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PIPE LINE AWARENESS NETWORK
FOR THE **NORTH EAST, INC.**
www.plan-ne.org

February 8, 2019

VIA EMAIL

Secretary Matthew Beaton
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office, EEA No. 15879
Alex Strysky, MEPA Analyst
100 Cambridge Street, Suite 900
Boston MA 02114

**Re: EEA #15879, Tennessee Gas Pipeline 261 Upgrade Projects, Agawam, MA
Initial Comments on Draft Environmental Impact Report**

Dear Secretary Beaton:

The Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”) submits the following initial comments in response to the Draft Environmental Impact Report (“DEIR”) submitted by Tennessee Gas Pipeline Company L.L.C. (“TGP” or the “Applicant”) for its proposed 261 Upgrade Projects (the “Projects”).

**Threshold Issue: Project “Purpose” Too Narrowly Defined,
Contributing to Inadequacy of Alternatives Analysis**

The Applicant continues to define its Projects’ purpose too narrowly, so as to avoid the consideration of meaningful alternatives. The purpose of the Projects is properly understood as seeking to match energy supply in the Pioneer Valley with energy demand. TGP’s proposed solution is to build more gas infrastructure – to deliver more gas – because TGP is a gas pipeline company.

The scope of the MEPA alternatives analysis should not be dictated by what the Applicant’s line of business happens to be. Instead, the scope of the alternatives analysis should be dictated by the energy and climate policies of the Commonwealth. Energy and environmental affairs are housed within a single executive office to help ensure that energy projects permitted within the Commonwealth are consistent with environmental and climate policies. Reducing greenhouse

gas (“GHG”) emissions – and pursuing non-emitting energy solutions – are paramount policy objectives.

This past December, the Massachusetts Department of Energy Resources issued a “Comprehensive Energy Plan.”¹ As Governor Baker explained, “The recommendations and analysis produced in this plan illustrate a changing energy landscape that will require a focus on energy efficiency improvements and the utilization of electricity to heat our homes and power our transportation sector.”² Among the key findings and takeaways of the Comprehensive Energy Plan:

- “To achieve additional reductions in emissions, changes must be made in the way energy is used in the thermal and transportation sectors”;
- “Electrifying the thermal and transportation sector will leverage investments made in a clean electric grid, both reducing emissions and lowering cost”;
- “Improving building envelope efficiency is important to decreasing emissions and costs in the thermal sector”.³

The applicant asks the Executive Office of Energy and Environmental Affairs (“EOEEA”) to ignore these policy directives because there are gas utilities that want more gas infrastructure. But as EOEEA explained in the 2015 update to the Massachusetts Clean Energy and Climate Plan for 2020, summarizing the key conclusion of planning studies for Global Warming Solutions Act (“GWSA”) compliance:

[T]he only viable path to deep reductions in GHG emissions is through a combination of reduced energy consumption (through increased energy efficiency in vehicles and buildings), **expanded availability of clean electricity, and electrification** of the transportation and heating sectors. . . . The scope of the challenge can be summarized in three words: **reduce, electrify, and decarbonize**. The need to complete this transition by 2050 will guide planning for 2030, and, as required by GWSA, ensure that a 2030 limit is established that maximizes the potential to reduce emissions by at least 80% by 2050, relative to 1990 emissions.⁴

¹ Available at <https://www.mass.gov/service-details/massachusetts-comprehensive-energy-plan-cep>.

² “Gov. Baker Energy Plan Hinges On Changes In Transportation And Buildings,” *WBUR*, Dec. 12, 2018 (<https://www.wbur.org/bostonmix/2018/12/12/baker-energy-plan-emissions-power>).

³ See *id.* at xiii, et seq.

⁴ 2015 Update to the Massachusetts Clean Energy and Climate Plan for 2020 (<https://www.mass.gov/files/documents/2017/12/06/Clean%20Energy%20and%20Climate%20Plan%20for%202020.pdf>).

The urgency of our need to reduce, electrify and decarbonize has only intensified as 2020 and 2030 approach, and state agencies have a heightened responsibility to require serious consideration of alternatives that further these goals. Expanding gas infrastructure does not further the pressing goals of electrification or demand reduction, and is misguided as a decarbonization measure – resulting in only a 1/3 reduction in CO2 emissions from combustion as compared to oil, without accounting for the highly potent GHG emissions from methane leaks and intentional releases at compressor stations, M&R stations, and valves.

Communities in the service areas of the Projects' proposed customers are among those taking the lead in the Commonwealth on electrification, decarbonization and demand reduction. For example, Springfield and Longmeadow are in the midst of Solarize programs and are contemplating HeatSmart heat pumps deployment programs as a follow-on. Northampton has undertaken both a HeatSmart program and a Solarize program, built a solar array over its closed landfill,⁵ and is currently undertaking a community-wide energy efficiency enhancement program.⁶

Meanwhile, in an independent study of municipal utilities, Holyoke Gas & Electric's electric side was just ranked the number one municipal utility for clean energy achievements in western Massachusetts, and number three in the entire Commonwealth.⁷ (Notably, Holyoke Gas & Electric still showed substantial room for improvement – particularly on the energy efficiency front – scoring only 70 out of the possible 100 overall.) “We have an ambition of being a carbon-neutral community,” says Holyoke Mayor Alex Morse.⁸ Referring to the new solar farm paired with battery storage that is fully operational as of this winter, he added, “We get closer and closer with each project like this.”⁹

Conversely, every increase in reliance on gas for space heating, rather than clean-sourced electricity or district heating, moves communities and the Commonwealth away from achieving the directives of the GWSA, as acknowledged by EOEEA. The hidden costs of over-reliance

⁵ See <https://www.gazettenet.com/Northampton-cuts-ribbon-on-landfill-solar-project-now-online-13768927>.

⁶ See <https://ener-g-save.com/2018/05/15/button-up-northampton-2-0/>.

⁷ *Municipal Light Plant Report Card*, Massachusetts Climate Action Network, Jan. 29, 2019 (available at <http://bit.ly/mlpreport>).

⁸ “This old coal plant is now a solar farm, thanks to pressure from local activists,” Fast Company, Jan. 3, 2019 (<https://www.fastcompany.com/90286009/this-old-coal-plant-is-now-a-solar-farm-thanks-to-pressure-from-local-activists>).

⁹ *Id.*

upon natural gas to consumers, municipalities, and the environment will continue to grow with increased reliance on gas.¹⁰

In sum, expanding gas infrastructure and gas consumption is at odds with climate mandates, and recent local policy decisions further undermine the validity of gas capacity contracts as evidence of project need. A robust analysis of clean energy alternatives, focusing on demand reduction, emissions reduction, and electrification, should be required for these and all energy projects.

Other Comments and Concerns

Cumulative Impacts:

The Applicant dismisses concerns raised in our comments on its Expanded Environmental Notification Form (“EENF”) for these Projects regarding the need to consider impacts of (and alternatives to) the expansions under consideration by Baystate Gas Company dba Columbia Gas of Massachusetts (“Columbia Gas”), asserting that “[a] review of projects proposed by other companies, even Tennessee’s customers, is outside the scope of review of this DEIR.”¹¹

The United States Court of Appeals for the District of Columbia reaffirmed five years ago, in a case involving the Applicant, that “a meaningful cumulative impact analysis must identify (1) the area in which the effects of the proposed project will be felt; (2) the impacts that are expected in that area from the proposed project; (3) other actions – past, present, and proposed, and reasonably foreseeable – that have had or are expected to have impacts in the same area; (4) the impacts or expected impacts from these other actions; and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate.”¹² That decision also notes:

Cumulative effects are defined by the Council on Environmental Quality as “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 regardless of what agency (**Federal or non-Federal**) or person undertakes such other actions. Cumulative

¹⁰ See “Recent Gas System Failures Remind Us That Gas Isn’t Cheap,” Green Energy Consumers Alliance, Feb. 6, 2019 (blog.greenenergyconsumers.org/blog/states-issue-reports-commitments-on-energy-transportation.-now-what-0).

¹¹ DEIR, p. 188 (response to comment G-1).

¹² *Delaware Riverkeeper Network, et al. v. FERC*, No. 13-1015 (D.C. Cir. 2014), 28-29 (holding that FERC failed to adequately address cumulative impacts of TGP Upgrade projects).

impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 C.F.R. § 1508.7.¹³

Here, the Looping Project is actually a continuation of the very expansion of the upgrades along TGP’s 300 line (a quick look at a map indicates that the Agawam lateral continues directly north from TGP’s 300 line). Additionally, the expansions under consideration by Columbia Gas are not merely “reasonably foreseeable” – as specified in our previous comments, the buildout plan developed by Columbia Gas in conjunction with TGP and Holyoke Gas & Electric is TGP’s stated reason for the instant Projects.

Cultural Resources:

- The December 14, 2018 DEIR claims that there would be no impacts to cultural resources,¹⁴ yet the Applicant filed with the Federal Energy Regulatory Commission (“FERC”), in response to a data request five days later, a “Cultural Feature Avoidance Drawing which shows: the original location for TAR-PY, locations of the cultural features to be avoided, and the proposed route of TAR-PY modified to avoid impacts to the identified cultural features” identified by the Wampanoag Tribe of Gay Head.¹⁵
- We are concerned that the Applicant settled on its proposed energy solution, and makes blanket assertions about lack of impacts, without first adequately engaging with the Tribes. Because of the procedural inadequacies surrounding TGP’s Connecticut Expansion Project and Tribal engagement (which are now the subject of litigation against FERC),¹⁶ we are hopeful that similar deficiencies will not be repeated by any governmental agency, or the Applicant.¹⁷

HDD Impacts & Spill Prevention and Control Plan:

- TGP asserts that its proposed horizontal directional drilling (“HDD”) segment is intended to avoid wetland impacts, yet it appears that the HDD entrance, with the required

¹³ *Id.* at 27.

¹⁴ DEIR, 5.1.6 Cultural Resources, p. 124.

¹⁵ See <https://elibrary.ferc.gov/IDMWS/common/OpenNat.asp?fileID=15136411>, Responses to Dec. 19, 2018 Environmental Data Request of Tennessee Gas Pipeline Company, L.L.C. under CP19-7.

¹⁶ See *Narragansett Indian Tribal Hist. Pres. Office v. FERC*, No. 19-1009 (D.C. Cir.).

¹⁷ Unfortunately, FERC did not invite the Tribes to participate in the Projects’ review until January 24, 2019. See, e.g. https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20190124-3088, https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20190124-3083.

additional temporary work areas, are located within a “delineated vegetated wetland” (WETLAND N).¹⁸ Such unnecessary wetland impacts should be eliminated.

- The Spill Prevention and Control Plan appears incomplete. It lacks coverage of obvious threats such as contaminated hydrostatic test water and HDD drilling fluids. It also lacks obvious preventative measures that were taken in the recent Connecticut Expansion project, such as the requirement that all equipment use “eco-friendly vegetable-based oil.”¹⁹

Temporary Workspaces:

- The Applicant states in 5.1.4.3 of the DEIR: “Tennessee is in the process of reviewing the Projects’ workspaces to identify areas where the size or orientation of the workspace could be changed to minimize impacts to wetlands”.²⁰ The Applicant states that “0.49 acre of operational impacts to wetlands will result from the **permanent** conversion of forested wetlands”²¹ - the total wetland impacts from Project construction are reported to amount to 5.88 acres. Temporary workspaces should not be allowed where the Applicant would clear cut trees and impact wetlands, especially the 7.7 acres of Priority Habitat of Rare Species (PH780),²² because such impacts are never “temporary” within a meaningful timeframe. The Applicant admits “forested habitat may take up to 50 years to regenerate in the temporary ROW to near preconstruction conditions.”²³

Mitigation and Restoration:

- Mitigation details are still lacking. Claims that “extensive mitigation is proposed”²⁴ are followed two paragraphs later by the statement that mitigation options are still “being evaluated.”²⁵ The Applicant provides in the DEIR a boilerplate assertion that

¹⁸ DEIR, Appendix B, Pipeline Loop Alignment Sheets, p. 3, at “32+14 BEGINHDD”.

¹⁹ Sandisfield Order of Conditions for Connecticut Expansion Project, Special Condition 114 (available at www.sandisfieldma.gov/conservation-commission/files/tennessee-gas-pipeline-co-permit-order-conditions).

²⁰ DEIR, p. 120.

²¹ *Id.*

²² DEIR, 5.1.5 p123.

²³ *Id.*, p. 133.

²⁴ *Id.* at 6.1.4.2, p. 143.

²⁵ *Id.*

“[m]itigation for permanent wetland impacts (i.e., forest conversion) will likely consist of offsite wetland restoration, rehabilitation, and/or conservation, combined with contributions to an in-lieu fee program.”²⁶ The project should not be allowed to proceed without clear, vetted mitigation plans.

- We note that TGP’s most recent project in the Commonwealth, the Connecticut Expansion, has resulted in the violation of EOEEA’s Article 97 Land Disposition Policy because, under that policy, the Commonwealth must “as part of the disposition, [be granted] real estate of equal or greater fair market value or value in use of proposed use”.²⁷ Nearly three years after the Applicant acquired easements through constitutionally protected conservation land, the Commonwealth has still not secured replacement land. While the instant Projects do not involve Article 97 land, the Commonwealth can and must insist on **specific** land for mitigation purposes of equal or greater conservation value prior to Project commencement, and must not accept vague promises or monetary compensation as a substitute for actual real estate.
- Restoration details remain lacking. Insufficient statements from the EENF remain, such as the assertion that clearcut areas will “be allowed to revert to forest; however, succession back to forested habitat may take up to 50 years to regenerate in the temporary ROW to near preconstruction conditions.”²⁸ In the TGP’s response G-20 to PLAN’s EENF comment about this inadequacy, TGP claims it will develop a plan. The project should not be allowed to proceed without clear, vetted restoration plans.

Invasive Plant Management:

- The Invasive Plant Management Plan is lacking. Clearcutting for temporary work areas and trenching through wetlands & streams are obvious areas that will be left vulnerable for opportunistic invasive species invasion. The Plan must be far more complete before the project should be allowed to move forward. For example, the plan must include simple measures such as cleaning stations at each access road.

Agawam Order of Conditions:

If the Agawam Conservation Commission issues a wetlands permit for these Projects, the Applicant is required to record the Order of Conditions at the Hampden County Registry of Deeds prior to commencing work, under the Department of Environmental Protection’s General

²⁶ Id. at 7.2.4.1, p. 166.

²⁷ See *EOEA Article 97 Land Disposition Policy*, Feb. 19, 1998 (third condition for disposition exceptions) (available at <https://www.mass.gov/files/dcsarticle97.pdf>).

²⁸ DEIR, p. 133.

Conditions. See 310 CMR 10.05(6)(g). We note that TGP did not record the Agawam Order of Conditions issued October 13, 2017 for the Connecticut Expansion Project until February 1, 2019,²⁹ long after that project was installed.

Please hold TGP to strict compliance with the regulations and policies of the Commonwealth.

Respectfully submitted,



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²⁹ Available at <https://www.hampdendeeds.com/>, Book 22544 Page 536.

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