

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

FILED: OCTOBER 16, 2018

No. 17-1040

OLD DOMINION ELECTRIC COOPERATIVE,
PETITIONER

v.

FEDERAL ENERGY REGULATORY COMMISSION,
RESPONDENT

LSP TRANSMISSION HOLDINGS, LLC, ET AL.,
INTERVENORS

Consolidated with 17-1041

On Petition for Rehearing and/or Clarification
and Motion for Clarification

Before: HENDERSON**, KAVANAUGH*, and KATSAS**, CIRCUIT JUDGES

ORDER

Upon consideration of the petition for panel rehearing and/or clarification filed by Intervenor-respondents Exelon Corporation, et al., and the motion for clarification filed by Intervenor-respondents Linden VFT, LLC and Consolidated Edison Co. of New York, the opposition thereto, and the reply, it is

ORDERED that the petition for rehearing and/or clarification be denied. It is

FURTHER ORDERED that the motion for clarification be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk

* Circuit Judge, now Justice, Kavanaugh was a member of the panel when the case was submitted but did not participate in this matter.

** A statement by Circuit Judge Katsas, joined by Circuit Judge Henderson, is attached.

KATSAS, *Circuit Judge*: The petition for panel rehearing or clarification filed by intervenor Exelon Corporation and others is denied. The panel opinion “hold[s] only that FERC did not adequately justify its approval of the [tariff] amendment at issue.” *Old Dominion Elec. Coop. v. FERC*, 898 F.3d 1254, 1263 (D.C. Cir. 2018). Nothing in the opinion prevents FERC on remand from attempting to “provide a better justification for its approval of the tariff amendment,” as Exelon would like. Pet. at 2. Accordingly, there is no need for clarification.

The motion for clarification filed by intervenors Consolidated Edison and Linden VFT is denied. Because the panel opinion set aside FERC’s approval of the proposed tariff amendment, the unamended tariff remains in effect. On remand, the parties remain free to address the appropriate treatment of low-voltage or other facilities, either under the unamended tariff or under any proposed tariff amendment that FERC may now wish to consider. We express no opinion regarding the appropriate treatment of the contested Sewaren project—an issue not addressed in the orders under review.