

**IN THE
SUPREME COURT OF THE UNITED STATES**

No. _____

NGL SUPPLY WHOLESALÉ, L.L.C.,
Applicant,

v.

FEDERAL ENERGY REGULATORY COMMISSION AND
UNITED STATES OF AMERICA,
Respondents.

PHILLIPS 66 COMPANY and PHILLIPS 66 PIPELINE LLC,
Intervenors.

**APPLICATION TO THE HON. JOHN G. ROBERTS, JR. FOR AN
EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION
FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT**

Pursuant to Supreme Court Rule 13(5), NGL Supply Wholesale, L.L.C. hereby moves for an extension of time of 30 days, to and including July 26, 2022, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari will be June 26, 2022.

In support of this request, Applicant states as follows:

1. The United States Court of Appeals for the District of Columbia Circuit rendered its decision on January 25, 2022 (Exhibit 1), and denied a timely petition for rehearing *en banc* on March 28, 2022 (Exhibit 2). This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. This case involves complex issues of administrative and constitutional law, including a novel form of deference that the D.C. Circuit has adopted based on this Court's holding in *Auer v. Robbins*, 519 U.S. 452 (1997). The circuit court's extension of *Auer* to require deference to an agency's interpretation of its own precedent creates a loophole to avoid reasoned decisionmaking. Ex. 1 at 3; *Cassell v. FCC*, 154 F.3d 478, 484 (D.C. Cir. 1998). Rather than endure the chore of promulgating a new rule, agencies can simply declare, as in this case, that they are interpreting their precedent differently. The result for administrative law and the separation of powers are significant.

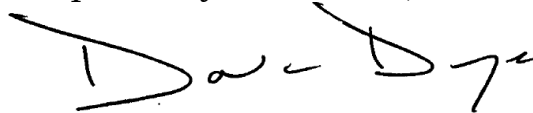
3. Applicant's counsel, Dominic E. Draye, faces a number of briefing deadlines before the current June 26, 2022 deadline in this case, including briefs in the Ninth Circuit and two State supreme courts. Moreover, because both the original and extended deadlines fall during

the Court's summer recess, the extension will not delay the Court's ability to review the forthcoming petition when it returns in September.¹

4. Applicant thus requests a modest extension for counsel to prepare a petition that fully addresses the complex issues raised by the decision below and frames those issues in a manner that will be most helpful to the Court.

WHEREFORE, for the foregoing reasons, Applicant requests that an extension of time to and including July 26, 2022, be granted within which Applicant may file a petition for a writ of certiorari.

Respectfully submitted,



Kenneth M. Minesinger
Howard L. Nelson
Dominic E. Draye
Counsel of Record
Greenberg Traurig, LLP
2101 L Street, N.W.
Suite 1000
Washington, DC 20037
(202) 331-3100

Counsel for Applicant

June 6, 2022

¹ Applicant twice contacted counsel for Respondent, who did not respond to express a view on this extension request.

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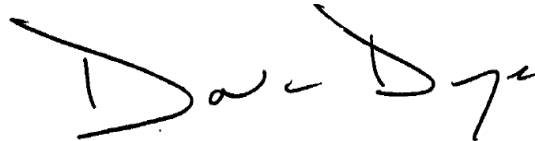
CERTIFICATE OF SERVICE

I, Dominic E. Draye, a member of the Supreme Court Bar, hereby certify that three copies of the attached Application to the Hon. John G. Roberts, Jr. For An Extension of Time Within Which to File a Petition For a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit were served upon:

Elizabeth Prelogar
Solicitor General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Counsel for Respondent

Britt Cass Steckman
Margaret B. Beasley
BRACEWELL LLP
2001 M Street NW, Suite 900
Washington, DC 20036
britt.steckman@bracewell.com
margaret.beasley@bracewell.com
Attorneys for Intervenor-Respondents
Phillips 66 Pipeline LLC and Phillips 66 Company

Service was made by first class mail on June 6, 2022.



Kenneth M. Minesinger
Howard L. Nelson
Dominic E. Draye
Counsel of Record
Greenberg Traurig, LLP
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Suite 1000
Washington, DC 20037
(202) 331-3100

Counsel for Applicant

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