

Clean Power Plan: National Rural Electric Cooperative Association/Other Groups Brief Supporting U.S. Supreme Court Request for Stay



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Arkansas Environmental, Energy, and Water Law Blog

02/08/2016

The National Rural Electric Cooperative Association, utilities (including various electric cooperatives) and other groups (collectively, "NRECA") filed a February 5th Reply Brief in the United States Supreme Court in support of a motion for an immediate stay of the United States Environmental Protection Agency ("EPA") Clean Power Plan.

The NRECA brief replies to an EPA response opposing such a stay.

NRECA had previously submitted a Petition to the United States Supreme Court Chief Justice Roberts asking for a stay on the Clean Power Plan.

NRECA notes that EPA argued that imposing such a stay is extraordinary. The organizations respond that the Clean Power Plan is extraordinary arguing that:

- EPA conceded a lack of expertise in regulating power generation
- Clean Power Plan transforms the nation's power sector in a very short time
- The federal agency lacks statutory authority for the Clean Power Plan
- EPA fails to understand (or to acknowledge) what its action is doing to the power sector

The reply brief argues:

EPA's action is both unprecedented and unfounded, and it warrants this Court's intervention.

In further support of its argument for a stay, NRECA states that the Clean Power Plan requires immediate action. The statement responds to an EPA claim that because the initial compliance period does not begin until 2022 the stay is not needed. The reply brief states:

... but EPA has acknowledged that about 70% of the rule's 2030 emission reductions must be achieved *before 2022*. And both Utility Applicants and the nation's power sector experts have explained that the resources and infrastructure the rule requires will take years to develop. Long lead times, often more than five years and in many instances as many as seventeen, are required to design, plan, permit, and site the needed renewable projects, *as well as the associated infrastructure* needed to transmit energy from those projects and (in the case of new gas-fired units) to get gas to those units. ...

[Click here to download a copy of the reply brief.](#)