

ORAL ARGUMENT NOT YET SCHEDULED

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

STATE OF WEST VIRGINIA, et al.

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, and REGINA A.
McCARTHY, Administrator, United States
Environmental Protection Agency

Respondents.

Case No. 15-1363

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

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY and GINA
McCARTHY, Administrator, United States
Environmental Protection Agency

Respondents.

Case No. 15-1386
(consolidated with No.
15-1363 and other
consolidated cases)

LUMINANT PETITIONERS'
RESPONSE IN SUPPORT OF MOTIONS TO STAY

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 (collectively, “Luminant Petitioners”), the Petitioners in Case No. 15-1386 (consolidated under Lead Case No. 15-1363), file this response in support of the six motions to stay the U.S. Environmental Protection Agency’s (“EPA”) Final Rule¹ at issue in this case pending completion of judicial review.² Luminant Petitioners submitted a declaration in support of the Utility Air Regulatory Group’s motion for stay of EPA’s Final Rule detailing the immediate and irreparable harm caused by the Final Rule to Luminant Petitioners.³ Luminant Petitioners also filed extensive comments addressing the legal flaws in

¹ *Carbon Pollution Emission Guidelines for Existing Sources: Electric Generating Units*, 80 Fed. Reg. 64,662 (October 23, 2015) (“Final Rule”).

² The six motions were filed by the Chamber of Commerce of the United States of America in Case No. 15-1382 (Doc. No. 1580020), the National Mining Association in Case No. 15-1367 (Doc. No. 1580004), the State of Oklahoma in Case No. 15-1364 (Doc. No. 1580577), the State of North Dakota in Case No. 15-1380 (Doc. No. 1580920), the State of West Virginia in Case No. 15-1363 (Doc. No. 1579999), and the Utility Air Regulatory Group in Case No. 15-1370 (Doc. No. 1580014).

³ Case No. 15-1370, Doc. No. 1580014, at 665–88 (Oct. 23, 2015).

EPA's proposed rule.⁴ For the reasons set out in Luminant Petitioners' declaration and comments and the pending motions to stay, Luminant Petitioners support the motions and request that the Court stay the Final Rule.

Dated: October 30, 2015

Respectfully submitted,

/s/ P. Stephen Gidiere III

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⁴ Comments of Luminant Generation Company LLC on the Proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units, EPA-HQ-OAR-2013-0602-33559 (Dec. 1, 2014).

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2015, one copy of Luminant Petitioners' Response in Support of Motions to Stay was served electronically through the Court's CM/ECF system on all registered counsel.

/s/ P. Stephen Gidiere III
Counsel for Petitioners