

**Dominion Energy Transmission, Inc.**

707 East Main Street, Richmond, VA 23219

June 16, 2020

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Atlantic Coast Pipeline, LLC & Dominion Energy Transmission, Inc.
Atlantic Coast Pipeline & Supply Header Projects
Docket Nos. CP15-554-000, CP15-554-001, & CP15-555-000
Request for an Extension of Time**

Dear Secretary Bose:

By Order dated October 13, 2017, the Federal Energy Regulatory Commission (“Commission” or FERC) authorized Atlantic Coast Pipeline, LLC (“Atlantic”) and Dominion Energy Transmission, Inc.¹ (DETI or “Dominion Energy”) to construct and operate certain facilities that comprise the Atlantic Coast Pipeline and Supply Header Projects (ACP and SHP; “Projects” collectively). *Atlantic Coast Pipeline, LLC & Dominion Energy Transmission, Inc.* 161 FERC ¶ 61,042 (the “Order”).

Pursuant to Order Condition E (1) and Section 157.20(b) of the Commission’s regulations, DETI is required to construct all authorized facilities and make the facilities available for service by October 13, 2020. Due to unforeseen delays in permitting, additional time is required in order to complete the construction of the authorized facilities. Atlantic and DETI are diligently pursuing completion of the Projects and initial construction has already occurred in West Virginia and North Carolina, and significant tree felling has already occurred in Virginia. Completion of the Projects is expected in 2022. Consistent with Commission’s extensions of the time allowed for construction of other projects, DETI requests a two-year extension of time to construct the Projects.

The Projects continue to be required by the public convenience and necessity for the reasons set forth in the Certificate Order, and postponement of the in-service date for the Projects will not alter the public interest findings underlying the Certificate Order. The markets to be served by the Projects have been chronically constrained in terms of natural gas supply, as interstate natural gas pipeline capacity is either already fully subscribed or nonexistent. The need for the Projects is undiminished. Precedent agreements and transportation service contracts demonstrating the need for the Projects remain in place, and Atlantic has agreed with its customers on terms to address the impact of delay and cost increases. Furthermore, no changes in the Projects have been made that would alter the results of the Commission’s environmental review to any significant extent.

Pursuant to Section 385.2008 of the Commission’s regulations, the time by which any person is required or allowed to act under any statute, rule, or order may be extended by the decisional authority for good cause, upon a motion made before the expiration of the period prescribed or previously extended.

¹ On May 12, 2017, Dominion Transmission, Inc. changed its name to Dominion Energy Transmission, Inc.

“Good cause” may be shown by an applicant making good faith efforts to meet its construction deadline but encountering unforeseen circumstances.²

The Commission has regularly found that providing more time for a project applicant to obtain necessary permits is an appropriate basis for granting an extension of time.³ The Commission has also found that a certificate holder is free to decide how to satisfy the Certificate Order’s prerequisites for construction.⁴

FERC generally considers delays in construction that result from permitting issues good cause for granting an extension of time to commence and complete construction. Where good cause can be demonstrated, FERC frequently grants an extension of time if the extension request is filed within a timeframe during which the public interest findings underlying the Commission’s authorization can be expected to remain valid. When considering extensions, the Commission considers whether the total period allowed for constructing a project is reasonable.⁵ Allowing (at least) four years to complete construction of a major new pipeline like ACP is very reasonable. The Commission has frequently authorized infrastructure projects with initial deadlines of four, five, or six years without expressing concerns about the certificate order’s economic or environmental findings becoming stale.⁶ And the Commission frequently grants extensions allowing even more than four years to complete construction.⁷

DETI encountered unforeseeable circumstances delaying construction resulting from decisions of the United States Court of Appeals for the Fourth Circuit related to U.S. Forest Service Record of Decision and Special Use Permit, including the crossing of the Appalachian National Scenic Trail, its U.S. Fish and Wildlife Service Biological Opinion and Incidental Take Statement, and the air permit for the compressor station in Buckingham, Virginia. DETI has been working diligently and in good faith to re-obtain all approvals required for the construction of ACP and SHP as soon as possible. As described below, the necessary approvals for the Project are anticipated by year-end.

² *E.g.*, *Northwest Pipeline, LLC*, 171 FERC ¶ 61,077 at P 10 (2020); *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144 at P 15 and 32 (2020); *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138 at P 7 (2020); *Constitution Pipeline Co., LLC*, 165 FERC ¶ 61,081, at P 9 (2018), *reh’g*, 169 FERC ¶ 61,102 at P 19 (2019).

³ *Northwest Pipeline, LLC*, 171 FERC ¶ 61,077 at P 13 (2020); *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144 at P 32 (2020); *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138 at P 7 (2020); *Constitution Pipeline Co., LLC*, 165 FERC ¶ 61,081, at P 9 (2018), *reh’g*, 169 FERC ¶ 61,102 at P 19 (2019); *Arlington Storage Co., LLC*, 155 FERC ¶ 61,165 (2016); *Perryville Gas Storage LLC*, Docket No. CP09-418-000, et al. (Oct. 12, 2016) (delegated order); *Columbia Gas Transmission, LLC*, Docket No. CP13-8-000 (Sept. 30, 2015) (delegated order); *Bobcat Gas Storage*, Docket No. CP09-19-000 et al. (Mar. 25, 2015) (delegated order).

⁴ *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138 at P 7 (2020); *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144 at P 32 (2020); *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138 at P 7 (2020).

⁵ *E.g.*, *Northwest Pipeline, LLC*, 171 FERC ¶ 61,077 at P 13 (2020); *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144 at P 15 (2020),

⁶ *See, e.g.*, *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313, at ordering para. (M) (2007) (six years to complete gas storage project); *Trunkline Gas Co., LLC*, 153 FERC ¶ 61,300, at ordering para. (B)(1) (2015) (four years to complete pipeline project); *Cheniere Creole Trail Pipeline, L.P.*, 142 FERC ¶ 61,137, at ordering para. (B)(1) (2013) (two years to complete Phase 1 pipeline facilities and four years to complete Phase 2 pipeline facilities).

⁷ *E.g.*, *Northwest Pipeline, LLC*, 171 FERC ¶ 61,077 at P 13 (2020)(extension allowing a total of six years for pipeline lateral); *Constitution Pipeline Co., LLC*, 169 FERC ¶ 61,102 at P 19 (2019)(extension allowing a total of six-years for new pipeline); *Cameron LNG*, Docket No. CP15-560 (March 25, 2020)(delegated order)(extension allowing a total of eight years for LNG project expansion); *Pine Prairie Energy Center*, Docket No. CP11-1 (April 21, 2020)(delegated order)(extension allowing a total of six years for gas storage project).



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Importantly, the Supreme Court of the United States has just yesterday reversed the Fourth Circuit and ruled that the Forest Service has legal authority to permit the Appalachian Trail crossing, setting the stage for prompt reissuance of the Service's forest and trail crossing permit and the Park Service permit for crossing the Blue Ridge Parkway, with no change in the Commission-authorized pipeline route. In addition, DETI has been providing data to the U.S. Fish and Wildlife Service and Commission Staff for their renewed consultation, which is expected to lead soon to the issuance of a revised Biological Assessment by the Commission and a new Biological Opinion and Incidental Take Statement by the Service, taking into consideration all relevant new information about potential impacts on protected species. Finally, DETI also has submitted additional data and analysis to the Virginia regulators providing ample justification for the re-issuance of the air permit for the Buckingham compressor station. The expected issuance of these authorizations will confirm the Commission's environmental conclusions supporting the authorization of the Projects.

For all the foregoing reasons, DETI submits that there is good cause for the requested extension of time to construct the Projects. DETI remains committed to constructing these important energy infrastructure Projects and placing the Projects into service as soon as possible. Accordingly, DETI hereby requests written authorization from the Commission for the above referenced extension of time to obtain the necessary approvals and finish construction and place the facilities in service.

If you have any questions, please contact me at 866-319-3382.

Respectfully submitted,

Matthew R. Bley

Matthew R. Bley
Director, Gas Transmission Certificates

cc: Mr. Todd Ruhkamp, FERC
Mr. David Swearingen, FERC
Ms. Julia Yuan, FERC

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