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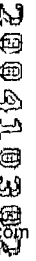
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April 14, 2020

**BY ELECTRONIC FILING**

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Richmond, Virginia 23219

*Application of Virginia Natural Gas, Inc.  
For approval and certification of natural gas facilities: the Header Improvement Project, and for  
approval of Rate Schedules and Terms and Conditions for Pipeline Transportation Service  
Case No. PUR-2019-00207*

Dear Mr. Peck:

Please find enclosed for electronic filing in the above-captioned proceeding the **PUBLIC VERSION** of *Virginia Natural Gas, Inc.'s Rebuttal Testimony*. A confidential version is also being filed under seal under separate cover.

Please do not hesitate to call if you have any questions in regard to the enclosed.

Highest regards,

/s/ Lisa R. Crabtree

Lisa R. Crabtree

Enclosures

cc: Ms. Shepelle Watkins-White  
Mr. Tyler Lake  
Elizabeth B. Wade, Esq.  
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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

APPLICATION OF )  
 )  
VIRGINIA NATURAL GAS, INC. ) Case No. PUR-2019-00207  
 )  
For approval and certification of natural gas )  
facilities, the Header Improvement Project, )  
and for approval of Rate Schedules and )  
Terms and Conditions for Pipeline )  
Transportation Service )



**REBUTTAL TESTIMONY**

Filed: April 14, 2020

Volume 1 of 1

PUBLIC VERSION

WITNESS REBUTTAL TESTIMONY SUMMARY

Witness: Kenneth W. Yagelski

Title: Director, Gas Supply AGL Services Company

Summary:

Company Witness Kenneth Yagelski responds to comments and recommendations offered by Allison F. Samuel, Lauren C. Govoni, and Scott C. Armstrong on behalf of the Commission Staff. Specifically, he addresses the Company's risk mitigation and protection of VNG's customers as it relates to the Project.

Before addressing Staff's testimony, Mr. Yagelski first comments on recent environmental/energy legislation passed during the 2020 Regular Session of the Virginia General Assembly, including Virginia's participation in the Regional Greenhouse Gas Initiative, and testifies that the Header Improvement Project is precisely the type of natural gas infrastructure required to ensure adequate natural gas supply over the coming decades.

Mr. Yagelski next testifies regarding Ms. Samuel's recommendation to hold VNG's distribution customers harmless in the event of default by C4GT. Specifically, Mr. Yagelski testifies that VNG never had any expectation that its distribution customers would be exposed to the risk of financial loss in the event of a default by C4GT, or any of the Project's other planned shippers, and explains the protections in place.

Next, Mr. Yagelski addresses pipeline safety issues raised by Staff Witness Govoni. Indeed, Mr. Yagelski testifies that because safety is VNG's highest priority, the Company strives to go above and beyond minimum requirements to minimize risk on its system, while maintaining reasonable costs for its customers. Which is why, as part of designing this Project, the Company committed to meeting or exceeding all applicable federal, state and internal safety guidelines during and following construction of the proposed Project, including but not limited to those discussed in Section IV.J of the Appendix.

Finally, Mr. Yagelski responds to ratepayer protections recommended by Staff Witness Armstrong, noting that this is not a rate case and the Company does not believe the Commission is approving any cost recovery at this time. As such, Mr. Yagelski concludes that Staff Witness Armstrong's recommendation is unnecessary.

**REBUTTAL TESTIMONY  
OF  
KENNETH W. YAGELSKI  
ON BEHALF OF  
VIRGINIA NATURAL GAS, INC.  
BEFORE THE  
STATE CORPORATION COMMISSION OF VIRGINIA  
CASE NO. PUR-2019-00207**

- 1 **Q. Please state your name, position, and business address.**
- 2 A. My name is Kenneth W. Yagelski, and I am the Director of Gas Supply for AGL Services
- 3 Company (“AGSC”). In this role, I am responsible for gas supply activities for the
- 4 AGSC distribution operations, which includes Virginia Natural Gas, Inc. (“VNG” or the
- 5 “Company”). In addition, I direct business advocacy in proceedings before the Federal
- 6 Energy Regulatory Commission (“FERC”) on behalf of Southern Company Gas
- 7 (“GAS”), formerly known as AGL Resources Inc. (“AGLR”), and its four local
- 8 distribution companies. My business address is 544 S. Independence Boulevard, Virginia
- 9 Beach, Virginia 23452.
- 10 **Q. Have you previously submitted testimony in this proceeding?**
- 11 A. Yes. I submitted pre-filed direct testimony on behalf of VNG to the State Corporation
- 12 Commission of Virginia (“Commission”) in this proceeding on December 6, 2019, in
- 13 support of approval and certification of the Company’s proposed Header Improvement
- 14 Project (the “Project”), which includes construction of the (i) Transco Interconnect
- 15 Pipeline, (ii) Transco Interconnect Compressor Station, (iii) Quantico Parallel Pipe, (iv)
- 16 Mechanicsville Parallel Pipe, (v) Ladysmith Compressor Station Expansion, and (vi)
- 17 Gidley Compressor Station.

1 **Q. What is the purpose of your rebuttal testimony?**

2 A. The purpose of my rebuttal testimony is to respond to comments and recommendations  
3 offered by Allison F. Samuel, Lauren C. Govoni, and Scott C. Armstrong on behalf of the  
4 Commission Staff ("Staff"). Specifically, I will address the Company's risk mitigation  
5 and protection of VNG's customers as it relates to the Project.

6 **Q. Are you sponsoring any exhibits or schedules with your rebuttal testimony?**

7 A. Yes. Company Exhibit No. \_\_, KQY, consisting of confidential Rebuttal Schedule 1,  
8 was prepared under my direction and supervision, and is accurate and complete to the  
9 best of my knowledge and belief.

10 **Q. Before addressing Staff's testimony, please address whether Virginia's decision to**  
11 **join the Regional Greenhouse Gas Initiative ("RGGI") or other environmental**  
12 **legislation has impacted the Project.**

13 A. The Company is not aware of any impact to the Project as a result of legislation passed  
14 during the 2020 Regular Session of the Virginia General Assembly. Based on legislation  
15 effective July 1, 2020, VNG expects that Virginia will soon become a full participant in  
16 RGGI, as well as partake in other energy/environmental initiatives as part of the Virginia  
17 Clean Economy Act (House Bill 1526 and Senate Bill 851), and the Clean Energy and  
18 Community Flood Preparedness Act (House Bill 981 and Senate Bill 1027). Through  
19 RGGI, a regional cap and trade program, the Virginia Department of Environmental  
20 Quality ("DEQ") will enact regulations that call for Virginia power plants to reduce  
21 emissions by 30% by 2030, with stricter reductions enacted over time.

22 While this landmark environmental legislation establishes a framework for a transition to

1 renewable energy within the electric sector, it does not impact the immediate need for the  
2 Header Improvement Project. Indeed, the Virginia Energy Plan (Senate Bill 94 and  
3 House Bill 714), which was also passed in the 2020 Session, supports the use of natural  
4 gas to help meet future environmental compliance requirements. Specifically, the  
5 Virginia Energy Plan references the importance of natural gas infrastructure to “ensure  
6 the adequate supply of natural gas necessary to ensure the reliability of the electricity  
7 supply and the needs of businesses during the transition to renewable energy.” The  
8 Header Improvement Project is precisely the type of natural gas infrastructure required to  
9 ensure adequate natural gas supply over the coming decades.

10 **Q. Additionally, are there any updates you can provide related to customer agreements**  
11 **for service from the Header Improvement Project?**

12 **A.** Yes. First, there have been no changes regarding the customer agreements related to  
13 Virginia Power Services Energy (“VPSE”) and Columbia Gas of Virginia (“CVA”).  
14 Both entities have affirmed their intent to take service under the proposed rate schedules  
15 upon commercial operation of the Project.

16 C4GT, LLC (“C4GT”), an Independent Power Producer, also remains committed to the  
17 Project. However, it is my understanding that due to uncertainty in the gas supply and  
18 financial markets caused by the spread of the novel coronavirus, or COVID-19, C4GT  
19 has indicated [BEGIN CONFIDENTIAL] [REDACTED]

20 [REDACTED] [END CONFIDENTIAL] See my  
21 confidential Rebuttal Schedule 1. The Company will therefore adjust the projected in-  
22 service date for the C4GT components of the Project by that period, but will not extend  
23 in-service dates for the remaining components necessary to serve VPSE, CVA and

1 VNG's distribution customers. We believe this slight delay can be accommodated  
2 without undue impact to the overall Project or the value it will bring to customers. As I  
3 discuss below, the Company is also committed to holding the distribution customers  
4 harmless related to C4GT's participation in the Project.

5 **Q. Please provide a brief overview of Staff's testimony.**

6 A. Staff filed the testimony of three witnesses:

- 7 1. Staff Witness Samuel provides an overview of the Application, and makes  
8 recommendations related to permits, approvals and coordination with DEQ, as  
9 well as a recommendation to hold VNG's distribution customers harmless in the  
10 event of a default by C4GT, which is the independent power producer primarily  
11 driving the need for the Project;
- 12 2. Staff Witness Govoni discusses the role of the Commission regarding public  
13 safety and the design and construction characteristics of the Project; and
- 14 3. Staff Witness Armstrong testifies regarding the costs associated with the Project  
15 and recommends certain ratepayer protections.

16 As noted above, my rebuttal testimony will address Staff Witness Samuel's and Staff  
17 Witness Armstrong's recommendations related to distribution customer protection. I will  
18 also speak to Staff Witness Govoni's testimony regarding pipeline safety considerations  
19 relative to the Project.

20 In addition to myself, the Company is filing the rebuttal testimony of Company Witness  
21 Patrick Winnubst, who will address the findings and recommendations contained in the  
22 DEQ Report filed in this proceeding on February 25, 2020 and March 2, 2020, as well as



1 the rebuttal testimony of John M. Cogburn, who will address rate design and cost  
2 allocation recommendations of the Staff.

3 **Q. Staff Witness Samuel provides an overview of the Precedent Agreement (“PA”)**  
4 **VNG entered into with C4GT and notes that Staff does not know if the conditions**  
5 **within the PA are sufficient to adequately shield VNG from financial risk under all**  
6 **circumstances, but regardless of whether the PA is sufficient or not, Staff**  
7 **recommends that Commission approval of a certificate of public convenience and**  
8 **necessity (“CPCN”) for the Header Improvement Project be conditioned on the**  
9 **requirement that the Company hold its customers harmless of any financial loss due**  
10 **to a default by C4GT or if the C4GT project is not built. (Samuel at 12-13.) Please**  
11 **respond.**

12 **A. VNG never had any expectation that its distribution customers would be exposed to the**  
13 **risk of financial loss in the event of a default by C4GT, or any of the Project’s other**  
14 **planned shippers. As Staff suggests, the Company agrees to hold its distribution**  
15 **customers harmless, in the event of a default by C4GT on its contractual obligations or if**  
16 **the C4GT project is not constructed, from any costs that do not benefit these customers.**  
17 **Any costs sought for recovery from such customers would of course be subject to review**  
18 **for reasonableness and prudence in an appropriate future rate proceeding.**

19 Additionally, the Company is confident that the PA is structured such that the utility has  
20 robust protection in default scenarios. Specifically, within the PA there are three relevant  
21 time periods:

- 22 • During construction/pre-Commercial Operation Date (“COD”) – [BEGIN

23 **CONFIDENTIAL]** [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

- After COD – [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

- After the conclusion of the original PA – [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

Notably, at all times during these periods, the Precedent Agreements require the necessary credit support. Specifically for C4GT, [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

Additional discussion of the various protections in place under the PAs was provided through the discovery process (included as Pages 5-14 of Staff Witness Armstrong’s Appendix B), as well as in C4GT’s PA (included as Pages 26-101 of Staff Witness Armstrong’s Appendix B).

1 Finally, in the event of default, VNG has the ability (and obligation under the PAs) to

2 [BEGIN CONFIDENTIAL] [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] [END CONFIDENTIAL]

8 In sum, the PAs are structured in such a way as to minimize risk to the utility to the  
9 greatest extent possible. The Company is acutely aware that the Header Improvement  
10 Project is a large and important capital project, and that such undertakings are never  
11 completely risk-free. The Company agrees to shield distribution customers from that  
12 risk, as noted above.

13 **Q. Staff Witness Govoni outlines the safety considerations relevant to the Header  
14 Improvement Project and speaks to the Commission’s role in ensuring pipeline  
15 safety. Do you have any comments on her testimony?**

16 **A.** Yes, I do. The Company appreciates Staff’s tireless efforts to ensure that natural gas  
17 operators providing service within Virginia are designing, constructing, operating, and  
18 maintaining their pipeline systems in accordance with minimum Federal Pipeline Safety  
19 Standards, as adopted by the Commission. Indeed, Safety First is the number one value  
20 that drives the Company’s approach to all of our daily operations. Safety First means that  
21 the safety of our employees and customers is paramount, and we will perform and  
22 maintain every job, every day, safely. Because safety is VNG’s highest priority, the  
23 Company strives to go above and beyond minimum requirements to minimize risk on our

1 system, while maintaining reasonable costs for our customers. Which is why, as part of  
2 designing this Project, the Company committed to meeting or exceeding all applicable  
3 federal, state and internal safety guidelines during and following construction of the  
4 proposed Project, including but not limited to those discussed in Section IV.J of the  
5 Appendix. A demonstrated commitment to safety in every aspect of our operations  
6 benefits not just VNG's employees, but our customers and the Commonwealth as a  
7 whole.

8 **Q. Lastly, Staff Witness Armstrong testifies that as an additional element of customer**  
9 **protection, the Commission could consider capping the costs to which VNG's**  
10 **distribution customers are exposed, and that such a cap could be based on VNG's**  
11 **customers' portion of the \$345.9 million of capital costs estimated in the Company's**  
12 **Application, or approximately \$15.8 million. (Armstrong at 16-17.) Please respond.**

13 **A.** This proceeding is not a rate case and the Company does not believe the Commission is  
14 approving any cost recovery at this time. As such, VNG does not believe that such a  
15 finding is necessary. Indeed, the Company understands that it will have an obligation to  
16 demonstrate that whatever the final capital cost of the Project is, that figure – particularly  
17 as it relates to any amount allocated to VNG's distribution customers – was reasonable  
18 and prudent once costs are known and final.

19 **Q. Do you have any final remarks?**

20 **A.** Yes. The Company appreciates Staff's thorough investigation of the Project and  
21 testimony in this matter. From the Company's perspective, there appears to be little in  
22 dispute with Staff, and we urge the Commission to expeditiously approve this important  
23 natural gas infrastructure investment. The Header Improvement Project will ensure

1 reliable energy infrastructure is in place and clean natural gas is readily available to  
2 support the energy needs for positive economic growth in eastern central Virginia.

3 **Q. Does this conclude your pre-filed rebuttal testimony?**

4 **A. Yes, it does.**

200410302

Company Exhibit No.       
Witness: KWY  
Rebuttal Schedule 1  
Page 1 of 1

**CONFIDENTIAL INFORMATION  
REDACTED ENTIRELY**

WITNESS REBUTTAL TESTIMONY SUMMARY

Witness: Patrick Winnubst

Title: Senior Environmental Specialist, Environmental Affairs, Southern Company Gas

Summary:

Company Witness Patrick Winnubst addresses recommendations offered in the Virginia Department of Environmental Quality (“DEQ”) Report filed on February 25, 2020, and additional comments filed by the DEQ on March 2, 2020. Mr. Winnubst also responds to comments offered by Commission Staff Witness Allison F. Samuel regarding recommendations in the DEQ Report.

Mr. Winnubst first addresses Staff Witness Samuel’s recommendations that the Commission condition approval of the Project on obtaining all necessary environmental and applicable local government permits and approvals and that VNG work with the DEQ to address recommendations in the DEQ Report. As Mr. Winnubst testifies, the Company agrees that the Commission’s approval should be conditioned upon obtaining all necessary and applicable approvals and permitting. Mr. Winnubst further notes that the Company has been working, and will continue working, with DEQ and related agencies to address the recommendations in the DEQ Report, subject to the comments discussed in his testimony. Mr. Winnubst next walks through certain DEQ and related agency recommendations that the Company wishes to clarify for the Commission, or otherwise asks the Commission to reject for the reasons stated therein.

A statement of Mr. Winnubst’s background and qualifications is attached to his testimony as Appendix A.

**REBUTTAL TESTIMONY  
OF  
PATRICK WINNUBST  
ON BEHALF OF  
VIRGINIA NATURAL GAS, INC.  
BEFORE THE  
STATE CORPORATION COMMISSION OF VIRGINIA  
CASE NO. PUR-2019-00207**

- 1   **Q.   Please state your name, position, and business address.**
- 2   A.   My name is Patrick Winnubst, and I am a Senior Environmental Specialist,
- 3       Environmental Affairs, for Southern Company Gas. In this role, I have direct
- 4       environmental oversight for Virginia Natural Gas, Inc. (“VNG” or the “Company”). My
- 5       business address is Ten Peachtree Place, Atlanta, Georgia 30309.
  
- 6   **Q.   Please describe your responsibilities as a Senior Environmental Specialist.**
- 7   A.   In this role, I manage all natural resource-related permitting efforts in Georgia,
- 8       Tennessee, and Virginia. A full statement of my background and qualifications is
- 9       included in Appendix A.
  
- 10  **Q.   What is the purpose of your rebuttal testimony?**
- 11  A.   I am testifying in support of approval and certification of the Company’s proposed
- 12       Header Improvement Project (“Project”), which includes construction of the (i) Transco
- 13       Interconnect Pipeline, (ii) Transco Interconnect Compressor Station, (iii) Quantico
- 14       Parallel Pipe, (iv) Mechanicsville Parallel Pipe, (v) Ladysmith Compressor Station
- 15       Expansion, and (vi) Gidley Compressor Station. Specifically, the purpose of my rebuttal
- 16       testimony is to address recommendations included in the report submitted by the Virginia
- 17       Department of Environmental Quality (“DEQ”) in this proceeding on February 25, 2020
- 18       (“DEQ Report”), and the additional comments submitted by DEQ in this proceeding on



1 March 2, 2020 (“DEQ Comments”). In addition, I will respond to the comments offered  
2 by the State Corporation Commission of Virginia (“Commission”) Staff (“Staff”)  
3 Witness Allison F. Samuel regarding the recommendations in the DEQ Report.

4 **Q. Are you sponsoring any exhibits or schedules with your rebuttal testimony?**

5 A. Yes. Company Exhibit No. \_\_, PW, consisting of Rebuttal Schedule 1, was prepared  
6 under my direction and supervision, and is accurate and complete to the best of my  
7 knowledge and belief.

8 **Q. Before you begin discussing the DEQ Report, please comment on Staff Witness**  
9 **Samuel’s recommendations that the Commission condition approval of the Project**  
10 **on the Company obtaining all necessary environmental and applicable local**  
11 **government permits and approvals and that VNG work with the DEQ to address**  
12 **the recommendations in the DEQ Report. (Samuel at 7.)**

13 A. The Company agrees that the Commission’s approval should be conditioned upon  
14 obtaining all necessary and applicable approvals and permitting. Indeed, as shown in  
15 Appendix Attachment I.I.I, the Company specifically allotted time in its detailed timeline  
16 for the Project to allow for applicable environmental and local government approval and  
17 permitting processes, some of which are identified in Appendix Section I.K. I would  
18 further note that the Company has been working with the DEQ and related agencies to  
19 address the recommendations in the DEQ Report, and will continue to work with those  
20 agencies, subject to the comments on certain recommendations noted in my testimony  
21 below.

1 **Q. Please comment generally as to the agency recommendations contained in the**  
2 **“Summary of Recommendations” on page 7 of the DEQ Report.**

3 **A. The Company appreciates the coordinated review by the DEQ and does not object to the**  
4 **“Summary of Recommendations” except as discussed in the comments below.**

#### 5 **DISCUSSION OF DEQ RECOMMENDATIONS**

6 **Q. On pages 8-11, the DEQ Report generally addresses potential environmental**  
7 **impacts and mitigation related to Water Quality and Wetlands (Item 1), including a**  
8 **requirement in Item 1(c) for a complete Standard Joint Permit Application (“JPA”),**  
9 **noting that the “[p]rocessing of any required [Virginia Water Protection (“VWP”)]**  
10 **permit will be in accordance with State Water Control Law and VWP Permit**  
11 **Program regulations, including applicable timelines.” (DEQ Report at 9) Pursuant**  
12 **to such regulations, the DEQ Report goes on to note that the “applicant shall**  
13 **demonstrate to the satisfaction of the board that...the proposed activity...is the least**  
14 **environmentally damaging practicable alternatives.” (Id.) Similar**  
15 **recommendations are provided on pages 3-5 of the DEQ Comments. Please**  
16 **respond.**

17 **A. While the Company agrees that it will be required to submit a JPA prior to construction**  
18 **of the Project, it is premature to require a VWP permit until such time as the appropriate**  
19 **agency review processes have been completed, and thus this recommendation should be**  
20 **rejected. As the DEQ Report states, the Company will be required to submit a JPA to the**  
21 **U.S. Army Corps of Engineers (“USACE”), Virginia Marine Resources Commission**  
22 **(“VMRC”), and DEQ to authorize Project-related impacts to streams and wetlands within**  
23 **the respective jurisdictions of those agencies. Impacts to streams and wetlands under**

1 state jurisdiction, as well as certain water withdrawals, typically require a VWP permit  
2 from the State Water Control Board (“SWCB”). DEQ acts on behalf of the SWCB when  
3 it is not in session and has full authority to issue VWP permits in most circumstances.  
4 VWP permits can be issued through any of several processes as either individual permits,  
5 general permits, or permits-by-rule. VWP permits also may be waived, deemed not  
6 required, or determined to be covered by other federal or state permits. Each of these  
7 VWP permit processes entails differing information submission, agency review, and  
8 procedural requirements under the applicable SWCB regulations.

9 In accordance with DEQ’s VWP Permit and Compliance Manual (GM19-2003) (Sept.  
10 2019), the agency’s determination of which VWP permit process is appropriate is made  
11 upon its review of the JPA. That decision typically is based on a number of factors,  
12 including the type of permit or permits requested by the applicant, the nature of the  
13 stream and wetland impacts, and the USACE’s decision about which of its permit  
14 procedures will be applied. Prior to submission of a JPA, it is premature to determine  
15 which VWP permit process will apply.

16 The Company does not read the DEQ Report to suggest that the Commission should  
17 impose any conditions that predetermine permitting decisions that will be made by DEQ  
18 upon its review of the JPA. However, Item 1(c) of DEQ Report and pages 3-5 of the  
19 DEQ Comments includes what appears to be boilerplate statements about the VWP  
20 permitting process that potentially could be misconstrued as dictating which VWP permit  
21 process requirements will apply to this Project. The Company believes that adoption of  
22 this recommendation by the Commission could have the unintended effect of limiting  
23 permit processing decisions that will be made in due course by DEQ based on its review

1 of the Company's forthcoming JPA. Accordingly, the Company proposes that the  
2 recommendations in Item 1(c) of the DEQ Report and pages 3-5 of the DEQ Comments  
3 be revised as follows: The Company shall submit a Joint Permit Application for all  
4 impacts to state waters and shall comply with the applicable requirements of the Virginia  
5 Water Resources and Wetlands Protection Program (Va. Code §§ 62.1-44.15:20 *et seq.*)  
6 and the State Water Control Board's implementing regulations (9 VAC 25-210).

7 **Q. On pages 12-13 under Item 3(b)(i) of the DEQ Report, the DEQ's Office of**  
8 **Stormwater Management ("OSM") recommends that, "[i]n accordance with § 62.1-**  
9 **44.15 *et seq.* ... natural gas ... companies shall ... file general erosion and sediment**  
10 **control standards and specifications annually with DEQ for review and approval ...**  
11 **consistent with the requirements of this article and associated regulations and the**  
12 **Erosion and Sediment Control Law and Stormwater Management Act (§ 62.1-**  
13 **44.15:24 *et seq.*) and associated regulations where applicable." This requirement is**  
14 **additionally identified in the list of likely necessary permits or approvals on page 4**  
15 **of the DEQ Report, and discussed as a regulatory and coordination need on page 31**  
16 **of the DEQ Report. Please comment.**

17 **A.** The Company requests that the Commission reject this recommendation as unnecessary  
18 and duplicative. VNG conducts all land-disturbing activities, including activities not  
19 related to this Project, in accordance with Annual Standards and Specifications ("AS&S")  
20 approved annually by DEQ. The Company's current AS&S were approved on March 12,  
21 2018, and an annual draft renewal was submitted on March 20, 2020. In a letter to DEQ  
22 dated December 30, 2019, the Company explained how erosion and sediment control  
23 measures would be implemented for the Project. See my Rebuttal Schedule 1 for a copy

1 of the letter. As correctly stated in the DEQ Report, compliance with the AS&S is  
2 mandated by the Erosion and Sediment Control Law (Va. Code §§ 62.1-44.15:51 *et seq.*)  
3 and Stormwater Management Act (Va. Code §§ 62.1-44.15:24 *et seq.*). Because the  
4 Company must comply with these requirements for all of its activities statewide, this  
5 recommendation should be rejected as unnecessarily duplicative.

6 **Q. There are several references in the DEQ Report to a Virginia Stormwater**  
7 **Management Program (“VSMP”) General Permit for Discharges of Stormwater**  
8 **from Construction Activities (referred to as a VAR10 permit), including on page 12**  
9 **under Item 3(b)(ii), in the list of likely necessary permits or approvals on page 4,**  
10 **and in the discussion of regulatory and coordination need on page 31. Please**  
11 **comment.**

12 **A.** The Project is exempt from the requirement for a VAR10 permit and, further, any such  
13 requirement would be unnecessarily duplicative; therefore, recommendations related to  
14 this permit should be rejected.

15 Stormwater discharges from the construction and operation of natural gas transmission  
16 facilities are made exempt from federal and state discharge permitting requirements by  
17 the federal Clean Water Act (33 U.S.C. § 1342(l)(2)). This exemption is reflected in the  
18 VSMP regulations (9 VAC 25-870-380(A)(2)). As discussed in the Application, the  
19 Transco Interconnect Pipeline, Quantico Parallel Pipe and Mechanicsville Pipe will  
20 consist of 30” diameter steel pipelines, with a throughput capacity of 412 million  
21 standard cubic feet per day of natural gas and a maximum allowable operating pressure of  
22 1250 pounds per square inch gauge. As such, the Project pipelines and associated  
23 facilities are considered natural gas transmission facilities under Clean Water Act (33

1 U.S.C. § 1362(24)) and Pipeline and Hazardous Materials Safety Administration  
2 regulations (49 C.F.R. § 192.3), as well as by U.S. Environmental Protection Agency  
3 guidance (71 Fed. Reg. 33628, 33636–37). Therefore, recommendations requiring a  
4 VAR10 permit should be rejected, as the Project is exempt from any such procedural  
5 requirements.

6 As stated in my previous response, all land-disturbing activities conducted for the Project  
7 must comply with the Company's DEQ-approved AS&S. That document incorporates all  
8 substantive requirements of the VAR10 permit, including, for example, the requirement  
9 to develop a site-specific stormwater pollution prevention plan as referenced on page 13  
10 of the DEQ Report. Therefore, any requirement for a VAR10 permit should also be  
11 rejected as unnecessarily duplicative.

12 **Q. On page 15 under Item 4(d) of the DEQ Report, the DEQ Local Government**  
13 **Assistance Program (“LGAP”) notes that per “9VAC25-830-150 B 2 of the**  
14 **Regulations, construction, installation, operation, and maintenance of public**  
15 **utilities such as natural gas transmission lines within local-designated [Resource**  
16 **Protection Areas (“RPAs”)] are exempt, provided the transmission lines are**  
17 **constructed in accordance with” certain conditions enumerated therein. This**  
18 **conditional exemption is additionally identified in the list of likely necessary permits**  
19 **or approvals on page 4 of the DEQ Report, and discussed as a regulatory and**  
20 **coordination need on page 31 of the DEQ Report. Please comment.**

21 **A.** The Company commits to adhere to the conditions identified in Item 4(d) on page 15 of  
22 the DEQ Report, thereby satisfying the exemption allowed for transmission facilities per  
23 the Regulations. The Company would clarify for the record that the correct citation

1 exempting natural gas transmission lines is 9 VAC 25-830-150(B)(1). The provision  
2 cited in the DEQ Report, 9 VAC 25-830-150(B)(2), applies to natural gas distribution  
3 lines.

4 **Q. On pages 22-23 under Item 7(d)(i) of the DEQ Report, the Virginia Department of**  
5 **Conservation and Recreation (“DCR”) recommends the “development and**  
6 **implementation of an invasive species plan” including “an invasive species inventory**  
7 **for the project area based on the current DCR Invasive Species List.” This**  
8 **recommendation is additionally identified on page 7 of the DEQ Report. Please**  
9 **comment.**

10 **A.** The Company generally agrees with this recommendation and plans to work with DCR to  
11 develop appropriate measures to prevent and inhibit the spread of invasive species during  
12 the restoration and maintenance phases of the Project. However, any such plan must  
13 recognize that it is not feasible to keep a linear right-of-way completely free of invasive  
14 species during long-term maintenance activities if the areas adjacent to the corridor are  
15 infested. The Company has no ability to address invasive species outside of the right-of-  
16 way. Even if the right-of-way were cleared of invasive species, the area could potentially  
17 be quickly re-infested if the species were not eradicated from the adjacent areas.  
18 Accordingly, the Company respectfully requests that the Commission revise this  
19 requirement as follows: The Company will coordinate with DCR to develop appropriate  
20 measures to prevent and inhibit the spread of invasive species during the construction and  
21 restoration phases of the Project, to the extent practicable.

1 Q. On page 22 under Item 7(d)(ii) of the DEQ Report, the DCR recommends the  
2 “implementation of and strict adherence to applicable state and local erosion and  
3 sediment control/storm water management laws and regulations,  
4 establishment/enhancement of riparian buffers with native plant species and  
5 maintaining natural stream flow ... [and] an analysis of anticipated impacts to the  
6 waterbody from an open trench crossing method versus horizontal directional  
7 drilling (HDD).” Please comment.

8 A. The Company requests that the Commission reject this recommendation as unnecessary  
9 and duplicative. Compliance with erosion and sediment control requirements and the  
10 restoration of disturbed areas (including riparian buffers) will be addressed through  
11 compliance with the AS&S and the associated erosion and sediment control and  
12 stormwater management plans. The maintenance of natural stream flows during  
13 construction is regulated by the USACE, DEQ, and VMRC for streams within their  
14 respective jurisdictions. Similarly, an evaluation of open trench crossing method versus  
15 horizontal directional drilling will be included in the JPA to satisfy the requirements of  
16 the USACE, DEQ, and VMRC. Therefore, this recommendation is unnecessarily  
17 duplicative and should be rejected.

18 Q. On page 22 under Item 7(d)(iii) of the DEQ Report, the DCR recommends “efforts  
19 to minimize edge in remaining fragments, retain natural corridors that allow  
20 movement between fragments and design the intervening landscape to minimize its  
21 hostility to native wildlife (natural cover versus lawns).” Please comment.

22 A. To clarify, the Company has already undertaken efforts in the design of the Project to  
23 minimize or avoid forest fragmentation and associated impacts by collocating the



1 pipeline with existing utility corridors to the extent practicable. The Company intends to  
2 consult with DCR on additional opportunities to mitigate impacts to native wildlife.

3 **Q. On page 22 under Item 7(d)(iv) of the DEQ Report, the DCR recommends**  
4 **“avoidance of the Possum Run Seep Conservation Site to minimize direct and indirect**  
5 **adverse impacts to the documented occurrence of New Jersey rush.” Please comment.**

6 **A.** The Company requests that the Commission reject this recommendation because it is not  
7 clear until additional survey and analysis is conducted that complete avoidance is  
8 necessary, environmentally advantageous, or feasible. The Company will conduct  
9 appropriate survey work and engineering analysis to evaluate whether it is feasible to  
10 avoid the Possum Run Seep Conservation Site. Once completed, the Company will work  
11 with DCR to determine the appropriate strategy measures (avoid, minimize, mitigate) that  
12 would ensure the protection of the New Jersey Rush. However, until such work is  
13 completed, it would be unreasonable to reroute the line. Accordingly, the Company  
14 requests that the Commission reject the recommendation as premature.

15 **Q. On page 25 under Item 9(c) of the DEQ Report, the Department of Historic**  
16 **Resources (“DHR”) recommends, among other things, “[c]onsultation with DHR’s**  
17 **Easement Program on compliance with the terms of the easement on Pilgrim’s**  
18 **Rest.” This recommendation is additionally identified on page 7 of the DEQ Report,**  
19 **and is repeated in the written comments submitted in this proceeding on February**  
20 **5, 2020, by Ms. Joanna W. Green (Easement and Stewardship Archaeologist) of the**  
21 **DHR. Please comment.**

22 **A.** To clarify, as follow up to this recommendation, the Company held a conference call with  
23 DHR’s Easement and Stewardship Archaeologist and Easement Program Architect on

1 March 17, 2020, to provide an overview of the Project and address DHR’s concerns  
2 regarding potential adverse effects to Pilgrim’s Rest within the context of the terms of the  
3 preservation easement. As part of this discussion, the Company provided DHR with  
4 maps of the Pilgrim’s Rest parcel and explained the Company’s permanent and  
5 temporary easement requests related to the Project. The conversation was productive,  
6 and the Company committed to continuing to consult with DHR to ensure that the work  
7 associated with the Project is compliant with the terms of the easement.

8 **Q. On page 25 under Item 9(c) of the DEQ Report, DHR additionally recommends**  
9 **“[a]voidance, minimization, and/or mitigation of adverse impacts to VLR/NRHP-**  
10 **eligible/listed resources by VNG in consultation with DHR and other stakeholders.”**  
11 **This recommendation is additionally identified on page 7 of the DEQ Report. Please**  
12 **comment.**

13 **A.** While the Company agrees with the goals identified by the DHR, this recommendation  
14 should be rejected as unnecessary and duplicative, as the National Historic Preservation  
15 Act (“NHPA”) already provides a framework and process to address historic preservation  
16 concerns. Under the NHPA, federal agencies are required to engage in consultation with  
17 the State Historic Preservation Officer—that is, DHR—as well as interested stakeholders  
18 to avoid, minimize, or mitigate impacts to historic resources. For the Project, the USACE  
19 and National Park Service will be required to comply with the NHPA before issuing their  
20 respective authorizations. Because that mandatory process is governed by federal law  
21 and applied by federal agencies, this recommendation is unnecessary and duplicative and  
22 should be rejected.

1 **Q. On page 4 of the DEQ Comments, DEQ provided the following preliminary**  
2 **comments on the Project: “Activities should be conducted in accordance with all**  
3 **Time-of-Year restriction(s) as recommended by the Department of Game and**  
4 **Inland Fisheries [(“VDGIF”)], the Department of Conservation and Recreation, or**  
5 **the Virginia Marine Resources Commission per required coordination during the**  
6 **permit application process, or as conducted by the applicant prior to permit**  
7 **application submittal to DEQ. The permittee should retain a copy of the agency**  
8 **correspondence concerning the Time-of-Year restriction(s), or the lack thereof, for**  
9 **the duration of the construction phase of the project.” Please respond.**

10 **A.** The Company requests that the Commission reject this requirement as duplicative and  
11 unnecessary. Generally speaking, the Company has no objection to VDGIF’s  
12 recommendation for a time-of-year restriction on instream work for streams that may  
13 contain protected freshwater mussels discussed in the DEQ Report. However, the  
14 Company believes it appropriate that time-of-year restrictions, if any, should be left to the  
15 discretion of the resource agencies with jurisdiction over stream crossings (USACE,  
16 VMRC, DEQ)—each of which generally consults with VDGIF, U.S. Fish and Wildlife  
17 Service, and/or National Marine Fisheries Service on the need for restrictions on instream  
18 work as part of the appropriate permitting process. Accordingly, such a recommendation  
19 at this time is duplicative and unnecessary and should be rejected.

20 **Q. On page 4 of the DEQ Comments, the DEQ recommends that additional avoidance**  
21 **and minimization measures “should include maintaining at least 100-foot buffers**  
22 **along either side of stream channels.” Please comment.**

23 **A.** As this recommendation is that the Company “should” maintain buffers, the Company

1 seeks to clarify this recommendation such that, where practicable, the Company will  
2 maintain such buffers. However, the Project will require temporary impacts to certain  
3 riparian areas and the Ladysmith Compressor Station Expansion may require permanent  
4 loss of stream buffer. The Company commits to work with DEQ to address and  
5 minimize these impacts through the appropriate permitting process.

6 **Q. On page 5 of the DEQ Comments, the DEQ states that machinery may not enter**  
7 **surface waters unless authorized by the VWP permit. Please respond.**

8 A. The Company requests that the Commission reject this recommendation as premature and  
9 overly broad. The SWCB's regulations do not contain a blanket prohibition on  
10 machinery entering a surface water without a VWP permit. Certain preliminary activities  
11 that are or likely will occur before a VWP permit can be obtained may require equipment  
12 to cross streams or wetlands for purposes such as surveying and clearing.

13 **Q. Does this conclude your pre-filed rebuttal testimony?**

14 A. Yes, it does.

**BACKGROUND AND QUALIFICATIONS  
OF  
PATRICK WINNUBST**

Patrick Winnubst joined Southern Company Gas in 2014 as an Environmental Specialist supporting the company's Southern Operations. In 2016, Mr. Winnubst was promoted to his current position of Senior Environmental Specialist. In this role, Mr. Winnubst manages all natural resource related permitting efforts in Georgia, Tennessee, and Virginia. In addition, he serves as co-chair for Southern Gas Company's Natural Resources Governance Team. Prior to joining Southern Company Gas, Mr. Winnubst spent eight years at AECOM and CH2M HILL, working primarily in the energy sector, as an ecologist and project manager. Mr. Winnubst received his Bachelor of Science in Biology from Georgia Southern University and his Master of Environmental Science from Miami University.

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Company Exhibit No. 1  
Witness: PW  
Rebuttal Schedule 1  
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20191230  
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December 30, 2019

Julia Wellman  
Environmental Impact Review Coordinator  
Department of Environmental Quality  
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*SCC Case No. PUR-2019-00207 - Virginia Natural Gas, Inc.'s Header Improvement Project*

Dear Ms. Wellman:

Virginia Natural Gas, Inc. ("VNG" or the "Company") appreciates the Department of Environmental Quality's ("DEQ") coordinated review of the Header Improvement Project ("Project" or "HIP"). The Company understands that DEQ has requested additional information from VNG related to its application to the State Corporation Commission ("Commission") for approval and certification of the Header Improvement Project ("Project") in response to 20 VAC 5-302-25, Section 11. This provision of the Virginia Administrative Code is applicable to "Applications for (I) Electric Generating Facilities Equal to 50 Mw or Less but Greater Than 5 Mw, and (II) Renewable Energy Electric Generating Facilities with Rated Capacities Equal to 100 Mw or Less but Greater Than 5 Mw." Further, Section 11 states, "[A]nalysis of the environmental impact of the project shall be provided sufficient to enable the commission to make the determinations required by §§ 56-46.1 and 56-580 D of the Code of Virginia. This analysis shall include, but is not limited to, the impacts on the environment and natural resources, analysis of alternatives considered, unavoidable adverse impacts, mitigation measures proposed to minimize unavoidable impacts, and any irreversible environmental changes. The information required by this subdivision shall be submitted to the Department of Environmental Quality, simultaneously with its filing with the commission, for coordination and review by state agencies responsible for environmental and natural resource protection."

VNG's application to the Commission for approval and certification of the Project is for natural gas facilities (including pipeline, compressor station, and compressor station expansions), not petroleum pipeline or electric generating facilities. Further, no determination by the Commission is required under §§ 56-46.1 and 56-580 D of the Code of Virginia related to

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VNG's application, which is filed pursuant to §§ 56-265.1 and 56-265.2 of the Code of Virginia. For these reasons, the Company did not provide responses to those requirements related solely to petroleum pipeline or electric generating facilities in its application filing. Nevertheless, in order to be responsive to DEQ's request and to assist in its coordinated review of the Project, VNG provides the following information:

**a. Required air permits, expected restrictions, expected emissions, rates of emissions, and any needed emissions offsets or allowances.**

Air permits will be required for the natural gas-fired compressor station components of the Project. Emissions information regarding the compressor stations are addressed in Section III.E of the Appendix accompanying VNG's application in Case No. PUR-2019-00207. The Company currently anticipates the air permitting process to occur between September 2020 and November 2021, as reflected in Attachment I.I.1 to the Appendix. VNG will meet or exceed all State Air Pollution Control Board requirements regarding the Project.

As to secondary emissions sources, minimal tree clearing may be required as part of this Project, as described in Section II.D of the Appendix. Tree clearing would be on existing, new and temporary right-of-way. The Company does not expect to burn cleared material. Equipment and vehicles that are powered by gasoline or diesel motors will be used during construction of the Project so there will be exhaust from those motors.

**b. Required permits for water withdrawals, expected restrictions, the amount of water estimated to be used, the source of such water, identification of a backup source of water, if any, and identification of any facilities that need to be constructed to provide such water.**

A water withdrawal permit will not be required for the Project per the exemption set forth in 9 VAC 25-210-310 (Section A.6.B). Water withdrawals will be limited to hydrostatic testing of the pipeline portion of the Project. VNG proposes to use municipal water to conduct the hydrostatic tests; however, surface waters such as ponds or lakes may be investigated if a municipal water source is not available. Whether and to what extent surface water will be needed for hydrostatic testing has not yet been determined, but for context, hydrostatic testing of a new pipeline is a one-time event.

**c. Required permits for water discharge and potential impacts on regional water flows.**

The Project will require coverage under the VDEQ Construction General Permit for construction stormwater discharge and the Virginia Pollutant Discharge Elimination System ("VPDES") General Permit for Hydrostatic Test discharges. Water discharge associated with hydrostatic tests will follow a detailed procedure to prevent erosion. VNG expects no impacts to regional water flows.

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**d. Required permits related to the wetlands and an identification of any tidal and nontidal wetlands located near the proposed site and how such wetlands will be impacted by applicant's proposed facility.**

Please see Section IV.A of the Appendix accompanying VNG's application in Case No. PUR-2019-00207 for information regarding potential wetlands impacts and stream crossings.

It is anticipated that the construction of the Project components will qualify for a Nationwide Permit 12 from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act; and the Project will receive a Virginia Section 401 of the Clean Water Act water quality certification from the VDEQ. No impacts to tidal wetlands are proposed by the Project. A permit from the Virginia Marine Resources Commission ("VMRC") may be required for any crossing of state-owned submerged lands. Perennial stream and creek channels with upstream drainage areas in excess of 5 square miles at the point of crossing are considered to contain lands regulated by the VMRC. Prior to construction, the Company will file a Joint Permit Application with the VMRC to obtain any necessary permits to impact jurisdictional resources.

**e. Impact of solid and hazardous waste on local water resources.**

As explained above, VNG's application to the Commission for approval and certification of the Project is for natural gas facilities, not petroleum pipeline or electric generating facilities. As such, the Company does not anticipate generating any solid or hazardous waste, except for excess soil from excavation work.

VNG reviewed VDEQ databases for the presence of registered above and underground petroleum storage tanks, reported petroleum releases, and the U.S. Environmental Protection Agency ("EPA") Facility Registry System ("FRS"). The FRS provides information about facilities, sites, or places subject to environmental regulation or of environmental interest. Although this data set contains all sites subject to environmental regulations by the EPA or other regulatory authorities, including sites that fall under air emissions or wastewater programs, the results reported here include only those sites that fall under the EPA's hazardous waste, solid waste, remediation, and underground storage tank programs (i.e., Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), Resource Conservation and Recovery Act ("RCRA"), or brownfield sites).

The table below indicates the number of sites that fall within 0.5 mile of the Project components as reported in the publicly available databases maintained by the VDEQ and EPA.



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Sites Within 0.5 Mile of the HIP					
Project Component	VDEQ Petroleum Releases	VDEQ Registered Tanks	EPA FRS RCRA Generators	EPA FRS Brownfield Sites	EPA FRS CERCLA Sites
Transco Interconnect Pipeline	6	1	2	-	-
Transco Interconnect Compressor Station Site 1	1	-	-	-	-
Transco Interconnect Compressor Station Site 2	1	4	-	-	-
Quantico Parallel Pipe	-	1	1	-	-
Mechanicsville Parallel Pipe	21	8	3	-	-
Ladysmith Compressor Station Expansion	3	3	-	-	-
Gidley Compressor Station	15	19	16	-	-

VNG will endeavor to avoid contaminated sites, but if contaminated media is encountered during excavation work, it will provide any required notice to the authorities and have a contingency plan to properly deal with any contaminated soil that it encounters.

**f. Impact on natural heritage resources, and on threatened and endangered species.**

Please see Section IV.A of the Appendix accompanying VNG's application in Case No. PUR-2019-00207 for information regarding information on threatened and endangered species within a 2.0-mile radius of the proposed Project. The Company will obtain all necessary environmental permits prior to construction such that coordination with the Virginia Department of Game and Inland Fisheries ("DGIF"), the Virginia Department of Conservation and Recreation ("DCR"), and the U.S. Fish and Wildlife Service will take place through the respective permit processes to avoid or minimize impacts to listed species and natural heritage resources. While the Company has reviewed the appropriate databases and there do not appear to be any natural heritage resources impacted by the Project, as part of the wetland permitting process, VNG will submit to the DCR formal review process, which is more granular in nature.

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**g. Erosion and sediment control measures.**

Erosion and sediment control best management practices will be installed and maintained until all disturbed areas have met final stabilization per the VDEQ Construction General Permit. VNG will develop project specific Stormwater and Erosion and Sediment Control Plans to ensure minimal disturbance to the environmental. Erosion and Sediment Control and Stormwater Management plans will be developed in accordance with the VNG VDEQ approved Annual Standards and Specifications (“AS&S”) for Erosion and Sediment Control and Stormwater Management. Upon completion of the proposed Project, the Company will restore the right-of-way in accordance with the AS&S and any regulatory permit conditions imposed by approval authorities.

**h. Archaeological, historic, scenic, cultural, or architectural resources in the area.**

Please see Sections IV.F and IV.G of the Appendix accompanying VNG’s application in Case No. PUR-2019-00207 for information regarding archeological, historic, scenic, cultural, or architectural resources in the Project area.

**i. Chesapeake Bay Preservation Areas designated by the locality.**

Construction, installation, operation, and maintenance of natural gas pipelines and their appurtenant structures are conditionally exempt from the Chesapeake Bay Preservation Act as stated in the exemption for public utilities, railroads, public roads, and facilities in 9 VAC 25-830-150.

**j. Wildlife resources.**

Since the proposed Project is primarily collocated with an existing electric and natural gas transmission right-of-way, as well as along VNG’s existing JUP and VNG Lateral pipeline rights-of-way, no significant loss of wildlife habitat is anticipated. Detailed environmental surveys of the Project footprint will be conducted prior to submittal of VDEQ, VMRC and USACE permit applications.

**k. Agricultural and forest resources and federal, local, state or private parks and recreation areas.**

Please see Sections IV.C and IV.H of the Appendix accompanying VNG’s application in Case No. PUR-2019-00207 for information regarding agricultural and forest resources and federal, local, state or private parks and recreation areas in the Project area.

**l. Use of pesticides and herbicides.**

VNG typically maintains natural gas pipeline right-of-way by means of mechanical mowing. Herbicide application is limited to spot application at above ground facilities (e.g. fence lines, meter stations, pipeline markers, etc.) where mowing is not feasible.

**m. Geology and mineral resources, caves, and sinkholes.**

Rock may be present in the Project area, which will be determined during the engineering and design phase through geotechnical investigation. At that time, the Company will determine the appropriate construction method to address any such geological conditions. After a preliminary review of the Virginia Department of Mines, Minerals and Energy ("DMME") mapping available on the DMME website, the Company does not anticipate encountering Karst formations, active, or abandoned mines in the Project area. Please see Section I.I of the Appendix.

**n. Transportation infrastructure.**

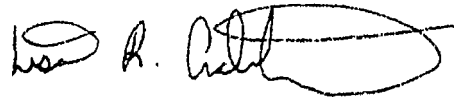
The proposed Project does not cross any roadways indicated in the National or Virginia Byways Inventory provided by Virginia Department of Transportation ("VDOT"). The proposed Project alignment (*i.e.*, pipeline components) extends a total of approximately 24.1 miles through the Counties of Prince William, Fauquier, Hanover, New Kent, and Charles City. There are approximately 24 crossings of public and private roads.

The Company plans to apply for land use permits from VDOT for the crossings of VDOT maintained roads and construction entrances from VDOT right-of-way. These permits will be obtained prior to construction.

In addition, there are approximately 3 railroad crossings by the Project, which will be permitted by the rail owners.

Please do not hesitate to contact me if you have any questions in regard to this information or if there is anything additional you need.

Highest regards,



Lisa R. Crabtree

cc: Ms. Bettina Rayfield  
Ms. Valerie Fulcher  
Alisson P. Klaiber, Esq.  
Elizabeth B. Wade, Esq.  
Ms. Shepelle Watkins-White  
Mr. Tyler Lake  
Jennifer D. Valaika, Esq.

WITNESS REBUTTAL TESTIMONY SUMMARY

Witness: John Cogburn

Title: Director, Rates and Tariffs and Regulatory Planning for AGL Services Company

Summary:

Company Witness John Cogburn responds to comments and recommendations offered by Commission Staff Witness Scott C. Armstrong related to certain ratemaking adjustments.

First, Mr. Cogburn addresses Staff Witness Armstrong's recommendation that the Commission consider requiring that VNG depreciate the Project facilities over the 20-year initial contract agreement with C4GT. Specifically, Mr. Cogburn testifies that VNG does not believe depreciating the Project facilities in the manner suggested by Staff would be appropriate and, more important, it is not necessary in light of the Company's commitment to hold VNG distribution customers harmless from Project costs as discussed by Company Witness Kenneth Yagelski. Accordingly, the risk of stranded assets, which Staff is trying to mitigate against with this recommendation, is a risk borne by the Company—not customers. Mr. Cogburn further testifies that, if the assets are depreciated over the 20-year contract term of the Precedent Agreements as Staff recommends, then future customers will find valuable capacity with no net book value, and those future customers will have effectively received a subsidy from current customers.

Next, Mr. Cogburn responds to Staff Witness Armstrong's recommendation related to the Company's use of Allowance for Funds Used During Construction ("AFUDC") rather than Construction Work in Progress ("CWIP"), noting that it is a policy decision for the Commission and, if the Commission authorized VNG to accrue AFUDC, the amortization period should be three years to mitigate risk. While not a lawyer, Mr. Cogburn testifies that he does not believe accrual of AFUDC is a policy decision, but rather is a legal right pursuant to § 56-235.9 of the Code of Virginia. Mr. Cogburn additionally explains why earning a return on CWIP is not a practical solution for financing construction of the Project. Further, it could effectively leave the Commission with determining whether current customers should subsidize future customers or if it should deny the Company recovery of a prudently incurred expense in the context of a rate case. Mr. Cogburn concludes that computing AFUDC and recovering it from customers of the Project addresses these concerns and aligns cost causation with cost recovery. Mr. Cogburn additionally notes that, while the Company believes that its proposal to amortize the accumulated AFUDC over the depreciation life of the Project is appropriate, the Company would not object if the Commission required the Company to shorten the amortization period for AFUDC to 20 years to match the term of the initial Precedent Agreements.

Finally, Mr. Cogburn responds to Staff Witness Armstrong's testimony that, to the extent the Commission grants authority to construct the Project and bill new cost-of-service based transportation rates once the Project is in-service, Staff recommends that VNG be required to make a filing, in advance of the in-service date, with a more current estimate of revenue requirement and resulting rates. Mr. Cogburn testifies that the Company agrees to this recommendation and suggests options to effectuate it.

**REBUTTAL TESTIMONY  
OF  
JOHN M. COGBURN  
ON BEHALF OF  
VIRGINIA NATURAL GAS, INC.  
BEFORE THE  
STATE CORPORATION COMMISSION OF VIRGINIA  
CASE NO. PUR-2019-00207**

1 **Q. Please state your name, position, and business address.**

2 A. My name is John M. Cogburn, and I am the Director, Rates and Tariffs and Regulatory  
3 Planning for AGL Services Company (“AGSC”). In this role, I have rates, tariff and  
4 regulatory planning responsibilities for Virginia Natural Gas, Inc. (“VNG” or the  
5 “Company”). My business address is 10 Peachtree Place, Atlanta, Georgia 30309.

6 **Q. Have you previously submitted testimony in this proceeding?**

7 A. Yes. I submitted pre-filed direct testimony on behalf of VNG to the State Corporation  
8 Commission of Virginia (“Commission”) in this proceeding on December 6, 2019, in  
9 support of approval and certification of the Company’s proposed Header Improvement  
10 Project (the “Project”), which includes construction of the (i) Transco Interconnect  
11 Pipeline, (ii) Transco Interconnect Compressor Station, (iii) Quantico Parallel Pipe, (iv)  
12 Mechanicsville Parallel Pipe, (v) Ladysmith Compressor Station Expansion, and (vi)  
13 Gidley Compressor Station.

14 **Q. What is the purpose of your rebuttal testimony?**

15 A. The purpose of my rebuttal testimony is to respond to comments and recommendations  
16 offered by Scott C. Armstrong on behalf of the Commission Staff (“Staff”). Specifically,  
17 I will address Staff’s recommendations related to certain ratemaking adjustments.

1 Q. Staff Witness Armstrong testifies that Staff recommends the Commission consider  
2 requiring that VNG depreciate the Project facilities over the 20-year initial contract  
3 agreement with C4GT, which could reduce the potential for stranded costs to be  
4 funded by VNG's distribution ratepayers and other customers beyond the initial  
5 contract term. Does the Company agree with this accounting treatment of the  
6 Project facilities?

7 A. VNG does not believe depreciating the Project facilities in the manner suggested by Staff  
8 would be appropriate and, more important, it is not necessary in light of the Company's  
9 commitment to hold VNG distribution customers harmless from Project costs as  
10 discussed in the rebuttal testimony of Company Witness Kenneth Yagelski. This hold  
11 harmless affirmation would apply in the event of default or in the event of stranded costs  
12 – in both situations it would be incumbent upon the Company to demonstrate to the  
13 Commission that there was a need for and value to be derived from unused capacity for  
14 the distribution customers before costs could be recovered.

15 Accordingly, the risk of stranded assets, which Staff is trying to mitigate against with this  
16 recommendation, is a risk borne by the Company—not customers.

17 Q. Beyond the lack of necessity, does VNG have additional objections?

18 A. Yes. Depreciating 70-year and 30-year assets on a 20-year basis would only be  
19 reasonable if the Commission were to determine that the economic life of these assets is  
20 limited to the initial 20-year contract term. The Company fully expects this capacity to  
21 continue to have economic value to counterparties long after the initial 20-year term; in  
22 fact, the Company expects the Project's economic life to be closely aligned to its  
23 expected physical useful life. To the extent that a customer or customers—other than one

1 of the large customers already contracting to take capacity from the Project—uses the  
2 Project facilities after the initial term of the existing contracts, those customers will have  
3 access to capacity that has depreciated significantly from its original net book value.

4 This means that the capacity will be much more affordable than having to build capacity  
5 in the future. If the assets are depreciated over the 20-year contract term of the Precedent  
6 Agreements as Staff recommends, then future customers will find valuable capacity with  
7 no net book value, and those future customers will have effectively received a subsidy  
8 from current customers.

9 **Q. Is a subsidy from current customers to future customers the most likely outcome if**  
10 **the Commission were to adopt the Staff's recommendation related to the**  
11 **amortization period for Project assets?**

12 **A.** No. There is a very real risk that if the entire cost of the Project is required to be  
13 amortized over 20 years that the Project will be cost prohibitive and not be completed.  
14 As Staff Witness Armstrong correctly noted in his testimony (page 12, fn. 27 and  
15 Appendix A, Schedule 4), this change in accounting treatment alone would increase the  
16 expected revenue requirement by more than 20%.

1 Q. Staff Witness Armstrong makes an additional recommendation related to the  
 2 Company's use of Allowance for Funds Used During Construction ("AFUDC")  
 3 rather than Construction Work in Progress ("CWIP"). Specifically, he testifies that  
 4 the question of whether VNG should accrue AFUDC on the Project is a policy  
 5 decision to be made by the Commission and if the Commission authorizes VNG to  
 6 accrue AFUDC, the risk of VNG's distribution ratepayers' exposure to potential  
 7 unrecovered AFUDC could be mitigated if the amortization period is three years,  
 8 but no more than 20 years. (Armstrong at 13.) What is your response?

9 A. The Company does not believe accrual of AFUDC is a policy decision, but rather is a  
 10 legal right. While I am not a lawyer, it is my understanding that the proposed Project is  
 11 consistent with the definition of a strategic natural gas facility as defined in § 56-235.9 of  
 12 the Code of Virginia ("Va. Code"), and thus is eligible for the application of AFUDC.  
 13 Specifically, Va. Code § 56-235.9 A states in relevant part:

14 "Strategic natural gas facility" includes, without limitation, a natural  
 15 gas distribution or transmission pipeline, storage facility,  
 16 compressor station, liquefied natural gas facility, peaking facility or  
 17 other appurtenant facility, used to furnish natural gas service in the  
 18 Commonwealth that, for a natural gas utility with fewer than  
 19 150,000 customers, adds stand-alone design day deliverability or  
 20 designed send-out of at least 10,000 dekaTherms per day or two or  
 21 more such facilities, regardless of size, that add design day  
 22 deliverability or designed send out of at least 75,000 dekaTherms  
 23 per day in the aggregate, and for a natural gas utility with 150,000  
 24 or more customers, adds stand-alone design day deliverability or  
 25 designed send out of at least 20,000 dekaTherms per day or two or  
 26 more such facilities, regardless of size, that add design day  
 27 deliverability or designed send out of at least 100,000 dekaTherms  
 28 per day in the aggregate, and for a natural gas transmission  
 29 company, adds design day deliverability or designed send out of at  
 30 least 100,000 dekaTherms per day in the aggregate.

31 Additionally, Va. Code § 56-235.9 B provides:



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Any natural gas utility that places a strategic natural gas facility into service on or after July 1, 2008, or natural gas transmission company that places a strategic natural gas facility into service on or after July 1, 2014, to serve its customers shall have the right to recover through its rates charged to those customers the entire prudently incurred costs of the facility including: planning, development and construction costs; costs of infrastructure associated therewith; an allowance for funds used during construction; and the capitalized carrying cost from the time construction is completed and the asset is placed into service until the time that the Commission establishes new rates that include recovery of all costs as defined herein. Such recovery shall be permitted by allowing such costs to be recorded in the utility's plant accounts and included in rate base for purposes of cost recovery (i) in new rate schedules for service not offered under existing rate schedules or new rate schedules for expansion of existing services as permitted by § 56-235.4, (ii) in a rate case using the cost of service methodology set forth in § 56-235.2, or (iii) in a performance-based regulation plan authorized by § 56-235.6, subject to Commission determination that such costs were prudently incurred. The allowance for funds used during construction and the return on investment shall be calculated utilizing the weighted average cost of capital, including the cost of debt and cost of equity used in determining the natural gas utility's base rates in effect during the construction period of the strategic natural gas facility.

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Moreover, earning a return on CWIP is not a practical solution for financing the construction of the Project because recovery of return on CWIP is driven by the value of CWIP included in rate base during the Rate Year of a rate case. The Company cannot simply align the construction spending of the Project such that it aligns with a Rate Year. Further, even if it could capture the construction financing requirements in a rate case, approximately 95% of the capacity of the Project will be marketed under rate schedules that will not be effective until the Project is complete. This means that expense of construction financing established in the rate case could not be charged to the customers for whom the capacity is being built. That would effectively leave the Commission with determining whether current customers should subsidize future customers or if it should deny the Company recovery of a prudently incurred expense. Computing AFUDC and

1 recovering it from the customers of the Project addresses these concerns and aligns cost  
2 causation with cost recovery.

3 **Q. Does the Company object to the Staff's recommendation that, if the Commission**  
4 **allows for AFUDC, it should be amortized over a shorter life than the full**  
5 **depreciation life of the Project?**

6 A. While the Company believes that its proposal to amortize the accumulated AFUDC over  
7 the depreciation life of the Project is appropriate, the Company would not object if the  
8 Commission required the Company to shorten the amortization period for AFUDC to 20  
9 years to match the term of the initial Precedent Agreements. The immediate need for the  
10 Project is driven by the customers who have signed Precedent Agreements, thus  
11 recovering the construction financing costs during the lifetime of the Precedent  
12 Agreements instead of the lifetime of the Project is reasonable.

13 **Q. Staff Witness Armstrong makes a final recommendation regarding the indicative**  
14 **rates provided in the Company's Application. Specifically, he testifies that to the**  
15 **extent the Commission grants authority to construct the Project and bill new cost-**  
16 **of-service based transportation rates once the Project is in-service, Staff**  
17 **recommends that VNG be required to make a filing, in advance of the in-service**  
18 **date, with a more current estimate of revenue requirement and resulting rates.**  
19 **(Armstrong at 19.) What is your response?**

20 A. The Company agrees to this recommendation from Staff to make a filing with the  
21 Commission in advance of the in-service date of the Project with a more current estimate  
22 of the revenue requirement responsibilities and resulting rates. To effectuate this, the  
23 Company suggests that following an order approving this Application and granting VNG

1 a certificate of public convenience and necessity for the Project, the Commission could  
2 hold the docket open and direct the Company to file updated construction cost and  
3 indicative rate estimates approximately six months prior to the in-service date.  
4 Alternatively, the Commission could close the docket and direct the Company to submit  
5 such update to the Staff as is common with other compliance-type filings.

6 **Q. Does this conclude your pre-filed rebuttal testimony?**

7 **A. Yes, it does.**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of April 2020, a true and accurate copy of the foregoing filed in Case No. PUR-2019-00207 was delivered by hand, email, mail first class postage pre-paid, or otherwise provided electronically as agreed to by counsel, to the following:

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