

**ORAL ARGUMENT NOT YET SCHEDULED****IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT****CHESAPEAKE BAY FOUNDATION, INC.,***Petitioner,*

v.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,***Respondents.***Case No. 19-1173 (and  
consolidated cases)****MOTION OF INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS, AFL-CIO FOR LEAVE TO INTERVENE AS AN  
INTERVENOR-RESPONDENT**

Pursuant to Federal Rules of Appellate Procedure (“FRAP”) 15(d) and 27 and Circuit Rules 15(b) and 27, the International Brotherhood of Electrical Workers (“IBEW”) respectfully moves for leave to intervene as an Intervenor-Respondent in Case No. 19-1173 and with respect to any other petitions for review that are consolidated with this case.

The petition for review in this case pertains to a final rule that was promulgated by the U.S. Environmental Protection Agency (“EPA” or “Agency”) on July 8, 2019, and that is entitled “Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility

Generating Units; Revisions to Emission Guidelines Implementing Regulations,” 84 Fed. Reg. 32,520 (July 8, 2019) (“Final Rule” or “Rule”). This petition for review was filed on August 29, 2019 by the Chesapeake Bay Foundation, Inc. (“Petitioner”). The IBEW and its members, among other things, would face loss of jobs, wages and related work benefits that would result from the premature retirement of many affected coal-fired electric generating units if the Petitioners prevail in this case and therefore have a substantial interest in the outcome of this matter.

This motion is timely because it is filed within 30 days of the date that Petitioner filed its petition for review in this case, consistent with the requirements of FRAP 15(d). Counsel for the IBEW has consulted with counsel for EPA and all other parties to the litigation and has been authorized to state that all parties either take no position or are unopposed to this motion.

## **BACKGROUND**

### **I. The Final Rule and the Petition for Review**

Section 111 of the Clean Air Act (“CAA” or “Act”) authorizes the establishment of “standards of performance” for both new and existing stationary sources within a source category that EPA has listed for regulation under CAA section 111(b)(1). For each source category that EPA has listed for regulation under section 111, the Agency is authorized to set “standards of performance” for

new and existing sources within the listed source category based on the “best system of emission reduction” (“BSER”) that is determined to be “adequately demonstrated.” 42 U.S.C. §§ 7411(a)(1), (d)(1). In the case of those source categories for which EPA has established standards of performance for a particular pollutant emitted by new sources under CAA section 111(b), EPA also has an obligation to issue emission guidelines requiring that States set standards of performance for existing sources of that pollutant within the same source category under CAA section 111(d). The EPA emission guidelines shall establish a “procedure” for States to develop plans for the establishment, implementation, and enforcement of performance standards. 42 U.S.C. § 7411(d)(1). This procedure involves EPA making a determination on what is BSER for the source category and then directing States to set performance standards for all existing sources within their jurisdiction based on the Agency’s BSER determination. *Id.*

This case pertains to a petition for review of EPA’s Final Rule that consists of the three separate and independent Agency actions. The first action was to repeal the prior EPA rule, referred to as the Clean Power Plan, which sought to reduce carbon dioxide (“CO<sub>2</sub>”) emissions from fossil-fueled EGUs based on a BSER determination that required the shifting of electric generation away from coal-fired EGUs to natural gas-fired combined cycle units and away from all fossil fuel-fired EGUs to renewable energy resources. The second action was the

promulgation of new emissions guidelines that revised the BSER determination for reducing CO<sub>2</sub> emissions from existing affected coal-fired EGUs. This revised BSER determination requires States to set performance standards based on selected heat-rate improvement (“HRI”) measures that can be applied to each affected unit. And the third action was the adoption of new implementing regulations on how to establish, administer, and enforce standards of performances established for affected EGUs under the Final Rule and other source categories in the future pursuant to section 111(d) of the CAA.

In support of its decision to repeal the Clean Power Plan and promulgate the new emission guidelines for setting performance standards for existing coal-fired EGUs under CAA section 111(d), EPA indicated that the statute unambiguously limits the type of measures that may constitute the BSER for a source category under CAA section 111 to only those measures “that can be put into operation *at* a building, structure, facility, or installation” that is subject to regulation under that section. 84 Fed. Reg. at 32,524. Because the Clean Power Plan relied on shifting overall generation from one group of facilities to another as the BSER, and that measure cannot be put into effect at a regulated source itself, EPA determined that it “is obliged to repeal the [Clean Power Plan] to avoid acting unlawfully.” *Id.* at 32,532.

## II. The IBEW and Its Interests in the Case

The IBEW is an international labor union representing highly skilled workers throughout the United States engaged in virtually aspect of the generation, transmission and distribution of electricity at the utility, industrial, commercial and retail levels. IBEW also represents workers at coal mines and in rail transport. With its headquarters in Washington, D.C., the IBEW represents some 775,000 members.

Members of the IBEW construct and operate large electric generation facilities and other major construction projects that will be significantly impacted by the EPA regulations to regulate CO<sub>2</sub> emissions from existing fossil fueled-fired EGUs. IBEW's members are employed in building, operating, and maintaining existing affected EGUs to which the emission guidelines for setting CO<sub>2</sub> performance standards would apply under CAA section 111(d). In the case of the Clean Power Plan, State implementation of EPA's emission caps were projected to force the premature retirement of many existing coal-fired EGUs and thereby posed a significant threat to the IBEW and the jobs of its members who provide many services needed for the operation and maintenance of coal-fired EGUs. By contrast, the Final Rule would repeal and replace the Clean Power Plan with new emission guidelines that allow States to set reasonably achievable standards that reflect those HRI measures determined to be appropriate for application at each

affected unit and allow States to tailor those standards for individual units based on remaining useful life, cost, and a variety of other technical factors. This new approach will not only avoid the premature shutdown of many existing coal-fired EGUs employing IBEW members, but also is expected to require that affected units undertake HRI measures that IBEW members would perform to enhance their efficiency in order to meet the applicable performance standards set for the units.

If the Petitioners prevail in this case, the IBEW and its members will lose several important benefits of the Final Rule. First, they would lose the benefits of the Rule's approach of setting performance standards based on the application of HRI measures to individual affected coal-fired EGUs—which would be performed in many cases by IBEW members. Second, they would face loss of jobs, wages and related work benefits that would result from the accelerated retirement of coal-fired EGU fleet. For these reasons, the IBEW has a clear and significant interest in this litigation to protect the jobs and other related benefits of its members.

### **GROUND FOR INTERVENTION**

The Court should grant this motion for leave to intervene because, for the reasons discussed below, the IBEW meets the standard for intervention in petition-for-review proceedings in this Court.

## I. Standard for Intervention

FRAP 15(d) establishes the process for parties to intervene in petition-for-review proceedings before this Court. A motion for leave to intervene in such a proceeding is proper if it is “filed within 30 days after the petition for review is filed” and contains “a concise statement of the interest of the moving party and the grounds for intervention.” Fed. R. App. P. 15(d). Furthermore, case law confirms that this rule “simply requires the intervenor to file a motion setting forth its interest and the grounds on which intervention is sought.” *Synovus Fin. Corp. v. Bd. of Governors of Fed. Reserve Sys.*, 952 F.2d 426, 433 (D.C. Cir. 1991).

While not binding on this Court, the requirements set forth in Federal Rule of Civil Procedure (“FRCP”) 24 can also be used to inform the intervention inquiry under FRAP 15(d). *See, e.g., Int’l Union, United Auto., Aerospace & Agric. Implement Workers of Am., AFL-CIO, Local 283 v. Scofield*, 382 U.S. 205, 216 n.10 (1965); *Amalgamated Transit Union Int’l v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985) (per curiam). The requirements for intervention of right under FRCP 24(a)(2) are the following: (1) the application is timely; (2) the applicant claims an interest relating to the subject of the action; (3) disposition of the action may, as a practical matter, impair or impede the applicant’s ability to protect that interest; and (4) existing parties may not adequately represent the applicant’s interest. *See, e.g., Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir.

2003). This Court has stated that an applicant for intervention that meets the test for intervention of right also thereby demonstrates Article III standing. *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003).

As discussed below, the IBEW meets the elements of this intervention-of-right test and thereby satisfy any applicable standing requirements.<sup>1</sup>

## **II. The IBEW Meets the Standard for Intervention.**

### **A. This Motion Is Timely.**

A motion for leave to intervene is timely if filed “within 30 days after the petition for review is filed.” FRAP 15(d). The IBEW has met this timeliness requirement. The Petitioner in this case filed its petition for review on August 29, 2019 and this motion has been filed within 30 days of the August 29 filing date. Furthermore, because this motion is being filed at an early stage of the proceedings, the Court’s granting this motion to add the IBEW as an intervenor will not disrupt or delay any proceedings. If granted intervention, the IBEW will comply with any briefing schedule established by the Court.

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<sup>1</sup> In some cases, this Court has indicated that Article III standing is a prerequisite to intervention, even by parties seeking to intervene as Intervenor-Respondents. *See, e.g., Deutsche Bank Nat’l Trust Co. v. FDIC*, 717 F.3d 189, 193 (D.C. Cir. 2013); *Military Toxics Project v. EPA*, 146 F.3d 948, 953-54 (D.C. Cir. 1998). Nonetheless, this Court has held that “any person who satisfies Rule 24(a) will also meet Article III’s standing requirement.” *Roeder*, 333 F.3d at 233; *accord Fund for Animals*, 322 F.3d at 735.



**B. The IBEW and Its Members Have Significant Interests in This Case That Will Be Impaired if Petitioners Prevail.**

Although FRCP 24(a)(2) does not specify the nature of the interest required for intervention as a matter of right, this Court has stated that a “‘significantly protectable’” interest is required. *S. Christian Leadership Conference v. Kelley*, 747 F.2d 777, 779 (D.C. Cir. 1984) (per curiam) (quoting *Donaldson v. United States*, 400 U.S. 517, 531 (1971)). The interest test for intervention under this Court’s standard is flexible and serves as “a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process.” *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967). “The ‘threatened loss’ of [a] favorable action [by an agency] constitutes a ‘concrete and imminent injury’” justifying intervention of right. Order, *New York v. EPA*, No. 17-1273 (D.C. Cir. Mar. 14, 2018) (ECF No. 1722115) (per curiam) (quoting *Fund for Animals*, 322 F.3d at 733). The same rationale establishes an intervenor’s Article III standing. See *Fund for Animals*, 322 F.3d at 733. Furthermore, a party seeking to intervene can demonstrate it has a “legally protectable” interest upon a showing that it stands to “gain or lose by the direct legal operation and effect of the judgment.” *United States v. AT&T Co.*, 642 F.2d 1285, 1292 (D.C. Cir. 1980) (citation omitted).

Members of the IBEW have strong economic interests in the outcome of this case. The Petitioners are challenging the Final Rule that is not just favorable, but

crucial to employment and other economic interests of the IBEW's members. The Clean Power Plan would have imposed serious, unlawful harm by requiring States to impose standards of performance that would have forced many existing affected coal-fired EGUs to retire. The Final Rule repeals the Clean Power Plan and directs States to adopt performance standards for coal-fired EGUs that reflect those HRI measures determined to be appropriate for application at each individual unit and that are achievable based on actions that can be taken at the unit itself. The Rule also allows States to alter their standards for individual units based on remaining useful life and other factors.

With the promulgation of the Final Rule, EPA has addressed the IBEW's concerns regarding the harmful and unlawful impacts of the Clean Power Plan. It did so by repealing and replacing the Clean Power Plan with new federal emission guidelines that establish a process for States to set standards of performance in a lawful manner that would not force the premature shutdown of existing coal-fired EGUs that, in turn, would result in the loss of jobs, wages, and related work benefits for the IBEW's members. Furthermore, the adoption of the new and lawful methodology for setting performance standards under the replacement Rule should provide IBEW's members with opportunities to provide their services in installing the HRI measures necessary for complying with the applicable performance standards.

The Final Rule therefore provides the IBEW and its members with this important relief from these harmful impacts of the Clean Power Plan as well as the new employments benefits resulting from the new methodology for setting performance standards under the Rule. Accordingly, the IBEW has a strong interest in the Final Rule and the disposition of this Petition may impair their ability to protect that interest for their members.

**C. Existing Parties Cannot Adequately Represent the Interests of the IBEW and Its Members.**

Assuming *arguendo* that inadequate representation by existing parties is a relevant criterion for granting an intervention under FRAP 15(d),<sup>2</sup> the IBEW has clearly satisfied that criterion here. The burden of showing inadequate representation in a FRCP 24(a)(2) motion for leave to intervene “is not onerous” and “[t]he applicant need only show that representation of his interest ‘may be’ inadequate, not that representation will in fact be inadequate.” *Dimond v. Dist. of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986) (citing *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)).

No existing party can adequately represent the IBEW’s interests in the case. As the discussion above demonstrates, the interests of Petitioners are adverse to the interests of the IBEW in this case. Petitioners are challenging EPA’s final actions

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<sup>2</sup> The “adequate representation” prong contained in the FRCP 24(a)(2) has no parallel in FRAP 15(d). The IBEW addresses it here to inform the Court fully of the FRCP 24(a)(2) analysis.

of repealing and replacing the Clean Power Plan and amending the Agency's section 111(d) implementing regulations, whereas the IBEW supports those actions. Petitioners manifestly cannot adequately represent the interests of the IBEW.

In addition, EPA does not, and cannot, adequately represent the interests of the IBEW in this case. As a governmental entity, EPA necessarily represents the broader "general public interest." *Dimond*, 792 F.2d at 192-93 ("A government entity . . . is charged by law with representing the public interest of its citizens. . . . The [government entity] would be shirking its duty were it to advance th[e] narrower interest [of a business concern] at the expense of its representation of the general public interest."); *Fund for Animals*, 322 F.3d at 736 (stating this court "ha[s] often concluded that governmental entities do not adequately represent the interests of aspiring intervenors"). Unlike EPA, the IBEW has a focused interest in establishment of a regulatory scheme that adheres to the statutory requirements of CAA section 111(d) and takes into account all of the factors and considerations for setting reasonably achievable standards of performance that do not force the premature retirement of existing affected coal-fired EGUs serviced by the IBEW's members. Furthermore, even in those cases when the interests of EPA and intervenors may coincide, this Court has recognized that this fact "does not

necessarily mean that adequacy of representation is ensured.” *NRDC v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977).

In sum, the existing parties do not and cannot adequately represent the interests of the IBEW and its members in this case.

### CONCLUSION

For the foregoing reasons, the IBEW respectfully requests leave to intervene as an Intervenor-Respondent in Case No. 19-1173 and in any other cases consolidated with Case No. 19-1173.

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida 32233

(301) 639-5238 (cell)

emtrisko7@gmail.com

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

Dated: September 17, 2019

**ATTACHMENT A**

**ORAL ARGUMENT NOT YET SCHEDULED**

**IN THE UNITED STATES COURT OF APPEALS  
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**CHESAPEAKE BAY FOUNDATION, INC.,**

*Petitioner,*

**v.**

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,**

*Respondents.*

**Case No. 19-1173 (and  
consolidated cases)**

**DECLARATION OF LONNIE R. STEPHENSON**

I, Lonnie R. Stephenson, declare and state as follows:

1. I am the duly elected International President of the International Brotherhood of Electrical Workers, AFL-CIO (“IBEW”).

2. The IBEW represents the nation’s skilled electrical workers. Our members are engaged in virtually every aspect of electricity generation,

transmission and distribution at the utility, industrial, commercial and retail levels. We also are engaged in extensive construction of electricity-related projects, coal mining, and have a separate rail division. With headquarters in Washington, DC, the IBEW represents some 775,000 members.

3. Members of the IBEW are impacted by any regulations that the U.S. Environmental Protection Agency (“EPA” or “Agency”) may adopt to reduce or limit carbon dioxide (“CO<sub>2</sub>”) emissions from new or existing fossil-fuel electric generating units (“EGUs”) under the Clean Air Act (“CAA”).

4. The IBEW supports EPA’s efforts to regulate CO<sub>2</sub> emissions from existing affected coal-fired EGUs through its rule entitled “Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations,” 84 Fed. Reg. 32,520 (July 8, 2019) (“Final Rule” or “Rule”). The Final Rule, which is the subject of this litigation, takes several important steps to assure the establishment of reasonable regulations that adhere to the statutory requirements for regulating CO<sub>2</sub> emissions from existing coal-fired EGUs under the CAA. First, the Rule repealed the Clean Power Plan, a predecessor regulation subject to a Supreme Court stay that sought to reduce CO<sub>2</sub> emissions "outside the fence" of fossil-fueled EGUs by requiring the shifting of electric generation away from coal-fired EGUs to natural gas-fired combined cycle units and away from all



fossil fuel-fired EGUs to new renewable energy resources. Second, the Rule adopted new replacement regulations that require States to set reasonably achievable performance standards based on selected efficiency improvement measures that can be directly applied to each affected unit.

5. The IBEW opposed the Clean Power rule because EPA projected that it would force the premature retirement of many existing coal-fired EGUs and thereby posed a significant threat to the IBEW and the jobs of its members and their communities. The IBEW also petitioned this Court for review of the Clean Power Plan and was involved in the litigation that was brought before this Court to prevent EPA from implementing the onerous and unlawful requirements of the Clean Power Plan.

6. By contrast, the IBEW supported EPA's proposed Affordable Clean Energy rule in comments submitted to the Agency and in meetings with staff of EPA and the Office of Management and Budget. We support the Final Rule because it would repeal and replace the Clean Power Plan with new emission guidelines that allow States to set reasonably achievable standards of performance that reflect energy efficiency improvement measures determined to be appropriate for application at each affected unit. Consistent with the Clean Air Act, the Rule also allows States to tailor those standards for individual units based on remaining useful life, cost, and a variety of other technical factors. This approach would not

only avoid the premature shutdown of many existing coal-fired EGUs but also could lead to investments that will improve the operating efficiency of many coal-fired units.

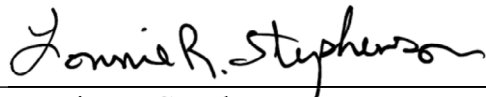
7. If the Petitioners were to prevail in this case, the IBEW and its members stand to lose several important benefits of the Final Rule. First, they would lose the benefits of the Rule's approach of setting performance standards based on the application of heat rate improvement measures to individual affected coal-fired EGUs. IBEW anticipates that the efficiency improvements called for by the Rule would create substantial job opportunities for its members. Second, they would face the loss of jobs, wages and related work benefits that would result from the accelerated retirement of the coal-fired EGU fleet.

8. The IBEW therefore has a clear and significant interest in this litigation in order to protect the jobs and other related benefits of its members. The Rule's repeal of the Clean Power Plan is crucial to protecting the employment and other economic interests of the IBEW's members. Furthermore, replacing the Clean Power Plan with new federal regulations will reduce CO<sub>2</sub> emissions from coal-fired EGUs in a lawful manner that will not force the premature shutdown of existing coal-fired EGUs that, in turn, would result in the loss of jobs, wages, and related work benefits for the IBEW's members. Furthermore, the adoption of the new and lawful methodology for setting "inside the fence" performance standards

for limiting CO<sub>2</sub> emissions from existing affected EGUs under the replacement Rule should provide IBEW's members with opportunities for continued and expanded work opportunities at existing coal-fired EGUs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on September 6, 2019.



Lonnie R. Stephenson  
International President

International Brotherhood of Electrical Workers, AFL-CIO

**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure (“FRAP”) 32(f) and (g), I hereby certify that the foregoing motion complies with the type volume limitation of FRAP 27(d)(2)(A) because it contains 2,763 words, excluding exempted portions, according to the count of Microsoft Word.

I further certify that the motion complies with FRAP 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in 14-point Times New Roman type.

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida

(301) 639-5238 (cell)

emtrisko7@gmail.com

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

Dated: September 17, 2019

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**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,***Respondents.***Case No. 19-1173 (and  
consolidated cases)****RULE 26.1 DISCLOSURE STATEMENT OF  
MOVANT-INTERVENOR-RESPONDENT INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure (“FRAP”) and D.C. Circuit Rule 26.1, the International Brotherhood of Electrical Workers, AFL-CIO (“IBEW”) hereby provides the following information:

1. IBEW is a non-profit national labor organization with headquarters located at 900 7<sup>th</sup> Street, N.W., Washington, D.C. 20001;
2. IBEW’s members are active and retired skilled electricians and related professionals engaged in a broad array of U.S. industries, including the electrical utility, coal mining, and railroad transportation sectors that stand to be impacted adversely by implementation of EPA’s final agency action;

3. IBEW provides collective bargaining representation and other membership services and benefits on behalf of its members;
4. IBEW is affiliated with the American Federation of Labor-Congress of Industrial Organizations;
5. IBEW has no parent companies, subsidiaries, or affiliates that have issued shares or debt securities to the public.

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida

(301) 639-5238 (cell)

emtrisko7@gmail.com

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

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**CERTIFICATE OF MOVANT-INTERVENOR-RESPONDENT  
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,  
AFL-CIO AS TO PARTIES AND *AMICI CURIAE***

Pursuant to Circuit Rule 27(a)(4), Movant-Intervenor-Respondent International Brotherhood of Electrical Workers, AFL-CIO (“IBEW”) certifies that the parties, including intervenors, and *amici curiae* in this case are as set forth below. Pursuant to Circuit Rule 27(a)(4), a disclosure statement for IBEW as required by Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1 is being filed herewith. Because this case involves direct review in this Court of agency action, the requirement to furnish a list of parties, including intervenors, and *amici curiae* that appeared below is inapplicable.

**Petitioners:** Petitioner in 19-1173 is the Chesapeake Bay Foundation, Inc.

The petitioners in consolidated cases are:

19-1140 (lead)	American Lung Association and American Public Health Association
19-1165	State of New York, State of California, State of Colorado, State of Connecticut, State of Delaware, State of Hawaii, State of Illinois, State of Maine, State of Maryland, Commonwealth of Massachusetts, People of the State of Michigan, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, Commonwealth of Virginia, State of Washington, State of Wisconsin, District of Columbia, City of Boulder (CO), City of Chicago, City of Los Angeles, City of New York, City of Philadelphia, and the City of South Miami (FL)
19-1166	Appalachian Mountain Club, Center for Biological Diversity, Clean Air Council, Clean Wisconsin, Conservation Law Foundation, Environmental Defense Fund, Environmental Law & Policy Center, Minnesota Center For Environmental Advocacy, Natural Resources Defense Council, and Sierra Club
19-1175	Robinson Enterprises, Inc.; Nuckles Oil Company, Inc., dba Merit Oil Company; Construction Industry Air Quality Coalition; Liberty Packing Company LLC; Dalton Trucking, Inc.; Norman R. "Skip" Brown; Joanne Brown; the Competitive Enterprise Institute; and the Texas Public Policy Foundation
19-1176	Westmoreland Mining Holdings LLC
19-1177	City and County of Denver (CO)
19-1179	North American Coal Corporation
19-1185	Biogenic CO2 Coalition
19-1186	Advanced Energy Economy
19-1187	American Wind Energy Association and Solar Energy Industries Association
19-1188	Consolidated Edison, Inc., Exelon Corporation, National Grid USA, New York Power Authority, Power Companies Climate Coalition, Public Service Enterprise Group Incorporated, and Sacramento Municipal Utility District
19-1189	State of Nevada



**Respondents:** The Environmental Protection Agency is a respondent in both 19-1140 and 19-1173. In lead case 19-1140, Environmental Protection Agency Administrator Andrew R. Wheeler is also a respondent.

**Intervenors:** At the time of this filing, this Court has granted the following motions to intervene:

AEP Generating Company

Murray Energy Corporation

AEP Generation Resources Inc.

National Mining Association

America's Power (formerly known as the American Coalition for Clean Coal Electricity)

National Rural Electric Cooperative Association

Public Service Company of Oklahoma

Appalachian Power Company

Southwestern Electric Power Company

Chamber of Commerce of the United States of America

Westmoreland Mining Holdings LLC

Indiana Michigan Power Company

Wheeling Power Company

Kentucky Power Company

**Amici Curiae:** There are no *amici curiae* at the time of this filing.

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida

(301) 639-5238 (cell)

emtrisko7@gmail.com

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

Dated: September 17, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of September, 2019, the foregoing documents were electronically filed with the Clerk of the court by using the Court's CM/ECF system. All registered counsel will be served by the Court's CM/ECF system. I further certify that I have served the foregoing documents via first-class mail, postage pre-paid, to the following parties not registered for CM/ECF service:

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

Steven Novick  
Oregon Department of Justice  
General Counsel  
100 SW Market Street  
Portland, OR 97201

Karl A. Racine  
Office of the Attorney General, District  
of Columbia  
Office of the Solicitor General  
441 4th Street, NW  
One Judiciary Square, Sixth Floor  
Washington, DC 20001-2714

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko  
Law Offices of Eugene M. Trisko  
P.O. Box 330133  
Atlantic Beach, Florida 32233  
(301) 639-5238 (cell)  
emtrisko7@gmail.com

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

September 17, 2019