

**RESOLUTION
OF THE COUNCIL OF THE CITY OF STAUNTON, VIRGINIA
TO AUTHORIZE
PARTICIPATION AS AMICUS CURIAE IN A LEGAL CHALLENGE TO THE
ATLANTIC COAST PIPELINE FOLLOWING FINAL ACTION BY THE FEDERAL
ENERGY REGULATORY COMMISSION**

BE IT RESOLVED by the Council of the City of Staunton, Virginia, as follows:

1. In October 2017, the Federal Energy Regulatory Commission (FERC) issued a Certificate of Public Convenience and Necessity authorizing construction of the Atlantic Coast Pipeline by Atlantic Coast Pipeline, LLC, on a route passing nearby the City of Staunton and implicating the recharge zone for the City of Staunton's major water supply source at Gardner Spring.
2. Gardner Spring supplies approximately half of the City of Staunton's water and also benefits citizens of surrounding Augusta County. The potential for impacts to Gardner Spring from spills into sinkholes along the pipeline corridor has long continued to concern the City of Staunton and its governing body, the City Council (Council). Its concerns were validated by a dye trace study. As Council interprets the study, sinkholes in and near the pipeline corridor could convey pollutants to Gardner Spring—as one of the Shenandoah Valley's largest karst springs—and other springs via conduit flow.
3. Council's early concerns had caused it to hold a forum on August 28, 2014 to provide an opportunity for it and citizens of Staunton and of other nearby localities to pose questions about the Atlantic Coast Pipeline project.
4. Following the forum in 2014, Council adopted a resolution opposing the Atlantic Coast Pipeline on October 23, 2014. Since that time, Council has remained engaged in communicating with FERC and other government agencies regarding the Atlantic Coast Pipeline, consistently opposing the project, especially given ongoing concerns about the implications for Gardner Spring.
5. On May 24, 2016, Staunton Mayor Carolyn Dull wrote to FERC on behalf of Council, endorsing concerns raised by Carolyn Bragg, Chair of the Augusta County Board of Supervisors, in an April 12, 2016 letter regarding FERC's failure to consider alternative routes and impacts to recharge areas for water supplies, among other concerns. Again, citizens of Augusta County also benefit from the vital water supply provided by Gardner Spring.
6. Through Mayor Carolyn Dull, Council also wrote to the Virginia Department of Environmental Quality on February 21, 2017, urging it to press FERC about the concerns over

the vulnerability of Gardner Spring, and to criticize FERC's failure to analyze impacts to the City of Staunton water supply.

7. Council does not believe that its ongoing legitimate concerns regarding negative effects of the Atlantic Coast Pipeline to the City of Staunton water supply and other detrimental effects of the pipeline project have been adequately studied and addressed by FERC.

8. Under Section 11, Paragraph Sixth of its Charter, Council has the power to take action "to insure a sufficient supply of water for the . . . City, and to protect the same from pollution" and "to prevent . . . any pollution or threatened pollution of such water supply, and [to protect against] any and all acts likely to impair the purity thereof."

9. Conservation groups, represented by the Southern Environmental Law Center, have made the City of Staunton aware of the possible opportunity to participate in their recent legal challenge to the Certificate of Public Convenience and Necessity issued by FERC, by submitting an *amicus curiae* or a friend of the court brief. Council has been briefed on this possibility several times by the City Attorney over the course of recent months.

10. Council realistically recognizes that submitting such a brief would likely be its last meaningful opportunity to voice its important concerns and, specifically, to restate and reemphasize its consistent, longstanding, and unanswered concerns about what it believes is the substantial danger the Atlantic Coast Pipeline poses to Gardner Spring and the City of Staunton water supply and as a result, to its citizens.

11. Council, in its October 23, 2014, resolution opposing the Atlantic Coast Pipeline, stated its belief that the natural gas to be transported via the pipeline is not needed to meet the energy requirements of Virginia. Council further believes that evidence that has emerged since 2014 has served to confirm its view on this point. Council also recognizes that two FERC Commissioners have determined that the Atlantic Coast Pipeline is not in the public interest.

12. Council believes that it is fundamentally unfair for local governments and their citizens, including the City of Staunton and its citizens, essentially to have to assume serious risks and shoulder heavy burdens occasioned by the construction of the Atlantic Coast Pipeline, especially when the need for the pipeline has not been adequately demonstrated, and when accumulating evidence argues against there being a genuine need for the pipeline.

13. Council has been informed that the Board of Supervisors of Nelson County have approved the participation of Nelson County in a brief *amicus curiae* to the court that hears the legal challenges to the FERC Certificate of Public Convenience and Necessity. Council also has been informed that other localities and government agencies affected by the construction of the Atlantic Coast Pipeline are possibly considering joining such brief.

14. Council believes that it should voice its concerns, once again, especially now in a judicial forum so that the court may be even more fully informed about the matter.

NOW, THEREFORE, in light of these circumstances and the recommendation of the City Attorney, Council endorses and authorizes the participation of the City of Staunton in a brief *amicus curiae* to present its concerns to the court that hears the legal challenges to the FERC Certificate of Public Convenience and Necessity, along with such other localities as may join such a brief.

Adopted this 25 day of October, 2018.

Carolyn W. Dull
Carolyn W. Dull, Mayor

ATTEST: Suzanne F. Simmons
Suzanne F. Simmons,
Clerk of Council