



April 6, 2017

The Honorable Roy Cooper  
Governor of North Carolina  
Raleigh, NC 27603

Re: Atlantic Coast Pipeline

Dear Governor Cooper:

The Sierra Club appreciates your long history of support for a clean environment, and for reducing the harmful effects of fossil fuel on the climate and public health.

On behalf of more than 65,000 Sierra Club members and supporters in North Carolina, we urge you to not support the proposed Atlantic Coast Pipeline (ACP), to request that the Federal Energy Regulatory Commission complete a robust analysis and reissue a new Draft EIS, and to direct the Department of Environmental Quality to make an individual determination about the 401 water quality determination and not rely on the US Army Corps of Engineers' Nationwide Wetlands Permit 12.

We believe that the ACP is not in North Carolina's best interest, economically or environmentally. The large-diameter pipeline would cross more than 200 miles of North Carolina's coastal plain, fragmenting North Carolina's forested wetlands and pristine streams, sometimes using in-stream blasting in important habitats that support many imperiled species, including birds, bats, fish, and crayfish. The pipeline also is routed through rural, largely African American communities as well as those of four state-recognized tribes. These communities are thus faced with both safety and health risks and the possible loss of property values. Finally, the ACP could lock North Carolinians into funding a massive fossil fuel infrastructure project that could preclude investment in the renewable sector -- an investment that would provide many more permanent jobs and even cheaper energy sources to the state of North Carolina.

All of these risks are unnecessary, as Duke Energy and Dominion have not demonstrated a clear need for another gas pipeline. In justifying the pipeline in 2014 before the North Carolina Utility Commission,<sup>1</sup> Duke Energy cited not market data but contracts with its own affiliate companies -- a self-dealing tactic that experts agree can spur the development of pipeline infrastructure untethered to market demand.<sup>2</sup>

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<sup>1</sup> [Duke Energy Carolinas, LLC and Duke Energy Progress, Inc. Advance Notice and Petition for Limited Waiver Docket Nos. E-7, Sub 1062 and E-2, Sub 1052](#)

<sup>2</sup> See [J.F. Wilson, Evaluating Market Need for the Atlantic Coast Pipeline at 6-12](#) (Sep 2016); S. Isser, Natural Gas Pipeline Certification and Ratemaking at 24 (Oct. 7, 2016); [C. Kunkel & T. Sanzillo, Inst. For Energy Economics & Financial Analysis, Risks Associated with Natural Gas Pipeline Expansion in Appalachia](#) at 5-6 (April 2016).

Further, the demand for gas-fired power generation in North Carolina is static or dropping.<sup>3</sup> In fact, Duke Energy's own load growth projections have dropped considerably since 2014. In its 2016 Integrated Resource Plan, Duke Energy Progress confirms that additional pipeline capacity is not needed to support gas-fired power plants until 2034.<sup>4</sup>

Without requiring that the Draft EIS be updated to include realistic market demand, FERC simply cannot fairly evaluate the need for the project or alternatives to Atlantic's proposal. We ask your office to request that FERC complete a robust analysis and reissue a new Draft EIS, and we urge you to not to finalize your administration's position with respect to the Atlantic Coast pipeline without this complete information.

### **Enforcing North Carolina's Water Quality Standards Through a Separate 401 Certification**

In addition to the FERC Draft EIS review, we would respectfully request that your administration direct its attention to the important issue of Clean Water Act Section 401 water quality certification. Project-specific 401 certification of pipeline projects is necessary to ensure that pipeline-related activities do not cause or contribute to a violation of state water quality standards. Water quality impacts from pipeline construction, operation, and right-of-way maintenance include stream bank destabilization, sedimentation and burial of streambed gravels and habitat for endangered freshwater aquatic and benthic species, loss of vegetative cover, higher water temperatures, lower dissolved oxygen, higher nutrient load, exposure to drilling chemicals and herbicides, increased predation, and introduction of invasive species.

A recent example from New York demonstrates the need for close scrutiny by states in the pipeline context. In April 2016, the New York State Department of Environmental Conservation denied a section 401 Water Quality Certification for the proposed Constitution Gas Pipeline.<sup>5</sup> The department's rationale for denial included an examination of the pipeline's cumulative impacts on waterways:

[C]umulatively, impacts to both small and large streams from the construction and operation of the Project can be profound and include loss of available habitat, changes in thermal conditions, increased erosion, creation of stream instability and turbidity, impairment of best usages, as well as watershed-wide impacts resulting from placement of the pipeline across water bodies in remote and rural areas.<sup>6</sup>

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<sup>3</sup> See [U.S. Energy Info. Admin., Annual Energy Outlook 2017, Table 2. Energy Consumption by Sector and Source \(Jan. 5, 2017\)](#). See [J.F. Wilson, Wilson Energy Economics, Evaluating Market Need for the Atlantic Coast Pipeline](#) at 3 (Sep, 2016)

<sup>4</sup> 2016 Integrated Resource Plans submitted to NCUC by Duke Energy Progress and Duke Energy Carolinas.

<sup>5</sup> [New York State Department of Environmental Conservation Notice of Denial Addressed to Constitution Pipeline Company, LLC \(April 22, 2016\)](#).

<sup>6</sup> Id. at 12.

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We urge North Carolina to reserve the right to similarly make individual determinations regarding Section 401 water quality certification for specific pipeline projects, including the Atlantic Coast Pipeline and its related laterals.

### **In conclusion**

An imprudent investment into the Atlantic Coast Pipeline would lock the state into using – or at least paying for -- fossil fuel infrastructure for decades. We imagine a better future for the North Carolina counties in the proposed pipeline route. With the state's continued leadership in solar investment and wind generation, the coastal plain could serve as an economic engine for the region, providing clean, new sources of energy and jobs while also helping slow the effects of climate change, including the coastal flooding that puts communities and state coffers at risk.

We look forward to an opportunity to engage with your office and staff around the FERC Draft EIS review and what we hope will be the state's independent 401 water quality certification process. Please let us know how we can provide further information or support in either of these important processes. I may be reached by email at [deb.self@sierraclub.org](mailto:deb.self@sierraclub.org) or by phone at 510-882-1882. Thank you for again your longstanding commitment to protecting our state's natural resources.

Sincerely,



Deb Self  
Senior Campaign Representative  
Beyond Dirty Fuel Campaign

cc: The Honorable Michael Regan, Secretary, NC Department of Environmental Quality  
William McKinney, General Counsel, Office of the Governor  
Sheila Holman, Assist. Secretary for Environment  
Jenni Owen, Policy Director, Office of NC Governor Roy Cooper  
Lyn Hardison, Environmental Assistance and SEPA Coordinator  
Tracey Davis, Director, Division of Energy, Mineral & Land Resources