

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
FILED
MAR - 4 2016
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MAR - 4 2016

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

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STATE OF TEXAS,)
TEXAS COMMISSION ON)
ENVIRONMENTAL QUALITY,)
and PUBLIC UTILITY)
COMMISSION OF TEXAS)

Petitioners,

v.

Case No. 16-1078

UNITED STATES)
ENVIRONMENTAL PROTECTION)
AGENCY and GINA MCCARTHY,)
in her official capacity as)
Administrator of the United States)
Environmental Protection Agency,)

Respondents.

ORIGINAL

PETITION FOR REVIEW

In accordance with Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and Federal Rule of Appellate Procedure 15, the State of Texas, the Texas Commission on Environmental Quality, and the Public Utility Commission of Texas (State of Texas Petitioners) petition the Court for review of the Texas-applicable portions of the United States Environmental Protection Agency's (EPA) final action entitled "Approval and Promulgation of Implementation Plans; Texas

and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule,” 81 Fed. Reg. 296 (Jan. 5, 2016), a copy of which is enclosed with this filing.

Jurisdiction and venue for this petition is proper in the Fifth Circuit Court of Appeals because the Final Rule is a “locally or regionally applicable” final action of the EPA Administrator. *See* 42 U.S.C. § 7607(b). The Final Rule regulates emission sources only in the State of Texas and addresses the State Implementation Plans of only Texas and Oklahoma. The State of Texas Petitioners have accordingly filed a petition for review in the Fifth Circuit to challenge the Texas-applicable portions of the rule. Because EPA has taken the position that the rule is of “nationwide scope and effect,” 81 Fed. Reg. at 345-6, and may argue that jurisdiction and venue are proper only in this Court, the State of Texas Petitioners file this petition for review in this Court as a protective matter to preserve their right to judicial review.

Respectfully submitted,

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PUBLIC UTILITY COMMISSION OF
TEXAS**

CERTIFICATE OF SERVICE

On March 4, 2016, the foregoing Petition for Review was served by certified mail, return receipt requested, on:

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