



January 16, 2026

Robert Solomon
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SENT BY EMAIL AND FILED IN DOCKETS CP13-499, CP13-502, CP18-5

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

Dear Mr. Solomon,

We write on behalf of Catskill Mountainkeeper, Inc.; Clean Air Council; Delaware-Otsego Audubon Society; Delaware Riverkeeper Network; Riverkeeper, Inc.; Sierra Club; and Waterkeeper Alliance to join the request made by the Office of the New York Attorney General on January 13, 2026, Accession No. 20260114-4000, that the Federal Energy Regulatory Commission (“FERC” or the “Commission”) take swift action to comply with the orders issued by the U.S. Court of Appeals for the Second Circuit in *Catskill Mountainkeeper, Inc. et al. v. FERC*, Case Nos. 16-345 (L) and 16-361 (Con), and *New York State Department of Environmental Conservation et al. v. FERC*, Case Nos. 19-4338 (L), 20-158 (Con), and 20-208 (Con), on November 18, 2021.¹ In those identical orders, the court vacated the Certificate of Public Convenience and Necessity FERC issued authorizing construction and operation of the Constitution Pipeline Project and the related Iroquois Project and FERC’s orders finding that the New York State Department of Environmental Conservation waived its authority under Section 401 of the Clean Water Act over the Project. The court further remanded the proceedings back to FERC with “instructions to dismiss the agency proceedings.”²

¹ Order at 2, *Catskill Mountainkeeper, Inc. et al. v. FERC*, No. 16-345 (2d Cir. Nov. 18, 2021), Doc. No. 479; Order at 2, *N.Y. State Dep’t of Env’t Conservation, et al. v. FERC*, No. 20-cv-158 (2d. Cir. Nov. 18, 2021), Doc. No. 161.

² *Id.*

At the Second Circuit, FERC agreed that “the construction authority granted by the Certificate Order has lapsed,”³ “vacatur of the (now lapsed) certificate order authorizing the pipeline at issue...is appropriate,”⁴ and “on remand from the Court, the Commission expect[ed] to...terminate the agency proceeding.”⁵ By vacating the orders and requiring that FERC end the relevant proceedings, the court left nothing to FERC’s discretion or interpretation. Nevertheless, although the court’s mandate issued more than four years ago on January 10, 2022, FERC has yet to comply with the Second Circuit’s clear and binding instructions. The dockets in question remain open, and Constitution recently filed a Petition in those same dockets seeking to have FERC reissue the Certificate of Public Convenience and Necessity and reaffirm the prior Section 401 waiver decision. Rather than direct Constitution to submit its request as a new application in a new docket, FERC continues to treat the dockets the Second Circuit ordered dismissed as live proceedings by noticing Constitution’s Petition and opening a period for interventions and protests. The Commission must comply with the Second Circuit’s orders and correct its failure to have terminated the above-captioned dockets.

The above organizations were Petitioners in the Second Circuit cases and request that FERC comply with the court’s mandates as soon as possible and, consistent with the request in the January 13, 2026 letter from the Office of the New York Attorney General, **no later than January 23, 2026**, terminate the proceedings under docket numbers CP13-499, CP13-502, and CP18-5. The above organizations reserve all rights to seek appropriate legal relief should the Commission fail to comply with the Second Circuit’s mandates by that date.

Thank you,

/s/ Moneen Nasmith

Moneen Nasmith

Director, National Climate, Fossil Fuel Infrastructure

Earthjustice

Counsel for Catskill Mountainkeeper, Inc.; Clean Air Council; Delaware Otsego Audubon Society; Delaware Riverkeeper Network; Riverkeeper, Inc.; Sierra Club; and Waterkeeper Alliance

³ Respondent FERC’s Reply in Support of Motion to Dismiss, and Response to Petitioner Stop the Pipeline’s Motions to Dismiss and Vacate, at 3, *Catskill Mountainkeeper v. FERC*, Nos. 16-345 & 16-361 (2d Cir. Feb. 11, 2021), Doc. No. 428.

⁴ Respondent FERC’s Supplemental Letter Brief, at 1, Nos. 16-345 & 16-361 (2d Cir. May 17, 2021), Doc. No. 440.

⁵ *Id.* at 2.

Document Content(s)

Letter to Solomon re 2d Cir mandate final 1.16.2026.pdf.....1