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AG Balderas & Coalition of States & Municipalities Oppose Trump Administration's Efforts to Stall Clean Power Plan Case

Coalition files opposition to EPA's motion to hold Clean Power Plan proceedings in abeyance

Albuquerque, NM – This afternoon, Attorney General Hector Balderas and a coalition of states and municipalities from across the country filed opposition to the Trump Administration's request to delay court proceedings regarding the Clean Power Plan in the U.S. Court of Appeals for the District of Columbia Circuit. In November 2015, a coalition of states and localities including Attorney General Balderas intervened in defense of the Clean Power Plan, against legal challenges to the plan. The coalition argued that the plan is firmly founded in both science and the law, and built upon strategies states have used to successfully cut power plant emissions. The court heard oral argument en banc for a full day in late September 2016 and a decision is expected at any time.

However, last week – after President Trump signed an executive order directing the Environmental Protection Agency (EPA) to review the Clean Power Plan and decide whether to “suspend, rescind, or revise” it – EPA filed a motion asking the court to hold the litigation in abeyance while the Agency reconsiders the rule.

“My office will continue to stand up to policies and actions by the Trump Administration that are harmful to New Mexico,” said Attorney General Balderas. “By protecting New Mexico's natural environment, we are also protecting the health and safety of New Mexicans, and the health of our state's distressed economy.”

Granting abeyance likely would stay the litigation for years – indefinitely delaying the implementation of the Clean Power Plan, which is critical to mitigating climate change's increasing harm to states' public health, environments, and economies. EPA is required under the Clean Air Act to control emissions of climate change pollution from power plants, the country's largest source. The Clean Power Plan represents the culmination of a multi-year stakeholder process and is expected to eliminate as much climate change pollution as is emitted by over 160 million cars a year (or 70 percent of the nation's passenger cars).

As the coalition of 24 states and localities stated in its filing, “EPA fails to justify its unprecedented request for an open-ended abeyance at this late stage of litigation: more than six months after the en banc Court heard a full day of oral argument. This case is ripe for decision now, and nothing that EPA has proposed to do obviates the need for this Court's review.

"To the contrary, a decision from this Court will resolve critical live disputes over the scope of the Clean Air Act that will not only determine the enforcement of the Clean Power Plan, but also affect any reconsideration or revision of the Rule that EPA may undertake. By contrast, indefinitely deferring a decision here, as EPA requests, would waste the substantial resources already expended in this litigation by the parties and this Court. Moreover, granting EPA's motion would prejudice State Intervenors' longstanding and compelling interest in addressing the largest sources of pollution that is causing climate-change harms now."

The opposition was filed by the Attorneys General of New Mexico, California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Virginia, the District of Columbia, and Washington State as well as the chief legal officers of New York City (NY), Boulder (CO), Chicago (IL), Philadelphia (PA), South Miami (FL), and Broward County (FL).

Click here for a copy of the filed motion

- https://ag.ny.gov/sites/default/files/2017_04_05_opposition_to_abeyance_motion_filed.pdf

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