

# Clean Power Plan: United States Supreme Court Grants Stay of Implementation

## Arkansas Environmental, Energy, and Water Law Blog



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02/10/2016

The United States Supreme Court ("Court") issued a February 9<sup>th</sup> Order granting an application for a stay (i.e., temporary halt) of the implementation of the United States Environmental Protection Agency Clean Power Plan.

The Order references the "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units" and states the rule is:

...stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

The Order was granted by a 5-4 margin among the Justices.

Arkansas Attorney General Leslie Rutledge was a member of a 29 state and state agencies coalition that requested the stay. A number of other states had opposed a stay.

The United States Court of Appeals for the District of Columbia Circuit had previously denied a request for stay stating that the petitioners had not "satisfied the stringent requirements for a stay pending Court review."

The United States Court of Appeals for the District of Columbia Circuit will now consider the merits of the various expedited appeals.

A key question for Arkansas will be whether the Arkansas Department of Environmental Quality and Arkansas Public Service Commission continue efforts on meeting the requirements of the Clean Power Plan while its implementation/effect is stayed. Both agencies along with various stakeholders had expended significant time and effort working on a path forward to meet the requirements of the Clean Power Plan to ensure the state is compliant with what had been a looming enforceable federal requirement.

[Click here to download a copy of one of the five Orders responding to the parties that requested a stay, along with the United States Court of Appeals for the District of Columbia Circuit Order that previously denied it.](#)