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Fitch: EPA Ruling Relieves Pressure on US Public Power.

Fitch Ratings-New York-01 July 2015: The U.S. Supreme Court's decision requiring the U.S. Environmental Protection Agency (EPA) to take industry costs into account before it resumes its Mercury and Air Toxic Standards (MATS) is positive for a few public power entities but will not affect most, Fitch Ratings says. Utilities with high concentrations of coal-fired capacity that have struggled with the decision to install expensive pollution control equipment will now likely face a longer time frame for compliance and could benefit further if the compliance thresholds are lowered.

However, most public power and cooperative issuers have already transitioned to lower emitting resources by taking advantage of the improved economics of natural gas-fired generation and certain renewable resources. Moreover, the sector's exposure to generation at risk for retirement has proven favorable. Of the 45.8 gigawatts (GW) of coal-fired capacity closed since 2010 or earmarked for closure by 2017, only 1.0 GW, or 2%, of the capacity is owned by public power entities other than the Tennessee Valley Authority.

The Supreme Court decision leaves the next steps to a lower court. However, the EPA could issue new rules, rendering moot the lower court's decision. Although the fundamental framework of MATS is not expected to change, the EPA is likely to focus more closely on the cost for industry compliance as it reconsiders the mercury rules and drafts future environmental initiatives. The agency is expected to be under pressure to revise the rules before President Barack Obama's second term ends.

Ironically, any lowering of the emission requirements outlined in MATS could frustrate compliance efforts related to the EPA's proposed the Clean Power Plan (CPP). In 2014, the EPA proposed the CPP, to reduce carbon emissions from existing plants by establishing mandatory carbon dioxide reduction targets for each state. Fitch believes these proposed rules are unlikely to have any near-term effect on public power and cooperative utilities given their reduced reliance on coal-fired generation, in part, as a result of MATS. Over the long term, CPP compliance could be more challenging and costly in states that continue to rely heavily on coal-fired generation.

Contact:

Dennis Pidherny
Managing Director
U.S. Public Finance
+1 212 908-0738
33 Whitehall Street
New York, NY

Rob Rowan
Senior Director
Fitch Wire
+1 212 908-9159

