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From: POLITICO Pro Energy Whiteboard
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Subject: Court delays coal ash arguments to November

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The D.C. Circuit Court of Appeals today granted a one-month delay in arguments over EPA's 2015 coal ash rule following Administrator Scott Pruitt's decision to reconsider key parts of the regulation.

Arguments had been scheduled for Oct. 17, but a three-judge panel ordered them delayed until Nov. 20.

The judges ordered EPA to reveal by Nov. 15 which portions of the rule will be reconsidered "and setting forth with specificity the timeline for reconsideration." In addition, all sides, including industry and environmental challengers, are supposed to file new briefs by Oct. 11 addressing whether the new state-based coal ash permitting program that passed Congress as part of the Water Infrastructure Improvements for the Nation Act at the end of 2016 affect the broader lawsuit at all. And the court told attorneys to be ready at arguments to discuss whether a longer delay in the lawsuit is appropriate, opening up the possibility of further delay.

The court set 90 minutes' worth of arguments in total, split into four sections: Three dealing with various legal and technical challenges to the rule and one on whether the case should be delayed longer.

The case will be heard by Judges Karen LeCraft Henderson, a George H.W. Bush appointee, and two Obama appointees, Judges Patricia Millett and Cornelia Pillard.

WHAT'S NEXT: The parties must submit briefs regarding the permitting program by Oct. 11. Oral argument is scheduled for Nov. 20.

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