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The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

July 24, 2018

RE: Docket PL18-1-000 Certification of New Interstate Natural Gas Facilities

Dear Secretary Bose,

On behalf of the Pennsylvania Chamber of Business and Industry, the largest, broad-based business advocacy association in the Commonwealth, which represents nearly 10,000 member companies of all sizes and commercial and industrial categories, I am writing in response to the Federal Energy Regulatory Commission's (FERC) notice of inquiry on its current policy statement for the certification of new interstate natural gas transmission projects.

The PA Chamber's interest in this matter is to speak on behalf of its many members who are directly and indirectly benefitting from the increased development, transmission and use of natural gas within the commonwealth and across the nation. This includes companies involved in the exploration and production of natural gas from the Marcellus, Utica and other shale and gas deposits in Pennsylvania, as well as those companies who are constructing natural gas transmission projects, using gas as a fuel for on-site heating and power generation, delivering the commodity through local distribution companies, or finding new business opportunities throughout the supply chain.

Broadly speaking, the energy renaissance that has occurred in this country, spearheaded by the increased development of natural gas production in Pennsylvania, has increased domestic economic activity, has dramatically improved air quality, and has significantly increased the nation's energy security and global competitiveness. An efficient, effective federal regulatory construct that allows for the continued build-out of energy infrastructure will ensure that these important outcomes continue to be achieved. In addition to the comments included in this letter, the PA Chamber supports in full the comments of the US Chamber of Commerce, UGI Energy Services, Interstate Natural Gas Association of America and the Marcellus Shale Coalition.

In general, FERC's current approach to reviewing requests for the certification of new interstate natural gas transmission projects is working. There is not a demonstrated need to depart significantly from the current approach. To our knowledge, FERC has, to date, successfully defended in court the vast majority of the natural gas transmission project certifications it has granted. It is also our understanding that while the Environmental Impact Statement required by the National Energy Policy Act is complex and burdensome for both applicants and government agencies, FERC is completing the EIS process in a shorter period of time than other federal agencies – while at the same time producing decisions that have proved durable in litigation.

FERC is constrained by statute in what information it may consider during its reviews and how that information may inform decision-making. FERC is obligated by the Natural Gas Act to authorize a project if it finds that the construction and operation of the proposed facilities “is or will be required by the present or future public convenience and necessity.”

To the extent any changes are needed, FERC may consider the comments of UGI Energy Services and INGAA in this docket regarding recommended practices to enhance participation by landowners in the process. These recommendations include modernizations to FERC's website to facilitate ease of use by landowners not familiar with the FERC process and updating FERC landowner notification and communication processes and tools. Further, the Natural Gas Act clearly identifies FERC as the lead agency for authorizing interstate pipeline projects. Should the policy statement be amended, it should be amended to more forcefully and specifically reflect FERC's status as the lead agency for these projects and eliminates duplicative review by other state or federal agencies. Any modifications should ensure that other agencies participating in the process, in the limited scope afforded to them by existing statute, are held accountable to provide timely input. We further suggest FERC consider developing and implementing programmatic agreements with other agencies to address common issues. Most importantly, should the policy statement be revised at all, it is absolutely vital that no single landowner or other state or federal agency be granted veto power over a natural gas transmission project.

With respect to considerations to eminent domain, greenhouse gasses and cumulative impacts, we understand the sensitivity and concern over these matters. However, the current approach to the eminent domain process is working and should not be changed. The current policy statement in effect encourages applicants to minimize the use of eminent domain and companies are in fact doing so. With respect to GHGs, FERC is constrained by the Natural Gas Act and the National Energy Policy Act to only consider downstream impacts to the extent they are directly caused by the project and can be reasonable foreseen, given the reasonable availability of relative information. Further, the statutes as written do not establish a standard for quantifying upstream emissions, and FERC should decline to establish one on its own. Further, as articulated in the comments of the US Chamber of Commerce, the guiding statutes in this matter and case law make clear FERC is not obligated to consider environmental effects of actions over which the agency has no control.

Finally, FERC should decline to conduct a regional evaluation. FERC acts on individual applications submitted by entities proposing to construct interstate gas pipeline projects. Even if two or more applications are for projects within the same state or region of the country, that fact by itself does not mean FERC is engaging in regional development. Further, these projects are not in response to a federal project or action, negating the need to conduct a regional review. CEQ regulations may require a broad, programmatic evaluation where multiple projects are being conducted in response to a federal plan or program, but that is not the case with interstate natural gas transmission projects seeking certification on an individual basis.

In closing, the safe, efficient and continued build-out of energy infrastructure in Pennsylvania and the country has led to great environmental and economic gains, and we appreciate the Commission and staff for asking stakeholders for their input on this important matter. It is a tenet of good government for FERC to periodically review its programs and policies for possible updating and modernization. As we have established in this letter, aside from some possible measures to streamline the consultation with other government entities and to improve landowner participation, the current process is generally working well and is producing durable decisions. FERC remains bound by the language in the statutes Congress has written and the case law the courts have established. Sweeping changes to the policy statement are not needed.

Sincerely,



Kevin Sunday
Director, Government Affairs

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