

ORAL ARGUMENT NOT YET SCHEDULED

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

State of West Virginia, et al.,)	
)	
<i>Petitioners,</i>)	
)	
v.)	No. 15-1363 and
)	consolidated cases
U.S. Environmental Protection Agency, et al.,)	
)	
<i>Respondents.</i>)	

**PETITIONERS' JOINT MOTION TO ESTABLISH
BRIEFING FORMAT AND EXPEDITED BRIEFING SCHEDULE**

These consolidated cases involve 28 petitions to review a final rule promulgated by the U.S. Environmental Protection Agency (“EPA” or “Agency”) entitled Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,662 (Oct. 23, 2015) (the “Rule”). As detailed below and in 9 stay motions filed with the Court, the Rule requires a restructuring of the American electric utility industry that States and other affected parties have already been forced to begin implementing in light of the Rule’s first deadline in September 2016. Given the acute importance of this case to the nation’s energy system and its customers, and the irreparable harm the Rule is presently causing, Movants believe it is critical that the lawfulness of the Rule be adjudicated as soon as possible. Thus, though there are pending requests to stay the Rule, Petitioners are also filing this motion to ensure the Court has sufficient time to enter an expedited briefing schedule with oral argument this term—*i.e.*, by May 2016—on the fundamental legal issues raised by the Rule. Movants propose one possible schedule (*infra* at 15-17), but stress that the focus of this request is on argument on the Rule’s fundamental legal issues occurring this coming spring, rather than being delayed until the fall.

Counsel for the undersigned Petitioners have had good-faith discussions with counsel for EPA to try to reach agreement on a joint proposal. They have informed Petitioners that they do not agree with this proposal and plan to file one or more responses.

PRELIMINARY STATEMENT

EPA's Rule establishes carbon dioxide ("CO₂") emission performance rates for coal- and gas-fired electric generating units ("EGUs"), which are used to calculate emission performance goals for 47 of the 50 States. As EPA acknowledges, to achieve these emission rates, many existing coal-fired power plants will need to be closed and the operation of the remaining units will be substantially curtailed, a large amount of replacement generation and associated electric transmission and natural gas pipeline infrastructure will need to be developed, and measures must be taken to induce consumers to reduce electric consumption significantly. For some States, natural gas-fired electric generation must be replaced by renewable energy, or a reduction in the demand for electricity, in order to comply. Achievement of these CO₂ emission reductions will require many States to rewrite their laws and regulations to effectuate these changes. These new state laws and regulations must be passed by the States' legislatures and signed by their governors, and must be in effect in less than one year, by September 6, 2016, unless the State seeks and EPA approves an extension. Even if a State gets an extension, it must submit an initial progress report to EPA by September 6, 2016, including an interim plan setting forth proposed changes in state laws and regulations by September 6, 2017, and a final plan by September 6, 2018.

As numerous States have attested, accomplishing all of this in the timeframes contemplated by the Rule will be extraordinarily difficult, if not impossible. *See, e.g.*, State Pet'rs Mot. for Stay & for Expedited Consideration of Pet. for Review at 15-19,

ECF No. 1579999 (“States’ Stay Mot.”) (citing declarations). The development of state plans is already underway; virtually every State in the country is now engaged in ongoing regulatory, interagency, and stakeholder processes to restructure their electric utility sectors in time to meet EPA’s schedule. *Id.* Electric generators are also undertaking substantial efforts now, including having to identify and prepare EGUs for retirement, to prepare for corresponding increases in natural gas and renewable generation, and planning, permitting, and constructing new generation to replace those units. *See* Mot. of Utility & Allied Pet’rs for Stay of Rule at 14-16, ECF No. 1580014 (“Util. and Union Stay Mot.”).

Accordingly, several Petitioners have filed motions with this Court asking it to stay the effectiveness of the Rule, and to toll the deadlines contained therein, pending resolution of their petitions. *See, e.g.,* States’ Stay Mot.; Util. and Union Stay Mot.; Coal Ind. Mot. for Stay, ECF No. 1580004 (“Coal Stay Mot.”); Mot. for Stay of EPA’s Final Rule, ECF No. 1580020 (“Bus. Stay Mot.”). In addition to the stay motions, the undersigned Petitioners, representing 27 States, the electric utility and coal sectors, labor unions, and the general business community, respectfully request that this Court set an expedited briefing schedule that would permit argument prior to the end of this term of the fundamental legal issues raised by the Rule.

To meet this goal, Movants respectfully propose that the Court (i) set for expedited briefing a discrete set of fundamental issues (specified below) that are central to the legal validity of the Rule and that are ripe for immediate resolution; and

(ii) sever and establish a separate docket for state-specific and programmatic issues. Given the large number of these latter types of issues that EPA's massive regulation raises for each of the 47 States to which it applies, the most efficient way of managing the case while allowing for expeditious resolution of EPA's legal authority to change the entire economic and regulatory structure of the electric utility industry is to bifurcate the briefing between the fundamental legal issues and individual record-based challenges. This will enable the Court to resolve promptly the foundational legal issues related to whether EPA has authority under the Clean Air Act ("CAA") to issue the Rule, and even if it does, whether Section 111(d) of the CAA, 42 U.S.C. § 7411(d), authorizes a rule like *this* rule. Depending on how the Court resolves those foundational legal issues, briefing of the state-specific and record-based issues could be narrowed or avoided altogether.

Bifurcation and severance of the fundamental legal authority issues from the challenges to the programmatic elements, and speedy briefing and resolution of the former, will promote the fair and efficient management of these cases, and is in the interest of judicial economy. It will allow the Court to resolve whether EPA has any authority under the CAA to adopt the Rule *before* addressing the multitude of complex and fact-based individual issues relating to the Rule's implementation.

Prompt review of the common fundamental legal issues presents distinct advantages for all involved. First, depending on how the Court resolves the fundamental legal issues, briefing on all or many of the programmatic issues may

become unnecessary. Second, given how quickly the Rule seeks to force States to make unprecedented legislative and regulatory changes, and given the profound and immediate impacts on industry and the public that the mandated restructuring of the electric sector will have, speedy resolution of the fundamental legal issues will benefit both the regulators and the regulated. *See, e.g.*, States' Stay Mot. at 15-20; Util. and Union Stay Mot. at 14-19; Coal Stay Mot. at 14-18; Bus. Stay Mot. at 17-19; Basin Electric Stay Mot. at 15-19, ECF No. 1582159; Pet. Oklahoma's Motion for Stay of EPA's Existing Source Performance Standards for Electric Generating Units at 17-19, ECF No. 1580577 ("Okla. Stay Mot."); Pet. State of North Dakota's Motion for Stay of EPA's Final Rule at 9-15, ECF No. 1580920 ("N.D. Stay Mot.").

DISCUSSION

I. Overview of Section 111 of the CAA and the Rule

Section 111(d) of the CAA authorizes EPA to issue regulations calling on States to submit plans containing state-established performance standards for existing sources of air pollution, but only for sources not in "a source category which is regulated under section [112] of this title." 42 U.S.C. § 7411(d); *see Am. Elec. Power Co. v. Connecticut*, 131 S. Ct. 2527, 2537 n.7 (2011). For source categories that EPA is authorized to regulate under Section 111(d), any standards of performance must reflect the "best system of emission reduction" ("BSER") that has been "adequately demonstrated" for "existing source[s]" of the air pollutant. 42 U.S.C. § 7411(a)(1), (d)(1). In "applying a standard of performance to any particular [existing] source," a

State is expressly permitted by the statute to consider the source’s “remaining useful life” and “other factors.” *Id.* § 7411(d)(1); *see also* 40 C.F.R. § 60.24(f) (recognizing States’ authority to “provide for the application of less stringent emissions standards or longer compliance schedules” based on “remaining useful life” and other factors).

In the 45-year history of the CAA, EPA has undertaken more than 60 rulemakings defining standards of performance for categories of *new* sources under CAA § 111(b). *See* 40 C.F.R. pt. 60. It has also promulgated regulations under CAA § 111(d) containing guidelines for the States’ establishment of performance standards for *existing* sources in six source categories, five of which remain in place. *Id.* sbpts. Cc, Cd; 42 Fed. Reg. 12,022 (Mar. 1, 1977); 42 Fed. Reg. 55,796 (Oct. 18, 1977); 44 Fed. Reg. 29,828 (May 22, 1979). Each time EPA has promulgated new source performance standards or guidelines for existing source performance standards, the new source rule or existing source guideline has been based on a “system of emission reduction” (emissions control technology or lower-polluting production processes) that could be incorporated into the design or operation *of the individual sources in the regulated industrial category.*¹

¹ *See, e.g.*, 41 Fed. Reg. 19,585, 19,585 (May 12, 1976) (§ 111(d) emission guideline based on “spray cross-flow packed scrubbers as the best adequately demonstrated technology”); 41 Fed. Reg. 48,706, 48,706 (Nov. 4, 1976) (§ 111(d) emission guideline based on “fiber mist eliminators”); 44 Fed. Reg. 29,828, 29,829 (May 22, 1979) (§ 111(d) emission guideline based on digester systems, multiple-effect evaporator systems, and straight kraft recovery furnace systems); 45 Fed. Reg. 26,294, 26,294 (Apr. 17, 1980) (§ 111(d) emission guideline based on “effective collection of emissions, followed by efficient fluoride removal by dry scrubbers or by wet

By contrast, the “system” for reducing emissions on which this Rule is based largely involves measures that *cannot* be implemented at the existing source. Rather, EPA treats competing companies and generation as control devices and mandates new renewable generation units. 80 Fed. Reg. at 64,728. EPA’s national performance standards for individual EGUs and binding emission goals for States require the replacement of coal-fired generation with natural gas-fired and renewable energy generation, *id.* at 64,671 (Section 111 “authorize[s] the EPA to consider measures that could be carried out by parties other than the affected sources,” including the measures addressed in EPA’s BSER determination.), and assume an unprecedented reduction in demand for electricity. EPA, Regulatory Impact Analysis for the Clean Power Plan Final Rule, at 3-14, Tbl. 3-2 (Aug. 2015) (“RIA”), Docket ID No. EPA-HQ-OAR-2013-0602-37105. Creating the “system” imagined by EPA will extend far beyond the “sources” to which § 111(d) applies and will require fundamental and far-reaching changes in many existing state laws. *See* States’ Stay Mot. at 15-19; Okla. Stay Mot. at 9-12.

Finally, all of these changes in state laws and regulations must begin immediately and many have already been started. States are required, within less than 11 months of the Rule’s publication, to develop and submit for EPA approval a final

scrubbers”); 61 Fed. Reg. 9905, 9914 (Mar. 12, 1996) (§ 111(b) and § 111(d) standards based on “[p]roperly operated gas collection and control systems achieving 98 percent emission reduction”).

plan for restructuring the State’s electric system in line with EPA’s mandates, 40 C.F.R. § 60.5760(a), or an initial submittal describing their progress in changing state laws and regulations and requesting more time to complete the process, *id.* §§ 60.5760(b), 60.5765(a), (c). The extension request criteria EPA imposes are not a simple “push the button” approach. They require each State to have started identifying and developing how its electricity industry will be restructured, and presenting a draft initial plan to the public in sufficient detail to allow meaningful public feedback. If approved, state plans restructuring their electric systems become federally enforceable by EPA and through citizen suits, and are subject to revision only with the approval of EPA. 42 U.S.C. §§ 7411(d)(2)(B), 7604(a)(1)(A); 40 C.F.R. § 60.28(c). As described in the States’ motions, States have already begun this labor- and resource-intensive process of developing plans. States’ Stay Mot. at 18-19.

II. Issues Presented by These Cases

Fundamental Issues of Legal Authority – All of the Petitioners raise fundamental issues regarding EPA’s authority under the CAA to issue the Rule at all or to issue *this* Rule. As described below, these issues include EPA’s authority to regulate EGUs under Section 111(d) when this source category is already regulated under Section 112, and to use Section 111(d) to fundamentally restructure the way in which electricity is generated and distributed. Petitioners include electric utilities that have EGUs subject to the performance standards established by the Rule; coal companies, their associations, transporters of coal, and suppliers to the coal industry

that are all directly affected by the Rule due to sharply lower demand for their product; labor unions whose members face loss of employment as a result of the Rule; the general business community that will be harmed by higher prices for electricity, and the decreased demand for goods and services that the Rule will cause; and States that are required to restructure their energy sectors in response to the Rule.

Programmatic Issues – Beyond fundamental issues of legal authority and validity, and assuming EPA has authority to issue a rule like this, Petitioners raise record-based and fact-bound issues regarding the Rule’s treatment of specific sources and specific States. For example, EPA has established different emission rates for 47 of the 50 States (Vermont, which has no affected sources, is excluded, as are Alaska and Hawaii, which are not connected to the continental contiguous grid) based on new and mistaken assumptions by EPA regarding the operational characteristics of certain EGUs, the regional availability of natural gas and renewable generating capacity, the ability of individual States to implement measures that reduce electricity demand, constraints on available transmission and other infrastructure, and numerous other unit-specific, state-specific, and regional conditions that do not reflect the circumstances that exist in individual States or for individual EGUs.

Many of the programmatic issues are specific and diverse. For example, a sampling of State Petitioners’ programmatic issues include:

1. Arkansas's objection to the Rule's treatment of existing nuclear energy sources, particularly EPA's refusal to provide clean energy credit for Entergy's Arkansas Nuclear One power plant;
2. Wyoming's challenge to EPA's failure to consider the impact of the Rule throughout the State on the greater sage grouse and other sensitive species;
3. South Dakota's objection that the Rule threatens reliability of electric supply in the State because the only coal-fired power plant and the only natural gas-fired power plant in the State lack common ownership, have different regional transmission operators, and do not share a common customer base;
4. Wisconsin's objection to how the Rule applied a 4.3% heat rate improvement to Wisconsin steam power plants and how the Rule treats biomass energy;
5. Florida's objections to EPA's failure to consider its unique peninsular geography and the fact that only two States border Florida, thus limiting Florida's power transfer opportunities;
6. Kansas's objection to the Rule's failure to provide a method to account meaningfully for over three billion dollars in stranded investments made by Kansas utilities to install criteria pollutant control equipment on power plants;
7. Texas's objection that the Rule will force the State to redesign the Electric Reliability Council of Texas ("ERCOT"), which is the only Independent System Operator in the continental United States that operates an electricity market that is

wholly contained within one State and is not synchronously interconnected with the rest of the country, and which has otherwise been a vibrant and extremely successful competitive wholesale and retail electricity market for Texas; and

8. Texas's objection that it is being punished as a first mover in the area of wind energy because, under the Rule, none of the renewable energy installed prior to January 6, 2013 (or capacity upgrades to existing renewable energy completed prior to that date) can be used by generators or the State to demonstrate compliance with the Rule.

As can be seen from even this short, illustrative list, briefing of all significant programmatic issues for each of the 47 States would require multiple, lengthy briefs to address issues that may be mooted based upon the Court's resolution of the core legal issues.

III. Factors Supporting Bifurcation and Severance of Issues for Briefing

As the foregoing discussion establishes, several factors support bifurcation and severance of issues for briefing. First, as explained in the motions for stay, there is an immediate need to resolve whether EPA has authority to adopt the Rule at all. The core issues of legal authority could by themselves result in vacatur of the Rule, were raised in response to the proposed rule, and were the subject of comment.

Second, there are numerous challenges to programmatic aspects of the Rule that could affect the magnitude of the burden imposed on certain States and sources, the implementation schedule and process, and compliance requirements.

Finally, aspects of the Rule that differ markedly from the proposed rule will be addressed in reconsideration petitions filed with EPA. These programmatic issues may not be ripe for review until the reconsideration petitions are decided by EPA.

In these circumstances, Petitioners respectfully request that the Court expedite briefing of the overarching and fundamental legal issues with the Rule to ensure oral argument by May 2016, and that it sever and create a separate docket for programmatic issues, to be briefed promptly (if needed) after the Court's decision on the fundamental legal issues.²

SUMMARY OF BRIEFING PROPOSAL

As described above, Petitioners propose a briefing format and schedule that allows for expedited briefing now of fundamental legal issues, with briefing and argument to be completed by May 2016. Depending on the Court's disposition of these issues, subsequent briefing of programmatic issues could then be scheduled.

I. Fundamental Core Issues To Be Briefed on an Expedited Basis

A. The fundamental legal issues that State Petitioners propose to address in their brief include the following:

² Because all of the arguments in Petitioners' stay motions relate to fundamental legal issues, any stay granted by the Court would extend only until those legal issues have been resolved.

1. Whether the Rule, which regulates existing power plants under CAA § 111(d), 42 U.S.C. § 7411(d), is unlawful because EPA has regulated the same power plants under CAA § 112, 42 U.S.C. § 7412;

2. Whether EPA has the authority to force States to transform their energy economies to favor only certain sources of electricity, under the guise of regulating power plants under CAA § 111(d), 42 U.S.C. § 7411(d); and

3. Whether EPA's threat that it will seize control over the States' energy economies if they do not submit state plans violates the States' rights under the Tenth Amendment and the Federal Power Act, 16 U.S.C. § 824(a).

B. The fundamental legal issues that Industry and Other Non-State Petitioners propose to address in their brief include the following:

1. Statutory Authority Issues – Whether the Rule violates Section 111 by:
 - a. Establishing “standards of performance for any existing source” in the fossil fuel-fired EGU category that are not achievable in practice by any existing EGU through either technological or operational processes that continuously limit the rate at which CO₂ is emitted by that source;
 - b. Establishing “standards of performance for any existing” fossil fuel-fired EGUs that require the curtailment or closure of affected facilities and replacement of their generation by EPA-preferred sources such as wind, solar, geothermal, and hydroelectric power, rather than relying on feasible improvements in emissions performance of existing fossil fuel-fired EGUs;

c. Defining the “best system of emission reduction” for existing fossil fuel-fired EGUs to include measures that cannot be implemented at the sources themselves or that impermissibly require construction of new sources;

d. Subjecting existing fossil fuel-fired EGUs to performance rates under Section 111(d) that are more stringent than the concurrently-finalized performance standards under Section 111(b) for new sources in the same category; and

e. Depriving States of their authority under Section 111(d)(1), “in applying a standard of performance to any particular source ... to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.”

2. Agency Overreach and Constitutional Avoidance Issues – Whether the Rule:

a. Impermissibly violates the Tenth Amendment by intruding on powers reserved to the States, such as the power to establish intrastate energy policies, and must be held unlawful because any interpretation of the CAA that allows the Rule would violate constitutional principles including federalism and separation of powers; and

b. Impermissibly intrudes on the exclusive authority of the Federal Energy Regulatory Commission to regulate the interstate electricity market.

C. The fundamental legal issues that Petitioner-Intervenors propose to address in their brief include the following:

1. Whether the Rule raises separation of powers, principles of federalism, and Fifth Amendment issues, all of which the CAA should be interpreted to avoid; and

2. Whether the Rule violates the requirements of 42 U.S.C. § 7607(d).

II. Proposed Briefing Format and Expedited Briefing Schedule

In briefing the issues set forth above, Petitioners propose the following potential schedule that would ensure oral argument by May 2016. Petitioners propose that the opening briefs of Petitioners be divided into two briefing groups with standard word limits (14,000 words) applying to each. Specifically, (i) State Petitioners would file one joint opening brief that addresses overarching issues relevant broadly to those petitioners, and (ii) Industry and Other Non-State Petitioners would file one joint opening brief that addresses overarching issues relevant broadly to those petitioners. These briefs would not exceed a combined total of 28,000 words, and Petitioners will coordinate to eliminate duplication between briefs. Opening briefs would be due 38 days after the end of the 60-day statutory period for filing a petition for review, on January 29, 2016.

EPA would be entitled to file a brief of up to 28,000 words (the combined length of the opening briefs). EPA's brief would be due 40 days after the due date for

opening briefs, on March 9, 2016. Petitioners would file reply briefs of no more than 14,000 words total, due 21 days after the due date for EPA’s brief, on March 30, 2016.

Intervenors in support of Petitioners and Respondents would each be allowed to file a joint intervenors’ brief with a total limit for each such brief of 8,750 words. The Petitioner-Intervenor brief would be due 7 days after the due date for Petitioners’ briefs, and the Respondent-Intervenor brief would be due 7 days after the due date for Respondents’ brief. Oral argument would take place in May 2016.

The following table summarizes the proposed briefing format and schedule, which is offered only as an example of one possible schedule that would allow for oral argument by May 2016:

Document	Due Date	Word Limits
Petitioners’ Opening Briefs on Fundamental Legal Issues	38 days from the end of the 60-day statutory review period, or January 29, 2016	Up to 2 briefs; 28,000 words combined
Joint Brief of Petitioner-Intervenors	7 days after Petitioners’ opening briefs are due, or February 5, 2016	8,750 words
EPA’s Response Brief	40 days after Petitioners’ opening briefs are due, or March 9, 2016	28,000 words
Joint Brief of Respondent-Intervenors	7 days after EPA’s brief is due, or March 16, 2016	8,750 words
Petitioners’ Reply Briefs	21 days after EPA’s brief is due, or March 30, 2016	Up to 2 briefs; 14,000 words combined
Petitioner-Intervenors’ Reply Brief	7 days after Petitioners’ reply briefs are due, or April 6, 2016	4,375 words

Document	Due Date	Word Limits
Deferred Joint Appendix	2 days after Petitioner-Intervenors' reply brief is due, or April 8, 2016	N/A
Final Briefs	4 days after Deferred Joint Appendix is due, or April 12, 2016	N/A
Oral Argument	May 2016	N/A
Briefs on Programmatic Issues (if necessary)	After the Court's decision on Core Issues	To be determined

The approach laid out above is consistent with briefing formats in similar cases, where this Court has bifurcated briefing when fundamental legal issues were ripe and reconsideration petitions of other issues were pending before EPA. *See, e.g.*, Order, *White Stallion Energy Ctr., LLC v. EPA*, No. 12-1100 (D.C. Cir., June 28, 2012), ECF No. 1381112; Order, *Natural Res. Def. Council v. EPA*, No. 06-1045 (D.C. Cir. June 19, 2006), ECF No. 975173. As noted, Movants' core request is to ensure that oral argument occurs by May 2016, and the schedule proposed here is merely an example of any one of several variations that could achieve that goal.

III. Potential Briefing on Programmatic Issues

Given that, as discussed above, briefing programmatic issues should be delayed until the Court issues its decision on the fundamental legal issues, Petitioners request that the Court sever from these cases all issues except the fundamental legal issues. The Court should establish a separate docket for briefing those issues, if necessary, after final resolution of the fundamental legal issues. If the Court resolves these issues

in a way that does not result in the Rule being set aside, Petitioners respectfully request the Court direct the parties to submit a proposal to govern further briefing on all remaining issues within 30 days of the Court's decision on the merits.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Court adopt the briefing format and schedule proposed herein, or a similar schedule that will ensure oral argument by May 2016. If the Court resolves the core legal issues in a way that does not result in the Rule being set aside and there is a need for a second round of briefing, the Court should order the parties to submit a proposal to govern further briefing on the remaining issues within 30 days of the Court's decision on the merits of the core legal issues.

Dated: December 8, 2015

Respectfully submitted,

/s/ Elbert Lin

Patrick Morrisey

ATTORNEY GENERAL OF WEST
VIRGINIA

Elbert Lin

Solicitor General

Counsel of Record

J. Zak Ritchie

Assistant Attorney General

State Capitol Building 1, Room 26-E

Charleston, WV 25305

Tel: (304) 558-2021

Fax: (304) 558-0140

elbert.lin@wvago.gov

Counsel for Petitioner State of West Virginia

/s/ Scott A. Keller

Ken Paxton

ATTORNEY GENERAL OF TEXAS

Charles E. Roy

First Assistant Attorney General

Bernard L. McNamee II

Chief of Staff

Scott A. Keller

Solicitor General

Counsel of Record

P.O. Box 12548

Austin, TX 78711-2548

Tel: (512) 936-1700

scott.keller@texasattorneygeneral.gov

Counsel for Petitioner State of Texas

/s/ Andrew Brasher

Luther Strange

ATTORNEY GENERAL OF ALABAMA

Andrew Brasher

Solicitor General

Counsel of Record

501 Washington Avenue

Montgomery, AL 36130

Tel: (334) 590-1029

abrasher@ago.state.al.us

Counsel for Petitioner State of Alabama

/s/ John R. Lopez IV
Mark Brnovich
ATTORNEY GENERAL OF ARIZONA
John R. Lopez IV
Counsel of Record
Dominic E. Draye
Keith Miller
Assistant Attorneys General
Maureen Scott
Janet Wagner
Janice Alward
Arizona Corp. Commission,
Staff Attorneys
1275 West Washington
Phoenix, AZ 85007
Tel: (602) 542-5025
john.lopez@azag.gov
dominic.draye@azag.gov
keith.miller@azag.gov

*Counsel for Petitioner Arizona Corporation
Commission*

/s/ Frederick Yarger
Cynthia H. Coffman
ATTORNEY GENERAL OF COLORADO
Frederick Yarger
Solicitor General
Counsel of Record
1300 Broadway, 10th Floor
Denver, CO 80203
Tel: (720) 508-6168
fred.yarger@state.co.us

Counsel for Petitioner State of Colorado

/s/ Jamie L. Ewing
Leslie Rutledge
ATTORNEY GENERAL OF ARKANSAS
Jamie L. Ewing
Assistant Attorney General
Counsel of Record
323 Center Street, Suite 400
Little Rock, AR 72201
Tel: (501) 682-5310
jamie.ewing@arkansasag.gov

Counsel for Petitioner State of Arkansas

/s/ Allen Winsor
Pamela Jo Bondi
ATTORNEY GENERAL OF FLORIDA
Allen Winsor
Solicitor General of Florida
Counsel of Record
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
Tel: (850) 414-3681
Fax: (850) 410-2672
allen.winsor@myfloridalegal.com

Counsel for Petitioner State of Florida

/s/ Britt C. Grant
Samuel S. Olens
ATTORNEY GENERAL OF GEORGIA
Britt C. Grant
Solicitor General
Counsel of Record
40 Capitol Square S.W.
Atlanta, GA 30334
Tel: (404) 656-3300
Fax: (404) 463-9453
bgrant@law.ga.gov

Counsel for Petitioner State of Georgia

/s/ Jeffrey A. Chanay
Derek Schmidt
ATTORNEY GENERAL OF KANSAS
Jeffrey A. Chanay
Chief Deputy Attorney General
Counsel of Record
Bryan C. Clark
Assistant Solicitor General
120 S.W. 10th Avenue, 3rd Floor
Topeka, KS 66612
Tel: (785) 368-8435
Fax: (785) 291-3767
jeff.chanay@ag.ks.gov
bryan.clark@ag.ks.gov

Counsel for Petitioner State of Kansas

/s/ Timothy Junk
Gregory F. Zoeller
ATTORNEY GENERAL OF INDIANA
Timothy Junk
Deputy Attorney General
Counsel of Record
Indiana Government Ctr. South
Fifth Floor
302 West Washington Street
Indianapolis, IN 46205
Tel: (317) 232-6247
tim.junk@atg.in.gov

Counsel for Petitioner State of Indiana

/s/ Jack Conway
Jack Conway
ATTORNEY GENERAL OF KENTUCKY
Counsel of Record
700 Capital Avenue
Suite 118
Frankfort, KY 40601
Tel: (502) 696-5650
sean.riley@ky.gov

Counsel for Petitioner Commonwealth of Kentucky

/s/ Megan K. Terrell
James D. "Buddy" Caldwell
ATTORNEY GENERAL OF LOUISIANA
Megan K. Terrell
Deputy Director, Civil Division
Counsel of Record
1885 N. Third Street
Baton Rouge, LA 70804
Tel: (225) 326-6705
terrellm@ag.state.la.us

Counsel for Petitioner State of Louisiana

/s/ Donald Trahan
Herman Robinson
Executive Counsel
Donald Trahan
Counsel of Record
Elliott Vega
LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Legal Division
P.O. Box 4302
Baton Rouge, LA 70821-4302
Tel: (225) 219-3985
Fax: (225) 219-4068
donald.trahan@la.gov
elliott.vega@la.gov

*Counsel for Petitioner State of Louisiana
Department of Environmental Quality*

/s/ Aaron D. Lindstrom
Bill Schuette
ATTORNEY GENERAL FOR THE PEOPLE
OF MICHIGAN
Aaron D. Lindstrom
Michigan Solicitor General
Counsel of Record
P.O. Box 30212
Lansing, MI 48909
Tel: (515) 373-1124
Fax: (517) 373-3042
lindstroma@michigan.gov

*Counsel for Petitioner People of the State of
Michigan*

/s/ Donna J. Hodges
Donna J. Hodges
Senior Counsel
MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY
P.O. Box 2261
Jackson, MS 39225-2261
Tel: (601) 961-5369
Fax: (601) 961-5349
donna_hodges@deq.state.ms.us

*Counsel for Petitioner Mississippi Department of
Environmental Quality*

/s/ James R. Layton
Chris Koster
ATTORNEY GENERAL OF MISSOURI
James R. Layton
Solicitor General
Counsel of Record
P.O. Box 899
207 W. High Street
Jefferson City, MO 65102
Tel: (573) 751-1800
Fax: (573) 751-0774
james.layton@ago.mo.gov

Counsel for Petitioner State of Missouri

/s/ Justin D. Lavene
Doug Peterson
ATTORNEY GENERAL OF NEBRASKA
Dave Bydlaek
Chief Deputy Attorney General
Justin D. Lavene
Assistant Attorney General
Counsel of Record
2115 State Capitol
Lincoln, NE 68509
Tel: (402) 471-2834
justin.lavene@nebraska.gov

Counsel for Petitioner State of Nebraska

/s/ Dale Schowengerdt
Timothy C. Fox
ATTORNEY GENERAL OF MONTANA
Alan Joscelyn
Chief Deputy Attorney General
Dale Schowengerdt
Solicitor General
Counsel of Record
215 North Sanders
Helena, MT 59620-1401
Tel: (406) 444-7008
dales@mt.gov

Counsel for Petitioner State of Montana

/s/ Robert J. Kinney
John J. Hoffman
ACTING ATTORNEY GENERAL OF NEW
JERSEY
David C. Apy
Assistant Attorney General
Robert J. Kinney
Deputy Attorney General
Counsel of Record
Division of Law
R.J. Hughes Justice Complex
P.O. Box 093
25 Market Street
Trenton, NJ 08625-0093
Tel: (609) 292-6945
Fax: (609) 341-5030
robert.kinney@dol.lps.state.nj.us

Counsel for Petitioner State of New Jersey

/s/ Sam M. Hayes _____

Sam M. Hayes

General Counsel

Counsel of Record

Craig Bromby

Deputy General Counsel

Andrew Norton

Deputy General Counsel

NORTH CAROLINA DEPARTMENT OF

ENVIRONMENTAL QUALITY

1601 Mail Service Center

Raleigh, NC 27699-1601

Tel: (919) 707-8616

sam.hayes@ncdenr.gov

Counsel for Petitioner North Carolina

Department of Environmental Quality

/s/ Paul M. Seby _____

Wayne Stenehjem

ATTORNEY GENERAL OF NORTH

DAKOTA

Margaret Olson

Assistant Attorney General

North Dakota Attorney General's Office

600 E. Boulevard Avenue #125

Bismarck, ND 58505

Tel: (701) 328-3640

ndag@nd.gov

maiolson@nd.gov

Paul M. Seby

Special Assistant Attorney General

State of North Dakota

GREENBERG TRAURIG, LLP

1200 17th Street, Suite 2400

Denver, CO 80202

Tel: (303) 572-6584

Fax: (303) 572-6540

sebyp@gtlaw.com

Counsel for Petitioner State of North Dakota

/s/ Eric E. Murphy _____
Michael DeWine
ATTORNEY GENERAL OF OHIO
Eric E. Murphy
State Solicitor
Counsel of Record
30 E. Broad Street, 17th Floor
Columbus, OH 43215
Tel: (614) 466-8980
eric.murphy@ohioattorneygeneral.gov

Counsel for Petitioner State of Ohio

/s/ David B. Rivkin, Jr. _____
E. Scott Pruitt
ATTORNEY GENERAL OF OKLAHOMA
Patrick R. Wyrick
Solicitor General of Oklahoma
P. Clayton Eubanks
313 N.E. 21st Street
Oklahoma City, OK 73105
Tel: (405) 521-4396
Fax: (405) 522-0669
fc.docket@oag.state.ok.us
scott.pruitt@oag.ok.gov
clayton.eubanks@oag.ok.gov

David B. Rivkin, Jr.
Mark W. DeLaquil
Andrew M. Grossman
BAKER & HOSTETLER LLP
1050 Connecticut Ave., N.W.
Washington, D.C. 20036
Tel: (202) 861-1731
Fax: (202) 861-1783
drivkin@bakerlaw.com

*Counsel for Petitioners State of Oklahoma ex
rel. E. Scott Pruitt, in his official capacity as
Attorney General of Oklahoma; Oklahoma
Department of Environmental Quality*

/s/ James Emory Smith, Jr.
Alan Wilson
ATTORNEY GENERAL OF SOUTH
CAROLINA
Robert D. Cook
Solicitor General
James Emory Smith, Jr.
Deputy Solicitor General
Counsel of Record
P.O. Box 11549
Columbia, SC 29211
Tel: (803) 734-3680
Fax: (803) 734-3677
esmith@scag.gov

Counsel for Petitioner State of South Carolina

/s/ Parker Douglas
Sean Reyes
ATTORNEY GENERAL OF UTAH
Tyler R. Green
Solicitor General
Parker Douglas
Federal Solicitor
Counsel of Record
Utah State Capitol Complex
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320
pdouglas@utah.gov

Counsel for Petitioner State of Utah

/s/ Steven R. Blair
Marty J. Jackley
ATTORNEY GENERAL OF SOUTH
DAKOTA
Steven R. Blair
Assistant Attorney General
Counsel of Record
1302 E. Highway 14, Suite 1
Pierre, SD 57501
Tel: (605) 773-3215
steven.blair@state.sd.us

Counsel for Petitioner State of South Dakota

/s/ Delanie M. Breuer
Brad Schimel
ATTORNEY GENERAL OF WISCONSIN
Andrew Cook
Deputy Attorney General
Delanie M. Breuer
Assistant Deputy Attorney General
Counsel of Record
Wisconsin Department of Justice
17 West Main Street
Madison, WI 53707
Tel: (608) 267-8901
cookac@doj.state.wi.us
breuerdm@doj.state.wi.us

Counsel for Petitioner State of Wisconsin

/s/ James Kaste _____
Peter K. Michael
ATTORNEY GENERAL OF WYOMING
James Kaste
Deputy Attorney General
Counsel of Record
Michael J. McGrady
Senior Assistant Attorney General
Elizabeth Morrisseau
Assistant Attorney General
123 State Capitol
Cheyenne, WY 82002
Tel: (307) 777-6946
Fax: (307) 777-3542
james.kaste@wyo.gov
mike.mcgrady@wyo.gov
elizabeth.morrisseau@wyo.gov

Counsel for Petitioner State of Wyoming

/s/ Allison D. Wood _____
F. William Brownell
Allison D. Wood
Henry V. Nickel
Tauna M. Szymanski
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
Tel: (202) 955-1500
bbrownell@hunton.com
awood@hunton.com
hnickel@hunton.com
tszymanski@hunton.com

*Counsel for Petitioners Utility Air Regulatory
Group and American Public Power Association*

Karl R. Moor
SOUTHERN COMPANY SERVICES, INC.
42 Inverness Center Parkway
BIN B231
Birmingham, AL 35242
Tel: (205) 992-6371
krmoor@southernco.com

*Counsel for Petitioners Alabama Power
Company, Georgia Power Company, Gulf Power
Company, and Mississippi Power Company*

/s/ Margaret Claiborne Campbell
Margaret Claiborne Campbell
Angela J. Levin
TROUTMAN SANDERS LLP
600 Peachtree Street, NE, Suite 5200
Atlanta, GA 30308-2216
Tel: (404) 885-3000
margaret.campbell@troutmansanders.com
angela.levin@troutmansanders.com

Counsel for Petitioner Georgia Power Company

/s/ C. Grady Moore, III
C. Grady Moore, III
Steven G. McKinney
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35303-4642
Tel: (205) 251-8100
Fax: (205) 488-5704
gmoore@balch.com
smckinney@balch.com

*Counsel for Petitioner Alabama Power
Company*

/s/ Terese T. Wyly
Terese T. Wyly
Ben H. Stone
BALCH & BINGHAM LLP
1310 Twenty Fifth Avenue
Gulfport, MS 39501-1931
Tel: (228) 214-0413
twyly@balch.com
bstone@balch.com

*Counsel for Petitioner Mississippi Power
Company*

/s/ Jeffrey A. Stone
Jeffrey A. Stone
BEGGS & LANE, RLLP
501 Commendencia Street
Pensacola, FL 32502
Tel: (850) 432-2451
JAS@beggslane.com

Robert A. Manning
Gary V. Perko
HOPPING GREEN & SAMS, P.A.
119 S. Monroe Street, Suite 300
Tallahassee, FL 32301
Tel: (850) 222-7500
robertm@hgslaw.com
garyp@hgslaw.com

Counsel for Petitioner Gulf Power Company

/s/ Christina F. Gomez
Christina F. Gomez
Lawrence E. Volmert
Garrison W. Kaufman
Jill H. Van Noord
HOLLAND & HART LLP
555 Seventeenth Street, Suite 3200
Denver, CO 80202
Tel: (303) 295-8000
Fax: (303) 295-8261
cgomez@hollandhart.com
lvolmert@hollandhart.com
gwkaufman@hollandhart.com
jhvan Noord@hollandhart.com

Patrick R. Day
HOLLAND & HART LLP
2515 Warren Avenue, Suite 450
Cheyenne, WY 82001
Tel: (307) 778-4200
Fax: (307) 778-8175
pday@hollandhart.com

Emily C. Schilling
HOLLAND & HART LLP
222 South Main Street, Suite 2200
Salt Lake City, UT 84101
Tel: (801) 799-5800
Fax: (801) 799-5700
ecschilling@hollandhart.com

*Counsel for Petitioner Basin Electric Power
Cooperative*

/s/ Robert A. Manning
Robert A. Manning
Fla. Bar No. 35173
Joseph A. Brown
Fla. Bar No. 76157
HOPPING GREEN & SAMS, P.A.
119 S. Monroe Street, Suite 300
Tallahassee, FL 32301
Tel: (850) 222-7500
robertm@hgslaw.com
josephb@hgslaw.com

*Counsel for Petitioner CO₂ Task Force of the
Florida Electric Power Coordinating Group, Inc.*

/s/ William M. Bumpers
William M. Bumpers
Megan H. Berge
BAKER BOTTS L.L.P.
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 639-7700
william.bumpers@bakerbotts.com
megan.berge@bakerbotts.com

Kelly McQueen
ENTERGY SERVICES, INC.
425 W. Capitol Avenue, 27th Floor
Little Rock, AR 72201
Tel: (501) 377-5760
kmcque1@entergy.com

Counsel for Entergy Corporation

/s/ F. William Brownell
F. William Brownell
Eric J. Murdock
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
Tel: (202) 955-1500
bbrownell@hunton.com
emurdock@hunton.com

Nash E. Long III
HUNTON & WILLIAMS LLP
Bank of America Plaza, Suite 3500
101 South Tryon Street
Charlotte, NC 28280
Tel: (704) 378-4700
nlong@hunton.com

*Counsel for Petitioner LG&E and KU Energy
LLC*

/s/ P. Stephen Gidiere III
P. Stephen Gidiere III
Thomas L. Casey III
Julia B. Barber
BALCH & BINGHAM LLP
1901 6th Ave. N., Suite 1500
Birmingham, AL 35203
Tel: (205) 251-8100
sgidiere@balch.com

Stephanie Z. Moore
Vice President and General Counsel
Luminant Generation Company LLC
1601 Bryan Street, 22nd Floor
Dallas, TX 75201

Daniel J. Kelly
Vice President and Associate General
Counsel
Energy Future Holdings Corp.
1601 Bryan Street, 43rd Floor
Dallas, TX 75201

*Counsel for Petitioners Luminant Generation
Company LLC; Oak Grove Management
Company LLC; Big Brown Power Company
LLC; Sandow Power Company LLC; Big
Brown Lignite Company LLC; Luminant
Mining Company LLC; and Luminant Big
Brown Mining Company LLC*

/s/ Allison D. Wood _____
Allison D. Wood
Tauna M. Szymanski
Andrew D. Knudsen
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
Tel: (202) 955-1500
awood@hunton.com
tszymanski@hunton.com
aknudsen@hunton.com

*Counsel for Montana-Dakota Utilities Co.,
a Division of MDU Resources Group, Inc.*

Of Counsel

Rae Cronmiller
Environmental Counsel
NATIONAL ASSOCIATION OF RURAL
ELECTRIC COOPERATIVES
4301 Wilson Blvd.
Arlington, VA 22203
Tel: (703) 907-5500
rae.cronmiller@nreca.coop

/s/ Thomas A. Lorenzen

Thomas A. Lorenzen
D.C. Cir. Bar No. 394369
Daniel W. Wolff
Sherrie A. Armstrong
CROWELL & MORING LLP
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004
Tel: (202) 624-2500
tlorenzen@crowell.com
dwolff@crowell.com
sarmstrong@crowell.com

*Counsel for Petitioners National Rural Electric
Cooperative Association; Big Rivers Electric
Corporation; Buckeye Power, Inc.; Central
Montana Electric Power Cooperative; Central
Power Electric Cooperative, Inc., Corn Belt
Power Cooperative; Dairyland Power
Cooperative; East River Electric Power
Cooperative, Inc.; Georgia Transmission
Corporation; Kansas Electric Power
Cooperative, Inc.; North Carolina Electric
Membership Corporation; Northwest Iowa
Power Cooperative; Oglethorpe Power
Corporation; PowerSouth Energy Cooperative;
Prairie Power, Inc.; Seminole Electric
Cooperative, Inc.; Southern Illinois Power
Cooperative; Sunflower Electric Power
Corporation; and Upper Missouri G. & T.
Electric Cooperative, Inc.*

/s/ Eric L. Hiser
Eric L. Hiser
JORDEN BISCHOFF & HISER, PLC
7272 E. Indian School Road, Suite 360
Scottsdale, AZ 85251
Tel: (480) 505-3927
ehiser@jordenbischoff.com

*Counsel for Petitioner Arizona Electric Power
Cooperative, Inc.*

/s/ Bill Spears
Bill Spears
SEGREST & SEGREST, P.C.
28015 West Highway 84
McGregor, TX 76657
Tel: (254) 848-2600
bill.spears@segrestfirm.com

*Counsel for Petitioners Brazos Electric Power
Cooperative, Inc.*

/s/ Brian A. Prestwood
Brian A. Prestwood
Senior Corporate and Compliance
Counsel
ASSOCIATED ELECTRIC COOPERATIVE,
INC.
2814 S. Golden, P.O. Box 754
Springfield, MO 65801
Tel: (417) 885-9273
bprestwood@aeci.org

*Counsel for Petitioner Associated Electric
Cooperative, Inc.*

/s/ David Crabtree
David Crabtree
Vice President, General Counsel
DESERET GENERATION & TRANSMISSION
CO-OPERATIVE
10714 South Jordan Gateway
South Jordan, UT 84095
Tel: (801) 619-9500
Crabtree@deseretpower.com

*Counsel for Petitioner Deseret Generation &
Transmission Co-operative*

/s/ John M. Holloway III
John M. Holloway III, DC Bar # 494459
SUTHERLAND ASBILL & BRENNAN LLP
700 Sixth Street, N.W., Suite 700
Washington, D.C. 20001
Tel: (202) 383-0100
Fax: (202) 383-3593
jay.holloway@sutherland.com

Counsel for Petitioners East Kentucky Power Cooperative, Inc.; Hoosier Energy Rural Electric Cooperative, Inc.; Minnkota Power Cooperative, Inc.; and South Mississippi Electric Power Association

/s/ Christopher L. Bell
Christopher L. Bell
GREENBERG TRAURIG LLP
1000 Louisiana Street, Suite 1700
Houston, TX 77002
Tel: (713) 374-3556
bellc@gtlaw.com

Counsel for Petitioner Golden Spread Electrical Cooperative, Inc.

/s/ Patrick Burchette
Patrick Burchette
HOLLAND & KNIGHT LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
Tel: (202) 469-5102
Patrick.Burchette@hklaw.com

Counsel for Petitioners East Texas Electric Cooperative, Inc.; Northeast Texas Electric Cooperative, Inc.; Sam Rayburn G&T Electric Cooperative, Inc.; and Tex-La Electric Cooperative of Texas, Inc.

/s/ Steven J. Oberg
Steven J. Oberg
LYNN, JACKSON, SHULTZ & LEBRUN, P.C.
PO Box 8250
Rapid City, SD 57709
Tel: (605) 342-2592
soberg@lynnjackson.com

Counsel for Petitioner Rushmore Electric Power Cooperative, Inc.

/s/ Mark Walters
Mark Walters
D.C. Cir. Bar No. 54161
Michael J. Nasi
D.C. Cir. Bar No. 53850
JACKSON WALKER L.L.P.
100 Congress Avenue, Suite 1100
Austin, TX 78701
Tel: (512) 236-2000
mwalters@jw.com
mnasi@jw.com

*Counsel for Petitioners San Miguel Electric
Cooperative, Inc. and South Texas Electric
Cooperative, Inc.*

/s/ Megan H. Berge
Megan H. Berge
BAKER BOTTS L.L.P.
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 639-7700
megan.berge@bakerbotts.com

*Counsel for Petitioner Western Farmers Electric
Cooperative*

/s/ Randolph G. Holt
Randolph G. Holt
Jeremy L. Fetty
PARR RICHEY OBREMSKEY FRANSEN &
PATTERSON LLP
Wabash Valley Power Association, Inc.
722 N. High School Road
P.O. Box 24700
Indianapolis, IN 46224
Tel: (317) 481-2815
R_holt@wvpa.com
jfetty@parrlaw.com

*Counsel for Petitioner Wabash Valley Power
Association, Inc.*

/s/ Steven C. Kohl
Steven C. Kohl
Gaetan Gerville-Reache
WARNER NORCROSS & JUDD LLP
2000 Town Center, Suite 2700
Southfield, MI 48075-1318
Tel: (248) 784-5000
skohl@wnj.com

*Counsel for Petitioner Wolverine Power Supply
Cooperative, Inc.*

/s/ William M. Bumpers

William M. Bumpers
Megan H. Berge
BAKER BOTTS L.L.P.
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 639-7700
william.bumpers@bakerbotts.com
megan.berge@bakerbotts.com

*Counsel for Petitioner NorthWestern
Corporation d/b/a NorthWestern Energy*

/s/ Allison D. Wood

Allison D. Wood
Tauna M. Szymanski
Andrew D. Knudsen
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
Tel: (202) 955-1500
awood@hunton.com
tszymanski@hunton.com
aknudsen@hunton.com

*Counsel for Petitioner Tri-State Generation and
Transmission Association, Inc.*

/s/ William M. Bumpers

William M. Bumpers
Megan H. Berge
BAKER BOTTS L.L.P.
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 639-7700
william.bumpers@bakerbotts.com
megan.berge@bakerbotts.com

Counsel for Petitioner Westar Energy, Inc.

/s/ Peter S. Glaser
Peter S. Glaser
TROUTMAN SANDERS LLP
401 Ninth Street N.W., Suite 1000
Washington, D.C. 20004
Tel: (202) 274-2998
peter.glaser@troutmansanders.com

Carroll W. McGuffey III
Justin T. Wong
TROUTMAN SANDERS LLP
600 Peachtree Street, N.E., Suite 5200
Atlanta, GA 30308
Tel: (404) 885-3000
mack.mcguffey@troutmansanders.com
justin.wong@troutmansanders.com

*Counsel for Petitioner National Mining
Association*

/s/ Jeffrey R. Holmstead
Jeffrey R. Holmstead
Sandra Y. Snyder
BRACEWELL & GIULIANI LLP
2000 K Street, N.W., Suite 500
Washington, D.C. 20006-1872
Tel: (202) 828-5852
Fax: (202) 857-4812
jeff.holmstead@bgllp.com

*Counsel for Petitioner American Coalition for
Clean Coal Electricity*

/s/ Geoffrey K. Barnes
Geoffrey K. Barnes
J. Van Carson
Wendlene M. Lavey
John D. Lazzaretti
Robert D. Cheren
SQUIRE PATTON BOGGS (US) LLP
4900 Key Tower
127 Public Square
Cleveland, OH 44114
Tel: (216) 479-8646
geoffrey.barnes@squirepb.com

*Counsel for Petitioner Murray Energy
Corporation*

/s/ Andrew C. Emrich
Andrew C. Emrich
HOLLAND & HART LLP
6380 South Fiddlers Green Circle
Suite 500
Greenwood Village, CO 80111
Tel: (303) 290-1621
Fax: (866) 711-8046

Emily C. Schilling
HOLLAND & HART LLP
222 South Main Street, Suite 2200
Salt Lake City, UT 84101
Tel: (801) 799-5753
Fax: (202) 747-6574
ecschilling@hollandhart.com

*Counsel for Petitioners Newmont Nevada
Energy Investment, LLC and Newmont USA
Limited*

/s/ Eugene M. Trisko
Eugene M. Trisko
LAW OFFICES OF EUGENE M. TRISKO
P.O. Box 596
Berkeley Springs, WV 25411
Tel: (304) 258-1977
Tel: (301) 639-5238 (cell)
emtrisko7@gmail.com

*Counsel for Petitioner International Brotherhood
of Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers & Helpers*

/s/ Eugene M. Trisko
Eugene M. Trisko
LAW OFFICES OF EUGENE M. TRISKO
P.O. Box 596
Berkeley Springs, WV 25411
Tel: (304) 258-1977
Tel: (301) 639-5238 (cell)
emtrisko7@gmail.com

*Counsel for Petitioner International Brotherhood
of Electrical Workers, AFL-CIO*

/s/ Grant F. Crandall
Grant F. Crandall
General Counsel
UNITED MINE WORKERS OF AMERICA
18354 Quantico Gateway Drive
Triangle, VA 22172
Tel: (703) 291-2429
gcrandall@umwa.org

Arthur Traynor, III
Staff Counsel
UNITED MINE WORKERS OF AMERICA
18354 Quantico Gateway Drive
Triangle, VA 22172
Tel: (703) 291-2457
atraynor@umwa.org

Eugene M. Trisko
LAW OFFICES OF EUGENE M. TRISKO
P.O. Box 596
Berkeley Springs, WV 25411
Tel: (304) 258-1977
emtrisko7@gmail.com

*Counsel for Petitioner United Mine Workers of
America*

/s/ Peter D. Keisler _____

Peter D. Keisler
Roger R. Martella, Jr.
C. Frederick Beckner III
Ryan C. Morris
Joel F. Visser
Paul J. Ray
SIDLEY AUSTIN, LLP
1501 K Street, N.W.
Washington, D.C. 20005
Tel: (202) 736-8027
pkeisler@sidley.com
rmartella@sidley.com
rbeckner@sidley.com

*Counsel for Petitioners Chamber of Commerce of
the United States of America; National
Association of Manufacturers; American Fuel
& Petrochemical Manufacturers; National
Federation of Independent Business; American
Chemistry Council; American Coke and Coal
Chemicals Institute; American Foundry Society;
American Forest & Paper Association;
American Iron & Steel Institute; American
Wood Council; Brick Industry Association;
Electricity Consumers Resource Council; Lignite
Energy Council; National Lime Association;
National Oilseed Processors Association; and
Portland Cement Association*

/s/ Steven P. Lehotsky _____

Steven P. Lehotsky
Sheldon B. Gilbert
U.S. Chamber Litigation Center, Inc.
1615 H Street, N.W.
Washington, D.C. 20062
Tel: (202) 463-5337
slehotsky@uschamber.com

*Counsel for Petitioner Chamber of Commerce of
the United States of America*

/s/ Quentin Riegel
Linda E. Kelly
Quentin Riegel
MANUFACTURERS' CENTER FOR LEGAL
ACTION
733 10th Street, N.W., Suite 700
Washington, D.C. 20001
Tel: (202) 637-3000
qriegel@nam.org

*Counsel for Petitioner National Association of
Manufacturers*

/s/ Karen R. Harned
Karen R. Harned
Executive Director
Elizabeth A. Gaudio
Senior Executive Counsel
NATIONAL FEDERATION OF
INDEPENDENT BUSINESS
SMALL BUSINESS LEGAL CENTER
1201 F Street, N.W., Suite 200
Washington, D.C. 20004
Tel: (202) 314-2061
karen.harned@nfib.org
elizabeth.milito@nfib.org

*Counsel for Petitioner National Federation of
Independent Business*

/s/ Richard S. Moskowitz
Richard S. Moskowitz
AMERICAN FUEL & PETROCHEMICAL
MANUFACTURERS
1667 K Street, N.W., Suite 700
Washington, D.C. 20006
Tel: (202) 457-0480
rmoskowitz@afpm.org

*Counsel for Petitioner American Fuel &
Petrochemical Manufacturers*

/s/ Kathryn D. Kirmayer
Kathryn D. Kirmayer
General Counsel
Evelyn R. Nackman
Associate General Counsel
ASSOCIATION OF AMERICAN RAILROADS
425 3rd Street, S.W.
Washington, D.C. 20024
Tel: (202) 639-2100
kkirmayer@aar.org

*Counsel for Petitioner Association of American
Railroads*

/s/ Chaim Mandelbaum
Chaim Mandelbaum
Litigation Manager
FREE MARKET ENVIRONMENTAL LAW
CLINIC
726 N. Nelson Street, Suite 9
Arlington, VA 22203
Tel: (703) 577-9973
chaim12@gmail.com

*Counsel for Petitioner Energy and Environment
Legal Institute*

/s/ Megan H. Berge
Megan H. Berge
William M. Bumpers
BAKER BOTTS L.L.P.
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 639-7700
megan.berge@bakerbotts.com
william.bumpers@bakerbotts.com

*Counsel for Petitioner National Association of
Home Builders*

CERTIFICATE OF SERVICE

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure and Circuit Rule 25, I hereby certify that on this 8th day of December, 2015, I caused the foregoing document to be electronically filed with the Clerk of the Court by using the Court's CM/ECF system. All registered CM/ECF users will be served by the Court's CM/ECF system. The following non-CM/ECF counsel will be served by U.S. mail:

Janice M. Alward
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007-2927

Kelvin Allen Brooks
Office of the Attorney General
State of New Hampshire
33 Capitol Street
Concord, NH 03301-6397

Patrick Burchette
Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006-6801

William F. Cooper
State of Hawaii
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813

David F. Crabtree
Deseret Power
10714 South Jordan Gateway
South Jordan, UT 84092

Tannis Fox
Office of the Attorney General
408 Galisteo Street
Villagra Building
Santa Fe, NM 87501

Karen R. Harned
National Federation of Independent
Business
1201 F Street, N.W., Suite 200
Washington, D.C. 20004

Jacob Larson
Environmental Law Division
321 E. 13th Street, Room 18
Des Moines, IA 50319

Karl R. Moor
Southern Company Services, Inc.
42 Inverness Center Parkway, Bin B231
Birmingham, AL 35242

Carrie Noteboom
New York City Law Department
100 Church Street
New York, NY 10007

Steven J. Oberg
Lynn, Jackson, Shultz & Lebrun, P.C.
P.O. Box 8250
Rapid City, SC 57709

Gary V. Perko
Hopping Green & Sams
119 South Monroe Street, Suite 300
Tallahassee, FL 32301

Lee P. Rudofsky
Office of the Attorney General
State of Arkansas
323 Center Street, Suite 200
Little Rock, AR 72201

Bill Spears
Segrest & Segrest, P.C.
18015 West Highway 84
McGregor, TX 76657

Ben H. Stone
Balch & Bingham LLP
1310 Twenty Fifth Avenue
Gulfport, MS 39501-1931

Luther J. Strange III
Office of the Attorney General
State of Alabama
501 Washington Avenue
Montgomery, AL 36130

Laurence H. Tribe
Harvard Law School
1563 Massachusetts Avenue
Cambridge, MA 02138

Thiruvendran Vignarajah
Office of the Attorney General
State of Maryland
200 St. Paul Place, 20th Floor
Baltimore, MD 21202-2021

Janet F. Wagner
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007-2927

Philip Zoebisch
18 W. Madison Avenue
Collingswood, NJ 08108

/s/ Elbert Lin

Elbert Lin