

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)
_____)

October 9, 2017

PUBLIC INTEREST GROUPS' NEW MOTION
TO SUPPLEMENT DEIS BASED ON NEW FILINGS

PURSUANT to FERC Rule 212 at 18 C.F.R. § 385.212, the National Environmental Policy Act (“NEPA”) at 42 U.S.C. § 4332, and 40 C.F.R. § 1502.9, now come the North Carolina Waste Awareness and Reduction Network (“NC WARN”); Clean Water for North Carolina; the NC APPPL: Stop the Pipeline; the Blue Ridge Environmental Defense League (“BREDL”), and its chapters, Protect Our Water! (Faber, VA), Concern for the New Generation (Buckingham, VA), Halifax & Northampton Concerned Stewards (Halifax and Northampton, NC), Nash Stop the Pipeline (Spring Hope, NC), Wilson County No Pipeline (Kenly, NC), Sampson County Citizens for a Safe Environment (Faison, NC), No Fracking In Stokes (Walnut Cove, NC), and Cumberland County Caring Voices (Eastover, NC); Sustainable Sandhills; Beyond Extreme Energy; The Climate Times; NC Climate Solutions Coalition; Triangle Women's International League

for Peace and Freedom; Haw River Assembly; Winyah Rivers Foundation, Inc.; River Guardian Foundation; 350.org Triangle; Eno River Unitarian Universalist Fellowship – Earth Justice, the Chatham Research Group, and ECOROBESON (together “the Public Interest Groups”), by and through the undersigned counsel, with a new motion to supplement the Draft Environmental Impact Statement (“DEIS”) on the Atlantic Coast Pipeline (“ACP”) based on court rulings and new information.¹

As stated in the Public Interest Groups’ earlier joint motion and two supplements,² the Commission is required to rescind and supplement the DEIS in this matter because “[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” At the same time, a new public comment period and hearings should be held after a supplemental DEIS is issued. To not allow the opportunity to comment on an application before it is complete makes a mockery of both the FERC and the NEPA processes.

Dominion’s practice is to frequently supplement its application without regard for an orderly process and by flaunting FERC and NEPA rules. This has been supported by FERC in its failure to supplement its environmental documents, and allow public review and comment. The application was supplemented some 18 times after the comment period on the DEIS was ended, and even another 5 times after the FEIS was issued. Many of these supplemental filings are not simply *de minimus* changes but are significant modifications to routes and impact analysis.

¹ Additional groups have been added to those making the original motion. At least two of the movants are intervenors before FERC on the ACP – NC WARN and BREDL.

² Joint Motion to Rescind or Supplement DEIS, January 23, 2017, FERC Accession No. 20170124-5017; Supplement to Joint Motion To Rescind Or Supplement DEIS Based on New Filings, February 15, 2017, FERC Accession No. 20170215-0507; Joint Public Interest Groups 2nd Supplement to Motion to Rescind or Supplement DEIS Based on New Filings, July 17, 2017, FERC Accession No. 20170717-5145

The arguments in the earlier motions providing facts and law in support of the present position are adopted herein by reference.

To date, the Commission has not responded to the earlier joint motions.

ADDITIONAL MATTERS

Two additional matters require the environmental documents to be supplemented: the impacts of greenhouse gases on the climate crisis, and the plan to extend the ACP into South Carolina.

Greenhouse Gases. As demonstrated in April 5, 2017 Joint Comments by Public Interest Groups on Draft Environmental Impact Statement and through comments from many other parties, the DEIS was flawed as it discounted the greenhouse gas emissions and impact on the climate crisis from the proposed pipeline.³ The FEIS did not rectify the situation but continued to disregard the climate impacts from methane leaking and venting throughout the natural gas infrastructure, including the pipeline. However in light of the recent decision by the D.C. Circuit Court of Appeals in *Sierra Club v. FERC*, No. 16-1329 (August 22, 2017), FERC must revisit its impacts analysis in the EIS for the ACP and reopen the record for the purpose of taking additional evidence regarding greenhouse gas emissions and climate impacts, and issue a Supplemental EIS.⁴

³ FERC Accession No. 20170405-5307.

⁴ The present motion supports the Sierra Club's motion on September 18, 2017, Notice of New Authority and Request for Supplemental Environmental Impact Statement for the Atlantic Coast Pipeline and Supply Header Project. FERC Accession No. 20170918-5043.

Extension into South Carolina. As reported in an AP News Break story on September 29, 2017, a Dominion official proclaimed to a gathering of energy officials and industrial recruiters in South Carolina that the ACP would expand into that state.⁵ As reported “Dan Weekley, Dominion Energy’s vice president and general manager of Southern pipeline operations, told attendees at a recent energy conference “everybody knows” the Atlantic Coast Pipeline — currently slated to pass through Virginia, West Virginia and North Carolina — is not going to stop there, despite what the current plans say.” Mr. Weekley went on to state the ACP would deliver 1 billion cubic feet (28 million cubic meters) per day to South Carolina.

This new information, i.e., Dominion’s plans to extend the ACP into South Carolina, demonstrates the application for the ACP was intentionally misleading in terms of the scope of the project and the overall need for the project. The DEIS should be supplemented to include the financial costs, environmental and socioeconomic costs, and environmental justice impacts from the South Carolina extension. Additional shipment of natural gas in the pipeline will increase pressure within the pipeline, putting more pressure on compressor stations (including a new station required for North or South Carolina), and expanding the blast zones and evacuation zones. The new corridor will have many of the same environmental impacts as does the rest of the ACP, such as impacts on stream crossings, water quality, wildlife habitat, and farms and families. All of these impacts should be analyzed and presented for review and comment.

⁵ Rankin, S., “Disputed East Coast Pipeline Likely to Expand,” September 29, 2017, (widely report in other news outlets). www.apnews.com/d9e1216747d642abb025dedb0043462f

The piecemealing of projects – eliminating major components of a project from public scrutiny -- is discouraged by NEPA. “From a procedural standpoint, NEPA “provides the vehicle for agency [and public] consideration of overall project-related impacts prior to the permit decision. Ideally, EISs present comprehensive, rather than piecemeal, environmental impact and regulatory analysis.”⁶

Conclusion. The environmental documents for the ACP are required to be supplemented, with the opportunity for public review and comment. Dominion continues to supplement its application and so far FERC has sanctioned this practice; the EIS fails to analyze the greenhouse gas emissions from the proposed pipeline and their impact on the climate crisis; and new information that Dominion always planned to extend the ACP into South Carolina. The burden is on the Commission to fully investigate the environmental risks and costs associated with the ACP, including all new and supplemental information. The new and late-filed information then becomes part of a DEIS and it is then reviewed and commented on by other agencies and the public.

RELIEF REQUESTED

The Public Interest Groups respectfully renew their joint motion. In this matter, the Commission must take a “hard look” at the new information, review it in the context of the application and current public comments, and then supplement the DEIS to incorporate the new information. At the same time, the Commission should rescind the DEIS and hold the public comment period in abeyance until it issues the supplemental

⁶ 40 CFR 1502.9(c)(1)(ii); see also www.yalelawjournal.org/note/nepa-eiss-and-substantive-regulatory-regimes

DEIS. Lastly, the Commission should require Dominion to file all additional supplemental information before proceeding further, with full disclosure of all plans to extend the pipeline into other states.

ON BEHALF OF THE PUBLIC INTEREST GROUPS

/s/ John D. Runkle

John D. Runkle
Attorney at Law
2121 Damascus Church Road
Chapel Hill, North Carolina 27516
919-942-0600
jrunkle@pricecreek.com

cc. service list