

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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THE STATE OF NEW YORK,
THE STATE OF CONNECTICUT,
and
THE STATE OF VERMONT,

Petitioners,

-against-

No. 14-_____-ag

UNITED STATES NUCLEAR REGULATORY COMMISSION,
and
THE UNITED STATES OF AMERICA,

Respondents.
-----x

**PETITION FOR REVIEW OF
ADMINISTRATIVE AGENCY ACTION**

Pursuant to § 189 of the Atomic Energy Act, 42 U.S.C. § 2239, the Hobbs Administrative Orders Review Act, 28 U.S.C. §§ 2341-2351; the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and Rule 15 of the Federal Rules of Appellate Procedure, petitioners, the State of New York, by its attorney, Eric T. Schneiderman, Attorney General of the State of New York; the State of Vermont, by its attorney, William H. Sorrell, Attorney General of the State of Vermont; and the State of Connecticut, by its attorney, George Jepsen, Attorney General of the State of Connecticut, hereby petition this Court for review of the United States Nuclear Regulatory Commission's

- Continued Storage of Spent Nuclear Fuel, Final Rule, 79 Fed. Reg. 56,238-56,263 (Sept. 19, 2014) (effective October 20, 2014) (“Continued Storage Rule”) (Attachment 1 to this petition);

- Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel, 79 Fed. Reg. 56,263-56,264 (Sept. 19, 2014) (“Generic EIS”) (Attachment 2 to this petition);
- NRC Commissioner Memorandum and Order, CLI-14-08 (Aug. 26, 2014) (effective October 20, 2014) (“Order”) (lifting the suspension on all final licensing decisions for affected applications in view of the Commissioner’s approval of the final Continued Storage Rule and the Generic EIS) (Attachment 3 to this petition); and
- Commission Vote and directives to NRC Staff to revise and finalize the Generic EIS and Continued Storage Rule, CVR 2014-0072, (Aug. 26, 2014) (“Directives”) (Attachment 4 to this petition).

The Commission acted arbitrarily, abused its discretion, and violated the National Environmental Policy Act (“NEPA”), the Administrative Procedure Act, the Atomic Energy Act, the Commission’s policies and regulations, the Council on Environmental Quality’s regulations, and other applicable laws and regulations in promulgating the Continued Storage Rule, and in adopting the Generic EIS, the Order, and Directives.

Petitioners New York, Connecticut, and Vermont submitted comments on both the draft Continued Storage Rule and the draft Generic EIS on December 20, 2013. The State of New York submitted additional comments, including an expert report analyzing the Generic EIS, on that same date. The States presented additional comments throughout the rulemaking.

Venue is appropriate within the D.C. Circuit pursuant to 28 U.S.C. § 2343.

Petitioners respectfully request that this Court review the actions and final agency rule identified above, vacate them, and remand the matter to the Commission for further analysis and the preparation and issuance of an environmental impact statement that complies with NEPA and

other applicable laws and regulations, and grant petitioners any other and further relief that the Court may deem just and appropriate.

Dated: October 24, 2014
Albany, New York

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