# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 15-1363** **September Term, 2016**

**EPA-80FR64662**
**EPA-82FR4864**

**Filed On:** April 28, 2017

State of West Virginia, et al.,

Petitioners

v.

Environmental Protection Agency and E. Scott Pruitt, Administrator, United States Environmental Protection Agency,

Respondents

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American Wind Energy Association, et al.,

Intervenors

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Consolidated with 15-1364, 15-1365, 15-1366, 15-1367, 15-1368, 15-1370, 15-1371, 15-1372, 15-1373, 15-1374, 15-1375, 15-1376, 15-1377, 15-1378, 15-1379, 15-1380, 15-1382, 15-1383, 15-1386, 15-1393, 15-1398, 15-1409, 15-1410, 15-1413, 15-1418, 15-1422, 15-1432, 15-1442, 15-1451, 15-1459, 15-1464, 15-1470, 15-1472, 15-1474, 15-1475, 15-1477, 15-1483, 15-1488

**BEFORE:** Garland*, Chief Judge, and Henderson, Rogers, Tatel, Brown, Griffith, Kavanaugh, Srinivasan, Millett, Pillard, and Wilkins, Circuit Judges

**O R D E R**

Upon consideration of the joint motion of the Utility Air Regulatory Group and American Public Power Association and LG&E and KU Energy LLC to sever and consolidate, the oppositions thereto, the response to the joint motion, and the joint reply; the joint motion of Entergy Corporation, Westar Energy, Inc., and NorthWestern Corporation to sever and consolidate, the opposition thereto, the response to the motion, and the reply; the motion of National Association of Home Builders to sever and consolidate, the opposition thereto, the response to the motion, and the reply;

* Chief Judge Garland did not participate in this matter.

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the motion of petitioners States of West Virginia, Texas, Alabama, Arkansas, Georgia, Indiana, Kansas, Louisiana, Montana, Nebraska, New Jersey, Ohio, South Carolina, South Dakota, Utah, Wisconsin, Wyoming and the Arizona Corporation Commission, the State of Mississippi Department of Environmental Quality, and the State of Mississippi Public Service Commission to sever and consolidate, and the opposition thereto, and the response to the motion, and the reply; the motion of the State of North Dakota to sever and consolidate, the oppositions thereto, and the response to the motion, and the reply; the motion of Denbury Onshore, LLC to sever and consolidate, and the opposition thereto, and the response to the motion; the motion of Basin Electric Power Cooperative to sever and consolidate, and the opposition thereto, and the response to the motion; the motion of EPA to hold cases in abeyance, the response in support, the corrected opposition with supplement, the oppositions to the motion, and the reply, and in light of the vote by a majority of judges eligible to participate, it is

**ORDERED** that the motion to hold the cases in abeyance be granted to the extent that these consolidated cases be held in abeyance for 60 days from the date of this order. EPA is directed to file status reports at 30-day intervals beginning 30 days from the date of this order. It is

**FURTHER ORDERED** that the parties file supplemental briefs addressing whether these consolidated cases should be remanded to the agency rather than held in abeyance. The supplemental briefs are due at 4:00 p.m. on May 15, 2017, and may not exceed 3,900 words if produced using a computer or 15 pages if typewritten or handwritten. To the extent possible, the parties are to file jointly. The court looks with extreme disfavor upon duplicative submissions. The parties are to hand-deliver 30 paper copies of their submission to the court by the time and date due. It is

**FURTHER ORDERED** that consideration of the motions to sever and consolidate be deferred pending further order of the court.

**Per Curiam**

**FOR THE COURT:**
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk