

The surprising winner of the EPA's power plant rules

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If any energy sector scored a clear victory in the Environmental Protection Agency's proposed rule on power plant carbon emissions, it was the nuclear industry.

A number of nuclear reactors are facing tough economic futures. Given the cheap price of natural gas and competition from wind power, some nuclear operators were considering prematurely retiring about 5.7 gigawatts of nuclear reactors because of gloomy economic forecasts.

So the EPA did something that caught many energy industry experts off guard — it awarded states that host nuclear power generation a 6 percent credit toward meeting emissions reduction goals by 2030 as an incentive to keep their reactors afloat.

"In terms of how they gave credit for nuclear power, that might have surprised people. You don't have to do that, they're emission free. It's basically a giveaway," Kevin Book, managing director with energy consulting group ClearView Energy Partners, said of the rule, which aims for a 30 percent emissions reduction below 2005 levels by 2030.

For states with nuclear power facilities, the credit gives a big boost toward meeting the EPA's state goals for 2030. That's key for some Midwest and Southeast states. It also would buoy utilities with significant nuclear production such as Exelon Corp., the Chicago-based utility that owns 23 nuclear power plants nationwide that said it was "pleased" the proposed rule "recognizes the critical importance" of nuclear power.

Nuclear power accounts for about 20 percent of the nation's energy mix and produces zero carbon emissions. But it has faced economic challenges in recent years due to dropping natural gas prices — building gas-fired generators is cheaper and faster — and subsidized wind power in wholesale markets in the Midwest.

The 6 percent credit was designed to reflect the 5.7 gigawatts of at-risk nuclear power, out of a total of 104 gigawatts of United States nuclear capacity. But not every state has the same amount of nuclear power capacity in a precarious financial situation — it's greater than 6 percent for some

and less for others. As such, the calculation likely will face protests in the comment period for the proposed rule, which is scheduled to be finalized in June 2015.

Some said the credit could spur some states that had previously explored nuclear power projects to push ahead. That's because the credit ultimately will help utilities make the case to state regulators to invest in nuclear power and pass the construction costs onto customers, said Bill Hollaway, a partner at Gibson Dunn.

"By having the federal government say we're going to go ahead and do that, even at 6 percent, it's another major piece on the scale to do that in states that are already predisposed," Hollaway said. "Six percent sends a very strong signal to states that are ultimately going to be looking to recover the rates on these things that they should go ahead and do this."

Still, even with the credit, the economics are tough for a big nuclear project — nuclear plants cost about four times as much per kilowatt to build than natural gas-fired power plants. But experts said that the credit undoubtedly is designed to protect, and even encourage, more nuclear power.

"This is a proposal that anticipates nuclear and even encourages nuclear as part of the mix," said Craig Moyer, a partner with law firm Manatt, Phelps and Phillips, who added the credit's inclusion dashed expectations that the EPA would bend to some of the environmental groups who have concerns about long-term nuclear waste storage and are said to "hold sway" in the White House.

But the Obama administration has long championed nuclear power, and has suggested mass retirements could jeopardize its climate goals. The 6 percent credit, along with baking in assumptions that five facilities under construction in Georgia, South Carolina and Tennessee would begin operating, provides a sizable boost to the nuclear industry and nuclear-powered states.

"Having an opportunity to preserve your nuclear fleet without it being at risk gives you a bigger numerator," said Brendan Collins, a partner in the environmental and natural resources practice at Ballard Spahr. "It's easier to hit a lower target if you can avail yourself of this 6 percent."

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