

**IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

NATURAL RESOURCES DEFENSE
COUNCIL,

Petitioner,

v.

SECURITIES AND EXCHANGE
COMMISSION,

Respondent.

No. 24-1623

*Consolidated with
Nos. 24-1522 (Lead), 24-1624,
24-1626, 24-1627, 24-1628,
24-1631, 24-1633, 24-1634,
24-1685*

SIERRA CLUB, et al.,

Petitioners,

v.

SECURITIES AND EXCHANGE
COMMISSION,

Respondent.

No. 24-1633

*Consolidated with
Nos. 24-1522 (Lead), 24-1623,
24-1624, 24-1626, 24-1627,
24-1628, 24-1631, 24-1634,
24-1685*

**MOTION FOR LEAVE TO INTERVENE OF
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA
AND LONGVIEW CHAMBER OF COMMERCE**

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure, the Chamber of Commerce of the United States of America and the Longview Chamber of Commerce respectfully move for leave to intervene as a matter of right in the above-captioned cases.

In these cases, recently transferred from the U.S. Courts of Appeals for the Second and D.C. Circuits, a number of environmental groups—

the Natural Resources Defense Council, Sierra Club, and Sierra Club Foundation—seek review of the final rule of the Securities and Exchange Commission adopted in *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, Release Nos. 33-11275, 34-99678, issued on March 6, 2024. In the rule, the SEC dictated extensive climate-related disclosures that, by the SEC’s own estimate, will cost public companies more than \$2.3 billion per year. Among other requirements, the rule demands reporting of greenhouse-gas emissions in many scenarios, requires prescriptive, forward-looking disclosure of climate-related impacts on a company’s strategy, business model, and outlook, and mandates disclosing a company’s climate-related targets and goals.

The rule is the subject of several other petitions for review already pending in this Court, filed by the Chamber of Commerce^{*} and others, all of which have been consolidated with *State of Iowa, et al. v. SEC*, No. 24-1522, as the lead case. Unlike the Chamber of Commerce and other petitioners in the other consolidated cases, however, the environmental groups *agree* that the SEC has the “legal authority to require climate-based disclosures,” App. 2, and intend to argue that the SEC should have

^{*} *Chamber of Commerce of the U.S.A., et al. v. SEC*, No. 24-1628.

imposed even “*more*” requirements on public companies, including the Chamber of Commerce’s members, App. 5 (emphasis added). Sierra Club, for example, intends to argue that the SEC should have required public companies to disclose not only their *own* greenhouse-gas emissions, but also the emissions from the “use of [their] products” and across their “supply chains.” App. 3.

The U.S. Chamber of Commerce and the Longview Chamber of Commerce meet each requirement for intervention under the Federal Rules. *See Cameron v. EMW Women’s Surgical Center, P.S.C.*, 595 U.S. 267, 276-77 (2022). First, the Chambers have a direct interest in these proceedings. The U.S. Chamber, for example, is the world’s largest business federation; it represents 300,000 direct members, including thousands of public companies directly subject to the SEC’s new rule. *See, e.g.*, 24-1628 Motion for Stay App. 1397-1417 (Mar. 26, 2024). Second, this motion is timely. *See Fed. R. App. P. 15(d)*. Third, the Chambers’ members, who are the direct “subjects of the [SEC’s] regulatory plan,” will be substantially affected by this Court’s review of the SEC’s rule. *Conservation Law Foundation of New England, Inc. v. Mosbacher*, 966 F.2d 39, 43 (1st Cir. 1992). And, fourth, the SEC—as the sole party ad-

verse to the environmental groups in the above-captioned cases—“cannot be expected” to protect the “private interests” of the Chambers’ members. *Southwest Center for Biological Diversity v. Berg*, 268 F.3d 810, 823 (9th Cir. 2001); *cf.* Chair Gensler’s Remarks to the Chamber of Commerce at 40:10, <https://www.youtube.com/watch?v=udaYzcNBfXY&t=2410s> (Oct. 26, 2023) (informing the Chamber’s members that the SEC cannot be expected to protect their private interests because the SEC has “a different client base”). The Chambers’ intervention is thus appropriate and necessary to ensure that the business community’s interests are protected in the adversary proceeding between the SEC and the environmental groups.

Accordingly, the U.S. Chamber of Commerce and the Longview Chamber of Commerce respectfully request that they be granted leave to intervene to defend those portions of the final rule that refrained from imposing the additional disclosure requirements the environmental groups would have this Court require the SEC to impose. *See, e.g., New York v. EPA*, No. 19-1231, Docs. 1817507, 1819450 (D.C. Cir.) (similarly granting leave to the Chamber of Commerce to intervene in a case seeking to compel the government to impose additional requirements on

Chamber members); *Safer Chemicals, Healthy Families v. EPA*, No. 17-72260, Docs. 10, 23 (9th Cir.) (same).

CONCLUSION

The motion for leave to intervene of the Chamber of Commerce of the United States of America and the Longview Chamber of Commerce should be granted.

Dated: April 11, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2024, an electronic copy of the foregoing motion was filed with the Clerk of Court for the United States Court of Appeals for the Eighth Circuit using the appellate CM/ECF system, and service will be accomplished on all registered counsel by the appellate CM/ECF system.

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CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the parts exempted under Federal Rule of Appellate Procedure 27(d)(a)(2)(B), it contains 694 words.

I certify that this motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word 2019 in 14-point New Century Schoolbook LT.

I further certify that this motion has been scanned for viruses and is virus-free.

Dated: April 11, 2024

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