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Feds open 30-day pipeline scoping period

BY JOHN BRUCE • STAFF WRITER

MONTEREY — Despite landowner requests for a 90-day scoping period, federal regulators have opted for a third of that time frame to receive comments on the realigned route of the proposed Atlantic Coast Pipeline. Tuesday marked the beginning of a 30-day scoping period for the realignment, with scoping meetings set for 10 a.m. to 7 p.m. May 20 at Marlinton Wellness Center in West Virginia, and May 21 at Bath County High School. The deadline for written comments is June 2.

The truncated scoping period flies in the face of public requests such as that made by Anne Bryan of Burnsville. “Both our (Bath County) Zoning and Planning Administrator and representatives from Dominion have stated that a scoping period is anticipated to open soon for the southern route of project CP15-554,” Bryan said in a comment to federal regulators. “As access roads and work areas have not yet been finalized and landowners and residents who will be impacted by access routes and work/staging areas have not yet been notified, it seems prudent and reasonable to request a 90-day scoping period for project CP15-554 so that the residents of affected counties have time to review the project and prepare their questions,” Bryan said.

Some access roads have been decided, and Dominion has selected two contractor yards, company spokesman Aaron Ruby said, unchanged from the initial route and about 10 miles from the closest points along the realigned study corridor.

A Federal Energy Regulatory Commission post Tuesday morning stated, “The purpose of these scoping meetings is to provide an opportunity to verbally comment on the project modifications. You may attend at any time during the meeting, as the primary goal of a scoping meeting is for us to hear and document your environmental concerns. There will not be a formal presentation by commission staff; however, we will be available to answer your questions about the FERC environmental review process. Representatives of Atlantic will also be present to answer questions about the project.

“Verbal comments will be recorded by a court reporter and transcripts will be placed into the docket for the project and made available for public viewing on FERC’s e-Library system. It is important to note that verbal comments hold the same weight as written or electronically submitted comments,” FERC explained.

“If a significant number of people are interested in providing verbal comments, a time limit of 3-5 minutes may be implemented for each commenter to ensure all those wishing to comment have the opportunity to do so within the designated meeting time. Time limits will be strictly enforced if they are implemented. This supplemental notice is being sent to the commission’s current environmental mailing list for this project, including those landowners that are newly affected by the proposed pipeline route modifications. State and

local government representatives are asked to notify their constituents of this proposed project and encourage them to comment on their areas of concern.”

FERC also warned landowners about the use of eminent domain if they do not negotiate with Dominion for right of way easements.

“If you are a newly affected landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities,” FERC stated. “The company would seek to negotiate a mutually acceptable agreement. However, if the commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if the easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.”

Dominion sent an amended application for its FERC certificate after proposing the route change that affects landowners in Randolph and Pocahontas counties in West Virginia and Highland, Bath, and Augusta counties in Virginia.

The National Environmental Policy Act requires FERC to take into account the environmental impacts that could result from an action whenever it considers issuing a certificate of public convenience and necessity, which is what Dominion applied for to build the ACP.

“NEPA also requires us to discover and address concerns the public may have about proposals,” FERC stated. “This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the Environmental Impact Statement on the important environmental issues. By this notice, the commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS. In the EIS we will discuss impacts that could occur as a result of the construction and operation of the proposed projects under these general headings.” They include:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands; cultural resources; vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species;
- Outdoor recreation and scenery socioeconomics; and
- Public safety.

“We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas,” FERC said. “The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS.”

Forest service land

FERC’s posting suggests the U.S. Forest Service needs to consider changing its forest management plans (LRMPs) to accommodate the proposed pipeline.

On Nov. 12, 2015, Dominion submitted a right of way grant application to the USFS to construct, operate, maintain, and eventually decommission the pipeline that crosses lands and facilities administered by the USFS.

“There is a need for the USFS to consider amending affected LRMPs to make provision for the ACP right of way,” FERC said.

“The proposed action before the USFS has two components. First, in accordance with the Minerals Leasing Act, the USFS would issue a right of way grant in response to ACP’s application for the project to occupy federal lands. The USFS may submit specific stipulations, including mitigation measures, for inclusion in the right of way grant related to lands, facilities, and easements within its jurisdiction. Second, the USFS may need to amend its LRMPs for the Monongahela and George Washington National Forests if analysis shows that construction of the ACP would not be consistent with the LRMP standards or other plan components. In addition, the ACP, as proposed, does not follow a designated utility corridor through the GWNF. If the proposed route were authorized with the right of way grant, the GWNF LRMP would need to be amended to change the current management areas in the corridor to Management Area 5C-Designated Utility Corridors. The MNF does not have LRMP direction that would require a similar plan amendment to reallocate management prescriptions,” FERC explained.

“The USFS regional foresters of the respective national forests have authority to grant a right of way in response to Atlantic’s application for natural gas transmission on federal lands under the Mineral Leasing Act of 1920,” FERC continued. “The responsible official for amendment of forest service LRMPs is the forest supervisor of the applicable national forest. However, the regional forester of the applicable national forest may elect to be the responsible official for the plan amendments as well, since the regional forester will be the responsible official for the right of way grant. This (notice) initiates the scoping process for the potential LRMP amendments and for the issuance of the right of way grant. The decisions will be tiered to the analysis contained in the FERC EIS for the ACP. The Notice of Availability for the FERC draft EIS will contain more detailed information associated with the LRMP amendments,” the staff said.

Historic preservation

“In accordance with the Advisory Council on Historic Preservation’s implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the projects’ potential effects on historic properties,” FERC said. “We will define the project-specific Area of Potential Effects in consultation with the SHPOs as the projects develop. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right of way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for these projects will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

Public participation

“You can make a difference by providing us with your specific comments or concerns about the ACP and proposed USFS LRMP amendments,” FERC continued. “Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the commission receives them in Washington, D.C. on or before June 2, 2016. If you have previously provided comments on the ACP or Supply Header Projects, you do not need to resubmit them.

“The USFS is participating as a cooperating agency with the FERC in this public scoping process. With this notice, the USFS is requesting public comments on the issuance of the ROW grant that would allow the ACP to occupy federal land. The USFS is also requesting public comments on the potential amendments of USFS LRMPs to make provision for the ACP right of way on the Monongahela and George Washington National Forests. Comments on actions by the USFS should be submitted through the FERC comment process and within the timeline described. The submission of timely and specific comments can affect a reviewer’s ability to participate in subsequent administrative or judicial review of USFS decisions. Comments concerning USFS actions submitted anonymously will be accepted and considered; however, such anonymous submittals will not provide the commenters with standing to participate in administrative or judicial review of USFS decisions.”

FERC outlined three ways to submit comments, and stressed in every method, the docket number must be included —CP15- 554-000 for the ACP.

“The commission will provide equal consideration to all comments received, whether filed in written form or provided verbally,” FERC said.

FERC encourages electronic filing and has staff available to assist at (202) 502- 8258 or efiling@ferc.gov. Comments can be submitted by:

- Electronically, using the e-Comment feature at www.ferc.gov, under the link to Documents and Filing. “This is an easy method for interested persons to submit brief, text-only comments on a project,” FERC said.
- Electronically using the e-Filing feature on the site under Documents and Filings. “With e-Filing, you can provide comments in a variety of formats by attaching them as a file with your submission. New e-Filing users must first create an account by clicking on e-Register. You must select the type of filing you are making. If you are filing a comment on a particular project, please select Comment on a Filing,” FERC said.
- Via paper copy by mail, to: Kimberly D. Bose, Secretary Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, D.C. 20426.

“In addition to involvement in the EIS scoping process, you may want to become an intervenor, which is an official party to the commission’s proceeding,” FERC explained. “Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the commission’s final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User’s Guide under the e-filing link on the commission’s website.”