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**Statement on US Court of Appeals for DC Circuit Decision
Admonishing FERC's use of Tolling Orders to Block the Peoples' Right To Judicial Review**

Today, the US Court of Appeals for the D.C. Circuit ruled in Allegheny Defense Project, et al v. Federal Energy Regulatory Commission, condemning the Federal Energy Regulatory Commission's (FERC's) use of "tolling orders" to place challengers in legal limbo by indefinitely extending its statutory deadline to decide on rehearing requests.

"We are pleased that the court recognized the injustice in FERC's twisted logic that a Certificate Order can be final for the purposes of condemning property, yet non-final for the purposes of judicial review. The use of tolling orders to place challengers in legal limbo while pipeline companies use the power of eminent domain to take property rights and get permission from FERC to inflict irreparable harm on the environment has been routine practice by FERC," **said Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network.** "The end result of tolling orders has been that by the time we get our day in court, it is simply too late, the damage is done and there is no meaningful remedy, as shown by our 2014 challenge of the Tennessee Gas Northeastern Upgrade Project the court cited in its opinion. The fact that the courts, up until now, have given FERC legal authority to rob people of their rights in this way is unconscionable – it was past time for the courts to reconsider the precedent they have set on this issue and to stop the abuse of tolling orders by FERC."

On January 17, 2020, the Delaware Riverkeeper Network (DRN) and other environmental organizations, represented by Earthjustice, filed an amicus brief with the United States Court of Appeals for the District of Columbia Circuit to challenge FERC's use of tolling orders in Allegheny Defense Project, et al v. FERC.

The Delaware Riverkeeper Network has experienced the detrimental effect of tolling orders first hand in numerous cases. As the court cites in the opinion, DRN's 2014 case challenging Tennessee Gas' Northeastern Upgrade Project was a prime example of irreparable harm occurring before opponents have access to judicial relief. In that case, DRN's rehearing request was tolled for six and a half months and the project was completed and in operation before the D.C. Circuit held that FERC had violated NEPA.

See more on the Delaware Riverkeeper Network's work on documenting and challenging the use of tolling orders, here:

<https://delawariverkeeper.org/sites/default/files/13.%20stripping%20peoples%20rights%20pdf%20w%20attach.pdf>

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