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June 24, 2022

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

RE: Mountain Valley Pipeline, LLC
Docket Nos. CP16-10-000, CP21-57-000, and CP19-477-000
Request for Extension of Time

Dear Secretary Bose:

Mountain Valley Pipeline, LLC requests that the Federal Energy Regulatory Commission issue an order in the above-identified dockets granting an extension of time until October 13, 2026, to complete construction of the Mountain Valley Pipeline Project (“Project”) and place the Project facilities into service. As discussed more below, Mountain Valley’s requested extension is consistent with Commission precedent and necessary because of the ongoing legal and permitting challenges and to provide clarity and certainty to Project stakeholders, including the federal agencies that are currently working to reissue permits. The Project is critical infrastructure and is essential for our nation’s energy security, energy reliability, and ability to effectively transition to a lower-carbon future.

On October 13, 2017, the Commission issued an order granting a Certificate of Public Convenience and Necessity to Mountain Valley for the construction and operation of the Project.¹ The Project includes approximately 304 miles of 42-inch-diameter greenfield natural gas pipeline, three new compressor stations, interconnections with new meter and regulator stations, taps, and other appurtenant facilities. The Certificate Order was the result of a nearly two-year certificate process in Docket No. CP16-10-000 and a one-year pre-filing process in Docket No. PF15-3-000. The United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) affirmed the Certificate Order in an order issued February 19, 2019. The D.C. Circuit thoroughly examined and rejected multiple challenges to the Certificate Order on Natural Gas Act and National Environmental Policy Act grounds, including Project need, impacts on water resources, and greenhouse gas emissions.

On October 9, 2020, the Commission issued an order granting a two-year extension of time, until October 13, 2022, for Mountain Valley to complete construction of the Project and place the

¹ *Mountain Valley Pipeline, LLC*, 161 FERC ¶ 61,043 (2017), *order on reh’g*, 163 FERC ¶ 61,197 (2018) (“Certificate Order”), *aff’d sub. nom.*, *Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199 (D.C. Cir. Feb. 19, 2019).

Project facilities into service.² Commissioner Glick, who dissented in part from the relevant order on other grounds, also “support[ed] the extension.”³ Since that time, Mountain Valley has continued to actively progress construction of the Project but has continued to experience delays due to litigation and subsequent agency remands related to certain permits and authorizations. Currently, the Project is nearly 94% complete. The aboveground facilities necessary to receive, pressurize, and deliver natural gas have been completed and are awaiting service. Mountain Valley has been actively progressing the final steps necessary to restore required permits. Specifically, Mountain Valley has submitted its Individual Permit applications to the U.S. Army Corps of Engineers as well as its required documents to the U.S. Forest Service and the federal Bureau of Land Management.⁴ In addition, Mountain Valley is targeting to submit its species analysis to the U.S. Fish and Wildlife Service early next month.

On April 8, 2022, the Commission issued an order amending the Project certificate to permit Mountain Valley to (1) change the crossing method for 183 waterbodies and wetlands at 120 locations from open-cut to trenchless; (2) slightly shift the permanent right-of-way at mileposts 0.70 and 230.8 to avoid one wetland and one waterbody, respectively; and (3) conduct 24-hour construction activities at eight trenchless crossings.⁵ The Commission conditioned the Amendment Order on Mountain Valley completing construction by the October 13, 2022 construction deadline.⁶

Due to the ongoing litigation and remand proceedings related to several permits and authorizations, Mountain Valley hereby requests an extension of time, until October 13, 2026, in the above-identified dockets to complete construction of the Project and place the Project facilities into service.⁷ Mountain Valley has shown good cause for the extension as Project construction is substantially complete and Mountain Valley is actively working to reinstate all required permits so that it can complete construction as expeditiously as possible for the benefit of landowners, the environment, project shippers, and end-users of natural gas.⁸ In addition, the Project remains fully subscribed under binding long-term agreements.

In recently granting a second extension of time to construct project facilities in other proceedings,

² *Mountain Valley Pipeline, LLC*, 173 FERC ¶ 61,026 (2020), *petition for review pending sub nom. Sierra Club v. FERC*, No. 20-1512 (D.C. Cir.) (oral argument held Apr. 7, 2022). On September 29, 2021, Mountain Valley filed a request for extension of time in Docket No. CP19-477-000 to align the in-service deadline for its already-constructed Greene Interconnect with that for the mainline Project. The Commission has not yet acted on that uncontested request. As part of the instant request, Mountain Valley is modifying the pending request in that docket for consistency.

³ 173 FERC ¶ 61,026, P 1 (Glick, Comm’r, dissenting in part).

⁴ Mountain Valley submitted copies of its SF-299, Plan of Development, and supporting materials in Docket Nos. CP16-10 and CP21-57 on June 22, 2022 (Accession No. 20220622-5077).

⁵ *Mountain Valley Pipeline, LLC*, 179 FERC ¶ 61,013 (2022) (“Amendment Order”).

⁶ *Id.* at Ordering Paragraph (E).

⁷ 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.

⁸ *Mountain Valley Pipeline, LLC*, 173 FERC ¶ 61,027 at P 29 (2020) (The Commission has already concluded that “completion of construction and final restoration (which would enable the permanent removal of construction equipment and personnel from portions of the right-of-way), where permitted, is best for the environment and affected landowners.”).

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. Good cause can be shown by a project sponsor demonstrating that it made good faith efforts to meet its deadlines but encountered circumstances that prevented it from doing so.”⁹ Mountain Valley’s requested extension of time meets this good cause standard. First, the environmental findings underlying the Commission’s authorizations will be valid through the term of the extension.¹⁰ Mountain Valley is currently obtaining all necessary permits, including updated environmental findings where applicable, that will be in place before Mountain Valley is permitted to complete construction of the Project. In granting a recent second extension in another proceeding, the Commission was clear that “the potential need to re-initiate consultation on newly listed species does not in and of itself render the environmental analysis stale or trigger the need for a supplemental environmental impact statement (EIS).”¹¹ Moreover, in the recent Amendment Order, FERC rejected requests from Project opponents to revisit the findings in the original Project FEIS.¹² Second, Mountain Valley has demonstrated and will continue to demonstrate good faith efforts to meet its deadlines and complete the Project. Mountain Valley has expended approximately \$5.5 billion on the Project to date and the Project’s total cost is targeted to be approximately \$6.6 billion. Mountain Valley is currently expending more than \$20 million per month on Project stabilization and restoration while it works expeditiously to obtain all required authorizations. Despite a continual barrage of attacks from Project opponents, Mountain Valley remains committed to completing this critical infrastructure project. Granting this extension of time will enable Mountain Valley to continue to work cooperatively with all affected stakeholders and permit agencies to complete construction and achieve final restoration. The extension of the underlying certificate authority is also necessary to allow Mountain Valley to continue to maintain its comprehensive erosion and sedimentation control program for the benefit of landowners and the environment.

Mountain Valley is aware that Project opponents will stop at nothing in their attempts to kill the Project and Mountain Valley expects vigorous opposition to this request for an extension of time. As the Commission recently held in the Amendment Order, “[c]omments regarding need for the Mountain Valley Pipeline Project, compliance with evolving state energy policies, and the possibility of captive ratepayers paying for unneeded capacity were addressed in the underlying Certificate Order, and thus are improper collateral attacks on that order and need not be considered further.”¹³ As no party sought rehearing of the Amendment Order, this Commission finding is final and binding.

Mountain Valley respectfully urges the Commission to act consistent with its precedent and issue an order approving the requested extension of time by *August 8, 2022*.¹⁴ It is imperative that the Commission act swiftly to grant the requested extension so that all reviewing agencies and

⁹ *Trunkline Gas Company, LLC, et al.*, 179 FERC ¶ 61,086 at P 8 (2022).

¹⁰ See also Amendment Order at P 20 (discussing development of the Environmental Assessment for the Amendment Project through extensive public comment).

¹¹ *Trunkline Gas Company, LLC, et al.*, 179 FERC ¶ 61,086 at P 14 (2022).

¹² Amendment Order at P 26.

¹³ *Id.* at P 13.

¹⁴ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144 at P 40 (2020) (“For all of those extension requests that are contested, the Commission acting as a whole will aim to issue an order acting on the request within 45 days.”).

stakeholders have the benefit of the Commission's decision, which will provide predictability and stability about the status of the Project's central federal authorization, as other agencies work to finalize the outstanding permits.

Due to the uncertainty regarding the timing of reinstatement of the necessary permits, the ongoing barrage of attacks on the Project's permits, authorizations, and applications, and the outcomes of ongoing and future legal challenges, a four-year extension of time, both for the mainline Project, as amended, and the related Greene Interconnect, is necessary and proper. Mountain Valley stands ready to complete the remaining construction as soon as practicable.¹⁵ A four-year extension will provide necessary clarity and certainty to stakeholders¹⁶ (including other federal agencies that are currently engaged in re-permitting efforts) and avoid to the extent possible additional future extension requests. The Commission consistently has granted extensions of the same or longer duration both individually¹⁷ and in aggregate.¹⁸ These extensions were not only for LNG and storage projects, but also for facilities like Mountain Valley that are certificated under NGA section 7(c). In addition, the Commission previously granted an initial construction deadline that exceeds the total construction period Mountain Valley is requesting herein.¹⁹ Finally, Mountain Valley's requested extension is well within the timeframe during which the environmental findings underlying the Certificate can be expected to remain valid.²⁰

¹⁵ Mountain Valley has repeatedly demonstrated that it will advance construction in a safe and responsible manner when authorized. For example, last year Mountain Valley installed 17 miles of pipeline and permanently restored 18 miles of the Project right-of-way, which returned substantial amounts of property to landowners after years of incomplete construction, and successfully completed four additional trenchless crossings and construction of its Greene Interconnect, among other activities. See Mountain Valley Pipeline, LLC, 2021 Summary of Project Progress and Virginia Section 401 WQC, Docket Nos. CP16-10-000, *et al.* (filed Dec. 22, 2021).

¹⁶ See, e.g., Letter from Monroe County Commission to Federal Energy Regulatory Commission dated June 6, 2022, Docket No. CP16-10 (Accession No. 20220621-0031) ("These challenges [to the MVP Project's permits and authorizations] need to stop. This Commission is in full support of the project being completed as soon as possible.").

¹⁷ See, e.g., *Magnum Gas Storage, LLC*, Letter Order, Docket Nos. CP10-22-000, *et al.* (issued Sep. 15, 2020) (granting a 4½-year extension of time); *Kinder Morgan Louisiana Pipeline LLC et al.*, Letter Order, Docket Nos. CP14-347-000, *et al.* (issued Oct. 7, 2020) (granting a five-year extension of time); *Cameron LNG, LLC*, Letter Order, Docket No. CP15-560-000 (issued Mar. 25, 2020) (granting a four-year extension of time).

¹⁸ See, e.g., *Pine Prairie Energy Center, LLC*, Letter Order, Docket No. CP11-1-000 (issued Apr. 21, 2020) (grant of third extension of time for a total in-service deadline of 12 years due to state permitting challenges); *Golden Triangle Storage, Inc.*, Letter Order, Docket Nos. CP07-414-000, *et al.* (issued Jan. 11, 2022) (grant of third extension of time for a total in-service deadline of 17 years); *Magnum Gas Storage, LLC*, Letter Order, Docket Nos. CP10-22-000, *et al.* (issued Sep. 15, 2020) (grant of third extension of time for a total in-service deadline of 14 years); *Trunkline Gas Co., LLC, et al.*, 179 FERC ¶ 61,086 at P 8 (2022) (grant of second extension of time for a total in-service deadline of 13 years); *Golden Pass Pipeline, LLC, et al.*, Letter Order, Docket Nos. CP14-517-000, *et al.* (issued Dec. 11, 2019) (grant of an extension of time for a total in-service deadline of approximately 10 years); *Kinder Morgan Louisiana Pipeline, LLC, et al.*, Letter Order, Docket Nos. CP14-347-000, *et al.* (issued Oct. 7, 2020) (grant of an extension of time for a total in-service deadline of 10 years).

¹⁹ *Alaska Gasline Development Corp.*, 171 FERC ¶ 61,134 (2020) (granting ten year construction deadline); see also *Driftwood LNG LLC*, 167 FERC ¶ 61,054 (2019) (granting seven year construction deadline); *Venture Global Gator Express, LLC, et al.*, 168 FERC ¶ 61,204 (2019) (granting seven year construction deadline).

²⁰ *Delfin LNG LLC et al.*, 178 FERC ¶ 61,031 at P 10 (2022) ("The Commission 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."); see *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313 (2007) (time period of approximately 17 years from the date of the environmental assessment to extended in-service deadline); *Trunkline Gas Co., LLC, et al.*, 153 FERC ¶ 61,300 (2015) (time period of approximately 13.5 years from the date of the final environmental impact statement to extended in-service deadline);

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Mountain Valley remains committed to completing the construction of the Project and starting service as soon as practicable. 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
Assistant General Counsel

Pine Prairie Energy Center, LLC, 135 FERC ¶ 61,168 (2011) (time period of approximately 12 years from the date of the environmental assessment to extended in-service deadline); *Kinder Morgan Louisiana Pipeline, LLC, et al.*, 155 FERC ¶ 61,033 (2016) (time period of approximately 10.5 years from the date of the final environmental impact statement to extended in-service deadline); *Golden Pass Pipeline, LLC, et al.*, 157 FERC ¶ 61,222 (2016) (time period of approximately 10.5 years from the date of the final environmental impact statement to extended in-service deadline); *Sabine Pass Liquefaction, LLC, et al.*, 151 FERC ¶ 61,012 (2015) (time period of approximately 9 years from the date of the environmental assessment to extended in-service deadline).