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VIA CM/ECF

January 21, 2022

Christopher G. Conway
Clerk, United States Court of Appeals for the Seventh Circuit
Everett McKinley Dirksen United States Courthouse
219 S. Dearborn Street
Room 2722
Chicago, IL 60604

RE: *Alliance for Water Efficiency v. DOE*, No. 21-1167 (7th Cir.)

Dear Mr. Conway:

This petition for review challenges a 2020 final rule issued by the U.S. Department of Energy (DOE) concerning showerheads. *See* 85 Fed. Reg. 81,341 (Dec. 16, 2020). The Court has held this case in abeyance since April 7, 2021, while DOE reevaluated the 2020 rule pursuant to an Executive Order and subsequently engaged in a new rulemaking process. On September 23, 2021, while the rulemaking process was ongoing, the Court granted DOE's unopposed motion to continue to hold the appeal in abeyance until February 1, 2022, and ordered DOE to provide a status report by January 21, 2022. On December 30, 2021, the Court granted petitioner's unopposed motion to extend the abeyance to February 28, 2022, and ordered the parties to file statements of position by that date. DOE provides a status report here pursuant to the Court's September 23, 2021 order.

As noted in petitioner's December 29, 2021 motion to extend the abeyance, DOE published a final rule in the Federal Register on December 20, 2021, that, as relevant here, withdraws the 2020 rule's definition of "showerhead" and interpretation of the term. *See* 86 Fed. Reg. 71,797, 71,800 (Dec. 20, 2021). The

effective date of the 2021 rule was January 19, 2022. As petitioner explained in its December 29, 2021 motion, “[t]he parties have begun discussions regarding the implications and consequences of the final rule for this action,” but petitioner “anticipate[d] that its consideration of the impact of the [2021] rule w[ould] need additional time.” The Court accordingly extended the abeyance to February 28, 2022. The Court should continue to hold this petition for review in abeyance until that time.

Sincerely,

/s/ Kyle T. Edwards

Kyle T. Edwards

Counsel for Respondents