



June 15, 2023

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: Mountain Valley Pipeline, LLC
MVP Southgate Project
Docket No. CP19-14-000
Request for Extension of Time

Dear Secretary Bose:

Mountain Valley Pipeline, LLC (“Mountain Valley”) requests that the Federal Energy Regulatory Commission (“Commission”) issue an order in the above-identified docket granting an extension of time until June 18, 2026 to complete construction of the MVP Southgate Project (“Southgate Project”) and place the Southgate Project facilities into service. As demonstrated below, good cause exists for the requested extension of time and the extension is consistent with Commission precedent.

On June 18, 2020, the Commission issued an order (“Certificate Order”) granting a Certificate of Public Convenience and Necessity to Mountain Valley for the Southgate Project.¹ The Certificate Order was the result of a nearly two-year certificate process in Docket No. CP19-14-000 and a six month pre-filing process in Docket No. PF18-4-000. The United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) affirmed the Certificate Order in an order issued June 28, 2022.² The D.C. Circuit thoroughly examined and rejected multiple challenges to the Certificate Order on various Natural Gas Act and National Environmental Policy Act grounds.

Ordering Paragraph (C)(1) of the Certificate Order requires that Mountain Valley make the Southgate Project facilities available for service within three years, or by June 18, 2023. As the Commission recently held when granting a second extension of time to complete construction of the Mountain Valley Pipeline Project (Mainline System),³ “construction deadlines may be extended for good cause” and good cause “can be shown by a project sponsor demonstrating that it made good faith efforts to meet its deadline but encountered circumstances beyond its control.”⁴ The Commission also recognized that “providing more time for a project applicant to obtain necessary permits can be an appropriate basis for granting an extension of time.”⁵ Good cause exists for Mountain Valley’s request. As the Commission is well aware, construction and

¹ *Mountain Valley Pipeline, LLC*, 171 FERC ¶ 61,232 (2020), *order on reh’g*, 172 FERC ¶ 61,261 (2020), *aff’d sub. nom.*, *Sierra Club, et al. v. FERC*, 38 F.4th 220 (D.C. Cir. 2022).

² *Sierra Club, et al. v. FERC*, 38 F.4th 220 (D.C. Cir. 2022).

³ Docket Nos. CP16-10-000, CP19-477-000, and CP21-57-000.

⁴ *Mountain Valley Pipeline, LLC*, 180 FERC ¶ 61,117 at P 13 (2022) (“Mainline System 2026 Extension Order”).

⁵ *Id.* at P 16.

completion of the Mainline System has been delayed due to persistent litigation and resultant repetitive permitting processes. The Southgate Project has experienced its own permitting delays, some of which is directly tied to Mainline System permitting.⁶ And even if the Southgate Project had all of its permits, the Mainline System permitting delays would have prevented Mountain Valley from commencing construction of the Southgate Project under the terms of the Certificate Order.⁷ The circumstances have changed. President Biden signed legislation that will expedite the completion of the Mainline System, which the United States Congress found and declared to be in the national interest.⁸ As of the date of this letter, Mountain Valley is awaiting permits from the U.S. Army Corps of Engineers and approval from the Commission to resume full construction of the Mainline System. Mountain Valley is targeting to complete construction and commence service on the Mainline System by the end of 2023. After resolving Mainline System permitting, Mountain Valley can resume its permitting efforts for the Southgate Project. Due to these issues, good cause exists for an extension of time, until June 18, 2026, to complete construction of the Southgate Project and place the Southgate Project facilities into service.⁹

There continues to be significant demand for the Southgate Project. In the Certificate Order, the Commission held “[w]here, as here, it is demonstrated that specific shippers have entered into precedent agreements for project service, the Commission places substantial reliance on those agreements to find that the project is needed.”¹⁰ The Southgate Project continues to be supported by a long-term precedent agreement with Dominion Energy North Carolina at the same capacity levels as reviewed in the Certificate Order to meet the increased demand for natural gas supplies in North Carolina. In addition, the United States Congress recognized the need for the Mainline System to meet demonstrated demand in Southeast markets like North Carolina, which the Southgate Project will serve:

“CONGRESSIONAL FINDINGS AND DECLARATION.—The Congress hereby finds and declares that the timely completion of construction and operation of the Mountain Valley Pipeline is required in the national interest. The Mountain Valley Pipeline will serve demonstrated natural gas demand in the Northeast, Mid-Atlantic, and Southeast regions, will increase the reliability of natural gas supplies and the availability of natural gas at reasonable prices, will allow natural gas producers to access additional markets for their product, and will reduce carbon emissions and facilitate the energy

⁶ *Mountain Valley Pipeline, LLC v. N.C. Dep’t of Env’t Quality*, 990 F.3d 818, 833 (4th Cir. 2021).

⁷ Certificate Order at P 9 (“While we are authorizing the Southgate Project with this order, we are directing the Office of Energy Projects to not issue any notice to proceed with construction of the Southgate Project until Mountain Valley receives the necessary federal permits for the Mainline System, and the Director of the Office of Energy Projects, or the Director’s designee, lifts the stop-work order and authorizes Mountain Valley to continue constructing the Mainline System.”).

⁸ Fiscal Responsibility Act of 2023, H.R.3746, 118th Cong. § 324 (2023).

⁹ 18 C.F.R. § 385.2008(a). Rule 2008 of the Commission’s Rules of Practice and Procedure allows the Commission, for good cause, to extend the time by which a project sponsor is required to complete construction and place the project facilities into service.

¹⁰ Certificate Order at P 41.

transition.”¹¹

In granting extensions of time to construct project facilities in other proceedings, the Commission stated that it “generally will grant an extension of time if the movant files for an extension of time within a timeframe during which the environmental findings underlying the Commission’s authorization can be expected to remain valid.”¹² The environmental findings underlying the Commission’s authorizations will remain valid through the term of the extension. This conclusion was recently affirmed by the Commission in granting an extension of time through October 2026 for the Mainline System.¹³ The same is true for the Southgate Project, which was authorized by the Commission three years *after* the Mainline System.

The Commission has routinely granted similar extensions of time and has granted longer extensions either individually or in aggregate.¹⁴ Despite this robust precedent, Mountain Valley expects opposition to its request for an extension of time. The Commission’s stated policy with respect to requests for extensions of construction deadlines is clear: “The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission’s environmental analysis for the certificate complied with the National Environmental Policy Act. At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.”¹⁵

Mountain Valley remains committed to completing this important infrastructure project. Granting this extension of time will enable Mountain Valley to continue to work cooperatively with all affected stakeholders and permitting agencies to construct the Southgate Project and realize its benefits.

¹¹ Fiscal Responsibility Act of 2023, H.R.3746, 118th Cong. § 324(b) (2023).

¹² *Trunkline Gas Company, LLC, et al.*, 179 FERC ¶ 61,086 at P 8 (2022).

¹³ Mainline System 2026 Extension Order at P 24 (holding that “there has been no showing that the environmental effects of the project have changed materially since the Commission authorized the project [in 2017].”).

¹⁴ *See, e.g., Sabal Trail Transmission, LLC*, Letter Order, Docket No. CP15-17-000 (issued May 3, 2023) (granting second extension of time for a total extension of four years); *Midship Pipeline Co., LLC*, 182 FERC ¶ 61,031 (2023) (granting second extension of time for a total extension of four years); *RH energytrans, LLC*, Letter Order, Docket No. CP18-6-000 (issued Dec. 21, 2022) (granting second extension of time for a total extension of four years); *Delfin LNG LLC*, 181 FERC ¶ 61,144 (2022) (granting fourth extension of time for a total extension of four years); Mainline System 2026 Extension Order (granting second extension through October 17, 2026 to complete Mainline System construction for a total extension of six years); *Trunkline Gas Company, LLC, et al.*, 179 FERC ¶ 61,086 at P 8 (2022) (granting second extension of time for a total extension of eight years). Mountain Valley reserves the right to request additional extensions if necessary.

¹⁵ *Transcontinental Gas Pipe Line Company, LLC*, Notice of Request for Extension of Time, Docket No. CP17-101-005 (issued May 4, 2023).

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If you have any questions, please do not hesitate to contact me at (412) 553-5786 or meggerding@equitransmidstream.com. Thank you.

Respectfully submitted,

MOUNTAIN VALLEY PIPELINE, LLC

by and through its operator,

EQM Gathering OPCO, LLC



By:

Matthew Eggerding

Deputy General Counsel