



**Office of the New York State
Attorney General**

**Letitia James
Attorney General**

January 13, 2026

Mr. Robert H. Solomon, Esq.
Solicitor
Federal Energy Regulatory Commission
888 1st Street, N.E.
Room 9A-01
Washington, DC 20426
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SENT BY EMAIL AND CERTIFIED MAIL

Re: In the Matter of Constitution Pipeline Company, LLC, Dkt. Nos. CP13-499,
CP13-502, CP18-5

Dear Mr. Solomon,

We write to request that the Federal Energy Regulatory Commission (Commission) correct what we hope and expect is a ministerial error with respect to the above-referenced dockets and, in accordance with the Second Circuit's mandate, dismiss the underlying proceedings.

On December 19, 2025, Constitution Pipeline Company, LLC (Constitution) submitted on these dockets a petition to reissue a Certificate of Public Convenience and Necessity authorizing Constitution to construct and operate the Constitution Pipeline Project and to affirm the continuing validity of the Commission's order finding that the New York State Department of Environmental Conservation waived its authority under Section 401 of the Clean Water Act to issue or deny a water quality certification (hereinafter "waiver order"). On January 8, 2026, the Commission provided notice of Constitution's petition and established intervention deadlines.

As Constitution recognizes, on November 18, 2021, the Second Circuit vacated the Commission's 2014 Order granting a Certificate of Public Convenience and Necessity, 149 FERC ¶ 61,199, and its 2019 waiver order, 168 FERC ¶ 61,129 ("the Orders"). Motion Order at 2, *N.Y. State Dep't of Env't Conservation, et al. v. Fed.*

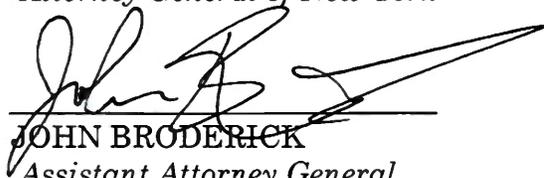
Energy Regulatory Comm'n, 20-cv-158 (2d. Cir. Nov. 18, 2021), ECF No. 161 (attached). Further, the Second Circuit thereupon remanded the matters to the agency “with instructions to dismiss the agency proceedings.” *Id.* The mandate issued on January 10, 2022. Despite the Second Circuit’s mandate requiring the Commission on remand to dismiss the underlying proceedings, the Commission failed to take this ministerial step. Instead, it has not only permitted Constitution to submit its petition on dockets that were required to be closed and should be deemed closed, but it has now noticed the petition on those defunct dockets. Inasmuch as the Commission has now noticed the petition on the existing dockets, it appears that the Commission is proceeding or is about to proceed in excess of its jurisdiction.

The Office of the New York State Attorney General therefore requests that the Commission comply with the Second Circuit’s mandate immediately by entering an Order on Remand dismissing the agency proceedings under docket numbers CP13-499, CP13-502, and CP18-5-004.

Please be advised that if the Commission refuses to comply with the Second Circuit’s mandate by **January 23, 2026**, we will seek such legal action as we deem appropriate.

Very truly yours,
LETITIA JAMES
Attorney General of New York

ANDREA OSER
Deputy Solicitor General
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Enc.

CC:

Debbie-Anne A. Reese, Secretary, Office of the Secretary Federal Energy Regulatory Commission (sent by certified mail)
Susanna Chu, Esq., Office of the General Counsel, Federal Energy Regulatory Commission
Michael R. Pincus, Esq., representing Constitution Pipeline Company, LLC
Michael Diamond, Esq., representing Constitution Pipeline Company, LLC

Stephen A. Hatridge, Esq., Constitution Pipeline Company, LLC
Todd D. Ommen, Esq., representing Stop the Pipeline
Anne Marie Garti, Esq., representing Stop the Pipeline
Moneen Nasmith, Esq., Earthjustice
Susan Kraham, Esq., Earthjustice
Kacy Manahan, Esq., Delaware Riverkeeper Network

ATTACHMENT

Motion Order, *N.Y. State Dep't of Env't Conservation, et al. v. Fed. Energy Regulatory Comm'n*, 20-cv-158 (2d. Cir. Nov. 18, 2021), ECF No. 159

FERC
CP18-5-000
CP18-5-001
CP18-5-002
CP18-5-003
CP13-499-000
CP13-499-001
CP13-502-000
CP13-502-001

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18th day of November, two thousand twenty-one.

Present:

Debra Ann Livingston,
Chief Judge,
John M. Walker, Jr.,
Richard C. Wesley,
Circuit Judges.

New York State Department of Environmental Conservation, et al.,

Petitioners,

v.

19-4338 (L),
20-158 (Con),
20-208 (Con)

Federal Energy Regulatory Commission,

Respondent.

Catskill Mountainkeeper, Inc., et al.,

Petitioners,

v.

16-345 (L),
16-361 (Con)

Federal Energy Regulatory Commission,

Respondent,

Constitution Pipeline Company, LLC, et al.,

Intervenors.

The above-captioned proceedings are consolidated for purposes of this order. Respondent moves to dismiss as moot these petitions for review; Petitioner Stop the Pipeline moves to dismiss the petitions docketed in 2d Cir. 19-4338, 20-158, and 20-208 for lack of jurisdiction, and moves for vacatur of the underlying agency orders. Environmental & Natural Resources Law Clinic of Widener University Delaware Law School moves to file an amicus brief. Upon due consideration, it is hereby ORDERED that Respondent's motions to dismiss are GRANTED and Stop the Pipeline's motions to dismiss for lack of jurisdiction are DENIED as moot. It is further ORDERED that Stop the Pipeline's motions for vacatur are GRANTED, the underlying agency orders are VACATED, and the cases are REMANDED with instructions to dismiss the agency proceedings. *Lamar Advert. of Penn, LLC v. Town of Orchard Park, New York*, 356 F.3d 365, 375 (2d Cir. 2004) ("The voluntary cessation of allegedly illegal conduct usually will render a case moot if the defendant can demonstrate that (1) there is no reasonable expectation that the alleged violation will recur and (2) interim relief or events have completely and irrevocably eradicated the effects of the alleged violation." (internal quotation marks omitted)); *Radiofone, Inc. v. Fed. Comm'ns Comm'n*, 759 F.2d 936, 940-41 (D.C. Cir. 1985) (finding vacatur appropriate where agency order was "moot for a reason that deprives the agency action of all operative effect"); see *Bragger v. Trinity Capital Enter. Corp.*, 30 F.3d 14, 17 (2d Cir. 1994) ("When a civil case becomes moot while an appeal is pending, it is the general practice of an appellate court to vacate the unreviewed judgment granted in the court below and remand the case to that court with directions to dismiss it.") (citing *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39-40 (1950)). Finally, it is ORDERED that the motion to file an amicus brief is DENIED as moot.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

A handwritten signature in cursive script, reading "Catherine O'Hagan Wolfe", is written over a circular official seal. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around its perimeter.