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AND PENSIONS

## United States Senate

WASHINGTON, DC 20510-4607

January 5, 2017

The Honorable Kevin McIntyre  
Chairman, Federal Energy Regulatory Commission  
888 1<sup>st</sup> St. NE, Room 11H  
Washington, D.C. 20426

RE: Mountain Valley Pipeline (MVP) and Atlantic Coast Pipeline (ACP) - (Docket Nos. CP15-554-000, CP15-554-001, CP15-554-002, CP15-555-000, CP15-555-001)

Dear Chairman McIntyre and Commissioners:

I request that FERC grant rehearings on the Mountain Valley Pipeline and Atlantic Coast Pipeline petitions.

The Commission approved the MVP and ACP on 2-1 votes when two of the five commissioner slots were vacant. The split decisions were most unusual – 98% of FERC orders in 2016 were unanimous. Given that the Commission now has a full complement of five members, there is a real concern about whether the divided rulings by a partial Commission fairly reflect the FERC position.

In addition, I would like to request fuller understanding of “tolling orders.” In many cases in which a request for rehearing is filed, FERC issues a tolling order to take more than the allotted 30 days to decide on the request, during which time legal options are frozen but construction may proceed. This suggests that even if an original FERC decision changes upon either rehearing or judicial order, it could be moot if the project is already built and any impacts already felt. I would like to know whether this is your interpretation as well, and if so, whether you believe this is consistent with the intent of the rehearing option.

To be clear, I do not endorse or oppose the views of these petitioners on the substantive merits of these projects. Having Congress vote on individual projects would inevitably lead to partisan decision-making, and it is appropriate that a technical agency consider projects according to a robust public input process, laid out in federal law. I appreciate your recent announcement that the Commission would revisit its 1999 standing policy on pipeline applications, in light of major changes to the U.S. energy economy since then. It is important for the public to have confidence in the integrity of FERC’s process. All I request is for every step of that process to be followed to the fullest extent of the law.

Thank you for your consideration.

Sincerely,



TIM KAINE