

**UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT**

SUSTAINABLE ENERGY AND
ECONOMIC DEVELOPMENT
COALITION, et al.,

Petitioners,

v.

U.S. NUCLEAR REGULATORY
COMMISSION and the
UNITED STATES OF AMERICA,

Respondents.

NUCLEAR INNOVATION NORTH
AMERICA LLC,
Intervenor

No. 16-1108

**UNOPPOSED MOTION TO CONTINUE TO HOLD
PETITION FOR REVIEW IN ABEYANCE**

As required by the Court, Petitioners and Respondents, with Intervenor's consent, hereby submit a joint motion to govern the above-captioned petition for review of an order in the licensing proceeding for the South Texas Project Units 3 and 4 nuclear power plant, now that the Court has issued a decision in *State of New*

York v. NRC, Nos. 14-1210, 14-1212, 14-1216, and 14-1217 (Consolidated).¹ On June 3, 2016, the Court denied petitions for review of the U.S. Nuclear Regulatory Commission's Continued Spent Fuel Storage Rule and Generic Environmental Impact Statement ("GEIS").

The Environmental Petitioners in *State of New York* intend to petition the Court for rehearing *en banc*. Therefore, the parties hereby request the Court to continue to hold the above-captioned petition for review in abeyance pending the outcome of the petition for rehearing *en banc*. The parties propose to file an

¹ Nine other, similar petitions for review have been previously held in abeyance: *Missouri Coalition for the Environment, Inc. v. U.S. Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 15-1114 (filed Apr. 23, 2015); *Beyond Nuclear, Inc. vs. U.S. Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 15-1173 (filed June 19, 2015); *Blue Ridge Environmental Defense League v. U.S. Nuclear Regulatory Commission and the United States of America*, No. 15-1258 (filed Aug. 6, 2015) (consolidated by Order dated August 7, 2015 with *Blue Ridge Environmental Defense League v. U.S. Nuclear Regulatory Commission and the United States of America*, No. 15-1259 (filed Aug. 6, 2015); *Blue Ridge Environmental Defense League v. U.S. Nuclear Regulatory Commission and the United States of America*, No. 15-1260 (filed Aug. 6, 2015); *Nuclear Information and Resource Service v. U.S. Nuclear Regulatory Commission and the United States of America* (No. 15-1261) (filed Aug. 6, 2015); *Sustainable Energy and Economic Development Coalition v. U.S. Nuclear Regulatory Commission and the United States of America* (No. 15-1262); and *Beyond Nuclear v. U.S. Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 15-1263 (filed Aug. 6, 2015)); and *Southern Alliance for Clean Energy v. U. S. Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 15-1427 (filed Nov. 20, 2015). Similar motions are being filed in these other proceedings to continue to hold them in abeyance.

additional motion to govern this petition for review within 30 days of the Court's decision on the petition for rehearing.

The parties have agreed that unless the Court's decision in *State of New York* is modified on rehearing or on writ of certiorari, all issues related to the Continued Spent Fuel Storage Rule and GEIS, whether under the National Environmental Policy Act, the Administrative Procedure Act, or the Atomic Energy Act, are resolved by *State of New York* and will not be litigated in the above-captioned case. The parties' agreement does not affect whether petitioner can present before the Commission a petition for waiver, pursuant to 10 C.F.R. § 2.335, of the Continued Storage Rule in any individual licensing proceeding.

Respectfully submitted,

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July 1, 2016

CERTIFICATE OF SERVICE

Undersigned certifies that on July 1, 2016, a copy of the foregoing Unopposed Motion to Continue to Hold Petition for Review in Abeyance was filed with the Clerk of the Court and served on counsel of record through the CM/ECF system.

/s/Robert V. Eye