



January 13, 2017

**VIA ELECTRONIC FILING**

Mark Langer, Clerk  
United States Court of Appeals  
for the District of Columbia Circuit  
333 Constitution Avenue, NW  
Washington, DC 20001

RE: Response to EPA's Notice Pursuant to Fed. R. App. P. 28(j) and Circuit Rule 28(f) in *State of West Virginia v. EPA*, No. 15-1363 (and consolidated cases)

Dear Mr. Langer:

As EPA informed the Court in its letter of January 12, 2017, EPA has now denied 38 petitions for administrative reconsideration of the Clean Power Plan. As EPA notes in its letter, the Court specifically inquired as to the status of these reconsideration petitions during oral argument on the lack-of-notice issue.

EPA's denial of reconsideration is scheduled to be published in the Federal Register on January 17, 2017. *See* <https://www.federalregister.gov/documents/2017/01/17/2017-00941/emission-guidelines-for-greenhouse-gas-emissions-and-compliance-times-for-electric-utility>. Many of the petitioners in the above consolidated cases will be filing petitions for review of the reconsideration denial on January 17 or shortly thereafter. Because EPA's reconsideration denial addresses issues related to the challenges to the underlying rule, including at a minimum the notice argument, petitioners may seek supplemental briefing on the notice challenge and any other issue affected by the

reconsideration denial, and possibly consolidation of this case with the petitions for review of the reconsideration denial.

Respectfully submitted,

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Mark Langer, Clerk

January 13, 2017

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Mark Langer, Clerk

January 13, 2017

Page 4

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Mark Langer, Clerk

January 13, 2017

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Mark Langer, Clerk

January 13, 2017

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Mark Langer, Clerk

January 13, 2017

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Mark Langer, Clerk

January 13, 2017

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