

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

NO. 16-1329

SIERRA CLUB, FLINT RIVERKEEPER,
and CHATTAHOOCHEE RIVERKEEPER,

Petitioners,

v.

FEDERAL ENERGY REGULATORY COMMISSION,

Respondent.

On Petition for Review of Orders of the Federal Energy Regulatory
Commission, 154 FERC ¶ 61,080 (Feb. 2, 2016) and
156 FERC ¶ 61,160 (Sept. 7, 2016)

**PETITIONERS' EMERGENCY MOTION FOR
EXPEDITED CONSIDERATION**

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Introduction and Requested Date for Ruling

In accordance with D.C. Circuit Rule 27.1 and the D.C. Circuit Handbook of Practice and Internal Procedures, § VIII.B (“D.C. Cir. Handbook”), Petitioners Sierra Club, Flint Riverkeeper, and Chattahoochee Riverkeeper (“Petitioners”) file this emergency motion for expedited review, including filing of the administrative record, briefing, oral argument, and final disposition, with respect to Petitioners’ Petition for Review of two orders by the Respondent Federal Energy Regulatory Commission’s (the “Commission”):

1. February 2, 2016 Order granting certificates of public convenience and necessity authorizing construction and operation of the Southeast Market Pipe Lines Project (“Project”) to Florida Southeast Connection, LLC (“FSC”), Transcontinental Gas Pipe Line Company, LLC (“Transco”), and Sabal Trail Transmission, LLC (“Sabal Trail”);¹ and
2. September 7, 2016 Order denying Petitioners’ Request for Rehearing.²

Petitioners request a ruling from the Court by November 3, 2016 because of imminent dates pending for filing of the Administrative Record Index and Petitioners’ Opening Brief.

¹ *Florida Southeast Connection*, 154 FERC ¶ 61,080 (Feb. 2, 2016).

² *Florida Southeast Connection*, 156 FERC ¶ 61,160 (Sept. 7, 2016).

Petitioners also have filed an Emergency Motion for Stay. Petitioners request expediting the merits proceedings in the event that the motion for stay is denied, in order to avoid irreparable harm to Petitioners and to obtain a ruling on the merits prior to the Project's scheduled May 2017 completion and operation date. If the motion for stay is granted, Petitioners also request expediting the merits proceedings since Petitioners proposed expediting the merits in the stay motion to mitigate any harm to the other parties from a stay.

Background and Nature of the Emergency

The Project involves the construction of 685 miles of natural gas pipeline and five compressor stations in Alabama, Georgia, and Florida. All three pipeline companies, FSC, Transco, and Sabal Trail, have commenced construction including within environmental justice communities.³

Without expedited consideration, Petitioners will be denied full and complete relief should they ultimately prevail on the merits, and the purposes of the National Environmental Policy Act, to ensure the federal agency considers all environmental impacts before its action, would be nullified. Sabal Trail, FSC, and Transco intend to complete the Project and place it into service by May 1, 2017.⁴

³ See Ex. 1 (Notices of Commencement of Construction); Ex. 3 at ¶¶ 16-17, 20; and Ex. 4 at ¶ 14.

⁴ See, e.g., Ex. 2 (Excerpts from "Precedent Agreement by and between Sabal Trail Transmission, LLC and Florida Power & Light Company").

Thus, without expedited review, the Project will be constructed and placed into service before this Court can consider and decide Petitioners' claims.

Moreover, construction of the Project will cause irreparable harm to the Petitioners and the public, and the Commission's decision is subject to substantial challenge. Therefore, the public interest strongly favors prompt disposition of this matter.

Argument

This Court may expedite review on an emergency basis when delay will cause irreparable injury and when the decision under review is subject to substantial challenge. D.C. Cir. Rule 27(f); D.C. Cir. Handbook, § VIII.B. The Court also may expedite cases in which the public generally, or in which persons not before the Court, have an unusual interest in prompt disposition. D.C. Cir. Handbook, § VIII.B. All three factors – irreparable injury, underlying decision subject to substantial challenge, and public interest in prompt disposition – are present in this case.

A. Petitioners will suffer irreparable harm if this case is not expedited.

“Environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, *i.e.*, irreparable.” *Amoco Prod. Co. v. Gambell*, 480 U.S. 531, 545 (1987); *see also*

Brady Campaign to Prevent Gun Violence v. Salazar, 612 F. Supp. 2d 1, 25 (D.D.C. 2009) (“[E]nvironmental and aesthetic injuries are irreparable.”).

The Intervenor pipeline companies are already clearing the right-of-way, trenching and constructing the pipeline.⁵ This will irreparably harm environmental justice communities, rivers, streams, wetlands, and forests. According to the EIS, this will cause permanent, irreparable harm from clearing the 115- to 150-foot construction right-of-way the length of the pipeline, including the removal of topsoil, trees, shrubs, brush, roots, and large rocks, and removing or blasting soil and bedrock to create a 6- to 8-foot trench. *See* Ex. 7 (Final Environmental Impact Statement – “FEIS”) at 2-21 to 25, 2-30, 2-32.⁶ Following construction, a 50-foot-wide *permanent* right-of-way would be maintained along the entire 685-mile length of the Project. *Id.* at 2-1, 2-21 to 25.

In total, the Project would impact approximately 11,393 acres temporarily during construction and 4,147 acres permanently throughout operation. *Id.* at 2-21. Project construction would have “long term” effects on 4,369.7 acres of forest. *Id.* at 3-294. Project operation would adversely affect 1,633.5 acres of forest with 1,550.1 acres or 95% being permanently destroyed due to maintenance of the pipeline right-of-way. *Id.*

⁵ *See* Ex. 1 (Notices of Commencement of Construction); Ex. 3 at ¶¶ 16-17, 20; and Ex. 4 at ¶ 14.

⁶ Exhibit 7 contains excerpts from FERC’s Final Environmental Impact Statement cited in this motion in the order they appear in the EIS.

The Final EIS finds that “[a]ir quality will be affected by construction and operation of the SMP Project.” *Id.* at 3-233. Total annual estimated emissions for construction of the Project include approximately 2,923.81 tons of particulate matter (PM_{2.5/10}), 1,113 tons of nitrogen oxides (NO_x), 700 tons of volatile organic compounds (VOCs), and 338,270 tons of carbon dioxide equivalent (CO_{2e}). *See id.* at 3-250 to 252 for additional air pollutants. Operation of the compressor stations and the meter and regulator station is expected to emit annually an additional 86.03 tons of PM_{2.5/10}, 424 tons of NO_x, 326 tons of VOCs, and 1,299,858 tons of CO_{2e} over the life of the Project. *See id.* at 3-253, 257 for additional air pollutants. These emissions would have long-term and therefore irreparable impacts on air quality.⁷

A significant portion of these air pollutants would be emitted annually from five compressor stations including the Albany compressor station in Albany, Georgia. The Albany compressor station and the pipeline itself would be built in the middle of an African-American residential neighborhood comprised of two large subdivisions, a mobile home park, schools, recreational facilities, and a

⁷ NO_x and VOCs harm respiratory, cardiological, neurological, and kidney functions causing nosebleeds, burning spasms, nausea, fluid in the lungs, lung damage, fatigue, cancer, and premature death. *See, e.g.*, EPA, Volatile Organic Compounds: Health Effects, https://www.epa.gov/indoor-air-quality-iaq/volatile-organic-compounds-impact-indoor-air-quality#Health_Effects; EPA, Nitrogen Dioxide Pollution, <https://www.epa.gov/no2-pollution/basic-information-about-no2#Effects>; EPA, Particulate Matter (PM) Pollution, <https://www.epa.gov/pm-pollution>.

5,000-plus member Baptist Church raising serious environmental justice concerns. *See* Ex. 8 (Congressmen's letter to FERC); Ex. 7 at 3-218.

These environmental justice concerns are supported by the Commission's acknowledgement that 83.7% of the Sabal Trail component of the Project (515 miles out of 685 total miles for the Project) will impact environmental justice communities. Ex. 7 at 3-216. This percentage includes no less than 135 environmental justice communities, including five of seven census tracts that will be directly affected by the Project in Dougherty County, Georgia. *Id.* at 3-215, 218.

Despite local protests, the objections of Georgia's members of the Congressional Black Caucus on the discriminatory siting of the Project, and the Commission's acknowledgement regarding the substantial impacts to environmental justice communities, the Commission found no disproportionate impact on environmental justice populations and permitted the Project. *Id.* at 3-217, 3-221.

Petitioners are submitting four declarations that are representative of some of the irreparable injuries the pipeline will cause to their members. Sierra Club and Flint Riverkeeper member Gerry Hall and Sierra Club members Merrilee Malwitz-Jipson, Robin Koon, and Roger Marietta each own private property that

will be irreparably harmed or will otherwise suffer irreparable injury as a result of pipeline construction. *See* Exs. 3 - 6.

Gerry Hall⁸ describes how Sabal Trail will cut down trees on his property, erect a fence around the right-of-way that will interfere with his travel around his property, create noise that will disturb the peace and quiet that he and his wife enjoy at their home, and reduce his enjoyment of wildlife viewing on his property. *See* Ex. 5 at ¶¶ 6, 7.

Merrilee Malwitz-Jipson describes how the pipeline would cross the river near her home and business, pose a risk to the aquifer that supplies the drinking water used by her and her family, pose health and safety hazards, negatively impact her recreational activities as well as her kayak and canoe livery service business, and present serious environmental justice issues. *See* Ex. 3 at ¶¶ 8-10, 15, 19.

Robin Koon describes how Sabal Trail would cross directly over land on his property that contains the ashes of five of his family members, cut down large pine trees on his property, decrease his family's enjoyment of the property, and pose a risk to the well on his property that provides his drinking water. *See* Ex. 6 at ¶¶ 5-7.

⁸ Mr. Hall accepted payment for the easement across his property even though he did not want to allow the pipeline company to take his property. He believed he had no choice in the face of threatened condemnation proceedings. Ex. 5 at ¶ 5.

Roger Marietta, a resident and City Commissioner of Albany, Georgia, describes how the pipeline and compressor station would reduce his enjoyment of fishing and other recreational activities, pose a risk to his city's municipal drinking water supply, worsen air quality near his home, and additionally burden environmental justice (low-income and/or minority) communities in Albany. *See* Ex. 4 at ¶¶ 5-10. These impacts have been strenuously objected to by minority residents in Albany, the largest city in southwest Georgia. *Id.* at ¶ 10; Ex. 8, letter attached as Exhibit A to Marietta Declaration from Congressmen Sanford Bishop (whose district includes Albany), John Lewis, Hank Johnson, and David Scott opposing the routing of the pipeline and the siting of a massive compressor station in the heart of an African-American community.

Petitioners undeniably will suffer irreparable harm from construction and operation of this Project. Thus, at a minimum, review of this matter should be expedited.

A recent case in this Circuit demonstrates the need to expedite review in this case. In *Delaware Riverkeeper Network v. FERC*, 753 F.3d 1304 (D.C. Cir. 2014), the Commission issued a certificate of public convenience and necessity in May 2012 authorizing Tennessee Gas Pipeline Company, LLC's Northeast Upgrade Project. The environmental groups submitted a timely request for rehearing, requested it be expedited, and filed a motion to stay construction activity. *See*

Tennessee Gas Pipeline Co., LLC, 142 FERC ¶ 61025, 61134 (Jan. 11, 2013). In December 2012, the groups filed another motion for a stay of the certificate order and a stay of any construction activity pending review of the order on rehearing. *Id.* Subsequently, the Commission authorized the company to commence construction and tree clearing for portions of the project. *Id.* at ¶ 61136.

In January 2013, the Commission finally issued an order denying the stay requests and the request for rehearing. That same month, the groups filed a petition for review in the D.C. Circuit Court of Appeals, arguing that the Commission violated the National Environmental Policy Act by segmenting its environmental review and failing to provide a meaningful analysis of its cumulative impacts. Also in January 2013, the groups filed an emergency motion for stay of the Commission’s order, but the court denied the motion. Briefing on the merits was completed in 2013, and by November 2013, the project was completed and placed into service. *See* Goldberg, Keith, “FERC Flubbed Review Of \$500M Pipeline Upgrade: DC Circ.” Law360, June 6, 2014.⁹

On June 6, 2014, the D.C. Circuit ruled for the groups, concluding that the Commission had violated NEPA by “impermissibly segment[ing] the environmental review” and by “fail[ing] to include any meaningful analysis of the cumulative impacts of the upgrade projects.” 753 F.3d at 1309. The court

⁹ Available at <http://www.law360.com/articles/545597/ferc-flubbed-review-of-500m-pipeline-upgrade-dc-circ>.

remanded the case to the Commission for further consideration. *Id.*

In sum, the Commission issued the certificate order in May 2012, the environmental groups were finally allowed to seek judicial review in January 2013, the project was put into service in November 2013, and the D.C. Circuit issued its ruling on the merits (agreeing that the Commission had violated NEPA) in June 2014 after the pipeline was built.¹⁰ This timeline was not unusual; the median time from filing a notice of appeal to disposition in the D.C. Circuit is 13.3 months.¹¹

Delaware Riverkeeper thus demonstrates the need to expedite the instant case: unless the case is expedited, it is quite likely that the court's decision on the merits will come *after* the project has been completed. Such a result is at odds with

¹⁰ The instant case presents a similar history. Petitioners timely filed a request for rehearing on the Certificate and sought a stay. *Florida Southeast Connection, LLC*, 154 FERC ¶ 61264 (Mar. 30, 2016). The Commission denied the stay while issuing a “tolling order” on the petition for rehearing. *Id.*; FERC Docket Nos. CP14-554-001, CP15-16-001, and CP15-17-001, Accession No. 20160329-3008. Subsequently the pipeline companies sought leave to proceed with construction, and Petitioners requested another stay. *Id.*, Accession No. 20160817-5432. The Commission issued the notice to proceed and construction commenced. Meanwhile, Petitioners filed suit against the U.S. Army Corps of Engineers’ Clean Water Act section 404 permit in the 11th Circuit; but their request for preliminary relief was denied. Approximately one week later, on September 7, 2016, the Commission denied Petitioners’ rehearing request; and three weeks later denied the second stay request. 156 FERC ¶ 61,160 (2016), 156 FERC ¶ 61,233 (2016). On September 16, 2016, Petitioners dismissed the 11th Circuit suit, and on September 21, 2016, Petitioners filed this lawsuit against the Commission challenging FERC’s certificates of public convenience and necessity.

¹¹ U.S. Courts of Appeals Federal Court Management Statistics (June 30, 2016), *available at* <http://www.uscourts.gov/statistics/table/na/federal-court-management-statistics/2016/06/30-2>.

the fundamental purpose of the National Environmental Policy Act, and would preclude meaningful relief for Petitioners. *See Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 371 (1989) (“NEPA ensures that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.”).

Furthermore, if construction proceeds and the pipeline is completed before the court issues a final ruling on the merits, the project proponents will likely argue that this action is moot. In *Sierra Club v. U.S. Army Corps of Engineers*, 803 F.3d 31 (D.C. Cir. 2015), for example, an oil pipeline was completed before the plaintiffs could obtain a ruling on the merits in this Circuit, and the pipeline company argued that this Circuit should dismiss the appeal as moot because the pipeline had already been constructed. *Id.* at 42-43.

The majority disagreed, finding that the case was not moot because “[m]ore extensive environmental analysis could lead the agencies to different conclusions, with live remedial implications.” *Id.* Nevertheless, the court noted that the petitioners would be deprived of a “fully satisfactory remedy.” *Id.*

Here, too, completion of the pipeline before a ruling on the merits could foreclose alternatives under NEPA, such as alternate routes with less severe impacts on the environment or communities, including environmental justice communities, would limit the Commission’s choice of reasonable alternatives on

remand, and would allow an irretrievable commitment of resources, thereby prejudicing the outcome on remand. *See* 40 C.F.R. §§ 1502.2, 1506.1.

B. The Commission’s decision is subject to substantial challenge.

The Commission’s Final EIS and decision to issue certificates of public convenience and necessity suffer from several major defects making them subject to “substantial challenge” and therefore appropriate for expedited review. These include without limitation:

1. The Commission erred by not evaluating the environmental impacts of downstream natural gas usage at the power plants that would be served by the Project. NEPA requires agencies to consider and disclose the “indirect effects” of their actions, which are effects “caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” 40 C.F.R. § 1508.8(b). An effect is reasonably foreseeable if it is “sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision.” *Sierra Club v. FERC*, 827 F.3d 36, 47 (D.C. Cir. 2016) (quotations omitted). The indirect effects inquiry is therefore wide-ranging and agencies are required to analyze the foreseeable indirect, downstream effects of transportation projects. *See Mid States Coalition for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 550 (8th Cir. 2003) (holding NEPA required analysis of the impacts from increased coal consumption that were the reasonably foreseeable result of

constructing a rail line); *Border Power Plant Working Group v. Dep't of Energy*, 260 F. Supp. 2d 997, 1028-29 (S.D. Cal. 2003) (holding that impacts of a Mexican power plant were the reasonably foreseeable result of constructing a new transmission line to the California grid).

Unlike some cases, the Commission here knows how much natural gas will be used, where it will be used, how it will be used, and who will use it. Florida Power & Light and Duke Energy Florida have contracted to purchase approximately 95% of the 1,000,000 dekatherms that will be transported by the Project per day for use at natural gas power plants in Florida, including two new plants. The impacts from burning the gas will be substantial as the power plants will emit tons of toxic air pollutants each year, and the Commission has access to modeling tools to predict these emissions. Therefore, the Commission violated NEPA in not evaluating these impacts.

2. The Commission failed to properly evaluate the Project's climate impacts, particularly the effects of greenhouse gas emissions ("GHGs") that the power plants will discharge. It did this despite acknowledging that GHGs play a primary role in causing climate change and consequential adverse effects on human health and the environment, despite the existence of tools used by other federal agencies to measure such impacts, and despite clear guidance from the Environmental Protection Agency that downstream GHG impacts should be considered for

applications under the Natural Gas Act.¹² Likewise, under the Council on Environmental Quality's recent NEPA Guidance a full analysis of GHG impacts – including from downstream sources such as burning the fuel – is required.¹³

The Commission's failure to evaluate meaningfully the greenhouse gas impacts of Project-induced activities is not only at odds with EPA and CEQ guidance, but with case law and the NEPA regulations. *See, e.g., Center for Biological Diversity v. NHTSA*, 538 F.3d 1172, 1213 (9th Cir. 2008) (failure to evaluate the incremental impact of emissions on climate change); *Mid States Coalition for Progress*, 345 F.3d at 550; *Border Power Plant Working Group*, 260 F. Supp. 2d at 1028-29.¹⁴

¹² *See* Mandel, Jenny, "In dispute over climate guidance, it's EPA vs. FERC," E&E (Feb. 4, 2016) available at <http://www.eenews.net/energywire/stories/1060031773>.

¹³ Council on Environmental Quality, *Final Guidance for Federal Departments on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews*, at 4 (Aug. 1, 2016), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/documents/nepa_final_ghg_guidance.pdf.

¹⁴ In *EarthReports, Inc. v. FERC*, 828 F.3d 949 (D.C. Cir. 2016), the court held the Commission was not required under NEPA to consider indirect effects, including climate change effects, of increased exports through a liquid natural gas facility, but this was because the Department of Energy had authority over the export and was required to analyze it. *See id.* at 952. No other such federal agency is involved in this case.

3. The Commission claimed it was not subject to Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” and skirted the NEPA analysis required for such impacts.¹⁵ Among other insufficiencies, it compared the alternatives to one another and not to the greater population as its basis for finding there was no disparate impact; and relied on “co-location” of the pipeline with older pipes without considering whether these communities were already overburdened with infrastructure and polluting facilities. It also found there would be no disproportionate impact from the Albany compressor station based on a census tract, but that was contrary to the evidence before the agency that it was located in a portion of the tract that was almost entirely African-American and that would be directly impacted by the emissions.¹⁶ The Commission also found there would be no “significant effect” on the community since the station would comply with air quality standards, but that does not make the air impacts *per se* insignificant,¹⁷ much less excuse their disproportionate impact on the minority community.

¹⁵ Compliance with the Executive Order is reviewable under the Administrative Procedure Act since the Commission included some environmental justice analysis in its environmental impact statement. *See Communities Against Runway Expansion Inc. v. FAA*, 355 F.3d 678, 689 (D.C. Cir. 2004).

¹⁶ *See Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (agency action is arbitrary and capricious that is contrary to the evidence before the agency).

¹⁷ *See, e.g., Idaho v. Interstate Commerce Comm’n*, 35 F.3d 585, 595-96 (D.C. Cir. 1994) (holding that an agency fails to take the required “hard look” when it “defers

4. The Commission’s Order improperly gives Sabal Trail an exorbitant 14% return on equity. It did this by adopting a hypothetical and fictitious capital structure contrary to Commission precedent and rulings of this Court. *See, e.g., North Carolina Utilities Commission v. FERC*, 42 F.3d 659, 664 (D.C. Cir. 1994); *ETC Tiger*, 131 FERC ¶ 61,010, 61,053 (2010); *Panhandle Eastern Pipeline Co.*, 71 FERC ¶ 61,228, 61,828 (1995).

C. The general public and persons not before the Court have an unusual interest in prompt disposition.

The public also has a strong interest in expedited review. Thousands of citizens who will be adversely impacted by the Project appeared at Commission-sponsored hearings to oppose the pipeline and submitted written comments opposing the pipeline. As discussed above, several Congressmen formally wrote to the Commission expressing their opposition to the Project including its adverse impacts on environmental justice communities. Numerous county commissions submitted formal resolutions to the Commission opposing the Project. Sabal Trail filed over 200 eminent domain proceedings against private property owners and the State of Georgia to acquire easements that those owners and the State opposed. Opposition to this Project has received widespread media coverage. Thus, the

to the scrutiny of others”); *North Carolina v. Fed. Aviation Admin.*, 957 F.2d 1125, 1129-30 (4th Cir. 1992) (“[NEPA] precludes an agency from avoiding the Act’s requirements by simply relying on another agency’s conclusions about a federal action’s impact on the environment.”).

general public, individually affected property owners, the State of Georgia, and local governments have an unusual interest in prompt disposition of this action.

Moreover, expediting review will not prejudice the Commission or the Movant-Intervenors in any way. Indeed, Movant-Intervenors would also benefit from having certainty from this Court regarding the propriety of this Project.

Proposed Schedule

Petitioners propose the following schedule:

1. November 7, 2016 – Commission files record index (7 more days than the 40 days allowed under D.C. Cir. Rule 17(b))
2. November 18, 2016 – Petitioners submit principal brief (24 of the 40 days allowed under FRAP 31(a)(1))
3. January 17, 2017 – Respondent submits principal brief (60 days or twice that allowed under FRAP 31(a)(1))
4. January 24, 2017 – Intervenors file combined principal brief (7 of the 7 days allowed under D.C. Cir. Handbook, § X.A.1)
5. February 6, 2017 – Petitioners submit reply brief (13 of the 14 days allowed under FRAP 31(a)(1))
6. February 13, 2017 – Petitioners file deferred appendix
7. February 20, 2017 – Final briefs with appendix cites filed
8. Week of February 27, 2017 – Oral argument.

Petitioners have conferred with Respondent and Movant-Intervenors regarding this proposed schedule, and they presently oppose it. Counsel for Respondent and Movant-Intervenors originally agreed to an expedited briefing schedule (but not oral argument) very close to the schedule outlined above, but withdrew their agreement when Petitioners' counsel made known their intent to file a motion for stay.

Petitioners' counsel has notified the clerk's office and counsel for the Commission and Movant-Intervenors of this motion and the reasons therefor.

Conclusion

This case is a quintessential case for expedited review. Without expedited review, construction of the Project likely will be completed prior to the Court's full consideration of Petitioners' claims. Petitioners have substantial challenges to the Commission's Orders, and construction of the Project will cause irreparable harm to Petitioners. Consequently, Petitioners respectfully request the Court to rule on this motion at the earliest practicable date or November 3, 2016 and grant Petitioners' request for expedited consideration.

Dated: October 24, 2016.

Respectfully submitted,

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ADDENDUM

Certificate of Parties and Corporate Disclosure Statement

In accordance with D.C. Cir. Rules 27(a)(4) and 28(a)(1), Petitioners certify that the following persons are parties, movant-intervenors, or *amici curiae* in this Court:

1. Parties

Petitioners Sierra Club, Flint Riverkeeper, and Chattahoochee Riverkeeper
Respondent Federal Energy Regulatory Commission

2. Movant-Intervenors

Sabal Trail Transmission, LLC
Transcontinental Gas Pipe Line Company, LLC
Florida Southeast Connection, LLC
Florida Power & Light Company
Duke Energy Florida, LLC

3. *Amici Curiae*

At present, no parties have moved for leave to participate as *amici curiae*.

In accordance with FRAP 26.1 and D.C. Cir. Rule 26.1, Petitioners certify that none of them have any parent companies, and there are no parent companies that have a 10 percent or greater ownership interest in them. Sierra Club is a

national non-profit organization dedicated to the protection, preservation, and enjoyment of the environment. Flint Riverkeeper is a Georgia non-profit organization dedicated to the protection, preservation, and enjoyment of the Flint River and its watershed. Chattahoochee Riverkeeper is a Georgia non-profit organization dedicated to the protection, preservation, and enjoyment of the Chattahoochee River and its watershed.

Certificate of Compliance with FRAP 32(a)

This Emergency Motion for Expedited Consideration complies with the type-volume limitation and typeface requirements of FRAP 32(a) because it is no more than twenty (20) pages in length and has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font size and Times New Roman type style.

Dated: October 24, 2016

/s/ Steven D. Caley
Steven D. Caley

Certificate of Service

I hereby certify that on October 24, 2016, I electronically filed the foregoing Petitioners' Emergency Motion for Expedited Review and exhibits in support with the Clerk of the Court by using the appellate CM/ECF System, sent four copies to the Court via Federal Express, and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

/s/ Steven D. Caley
Steven D. Caley