



Suing and Spewing

The Massive Pollution Behind the Fight to Overturn the Clean Power Plan

By Erin Auel June 24, 2016

The Clean Power Plan, or CPP, was finalized by the U.S. Environmental Protection Agency, or EPA, on August 5, 2015, and establishes the first-ever standards for carbon emissions from power plants. The CPP will help the United States reduce the pollution that causes increased global temperatures, rising sea levels, and other effects of climate change.¹ According to the Energy Information Administration—a federal agency that collects and analyzes data on energy production and usage—the CPP will reduce the power sector’s carbon pollution by 35 percent below 2005 levels by 2030.² This puts annual pollution levels more than 400 million metric tons lower than their projected totals without the CPP in place. The power producers who would be responsible for achieving these emissions reductions have had a mixed response to the plan. Some power producers have supported the CPP, recognizing business opportunities in a growing clean energy sector. Some have remained neutral pending judicial review of the rule while other power producers are opposing the CPP altogether, because they are heavily invested in higher-polluting electricity generation.

On October 23, 2015, electric power producers, trade associations, coal companies, and 24 state attorneys general filed suit against the EPA to block implementation of—and ultimately undo—the CPP.³ Subsequently, the U.S. Supreme Court ordered a stay of the CPP and halted implementation requirements of states’ emissions reductions plans until the D.C. Circuit Court of Appeals reviews the rule on its merits. The court will hear oral arguments on this case—*State of West Virginia, et al. v. United States Environmental Protection Agency, et al.*—on September 27, 2016. Much of the opposition to the CPP comes from power producers and the trade associations that represent them—both of these groups have a vested interest in continuing to pollute at current levels. This issue brief details the amount of carbon pollution emitted by the largest power producers that are affiliated with the lawsuit against the CPP in order to demonstrate the significant effect these entities have on domestic and international efforts to curtail climate change.

Power sector petitioners

Some of the electric power producers that will be affected by implementation of the CPP—including the Southern Company, a large integrated electric utility; NRG Energy Inc.; and Energy Future Holdings Corp.—are litigating as petitioners. More information on these companies and their reasons for suing the EPA are listed below.

Other companies are affiliated with the litigation through their membership in trade associations that are suing the EPA in this case. As noted in *West Virginia v. EPA*, “Trade association Petitioners have standing on behalf of their members.”⁴ These trade associations do not always make their membership rosters publicly available—a practice that can conceal the identity of individual power producers that might intentionally be supporting litigation anonymously. Conversely, even in cases where a trade association’s membership is made public, the member companies may have had other reasons for joining the trade association and may be, in fact, neutral or even supportive of the EPA’s actions. For example, Dominion Resources Inc. and the Los Angeles Department of Water and Power filed amicus briefs in support of the CPP while also remaining members of a litigating trade association.⁵

Below are some of the key identified litigants in *West Virginia v. EPA*.

American Coalition for Clean Coal Electricity, or ACCCE

ACCCE advocates for the continued use of coal in the U.S. power sector, albeit through so-called cleaner technologies. On behalf of their members, ACCCE has fought against the EPA and its efforts to set stronger standards against urban smog.⁶ In addition to its lawsuit, ACCCE has also launched a messaging campaign against the CPP, claiming it poses a “major threat to electric reliability” and pointing to emissions from other countries to suggest that the United States should not act to reduce domestic emissions.⁷ ACCCE identified itself as a member of the Utility Air Regulatory Group, or UARG, in 2014.⁸

American Public Power Association, or APPA

The APPA represents public power producers that supply power to 14 percent of electricity consumers nationwide.⁹ They have a long history of fighting the EPA’s emissions standards, including standards to ensure clean, breathable air, claiming that such measures would be burdensome for public utilities.¹⁰ The APPA often points to a downward trajectory for emissions levels, asserting that power producers are already taking the needed steps without regulations. They have filed a joint suit with UARG against the CPP, claiming it “tries to do too much too fast for public power utilities and their customers in many states.”¹¹

National Rural Electric Cooperative Association, or NRECA

The NRECA represents more than 900 rural electric cooperatives that account for 12 percent of domestic electricity sales.¹² These cooperatives are owned by rural ratepayers and produce about 70 percent of their power from coal, as compared to the average for all utility power of 37 percent.¹³ The NRECA has sued the EPA over the CPP and has opposed the EPA's regulations in the past, including its updates in standards for urban smog and the Mercury and Air Toxic Standards, or MATS, which reduces toxic pollution from power plants.¹⁴ It claims that such standards would cause stranded assets and force consumers to pay the bill.¹⁵

Utility Air Regulatory Group, or UARG

UARG is a group of individual generating companies and it exists to litigate environmental standards. A current list of its member companies is not publicly maintained. While UARG has no website and last released a list of its members in 2006, its team of lawyers has pursued multiple lawsuits against the EPA, including the EPA's standards for toxic air pollution and urban smog, and regulation of carbon pollution.¹⁶ UARG claims the CPP sets targets that are too ambitious for the mandated time frame.¹⁷ An addendum to the docketing statement for *West Virginia v. EPA* from UARG and the APPA states that, "Although UARG and APPA members could participate in this litigation individually, they have chosen to participate as a group, and given the nature of the claims asserted and the relief requested, no reason exists to require participation by members individually."¹⁸

Southern Company

Southern and its many subsidiaries compose the third-largest generating company in the United States. On behalf of the Alabama Power, Georgia Power, Gulf Power, and Mississippi Power companies, Southern is suing the EPA over the CPP, claiming the compliance timeline is too short and too costly.¹⁹ Additionally, Southern and its subsidiaries are members of ACCCE and UARG.²⁰

NRG Energy Inc.

NRG Energy Inc. is a publicly traded, integrated power company that owns generation assets across the country. On behalf of 10 of its subsidiaries, NRG Energy Inc. filed suit against the EPA as well, on the grounds that the rule is "arbitrary and capricious, contrary to the United States Constitution and the Clean Air Act ... and is otherwise contrary to law."²¹

Energy Future Holdings Corp.

Energy Future Holdings is a privately held energy company—the largest power producer in Texas—and the parent company of Luminant and TXU Energy.²² On behalf of these and other subsidiaries, it joined the suit against the CPP.²³ In addition to this lawsuit, Energy Future Holdings sued the EPA over air-quality standards and limits on toxic air pollution.²⁴ Through Luminant, Energy Future Holdings is also a member of UARG—as disclosed in Luminant’s 2014 comments to the EPA.²⁵

Emissions from power producers affiliated with the lawsuit

The Center for American Progress identified the 100 electric power producers with the most power generation in 2013—as detailed in the Methodology section of this issue brief—and compared them with the corporate and association petitioners in the suit against the EPA. CAP then tallied the carbon dioxide emissions from the power producers that are affiliated with the lawsuit directly or indirectly.

Again, although membership in a trade association does not in itself mean that a company opposes the CPP, it is fair to include these emissions in calculations about the emissions of the litigants, because the trade associations have standing to sue on the basis of their members. Additionally, if the member companies disagree with the trade association’s position on the CPP lawsuit, they can withdraw their membership. This is not without precedent. For example, in 2009, Exelon withdrew from the U.S. Chamber of Commerce over their position on climate change policy.²⁶

CAP found that 43 of the top-100 electric power producers are directly or indirectly affiliated with the lawsuit. Some key findings include:

- In 2013 alone, these power producers emitted nearly 1.2 billion tons of carbon dioxide, or 21 percent of the United States’ total carbon pollution that year.²⁷
- In one year, the power producers affiliated with the lawsuit polluted as much carbon dioxide as 129 countries combined. This means that if the power producers were their own country, they would be the 6th biggest CO₂ emitter in the world.²⁸
- The carbon pollution from these power producers was greater than that of 6 of the 10 top economies in the world.²⁹
- It would take more than 30 billion new trees growing for 10 years to offset the carbon pollution that the power producers emit in one year.³⁰

TABLE 1
Power producers' CO2 emissions and litigating status

The following entities are affiliated with the lawsuit to undo the Clean Power Plan

Power producers	2013 CO2 emissions, by tons	Suing the EPA	Member of a group suing the EPA
Duke Energy	136,952,436		✓
American Electric Power	134,102,045		✓
Southern Company	107,556,354	✓	✓
NRG Energy Inc.	83,761,255	✓	
Tennessee Valley Authority	68,724,445		✓
FirstEnergy	67,046,238		✓
Energy Future Holdings Corp.	61,210,925	✓	✓
DTE Energy	38,691,141		✓
Entergy Services Inc.	38,429,818	✓	
Dominion Resources Inc.*	36,564,733		✓
Ameren Corp.	33,045,776		✓
Edison Mission Energy**	28,402,318	✓	
Westar Energy Group	25,406,531	✓	
Wisconsin Energy Corp.	22,808,245		✓
Basin Electric Power Cooperative	21,482,582	✓	✓
CMS Energy	20,444,753		✓
Salt River Project	19,529,071		✓
General Electric	16,353,326		✓
Santee Cooper	16,160,930		✓
Pinnacle West Capital Corp.	14,958,001		✓
NiSource Inc.	14,659,277		✓
Associated Electric Cooperative Inc.	14,585,467	✓	✓
Tri-State Generation and Transmission Association Inc.	14,047,696	✓	✓
JEA	12,032,668		✓
Nebraska Public Power District	11,974,610		✓
Allele	11,704,892	✓	✓
Great River Energy	11,558,080		✓
Big Rivers Electric Corp.	11,145,261	✓	✓
Arkansas Electric Cooperative Corp.	11,066,112		✓
East Kentucky Power Cooperative	10,396,648	✓	✓
Lower Colorado River Authority	9,839,665		✓
Buckeye Power	9,803,808	✓	✓
Oglethorpe Power Corp.	9,490,762	✓	✓
Seminole Electric Cooperative Inc.	9,349,811	✓	✓
Hoosier Energy Rural Electric Cooperative	7,150,556	✓	✓
Los Angeles City*	6,831,361		✓

Power producers	2013 CO2 emissions, by tons	Suing the EPA	Member of a group suing the EPA
Occidental Chemical Corp.	6,491,309		✓
Grand River Dam Authority	6,273,301		✓
Dow Chemical	5,746,793		✓
Exxon Mobil Corp.	4,740,664		✓
Brazos Electric Power Cooperative	3,615,188	✓	✓
BP	2,411,030		✓
International Paper	794,803		✓
Total emissions from power producers affiliated with lawsuit	1,197,340,685		

* Indicates entity that filed an amicus brief in support of the EPA and the Clean Power Plan. See Brief of Amicus Curiae Dominion Resources Inc. in support of respondents, State of West Virginia et al., Petitioners, v. United States Environmental Protection Agency, Regina McCarthy, Administrator, United States Environmental Protection Agency, Respondents, United States Court of Appeals for the District of Columbia Circuit (April 1, 2016) (Case No. 15-1363), available at https://www.edf.org/sites/default/files/content/dominion_resources_inc.pdf.

** Company has since merged with NRG Energy Inc., a litigant in the case. See Jim Polson and Mark Chediak, “NRG Energy to Buy Edison Mission Energy for \$2.64 Billion,” Bloomberg, October 18, 2013, available at <http://www.bloomberg.com/news/articles/2013-10-18/nrg-energy-agrees-to-purchase-edison-mission-energy>.

Source: For CO2 emissions data, see Christopher E. Van Atten and others, “Benchmarking Air Emissions of the 100 Largest Electric Power Producers in the United States” (2015), available at <https://www.nrdc.org/sites/default/files/benchmarking-2015.pdf>. Full citations for each power producer’s affiliation with the lawsuit are listed in the appendix to the issue brief.

Methodology

To identify the top-100 power producers in terms of power generation and carbon emissions, CAP referred to M.J. Bradley & Associates LLC and Natural Resources Defense Council’s 2015 joint report, “Benchmarking Air Emissions of the 100 Largest Electric Power Producers in the United States.”³¹ From this list, CAP identified companies that are litigants in *West Virginia v. EPA* and the consolidated cases.³² CAP then identified companies that hold membership in at least one of the nine trade associations that have filed suit against the EPA. As noted above, several of the trade associations do not list members publicly. In these cases, the author used one of three sources to determine each power producers’ membership: self-identification of membership in 2015 or 2016; power producers’ membership as disclosed in 2014 comments on the proposed CPP; and phone calls to power producers to request confirmation of current membership based on sources other than the aforementioned categories.

ACCCE, the American Coke and Coal Chemicals Institute, the American Chemistry Council, the NRECA, and the National Mining Association all have public membership lists—all of which are cited in the appendix of this issue brief. The National Association of Manufacturers releases a quarterly list of affiliated organizations.³³ The APPA’s members are not publicly disclosed, and that association also did not respond to CAP’s request for a member list. The U.S. Chamber of Commerce also officially states that they “will not confirm the membership status of organizations.”³⁴

Determining whether power producers were members of UARG posed a unique challenge, because UARG’s only public activities are its comments to and lawsuits against the EPA. UARG does not have a website or provide information on their leadership. CAP aimed to identify which power producers were members of UARG through open source information and power producers’ self-identification by following the methods above. CAP also contacted UARG’s legal representative to request a list of current members, but received no response.

The Appendix to this issue brief lists each of the power producers, their affiliations, and the sources that confirmed these affiliations.

Conclusion

The power producers currently affiliated with the lawsuit to block the EPA's Clean Power Plan are responsible for 1.2 billion tons of carbon pollution each year. The undoing of the CPP would not only set the United States back from meeting its greenhouse gas emissions goals, but it would also allow these power producers to avoid curbing their pollution.

Erin Auel is a Research Assistant at the Center for American Progress.

The author thanks Greg Dotson, Alison Cassady, and Praveen Madhiraju with the Center for their contributions. She also thanks Lauren Vicary, Emily Haynes, Victoria Ford, and Erin Whalen with CAP's Art and Editorial team.

Appendix

This appendix lists each of the power producers in the figure of the issue brief. It indicates if each producer is a petitioner in *State of West Virginia, et al. v. United States Environmental Protection Agency, et al.* and cites its memberships in petitioning groups. A list of each of the petitioning groups is printed below, followed by the list of power producers, which are ranked in order of 2013 CO₂ emissions from highest to lowest.

Petitioning groups

Petitioning groups with publicly available membership lists

American Coalition for Clean Coal Electricity, or ACCCE:

<http://www.americaspower.org/about-accce/bios/members/>

American Coke and Coal Chemicals Institute, or ACCCI:

<http://www.accci.org/members.html>

American Chemistry Council, or ACC:

<https://www.americanchemistry.com/Membership/MemberCompanies#Regular>

National Rural Electric Cooperative Association, or NRECA:

<http://www.nreca.coop/about-electric-cooperatives/member-directory/>

National Association of Manufacturers, or NAM:

<http://documents.nam.org/LAW/Q1-2016.pdf>

National Mining Association, or NMA:

<http://www.nma.org/index.php/member-list>

Petitioning groups without publicly available membership lists

American Public Power Association, or APPA

U.S. Chamber of Commerce

Utility Air Regulatory Group, or UARG

Power producers

Duke Energy

Utility Air Regulatory Group

Duke Energy has been a UARG member since 2006.

Personal communication with a representative from Duke Energy, April 21, 2016; Utility Air Regulatory Group, “Comments of The Utility Air Regulatory Group On National Ambient Air Quality Standards For Particulate Matter; Proposed Rule 71 Fed. Reg. 2620 (January 17, 2006) and Revisions to Ambient Air Monitoring Requirements 71 Fed. Reg. 2710 (January 17, 2006)” (2006), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2001-0017-1629>.

American Electric Power, or AEP

American Coalition for Clean Coal Electricity

ACCCE lists AEP as a member.

American Coalition for Clean Coal Electricity, “Members,” available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016).

National Association of Manufacturers

AEP self-identifies as a NAM member.

American Electric Power, “American Electric Power Company, Inc. Statement on Political Involvement and Lobbying-Related Activities,” available at <http://aep.com/investors/corporateleadersandgovernance/docs/political/AEPlobbyingactivities2013-02.pdf> (last accessed May 2016).

Utility Air Regulatory Group

AEP self-identifies as a UARG member.

American Electric Power, “Carbon & Climate,” available at <http://www.aepsustainability.com/environment/regulations/carbon.aspx> (last accessed May 2016).

Southern Company

Southern Company filed suit against the EPA on behalf of subsidiaries.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

American Public Power Association

APPA identified Georgia Power—the largest subsidiary of the Southern Company—as a member in 2014 comments on the proposed Clean Power Plan.

James J. Nipper and others, “Comments of the American Public Power Association (APPA) on EPA’s Section 111(d) Proposed Rule for Carbon Dioxide Emissions from Existing EGUs EPA-HQ-OAR-2013-0602” (Arlington, VA: American Public Power Association, 2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22871>.

American Coalition for Clean Coal Electricity

ACCCE lists Southern Company as a member.

American Coalition for Clean Coal Electricity, “Members,” available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016).

National Association of Manufacturers

Christopher C. Womack, executive vice president and president of external affairs for Southern Company, is a NAM executive committee member. Southern Company disclosed 2015 contributions to National Association of Manufacturers. NAM also lists Southern Company as an affiliated organization.

National Association of Manufacturers, “Board of Directors,” available at <http://www.nam.org/About/Board-of-Directors/> (last accessed May 2016); Southern Company, “Political Contributions,” available at <http://investor.southerncompany.com/English/information-for-investors/corporate-governance/political-contributions/default.aspx> (last accessed May 2016); National Association of Manufacturers, “NAM Affiliated Organizations” available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).

U.S. Chamber of Commerce

Christopher C. Womack, executive vice president and president of external affairs for Southern Company, is a U.S. Chamber of Commerce board member. Southern Company disclosed 2015 contributions to the U.S. Chamber of Commerce.

U.S. Chamber of Commerce, “Board of Directors,” available at <https://www.uschamber.com/about-us/board-directors> (last accessed May 2016); Southern Company, “Political Contributions,” available at <http://investor.southerncompany.com/English/information-for-investors/corporate-governance/political-contributions/default.aspx> (last accessed May 2016).

Utility Air Regulatory Group

Southern Company self-identifies as a UARG member.

Southern Company, “Legislative & Regulatory Participation,” available at <http://www.southerncompany.com/about-us/leadership/legislative.cshtml> (last accessed May 2016).

NRG Energy

NRG Energy filed suit against EPA on behalf of subsidiaries.

Brief for Petitioner, *State of West Virginia v. EPA*, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

Tennessee Valley Authority, or TVA

American Public Power Association

APPA identified TVA as a member in 2014 comments on the proposed Clean Power Plan.

James J. Nipper and others, “Comments of the American Public Power Association (APPA) on EPA’s Section 111(d) Proposed Rule for Carbon Dioxide Emissions from Existing EGUs EPA-HQ-OAR-2013-0602” (Arlington, VA: American Public Power Association, 2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22871>.

National Rural Electric Cooperative Association

TVA is listed as a NRECA member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

FirstEnergy

Utility Air Regulatory Group

FirstEnergy self-identified as a UARG member in 2014 comments on proposed Clean Power Plan.

Raymond L. Evans, “FirstEnergy Corp. Comments on Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units” (Akron, OH: FirstEnergy, 2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24943>.

Energy Future Holdings

Energy Future Holdings filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

Utility Air Regulatory Group

Luminant Generation Company LLC—a subsidiary of Energy Future Holdings—self-identified as a UARG member in 2014 comments on the proposed Clean Power Plan.

Luminant Generation Company LLC, “Comments on EPA’s Proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, Docket EPA-HQ-OAR-2013-0602, 79 Federal Register 34,830 (June 18, 2014)” (2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-33559>.

National Association of Manufacturers

NAM lists Luminant Generation Company LLC—a subsidiary of Energy Future Holdings—as a 2016 affiliated organization.

National Association of Manufacturers, “NAM Affiliated Organizations,” available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).

DTE Energy

American Coke and Coal Chemicals Institute

DTE Energy is listed as a ACCCI member.

American Coke and Coal Chemicals Institute, “Current ACCCI Members,” available at <http://www.accci.org/members.html> (last accessed May 2016).

National Association of Manufacturers

NAM lists DTE Energy as a 2016 affiliated organization.

National Association of Manufacturers, “NAM Affiliated Organizations,” available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).

Utility Air Regulatory Group

DTE Energy self-identified as a UARG member in 2014 comments on the proposed Clean Power Plan.

DTE Energy, “Comments of DTE Energy on EPA’s Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, Docket No. EPA-HQ-OAR-2013-0602” (2014), available at <https://www.regulations.gov#!documentDetail;D=EPA-HQ-OAR-2013-0602-24061>.

Entergy Services Inc.

Entergy Services Inc. filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

Dominion Resources Inc.

National Association of Manufacturers

Dominion Resources Inc. is listed as a 2016 affiliated organization.

National Association of Manufacturers, “NAM Affiliated Organizations,” available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).

Ameren Corp.

National Association of Manufacturers

Ameren disclosed 2015 contributions to NAM.

Ameren, “Trade Association Dues,” available at <https://www.ameren.com/-/media/corporate-site/Files/Investors/Lobbying.pdf> (last accessed May 2016).

Edison Mission Energy

Edison Mission Energy is a subsidiary of NRG, which filed suit against the EPA.

Jim Polson and Mark Chediak, “NRG Energy to Buy Edison Mission Energy for \$2.64 Billion,” Bloomberg, October 18, 2013, available at <http://www.bloomberg.com/news/articles/2013-10-18/nrg-energy-agrees-to-purchase-edison-mission-energy>; Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

Westar Energy Group

Westar Energy Group filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

Wisconsin Energy Corp.

Utility Air Regulatory Group

Wisconsin Energy Corp. self-identified as a UARG member in 2014; Officials did not respond to request for confirmation of current membership.

Wisconsin Energy Corp., “2014 Corporate Responsibility Report” (2014), available at http://www.wecenergygroup.com/csr/cr2014/cr_2014.pdf.

Basin Electric Power Cooperative

Basin Electric Power Cooperative filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

National Rural Electric Cooperative Association

Basin Electric Power Cooperative is listed as a NRECA member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

CMS Energy

Utility Air Regulatory Group

Consumers Energy—the main subsidiary of CMS Energy—self-identified as a UARG member in 2014 comments on the proposed Clean Power Plan.

Consumers Energy, “Comments Of Consumers Energy Company Regarding Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 34,830 (June 18, 2014), Docket No. EPA-HQ-OAR-2013-0602” (2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23986>.

Salt River Project

American Public Power Association

APPA lists the Salt River Project as a member in its annual directory; SRP self-identified as a member in 2014 comments on the proposed Clean Power Plan.

American Public Power Association, “2014–2015 Public Power Annual Directory & Statistical Report” (2015), available at <http://www.naylornetwork.com/webkits/pdfs/appdsample.pdf>; Salt River Project, “Salt River Project Comments on EPA’s Proposed Emission Guidelines for Existing Electric Generating Units, EPA-HQ-OAR-2013-0602” (2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22788>.

Utility Air Regulatory Group

Salt River Project self-identified as a UARG member in 2014 comments on the proposed Clean Power Plan; Officials did not respond to request for confirmation of current membership.

Salt River Project; “Salt River Project Comments on EPA’s Proposed Emission Guidelines for Existing Electric Generating Units, EPA-HQ-OAR-2013-0602,” December 2014, available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22788>.

General Electric, or GE

National Association of Manufacturers

NAM identifies GE as a member.

National Association of Manufacturers, “Competing to Win: Manufacturer’s Agenda for Economic Growth and American Exceptionalism” (2016), available at <http://www.nam.org/Data-and-Reports/Competing-to-Win/Competing-to-Win/>.

National Mining Association

NMA lists GE Mining—a subsidiary of General Electric—as a member.

National Mining Association, “Member List,” available at <http://www.nma.org/index.php/member-list> (last accessed May 2016).

Santee Cooper

American Public Power Association

APPA identified Santee Cooper as a member in 2014 comments on the proposed Clean Power Plan.

James J. Nipper and others, “Comments of the American Public Power Association (APPA) on EPA’s Section 111(d) Proposed Rule for Carbon Dioxide Emissions from Existing EGUs EPA-HQ-OAR-2013-0602” (Arlington, VA: American Public Power Association, 2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22871>.

National Rural Electric Cooperative Association

Santee Cooper is a NRECA member through Santee Electric Cooperative Inc.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Pinnacle West Capital Corp.

Utility Air Regulatory Group

Pinnacle West Capital Corp. self-identified as a UARG member in 2012; Officials did not respond to request for confirmation of current membership.

Arizona Environmental Strategic Alliance, “Alliance Member Annual Report for Year 2012” (2012), available at <http://azalliance.org/documents/APS/2012PINNACLE%20WEST%20AESA%20MemberAnnualReportFormYear2012.pdf>.

NiSource Inc.

Utility Air Regulatory Group

NiSource Inc. self-identified as a UARG member in 2014; Officials did not respond to request for confirmation of current membership.

NiSource Inc., “2014 Sustainability Report: GRI Table” (2014), available at https://www.nisource.com/docs/default-source/2014-sustainability-docs/2014-gri-table_formatted_final.pdf.

Associated Electric Cooperative Inc.

Associated Electric Cooperative Inc. filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

American Coalition for Clean Coal Electricity

ACCCE lists Associated Electric Cooperative Inc. as a member.

American Coalition for Clean Coal Electricity, “Members,” available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016).

Tri-State Generation and Transmission Association Inc.

Tri-State Generation and Transmission Association Inc. filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

American Coalition for Clean Coal Electricity

ACCCE lists Tri-State Generation and Transmission Association Inc. as a member.

American Coalition for Clean Coal Electricity, “Members,” available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016).

National Rural Electric Cooperative Association

NRECA lists Tri-State Generation and Transmission Association Inc. as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

JEA

American Public Power Association

JEA self-identified as an APPA member in 2014 comments on the proposed Clean Power Plan.

JEA, “JEA Comments to EPA on the Clean Power Plan (CPP) Proposal, Section 111(d) EGU Existing Source Performance Standards for Greenhouse Gases, Docket ID: EPA-HQ-OAR-2013-0602” (2014), available at https://www.jea.com/JEA_and_the_Environment/JEA_Comments_on_Clean_Power_Plan_Proposal/.

Nebraska Public Power District

American Public Power Association

Nebraska Public Power District self-identifies as a leader of the APPA peer group.

Nebraska Public Power District, “The Road to Excellence: 2015 Corporate Strategic Plan” (2015) available at <http://www.nppd.com/assets/strategicplan.pdf>.

National Rural Electric Cooperative Association

NRECA lists Nebraska Public Power District as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Allete

Allete filed suit against the EPA on behalf of Minnesota Power, an Allete subsidiary.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

Utility Air Regulatory Group

Allete self-identified as a UARG member in 2014 comments on proposed Clean Power Plan.

Allete, “Comments to EPA’s Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Proposed Rule, Docket EPA-HQ-OAR-2013-0602, 79 Federal Register 34,830 (June 18, 2014)” (2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23165>.

Great River Energy

National Rural Electric Cooperative Association

NRECA lists Great River Energy as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Big Rivers Electric Corp.

Big Rivers Electric Corp. filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

National Rural Electric Cooperative Association

NRECA lists Big Rivers Electric Corp. as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Arkansas Electric Cooperative Corp.

National Rural Electric Cooperative Association

NRECA lists Arkansas Electric Cooperative Corp. as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

East Kentucky Power Cooperative

East Kentucky Power Cooperative filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

National Rural Electric Cooperative Association

NRECA lists East Kentucky Power Cooperative as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Lower Colorado River Authority

National Rural Electric Cooperative Association

NRECA lists Lower Colorado River Authority as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Buckeye Power

Buckeye Power filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

American Coalition for Clean Coal Electricity

ACCCE lists Buckeye Power as a member.

American Coalition for Clean Coal Electricity, “Members,” available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016).

National Rural Electric Cooperative Association

NRECA lists Buckeye Power as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Oglethorpe Power Corp.

Oglethorpe Power Corp. filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

American Coalition for Clean Coal Electricity

ACCCE lists Oglethorpe Power Corp. as a member.

American Coalition for Clean Coal Electricity, “Members,” available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016).

American Public Power Association

APPA identified Oglethorpe Power Corp. as a member in 2014 comments on the proposed Clean Power Plan.

James J. Nipper and others, “Comments of the American Public Power Association (APPA) on EPA’s Section 111(d) Proposed Rule for Carbon Dioxide Emissions from Existing EGUs EPA-HQ-OAR-2013-0602” (Arlington, VA: American Public Power Association, 2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-22871>.

National Rural Electric Cooperative Association

NRECA lists Oglethorpe Power Corp. as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Utility Air Regulatory Group

Oglethorpe Power Corp. self-identified as a UARG member in 2014 comments on the proposed Clean Power Plan.

Oglethorpe Power Corp., “Comments to EPA corresponding to Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units, 79 Fed. Reg. 34,830 (June 18, 2014)” (2014), available at <https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-24297>.

Seminole Electric Cooperative Inc.

Seminole Electric Cooperative Inc. filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

National Rural Electric Cooperative Association

NRECA lists Seminole Electric Cooperative Inc. as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Hoosier Energy Rural Electric Cooperative

Hoosier Energy Rural Electric Cooperative filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

National Rural Electric Cooperative Association

NRECA lists Hoosier Energy Rural Electric Cooperative as a member.

NRECA, “Member Directory,” available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

Los Angeles City

American Public Power Association

APPA lists the Los Angeles Department of Water and Power as a member in its 2014–2015 directory.

American Public Power Association, “2014–2015 Public Power Annual Directory & Statistical Report: A Supplement to Public Power Magazine” (2015), available at <http://www.naylornetwork.com/webkits/pdfs/appdsample.pdf>.

Utility Air Regulatory Group

Los Angeles City paid membership dues to UARG in 2014; Officials did not respond to request for confirmation of current membership.

Board of Water and Power Commissioners of the Department of Water and Power of the City of Los Angeles, “Special Meeting Agenda,” August 27, 2013, available at http://ladwp.granicus.com/DocumentViewer.php?file=ladwp_045a944d2decc71f60a704210caf5132.pdf&view=1.

Occidental Chemical Corp.

American Chemistry Council

ACC lists Occidental Chemical Corp. as a member.

American Chemistry Council, “Member Companies,” available at <https://www.americanchemistry.com/Membership/MemberCompanies#Regular> (last accessed May 2016).

Grand River Dam Authority

American Public Power Association

Grand River Dam Authority self-identified as an APPA member in a 2015–2016 performance report.

Grand River Dam Authority, “2015–2016 Performance Report” (2015), available at http://appropriation.oksenate.gov/SubSelectAgencies/Agencies/2015/FY16_GRDA_Mission_and_Governance.pdf.

Dow Chemical

American Chemistry Council

ACC lists Dow Chemical as a member.

American Chemistry Council, “Member Companies,” available at <https://www.americanchemistry.com/Membership/MemberCompanies#Regular> (last accessed May 2016).

U.S. Chamber of Commerce

Charles J. Kalil, the executive vice president and general counsel for Dow Chemical, is a member of the Chamber's board; Dow Chemical disclosed 2015 contributions to U.S. Chamber of Commerce.

U.S. Chamber of Commerce, "Board of Directors," available at <https://www.uschamber.com/about-us/board-directors> (last accessed May 2016); Dow Chemical, "Trade Association Lobbying Expenditures for both Dow and Dow AgroSciences – 2015" (2015), available at <http://www.dow.com/~media/DowCom/Corporate/PDF/investor-relations/Corporate%20Governance/CodeofConduct/2015%20Trade%20Association%20Lobbying%20Expenditures.ashx?la=en-US>.

Exxon Mobil Corp.

National Association of Manufacturers

Neil A. Chapman, the president of Exxon Mobil Chemical Corp. and vice president of Exxon Mobil Corp., is the NAM Southwest Regional Vice Chair for NAM; NAM lists Exxon Mobil Corp. as an affiliated organization.

National Association of Manufacturers, "Board of Directors," available at <http://www.nam.org/About/Board-of-Directors/> (last accessed May 2016); National Association of Manufacturers, "NAM Affiliated Organizations," available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).

Brazos Electric Power Cooperative

Brazos Electric Power Cooperative filed suit against the EPA.

Brief for Petitioner, State of West Virginia v. EPA, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247xCECC6%29.pdf>.

National Rural Electric Cooperative Association

NRECA lists Brazos Electric Power Cooperative as a member.

NRECA, "Member Directory," available at <http://www.nreca.coop/about-electric-cooperatives/member-directory/> (last accessed May 2016).

BP

American Chemistry Council

ACC lists BP Lubricants Inc., a subsidiary of BP, as a member.

American Chemistry Council, "Member Companies," available at <https://www.americanchemistry.com/Membership/MemberCompanies#Regular> (last accessed May 2016).

National Association of Manufacturers

NAM lists BP as a 2016 affiliated organization.

National Association of Manufacturers, “NAM Affiliated Organizations,” available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).

International Paper

National Association of Manufacturers

International Paper self-identified as a NAM member in 2015.

International Paper, “Voluntary Report of Political Contributions 1/1/2015–6/30/2015,” available at <http://www.internationalpaper.com/docs/default-source/english/company/leadership/2015-voluntary-report-of-political-contributions-jan-july.pdf?sfvrsn=86> (last accessed May 2016).

Endnotes

- 1 Environmental Protection Agency, "Fact Sheet: Clean Power Plan Benefits of a Cleaner, More Efficient Power Sector," available at <https://www.epa.gov/cleanpowerplan/fact-sheet-clean-power-plan-benefits-cleaner-more-efficient-power-sector> (last accessed June 2016).
- 2 U.S. Energy Information Administration, *Annual Energy Outlook 2016 Early Release: Annotated Summary of Two Cases* (U.S. Department of Energy, 2016), available at [http://www.eia.gov/forecasts/aeo/er/pdf/0383er\(2016\).pdf](http://www.eia.gov/forecasts/aeo/er/pdf/0383er(2016).pdf).
- 3 Brief for Petitioner, *State of West Virginia v. EPA*, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016), available at <http://www.ago.wv.gov/publicresources/epa/Documents/Opening%20Core%20Brief%20-%20file-stamped%20%28M0119247x-CECC6%29.pdf>.
- 4 Ibid.
- 5 Brief of Amicus Curiae Dominion Resources Inc. in support of respondents, *State of West Virginia et al., Petitioners, v. United States Environmental Protection Agency et al., Respondents*, United States Court of Appeals for the District of Columbia Circuit (April 1, 2016) (No. 15-1363), available at https://www.edf.org/sites/default/files/content/dominion_resources_inc.pdf.
- 6 American Coalition for Clean Coal Electricity, "Comments of the American Coalition for Clean Coal Electricity On National Ambient Air Quality Standards for Ozone: Proposed Rule 79 Fed. Reg. 75,234 (December 17, 2014)" (2015), available at http://www.americaspower.org/wp-content/uploads/2015/09/Ozone_Comments_March_17.pdf.
- 7 American Coalition for Clean Coal Electricity, "The Truth About EPA's Costly Carbon Regulations," available at <http://www.americaspower.org/nera> (last accessed May 2016); American Coalition for Clean Coal Electricity, "Six Major Myths About EPA's Proposed Carbon Regulations," available at <http://www.americaspower.org/wp-content/uploads/2015/09/Myths-About-EPA-Proposal.pdf> (last accessed May 2016).
- 8 American Coalition for Clean Coal Electricity, "American Coalition for Clean Coal Electricity Comments on EPA's Proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electricity Utility Generating Units" (2014), available at <https://www.regulations.gov/#documentDetail;D=EPA-HQ-OAR-2013-0602-25764>.
- 9 American Public Power Association, "About Public Power and the American Public Power Association," available at <http://www.publicpower.org/about/?navItemNumber=37583> (last accessed May 2016).
- 10 American Public Power Association, "Comments by American Public Power Association (APPA) Submitted On National Ambient Air Quality Standards for Particulate Matter; Proposed Rule 77 Fed. Reg. 38890 (June 29, 2012)" (2012), available at http://www.publicpower.org/files/PDFs/NAAQS_Comments_APPA%208-30-2012.pdf.
- 11 Joe Nipper Sr. and others, "Comments of the American Public Power Association On the U.S. Environmental Protection Agency's Federal Plan Requirements for Greenhouse Gas Emissions from Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations' Proposed Rule 80 Fed. Reg. 64,966 (October 23, 2015)" (Arlington, VA: American Public Power Association, 2016), available at http://www.eenews.net/assets/2016/01/26/document_cw_09.pdf.
- 12 National Rural Electric Cooperative Association, "About Us," available at <http://www.nreca.coop/what-we-do/about-us/> (last accessed May 2016).
- 13 Rod Kuckro, "Coal-heavy electric cooperatives take hard line on EPA Clean Power Plan," E&E Publishing LLC, December 15, 2014, available at <http://www.eenews.net/stories/1060010539>.
- 14 National Rural Electric Cooperative Association, "NRECA Statement on Proposed Ozone NAAQS," Press release, January 29, 2015, available at <http://www.nreca.coop/nreca-statement-on-proposed-ozone-naaqs/>.
- 15 National Rural Electric Cooperative Association, "Clean Air," available at <http://www.nreca.coop/nreca-on-the-issues/environment/clean-air/> (last accessed May 2016).
- 16 Utility Air Regulatory Group, "Comments of The Utility Air Regulatory Group On National Ambient Air Quality Standards For Particulate Matter; Proposed Rule 71 Fed. Reg. 2620 (January 17, 2006) and Revisions to Ambient Air Monitoring Requirements 71 Fed. Reg. 2710 (January 17, 2006)," April 17, 2006, available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2001-0017-1629>; Maria Gallucci and Ginger Gibson, "Supreme Court Rules Against EPA Mercury And Air Toxics Standards For US Coal Plants," International Business Times, June 29, 2015, available at <http://www.ibtimes.com/supreme-court-rules-against-epa-mercury-air-toxics-standards-us-coal-plants-1985841>; Utility Air Regulatory Group, "Comments of The Utility Air Regulatory Group"; *Utility Air Regulatory Group v. Environmental Protection Agency et al.* 12-1146 U.S. (2013), available at http://www.supremecourt.gov/opinions/13pdf/12-1146_4g18.pdf.
- 17 Letter from Alison D. Wood and Tauna M. Szymanski to the U.S. Environmental Protection Agency Administrator Gina McCarthy, August 24, 2015, available at <https://www.regulations.gov/#documentDetail;D=EPA-HQ-OAR-2013-0602-35730>.
- 18 Utility Air Regulatory Group and American Public Power Association, "Addendum to Agency Docketing Statement, United States Court of Appeals Case #15-1363, Document #1589582," December 18, 2015.
- 19 Southern Company, "Georgia Power joins industry in seeking court's intervention for EPA's Clean Power Plan," Press release, October 23, 2015, available at <https://southerncompany.mediaroom.com/2015-10-23-Georgia-Power-joins-industry-in-seeking-courts-intervention-for-EPA's-Clean-Power-Plan>.
- 20 American Coalition for Clean Coal Electricity, "Members," available at <http://www.americaspower.org/about-acce/bios/members/> (last accessed May 2016); Southern Company, "Legislative & Regulatory Participation," available at <http://www.southerncompany.com/about-us/leadership/legislative.cshtml> (last accessed May 2016).
- 21 Brief for Petitioner, *GenOn Mid-Atlantic, et al. v. United States Environmental Protection Agency, et al.*, No. 15-1470, Doc. No. #1590618 (D.C. Cir. 2015), available at <http://consideringthegrid.com/wp-content/uploads/2016/01/2015.12.18-15-1470-Petition.pdf>.
- 22 Energy Future Holdings, "About Us," available at <https://www.energyfutureholdings.com/about-us/> (last accessed May 2016).
- 23 Brief for Petitioner, *State of West Virginia v. EPA*, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016).
- 24 Energy Future Holdings Corp., "Form 8-K Report to United States Securities and Exchange Commission" (2011), available at <http://www.sec.gov/Archives/edgar/data/1445049/000119312512005265/d278954d8k.htm>; Energy Future Holdings Corp., "Form 10-K Report to United States Securities and Exchange Commission" (2013), available at <http://www.sec.gov/Archives/edgar/data/1023291/000102329114000008/efh-12312013x10k.htm>.
- 25 Luminant Generation Company LLC, "Comments of Luminant Generation Company LLC: EPA's Proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, Docket EPA-HQ-OAR-2013-0602, 79 Federal Register 34,830 (June 18, 2014)" (2014), available at <https://www.regulations.gov/#documentDetail;D=EPA-HQ-OAR-2013-0602-33559>.

- 26 Alex Kaplun, "Exelon Leaves U.S. Chamber Over Climate Dispute," *The New York Times*, September 28, 2009, available at <http://www.nytimes.com/gwire/2009/09/28/28greenwire-exelon-leaves-us-chamber-over-climate-dispute-74577.html>.
- 27 Author calculated percentage from 2013 CO2 emissions total from Environmental Protection Agency, "Greenhouse Gas Inventory Data Explorer," available at <https://www3.epa.gov/climatechange/ghgemissions/inventoryexplorer/#allsectors/allgas/gas/all> (last accessed April 2016).
- 28 Author calculated comparison by analyzing data on 2011 CO2 emissions by country—the most recent year for which this information is available—from the World Bank Group, "World DataBank," available at <http://databank.worldbank.org/data/reports.aspx?source=2&country=&series=EN.ATM.CO2E.PC&period=#> (last accessed June 2016).
- 29 The most recent emissions data for top economies is from 2011. The author calculated comparison by analyzing data on annual CO2 emissions by country from the World Bank Group, "World DataBank"; The World Bank Group, "GDP at market prices (current US\$)," available at http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?order=wbapi_data_value_2014+wbapi_data_value+wbapi_data_value-last&sort=desc (last accessed May 2016).
- 30 Author calculated equivalency with data from the Environmental Protection Agency, "Greenhouse Gas Equivalencies Calculator," available at <https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator> (last accessed May 2016).
- 31 Christopher E. Van Atten and others, "Benchmarking Air Emissions of the 100 Largest Electric Power Producers in the United States" (Concord, MA: M.J. Bradley & Associates LLC, 2015), available at <https://www.nrdc.org/sites/default/files/benchmarking-2015.pdf>.
- 32 Brief for Petitioner, *State of West Virginia v. EPA*, No. 15-1363, Doc. No. #1599889 (D.C. Cir. 2016).
- 33 National Association of Manufacturers, "NAM Affiliated Organizations," available at <http://documents.nam.org/LAW/Q1-2016.pdf> (last accessed May 2016).
- 34 U.S. Chamber of Commerce, "Frequently Asked Questions," available at <https://www.uschamber.com/about-us/about-the-us-chamber/frequently-asked-questions#1> (last accessed May 2016).