

Supreme Court blocks Obama plan on climate change

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The United States Supreme Court's right-wing majority is functioning more and more openly as a proconsul taking orders from dominant sections of the ruling class, most recently those in the coal and oil industry.

Late Tuesday, by a vote of 5-4 along what are characterized as "partisan" lines, the Supreme Court ordered the Obama administration to stop implementing its "Clean Power Plan," a series of regulations issued last summer by the Environmental Protection Agency (EPA) to require states to purchase electrical power from sources that do not emit undue amounts of carbon and other pollutants into the atmosphere.

Compliance, which is scheduled to take place over a number of years, would require modifications to the smokestacks and other infrastructure in plants burning coal and other fossil fuels. Some older coal and oil plants would have to shift to cleaner natural gas, or be replaced by wind, solar and other renewable sources.

These measures are themselves entirely inadequate to deal with the threat of climate change, which is already having an impact on the global environment. Since coming to office, the Obama administration has done nothing to seriously address the issue.

Nevertheless, twenty-nine states, principally fossil fuel producers, supported by various energy associations, filed various lawsuits to enjoin the Clean Power Plan, claiming that Obama is engaged in a "power grab" by establishing an "energy czar" who will unduly intrude on the "sovereignty" of the states to control their own energy resources.

The executive power of federal agencies such as the EPA to enact regulations deemed to be in the national interest has been established for decades. The legal grounds for the lawsuits are farfetched under well-

established legal standards, but those no longer deter the current Supreme Court majority from reaching its purely result-oriented decisions.

The Supreme Court action is also unusual on procedural grounds. The cases in question are still working their way through lower court review. Typically, such complex disputes are first adjudicated by lower courts so that the facts can be established and the legal issues distilled before the Supreme Court considers taking any action.

The various cases brought by the states have been consolidated and are presently pending before a three-judge panel of United States Court of Appeals for the District of Columbia Circuit, the main United States court for adjudicating challenges to federal regulations.

The D.C. Circuit unanimously denied the states' requests for a stay, instead placing the cases on an expedited schedule, with oral arguments set for June 2. The panel's ruling is expected to follow within months thereafter. The losing side could then ask the full Circuit to review the decision "en banc," or choose to petition directly to the Supreme Court.

In opposition to the states' request for an immediate stay, Solicitor General Donald Verrilli argued to the Supreme Court that "climate change is the most significant environmental challenge of our day, and it is already affecting national public health, welfare and the environment."

Verrilli explained that not only were the cases not ripe for Supreme Court action, but also that there was no need for immediate action to protect the status quo. Under the new regulations, no state would have to commence its implementation of a clean air plan until 2022, and full completion is not required before 2030. On top of that stretched-out schedule there are provisions for states and plants to seek extensions of

deadlines.

Eighteen states filed papers in opposition to the request for a stay, stating that they are experiencing “climate-change harms firsthand—including increased flooding, more severe storms, wildfires and droughts.” Those harms are “lasting and irreversible,” according to those states, and “any stay that results in further delay in emissions reductions would compound the harms.”

The Tuesday action consisted of five nearly identical summary orders that provided no explanation of the legal ground for the ruling granting the stay, which remains in effect while the case works through the Court of Appeals and any later Supreme Court review. As is customary, only the dissenting Justices were named on the order—Stephen Breyer, Ruth Bader Ginsburg, Elena Kagan, and Sonia Sotomayor. Thus the right-wing bloc of Chief Justice John Roberts and Associate Justices Samuel Alito, Anthony Kennedy, Antonin Scalia and Clarence Thomas has responsibility for the stay.

The Supreme Court’s action has been widely interpreted as a deliberate act to humiliate president Barack Obama, who pointed to the Clean Power Plan while in Paris last December negotiating international accords to reduce carbon emissions. Rather than denounce the action, however, the White House issued a mealy-mouthed statement about “ultimately prevailing” before a court that has already decided against it.



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