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22172-1779

**VIA CM/ECF**

December 18, 2015

Mr. Mark J. Langer, Clerk  
U.S. Court of Appeals for the District of Columbia Circuit  
United States Courthouse  
333 Constitution Avenue, Room 5205  
Washington, D.C. 20001

**Re: United Mine Workers of America v. U.S. Environmental Protection Agency, Case No. 15-1375 (consolidated with Nos. 15-1363, *et al.*)**

Dear Mr. Langer:

Pursuant to this Court's order of November 30, 2015, enclosed for filing via CM/ECF please find the following documents to be filed in the above-captioned proceeding:

1. Non-Binding Statement of Issues; and
2. Docketing Statement.

Respectfully submitted,

/s/ Grant Crandall

Grant Crandall

Enclosures

**ORAL ARGUMENT NOT YET SCHEDULED**

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

STATE OF WEST VIRGINIA, )  
*et al.* )

*Petitioners,* )

v. )

No. 15-1363, *et al.*

U.S. ENVIRONMENTAL PROTECTION )  
AGENCY, *et al.* )

Respondents. )

UNITED MINE WORKERS OF, )  
AMERICA )

*Petitioner,* )

v. )

No. 15-1375

U.S. ENVIRONMENTAL PROTECTION )  
AGENCY, *et al.* )

(consolidated)

Respondents. )

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**PETITIONER UNITED MINE WORKERS OF AMERICA NON-BINDING  
STATEMENT OF ISSUES TO BE RAISED**

Pursuant to this Court’s Order of November 10, 2015, Petitioner United Mine Workers of America (“UMWA”) submits the following non-binding statement of issues concerning the United States Environmental Protection Agency’s (“EPA” or "Agency") final actions under the Clean Air Act ("CAA" or “the Act”) published at

80 *Fed. Reg.* 64,662 (October 23, 2015), entitled “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units” (“Final Rule”). UMWA expects to raise the following issues in this proceeding:

- 1) Whether EPA exceeded its authority under 42 U.S.C. § 7411 by establishing “standards of performance for any existing source” in the fossil fuel-fired electric generating unit category that cannot be achieved by any existing source in the category through either technological or operational measures that limit the amount of carbon dioxide generated by that source?
- 2) Whether EPA exceeded its authority under 42 U.S.C. § 7411 by establishing “standards of performance for any existing source” in the fossil fuel-fired electric generating unit category that require the curtailment or closure of affected facilities rather than improvement in those facilities’ emissions performance?
- 3) Whether EPA exceeded its authority under 42 U.S.C. § 7411 by defining the “best system of emission reduction” for existing fossil fuel-fired electric generating units to include measures such as construction of new renewable sources of energy that cannot be implemented by the sources themselves?
- 4) Whether EPA exceeded its authority under 42 U.S.C. § 7411 by establishing standards that compel reductions in the operation of existing fossil fuel-fired electric generating units based on the assumption that the generation from those units will be replaced by sources such as wind, solar, geothermal, and hydroelectric power?
- 5) Whether EPA exceeded its authority under 42 U.S.C. § 7411(d) by subjecting existing fossil fuel-fired electric generating units to national average performance rates that are more stringent than the performance

standards that EPA has finalized under 42 U.S.C. § 7411(b) for new sources in the same category?

- 6) Whether EPA's failure to subcategorize coal types by CO<sub>2</sub> emission performance characteristics, for purposes of establishing the Final Rule's alternative state-level CO<sub>2</sub> emission tonnage and emission rate standards for CO<sub>2</sub>, was arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with law.

UMWA reserves the right to refine or supplement these issues in subsequent submissions.

Respectfully submitted,

/s/ Grant Crandall

General Counsel  
United Mine Workers of America

Dated: December 18, 2015