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ACCCE Responds to Circuit Court's Ruling on Murray/West Virginia Challenge to EPA Overreach

Washington, DC – The American Coalition for Clean Coal Electricity expressed regret at today's decision by the D.C. Circuit Court of Appeals regarding EPA's soon-to-be finalized carbon regulations for existing power plants. The ruling impacted two separate lawsuits that challenged the legality of EPA's proposed rules. The suits were brought by Murray Energy Corporation and a bipartisan coalition of attorneys general from 15 states, led by West Virginia.

“Although we wish the judges' decision was different, we are not surprised and look forward to our next day in court. That the court even took a look at these suits before the rules were final was an unprecedented step and demonstrates that EPA's regulatory overreach has caught the eye of the court,” said Mike Duncan, president and CEO of ACCCE. “States and industry are already working to ensure that when the rule is final we are prepared to step-in and stop the implementation of these devastating regulations.”

Today's court ruling was not based on the merits of the EPA's regulation, but rather solely on the question of whether a rule could be challenged before it was deemed final by the administration.

To date, [officials from 32 states](#) have said that EPA does not have the legal authority to regulate carbon emissions from coal-fired power plants under Section 111(d) of the Clean Air Act. Notably, officials in 28 states have called for the outright

withdrawal of EPA's proposal.

Congress is also probing the questionable legal grounds of EPA's authority. In March, the House Committee on Energy and Commerce's Subcommittee on Energy and Power hosted a [hearing to examine the issue](#). Testifying at the hearing was Laurence H. Tribe, professor of constitutional law at Harvard Law School and former law professor of President Obama, who noted in a [Wall Street Journal op-ed](#), "After studying the only legal basis offered for the EPA's proposed rule, I concluded that the agency is asserting executive power far beyond its lawful authority."

"EPA's regulations will significantly increase electricity costs for those who can afford it the least," Duncan said. "If the regulations are not going to be withdrawn by the agency, they must be thrown out by the courts. We are hopeful once the rule is final and we have a chance to argue the merits of the case a court will do just that; throw out EPA's overreaching, calamitous plan."