

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

NATIONAL ELECTRICAL  
MANUFACTURERS ASSOCIATION,

Petitioner,

v.

UNITED STATES DEPARTMENT OF  
ENERGY,

Respondent.

No. 17-1341

**PETITIONER’S UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL  
PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE 42(b)**

Petitioner National Electrical Manufacturers Association (“NEMA”) hereby moves the Court, pursuant to Fed. R. App. P. 42(b), to dismiss this petition for review. In support of this motion, it states as follows:

1. On January 19, 2017, The Department of Energy (“DOE”) promulgated two final rules addressing the scope and meaning of the statutory term “general service lamp.” *See* Energy Conservation Program: Energy Conservation Standards for General Service Lamps, 82 Fed. Reg. 7276 (Jan. 19, 2017) (“General Service Lamp Rule”); Energy Conservation Program: Energy Conservation Standards for General Service Lamps, 82 Fed. Reg. 7322 (Jan. 19, 2017) (“Incandescent Reflector Lamp Rule”).

2. On March 15, 2017, NEMA petitioned for review of the General Service Lamp Rule and the Incandescent Reflector Lamp Rule.

3. On May 4, 2017, NEMA filed an unopposed motion to hold the case in abeyance pending completion of the parties' ongoing discussions concerning alternative means of resolving this case. The motion explained that if the parties identified an alternative means of resolving the case, NEMA would move to voluntarily dismiss its petition for review. Petitioner's Unopposed Mot. to Hold in Abeyance ¶ 4.

4. On May 9, 2017, this Court granted NEMA's motion to hold the case in abeyance. The Court ordered the parties to file a status report on June 9, 2017 and every thirty days thereafter, and to immediately notify the Court when the discussions between the parties have concluded.

5. On June 9, 2017, the parties filed a joint status report informing the Court that discussions were ongoing, and again noting that if the parties identified a mutually agreeable means of resolving the case short of litigation, NEMA might move to voluntarily dismiss its petition for review.

6. On July 7, 2017, the parties agreed to settle this matter and that each party would bear its own costs, fees, and expenses relating to the case.

For the foregoing reasons, this Court should dismiss this petition with prejudice pursuant to Rule 42(b). Counsel for Respondent DOE has stated that it consents to the relief requested.

Respectfully submitted,

/s/ Jessica L. Ellsworth

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Manufacturers Association*

Dated: July 7, 2017

## CERTIFICATE OF COMPLIANCE

1. This motion complies with the length limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 339 words.

2. This motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Office Word 2010 in Times New Roman 14-point font.

/s/ Jessica L. Ellsworth  
Jessica L. Ellsworth

Dated: July 7, 2017

## **CERTIFICATE OF SERVICE**

I certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system on July 7, 2017. I certify that service will be accomplished on all participants in the case through the CM/ECF system.

/s/ Jessica L. Ellsworth  
Jessica L. Ellsworth

Dated: July 7, 2017