

**ORAL ARGUMENT NOT YET SCHEDULED IN NO. 17-1014
ORAL ARGUMENT HELD SEPTEMBER 27, 2016, IN NO. 15-1363**

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

STATE OF NORTH DAKOTA, ET AL.,)	
)	
Petitioners,)	
)	
v.)	No. 17-1014 (and
)	consolidated cases)
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, ET AL.)	
)	
Respondents.)	
_____)	
)	
STATE OF WEST VIRGINIA, ET AL.,)	
)	
Petitioners,)	
)	
v.)	No. 15-1363 (and
)	consolidated cases)
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, ET AL.)	
)	
Respondents.)	
_____)	

**RESPONDENTS’ MOTION FOR EXTENSION OF TIME
TO RESPOND TO MOTION TO SEVER AND CONSOLIDATE**

Respondents United States Environmental Protection Agency, et al. (“EPA”), hereby move for a 7-day extension from March 6 until March 13, 2017, of all parties’ time to respond to the motion of Petitioners Utility Air Regulatory Group, the American Public Power Association, and LG&E and KU Energy LLC (collectively

“Movant-Petitioners”) to sever their petitions for review in *State of North Dakota, et al. v. EPA, et al.* (Case No. 17-1014 and consolidated case) and to consolidate those petitions for review with the petitions in *State of West Virginia, et al. v. EPA, et al.* (Case No. 15-1363 and consolidated cases).

Respondents contacted counsel for Movant-Petitioners, other Petitioners and Petitioner-Intervenors, and Respondent-Intervenors in *State of North Dakota, et al. v. EPA, et al.* and *State of West Virginia, et al. v. EPA, et al.* regarding their positions on this motion. Movant-Petitioners and Petitioner National Rural Electric Cooperative Association do not oppose the motion. Respondent-Intervenor Environmental and Public Health Organizations oppose this motion. Respondent-Intervenor Power Companies do not oppose the motion but reserve the right to file a response. Other parties did not inform Movants’ counsel of their position on the motion.

In support of this motion, EPA submits as follows:

1. The petitions in Case No. 15-1363 and consolidated cases seek review of an EPA final rule (“the Rule”) under the Clean Air Act promulgating regulations to secure reductions in carbon dioxide emissions from fossil-fuel-fired power plants. 80 Fed. Reg. 64,662 (Oct. 23, 2015). The petitions in Case No. 17-1014 and consolidated cases seek review of EPA’s denial of administrative petitions for reconsideration of the Rule. *See* 82 Fed. Reg. 4864 (Jan. 17, 2017).

2. On February 24, 2016, Movants filed a motion to sever their petitions from consolidation under Case No. 17-1014 (*State of North Dakota, et al. v. EPA*) and to

consolidate those petitions for review with the petitions in Case No. 15-1363 (*State of West Virginia et al. v EPA*). Responses to this motion are due on March 6, 2016.

3. EPA has concluded that some additional time is needed in order to consider and prepare any response to the motion to sever and consolidate. Accordingly, EPA respectfully requests a 7-day extension of the March 6 response deadline.

Respectfully submitted,

BRUCE GELBER
Deputy Assistant Attorney General

DATED: March 1, 2017

BY: /s/ Eric G. Hostetler
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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the requirements of Fed. R. App. P. Rule 27(d)(2) because it contains 384 words according to the count of Microsoft Word and therefore is within the word limit of 5,200 words.

Dated: March 1, 2017

/s/ Eric G. Hostetler
Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Respondent's Motion for Extension of Time to Respond to Motion to Sever and Consolidate have been served through the Court's CM/ECF system on all registered counsel this 1st day of March, 2017.

/s/ Eric G. Hostetler
Counsel for Respondent