

ORAL ARGUMENT NOT YET SCHEDULED  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Sierra Club,

Petitioner,

v.

U.S. Environmental Protection Agency  
and Andrew R. Wheeler, in his capacity  
as Administrator, U.S. Environmental  
Protection Agency,

Respondents.

No. 20-1149

**EPA’s Unopposed Motion to Extend Abeyance**

Respondents (collectively, EPA) request that the Court extend the abeyance in this case for six months pending EPA’s administrative reconsideration of the challenged action. Petitioner Sierra Club does not oppose this motion.

Sierra Club petitions for review of EPA’s action “National Emission Standards for Hazardous Air Pollutants: Stationary Combustion Turbines Residual Risk and Technology Review,” 85 Fed. Reg. 13,524 (Mar. 9, 2020). Petition for Review (May 8, 2020). On the same day it filed the petition, Sierra Club also requested administrative reconsideration, under 42 U.S.C. § 7607(d)(7)(B), of

certain aspects of that action. The Court granted EPA's motion to hold the case in abeyance while the agency reviews Sierra Club's administrative request. *See* Clerk's Order (June 9, 2020) (ordering motion to govern by September 3, 2020).

In a letter dated August 13, the EPA communicated to Sierra Club its intent to convene a reconsideration process. That process may result in actions that could obviate the need for judicial resolution of some or all the disputed issues. Meanwhile, abeyance would preserve the resources of the parties and of the Court, especially at this early stage of litigation, when EPA has not even filed the certified index to the administrative record. EPA thus asks the Court to extend the abeyance for six months.

The parties will file motions to govern in six months, on March 3, 2021.

Submitted on September 3, 2020.

/s/ Sue Chen

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### **Certificates of Compliance and Service**

I certify that this motion complies with Fed. R. App. P. 27(d)(1)(E) because it uses 14-point Times New Roman, a proportionally spaced font.

I also certify that this motion complies with Fed. R. App. P. 27(d)(2)(A), because by Microsoft Word's count, it has 225 words, excluding the parts exempted under Fed. R. App. P. 32(f).

Finally, I certify that on September 3, 2020, I filed this motion using the Court's CMS/ECF system, which will notify each party.

                  /s/ Sue Chen                    
Sue Chen