



STATEMENT

Statement of Commissioner Richard Glick on Atlantic Coast Pipeline LLC

Date: August 10, 2018

Docket Nos.: [CP15-554-002](#);
[CP15-555-001](#); and [CP15-556-001](#)

I chose not to participate in today's order denying rehearing of the Commission's October 13, 2017 order issuing a Certificate of Public Convenience and Necessity to the Atlantic Coast Pipeline (ACP) Project (CP15-554-002; CP15-555-001; and CP15-556-001) solely to enable those parties challenging the Certificate to have their day in court. If I had voted, the rehearing order would have failed on a 2-2 vote (Chairman McIntyre also is not participating in this proceeding), and pursuant to the requirements of section 19 of the Natural Gas, the appellate courts would not have had jurisdiction to review the Commission's decision to grant the Certificate.

I share many of the concerns articulated in Commissioner LaFleur's dissenting opinion and I do not believe that the ACP Project has been shown to be in the public interest. Accordingly, if I had voted today, I would have voted to grant rehearing. Further, I do not believe there would have been the opportunity to vote on this rehearing order after Commissioner Powelson departs leaving only three commissioners to participate in this proceeding for the foreseeable future.

This situation highlights the need for Congress to enact legislation amending the judicial review provisions of the Natural Gas Act and the Federal Power Act to account for the ability of an aggrieved party to seek redress in the courts of appeal. It is fundamentally unfair to deprive parties of an opportunity to pursue their claims in court, especially while pipeline construction is ongoing. Alternatively, the Commission could revise its practices so that a rehearing tolling order is withdrawn when the participating Commissioners are evenly divided on a rehearing order and there is no immediate prospect of a resolution. I have heard some suggest that action is unnecessary because the Commission rarely evenly splits on a matter. But, as today's order demonstrates, a tie vote is certainly possible even when all five commissioner seats are filled.



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