

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

FOOD & WATER WATCH;	)	
BERKSHIRE ENVIRONMENTAL	)	
ACTION TEAM	)	
<i>Petitioners</i>	)	
	)	
v.	)	Docket No. _____
	)	
FEDERAL ENERGY	)	
REGULATORY COMMISSION,	)	
<i>Respondent</i>	)	

**FOOD & WATER WATCH AND BERKSHIRE  
ENVIRONMENTAL ACTION TEAM PETITION FOR REVIEW**

Pursuant to the Natural Gas Act, 15 U.S.C. § 717r(b), and Rule 15(a) of the Federal Rules of Appellate Procedure, Food & Water Watch (“FWW”) and Berkshire Environmental Action Team (“Berkshire”) (collectively “Environmental Petitioners”) hereby petition this Court for review of final agency actions taken by the Federal Energy Regulatory Commission (“FERC” or “Commission”) granting a certificate authorizing construction and operation of the 261 Upgrade Project (“Project”) under Section 7 of the Natural Gas Act, 15 U.S.C. § 717f(e).

Environmental Petitioners seek review of the orders designated below:

1. *Tennessee Gas Pipeline Company, L.L.C.*, FERC Docket No. CP19-7-000, Order Issuing Certificate and Approving Abandonment, 169 FERC ¶ 61,230 (Dec. 19, 2019). (“Certificate Order”)

2. *Tennessee Gas Pipeline Company, L.L.C.*, FERC Docket No. CP19-7-001, Order Denying Rehearing and Stay, 170 FERC ¶ 61,142 (Feb. 21, 2020). (“Rehearing Denial”)

This Court has jurisdiction under Section 717r of the Natural Gas Act, 15 U.S.C. § 717r, over this Petition for Review. Environmental Petitioners were directly aggrieved by the Commission’s orders approving the project. *See* Declaration of Standing (Attachment 1). FWW and Berkshire intervened and participated in the certificate proceeding before the Commission,<sup>1</sup> and each Petitioner filed a timely Request for Rehearing<sup>2</sup> of the Commission order granting certificate on Dec. 19, 2019.

On February 21, 2020, the Commission denied all rehearing requests, thus rendering the Certificate Order final for judicial review under 15 U.S.C. § 717r(a). This Petition for Review is timely within sixty days of the Commission’s order on rehearing. *See* 15 U.S.C. §717r(b).

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<sup>1</sup> Motion to Intervene of Food & Water Watch in opposition to Tennessee Gas Pipeline’s 261 Upgrade Project, FERC Docket CP19-7-000, (Nov. 21, 2018), Access No. 20181121-5126; Motion to Intervene of Berkshire Environmental Action Team, Inc. (BEAT), (Nov. 8, 2018), Access No. 20181108-5133.

<sup>2</sup> Food & Water Watch Request for Rehearing, FERC Docket CP19-7-000, (Jan. 17, 2020), Access No. 20200117-5209; Berkshire Environmental Action Team Request for Rehearing, FERC Docket CP19-7-000, (Jan. 17, 2020), Access No. 20200117-5210.

This Petition raises several challenges to the Commission’s approval of the Project, including that the Commission arbitrarily and capriciously departed from this Court’s precedent in *Sierra Club v. FERC*, 867 F.3d 1357 (D.C. Cir. 2017), which ruled that the National Environmental Policy Act (“NEPA”) requires FERC to meaningfully evaluate greenhouse gas emissions from fossil fuel production and transportation projects. The Court’s ruling left no ground for the Commission to shirk its obligations under NEPA and yet, that is precisely what FERC’s majority has done in these orders – over a strong and clear dissent from Commissioner Richard Glick.

Moreover, the Commission’s Orders neglect to consider serious changed conditions in the sole remaining precedent agreement upon which the determination of public necessity was made; namely a guilty plea for criminal negligence by Columbia Gas of Massachusetts resulting in an agreement with the U.S. Department of Justice to cease all operations in the Commonwealth of Massachusetts and to sell all of its assets in the state.<sup>3</sup>

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<sup>3</sup> U.S. Dep’t of Justice, “Columbia Gas Agrees to Plead Guilty in Connection with September 2018 Gas Explosions in Merrimack Valley: Company agrees to sell its business in Massachusetts and pay a \$53 million fine, the largest criminal fine ever imposed under the Pipeline Safety Act,” U.S. Attorney’s Office – Dist. Of Mass., Feb. 26, 2010. <https://www.justice.gov/usao-ma/pr/columbia-gas-agrees-plead-guilty-connection-september-2018-gas-explosions-merrimack>.

Accordingly, FWW and Berkshire petition this Court to set aside the Commission's orders on review, compel the Commission to comply with this Court's ruling, and grant such other relief as may be appropriate.

Respectfully submitted this 21st day of April 2020.

/s/ Adam S. Carlesco

Adam S. Carlesco

D.C. Bar No.: 1601151

202.683.4925

[acarlesco@fwwatch.org](mailto:acarlesco@fwwatch.org)

FOOD & WATER WATCH

1616 P St., NW, Suite 300

Washington, D.C. 20036

/s/ Zachary B. Corrigan

Zachary B. Corrigan

D.C. Bar No.: 497557

202.683.2451

[zcorrigan@fwwatch.org](mailto:zcorrigan@fwwatch.org)

FOOD & WATER WATCH

1616 P St., NW, Suite 300

Washington, D.C. 20036

*Counsel for Petitioners*

FOOD & WATER WATCH;	)	
BERKSHIRE ENVIRONMENTAL	)	
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	)	
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	)	
FEDERAL ENERGY	)	
REGULATORY COMMISSION,	)	
<i>Respondent</i>	)	
	)	

Pursuant to Local Rule 15 of the D.C. Circuit Rules and Federal Rule of Appellate Procedure 26.1, Food & Water Watch, petitioners in the above captioned case submit this Corporate Disclosure Statement.

Respectfully submitted,  
/s/ Adam S. Carlesco  
 Adam S. Carlesco  
 FOOD & WATER WATCH

FOOD & WATER WATCH;  
ET AL.  
*Petitioners*  
V.  
FEDERAL ENERGY  
REGULATORY COMMISSION,  
*Respondent*

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Docket No. \_\_\_\_\_

Pursuant to Local Rule 15 of the D.C. Circuit Rules and Federal Rule of Appellate Procedure 26.1, Berkshire Environmental Action Team, petitioner in the above captioned case submit this Corporate Disclosure Statement.

Berkshire Environmental Action Team is a 501(c)(3) not-for-profit organization founded in 2003 to protect the environment for wildlife in support of the natural world that sustains us all. Berkshire Environmental Action Team has no parent companies, and there are no publicly held corporations that have a ten-percent or greater ownership interest in Berkshire Environmental Action Team.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jane Winn". The signature is fluid and cursive, with the first name "Jane" and the last name "Winn" clearly distinguishable.

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Jane Winn, Executive Director

## **CERTIFICATE OF COMPLIANCE**

I certify that the foregoing Petition for Review, Rule 26.1 Corporate Disclosure Statement and Declarations of Standing are in 14-point font and otherwise satisfy this Court's filing requirements.

Respectfully submitted,

/s/ Adam S. Carlesco

Adam S. Carlesco

D.C. Bar No.: 1601151

202.683.4925

[acarlesco@fwwatch.org](mailto:acarlesco@fwwatch.org)

FOOD & WATER WATCH

1616 P St., NW, Suite 300

Washington, D.C. 20036

*Counsel for Petitioners*



## **CERTIFICATE OF SERVICE**

Pursuant to this Court's April 1, 2020 Standing Order "In re: Paper Copies of Electronic Filings in Light of the COVID-19 Pandemic", I certify that on the 21st day of April 2020, I caused to be served the foregoing Petition for Review, Rule 26.1 Corporate Disclosure Statement, and Declarations of Standing on Robert Solomon, the Solicitor for the Federal Energy Regulatory Commission, 888 First Street NE, Washington D.C. 20426. I further certify that the foregoing document was filed electronically with the Commission and shall be served electronically upon each person designated on the attached official Service List for the docket number of the FERC proceeding.

Respectfully submitted,

/s/ Adam S. Carlesco

Adam S. Carlesco

D.C. Bar No.: 1601151

202.683.4925

[acarlesco@fwwatch.org](mailto:acarlesco@fwwatch.org)

FOOD & WATER WATCH

1616 P St., NW, Suite 300

Washington, D.C. 20036

*Counsel for Petitioners*

## **Attachment 1**

### Declarations in Support of Standing

Declaration of Linda Grimaldi .....1

Declaration of Wendy Hollis .....6

Declaration of Susan Grossberg .....14

Declaration of Jane Winn .....21

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

FOOD & WATER WATCH; )  
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V. ) Docket No. \_\_\_\_\_  
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FEDERAL ENERGY )  
REGULATORY COMMISSION, )  
*Respondent* )  
\_\_\_\_\_ )

**28 U.S.C. § 1746 DECLARATION OF LINDA GRIMALDI  
IN SUPPORT OF STANDING FOR  
FOOD & WATER WATCH**

1. My name is Linda Grimaldi. I am over the age of 18, competent to testify and attest to the accuracy of the statements set forth in this Declaration.

Under penalty of perjury, I declare the following:

2. I reside at 1685 Suffield Street in Agawam, Massachusetts 01001 and have lived at this location since 1979. My property abuts the proposed Tennessee Gas Pipeline Company (“TGP”) gas-fired compressor station expansion project and proposed new pipeline construction. My home lies roughly 500 feet from the compressor station site.

3. Due to the proposed increase in capacity and construction activity, TGP's compressor station and pipeline project directly impact myself and my property.

4. The proposed construction of additional fossil gas pipelines and the expansion of TGP's 261 compressor station will result in greater noise, air, and water pollution, thus severely affecting the financial value, peaceful enjoyment, and aesthetic value of my property.

5. On November 20, 2017, TGP's parent company, Kinder Morgan, discharged 16,500 gallons of hazardous wastewater onto the soil of the compressor station yard in relation to the Connecticut Expansion Project's pipeline test at the Agawam, Massachusetts compressor station near my home. The wastewater contained heavy metals, lead, and carcinogens such as tetrachloroethylene. The EPA has classified tetrachloroethylene as likely to be carcinogenic to humans. I rely upon well water at my home and I have asked Kinder Morgan to test my water to ensure it is safe to drink. I was told by Kinder-Morgan representatives that I have no reason to be concerned and have been refused testing of my well water to ensure its safety for consumption. I am concerned that if this expansion proceeds, TGP and Kinder Morgan will continue to release pollutant laden water within the vicinity of my well site, potentially contaminating my drinking water with hazardous pollutants.

6. I have been impacted and will continue to be impacted by this project due to increased noise, health issues resulting from gas-powered compressor emissions and larger and more frequent blowdown events, increased anxiety of explosions, and growing concern for the climate change impacts resulting from expanded fossil gas infrastructure.

7. As a result of blowdown and fugitive emissions from existing TGP gas infrastructure, I have experienced severe headaches and nosebleeds requiring hospitalization at Baystate Hospital. Both the increased regularity and intensity of these blowdown events will result in exacerbated health issues if the expanded compressor station and installation of additional pipelines are completed in the Agawam area.

8. Additionally, completion of this project exacerbates my growing concern related to climate change impacts resulting from expanded fossil gas infrastructure and the continued reliance upon fossil fuels. I am particularly concerned about the emissions of greenhouse gases that will come from this proposed facility and add to the accumulation of greenhouse gases in the atmosphere, resulting in a changing climate for western Massachusetts. I will be directly impacted by the region's strongest storms, which are predicted to become more frequent and more intense as a result of climate change, delivering significantly more precipitation than when I moved to this residence, resulting in

more flooding due to rain coming in big bursts instead of in staggered, manageable amounts. Climate change will result in direct harm to myself and my property due to potential damage that will result from severe flooding of the Connecticut River, roughly 5,000 feet from my home, and the Worthington Brook tributary, located roughly 500 feet from my home and immediately adjacent to TGP's Compressor Station 261.

9. Having FERC's Certificate Order for Upgrade Project 261 set aside would allow me to continue to leave the windows open in my home during clear weather, recreate in the immediate vicinity of my home, and would ensure the quiet enjoyment of my property while protecting my health from further amplified emissions induced problems. Moreover, it would enforce FERC's requirement to analyze emissions and climate change impacts within its review of gas infrastructure permitted within the United States, the world's largest natural gas producer.

10. I have personally opposed TGP's construction of new pipelines and a larger compressor station, raising the issues of increased noise and pollution, before the Agawam City Council. The Agawam City Council ultimately ignored my concerns and sold the easement rights on three town parcels in exchange for \$150,000 and waived responsibility for any accidents or environmental impacts in the future.

11. In January 2019, Food & Water Watch filed a Request for Rehearing of the Federal Energy Regulatory Commission (“FERC”) decision granting TGP a Certificate of Public Convenience and Necessity, on behalf of members like myself, raising issues germane to my interests. This Rehearing Request was denied by FERC on February 21, 2020. As a member of Food & Water Watch, the rehearing request plainly states that it was filed on our behalf.

12. I am a current member of Food & Water Watch (“FWW”). I joined FWW because I consider myself quite active on a whole host of issues, including environmental and climate change issues central to FWW’s overarching mission. I share FWW’s goals, particularly its aim to guarantee a habitable climate for future generations through the cessation of societal reliance upon fossil fuels and ensure clean air for our communities. As a member of FWW, I authorize the organization to litigate this matter on my behalf.

13. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: 4/15/20   
(name)

**IN THE UNITED STATES COURT OF APPEALS  
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FOOD & WATER WATCH;  
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REGULATORY COMMISSION,  
*Respondent*

Docket No. \_\_\_\_\_

**28 U.S.C. § 1746 DECLARATION OF WENDY HOLLIS  
IN SUPPORT OF STANDING FOR  
FOOD & WATER WATCH**

1. My name is Wendy Hollis. I am over the age of 18, competent to testify and attest to the accuracy of the statements set forth in this Declaration.

Under penalty of perjury, I declare the following:

2. I reside at 42 Edgewater Rd., Agawam, Massachusetts, 01001 - roughly 2 miles from the 261 Compressor Station project.

3. My family and I live and recreate within the vicinity of the 261 Upgrade Project proposed by Tennessee Gas Pipeline. I regularly ride my bicycle near the current compressor station and proposed pipeline route, riding along Suffield Street where the 261 Project is located. When blowdown events occur at the existing compressor station infrastructure, the emissions directly impact me and



my family, resulting in poor air quality which can lead to headaches and respiratory ailments. Completion of this project will directly impact my enjoyment of bicycling in the area surrounding my home, reducing my enjoyment of my property and neighborhood, due to the persistent threat of larger and more frequent blowdown and emissions events associated with the larger capacity of the station.

4. I experience ongoing concern that will be exacerbated by the completion of the 261 Upgrade Project due to the potential of this project to negatively impact the water quality of our area and to degrade the air quality of our neighborhood in a manner addressed by Petitioners in their Rehearing Requests.

5. I have been impacted and will continue to be impacted by this project due to increased air pollution in Agawam, Massachusetts and the surrounding Springfield area resulting from the gas-powered compressor station emissions and blowdown events. The increased air pollution that this project would bring, such as ozone and methane, directly affects my personal health and my professional career as a nurse in the area. The Springfield, Massachusetts area has been found to be the worst city for asthmatics in the U.S., as Springfield's rate is more than double the national average.<sup>1</sup> As such, the increased air pollutant emissions from completion

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<sup>1</sup> Asthma and Allergy Foundation of America, *Asthma Capitals 2019: The Most Challenging Places to Live with Asthma*, at p. 33,

of the 261 Upgrade Project will threaten my respiratory health and result in increased cases of asthma and chronic obstructive pulmonary disease (“COPD”) related health issues affecting the area’s vulnerable populations. Moreover, my husband currently suffers from COPD and which will be exacerbated by the increase in air pollutants brought on by expansion of this project and, as a result, I will have my home healthcare requirements increased to address these issues.

6. I have been impacted and will continue to be impacted by this Project due to its ongoing and potentially expanded emissions of large volumes of greenhouse gases. This expansion of fossil gas infrastructure, with its multi-decade useful life, will lock western Massachusetts into a sustained dependence upon fossil gas at a time where the overwhelming scientific consensus demands we cease the use of fossil fuels in order to ensure a habitable planet for future generations. I understand that climate change will increase the incidents of insect-

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<https://www.aafa.org/media/2426/aafa-2019-asthma-capitals-report.pdf>

(“Springfield, Massachusetts, is again the most challenging place in the U.S. to live with asthma. It ranks #1 for its high asthma prevalence and high number of asthma-related emergency room visits. The area has the highest number of asthma-related emergency room visits in the U.S., as well as a high rate of asthma prevalence overall.”)

borne viruses, such as the mosquito-transmitted Eastern equine encephalitis outbreak experienced in this region in 2019, as such I experience concern for my family's safety due to the contribution of this project, and the broader gas infrastructure expansion ongoing throughout the region, to the ever-increasing concentration of greenhouse gases in the atmosphere affecting climate change.

7. As a rate payer for Columbia Gas, future abandonment of this infrastructure before the end of its useful life due to emissions reductions goals of the Commonwealth of Massachusetts would result in stranded assets whose costs will be foisted upon rate payers, such as myself.

8. Additionally, I have been and will continue to be impacted by this project due to the risk of gas leaks within TGP's transmission pipelines and Columbia Gas's distribution lines, which could result in explosions – as seen on September 13, 2018, when excessive pressure in natural gas lines owned by Columbia Gas of Massachusetts, TGP's sole remaining precedent agreement holder for this project, caused a series of explosions and fires to occur in as many as 40 homes, with over 80 individual fires, in the Merrimack Valley towns of Lawrence, Andover, and North Andover.<sup>2</sup> This sort of incident is not isolated, as

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<sup>2</sup> Andrew Martinez, *Feds slam Columbia Gas' 'flagrant disregard' for safety with \$53 million fine*, Boston Herald, Feb. 26, 2020.

another 2012 Columbia Gas explosion in Springfield, Mass. resulted in destruction of several buildings and a number of serious injuries.<sup>3</sup> As a result, this anxiety will be heightened by the completion of TGP's pipeline and compressor station project.

9. Having this Court set aside the Federal Energy Regulatory Commission's ("FERC") Certificate Order will allow me to continue bicycling within the area around my home and neighborhood without being subject to a greater risk of respiratory ailments due to air emissions.

10. Moreover, such a decision will prevent this infrastructure from becoming a stranded asset, and thus a cost to ratepayers like myself, as Massachusetts reduces its carbon intensity pursuant to the emissions reduction efforts prescribed by the state's Global Warming Solutions Act of 2008.

11. Further, a ruling setting aside this FERC Order would alleviate my concerns and stress surrounding climate change's impacts within the region as it would mandate FERC seriously evaluate the upstream and downstream emissions

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<https://www.bostonherald.com/2020/02/26/feds-slam-columbia-gas-flagrant-disregard-for-safety-with-53m-fine/>

<sup>3</sup> Patrick Johnson, *Springfield gas explosion injures at least 18, officials call no loss of life 'a miracle on Worthington Street'*, MassLive, Nov. 24, 2012,

[https://www.masslive.com/news/2012/11/springfield\\_gas\\_explosion\\_inju.html](https://www.masslive.com/news/2012/11/springfield_gas_explosion_inju.html)

of its gas transportation project approvals; thus, clarifying FERC's National Environmental Policy Act ("NEPA") requirements to provide for serious greenhouse gas review when considering natural gas projects before the Commission. Given that FERC is the primary natural gas regulator for the United States, the largest natural gas producing nation on the planet, a favorable decision of this Court would significantly reduce my concerns surrounding climate change and natural gas's role in those impacts due to such review's ability to slow the emission of greenhouse gases into the atmosphere.

12. I have consistently publicly opposed TGP's construction of new pipelines and a larger compressor station in Agawam. This opposition has included attending informal community meetings concerning the projects plans on January 20, 2020. I also testified in opposition of the Agawam City Council's grant of easement rights to TGP during the January 21, 2020 City Council meeting. I attended a January 28, 2020 Agawam City Council workshop concerning easement rights. I attended the February 3, 2020 Agawam City Council meeting in which petition signatures, of which I signed, were submitted to the City Council protesting the grant of easement rights to TGP for this Project. I also spoke in opposition to this project during the February 10, 2020 Agawam City Council meeting.

13. On January 17, 2019, Food & Water Watch, of which I am a member, filed a Request for Rehearing of the FERC decision granting TGP a Certificate of Public Convenience and Necessity raising issues germane to Food & Water Watch's organizational interests. This Rehearing Request addressed the Commission's faulty determination of need, deficiencies in the NEPA review of this project, failure of the Commission to address the region's elevated respiratory ailment rates, and arbitrary and capricious grant of TGP's Certificate in light of FERC's failure to provide adequate climate considerations as required by this Court in the decision *Sierra Club v. FERC (Sabal Trail)*, 867 F.3d 1357 (D.C. Cir. 2017). This Rehearing Request was denied by FERC on February 21, 2020.

14. As a member of Food & Water Watch, the rehearing request plainly states that it was filed on our behalf.

15. I am a current, dues-paying member of Food & Water Watch ("FWW"). I joined FWW because I consider myself quite active on a whole host of issues, including environmental and climate change issues central to FWW's overarching mission. I share FWW's goals, particularly its aim to guarantee a habitable climate for future generations through the cessation of societal reliance upon fossil fuels and ensure clean air for our communities. As a member of FWW, I authorize the organization to litigate this matter on my behalf. As a member of

Food & Water Watch, I authorize the organization to litigate this matter on my behalf.

16. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: \_\_\_\_\_

4/16

Wendy Hollis

(name)





proposed construction of additional fossil gas pipelines and the expansion of TGP's Agawam gas-powered compressor station will result in greater noise, air, and water pollution in the Agawam area, thus severely affecting the peaceful enjoyment of my property and the public parks of Agawam in which I recreate.

4. I have been impacted and will continue to be impacted by this project due to increased air pollution in Agawam, Massachusetts resulting from gas-powered compressor emissions and larger and more frequent blowdown events. As it stands, the Springfield, Massachusetts area has some of the highest asthma rates in the country; as such, additional emissions of criteria pollutants from this project would directly impact my respiratory health and prevent me from recreating in the area.

5. I have also experienced increased anxiety of gas pipeline explosions after the 2018 explosions in Lawrence, Mass. at the hands of TGP's sole precedent agreement holder, Columbia Gas. I understand that Columbia Gas has plead guilty to criminal negligence, has been banned from operating in the Commonwealth of Massachusetts, and has agreed to pay largest criminal penalty assessed by the U.S. Department of Justice for violation of the Pipeline Safety Act. This anxiety concerning explosions will be heightened by the completion of TGP's pipeline and compressor station project as it would increase volumes and pressures within Columbia Gas's distribution pipeline network.

6. Construction of this project exacerbates my growing concern related to climate change impacts resulting from expanded fossil gas infrastructure and the continued reliance upon fossil fuels induced by completion of this project. I am particularly concerned about the emissions of both carbon dioxide and methane which will occur as a result of the construction of the pipeline loop. I understand that climate change will bring more insect-borne diseases, drought, flooding, and decreased snowpack to western Massachusetts; this would deprive me of the enjoyment of my property, prevent me from recreating, and increase the risk of harm to my home.

7. I have personally and publicly opposed TGP's construction of new pipeline infrastructure and a larger compressor station in Agawam, raising the issues of increased noise and pollution, before the Agawam City Council on numerous occasions. I attended the December 16, 2019 public hearing on Agawam's proposal to sell expanded easements to TNG and provided comments of concern to the City Council, signed by myself and 16 other Agawam citizens. I also attended the January 21, 2020 City Council meeting and expressed opposition to the project, alongside numerous aggrieved Agawam citizens.<sup>1</sup> I submitted

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<sup>1</sup> Ryan Trowbridge, Audrey Russo, "Agawam residents speak out over gas pipeline project", Jan. 21, 2020, Western Mass News,

comments to the Agawam City Council concerning its January 30, 2020 workshop. On February 2, 2020, I and several others submitted a petition to the Agawam City Council through its executive assistant, signed by 149 local residents, demanding a public hearing on Agawam's grant of easements to TGP. At that public hearing on February 3, 2020, I spoke at the Agawam City Council's public hearing opposing the grant of Agawam easements to TGP. On February 10, 2020, I presented further comments in opposition to this project at the Agawam City Council meeting.<sup>2</sup>

8. I have also been engaged with the affected public through door-knocking campaigns, public records requests, and op-eds in local newspapers. This includes the early January 2020 publication of an op-ed in the Agawam Advertiser organizing public opposition to this project and the filing of a request for public records concerning Agawam City Council's grant of easements to TGP for this project. On January 17, 2020, I had an op-ed published on MassLive.com expressing my opposition to the project and calling on others to join in opposition

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[https://www.westernmassnews.com/news/agawam-residents-speak-out-over-gas-pipeline-project/article\\_7904ed78-3c9e-11ea-81b1-fbac3c79c336.html](https://www.westernmassnews.com/news/agawam-residents-speak-out-over-gas-pipeline-project/article_7904ed78-3c9e-11ea-81b1-fbac3c79c336.html)

<sup>2</sup> Morgyn Joubert, Sarah Guernelli, "Resident voice their concerns over Agawam pipeline project", Feb. 10, 2020, Western Mass News,

[https://www.westernmassnews.com/news/residents-voice-their-concerns-over-agawam-pipeline-project/article\\_c6517848-4c58-11ea-a294-37dc876e8cd8.html](https://www.westernmassnews.com/news/residents-voice-their-concerns-over-agawam-pipeline-project/article_c6517848-4c58-11ea-a294-37dc876e8cd8.html)

during the January 21, 2020 City Council hearing.<sup>3</sup> On January 30, 2020, I had an op-ed published in The Reminder, a local western Massachusetts newspaper, concerning the hazards of and public opposition to this proposed pipeline project. On February 6, 2020, an article was published in the Agawam Advertiser discussing public opposition to this project and quoting my grievances with this project, which included issues related to the purported need for this project and potential hazards presented by explosions, as seen in Columbia Gas's grid in the recent past.

9. A ruling setting aside this Federal Energy Regulatory Commissions ("FERC") Order would alleviate my concerns and stress regarding climate change's impacts on western Massachusetts as it would mandate FERC, the primary natural gas regulator for the largest natural gas producing nation on the planet, to seriously evaluate the upstream and downstream emissions of its pipeline infrastructure approvals and accurately assess the public necessity of gas infrastructure in light of the harms that continued and expanded fossil fuel combustion has on climate change. As this project is specifically designed to

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<sup>3</sup> Susan Grossberg, "Opposition to Tennessee Gas pipeline in Agawam explained", Jan. 17, 2020, MassLive.com, <https://www.masslive.com/opinion/2020/01/opposition-to-tennessee-gas-pipeline-in-agawam-explained-reader-viewpoint.html>

convey fossil fuels from extraction operations to end user combustion, a favorable decision would require FERC to recognize the inherent nature of such transportation infrastructure and meaningfully consider those emissions and resulting climate impacts within its determination of public necessity. Thus, a favorable decision affirming FERC's review requirement under the National Environmental Policy Act ("NEPA") to provide for serious greenhouse gas review when considering natural gas projects before the Commission would greatly alleviate my concerns surrounding climate change's impacts.

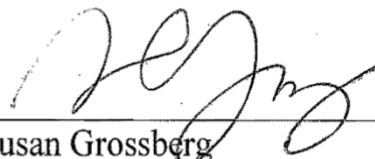
10. In January 2019, Food & Water Watch ("FWW") filed a Request for Rehearing of the FERC decision granting TGP a Certificate of Public Convenience and Necessity, on behalf of members like myself, raising issues germane to my interests. This Rehearing Request was denied by FERC on February 21, 2020. As a member of Food & Water Watch, the rehearing request plainly states that it was filed on our behalf.

11. I am a current member of Food & Water Watch. I joined FWW because I consider myself quite active on a whole host of issues, including environmental and climate change issues central to FWW's overarching mission. I share FWW's goals, particularly its aim to guarantee a habitable climate for future generations through the cessation of societal reliance upon fossil fuels and ensure

clean air for our communities. As a member of FWW, I authorize the organization to litigate this matter on my behalf.

12. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: April 17, 2020

  
\_\_\_\_\_  
Susan Grossberg

**IN THE UNITED STATES COURT OF APPEALS  
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*Respondent*

Docket No. \_\_\_\_\_

**28 U.S.C. § 1746 DECLARATION OF JANE WINN  
IN SUPPORT OF STANDING FOR  
BERKSHIRE ENVIRONMENTAL ACTION TEAM**

1. My name is Jane Winn. I am over the age of 18, competent to testify and attest to the accuracy of the statements set forth in this Declaration. Under penalty of perjury, I declare the following:

2. I reside in Pittsfield, Massachusetts; 63 miles from the proposed compressor station site.

3. I am the Executive Director of Berkshire Environmental Action Team, Inc. (“BEAT”). BEAT is a 501(c)(3) nonprofit organization whose Western Massachusetts work focuses on acting as stewards of local environmental resources, coordinating a volunteer network engaged on local ecological restoration efforts, providing education and community outreach, and providing

testimony and commentary on environmental legislation and issues at the local and state level.

4. My family and I recreate at the Six Flags New England amusement park in Agawam, Massachusetts, which is located adjacent to the proposed compressor station expansion project. I enjoy looking out over the rolling scenery of Western Massachusetts from the rides at Six Flags New England and recreating in the surrounding area. This proposed project will impact my aesthetic enjoyment of the area and will result in a marked decrease in my enjoyment of the area's recreational opportunities as it will cause me to constantly be looking, listening, and smelling to see if a blowdown event or emissions leakage was occurring.

5. I have been impacted and will continue to be impacted by this project due to increased air pollution in Agawam, Massachusetts and the surrounding downwind areas, such as Six Flags, resulting from gas-powered compressor emissions, which include toxins such as benzene, toluene, xylene, ethylbenzene, and mercaptan – in addition to copious methane and carbon dioxide emissions.

6. I understand that on September 13, 2018, excessive pressure in natural gas lines owned by Columbia Gas of Massachusetts, TGP's sole remaining precedent agreement holder for this project, caused a series of explosions and fires to occur in as many as 40 homes, with over 80 individual fires, in the Merrimack Valley towns of Lawrence, Andover, and North Andover where one person was



killed and 30,000 were forced to evacuate their homes. I have read that on February 26, 2020, the U.S. Department of Justice banned Columbia Gas from operating in the Commonwealth of Massachusetts and levied the largest criminal penalty assessed in the history of the Pipeline Safety Act due to criminal negligence. I have experienced and will continue to live with the threat of explosions in Columbia Gas's service network after the 2018 incident in Lawrence, Mass. at the hands of TGP's sole precedent agreement holder and primary gas distributor in western Massachusetts, Columbia Gas. This anxiety will be heightened by the completion of TGP's pipeline and compressor station project as it will connect with an already unstable distribution network.

7. Construction of this project exacerbates my growing concern related to climate change impacts resulting from expanded fossil gas infrastructure and the continued reliance upon fossil fuels induced by completion of this project. I am particularly concerned about the emission of methane from this proposed project and its ongoing effect as a greenhouse gas. Despite personal efforts to reduce my climate impacts through efforts including insulating and weatherizing my home, buying 100% renewable electricity, and driving an electric vehicle that we charge with that 100% renewable electricity, this project frustrates the efficacy of those personal actions. As a result, my concern will be exacerbated by this proposed expansion project due to its resultant increase in emissions of the potent

greenhouse gas methane to both run the compressor station itself and fuel downstream combustion. Moreover, this expansion of fossil gas infrastructure with a multi-decade useful life causes increased concern due to the effect it has on locking Western Massachusetts into a dependence upon fossil gas at a time where the overwhelming scientific consensus demands we cease the use of fossil fuels.

8. This project will allow for the increased transportation of fossil gas, incentivizing increased extraction upstream and increased combustion downstream, in direct contradiction to the reductions that are required to keep global temperature rise below thresholds that prevent the worst degradation of Earth's biosphere as dictated by both the United Nations' International Governmental Panel of Climate Change and the U.S. Global Change Research Program. As such, this project has caused and will continue to cause emotional, mental, economic, and physical harm to myself and members of the Berkshire Environmental Action Team due to its contribution to the increasing concentration of greenhouse gases in the Earth's atmosphere, resulting in climatic changes in western Massachusetts. These impacts include declining snow cover in Western Massachusetts, which could see winters without substantial snow cover by the end of the century, thus impacting my and BEAT's members' ability to enjoy the ski slopes of Massachusetts. This will also result in a decrease in the region's spring water table, which relies on the melt of annual snowpack to replenish it. In

addition, the region's strongest storms are expected to become more frequent and more intense as a result of climate change, resulting in more flooding due to rain coming in big bursts instead of in staggered, manageable amounts; thus, increasing the risk of flood damage to my property. Climate change will also result in increased droughts between storms within our region and increasing regional temperatures, impacting my ability to grow a variety of plants in my garden that are not adapted to warm weather climates.

9. Having the Federal Energy Regulatory Commission's ("FERC") Certificate Order for Upgrade Project 261 set aside by this Court would allow me to continue to recreate within the Agawam area without amplified concern of explosions or excessive emissions that could impact my respiratory health.

10. As FERC's decision to improperly account for, and summarily disregard, its greenhouse gas assessments required under the National Environmental Policy Act ("NEPA") has deprived myself and BEAT readers an opportunity to meaningfully comment on governmental actions, invalidation of FERC's Certificate Order would allow myself and the BEAT volunteer network to provide substantive commentary on FERC's environmental assessment of the project's upstream and downstream greenhouse gas impacts and their resulting impact on climate change, which were inadequately completed within its Certificate Order.

11. BEAT has consistently publicly opposed TGP's construction of new pipelines and a larger compressor station in Agawam. This opposition has included filing comments during the state Massachusetts Environmental Policy Act review, attending site visits, filing comments during the Energy Facilities Siting Board review, filing a Motion to Intervene in the FERC process, filing comments on the scoping for the FERC's review under the NEPA, and filing comments on the Environmental Assessment completed by FERC as part of its NEPA review.

12. On January 17, 2019, BEAT filed a Request for Rehearing of the Federal Energy Regulatory Commission ("FERC") decision granting TGP a Certificate of Public Convenience and Necessity raising issues germane to BEAT's organizational interests. This Rehearing Request addressed the Commission's faulty determination of need, deficiencies in the NEPA review of this project, failure of the Commission to address the region's elevated respiratory ailment rates, and arbitrary and capricious grant of TGP's Certificate in light of FERC's failure to provide adequate climate considerations as required by this Court in the decision *Sierra Club v. FERC (Sabal Trail)*, 867 F.3d 1357 (D.C. Cir. 2017). This Rehearing Request was denied by FERC on February 21, 2020.

13. As a non-profit organization that provides education, outreach, and watchdog services to the residents of western Massachusetts, BEAT has been harmed by the failure of FERC to comply with NEPA requirements. The

Commission's failure to provide adequate information on greenhouse gas emissions resulting from this project, due to both incentivization of expanded extraction upstream and increased combustion downstream, as well as such aggregate emissions' impact on the ecosystems of western Massachusetts, frustrates BEAT's informational and organizational purposes. The Commission's continued refusal to request such emissions information from upstream suppliers and downstream consumers in its NEPA review, as well as its failure to provide adequate information of this project's impact on regional greenhouse gas emissions and climate change, harms BEAT as it denies its staff and members of meaningful information that is used within its education and outreach programs, as well as within its watchdog activities of providing science-based commentary to aid public permitting and regulations.

14. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: April 15, 2020



(Jane Winn)


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**Service List for CP19-7-000 Tennessee Gas Pipeline Company, L.L.C.**

Contacts marked \*\* must be postal served

Party	Primary Person or Counsel of Record to be Served	Other Contact to be Served
Cathy Kristofferson	Cathy Kristofferson 244 Allen Rd Ashby, MASSACHUSETTS 01431 UNITED STATES cathy.kristofferson@gmail.com	
Deborah Saremi	Deborah Saremi Longmeadow Gas Metering Statio 251 Ardsley Road Longmeadow, MASSACHUSETTS 01106 UNITED STATES debbie.saremi@gmail.com	
Kathy Mullins	Kathy Mullins 123 Wheel Meadow Drive Longmeadow, MASSACHUSETTS 01106 UNITED STATES majqa1966@yahoo.com	
Laurie Robinson	Laurie Robinson 53 Warren Terrace Longmeadow, MASSACHUSETTS 01106 UNITED STATES Amxrnl@gmail.com	
Jon Lathrop	Jon Lathrop 51 Merrell Dr Agawam, MASSACHUSETTS 01001 UNITED STATES jonlathrop@yahoo.com	
Constance Dawson	Constance Dawson Constance E. Dawson 12 Knight Ave. 2nd Floor Easthampton, MASSACHUSETTS 01027 UNITED STATES conniedaw@gmail.com	
Lindsay Sabadosa	Lindsay Sabadosa 237 Riverside Drive Florence, MASSACHUSETTS 01062 UNITED STATES info@lindsaysabadosa.com	
Micky McKinley	Micky McKinley 114 Ripley RD Montague, MASSACHUSETTS 01351 UNITED STATES mickymck22@gmail.com	

Susan Baxter	Susan Baxter 302 N Rankin St Appleton, WISCONSIN 54911 UNITED STATES sbaxter@new.rr.com	
Janice Hill	Janice Hill 278 Ohio Ave. W. Springfield, MASSACHUSETTS 01089 UNITED STATES Grandjan44@me.com	
Mindy Domb	Mindy Domb State Representative-elect PO Box 3215 Amherst, MASSACHUSETTS 01004-3215 UNITED STATES MindyForMA@gmail.com	
Andrea Chasen	Andrea Chasen 236 Crestview Circle Longmeadow, MASSACHUSETTS 01106 UNITED STATES anchasen@gmail.com	
Mindy Domb	Mindy Domb State Representative-elect PO Box 3215 Amherst, MASSACHUSETTS 01004-3215 UNITED STATES MindyForMA@gmail.com	
Michele Marantz	Michele Marantz 117 Rugby Road Longmeadow, MASSACHUSETTS 01106 UNITED STATES mb.marantz@comcast.net	
Ernesto Cruz	Ernesto Cruz 124 Mulberry Street Springfield, MASSACHUSETTS 01105 UNITED STATES eecruz.escudo@gmail.com	
Sharon Moulton	Sharon Moulton 48 Evergreen Rd #313 Leeds, MASSACHUSETTS 01053 UNITED STATES smm2250@aol.com	
Mary Babinski	Mary Babinski Ms Mary Ann Babinski 114 Rogers Avenue 114 Rogers Ave. Westfield, MASSACHUSETTS 01085 UNITED STATES mababinski@comcast.net	
Atmos Energy Corporation	James Jeffries McGuireWoods, LLP 201 North Tryon Street, Suite 3000 Charlotte, NORTH CAROLINA 28202 5430 LBJ Freeway 1800	Kevin C. Frank, ESQ Attorney Atmos Energy Corporation

	UNITED STATES mferc@mcguirewoods.com	1800 Three Lincoln Centre Dallas, TEXAS 75240 Kevin.Frank@atmosenergy.com
Bay State Gas Company d/b/a Columbia Gas of Massachusetts	Kenneth Christman Associate General Counsel NiSource Corporate Services Co. 501 Technology Drive Canonsburg, PENNSYLVANIA 15317 UNITED STATES kchrist@nisource.com	Deepak A Raval Federal Energy Specialist NiSource Distribution Companies 290 W Nationwide Bolvd Columbus, OHIO 43215 draval@nisource.com
Berkshire Environmental Action Team, Inc. (BEAT)	Rosemary Wessel 90 Trow Road Cummington, MASSACHUSETTS 01026 UNITED STATES rosemarywessel@gmail.com	
Chief Oil & Gas LLC	Kevin Sweeney John & Hengerer 1625 K Street, NW Suite 1100 Washington, DISTRICT OF COLUMBIA 20006 UNITED STATES ksweeney@kmsenergylaw.com	Andrew E Levine Chief Oil & Gas LLC 5956 Sherry Lane Suite 1500 Dallas, TEXAS 75225 alevine@chiefog.com
CITY OF HOLYOKE, MASSACHUSETTS	Alex Morse Mayor City of Holyoke, Massachusetts 536 Dwight St. Holyoke, MASSACHUSETTS 01040 UNITED STATES morsea@holyoke.org	
City of Holyoke, Massachusetts	Alex Morse Mayor City of Holyoke, Massachusetts 536 Dwight St. Holyoke, MASSACHUSETTS 01040 UNITED STATES morsea@holyoke.org	
CITY OF NORTHAMPTON, MASSACHUSETTS	Alan Seewald 71 King Street Northampton, MASSACHUSETTS 01060 UNITED STATES aseewald@northamptonma.gov	
Climate Action Group; Unitarian Society of Northampton and Florence	Nicholas Warren 79 Olander Drive Northampton, MASSACHUSETTS 01060 UNITED STATES Warren4023@msn.com	
Climate Action Now Western Massachusetts	Susan Theberge Susan Theberge 250 Shutesbury Road Amherst, MASSACHUSETTS 01002 UNITED STATES susantheberge@icloud.com	
Duke Energy Ohio, Inc. and Duke Energy	James Jeffries McGuireWoods, LLP 201 North Tryon Street, Suite 3000 KO Transmission Company	Jeff L Kern Administrator



Kentucky, Inc.	Charlotte, NORTH CAROLINA 28202 139 E. 4th St. UNITED STATES mferc@mcguirewoods.com	Cincinnati, OHIO 45202 jeff.kern@duke-energy.com
Food & Water Watch	Alex Beauchamp Food & Water Watch Food & Water Watch 32 Court St Suite 1506 Brooklyn, NEW YORK 11201 UNITED STATES abeauchamp@fwwatch.org	
Longmeadow Pipeline Awareness Group	Deborah Saremi Longmeadow Pipeline Awareness 251 Ardsley Road Longmeadow, MASSACHUSETTS 01106 UNITED STATES Deborah.saremi@gmail.com	
Massachusetts Attorney General Maura Healey	Matthew Ireland Assistant Attorney General Massachusetts Attorney Generals Office Office of the Massachusetts Attorney General One Ashburton Place Boston, MASSACHUSETTS 02108 UNITED STATES matthew.ireland@state.ma.us	
Massachusetts Attorney General Maura Healey	Megan Herzog Attorney General of Massachusetts One Ashburton Place Boston, MASSACHUSETTS 02108 UNITED STATES megan.herzog@state.ma.us	
Massachusetts Energy Facilities Siting Board		Joan F Evans General Counsel Energy Facilities Siting Board One South Station Boston, MASSACHUSETTS 02110 Joan.Evans@mass.gov
Massachusetts Energy Facilities Siting Board		Andrew Greene Mr. MA DPU One South Station Boston, MASSACHUSETTS 02110 andrew.greene@state.ma.us
National Grid Gas Delivery Companies	Kenneth Maloney Attorney Cullen and Dykman LLP Cullen and Dykman LLP 1101 14th ST., NW, Suite 750 Washington, DISTRICT OF COLUMBIA 20005 UNITED STATES kmaloney@cullenanddykman.com	Gregory T. Simmons Associate Cullen and Dykman LLP 1101 14th Street N.W. Suite 750 Washington, DISTRICT OF COLUMBIA 20005 gsimmons@cullenllp.com
National Grid Gas Delivery Companies		Andrew MacBride National Grid 40 Sylvan Road Waltham, MASSACHUSETTS 02451

		<a href="mailto:andrew.macbride@nationalgrid.com">andrew.macbride@nationalgrid.com</a>
National Grid Gas Delivery Companies		Patrick J. Tarmey Senior Counsel, FERC Regulator National Grid 40 Sylvan Rd. Waltham, MASSACHUSETTS 02451 <a href="mailto:patrick.tarmey@nationalgrid.com">patrick.tarmey@nationalgrid.com</a>
National Grid Gas Delivery Companies		John E Allocca <a href="mailto:john.allocca@nationalgrid.com">john.allocca@nationalgrid.com</a>
New England Local Distribution Companies	Nicole Allen Thompson Coburn LLP 1909 K Street NW Suite 600 Washington, DISTRICT OF COLUMBIA 20006 UNITED STATES <a href="mailto:nallen@thompsoncoburn.com">nallen@thompsoncoburn.com</a>	Adrienne E Clair Thompson Coburn LLP Thompson Coburn LLP 1909 K Street NW Suite 600 Washington, DISTRICT OF COLUMBIA 20006 <a href="mailto:aclair@thompsoncoburn.com">aclair@thompsoncoburn.com</a>
New England Local Distribution Companies		Kayla Grant Thompson Coburn LLP 1909 K Street NW Suite 600 Washington, DISTRICT OF COLUMBIA 20006 <a href="mailto:kgrant@thompsoncoburn.com">kgrant@thompsoncoburn.com</a>
New England Local Distribution Companies		John Rudiak Director-Energy Services Connecticut Natural Gas Corporation PO Box 1500 Hartford, 06144-1500 <a href="mailto:jrudiak@ctgcorp.com">jrudiak@ctgcorp.com</a>
New England Local Distribution Companies		Deepak A Raval Federal Energy Specialist NiSource Distribution Companies 290 W Nationwide Bolvd Columbus, OHIO 43215 <a href="mailto:draval@nisource.com">draval@nisource.com</a>
New England Local Distribution Companies		Jennifer Boucher Manager - Regulatory Economics Berkshire Gas Company, The 115 Cheshire Road Pittsfield, MASSACHUSETTS 01201 <a href="mailto:jboucher@berkshiregas.com">jboucher@berkshiregas.com</a>
New England Local Distribution Companies		William R Killeen Director Energy Procurement Liberty Utilities 15 Buttrick Rd Londonderry, NEW HAMPSHIRE 03053 <a href="mailto:bill.killeen@libertyutilities.com">bill.killeen@libertyutilities.com</a>
New England Local Distribution Companies		Benjamin S Collins <a href="mailto:benjamin.collins@eversource.com">benjamin.collins@eversource.com</a>
New England Local Distribution Companies		Andrew S Katz Senior Counsel Eversource Energy 901 F Street, N.W. Suite 602 Washington, DISTRICT OF COLUMBIA 20004

		andrew.katz@eversource.com
New England Local Distribution Companies		Anthony J. Contrino Energy Supply Manager WESTFIELD, CITY OF 100 Elm Street PO Box 990 Westfield, MASSACHUSETTS 01085 acontrino@wgeld.org
New England Local Distribution Companies		John W Welch 1380 Main Street Suite 201 Springfield, MASSACHUSETTS 01103 Hampden jwelch@welchbarba.com
New England Local Distribution Companies		Edna M Karanian Director - Gas Supply Eversource Energy Service Company 107 Selden Street Berlin, CONNECTICUT 06037 edna.karanian@eversource.com
New Jersey Natural Gas Company	William Scharfenberg Attorney NJR Service Corporation PO Box 1415 Wall,NEW JERSEY 07719 UNITED STATES wscharfenberg@njresources.com	Doug Rudd Gas Analyst New Jersey Natural Gas Company PO Box 1415 Wall,NEW JERSEY 07719 dcrudd@njresources.com
New York State Electric & Gas Corporation	Elizabeth Whittle Partner Nixon Peabody LLP 401 Ninth Street, N.W Suite 900 Washington, DISTRICT OF COLUMBIA 20004 UNITED STATES ewhittle@nixonpeabody.com	Linda Dent 89 East Avenue Rochester, NEW YORK 14649 Linda_dent@rge.com
New York State Electric & Gas Corporation		Justin Atkins Regulatory Counsel Avangrid Service Company One City Center 5th Floor Portland, MAINE 04101 justin.atkins@avangrid.com
NJR Energy Services Company	William Scharfenberg Attorney NJR Service Corporation PO Box 1415 Wall,NEW JERSEY 07719 UNITED STATES wscharfenberg@njresources.com	Timothy F Shea NJR ENERGY SERVICES COMPANY 1415 Wyckoff Rd Wall, NEW JERSEY 07719 tshea@njresources.com
Piedmont Natural Gas Company, Inc.	James Jeffries McGuireWoods, LLP 201 North Tryon Street, Suite 3000 Charlotte, NORTH CAROLINA 28202 UNITED STATES mferc@mcguirewoods.com	
Pipe Line Awareness Network for the Northeast, Inc.	Kathryn Eiseman 17 Packard Rd Cummington, MASSACHUSETTS 01026	

	UNITED STATES katyeiseman@gmail.com	
PSEG Energy Resources & Trade LLC	Adrian Newall Senior Counsel - Regulatory PSEG Services Corporation 80 Park Plaza Newark, NEW JERSEY 07102 UNITED STATES adrian.newall@pseg.com	Drake R Kijowski Gas Supply Manager PSEG Energy Resources & Trade LLC 80 Park Plaza Mail Code T - 19 Newark, NEW JERSEY 07102 drake.kijowski@pseg.com
PSEG Energy Resources & Trade LLC		Michael A Merizio Senior Gas Regulatory Analyst PSEG Energy Resources & Trade LLC 80 Park Plaza Newark, NEW JERSEY 07102 michael.merizio@pseg.com
Tennessee Gas Pipeline Company, L.L.C.	Ben Carranza Manager Regulatory Kinder Morgan, Inc. 1001 Louisiana Street Houston, TEXAS 77002 UNITED STATES ben_carranza@kindermorgan.com	Milton Palmer, JR Director, Rates and Regulatory Kinder Morgan, Inc. 1001 Louisiana Street Houston, TEXAS 77002 milton_palmer@kindermorgan.com
Tennessee Gas Pipeline Company, L.L.C.	Shannon Miller Regulatory Analyst Kinder Morgan, Inc. 1001 Louisiana Houston, TEXAS 77002 UNITED STATES shannon_miller@kindermorgan.com	Jacquelyne M Rocan Assistant General Counsel Kinder Morgan, Inc. 1001 Louisiana Street Houston, TEXAS 77002 Jacquelyne_Rocan@kindermorgan.com
Tennessee Gas Pipeline Company, L.L.C.	Brian O'Neill Van Ness Feldman, LLP 1050 Thomas Jefferson St, N.W Suite 700 Washington, DISTRICT OF COLUMBIA 20005-4213 UNITED STATES bdo@vnf.com	

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