

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 11-4406

---

UNITED STATES OF AMERICA

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION;  
STATE OF NEW YORK; STATE OF NEW JERSEY

(Intervenors in District Court)

v.

EME HOMER CITY GENERATION, L.P.; HOMER CITY OL1, LLC;  
HOMER CITY OL2, LLC; HOMER CITY OL3, LLC; HOMER CITY OL4, LLC;  
HOMER CITY OL5, LLC; HOMER CITY OL6, LLC; HOMER CITY OL7, LLC;  
HOMER CITY OL8, LLC; NEW YORK STATE ELECTRIC AND GAS  
CORPORATION;  
PENNSYLVANIA ELECTRIC COMPANY

United States of America,

Appellant

---

No. 11-4407

---

UNITED STATES OF AMERICA

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION;  
STATE OF NEW YORK; STATE OF NEW JERSEY

(Intervenors in District Court)

v.

EME HOMER CITY GENERATION, L.P.; HOMER CITY OL1, LLC;  
HOMER CITY OL2, LLC; HOMER CITY OL3, LLC; HOMER CITY OL4, LLC;  
HOMER CITY OL5, LLC; HOMER CITY OL6, LLC; HOMER CITY OL7, LLC;  
HOMER CITY OL8, LLC; NEW YORK STATE ELECTRIC AND GAS  
CORPORATION;  
PENNSYLVANIA ELECTRIC COMPANY

State of New York,

Appellant

---

No. 11-4408

---

UNITED STATES OF AMERICA

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION;  
STATE OF NEW YORK; STATE OF NEW JERSEY

(Intervenors in District Court)

v.

EME HOMER CITY GENERATION, L.P.; HOMER CITY OL1, LLC;  
HOMER CITY OL2, LLC; HOMER CITY OL3, LLC; HOMER CITY OL4, LLC;  
HOMER CITY OL5, LLC; HOMER CITY OL6, LLC; HOMER CITY OL7, LLC;  
HOMER CITY OL8, LLC; NEW YORK STATE ELECTRIC AND GAS  
CORPORATION;  
PENNSYLVANIA ELECTRIC COMPANY

Commonwealth of Pennsylvania, Department of Environmental Protection;  
State of New Jersey,

Appellants

---

SUR PETITION FOR REHEARING

---

Present: RENDELL, FUENTES, SMITH, FISHER,  
CHAGARES, JORDAN, VANASKIE, and SHWARTZ, Circuit Judges

The petitions for rehearing filed by the appellants in the above-entitled cases having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular service not having voted for rehearing, the petitions for rehearing by the panel and the Court en banc, are denied.

BY THE COURT,

/s/ D. Brooks Smith  
Circuit Judge

Dated: December 12, 2013  
tyw/cc: All Counsel of Record