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Archie Lynch
Tribal Administrator

May 18, 2018

Mr. Nathaniel Davis, Sr.
Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 204026

RE: Docket Nos CP15-554-000, CP15-554-001, CP15-555-000

Dear Deputy Secretary Davis:

On behalf of the Tribal Council of the Haliwa-Saponi Indian Tribe, I am submitting copies of letters to Atlantic Coast Pipeline, LL/Dominion Transmission, Inc. (“ACP/Dominion”) from April 2018 and November 2017 to be included in the above-captioned docket.

In reviewing the Company’s representations to the Commission about its communications with our Tribe, no reference has been made to this correspondence. The Commission has ordered that construction of the ACP cannot commence until AC/Dominion has documented communications with the Haliwa-Saponi Tribe regarding “traditional tribal sites, including natural resources gathering locations in the project area,” and it has not yet done so, as the attached correspondence from the Tribe to ACP/Dominion shows.¹ Given the Company’s failure to abide by this Commission’s orders, it should reject the ACP’s Request for Notice to Proceed with construction in North Carolina.

In addition, the Haliwa-Saponi Indian Tribe renews its request for meaningful government-to-government consultation with FERC, made on April 4 and July 17, 2017. I previously submitted a copy of a resolution from the National Congress of American Indians (NCAI) adopted in June of 2017 supporting the Haliwa-Saponi Indian Tribe’s efforts to engage FERC in meaningful government-to-government consultation.² Not long thereafter, the Alliance of Colonial Era Tribes (ACET) submitted a letter to FERC asking the Commission to engage in meaningful consultation with the Haliwa-Saponi Indian Tribe and other tribes impacted by ACP development. FERC has never responded to the repeated requests by our Tribe, the ACET, or the NCAI for government-to-government consultation.

¹ Certificate of Public Convenience and Necessity for the Atlantic Coast Pipeline, 161 FERC ¶ 61,042, Docket Nos. CP15-554-000, CP15-554-001, CP15-555-000 (Oct. 13, 2017), pp. 146-47.

² The National Congress of American Indians Resolution #MOH-17-054.

The Tribe was also not consulted about the Programmatic Agreements docketed at FERC on January 19 of this year. The preamble to the signed Programmatic Agreement documents that FERC sent notices of the intent to prepare an environmental impact statement to non-federally recognized Indian Tribes in North Carolina and Virginia. But FERC did not include directly affected Indian Tribes in any discussions relating to the Programmatic Agreement itself, which our Tribe was not aware of until after it was finalized.

Rather than consulting with the Haliwa-Saponi Indian Tribe directly, FERC instructed ACP/Dominion to meet with the Tribe by May 1, 2017.³ This so-called “consultation” was supposed to concern “tribal sites in the project area and the locations of natural resources that may be part of the tribes’ traditional practices.”⁴ As reported to FERC by the Tribe on July 17, 2017, ACP/Dominion did not conduct any such discussions with the Haliwa-Saponi by May 1 of last year. Representatives of the Tribe may have the opportunity to meet with representatives ACP/Dominion in the near future, but this meeting will occur more than a year following the deadline set by the Commission in April of last year.

In addition, please note that the Tribe informed the Company that it has not accurately characterized our positions and the communications that have taken place through October of last year. First, contrary to the Company’s characterizations in its October 13, 2017 filing with FERC, the Tribe has voiced very particular objections with the Pipeline, as set forth in more detail in the attached April 30, 2018 letter to ACP/Dominion. Second, in ACP/Dominion’s summary of so-called “consultations” with the Haliwa-Saponi Indian Tribe, also filed with FERC on October 13, 2017, there are a number of instances in which the Company lists appearing at a group meeting or fortuitous encounter with a member of our Tribal Council as “consultations” with the Tribe. Such encounters do not constitute direct communications with Haliwa-Saponi Indian Tribe.

The content of this letter, and its attachments, have been authorized for submission to you for and on behalf of the tribal government of the Haliwa-Saponi Indian Tribe. Should you have any additional questions, please contact me at (252) 586-4017, x. 222, as I am the tribal official authorized by the Haliwa-Saponi Tribal Council to consult on this matter.

Sincerely,



Mr. Archie Lynch
Tribal Administrator

³ FERC Environmental Information Request (Apr. 11, 2017), p. 28.

⁴*Id.*