

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-1224

September Term, 2019

FERC-161FERC61042

FERC-164FERC61100

Filed On: September 13, 2019

Atlantic Coast Pipeline, LLC,

Petitioner

v.

Federal Energy Regulatory Commission,

Respondent

Wintergreen Property Owners Association,
Inc., et al.,

Intervenors

Consolidated with 18-1280, 18-1308,
18-1309, 18-1310, 18-1311, 18-1312,
18-1313

ORDER

It is **ORDERED**, on the court's own motion, that the parties file supplemental briefs addressing whether the decision in *Cowpasture River Preservation Association v. Forest Service*, 911 F.3d 150 (4th Cir. 2018), renders this case unfit for review at this time. The parties are directed to address in their supplemental briefs the following three questions: (1) whether an administrative workaround or alternative route would allow the pipeline to proceed on the same certificate of public convenience and necessity; (2) whether the prospects of building the pipeline using the same certificate are so speculative that these petitions are unripe on either constitutional or prudential grounds, see *Devia v. Nuclear Regulatory Commission*, 492 F.3d 421 (D.C. Cir. 2007); and (3) assuming that the petitions are unripe, whether the appropriate remedy is to dismiss the petitions or to hold them in abeyance. The parties may address, but are not limited to, the representations made in the petitions for writ of certiorari and responses in *United States Forest Service, et al., Petitioners v. Cowpasture River Preservation Association, et al.*, No. 18-1584 (2019); *Atlantic Coast Pipeline, LLC, Petitioner v. Cowpasture River Preservation Association*, No. 18-1587 (2019).

The parties are to file 7 supplemental briefs, divided as follows: (1) Petitioner Atlantic Coast Pipeline; (2) Conservation and Landowner Petitioners; (3) Petitioner North Carolina Utilities Commission; (4) Petitioners Wintergreen Property Owners Association, Friends of Wintergreen, Inc., and The Fairway Woods Condominium Association; (5) Petitioner-intervenors Lora and Victor Baum; (6) Respondent; and (7) Respondent-intervenors, excluding Atlantic Coast Pipeline.

The briefs may not exceed 1,800 words each and are due by 4:00 p.m. on September 20, 2019. In addition to electronic filing, the parties are directed to hand deliver paper copies of their submissions to the court by the time and date due.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Michael C. McGrail
Deputy Clerk