

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

Tennessee Gas Pipeline Company, LLC Northeast Energy Direct Project	) ) ) )	Docket No. CP16-21-000
------------------------------------------------------------------------	------------------	------------------------

**MOTION OF THE PIPE LINE AWARENESS NETWORK FOR THE NORTHEAST, INC.  
TO DISMISS AND DENY THE NORTHEAST ENERGY DIRECT PROJECT APPLICATION  
WITH PREJUDICE AND TERMINATE THIS PROCEEDING IMMEDIATELY**

The Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”) hereby moves, pursuant to Rule 212 of the Federal Energy Regulatory Commission (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, to dismiss and deny immediately, with prejudice, the Application (the “Application”) of Tennessee Gas Pipeline Company, LLC (the “Company”) filed with the Commission on November 20, 2015 for a certificate of public convenience and necessity, and to terminate the above-captioned proceeding (the “Proceeding”).

**The Movant**

PLAN is a broad-based coalition of organizations, municipalities, businesses, impacted landowners, citizen groups, legislators, ratepayers and concerned citizens, working to prevent the overbuild of natural gas infrastructure in the Northeast. PLAN seeks to prevent the negative economic and environmental impacts associated with overbuild, and to promote lower-impact energy solutions. PLAN is incorporated as a non-profit under Massachusetts law.

On December 28, 2015, PLAN timely moved to intervene in this Proceeding and, because no objection to PLAN's intervention was lodged, PLAN is a full party to this Proceeding.

**The Proposed Project**

On November 20, 2015, the Company filed with the Commission its Application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and the Commission's regulations thereunder, seeking

authority to (i) construct, install, modify, and operate certain pipeline and compression facilities to be located in Pennsylvania, New York, Massachusetts, New Hampshire, and Connecticut, and (ii) to abandon certain facilities, as part of the Northeast Energy Direct Project (“NED” or the “Project”). This Project was proposed, in the Application, to add over 400 miles of pipeline in five states; nine new compressor stations with over 360,000 horsepower (hp) in four states; 1.3 billion cubic feet per day (Bcf/d) of firm capacity (about half of which never was subscribed by any customer, according to the precedent agreements on record); at a cost estimated to exceed \$5 billion to be charged to the Company's shippers, and ultimately, their ratepayers (to the extent capacity was contracted for by regulated utilities).

The two proposed components of the NED project were as follows: (1) the Supply Path component, comprised of facilities from Troy, Pennsylvania, to Wright, New York (the “Supply Path”), and (2) the Market Path component, comprised of facilities from Wright, New York, to Dracut, Massachusetts and several laterals (the “Market Path”).

## **Background and Procedural History**

### **Initial Contact Between the Public and the Company**

In the beginning of 2014, the Company began sending out land agents to gain survey access along the proposed route of what had been referred to in its internal documents as the “bullet line,” from Wright, New York, to Dracut, Massachusetts. According to many accounts, elected officials – from town select boards to members of Congress – first learned about the project not from the Company, but from landowners who were turning to their elected officials for answers. In the spring of 2014, the Company started to give presentations to town select board meetings along the proposed main line and laterals of the then-called Northeast Expansion Project. On information and belief, the Company only agreed to some of these presentations on the condition that members of the public would not be allowed to ask questions.

Towards the end of May, 2014, word spread that the project had been renamed the Northeast Energy Direct, and the Supply Path component has been added.

### **Pre-Filing and Scoping**

On September 15, 2014, the Company filed with the Commission a request to use the Commission's pre-filing procedures for the Project, and on October 2, 2014, the Commission accepted the request and opened Docket No. PF14-22 for the Project. Two months later, on December 8, 2014, the Company filed a revised resource report indicating a major reroute of the Market Path, placing a large portion of the Company's preferred route in southern New Hampshire. On March 13, 2015, the Company filed drafts of all thirteen resource reports, containing over 10,000 "TBDs".

On April 8, 2015, PLAN noted in a comment to the Commission<sup>1</sup> that a significant portion of capacity subscribed for on the Market Path by local distribution companies ("LDCs") was for capacity that was simply replacing contracts for capacity on existing pipelines, rather than addressing any capacity constraints. PLAN also noted that at that time, over a year after initiating contact with landowners along the proposed route, the Company reported that only approximately 30% of landowners had granted permission for the Company's agents to enter their property to conduct surveys for the Project. PLAN urged the Commission to encourage the Company to rethink its pursuit of the Project.

On June 2, 2015, the Company informed the Commission, via letter to the Secretary, that the Company was reducing the scope of its proposed Project, essentially cutting the proposed capacity in half and dropping two segments from the Market Path (a loop and lateral). The Company framed these changes in terms of a reduction in impacts to conservation land and an increased percentage of co-location; however, on information and belief, the Company in fact dropped these segments because it could not secure customers for those proposed segments.

---

<sup>1</sup> See [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20150409-5015](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150409-5015).

On July 7, 2015, PLAN noted to the Commission, via comment to the Secretary, that the so-called energy crisis that the Company claimed to be addressing through the NED project does not, in fact, exist as described by the Company.<sup>2</sup> By comment dated October 15, 2015,<sup>3</sup> PLAN recommended several alternatives to be evaluated, beyond the required analysis of a “no-build” alternative. PLAN commented that, to the extent that any new supply options are in fact prudent for the LDCs in New England to pursue, alternatives including increased liquid storage and strategic expansion of local distribution systems should be exhausted first, and then targeted expansion of laterals should be considered, rather than saddling the region – and its landowners and ratepayers – with 400 miles of new interstate pipeline and appurtenant facilities.

**Application Filing and Further Requests, Protest, and Comments by PLAN**

On November 20, 2015, the Company filed its Application with the Commission. After an initial review, on December 3, 2015, PLAN respectfully requested that the Commission reject the Application as incomplete.<sup>4</sup> On December 7, 2015, the Commission accepted the Company's Application. The following day, the Commission issued an information request, noting, among other things, that the Company “did not fully provide adequate data for alternative comparisons”. PLAN noted, in a protest filed together with a motion to intervene on December 28, 2015, that “[t]his, and other violations of the Minimum Filing Requirements [under 18 C.F.R. 380, Appendix A and 18 C.F.R. 380.12(1)(2)(ii)] previously noted on this docket, should have barred the Commission from accepting the Application. As such, this proceeding should properly be terminated[.]”<sup>5</sup>

Instead, the Commission allowed the Proceeding to continue, and the Company continued to provide incomplete responses to the Commission's information requests. On February 22, 2016,

2 See [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20150708-5011](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20150708-5011). During the scoping comment period required under the National Environmental Policy Act, PLAN also filed several scoping comments on topics including potential groundwater contamination; noise and air quality; greenhouse gas emissions and climate change; and socioeconomic impacts.

3 See [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20151016-5150](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151016-5150).

4 See [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20151203-5077](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151203-5077).

5 See [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20151228-5056](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151228-5056).

PLAN informed the Commission<sup>6</sup> that state filings indicated that a large liquified natural gas storage facility was planned as part of the NED project but never disclosed to the public. This fact came to light in a proceeding before the Massachusetts Department of Public Utilities (“DPU”), DPU Docket No. 16-07 – the only precedent agreement proceeding involving electric distribution companies (each, an “EDC”, specifically, Massachusetts Electric Company and Nantucket Electric Company, together, “National Grid”) seeking capacity on NED.

### **Application Suspension and Subsequent Events**

On April 20, 2016, the Company informed investors and the public that, together with its parent, Kinder Morgan, Inc., it had “suspended further work and expenditures” on the NED project. On April 22, 2016, the Company requested<sup>7</sup> that the Commission take no further action on the Application prior to receiving a status report by the Company, to be submitted by May 26, 2016.

The Company has given notice to its would-be customers on NED that the contracts are being terminated. On April 26, 2016, National Grid moved to withdraw its petition for DPU approval of its EDC precedent agreements, noting, “To the extent that an alternative arrangement can be developed, and such an arrangement is jurisdictional to the Department, [National Grid] will file for approval of such an arrangement if required to do so.”<sup>8</sup> On information and believe, the petition of Liberty Utilities (EnergyNorth Natural Gas) Corp. pending before the New Hampshire Public Utilities Commission, for the largest LDC Supply Path contract, is similarly being withdrawn.

Like so many rodents on a grounded vessel, these would-be customers are indicating that NED cannot go forward. If the Company develops a new project in the region, it can submit a different application to the Commission. However, that will not be the NED project.

---

6 See [http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20160222-5045](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160222-5045).

7 See [http://elibrary.FERC.gov/idmws/file\\_list.asp?accession\\_num=20160422-5251](http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20160422-5251).

8 See Massachusetts Electric Co., DPU Docket No. 16-07, April 26, 2016 motion to withdraw and April 27, 2016 stamp approval, available at [http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-07%2fGranted\\_Motion\\_Withdraw\\_42716.pdf](http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=16-07%2fGranted_Motion_Withdraw_42716.pdf).

**The Commission Still Has an Opportunity to Make the Right Call with Respect to NED**

The Commission has entertained the NED proposal far longer than warranted. The Commission has allowed the Company to abuse the pre-filing process and mislead the public. The Commission improperly accepted an incomplete Application. The Commission failed to review the investment in NED by parent companies of four of the would-be LDC customers, and how such ownership interest in the Project may have caused the LDC subsidiaries to subscribe for more capacity than necessary or reasonable, from a ratepayer perspective.

The Commission has, time and again, allowed the Company to drag out this process without justification. After two and a half years of intensive efforts by the Company, as well as possible self-dealing by investors in the Project, the Company added an inconsequential amount of subscribed capacity to the approximately .5 bcf/day in “firm commitments” it had secured by July of 2013. Those commitments are now withering away.

The public – municipalities, thousands of landowners, and others – have expended untold hours and financial resources defending their land, communities and environment against this ill-conceived and obviously unnecessary Project. As documented in countless filings on this docket, the public has faced deceptive practices and obfuscation from the Company and its agents since the beginning of 2014. The nearly two thousand intervenors in this Proceeding deserve closure, if not restitution.

Since inception, PLAN has opposed the NED project as an extreme overbuild of gas infrastructure. Even by the Commission's own narrow definition of “necessity”, the “need” was never there. As for “public convenience” – respectfully, the Commission should now begin to rebuild its credibility with the public by denying the Company's Application immediately, with prejudice, and terminating this Proceeding.

WHEREFORE, for the foregoing reasons, PLAN respectfully requests that the Company's Application be immediately dismissed and denied with prejudice, and that this Proceeding be terminated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Eiseman', with a long horizontal flourish extending to the right.

Kathryn R. Eiseman  
President, Pipe Line Awareness Network for the Northeast, Inc.  
17 Packard Road  
Cummington, MA 01026  
eiseman@plan-ne.org  
(413) 320-0747

May 2, 2016