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January 29, 2026

Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
888 1st Street NE, Room 1A
Washington, DC 20426

**Re: Protest and Comments on Petition of Constitution Pipeline Company,
LLC for Reissuance of Certificate and Reaffirmance of Waiver
Determination, Docket Nos. CP13-499-006 and CP18-5-004**

Dear Secretary Reese,

The Pace Environmental Litigation Clinic (“PELC”) represents Stop the Pipeline (“STP”), an association of citizens affected by the proposed Constitution Pipeline Project (“Project”). We respectfully submit the below protest and comments on behalf of STP regarding the Petition filed by the Constitution Pipeline Company, LLC (“Company”) on December 19, 2025, in Docket numbers CP13-499-006 and CP18-5-004. For the reasons set out below, the Petition must be dismissed in its entirety or denied in all respects.

I. BACKGROUND

On December 22, 2025, the Company filed a Petition purporting to seek “Reissuance of Certificate Authority and Reaffirmance of Waiver Determination” (the “Petition”).¹ Since the Petition incorporates historical documents, the background is summarized below.

The Company filed an application on June 13, 2013, with the Federal Energy Regulatory Commission (“FERC” or “Commission”) for a certificate of public convenience and necessity (“Certificate”) to construct a 124-mile-long pipeline in Pennsylvania and New York

¹ *Constitution Pipeline Co., LLC*, Docket Nos. CP13-499-006 & CP18-5-005, Petition for Reissuance of Certificate Authority and Reaffirmance of Waiver Determination (Dec. 19, 2025), Accession No. 20251219-5626 (“Petition”).

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(“Application”).² Approximately 100 miles of the proposed pipeline would be located in New York State.³ The Iroquois Gas Transmission System, L.P. (“Iroquois”) filed a concurrent application with FERC to connect the pipeline to two existing interstate gas pipelines in Wright, New York, where the proposed pipeline would terminate.⁴ The Commission granted a Certificate to the Company and Iroquois on December 2, 2014 (“Certificate Order”).⁵ STP challenged the Certificate Order on February 5, 2016.⁶ STP’s five issues were fully briefed by October 21, 2016, remain relevant to the 2025 Petition, and are hereby incorporated by reference.⁷ However, oral arguments were repeatedly postponed, over STP’s objections, for almost three and a half years.⁸ The delay was the result of the Company’s challenge of New York State Department of Environmental Conservation’s (the “Department” or “NYSDEC”) denial of its application for a water quality certification.⁹

The Company applied for a Clean Water Act Section 401 water quality certification (“WQC”) from the Department on August 22, 2013, which issued a Notice of Incomplete Application on September 12, 2013. The Company withdrew and resubmitted its application in 2014 and then again in 2015.¹⁰ On April 22, 2016, the Department denied the Company’s application without prejudice.¹¹ Rather than curing the deficiencies, the Company petitioned the United States Court of Appeals for the Second Circuit (“Second Circuit”) for review.¹² The

² *Constitution Pipeline Company, LLC*, Docket Nos. CP13-499-000 *et al.* Application for Certificate of Public Convenience and Necessity (June 13, 2013) Accession No. 20130613-5078 (“Application”). Constitution’s 2013 application was assigned docket number CP13-499.

³ *Id.*

⁴ *Iroquois Gas Transmission System, L.P.*, Docket Nos. CP13-502 *et al.* Application for Certificate of Public Convenience and Necessity (June 13, 2013) Accession No. 20130613-5142. Iroquois’ proposed interconnection was assigned docket number CP13-502.

⁵ *Constitution Pipeline Co., LLC*, 149 FERC ¶ 61,199, P 1 (2014)

⁶ *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Nov. 18, 2021), 16-361 ECF No. 1; *See also Constitution Pipeline Co., LLC*, Docket No. CP13-499-001, Stop the Pipeline’s Notice of Petition for Review (Feb. 05, 2016), Accession No. 20160205-5057.

⁷ *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Nov. 18, 2021), 16-361 ECF No. 177.

⁸ *See id.* 16-361 ECF Nos. 219-344.

⁹ *Id.*

¹⁰ Petition at 8.

¹¹ *Constitution Pipeline Co., LLC*, Docket Nos. CP18-5 *et al.* & CP13-499 *et al.*, NYSDEC Letter Denying Section 401 Certification. Accession No. 20260128-5062 (at Ex. B) (Jan. 28, 2026)

¹² *Constitution Pipeline Co., LLC v. N.Y. State Dep’t of Env’tl. Conservation*, 868 F.3d 87 (2d Cir. 2017), *reh’g denied, cert. denied*, 138 S. Ct. 1697 (2018);

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Second Circuit held that the Department had the right to deny the application.¹³ It found that over the course of the two and a half years of regulatory review, “Constitution persistently refused to provide information as to possible alternative routes for its proposed pipeline or site-by-site information as to the feasibility of trenchless crossing methods for streams less than 30 feet wide – i.e., for the vast majority of the 251 New York waterbodies to be crossed by its pipeline – and that it provided geotechnical data for only two of the waterbodies.”¹⁴

The Company also claimed that the Department had waived its right to deny the WQC in its Petition to the Second Circuit.¹⁵ STP intervened and argued that the Court did not have jurisdiction to hear the issue of waiver.¹⁶ The Second Circuit agreed, holding “[w]e regard subsection (2) – titled Agency delay – as encompassing not only an alleged failure to act but also an allegation that a failure to act within a mandated time period should be treated as a failure to act.”¹⁷ The Court dismissed the waiver claim for lack of jurisdiction and instructed the Company to bring it to the United States Court of Appeals for the D.C. Circuit (“D.C. Circuit”).¹⁸ “Such a failure-to-act claim is one over which the District of Columbia Circuit would have ‘exclusive’ jurisdiction, 15 U.S.C. 717r(d)(2).”¹⁹

The Company ignored the Court’s holding. Less than two months after the decision was issued, it filed a petition with the Commission requesting a declaratory order that NYDEC had waived its right to deny the WQC.²⁰ The Commission denied the petition on January 11, 2018, and subsequently denied the Company’s request for a rehearing on July 19, 2018.²¹

The Company petitioned the D.C. Circuit for review of Waiver Order I and Rehearing Order I on September 14, 2018.²² On October 22, 2018, the Commission moved to place the case

¹³ *Id.* at 91

¹⁴ *Id.* at 103.

¹⁵ *Id.* at 91.

¹⁶ *See id.* at 90, 98.

¹⁷ *Id.* at 99.

¹⁸ *Id.* at 103.

¹⁹ *Id.* at 100. The

²⁰ *Constitution Pipeline Co., LLC*, Docket No. CP18-5-000, Petition for Declaratory Order (Oct. 11, 2017), Accession No. 20171011-5210.

²¹ *Constitution Pipeline Co., LLC*, 162 FERC ¶ 61,014, P 1 (2018) (“Waiver Order I”); *see also Constitution Pipeline Co., LLC*, 164 FERC ¶ 61,029, P 2 (2018) (“Rehearing Order I”). The Commission’s Orders were subsequently vacated. *Constitution Pipeline Co., LLC*, 149 FERC ¶ 61,199 (2014) (Certificate Order), *reh’g denied*, 154 FERC ¶ 61,046 (2016), *vacated sub nom. New York State Dep’t of Env’t. Conservation v. FERC*, No. 19-4338 (2d Cir. Nov. 18, 2021).

²² *Constitution Pipeline Co., LLC v. FERC*, Petition for Review, No. 18-1251 (D.C. Cir. Sept. 14, 2018).

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in abeyance pending the outcome of *Hoopa Valley Tribe v. FERC* (“Hoopa Valley”),²³ a case that involved the re-licensing of hydroelectric facilities under the Federal Power Act.²⁴ The D.C. Circuit granted the motion on November 5, 2018.²⁵ It remanded the case to FERC on February 28, 2019, after *Hoopa Valley* was decided.²⁶

The Commission requested additional briefing and then issued an order declaring that the Department had waived its right to deny the 401 WQC.²⁷ In its request for rehearing, STP objected to the Commission’s (1) broad interpretation of *Hoopa Valley*; (2) sudden and inequitable reversal of its long-held policy that allowed the withdrawal and resubmission of a water quality certification; and (3) retroactive application of its broad interpretation of *Hoopa Valley* to a case where it had already been held that the Company persistently failed to provide the required information to NYSDEC.²⁸ STP also argued that FERC lacked jurisdiction to issue the declaratory order because the Second Circuit had already held that the D.C. Circuit has exclusive jurisdiction over the Company’s “failure-to-act claim.”²⁹

FERC denied STP’s request for rehearing on December 12, 2019.³⁰ STP petitioned the Second Circuit for review of Waiver Order II and Rehearing Order II on January 10, 2020, which was subsequently consolidated with other petitions.³¹

On February 24, 2020, the Company publicly announced that it no longer intended to pursue the Constitution Pipeline project.³² On April 13, 2020, the Company sent a letter to the Department advising: “because of our decision not to proceed with the Project, Constitution will not act on FERC’s waiver determination.”³³ On November 24, 2020, the Company again

²³ *Hoopa Valley Tribe v. FERC*, 913 F.3d 1099 (D.C. Cir. 2019).

²⁴ *Constitution Pipeline Co., LLC v. FERC*, Motion to Hold Case in Abeyance, No. 18-1251 (D.C. Cir. Oct. 22, 2018), ECF No. 1756389-2.

²⁵ *Constitution Pipeline Co., LLC v. FERC*, Order Granting Motion to Hold Case in Abeyance, No. 18-1251 (D.C. Cir. Nov. 5, 2018), ECF No. 1758585.

²⁶ *Constitution Pipeline Co., LLC v. FERC*, No. 18-1251 (D.C. Cir. Feb. 28, 2018), ECF No. 1775259.

²⁷ *Constitution Pipeline Co., LLC*, 168 FERC ¶ 61,129, P1 (2019) (“Waiver Order II”).

²⁸ *Constitution Pipeline Co., LLC*, Docket No. CP18-5, STP Request for Rehearing (Sept. 27, 2019), Accession No. 20190927-5141.

²⁹ *Id.*

³⁰ *Constitution Pipeline Co., LLC*, 169 FERC ¶ 61,199, P 1 (2019) (“Rehearing Order II”).

³¹ *N.Y. State Dep’t of Env’t. Conservation v. Fed. Energy Regul. Comm’n*, Nos. 19-4338, 20-158, and 20-208.

³² *See Constitution Pipeline Co., LLC*, 194 FERC ¶ 61,064, P 3 (2026).

³³ *See Motion to Dismiss at 3, N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. Jan. 25, 2021), 20-158 ECF No. 107.

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confirmed its position that it had “determined not to move forward with th[e] Project,” in the status report with the Commission.³⁴ The Construction deadline passed on December 2, 2020 and as a result, the Certificate Order expired and Commission’s authorization of the project lapsed.³⁵

FERC moved to dismiss the Second Circuit proceedings concerning the Certificate and Waiver Orders in all the pending cases at the Second Circuit.³⁶ Stop the Pipeline filed cross motions for dismissal and vacatur.³⁷ The Second Circuit granted FERC’s motions to dismiss for reasons of mootness and also granted STP’s motions for vacatur.³⁸

On December 19, 2025, the Company filed its Petition for Reissuance of Certificate and Reaffirmance of Waiver Determination.³⁹ On January 23, 2026, FERC issued an order on remand dismissing the agency proceedings that were the subject of the Second Circuit’s mandate and confirmed that the Company’s 2025 Petition was noticed on a new subdocket of the original application.⁴⁰

II. PROTEST

A. FERC Lacks the Authority to Reissue or Reaffirm Vacated Orders.

The Second Circuit vacated the Certificate and Waiver Orders on November 18, 2021. “Stop the Pipeline’s motions for vacatur are GRANTED, the underlying agency orders are VACATED, and the cases are REMANDED with instructions to dismiss the agency

³⁴ *Constitution Pipeline Co., LLC*, Docket Nos. CP13-499-000, CP13-502-000 & CP18-5-000, Project Status Update and Final Monitoring Report (Nov. 24, 2020), Accession No. 20201124-5181.

³⁵ *Constitution Pipeline Co., LLC*, 165 FERC ¶ 61,081, P 6 (2018). See also *Constitution Pipeline Co., LLC*, 194 FERC ¶ 61,064, P 3 (2026).

³⁶ Motion to Dismiss, *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Jan. 26, 2021), 16-361 ECF No. 352; Motion to Dismiss, *N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. Jan. 25, 2021), 20-158 ECF No. 107

³⁷ *Id* at 16-361 ECF No. 357; *id.* at 20-158 ECF No. 122.

³⁸ *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Nov. 18, 2021), 16-361 ECF No. 409; *N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. Nov. 18, 2021), 20-158 ECF No. 154.

³⁹ Petition at 1.

⁴⁰ *Constitution Pipeline Co., LLC*, 194 FERC ¶ 61,064, P 3 (2026).

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proceedings.”⁴¹ Orders that are vacated no longer exist, so the Commission lacks the ability or authority to reissue or reaffirm them.⁴²

Appellate courts have observed that vacatur of the underlying decision is generally warranted when circumstances outside the appellant’s control moot the issues on appeal.⁴³ Courts are particularly wary of appellees mooting a case in order to deprive their adversaries of appellate review, and in such circumstances, “it may amount to an abuse of discretion not to vacate the lower court order.”⁴⁴

The Commission cannot legally reissue or reaffirm any of the past Orders because after being vacated, those orders simply do not exist as a legal matter. In the context of administrative proceedings, vacatur resets the clock and prevents a party from unfairly relying on orders that became unreviewable through happenstance.⁴⁵ The D.C. Circuit recently addressed such a situation. When a natural gas company abandoned its project due to untenable market conditions before the circuit court could rule – rendering the issues on appeal moot – the court clarified: “as a sophisticated party, [the company] surely appreciates that vacatur of the Commission’s favorable orders would return the company to the same position it was in before it initiated these proceedings several years ago.”⁴⁶ The Court concluded that vacatur of FERC’s orders would “further the public interest by precluding any potential reliance on the challenged orders we lack authority to review.”⁴⁷ Because the orders have been vacated and cannot be relied upon anymore, neither the Company nor the Commission can revive, reaffirm, revisit or renew the proceedings on the issuance of the Certificate or Waiver Orders because those prior orders are nullities and of no legal effect.

Indeed, the Commission contravenes the Second Circuit’s vacatur by even entertaining the Company’s Petition for reissuance of the Certificate and affirmation of the Waiver Order. The Second Circuit was clear in granting Stop the Pipeline’s motions for vacatur of the Waiver

⁴¹ *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Nov. 18, 2021), 16-361 ECF No. 409; *N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. Nov. 18, 2021), 20-158 ECF No. 154.

⁴² *Vacate*, Black’s Law Dictionary (12th ed. 2024) (“[t]o nullify or cancel; to make void; invalidate”)

⁴³ *Penguin Books USA Inc. v. Walsh*, 929 F.2d 69, 73 (2d Cir. 1991); *see also United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950).

⁴⁴ *Penguin Books*, 929 F.2d, at 73.

⁴⁵ *See A. L. Mechling Barge Lines, Inc. v. United States*, 368 U.S. 324, 329 (1961).

⁴⁶ *Pub. Citizen, Inc. v. FERC*, 92 F.4th 1124, 1129–30 (D.C. Cir. 2024).

⁴⁷ *Id.* at 1131; *see also Sands v. Nat’l Lab. Rels. Bd.*, 825 F.3d 778, 786 (D.C. Cir. 2016) (“vacatur would serve the public interest by furthering the traditional purpose of the doctrine: clearing the path for future relitigation of the issues.”); *see generally Camreta v. Greene*, 563 U.S. 692 (2011)

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Orders⁴⁸ and the Certificate Orders⁴⁹ and further instructing the Commission to dismiss the agency proceedings on remand.⁵⁰ “Deviation from the court’s remand order in the subsequent administrative proceedings is itself legal error, subject to reversal on further judicial review.”⁵¹ Additionally, where a tribunal misconstrues or ignores an appellate mandate on remand, “the mandate may be enforced by a new appeal or by mandamus to enforce a ministerial duty.”⁵²

The Company repeatedly attempts to diminish or negate the effect of the Second Circuit’s Order by asking the Commission to sidestep the legal effects of vacatur. It even fails to provide a proper citation of what occurred.⁵³ The Company’s only legally cognizable recourse, having chosen to abandon the project in 2021, is to submit a new application that does not rely on the prior Certificate or Waiver Orders.

B. The Company Must Submit a New Application in Accordance with the Requirements of the Natural Gas Act, FERC’s Regulations, and All Other Applicable Laws.

The Company attempts to recast what should be an entirely new application as a renewal of its 2013 application. To do so, the Company relies on two FERC orders that, as described above, became unreviewable for mootness in 2021 and were subsequently vacated to avoid prejudicing any party.⁵⁴ Neither FERC’s regulations nor the Natural Gas Act support a mechanism whereby an applicant may resurrect an application after the prior orders were vacated and the proceedings dismissed.⁵⁵ Thus the Company’s request to reissue the Certificate Order and reaffirm the Waiver Order has no legal basis, particularly given that the Company opted to

⁴⁸ Stop the Pipeline’s Motion for Vacatur of the Orders, *N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. Nov. 18, 2021), 20-158 ECF No. 122.

⁴⁹ Stop the Pipeline’s Motion for Vacatur of the Orders, *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Nov. 18, 2021), 16-361 ECF No. 357.

⁵⁰ *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. Nov. 18, 2021), 16-361 ECF No. 409; *N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. Nov. 18, 2021), 20-158 ECF No. 154.

⁵¹ *Sullivan v. Hudson*, 490 U.S. 877, 886 (1989) (first citing *Hooper v. Heckler*, 752 F.2d 83, 88 (4th Cir. 1985); then citing *Mefford v. Gardener*, 383 F.2d 748, 758–759 (6th Cir. 1967)).

⁵² *Morris v. Sec. & Exch. Comm’n*, 116 F.2d 896, 898 (2d Cir. 1941).

⁵³ Compare Petition at 1 n.4 with *Constitution Pipeline Co., LLC*, Docket Nos. CP13-499 *et al.*, Notice of Petition and Establishing Intervention Deadline at 1 n.1 (Jan. 8, 2026), Accession No. 20260108-3075.

⁵⁴ See *Munsingwear*, 340 U.S., at 40

⁵⁵ While Rule 716 allows for the Commission to reopen a proceeding, it is limited to reopening the evidentiary record in matters set for a hearing. See 18 C.F.R. §385.716

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affirmatively and expressly discontinue the project.⁵⁶ Vacating orders after a project is abandoned is an equitable remedy that helps prevent parties from manipulating the system by mooted a case to avoid an adverse result, only to attempt to reopen or relitigate it later, as the Company seeks to do here.⁵⁷ Further entertainment of the Company's petition as a continuation of prior proceedings is both highly prejudicial and inconsistent with FERC's regulations and precedent.

FERC reaffirming the Waiver Order would be violative of the Second Circuit's Mandate. As noted in the Commission's filing of its Order on Remand, FERC has "broad discretion to manage its dockets."⁵⁸ While this may be true, the Commission does not have the authority to attempt to "preserve[] the underlying reasoning of its vacated order as valid precedent."⁵⁹ In effect, FERC may not reaffirm an order vacated by the Second Circuit, and instead must respect the scope of the mandate; only issues not addressed by the mandate may be considered.⁶⁰ Vacatur of the Commission's Orders requires the licensing process to restart, returning the Company to their starting position.⁶¹

C. Even if it Were Not Vacated, the Prior Orders Cannot be Relied Upon Because the Facts and the Law Have Both Significantly Changed, Making the Information and Conclusions Woefully Out of Date and No Longer Accurate.

1. The Certificate Order

Contrary to the Company's position that neither the environmental analysis nor the project has materially changed, circumstances have indeed evolved since the original Final Environmental Impact Statement ("FEIS") and Certificate Order were issued. Not only were the 2014 Draft Environmental Impact Statement ("DEIS") and the FEIS flawed to begin with, but the data informing them was collected over ten years ago. FERC's DEIS and FEIS were legally and factually deficient, notably that only a quarter of the land area was surveyed and the analysis

⁵⁶ See *Constitution Pipeline Co., LLC*, Docket Nos. CP13-499, CP13-502 & CP18-5, Project Status Update and Final Monitoring Report (Nov. 24, 2020), Accession No. 20201124-5181.

⁵⁷ See *Penguin Books*, 929 F.2d at 73–74.

⁵⁸ *Constitution Pipeline Co., LLC*, 194 FERC ¶ 61,064, P 5 (2026).

⁵⁹ *Reich v. Contractors Welding of W. New York, Inc.*, 996 F.2d 1409, 1412–13 (2d Cir. 1993).

⁶⁰ 18B Fed. Prac. & Proc. Juris. § 4478.3 (3d ed.).

⁶¹ *Pub. Citizen, Inc.*, 92 F.4th at 1130; see also *Waterkeepers Chesapeake v. FERC*, 56 F.4th 45, 50 (D.C. Cir. 2022) ("Vacating... will allow completion of the administrative and judicial review that was interrupted," allowing the state to remain the "prime bulwark in the effort to abate water pollution." (citation omitted)).

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was largely insensitive to the area's unique environments.⁶² FERC itself has acknowledged in similar administrative proceedings that "environmental impacts are subject to change and...the validity of an order's conclusions and environmental conditions cannot be sustained indefinitely."⁶³ The Company even concedes there may be some changes but characterizes them as "minor" and argues that any such changes do not significantly affect the human environment.⁶⁴ The Commission "has leeway...to revisit prior market need or environmental findings when new circumstances render such findings stale or out of date."⁶⁵ Such a substantial passage of time alone should give the Commission pause.

2. The Waiver Orders

The Company itself appeared to recognize that a new section 401 water quality certification was required. Before filing this Petition, the Company filed a request for a water quality certification from NYSDEC on May 30, 2025, and later withdrew that application on November 7, 2025, relying on the vacated Waiver Order.⁶⁶

Further, reliance on the prior Waiver Orders – even if they were not vacated – would be improper because both the law and facts have changed since the Commission issued them. The Company's use of *Hoopa Valley* in its Petition for Reissuance of Certificate and Reaffirmance of Waiver Determination ignores changes to the case law since the Commission's initial application of the case. To start, FERC's application of *Hoopa Valley* was one of the questions on appeal that never received a ruling on the merits as review was interrupted.⁶⁷ In fact, *Hoopa Valley* was recently distinguished in the D.C. Circuit.⁶⁸ The court clarified that "*Hoopa Valley* was a very narrow decision flowing from a fairly egregious set of facts."⁶⁹ As the Court acknowledged, "it is one thing for applicants to routinely withdraw and refile certification requests on their own

⁶² *Constitution Pipeline Co., LLC*, Docket Nos. CP13-499-000 & CP13-502-000, STP Corrected Comments on the DEIS at 3–4 (Apr. 8, 2014), Accession No. 201440408-5088. This is hereby incorporated by reference.

⁶³ Order Granting Extension of Time, *Transcontinental Gas Pipe Line Co., LLC*, 186 FERC ¶ 61,038, P 23 (2024).

⁶⁴ Petition at 39–40.

⁶⁵ *Sierra Club v. FERC*, 97 F.4th 16, 26 (D.C. Cir. 2024); see 15 U.S.C. § 717.

⁶⁶ Petition at 12–13.

⁶⁷ *Constitution Pipeline Co., LLC*, 168 FERC ¶ 61,129, P 1 (2019); *Constitution Pipeline Co., LLC*, 149 FERC ¶ 61,199 (2014) (Certificate Order), *reh'g denied*, 154 FERC ¶ 61,046 (2016), *vacated sub nom. New York State Dep't of Env't. Conservation v. FERC*, No. 19-4338 (2d Cir. Nov. 18, 2021).

⁶⁸ *Nevada Irrigation Dist. v. FERC*, No. 23-1342, 2025 WL 1905118 (D.C. Cir. July 10, 2025).

⁶⁹ *Id.* at *4 (citing *Village of Morrisville, Vermont v. Fed. Energy Regul. Commission*, 136 F.4th 1117).

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initiative. It is quite another for the Board to routinely *coordinate* that practice.”⁷⁰ The Commission itself refused to apply *Hoopa Valley* in that case because “waiver claims...are ‘highly dependent on the facts of the case, and the Commission considers each set of facts individually.’”⁷¹ Here, there was no coordinated scheme to “circumvent the statutory deadline[,]”⁷² instead, the Company voluntarily withdrew and refiled its application in two consecutive years, presumably to avoid a denial by the Department for lack of information and to give the state time to process over 15,000 comments it had received from the public. This is not comparable to “the ‘coordinated withdrawal-and-resubmission scheme’ [that] persisted for more than a decade” that is described in *Hoopa Valley*.⁷³

However, even in the event that FERC’s application of *Hoopa Valley* is found permissible, the Commission’s determination that NYSDEC waived the Water Quality Certification bears no weight on the present action. As noted *supra*, waiver claims are “highly dependent on the facts of the case.”⁷⁴ Ironically, the *Hoopa Valley* precedent supports this view of the Waiver Order, insofar as the Ninth Circuit has found that:

In response to *Hoopa Valley*, FERC changed its position. In a series of orders, including those at issue here, FERC concluded that states had waived their Section 401 certification authority by coordinating with project applicants on the withdrawal-and-resubmission of Section 401 certification requests, even in the absence of an explicit contractual agreement to do so....⁷⁵

[W]here the evidence shows that the state has merely acquiesced in a project applicant’s own decision to withdraw and refile—and, especially, where the state would have no discernible motive for attempting to procure a withdrawal-and-resubmission—FERC’s position is that the state has not waived its certification authority.⁷⁶

Under the current circumstances, with the Company requesting a new license from FERC, the Commission cannot find that the state waived its rights. The vacated Waiver Order no longer has any legal effect, which means the Company has to reapply for a Water Quality Certification.⁷⁷

⁷⁰ *Id.* at *5.

⁷¹ *Id.*

⁷² *Id.* at *4.

⁷³ *Hoopa Valley*, 913 F.3d at 1105.

⁷⁴ *Nevada Irrigation Dist.*, 2025 WL 1905118 at *5.

⁷⁵ *California State Water Res. Control Bd. v. FERC*, 43 F.4th 920, 926 (9th Cir. 2022).

⁷⁶ *Id.* at 931-932.

⁷⁷ See generally *Sierra Club v. United States Army Corps of Eng'rs*, 909 F.3d 635 (4th Cir. 2018); see also *Ameren Servs. Co. v. FERC*, 880 F.3d 571, 584 (D.C. Cir. 2018) (In determining the necessity of vacatur, the Court considers “the gravity of the orders’ flaws, and the ‘disruptive’

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Even assuming *arguendo* that the Waiver Orders were not vacated and could be “reaffirmed,” those orders would be entirely irrelevant to *this* Petition. The Petition, which everyone agrees is new and under a new sub-docket, still triggers the State’s rights under Section 401.⁷⁸ The Company’s obligation to get a water quality certification is triggered whenever it applies for a project to “conduct any activity...which may result in any discharge into the navigable waters.”⁷⁹ Both the Company and the Commission acknowledge that this is a new Petition to conduct such an activity, hence the need for new landowner notification as well as the fact that the Commission placed the Company’s Petition on “new subdockets.”⁸⁰ NYSDEC could not possibly have waived its rights under Section 401 years ago for the activity proposed in this *new* Petition. Moreover, the Section 401 certification process may also be triggered whenever a state does not have “reasonable assurance” that the project will comply with applicable water standards “because of changes since the [Waiver Order]... in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements.”⁸¹ Since it has been years since the Company abandoned the project, NYSDEC has the right to determine compliance with all current standards under current conditions, laws and regulations. The Company’s recent Petition also acknowledges that many of the contracts had been cancelled and are currently being renegotiated, as noted *infra*, representing further changes in operations.⁸² The State has a right to determine the water quality impacts under these changed circumstances even if the Waiver Order had not been vacated.⁸³

D. In the Alternative, the Company Fails to Make an Adequate Showing that the Lapse in the In-Service Date Can Be Extended.

Even if the Company’s Petition were procedurally sound—which it is not—the Petition nevertheless fails to meet the threshold burden of proof to justify an extension of the Project.

FERC’s regulations permit staff to grant a motion to extend an in-service deadline “at any time,” including after the deadline has passed.⁸⁴ However, when the request is made after the expiration of the deadline, such relief is available only upon a showing of extraordinary

consequences that may result,” demonstrating the deliberate nature of the remedy which requires agencies to undertake new proceedings rather than merely reaffirming previous decisions.)

⁷⁸ *Id.*

⁷⁹ 33 U.S.C. § 1341(a)(1) (1988).

⁸⁰ Petition at 41; *Constitution Pipeline Co., LLC*, 194 FERC ¶ 61,064, P 4 (2026).

⁸¹ 33 U.S.C. § 1341(a)(3) (1988).

⁸² Petition at 21.

⁸³ *See generally Keating v. FERC*, 927 F.2d 616 (D.C. Circ. 1991).

⁸⁴ 18 C.F.R. §§ 375.308(w)(4), 385.212(a)(1).

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circumstances.⁸⁵ The in-service deadline expired on December 2, 2020, and the Company has not so much as suggested that any emergent circumstances or factors beyond its control would justify its failure to act in a timely manner.⁸⁶ To the contrary, the Company indicates that abandoning the project was an economic decision they made to manage its costs.⁸⁷ According to both FERC and the D.C. Circuit, granting an extension depends heavily on whether the project sponsor affirmatively and diligently pursued the project, including by engaging in the permitting process, obtaining necessary land rights, negotiating with stakeholders, or litigating disputes.⁸⁸ FERC has also been known to warn a project sponsor that “[a]ny further extension would require further demonstration by [the company] that it has not ‘set its authorization on a shelf and let it lie dormant.’”⁸⁹ The Company has demonstrated no real engagement in advancing this project since 2020. This is especially apparent in its decision to abandon the project before getting an appellate decision on the merits. Furthermore, the Petition cites to no legal authority that expressly or impliedly permits an extension or reissuance of the expired Certificate in these post-vacatur circumstances.

E. FERC Cannot Re-Issue its Vacated 2014 Certificate Order Because the Project Has Changed, the Company Failed to Provide the Required Precedent Agreements, and No Application Was Filed to Construct an Interconnection in Wright, NY.

In the Company’s 2013 application, Cabot Oil and Gas Corporation committed to shipping 500,000 of the 650,000 dekatherms per day (Dth/d) in the proposed pipeline.⁹⁰ The gas driller’s wholly owned subsidiary, Cabot Pipeline Holdings, LLC, owned 25% of the Company and its initial contribution cap was \$250,000,000.⁹¹ The Commission relied on these business relationships to grant the 2014 Certificate Order.

8. Constitution states that it held an open season for service on the Constitution Pipeline Project from February 21 through March 12, 2012. As a result of the open season, Constitution states that it has executed binding precedent agreements with Cabot Oil & Gas Corporation (Cabot) for 500,000 dekatherms (Dth) per day of firm transportation service and with Southwestern Energy Services Company

⁸⁵ 18 C.F.R. § 385.2008(b).

⁸⁶ *Constitution Pipeline Co., LLC*, 165 FERC ¶ 61,081, P 6 (2018); *See generally* Petition

⁸⁷ Petition at 10–11.

⁸⁸ *Sierra Club*, 97 F.4th at 19–24; *see e.g. Appalachian Voices v. FERC*, 139 F.4th 903 (D.C. Cir. 2025) (upholding FERC’s decision to grant an extension based on the fact that the applicant had no interest in abandoning the project).

⁸⁹ Order Granting Extension of Time, *Transcontinental Gas Pipe Linc Co., LLC*, 186 FERC ¶ 61,038, P 17 (2024).

⁹⁰ Application at 5.

⁹¹ Application at Exhibit A (Articles of Incorporation and Bylaws) at PDF pp. 64 Ex. A, 66 Ex. C, 67 Ex. D.

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(Southwestern) for 150,000 Dth per day of firm transportation service, together equal to the full design capacity of the project. Both shippers elected to pay a negotiated rate. . . .

29. [] Consistent with the criteria discussed in the Certificate Policy Statement and subject to the environmental discussion below, we find that the public convenience and necessity requires approval of Constitution's proposal, as conditioned in this order.⁹²

Since these critical contracts no longer exist, the new proposed Project is substantially different than the one approved in 2014.

In its 2025 Petition, the Company asks the Commission to re-issue the vacated 2014 Certificate Order without the precedent agreements it used to substantiate the need for the Project in 2013.⁹³ It is also proposing to build a pipeline that would be ten-miles longer than the one that was approved in 2014 in order to ensure a sufficient supply of gas.⁹⁴ In its October 2025 Fact Sheet, the Company described the Project as being "135 miles of 30-inch pipeline."⁹⁵ Ex. A. Finally, the Company submitted its Petition without an application to construct and operate an interconnection in Wright, N.Y.⁹⁶ While the Company claimed Iroquois would file such an application "soon after this Petition is filed[]," that has not happened over the past six weeks and our opportunity to comment on the Petition has now expired. Therefore, if the Company wants to restart its project, all of these materials should be finalized in a new integrated application to FERC so that parties to the proceeding can respond to a complete application, without having to sort through thousands of documents to figure out what still applies and what does not.

In 2021, Cabot Oil & Gas Corporation and Cimarex Energy Co. merged to form Coterra Energy. In its 2025 third quarter earnings call, Shane Young, the Chief Financial Officer of Coterra was skeptical of the idea of Coterra getting involved in the new Constitution Pipeline Project.

[T]hat project historically has originated out of our acreage and heads up towards the Iroquois line. About 124-125 miles. And so were something to

⁹² *Constitution Pipeline Co., LLC*, 149 FERC ¶ 61,199, at P 6 (Dec. 2, 2014).

⁹³ Petition at 13, 32.

⁹⁴ *Id.* at 6, n.16 ("Constitution is also evaluating a potential ten-mile lateral in Pennsylvania, which would add additional supply of natural gas for increased reliability and flexibility.").

⁹⁵ Petition, Attach. A at 23; *see also Constitution Pipeline Co.*, Project Fact Sheet at 2 (Oct. 2025) (Ex. A).

⁹⁶ Petition at 1 n.4 ("Iroquois has indicated that it will file a separate petition for reissuance of its certificate authority to construct and operate the Wright Interconnect Project soon after this Petition is filed.").

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happen there, obviously, we would be a logical partner in some regard in that. **But frankly, until we have better clarity on the other end of that line in terms of markets and buyers and commitments, that's probably one that is going to remain a little bit challenged.**⁹⁷

In other words, the main potential shipper is not willing to invest in a speculative pipeline project like Cabot did back in 2012. Instead, it is going to require firm commitments from buyers. It is also indicating that it wants a higher price for the gas in Wright, NY than what it is receiving in Pennsylvania. In Coterra's 2025 second quarter earnings call (made before its skepticism was publicly stated), Blake Sergo, the Executive Vice President of Operations, contradicted the idea that Marcellus gas would be cheaper for the people in New England.

It's got to provide us either diversity or price enhancement over and above what we can get in the current portfolio. And we're excited about these deals because that's bringing new markets to the table, **and that's how we can possibly get some price enhancement in the portfolio.**⁹⁸

According to East Daly Analytics, Coterra would be more likely to find what it is seeking by shipping its gas south.

We previously ran analysis on the Constitution project, finding it would struggle to flow at capacity due to downstream constraints on Iroquois and Tennessee Gas pipelines.... [P]roducers had backed Constitution to push more Appalachian gas into seasonal metro markets... In today's environment, Northeast producers are increasingly looking south ... where they can capitalize on strong price spreads and steady, predictable demand.⁹⁹

The lack of interest from shippers and buyers in the Northeast is why the Company has not attached any precedent agreements to its Petition. The lack of contracts means that the 2014 Certificate Order cannot be re-issued because a new balancing test has to be performed,

⁹⁷ *Transcript of Coterra Energy Inc., Q3 FY2025 Earnings Call*, Yahoo Finance (Nov. 4, 2025, at 10:00AM EST), https://finance.yahoo.com/quote/CTRA/earnings/CTRA-Q3-2025-earnings_call-370614.html (emphasis added) (comment by Shane Young at 00:48:47).

⁹⁸ *Transcript of Coterra Energy Inc., Q2 FY2025 Earnings Call*, Earnings Call (Aug. 5, 2025), <https://earningscall.biz/e/nyse/s/ctra/y/2025/q/q2> (emphasis added) (comment by Blake Sergo at 00:56:00).

⁹⁹ Ian Heming, *NESE Watch: Monster Pipe Project Resurfaces in New York*, East Daley Analytics (Dec. 4, 2025), <https://eastdaley.com/daley-note/nese-watch-monster-pipe-project-resurfaces-in-new-york>.

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weighing the need against impacts.¹⁰⁰ In addition, the Project has changed, with a starting point that may be ten miles further south.¹⁰¹ Without contracts with shippers, an application at FERC for interconnecting the proposed Project with the Iroquois and Tennessee Gas Pipelines, and a new environmental impact statement, the Petition should be rejected. A new application is required to integrate all of these changes.

Instead of waiting until all of these critical details have been resolved, the Company suggests that precedent agreements are not necessary and the marketing study it commissioned is enough to establish need.¹⁰² To support its heretical position, it cites standards that were used before the 1999 Certificate Policy Statement was approved.¹⁰³ Reissuing the Certificate Order on this basis would be an abrupt departure from well-established precedent.¹⁰⁴ and an arbitrary and capricious deviation from the 2014 Certificate Order.

The main justification the Company relies on for not requiring precedent agreements is a marketing study it paid S&P Global to produce.¹⁰⁵ This 40-page slide show was created using a propriety model that is briefly explained on slides 35 – 38.¹⁰⁶ The most important page is the disclaimer at the end, which expressly states that: (1) “forecasts are inherently uncertain;” (2) “SPGCI does not assume responsibility for the accuracy or completeness [of the sources], nor is their accuracy or completeness or the opinions and analyses based upon them warranted;” and (3) **“The Deliverables should not be relied on in making any investment or other decision and should not in any way serve as a substitute for other enquiries or procedures which may be appropriate.”**¹⁰⁷

The S&P Global marketing study is not a technical review, but an advertisement. Therefore, the rosy economic projections it makes do not take into account the real-world constraints that are in these pipelines. FERC mentioned these system constraints, using them to bolster the need for the expansion of the Algonquin pipeline.

In addition to the existing Algonquin system, two other existing interstate pipelines provide natural gas transmission service into southern New England: Tennessee Gas Pipeline (Tennessee) and Iroquois Gas Transmission (Iroquois)

¹⁰⁰ See Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (“Certificate Policy Statement”).

¹⁰¹ Petition at 6 n.16; Ex. A; *see also* Petition, Attach. A at 23.

¹⁰² Petition at 14.

¹⁰³ Petition at 32.

¹⁰⁴ See *e.g.*, *Trunkline Gas Co.*, 147 FERC ¶ 61,041, at P 20 (2014).

¹⁰⁵ Petition, Attach. A.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 40 (emphasis added).

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(see figure 3.3.1-1). Like the Algonquin system, each of these pipelines currently are at or near capacity. Consequently, use of either of these systems would require modifications, including the construction of new pipelines, to transport the volume of gas to the delivery points required by the Project Shippers.¹⁰⁸

Other companies and institutions that specialize in the technical analysis of the amount of gas that can be carried in pipelines, have also stated that the Iroquois and Tennessee Gas Pipelines are constrained during the summer and winter months. In the fall of 2013, Levitan and Associates, Inc (“Levitan”) issued a study of pipeline capacity in the New York Control Area (“NYCA”).¹⁰⁹ As part of its assessment, Levitan analyzed the congestion patterns of both the Iroquois and Tennessee Gas Pipeline 200 Line (“TGP”). Congestion doesn’t have a precise definition, so Levitan applied utilization rates of 90% and 95% of available capacity as an indication of congestion.¹¹⁰ Rates higher than that “are most likely to constrain the flow of natural gas to non-firm shippers in the relevant zones.”¹¹¹

The Iroquois Pipeline runs from Waddington, at the New York and Canadian border, down to Long Island. Because it operates at higher pressures, it can only deliver gas at its northern and southern ends – at Waddington to TransCanada and at Brookfield to Algonquin.¹¹² Both Brookfield and Waddington have high utilization rates during the winter months, with Brookfield also experiencing some congestion during the summer because of its proximity to the New York metropolitan area.¹¹³ Therefore Iroquois could accept gas from the proposed Project from April through October, but gas is not needed during those seasons.

Congestion also exists on the Tennessee Gas Pipeline 200 Line, and at Station 245, near Wright, NY. **The congestion exists year-round.**¹¹⁴ According to Levitan’s assessment,

Station 245 is the principal bottleneck on Line 200, which causes deliveries on Tennessee downstream of Station 245 to be valued at the Tennessee Zone 6 pricing point, an index that is highly correlated with the Algonquin Citygates pricing point. Station 245 experienced pipeline utilization rates of 90% or greater

¹⁰⁸ *Algonquin Gas Transmission, LLC*, Docket No. CP14-96, Draft Environmental Impact Statement (Aug. 06, 2014), Accession No. 20140806-4001.

¹⁰⁹ *Constitution Pipeline Co., LLC*, Docket No. CP13-499, Supporting documents to Report on Need for Proposed Pipeline, Attach. 1 (Apr. 07, 2014), Accession No. 20140407-5252 (NYCA Pipeline Congestion and Infrastructure Adequacy Assessment by Levitan & Associates, Inc.) (“Levitan Assessment”). This is hereby incorporated by reference.

¹¹⁰ *Id.* at 38.

¹¹¹ *Id.*

¹¹² *Id.* at 61–62.

¹¹³ *Id.* at 60, 62, 66.

¹¹⁴ *Id.* at 77 (emphasis added).

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on 588 days during the truncated time series, distributed roughly equally between the heating and cooling seasons.¹¹⁵

In other words, the proposed Project does not eliminate the constraints in the Iroquois and Tennessee Gas Pipeline, so it cannot add capacity to the NYC or New England markets. East Daly Analytics confirmed these facts in 2025.

The original project filing at the Federal Energy Regulatory Commission (FERC) included no pipe looping, mainline uprates or other supplemental compression, meaning it was not scoped to add incremental capacity to Iroquois. . . . In 2024, Iroquois averaged 58% utilization and reached peak flows of 88% of total throughput capacity, while the Brookfield interconnect averaged 80% utilization and spiked to 98% during peak periods (see figure [online]). Such high baseload and peak-day usage coupled with nearly full contractual commitments means there is virtually no latent capacity available.¹¹⁶

The Constitution Pipeline Project is designed to transport 650,000 Dth/d of fracked gas from Pennsylvania to Wright, NY. Since there is no room for additional gas in the connecting pipelines, the proposed Project cannot deliver the benefits touted in the S&P Global marketing study. The glowing marketing study the Company paid for cannot change this reality and is no substitute for contracts with Shippers like Coterra.

F. New York State's Approval of the Iroquois Enhancement by Compression Project (Iroquois ExC) Is Based on a Need to Acquire More Gas from the North and West.

On February 26, 2024, the NYS Department of Public Service (“DPS”) sent a letter to NYSDEC about whether the state needs the 125,000 Dth/d of gas that would be provided by the Iroquois ExC Project.¹¹⁷ Ex. B. In section I, **Gas System Planning and Criteria**, DPS describes how the state determines need.¹¹⁸ In section II, **The ExC Project is Needed to Maintain System Safety and Reliability**, DPS discusses Winter Storm Elliot and why New York City and Long Island need more gas from the North and West in order to diversify the sources of gas and thereby ensure reliability and lower costs.¹¹⁹ Although not written as a rebuttal to S&P Global’s 2025 marketing study, the 2024 letter shatters the Company’s dream of reaping huge profits by replacing Canadian gas with the gas that Williams gathers in Pennsylvania.

¹¹⁵ *Id.* at 77.

¹¹⁶ Zach Krause, *Williams Plays Pipeline Politics in Northeast*, East Daley Analytics (Jun. 18, 2025), <https://eastdaley.com/daley-note/williams-plays-pipeline-politics-in-northeast>.

¹¹⁷ Letter from N.Y. State Dep’t of Pub. Serv. to N.Y. State Dep’t of Env. Conservation (Feb. 26, 2024) (concerning the need for additional gas from Canada via the Iroquois) (“DPS Letter”) (Ex. B).

¹¹⁸ DPS Letter at 1–8.

¹¹⁹ *Id.* at 8–12.

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A mix of factors, including the high cost of repairing and replacing old distribution lines, cause the high electric and gas prices in New York and New England.¹²⁰ Marketers, who buy pipeline capacity so they can profit during periods of peak demand are also a major contributor.¹²¹ DPS points out that both delivered services and peaking facilities struggled to keep up with demand during Winter Storm Elliot, when freezing wellheads in the Marcellus and Utica shale formations nearly caused a catastrophic disruption in the gas supply.¹²² The impact of this winter storm was a wake-up call for utilities and their regulators, including FERC.¹²³ DPS subsequently supported the ExC Project because “Iroquois transports gas from the north and west, whereas most other pipelines serving the region originate south of New York. Thus, supply on Iroquois diversifies the mix of gas sources available to Con Edison and National Grid and the ExC project would add to that diversification.”¹²⁴

Iroquois relied on this argument to substantiate the need for the ExC Project in its Application to FERC. “The Project facilities will provide important supply diversity benefits to the ExC Shippers, as Iroquois’ system provides access to natural gas supply basins in geographically dispersed regions of the United States and Canada.”¹²⁵ Its public Q&A document provided more details and emphasized the importance of supply diversity for reliable and affordable gas.¹²⁶

Now the Company is asking FERC to ignore the critical need to diversify the supply of gas to New York City and New England by asking the Commission to approve yet another pipeline that would increase the amount of gas from the Marcellus Shale formation, while proportionally decreasing the gas from the north and west. Since the Company cannot recoup its \$1,000,000,000 capital investment by only providing incremental gas during peak events, it will replace gas that is currently flowing south in the Iroquois with its gas. Therefore, the proposed

¹²⁰ Dan Clark, *New York’s Climate Mandates aren’t Driving Up Utility Bills, Regulator Says*, Capitol Confidential (Oct. 23, 2025), <https://www.capitolconfidential.com/p/new-yorks-climate-mandates-arent> (“‘It’s not those mandates as much as it is the aging energy infrastructure that has to be maintained,’ Christian said.”).

¹²¹ DPS Letter at 6.

¹²² *Id.* at 9–10.

¹²³ *See Winter Storm Elliott Report: Inquiry into Bulk-Power System Operations During December 2022*, FERC Media (Nov 7, 2023), <https://www.ferc.gov/media/winter-storm-elliott-report-inquiry-bulk-power-system-operations-during-december-2022>.

¹²⁴ DPS Letter at 11.

¹²⁵ *Iroquois Gas Transmission System, L.P.*, Docket No. CP20-48, Abbreviated Application, Iroquois ExC Project Certificate Application (Feb. 03, 2020), Accession No. 20200203-5224.

¹²⁶ *Iroquois Gas Transmission System, ExC Project Q&A* (June 4, 2024), https://www.iroquois.com/site/assets/files/1208/exc_project_qa_rev2_06_04_24.pdf (discussing the market conditions, the benefits of the ExC Project, and the sources of the gas).

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Project would result in New York and New England becoming almost entirely reliant on the Marcellus and Utica Shale formations, thereby reducing the safety of millions of people who depend on gas to survive.

G. The Petition Violates Stop the Pipeline's Due Process Rights

When the Company applied for a Certificate of Public Convenience and Necessity in 2013, it submitted extensive public documentation, including thirteen resource reports, privileged precedent agreements and CEII documents for the proposed pipeline and Wright Interconnect Project.¹²⁷ This application was filed fourteen months after a request to initiate a pre-filing application,¹²⁸ which was assigned Docket No. PF12-9. Therefore, before the Company filed its application, the public was already able to review many resources, including project location maps.¹²⁹ The Company also notified approximately 600 stakeholders, including most, if not all municipal, state, and federal elected officials, as well as departments and agencies at all levels of government and tribal nations.¹³⁰

The Company is not repeating this type of public outreach as it attempts to revive the Project without filing a new application. Instead of complying with the detailed requirements of 18 C.F.R. §§ 157.5 – 157.14, it has limited its initial submissions, hoping to supplement them in a piecemeal fashion. For now, it has chosen to submit an overview map that shows the pipeline's general location, with no detail, and alignment maps that are so detailed it is impossible to identify where the proposed pipeline is located in the real world.¹³¹ The Company has not included any environmental reports, claiming conditions have not changed.¹³² However, that conclusion cannot be substantiated because no one has studied the proposed route for the past twelve years. In addition, the Company seems oblivious to the fact that the people who live in

¹²⁷ See *Constitution Pipeline Co., LLC*, Docket No. CP13-499, STP Request for Rehearing (June 13, 2013), Accession No. 20130613-5078.

¹²⁸ *Constitution Pipeline Co., LLC*, Docket No. PF12-9, Request for Pre-filing (April 5, 2012), Accession No. 20120405-5066.

¹²⁹ *Id.* at No. 11.

¹³⁰ *Constitution Pipeline Co., LLC*, Docket No. PF12-9, Stakeholder List (April 30, 2012), Accession No. 20120430-5571.

¹³¹ *Constitution Pipeline Co., LLC*, Docket No. CP13-499-000, Comment of Mark M. Rogers (Jan. 26, 2026), Accession No. 20260126-5227.

¹³² Petition at 39-40.

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the area have changed. Instead, it assumes that everyone is already well informed from the outreach that took place thirteen or fourteen years ago.¹³³

The 600 stakeholders that were contacted in 2012 have not been notified of the 2025 Petition that is meant to revive a project they spent years reviewing.¹³⁴ Most of the elected officials, affected departments, agencies and tribal nations have no idea that the Company is attempting to build the Project five years after it was abandoned and four years after the Second Circuit vacated the Certificate and Waiver Orders. Many of the people who were involved with the project between 2012 and 2016 are no longer in public service. Some have retired. Others have died. If any of the stakeholders are aware of the proposed Project now, it is mainly because members of the public have notified them. This contradicts the Company's claims that it "commits to continue its outreach to landowners and stakeholders and will continue to support community initiatives and local non-profit organizations during the life of the project."¹³⁵ That commitment has already been broken.

The Company filed its Petition with FERC on December 19, 2025, just at the start of the two-week Christmas / New Years holiday. It drafted a letter to landowners and abutting landowners on January 9, 2026, postmarked the envelopes in its office on January 13, 2026, but apparently put the envelopes in the mail the following day because they were postmarked by the USPS on the afternoon of January 14, 2026.¹³⁶ Ex. C. The USPS was closed on Monday, January 19, 2026. As a result, some landowners did not receive FERC's notice until January 21, 2026.¹³⁷ This means that new landowners had a mere two weeks to file a motion to intervene and to comment on literally tens of thousands of pages of documents that are in the CP13-499 and CP18-5 dockets. Landowners in the prior proceedings may have only had two weeks to intervene, but they had many months to become familiar with the maps, draft resource reports, and other documents before they had to comment on the DEIS in 2014.

Irrespective of their property rights, landowners who purchased their land after the 2014 Certificate Order was issued, or after the Project was abandoned in 2020, are entitled to procedural due process. So are the many people who moved to the area during the covid pandemic or have a new connection to the project. All of these people deserve the right to comment, just like the people who owned land on the route, lived in the area, or had some other

¹³³ *Id.* at 28.

¹³⁴ *Id.* at 42.

¹³⁵ *Id.* 28.

¹³⁶ *See* Ex. C. This put the mailing beyond the "3 business days following the date the Commission issues a notice of the application." 18 C.F.R. § 157.6(d)(1)(i).

¹³⁷ *Constitution Pipeline Co., LLC*, Docket No. CP13-499, Motion to Intervene of Tania Konwinski (Jan. 27, 2026), Accession No. 20260127-5119; *Constitution Pipeline Co., LLC*, Docket No. CP13-499-006, Motion to Intervene of Stephen Fissel (Jan. 27, 2026), Accession No. 20260127-5127.

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interest during 2013 and 2014. Landowners who do not have easements on their land are entitled to Constitutional due process protections.¹³⁸

All members of the public and parties to the proceedings require a complete application and sufficient time in order to review the documents and prepare comments or hire experts to prepare them. While FERC has procedures in place to protect due process, the Company has already failed to follow them. For example, the pipeline and the Wright Interconnect Project are interdependent, but the Company filed for a new certificate without Iroquois filing an application for the interconnection. This is a violation of 18 C.F.R. § 157.13(c), which states that “When applications are interdependent, they shall be filed concurrently.” FERC, in turn, violated its own regulations by accepting the Petition. “When an application considered alone is incomplete and depends vitally upon information in another application, it will not be accepted for filing until the supporting application has been filed.”¹³⁹ In addition, many of the other documents needed for an application for a certificate of public convenience and necessity were not filed.

These violations inhibit Stop the Pipeline’s participation in the proceedings. For example, landowners and other members of Stop the Pipeline were concerned there was no actual need for the Project because there were no committed customers. To assist them, the Pace Environmental Litigation Clinic requested privileged precedent agreements and CEII documents in 2013 and after much effort, was able to obtain them. These were used to substantiate the lack of need for the Project. This was a major issue in Stop the Pipeline’s 2015 request for rehearing, which is hereby incorporated by reference.¹⁴⁰ To continue its work, the group must be able to simultaneously review a complete application for the Project and the Wright Interconnect Project and have sufficient time to obtain new versions of the privileged material and CEII. That means that all the required material has to be filed at the start of the process. The group also needs to know what other materials make up the record. A comprehensive table of contents is supposed to be included with an application for a certificate but was not provided.¹⁴¹ To ensure due process,

¹³⁸ U.S. Const. amend. V (“No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”); *Mathews v. Eldridge*, 424 U.S. 319, 332–35 (1976).

¹³⁹ 18 C.F.R. § 157.13(c)

¹⁴⁰ *Constitution Pipeline Co., LLC*, Docket No. CP13-499, Request for Rehearing of Stop the Pipeline (Dec. 2, 2014), Accession No. 20150102-5158.

¹⁴¹ 18 C.F.R. § 157.6(b)(6) (“A table of contents which shall list all exhibits and documents filed in compliance with §§ 157.5 through 157.18, as well as all other documents and exhibits otherwise filed, identifying them by their appropriate titles and alphabetical letter designations.”)

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FERC must make the Company follow its regulations. When an applicant does not comply, the application should be rejected.¹⁴²

While Constitution now characterizes the period between 2020 and 2025 as “Idle Time,”¹⁴³ many people who purchased property along the pipeline route during those years were either not informed of the easements on their land or told that the pipeline was no longer going to be built.¹⁴⁴ In fact, that is exactly what the Constitution Pipeline Company LLC said when it assigned road easements to Williams Pipeline Services LLC on July 11, 2022. “WHEREAS Constitution no longer needs possession of the Rights of Way for survey or construction, because **the Project will not be built. . .**”¹⁴⁵ Ex. D. After making such a statement, the Company cannot pretend that it was taking a time out for the past five years and just come back on the field and pick up the ball where it left it.

To ensure due process, FERC must follow the requirements of the Natural Gas Act, its own regulations, the Second Circuit’s order, and its Order on Remand.¹⁴⁶ That means the Commission must reject the Petition.

H. The Executive Order Declaring a National Energy Emergency Is Not a Basis for Expedited Proceedings.

¹⁴² 18 C.F.R. § 157.8(c) (“The Director of the Office of Energy Projects or the Director of the Office of Energy Market Regulation may also reject an application after it has been noticed, at any time, if it is determined that such application does not conform to the requirements of this part.”).

¹⁴³ Petition, Attach. A at 23.

¹⁴⁴ See, comments or interventions by: *Constitution Pipeline Co., LLC*, Docket No. CP13-499-006, Comments of Wayne Tufts II (Jan. 20, 2026), Accession No. 20260120-5043; *Constitution Pipeline Co., LLC*, Docket No. CP13-499-006, Motion to Intervene of John & Sheri Keating (Jan. 26, 2026), Accession No. 20260126-5078; *Constitution Pipeline Co., LLC*, Docket No. CP18-5-004, Motion to Intervene of Nayon Kim (Jan. 27, 2026), Accession No. 20260127-5125; see also *Constitution Pipeline Co., LLC*, Docket No. CP13-499, Motion to Intervene of Tania Konwinski (Jan. 27, 2026), Accession No. 20260127-5119; *Constitution Pipeline Co., LLC*, Docket No. CP13-499-006, Motion to Intervene of Stephen Fissel (Jan. 27, 2026), Accession No. 20260127-5127.

¹⁴⁵ Schoharie County Clerk, Assignment and Assumption of Easements Agreement, Document No. 813327 (July 11, 2022) Book 1168, Page 198 (emphasis added) (Ex. D).

¹⁴⁶ *Catskill Mountainkeeper, Inc., et al., v. Fed. Energy Regul. Comm’n*, 16-345 (2d. Cir. 2021), 16-361 ECF No. 409; *N.Y. State Dep’t of Env’t Conservation, et al. v. Fed. Energy Regul. Comm’n*, 19-4338 (2d. Cir. 2021), 20-158 ECF No. 154. *Constitution Pipeline Co., LLC*, 194 FERC ¶ 61,064 (2026) (“We confirm that the proceedings referenced in the caption of this order are dismissed.”).

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January 29, 2026
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It should also be noted that President Trump's Executive Order ("EO")¹⁴⁷ declaring a national energy emergency is not sufficient to demonstrate project need. Whether or not there is an "energy emergency" at the national level is irrelevant; it does not demonstrate that there is a need for this project in this region or that this project would satisfy that need.¹⁴⁸ Setting aside the question of whether the EO demonstrates a present need, "an executive order is not 'law' within the meaning of the Constitution...." and cannot enlarge the powers of executive agencies beyond their statutory bounds.¹⁴⁹ Nor does the EO serve as a legitimate basis to circumvent the Second Circuit's vacatur and instructions to dismiss. Any attempt to do so would exceed the powers granted to the President.¹⁵⁰ The Commission cannot reaffirm vacated orders on the basis of an Executive Order. The Commission's powers under such an "emergency" are narrowly confined to situations where "the President determines that an emergency situation of overriding national importance exists and requires the expeditious promulgation of a rule."¹⁵¹ But this does not apply to previously issued orders.¹⁵² Once an order is vacated, the agency must either accept the vacation or initiate entirely new proceedings with fresh analysis.¹⁵³

Further, the Company has identified no other legal or factual basis for an accelerated timeline. Although the Commission permits applicants to seek an expedited proceeding, that is only when a filing—such as a protest, petition, or request for a hearing—involves no issue of substance.¹⁵⁴ This protest, together with other recent submissions, evinces strong opposition to Constitution's Petition; the matter is plainly contested, and any attempts to truncate the process would be contrary to public interest. As noted in the prior section, the Company's sudden and unexpected attempt to revive the Project, coupled with the request for expedited proceedings, is harmful to landowners and affected communities, as discussed above. The impacted landowners deserve some semblance of predictability and fairness.

III. CONCLUSION

The Company cannot be allowed to abandon its project before an appellate court has ruled on the merits and then—four years after the Second Circuit has vacated the underlying

¹⁴⁷ Exec. Order No. 14156, 90 Fed. Reg. 8433 (Jan. 20, 2025).

¹⁴⁸ See Petition at 11–12.

¹⁴⁹ *California v. EPA*, 72 F.4th 308, 318 (D.C. Cir. 2023); *Sierra Club v. Trump*, 977 F.3d 853, 864–65 (9th Cir. 2020), vacated on other grounds; *Biden v. Sierra Club*, 142 S. Ct.56 (2021); see also *Ctr. For Biological Diversity v. Trump*, 453 F. Supp. 3d 11 (D.C. 2020).

¹⁵⁰ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952) ("The President's power, if any, to issue . . . [an executive] order must stem either from an act of Congress or from the Constitution itself.")

¹⁵¹ 42 U.S.C.A. § 7172(c)(2)

¹⁵² *Id.*

¹⁵³ See generally *Freeport-McMoRan Oil & Gas Co. v. FERC*, 962 F.2d 45 (D.C. Cir. 1992)

¹⁵⁴ 18 C.F.R. §§ 157.6(c), 385.802.

Debbie-Anne A. Reese, Secretary
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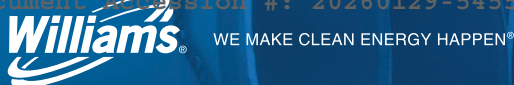
orders—request that FERC reissue or reaffirm those Orders and also expedite the proceedings, skipping crucial and legally necessary notice and hearings. Such a request further rests on the unfounded presumption that the circumstances today mirror those that existed in 2013 when the Company first sought a Certificate Order, a premise that is not supported by the facts as they exist today. Moreover, by entertaining this Petition, the Commission has failed to comply with the Second Circuit’s vacatur order, which nullified the Certificate and Waiver Orders on which the Company’s Petition rests. The Commission should therefore decline to grant the relief sought and reaffirm that the Company must file an entirely new application.

Respectfully submitted,



Todd D. Ommen
Anne Marie Gartl, Esq., of counsel

Exhibit A



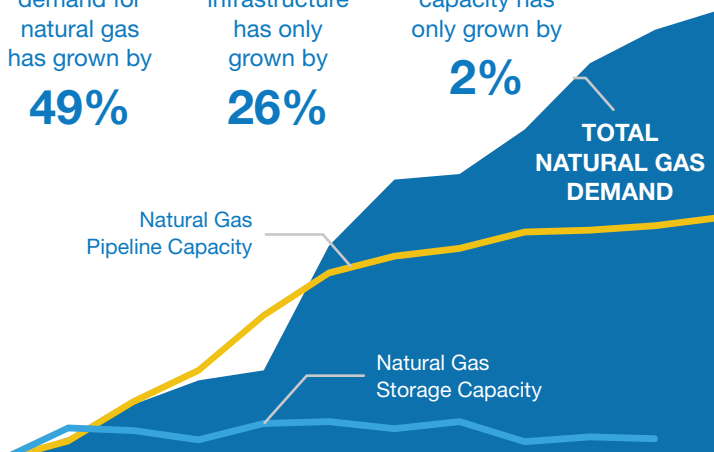
Constitution Pipeline Powers Progress — Delivering Big Benefits for the Northeast

U.S. Infrastructure Construction Lags Energy Demand (2013-24)

Since 2013, demand for natural gas has grown by **49%**

While gas infrastructure has only grown by **26%**

And gas storage capacity has only grown by **2%**

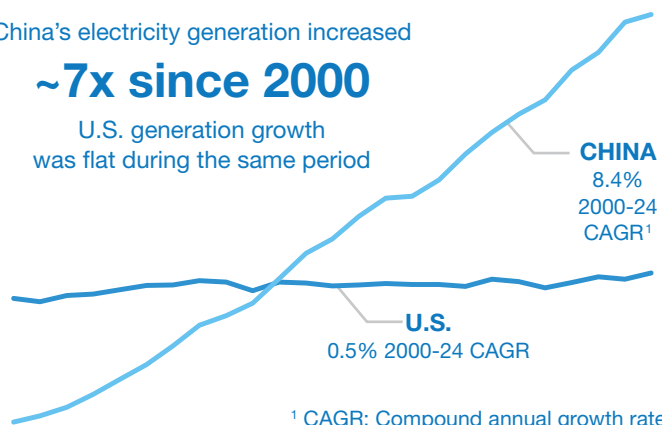


China Dominates the U.S. in Scaling Electricity Generation (2000-24)

TOTAL ELECTRICITY GENERATION

China's electricity generation increased **~7x since 2000**

U.S. generation growth was flat during the same period



Williams' Constitution Pipeline Project: GET THE FACTS

DRIVING ECONOMIC BENEFIT

- Nearly \$915 million in total output over 12 month construction period
- ~\$475 million contribution to GDP during construction
- ~\$295 million in labor income from construction
- ~\$105 million in total tax revenue during construction
- Over 2,500 total jobs supported during construction, including ~1,600 construction jobs and ~965 additional jobs in retail, real estate, restaurants, and services

STIMULATES UP TO
~\$1 BILLION
DURING CONSTRUCTION

RELIABLE SERVICE, ADDRESSES SHORTAGES

- The project increases firm gas supply by 13%, addressing supply-demand imbalances and winter electric reliability risks.
- Unlocks the full potential of domestic energy resources.
- The project will increase system capacity by ~650,000 dekatherms/day.

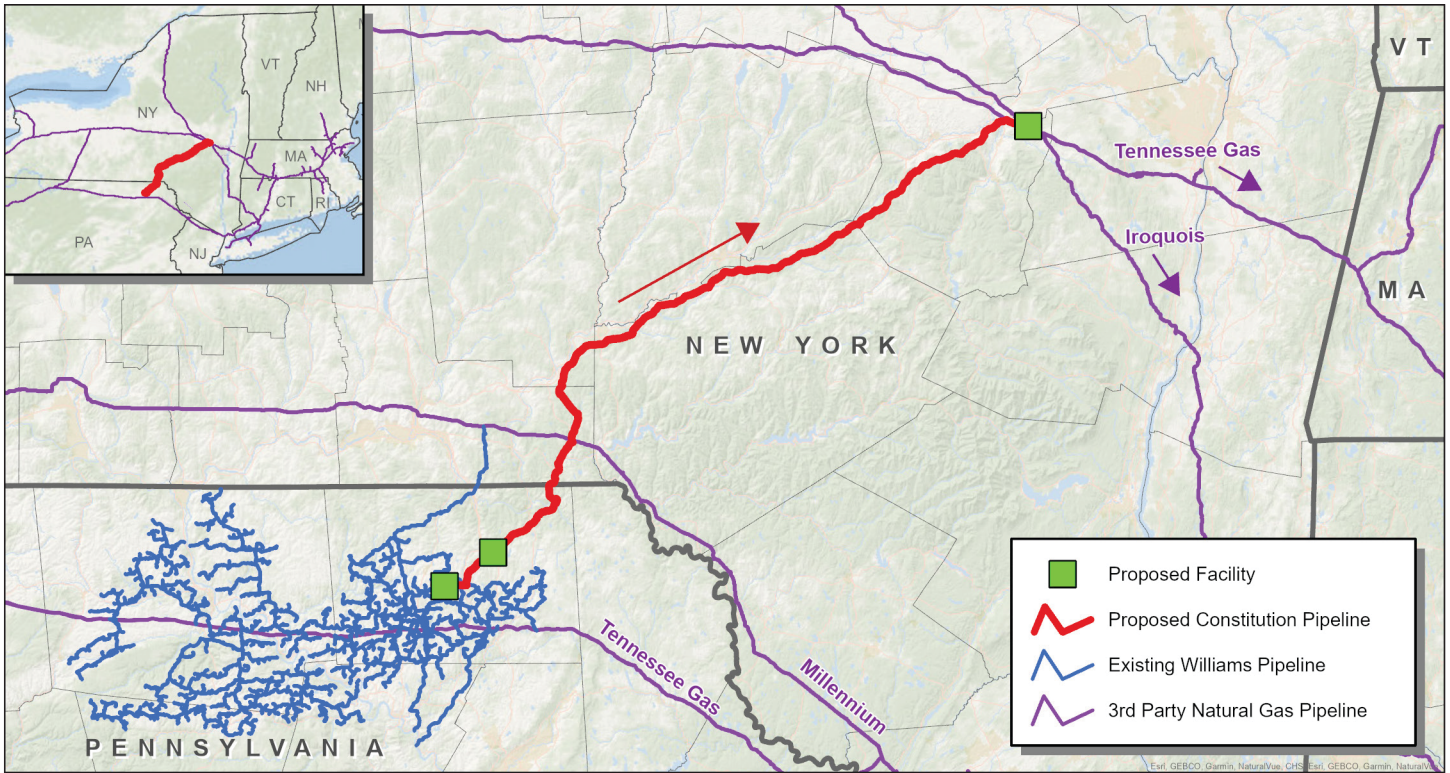
EQUIVALENT TO SUPPLYING
3 MILLION
HOMES

REDUCING EMISSIONS, ENHANCING RELIABILITY, BRIDGING ENERGY GAPS

- Electric power prices in New England are 55% higher than in Pennsylvania due to limited gas access.
- Supports New York's climate goals by offering a cleaner alternative to trucked deliveries and boosting system reliability during extreme weather.
- Reduces high energy costs and reliance on high-emission fuels like heating oil.

**CONNECTING
CONSUMERS TO
CLEAN ENERGY**

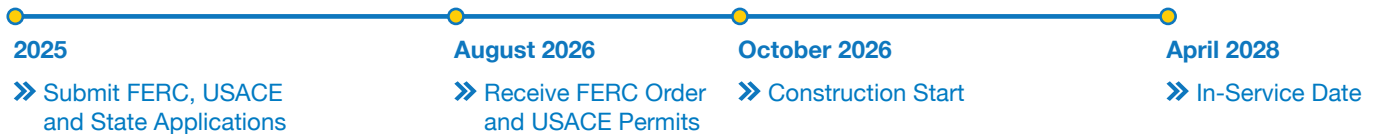
A LEADER IN CLEAN ENERGY INFRASTRUCTURE



Pipeline Route

Constitution will consist of approximately 135 miles of 30-inch pipeline extending from Susquehanna County, PA, into Broome County, NY, Chenango County, NY, Delaware County, NY, and terminating in Schoharie County, NY.

Project Timeline



ABOUT WILLIAMS

Williams (NYSE: WMB) has built and operated our nation’s critical infrastructure for over 100 years and today owns and operates energy infrastructure that delivers affordable, reliable and clean energy that is used every day to heat our homes, cook our food and generate our electricity. Williams stands ready to deliver infrastructure solutions and projects that meet our country’s potential to achieve energy dominance and support our country’s ability to lead the world in delivering the next generation of technology innovation.



LEARN ABOUT WILLIAMS' CONSTITUTION PROJECT

Exhibit B



Public Service Commission

Rory M. Christian

Chair and
Chief Executive OfficerThree Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov

February 26, 2024

BY FAX AND REGULAR MAIL

Mr. Thomas Berkman, General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233
Thomas.Berkman@dec.ny.gov

Subject: DEC Application IDs: 3-1326-00211/00001 (Dover Compressor Station);
4-1922-00049/00004 (Athens Compressor Station)

Dear Mr. Berkman:

The Department of Public Service (DPS) submits this letter in response to a request, dated January 24, 2024, from the Department of Environmental Conservation (DEC) for additional information for consideration in furtherance of DEC's review of the Iroquois Enhancement by Compression Project (ExC Project), currently pending pursuant to the above-referenced applications. Pursuant to the review required under Section 7(2) of the Climate Leadership and Community Protection Act (Climate Act) and in the event DEC determines that the ExC Project is inconsistent with its regulations establishing statewide greenhouse gas emissions limits, DEC is seeking a detailed statement from DPS as to whether the ExC Project is justified with respect to supporting the safety and reliability of the New York gas system.¹ DPS has reviewed the ExC Project from the perspective of its core statutory obligation to ensure the provision of utility service in a manner that is "safe and adequate and in all respects just and reasonable" (Public Service Law § 65(1)), and under the statutory obligation under Section 7(2) of the Climate Act. DPS determined that the ExC Project is justified based on the role it would play in ensuring gas system reliability in the service areas of both Consolidated Edison Company of New York, Inc. (Con Edison) and National Grid.²

I. Gas System Planning and Criteria

DPS is responsible for, among other things, reviewing the preparedness of each gas utility in the State to reliably serve customers. DPS conducts an annual review that evaluates the

¹ Chapter 106 of the laws of 2019 (Climate Act) §7.

² National Grid serves customers through two operating utilities in the downstate region, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid.

projected customer requirements (referred to as load or demand) associated with the potential weather conditions for the upcoming winter season and whether the utility's gas supplies and capacity are capable of meeting those customer requirements. DPS initiates the review by sending a questionnaire in May to each of the eleven gas utilities in New York State having at least 15,000 customers.³ In their responses, each of the gas utilities provides seasonal load forecasts for normal and "design day" weather conditions, as well as for design winter and an annual five-year load forecast for the design day and winters. The utilities also provide information on contracted amounts of capacity to serve that load. The capacity used to serve load includes contracts for daily deliverability on interstate pipelines, natural gas held in storage caverns and withdrawn in the winter, and peaking supplies that the utilities can call upon to meet customer demand.

DPS presents the results of this review at the October session of the Public Service Commission (PSC) as part of a presentation item, entitled "Winter Preparedness of the Natural Gas and Electric Systems."⁴ Because the acquisition and/or construction of some gas-supply assets related to addressing design day demand require significant lead times, the utilities engage in longer term planning to ensure that their systems will continue to be able to reliably serve customers on a design day in future years. At present, the appropriate planning criteria and the options to meet customer demand are being examined in the long-term gas plans filed by each gas utility. Con Edison filed its long-term plan in mid-2023 and National Grid will file its long-term plan in the Spring of 2024.⁵

The load forecasts of all the State's gas utilities are examined by DPS in the context of gas utility rate cases; specifically, through determining whether the recovery of costs for capital projects associated with meeting load is justified. Gas system planning and forecasting is also the subject of management audits, which are conducted by law on a five-year cycle for the larger gas utilities. In addition, the costs of gas pipeline capacity, storage and commodity purchasing are reviewed by DPS annually as part of its review of the gas adjustment clause mechanism, and the results of DPS's analysis are presented to the Commission at the December session annually.⁶

A. Projection of Design Day Demand

Each utility bases the supply needs of its gas distribution systems on the peak demand – typically measured by the design day – of its system. On the demand side of the equation, the utilities generally apply best practices informed by actual operating history, the policies adopted by the Federal Energy Regulatory Commission (FERC) and the PSC, as well as industry standards. For example, "design day" is defined as a 24-hour period of demand used as a basis

³ Case 23-M-0230, *Report on the New York State Electric & Gas Supply Readiness for 2023-2024 Winter*, Con Edison Responses to Winter Supply Review Letter and Questionnaire (filed July 19, 2023); Case 23-M-0230, *supra*, National Grid Winter Supply Review (filed July 20, 2023).

⁴ The DPS Winter Supply Presentation can be found at: <https://dps.ny.gov/winter-prep-2023-session-presentation>.

⁵ Case 20-G-0131, *Gas Planning Proceeding*, Order Adopting Gas System Planning Process (issued May 12, 2022), p. 65; Case 23-G-0147, *Con Edison and Orange and Rockland Utilities, Inc. – Long-Term Gas System Plan*.

⁶ See, e.g., Case 22-G-0464, *In the Matter of the Filing of Annual Reconciliation of Gas Expenses and Gas Cost Recoveries*.

for planning gas capacity requirements.⁷ Gas utilities specify their design day as a 24-hour period with the coldest average temperature, or the highest number of “heating degree days” or “HDDs,” for which a utility must ensure that its system can reliably meet customer demand.⁸

The HDD concept is based on the presumption that neither heating nor cooling is needed for an individual to be comfortable when the ambient temperature is 65°F. Under this presumption, HDDs are determined as follows:

- First, identify each day of a year for which the average of the highest and lowest temperature is less than 65°F.
- Second, for each such day, calculate the HDDs by (1) adding the highest and lowest temperatures and dividing the number by 2; and (2) taking the result from (1) and subtracting it from 65. By way of example, if the high temperature for a particular day was 33°F and the low temperature was 25°F, mean temperature for that day was: $(33^{\circ}\text{F} + 25^{\circ}\text{F}) / 2 = 29^{\circ}\text{F}$. The number of HDDs for the day is thus: $65^{\circ}\text{F} - 29^{\circ}\text{F} = 36$.⁹

Utilities across New York plan for different “design day” weather based on the HDDs for the actual, historically experienced day for the lowest average temperature in their service territory. For upstate New York, some utilities use an HDD of 75 or greater as their design day, while Con Edison and National Grid in the New York City area use an HDD of 65, or an average temperature over a 24-hour period of 0°F.¹⁰ The design day represents realistic actual operating conditions, even if such conditions are unlikely to occur in one or another particular winter. Specifically, the design day represents a day where heating equipment is to operate at maximum load to ensure availability of fuel for heating and hot water appliances, which are directly tied to the health and safety of utility customers. To calculate customer demand on the design day based on how much natural gas customers use per HDD, each gas utility uses metered load data from the past one to three years. While some utilities have more complex formulae and employ statistical analyses, at a high level each utility multiplies the customers’ consumption per HDD by the number of HDDs for the “design day” to establish the highest anticipated demand of the utility’s system.

Recent policies adopted at the State and New York City levels have reduced the overall growth of gas demand in New York City. However, for a portion of the area served by both Con

⁷ <https://www.spglobal.com/commodityinsights/en/our-methodology/glossary>; see also State of R.I. Div. of Publ. Utilities and Carriers, “Investigative Report: Summary Investigation Into the Aquidneck Island Gas Service Interruption of January 21, 2019” (Oct. 30, 2019) (“RI Investigative Report”), found at: https://ripuc.ri.gov/sites/g/files/xkgbur841/files/eventsactions/AI_Report.pdf, pp. 42-43.

⁸ <https://www.eia.gov/energyexplained/units-and-calculators/degree-days.php>.

⁹ https://www.weather.gov/key/climate_heat_cool.

¹⁰ Case 23-M-0230, *supra*, National Grid Winter Supply Review (filed July 20, 2023), p. 1 (National Grid uses 65 HDD for its design day in its downstate service territories and 75 HDD in its upstate service territory); Case 23-M-0230, *supra*, Con Edison Responses to Winter Supply Review Letter and Questionnaire (filed July 19, 2023), p. 3 (Con Edison uses “a design criterion of zero-degree Temperature Variable,” or 65 HDD, for its design day).

Edison and National Grid, gas demand has continued to grow, albeit at a slower pace.¹¹ For example, the All Electric Building Act (AEBA),¹² enacted by the State in 2023 and effective in 2026, is expected to decrease growth in natural gas demand for new buildings but some growth in natural gas demand is still anticipated.¹³ This is because the AEBA limits the use of natural gas in new construction, consequently a number of existing buildings in New York City and Long Island that rely on fuel oil for heating may choose to convert to natural gas.¹⁴ Similarly, New York City Local Laws 97 and 154 impose limits on greenhouse gas emissions from buildings but both laws have phase in periods during some buildings may choose to convert to natural gas in the near term. While legislative proposals under consideration at the State level, such as the Affordable Gas Transition Act included in the FY2024-2025 Executive Budget, as well as PSC-led actions included as part of the Gas Planning Proceeding and the proceeding regarding Implementation of the Utility Thermal Energy Network and Jobs Act,¹⁵ are designed to drive additional reductions in gas demand, these changes will take place over the medium term. Efforts to maintain the safety and reliability of the gas delivery systems during the transition remain paramount.

Another area of consideration regarding gas demand relates to the use of gas by interruptible customers. Con Edison and National Grid rely on almost 3,000 interruptible natural gas customers in the downstate area who pay discounted rates in exchange for agreeing to switch to alternate fuels, typically low sulfur diesel, when called upon to undertake the fuel switch generally during the coldest days of the year. This general practice frees up gas for use as fuel for heat and hot water. However, when fuel oil prices are high, or there are delivery disruptions associated with fuel oil resulting from bad weather, some interruptible customers typically continue to use gas even when they are required to switch to their alternate fuel.¹⁶

¹¹ Case 23-G-0147, *supra*, Revised Long-Term Plan (filed September 25, 2023), p. 44; Case 19-G-0309 and 19-G-0310, *National Grid – Gas Rates*, PA Consulting’s Review of National Grid’s Greenpoint Vaporizer 13 & 14 Report (filed October 27, 2022), p.14.

¹² Chapter 56 of the Laws of 2023, Part RR.

¹³ Case 23-G-0147, *supra*, Revised Long-Term Plan (filed September 25, 2023), p. 44; Case 19-G-0309 and 19-G-0310, *supra*, PA Consulting’s Review of National Grid’s Greenpoint Vaporizer 13 & 14 Report (filed October 27, 2022), p.14.

¹⁴ The U.S. Census Bureau’s American Community Survey (<https://data.census.gov/>) identifies approximately 743,000 households using fuel oil or kerosene for heating fuel in New York City and Nassau and Suffolk Counties in 2022.

¹⁵ *See, e.g.*, Case 20-G-0131, *supra*, Order Adopting Gas System Planning Process (issued May 12, 2022) (directing the filing of long-term gas system plans that seek to minimize new gas infrastructure, requiring utilities to develop non-pipeline alternative frameworks and implement such alternatives to avoid the need for additional gas infrastructure); Case 22-M-0429, *Implementation of the Utility Thermal Energy Network and Jobs Act*, Order Providing Guidance on Development of Utility Thermal Energy Network Pilot Projects (issued September 14, 2023) (explaining the current status of the seven utilities’ proposed pilot projects while providing guidance and a pathway for the projects’ further development and implementation).

¹⁶ Although some interruptible customers may use gas during interruptions, the utilities’ tariffs impose penalties in the form of charges for unauthorized use of gas, when interruptible customers fail to interrupt when required. *See, e.g.*, Gas Tariff of Con Edison, P.S.C. No. 9, Leaf 302.

Taking these issues into account, in their most recent filings made in Case 23-M-0230 (*see* p. 2, n. 3), both Con Edison and National Grid are projecting growth in design day demand over the next five years.¹⁷ Based on a consideration of historical growth and the likelihood of continued growth in gas demand the short term (while changes to building codes limiting new natural gas connections are implemented), and for the other reasons noted above, DPS finds that these forecasts are reasonable.

B. Design Day Supply

Today's gas utilities rely on a combination of assets to meet design day demand. These assets include pipeline gas in the form of capacity contracts and delivered services, as well as certain peaking assets. Once a utility presents a forecast of load for design day for the current customer mix, the utility determines whether its existing assets are capable of meeting demand and, if not, the additional assets that must be acquired to meet the shortfall. In examining supply, the utility must also undertake a risk analysis in case of the unavailability of an asset. It is unusual for any single event to affect all of a utility's capacity assets, particularly given the availability of supply resources in the mid-Atlantic region upon which New York's gas utilities rely. However, as explained below, weather events can and often do cause a core gas supply asset to be unavailable.

There are two components to pipeline natural gas supply. The first is the physical natural gas commodity purchased from producers, and the second is capacity, or available space, on the pipeline network to transport that supply from the producers to the gas utility distribution system. In order to move the natural gas to the gas utility's distribution system there needs to be both space (*i.e.*, capacity on the interstate pipeline for the volume contracted) and compressor stations along the way to push the gas through the pipeline to a point of delivery. Gas utilities have longstanding arrangements for capacity on the pipeline network, in many cases dating back to when the pipelines were first constructed. Since the 1990s, FERC has encouraged competition on the interstate pipeline system.¹⁸ Now, numerous entities in addition to distribution utilities contract with pipelines for capacity, including electric generators and energy marketers.

In New York City, Con Edison and National Grid operate the New York Facilities System (NYFS), which can be thought of as a wheel that surrounds the New York City metropolitan area.¹⁹ The NYFS is a high-pressure pipeline system that connects to interstate pipelines, namely Iroquois, Transcontinental, Texas Eastern and Tennessee.²⁰ Each of these pipelines is fully contracted, meaning there is no available capacity on any of them in the winter.

¹⁷ Case 19-G-0309 and 19-G-0310, *supra*, PA Consulting's Review of National Grid's Greenpoint Vaporizer 13 & 14 Report (filed October 27, 2022), p.14 (Explaining that after conducting an independent review of National Grid's design day demand forecast, PA Consulting concludes that design day demand will continue to grow into the 2030s, albeit at a slower rate than during the past decade.); Case 23-G-0147, *supra*, Revised Long-Term Plan (filed September 25, 2023), p. 44 (Forecasting continued growth in design day demand through 2028, with declining design day demand thereafter.).

¹⁸ FERC Order No. 636, 59 FERC 61,030 (issued April 8, 1992).

¹⁹ Case 23-G-0147, *supra*, Revised Long-Term Plan (filed September 25, 2023), p. 20.

²⁰ *Id.*

All of these pipelines also deliver natural gas to New England, except Transcontinental, which ends in the downstate New York region. Additionally, all of these pipelines begin in the Gulf of Mexico region, except for Iroquois, which starts at the New York-Canadian border.

The majority of the capacity on these pipelines is held by local gas distribution companies in New York, New England, and other states, although in southern states electric utilities also hold capacity on interstate pipelines for their generation facilities. The gas utilities also rely on delivered services, that is, capacity held by energy marketers, who bundle pipeline capacity with commodity and sell it at market prices.²¹ When weather is very cold in the winter or very hot in the summer, high levels of competition for the capacity held by these energy marketers drives up commodity prices at various points in the northeastern United States, and a gas utility's ability to secure sufficient supply from the delivered services market is not guaranteed.

During most of the year, each gas utility relies entirely on gas obtained through the interstate gas pipeline system; however, during the winter, gas obtained through the interstate gas pipeline system accounts for meeting only about 50% of total gas demand. The downstate gas demand has significantly grown over the last two decades as customers have shifted from fuel oil to natural gas. Between 2010 and 2020, the number of gas customers served by Con Edison and National Grid's downstate affiliates increased by 83,623 and 123,574, respectively, with some of the customers representing the largest buildings in the downstate region.²² During this same period, Con Edison and National Grid's downstate affiliates have seen an increase in gas demand of 43.4% and 15.7%, respectively.

Two traditional mechanisms used by interstate pipeline companies to meet this increased demand is the addition of gas compression and the construction of parallel pipelines to increase the ability to serve customer growth. However, proposals to construct new pipelines in the northeast states have not advanced. As a result, New York's gas utilities are becoming increasingly reliant on contracting with marketers with existing contracted capacity in order to obtain enough incremental supply to meet demand on their distribution systems. The available capacity owned by marketers and provided as "delivered services" – a peaking asset – is uncertain, especially in the future, resulting in gas utilities moving to nontraditional and less reliable supply options to meet demand on the design day.

When the weather gets very cold, the utilities rely on peaking assets. For New York utilities, peaking assets are comprised of delivered services (*i.e.*, capacity on the interstate pipeline system held by others such as marketers and electric generators), on-system storage such as liquified natural gas (LNG), and/or trucked gas in the form of compressed natural gas (CNG). Utilities typically purchase delivered services, provided by marketers that hold interstate pipeline capacity, in increments of 45 days or less during a winter season. The utilities procure delivered services through a request for proposals process at the beginning of each winter, although some

²¹ Case 20-G-0131, *supra*, Order Instituting Proceeding (issued March 19, 2020), pp. 7-8.

²² The increase in gas customers is determined by comparing the reports filed by the utilities in 2010 and 202, which can be found at: <https://dps.ny.gov/completed-annual-reports-regulated-utilities>.

contracts last multiple years. A few electric generators have agreements with the utilities to release pipeline capacity in the winter when electric demand is low; however, a generator can end these agreements with short notice and when a generator has a new owner this is more likely.²³ Delivered service contracts are reliable generally because they rely on the same pipeline capacity of which the utilities take advantage but, because they are short-term contracts, they cannot be relied on to always be available.

Gas utilities also generally have access to LNG as a peaking asset. Such facilities create the LNG by liquefaction of pipeline gas during the summer months when demand is low; however, it takes most of the year to fill onsite LNG storage tanks, as the liquefaction process is slow, and the tanks can be run dry in just a few days if the output is maximized.²⁴ Because the utility directly controls the LNG, and volume is limited, utilities typically use LNG only when they have already maximized the use of all other available assets.

Another peaking asset generally relied upon by the gas utilities is CNG. However, because CNG is delivered by truck and releases to gas injection sites, reliance on this asset can be problematic when it is needed most on the coldest days of the year, which can correspond with major snowstorms or high wind events. At minimum, such weather events can make delivery of CNG risky and, at most, impossible if the weather event results in the closing of bridges or other transportation routes used to access gas injection sites.²⁵

C. Potential Consequences of Inadequate Design Day Supply

It is critically important for each utility to ensure that its gas system can operate safely and adequately on the design day given the utility's role in ensuring the health and safety of New York State residents who rely on natural gas for heating and hot water during the coldest days of the year. Should the gas system not have adequate supply and capacity to meet design day demand, the results can be catastrophic. To avoid potential unsafe operating conditions, the gas utility would need to curtail customers' usage by shutting off parts of its system. If such curtailments extend to residential customers, those customers would be without their primary – and potentially only – source of heat on what would invariably be one of the coldest days of the year.

Unlike the restoration of electric service, which can happen quite quickly after an interruption, an interruption of gas service to residential customers can take weeks and even

²³ Cases 19-G-0309 and 19-G-0310, *supra*, Order Denying Cost Recovery for the Vaporizers 13 & 14 Project (issued March 16, 2023), pp. 10, 24-25.

²⁴ Cases 19-G-0309 and 19-G-0310, *supra*, National Grid Greenpoint Vaporizers 13 & 14 Long Term Capacity Project Report (filed August 29, 2022), pp. 23-24.

²⁵ Cases 19-G-0309 and 19-G-0310, *supra*, PA Consulting's Review of National Grid's Greenpoint Vaporizer 13 & 14 Report (filed October 27, 2022), p. 28; "Winter at the MTA," <https://new.mta.info/guides/weather-service-guide/winter-weather> (Explaining that winter weather can result in "reduced road capacity or closures" and speed restrictions or intermittent closures" on bridges.); "A Look at a Few Times the Verrazzano-Narrows Bridge was Closed" (SILive.com December 2, 2020), <https://www.silive.com/news/2020/12/at-look-at-a-few-times-the-verrazzano-narrows-bridge-was-closed.html> (Reporting on the complete closure of the Verrazzano-Narrows Bridge on Monday, November 30, 2020 due to high winds.).

months to restore in a safe manner. The reason for the lengthy time of restoration is because utility personnel must go from building-to-building to ensure all appliances are turned off prior to restarting gas service.²⁶ Otherwise restoration of service could result in gas spreading into a building, resulting in a significant fire hazard and risk to public health. For this reason, it is critically important to maintain gas system reliability at all times. With that said, the existing assets relied upon by Con Edison and National Grid have little to no headroom for design day growth and, as discussed next, these utilities are already overly relying on CNG – an inherently unreliable source of gas during the cold winter months.

II. The ExC Project is Needed to Maintain System Safety and Reliability

The ExC Project is sponsored by the owner of the Iroquois Gas Pipeline (Pipeline), a 414-mile interstate pipeline that begins in Canada, traverses south-southwest across New York, crosses into Connecticut near Dover Plains, crosses the Long Island Sound into Long Island where it delivers gas into the New York Facilities System, the transmission system jointly operated by Con Edison and National Grid in the New York City metropolitan area. Upon entering Long Island, some gas is diverted to a spur connected into the Pipeline that provides gas to National Grid's customers through a meter station located in South Commack. From the South Commack area, the Pipeline traverses back offshore and terminates at a meter station located at Hunts Point, Bronx, where it provides gas to Con Edison's customers. The proposed ExC Project would, among other things, increase compression capability at two existing compression stations; the first located in Athens, New York, and the second located in Dover Plains, New York. The ExC Project would result in increasing the firm delivery capacity of the Pipeline by an additional 125,000 dekatherms (Dth) per day to the downstate New York natural gas market, with the additional capacity evenly split (62,500 Dth/day each) between National Grid's and Con Edison's downstate gas delivery systems.²⁷

The ExC Project would enable Con Edison and National Grid to offset most of the need for CNG, a peaking option of last resort, during the winter season and diversify the gas supply into New York City to mitigate against potential interstate pipeline curtailments. For example, during periods of high demand, to supplement gas supplies from the interstate pipeline system, National Grid relies on approximately 79,000 Dth/day of CNG, a supply that carries a relatively high risk of failure.²⁸ By the winter of 2025-2026, to maintain adequate gas system pressures on the coldest days of the year, National Grid would potentially need over 200 tanker trucks per day

²⁶ For example, on January 21, 2019, the Narragansett Electric Company, known to its customers as National Grid, shut down a significant portion of its natural gas distribution system in Newport and Middletown on Aquidneck Island, resulting in a seven-day outage to over 7,000 natural gas customers. Governor Gina Raimondo declared a state of emergency as a result. *See* RI Investigative Report. The RI Investigative Report explains the danger to customers that would occur from the “sudden return of flow into pilot-driven appliances that had lost gas.” *Id.*, p. 33. The report notes that a “virtual army of technicians and staff descended on the Newport area to complete the restoration process meter by meter in difficult conditions.” *Id.*, p. 67.

²⁷ FERC Docket No. CP20-48-000, Enhancement by Compression Project, Abbreviated Application of Iroquois Transmission System, L.P. for a Certificate of Public Convenience and Necessity (filed January 31, 2020), pp. 8-12.

²⁸ Case 19-G-0309 and 19-G-0310, *supra*, PA Consulting's Review of National Grid's Greenpoint Vaporizer 13 & 14 Report (filed October 27, 2022), p. 28.

to inject CNG into its distribution system. As noted, CNG is a peaking option of last resort given that weather conditions on the coldest days of the year may make CNG deliveries unreliable. Indeed, the coldest days of the year when CNG is used often corresponds with dangerous road conditions, and potentially road closures. On top of the unreliability of CNG truck delivery there are also GHG emissions associated with delivering CNG by tanker trucks that are avoided through pipeline delivery of such fuel.

A gas supply disruption event that occurred on Christmas Eve in 2022 during Winter Storm Elliott – a bomb cyclone – illustrates the risks of over-relying on gas supply from interstate pipelines located to the south of New York City and CNG during severely cold winter weather. During the event, a fast-moving cold front swept across the eastern seaboard causing temperatures to fall from the 50s into the single digits, which, in turn, caused icy conditions that impacted equipment on the natural gas system. Because of low temperatures, electric generators along the Eastern U.S. experienced higher demand than anticipated. While generators in New York have the capability to use alternatives to gas as fuel during such events, that capability does not exist in other northeastern states. Thus, Winter Storm Elliott resulted in electric generators withdrawing more gas from the interstate gas system than available under contract, resulting in less available gas supply for customers of Con Edison and National Grid.

During Winter Storm Elliott, Con Edison called on its CNG vendor to bring in those peaking supplies to ensure adequate gas pressure.²⁹ DPS, however, is aware that Con Edison did not receive the full expected volume of CNG. As a result, Con Edison and National Grid mobilized personnel in the field in preparation for curtailment of potentially thousands of firm heating customers. In the end, the two utilities were barely able to provide adequate supply during Winter Storm Elliott until the temperatures increased, and weather improved. Specifically, the systems were able to maintain enough gas pressure to avoid customer curtailments. Of note, while the temperatures in New York City reached a low of 7°F,³⁰ Winter Storm Elliott did not come near the design day for either utility. In other words, had the weather been colder, the utilities would likely have been unable to avoid thousands and potentially millions of gas outages. The Winter Storm Elliott event thus demonstrates the risks associated with over-reliance on CNG to address the need for supplements to a utility's gas supply, as well as the need to diversify the utilities' gas supply resources into the downstate region to maintain safety and reliability, even as State and local actions reduce demand pressures on the system over time.

FERC carried out an investigation into Winter Storm Elliott and issued a report in November 2023 (FERC Report).³¹ FERC noted at the outset of its report that Winter Storm Elliott “was the fifth [storm] in the past 11 years in which unplanned cold weather-related

²⁹ FERC, *Inquiry into Bulk-Power System Operations During December 2022 Winter Storm Elliott* (published October 2023), pp. 12, 21.

³⁰ According to the National Weather Service, in New York City, the minimum temperature on December 23, 2022 was 8°F, the maximum temperature on December 24, 2022 was 15°F and the minimum temperature was 7°F. See, National Weather Service “NOWData” accessible at <https://www.weather.gov/wrh/Climate?wfo=okx>.

³¹ See FERC, *Winter Storm Elliott Report: Inquiry into Bulk-Power System Operations During December 2022*, dated November 7, 2023 (Elliott Report), found at: <https://www.ferc.gov/media/winter-storm-elliott-report-inquiry-bulk-power-system-operations-during-december-2022>.

generation outages jeopardized grid reliability” and, “while some changes were implemented in response to previous cold weather events, generators and natural gas supply and infrastructure remain vulnerable to extreme cold weather.”³² FERC found that “Winter Storm Elliott caused unplanned outages of natural gas wellheads due to wellhead freeze-offs and other frozen equipment” and “[w]eather-related poor road conditions prevented necessary maintenance.”³³ FERC concluded that this confluence of circumstances resulted in “significant natural gas production decreases,” with the greatest declines experienced “in the Marcellus and Utica Shale formations, where it dropped by 23 to 54 percent during the Event.”³⁴

FERC’s findings related to the downstate region of New York merit special emphasis:

Con Edison “faced reliability threatening low pressures at its citygate on all the interstate natural gas pipelines that it relies upon. Con Edison maintained its natural gas local distribution system pressure by using its own liquified natural gas (LNG) facility, among other measures. Had Con Edison not activated its LNG facility and taken its other emergency measures, or had the cold weather lasted longer, it could have faced large scale outages.”³⁵

FERC explained that individual dwellings would have been catastrophically impacted had Con Edison lacked access to its own source of gas: “[F]or the natural gas local distribution system to return system outages to normal operation, workers must go house-to-house and individually light every pilot light. Con Edison estimated it would have taken months to restore service, even with mutual assistance from other utilities, had it experienced a complete loss of its system.”³⁶ Had Con Edison lacked access to its own LNG facilities or temperatures been lower during the event, potentially millions of New Yorkers would have been without heat and hot water during the coldest winter months. The FERC Report contained several recommendations to address future weather events like Winter Storm Elliott, including consideration of whether “additional natural gas infrastructure needs, if any, [are] needed to ensure the continued reliability of the electric and natural gas systems, and the preferred locations of such infrastructure, if applicable, including pipeline infrastructure, natural gas storage, and other supporting systems.”³⁷

As an agency with responsibility for ensuring that the State’s utilities maintain the reliability of their energy systems, DPS takes seriously the findings and recommendations made in the FERC Report and believes that the report’s findings and recommendations are directly relevant to the proposed ExC Project. As applied here, the ExC Project would provide for greater diversity with respect to firm gas pipeline supplies into New York by building upon the existing

³² Elliott Report, pp. 5-6, 9.

³³ *Id.*, p. 9.

³⁴ *Id.*

³⁵ *Id.*, p. 12.

³⁶ *Id.*

³⁷ *Id.*, p. 143.

Iroquois system, which provides service from the north with supply located in Canada, rather than the southern Marcellus and Utica supply areas impacted by Winter Storm Elliott.

The ExC Project would also enable Con Edison and National Grid to avoid their overreliance on short-term delivered services contracts provided by marketers. These contracts are available through FERC's capacity release markets, which allow short-term contracts such as these to be priced at whatever the market will bear and are not guaranteed to be available to New York's utilities when needed. If Con Edison and National Grid are unable to successfully negotiate continuation of their peaking supply contracts, customers would be at risk of losing gas service on cold days. Iroquois transports gas from the north and west, whereas most other pipelines serving the region originate south of New York. Thus, supply on Iroquois diversifies the mix of gas sources available to Con Edison and National Grid and the ExC project would add to that diversification.³⁸

In sum, based on its review of the FERC Report and current understanding of the gas supply system for New York City and Long Island, DPS identified two separate reliability-related problems that need to be addressed as soon as practicable: (1) Con Edison and National Grid are over-relying on CNG and other delivered services, neither of which may be available on the coldest days of the year; and (2) there are winter-related risks associated with gas supplies provided from delivery systems located to the south of New York City. The ExC Project would address both of these existing reliability problems by both adding firm capacity into the downstate region, which would offset Con Edison's and National Grid's reliance on third parties for CNG and delivered services, and providing operational flexibility in case of supply decreases from pipelines located to the south of New York City in emergency situations, such as what occurred during the Christmas Eve 2022 supply event.

³⁸ DPS's determination regarding the need to diversify the gas supply into the Citygate takes into account a gas pipeline project recently completed by the Tennessee Gas Pipeline Company that added 115,000 Dth/day of firm transportation capacity to Con Edison. The transmission line at issue with respect to that project provided increased gas supply from areas south of New York City. See <https://www.federalregister.gov/documents/2021/09/30/2021-21265/tennessee-gas-pipeline-company-llc-notice-of-availability-of-the-final-environmental-impact>.

In conclusion, DPS has reviewed the proposed ExC Project and the impacts it would have on the operation of the gas systems run by Con Edison and National Grid. Based on that review, DPS has determined that the ExC Project is necessary to ensure Con Edison's and National Grid's continued provision of safe, adequate, and reliable gas service to customers in the downstate region.

Respectfully submitted by,

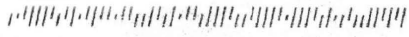
Robert Rosenthal

Robert Rosenthal
General Counsel

Chris Stolicky

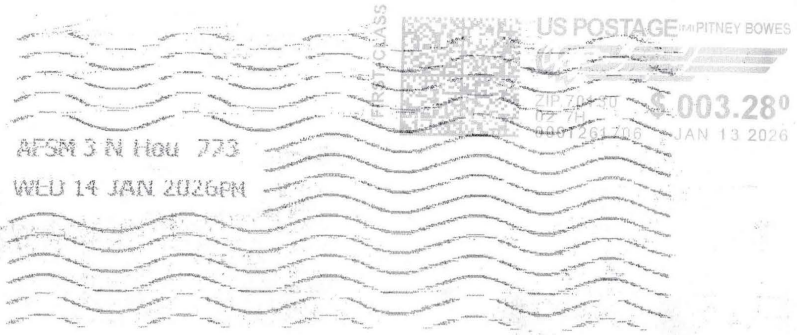
Chris Stolicky
Chief Gas System Planning & Reliability
Office of Energy System Planning &
Performance

Exhibit C



STITUTION PIPELINE

Box 448
derhook, NY 12106



Philip J Hulbert, Et al
895 Brickhouse Hill Rd
East Meredith, NY 13757



CONSTITUTION PIPELINE

Constitution Pipeline Company, LLC

PO Box 448

Kinderhook, New York 12106

Philip J Hulbert, Et al
895 Brickhouse Hill Rd
East Meredith, NY 13757

January 9, 2026

Re: Constitution Pipeline Company, LLC (Constitution)
Federal Energy Regulatory Commission
Docket Nos. formerly CP13-499-000 and CP18-5-000
Courtesy Notice of Petition of Constitution Pipeline Company, LLC for Reissuance of Certificate and
Reaffirmance of Waiver Determination
Docket Nos. CP13-499-006 and CP18-5-004
24.-1-14 – NY-DE-185.000
Davenport, Delaware County, New York

Dear Landowner:

The Williams Companies, Inc. ("Williams") owns interstate natural gas transmission pipeline systems operated by its subsidiaries that transport natural gas from production areas to customers such as utility companies and power plants located throughout the northeastern United States. Constitution is an affiliate of Williams.

As you may be aware, on June 13, 2013, Constitution submitted an application for a Certificate of Public Convenience and Necessity (Certificate) to the Federal Energy Regulatory Commission (FERC) under Section 7(c) of the Natural Gas Act for construction and operation of the Constitution Pipeline Project (Project). The Project was proposed to add approximately 650,000 dekatherms per day of additional natural gas transportation capacity through a combination of new pipeline and new above ground facilities. The Project was reviewed by the FERC in Docket Number CP13-499-000 and a Certificate was issued in December 2014. The Certificate was subsequently extended through December of 2020. Constitution did not request another extension, and the Certificate was vacated in January 2022 as moot.

On December 19, 2025, in accordance with the President's Executive Orders *Unleashing American Energy*, Executive Order 14154, and *Declaring a National Energy Emergency*, Executive Order 14156, Constitution submitted a filing to the FERC entitled *Petition of Constitution Pipeline Company, LLC for Reissuance of Certificate and Reaffirmance of Waiver Determination* ("Petition") as referenced above. Should the Petition be approved and all applicable authorizations obtained, the Project will be constructed with a target pipeline in-service date of Fourth Quarter 2027.

Project Information

You are receiving this courtesy notification letter because one or more of the following situations apply.

- Your property is directly affected (i.e., crossed or used) by the proposed Project, including all facility sites, right of way, access roads, pipe, and contractor yards, and temporary workspace
- Your property abuts either side of an existing right of way, or facility site owned in fee by Constitution, or abuts the edge of a proposed facility site or right of way which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of the proposed construction work area

You may receive some information from the FERC about the Project. During its review of Constitution's Petition, the FERC assesses potential impacts to private property, the environment, and communities.

As a courtesy, we are providing the following information regarding the Project:

- A Project location map showing the location and listing of the proposed and previously approved Project facilities.
- A copy of the Notice of Petition issued by the FERC.
- A list of libraries where the public may review the Notice of Petition.
- A copy of the pamphlet prepared by the FERC entitled, "An Interstate Natural Gas Facility on My Land? What Do I Need to Know?" This pamphlet includes information which describes the FERC certificate process, your right to participate in that process, the process the applicant must follow, and in general terms the property acquisition process. Please note that this pamphlet is being provided for general informational purposes to all affected landowners and the version in effect in 2013 was previously provided as part of Constitution's original Certificate application in 2013. Since Constitution has now filed a Petition to reissue the Certificate, not a new application, some of the information in the pamphlet, including some of the references to the FERC process which relate solely to new applications, do not apply.

You may obtain a copy of the Petition materials at the e-Library link at www.ferc.gov. Information about the Project is also available on our website at <https://www.williams.com/expansion-project/constitution-pipeline>. Questions pertaining to the Petition proceedings may be directed to the FERC's Office of External Affairs at (866) 208-3372 or by mail at: Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC 20426 or by hand or other delivery method to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

During the period of review of Constitution's Petition, you have the right to participate using the process outlined in the Petition (the deadline for filing comments is included in the enclosed Notice of Petition from the FERC). If you file a comment, you should include the docket number listed at the top of this letter and provide specific reasons for your comment. The comment should be mailed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC 20426 or by hand or by other delivery method to the attention of Ms. Reese at 12225 Wilkins Avenue, Rockville, Maryland 20852. You may also comment on the record at the e-filing link at www.ferc.gov. Also, a copy of your comment can be mailed to Constitution Pipeline Company, LLC, PO Box 448, Kinderhook, New York 12106.

Eighty-seven percent of the property needed to construct the Project was previously acquired. However, should Constitution's Petition be granted by the FERC, and any property rights that were reviewed and approved by the FERC were not previously acquired by Constitution, and in the event that Constitution and any landowner are unable to reach an agreement for the property rights needed for the Project, then Constitution may initiate

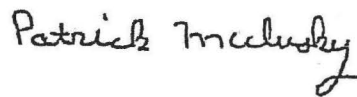
proceedings under federal eminent domain procedures to acquire these property rights. Constitution's right to use eminent domain to acquire the necessary property rights to construct, operate and maintain the Project facilities on a landowner's property is a statutory right granted by the United States Congress in Title 15, Section 717f (h) of the Natural Gas Act. The rights of property owners in an eminent domain process may include, but would not be limited to, the right to challenge the nature and extent of the proposed acquisition of the property rights and the right to have the value of the property rights determined in a judicial proceeding in which they may participate.

Constitution's goal is to reach mutually acceptable agreements with all landowners regarding the necessary property rights associated with the Project.

As you may be aware, Constitution previously completed several types of required field surveys along a study corridor. As stated above, Constitution has access to a significant majority of all the property rights needed to construct the Project. At some point, you may see Constitution's agents or invitees walking in areas where Constitution has rights of access in order to verify certain regulated features. This work involves surface studies only and will be non-invasive. Constitution will have Right of Way agents in your area who will gladly answer any questions that you may have. Once begun, each of these surveys should take not more than a day or two to complete. Finally, if Constitution requires any additional or advance coordination relative to the non-invasive survey work, we will contact you to discuss this.

We understand that you may have questions about the Project, and we are available to address any questions, comments, suggestions or concerns you may have. Please feel free to contact our Land office at **(800) 286-5317**. You may also contact me by email at patrick.j.mcclusky@williams.com.

Sincerely,



Patrick McClusky
Lead Land Representative

cc: Anne Marie Garti, Esq.

Enclosures

Exhibit D

ASSIGNMENT AND ASSUMPTION OF EASEMENTS AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF EASEMENTS AGREEMENT (this "*Assignment Agreement*") is made and entered into as of the 29th day of June, 2022, by and between CONSTITUTION PIPELINE COMPANY, LLC, a Delaware limited liability company, with offices located at 2800 Post Oak Boulevard, Houston, TX 77056 ("*Assignor*"), and WILLIAMS PIPELINE SERVICES, LLC, a Delaware limited liability company, with offices located at 2800 Post Oak Boulevard, Houston, TX 77056 ("*Assignee*").

WITNESSETH THAT:

WHEREAS, Assignor has agreed to assign, and Assignee has agreed to accept the assignments and assume Assignor's easements for the Constitution Pipeline Project (the "*Project*");

WHEREAS, Assignor is the owner and holder of the easements for the Project which are incorporated herein by reference, which are the agreements listed on Exhibit A recorded in the land records of Schoharie County, New York (the "*Easements*");

WHEREAS, Assignor proposed to the Federal Energy Regulatory Commission ("FERC") to use the Easements for certain above ground and underground facilities (the "*Constitution Facilities*") which were approved by the FERC by Order Issuing Certificates dated December 2, 2014, at *In Re Constitution Pipeline Company, LLC*, Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (the "*Certificate Order*").

WHEREAS, on February 24, 2020, the operator of the Project, The Williams Companies, Inc. disclosed in public filings with the United States Securities and Exchange Commission that "[a]lthough Constitution received a certificate of public convenience and necessity from the FERC to construct and operate the proposed pipeline and obtained, among other approvals, a waiver of the water quality certification under Section 401 of the Clean Water Act for the New York portion of the project, the members of Constitution, following extensive evaluation and discussion, recently determined that the underlying risk-adjusted return for this greenfield pipeline project has diminished in such a way that further development is no longer supported."

WHEREAS, despite its continued belief in the Project's mission, which was to transport inexpensive and clean burning natural gas from Pennsylvania to New York and New England, the members of Constitution ultimately determined that further financial support of the Project's development was not the best use of either Constitution's financial or human resources.

WHEREAS, Constitution no longer needs possession of the Rights of Way for survey or construction, because the Project will not be built. The Certificate Order has now expired.

WHEREAS, none of the Constitution Facilities in the Easements are constructed.

Document Content(s)

2026.01.29 STP Protest_FINAL.pdf.....1