

KEN EUDY, SENIOR ADVISER TO GOVERNOR COOPER: I guess the thing that drove us in the Governor's Office to even get into this was a desire to help people in Eastern North Carolina but particularly those eight counties where this pipeline would be going through. Eastern North Carolina is just a region of the state that has not in any sense come back since the recession in terms of employment, in terms of household income, in terms of rates of poverty. And so a couple of the largest corporations in America are saying 'we want to bisect your counties with this big natural gas pipeline.' And so what we were motivated by was to say 'how do these folks get help?' Because nobody else would do that, if we didn't champion it. And to me it's frustrating that the legislature foiled months of asking and studying and trying to figure out how to help.

TRAVIS FAIN, WRAL: I assume, then, that you'll give me a list of people that you were asking and figuring out how to try to help, and I can call and they will say...

EUDY: You bet.

FAIN: That would be helpful.

EUDY: And also right up front I want to sort of turn myself in and say I think that we could've done a much better job of rolling this out. We did not have the details of the fund nailed down in writing. I think we had it in our heads but we didn't have it nailed down at the time we announced it. Because there was so much going on at the time. And we could've done a way better job, Travis, in the announcement part of this.

So let's start soon after the inauguration. A delegation from the Pipeline, people from Dominion and Duke, came to see the governor. I think it's February. And they talk about the importance of the pipeline in terms of retiring coal plants and jobs and so forth. As a follow-up from that meeting, they ask, later they ask the governor to sign with the governors of Virginia and West Virginia, a letter to FERC endorsing the project. I think the Governor's Office was uncomfortable with doing that. We're just sorting of getting into this issue. And so we draft a letter that only he would sign. But the more we looked at it the more questions we had and the more reluctance we had to send it. So we never sent it. We have the letter that was drafted.

I don't think much happened for the next few months, but in July we understand that there were meetings that took place that we were not involved in with the farm community and the business community in Eastern North Carolina. And they were concerned about whether or not they would actually have access to the gas that flowed through the Atlantic Coast Pipeline.

FAIN: Who? Do you know who?

EUDY: Only what I've read in—who was it?—Tom Campbell's column? I think that was reported that was in July. I know that in August the administration, which includes DEQ, Department of Commerce and the Department of Natural and Cultural Resources held some town hall meetings in Eastern North Carolina just to get input on how people felt about the pipeline. These were not required in the permitting process but I think that we did it just to hear what was on people's minds.

SADIE WEINER, GOVERNOR COOPER'S COMMUNICATIONS DIRECTOR: There was separate required hearings. But these sessions—

EUDY:—That's right, public hearings, yeah. But these were like town hall roundtable meetings. 'What do you like about this, what concerns you about it?' It gave people the opportunity to come in and talk. And if you distill those comments, really, there was sort of four areas. One was 'this screws up the environment in the corridor. We're concerned about that.' Another concern was environmental justice. The pipeline may run through communities that were disproportionately communities of color, not just African American but Native American. There was a question about economic development. Are these jobs real, are these jobs permanent, how can we be sure? And then the fourth category was safety. Because you know every now and then you hear about a leak in a pipeline or an explosion. How will we protect against that? So those were the concerns that were raised.

By October we in the Governor's Office were sort of climbing a steep learning curve on all those issues. And we also were beginning to hear from some folk in Eastern North Carolina some concerns about, I think that they learned there were only three taps in this pipeline. You know how many miles it is, like almost 300 miles or something?

WEINER: Something like that.

FAIN: 200.

EUDY: Yeah, 200. So there were taps in Cumberland County, Johnston County and Robeson County. So nothing north of Johnston I think it was. And so the question really started, that we started getting was 'how do communities that are distant from those taps, how do they benefit from the pipeline? And so I sent an email to Secretary Copeland and Secretary Regan and said 'walk me through how this works.' What's the job creation formula? So you know ACP sends out this, you know these PowerPoints and these brochures and everything and they have a website. 'It creates 4000 jobs' and I think maybe 1300 permanent jobs. So as a result how do you calculate that and is that credible? How does ACP expand access to natural gas for businesses in the corridor? Or potential businesses to come to Eastern North Carolina?

You know I've been hanging around here for 40-some years, a long time. And I have heard it the entire time, Eastern North Carolina can't get manufacturing gas because there's no access to natural gas. How are we going to get jobs if we can't get it? One of the things I think is important to remember is that, you know if a manufacturer says 'we'll come to rural Edgecombe County, but we're 10 miles away from the gas distribution line, in you know, the northern end of Rocky Mount.' The gas company says 'oh, don't worry we'll run the distribution lines out to your plant but it costs a million dollars a mile to extend those.'

So you know the company says 'we can't do that, we can't afford an extra \$10 million of capital costs before we open our doors.' So that's the kind of complaint that we heard from folks in Eastern North Carolina. Norris Tolson had said that, since he's at the Gateway Partnership, the economic development partnership down there in Nash and Edgecombe County.

Also along this time the governor's senior staff meets on a regular basis, but occasionally we use our meeting to just sort of whiteboard a different issue. And in October we whiteboarded some energy issues that we were facing. Lots of different issues. Like we do with healthcare, transportation, or education, state budget, tax policy. And as a result of that we asked Copeland and Regan to stay after the Cabinet meeting and give the governor a briefing on what they knew about the ACP. And so they did that. Regan just, was talking about how they were asking for more information from the developers of the pipeline. They were asking a lot of questions, they were getting a lot of their questions answered, sometimes the answers were inadequate so they asked again.

Copeland's was mostly about, we were quizzing him on 'is there any way or is there any fund that helps to subsidize the extension of gas lines. And there is an Ag Gas Fund. Do you remember that? Brent Jackson did that. I don't know if you were here when he did that. But they had some fund that the legislature established I think in 2015. And no farmer has ever used it because even with the fund it's still too expensive to do the hookup and to pay the additional cost. So anyway we talked about that. Also along this same time, these pro-Atlantic Coast Pipeline TV ads go up. Did you see them?

FAIN: I've seen a few seconds of them.

WEINER: They've got a whole YouTube page full of them.

EUDY: Yeah and the mayor of Garysburg says 'we need natural gas to recruit any business to North Carolina.' And they had Durwood Stephenson in Smithfield who called on the governor to support the pipeline. And there was another one where a woman was standing by a lake. It was very pastoral and rural and all this, and she talked about the importance of the pipeline. So these ads talk about all the jobs and everything that it was going to recruit. And we are just increasingly skeptical about that. And then we have some of these people who, Durwood for example, Durwood Stephenson is chairman of something called, I think it's called the US 70

Coalition, and those are, basically are civic leaders along that corridor who work on chamber, economic development, business development kind of issues. And they are saying 'we're very concerned.' I think Larry Wooten, who has been involved in this conversation, he and I have a conversation and he's like 'if we can't get gas to farmers, then I'm going to withdraw my support.' And Durwood even mentioned that he had been, they, apparently he and Tolson and Stephenson had had conversations with the pipeline folks. David Fountain from Duke and I can't remember who else would've been in it, I can get that for you.

WEINER: Bruce McKay?

EUDY: Is it Bruce McKay? It's McKay but I can't remember if his first name is Bruce.

WEINER: He's the one I've seen in stories about it.

EUDY: Anyway, they were saying 'we need more taps. We need one tap per county. Or we need a fund that would help small and mid-size businesses get access to the gas.' Now the utilities always say 'if you have a big manufacturer, we'll work that out.' And honestly if BMW would decide to locate in Northampton County, BMW can pay for that. Whatever it takes to do a tap or an extension from the pipeline for a big manufacturer. But you know, Eastern North Carolina's not getting those. But they do have the opportunity to get a 200-employee textile manufacturer or something like that. And that's where the extensions are crucial, is how do you have affordable access to the gas?

So there's a lot of discussion. How do you do this? Could it be a grant, straight to a community or a community development organization? It could be dollars into existing state programs. And I think at that point Durwood Stephenson proposes a \$100 million fund that would be funded by the Pipeline, by ACP. I ask folks at Commerce what their ideas were for getting gas to the communities. Their examples were that perhaps the distribution companies, and you know the difference between a transport and the distribution? So a transport is the big pipeline and it, you know, it goes through the state. That's the Atlantic Coast Pipeline, a partnership of Dominion, Duke and I think Southern Company has a piece of it. The distribution lines are what run off of the pipeline and that is Piedmont Natural Gas and the Public Service Company of North Carolina. Piedmont, owned by Duke. Public Service, owned by SCANA but soon to be owned by Dominion.

And so it was not clear to me who would underwrite the subsidy of a new business that would come in. So if you gave a new business, you said 'you've got to pay for the extension but we'll give you a credit for a lower rate on the gas that you use.' So that was an idea. Another idea that commerce sent, could there be a fund to pay for the extension of the gas lines. And so we continued to try to think of ways to help the companies in this corridor. Because otherwise they're going to see this pipeline run through their counties and they're going to sort of wave at the gas as it passes through down to Robeson. And some people have said on into South Carolina on the way to the Port of Charleston where it'll be exported to wherever, China, who knows. So how do we help those communities was sort of at the forefront of what we were trying to do.

So there were also three different funds within the Commerce Department. You know, Commerce has all these ancillary businesses underneath but there's the Industrial Development Fund, Utility Account, there's a Site Infrastructure Development Fund, there's the Ag Gas fund that I mentioned before. There's some other funds that could be used but hadn't been mentioned. One might be the Clean Water Management Trust Fund or the Rural Infrastructure Authority. I mean there were a bunch of funds that could be used.

So Travis, that sort of takes the story down through October. Also around that time we start getting pinged by the solar industry. Now, we had a conversation about that towards the end of the year. So I'll give you the Reader's Digest version just as a refresher. House Bill 589 gets passed after a year of roundtable discussions. Now in those discussions the solar industry believes that all of the projects that had been in the queue for Duke Energy and to get connected to the grid, will be connected once they agree on House Bill 589. Duke has a different understanding of that. And so in the weeks after those, the solar guys say 'alright, we're ready, we want to move this project forward. We've spent a million dollars on land acquisition, we've spent money on equipment, engineering, site planning, site development.' And they're at a loggerheads over these projects. And so they call us.

You know the governor signed 589, he wasn't happy about it because of the wind moratorium, remember? He also was, the other reason he signed was so that solar could go forward. He had campaigned on it, it's important to him. He believes that we ought to get to a low-carbon, no-carbon energy future in this state. Probably won't happen when he's governor but we need to push toward that so we need policies in place that allow the orderly development of new energy in the state. So, he's not happy. So I call David Fountain, who was the chief negotiator—actually David was not the chief negotiator with solar, but David is the Duke North Carolina president. So I said David, 'why don't y'all come back? You're fixing to get sued. The solar industry said they were going to take it to the Utilities Commission and then go to Superior Court. Why don't y'all come back and work this out?' And at first David says 'no, we're not interested. We've been doing this for a year, they need to take yes for an answer and be thankful for what they've got.' That's not an answer that the governor was particularly happy with.

At this point, there's a meeting that gets scheduled with Lynn Good. There're a lot of topics going on on the energy front, including solar, including the ACP, there are two double-digits rate cases, you know there's just a lot going on. And so they have this meeting at some time right around Thanksgiving. I don't remember exactly the day but it's around Thanksgiving. The meeting is a one-on-one meeting. And so what I'm going to tell you is a readout that I received from the governor. And I guess what I'd say is leading up to that meeting I asked Commerce, there're a lot of issues that are swirling in energy. What are the two that make the most sense to focus on from an economic development standpoint. What could create more jobs in Eastern North Carolina as we talk to Duke? And they said without question getting solar back on the grid sooner because that creates jobs. And if you could figure out how gas gets to the distribution lines, to the businesses, that could be a real jolt of economic development for the East.

So the governor goes in and he talks to Lynn Good about two things. One is solar. He says would you be willing to re-engage with solar developers on this impasse on the implementation of 589. And Lynn's response is 'yes, I will try.' And that's how she put it. The governor also, the second thing is that he expresses concern, he says 'you know these TV ads talk about once the Atlantic Coast Pipeline is in Eastern North Carolina it's going to blossom with jobs. And we have some concern about that. How does that happen, especially if there are only three taps and there's no way identified to get gas to all these communities that either don't have it or have inadequate pressure. How do you do that?' And so the governor asked her to do two things. One is to please listen and engage with people in Eastern North Carolina who had been talking to them already about their concerns about access. And number two is please use your best thinking and your best engineering, all of the thinking that you have at your disposal to help figure this out. Because this is a critical issue for Eastern North Carolina.

Throughout the meeting, the governor says and makes really clear, and I want this to be really clear with you, that the DEQ permit process is separate from this. The governor, from time to time at a cabinet meeting will hear an update from Michael Regan that all the other cabinet hears, but he is not enmeshed in the weeds of this permitting process. And when Lynn Good encourages him that they need the pipeline, he says 'you need to talk to DEQ about that.' And so that's very clear, it's a bright line and I just need to underscore that with you.

And a week or so after that, sometime in the first week of December, I'm designated to carry on the discussion for the governor's office and Kathy Hawkins is designated to carry on the discussion about these two issues. She's designated by Lynn and she represents the Pipeline.

FAIN: That's in early December?

EUDY: Early December.

FAIN: Help me understand. You're the point person for this, Lynn Good's point person is Kathy.

EUDY: Yeah. And what we're talking about, she tells me that they will engage on solar. And so, I have no idea about the subject matter on solar. Our job was just to get them back together. And then encourage them to come to some sort of implementation agreement so they could get going on it. And so she says they are now engaged with the solar folks. On the pipeline, we sort of return to the same conversation. It is, what is the best way that we can make sure that the communities in the pipeline corridor have access to this gas? Kathy talks

about several things. She talks about the possibility for putting money, ACP money into the Ag Gas Fund. One of the problems with Ag Gas, I found out in the process of this, Travis, is that it hasn't been used in the three years, or two and a half years that it's been in existence. It's sort of clunky, it's hard to access and farmers still have to pay more than they think they can afford to use it.

The other thing that she was suggesting is that ACP would help subsidize some economic development activities in that region so that they could recruit companies to the region. And that has the effect of helping those communities. But it also of course has the effect of helping the Pipeline and the utilities because they can sell more gas, or they can sell more electricity. So it seemed like that that is, something that could work. So in the days that follow, Kathy delivers a draft Memorandum of Understanding. And that's, I can't remember exactly when it was, but I'm sure it was within the week. It's a real legal document, I guess you've seen a copy of the MOU.

FAIN: Yeah but I haven't seen the draft.

EUDY: The draft was different. The draft, to me, looked like it was block save from another MOU. And in fact it was, it was Virginia. We didn't know then for sure that Virginia was negotiating an agreement. We suspected they were, but we didn't know. But we asked and yeah this was the Virginia agreement. So it had that language about forestland and parkland and that sort of thing. And ours doesn't run through many public lands, through North Carolina. And I had said to Kathy that we wanted to make sure that we also had some economic development. We wanted to list economic development. At this same time, we also were hearing from some of our environmentalist stakeholders. You know, first of all, they didn't want the pipeline. They were very clear they didn't see the need for it, they thought it was a bad idea, they thought it would damage the environment. They didn't want it. But they also said that it wasn't just a problem with water quality. You know the big permit here was supposed to be the 401 water quality permit. They also said there was a problem with carbon emissions.

FAIN: From the methane?

EUDY: Yeah. Methane, and at the compressor station. So when we heard that, we asked some experts over at DEQ, what could be done to offset some of the carbon emissions.

FAIN: Again, do you mean Methane? Or do you mean carbon?

EUDY: Carbon. It wasn't so much about methane. It was about just the carbon of the gas going through the pipeline and the gas being used to generate electricity.

FAIN: Because I mean, natural gas is methane.

EUDY: Yeah. That's right, that's right. So we wanted to offset the carbon impact of that. So we edited the MOU, put in economic development and renewables as well as environmental protections. The amount in the MOU was \$55 million. Right after that, when I reported back here, the governor asked me to brief Secretary Regan on this MOU. He didn't know anything about the MOU. I didn't know anything about where they were on the permit process. And so the thing that he said at the time, remember this is probably mid, by then, after we had the MOU it's probably mid-December. He said 'we've been in the review process now since... May?'

WEINER: May, I think is when they got the application.

EUDY: So they'd been in the review process since May. They had asked for additional information. They asked a ton of questions, dozens, maybe hundreds of questions. And the pipeline developers had answered most of the questions he said and if they answered the questions that are outstanding that we have asked for answers or more information, then he anticipated that DEQ would have no choice but to issue the water quality permit. Because it was an exhaustive review. They had answered, or were in the process of answering all of the questions.

In the meantime, the solar negotiations were just grinding. And they would just grind to a halt and stop for a week. And then they would come back, and then they would stop. Honestly, our hope was that by the beginning of the year that we would be able to have announcements on everything that we had been working on. You know, we were hoping that DEQ would finish its review and we either would or wouldn't have a water quality permit, we were hoping that we could announce a mitigation agreement, if there was a pipeline permit. And then we were hoping that we could announce the solar agreement. All at the same time. And the reason for that, you know, if you look at them in extant or just sort of by themselves, you know, OK, it's, you know, it's a story. But I think if you look at them all together, we would say this is a, sort of a wide-angle look at a big piece of North Carolina's energy future. You've got renewables back on the grid faster, you've got some renewables and mitigation of this pipeline, and then you've got the ACP that will help transition coal plants to natural gas.

And so, we thought, wow, this a really good thing. In the process of this, I ask the solar folks all of those projects that had been knocked out of the queue but they were trying to get put back in, how many of these, I think 75 or so, were in ACP counties. You know, the eight counties. And about half or two thirds of them were. So that was really good news. And you know we could make the argument that there's even more solar that will be developed in this corridor that offsets the carbon impact of the pipeline. So, we're not ready in early January, but we also hear that Virginia is going to get more money than we're going to get. They're going to get \$57.8 million. And so I sort of, I go back to ACP and say 'we want what Virginia gets for the mitigation fund.'

FORD PORTER, GOVERNOR COOPER'S PRESS SECRETARY: Well they got \$80 million.

EUDY: Yeah, but 57 of it was going to similar kinds of activities that we were requesting in our MOU. And so they agreed. Then there was this odd thing that came up. I got a call, this was mid-January, I got a call from the ACP that said, 'have you signed the historic properties programmatic agreement?' And I said I don't know what you're talking about. So they said, 'well all the states have to sign this agreement with FERC that says if the pipeline disturbs any historical, or finds any historical artifacts during construction, that there's a process for what they do with those artifacts and who they turn them over to and that sort of thing.' And I said, well I don't know, but I'll check. So, I checked and I found out that our historic properties officer had sent the signed agreement to FERC like the day before. And I said 'well can you get it back, can you recall it? Because I just want to see what we commit to or what it requires us to do, does it require us to do anything? And so, they got it back, we looked at it, had some attorneys look at it, make sure that legally it was the way it needed it to be, and we sent it back. And that was all within—

FAIN: Did you guys make any changes?

EUDY: No changes, at all. And so, sent that back, I think the same week we took a look at it. So that was sort of a non-issue, and I know it seems sort of odd, but it is ACP related, so I wanted to—

FAIN: Sure.

EUDY: It's just an odd part of the twists and turns of the story. And so at this point we begin working on the, sort of the story for, how do we tell all this on the, I think the DEQ now sets a date of January 26th to issue the permit. On the 24th, the governor meets with a room full of environmental—

FAIN:—January 24th?

EUDY: Yeah, January 24th. He has a meeting with representatives from environmental organizations, you know he felt like he was obliged to meet with them face to face because he knew that this would not be welcome news and he just wanted to sort of man up and say, here, this permit is going to be issued. So he did. He also said that there is an agreement that will enable us to extend distribution lines in Eastern North Carolina so we can get some jobs there. We can have some rooftop solar on public buildings, weatherization, projects, energy efficiency projects, all have the effect of reducing the carbon impact of the ACP. He also tells them that the solar agreement is coming together. Which at that point is still an article of faith. Because you'll recall, I think we met with you the next day and thought the deal was going to get done and honestly didn't get worked

out until the following week. Because, I don't know what they were arguing about but they were arguing about details about which projects were in, which projects were out, which projects would be at what megawatts. That was their negotiation. So anyway, the agreement is announced on Friday and you know, the solar agreement is announced in a very low-key way the following week.

And again, I think if you look at this from the big picture and you see what happened, that after whatever it was, eight or nine months of exhaustive review, the water quality permit gets issued, the pipeline in all likelihood goes forward, there's a fund that will address some environmental issues, some economic development issues, some renewables, you get 300 megawatts, 300 megawatts is a lot of solar, gets in line to get on the grid faster and jumpstarts the solar industry in the state that hadn't had any projects interconnected to speak of for almost the last year. So, you know we think 'wow this is a good thing', instead you know there is this hue and cry in the legislature, it wasn't about 'gee you should have done more to help Eastern North Carolina or you should have done more to help rural North Carolina, or you know spending it on renewables would be the wrong thing.' It was 'that's our money to spend, you should have given it to us and let us spend it.' I'm going to tell you the truth, I think that their subsequent actions bore out exactly why we didn't want to involve the legislature in this fund. It's just a political power play, raiding the fund, that would've gone to economic development and environmental protection, and they send it to the schools in those counties. So it's really frustrating that all we were trying to do is to help those counties and to figure out ways to get more jobs, more money in people's pockets, to have a better life. I mean nothing other than that was on the table for us, it's just really frustrating to see what happened as a result to that work.

FAIN: When the final MOU was being drafted, did no one say 'hey this gives all the power to one person to decide how this money is spent?'

EUDY: Well, you know, I don't think it did, I don't think the MOU does that. What we were contemplating—and this is where we really screwed this up—this debate was about should it be a 501(c)(3), should it just be a trust account? Who should be on the board to make the decisions? What we knew is, is that we wanted someone other than the governor, the last thing the governor needs to do is to make decisions 'yes you get a grant but you don't.' Why would the governor want to do that? That's crazy for him to want to do that. So there was one school of thought that you'd have three cabinet secretaries doing it. There was another school of thought that maybe you needed to have subject matter experts in environmental mitigation or economic development. So that's on us for not nailing that down before the announcement, and I think your question is spot on. In retrospect, should we have—and I think we did, but we didn't say: 'this looks like the governor is in charge.' Because that never crossed my mind, I don't think it crossed any of the attorney's minds that I was talking to, this was more about; there would be a board, not unlike Golden Leaf, but there would be a group of people—

FAIN: But it doesn't say that, it just says that the governor will do an executive order.

EUDY: And that is what the executive order does, the executive order would say 501(c)(3), or trust account—

WEINER:—Or to the funds that have been mentioned, remember?

EUDY: Yeah.

FAIN: I would sure love to see an email or a memo where someone said, here is what we're contemplating. I mean it's my understanding that doesn't really exist, this was all done verbally, but that would be nice to have.

EUDY: Look, I wish it did. There are plenty of conversations saying 'we need to get this' or 'we need to hurry this up, this decision making process' and—

WEINER:—but just to that point, it is not as though there is an email saying, 'great, get the governor.....'

EUDY: Right, the governor gets to decide where this \$57.8 million goes ** Laughter **

FAIN: I understand. I don't need an email saying that. The MOU allows him to do that, it says he will issue an executive order saying how this money will get spent. He could have issued an executive order saying it all

goes to, I don't know, whoever. But I think we would have the exact fight that we have now, had he done that. Except a little more evidence on both sides.

EUDY: You know, I got to tell you, if you spent days and nights with him, you would know that the last thing he wants to do is to give this money out.

FAIN: Well my viewers do not spend days and nights with the governor. ****laughter****

EUDY: I know, but they see it through your prism and he is not sitting there waiting for this money to drop in. I mean, you know, if you want to reflect the reality, that is the reality. He is not sitting there waiting for this money to drop in his hands so that he can pass it out.

PORTER: One important point and I think Ken talked to it, there was always an expectation of transparency and accountability.

EUDY: Well, you know, that's honestly why we didn't want the legislature to have it. You know, it is really rich to be lectured by Phil Berger about transparency.

FAIN: That is also rich.

WEINER: Can't get your calls returned?

FAIN: Well they're better about that in the senate. The house won't return my calls., I mean come on, you know—

WEINER:—Dead of night budget—

EUDY:—\$132 million in pork barrels appropriation show up—

WEINER:—Overnight—

EUDY:—Overnight, please. \$132 million dollars—

FAIN:—True. But, there are, what're there, 140 members in the house?

EUDY and WEINER: 120.

EUDY: And 50. 170.

FAIN: There are 170 people who can say something, now I don't know that all of them are bold enough to say something.

WEINER: Say something, what do you mean say something?

FAIN: The budget is voted on by 170 people. And then signed by the governor.

WEINER: Or not.

FAIN: The executive order does not have that check upon it. So while I really do—

WEINER:—Well, he was elected by the entire state—

FAIN: when they talk about transparency, I say 'have you met yourself,' but, you know the budget has that process in place, we all know how it works.

EUDY: But all of this is executive stuff, this is not policy, you know this is what happens in faithfully executing the laws how this happens, this is not an appropriation.

FAIN: Well let me ask this, so the initial amount \$55 million, how is that amount reached?

EUDY: I think it was half and half.

FAIN: What does that mean?

WEINER: You mean how was the number 55 picked—

FAIN: Yes, what makes 55 million the amount—

WEINER: It came in the MOU, didn't it?

EUDY: It was in the MOU.

FAIN: The pipeline suggested it?

EUDY: The pipeline drafted it and they put in 55 million.

FAIN: Ok, did they offer any justification for how they reached that figure?

EUDY: They did not. ****long pause**** I had to believe though, Travis, that it was somehow related to what they were doing in Virginia. I just wanted to make sure that we got a similar amount.

WEINER: Well, and this isn't the answer to that, but there is a FERC piece of this, right?

EUDY: Well yeah, that's right. You need to understand this, FERC issues what it calls guidance. It's not a requirement, and it's certainly not a requirement of the 401 permit that we have in North Carolina, but FERC says that pipeline developers have a duty to go into the communities that are going to be disrupted and to listen to the communities for what the impact might be and to address that. And so that's a part of many FERC processes, is to recommend that they have mitigation and that they display some public benefit to their project. And so that's why from the outset they were saying jobs and economic development, and we were saying mmm, we're skeptical, help us understand that.

FAIN: One thing not mentioned in this timeline that would have been going on at some point during all of this is Mr. Lilly's hire, can you speak to that and how that came to be?

EUDY: You know I can, I'm trying to think if I'm transgressing any state personnel privacy laws when I do this.

WEINER: That's a good question.

EUDY: I think that is an important thing, and it's completely cooked up by the Republicans.

FAIN: What's cooked up by the Republicans?

EUDY: This Lee Lily dominion lobbyist, oil—

FAIN:—Well he was a lobbyist for Dominion—

EUDY:—He probably had, and I don't know how many clients he had, but he probably had 20 clients, he's like Dana Simpson, or David Horne, or someone like that. He had a bunch of clients.

WEINER: If I can, just off the record for just a second—

FAIN: Sure.

WEINER: The notion that the revolving door flows that way is insane.

EUDY: Oh it's outrageous.

WEINER: So what's the tie there? They get the pipeline approved and then Lee Lilly gets a pay cut of a quarter to come work in North Carolina government?

FAIN: Why did he come work here?

WEINER: He's from here!

EUDY: Lee grew up in Williamston. Went to UNC. And his family goes back like to the Mayflower.

WEINER: But they payout works the other way. You work in government, you approve the pipeline, and then you get a huge—

FAIN: I understand, I mean it didn't really seem like the minion would be like 'hey make sure Roy is taken care of.'

WEINER: Right, 'you need to make way less money.'

FAIN: It's just weird. It's just weird that there's this thing other happening with Dominion.

EUDY: It's horrible timing, it's horrible timing. But, I don't even think any of us spoke to him before he showed up on February 1st. Did you talk to him?

PORTER: I did not, I did not meet him until...

WEINER: I had heard he was getting hired and knew him from D.C. and offered to help him house hunt *laughter*.

Porter: Brad was retiring.

WEINER: Yeah.

FAIN: How did the governor know I assume tats a hire the governor decides pretty much all on his own

WEINER: Are we back on the background now, by the way?

FAIN: Sure.

WEINER: I don't know how much of Lee is factoring your story.

FAIN: Well, I don't know either.

EUDY: It's, you know, it's just a BS thing.

FAIN: Well again, I'm not even sure what the accusation is.

WEINER: That's what I mean.

FAIN: It's just weird that there's this other thing connected to it.

EUDY: Well you have all of this but you also have this slush fund and you have these words pay to play.

FAIN: I like when they say 'you have many people who are calling it a slush fund.'

WEINER: Yes, many republicans.

PORTER: But with the link thing, it seems to be a coincidence, he worked for GK, he's a Democrat, he's from here.

WEINER: There's not that many people that are really like made to do that job either, do you know what I mean?

FAIN: Well it's a weird, does he know a lot of Republicans in the General Assembly?

WEINER: I don't know the answer to that, but he knows the legislative process.

EUDY: He knows some, but you know the Republicans, their strategy is, Cooper gets no wind.

FAIN: Sure.

EUDY: That's what Tim Moore says in the beginning of every caucus meeting. No win for Cooper. They don't even have to say it in the Senate. I mean honestly, Brad, I thought Brad—

FAIN: Does he really say it every caucus meeting?

EUDY: I don't know about every caucus meeting.

FAIN: Do you think some members would confirm that to me?

EUDY: I believe they would.

FAIN: That would be great.

WEINER: I know he said it once, I heard it once.

PORTER: He's said it a couple times.

WEINER: Has he said it?

EUDY: I believe that you could get that confirmed.

FAIN: I would love to.

WEINER: Ask Chuck McGrady.

EUDY: Ask McGrady, Ask Mitch Setzer, ask McGrady.

WEINER: Who's the second person you said?

EUDY: Mitch, Mitchell Setzer.

EUDY: But you know, they are not going to give Cooper a win. We could put Jesus Christ over there and they wouldn't pass any of our legislation.

FAIN: Sure, but I mean. One of the questions they asked was did Governor Cooper personally bless the arrangement? I'm assuming the answer is yes because that's how things work but—

WEINER:—What does that mean?

FAIN: He said ‘this looks good to me, the MOU.’ Because it was signed by the governor’s general counsel, which is unusual I thought. I don’t know whose signature I would expect to be there, but the governor’s in-house lawyer is probably not the one that I would expect. I would expect it to be his or the chief of staff but I don’t know maybe that’s how y’all do it.

EUDY: Well, this is the only one we’ve done. Now, the governor would sign the executive order, right. But, you know, yeah, the governor reviewed it and said yes, this looks good.

FAIN: Another kind of piggyback on another question, this idea of other drafts. It sounds like there was the original draft from Duke and then y’all countered with what ended up being the final draft, is that right?

EUDY: No, no, I think it went back and forth a couple of times.

FAIN: I’d like to see all the drafts, I think that’s a pretty basic record request right there.

EUDY: It is.

FAIN: I’m going to make a note that I asked for that.

EUDY: Are you making a note of that, Sadie?

WEINER: I did make a note of that.

FAIN: And I’ll be happy to email. What other questions did they have that I thought were reasonable?

EUDY: That’s all. Ask which ones are political.

SADIE: Has Roy Cooper ever filled up his car with gas? Does he use the heat in his home?

FAIN: Was there discussion with Duke or someone else at the pipeline about whether consumers or shareholders, which kitty the money would come out of?

EUDY: Well, this is I really am not ever going to say this if you ever quote me about this, but it’s something you should know in dealing with any kind of energy issue. And it’s—

FAIN:—Money is fungible. Is that what it is?

EUDY:—No, but I won’t ever agree to give you this if you say verbatim, but my experience is that utilities are happy to use customers money but they rarely are willing to give away their money. I think they would have an expectation that this would go into the rate base. But you know, they’d have to—

WEINER:—That’s a public utility commission decision.

EUDY: Yeah, That’s not our call. What they’re going to have to do. This will be interesting, Travis. If they, if this money goes to schools, they go to the utilities commission and say we would like this \$57.8 million to be put out in our rate base. And what does the utilities commission say? Well, is this considered to be I think the words are ‘prudent and reasonable expense’ that should be borne by ratepayers, that \$58 million goes to schools instead of environmental mitigation, renewables or economic development. And see, their whole reason for being is economic development.

FAIN: Suddenly, Duke can say hey we can’t charge our customers and then they have to decide whether or not they want to have a public relations hit on not sending the money. What conversations have happened with these folks since the legislature did what it did to potentially redraft the MOU to reflect the new?

EUDY: Zero.

FAIN: Okay. Are any planned? Because I mean right now you've got a MOU that is meaningless and you've got an appropriation that is meaningless without the MOU.

PORTER: And there's no money.

EUDY: No money!

WEINER: There's no money. You should ask the legislature if they've talked to Duke to figure it out. Or I guess to ACP, not just Duke.

EUDY: I think that's the legislature's problem, don't you?

FAIN: Well, it's all our problem. But if anyone wants the money, it's their problem. This language of voluntary contribution. Where did that come from? This idea that it was 'voluntary.' Who was the first person to say that?

EUDY: Well I think it probably came from us. I don't think it came from the utilities.

WEINER: But, I think to the FERC point. Because I think this was a question you or somebody asked, right, and we said it. It's that they were engaging with us voluntarily.

EUDY: The permit they had to engage. This was separate and apart and we wanted to make sure people understood that the permit was not contingent on this.

FAIN: To me, there are two separate things here though. One, voluntary is over here it has this meaning, and then if we draw the Venn diagram, not contingent on the permit crosses into that territory but they're separate things. Does that make sense?

EVERYONE: No.

PORTER: No, because they were not required to engage with the state for this purpose.

FAIN: But yet they are doing it in every state.

PORTER: But it sounds like there are FERC guidelines and that is a separate... our point is that is a separate system. That is outside our sphere of influence, our sphere of authority.

FAIN: I just I don't know of any voluntary contributions where there are multiple MOU drafts going back and forth between the two parties.

WEINER: If I may, I think—

FAIN:—Like if I said hey I'm going to give you 100 bucks, you don't say how about 105?

SADIE: I think that the word voluntary probably came up because when we were asked this question and used it, it was when we were being accused of saying 'you will not get your permit unless you give us this money,' which would not be voluntary. And so that was the point.

FAIN: I understand you were trying to make that point, that's the point of the word voluntary

WEINER: In context, that's what we were being accused of, which is ludicrous.

EUDY: My guess is that if you asked the utilities they would not say it's voluntary. Because if it's voluntary, they may not be able to recover it.

WEINER: And if they view it as part of their FERC process, then they might not view it as voluntary. It's extra credit that they do this homework.

PORTER: But nowhere in there is a requirement that they must engage with us, and that was our point, if made ineloquently.

WEINER: They could have gone individually to each of the counties, but this is the way they did it.

FAIN: I don't think I care to ask any of these other questions.

WEINER: What do you think the legislature is going to do next?

FAIN: On this or just in general?

WEINER: On this.

FAIN: Um, I don't know. I think they would be willing to negotiate some economic development aspects of it. I think they just saw a bucket to throw the money in to get it away from you guys, so I don't think they are particularly wedded to that.

EUDY: But guess what? There's no money to throw in there.

FAIN: Well not yet, but I mean.

PORTER: It's a more complicated situation than—

FAIN:—Sure, I understand that. Well it goes back to what you said about Duke when we met the last time and you were saying you got this going on and this going on and this going on, how much do you want to be hated? Like what's your level of comfort with asking people for whatever Duke Energy Progress got, the 600 million that Duke Energy Carolinas wants, the solar fight, this pipeline fight. Like, how, are you willing to pull the 58 million from school children in 8 of you know, 6 of those counties are probably among the poorest counties in North Carolina, right, or close to it? Bottom 10 percent?

EUDY: Yeah.

FAIN: I mean, is that a fight that Duke Energy wants?

EUDY: Well, like I said, we have not spoken to them. We have not spoken to them other than through letters

PORTER: It was interesting, we've noticed that Senator Berger is now amenable to funding taps. That's new.

FAIN: Is that based on just what I asked?

WEINER: Yeah, your question.

FAIN: And he barely answered it. He was like yeah, yeah, maybe.

EUDY: It was very Berger-esque. He never commits to anything, but he said that's maybe something that we should look into.

PORTER: Well, their folks on the ground are asking for it

FAIN: I didn't know if he had further established that.

EUDY: I will tell you that he, I think is getting asked about it.

WEINER: Well, I know your boy Brent Jackson. We had heard, you can't source us on this because you've got to run it down yourself, but we had heard that he got an earful from the farm bureau, or an economic development team?

EUDY: It was just the economic development folks and farmers in his county that said, what'd you do?! I mean you know, we wanted the gas and so you know you should talk to Brent. He's solid. He's a loyal soldier. He's not going to say anything.

FAIN: He's not going to talk to me.

WEINER: Someone in the county might.

FAIN: Um, yeah I think I'll probably. I mean, I've been trying to get to Tom Campbell to find out who he talked to in the Farm Bureau.

EUDY: Is he not talking to you?

FAIN: I reached out to him the day his column ran and was like hey this a totally unsourced column. Could you give me a call about it?

EUDY: Did he have a good break up with capital broadcasting?

FAIN: I have no idea.

EUDY: It just seemed sort of odd to me.

WEINER: Where does his show air now?

EUDY: It runs on UNC-TV.

FAIN: How long ago was that?

EUDY: Right at the end of the year, I think.

FAIN: Oh well that doesn't sound good.

PORTER: It's UNC-TV and I think the Farm Bureau is his underwriter.

WEINER: Sponsor.

FAIN: Yeah that makes sense.

WEINER: A bunch of old white guys.

FAIN: But no, I don't know, I haven't talked to him since I've been back.

FAIN: Also a list of people that I can call, that you were talking about how this kind of grew organically out of calls for help, I'd like to talk to some of those people, that will be helpful. But I think I'm good to go other than that.

WEINER: Do you feel better now? *laughter* Do you feel like you got some answers?

FAIN: I don't care about this stuff.

WEINER: I know, but we wanted to answer your questions, Travis.

FAIN: I've been trying to call the balls and strikes, but I don't really care how the game ends.

EUDY: If you need clarification, let me know, I expect that there will be other questions once you think about this and look at your notes. We thought we were doing a good deed, we thought we were doing something really good for Eastern North Carolina. Look, we knew we would get some push back from the legislature, but after all, this money was going for economic development.

WEINER: In their counties!

EUDY: They all support the pipeline.

FAIN: Okay, but this stuff wasn't written down. It was too much "trust us"

PORTER: Well there was an interest in transparency, in saying here's what we're doing, here's what's coming, McAuliffe's getting blown up for not announcing it. Cooper wanted to make sure that we were upfront and above board.

FAIN: Yeah I don't really understand that in Virginia, because I knew it existed, so I didn't know how it existed but I did.

PORTER: Which is also why it's bullshit for these Republicans to say that they didn't know it existed here, because these are conversations that their people are having, we don't live and work in silos.

FAIN: In fact, the Virginia agreement is why I didn't bother to read y'all's MOU carefully because I assumed it was the same thing and then I looked at the Carolina Journal and was like 'oh, shit.'

EUDY: It started out being roughly the same, I told Blaine that we needed to do something on economic development, and Blaine said 'sounds like a great idea, I think Senator Berger would be interested in that and let me know how we can help.' And you know we made the call soon after that that we are not going to ask them for help, that money would end up going to some baseball field in Rutherford County, or wherever. We don't trust them to be transparent.

FAIN: Thanks guys.

WEINER: So MOUs and names?

FAIN: Yes. And I will email you if there's anything else.