

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 16-60118

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STATE OF TEXAS; TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PUBLIC UTILITY COMMISSION OF TEXAS; LUMINANT GENERATION COMPANY, L.L.C.; BIG BROWN POWER COMPANY, L.L.C.; LUMINANT MINING COMPANY, L.L.C.; BIG BROWN LIGNITE COMPANY, L.L.C.; LUMINANT BIG BROWN MINING COMPANY, L.L.C.; SOUTHWESTERN PUBLIC SERVICE COMPANY; UTILITY AIR REGULATORY GROUP; COLETO CREEK POWER, L.P.; NRG TEXAS POWER, L.L.C.; NUCOR CORPORATION,

Petitioners

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; SCOTT PRUITT, in his official capacity as Administrator of the United States Environmental Protection Agency,

Respondents

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Petitions for Review of an Order of the  
Environmental Protection Agency

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Before CLEMENT, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:

IT IS ORDERED that in light of this court's determination that Petitioners and Petitioner-Intervenors demonstrated a substantial likelihood that Respondent exceeded its statutory authority and otherwise acted arbitrarily and capriciously in issuing the Final Rule's SIP disapprovals and FIP provisions, Respondent's motion to remand the case for reconsideration is GRANTED.

IT IS FURTHER ORDERED that Respondent's motion to lift the stay with regard to the sections of the Final Rule approving portions of the Texas and Oklahoma SIPs is DENIED.

IT IS FURTHER ORDERED that the joint motion of Petitioners and Petitioner-Intervenors for summary vacatur of the Final Rule's SIP disapprovals and FIP provisions based on the legal errors identified in the Stay Order is DENIED.

IT IS FURTHER ORDERED that the joint motion of Petitioners and Petitioner-Intervenors for an order clarifying that the Stay Order encompasses all aspects of the Final Rule without exception and prohibits Respondent from relying on any of its SIP disapprovals or FIP actions and related findings in the Final Rule in any subsequent rule or action while the stay is in place is DENIED.