

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

In the matter of:)
)
Atlantic Coast Pipeline, LLC)
Docket Nos. CP15-554-000)
 PF15-6-000)
)
Dominion Transmission, Inc.)
Docket Nos. CP15-555-000)
 PF15-5-000)
)
Atlantic Coast Pipeline, LLC and)
Piedmont Natural Gas Company)
Docket No. CP15-556-000)
_____)

April 11, 2016

MOTION TO INTERVENE OUT OF TIME

PURSUANT to Section 15 of the Natural Gas Act (“NGA”) at 15 U.S.C. 157.10 and FERC Rule 214 at 18 C.F.R. § 385.214, now comes the NC WARN, with a motion to intervene out of time in this proceeding. In support of the motion is the following:

1. NC WARN opposes the federal authorization for the Atlantic Coast Pipeline (“ACP”) for three primary reasons:
 - a. The growing reliance on fracking gas in North Carolina and nationwide will have a disastrous impact on the climate crisis due to the venting and leakage of methane throughout the U.S. natural gas industry. Although fracking gas has been described as a “bridge fuel” as electric utilities move to convert coal plants to natural gas, the environmental and societal damages of fracking,

and the methane leakage from well head to burn point is devastating.

Methane is now seen as having a much greater impact on climate change than carbon dioxide, some 86 – 100 times greater.

- b. Fracking gas is a risky investment in that it is not a reliable source of fuel and the current aberrantly low prices will not be maintained. Research shows that many of the U.S. shale plays are in or nearing decline. The potential for supply shortage leaves utility customers vulnerable to outages and price spikes. In North Carolina in the last decade, natural gas has gone from producing 2% of the electricity generated to more than 23%, with Duke Energy proposing construction of 15 additional large natural gas plants over the next decade. The fracking gas from ACP would temporarily encourage the construction of new natural gas plants, leading to overcapacity and possible stranded costs, and therefore higher customer rates.
- c. Pipeline projects are becoming increasingly controversial because of methane's contributions to the climate crisis, the financial risks for utility ratepayers, abuse of property rights along the route, and local air and water quality damage associated with fracking.

2. NC WARN is a not-for-profit corporation under North Carolina law acting in the public interest. Its primary purpose is working for climate protection through the advocacy of clean, efficient, and affordable energy. It represents more than one thousand individual members and families across North Carolina who are deeply concerned about Duke Energy's long-term commitment to fracking gas. It has members and allied organizations in eastern North Carolina who may be affected by the proposed

ACP. NC WARN's address is Post Office Box 61051, Durham, North Carolina 27715-1051.

Background

3. On September 18, 2015, ACP LLC filed an application under section 7(c) of the Natural Gas Act, requesting authorization to construct, own, and operate a new natural gas pipeline system ("Project"), including three compressor stations and appurtenances totaling 123,005 horsepower, across West Virginia, Virginia, and North Carolina. If constructed, the ACP would have approximately 564 miles of natural gas pipeline in West Virginia, Virginia and North Carolina. The Project is owned by a joint venture of Dominion Resources, Inc., Duke Energy Corporation, Piedmont Natural Gas Company, Inc., and AGL Resources, Inc.

4. On October 2, 2015, the Commission filed its Notice of Application, providing additional details about the application and outlining the process. Subsequently, the files reflect that several organizations, industries and associations, and hundreds of individuals have moved to intervene, without any action taken by the Commission to date on any of the motions.

Comments

5. The Commission has authority under NGA Section 7 (Interstate Natural Gas Pipelines and Storage Facilities) to issue a Certificate of Public Convenience and Necessity ("certificate") to construct a natural gas pipeline. The certificate application is required to describe the purpose and commercial need for the project, the transportation

rate to be charged to customers, proposed project facilities, and how the company will comply with all applicable regulatory requirements. The applicants must evaluate project alternatives, identify a preferred route, and complete a thorough environmental analysis – including consultation with appropriate regulatory agencies, data reviews, and field surveys. The Commission is required to analyze the information to determine if the project is one of public convenience and necessity. The purpose of the Commission’s review is to reduce overbuilding of pipeline capacity in order to protect consumers and property owners.

6. As an additional requirement, the natural gas market transparency provisions of section 23 of the NGA, as adopted in the Energy Policy Act of 2005 (P.L. 109-58), require the Commission to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce. The transparency requirements are incorporated throughout all of the Commission’s proceedings.

7. NC WARN believes the mandate for a full analysis of the “public convenience and necessity” for pipelines involves more than responding to a professed need for capacity. The certificate process, as enhanced by the transparency provision, requires a full and open process analyzing present and future costs and risks. The burden is on the Commission to fully investigate the risks and costs associated with the ACP, including methane venting and leakage as a driver of climate change, and the future availability and costs of fracking gas.

8. As part of this motion to intervene, NC WARN has attached four exhibits in support of NC WARN’s position that the ACP would have an unduly negative impact on

the climate, and would be a risky investment leading to higher customer rates and stranded costs.¹

- a. Affidavit from Dr. Robert W. Howarth, an international expert on the role of methane emissions as a driver of global warming. EXHIBIT A. Dr. Howarth's affidavit, and the studies it is based on, show that a shift toward greater reliance on natural gas is a disastrous strategy for reducing emissions. Dr. Howarth explains that, because methane is a highly potent greenhouse gas and the process of drilling, transporting and burning natural gas releases a large amount of methane, natural gas is more damaging to the climate than coal.
- b. Affidavit from J. David Hughes, expert on natural gas supplies and price volatility. EXHIBIT B. Mr. Hughes' affidavit shows natural gas as an extremely risky fuel for the future. Given that natural gas prices, now low because of oversupply and low demand, are expected to be extremely volatile over the next decade and remaining supply has been highly exaggerated, investments in natural gas infrastructure could cause rate spikes for all customers.
- c. A whitepaper, DUKE ENERGY'S MOVE TOWARD A FRACKING GAS FUTURE WOULD BE DISASTROUS FOR CLIMATE CHANGE AND FOR THE NORTH CAROLINA ECONOMY, December 10, 2015, prepared by Dr. Harvard Ayers of The Climate Times and Nancy LaPlaca of NC WARN. EXHIBIT C. The whitepaper further documents the potentially devastating problems posed by natural gas-fired generation, including methane's impact

¹ These exhibits were also filed in NCUC Docket E-2, Sub 1089, on Duke Energy Progress's Asheville modernization project, but are relevant to the present matter. Exhibit D also was submitted with NC WARN's comments on the IRPs submitted by the utilities in NCUC Docket E-100, sub 141.

on climate change, and the potential for price spikes and fracking gas shortages.

- d. NC WARN's report, A RESPONSIBLE ENERGY FUTURE FOR NORTH CAROLINA, updated November 2015, (the "NC WARN report") critiquing Duke Energy's 2015 integrated resource plan ("IRP"). EXHIBIT D.

9. The source of the natural gas in the ACP would come from fracking gas plays in Pennsylvania and West Virginia. However, the environmental and societal impacts of the ACP are not limited to the physical impacts on farms, forests, and rivers, and the health and economic impacts on families living near the drilling sites and the pipeline. The most serious negative impact is on the global climate crisis due to venting and leakage of methane from the fracking wellheads, processing plants, the pipeline, the compressor stations, storage facilities, distribution system, and electric generation sites. As much as 12% of the methane-heavy natural gas is vented or leaked from wellhead to burn point, both from direct discharges and fugitive emissions.

10. The use of natural gas is already speeding global warming because of methane's global warming potential (up to 100 times that of carbon dioxide over the next decade) and a huge increase in methane leakage throughout the natural gas industry. In his affidavit, Dr. Howarth described several studies he and others have conducted showing "even small emissions of methane make the global warming consequences of using natural gas worse than coal." EXHIBIT A. He concludes "that natural gas – particularly as it comes increasingly from shale gas – is not a bridge fuel" and "that building new plants to produce electricity from natural gas is a disastrous strategy."

11. As shown in Mr. Hughes' affidavit, reliance on fracking gas is risky because future supplies will be limited, and the cost of the fuel will increase. EXHIBIT B. Mr. Hughes describes his analysis of shale plays and presents his conclusion that total U.S. natural gas production will decline because current drilling rates cannot be maintained due to poor economics. As a result, "fuel prices could skyrocket, putting ratepayers at risk of shortages and price spikes." As a result, Mr. Hughes concludes:

In my expert opinion, the cost of natural gas in the medium and long term will be much higher than today, and higher than the projections of the EIA [Energy Information Administration], which will negatively impact the investments Duke Energy is making in natural gas power plants that are expected to run for 30 or more years, and will result in considerably higher cost for ratepayers than expected.

12. The ACP will exacerbate the acute problems stemming from overreliance on fracking gas – and yet the application filed in this docket does not address any climate concerns from methane venting and leakage, or the financial riskiness of a fracking gas future. EXHIBIT C. In North Carolina, Duke Energy is on the brink of a potentially disastrous fracking gas future. In the recently-approved long range plans in the IRPs of Duke Energy Carolinas and Duke Energy Progress, the two utilities propose adding between 8,578 and 10,928 MW of new natural gas capacity in the Carolinas by 2030. The cost to ratepayers for the construction of these plants alone would be at least \$15 billion over the 15-year planning horizon, plus an increasing reliance on natural gas fuel, which promises to see an alarming increase in cost. EXHIBIT D.

13. Long-term commitments to fracking gas infrastructure and fuel locks customers into a natural gas future, no matter how high gas prices go or how expensive new plants and pipelines become. In North Carolina, it is those customers who are least able to afford the escalating costs who will bear the greatest burden for erroneous

Commission decisions when their rates increase from the overbuilding of new natural gas infrastructure.

Motion to Intervene Out of Time

14. There is sufficient cause for NC WARN to be granted this Motion to Intervene Out of Time. There are significant environmental and social impacts associated with the ACP, most notably those related to the overwhelming impacts of rapid fracking gas development on the climate crisis.

Other factors supporting the motion are:

- a. As noted above, the Commission has not yet ruled on the hundreds of motions to intervene in the record.
- b. Duke Energy and Piedmont Natural Gas, two of the proposed owners and operators of the ACP, have announced their proposed merger. The NC Utilities Commission has not yet begun formal review of the proposed merger and will hold evidentiary hearings on July 18, 2016, in NCUC Dockets E-2, Sub 1096; E-7, Sub 1100; and G-9, Sub 682. The Commission should reexamine the present application as the ownership percentages will change if the NC Utilities Commission approves the merger.

Conclusion

NC WARN thereby requests that the Commission grant its motion to be admitted as an intervenor in the extant proceeding and further requests that a formal hearing be held on the merits of the application.

ON BEHALF OF NC WARN

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