UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

333 Constitution Avenue, NW
Washington, DC 20001-2866
Phone: 202-216-7000 | Facsimile: 202-219-8530

AGENCY DOCKETING STATEMENT

Administrative Agency Review Proceedings (To be completed by appellant/petitioner)

1. CASE NO. 24-1269 2. DATE DOCKETED: 8/2/3024

3. CASE NAME (lead parties only) Utility Solid Waste Activities Group, et al v. U.S. Environmental Protection Agency

4. TYPE OF CASE: ☒ Review ☐ Appeal ☐ Enforcement ☐ Complaint ☐ Tax Court

5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? ○ Yes ◉ No
If YES, cite statute

6. CASE INFORMATION:

a. Identify agency whose order is to be reviewed: U.S. Environmental Protection Agency

b. Give agency docket or order number(s): EPA-HQ-OLEM-2020-0107; 89 FR 38,950 (May 8, 2024)

c. Give date(s) of order(s): May 8, 2024

d. Has a request for rehearing or reconsideration been filed at the agency? ◉ Yes ○ No
If so, when was it filled? 07-01-2024 By whom? Duke Energy Corporation
Has the agency acted? ○ Yes ◉ No If so, when?

e. Identify the basis of appellant's/petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2):
See addendum

f. Are any other cases involving the same underlying agency order pending in this Court or any other?
◉ Yes ○ No If YES, identify case name(s), docket number(s), and court(s)
See addendum

g. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve *substantially the same issues* as the instant case presents?
◉ Yes ○ No If YES, give case name(s) and number(s) of these cases and identify court/agency:
See addendum

h. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? ○ Yes ◉ No If YES, provide program name and participation dates.

Signature s/ Margaret K. Fawal Date 9/20/2024

Name of Counsel for Appellant/Petitioner Margaret K. Fawal
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ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 7 calendar days by letter, with copies to all other parties, specifically referring to the challenged statement.

ADDENDUM TO DOCKETING STATEMENT

***Utility Solid Waste Activities Group, et al. v. U.S. Environmental Protection Agency, et al.*, Case No. 24-1269 (consolidated with Case Nos. 24-1200 (lead), 24- 1267, 24-1269, 24-1274, 24-1276)**

Item 6(e)

Petitioners are petitioning for review of the U.S. Environmental Protection Agency's final rule entitled *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments*, 89 Fed. Reg. 38,950 (May 8, 2024) (the "Final Rule"). The Final Rule revises the existing federal regulations applicable to disposal of coal combustion residuals, codified at 40 C.F.R. Part 257, Subpart D. Petitioners the Utility Solid Waste Activities Group ("USWAG"), the National Rural Electric Cooperative Association ("NRECA"), and the American Public Power Association ("APPA") are all national trade associations with members that are subject to the requirements of the RCRA Solid and Hazardous Waste Programs, including the federal coal combustion residuals regulations. USWAG, NRECA, and APPA members are therefore directly subject to the requirements set forth in the Final Rule.

USWAG, NRECA, and APPA meet the requirements for an association to have standing in federal court because: (a) their members would otherwise have standing to sue in their own right, (b) the interests of USWAG, NRECA, and

APPA seek to protect are germane to the organizations' purposes; and (c) neither the claim asserted nor the relief requested requires the participation of the individual members of the petitioners of this lawsuit.

Item 6(f)

City Utilities of Springfield, Missouri v. EPA, et al., Case No. 24-1200, *East Kentucky Power Cooperative, Inc. v. EPA, et al.*, Case No. 24-1267, *Texas, et al. v. EPA*, Case No. 24-1274, *AEP Generation Resources, Inc., et al. v. EPA, et al.*, Case No. 24-1275, and *Electric Generators for Sensible CCR Regulation v. EPA, et al.*, Case No. 24-1276, challenge the same EPA action, are pending before this Court, and have been consolidated with this appeal. Case No. 24-1200 is the lead case.

Item 6(g)

City Utilities of Springfield, Missouri v. EPA, et al., Case No. 24-1200, *East Kentucky Power Cooperative, Inc. v. EPA, et al.*, Case No. 24-1267, *Texas, et al. v. EPA*, Case No. 24-1274, *AEP Generation Resources, Inc., et al. v. EPA, et al.*, Case No. 24-1275, and *Electric Generators for Sensible CCR Regulation v. EPA, et al.*, Case No. 24-1276, involve substantially the same issues as this case, are pending in this Court, and have been consolidated with this appeal.

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the foregoing Docketing Statement with the Clerk of the Court using the Electronic Court Filing System, which sends notifications of such filings to the Counsel of Record in the above-captioned action.

Dated: September 20, 2024

s/ Margaret K. Fawal
Margaret K. Fawal

Counsel for Utility Solid Waste Activities Group, National Rural Electric Cooperative Association, and American Public Power Association