

United States Court of Appeals for the Tenth Circuit

OFFICE OF THE CLERK

Byron White United States Courthouse

1823 Stout Street

Denver, Colorado 80257

(303)844-3157

Patrick J. Fisher, Jr.
Clerk of Court

March 31, 2004

Ms. Sarah E. Penn
Office of the Attorney General
4545 N. Lincoln Blvd.
Suite 260
Oklahoma City, OK 73105-3498

Re: 04-9503, State of Oklahoma v. NRC
Dist/Ag docket: 40-8027-MLA-5,

04-9523, State of Oklahoma v. NRC
Dist/Ag docket: 40-827-MLA-5,

Dear Counsel:

The certified list or record on appeal in this case was filed on March 29, 2004.

Petitioner's brief must be filed within 40 days of the date on which the certified list or record is filed, whichever is first. Respondent's brief must be filed 30 days after service of petitioner's brief. Petitioner may file a reply brief within 14 days of service of respondent's brief.

An original and seven copies of each brief must be filed. The briefs must comply with 10th Cir. R. 28.1 through 28.3. and 10th Cir. R. 31 and 32. The clerk may refuse to accept for filing briefs which do not comply with these rules.

~~This appeal will be heard on the record on appeal. An appendix may not be used without the court's permission.~~

Please contact this office if you have questions.

Sincerely,

PATRICK FISHER
Clerk

By: *Opala Carter*
Deputy Clerk

PF:oac

United States Court of Appeals

District of Columbia Circuit
Washington, D.C. 20001-2866

General Information
(202) 216-7000

Mark J. Langer
Clerk

PLEASE READ THIS MEMORANDUM IN ITS ENTIRETY

MEMORANDUM TO ALL COUNSEL OF RECORD

RE: Important Information Concerning Cases Set for Oral Argument

(1) SCHEDULING ORDER

A briefing schedule has now been established in your case. Because the briefing is keyed to the date of argument, the Court will be unable to grant requests for waiver of time limits for briefs or transcripts except in truly extraordinary situations. The Court now requires that the last brief be filed a minimum of fifty (50) days prior to the first day of the month in which your case is scheduled for argument. Please review D.C. Cir. Rule 28(f)(3) before filing motions for extension of time or to exceed page limits for briefs. It is requested that intervenors notify this office by letter if they do not intend to participate in a joint intervenors' brief or to file a separate brief. Counsel for appellant(s)/petitioner(s) who do not intend to file a reply brief are encouraged to notify this office by letter before the due date for filing of that brief. Please note that A BRIEFING REMINDER WILL NOT BE SENT.

(2) FORM 72

Form 72 will be mailed to counsel approximately two weeks prior to oral argument. It is your responsibility to complete and return the Form 72 at least seven (7) days in advance of oral argument. Only counsel for the principal parties, and other counsel who intend to argue, must complete and return the form.

(3) TIME FOR ORAL ARGUMENT

Approximately two (2) weeks before the oral argument date the Court will enter an order setting forth the amount of time to be allowed for argument. See Fed. R. App. P. 34 and D.C. Cir. Rule 34 concerning the apportionment of time allotted. Consolidated cases are considered to be one case for purposes of argument time. The order in which the cases are listed on the calendar is not necessarily the order in which they will be argued on the day of argument. THE ORDER IN WHICH A CASE SHALL BE HEARD WILL BE AVAILABLE APPROXIMATELY FIVE (5) DAYS PRIOR TO ARGUMENT ON THE COURT'S INTERNET SITE: (www.cadc.uscourts.gov). Counsel on each of the scheduled dates must report to the courtroom and check in with the Courtroom Deputy by 9:10 a.m. for the morning court session and 1:40 p.m. for the afternoon court session, regardless of their position on the calendar. The court rarely sits in afternoon session. Counsel must refer to the scheduling order issued by the Court to determine whether argument will be heard during a morning or an afternoon session. The starting time set out in the scheduling order can only be changed by a superceding order of the Court. Counsel is to call the court at (202)216-7280 or (202)216-7300 in the event counsel is delayed unexpectedly.

(4) PARTICIPATION IN ORAL ARGUMENT

Ordinarily not more than two counsel may be heard for each side. See D.C. Cir. Rule 34. However, the order allotting time may limit the number of counsel to only one per side. If two counsel intend to present argument for one side, the calendar clerk (202-216-7312) should be notified of the names of the attorneys and the agreed amount of time for each attorney.

(5) MEMBERSHIP IN THE BAR

This Court maintains a bar separate from the United States District Court for the District of Columbia and the

District of Columbia Court of Appeals. An attorney intending to present argument should be a member in good standing of the Bar of this Court. A pending application for admission in proper form will satisfy this requirement. An application for admission may be obtained by calling the Clerk's Office at 202-216-7280 and is also available on the Court's web site: www.cadc.uscourts.gov. Arrangements for admission to the Bar should be made at least seven (7) days before oral argument.

In some instances, an attorney who is not a member of the Bar will be admitted *pro hac vice* for purposes of argument only. To be admitted, an attorney must file an appropriate motion at least seven (7) days before oral argument. The name of an attorney who is not a member of the Bar or has not argued a case *pro hac vice* will not appear on any opinion issued by the Court.

(6) SUBMISSIONS IN CASES WHICH ARE SCHEDULED FOR ORAL ARGUMENT OR WHICH HAVE BEEN ARGUED

All submissions in cases scheduled for oral argument shall contain a statement at the top of the first page thereof, in large type, that the case is scheduled for oral argument on [insert date] or that the case has been argued on [insert date] or submitted without oral argument. See D.C. Cir. Rules 27(a)(4) and 28(a)(7).

(7) NOTICE OF SETTLEMENT

All counsel are strongly encouraged to notify the Court as soon as settlement negotiations begin, when settlement of the case becomes likely, and when settlement is reached. This notice allows for more efficient allocation of judicial resources. Additionally, counsel should promptly notify the Court if settlement negotiations are terminated. Notice must be given in an appropriate motion or by letter to the Clerk.

(8) MOTION FOR POSTPONEMENT

Any motion for postponement should be submitted immediately upon receipt of this notice. Counsel should be aware, however, that the Court looks with disfavor upon such a motion and it will not be routinely granted.

(9) REMOVAL OF CASE FROM CALENDAR

In the event the Court determines that argument is not necessary, an order to that effect will be entered. See D.C. Cir. Rule 34(j).

(10) INCLEMENT WEATHER OR OTHER EMERGENCY CLOSINGS

If a determination is made that the Court will be closed or the court schedule will be changed due to inclement weather or an emergency situation, the court will make every effort to contact counsel who is scheduled to argue. Counsel are advised that even if the court is closed, oral argument may still take place. In addition, counsel may call the court at (202)216-7000 and listen to the entire Special Announcement recording to confirm whether oral argument will proceed. Counsel should not rely upon any public broadcast announcements concerning government closures.

ALL COUNSEL ARE ENCOURAGED TO BE FAMILIAR WITH THE RULES OF THIS COURT. COPIES OF THE RULES CAN BE OBTAINED BY CALLING THE CLERK'S OFFICE AT (202)216-7280. THE RULES ARE ALSO AVAILABLE ON THE COURT'S INTERNET SITE at www.cadc.uscourts.gov.

MARK J. LANGER
Clerk