

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MISSISSIPPI POWER COMPANY,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES ENVIRONMENTAL)
 PROTECTION AGENCY and MICHAEL S.)
 REGAN, Administrator, United States)
 Environmental Protection Agency,)
)
 Respondents.)

Case No. 23-_____



PETITION FOR REVIEW

Shawn S. Shurden
General Counsel
Mississippi Power Company
2992 West Beach Boulevard
Gulfport, MS 39502
228-229-0915

C. Grady Moore III
BALCH & BINGHAM LLP
1901 6th Ave. N., Ste. 1500
Birmingham, AL 35203
205-251-8100
gmoore@balch.com

Susan Scaggs Stutts
BALCH & BINGHAM LLP
1310 25th Avenue
Gulfport, MS 39501
228-864-9900
Counsel for Petitioner
Mississippi Power Company

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

- Abrams, Michael R. (Counsel for Petitioners State of Texas, Texas Commission on Environmental Quality, Public Utility Commission of Texas, Railroad Commission of Texas)
- Association of Electric Companies of Texas (Petitioner)
- Baker Botts L.L.P. (Counsel for Petitioners Association of Electric Companies of Texas, BCCA Appeal Group, Texas Chemical Council, and Texas Oil & Gas Association)
- Balch & Bingham LLP (Counsel for Petitioner, Mississippi Power Company)
- BCCA Appeal Group (Petitioner)
- Cole, William F. (Counsel for Petitioners State of Texas, Texas Commission on Environmental Quality, Public Utility Commission of Texas, and Railroad Commission of Texas)
- Coleto Creek Power, L.L.C. (Petitioner)

- Davis, Bill (Counsel for Petitioners State of Texas, Texas Commission on Environmental Quality, Public Utility Commission of Texas, and Railroad Commission of Texas)
- Ennis Power Company, L.L.C. (Petitioner)
- Garland, Merrick B., Attorney General, United States Department of Justice (Counsel for Respondents)
- Gidiere, P. Stephen (Counsel for Petitioners Luminant Generation Company LLC, Coletto Creek Power, LLC, Ennis Power Company, LLC, Hays Energy, LLC, Midlothian Energy, LLC, Oak Grove Management Company LLC, and Wise County Power Company LLC)
- Hays Energy, L.L.C. (Petitioner)
- Kim, Todd, Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice (Counsel for Respondents)
- Kolman, Chloe H. (Counsel for Respondent U.S. Environmental Protection Agency)
- Kuryla, Matthew L. (Counsel for Petitioners Association of Electric Companies of Texas, BCCA Appeal Group, Texas Chemical Council, and Texas Oil & Gas Association)
- Luminant Generation Company, L.L.C. (Petitioner)
- Midlothian Energy, L.L.C. (Petitioner)

- Mississippi Department of Environmental Quality (Petitioner)
- Mississippi Power Company (Petitioner)
- Moore, C. Grady III (Counsel for Petitioner Mississippi Power Company)
- Murrill, Elizabeth Baker (Counsel for Petitioners State of Louisiana and Louisiana Department of Environmental Quality)
- Oak Grove Management Company, L.L.C. (Petitioner)
- Public Utility Commission of Texas (Petitioner)
- Railroad Commission of Texas (Petitioner)
- Regan, Michael S., Administrator, United States Environmental Protection Agency (Respondent)
- Shurden, Shawn S. (General Counsel for Petitioner Mississippi Power Company)
- Southern Company (Parent Company of Petitioner Mississippi Power Company)
- State of Mississippi (Petitioner)
- State of Texas (Petitioner)
- Streett, Aaron Michael (Counsel for Petitioners Association of Electric Companies of Texas, BCCA Appeal Group, Texas Chemical Council, and Texas Oil & Gas Association)
- Stutts, Susan Scaggs (Counsel for Petitioner Mississippi Power Company)
- Texas Chemical Council (Petitioner)
- Texas Commission on Environmental Quality (Petitioner)

- Texas Oil & Gas Association (Petitioner)
- United States Environmental Protection Agency (Respondent)
- Wise County Power Company, L.L.C. (Petitioner)

Respectfully submitted,

/s/ C. Grady Moore III
Counsel for Petitioner

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

MISSISSIPPI POWER COMPANY,)	
)	
Petitioner,)	
)	Case No. 23-_____
v.)	
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY and MICHAEL S.)	
REGAN, Administrator, United States)	
Environmental Protection Agency,)	
)	
Respondents.)	

PETITION FOR REVIEW

In accordance with Clean Air Act Section 307(b)(1), 42 U.S.C. §7607(b)(1), the Administrative Procedure Act, 5 U.S.C. §702, and Federal Rule of Appellate Procedure 15, Mississippi Power Company petitions for review of the U.S. Environmental Protection Agency’s (“EPA”) action promulgating a Federal Implementation Plan (“FIP”) for Mississippi regarding Mississippi’s interstate-transport requirements under 42 U.S.C. §7410(a)(2)(D)(i)(I) for the 2015 8-hour ozone national ambient air quality standards (“NAAQS”). This final EPA action is included in the notice entitled “*Federal ‘Good Neighbor Plan’ for the 2015 8-Hour Ozone National Ambient Air Quality Standards*, 88 Fed. Reg. 36,654 (June 5, 2023). *See* Fed. R. App. P. 15(a)(2)(C) (“The petition must ... specify the order or part thereof to be reviewed.”).

Jurisdiction and venue for this petition are proper in this Court under 42 U.S.C. §7607(b)(1). The agency action being challenged by Mississippi Power Company is the FIP for Mississippi, a “locally or regionally applicable” action which is not “based on a determination of nationwide scope or effect.” *See* 42 U.S.C. §7607(b)(1); *Texas v. EPA*, 829 F.3d 405, 418-24 (5th Cir. 2016). This petition for review is timely filed within 60 days of the date of publication in the Federal Register. A copy of the Federal Register notice containing the final action is attached in accordance with Fifth Circuit Rule 15.1(b).

Dated: June 27, 2023

Respectfully submitted,

/s/ C. Grady Moore III
Counsel for Petitioner

Counsel for Petitioner.

C. Grady Moore III
BALCH & BINGHAM LLP
1901 6th Ave. N., Ste. 1500
Birmingham, AL 35203
205-251-8100
gmoore@balch.com

Shawn S. Shurden
General Counsel
Mississippi Power Company
2992 West Beach Boulevard
Gulfport, MS 39502
228-229-0915

Susan Scaggs Stutts
BALCH & BINGHAM LLP
1310 25th Avenue
Gulfport, MS 39501
228-864-9900

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Appellate Procedure 15(c), I hereby certify that I have this day caused the foregoing documents to be served by first-class mail, postage prepaid, on June 27, 2023, upon the following:

Michael S. Regan, Administrator
United States Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

The Honorable Merrick B. Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington D.C. 20530

Todd Kim
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

/s/ C. Grady Moore III
C. Grady Moore III