

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 828-258-2023

48 PATTON AVENUE, SUITE 304
ASHEVILLE, NC 28801-3321

Facsimile 828-258-2024

Via FERC Docket Nos. CP15-554-000 & CP15-554-001

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

June 24, 2020

Re: Atlantic Coast Pipeline Biological Assessment

Dear Secretary Bose:

On June 22, 2020, Dominion Energy Transmission, Inc., filed a Biological Assessment in the Federal Energy Regulatory Commission dockets for the Atlantic Coast Pipeline. Dominion requested “that, pursuant to 18 C.F.R. § 388.112, the information filed be treated as controlled unclassified information and privileged and confidential, and that this information not be released to the public.” Letter from Angela Woolard, Dominion Energy, to Kimberly Bose, FERC (June 22, 2020).

According to the rule cited by Dominion, when a “person request[s] that material be treated as privileged information” the person “also must submit to the Commission a public version with the information that is claimed to be privileged material redacted, to the extent practicable.” 18 C.F.R. § 388.112(b)(1).

Dominion’s request that its Biological Assessment be treated as privileged is based on the fact that it “contains the locations of sensitive species.” Letter from Angela Woolard, Dominion Energy, to Kimberly Bose, FERC (June 22, 2020). It is certainly “practicable” to redact this information and release a public version of the Biological Assessment. Dominion has done as much before. For instance, on March 10, 2017, Dominion filed a 664-page draft Biological Evaluation (FERC Accession No 20170310-5157) in these same dockets. Dominion filed both a public and privileged version with minimal redactions in the public version. The Commission’s rules require Dominion to do the same now.

The Commission recently confirmed its understanding of the requirements of 18 C.F.R. § 388.112. Mountain Valley Pipeline, LLC, filed on May 4, 2020, a Supplement to the Biological Assessment for the Mountain Valley Pipeline project. Mountain Valley Pipeline, LLC, likewise requested that the entire Supplement be treated as privileged and not disclosed to the public. On June 18, 2020, the Commission informed Mountain Valley Pipeline, LLC, that the request to treat the entire Supplement as privileged “did not comply with [18 C.F.R. § 388.112], in that the company did not include a public version of the document or provide a proposed form of

protective agreement.” *See* Letter from James Martin, FERC, to Matthew Eggerding, Mountain Valley Pipeline, LLC (FERC Docket No. CP16-10-000) (FERC Accession No. 20200618-3046). Dominion has made that same error here. It must file a public version of the Biological Assessment which should have only minimal redactions related to the specific “locations of sensitive species.”

We request that a public version of the Biological Assessment be posted to the Commission’s Atlantic Coast Pipeline dockets within five business days.



Patrick Hunter
Southern Environmental Law Center
48 Patton Avenue, Suite 304
Asheville, NC 28801
(828) 258-2023
phunter@selcnc.org

Gregory Buppert
Southern Environmental Law Center
201 West Main Street, Suite 14
Charlottesville, VA 22902
(434) 977-4090
gbuppert@selcva.org

Document Content(s)

2020 06 24 SELC Letter to FERC re Biological Assessment.PDF.....1-2