NC Slams FERC’s Enviro Analysis Of $468M Gas Pipeline

By Michael Phillis

Law360 (September 17, 2019, 5:02 PM EDT) -- North Carolina regulators told the Federal Energy Regulatory Commission on Monday that a planned $468 million extension of the Mountain Valley natural gas pipeline ignored clean-energy alternatives for the project and sidestepped key climate change questions.

The state is among those that commented on a favorable draft environmental impact statement prepared by FERC for the 74-mile Mountain Valley Southgate pipeline expansion, arguing that the project was not in the public's best interests.

The North Carolina Department of Environmental Quality said the project was unnecessary and that FERC failed to properly conduct an alternatives analysis.

“The commission justifies its decision to end its analysis of non-natural gas alternatives because the stated purpose of the project is to transport natural gas,” the North Carolina DEQ wrote. “This circular reasoning based on unsubstantiated purpose does not hold up in today’s rapidly changing energy economy.”

Mountain Valley Pipeline LLC, which is a joint venture between EQT Corp. and NextEra Energy Inc., wants to build the Southgate project to reach parts of North Carolina and Virginia. The project will connect to the roughly 300-mile Mountain Valley pipeline, which is under construction and wrapped up in court fights. The comments are in response to a draft EIS for the project made public in July.

The letter says that the future will require green energy and not a never-ending increase in natural gas supplies. It called the alternatives analysis “little more than a checkbox” aimed at complying with the National Environmental Policy Act. What FERC should have considered, but didn’t, was a look at alternatives that weren’t variations on a gas pipeline.

"The cost of renewable energy resources is rapidly declining and the economics now favor utility-scale solar and onshore wind plus storage over construction of natural gas infrastructure,” the letter said.

North Carolina also weighed in on a long-standing issue of controversy at FERC: How much should the agency analyze the greenhouse gas consequences of the project? Although FERC did look at emissions from project construction, it did not estimate the project's overall climate change impacts, the letter said.

And while FERC may respond that no reliable prediction model exists to to accurately determine climate change impacts, North Carolina disagreed, saying that it had previously proposed an approach FERC could have used.

“NEPA does not permit agencies to ignore the well-documented impacts of climate change in the conduct and preparation of their environmental impact analysis,” the letter said.

If FERC doesn’t think there’s a good method or model available, it has an obligation to do research and try and figure one out, the state agency concluded.

One of the other comments submitted was by Atlantic Coast Pipeline LLC, which is a natural gas pipeline planned to run between North Carolina and West Virginia, arguing that the draft EIS didn’t properly consider it as an alternative to the Southgate project. The FERC said Atlantic Coast wasn’t realistic because it would require a lot of new pipeline, but the company said this was the wrong interpretation.

The letter said Atlantic Coast could offer “more effective infrastructure support” for areas with high growth.

“The ACP alternative provides for direct access to Marcellus and Utica gas supplies in the most liquid natural production areas in the northeast and to Dominion Southpoint, a very active virtual trading hub,” the Atlantic Coast letter said.

Representatives for North Carolina DEQ and Mountain Valley did not immediately return requests for comment Tuesday.

--Editing by Gemma Horowitz.