

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

In the Matter of)
Tennessee Gas Pipeline Company, L.L.C.)
Northeast Energy Direct Project)

Docket No. CP16-21-000

**MOTION TO INTERVENE AND PROTEST
OF THE NEW HAMPSHIRE MUNICIPAL PIPELINE COALITION**

Pursuant to Rules 211, 212 and 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.211, 385.212 and 385.214, the New Hampshire Municipal Pipeline Coalition ("NHMPC" or the "Coalition"), consisting of thirteen towns in New Hampshire: Brookline, Fitzwilliam, Greenville, Litchfield, Mason, Milford, New Ipswich, Pelham, Richmond, Rindge, Temple, Troy, and Winchester (collectively, the "Towns"), hereby submits this timely motion to intervene and protest in the above-captioned proceeding and request an evidentiary hearing on the application of Tennessee Gas Pipeline Company, L.L.C. ("TGP" or the "Company"). Each Town is a municipal corporation duly authorized in New Hampshire.

I. COMMUNICATIONS AND CORRESPONDENCE

The following individual(s) should be included on the service list for this docket, and all communications should be sent to:

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II. NHMPC'S INTERESTS WOULD BE IMPACTED BY THE PROJECT

Interests of the NHMPC

The above matter concerns an application for the construction of the Northeast Energy Direct natural gas pipeline and other facilities (referred to herein as "NED" or "Project") proposed by TGP, a subsidiary of Kinder Morgan, Inc. Over 70 miles of the pipeline will traverse through the Towns within the right of way of public streets and on other property owned by the Towns.

NHMPC is an unincorporated association of New Hampshire municipalities located along the route of the Project in New Hampshire and formed with the purpose of preserving and protecting the interests of member municipalities and residents, including health and welfare, and safety. NHMPC is opposed to the Project and Company's application for a certificate of public convenience and necessity filed with the Commission (the "Application").

NHMPC includes, among other things, municipalities that would be directly impacted by the proposed NED route; municipalities whose watersheds would be impacted by the Project; municipalities that would have compressor stations located within their border or nearby; and a municipality with a superfund site in proximity to the route. NHMPC also includes members who are ratepayers of a local distribution company who have sought or are seeking approval for precedent agreements and would be subject to rate impacts should the Project become operational. The Coalition seeks to prevent negative economic and environmental impacts associated with the Project, and the overbuilding of gas infrastructure given the alternatives, including existing gas pipelines, liquid natural gas, renewable energy sources and enhanced efficiency.

This Project will fundamentally damage the Towns and the entire southern region of New Hampshire, and constitutes a wholly unnecessary and unjustifiable energy option with

unreasonable and extensive destructive impacts. The NHMPC and its Towns have already voiced many of these concerns about the Company and its proposed Project in comments submitted in Docket No. PF14-22, as well as in individual Town petitions to intervene in this docket, and these are incorporated herein by reference.

Accordingly, NHMPC's intervention is necessary to enable the Towns to preserve their public and private natural resources, and to protect their residents, businesses, and associated properties from damage and harm. The Project directly burdens and adversely impacts each of the Towns and would irrevocably alter the cultural heritage, community character, and scenic resources of the entire region as well. NHMPC has a direct and material interest in the outcome of this Application that cannot be adequately represented by other parties to this proceeding. Obtaining party status is critical to the NHMPC's ability to fully represent the identified Towns' interests, advocate in opposition to the Project, and recommend necessary protective measures should the Project be approved.

The NHMPC's Direct Interests Are Recognized by the Natural Gas Act

Under the Natural Gas Act (the "Act"), FERC must determine whether the proposed NED pipeline "is or will be required by the present or future public convenience and necessity."¹ Applying this standard, "the Commission will approve an application for a certificate only if the public benefits from the project outweigh any adverse effects."² Assessing the need for a proposed pipeline is a critical part of this balancing test, and the Commission has charged itself with considering "all relevant factors reflecting on the need for the project." *Id.* at 61,747. In doing so, FERC must address "whether the applicant has made efforts to eliminate or minimize

¹ 15 U.S.C. § 717f(e).

² Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 at 61,750 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000).

any adverse effects the project might have on the existing customers of the pipeline proposing the project, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline.” Id. at 61,745. Regarding the latter group, FERC has stated that:

landowners whose land would be condemned for the new pipeline right-of-way, under eminent domain rights conveyed by the Commission’s certificate, have an interest, as does the community surrounding the right of-way. The interest of these groups is to avoid unnecessary construction, and any adverse effects on their property associated with a permanent right-of-way.

Id. at 61,748.

FERC has recognized the explicit rights of landowners and communities in this proceeding and their direct interest in avoiding adverse effects of the Project. The Towns and their citizens are the landowners and the communities with property that would be directly impacted by the Project.

FERC must balance those adverse effects against public benefits of the proposal. Id. at 61,745. “To demonstrate that its proposal is in the public convenience and necessity, an applicant must show public benefits that would be achieved by the project that are proportional to the project’s adverse impacts.” Id. at 61,748. “Vague assertions of public benefits will not be sufficient,” See id. at 61,748; see also Millennium Pipeline Co., 141 FERC ¶ 61,198 at P 14, n.18 (2012). (“The more interests adversely affected or the more adverse impact a project would have on a particular economic interest, the greater the showing of public benefits from the project required to balance the adverse impact”). Id. at P 19.

In this particular case, the Applicant has submitted “vague assertions”. As noted below, there is no demonstrated need for the Project, and the Company’s assessment of alternatives is flawed and self-serving. Moreover, fundamental assessments with respect to the route, co-

location and upgrading existing pipelines are inadequate and incomplete. NHMPC submits that the Project would create numerous and significant project impacts on the Towns with no demonstrable public benefits.

III. TGP'S APPLICATION IS DEFECTIVE AS FILED

TGP's Application is Premature and Should be Rejected

On December 7, 2015, the Commission accepted TGP's Application and set a January 6th, 2016 deadline for motions to intervene that was subsequently extended to January 15, 2016. On December 8, 2015, the Commission noted significant deficiencies in the Company's Application and issued an information request, noting, among other things, that the Company "did not fully provide adequate data for alternative comparisons" in its Application as required by the Minimum Filing Requirements ("Minimum Filing Requirements") under 18 C.F.R. 380, Appendix A and 18 C.F.R. 380.12(l)(2)(ii). Moreover, the Coalition is aware of many significant route and ancillary facility changes that have occurred since the Application was filed and accepted. These, and other violations of the Minimum Filing Requirements as noted in this docket, should have barred the Commission from accepting the Application and warrant its rejection at this time. As such, this proceeding should properly be terminated, and the docket closed until further action by the Commission.

TGP Has Not Adequately Evaluated the Need for and Alternatives to the Project

TGP's Application fails to demonstrate that the markets it proposes to serve cannot be adequately served by increased use of clean, renewable energy sources, or alternatively, by a combination of renewable energy sources, existing generation, other resources such as LNG, and existing pipeline infrastructure (pipeline infrastructure is discussed below). The Company's submittal falls short of the information required to allow for a "rigorous" exploration and

“objective evaluation” as required in this process. See 40 C.F.R. § 1502.14(a). Consideration of alternatives is “the heart of the environmental impact statement”, because it compels agencies to “present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public.” Id. The Commission has recognized the need to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction. See Algonquin Gas Transmission, LLC, 150 FERC ¶ 61,163, at P 7 (2015).

FERC’s environmental analysis of the Project therefore must also contain a detailed and substantive discussion of the “No-Action” alternative and the environmental impacts of other reasonable alternatives to the NED Project, including alternatives that would avoid or mitigate the environmental impacts of the Project.

TGP provides only a cursory review of alternative energy sources, concluding that any given alternative source is not a preferred or viable alternative to the natural gas transportation capacity to be supplied by the NED project. TGP’s analysis is fundamentally flawed by its failure to even consider the aggregate contribution of renewable sources. The Company’s approach ignores that the development and implementation of renewable energy sources and state energy efficiency programs and demand reduction efforts will reduce the need for and/or amount of additional pipeline capacity. Compounding this flawed analysis is TGP’s superimposition of a natural gas framework as a complete substitute for evaluating alternative energy sources—the Company mistakenly assumes that other alternatives should be evaluated as

a replacement for energy delivered by the Project; the Company does not analyze whether incremental gas capacity is needed and the role of alternatives will play in the reduction in the demand for gas delivered from the pipeline. The Company simply used incorrect assumptions and FERC should require a detailed analysis of need.

In addition, although TGP concedes in its “No-Action” discussion that other pipelines and companies can resolve alleged pipeline transportation capacity constraints, it fails to analyze the comparable environmental impacts of those other projects. The Coalition believes that the impacts from the NED pipeline, assuming *arguendo* that any new gas pipeline is required, are much greater than comparative impacts from other pipeline alternatives. While TGP has acknowledged that some environmental impacts may always remain³, it has not undertaken any review of comparative impacts or whether in fact this pipeline is needed given other pipeline projects under development.⁴ FERC, in order to fulfill its obligations under NEPA, must therefore conduct an independent evaluation of need and the “No-Action” alternative and not simply accept TGP’s flawed analysis.

Moreover, the Massachusetts Attorney General’s Office undertook a study which evaluated options to address regional electric reliability in New England, including natural gas capacity needs, through 2030⁵ (“AG’s Report”) and determined that the Project is not needed to serve electric reliability needs in the region and is more costly than alternatives. Among other

³ See Resource Report 10, 10-2. “Given the constrained pipeline transportation capacity situation in the Northeast U.S., without the proposed Project, other natural gas transmission companies will be required to increase their capacity and construct new facilities to meet the existing and growing demand for the additional natural gas transportation capacity. Such actions will only result in the transference of environmental impacts from one project to another but will not eliminate such impacts in their entirety.”

⁴ For example, alternatives along the existing 200 line, together with modifications to existing laterals, could be designed incrementally to accommodate the *actual* subscribed capacity on the Market Path segment.

⁵ Power System Reliability in New England: Meeting Electric Resources Needs in an Era of Growing Dependence on Natural Gas, Analysis Group (2015).

things, a key finding of the study (and contrary to assumptions made by TGP in its filing) was that the reliability of New England's power system can and will be maintained over time, including during periods of peak winter demand, without adding any new interstate natural gas pipeline capacity to service the New England region.⁶ The findings of this report, coupled with TGP's inadequate consideration of alternative energy sources, provide the basis for rejecting TGP's application, or alternatively, evaluating the underlying issues during an evidentiary hearing.

In short, the Coalition opposes the NED Project as an unnecessary overbuild of gas infrastructure, particularly given less impactful alternatives. The meager market response of the Project Shippers ("Shippers") to the Applicant's proposal underscores a lack of need and the availability of alternatives for the project.⁷ Moreover, many Shippers have not adequately evaluated alternatives to the Project, including LNG⁸ have contracted for replacement capacity and not new capacity.⁹

The Project is the Most Destructive Pipeline Alternative

As noted above, as part of its "public convenience and necessity" determination under the Act, FERC must consider "logical alternatives which might serve the public interest better than any of the projects outlined in the applications." See Northern Natural Gas Co. v. Federal Power Comm'n, 399 F.2d 953, 973 (D.C. Cir. 1968). Indeed, FERC should reject proposals when

⁶ Id.

⁷ Only approximately 0.55 Bcf/day have been subscribed as firm commitment for this Project.

⁸ In New Hampshire for example, Shipper Liberty Utilities wholly failed to evaluate LNG as an alternative to the Market Path segment and proposes to replace 50,000 Dth/day of existing capacity on its Concord Lateral with Project capacity. Only 65,000 Dth/day of its requested 115,000 Dth/day of Project capacity represents new capacity on NED.

⁹ Overall, actual new, non-replacement, state-approved capacity contracted for by Shipper Liberty and other LDCs is only 264,302 Dth/day, a totally insignificant level of demonstrated need on a 1.3 Bcf/d pipeline. NHMPC submits that such a small amount of new capacity confirms that there is no market need for this Project.

alternative proposals would better serve public convenience and necessity, even when the agency lacks the authority to mandate the alternative. City of Pittsburgh, 237 F.2d 741,756 n. 28.

In accordance with those principles, FERC must specifically identify any alternative that would not involve the extensive greenfield development of a new gas infrastructure corridor through areas untouched by gas development or pipeline construction. Among other considerations, this requires robust analysis of alternatives that (1) co-locate with currently existing pipeline rights-of-way, and (2) improve/upgrade existing pipelines, either through looping or pipeline replacement.

a. Co-locating with Existing Rights-of-Way

FERC has an admitted “general preference for utilizing ‘routing along existing road or utility rights-of-way, whenever possible, over creating a new greenfield pipeline right-of-way.’” See Texas Eastern Transmission, LP, 131 FERC ¶ 61,164, at P 64 (2010) (citing Islander East Pipeline Co., 102 FERC ¶ 61,054, at P 133 (2003)). The “use of existing utility corridors for pipeline construction is preferred over the creation of new utility corridors.” See also, Portland Natural Gas Transmission System Maritimes & Northeast Pipeline, LLC & Portland Natural Gas Trans. Sys., 83 FERC ¶ 61,080, at 61,395 (1998).

FERC has made it clear that it seeks to avoid the unneeded exercise of eminent domain. 88 FERC ¶ 61,227, at 61,737. Accordingly, to eliminate or minimize adverse impacts to landowners and the environment, and hence demonstrate public necessity and convenience under Act, an applicant must consider co-locating its route with existing rights-of-way. See, e.g., National Fuel Gas Supply Corp., 150 FERC ¶ 61,162, at P 17 (2015) (concluding that the Certificate Policy Statement’s requirement that pipeline companies seek to minimize the need to rely on eminent domain is satisfied where a company co-locates on an existing pipeline right-of-way).

Here, TGP's co-location proposals are misleading. TGP claims the centerline of the pipeline will be installed generally within five feet outside an existing power line easement boundary but can present no assurance that the pipeline will actually be co-located. It specifically notes that the centerline of the pipeline could be located anywhere: "within an existing powerline easement, less than five feet from the existing power line boundary, *or further than five feet from the existing powerline boundary* [emphasis added]".¹⁰ In short, the centerline could be located anywhere.

TGP also fails to mention that power companies may reject their co-location proposals entirely, or in many cases have restrictive easements on the land over which the power lines travel, or do not actually own the underlying land. In reality, the uncertainties of TGP's co-location proposals suggest that the NED pipeline is functionally a greenfield project. Although promoted as a "Power Line Alternative" it traverses through rural areas of New Hampshire with very little opportunity for co-location. Accordingly, FERC should seek to review and require TGP to review alternative pipeline proposals that are truly co-located.¹¹ The Coalition objects to the current proposal as a greenfield proposal with unnecessary and adverse impacts on the Towns that fails to fully evaluate truly co-located options.

b. Upgrading Existing Pipelines

FERC must consider the use of existing pipelines as an alternative to the construction of the Project. 15 U.S.C. § 717f(e); see also, Northern Natural Gas Co., 399 F.2d at 973. FERC is authorized, under Section 7(a) of the Act to require existing pipelines to improve or expand. 15 U.S.C. § 717f(a). Panhandle Eastern Pipe Line Co. v. Federal Power Comm'n., 204 F.2d 675, 683

¹⁰ Resource Report 1, 1-3.

¹¹ In addition, FERC should require TGP to calculate the total acreage, by each Town, that will be impacted (both temporary and permanent) within the existing, cleared utility right-of-way and the total impacted acreage, for each Town, that will be outside of the existing, cleared right of way (both temporary and permanent).

(3d Cir. 1953) (holding that 15 U.S.C. § 717f(a) authorizes the Commission to, “if necessary or desirable in the public interest, direct [a pipeline company] to improve its facilities by their rehabilitation and repair, or even reconstruction, to the extent necessary to restore them to their original designed and approved capacity or former actual capacity”). FERC is obligated to consider alternatives that might involve the enlargement of an existing pipeline. City of Pittsburgh, 237 F.2d at 756 n. 28 (“The existence of a more desirable alternative is one of the factors which enters into a determination of whether a proposal would serve the public convenience and necessity. That the Commission has no authority to command the alternative does not mean that it cannot reject the proposal.”).

FERC must consider alternatives that include looping existing pipelines or replacing older, smaller diameter pipelines with larger diameter pipelines to meet the combined need of the existing pipeline and Project. The possibility of upgrading existing systems must be given serious consideration, given the magnitude of the proposed Project. FERC should not accept at face value TGP’s assessment of this option, and instead should investigate the potential for the improvement and use of existing systems further at an evidentiary hearing on TGP’s Application.

IV. THE ADVERSE IMPACTS OF THE PROJECT OUTWEIGH PUBLIC BENEFITS

Given the lack of need, the existence of alternatives and the failings of the Company’s analysis as set forth above, it is clear that TGP has not demonstrated any Project benefits. And certainly there is no benefit to the Towns with the greenfield construction of a major gas infrastructure project overwhelming their rural communities.

The adverse and damaging impacts of the Project are real and inevitable. The Project sacrifices the Towns along the proposed pipeline route, and FERC is responsible for determining

whether such collective disenfranchisement is warranted, given the alleged benefits. No such showing can be made in this case.

TGP makes no attempt to acknowledge or even describe the serious impacts that will be felt by landowners and the surrounding communities from the Project. The filing only establishes superficial data points from a TGP defined universe of routes and alternatives, and provides no meaningful analysis for how specific impacts on landowners will be mitigated or outweighed by any alleged public benefits of the NED project. The Application virtually ignores that the Project has been met with staunch landowner and community opposition, a glaring irony that undermines any discussion of “public benefit” from TGP. The chorus of opposition to the Project by the Coalition contradicts TGP’s claim that NED will serve the public, and instead illustrates an unsettling proposition of intrusive pipeline construction—this Project in these Towns will cause grave and unnecessary damage to communities and to the environment.

As noted below, the construction, operation and maintenance of the Project would, among other things, damage water resources and aquifers, create unwarranted health and safety problems, and damage property values. Moreover, the damage to communities from the construction and operation of compressor stations is even greater, with threats of significant air and noise pollution and additional health risks.

Sensitive Water Resources Will Be Adversely Impacted

The Towns have an obligation to protect public and private drinking water supplies in the region as well as preserving and protecting all sensitive water resources. Damage to water resources is inevitable from pipeline construction, resulting largely from stream crossings and construction in sensitive areas near aquifers. Moreover, many of the homes and businesses along the route have private wells and septic systems that require protection from construction

activities. The NED pipeline will cut through numerous water bodies, wetlands and aquifers along its route across New Hampshire and potentially compromise, among other areas, the following:

- Souhegan River, which it will cross six times
- Brooks and streams (22 in 15 towns)
- Aquifers (13)
- Ponds/lakes (11, largest, Scott Pond, is 134 acres)
- Wetlands (over 27, numerous vernal pools)
- Municipal water systems (serving over 500 people, including the Temple Elementary School)
- Private wells (serving in excess of 600 people)
- Numerous watersheds, including the headwaters of Tully Brook, East Asheulot, Miller River, and Middle Connecticut

Among many foreseeable impacts, blasting, horizontal drilling and other construction operations would impact many of these water resources. For example, the technique of “cutting” these important water bodies involves excavation and blasting of the streambed, which effectively splits them apart. This results in irreparable damage, destroying habitat for sensitive aquatic species, creating erosion and sedimentation, flood risks, and impairing water quality. Moreover, these water resources are necessary to sustain the larger community, its lives and businesses. Local economies in the Towns that rely upon the preservation of waterway resources for potential tourism are threatened by the Project. Communities and residents have an invested interest in protecting the rivers in which they fish, swim, and rely on as their drinking water source. Of particular concern is the hydrogeology of the region, where a massive underground pipeline corridor could serve as a conduit for groundwater contamination between aquifers, river basins and other water resources that would otherwise be isolated from one another.

Project construction presents unacceptable risks to both ground and surface drinking water supplies within the Towns. If construction intercepts the water table, direct contamination of local aquifers could occur and dewatering activities could cause local drawdowns of water

table elevation. Even if construction activities do not directly intercept the water table, chemicals from construction fluids, herbicides, and spills may enter the water table through porous soils overlying local aquifers. Storm water runoff also increases the risk of transporting chemicals into surface drinking water supplies. Of particular concern is the fact that a majority of the Towns' residents rely upon private wells for their water supply, and New Hampshire has relatively high levels of arsenic in soil and arsenic and radon in well water.¹² FERC must ensure that the construction of the Project will not damage water resources in the area.

TGP cannot simply assert that activities will be compliant with local requirements; instead, it must provide specific plans for ensuring protection of municipal ground and surface drinking water supplies. The informational gaps in TGP's Application make it impossible for FERC or the public to understand and evaluate the NED Project's expected adverse impacts to drinking water supplies. The Coalition submits that the risks to water supply and other important environmental considerations outweigh any possible benefits of this Project and the Application should be rejected and, alternatively, these important impacts should be evaluated at a hearing. As part of any further consideration of the Application, and among other things, FERC must require TGP to set forth all applicable state and local provisions, its plans for compliance, and its site-specific plans for ensuring the protection of each drinking water supply source potentially affected.

Community Health, Safety, Welfare Will be Adversely Affected

Pipeline safety hazards are well documented, and their impacts extend beyond the risk of physical injury. The socioeconomic well-being of Towns are inextricably burdened by the presence of a pipeline, both internally and externally. Town residents are faced with threat of

¹² Borsuk et al. Arsenic in Private Wells in NH: Year 1 Final Report. Thayer School of Engineering, Dartmouth College, October 3, 2014.

fatal accidents by an invasive pipeline routed through their communities that also deters others from purchasing property near the pipeline. The Coalition objects to the Project as an unwarranted and unacceptable safety risk creating negative property valuation impacts.

There is an undeniable stigma attached to living near a pipeline, one that compounds subsequent to each dangerous pipeline failure. A recent report by Synapse Energy Economics, Inc. commissioned to review reports released by Atlantic Coast Pipeline analyzed the relevant literature and found that:

Research by Boxall, et al. (2005) and Hansen, et al. (2006) show nearby pipelines may have negative impacts on property values, particularly following catastrophic events like the explosions cited above. The Forensic Appraisal Group, LTD, found that the negative impact on property values could be “up to 30% or more of the whole property value.” Resale value is also a concern, particularly in states that require disclosure of potentially hazardous conditions. Reduced property values would lead to lower assessed real estate values and, therefore, lower tax revenues.¹³

There are also questions over whether local communities have the resources available to respond to pipeline emergencies. For example, in the town of Temple, the pipeline interferes with established emergency protocols. Fully automated compressor stations (discussed in detail below), operate without any staff present on site and are of particular risk and concern. In the event of emergency, local fire departments, often volunteer based, would be overwhelmed and would need to rely upon remote TGP resources for assistance, a response under such circumstances that would be speculative at best.

Compressor Station Emissions and Noise Will Have Adverse Effects

TGP proposes to construct and operate one (or more) large compressor station(s) in Temple, New Ipswich and/or Winchester. Additionally, TGP has proposed to build a compressor

¹³ Synapse Energy Economics, Inc., Atlantic Coast Pipeline Benefits Review (June 12, 2015) at 10, available at <http://www.synapse-energy.com/sites/default/files/Atlantic-Coast-Pipeline-Benefits-Review14-150.pdf>.

station in Dracut, Massachusetts, the site of which is located less than a mile away from Pelham. These Towns in particular would be adversely impacted by the unacceptable health risks to the public created by compressor station emissions including particulates and other toxins, noise and safety. As noted below, compressor stations emissions are particularly hazardous and operational sound levels are well beyond acceptable limits. The Coalition is opposed to the siting and operation of compressor stations in or near any Town location.

Emissions

Air pollution discharges from compressor blowdowns release large amounts of toxic chemicals into the atmosphere, including nitric oxides, volatile organic compounds, carbon monoxide, particulate matter, benzene and formaldehyde. Along with radioactive materials and other unknown compounds, these contaminants are forcefully pushed up in the air during blowdowns and carried in any direction by the wind for miles, landing on anyone and anything. A single compressor station can emit tens of thousands of pounds of toxic formaldehyde into the atmosphere annually. The negative effects of airborne formaldehyde occur at very low levels. Exposure to as little as 0.1 to 2 parts per million causes irritation of the eyes, nose and throat. At 5 to 10 ppm, people experience cough, tightness of the chest and eye damage. At 20 ppm breathing becomes difficult, at 30 ppm there is severe injury to the lungs. At 100 ppm, a concentration of just one one-hundredth of a percent (0.01%), formaldehyde is immediately dangerous to life. The National Institute for Occupational Safety and Health recommends an exposure limit of 0.016 ppm.¹⁴

Children are more susceptible to these toxins. The EPA emphasized that pursuant to Executive Order 13045 on Children's Health and Safety, FERC should "identify and assess any

¹⁴ ATSDR Fact Sheet: Formaldehyde, CAS 50-00-0, June 1999.

environmental health and safety risks that may disproportionately affect children”.¹⁵ In light of this guidance, it seems incomprehensible that TGP has proposed to build a compressor station within ½ a mile of an elementary school in the Town of Temple. The Coalition is extremely concerned about the specific impacts of compressor stations on its children and community. As part of its investigation and in hearing, FERC should explicitly explore and address “the potential direct, indirect, and cumulative impacts of the proposed project on children’s health, including consideration of prenatal exposures”.¹⁶

Noise

TGP relies upon federal guidelines that establish a maximum day-night average noise level for compressor stations of 55 decibels (dB) as the dispositive measures of noise pollution. The Company states in a resource report that the U.S. Environmental Protection Agency (“EPA”) identified 55 dB as a “threshold for outdoor noise residential areas”.¹⁷ Notwithstanding TGP’s reliance, the EPA explicitly cautioned against using this number as a federal standard:

“There was a great deal of concern during the preparation of this document that the levels identified would be mistakenly interpreted as Federal noise standards. The information contained in this document should not be so interpreted. The general purpose of this document is rather to discuss environmental noise levels requisite for the protection of public health and welfare without consideration of those elements necessary to an actual rule-making. Instead, the levels identified here will provide State and local government as well as the Federal Government and the private sector with an informational point of departure for the purpose of decision-making”.¹⁸

Ignoring this important caveat, TGP asserts that since many towns along the route do not include numeric criteria within their nuisance based provisions, the FERC criterion i.e. 55 dB,

¹⁵ EPA Comments in Response to FERC Notice of Intent for the Northeast Energy Direct Project, Oct 16, 2015, pp. 17

¹⁶ Id., pp. 18.

¹⁷ Resource Report 9, 9-72.

¹⁸ Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare With An Adequate Margin of Safety, U.S. Environmental Protection Agency Office of Noise Abatement and Control, Page 11 (1974).

should be applied instead.¹⁹ TGP's analysis understates the harm. Peak noise levels are a more relevant and important metric because the loudest noises at compressor stations occur sporadically such as during blowdowns, not continually.

Peak noise levels of 100 dB have been measured in the vicinity of compressor stations. For comparison, the nominal requirement of 55 dB is roughly equivalent to the sound produced by a modern dishwasher. In contrast, 100 dB is about as loud as a jackhammer. Noise alone is sufficient to cause health problems including hearing impairment, cardiovascular and other physiological effects, mental health effects, and sleep disturbance. Compressor stations operate 24 hours a day. Nighttime sleep disruption during blowdowns is inevitable and damaging. Inadequate sleep is proven to cause many health problems and chronic sleep loss has serious consequences for health, performance, and safety.

Also of concern is the low-frequency noise produced by compressor stations. Low-frequency noise (below 100 Hz) has been linked to numerous psychological, emotional, and physiological complaints. Low-frequency noise is documented to be worse than noise at higher frequencies. Sound does not need to be considered "loud" to cause annoyance and irritation. Low-frequency noise is found to be more difficult to ignore than higher frequency noise.

Consequently, Temple, New Ipswich, Winchester and Pelham would be directly and adversely impacted by the proposed compressor station. FERC should investigate at hearing TGP's assumptions with respect to compressor station safety and operation to ensure that the emissions, noise and other impacts from the facility will not adversely affect health and safety of the residents.

¹⁹ Resource Report 9, 9-72.

Areas of Particular Concern Will be Impacted

The Project will impact other significant resources in Southern New Hampshire including Rhododendron State Park, a designated National Natural Landmark and New Hampshire's only designed botanical Park, which is located in Troy and traverses Richmond and Fitzwilliam. In addition, the Project will be constructed within 110 feet of the Troy Mills Superfund Site, an environmentally sensitive area, also located in Troy. This Superfund Site is a complicated matrix of ground water and monitoring wells and is particularly at risk from the effects of nearby construction. Drilling, blasting or digging may interfere with ground water flow which is an essential component of the clean-up process. NHMPC is particularly concerned with Project impacts on these sensitive areas and with TGP's failure to adequately assess the potential impact of the Project.

V. CUMULATIVE IMPACTS SHOULD BE EVALUATED

FERC is required to review the "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions."²⁰ FERC must examine the cumulative impacts²¹ as well as the direct and indirect impacts.²² This requires FERC to assess the Project's potential impacts and alternatives in light of the other existing and proposed natural gas infrastructure in the region. As FERC has recognized, "Proposed actions with potential cumulative impacts may mandate the preparation of a regional or comprehensive impact statement." See Columbia Gas Transmission, LLC, 148

²⁰ 40 C.F.R. § 1502.4(a).

²¹ 40 C.F.R. 1508.25(a)(2).

²² 18 C.F.R. 1508.25(c).

FERC ¶ 61,138 at P 27 (2014) (emphasis omitted). The Coalition urges FERC to assess cumulative impacts of the Project.

As part of its review, FERC should undertake a programmatic environmental impact statement (“EIS”) of all regional proposed gas pipeline projects and a review of non-environmental issues. Such a review would allow for identification and evaluation of alternatives that lessen cumulative impacts for the entire region. See Kleppe v. Sierra Club, 427 U.S. 390, 410 (1976) (“Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action”).

FERC is well aware of the multiple competing pipeline proposals in this area. See generally AG’s Report for a discussion of the competing proposals. When multiple proposals are pending in the same region, a separate environmental review for each project prevents the serious risk that a federal agency will overlook important alternatives that could avoid or minimize impacts for the region as a whole. The Commission can only rationally evaluate any viable alternative in the context of a complete understanding of the demand for natural gas, the capacity of existing pipelines, and the proposed capacity of new pipelines—in other words, a programmatic EIS, including a review of non-environmental factors.

In recent guidance, the Council on Environmental Quality provided the following examples, which are relevant here, that justify the preparation of a regional or programmatic EIS: “[s]everal similar actions or projects in a region or nationwide (e.g., a large scale utility corridor project),” and “[a] suite of ongoing, proposed or reasonably foreseeable actions that share a common geography or timing, such as multiple activities within a defined boundary (i.e., Federal land or facility).”²³ See Del. Riverkeeper Network v. FERC, 753 F.3d 1304, 1319 (D.C. Cir.

²³ Michael Boots, CEQ, Memorandum: Effective Use of Programmatic NEPA Reviews at 14 (Dec. 18, 2014).

2014) (finding FERC’s environmental assessment deficient in failing to include “any meaningful analysis of cumulative impacts”, and reaffirming that such an analysis must identify cumulative impacts of proposed and reasonably foreseeable actions that are expected to have impacts in the same area or be triggered by the proposed action). See Kleppe v. Sierra Club 427 US. at 410 (“when several proposals for . . . actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together.”); See also, Tenakee Springs v. Clough 915 F.2d 1308, 1312 (1990) (“[w]here there are large scale plans for regional development, NEPA requires both a programmatic and site-specific EIS”). Such a review here would minimize the risks of excess capacity, overbuilding, unnecessary eminent domain and excessive ratepayer costs. The Coalition submits that FERC should undertake a detailed review of cumulative impacts and require a programmatic EIS.

VI. REQUEST FOR HEARING

Pursuant to 18 C.F.R. § 157.10(a)(1), the Coalition respectfully requests a formal hearing on the Application, including the environmental impacts of and public need for the Project. The Coalition submits that an evidentiary hearing will show that the Project is not needed, that viable and less impactful alternatives are available, and that the significant health and environmental impacts associated with the Project outweigh any alleged benefits. In short, the Coalition submits that the adverse effects of the Project substantially outweigh the public benefits of the proposal and the Project does not serve the public convenience and necessity and a hearing is warranted.

VII. CONCLUSION

For the reasons stated above, the Coalition opposes the Application and the Project, and has an interest which may be directly affected by the outcome of this proceeding and its

participation is in the public interest. The Coalition is in a unique position of representing the interests the municipalities along the Project route in New Hampshire.

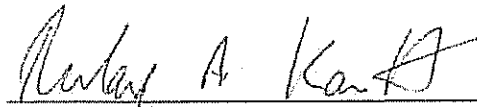
Wherefore, for the foregoing reasons the Coalition respectfully requests that FERC:

- (i) grant its motion to intervene and protest;
- (ii) require a full evidentiary hearing to resolve contested issues of fact regarding the need for the Project and to balance of public benefits and adverse impacts of the Project; and
- (iii) grant such further relief as may be required.

**NEW HAMPSHIRE MUNICIPAL
PIPELINE COALITION**

By its attorneys,

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Dated: January 15, 2016

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of)
Tennessee Gas Pipeline Company, L.L.C.)
Northeast Energy Direct Project)

Docket No. CP16-21-000

CERTIFICATE OF SERVICE

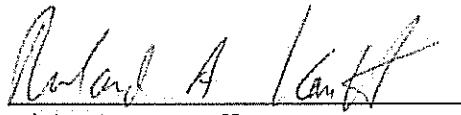
I hereby certify that on this day I have caused to be served electronically a copy of the foregoing document on all parties listed on the official service list compiled by the Federal Energy Regulatory Commission for this proceeding.

Dated: January 15, 2016

NEW HAMPSHIRE MUNICIPAL
PIPELINE COALITION

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