

No. 15-1277

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

IN RE WEST VIRGINIA, et al.

Petitioner.

**On Petition For Extraordinary Writ to the
United States Environmental Protection Agency**

**MOTION TO INTERVENE OF STATE OF SOUTH CAROLINA
IN SUPPORT OF PETITIONERS**

The State of South Carolina respectfully moves to intervene in this case in support of Petitioner States. Intervention should be permitted because South Carolina is both “directly affected by” the agency action at issue and is “timely” moving to intervene in that the Petition was just filed on August 13, 2015. *Yakima Valley Cablevision, Inc. v. FCC*, 794 F.2d 737, 744-45 (D.C. Cir. 1986). The Petition for Extraordinary Writ [Document No.1567765, 8/13/2015] explains how the States have been harmed by the Environmental Protection Agency’s unlawful attempt to impose requirements upon the States under Section 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d). *See, eg*, Petition at pp. 11 – 16. South Carolina

should be permitted to intervene to assert its interests in this important proceeding. Intervention by South Carolina will not delay this case as South Carolina will join in the Petition already filed rather than file a separate petition.

Counsel for the petitioning States consent to this Motion. Counsel listed on the docket with the Department of Justice advises that the EPA takes no position as to this Motion.

CONCLUSION

For the foregoing reasons, South Carolina respectfully requests that this Court grant this Motion to Intervene.

Respectfully submitted,

/s/ James Emory Smith, Jr.

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August 19, 2015

CERTIFICATE OF SERVICE

I certify that on this August 19, 2015, a copy of the foregoing Motion to Intervene will be served electronically via CM/ECF on counsel for the parties to this case and Department of Justice Counsel who are listed on the ECF docket for this case.

August 19, 2015

/s/ James Emory Smith, Jr.
James Emory Smith, Jr.