

FERC Defends Use of Tolling Orders Before the DC Circuit En Banc

“On February 10, 2020, FERC filed its Rehearing *En Banc* Brief regarding opposition to FERC’s authorization of the construction of Transcontinental Gas Pipe Line Company, LLC’s proposed Atlantic Sunrise Project – an interstate pipeline designed to supply enough natural gas to meet the daily needs of more than 7 million American homes. The United States Court of Appeals for the District of Columbia issued an opinion on August 2, 2019, upholding FERC’s decision to conditionally approve the Project. However, on September 16, 2019, Hilltop Hollow Limited Partnership, Hilltop Hollow Limited Partnership, LLC, and Stephen D. Hoffman petitioned the court for rehearing of the court’s opinion *en banc*. The Petitioner’s main challenge was FERC’s usage of tolling orders, which allows FERC to delay rehearing after granting a pipeline certificate, as impermissible under the Natural Gas Act and the Due Process Clause of the Fifth Amendment. The court granted that petition and vacated the underlying judgment in a December 5, 2019 order,” write Miriam Archibong and Miles Kiger in the Washington Energy Report’s *Natural Gas*.

Read the article.