

# E&E News Energywire

## Atlantic Coast asks court to clear 'permanent obstacle'

Pamela King, E&E News reporter

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Developers of the Atlantic Coast pipeline have asked an appellate court to reconsider its decision to strike critical permits for the natural gas project.

The 4th U.S. Circuit Court of Appeals last month nixed a Forest Service approval for the 600-mile pipeline to cross two national forests and parts of the Appalachian Trail. Environmental opponents celebrated as the project's backers, who had halted construction after the same court vacated a separate permit, reviewed their options ([\*Greenwire\*](#), Dec. 13, 2018).

The 4th Circuit's finding that the Forest Service does not have the authority to grant a right of way along the Appalachian Trail introduced a "more permanent obstacle" for the embattled Atlantic Coast project, attorneys for the developers argued yesterday.

"That holding ignores key provisions in several statutes, contradicts the longstanding views of every agency involved, and converts a special rule about National Park Service lands into an impregnable barrier dividing energy sources west of the Trail from consumers east of the Trail," the attorneys wrote in their petition for rehearing en banc.

"The stakes could hardly be higher," they said.

Joining the litigation on Atlantic Coast's behalf is Kirkland & Ellis LLP attorney Paul Clement, who served as solicitor general under former President George W. Bush.

Clement and his co-counsel contend that the 4th Circuit's ruling last month flies in the face of the Supreme Court's holdings on agency deference and suggests that Congress must now authorize any pipeline crossing along the Appalachian Trail. The trail extends more than 2,000 miles along the East Coast and runs through a region where a network of natural gas transport projects is beginning to bloom.

"Both sets of errors will have serious, widespread ramifications and merit rehearing en banc," the petition says.