

ORAL ARGUMENT NOT SCHEDULED**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Murray Energy Corporation,

Petitioner,

v.

United States Environmental
Protection Agency,

Respondent.

No. 15-1385

(Consolidated with Nos. 15-1392, 15-1490,
15-1491, 15-1494)

**UNOPPOSED MOTION TO EXTEND THE DEADLINE FOR EPA'S
RESPONSE TO STATE PETITIONERS' MOTION TO LIFT ABEYANCE**

Respondent, the United States Environmental Protection Agency (EPA), pursuant to Federal Rule of Appellate Procedure 26(b) and Circuit Rule 27(h)(1), respectfully requests that the Court grant an eleven-day extension of its deadline to respond to State Petitioners¹ and associated State Intervenors² Motion to Lift Abeyance, Doc. No. 1731770. EPA's new deadline to respond to the Motion to Lift

¹ State of Arizona, State of Arkansas, New Mexico Environment Department, State of North Dakota, and State of Oklahoma (No. 15-1392); State of Texas and Texas Commission on Environmental Quality (No. 15-1494).

² The States of Wisconsin, Utah and Kentucky and the State of Louisiana moved to intervene in support of Petitioners in the petition filed by the State of Arizona, et al. (No. 15-1392).

Abeyance would be June 8, 2018. Industry Petitioners³ and Industry Intervenors,⁴ Environmental Petitioners⁵ and Environmental Intervenors,⁶ State Intervenors⁷ (California et al.) do not oppose this motion to extend.

In support of this Motion, EPA states the following:

1. Petitioners in the five consolidated cases captioned above challenge the EPA's final action under the Clean Air Act titled, "National Ambient Air Quality Standards for Ozone," 80 Fed. Reg. 65,292 (Oct. 26, 2015) (the Ozone NAAQS).
2. On April 11, 2017, the Court ordered that these consolidated cases be held in abeyance pending further order of the Court.

³ Murray Energy Corporation (No. 15-1385); Chamber of Commerce of the United States of America, National Association of Manufacturers, American Petroleum Institute, Utility Air Regulatory Group, Portland Cement Association, American Coke and Coal Chemicals Institute, Independent Petroleum Association of America, National Oilseed Processors Association, American Fuel and Petrochemical Manufacturers (No. 15-1491).

⁴ Petitioners in No. 14-1491 (Chamber of Commerce of the United States of America, et al.), along with other industry trade associations moved to intervene in support of Respondents in No. 15-1490.

⁵ Sierra Club, Physicians for Social Responsibility, National Parks Conservation Association, Appalachian Mountain Club, West Harlem Environmental Action, Inc. (No. 15-1490).

⁶ American Lung Association, Sierra Club, Natural Resources Defense Council and Physicians for Social Responsibility moved to intervene in support of Respondents in all petitions except for the one filed by Sierra Club, et al. (No. 15-1490).

⁷ States of California, New York, Rhode Island, Vermont, and Washington; the Commonwealth of Massachusetts; the Delaware Department of Natural Resources & Environmental Control; and the District of Columbia were granted intervenor status by order dated August 2, 2017.

3. On May 18, 2018, State Petitioners and associated State Intervenors filed a motion to lift abeyance immediately, or in the alternative, to schedule the abeyance to expire by August 1, 2018, such that oral argument in September 2018 is possible.

4. Under Federal Rule of Appellate Procedure 27(a)(3), EPA's response to this motion must be filed within 10 days of May 18, 2018, unless the Court grants an extension.

5. Undersigned DOJ counsel for EPA will be out of the office from May 21 to May 28, 2018, and her co-counsel is currently on parental leave.

6. Given the limited availability of counsel, the parties respectfully request that the Court extend the deadline to respond to the motion to lift abeyance by eleven days to June 8, 2018.

7. This motion is timely filed pursuant to Circuit Rule 27(h)(1).

8. This extension will not unduly prejudice any party.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATIONS**

I hereby certify that this motion complies with type-volume limitations because a proportionally-spaced typeface of 14-points was used and the word count calculated by the word processor software is 759 words.

/s/ Simi Bhat
SIMI BHAT

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Simi Bhat
SIMI BHAT