

Exhibit 4

**USEPA's Motion to Extend the Time to Request a Rehearing of the
CAIR Vacatur and the Court's Order Granting the Motion**

**Respondent EPA's Motion to Extend Time to File Petitions for
Rehearing or Rehearing *En Banc*, *State of North Carolina, et al. v. United
States Environmental Protection Agency*, No. 05-1244 (and consolidated
cases) (August 8, 2008); Order, *State of North Carolina v. Environmental
Protection Agency*, No. 05-1244 (August 15, 2008).**

ORAL ARGUMENT HELD MARCH 25, 2008

DECISION ISSUED JULY 11, 2008

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NORTH CAROLINA, et al.)	
)	
- Petitioners,)	
)	
v.)	Docket No. 05-1244
)	(and consolidated cases)
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

EXPEDITED CONSIDERATION REQUESTED

**RESPONDENT EPA'S MOTION TO EXTEND TIME
TO FILE PETITIONS FOR REHEARING OR REHEARING EN BANC**

Respondent United States Environmental Protection Agency ("EPA") respectfully requests that the Court extend by 30 days, from August 25, 2008, until September 24, 2008, the date by which any petition for panel rehearing and/or rehearing en banc of the Court's July 11, 2008, opinion in this case must be filed. Counsel for EPA has contacted counsel for the other parties in this action to determine their position on this motion. Petitioner Constellation Energy was not able to provide its position prior to the filing of this motion. The only other party

that has stated that it opposes this motion is Petitioner Minnesota Power.

Minnesota Power did not specify whether it intends to file an opposition. All other parties have stated that they do not intend to file an opposition. Intervenors Utility Air Regulatory Group, Natural Resources Defense Council, Ohio Environmental Council, US PIRG, Environmental Defense, and Midwest Generation have stated they consent to the motion. Petitioners South Carolina Public Service Authority, JEA, Entergy, AES Corporation, AES Beaver Valley LLC, AES Warrior Run LLC, Xcel Energy, Occidental Permian Ltd, City of Amarillo, Inter-Power/AhlCon Partners, and Intervenor National Mining Association have stated that they do not oppose the motion. Petitioners State of North Carolina, ARIPPA, Florida Association of Electric Utilities, FPL Group, Northern Indiana Public Service Company, South Carolina Electric and Gas Company, Duke Energy Company, and Intervenor Alabama Power Company have stated that they do not consent to the motion but do not intend to oppose it.

EPA requests expedited consideration of this motion because of the impending deadline for filing petitions for rehearing or rehearing en banc. Only one party has stated that it opposes this motion. However, if the full time is taken to brief the motion, briefing will not be complete until the current deadline passes. EPA does not believe the question of an extension poses complex issues and thus

believes it would be appropriate to require expedite briefing and to grant expedited consideration of this motion.

The grounds for this motion are as follows:

1. These consolidated petitions for review challenged various aspects of EPA's Clean Air Interstate Rule ("CAIR"), in which EPA had found that a number of States in the eastern United States contributed to nonattainment of the National Ambient Air Quality Standards for ozone and/or fine particulate matter in other States and required those States to modify their SIPs to eliminate that significant contribution. CAIR also established a regional emissions trading program.

2. In its July 11, 2008, opinion the Court granted the petitions in part and vacated CAIR in its entirety.

3. The United States is currently considering whether to file a petition for panel rehearing and/or rehearing en banc of the Court's opinion. The date by which such a petition must be filed is August 25, 2008.

4. The United States requests an additional 30 days, until September 24, 2008, for parties to file any petition for rehearing and/or rehearing en banc. This request is necessary to allow the Solicitor General, in coordination with the other branches of the Department of Justice and the Environmental Protection Agency, to complete consideration of whether to file such a petition. Additional time will

also assist in the preparation of such a petition in the event the United States elects to seek panel rehearing and/or rehearing en banc.

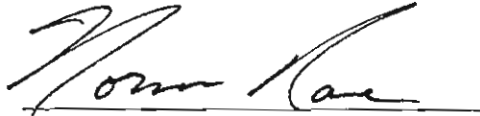
5. This extension is necessary because of the complexity of the regulatory scheme involved, the need to review the impact of the Court's decision on the Clean Air Act programs administered by EPA and the States, and the need to consult with affected parties concerning the impact of the Court's vacatur of CAIR.

6. EPA has contacted counsel for all the parties in this case, and was able to determine the position of all parties except Constellation Energy. Of those parties, only Minnesota Power has stated that it opposes this motion.

THEREFORE, for the reasons stated above, EPA requests that the time to file any petition for panel rehearing and/or rehearing en banc in this case be extended until September 24, 2008. EPA further requests that this briefing and consideration of this motion be expedited.

Respectfully submitted,

RONALD J. TENPAS
Assistant Attorney General



NORMAN L. RAVE, JR.

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Office of General Counsel

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August 8, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August, 2008, I caused a true and correct copy of the foregoing Respondent EPA's Motion to Extend Time to File Petitions for Rehearing or Rehearing En Banc to be served by first class mail, postage-prepaid, on the following:

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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-1244

September Term 2007

EPA-70FR25162

Filed On: August 15, 2008

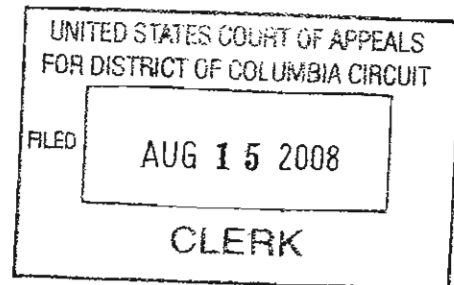
State of North Carolina,

Petitioner

v.

Environmental Protection Agency,

Respondent



Utility Air Regulatory Group, et al.,
Intervenors

Consolidated with 05-1246, 05-1249, 05-1250,
05-1251, 05-1252, 05-1253, 05-1254,
05-1256, 05-1259, 05-1260, 05-1262,
06-1217, 06-1222, 06-1224, 06-1226,
06-1227, 06-1228, 06-1229, 06-1230,
06-1232, 06-1233, 06-1235, 06-1236,
06-1237, 06-1238, 06-1240, 06-1241,
06-1242, 06-1243, 06-1245, 07-1115

BEFORE: Sentelle, Chief Judge, and Rogers and Brown, Circuit Judges

ORDER

Upon consideration of respondent's motion to extend time to file a petition for rehearing and/or petition for rehearing en banc, and the supplemental notice thereto, it is

ORDERED that the motion be granted. Any petition for rehearing and/or rehearing en banc is now due September 24, 2008.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY:


Michael C. McGrail
Deputy Clerk

Exhibit 5

Senators' Request for Voluntary CAIR Reductions

Various Senators, Letter to Tom Kuhn, President, Edison Electric Institute (August 12, 2008).



August 12, 2008

Tom Kuhn, President
Edison Electric Institute
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696

Dear Mr. Kuhn,

We are writing to request assistance from you and member companies of the Edison Electric Institute in securing the health and environmental benefits that would have resulted from compliance with the Clean Air Interstate Rule (CAIR). Specifically, we request your assistance in securing a pledge from all affected EEI member companies that they will operate existing sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emissions control equipment and continue their plans to install additional SO₂ and NO_x control equipment in order to at least meet the emissions reduction targets and deadlines under CAIR.

The July 11th decision by the U.S. Court of Appeals for the D.C. Circuit vacating CAIR leaves communities throughout the Eastern half of the United States vulnerable to dangerous levels of soot and smog pollution. Without the reductions required by CAIR in power plant emissions of sulfur dioxide and nitrogen oxide, thousands of communities will be exposed to unhealthy air linked to asthma attacks, heart and lung disease, and premature death.

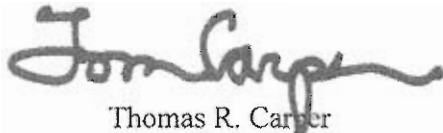
We are exploring legislative options to restore the clean air benefits that would have resulted from CAIR. However, we are concerned that during the time it takes to draft and pass legislation, millions of Americans in the Eastern United States will be exposed to harmful pollutants that otherwise would have been eliminated by CAIR. We therefore seek your assistance in preventing this unnecessary pollution from harming our communities.

Given the significant challenges states face to comply with more stringent ozone and particulate matter air quality standards in the absence of CAIR, and because of the enormous public health and environmental concerns associated with power plant SO₂ and NO_x emissions, we are confident that Congress and the Administration will require power plant emissions reductions at least as stringent as CAIR, and likely stronger.

We know that many EEI member companies already are taking steps to comply with CAIR. Some have installed sulfur dioxide scrubbers and nitrogen oxide controls, while

others are planning such installations over the next few years. We hope you agree that it would be in the best interests of all of your member companies, and of the American people, to remain, at a minimum, committed to the clean air goals established by CAIR until such time as an alternative system can be put in place.

Sincerely,



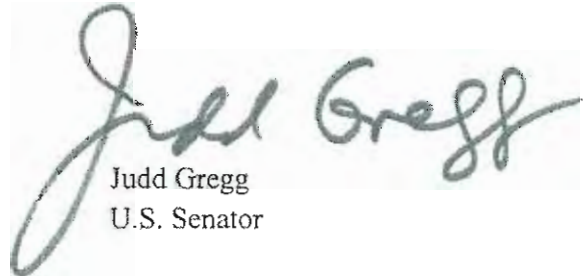
Thomas R. Carper
U.S. Senator



Lamar Alexander
U.S. Senator



Bernard Sanders
U.S. Senator



Judd Gregg
U.S. Senator