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Duke Energy abruptly alters pipeline financing plan

November 14, 2019

MONTEREY — Dominion Energy’s major partner in the blocked Atlantic Coast Pipeline worried investors Friday, Nov. 8 by declaring \$2.5 billion in new stock partly to cover costs because operation is now delayed until 2022.

According to the Charlotte Business Journal, Duke Energy based the stock issue on maintaining its credit rating, covering costs, and acknowledging the extended delay.

The unexpected change reversed the utility’s longstanding position not to issue additional stock.

Duke, the world’s largest utility company by market value, owns 47 percent of the \$7.8 billion project.

“A delay of a project of this magnitude has a lot of cash-flow implications, and so we want to be mindful of that and be proactive,” Duke CFO Steve Young said in an earnings call, noting investors dislike big stock issues.

Dominion, which owns 48 percent of the project, has not announced a stock issue, and the boss asserted there won’t be a change of plans. On a conference call with investors, an analyst asked if Dominion was worried about a party shift in lawmakers now that Democrats won control of both General Assembly chambers after their campaign vows of contention against the energy giant.

CEO Thomas Farrell allayed concerns.

“We have a long history of working with whatever party is in the majority in whatever of the two houses, with Democratic governors, Republican governors, Democratic leaders, and Republican leaders,” Farrell said. “So don’t expect any changes to our plan.”

The company has maintained pipeline operation will start in 2021 if permitting challenges are resolved and construction resumes next summer.

Dominion suspended construction last December because the U.S. Fourth District Court of Appeals vacated the U.S. Fish and Wildlife Service biological opinion and taking statement for the project. Other permits for the ACP have either been invalidated by court decisions or are being challenged.

The Allegheny Blue Ridge Alliance provided this rundown of the status of the key legal cases:

- U.S. Fish and Wildlife Service – “The biological opinion and taking statement, as required under provisions of the Endangered Species Act, has been vacated twice by the Fourth Circuit Court of Appeals for being inadequate; the second time was in July. The agency is currently developing a new (opinion). The ACP has said that after the new (opinion) is issued, it will seek permission from the Federal Energy Regulatory Commission to resume construction. When that will be is unclear.”
- U.S. Forest Service Permit – “The U.S. Forest Service permit, which included the right for the ACP to drill underneath the Appalachian Trail, was vacated by the Fourth Circuit Court of Appeals in December 2018. Atlantic has appealed the case – Cowpasture River Association, et. al. vs. Forest Service – to the U.S. Supreme Court. The case is expected to be heard by the court in late January or early February, with a decision by June 2020.”
- FERC certificate – “Several challenges to the certificate issued by FERC in December 2017 were consolidated in the D.C. Circuit Court of Appeals. Oral arguments, originally scheduled for October, have been deferred pending the Supreme Court’s decision on the Cowpasture case.”
- Buckingham compressor station – “A challenge to the air permit issued for the ACP compressor station in Buckingham County was argued before the Fourth Circuit Court of Appeals on Oct. 29. A decision is expected by early 2020.”
- U.S. Army Corps of Engineers permit – “In January 2019 the U.S. Army Corps of Engineers withdrew its previously issued permit for the ACP to cross rivers and streams under its jurisdiction. A new permit has not yet been reissued.”
- National Park Service permit – “The Fourth Circuit Court of Appeals vacated on Aug. 6, 2019 the permit issued by the National Park Service for the ACP to pass under the Blue Ridge Parkway because the permit was inconsistent with the Park Service’s own guidelines. A subsequent permit was issued, then challenged by several ABRA members, and withdrawn by the Park Service.”

Currently, there is no permit for the ACP to cross the Blue Ridge Parkway, the alliance said. This permit is distinct from the vacated permit issued by the Forest Service for the ACP to cross the Appalachian Trail. “The ACP will need both permits since the AT and BRP are parallel to one another at the proposed point of crossing.”

A complete status report on legal challenges is posted and kept up to date on the ABRA website: www.abralliance.org.