

JAN 23 2017

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

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

CLERK

RECEIVED

STATE OF WEST VIRGINIA,
STATE OF TEXAS,
STATE OF ALABAMA,
STATE OF ARIZONA CORPORATION
COMMISSION,
STATE OF ARKANSAS,
STATE OF GEORGIA,
STATE OF INDIANA,
STATE OF KANSAS,
STATE OF LOUISIANA,
STATE OF MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL
QUALITY,
STATE OF MISSISSIPPI
PUBLIC SERVICE COMMISSION,
STATE OF MONTANA,
STATE OF NEBRASKA,
STATE OF NEW JERSEY,
STATE OF OHIO,
STATE OF SOUTH CAROLINA,
STATE OF SOUTH DAKOTA,
STATE OF UTAH,
STATE OF WISCONSIN, and
STATE OF WYOMING,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
and CATHERINE MCCABE, Acting
Administrator, United States Environmental
Protection Agency,

Respondents.

PETITION FOR REVIEW

Case No. 17-1022

The States of West Virginia, Texas, Alabama, Arkansas, Georgia, Indiana, Kansas, Louisiana, Montana, Nebraska, New Jersey, Ohio, South Carolina, South Dakota, Utah, Wisconsin, and Wyoming, and the State of Arizona Corporation Commission, the State of Mississippi Public Service Commission, and the State of Mississippi Department of Environmental Quality hereby petition this Court, pursuant to Rule 15(a) of the Federal Rules of Appellate Procedure, Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and 5 U.S.C. § 702, for review of the final action (“Final Action”) of the United States Environmental Protection Agency (“EPA”) denying petitions for reconsideration and administrative stay of the “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units,” 80 Fed. Reg. 64,662 (October 23, 2015). Notice of the Final Action was published in the Federal Register at 82 Fed. Reg. 4,864 (January 17, 2017), titled “Denial of Reconsideration and Administrative Stay of the Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units.” EPA described the full basis for the Final Action in a separate memorandum. *See* EPA-HQ-OAR-2013-0602-37338.

This Court has jurisdiction, and is a proper venue for this action, under 42 U.S.C. § 7607(b)(1).

Petitioners will show that the Final Action is in excess of the agency's statutory authority and otherwise is arbitrary, capricious, an abuse of discretion, and not in accordance with law. Accordingly, Petitioners ask the Court to hold unlawful and set aside the Final Action, and to order other such relief as may be appropriate. *See* 42 U.S.C. § 7607(d).

Dated: January 23, 2017

Respectfully submitted,



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I hereby certify that I will cause to be served a true copy of the Petition for Review via electronic mail on the 23rd day of January, 2017 upon the following counsel who agreed to accept service of this filing via electronic mail:

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