

**ARGUED APRIL 13, 2012  
DECIDED AUGUST 21, 2012**

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

EME HOMER CITY GENERATION, L.P.,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 11-1302 (and
	)	consolidated cases)
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY, et al.,	)	Complex
	)	
Respondents.	)	
	)	

**RESPONDENTS’ MOTION TO FILE A CONSOLIDATED REPLY  
IN SUPPORT OF MOTION TO GOVERN FURTHER PROCEEDINGS**

Respondents United States Environmental Protection Agency (“EPA”), et al., hereby move for leave to file a single standard-length reply in support of its Motion to Govern Further Proceedings by July 28, 2014. The undersigned counsel has contacted counsel for the other parties. No party has stated that it opposes the motion. Counsel for the Luminant Petitioners, Entergy Corporation, Northern States Power Co-Minnesota, Southwestern Public Service Co., Western Farmers Electric Cooperative, Louisiana Attorney General, Louisiana Department of Environmental Quality, Louisiana Public Service Commission, Southern Company Services, et al., Calpine Corp., State of Michigan, EME Homer City Generation,

L.P., CPI North Carolina, Utility Air Regulatory Group, National Mining Association, American Lung Association, et al., Dairyland Power Cooperative, State of Kansas, International Brotherhood of Electrical Workers, Wisconsin Public Service Corp., National Rural Electric Cooperative Association, State of North Carolina, Kansas City Board of Public Utilities, et al., City of Chicago, State and Local Government Petitioners, Exelon Corporation, and City of Ames, Iowa have represented that they do not oppose this motion. No response was received from the other parties.

These cases involve review of EPA's final rule known as the Transport Rule.<sup>1</sup> On April 29, 2014, the Supreme Court issued a decision in favor of EPA, reversing this Court's August 21, 2012 decision vacating the Transport Rule and remanding the case back to this Court for further proceedings. *Environmental Protection Agency v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). By Order dated June 3, 2014, ECF No. 1495788, this Court ordered the parties to submit motions to govern future proceedings.

EPA filed its motion July 3, 2014, ECF No. 1500830, and responses to that motion are due July 17, 2014. However, one response, by the Luminant

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<sup>1</sup> "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals," 76 Fed. Reg. 48,208 (Aug. 8, 2011).

petitioners, was filed July 10, 2014. ECF No. 1501970. EPA's reply to that response is currently due July 21. EPA anticipates that further responses will be filed on or before the due date of July 17. EPA further anticipates that there will be significant overlap in the responses. To avoid burdening the Court with multiple filings, EPA requests that the Court provide that EPA may file a consolidated standard-length reply to all responses to its motion to govern further proceedings by July 28, 2014, which would be the due date for replying to responses filed on the due date of July 17.

DATED: July 14, 2014

Respectfully submitted,

SAM HIRSCH

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/s/ Norman L. Rave, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing documents were served this 14th day of July, 2014, on all registered counsel, through the Court's CM/ECF system.

/s/ Norman L. Rave, Jr.

Norman L. Rave, Jr.

United States Department of Justice  
Counsel for Respondents