

TIM KAINE
VIRGINIA

WASHINGTON OFFICE:

WASHINGTON, DC 20510-4607
(202) 224-4024

COMMITTEE ON
ARMED SERVICES

United States Senate

WASHINGTON, DC 20510-4607

COMMITTEE ON
FOREIGN RELATIONS

COMMITTEE ON
THE BUDGET

April 7, 2015

The Honorable Cheryl LaFleur
Chair, Federal Energy Regulatory Commission
888 First Street NE, Room 11H
Washington, D.C. 20426

Dear Chairwoman LaFleur:

I would like to share with you a sampling of constituent correspondence and press accounts concerning recent FERC scoping meetings in two Virginia counties – Nelson and Augusta – on the proposed Atlantic Coast Pipeline.

Given the differing, strongly-held views in Virginia communities on this project, I believe it is crucial for everyone to have the opportunity to make their concerns known. A number of Virginians who attended these meetings felt that this opportunity was not sufficiently given, due to a lack of clarity over precisely when citizens were able to sign up to offer verbal comment. According to several accounts, many constituents showed up at the announced start times of these meetings only to discover that all speaking slots had been claimed hours earlier.

I request that you review this correspondence and make appropriate changes to the scoping meeting process, to ensure that future meetings provide equitable opportunity for all views to be aired. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Kaine". The signature is stylized and written in a cursive-like font.

Frustrations continue after Atlantic Coast Pipeline project meeting

Posted: Thursday, March 19, 2015 6:38 pm

Rachael Smith

Though emotions ran high at the Federal Energy Regulatory Commission's scoping meeting Wednesday night, those feelings were not alleviated overnight.

In fact, many who are opposed to the proposed Atlantic Coast Pipeline feel even more frustrated and disappointed with the lack of communication from FERC.

Before the hearing at Nelson County High School began at 7 p.m., residents could sign up on a first-come, first-served basis.

Joanna Salidis, president of anti-pipeline group Friends of Nelson, called ahead to ask an external affairs officer at FERC when people could arrive to sign up to speak.

"She told me signups would start shortly before 7 [p.m.] and that even if people arrived after 7 they would still be able to sign up. I was here by 6:30 [p.m.]," she said. "I got number 52."

Though the meeting was set to end at 10 p.m., FERC representatives allowed speakers to file through until 10:45 p.m. Speakers were allowed only three minutes and then were stopped mid-sentence to keep the meeting running as planned.

Of the 203 people who signed up, 78 spoke within the allowed time frame. Seventeen of the first 20 speakers were pro-pipeline. After the first 17, the rest were pipeline opponents.

"Those people were obviously organized to sign up super early and were obviously told to sign up very early," Salidis said. "FERC should not have allowed that."

Dominion spokesman Jim Norvelle said the sign up process is a first-come, first-served process and it was not set up to specifically allow all of the supporters to speak first.

“A number of ACP supporters asked us when should they come to the school to sign up to speak,” he said. “The FERC puts the sign-up sheet on the table about one hour before the scheduled start time, based on our observation at the earlier scoping meetings in North Carolina and Virginia. We told them that and they showed up. There is support for the ACP in Nelson County, for the reasons that several of the speakers gave last night, despite some interrupting disrespect for their position from those opposed.”

While supporters spoke of their endorsement during the meeting, comments and interruptions disclaiming those statements could be heard from the crowd.

Salidis said though some people were rude, they were upset about the process.

“It’s upsetting to read about how anti-pipeline people were arguing with pro-pipeline people, and people were rude and interrupting, however without understanding the context — so many people were told they couldn’t speak, and there they are listening to speaker after speaker talk about Dominion talking points and that’s really frustrating,” she said.

Norvelle said FERC representatives and Dominion did not work together to get supportive speakers to sign up first.

Salidis believes the FERC should have made it clear to the public what time sign ups would open and close.

“I think there was no communication between the different parties,” she said. “There should have been more coordination from a governmental agency. This thing matters. This was the public’s chance to speak. People were very frustrated.”

Salidis felt this gave a “gross distortion” of the sentiment of the county, adding FERC had a responsibility to the public and then let it down.

“They should set up another meeting because this is an issue that people are so passionate about and people want to speak and be heard in a public forum,” she said. “It’s not the same to receive written comments, they should have a time for sign ups and it should be publicly available for everyone, that way it would be fair.”

Norvelle said the scoping meeting in Nelson County was the largest so far. Previous meetings brought in about 20 to 25 speakers.

“The fact that last night’s meeting was the largest should not be a surprise to anyone,” he said Thursday.

Contact Rachael Smith at (434) 385-5482 or rsmith@newsadvance.com.

From: Connie Brennan [<mailto:connie@cstone.net>]

The press is just getting wind of the outrageous happenings at the FERC Scoping Meeting here in Nelson County on Wednesday.

<http://www.nbc29.com/story/28565480/anti-pipeline-group-readies-to-post-1k-signs-in-nelson-augusta>

FERC applied for and received permission to use the Nelson County Middle School auditorium for its Scoping Meeting on the 18th, from 4:00-10:00pm. There was public notice that the meeting was to occur from 7:00-9:00pm. There was no indication that persons who wished to speak should come and sign up to do so.

People arrived around 6:00, and some of them were met at the door and asked if they were there for "the dinner". When they said no, they were escorted into a different area.

The sign-up table was set up, even though no one knew they had to sign up to speak, and there were already 15 or so people signed up. It was discovered that these folks were allowed to sign up early, and were allowed to sign in for people who were not yet there (this was strictly forbidden during the regular sign-ups).

These early sign-ups were all pro-pipeline and obviously spoke first, using up about an hour of the allowed time. Almost all of them left promptly after speaking. All speakers thereafter were there to speak against the pipeline. 203 people signed up to speak, but only 75 actually had a chance to do so. Therefore, 128 people were denied the chance to speak.

It was later discovered that Dominion had brought in a lot of folks early and fed them, and then had them sign up first, and again, allowing them to sign in for people not even there.

This very thing happened again at the August FERC meeting last night, I am told.

People are furious. The press will be reporting more about this soon, if they have not yet already done so. There are no secrets in small communities.

Best regards,
Connie

Connie Brennan
Board of Supervisors
Nelson County, Virginia
Elected from the Central District
Serving all Citizens of the County of
Nelson
524 Buck Creek Lane
Faber, VA 22938
home 434 263-4690
cell 434 996-5246
county office 434 263-7003



For Immediate Release

March 26, 2015

Contact: Joanna Salidis
434-242-5859
josalidis@gmail.com

Ernie Reed
434-971-1647
lec@wildvirginia.org

Regulators Fail to Protect Public Interest in Pipeline Process

The Federal Energy Regulatory Commission (FERC) held a scoping meeting in Nelson County on Mar. 18 for affected landowners and the wider community to help define the “scope,” or range, of pipeline impacts that need to be considered in the regulatory process. FERC held a similar meeting the next night in Stuart’s Draft. Since the meetings, attendees have filed numerous comments on FERC’s online comment forum and with legislators alleging that the meetings were biased to amplify the voices of those in favor of the Atlantic Coast Pipeline.

“FERC’s scoping meeting in Nelson illustrates exactly what so many affected communities around the country have been saying: FERC is an independent governmental agency, funded by the industry it regulates, with no accountability - nor, in their eyes, responsibility to the public,” says Joanna Salidis, President of Friends of Nelson, a group working to oppose Dominion’s pipeline.

Public comments filed with FERC under the Atlantic Coast Pipeline docket from those who attended the meeting in Stuart’s Draft or Nelson indicate that both evenings a pro-pipeline dinner was catered for supporters at the meeting venue starting at 5 p.m., thus encouraging supporters to sign up earlier than those not invited to the dinner.

“Sarah McKinley, the FERC external affairs officer, told me that sign ups to speak would start ‘shortly before 7,’ but they actually were opened hours earlier than that,” says Salidis, speaking specifically of the Nelson meeting. “People who showed up shortly before 7 were too far back in the line up to speak. Pro-pipeline supporters signed up more than an hour before the meeting began, allowing them to dominate the first hour of the meeting, when the media was present, and skewing the numbers heard in favor that evening because supporters were not randomly distributed. Not a single person after the first 20 spoke in favor of the pipeline.”

At the Nelson meeting, 203 people signed up to speak, but time allowed for only 78 to provide comments. Two hundred and three is an underestimation of the number of people who would have liked to speak, because workers at the sign in table told potential speakers that they would be unlikely to be heard due to time constraints.

Public comments filed with FERC also make it clear that some people were allowed to sign up others to speak while other people were not allowed to sign up anyone but themselves. For example, Susan McSwain, a Nelson County resident, commented that she spoke to a pipeline supporter she knew the day following the meeting to ask why his name had been called to speak, but he did not step forward. He responded that he had not gone to the meeting at all. However, when she tried to sign up someone who was coming to the meeting later, she was told that no one was allowed to sign anyone else up to speak.

“If this sham of a meeting is any indication of what FERC thinks of the public, then (FERC) should be disbanded, ” she says in her comment to FERC. McSwain further states “Public meetings engage a broader segment of the public than input limited to written comments. They are particularly important for those, like many in Nelson, without internet access. Public meetings like the scoping meeting are also essential for community members to hear and learn from each other. They are vital to a transparent process. Written comments are no substitute. FERC should schedule an all-day Meeting in Nelson to allow anyone who was denied the opportunity to speak on March 18th their right to speak.”

Many property owners on the proposed path of the pipeline were very angry that so many were unable to speak, particularly in light of the apparent bias towards pipeline supporters. “I told a FERC representative that night, David Hanobic, that FERC needed to provide a second public meeting for those who wished to speak,” Salidis continued. “He said that we were lucky to get a

public meeting at all since the National Environmental Policy Act that governs the scoping process does not mandate public meetings and some government agencies don't offer them. When I responded that those agencies don't have the extraordinary power of eminent domain, he claimed that FERC didn't either – rather they just gave that authority to transmission companies like Dominion. As a property owner on the path of the proposed pipeline threatened with the forcible taking of my property, I really resent this attempt to dodge taking responsibility for the power they yield over property owners.”

Friends of Nelson continues to call on FERC and legislators to support a fair, thorough, transparent public process by extending the scoping period, offering another scoping meeting, and rigorously analyzing both the proposed pipeline's need and alternatives. Friends of Nelson had filed comments with FERC in early March asking for an extension of the period and a postponement of the meeting due to the fact that over 100 property owners in Nelson had been put on the route a few days before the period and meeting were announced. They have also sent letters to legislators asking that they weigh in with FERC to support these requests. “We hear a lot from FERC about their role in ‘mitigating’ impacts – but what we want is a process that honestly weighs public benefit against harm. Nelson and Augusta's scoping meetings are a perfect example of why we cannot assume this will happen,” says Ernie Reed, of Friends of Nelson. “Legislators have the responsibility to hold FERC accountable.”

In response, Virginia Senator Mark Warner has sent a letter to FERC Chairman LaFleur questioning its policies and procedures (see attached). And in Augusta County, the Board of Supervisors has passed a resolution petitioning FERC to hold a second public meeting at which all citizens' voices can be heard.

“The FERC's shameful display of contempt for public participation at the scoping meeting last week shows that we need help to be heard,” says Sharon Ponton, Blue Virginia blogger and an organizer with Free Nelson, a second group fighting for justice in Nelson. “We've asked our legislators for specific help, and we don't want back platitudes and form letters. The meeting really highlighted that the process is stacked against landowners and communities. ”

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From: Joanna Salidis [mailto:josalidis@gmail.com]
Sent: Tuesday, March 24, 2015 11:53 AM
To: Barbash, Nick (Kaine)
Subject: Sen. Kaine's response re Atlantic Coast Pipeline

FERC's scoping meeting in Nelson was more of a sham than I ever could have imagined. Surely, the Senator has heard about it by now? That 203 people signed up to speak but only 78 were heard? That I was told by Sarah McKinley a FERC representative who you get when you call for public information that sign ups would start "a little" before 7, when they actually started at the latest at 5? That Dominion catered a dinner for supporters only, starting at 5? That 17 of the first 20 speakers were pro-pipeline, the only pro-pipeline speakers of the evening? That the media, of course; left after those first 20 speakers and thus, of course, reported completely inaccurate public sentiment? That pro-pipeline supporters were allowed to sign others up to speak who were not present but those on our side were told that you had to sign yourself up?

I know all these things are true. I have names and details. This is not hearsay. Any actual investigation would uncover these facts and no doubt more and worse. I would not be even slightly surprised if FERC reps were at Dominion's dinner. Maybe these things are not illegal, but do they sound like a company being open and forthcoming to you? Does it sound like they are being responsive to landowners and other residents? Forget about Dominion, does it sound like FERC is interested in the public's feedback?

Here are write ups of FERC's fiasco, oh, I mean scoping meetings in Nelson and Augusta:
<http://www.gettingmoreontheground.com/2015/03/23/chuck-bubbas-corruption-and-the-atlantic-coast-pipeline/>
http://www.newsadvance.com/nelson_county_times/news/frustrations-continue-after-meeting-on-atlantic-coast-pipeline-project/article_ac9407a2-ce88-11e4-ab80-23fe38d5ee3e.html
<https://www.popularresistance.org/rubber-stamper-ferc-dominion-shills-in-nelson-county/>

Finally, I wrote the following on Friends of Nelson's Facebook page about an interaction I had the evening of the scoping meeting with FERC representative David Hanobic:

"How does FERC's failure to provide a fair, transparent public venue for public comments and enough time in the scoping period jeopardize our rights? FERC wields the extraordinary power of eminent domain. They declare that our property is forfeit due a greater public interest. Without adequate process to weigh harm vs. benefit, eminent domain is pure theft. THEY ARE NOT TAKING THEIR RESPONSIBILITY SERIOUSLY. At Nelson's meeting, I told a FERC rep. that I was angry that so few of those who signed up would be heard. He replied that we were lucky to have a public meeting at all because it is not required under NEPA and plenty of agencies have the scoping period without the meeting. This alone is a shocking response- to tell me as a person whose property is forfeit that I am LUCKY to be heard in public?! I challenged him with the fact that those other agencies do not have the power of eminent domain. Then he said - FERC doesn't yield the power of eminent domain. When I cited the Natural Gas Act, he backed down a bit and said - well, yes, we issue the certificate of public convenience and necessity that gives DOMINION the power of eminent domain - but THEY have the power, not us. CAN YOU IMAGINE A LAMER DODGE OF RESPONSIBILITY THAN THIS?"

I would add that, up to this point, I have also seen no evidence that Sen. Kaine is taking his responsibility to protect our rights seriously.

I want to hear whether or not Senator Kaine intends to file a request with FERC to extend the scoping period, as I originally requested and which is still critical. I also urge the Senator to show that he is serious about standing up for his constituents by requesting that FERC provide a second scoping meeting, given the

public's justified feeling of being treated like second class citizens at a public meeting meant to hear our concerns. I am perfectly aware, by the way, of the purpose of the scoping period, precisely, so please do not respond with FERC or Dominion provided pablum that 1) FERC will accept comments after the scoping period is over or that 2) written comments are just as good as verbal comments or that 3) we can always intervene later - because - 1) we prefer not to rely on their good intentions but rather the law and considering comments does not mean that the comments will be used to help define the scope of the EIS 2) public forums are provided for a reason and are important for numerous reasons which I really hope I don't have to explain and 3) intervening is a completely different step with a different function than scoping.

The time to "monitor" is over. We now have joined the growing chorus with our own evidence that FERC doesn't work. Is the Senator interested in facilitating communication and ensuring a fair, thorough, process that actually protects the public, or not? If he is, I expect SOME action that indicates his interest in his constituents. In addition to the extension of the scoping period, and another meeting, there is also the issue of getting to the bottom of whether the pipeline is actually necessary (see <http://breakingenergy.com/2015/03/20/reducing-carbon-pollution-from-the-power-sector-without-building-hundreds-of-miles-of-new-pipelines/>), what it will actually be used for, and pushing Dominion to use existing rights of way. They will never use existing rights of way unless someone forces them to because it may cost more and limits their expansion plans. Jim Norvelle said today "“But oftentimes, [using existing ROW] is not feasible,” said Norvelle, citing potential problems with soil conditions and prohibitions by the owners of the existing rights of way to sharing their use." in http://www.dailyprogress.com/news/local/pipeline-opponents-take-ad-campaign-to-another-level/article_2da8962c-d0f1-11e4-bb69-ff88a277a657.html

Now, you tell me, does it make any sense that they can take my property without my permission but they can't take the property of those who already have easements?

Please help. Again, I would like to know the Senator's response. What real thing will he do to help?

PS.

Given the Senator's interest in "monitoring" the situation, he may want to read some of the comments his constituents prepared for the scoping meeting, here:

<http://friendsofnelson.com/ferc/ferc-scoping-meeting-comments/>

And here's a detailed comment to FERC about our scoping meeting: http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150324-5002

Thanks,
Joanna