

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-1279**September Term, 2015****NRC-80FR35992****Filed On:** February 8, 2016

State of Vermont, et al.,

Petitioners

v.

U.S. Nuclear Regulatory Commission and
United States of America,

Respondents

Entergy Nuclear Vermont Yankee, LLC and
Entergy Nuclear Operations, Inc.,
Intervenors

BEFORE: Henderson, Rogers, and Srinivasan, Circuit Judges

ORDER

Upon consideration of the motion to dismiss for lack of jurisdiction, the opposition thereto, and the reply, it is

ORDERED that the motion be granted. The petition for review is “incurably premature” and must be dismissed for lack of jurisdiction. See Bellsouth v. FCC, 17 F.3d 1487 (D.C. Cir. 1994); Tennessee Gas Pipeline v. FERC, 9 F.3d 980 (D.C. Cir. 1993). Once the Nuclear Regulatory Commission has resolved petitioners’ pending request for Commission review, see NRC Dkt. No. 50-271, they may file a petition for judicial review of the resulting order, as well as the NRC Staff’s prior order, see Clifton Power Corp. v. FERC, 294 F.3d 108, 110 (D.C. Cir. 2002) (“[T]he party that . . . sought administrative reconsideration may, if reconsideration is denied, challenge that denial as well as the agency’s original order by filing a timely petition for review of both orders.”).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam