

ORAL ARGUMENT SCHEDULED FOR APRIL 17, 2017

---

---

No. 15-1381 (and consolidated cases)

---

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

---

STATE OF NORTH DAKOTA, *et al.*,

*Petitioners,*

v.

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

*Respondents.*

---

**PETITIONERS' AND PETITIONER-INTERVENORS'  
MOTION TO EXTEND THE BRIEFING SCHEDULE**

---

The undersigned Petitioners and Petitioner-Intervenors respectfully move to extend the deadline to file their reply briefs in this petition for review from January 19, 2017 to February 24, 2017, with concomitant extensions in the ensuing dates for filing the deferred joint appendix and final briefs.<sup>1</sup> Movants do not at this time seek to modify the April 17, 2017 date for oral argument and believe that the extension requested does not preclude argument on that date. This modest extension is requested for good cause because the change in administrations may significantly impact this case. A short extension of time will allow the parties the opportunity to

---

<sup>1</sup> Undersigned Petitioners and Petitioner-Intervenors propose deadlines of March 3, 2017 for the deferred appendix, and March 10, 2017, for final briefs.

determine whether an alternative resolution of the petition can be achieved in the new administration, potentially obviating the need to file reply briefs altogether, and conserving both party and judicial resources. Petitioners contacted counsel for Respondents and State Respondent-Intervenors, and Environmental and Health Respondent-Intervenors on December 9, 2016, well before their briefs were due, to inquire as to whether they would be interested in filing a joint motion to extend the time to file all remaining briefs in this case, and were informed that they intend to oppose this motion. On December 16, 2016, Petitioners consulted similarly with counsel for Power Companies Respondent-Intervenors, who could not take a position because it was after close of business.

This case concerns Petitioners' challenge to the Environmental Protection Agency's ("EPA") rule setting standards of performance for carbon dioxide emissions from new electric generating units under Section 111(b) of the Clean Air Act ("CAA") (the "Rule"). The Rule is a critical component of President Obama's "Climate Action Plan," a policy that seeks to alter the nation's mix of electricity generation away from fossil-fuel fired plants in favor of other energy sources.<sup>2</sup> On June 25, 2013, the same day the Climate Action Plan was issued, President Obama issued a presidential memorandum "direct[ing]" EPA "to issue a new [Rule] proposal by no later than

---

<sup>2</sup> See Executive Office of the President, The President's Climate Action Plan, June 2013 at 6, available at <https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf>.

September 20, 2013[.] . . . [and] to issue a final rule in a timely fashion after considering all public comments, as appropriate.”<sup>3</sup>

The incoming presidential administration and its transition team have repeatedly indicated their intent to reconsider the Climate Action Plan and its associated measures after taking office. In this regard, the president-elect’s transition team has announced that the new administration will “conduct a top-down review of all anti-coal regulations issued by the Obama Administration.”<sup>4</sup>

Given these announcements, the new administration is likely to consider adopting policy changes that could significantly alter the scope of this litigation and potentially even affect whether further proceedings are warranted. A short delay in litigation, from January 19, 2017, to February 24, 2017, would allow time for the new administration to assess its position on this litigation and to file any motions to reflect a change of position—for example, to request that the Court hold the case in abeyance while it undertakes a new rulemaking to withdraw or revise the present Rule. If the new administration does decide to change its position in this litigation, there would be no need for briefing to continue at this time. If the new administration decides to maintain its litigating position in this case, Petitioners and Petitioner-Intervenors will file their reply briefs on February 24, 2017, and oral argument can

---

<sup>3</sup> See The President, Memorandum of June 25, 2013—Power Sector Carbon Pollution Standards, 78 Fed. Reg. 39,535, 39,535 (July 1, 2013).

<sup>4</sup> Energy Independence, Making America Great Again (last visited Dec. 8, 2016), <https://www.greatagain.gov/policy/energy-independence.html>.

proceed as scheduled on April 17, 2017. Given that the proposed extension will affect no other party's briefing schedule or the April 17 argument date, there can be no prejudice to any other party from a grant of the requested extension.

The Court has “inherent [authority] . . . to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *see also Dietz v. Bouldin*, 136 S. Ct. 1885, 1888–89 (2016) (The Court has “inherent power[] . . . to manage its docket and courtroom.”). Granting the requested extension of time would conserve both party and judicial resources, potentially completely obviating the need for four reply briefs to be prepared and filed. Two of the reply briefs that are currently due to be filed on January 19, 2017, are from the States, which possess limited resources.

This Court recently granted a motion for abeyance—far more significant relief than the short extension of the briefing schedule requested here—in a case with nearly identical circumstances. In *United States House of Representatives v. Burwell*, No. 16-5202 (D.C. Cir. Dec. 5, 2016), this Court granted a motion to hold in abeyance all briefing in a constitutional challenge to certain provisions of the Affordable Care Act. No. 16-5202, ECF 1649251, at 1 (D.C. Cir. Dec. 5, 2016) (per curiam). As in this case, that challenge had not been expedited and the parties were still in the briefing process. App. Mot. to Hold Briefing In Abeyance or, In the Alternative, to Extend the Briefing Schedule, *U.S. House of Reps. v. Burwell*, No. 16-5202, ECF 1647228, at 3 (D.C. Cir. filed Nov. 21, 2016). In fact, the briefing schedule in *Burwell* was similar to the

schedule in this case.<sup>5</sup> This Court ordered the case held in abeyance pending further order of the Court. ECF 1649251, at 1.

This Court and others have regularly granted extensions of time (and stays) in litigation spanning presidential transitions. *See, e.g., EPA v. New Jersey*, No. 08-512 (S. Ct. 2009) (obtaining numerous extensions from the United States Supreme Court before voluntarily dismissing case following the start of the new administration); *see also New Jersey v. EPA*, No. 08-1065 (D.C. Cir. Aug. 5, 2009) (case held in abeyance for seven years after the inauguration of the new president to allow review of the prior administration's regulations); *California et al. v. EPA*, No. 08-1178 (D.C. Cir. May 8, 2008) (staying briefing for several months during president-elect's transition into office and subsequently dismissing the case after the new administration's EPA reversed its position); *Mississippi v. EPA*, No. 08-1200 (D.C. Cir. Mar. 19, 2009) (clerk's order) (granting abeyance motion after election to permit agency to review and reconsider the rule under the new administration).

Notwithstanding EPA's position in this case, the Obama administration has recently recognized the importance of allowing the incoming administration time to consider what actions it plans to take with respect to pending litigation. In the legal challenge to the administration's program of deferred action for certain

---

<sup>5</sup> Appellants in *Burwell* had filed their opening brief on October 24, 2016. Appellee's responsive brief would have been due on December 23, 2016, and Appellant's reply brief on January 19, 2017. Here, Petitioners filed their opening briefs on October 13, 2016. Respondents' brief was filed December 14, 2016, and reply briefs are due January 19, 2017.

undocumented aliens, the Department of Justice joined a joint motion to stay further proceedings based on the upcoming change in administration and the potential effects of that change on the parties. The joint motion, which remains pending, stated: “Given the change in Administration, the parties jointly submit that a brief stay of any further litigation in this Court . . . would serve judicial efficiency and economy so that the parties have a better understanding of how they might choose to move forward.” Joint Mot. to Stay Merits Proceedings, *Texas et al., v. United States et al.*, No. 1:14-cv-254, ECF No. 430 at 1 (S. D. Tex. filed Nov. 18, 2016). The same policies of judicial efficiency and economy advise in favor of a short extension of time to file the remaining briefs in this case.

The requested extension will not prejudice Respondents, as the Rule has not been stayed and is presently in effect. Nor would an extension cause undue delay. Assuming litigation proceeds, Petitioners’ requested extension would not interfere with the Court’s previously established April 17, 2017 argument date. To the contrary, because of the potential that the new administration’s position on this litigation will change and obviate the need for further briefing, the modest requested extension accords with recent and historical precedent in litigation spanning presidential transitions and with a policy to conserve party and judicial resources.

## CONCLUSION

For the foregoing reasons, the undersigned Petitioners and Petitioner-Intervenors request that this Court extend the deadline to file reply briefs in this case February 24, 2017 and propose deadlines of March 3, 2017 for the deferred appendix, and March 10, 2017, for final briefs.

Dated: December 16, 2016

Respectfully submitted,

/s/ Elbert Lin

Patrick Morrissey

Attorney General of West Virginia

Elbert Lin

Solicitor General

*Counsel of Record*

Thomas M. Johnson, Jr.

Deputy Solicitor General

Katlyn M. Miller

Assistant Attorney General

State Capitol Building 1, Room 26-E

Tel. (304) 558-2021

Fax (304) 558-0140

Email: [elbert.lin@wvago.gov](mailto:elbert.lin@wvago.gov)

***Counsel for Petitioner State of West Virginia***

/s/ Andrew Brasher

Luther Strange  
ATTORNEY GENERAL OF ALABAMA  
Andrew Brasher  
Solicitor General  
*Counsel of Record*  
501 Washington Avenue  
Montgomery, AL 36130  
Tel: (334) 353-2609  
abrasher@ago.state.al.us

*Counsel for Petitioner State of Alabama*

/s/ Lee Rudofsky

Leslie Rutledge  
ATTORNEY GENERAL OF ARKANSAS  
Lee Rudofsky  
Solicitor General  
*Counsel of Record*  
Jamie L. Ewing  
Assistant Attorney General  
323 Center Street, Suite 400  
Little Rock, AR 72201  
Tel: (501) 682-5310  
jamie.ewing@arkansasag.gov

*Counsel for Petitioner State of Arkansas*

/s/ John R. Lopez IV

Mark Brnovich  
ATTORNEY GENERAL OF ARIZONA  
John R. Lopez IV  
*Counsel of Record*  
Dominic E. Draye  
Deputy Solicitor General  
Keith Miller  
Assistant Attorney General  
Maureen Scott  
Janet Wagner  
Janice Alward  
Arizona Corp. Commission,  
Staff Attorneys  
1275 West Washington  
Phoenix, AZ 85007  
Tel: (602) 542-5025  
john.lopez@azag.gov  
dominic.draye@azag.gov  
keith.miller@azag.gov

*Counsel for Petitioner Arizona Corporation  
Commission*

/s/ Jonathan L. Williams

Pamela Jo Bondi  
ATTORNEY GENERAL OF FLORIDA  
Jonathan L. Williams  
Deputy Solicitor General  
*Counsel of Record*  
Jonathan A. Glogau  
Special Counsel  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, FL 32399-1050  
Tel: (850) 414-3300  
Fax: (850) 410-2672  
jonathan.williams@myfloridalegal.com

*Counsel for Petitioner State of Florida*



/s/ Britt C. Grant

Christopher M. Carr  
ATTORNEY GENERAL OF GEORGIA  
Britt C. Grant  
Solicitor General  
*Counsel of Record*  
40 Capitol Square S.W.  
Atlanta, GA 30334  
Tel: (404) 656-3300  
Fax: (404) 463-9453  
bgrant@law.ga.gov

*Counsel for Petitioner State of Georgia*

/s/ Jeffrey A. Chanay

Derek Schmidt  
ATTORNEY GENERAL OF KANSAS  
Jeffrey A. Chanay  
Chief Deputy Attorney General  
*Counsel of Record*  
Bryan C. Clark  
Assistant Solicitor General  
120 S.W. 10th Avenue, 3rd Floor  
Topeka, KS 66612  
Tel: (785) 368-8435  
Fax: (785) 291-3767  
jeff.chanay@ag.ks.gov  
bryan.clark@ag.ks.gov

*Counsel for Petitioner State of Kansas*

/s/ Timothy Junk

Gregory F. Zoeller  
ATTORNEY GENERAL OF INDIANA  
Timothy Junk  
Deputy Attorney General  
*Counsel of Record*  
Indiana Government Ctr. South  
Fifth Floor  
302 West Washington Street  
Indianapolis, IN 46205  
Tel: (317) 232-6247  
tim.junk@atg.in.gov

*Counsel for Petitioner State of Indiana*

/s/ Joseph A. Newberg, II

Andy Beshear  
ATTORNEY GENERAL OF KENTUCKY  
Joseph A. Newberg, II  
Assistant Attorney General  
*Counsel of Record*  
700 Capital Avenue  
Suite 118  
Frankfort, KY 40601  
Tel: (502) 696-5611  
joe.newberg@ky.gov

*Counsel for Petitioner Commonwealth of Kentucky*

/s/ Steven B. "Beaux" Jones

Jeff Landry  
ATTORNEY GENERAL OF LOUISIANA  
Steven B. "Beaux" Jones  
*Counsel of Record*  
Environmental Section – Civil Division  
1885 N. Third Street  
Baton Rouge, LA 70804  
Tel: (225) 326-6085  
Fax: (225) 326-6099  
jonesst@ag.state.la.us

*Counsel for Petitioner State of Louisiana*

/s/ Donald Trahan

Herman Robinson  
Executive Counsel  
Donald Trahan  
*Counsel of Record*  
Spencer Bowman  
Elliott Vega  
LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
Legal Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302  
Tel: (225) 219-3985  
Fax: (225) 219-4068  
donald.trahan@la.gov  
elliott.vega@la.gov

*Counsel for Petitioner State of Louisiana  
Department of Environmental Quality*

/s/ Aaron D. Lindstrom

Bill Schuette  
ATTORNEY GENERAL FOR THE PEOPLE  
OF MICHIGAN  
Aaron D. Lindstrom  
Michigan Solicitor General  
*Counsel of Record*  
Neil D. Gordon  
Assistant Attorney General  
P.O. Box 30212  
Lansing, MI 48909  
Tel: (515) 373-1124  
Fax: (517) 373-3042  
lindstroma@michigan.gov

*Counsel for Petitioner People of the State of  
Michigan*

/s/ James R. Layton

Chris Koster  
ATTORNEY GENERAL OF MISSOURI  
James R. Layton  
Solicitor General  
*Counsel of Record*  
Laura Elsbury  
Assistant Attorney General  
P.O. Box 899  
207 W. High Street  
Jefferson City, MO 65102  
Tel: (573) 751-1800  
Fax: (573) 751-0774  
james.layton@ago.mo.gov

*Counsel for Petitioner State of Missouri*

/s/ Dale Schowengerdt  
Timothy C. Fox  
ATTORNEY GENERAL OF MONTANA  
Alan Joscelyn  
Chief Deputy Attorney General  
Dale Schowengerdt  
Solicitor General  
*Counsel of Record*  
215 North Sanders  
Helena, MT 59620-1401  
Tel: (406) 444-7008  
dales@mt.gov

*Counsel for Petitioner State of Montana*

/s/ Sam M. Hayes  
Sam M. Hayes  
General Counsel  
*Counsel of Record*  
Craig Bromby  
Deputy General Counsel  
Andrew Norton  
Deputy General Counsel  
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
1601 Mail Service Center  
Raleigh, NC 27699-1601  
Tel: (919) 707-8616  
sam.hayes@ncdenr.gov

*Counsel for Petitioner North Carolina  
Department of Environmental Quality*

/s/ Justin D. Lavene  
Douglas J. Peterson  
ATTORNEY GENERAL OF NEBRASKA  
Dave Bydalek  
Chief Deputy Attorney General  
Justin D. Lavene  
Assistant Attorney General  
*Counsel of Record*  
2115 State Capitol  
Lincoln, NE 68509  
Tel: (402) 471-2683  
justin.lavene@nebraska.gov

*Counsel for Petitioner State of Nebraska*

/s/ Eric E. Murphy  
Michael DeWine  
ATTORNEY GENERAL OF OHIO  
Eric E. Murphy  
State Solicitor  
*Counsel of Record*  
30 E. Broad Street, 17th Floor  
Columbus, OH 43215  
Tel: (614) 466-8980  
eric.murphy@ohioattorneygeneral.gov

*Counsel for Petitioner State of Ohio*

/s/ James Emory Smith, Jr.

Alan Wilson  
ATTORNEY GENERAL OF SOUTH  
CAROLINA

Robert D. Cook  
Solicitor General

James Emory Smith, Jr.  
Deputy Solicitor General  
*Counsel of Record*

P.O. Box 11549  
Columbia, SC 29211  
Tel: (803) 734-3680  
Fax: (803) 734-3677  
esmith@scag.gov

*Counsel for Petitioner State of South Carolina*

/s/ Scott A. Keller

Ken Paxton  
ATTORNEY GENERAL OF TEXAS

Jeffrey C. Mateer  
First Assistant Attorney General

Scott A. Keller  
Solicitor General  
*Counsel of Record*

P.O. Box 12548  
Austin, TX 78711-2548  
Tel: (512) 936-1700  
scott.keller@texasattorneygeneral.gov

*Counsel for Petitioner State of Texas*

/s/ Steven R. Blair

Marty J. Jackley  
ATTORNEY GENERAL OF SOUTH  
DAKOTA

Steven R. Blair  
Assistant Attorney General  
*Counsel of Record*

1302 E. Highway 14, Suite 1  
Pierre, SD 57501  
Tel: (605) 773-3215  
steven.blair@state.sd.us

*Counsel for Petitioner State of South Dakota*

/s/ Tyler R. Green

Sean Reyes  
ATTORNEY GENERAL OF UTAH

Tyler R. Green  
Solicitor General  
*Counsel of Record*

Parker Douglas  
Chief Federal Deputy  
Utah State Capitol Complex  
350 North State Street, Suite 230  
Salt Lake City, UT 84114-2320  
tylergreen@utah.gov  
pdouglas@utah.gov

*Counsel for Petitioner State of Utah*

/s/ Misha Tseytlin

Brad Schimel

ATTORNEY GENERAL OF WISCONSIN

Misha Tseytlin

Solicitor General

*Counsel of Record*

Andrew Cook

Deputy Attorney General

Delanie M. Breuer

Assistant Deputy Attorney General

Wisconsin Department of Justice

17 West Main Street

Madison, WI 53707

Tel: (608) 267-9323

tseytlinm@doj.state.wi.us

*Counsel for Petitioner State of Wisconsin*

/s/ Geoffrey K. Barnes

Geoffrey K. Barnes

J. Van Carson

Wendlene M. Lavey

John D. Lazzaretti

Robert D. Cheren

SQUIRE PATTON BOGGS (US) LLP

4900 Key Tower

127 Public Square

Cleveland, OH 44114

Tel: (216) 479-8646

geoffrey.barnes@squirepb.com

*Counsel for Petitioner Murray Energy Corporation*

/s/ James Kaste

Peter K. Michael

ATTORNEY GENERAL OF WYOMING

James Kaste

Deputy Attorney General

*Counsel of Record*

Michael J. McGrady

Erik Petersen

Senior Assistant Attorneys General

Elizabeth Morrisseau

Assistant Attorney General

2320 Capitol Avenue

Cheyenne, WY 82002

Tel: (307) 777-6946

Fax: (307) 777-3542

james.kaste@wyo.gov

*Counsel for Petitioner State of Wyoming*

/s/ Allison D. Wood

F. William Brownell

Allison D. Wood

Henry V. Nickel

Tauna M. Szymanski

Andrew D. Knudsen

HUNTON & WILLIAMS LLP

2200 Pennsylvania Avenue, N.W.

Washington, D.C. 20037

Tel: (202) 955-1500

Fax: (202) 778-2201

bbrownell@hunton.com

awood@hunton.com

hnickel@hunton.com

tszymanski@hunton.com

aknudsen@hunton.com

*Counsel for Petitioners Utility Air Regulatory Group and American Public Power Association*

/s/ Stacey Turner  
Stacey Turner  
SOUTHERN COMPANY SERVICES, INC.  
600 18th Street North  
BIN 14N-8195  
Birmingham, AL 35203  
Tel: (205) 257-2823  
staturne@southernco.com

*Counsel for Petitioners Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Power Company*

/s/ C. Grady Moore III  
C. Grady Moore III  
Steven G. McKinney  
BALCH & BINGHAM LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, AL 35303-4642  
Tel: (205) 251-8100  
Fax: (205) 488-5704  
gmoore@balch.com  
smckinney@balch.com

*Counsel for Petitioner Alabama Power Company*

/s/ Margaret Claiborne Campbell  
Margaret Claiborne Campbell  
Angela J. Levin  
TROUTMAN SANDERS LLP  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, GA 30308-2216  
Tel: (404) 885-3000  
margaret.campbell@troutmansanders.com  
angela.levin@troutmansanders.com

*Counsel for Petitioner Georgia Power Company*

/s/ Jeffrey A. Stone  
Jeffrey A. Stone  
BEGGS & LANE, RLLP  
501 Commendancia Street  
Pensacola, FL 32502  
Tel: (850) 432-2451  
JAS@beggslane.com

James S. Alves  
2110 Trescott Drive  
Tallahassee, FL 32308  
Tel: (850) 566-7607  
jim.s.alves@outlook.com

*Counsel for Petitioner Gulf Power Company*

/s/ Terese T. Wyly  
Terese T. Wyly  
Ben H. Stone  
BALCH & BINGHAM LLP  
1310 Twenty Fifth Avenue  
Gulfport, MS 39501-1931  
Tel: (228) 214-0413  
twyly@balch.com  
bstone@balch.com

*Counsel for Petitioner Mississippi Power Company*

/s/ Randy E. Brogdon  
Randy E. Brogdon  
TROUTMAN SANDERS LLP  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, GA 30308-2216  
Tel: (404) 885-3000  
randy.brogdon@troutmansanders.com

*Counsel for Petitioner Southern Power Company*

/s/ David M. Flannery

David M. Flannery  
Kathy G. Beckett  
Edward L. Kropp  
STEPTOE & JOHNSON, PLLC  
707 Virginia Street East  
Charleston, WV 25326  
Tel: (304) 353-8000  
dave.flannery@steptoe-johnson.com  
kathy.beckett@steptoe-johnson.com  
skipp.kropp@steptoe-johnson.com

Stephen L. Miller  
STEPTOE & JOHNSON, PLLC  
700 N. Hurstbourne Parkway, Suite 115  
Louisville, KY 40222  
Tel: (502) 423-2000  
steve.miller@steptoe-johnson.com

*Counsel for Petitioner Indiana Utility Group*

/s/ P. Stephen Gidiere III

P. Stephen Gidiere III  
Thomas L. Casey III  
Julia B. Barber  
BALCH & BINGHAM LLP  
1901 6th Avenue N., Suite 1500  
Birmingham, AL 35203  
Tel: (205) 251-8100  
sgidiere@balch.com

Stephanie Z. Moore  
Vice President & General Counsel  
TCEH CORP.  
1601 Bryan Street, 22nd Floor  
Dallas, TX 75201

Daniel J. Kelly  
Vice President & Associate General  
Counsel  
TCEH CORP.  
1601 Bryan Street, 43rd Floor  
Dallas, TX 75201

*Counsel for Petitioners Luminant Generation  
Company LLC; Oak Grove Management  
Company LLC; Big Brown Power Company  
LLC; Sandow Power Company LLC; Big  
Brown Lignite Company LLC; Luminant  
Mining Company LLC; and Luminant Big  
Brown Mining Company LLC*

/s/ Thomas A. Lorenzen

Thomas A. Lorenzen  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Tel: (202) 624-2500  
tlorenzen@crowell.com

*Counsel for Petitioners National Rural Electric  
Cooperative Association; Sunflower Electric  
Power Corporation; and Tri-State Generation  
and Transmission Association, Inc.*

*Of Counsel*

Rae Cronmiller  
Environmental Counsel  
NATIONAL RURAL ELECTRIC  
COOPERATIVE ASSOCIATION  
4301 Wilson Boulevard  
Arlington, VA 22203  
Tel: (703) 907-5500  
rae.cronmiller@nreca.coop

/s/ Christina F. Gomez

Christina F. Gomez  
Garrison W. Kaufman  
Lawrence E. Volmert  
HOLLAND & HART LLP  
555 Seventeenth Street, Suite 3200  
Denver, CO 80202  
Tel: (303) 295-8000  
Fax: (303) 295-8261  
cgomez@hollandhart.com  
gwkaufman@hollandhart.com  
lvolmert@hollandhart.com

Patrick R. Day  
HOLLAND & HART LLP  
2515 Warren Avenue, Suite 450  
Cheyenne, WY 82001  
Tel: (307) 778-4200  
Fax: (307) 778-8175  
pday@hollandhart.com

*Counsel for Petitioner Basin Electric Power  
Cooperative*



/s/ John M. Holloway III

John M. Holloway III  
SUTHERLAND ASBILL & BRENNAN LLP  
700 Sixth Street, N.W., Suite 700  
Washington, D.C. 20001  
Tel: (202) 383-0100  
Fax: (202) 383-3593  
jay.holloway@sutherland.com

*Counsel for Petitioners East Kentucky Power  
Cooperative, Inc.; Hoosier Energy Rural Electric  
Cooperative, Inc.; and Minnkota Power  
Cooperative, Inc.*

/s/ Jeffrey R. Holmstead

Jeffrey R. Holmstead  
BRACEWELL LLP  
2001 M Street, N.W., Suite 900  
Washington, D.C. 20036  
Tel: (202) 828-5852  
Fax: (202) 857-4812  
jeff.holmstead@bracewelllaw.com

*Counsel for Petitioner American Coalition for  
Clean Coal Electricity*

/s/ Peter S. Glaser

Peter S. Glaser  
TROUTMAN SANDERS LLP  
401 Ninth Street N.W., Suite 1000  
Washington, D.C. 20004  
Tel: (202) 274-2998  
Fax: (202) 654-5611  
peter.glaser@troutmansanders.com

Carroll W. McGuffey III  
Justin T. Wong  
TROUTMAN SANDERS LLP  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, GA 30308  
Tel: (404) 885-3000  
mack.mcguffey@troutmansanders.com  
justin.wong@troutmansanders.com

*Counsel for Petitioner National Mining  
Association*

/s/ Chaim Mandelbaum

Chaim Mandelbaum  
Litigation Manager  
FREE MARKET ENVIRONMENTAL LAW  
CLINIC  
726 N. Nelson Street, Suite 9  
Arlington, VA 22203  
Tel: (703) 577-9973  
chaim12@gmail.com

*Counsel for Petitioner Energy and Environment  
Legal Institute*

/s/ Tristan L. Duncan

Tristan L. Duncan  
Thomas J. Grever  
Justin D. Smith  
SHOOK HARDY & BACON L.L.P.  
2555 Grand Boulevard  
Kansas City, MO 64018  
Tel: (816) 474-6550  
Fax: (816) 421-5547  
tlduncan@shb.com  
tgrever@shb.com  
jxsmith@shb.com

Jonathan S. Massey  
MASSEY & GAIL, LLP  
1325 G Street, N.W., Suite 500  
Washington, D.C. 20005  
Tel: (202) 652-4511  
Fax: (312) 379-0467

*Counsel for Petitioner Peabody Energy Corporation*

/s/ Eugene M. Trisko

Eugene M. Trisko  
LAW OFFICES OF EUGENE M. TRISKO  
P.O. Box 596  
Berkeley Springs, WV 25411  
Tel: (304) 258-1977  
Tel: (301) 639-5238 (cell)  
emtrisko7@gmail.com

*Counsel for Petitioner International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO*

/s/ Grant F. Crandall

Grant F. Crandall  
General Counsel  
UNITED MINE WORKERS OF AMERICA  
18354 Quantico Gateway Drive  
Triangle, VA 22172  
Tel: (703) 291-2429  
gcrandall@umwa.org

Arthur Traynor, III  
Staff Counsel  
UNITED MINE WORKERS OF AMERICA  
18354 Quantico Gateway Drive  
Triangle, VA 22172  
Tel: (703) 291-2457  
atraynor@umwa.org

Eugene M. Trisko  
LAW OFFICES OF EUGENE M. TRISKO  
P.O. Box 596  
Berkeley Springs, WV 25411  
Tel: (304) 258-1977  
emtrisko7@gmail.com

*Counsel for Petitioner United Mine Workers of America, AFL-CIO*

/s/ Peter D. Keisler

Peter D. Keisler  
 Roger R. Martella, Jr.  
 C. Frederick Beckner III  
 Paul L. Zidlicky  
 SIDLEY AUSTIN, LLP  
 1501 K Street, N.W.  
 Washington, D.C. 20005  
 Tel: (202) 736-8027  
 pkeisler@sidley.com

*Counsel for Petitioners Chamber of Commerce of the United States of America; National Association of Manufacturers; American Fuel & Petrochemical Manufacturers; National Federation of Independent Business; American Chemistry Council; American Coke and Coal Chemicals Institute; American Forest & Paper Association; American Foundry Society; American Iron and Steel Institute; American Wood Council; Brick Industry Association; Electricity Consumers Resource Council; National Lime Association; National Oilseed Processors Association; and Portland Cement Association*

/s/ Steven P. Lehotsky

Steven P. Lehotsky  
 Sheldon B. Gilbert  
 U.S. CHAMBER LITIGATION CENTER, INC.  
 1615 H Street, N.W.  
 Washington, D.C. 20062  
 Tel: (202) 463-5337  
 slehotsky@uschamber.com

*Counsel for Petitioner Chamber of Commerce of the United States of America*

/s/ Quentin Riegel

Linda E. Kelly  
 Quentin Riegel  
 Leland P. Frost  
 MANUFACTURERS' CENTER FOR LEGAL ACTION  
 733 10th Street, N.W., Suite 700  
 Washington, D.C. 20001  
 Tel: (202) 637-3000  
 qriegel@nam.org

*Counsel for Petitioner National Association of Manufacturers*

/s/ Richard S. Moskowitz

Richard S. Moskowitz  
 AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS  
 1667 K Street, N.W., Suite 700  
 Washington, D.C. 20006  
 Tel: (202) 457-0480  
 rmoskowitz@afpm.org

*Counsel for Petitioner American Fuel & Petrochemical Manufacturers*

/s/ Karen R. Harned

Karen R. Harned  
Executive Director  
Elizabeth A. Gaudio  
Senior Executive Counsel  
NATIONAL FEDERATION  
OF INDEPENDENT BUSINESS  
SMALL BUSINESS LEGAL CENTER  
1201 F Street, N.W., Suite 200  
Washington, D.C. 20004  
Tel: (202) 314-2061  
karen.harned@nfib.org  
elizabeth.milito@nfib.org

*Counsel for Petitioner National Federation of  
Independent Business*

/s/ Mark Walters

Mark Walters  
Michael Nasi  
JACKSON WALKER L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, TX 78701  
Tel: (512) 236-2000  
mwalters@jw.com  
mnasi@jw.com

Douglas Bryan Hughes  
Law Offices of D. Bryan Hughes  
701 N. Pacific Street  
Mineola, TX 75773-1831  
Tel: (903) 569-8880  
Bryan@Hughesfirm.com

*Counsel for the Lignite Energy Council and the  
Gulf Coast Lignite Coalition*

**CERTIFICATE OF COMPLIANCE**

Pursuant to Rules 27(d)(2) and 32(g) of the Federal Rules of Appellate Procedure and Circuit Rules 32(a)(1) and 32(e)(1), I hereby certify that the foregoing Petitioners' and Petitioner-Intervenors' Motion To Extend The Briefing Schedule contains 1,480 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the count, and therefore is within the word limit set by the Court.

Dated: December 16, 2016

/s/ Elbert Lin

Elbert Lin

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 16 day of December 2016, a copy of the foregoing Petitioners' and Petitioner-Intervenors' Motion To Extend The Briefing Schedule, was served electronically through the Court's CM/ECF system on all ECF-registered counsel.

/s/ Elbert Lin

Elbert Lin