

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.¹ 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

¹ 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.² 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

² 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.”³

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.”⁴

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

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

⁴ 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.⁵ 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

⁵ 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

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/ 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/ 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/ 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