**IN THE UNITED STATES COURT OF APPEALS**
**FOR THE EIGHTH CIRCUIT**

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| **SOUTHWESTERN ELECTRIC POWER COMPANY and UTILITY WATER ACT GROUP,** | ) | |
| **Petitioners,** | ) | |
| **v.** | ) | **No. 24-2123** |
| | ) | **(and consolidated cases)** |
| **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and MICHAEL S. REGAN, Administrator, United States Environmental Protection Agency,** | ) | |
| **Respondents,** | ) | |
| **CLEAN WATER ACTION, SIERRA CLUB, WATERKEEPER ALLIANCE, INC., NATURAL RESOURCES DEFENSE COUNCIL, ENVIRONMENTAL INTEGRITY PROJECT, PENNENVIRONMENT, INC. AND PRAIRIE RIVERS NETWORK** | ) | |
| **Intervenors.** | ) | |

**PETITIONERS' MOTION FOR EXPANSION OF WORD LIMIT FOR REPLY IN SUPPORT OF STAY MOTION**

Petitioners in consolidated cases 24-2123, 24-2215, 24-2225, and 24-2494 ("Petitioners") respectfully request an expansion of the word limit for their reply in support of their motion for a stay pending review. Specifically, Petitioners seek an

expansion of the word limit from 2,600 words to 5,200 words. Petitioners have conferred with the other parties in this consolidated litigation. Respondents oppose the word limit enlargement and reserve the right to respond upon reviewing the motion. Intervenors[1] and petitioners in cases 24-2255 and 24-2407 ("Environmental Petitioners") also oppose the motion.

In support of the motion, Petitioners state as follows:

1. These consolidated petitions challenge EPA's final rule titled "Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category," 89 Fed. Reg. 40198 (May 9, 2024) ("Final Rule").

2. On July 26, 2024, Petitioners filed a motion to stay the rule pending judicial review, seeking to prevent the irreparable harm that the unlawful Final Rule will impose during the pendency of this litigation absent a stay. ECF No. 5417837. Petitioners' motion is 5,179 words.

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[1] Clean Water Action, Sierra Club, Waterkeeper Alliance, Inc., Natural Resources Defense Council, Environmental Integrity Project, PennEnvironment, Inc. and Prairie Rivers Network are Intervenors in cases 24-2123, 24-2215, 24-2225, and 24-2266, and are referred to as "Intervenors" herein. These same groups are also petitioners in case 24-2246.

3. On July 30, 2024, Respondents sought a fifteen-day extension of the response deadline to file a response, and indicated that Intervenors and Environmental Petitioners intended to respond to the motion in their own briefs. ECF No. 5418883. This Court granted the request. ECF No. 5419081.

4. On August 20, 2024, Respondents, Intervenors, and Environmental Petitioners filed three response briefs. ECF Nos. 5426258, 5426423, and 5426448. Respondents' brief is 5,200 words; Intervenors' brief (joined by some of the Environmental Petitioners) is 5,199 words; and the remaining Environmental Petitioner's brief is 368 words. Together, these response briefs contain 10,767 words.

5. By contrast, Petitioners' default word limit for their reply in support of the stay motion is only 2,600 words, less than twenty-five percent of the words used in the response briefs. Fed. R. App. P. 27(d)(2)(C).

6. As all parties have recognized, *see* ECF No. 5424941, this case involves a complicated regulatory scheme, complex industrial, scientific, and environmental processes, sophisticated engineering problems, and a voluminous administrative record stretching back several years. Arguments on this topic demand space for proper development.

7. Moreover, Respondents, Intervenors, and Environmental Petitioners' three separate briefs raise unique arguments that will require separate responses.

8. An expansion of the word limit to 5,200 words would provide Petitioners the space needed to respond fully to the numerous, complex arguments presented in the three separate response briefs. That word allocation is less than half of the cumulative 10,767 words used by Respondents, Intervenors, and Environmental Petitioners, and falls below the response-to-reply word ratio anticipated by the Rules. *See* Fed. R. App. P. 27(d)(2)(C) (setting a word limit for a reply that is fifty percent of the word limit for a response).

9. Petitioners therefore respectfully request an expansion of the word limit for their reply in support of the stay motion to 5,200 words.

Dated: August 22, 2024 Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

This document complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2) because, excluding the parts of the document exempted by Rule 32(f), it contains 527 words. This document complies with the typeface and type-style requirements of Rule 32(a)(5) and (6) because it was prepared in a proportionately spaced typeface using Microsoft Word in Times New Roman fourteen-point font.

/s/ *George P. Sibley, III*
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## CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August 2024, the foregoing was electronically filed with the Clerk of Court for the U.S. Court of Appeals for the Eighth Circuit by using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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