HOLWELL SHUSTER & GOLDBERG LLP

425 Lexington Ave, 14th Floor
New York, New York 10017
Tel: (646) 837-5151
Fax: (646) 837-5150
www.hsgllp.com

Vincent Levy
(646) 837-5120
vlevy@hsgllp.com

VIA ELECTRONIC FILING

Hon. Scott S. Harris
Clerk of Court
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: *Lee M. Zeldin, Administrator, Environmental Protection Agency, et al. v. Climate United Fund, et al.*, No. 26-589, and
Citibank, N.A. v. Climate United Fund, et al., No. 26-594

Dear Mr. Harris:

I write in response to the government's letter of November 11, 2026 ("Opp."), opposing the 30-day extension requested by Coalition for Green Capital ("CGC"), one of the Respondents in the above-referenced proceedings. The D.C. Circuit's judgment was entered on August 4, 2026. Although nothing prevented the government from filing its petition within 60 days (or earlier) if it wanted to ensure prompt disposition of the petition, the Government took a full 90 days to file its petition.

CGC now requests an extension of 30 days, which is the sort of extension that, per this Court's guidance, "the Clerk's Office will generally grant . . . upon request," absent "circumstances that necessitate a speedy ruling on the petition."[1] CGC has good reason to make that request, as five private respondents and four state respondents, all separately represented, will need to coordinate their responses over a period that includes two federal holidays, addressing not one but two petitions for certiorari (one from the government and one from Citibank) as well as a forthcoming amicus brief from various other states.

Yet, without identifying any compelling need to deviate from this Court's practice, the government now asks that any extension to oppose its petition be limited to just four days—from December 4 to December 8—on the theory that the cases must be heard this Term and CGC's request would be "highly prejudicial." Opp. 1. The government is wrong. No exigency requires rushing to have these cases argued by this April.

The government identifies no need for the case to be heard this Term. The D.C. Circuit entered an administrative stay when this appeal began nearly nineteen months ago, on April 16, 2025, freezing the grant funds at issue in Citibank accounts. By later order, entered on the government's motion, that freezing order will remain in effect "pending the Supreme Court's final

[1] https://www.supremecourt.gov/casehand/GuidanceOnScheduling2026.pdf

disposition" of the case. Order, No. 25-5122 (D.C. Cir. Aug. 7, 2026) (en banc) (Doc. 2187214). As the government told the D.C. Circuit when it successfully obtained that later stay order, "the grant funds have been effectively frozen in the Citibank accounts since April of [2025]," and "allowing the administrative stay to remain in place thus maintains the status quo." D.C. Cir. Doc. 2187046, at 8. The government has repeatedly acknowledged this fact. No. 26-589 Pet. 9 (confirming administrative stay "remains in place today"); D.C. Cir. Doc. 2192956, at 1, 8 (Sept. 14, 2026) (noting same).

Absent any real exigency, and having itself taken advantage of the stay to take the full 90 days to prepare its petition, the government argues "the Tucker Act and merits questions are important" and should be resolved soon. Opp. 1. The government tacitly acknowledges no split exists on the merits questions (consistent with its petition) but argues it needs "clarity" on the Tucker Act. But, by the government's own account, that very question is presented in numerous other active cases. *See* No. 26-589 Pet. 29–31 & n.6. And this case presents sui generis facts that make it a remarkably poor vehicle.[2] Moreover, even if the government is right that the questions presented are "important," that is true of any question on which the Court grants certiorari, and yet, as noted, the Court grants 30-day extensions to oppose certiorari as a matter of course. The claimed importance of this case should not deprive Respondents of the opportunity to have an appropriate time to coordinate and prepare their briefing in opposition, particularly when the case has been on appeal since April 2025 and subject to a freezing order that remains in effect.

The government is not being prejudiced because an extension is consistent with the parties' agreement. The government's claim of prejudice rests on a "jointly negotiated scheduling agreement" that does not exist. The government did not ask Respondents to commit to forgo extension requests; no Respondent made any such a commitment; and there is no "scheduling agreement." Instead, in the correspondence the government cites, the Respondents committed not to oppose an extension of the D.C. Circuit's stay order freezing the Citibank funds if "*the government* agree[d] not to seek any extension of the time to file the cert petition." Opp. 2 (emphasis added). That proposal imposed a scheduling commitment on the government alone, the consideration for which was that Respondents would not oppose its stay motion. The government admits as much, suggesting "it *expected* that respondents would likewise file their responses without extension (or with a minimal extension to the December cutoff)." Opp. 2. If the government had wanted a commitment on the part of Respondents not to seek an extension, it should have asked for that commitment.

Nor did Respondents agree that they would act to ensure the Court could hear the case this Term. Again, Respondents asked for "*the government*" not to seek an extension so, if Respondents wished to oppose the government's petition early, "the Court *may* hear the case this term." Opp. 2 (emphasis added). In other words, Respondents wanted the option to oppose on a timetable that would allow the Court to hear the case this Term, if Respondents wished. This does not mean that they committed to forgo the ability to seek an extension, a right they *did not* waive (unlike the government), and neither should the Court enforce an agreement Respondents never made.

* * *

[2] Among other things, in this case the government long ago disbursed the funds at issue, and the grant programs present unique complexities, including that Citibank acts as Fiscal Agent. This case is therefore unlike any other case concerning grant-program terminations.

The en banc court entered its judgment on August 4, 2026, No. 26-589 Pet. 1, and, after obtaining a stay from the D.C. Circuit that it told that Court was adequate and necessary to preserve the status quo, the government waited until *the last possible day* to file its petition (November 2). *See* SCR 13.1. Nothing prevented the government from filing its petition earlier if it wanted to ensure that the case would be heard this Term (if granted). Respondents never agreed to file their brief in time to ensure the case could be heard this Term, or to forgo the ability to seek an extension of the time to respond. There has indeed never been any "scheduling agreement." And the government makes no effort to show prejudice. The Court should grant an extension so that, in the government's words, the "five sets of separately represented respondents" have a fair opportunity to respond.

Respectfully submitted,

/s/ Vincent Levy
Vincent Levy
Counsel of Record for Respondent
Coalition for Green Capital

cc: D. John Sauer, Solicitor General, Counsel of Record for Petitioners
Diana L. Kim, Counsel of Record for Respondent the State of California
Adam G. Unikowsky, Counsel of Record for Respondent Climate United Fund
Beth C. Neitzel, Counsel of Record for Respondent Power Forward Communities
Jay C. Johnson, Counsel of Record for Respondent Inclusiv, Inc.
David J. Zimmer, Counsel of Record for Respondent Justice Climate Fund
Christopher G. Michel, Counsel of Record for Respondent Citibank, N.A.