

Eugene M. Trisko
Law Offices of Eugene M. Trisko
P.O. Box 596
Berkeley Springs, WV 25411
(304) 258-1977
(301) 639-5238 (Cell)
emtrisko@earthlink.net

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: International Brotherhood of Electrical Workers v. U.S. Environmental Protection Agency, Case No. 15-1410 (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/ Eugene M. Trisko

Eugene M. Trisko

Attorney for International Brotherhood of
Electrical Workers

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.)

INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS,)

Petitioners,)

v.)

No. 15-1410

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

(consolidated)

Respondents.)

**PETITIONER INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS NON-BINDING STATEMENT OF ISSUES**

Pursuant to this Court’s Order of November 30, 2015, Petitioner International Brotherhood of Electrical Workers (“IBEW”) 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”). IBEW 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?

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

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko
Attorney for International Brotherhood of
Electrical Workers

Dated: December 18, 2015