ROY COOPER
Governor
MICHAEL S. REGAN
Secretary

NORTH CAROLINA
Environmental Quality

November 5, 2018

Chairman Chatterjee, and Commissioners Glick, LaFleur, and McIntyre
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, D.C. 20426

Re: Comment Regarding Demonstrated Need and the Public Interest of the Mountain Valley Pipeline – Southgate Extension Project, Docket Number: PF18-4-000

Dear Commissioners:

On behalf of the North Carolina Department of Environmental Quality (NCDEQ or Department), we submit this letter to share our concerns about the underlying justification for the Mountain Valley Pipeline (MVP) – Southgate Extension Project (Southgate Project). NCDEQ's interest in this project arises from our work to review and issue permits and authorizations for activities related to the construction, development, and operation of the Atlantic Coast Pipeline (ACP). In the course of our work on ACP, our Department and staff received and continues to field questions about the purpose and need for the ACP project. We anticipate that questions relating to the purpose of and need for the Southgate Project, and whether it is in the public interest, will similarly come to NCDEQ. Therefore, it is imperative that the Department and the public are equipped with a complete understanding of the facts that underpin MVP's request for a Certificate of Public Convenience and Necessity in order to fully respond to any questions.

Many of our residents are apprehensive of and sensitive to the possibility of another new pipeline – the Southgate Project – constructed in their communities after last year's approval of the ACP by the Federal Energy Regulatory Commission (FERC or the Commission). As of the date of this letter, we have been unable to determine whether there exists an overarching need and demand for constructing and putting into operation, the Southgate Project as proposed. After examining filings made to both FERC and the North Carolina Utilities Commission (NCUC) and conducting research and outreach to better inform our understanding of this Southgate Project, we remain unconvinced that the Southgate Project is necessary. We question whether the project satisfies the criteria for the Commission to deem it in the public interest, and whether it is essential to ensure future growth and prosperity for the residents of our State.

On April 25, 2018, the Commission issued a Notice of Inquiry (NOI) requesting information and stakeholder perspectives on whether, and if so how, the Commission should revise its current policy statement on the certification of new natural gas transportation facilities (Policy Statement)[1] pursuant to the Natural Gas Act (NGA).[2] Through this NOI, the Commission opened the door to make important reforms and modernize the process that it uses to evaluate new natural gas pipeline projects. Specifically, the NOI solicited feedback on (i) FERC's current methodology for determining whether there exists a need for a proposed project, including the Commission's consideration of precedent agreements and contracts for service as evidence of such need and (ii) the process for evaluating alternatives to a proposed project. It is our understanding that the approval process for the Southgate Project will not be affected by the findings or changes made as a result of the NOI because the Commission is presently reviewing the comments received. Nevertheless, we request that the Commission evaluate the Southgate Project certificate application with the same intent and rigor to ensure modern principles of science, economics, and societal factors are carefully weighed.

As FERC evaluates whether or not to issue a certificate of public convenience and necessity for the Southgate Project, we offer the following facts and information to assist the Commission in determining whether this pipeline is in the public interest of North Carolinians.

I. The Southgate Project Would Create an Excess Supply of Natural Gas.

Section 7 of the NGA establishes the standard by which the Commission grants the certificate of public convenience and necessity, and is based on whether a pipeline project is in the public interest. Under the current NGA policy, FERC first applies the threshold question – simply, can the Southgate Project proceed without subsidization by current customers? In this case, if the Commission finds that the Southgate Project is financially viable without subsidies, then we assume it will find that the project satisfies the public convenience and necessity standard. The current policy states that "the threshold requirement for approval…protects all the relevant interests."[3] However, we believe that this standard protects only MVP's interests.

We understand that in applying the existing rubric to determine or evaluate what constitutes "need," FERC does not assess whether or to what extent a project is vital to support local or regional energy demands. FERC presently relies on precedent shipping agreements as a proxy for future energy demand, agreements and contracts that are too often made between and amongst pipeline affiliates. Further, FERC does "not [look] beyond contracts for a further

---

[1] *Statement of Policy. (1999). Certificate of New Interstate Natural Gas Pipeline Facilities, 88 FR 61,277. Retrieved from https://www.ferc.gov/legal/maj-ord-reg/PL99-3-000.pdf*

[2] *Natural Gas Act. (1938). 15 U.S.C. § 717. Retrieved from https://www.gpo.gov/fdsys/granule/USCODE-2011-title15/USCODE-2011-title15-chap15B-sec717/content-detail.html*

[3] *Statement of Policy. (1999). Certificate of New Interstate Natural Gas Pipeline Facilities, 88 FR 61,277. Retrieved from https://www.ferc.gov/legal/maj-ord-reg/PL99-3-000.pdf*

determination of market or supply…."[4] As evidenced by the content and tenor of the NOI, we believe that the Commission is aware of these concerns.

We suggest that FERC both reevaluate its methods and its consideration of how need for pipeline projects is determined. In the case of the Southgate Project, on December 20, 2017, Public Service Company of North Carolina (PSNC) and MVP entered into a Precedent Agreement for 300,000 dekatherms per day (dth/day) of firm transportation capacity for a term of 20 years at a negotiated rate. This agreement made PSNC an anchor shipper for the Southgate Project. Separately, on August 1, 2018, PSNC acquired 30% ownership interest in a membership series of MVP through a wholly-owned subsidiary PSNC Southgate, LLC.[5]

Approximately one-half of PSNC's annual throughput is comprised of deliveries to industrial or large commercial customers that either purchased gas from PSNC or transported gas on PSNC's system. The remainder of PSNC's throughput consists of firm sales service to residential and small and medium commercial customers.[6] It is our understanding that the intent of the Southgate Project is to reliably serve the firm customers on a peak day. The region is projected to experience population growth, in an amount that equates to roughly an 11% increase in design-day requirements[7] between 2018 and 2023. . As shown in Table 1 below, the addition of the throughput delivered by the Southgate Project would increase the contracted capacity volume by 100%, which would far exceed the historical deliveries and the growth projected in the service population.

Table 1. PSNC Contracted Capacity (dth/day)

Contracted Capacity	**Pre 2019**	**2019**	**2020 and later**
Transco[8]	390,743	390,743	390,743
DTI[8]	7,331	7,331	7,331
Atlantic Coast Pipeline	-	100,000	100,000
MVP Southgate			300,000
Subtotal	398,074	498,074	798,074
% Increase in Capacity		**25%**	**100%**

[4] *Certification of New Interstate Natural Gas Facilities. (2018). Federal Energy Regulatory Commission, Department of Energy, Notice of Inquiry, 83 FR 18020, April 25, 2018. Retrieved from https://www.gpo.gov/fdsys/pkg/FR-2018-04-25/pdf/2018-08658.pdf*

[5] *PSNC Application for Approval of Payment of Compensation under a Service Agreement with Mountain Valley Pipeline, LLC. (2018). North Carolina Utilities Commission, Docket No. G-5, Sub 593, August 16, 2018.*

[6] *PSNC Annual Review of Gas Costs, Direct Testimony of Rose M. Jackson. (2018). North Carolina Utilities Commission, Docket No. G-5, Sub 591, August 14, 2018. https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=68fe5a8a-c759-4c6f-ab4b-9691ce1e20d0*

[7] *Mountain Valley Pipeline Southgate Project. (2018). Draft Resource Report 1 – General Project Description, FERC Docket No. PF 18-4-000, August 2018. Retrieved, http://www.mvpsouthgate.com/wp-content/uploads/2018/08/RR-1-RR01-MVP-Southgate-Project_Pre-filing-Draft-RR1_-8-20-18.pdf*

[8] *PSNC Annual Review of Gas Costs. (2018). Official Exhibits for 8/23/18 Hearing, Revised Jackson Exhibit 1, August 14, 2018. Retrieved https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=81bb5638-9389-4e26-8d54-f464c7acb8ed*

Given this inconsistency, we ask the Commission to investigate beyond the precedent agreement as its sole basis for assessing the need for the Southgate Project. Without further demonstration of actual demand, we believe that certifying the Southgate Project could result in overbuilding a gas pipeline in which the single discernible benefit of the provision of an assured excess in gas capacity available only to PSNC in the future.

II. Peak Day Shortage of Natural Gas Does Not Exist in the Region Supported by the Southgate Project.

In the Purpose and Need section of MVP Draft Resource Report 1 (General Project Description),[9] MVP states that the purpose of the Southgate Project is to:

> *(1) meet the growing needs of natural gas users in the southeastern U.S.;*
>
> *(2) add a new natural gas transmission pipeline to provide competition and enhance the reliability and resiliency of the existing pipeline infrastructure in North Carolina and southern Virginia; and*
>
> *(3) provide North Carolina and southern Virginia with direct pipeline access to the Marcellus and Utica gas regions in West Virginia, Ohio and southwestern Pennsylvania.*

NCDEQ provides comments below on each of the three reasons MVP uses to justify the need for the Southgate Project.

(1) On the Growing Need for Natural Gas: There does not appear to be a capacity shortfall in the future. The demand for new growth appears to be fully supplied by existing PSNC contract agreements. We find that when the ACP agreement is included in its design day analysis, PSNC has a *surplus* of natural gas.

In Section 1.2. of Draft Resource Report 10 (Alternatives),[10] MVP states that:

> *PSNC Energy would experience a capacity shortfall as projected in their annual filing with the North Carolina Public Utilities Commission.*

We disagree with MVP's presentation of this information – the gas shortage cited in future years by MVP is not supported by facts in the record. Indeed, the record leads to a contradictory conclusion. The annual filing to the NCUC to which MVP refers is *2018 PSNC Filing of Annual Review of Gas Costs (Docket No. G-5, Sub 591).* In the *Exhibit,* reproduced below as Table 2, PSNC projects design-day demand requirements against annual assets for winter seasons for the

---

[9] *Mountain Valley Pipeline Southgate Project. (2018). Draft Resource Report 1 – General Project Description, FERC Docket No. PF 18-4-000, August 2018. Retrieved from http://www.mvpsouthgate.com/wp-content/uploads/2018/08/RR-1-RR01-MVP-Southgate-Project_Pre-filing-Draft-RR1_-8-20-18.pdf*

[10] *Mountain Valley Pipeline Southgate Project. (2018). Draft Resource Report 10 – Alternatives, FERC Docket No. PF 18-4-000, August 2018. Retrieved from http://www.mvpsouthgate.com/wp-content/uploads/2018/08/RR-10-RR10-MVP-Southgate-Project_Pre-filing-Draft-RR10_-8-20-18.pdf*

next five years.[11] According to this *Exhibit*, PSNC projects gaps in reserve margins to begin in the winter of 2019-2020 (-0.94% reserve margin) with increasing gaps through the winter of 2022-2023 (-7.12% reserve margin). It is important to note that additional information included in Table 2 as a footnote clearly states that the contracted capacity "*does not include ACP capacity scheduled to be in service by late 2019....*"

However, in its 2015 filing of Annual Review of Gas Costs to the NCUC, PSNC included its 20-year precedent agreement with ACP for 100,000 dth/day and reported a positive reserve margin of 11.17% for 2019-2020.[12] PSNC noted that

> *the [ACP] project will provide PSNC with a second interstate pipeline connection to gas supplies located in the Marcellus and Utica shale basins...This capacity will provide additional diversity to PSNC's supply portfolio and should allow the Company to meet incremental design-day demand for firm customers into the 2020's.*[13]

Based on the information that is publicly available, we calculated that PSNC's contracted capacity, including ACP once it is placed in service, more than accounts for the increases in design-day requirements in the out years (~92,000 dth/day surplus in 2019-2020, and ~37,000 dth/day surplus in 2022-2023). If there exists no projected gap in reserve margins when the ACP capacity is included in the contracted capacity calculation, then what is the demonstrable need to fill or the public interest to meet PSNC's firm shipping commitment of 300,000 dth/day by the Southgate Project?

To reiterate, PSNC is on the record having stated publicly that ACP capacity "should allow the Company to meet incremental design-day demand for firm customers into the 2020's."[14] Because of this discrepancy, we ask that FERC conduct an independent review using representative data that includes all existing and approved future pipeline capacity to base its decision on the need for the Southgate Project.

[11] *PSNC Annual Review of Gas Costs. (2018). Official Exhibits for 8/23/18 Hearing, Revised Jackson Exhibit 1, August 14, 2018. Retrieved https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=81bb5638-9389-4e26-8d54-f464c7acb8ed*
[12] *PSNC Application for Annual Review of Gas Costs. (2015). Direct Testimony of Rose M. Jackson and Direct Testimony of Candace A. Paton, Docket No. G-5, Sub 558, June 1, 2015.*
[13] *Ibid.*
[14] *Ibid.*

Table 2. PSNC Design-Day Requirements and Available

Revised Jackson Exhibit 1

I/A

DESIGN-DAY DEMAND REQUIREMENTS AND AVAILABLE ASSETS FOR WINTER SEASONS FROM 2017-18 THROUGH 2022-23

		2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Contracted Capacity*							
Transco	FT	390,743	390,743	390,743	390,743	390,743	390,743
DTI	FT	7,331	7,331	7,331	7,331	7,331	7,331
Subtotal		398,074	398,074	398,074	398,074	398,074	398,074
Seasonal Capacity							
Transco	Storage	33,218	33,218	33,218	33,218	33,218	33,218
DTI	Storage	60,883	60,883	60,883	60,883	60,883	60,883
Columbia	Storage	35,335	35,335	35,335	35,335	35,335	35,335
ETNG/Saltville	Storage	48,877	48,877	48,877	48,877	48,877	48,877
Subtotal		178,313	178,313	178,313	178,313	178,313	178,313
Peaking Capacity							
Transco	LGA	5,175	5,175	5,175	5,175	5,175	5,175
Pine Needle	LNG	103,500	103,500	103,500	103,500	103,500	103,500
PSNC	LNG	100,000	100,000	100,000	100,000	100,000	100,000
DTI Cove Point	LNG	25,000	25,000	25,000	25,000	25,000	25,000
Subtotal		233,675	233,675	233,675	233,675	233,675	233,675
Total		810,062	810,062	810,062	810,062	810,062	810,062
Design-Day Requirements		782,485	800,404	817,772	835,518	853,649	872,173
Surplus (Shortage)		27,577	9,658	(7,710)	(25,456)	(43,587)	(62,111)
Reserve Margin		3.52%	1.21%	-0.94%	-3.05%	-5.11%	-7.12%

* Does not include Atlantic Coast Pipeline capacity scheduled to be in service by late 2019 or Mountain Valley Pipeline capacity scheduled to be in service by late 2020.

Docket No. G-5, Sub 591

Page 1 of 1

(2) On the Need for Diversification: The precedent agreement between PSNC and ACP should be included in the diversification analysis before determining the need for additional pipeline capacity in North Carolina. The Southgate Project, as proposed, will more than double the historical contracted capacity of PSNC's North Carolina portfolio.

According to Draft Resource Report 1, MVP states that "*this third interstate pipeline diversified risk by giving PSNC multiple options on geographically-diverse interstate pipelines*." Again, this project arrangement will nearly double PSNC's total contracted capacity, an amount not before seen in previous filings. We ask FERC to review whether the nominal increase in population, the demand for growth in natural gas, and the need for diversification warrant the construction of another new pipeline in North Carolina.

To address diversification, we refer the Commission to the recommendations submitted by the North Carolina Department of Environmental (DEQ) in its review of the EIS Scoping process on September 10, 2018.[15] In its EIS Scoping review, DEQ recommended that the Commission analyze each individual alternative applicable to North Carolina, as well as the combined effects

[15] *September 10, 2018, North Carolina Department of Environmental Quality Comment on the EIS Scoping Process for MVP Southgate Project from DEQ Assistant Secretary Sheila Holman to FERC Secretary, Kimberly Bose, Retrieved from: https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15033293*

of the possible environmental impacts of all the alternatives to the proposed Southgate Project. As FERC evaluates the Southgate Project, we ask the Commission to fully consider whether non-natural gas alternatives, including, where applicable, renewable resources and other clean-energy resources, can be deployed to close any gap in demand, if such a gap in the reserve margins exists. Any gaps in reserve margins that are calculated and reported by PSNC are not substantiated when PSNC's design-day demand requirements and assets for future winter seasons are calculated *with the company's subscribed 100,000 dth/day contract from ACP included.*

(3) On the Need for Pipeline Access to the Marcellus and Utica Gas Regions in West Virginia, Ohio, and southwestern Pennsylvania: Direct pipeline access to North Carolina from the Marcellus and Utica shale basins is already provided by ACP. A second pipeline supplying gas from the same region requires better justification than that which is presented by MVP.

In its 2015 filing to the NCUC, PSNC stated that its contract with ACP provides access to the "Marcellus and Utica shale basins of West Virginia, Pennsylvania and Ohio." We ask FERC to evaluate the need for the Southgate Project to deliver gas extracted from the same region.

III. The Southgate Project is Not Fully Subscribed to Warrant a Large Footprint in North Carolina.

Based on the currently available public information, it appears that only PSNC has a firm commitment with the Southgate Project. MVP has stated that negotiations continue with additional interested shippers; however, as of the date of this letter, we are unaware of any other customers that have committed to the Southgate Project.

Currently, the amount of gas contracted by PSNC appears to represent only a small fraction of the pipeline's total capacity. As proposed, the Southgate Project has a much larger footprint and a much larger capacity than that desired by PSNC. We ask that FERC determine if the costs and environmental risks associated with building a larger-than-necessary pipeline system is in the public interest.

IV. Conclusion

The rationales described by MVP and PSNC, taken either separately or together, do not address the projected gap in reserve margin that both MVP and PSNC cite as the justification for the Southgate Project. Therefore, we remain unconvinced that the Southgate Project is necessary. Based on the available data and facts, we question whether the project satisfies the criteria for the Commission to deem it in the public interest and whether it is essential to ensure future growth and prosperity for the residents of our State. Given the evidence provided in this letter, we ask that prior to issuing its decision, that the Commission fully investigate these documented discrepancies surrounding the stated purpose and need for the Southgate Project.

We thank you for the opportunity to comment on this important ruling. We trust that our comments contained herein will be considered as the Commission makes its decision.

Sincerely,

Sheila C. Holman

Sheila C. Holman
Assistant Secretary, NCDEQ

NORTH CAROLINA Department of Environmental Quality

North Carolina Department of Environmental Quality
217 West Jones Street | 1601 Mail Service Center | Raleigh, North Carolina 27699-1601
919.707.8600