2. The technology is financially unavailable.

When Talen Montana requested a judicial stay of the 2024 MATS Rule, it submitted a supporting declaration (Lebsack Declaration), included in this request as Exhibit 3.[2] In this declaration, Talen Montana stated that a project to comply with the emission standards would cost "$350 million,"[3] with a "$15 million annually" in operation and maintenance costs. Lebsack Declaration ¶¶ 16, 34. These cost figures already presented challenges to Colstrip, as reflected by the litigation and request for judicial stay.

With the Rule now in effect, Talen Montana has conducted further engineering studies to get a more accurate assessment of the project costs. The most recent, up-to-date engineering estimates exceed $500 million. This new projection accounts for sole source risk allowance, more accurate wage rates, structural steel install rates, scaffolding costs, duct installation costs, and total delivery costs—all of which were not accounted for in studies leading up to the Lebsack Declaration.

These costs will only increase. Because Colstrip cannot handle this project in-house, it must work with a third-party vendor. Colstrip is currently waiting on a turnkey proposal, but it is expected that costs will increase by up to 30%. This is because it will be the vendor that must procure the materials, assume liability, and hire contractors.

Such cost figures are exorbitant and burdensome to the point that it is more likely that some owners of Colstrip will forego installing the control technology altogether, and instead consider shutting down the plant. At least three market conditions cause the installation of baghouses to be financially unavailable.

First, a significant number of Colstrip's co-owners might not be interested in funding such a project. As explained in the Lebsack Declaration, some of Colstrip's co-owners are located in the Pacific Northwest. And because of shifting political sentiments against coal in the region, these co-owners would not be interested in any involvement that would allow a coal-fired power plant to continue operating. For example, the public utility commissions in Oregon and Washington do not want any electricity powered by coal. In fact, the State of Washington passed a statute that would impose ***penalties*** on utilities that provide coal-fired electricity to certain Washington customers after December 31, 2025. Wash. Rev. Code §§ 19.405.030(1)(a), (4) and 19.405.090(1)(a)(i). With express disapprovals from Pacific Northwest utility commissions, it

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[2] Of note, even opponents to the judicial stay carefully tailored their argument and implicitly recognized Colstrip's unique constraints and challenges. They claimed that any judicial stay in favor of Colstrip should not be extended to others. *See, e.g.*, EPA Opp'n 50, *Talen Montana, LLC v. EPA* (D.C. Cir. filed July 22, 2024), ECF No. 2065849; Env't Intervenors Opp'n 13 (D.C. Cir. filed July 22, 2024), ECF No. 2065869.

[3] The Lebsack Declaration includes an "Attachment A," which provides select excerpts from a report prepared by technical consultants that assessed the cost breakdown. Table 1-1 of Attachment A (located in page 1-9) provides a summary of the cost breakdown.