

agency to conclude any appropriate rulemaking to repeal or revise the Rule “as soon as practicable.” 82 Fed. Reg. 16,093, 16,095. In accordance with that Executive Order, the EPA Administrator on March 28, 2017, announced EPA’s review of the Rule, 82 Fed. Reg. 16,329, 16,329 (Apr. 4, 2017), and EPA filed a motion on March 28, 2017, to hold these cases in abeyance pending completion of EPA’s review and any resulting forthcoming rulemaking. Doc. No. 1668274.

3. By order dated April 28, 2017, this Court held the cases in abeyance for 60 days and directed EPA to file status reports at 30-day intervals from the date of the order. Doc. No. 1673071. The Court has subsequently issued four additional orders, all on the court’s own motion, likewise holding the case in abeyance for 60-day intervals and directing EPA to file status reports at 30-day intervals. *See* August 8, 2017 Order (Doc. No. 1687838); November 9, 2017 Order (Doc. No. 1703889); March 1, 2018 Order (Doc. No. 1720228); June 26, 2018 Order (Doc. No. 1737735).

4. As reported in EPA’s previous status report, on August 20, 2018, EPA Acting Administrator Andrew R. Wheeler signed the proposed “Affordable Clean Energy Rule” (“the ACE Rule Proposal”). The ACE Rule Proposal contains proposed replacement section 111(d) emission guidelines premised on an alternative regulatory approach to that set forth in the Clean Power Plan.

5. Since the filing of the previous status report, the ACE Rule Proposal has been published in the Federal Register. 83 Fed. Reg. 44,746 (Aug. 31, 2018). The Proposal is currently undergoing public comment, and the comment period runs until

October 31, 2018. 83 Fed. Reg. 45,588 (Sep. 10, 2018). EPA has scheduled a public hearing to be held on October 1, 2018, in Chicago, Illinois. Id.

6. On September 4, 2018, state and environmental Respondent-Intervenors filed a response to EPA's previous status report combined with a motion "to decide the merits of case." Doc. No. 1748706. EPA and Petitioners filed oppositions to that motion on September 14, 2018. Doc. Nos. 1750684 and 1750741.

7. As EPA has represented in previous status reports, concluding rulemaking replacing the Clean Power Plan is a high priority for the Agency, and EPA is committed to completing final rulemaking action as expeditiously as practicable. EPA's intention and expectation remains that the Agency will be in a position to take final rulemaking action by the first part of 2019, after consideration of public comments.

8. For the reasons set forth in EPA's March 28, 2017, motion for abeyance and in EPA's September 14, 2018, response to Intervenors' motion to decide merits of case, these cases should continue to be held in abeyance pending the conclusion of rulemaking.

Respectfully submitted,

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DATED: September 24, 2018 BY: /s/ Eric G. Hostetler
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Status Report have been served through the Court's CM/ECF system on all registered counsel this 24th day of September, 2018.

/s/ Eric G. Hostetler
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