

---

No. 18-1114

---

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

APPALACHIAN VOICES, CHESAPEAKE CLIMATE ACTION NETWORK,  
COWPASTURE RIVER PRESERVATION ASSOCIATION, FRIENDS OF  
BUCKINGHAM, HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT,  
SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION, SHENANDOAH  
VALLEY NETWORK, SIERRA CLUB, INC., VIRGINIA WILDERNESS  
COMMITTEE, WILD VIRGINIA, AND WINYAH RIVERS FOUNDATION,  
*Petitioners*

v.

FEDERAL ENERGY REGULATORY COMMISSION,  
*Respondent*

---

**JOINT MOTION FOR LEAVE TO INTERVENE**

---

John D. Runkle (NC Bar No. 10503)  
Attorney at Law  
2121 Damascus Church Road  
Chapel Hill, North Carolina 27516  
Telephone: 919-942-0600  
Email: [jrunkle@pricecreek.com](mailto:jrunkle@pricecreek.com)

Kristen L. Wills (NC Bar No. 52464)  
Staff Attorney  
NC WARN, Inc.  
2812 Hillsborough Road  
Durham, North Carolina 27705  
Telephone: 919-416-5077  
Email: Kristen@ncwarn.org

*Counsel for Moving Parties*

As authorized by Section 19(b) of the Natural Gas Act, 15 U.S.C. § 717r(b), and Rule 15(d) of the Federal Rules of Appellate Procedure, NC WARN; CLEAN WATER FOR NC; THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE (“BREDL”), and its chapters, PROTECT OUR WATER! (FABER, VA), CONCERN FOR THE NEW GENERATION (BUCKINGHAM, VA), HALIFAX & NORTHAMPTON CONCERNED STEWARDS (HALIFAX AND NORTHAMPTON, NC), NO PIPELINE JOHNSTON COUNTY (JOHNSTON, NC), NASH STOP THE PIPELINE (SPRING HOPE, NC), WILSON COUNTY NO PIPELINE (KENLY, NC), SAMPSON COUNTY CITIZENS FOR A SAFE ENVIRONMENT (FAISON, NC), NO FRACKING IN STOKES (WALNUT COVE, NC), AND CUMBERLAND COUNTY CARING VOICES (EASTOVER, NC); RIVER GUARDIAN FOUNDATION; 350.ORG TRIANGLE; NC CLIMATE SOLUTIONS PROJECT; THE CHATHAM RESEARCH GROUP; ECOROBESON; THE LUMBEE TRIBE OF NORTH CAROLINA; and THE HALIWA SAPONI INDIAN TRIBE (collectively, “the Public Interest Groups”) jointly move for leave to intervene before the United States Court of Appeals for the Fourth Circuit in the Joint Petition for Review, No. 18-1077, filed on January 29, 2018, for review of the Federal Energy Regulatory Commission’s Order Issuing Certificates in *Atlantic Coast Pipeline, LLC*, 161 FERC ¶ 61,042 (2017), entered on October 13, 2017.

In accordance with Rule 15(c) of the Federal Rules of Appellate Procedure, the Public Interest Groups have served the parties to this proceeding.

In support of the Motion for Leave to Intervene is the following:

1. The Public Interest Groups are not-for-profit corporations under the laws of North Carolina and Virginia law acting in the public interest, community groups organized to protect the family and property of their members, and Indian tribes representing the interests of their members. The groups have representative standing to challenge agency actions on the behalf of their members pursuant to a long line of Federal cases; see for example, *Hunt v. Wash. State Apple Advertising Comm'n.*, 432 U.S. 333, 343 (1977); *Sierra Club v. Morton.*, 405 U.S. 727 (1972).

2. The Public Interest Groups and their members will be significantly affected and aggrieved by the proposed Atlantic Coast Pipeline (“ACP”). Many of the economic concerns and environmental impacts affecting the Public Interest Groups and their members have not been taken into consideration by the Federal Energy Regulatory Commission (“FERC”) in its issuance of the Certificate *sub judice*. The Public Interest Groups allege, among other issues, FERC failed to assess the need for the pipeline, its impacts on families and communities along the route, the environmental and health impacts from the construction and operation of the pipeline, and its cumulative impacts, including the worsening of the climate crisis.

3. On April 5, 2017, many of the same Public Interest Groups bringing the present motion filed Joint Comments on Draft Environmental Impact Statement (“DEIS”) detailing flaws in the review process and the impacts of pipeline construction and operation on their members. Those comments and the comments from many other parties demonstrate the fundamental flaws in the ACP application and the accompanying environmental documents. The Public Interest Groups additionally filed motions to supplement the environmental documents based on significant and new information as it arose during the comment period.

4. The Indian tribes, the Lumbee Tribe of North Carolina and the Haliwa Saponi Indian Tribe are recognized by the State of North Carolina. The Indian tribes adopt the comments made by the other groups on behalf of their members. Additionally, the Indian tribes, along with other similar situated tribes along the route of the pipeline requested formal consultation with FERC prior to the issuance of the certificate, which FERC failed to grant.

5. Several of the Public Interest Groups, including but not limited to NC WARN<sup>1</sup> and BREDL, are intervenors in the underlying proceeding pursuant to Commission Notice Granting Late Interventions, November 8, 2016. As intervenors they have the ability to make motions to the Commission pursuant to

---

<sup>1</sup> Subsequent to the filing of the Request for Rehearing, the North Carolina Waste Awareness and Reduction Network, Inc., formally changed its name to NC WARN, Inc.

Commission Rule 212, 18 C.F.R. § 385.212. On November 13, 2017, most of the Public Interest Groups named in the present motion filed with FERC their Request for Rehearing, Rescission of Certificate, and Stay of Project. To date, FERC has not responded to the Request.

6. Using Rule 24 of the Federal Rules of Civil Procedure as a guide to a party's intervention of right, the Public Interest Groups have both an unconditional right to intervene as at least two of them are intervenors in the underlying procedure, and if not as intervenors, through their claims of interest in the proceeding to protect their members, and the families and property of their members. None of the existing parties will adequately represent the interests of the movants, those being primarily the impacts of the proposed pipeline on the families and communities in North Carolina and Virginia.

7. If the Public Interest Groups are allowed to intervene, they will provide this Court with the perspective of families and communities on the proposed pipeline route who would be significantly and adversely impacted by its construction and operation.

Respectfully submitted,

*/s/ John D. Runkle*

---

John D. Runkle (NC Bar No. 10503)  
Attorney at Law  
2121 Damascus Church Road  
Chapel Hill, North Carolina 27516  
Telephone: 919-942-0600  
Email: [jrunkle@pricecreek.com](mailto:jrunkle@pricecreek.com)

*/s/ Kristen L. Wills*

---

Kristen Wills (NC Bar No. 52464)  
Staff Attorney  
NC WARN, Inc.  
2812 Hillsborough Road  
Durham, North Carolina 27705  
Telephone: 919-416-5077  
Email: [Kristen@ncwarn.org](mailto:Kristen@ncwarn.org)

DATED: February 23, 2018

## CERTIFICATE OF SERVICE

In accordance with Federal Rule of Appellate Procedure 15(d), the undersigned certifies that on February 23, 2018, a copy of this Joint Petition for Leave to Intervene was served on the following by mail and electronic mail:

*Counsel for Petitioners*

Gregory Buppert  
Charmayne G. Staloff  
SOUTHERN ENVIRONMENTAL LAW CENTER  
201 West Main Street, Suite 14  
Charlottesville, VA 22902  
[gbuppert@selcva.org](mailto:gbuppert@selcva.org); [cstaloff@selcva.org](mailto:cstaloff@selcva.org)

David Neal  
Gudrun Thompson  
SOUTHERN ENVIRONMENTAL LAW CENTER  
601 W. Rosemary Street, Suite 220  
Chapel Hill, NC 27516  
[dneal@selcnc.org](mailto:dneal@selcnc.org) ; [gthompson@selcnc.org](mailto:gthompson@selcnc.org)

Benjamin A. Luckett  
Joseph M. Lovett  
APPALACHIAN MOUNTAIN ADVOCATES  
P.O. Box 507  
Lewisburg, WV 24901  
[bluckett@appalmad.org](mailto:bluckett@appalmad.org)

*Counsel for Respondents*

James Danly  
General Counsel  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426  
[james.danly@ferc.gov](mailto:james.danly@ferc.gov)



Robert Solomon  
Solicitor  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426  
[robert.solomon@ferc.gov](mailto:robert.solomon@ferc.gov)

*/s/ John D. Runkle*

---

John D. Runkle (NC Bar No. 10503)  
Attorney at Law

DATED: February 23, 2018