

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
JUL 11 2005
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UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
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DUKE ENERGY CORPORATION,

Petitioner

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
and STEPHEN L. JOHNSON, ADMINISTRATOR,
U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondents

Case No. 05-1262

PETITION FOR REVIEW

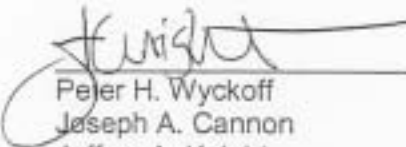
Pursuant to Clean Air Act § 307(b)(1), 42 U.S.C. § 7607(b)(1), Duke Energy Corporation hereby petitions this Court for review of the U.S. Environmental Protection Agency (EPA) final agency action entitled "Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_x SIP Call; Final Rule," 70 Fed. Reg. 25162, 25317 (May 12, 2005). The Clean Air Interstate Rule (CAIR), a copy of which is attached to this Petition, revises portions of 40 C.F.R. Parts 51, 72, 73, 74, 77, 78, and 96 to require that various States and the District of Columbia amend their laws in order to achieve statewide reductions in emissions of sulfur dioxide (SO₂) and oxides of nitrogen (NO_x).

Petitioner is a diversified energy company with a portfolio of electric businesses, including Duke Power. Duke Power is one of the nation's largest electric utilities and provides electricity to more than two million customers in North Carolina and South Carolina. Duke Power operates eight coal-fired stations, with an aggregate generating capability of approximately 7,700 megawatts, that are now subject to the requirements of CAIR. Petitioner

supports many aspects of CAIR, including EPA's determination that a regional market-based cap-and-trade program is the best available means of achieving reductions of precursors of fine particulate and ozone at least cost. Petitioner objects to certain inequitable aspects of CAIR that directly and adversely affect its interests, chiefly EPA's decision to allocate CAIR's regional SO₂ budget among the CAIR states in proportion to their SO₂ allowances under the Clean Air Act's Title IV Acid Rain Program.

Dated: July 11, 2005

Respectfully submitted,



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