

Utilities Ask Supreme Court for Stay of the Clean Power Plan

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On the heels of a [similar request](#) from more than 28 states, a group of 60 utilities led by Basin Electric Power Cooperative filed an [application](#) in the Supreme Court of the United States (SCOTUS) on January 27 for an immediate stay of EPA's Clean Power Plan regulations pending review of the rule in the U.S. Court of Appeals for the D.C. Circuit (the "D.C. Circuit"). The utilities filed their application in response to the D.C. Circuit's denial of their motions for a stay of the rule on January 21. The utilities argue that the Clean Power Plan is "an unprecedented attempt to reduce emissions through the restructuring of" the energy industry by forcing utilities to "shift massive amounts of energy production away from existing coal-fired power plants in favor of new natural gas, wind, and solar facilities."

Because of the time that will be required to litigate the Clean Power Plan, the utilities requested an immediate stay of the rule by SCOTUS, without which the utilities warn "EPA likely will obtain its desired transformation of the power sector through irreversible investments, even if its rule is ultimately struck down" due to the long lead times required for compliance with the rule. In order to avoid this "irreparable harm" and because of the "strong possibility this rule will not withstand judicial review," the utilities requested that SCOTUS stay the Clean Power Plan and grant "an extension of the rule's compliance deadlines pending final disposition of" the utilities' legal challenges to the rule, including potentially on review in SCOTUS.

Chief Justice Roberts called for EPA to respond to the states' petition by 3:00 p.m. on Thursday, February 4. EPA may respond to the utilities' petition as well.

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