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# The EPA Clean Power Plan: What Now?

Michael Wara,  
Friday, October 2, 2015

**“It ain’t over ‘till it’s over.”**

**-YB**

# The NSPS for new sources



- Existing source rule is authorized ( § 111d) only once a rule for new sources has been finalized ( § 111b).
- New source rule requires partial CCS for new coal plants based on Kemper County, Boundary Dam, and other smaller projects



- Legal standard is the same as for existing sources
- “best system of emissions reduction...adequately demonstrated,” taking costs into account
- Is coal with CCS “adequately demonstrated?”

- Dueling statutes issue.
- Beyond the fenceline issue.
- *FDA v Brown & Williamson* issue

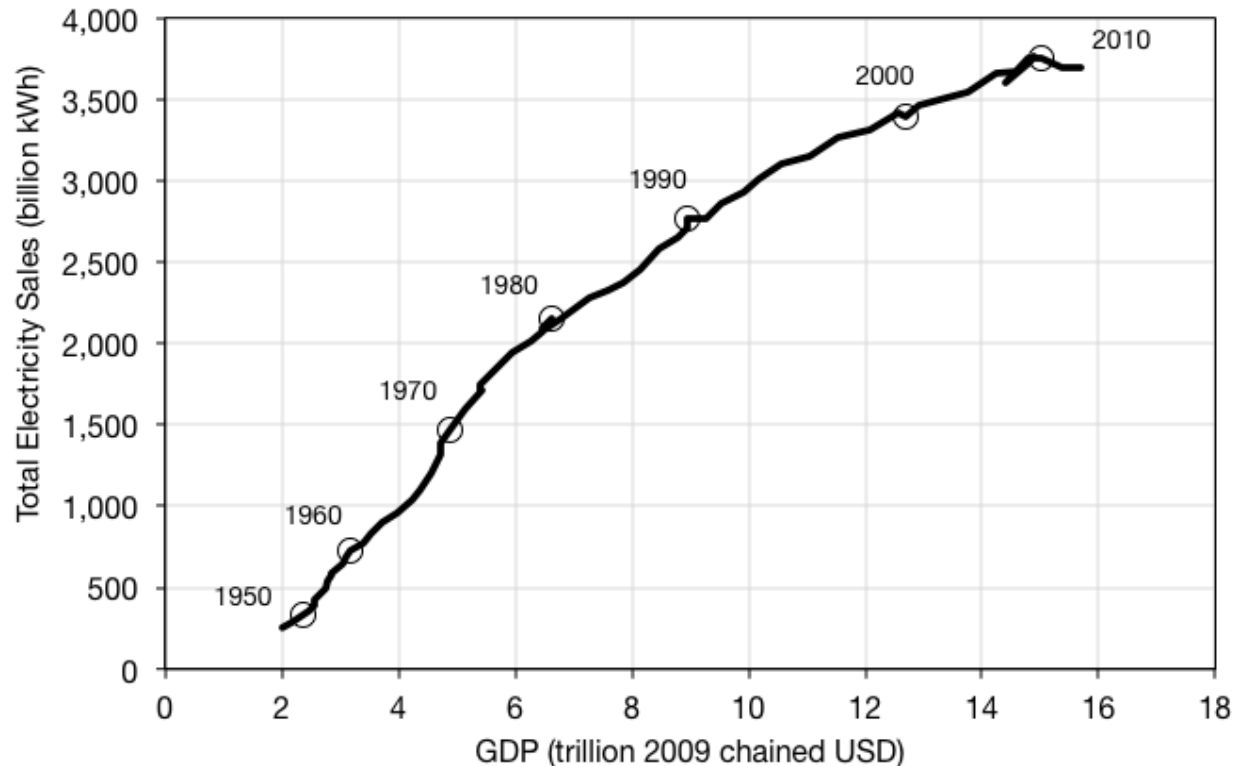
- Likely to lose big (vacated).
- EPA will likely still retain authority to regulate
- Implies a delay to 2019 for a new final rule

“The future ain’t what it used to be.”

-YB

# Demand for Electricity in the US

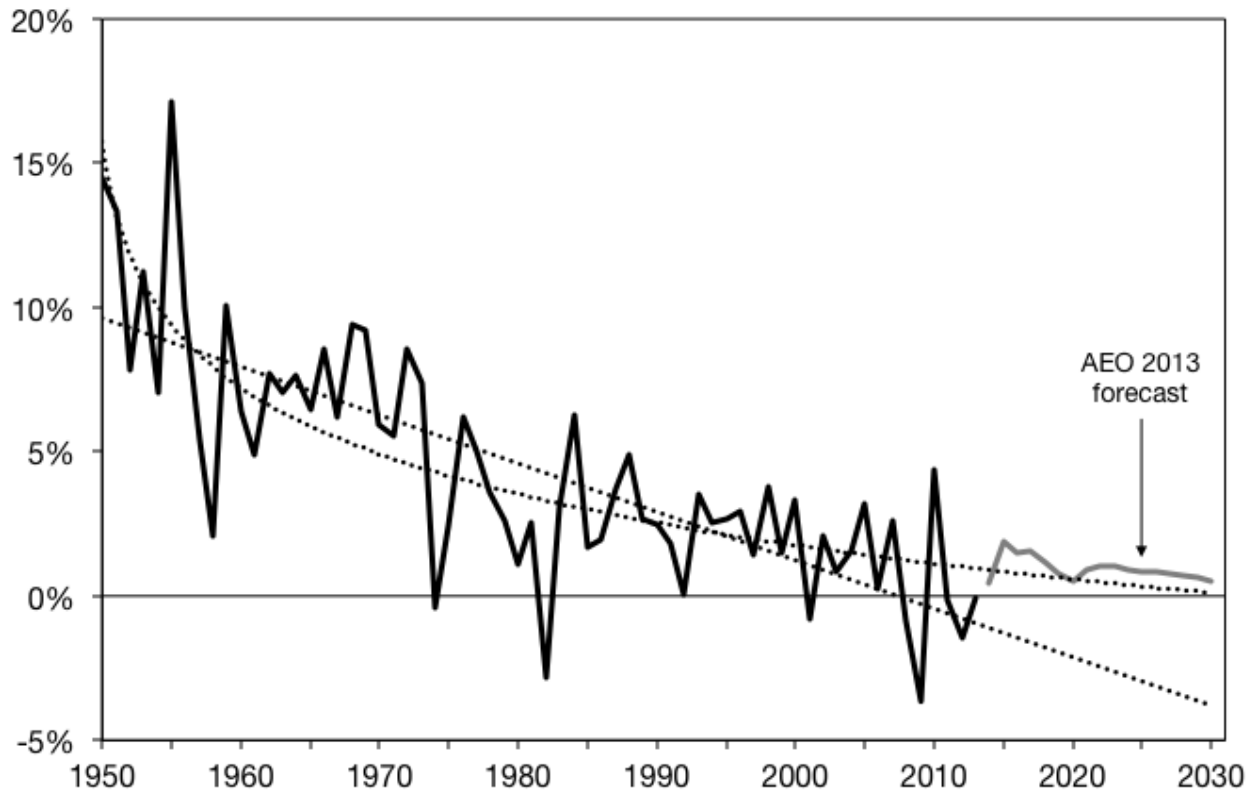
The Evolving Electricity Intensity of the U.S. Economy





# Growth in US Electricity Sales

Annual Growth in Total Electricity Sales



You've got to be very careful if you don't know where you are going, because you might not get there.

-YB

- Seams issues and state choice on rate versus mass
- Coordination issues in electricity market regions
- What role for EE in rate-based jurisdictions?

- Significant legal risk, likely unresolved until 2018
- Low demand plus high baseline implies low stringency, especially for mass-based compliance
- Mismatch between Clean Air Act compliance design and regional electricity markets

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Questions?