

ORAL ARGUMENT NOT YET SCHEDULED

No. 15-1396 (and consolidated cases)

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**In the United States Court of Appeals  
for the District of Columbia Circuit**

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MURRAY ENERGY CORPORATION,

*Petitioner,*

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and REGINA A.  
MCCARTHY, Administrator, United States Environmental Protection Agency,

*Respondents.*

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On Petition for Judicial Review of an Action of the  
United States Environmental Protection Agency

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**STATEMENT OF ISSUES TO BE RAISED**

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December 2, 2015

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**MURRAY ENERGY CORPORATION STATEMENT OF ISSUES**

Pursuant to this Court's Order of November 2, 2015, in case No. 15-1396, Petitioner Murray Energy Corporation submits this non-binding statement of issues to be raised in this proceeding challenging EPA's rule setting standards for carbon emissions from new fossil fuel power plants.

EPA's rule is arbitrary, capricious, an abuse of discretion, and unlawful because:

1. New, reconstructed, and modified coal power plants do not contribute significantly to carbon emissions that may reasonably be anticipated to endanger public health or welfare.
2. The emission standard for new coal power plants is not an achievable national standard of performance.
3. The emission standard for new coal power plants relies on technologies for capturing and sequestering carbon that are not adequately demonstrated.
4. The national emission standard for new coal power plants relies on geologic formations that are limited to certain areas and are not available for use in many parts of the country.
5. EPA violated the Energy Policy Act of 2005 by relying on facilities subsidized under the Act to find that carbon capture and sequestration technologies are adequately demonstrated.

6. EPA admits the emission standard for new natural gas power plants will not affect emissions at all because no controls are required to meet it.
7. The rule eliminates the market for new coal power plants by allowing other new fossil fuel power plants to be built without imposing any carbon control costs, frustrating congressionally enacted energy policies.
8. The rule imposes improper standards on modified and reconstructed coal power plants.
9. EPA ignored required considerations of cost and energy impacts by pretending the rule would not limit the construction of new coal power plants.

Petitioner reserves the right to present and argue any other issues that have been preserved for judicial review or that arise during these proceedings.

Respectfully submitted,

*/Geoffrey K. Barnes*

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December 2, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing STATEMENT OF ISSUES TO BE RAISED has been served electronically by Petitioner, Murray Energy Corporation, through the Court's CM/ECF system on all ECF registered counsel.

/s/ Geoffrey K. Barnes

Geoffrey K. Barnes

December 2, 2015