CPP comes into effect. The stay creates uncertainty around what that bridge will lead to.

The CPP compliance period officially begins in 2022. But states can receive early action credits for investing in renewable energy and energy efficiency in 2020, if they file compliance plans by September 2016. At the very least, the stay delays that timeline.

“Approving this delay, I’m afraid, will create a chill in investment in the [clean energy] sector,” said Malcolm Woolf, vice president of policy and government affairs at Advanced Energy Economy.

The CPP stands to mobilize millions and eventually billions of dollars into efficient power plants and technologies to replace power plants. Because these projects need to prove their worth for decades to come, energy companies are more likely to hold off on making long-term commitments until the Supreme Court decides the case two or three years from now, said Woolf.

This could have an impact on some large-scale utility solar projects. The 2019 and 2020 forecasts for utility solar stood to gain from early-action-eligible projects, especially for utilities that could also benefit from the 30 percent ITC eligible projects, according to Cory Honeyman, senior solar analyst at GTM Research.

“So the biggest question now is how many large utilities voluntarily
proceed with implementation plans,” he said. “If these utilities pause their planning and don’t submit draft plans by September, this potentially limits the impact of the early-action component of the CPP.”

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