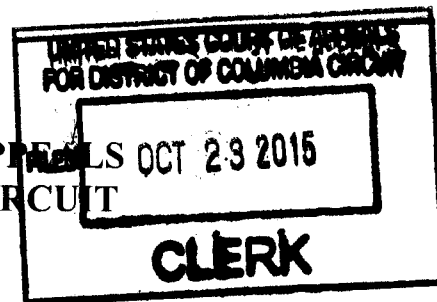


OCT 23 2015

**RECEIVED**

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



STATE OF WEST VIRGINIA,  
STATE OF TEXAS,  
STATE OF ALABAMA,  
STATE OF ARIZONA CORPORATION  
COMMISSION,  
STATE OF ARKANSAS,  
STATE OF COLORADO,  
STATE OF FLORIDA,  
STATE OF GEORGIA,  
STATE OF INDIANA,  
STATE OF KANSAS,  
COMMONWEALTH OF KENTUCKY,  
STATE OF LOUISIANA,  
STATE OF LOUISIANA DEPARTMENT  
OF ENVIRONMENTAL QUALITY  
ATTORNEY GENERAL BILL SCHUETTE,  
People of Michigan,  
STATE OF MISSOURI,  
STATE OF MONTANA,  
STATE OF NEBRASKA,  
STATE OF NEW JERSEY,  
STATE OF NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL  
QUALITY,  
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 REGINA A. MCCARTHY, Administrator,  
United States Environmental Protection Agency,

**PETITION FOR REVIEW**

Case No. 15-1363

## Respondents.

The States of West Virginia, Texas, Alabama, Arkansas, Colorado, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Missouri, Montana, Nebraska, New Jersey, Ohio, South Carolina, South Dakota, Utah, Wisconsin, Wyoming, and the Commonwealth of Kentucky, the Arizona Corporation Commission, the State of Louisiana Department of Environmental Quality, and the State of North Carolina 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 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).

Petitioners will show that the final rule is in excess of 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. 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: October 23, 2015

Respectfully submitted,



---

Patrick Morrisey  
Attorney General of West Virginia  
Elbert Lin  
Solicitor General  
*Counsel of Record*  
Misha Tseytlin  
General Counsel  
J. Zak Ritchie  
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/ Scott A. Keller

---

Ken Paxton  
Attorney General of Texas  
Charles E. Roy  
First Assistant Attorney General  
Bernard L. McNamee II  
Chief of Staff  
Scott A. Keller  
Solicitor General  
*Counsel of Record*  
P.O. Box 12548  
Austin, Texas 78711-2548  
Tel. (512) 936-1700  
Email: Scott.Keller@texasattorneygeneral.gov  
*Counsel for Petitioner State of Texas*

/s/ Andrew Brasher

Luther Strange  
Attorney General of Alabama  
Andrew Brasher  
Solicitor General  
*Counsel of Record*  
501 Washington Ave.  
Montgomery, AL 36130  
Tel. (334) 590-1029  
Email: abrasher@ago.state.al.us  
***Counsel for Petitioner State of Alabama***

/s/ John R. Lopez IV

Mark Brnovich  
Attorney General of Arizona  
John R. Lopez IV  
*Counsel of Record*  
Dominic E. Draye  
Keith Miller  
Assistant Attorneys General  
Maureen Scott  
Janet Wagner  
Janice Alward  
Arizona Corp. Commission,  
Staff Attorneys  
1275 West Washington  
Phoenix, AZ 85007  
Tel. (602) 542-5025  
Email: john.lopez@azag.gov  
***Counsel for Petitioner Arizona  
Corporation Commission***

/s/ Jamie L. Ewing

Leslie Rutledge  
Attorney General of Arkansas  
Jamie L. Ewing  
Assistant Attorney General  
*Counsel of Record*  
323 Center Street, Ste. 400  
Little Rock, AR 72201

Tel. (501) 682-5310  
Email: jamie.ewing@arkansasag.gov  
***Counsel for Petitioner State of Arkansas***

/s/ Frederick Yarger  
Cynthia H. Coffman  
Attorney General of Colorado  
Frederick Yarger  
Solicitor General  
*Counsel of Record*  
1300 Broadway, 10th Floor  
Denver, CO 80203  
Tel. (720) 508-6168  
Email: fred.yarger@state.co.us  
***Counsel for Petitioner State of Colorado***

/s/ Allen Winsor  
Pamela Jo Bondi  
Attorney General of Florida  
Allen Winsor  
Solicitor General of Florida  
*Counsel of Record*  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, FL 32399-1050  
Tel. (850) 414-3681  
Fax (850) 410-2672  
Email: allen.winsor@myfloridalegal.com  
***Counsel for Petitioner State of Florida***

/s/ Britt C. Grant  
Samuel S. Olens  
Attorney General of Georgia  
Britt C. Grant  
Solicitor General  
*Counsel of Record*  
40 Capitol Square SW  
Atlanta, GA 30334  
Tel. (404) 656-3300  
Fax (404) 463-9453

Email: [bgrant@law.ga.gov](mailto:bgrant@law.ga.gov)  
***Counsel for Petitioner State of Georgia***

/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  
Email: [tim.junk@atg.in.gov](mailto:tim.junk@atg.in.gov)  
***Counsel for Petitioner State of Indiana***

/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 SW 10th Avenue, 3d Floor  
Topeka, KS 66612  
Tel. (785) 368-8435  
Fax (785) 291-3767  
Email: [jeff.chanay@ag.ks.gov](mailto:jeff.chanay@ag.ks.gov)  
***Counsel for Petitioner State of Kansas***

/s/ Jack Conway

Jack Conway  
Attorney General of Kentucky  
*Counsel of Record*  
700 Capital Avenue  
Suite 118  
Frankfort, KY 40601  
Tel: (502) 696-5650  
Email: [Sean.Riley@ky.gov](mailto:Sean.Riley@ky.gov)

***Counsel for Petitioner Commonwealth of Kentucky***

/s/ Megan K. Terrell

James D. "Buddy" Caldwell  
Attorney General of Louisiana  
Megan K. Terrell  
Deputy Director, Civil Division  
*Counsel of Record*  
1885 N. Third Street  
Baton Rouge, LA 70804  
Tel. (225) 326-6705  
Email: TerrellM@ag.state.la.us

***Counsel for Petitioner State of Louisiana***

/s/ Donald Trahan

Herman Robinson  
Executive Counsel  
Donald Trahan  
*Counsel of Record*  
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  
Email: Donald.Trahan@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*  
P.O. Box 30212

Lansing, MI 48909  
Tel. (515) 373-1124  
Fax (517) 373-3042  
Email: LindstromA@michigan.gov  
***Counsel for Petitioner State of Michigan***

/s/ James R. Layton

Chris Koster  
Attorney General of Missouri  
James R. Layton  
Solicitor General  
*Counsel of Record*  
P.O. Box 899  
207 W. High Street  
Jefferson City, Missouri 65102  
Tel. (573) 751-1800  
Fax (573) 751-0774  
Email: 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, Montana 59620-1401  
Tel: (406) 444-7008  
Email: dales@mt.gov  
***Counsel for Petitioner State of Montana***

/s/ Justin D. Lavene

Doug Peterson  
Attorney General of Nebraska  
Dave Bydlaek  
Chief Deputy Attorney General  
Justin D. Lavene



Assistant Attorney General  
*Counsel of Record*  
2115 State Capitol  
Lincoln, NE 68509  
Tel. (402) 471-2834  
Email: justin.lavene@nebraska.gov  
***Counsel for Petitioner State of Nebraska***

/s/ Robert J. Kinney  
John J. Hoffman  
Acting Attorney General of New Jersey  
David C. Apy  
Assistant Attorney General  
Robert J. Kinney  
Deputy Attorney General  
*Counsel of Record*  
Division of Law  
R.J. Hughes Justice Complex  
P.O. Box 093  
25 Market Street  
Trenton, NJ 08625-0093  
Tel. (609) 292-6945  
Fax (609)341-5030  
Email: Robert.Kinney@dol.lps.state.nj.us  
***Counsel for Petitioner State of New Jersey***

/s/ Eric E. Murphy  
Michael DeWine  
Attorney General of Ohio  
Eric E. Murphy  
State Solicitor  
*Counsel of Record*  
30 E. Broad St., 17th Floor  
Columbus, OH 43215  
Tel. (614) 466-8980  
Email:  
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  
Email: ESmith@scag.gov  
***Counsel for Petitioner State of South  
Carolina***

/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  
Email: steven.blair@state.sd.us  
***Counsel for Petitioner State of South  
Dakota***

/s/ Parker Douglas

Sean Reyes  
Attorney General of Utah  
Parker Douglas  
Federal Solicitor  
*Counsel of Record*  
Utah State Capitol Complex  
350 North State Street, Suite 230  
Salt Lake City, Utah 84114-2320  
Email: pdouglas@utah.gov  
***Counsel for Petitioner State of Utah***

/s/ Delanie M. Breuer

Brad Schimel  
Attorney General of Wisconsin  
Andrew Cook  
Deputy Attorney General  
Delanie M. Breuer  
Assistant Deputy Attorney General  
*Counsel of Record*  
Wisconsin Department of Justice  
17 West Main Street  
Madison, WI 53707  
Tel: (608) 267-8901  
Email: Breuerdm@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  
Senior Assistant Attorney General  
123 State Capitol  
Cheyenne, WY 82002  
Tel. (307) 777-6946  
Fax (307) 777-3542  
Email: james.kaste@wyo.gov  
***Counsel for Petitioner State of Wyoming***

/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  
Email: sam.hayes@ncdenr.gov  
***Counsel for Petitioner North Carolina  
Department of Environmental Quality***

**CERTIFICATE OF SERVICE**

I hereby certify that I will cause to be served a true copy of the Petition for Review via U.S. mail on the 23rd day of October, 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



---

Elbert Lin  
*Counsel for Petitioner State of  
West Virginia*