

No. 24-961

In the Supreme Court of the United States

ENVIRONMENTAL PROTECTION AGENCY, ET AL.
PETITIONERS

v.

COMMONWEALTH OF KENTUCKY, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT*

REPLY BRIEF FOR THE PETITIONERS

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Respondents acknowledge (Kentucky Br. in Opp. 2; Cabinet Br. in Opp. 2) that the question presented in this case is identical to the question presented in *Oklahoma v. EPA*, 145 S. Ct. 411 (2024) (No. 23-1067) (argued Mar. 25, 2025), and *PacifiCorp v. EPA*, 145 S. Ct. 411 (2024) (No. 23-1068) (argued Mar. 25, 2025). Respondents nevertheless contend (Kentucky Br. in Opp. 9-11; Cabinet Br. in Opp. 5) that the Court should decline to hold the petition pending the resolution of those cases because EPA is reassessing the basis for and soundness of the disapproval action.

That reassessment does not warrant a denial of the petition. Even after EPA alerted the Court that the agency was considering whether to change course on the underlying disapproval action, this Court concluded that it would be appropriate to resolve the venue question in *Oklahoma* and *PacifiCorp*. Indeed, the petition-

ers in both *Oklahoma* and *PacifiCorp* opposed the government's motion to hold the briefing schedule in abeyance, arguing that the Court's resolution of the venue issue could provide useful clarity for parties in future and present Clean Air Act disputes. Nor do respondents' concerns with delay warrant a denial. See Kentucky Br. in Opp. 10. This Court has already heard oral argument on the question presented and a decision will likely issue in a matter of weeks. Because this case involves precisely the same agency action and precisely the same question presented as in *Oklahoma* and *PacifiCorp*, it should be resolved in accord with those cases.

* * * * *

For the foregoing reasons and those stated in the petition for a writ of certiorari, the petition should be held pending this Court's decision in *Oklahoma, supra* (No. 23-1067), and *PacifiCorp, supra* (No. 23-1068), and then disposed of as appropriate in light of that decision.

Respectfully submitted.

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