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SPECIAL COMMITTEE
ON AGING

United States Senate

WASHINGTON, DC 20510-4607

July 28, 2015

The Honorable Norman C. Bay and Commissioners
Federal Energy Regulatory Commission
888 1st Street NE
Washington, D.C. 20426

Dear Chairman Bay and Commissioners Clark, Honorable, Moeller, and LaFleur:

I would like to submit my views on Docket #PF15-3-000, the Mountain Valley Pipeline (MVP), proposed by EQT and NextEra Energy. I take no position on the underlying question of whether this project should be approved, as that is a choice that requires consideration of a number of technical issues that are best addressed by FERC, not by Members of Congress. I have listened carefully to many Virginians along the proposed MVP corridor who have shared concerns with me about this project. These concerns pertain not just to the substance of the project but to the quality and thoroughness of the public input process on the parts both of FERC and of the applicant companies. In response to what I have heard, I feel it necessary to highlight several of the issues that these Virginians – and I – believe are important for FERC to consider.

No one disputes that energy infrastructure is necessary for the economy and daily life. However, such infrastructure must be built in as minimally disruptive a way as possible. Since all infrastructure has some degree of impact, federal law charges your agency with managing a complex process 1.) to require project builders to make the utmost effort to minimize project impacts, and 2.) to empower the public to verify these efforts by ensuring that all relevant information is made available and that there is ample opportunity for public input and comment. Citizens rightly expect that process to be followed to the letter.

In my travels throughout the Roanoke area, Shenandoah Valley, and the MVP's footprint, I have listened carefully to the views of affected property owners, local elected officials, local businesses, farmers, organizations dedicated to preserving our natural resources, and numerous other concerned citizens. I have also heard from constituents and business groups that support the project. The comments below reflect some of the key issues raised multiple times by multiple stakeholders that I believe are particularly important to underscore as you analyze this project.

Project concerns

Cumulative impacts: As you know, the Mountain Valley Pipeline is one of four natural gas pipeline projects proposed in roughly the same region of Virginia. While all are at different phases of the regulatory process, two – the MVP and the Appalachian Connector (Williams Co.) – appear to travel along a nearly identical route. A third and a fourth – the Atlantic Coast Pipeline (Dominion/Duke Energy) and the WB Xpress (Columbia) – are located some 90 miles to the north.

I believe FERC should analyze whether the MVP and the Appalachian Connector are both necessary if they are traveling along a nearly identical route – or alternatively, whether other projects are necessary if these two are being located in close proximity to minimize the need for new right-of-way.

Given gas production trends in the Marcellus Shale and the benefits this has incurred in terms of energy prices and lower air pollution, new pipeline capacity may be necessary. The question is how much.

One of the most frequent concerns Virginians have shared with me is the degree to which FERC analyzes individual projects within the larger regional context. The cumulative importance of this new natural gas supply must be measured side-by-side with the cumulative impact of multiple new pipeline rights-of-way in this rural, largely agricultural and forested region. In other words, FERC's analysis must consider the following: If the new capacity of the MVP necessitates a certain level of impact, does four times that new capacity also necessitate four times the impact? I would also be interested to see FERC's analysis of several related issues:

- The extent to which natural gas demand and capacity projections justify the need for all four of these projects.
- The percentage of natural gas capacity through the MVP – and through the other pipelines – that is currently under contract and how much is for future demand growth.
- The extent to which projected demand is dependent on variable factors – current levels of Marcellus gas production at current prices under current regulatory conditions.
- How the environmental impact statement (EIS) for the MVP will consider the cumulative environmental impact from all four pipeline projects, especially given the four different project application timelines.
- Whether a programmatic EIS for all four projects would capture the environmental impact throughout the region better than four separate ones. While I understand that FERC has rarely done this in the past, I would be interested in whether the agency does or does not believe it would be worthwhile in this case, and why.

Community benefits: Municipalities along the proposed MVP route wish to better understand the potential benefits of the project in terms of opportunities to tap into this new gas supply. The publicly cited data indicate that the volume demand for tapping into the MVP is on a scale of magnitude large enough that only an entity the size of a city – not an individual business or neighborhood – could potentially benefit from this resource. For that reason, some communities feel that the region's ability to tap into the pipeline for local use has been overstated. Below are several items that would be helpful to clarify:

- The level of gas demand needed to justify building a distribution branch of the MVP.
- The steps needed to make this possible – for instance, approximately how much it would cost to build a transfer station to bring supply via a new MVP distribution branch.
- The extent to which the gas traveling through the pipeline likely to be exported. There seems to be inconsistent information in the public sphere on this question. To be clear, I believe LNG export can make sense on a strategic, case-by-case basis to reduce the world's dependence on hostile energy states like Iran and Russia. But whatever views one has on this issue, the people in this area of Virginia bear the potential risks of this infrastructure and deserve to know where the gas is going.

Environmental impacts: This area of Southwest Virginia and the Shenandoah Valley is a mountainous, forested, and largely rural area in which agriculture and outdoor tourism are predominant economic sectors. As such, any impacts on natural resources are also impacts on the regional economy – from residential property values, to drinking water quality, to tourism revenue. Many people feel that this region is bearing all the environmental risks and potential economic impacts from carving a new right-of-way through unspoiled rural green-field area, while the pipeline companies and demand recipients elsewhere are receiving all the benefits. Below are several issues that Virginians have raised on the environmental impacts of the MVP:

- Whether FERC requires or encourages reroutes of the pipeline to avoid land tracts under conservation easement, which property owners understood would be protected in perpetuity.
- What measures are being taken to prevent impacts to water resources in areas with no water access other than groundwater.
- How the pipeline will be built to safely cross rivers along this route.
- Where and how technology to build safely on karst topography has been demonstrated.
- The degree of information-sharing and consultation that has taken place among FERC, the interested companies, and the National Park Service, given that the route would have to cross the Blue Ridge Parkway and the Appalachian Trail.

Process concerns

As you know, there have been several requests by municipalities for extensions of public comment periods and additional scoping meetings, due to a perception that this process is being fast-tracked without appropriate time for input by affected stakeholders.

I believe these calls have arisen because the FERC process has a built-in imbalance. A company wishing to build a pipeline has personnel with deep experience in this complex regulatory process and for whom this is a full-time job. By contrast, citizens with questions about this project are not experts in the energy industry but rather are learning about this project on their nights and weekends. Many live in rural areas and commute great distances to public meetings after a full day's work. Some do not have high-speed internet access. Some are older citizens for whom the FERC eComment online portal is not straightforward to navigate.

In sum, it is crucial that no effort be spared to disseminate project information as widely as possible, to make sure that citizen questions are answered quickly and substantively, and to allow ample opportunity for comment – in particular, sufficient time to analyze new information such as new alternative proposed routes. Constituents have raised concerns with me that indicate that this process has not been as thorough as possible. Among the issues I have heard:

- In some cases, companies, contractors, or subcontractors seeking to gain survey access to private property, have not been following proper notification requirements before suing to gain access to land.
- There have not been enough public meetings, and that those that have taken place were overcrowded and not conducive to gathering detailed information or getting substantive responses

to questions. Multiple reports told of people having to arrive at least 90 minutes early to speak, or being turned away.

- There has been insufficient notice and inadequate response time for residents to understand and analyze proposed route changes and to submit public comment on time. This- as well as comments from FERC staff on site – has contributed to a perception that the project is a “done deal” and that FERC and the companies view the public comment process as a pro forma, box-checking exercise.

Conclusion

I recognize FERC’s challenging responsibility of ensuring that America’s energy system has the transmission capacity to run reliably, while permitting that infrastructure in accordance with the safety of natural resources and the rights of Americans not to have their property taken without overwhelming public interest. These are complex considerations in which there is not always a clear line. For that reason, as stated before, I do not have a position on this project, as I strongly believe that infrastructure decisions should be determined through expert analysis of all the relevant technical and economic factors, and not on a political or partisan basis.

What I do strongly encourage is that FERC painstakingly follow the system we have in place for evaluating infrastructure. Permitting a pipeline should involve an exhaustive process of eliminating all but the least disruptive construction options. The people whose livelihoods may be affected by a project should have ample opportunity to gather information, get their questions answered, and analyze alternatives – on a timeline conducive to participation by people for whom energy pipeline permitting is not a professional occupation. In short, simply having a public comment process is insufficient if that process is not easily accessible to the public.

Thank you for your attention to the issues raised in this letter. I appreciate your attention to this matter.

Sincerely,