LATHAM&WATKINS

Implementing § 111(d): Challenges & Opportunities – An Energy Regulatory Perspective

The Future of U.S. Climate Policy: Coal, Carbon Markets, and the Clean Air Act

Institute for Policy Integrity, NYU School of Law October 28, 2014

> Michael J. Gergen, Partner Latham & Watkins LLP

Latham & Watkins operates worldwide as a limited liability partnership organized under the laws of the State of Delaware (USA) with affiliated limited liability partnerships conducting the practice in the United Kingdom, France, Italy and Singapore and as affiliated partnerships conducting the practice in Hong Kong and Japan. Latham & Watkins practices in Saudi Arabia in association with the Law Office of Salman M. Al-Sudairi. In Qatar Latham & Watkins LLP is licensed by the Qatar Financial Centre Authority. © Copyright 2012 Latham & Watkins. Partnerved.

Clean Power Plan's Four Building Blocks

	BSER BUILDING	Best System of Emission	Cost per Ton
1	Reducing the carbon intensity at individual affected EGUs through heat rate improvements	6% improvement in average heat rate of coal-fired steam EGUs	US\$6-12 per metric ton
2	Reducing emissions from the most carbon-intensive EGUs by substituting generation from less carbon- intensive affected EGUs	Replacing coal and oil/gas fired steam generation by increasing generation from existing NGCC capacity (including NGCC units under construction) to a 70% utilization rate	US\$30/ton
3	Reducing emissions from affected EGUs in the amount that results from substituting generation from expanded low-or zero- carbon generation	Completing all nuclear capacity under construction; avoiding retirement of 6% of existing nuclear capacity; increasing renewable capacity over time with state-level targets consistent with RPS established by states in the same region	Nuclear: US\$12-17/ton Renewables: US\$10-40/ton
4	Reducing emissions from affected EGUs in the amount that results from the use of demand-side energy efficiency that reduces the amount of generation required	Increasing state demand-side energy efficiency to generate 1.5% annual electricity savings	US\$16-24/ton

Source: L&W Client Alert, June 6, 2014 LATHAM&WATKINS

Seven Domains of the Electricity Grid and Relevant Energy Regulators

Regulators

- State Utility Commissions
- State Planning/Permitting Authorities
- Self-Regulated Entities (e.g., municipal utilities)
- Federal Energy Regulatory Commission (FERC)
- North American Electric Reliability Corporation (NERC)
- Other Federal Entities (e.g., Department of Energy)





Regulators

- State
- Self-Regulated
- Federal

Transmission





- State
- Self-Regulated
- Federal



