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ABRA Update #267 – March 12, 2020

Issue Highlights . . .

- Federal Court Rules Against Nelson County in ACP Challenge
- Updated Status of Principal Legal Challenges to the ACP Now Available
- "Investing in Failure" – New Study Slams Dominion & Duke
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Federal Court Rules Against Nelson County in ACP Challenge

The denial of a request for the Atlantic Coast Pipeline (ACP) for permission to cross a flood plain in Nelson County, Virginia was overruled March 9 by the U.S. District Court for the Western District of Virginia. The county's Board of Zoning Appeals (BZA) in December 2018 had rejected a request for a variance from the county's flood plain ordinance for the ACP. The court said:

> "At bottom, both Nelson County's local ordinance and Congress's Natural Gas Act—through the CPCN issued by FERC—address the impact (or lack thereof) of the Atlantic Coast Pipeline on floodplains and flooding in Nelson County. After considering these factors, FERC concluded that public necessity 'require[s]' the pipeline be constructed. The Nelson County BZA 'reache[d] the opposite conclusion based on essentially the same environmental considerations.' In this manner, BZA's denial of Atlantic's variance application "poses a significant obstacle, indeed an effectively complete obstacle" to FERC's determination that public convenience and necessity require that the pipeline be constructed."

The court concluded that "Nelson County's Floodplain Regulations are preempted' by federal law. It is not clear yet whether the county will appeal the decision. For a copy of the District Court's decision, click here.

Updated Status of Principal Legal Challenges to the ACP Now Available

The new update on the status of the principal legal challenges to the Atlantic Coast Pipeline is now available on the ABRA website. The two-page document, which is regularly updated, features a brief description of seven lawsuits that have been brought by ABRA members. To access the document, click here.

"Investing in Failure" – New Study Slams Dominion & Duke

A new study on how three large power companies serving customers in the southeastern United States are faring in meeting their own decarbonization targets concludes that they are decidedly "missing the mark." *Investing in Failure*, released March 9 by Synapse Energy Economics, studied the announced goals of Dominion Energy, Duke Energy and Southern Company to decarbonize their generating facilities. The three companies' combined ownership represent 1/8th of the electric generating capacity in the entire country.

The study, which was done for Majority Action, a non-profit organization concerned with holding corporations accountable in matters of corporate governance and social responsibility (www.majorityaction.org), concludes:

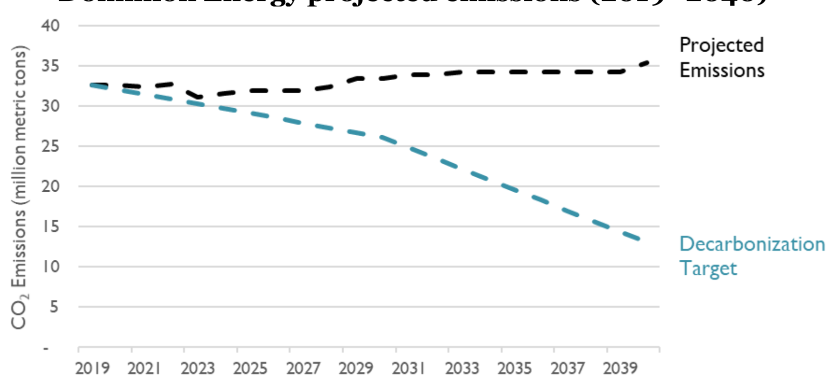
> ". . . contrary to what Southern Company, Dominion Energy, and Duke Energy say on their websites, in television ads, and in shareholder reports and pamphlets, the three companies are thus far taking minimal actions to decarbonize their electricity systems. This report demonstrates that none of the three companies examined in this report will meet their 2050 greenhouse gas reduction goals under their current resource plans."

Synapse further concludes:

> "The three companies lag leading utilities in investing in replacement resources, including energy efficiency and renewable investments. In addition, the companies' grid modernization efforts are not equal to the task of transforming to a decarbonized grid. This investment gap in renewables, energy efficiency, and grid modernization is occurring at the same time the companies have invested as much as hundreds of millions in capital expenditures in the continued operation of aging coal plants that should have been retired. Finally, as the number of solar facilities interconnecting to the grid has increased, the companies are discouraging competition by lowering the avoided cost rates paid to solar facilities, adding significant solar integration charges, and making the interconnection process long and costly."

The chart below, excerpted from the study, shows that Dominion Energy's projected CO2 emissions between 2019-40 will be more than double the company's announced decarbonization target. The projected shortfalls for Duke and Southern meeting their goals is similar.

Dominion Energy projected emissions (2019–2040)



The study also takes a critical, unflattering look at the investment that Dominion and Duke have made to build the Atlantic Coast Pipeline.

> "Despite the cost overruns and legal setbacks, Dominion continues to be committed to the 2021 completion of the ACP. . . Duke is marketing the ACP as 'critical infrastructure that will allow [Duke Energy] to bring low cost gas supply and economic development to the Southeast.
>
> "While the ACP is not directly owned by the subsidiary electric utilities discussed here, those subsidiary utilities have contracted for the majority of the gas that will be transported on the pipeline. This means that the costs associated with building the pipeline will be passed onto the utility customers via transportation fees and fuel contracts. The ACP is projected to supply up to 1.5 billion cubic feet of gas per day, equivalent to 67 million metric tons of CO2 emissions per year, not accounting for emissions associated with leaks. It seems unlikely that ownership of the gas transportation network has no influence on these companies' decisions to build and rely on generators that would be in part be supplied by the pipeline. Additionally, the pipeline has a projected lifetime of 80 years. <u>Which begs the question, how can Duke and Dominion be net or zero carbon by 2050 if they are building a pipeline intended to supply its own generators with natural gas that has a lifetime through 2100?</u>" (emphasis added)

In the News:

Local/Atlantic Coast Pipeline

US District Court sides with Atlantic Coast Pipeline, dealing blow to Nelson County

- The News & Advance – 3/11/20

https://www.newsadvance.com/news/local/us-district-court-sides-with-atlantic-coast-pipeline-dealing-blow/article_49770df6-6e42-52e6-924e-46301a34c828.html
The judge found the federal Natural Gas Act, "preempts" the requirements of Nelson County's floodplain ordinance, which had been updated about a year before issues arose between the county and pipeline company.

Virginia passes bill to bring scrutiny to coal plant closures, despite Dominion opposition

- Utility Dive – 3/6/20

https://www.utilitydive.com/news/virginia-passes-bill-to-bring-scrutiny-to-coal-plant-closures-despite-domi/573602
The story here is that the VA General Assembly actually passed a bill that Dominion straight-up opposed.

Clean energy bill marks dramatic transition for Virginia amid dispute over costs to consumers

- Utility Dive – 3/10/20

https://www.utilitydive.com/news/clean-energy-bill-marks-dramatic-transition-for-virginia-amid-dispute-over/573793/
Related:
- https://www.nrdc.org/experts/walton-shepherd/how-rev-virginias-new-climate-action-engine

Duke, Dominion, Southern won't hit clean energy targets at current pace: Report

- Utility Dive – 3/10/20

https://www.utilitydive.com/news/duke-dominion-southern-wont-hit-clean-energy-targets-at-current-pace-re/573769/
Duke Energy, Dominion Energy and Southern Company are not making investments consistent with their clean energy goals, according to a report released Monday from Synapse Energy Economics.

Regional/Mountain Valley Pipeline, other

DEQ notes problems with erosion control during lull in work on Mountain Valley Pipeline

- The Roanoke Times – 3/10/20

https://www.roanoke.com/news/local/deq-notes-problems-with-erosion-control-during-lull-in-work/article_1e1f6c4a-60eb-519b-ae14-9e44008f47cc.html
At a time when building the Mountain Valley Pipeline was focused almost entirely on controlling erosion, muddy runoff continued to flow from dormant construction sites.

Editorial: What the Constitution Pipeline says about Virginia's pipelines

- The Roanoke Times – 3/10/20

https://www.roanoke.com/opinion/editorials/editorial-what-the-constitution-pipeline-says-about-virginia-s-pipelines/article_831856dd-5789-56d7-98a7-0563e0d19925.html

Petrochemical Town Hall Near Pittsburgh Spotlights Pollution, Health Worries

- The Allegheny Front – 3/5/20

https://www.alleghenyfront.org/petrochemical-town-hall-near-pittsburgh-spotlights-pollution-health-worries/
Subsidies for the petrochemical industry may bring a boost in construction jobs but could have a negative effect on Pennsylvania's air quality and public health, according to speakers at a town hall held near Pittsburgh Wednesday.

Big Picture:

Fracking Needs a Shakeout, Not a Bailout

- The Washington Post – 3/12/20

https://www.washingtonpost.com/business/energy/fracking-needs-a-shakeout-not-a-bailout/2020/03/12/fe60e86c-6464-11ea-8a8e-5c5336b32760_story.html
Goldman Sachs expects oversupply in the European gas market to require a shut-in of US LNG exports, and ultimately a shut-in of Appalachia gas production, a trend that was already visible from the collapse in Chinese demand due to the coronavirus and slower gas demand. (from a related article)
Also Related:

- https://www.abralliance.org/wp-content/uploads/2020/03/Trump-considers-relief-for-shale-producers-during-outbreak-EE-News-3-10-20.pdf

Democratic Senators push to include FERC reform in comprehensive Senate energy bill

- Utility Dive – 3/9/20

https://www.utilitydive.com/news/democratic-senators-push-to-include-ferc-reform-in-comprehensive-senate-ene/573707/
Amendments reflect congressional concerns about market manipulation, tolling orders and due process, and partisan FERC make-up.

How Coronavirus Could Set Back the Fight Against Climate Change

- Time – 3/10/20

https://time.com/5795150/coronavirus-climate-change/

OR

What would happen if the world reacted to climate change like it's reacting to the coronavirus?

- Fast Company – 3/10/20

https://www.fastcompany.com/90473758/what-would-happen-if-the-world-reacted-to-climate-change-like-its-reacting-to-the-coronavirus

Polar ice caps melting six times faster than in 1990s

- The Guardian – 3/11/20

https://www.theguardian.com/environment/2020/mar/11/polar-ice-caps-melting-six-times-faster-than-in-1990s
Scientists say the ice loss from Greenland and Antarctica is tracking the worst-case climate warming scenario set out by the Intergovernmental Panel on Climate Change (IPCC).

Trump Administration Presses Cities to Evict Homeowners from Flood Zones

- The New York Times – 3/11/20

https://www.nytimes.com/2020/03/11/climate/government-land-eviction-floods.html
Whether eminent domain is the proper tool in this case is an open question. However, eventually these homes are going away…one way or another. We need a better method for dealing with this.

Green Energy's $10 Trillion Revolution Faces Oil Crash Test

- Bloomberg Green - 3/9/20

https://www.bloomberg.com/amp/news/articles/2020-03-10/green-energy-s-10-trillion-revolution-faces-oil-crash-test
"Now it doesn't make sense to reduce your investment in renewables if the oil price crashes," said Mark Lewis, head of sustainability at BNP Paribas Asset Management. "It's more logical to reduce your investment in oil." Sadly, logic isn't something we frequently see from the current administration.