

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

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 FOUNDRY SOCIETY;)
AMERICAN FOREST & PAPER)
ASSOCIATION; AMERICAN IRON & STEEL)
INSTITUTE; AMERICAN WOOD COUNCIL;)
BRICK INDUSTRY ASSOCIATION;)
ELECTRICITY CONSUMERS RESOURCE)
COUNCIL; LIGNITE ENERGY COUNCIL;)
NATIONAL LIME ASSOCIATION;)
NATIONAL OILSEED PROCESSORS)
ASSOCIATION; and PORTLAND CEMENT)
ASSOCIATION,)

Petitioners,)

v.)

UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY; and GINA)
MCCARTHY, ADMINISTRATOR, UNITED)
STATES ENVIRONMENTAL PROTECTION)
AGENCY,)

Respondents.)

No. 15-1469
January 25, 2016

SUPPLEMENT TO AGENCY DOCKETING STATEMENT

6(e). Identify the basis of appellant’s/petitioner’s claim of standing. See

D.C. Cir. Rule 15(c)(2).

Petitioners have standing to challenge the rule at issue, “Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units,” 80 Fed. Reg. 64510 (Oct. 23, 2015) (the “Rule”), because their members include electric utility generating units directly regulated and injured by the Rule. In addition, Petitioners have standing because their members include companies that own significant coal reserves, whose value will be adversely affected by the Rule.

The Rule at issue is also a legal precondition to another final rule of the United States Environmental Protection Agency, “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units,” 80 Fed. Reg. 64662 (Oct. 23, 2015), which will impose substantial regulatory obligations on many of Petitioners’ members and will increase the cost of the electricity purchased by many of Petitioners’ members. The existing power plant rule (and the harm it inflicts on Petitioners’ members) could not legally exist without the Section 111(b) rule at issue in this case. *See* 80 Fed. Reg. 64,661, 64,702 (Oct. 23, 2015). This admitted link between the challenged rule and the undisputed harm stemming from the existing power plant rule satisfies the traceability required for standing.

6(f). Are any other cases involving the same underlying agency order pending in this Court or any other?

Counsel is aware of fifteen cases that have appeared before this Court challenging the same EPA rule:

- (1) *North Dakota v. EPA*, No. 15-1381
- (2) *Murray Energy Corp. v. EPA*, No. 15-1396
- (3) *Energy & Environment Legal Institute v. EPA*, No. 15-1397
- (4) *West Virginia, et al. v. EPA*, No. 15-1399
- (5) *Int'l Brotherhood of Boilermakers v. EPA*, No. 15-1434
- (6) *Peabody Energy Corp. v. EPA*, No. 15-1438
- (7) *Utility Air Regulatory Group, et al. v. EPA*, No. 15-1448
- (8) *National Mining Ass'n v. EPA*, No. 15-1456
- (9) *Indiana Utility Group v. EPA*, No. 15-1458
- (10) *United Mine Workers of America, AFL-CIO v. EPA*, No. 15-1463
- (11) *Alabama Power Co. v. EPA*, No. 15-1468
- (12) *Biogenic CO2 Coalition v. EPA*, No. 15-1480
- (13) *American Coalition for Clean Coal Electricity v. EPA*, No. 15-1481
- (14) *Luminant Generation Co. LLC v. EPA*, No. 15-1482
- (15) *National Rural Electric Cooperative Ass'n v. EPA*, No. 15-1484

Counsel is not aware of any cases pending before any other court that involve the same EPA rule.

6(g). Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?

One or more of the fifteen cases listed above may involve substantially the same issues as the instant case. Counsel is not aware of any other cases pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues.

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of January, 2016, I electronically filed the foregoing Agency Docketing Statement and Supplement To Agency Docketing Statement with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users.

/s/ Peter D. Keisler

Peter D. Keisler