

ORAL ARGUMENT NOT YET SCHEDULED

17-1341

IN THE UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

**NATIONAL ELECTRICAL
MANUFACTURERS ASSOCIATION,**

Petitioner,

v.

**UNITED STATES DEPARTMENT OF
ENERGY,**

Respondent.

On Petition for Review of Decision of the
U.S. Department of Energy**MOTION OF THE STATES OF CALIFORNIA,
MASSACHUSETTS, NEW YORK, OREGON,
VERMONT, AND WASHINGTON AND THE
DISTRICT OF COLUMBIA FOR LEAVE TO
INTERVENE AS RESPONDENTS**

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California State Energy
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Development Commission and
Attorney General Xavier Becerra**Additional counsel on signature
pages*

Pursuant to Federal Rule of Appellate Procedure 15(d), the State of California, by and through the California State Energy Resources Conservation and Development Commission (“California Energy Commission” or “CEC”) and Attorney General Xavier Becerra, and the States of Massachusetts, New York, Oregon, Vermont, and Washington and the District of Columbia (“State Intervenor”) hereby move to intervene as Respondents to defend the challenged rules: Energy Conservation Program: Energy Conservation Standards for General Service Lamps, 82 Fed. Reg. 7276 (Jan. 19, 2017) (“General Service Lamp Rule”) and Energy Conservation Program: Energy Conservation Standards for General Service Lamps, 82 Fed. Reg. 7322 (Jan. 19, 2017) (“Incandescent Reflector Lamp Rule”, or collectively the “Lamp Rules”).

Counsel for State Intervenor has contacted counsel for the parties in this action and informed them of State Intervenor’s intent to file this motion. Petitioner National Electrical Manufacturers Association indicated it would take no position on the motion prior to its filing and reserved the right to object once it has reviewed the motion. Respondent the United States Department of Energy (DOE) indicated it will determine its position after it has an opportunity to review the motion once it is filed.

INTRODUCTION

DOE issued the Lamp Rules pursuant to its energy conservation obligations under the federal Energy Independence and Security Act of 2007 (EISA). There are four basic “lamp” technologies (the Act refers to light bulbs as “lamps”): incandescent (filament), halogen, compact fluorescent light (CFL), and light-emitting diode (LED). EISA uses the term “general service lamp” to describe lamps of any technology that are used to satisfy lighting applications traditionally served by general service incandescent lamps. To foster the use of the most efficient lamp technologies, EISA sets energy conservation standards and imposes rulemaking deadlines on DOE for various types of general service lamps.

The State Intervenor move to intervene because the energy that will be conserved thanks to the Lamp Rules is critical to their broader efforts to reduce energy use and expense, and lower emissions of air pollutants, including greenhouse gases. The Lamp Rules achieve their energy savings by broadly defining the types of lamps they cover, and subjecting them to a more stringent, statutory 45 lumen-per-watt requirement. Federal law generally preempts states from setting their own energy efficiency requirements for many of the lamp types the Lamp Rules cover. States depend on DOE to adopt and maintain stringent energy conservation regulations like the Lamp Rules to help them achieve their energy conservation goals. Any weakening or delay of the Lamp Rules would

diminish their energy savings, to the detriment of the States' natural resources, economies, and citizens. Furthermore, State Intervenor's interests may not be adequately represented by Respondent.

BACKGROUND

Adopted in the aftermath of the 1973 oil crisis, the Energy Policy and Conservation Act of 1975 (EPCA) created a comprehensive approach to federal energy policy. Congress's primary goal in adopting EPCA was to reduce domestic energy demand through improved energy efficiency. EPCA, as amended over time, directs the DOE to develop, revise, and implement minimum energy conservation standards for a variety of appliances and equipment. 42 U.S.C. §§ 6295, 6313. For the most part, states are preempted from establishing standards concerning energy efficiency or energy use for appliances and equipment which Congress or DOE has specified energy conservation standards for, 42 U.S.C. §§ 6297, 6316, making DOE's timely and full implementation of the law critical to the states.

In 2007, Congress amended EPCA with EISA. EISA encourages the use of energy efficient lamp technologies and establishes minimum energy conservation standards for general service incandescent lamps. These standards effectively phased out the use of the most energy-consumptive incandescent lamps between the years 2012 and 2014, with many of these lamps being replaced by halogen or

CFL technologies. EISA also required DOE to initiate a rulemaking by January 1, 2014 to amend standards for general service lamps and to eliminate exemptions for certain types of incandescent lamps. 42 U.S.C. § 6295(i)(6)(A)(i). DOE could amend the standards by publishing a final rule by January 1, 2017. 42 U.S.C. § 6295(i)(6)(A)(iii). If it did not, EISA established a “backstop”, mandating that by January 1, 2020, “the Secretary shall prohibit the sale of any general service lamp that does not meet a minimum efficiency standard of 45 lumens per watt.” 42 U.S.C. § 6297(i)(6)(A)(v). Since DOE did not publish a final rule by the January 1, 2017 deadline, beginning January 1, 2020 all lamps covered by EISA’s definition of “general service lamp” must meet the 45 lumen-per-watt backstop requirement.

In December 2013, DOE initiated a rulemaking for “general service lamps” and proposed broadening their definition to include other lamp bases in addition to the medium screw base, other lamp shapes in addition to the traditional A-shape, and incandescent, halogen, compact fluorescent, and LED technologies. 78 Fed. Reg. 73737 (Dec. 9, 2013). On October 8, 2016, DOE published proposed expanded definitions to include certain previously exempted lamp types, namely the so-called “EISA-exempt lamps” (rough-service, vibration-service, three-way, shatter-proof, and high-lumen lamps), decorative lamps, and incandescent reflector lamps. 81 Fed. Reg. 71794 (Oct. 8, 2016).

DOE published its two final rules on January 19, 2017. The General Service Lamp Rule expanded the scope of “general service lamp” to include various base shapes and lamp shapes, and eliminated EISA exemptions for specified lamps. 82 Fed. Reg. 7276 (Jan. 19, 2017). The Incandescent Reflector Lamp Rule further expanded the definition of “general service lamp” to include incandescent reflector lamps. 82 Fed. Reg. 7322 (Jan. 19, 2017). Both rules take effect January 1, 2020. These two rules effectively subject the EISA-exempt lamps, decorative lamps, and incandescent reflector lamps to the EISA’s 45 lumen-per-watt backstop requirement. The proposed State Intervenor California and Vermont participated in the rulemakings.

ARGUMENT

This motion to intervene meets the standards of Federal Rule of Appellate Procedure 15(d) and the standards of Federal Rule of Civil Procedure 24, which Circuit Courts have sometimes incorporated into their intervention analysis. *See, e.g., Building & Const. Trades Dept., AFL-CIO v. Reich*, 40 F.3d 1275, 1282 (D.C. Cir. 1994) (quoting *Int’l Union v. Scofield*, 382 U.S. 205, 217 n.10 (1965) and applying Fed. R. Civ. P. 24 standards to intervention in appellate proceedings); *Sierra Club, Inc. v. PA*, 358 F.3d 516, 517-18 (7th Cir. 2004) (“Rule 15(d) does not provide standards for intervention, so appellate courts have turned to the rules governing intervention in the district courts under Fed. R. Civ. P. 24.”).

The main requirements of the Federal Rule of Appellate Procedure 15(d) and Federal Rule of Civil Procedure 24 are timeliness and the proposed State Intervenor's interests in the case. *See* Fed. R. App. Proc. 15(d); Fed. R. Civ. Pro. 24. This motion is timely. It was filed within 30 days of the Petition for Review, which was filed on March 16, 2017 (No. 17-1341). *See* Fed. R. App. Proc. 15(d); *Welch v. Chao*, 536 F.3d 269 (4th Cir. 2008) (permitting intervention as respondent under Fed. R. App. Proc. 15(d) motion).

The State Intervenor's have strong interests in the energy savings the Lamp Rules will achieve. These interests are more than sufficient to support the States' intervention. "[C]onstitutional standing is alone sufficient to establish that [a proposed intervenor] has an interest relating to the property or transaction which is the subject of the action." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003) (internal quotation omitted). State Intervenor's have constitutional standing under *Massachusetts v. EPA*, 549 U.S. 497 (2007). The Supreme Court held there that States have "independent interest[s]" in their domains that entitle them to "special solicitude in ... standing analysis." *Id.* at 519-20. The "special solicitude" applicable there is equally applicable here. *See id.*

State Intervenor's compelling interests in defending the Lamp Rules as a means for conserving energy, saving costs and reducing emissions of greenhouse gases and other pollutants support their intervention as well. DOE's Lamp Rules

close a potential loophole by prohibiting the sale of lamps that resemble inefficient incandescent lamps but are widely available in LED technologies. The Rules also hold all reflector lamps to the same efficiency standard, regardless of their technology type. The energy savings attributable to the Lamp Rules are substantial and if the rules are weakened or eliminated, the State Intervenors will suffer very real, negative economic and environmental consequences, contrary to Congress's energy conservation goals embodied in EPCA and EISA.

Without the benefit of the Lamp Rules, electricity consumption will increase, causing higher energy bills for State Intervenors, their municipalities, residents, and businesses. Increased fossil fuel consumption as a result of reduced efficiency will lead to increased emissions of air pollutants, including greenhouse gases, negatively impacting the health of both State Intervenors' residents and their environment. If Petitioners prevail it will impede state and municipal energy policies that rely on increased energy efficiency as part of an overall strategy to transition to cleaner, safer, and more sustainable energy sources.

Although, as noted, states are generally preempted from establishing energy efficiency standards for appliances for which Congress or the DOE has specified standards, EPCA establishes specific and narrow exceptions for general service lamps and California energy efficiency standards. 42 U.S.C. § 6295(i)(6)(A)(vi)(II) (authorizing California to adopt the 45 lumen-per-watt backstop for general service

lamps effective January 1, 2018, two years earlier than the date contained in federal law). The CEC has utilized this exemption in its rulemakings and adopted the 45 lumen-per-watt backstop, effective January 1, 2018, for all general service lamps, as then defined in the EISA. Cal. Code Regs., tit. 20, § 1605.3(k)(2), Table K-12. The CEC also adopted stringent standards for general service LED lamps and small-diameter directional lamps, also effective January 1, 2018, which will improve the efficiency of LED lamps and tilt the small-diameter directional lamp market towards LED technologies. Cal. Code Regs., tit. 20, § 1605.3(k)(2)(C) and (k)(3). However, the CEC could not pursue standards for other lamp types covered under the Lamp Rules, such as incandescent reflector lamps or incandescent candelabra lamps, due to federal preemption, making it reliant on DOE to include these lamps under the scope of the 45 lumen-per-watt backstop.

Because the Lamp Rules would expand the application of the 45 lumen-per-watt backstop to a significantly larger segment of the lighting market, State Intervenor has a strong interest in defending them. California consulted frequently and substantively with DOE during the development of the Lamp Rules. 82 Fed. Reg. at 7287, 7289, 7292, 7298, 7305-06, 7308-09, 7312, 7316-17, 7328-29. This investment of effort reflects California's interest in strong national standards that promote energy conservation and underscores its strong interest in these regulations. *See, e.g.,* Letter re Notice of Proposed Definition and Data

Availability for General Service Lamps, Docket No. EERE-2013-BT-STD-0051 (November 8, 2016). Vermont also commented during the rulemakings. *See, e.g.*, Letter re Notice of Proposed Definitions and Data Availability for General Service Lamps, Docket No. EERE-2013-BT-STD-0051 (November 8, 2016).

Motivated by their sovereign interests in energy conservation and in reducing the negative impacts of energy production and consumption on public health, the economy and the environment, a number of State Intervenorors have participated in proceedings related to DOE's efficiency standards, including litigation to compel DOE to develop and issue statutorily mandated efficiency standards. *See, e.g., State of New York v. Bodman*, Nos. 05 Civ. 7807 & 7808 (JES) (S.D.N.Y.) (suit resulted in consent decree requiring DOE to publish amended standards for furnaces, among other products, by a date certain). In *NRDC v. Abraham*, 355 F.3d 179 (2d Cir. 2004), several of the State Intervenorors successfully argued for reversal of DOE's attempt to weaken the minimum efficiency standard for residential central air conditioners. More recently, several State Intervenorors, including California, Massachusetts, New York, Oregon, Vermont, Washington and the District of Columbia, along with a coalition of other state and municipal entities, filed a petition for review of DOE rules delaying the effective date of newly promulgated efficiency standards for ceiling fans. *State of New York v. U.S. Dept of Energy*, No. 19-918 (2d Cir. 2017). State Intervenorors

seek here to protect the same sovereign interests that were at stake in these other proceedings.

Finally, although the State Intervenor's interests in defending the Lamp Rules may appear, at this early stage in the litigation, to be aligned with DOE's interests in defending the Lamp Rules, that may not be the case in the future. Their interests have diverged in the past. *See, e.g., California Energy Com'n v. Department of Energy*, 585 F.3d 1143 (9th Cir. 2009) (suit by CEC for waiver of preemption to allow for state water efficiency standards for residential clothes washers); *NRDC v. Abraham*, 355 F.3d 179. A proposed intervenor need not show that representation will in fact be inadequate; the intervenor need only show that representation of its interests *may* be inadequate. *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n. 10 (1972). And, in this case, for example, DOE may seek to settle or otherwise resolve this matter in ways that could be adverse to the State Intervenor's interests. Courts have recognized that the interests of one governmental entity may not be the same as another governmental entity. *See, e.g., Forest Conserv. Council v. U.S. Forest Serv.*, 66 F.3d 1489, 1499 (9th Cir. 1995), *abrogated on other grounds by Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173 (9th Cir. 2011). Moreover, "[a] governmental party that enters a lawsuit solely to represent the interests of its citizens . . . differs from other parties, public or private, that assert their own interests, even when these interests coincide."

United States v. Hooker Chems. & Plastics Corp. 749 F.2d 968, 992 n. 21 (2d. Cir. 1984). State Intervenorors seek to intervene here to ensure that their important and substantial interests in defending the Lamp Rules are adequately protected.

CONCLUSION

The State Intervenorors respectfully request that this Court grant them leave to intervene as respondents to defend the Lamp Rules, as Courts have done for many similarly situated state entities in similar proceedings. *See, e.g., Coalition for Responsible Regulation, Inc. v. E.P.A.*, 684 F.3d 102, 107-113 (D.C. Cir. 2012).

Dated: April 17, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April 2017, I have caused the foregoing document to be filed with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system, and served it on the following counsel via the Court's CM/ECF System:

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I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: April 17, 2017

s/ Bryant B. Cannon

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Effective 12/01/2016

No. 17-1341 Caption: National Electrical Manufacturers Association v. DOE

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT
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Type-Volume Limit for Briefs: Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

Type-Volume Limit for Other Documents if Produced Using a Computer: Petition for permission to appeal and a motion or response thereto may not exceed 5,200 words. Reply to a motion may not exceed 2,600 words. Petition for writ of mandamus or prohibition or other extraordinary writ may not exceed 7,800 words. Petition for rehearing or rehearing en banc may not exceed 3,900 words. Fed. R. App. P. 5(c)(1), 21(d), 27(d)(2), 35(b)(2) & 40(b)(1).

Typeface and Type Style Requirements: A proportionally spaced typeface (such as Times New Roman) must include serifs and must be 14-point or larger. A monospaced typeface (such as Courier New) must be 12-point or larger (at least 10½ characters per inch). Fed. R. App. P. 32(a)(5), 32(a)(6).

This brief or other document complies with type-volume limits because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) (cover page, disclosure statement, table of contents, table of citations, statement regarding oral argument, signature block, certificates of counsel, addendum, attachments):

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(s) Bryant B. Cannon

Party Name State of California

Dated: 4/17/17

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 17-1341 Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

State of California, by and through the California State Energy Resources Conservation and
(name of party/amicus)

Development Commission and Attorney General Xavier Becerra

who is intervenor, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Bryant B. Cannon

Date: 4/17/17

Counsel for: State of California

CERTIFICATE OF SERVICE

I certify that on 4/17/17 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

/s/ Bryant B. Cannon
(signature)

4/17/17
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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No. 17-1341

Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

Commonwealth of Massachusetts

(name of party/amicus)

who is intervenor , makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
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4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Robert E. Toon, Jr.

Date: 4/17/17

Counsel for: Commonwealth of Massachusetts

CERTIFICATE OF SERVICE

I certify that on 4/17/17 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

/s/ Bryant B. Cannon
(signature)

4/17/17
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

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No. 17-1341

Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

State of New York

(name of party/amicus)

who is intervenor, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

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4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Steven WuDate: 4/17/17Counsel for: State of New York**CERTIFICATE OF SERVICE**

I certify that on 4/17/17 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

/s/ Bryant B. Cannon
(signature)

4/17/17
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 17-1341

Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

State of Oregon

(name of party/amicus)

who is intervenor , makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Marc AbramsDate: 4/17/17Counsel for: State of Oregon**CERTIFICATE OF SERVICE**

I certify that on 4/17/17 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

/s/ Bryant B. Cannon
(signature)

4/17/17
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

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Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

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No. 17-1341

Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

State of Vermont

(name of party/amicus)

who is intervenor , makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Laura B. Murphy

Date: 4/17/17

Counsel for: State of Vermont

CERTIFICATE OF SERVICE

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/s/ Bryant B. Cannon
(signature)

4/17/17
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

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Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 17-1341

Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

State of Washington

(name of party/amicus)

who is Intervenor, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Laura J. WatsonDate: 4/17/17Counsel for: State of Washington**CERTIFICATE OF SERVICE**

I certify that on 4/17/17 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

/s/ Bryant B. Cannon
(signature)

4/17/17
(date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 17-1341

Caption: National Electrical Manufacturers Association v. DOE

Pursuant to FRAP 26.1 and Local Rule 26.1,

District of Columbia

(name of party/amicus)

who is intervenor , makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☒ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: /s/ Robyn R. Bender

Date: 4/17/17

Counsel for: District of Columbia

CERTIFICATE OF SERVICE

I certify that on 4/17/17 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

/s/ Bryant B. Cannon
(signature)

4/17/17
(date)