



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

WEST VIRGINIA COAL ASSOCIATION,

Petitioners,

v.

Case No. 15-1422

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, and
REGINA A. MCCARTHY, Administrator,
United States Environmental Protection Agency,

November 9, 2015

Respondents.

ORIGINAL

PETITION FOR REVIEW

Pursuant to Federal Rule of Appellate Procedure 15(a) and Clean Air Act § 307(b)(1), 42 U.S.C. § 7607(b)(1)), the West Virginia Coal Association hereby petitions this Court for review of the final rule of the United States Environmental Protection Agency published in the Federal Register at 80 Fed. Reg. 64,662 (October 23, 2015) and titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." This Court has jurisdiction, and is a proper venue for this action, under 42 U.S.C. § 7607(b)(1).

The final rule exceeds the agency's statutory authority, goes beyond the bounds set by the United States Constitution, and otherwise is arbitrary, capricious, an abuse of discretion and not in accordance with law. EPA's unlawful and unilateral action is a blatant and unprecedented attack on the nation's coal industry. It will have

a devastating impact on the hard-working people whose livelihoods depend upon coal – particularly in West Virginia. Accordingly, Petitioners ask the Court to hold unlawful and set aside the rule, and to order other such relief as may be appropriate. *See* 42 U.S.C. § 7607(d).

Dated: 11 November 2015.

Respectfully submitted,

/s/Robert G. McLusky

ROBERT G. McLUSKY

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*Counsel for Petitioner West Virginia Coal
Association*

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

The following information is provided pursuant to D.C. Circuit Rule 28(a)(1):

(A) Parties and *Amici*Petitioner

West Virginia Coal Association

Respondents

United States Environmental Protection Agency

Gina McCarthy, Administrator, United States Environmental Protection Agency

(B) Rulings Under Review

This Petition challenges EPA's final rule, "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 FR 64662 (Oct. 23, 2015).

(C) Related Cases

This case has never appeared before this or any other Court. Counsel is aware of five related cases that, as of the time of filing, have appeared before this Court:

- (1) *In re: Murray Energy Corporation*, No. 14-1112
- (2) *Murray Energy Corporation v. EPA*, No. 14-1151 (consolidated with No. 14-1112)
- (3) *State of West Virginia v. EPA*, No. 14-1146

- (4) *In re: State of West Virginia*, No. 15-1277
- (5) *In re: Peabody Energy Corp.*, No. 15-1284 (consolidated with No. 15-1277)
- (6) *State of West Virginia v. EPA*, No. 15-1363 (consolidated with Nos. 15-1364, 15-1365, 15-1366, 15-1367, 15-1368, 15-1370, 15-1371, 15-1372, 15-1373, 15-1374, 15-1375, 15-1376, 15-1377, 15-1378, 15-1379, 15-1380, 15-1382, 15-1383)

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1 and L.R. 26.1, the West Virginia Coal Association respectfully submits this Corporate Disclosure Statement and states as follows:

The West Virginia Coal Association ("WVCA") is a trade association representing more than 90% of West Virginia's underground and surface coal mine production. No publicly-held company has 10% or greater ownership of the WVCA.

Dated: 11 November 2015

/s/ Robert G. McLusky
ROBERT G. McLUSKY

CERTIFICATE OF SERVICE

I hereby certify that I will cause to be served a true copy of the Petition for Review, along with associated Corporate Disclosure Statement and Certificate as to Parties, Rulings, and Related Cases, via U.S. mail on the 11th day of November, 2015, upon the following:

Hon. Regina McCarthy
Office of the Administrator (1101A)
United States Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Hon. Loretta E. Lynch
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

/s/Robert G. McLusky

ROBERT G. McLUSKY

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