

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 26-1437

Caption [use short title]

Motion for: Motion to InterveneStop the Pipeline v. Federal Energy
Regulatory Commission

Set forth below precise, complete statement of relief sought:

Intervenor Iroquois Gas Transmission System, L.P.requests that the court grant its motion tointervene in support of Respondent FederalEnergy Regulatory Commission. Respondentdoes not oppose this relief.MOVING PARTY: Iroquois Gas Transmission System L.P. - IntervenorOPPOSING PARTY: Petitioner - Stop the Pipeline☐ Plaintiff☐ Defendant☐ Appellant/Petitioner☐ Appellee/RespondentMOVING ATTORNEY: Misha TseytlinOPPOSING ATTORNEY: Todd D. Ommen

[name of attorney, with firm, address, phone number and e-mail]

111 South Wacker Drive, Suite 4100, Chicago, IL 6060678 North Broadway White Plains, NY 10603(608) 999-1240(914) 422-4343misha.tseytlin@troutman.comtommen@law.pace.eduCourt- Judge/ Agency appealed from: Federal Energy Regulatory Commission

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):



Yes



No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below?



Yes



No

Has this relief been previously sought in this court?



Yes



No

Requested return date and explanation of emergency:

Opposing counsel's position on motion:



Unopposed



Opposed



Don't Know

Does opposing counsel intend to file a response:



Yes



No



Don't Know

Is the oral argument on motion requested?



Yes



No (requests for oral argument will not necessarily be granted)

Has the appeal argument date been set?



Yes



No If yes, enter date:

Signature of Moving Attorney:

Misha TseytlinDate: 6/16/2026

Service :



Electronic



Other [Attach proof of service]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Stop the Pipeline	)	
	)	
Petitioner,	)	No. 26-1437
	)	
v.	)	
	)	
Federal Energy Regulatory Commission	)	
	)	
Respondent.	)	
	)	

FRAP 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, I, the undersigned counsel of record for Iroquois Gas Transmission System, L.P. certify that it has no parent corporation and, based upon the information currently available to it, no publicly held company owns 10% or more of its stock.

TROUTMAN PEPPER LOCKE LLP

DANIEL P. ARCHULETA
RUSSELL E. KOOISTRA
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 274-2926 (DA)
(202) 274-2872 (RK)
(202) 274-2994 (fax)
daniel.archuleta@troutman.com
russell.kooistra@troutman.com

MISHA TSEYTLIN
Counsel of Record
111 S. Wacker Dr., Suite 4100
Chicago, IL 60606
(608) 999-1240
(312) 443-0336 (fax)
misha.tseytlin@troutman.com

*Counsel for Intervenor Iroquois Gas
Transmission System, L.P.*

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Stop the Pipeline	)	
	)	
Petitioner,	)	No. 26-1437
	)	
v.	)	
	)	
Federal Energy Regulatory Commission	)	
	)	
Respondent.	)	

MOTION BY IROQUOIS GAS TRANSMISSION SYSTEM, L.P.
FOR LEAVE TO INTERVENE

TROUTMAN PEPPER LOCKE LLP

DANIEL P. ARCHULETA
RUSSELL E. KOOISTRA
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 274-2926 (DA)
(202) 274-2872 (RK)
(202) 274-2994 (fax)
daniel.archuleta@troutman.com
russell.kooistra@troutman.com

MISHA TSEYTLIN
Counsel of Record
111 S. Wacker Dr., Suite 4100
Chicago, IL 60606
(608) 999-1240
(312) 443-0336 (fax)
misha.tseytlin@troutman.com

PRELIMINARY STATEMENT

Movant Iroquois Gas Transmission System L.P. (“Iroquois”) seeks to intervene in this case, which arises from proceedings that Iroquois previously participated in as an intervenor and continues to maintain a substantial interest. The Order on Remand that Petitioner challenges addresses litigation over early FERC proceedings granting Iroquois approval to construct compression and interconnection facilities for Constitution Pipeline Company’s (“Constitution”) proposed pipeline to connect natural gas pipelines. Those projects were never constructed, and FERC’s current order confirms that those proceedings have closed while permitting Constitution to request FERC to reissue the previous approvals in a new subdocket, which relief Iroquois has also sought for its project. Iroquois’ direct economic interest (tied to the success of Constitution’s proposed pipeline) ensures that it has an adequate interest in this petition for review, as this Court recognized when it granted Iroquois’ intervention in the previous case. This Court should grant intervention again.

BACKGROUND

Petitioner Stop the Pipeline seeks judicial review of an Order on Remand, a Notice of Denial of Rehearing By Operation of Law and Providing for Further Consideration, and an Order dismissing Requests for Rehearing issued by FERC that formally document dismissal of certain dockets related to Constitution and Iroquois seeking certificates of public convenience and necessity for interconnected projects:

1. *Constitution Pipeline Company, LLC, Iroquois Gas Transmission System, L.P.*,
Order on Remand, 194 FERC ¶ 61,064 (Jan. 23, 2026);

2. *Constitution Pipeline Company, LLC, Iroquois Gas Transmission System, L.P.*, Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration, 194 FERC ¶ 62,146 (Mar. 26, 2026); and
3. *Constitution Pipeline Company, LLC, Iroquois Gas Transmission System, L.P.*; Order Dismissing Requests for Rehearings, 195 FERC ¶ 61,116 (May 19, 2026).

In 2013, Constitution and Iroquois requested certificates of public convenience and necessity to construct two projects, which established the original FERC dockets for this dispute. *Const. Pipeline*, 194 FERC ¶ 61,064, at P 2. Constitution would construct 124 miles of pipeline and related facilities from Susquehanna County, Pennsylvania to Schoharie County, New York, and Iroquois' project (the Wright Interconnection Project) sought to construct certain compression facilities and a lease for the incremental capacity associated with these new and modified facilities to Constitution. *Id.*; *Const. Pipeline Co., LLC Iroquois Gas Transmission Sys., L.P.*, 149 FERC ¶ 61,199 at PP 2–3 (2014). The Commission issued those certificates in 2014. *Const. Pipeline*, 194 FERC ¶ 61,064. In 2016, the New York State Department of Environmental Conservation's denied Constitution a water quality certification under Section 401 of the Clean Water Act in 2016, and Constitution asked FERC to find that New York had waived its Section 401 authority. *Id.* at P 3. FERC initially rejected that request, and Constitution and Iroquois challenged that decision the D.C. Circuit. *Id.* at P 4. Later the Commission reversed its order and determined that New York had waived its Section 401 authority, and movants here sought review of that subsequent order in this Court. *Id.* Iroquois successfully intervened in both the FERC proceedings and the subsequent case in this Court. *Catskill Mountainkeeper, Inc. v. FERC*, Nos.16-345 & 16-361, Dkt.74 (2d Cir. Feb. 26, 2016).

On March 31, 2020, and November 24, 2020, Iroquois and Constitution notified the Commission that they would not move forward with the projects. *Const. Pipeline*, 194 FERC ¶ 61,064, at P 6. FERC moved to dismiss the petitions because the certificates had expired in December 2020, and this Court entered an order vacating the challenged orders and remanded the case to the Commission to dismiss the agency proceedings on November 18, 2021. *Id.* at PP 7–8.

On December 19, 2025, Constitution filed a petition to reissue the certificate of public necessity and convenience on a new subdocket. *Id.* at P 10. New York, Stop the Pipeline, and Earthjustice requested that FERC close the docket and dismiss the newly filed subdocket. *Id.* P 11 & n.14. On January 13, 2026, Iroquois moved to intervene in Constitution’s new subdocket because it has a substantial and direct interest in the completion of Constitution’s facilities. *Const. Pipeline Co.*, Dkt. No.CP13-499-006, Doc. Accession No.20260113-5070 (FERC Jan. 13, 2026). On January 23, 2026, the Commission issued the order on review here. *Const. Pipeline*, 194 FERC ¶ 61,064. It issued its final decision on rehearing on May 19, 2026, *Const. Pipeline*, 195 FERC ¶ 61,116 (May 19, 2026), and Petitioner filed its Petition on May 22, 2026, Dkt.1.

ARGUMENT

This Court should permit Iroquois to intervene in support of Respondent in this action because Iroquois was a party to the proceedings before FERC (in the original docket and the new subdocket here), and any decision by this Court will affect its substantial interests in the completion of the Constitution pipeline and its Wright Interconnection Project.

A. Federal Rule of Appellate Procedure 15(d) requires a potential intervenor to file a motion to intervene within thirty days after the petition is filed with “a concise statement of the interest of the moving party and the grounds for intervention.” Rule 15(d) provides no standard for resolving intervention questions, *Sierra Club v. EPA*, 358 F.3d 516, 517–18 (7th Cir. 2004), so

appellate courts look to the policies underlying intervention under Federal Rule of Civil Procedure 24 and the statute giving rise to the administrative action under review, *Bldg. & Constr. Trades Dep't, AFL-CIO v. Reich*, 40 F.3d 1275, 1282 (D.C. Cir. 1994).

Federal Rule of Civil Procedure 24(a) provides that a party has a right to intervene if it is either “given an unconditional right to intervene by a federal statute” or it “claims an interest relating to the property or transaction that is the subject of the action” and resolution of the action “may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” The movant must “(1) file timely, (2) demonstrate an interest in the action, (3) show an impairment of that interest arising from an unfavorable disposition, and (4) have an interest not otherwise adequately protected.” *Farmland Dairies v. Comm’r of N.Y. State Dep’t of Agric. & Mkts.*, 847 F.2d 1038, 1043 (2d Cir. 1988) (citation omitted). An intervenor must have a “direct, substantial, and legally protectable” interest, *Wash. Elec. Co-op.. v. Mass. Mun. Wholesale Elec. Co.*, 922 F.2d 92, 97 (2d Cir. 1990), which is a test “of inclusion rather than exclusion.” 7C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1908.1, at 309 (3d ed. 2007). Direct economic interests in litigants’ “ability to protect their interests will be impaired or impeded ‘as a practical matter’” in cases where principles of stare decisis will control other ongoing litigation arising from the same proceedings suffices. *Oneida Indian Nation of Wis. v. State of N.Y.*, 732 F.2d 261, 266 (2d Cir. 1984). Movants often successfully satisfy Rule 24(a)(2) when intervening in litigation involving their regulatory approvals (or denials). See *Driftless Area Land Conservancy v. Huebsch*, 969 F.3d 742, 749 (7th Cir. 2020) (noting line of cases where parties intervene to defend their permits).

Some courts have, at times, required intervenors to demonstrate Article III standing. *Reich*, 40 F.3d at 1282. That additional requirement should not apply here, see *Little Sisters of the Poor*

Saints Peter & Paul Home v. Pennsylvania, 591 U.S. 657, 674 n.6 (2020); *see generally Institutional S’holder Servs., Inc. v. SEC*, 142 F.4th 757, 764 n.3 (D.C. Cir. 2025) (recognizing *Little Sisters of the Poor* introduced tension into standing requirement precedent). In any event, a regulated party that is subject to the challenged order and seeks the same relief as the party it supports satisfies the standing requirement. *Little Sisters of the Poor*, 591 U.S. at 674 n.6; *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) (holding that if party is “an object of the action (or forgone action) at issue” “there is ordinarily little question” that it satisfies standing).

Rule 24(b) also provides for permissive intervention where a movant “has a claim or defense that shares with the main action a common question of law or fact” and causes no prejudice. Fed. R. Civ. P. 24(b). Courts find permissive intervention appropriate when movant has a claim or defense that shares with the main action a common question of law or fact the would-be intervenor has “a real economic stake in the outcome of this litigation.” *Textile Workers Union of Am., CIO v. Allendale Co.*, 226 F.2d 765, 769 (D.C. Cir. 1955) (en banc).

B.1. Iroquois satisfies Rule 24(a)’s four-part test for intervention as a matter of right.

First, Iroquois filed this motion on June 15, 2026, within thirty days of Stop the Pipeline’s petition of May 22, 2026. *See* Dkt.1. Thus the motion is timely. Fed. R. App. 15(d).

Second, Iroquois has an interest in these proceedings. Iroquois participated in the consolidated actions as an intervenor supporting the Commission. *Catskill Mountainkeeper*, No.16-345, Dkt.74 (granting Iroquois’ intervention motion). The Order on Remand responds to this Court’s November 18, 2021 Order and applies it to proceedings Iroquois initiated and participated in. *Const. Pipeline*, 194 FERC ¶ 61,064, at P 1. And Iroquois has the same interest it did as when it first intervened in the Constitution pipeline proceedings; namely that it must construct facilities to “establish a point of interconnection with Constitution and provide capacity

to support delivery” of service to Iroquois’ existing mainline. *Const. Pipeline*, 149 FERC ¶ 61,199, at P 12. As before, Iroquois has sought permission to do so here. *Iroquois Gas Transmission Sys., LP*, Dkt. No.CP13-502-003, Doc. Accession No.20260213-5321 (FERC Feb. 13, 2026). Thus, Iroquois has a direct economic interest in the proceedings to approve Constitution’s pipeline.

Third, any substantive review of the Order on Remand impairs or impedes Iroquois’ ability to protect its interests in both the Constitution pipeline and the Wright Interconnection Project. Any adverse decision delaying or preventing Constitution’s pipeline proceeding would also undermine the viability of the Wright Interconnection Project. The two projects are interdependent and “inextricably linked.” *Iroquois Gas Transmission Sys., L.P.*, Dkt. No.CP13-502-003, Doc. Accession No.20260224-3013 (Feb. 24, 2026). Thus an adverse decision here would prevent Iroquois from obtaining approval for the Wright Interconnection Project.

Fourth and finally, FERC does not adequately represent Iroquois’ interest. FERC is a government agency that is concerned with its “considerable authority to manage our own docket” and how it “processed and noticed” Constitution’s filing. *Const. Pipeline*, 194 FERC ¶ 61,064, at PP 12–13. It expressly disclaimed that its action here “pre-judg[e] the merits of the 2025 [Constitution] Petition in this order.” *Id.* at P 10. Iroquois’ interest is in the procedure, timing, and the outcome of this petition (and its own). Petitioner sought for FERC to dismiss the filed petition, which is not simply a procedural issue and directly adverse to Iroquois’ interest in completing the Wright Interconnection Project. Thus, FERC’s managerial interest in its own dockets does not adequately represent Iroquois’ economic interests arising from the Order on Remand.

2. In the alternative, this Court should permit Iroquois to intervene permissively under Rule 24(b).

Iroquois satisfies the elements for permissive intervention and its previous status as an intervenor in the previous litigation weighs in favor of intervention here. Iroquois satisfies the timeliness element because it moved to intervene within the thirty days Federal Rule of Appellate Procedure 15(d) specifies. *See* Fed. R. App. P. 15(d). Iroquois shares “common question[s] of fact or law,” with the case here, *see id.*, namely whether it is appropriate for FERC to close proceedings on one docket and allow related proceedings to continue on a subdocket. Iroquois shares a “real economic stake” in the Order on Remand permitting FERC to continue its process to issue the certificates of public convenience and necessity for the Constitution pipeline because the two projects are interdependent and arise in the same factual and legal circumstances. *Textile Workers Union of Am.*, 226 F.2d at 769. Iroquois followed the same procedure as Constitution did when Iroquois applied for a certificate of public necessity and convenience related to the Wright Interconnection Project, and Petitioner has asserted the same alleged error in FERC’s proceedings on the Wright Interconnection Project. Thus Iroquois’ proceedings share the same questions of law and fact as those here, and its timely intervention ensures that no prejudice or delay will impact the existing parties’ rights. Additionally, this Court’s previous order granting Iroquois the right to intervene in the previous proceedings giving rise to the Order on Remand implicitly recognizes that Iroquois has a sufficient interest to intervene when it comes to the Constitution pipeline. *See Catskill Mountainkeeper*, No.16-345, Dkt.74.

3. To the extent that this Court requires standing for an intervenor supporting a respondent, Iroquois has the requisite interest that an order resolving the petition will entail. First, a respondent (or intervenor-respondent) does not typically need to show standing. *See Lujan*, 504 U.S. at 561

(“The party invoking federal jurisdiction bears the burden.”). Second, Iroquois seeks the same legal relief as FERC (affirming the Order on Remand)—and FERC clearly has standing—Iroquois need not independently establish standing. *See Little Sisters of the Poor*, 591 U.S. at 674 n.6. Third, Iroquois has standing as a regulated party where FERC’s actions closed its proceedings. *Lujan*, 504 U.S. at 562. Iroquois has a substantial (and overlapping) interest in the outcome of these proceedings as FERC’s decision permits Iroquois to pursue its nearly identical petition asking FERC to reissue the approvals for the Wright Interconnection Project. Iroquois therefore has a legally cognizable interest, *accord id.* at 562–63, and here, the contemplated delay to the approval process would inflict financial harm on Iroquois because it prevents Iroquois and Constitution from delivering more fuel to their clients to meet growing energy demand. Petitioner seeks to vacate FERC’s favorable decision permitting proceedings on the new subdocket to continue, and such a threatened loss satisfies causation and redressability because it would “remove[]” an order that directly benefits Iroquois. *See Institutional S’holder Servs.*, 142 F.4th at 765.

CONCLUSION

The Court should grant this Motion to Intervene.

Respectfully submitted,

TROUTMAN PEPPER LOCKE LLP

DANIEL P. ARCHULETA
 RUSSELL E. KOOISTRA
 401 9th Street NW, Suite 1000
 Washington, DC 20004
 (202) 274-2926 (DA)
 (202) 274-2872 (RK)
 (202) 274-2994 (fax)
 daniel.archuleta@troutman.com
 russell.kooistra@troutman.com

MISHA TSEYTLIN
Counsel of Record
 111 S. Wacker Dr., Suite 4100
 Chicago, IL 60606
 (608) 999-1240
 (312) 443-0336 (fax)
 misha.tseytlin@troutman.com

CERTIFICATE OF SERVICE

I hereby certify that I caused this document to be electronically transmitted to the clerk's office by emailing a pdf of this document and the accompanying papers to newcases@ca2.uscourts.gov, copying all registered parties this 16th day of June, 2026. In addition, I hereby certify that I caused copies of this document and the accompanying papers to be mailed to all registered parties by United State mail this 16th day of June 2026.

/s/ Misha Tseytlin
Misha Tseytlin

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT, TYPEFACE
REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This document complies with Fed. R. App. P. 27(d)(2) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f); this document contains 2,335 words.

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Dated: June 16, 2026

/s/ Misha Tseytlin
Misha Tseytlin