

IN THE SUPREME COURT OF THE UNITED STATES

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STATE OF WEST VIRGINIA, ET AL.,

*Petitioners,*

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY AND  
MICHAEL REGAN, ADMINISTRATOR OF THE  
U.S. ENVIRONMENTAL PROTECTION AGENCY,

*Respondents.*

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**On Petition for A Writ of Certiorari  
to the United States Court of Appeals  
for the District of Columbia Circuit**

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**RESPONSE OF AMERICA'S POWER IN SUPPORT OF CERTIORARI**

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June 3, 2021

*Counsel for Respondent America's Power*

## **CORPORATE DISCLOSURE STATEMENT**

Respondent America's Power is a trade association comprised of companies involved in the production of electricity from coal. It has no parent corporation, and no publicly held company owns a 10 percent or greater interest in America's Power.

## RESPONSE IN SUPPORT OF CERTIORARI

America's Power agrees with West Virginia and others that it is essential to maintain electric grid reliability and resilience, as well as affordable electricity prices. America's Power has always maintained that the U.S. Environmental Protection Agency (EPA) does not have the authority under section 7411(d) of the Clean Air Act, 42 U.S.C. § 7411(d), to require electric utilities to reduce operations of their coal-fired generating plants, and then to replace that lost capacity with alternative sources of generation in order to reduce carbon emissions. As explained in previous filings, America's Power believes that the question of how to restructure broad segments of American industry to reduce carbon emissions is a matter for States or Congress, not EPA under this little-used provision of the Clean Air Act.

America's Power acknowledges that climate change is an important national and international issue. Of similar importance is the question of which parts of the federal government have the authority to address climate change and in what ways. For these reasons, America's Power supports granting certiorari to provide clarity as to, and resolve the ongoing controversy over, the nature and extent of EPA's authority under section 7411(d) of the Clean Air Act.

Respectfully submitted,

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