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October 16, 2015

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission (FERC)  
888 First Street, NE  
Room 1A  
Washington, DC 20426

Re: **Tennessee Gas Pipeline Company, L.L.C., Docket No. PF14-22-000, Northeast Energy Direct Project** and **Docket No. CP14-529-000 Connecticut Expansion Project**

Dear Secretary Bose:

The following comments are submitted in response to FERC's June 30, 2015 Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the planned Northeast Energy Direct Project (NED) and the September 3, 2015 Supplemental Notice extending the comment period until October 16, 2015. Mass Audubon appreciates FERC responding to requests for an extension of the comment deadline. These comments are also being submitted pursuant to Docket No. CP14-529-000, the Connecticut Expansion Project (CEP). It appears that these two projects are parts of a single program to increase gas supply from Tennessee Gas Pipeline Company (TGP) (a subsidiary of Kinder Morgan) into New England. We request that FERC consider comments regarding potential improper segmentation of review of these projects.

Mass Audubon has submitted comments to FERC previously under these dockets (Docket PF14-22-000: October 6, 2014, January 15, 2015, July 22, 2015, and September 10, 2015; Docket CP14-529-000: September 4, 2014, November 7, 2014, and April 10, 2015). We request that the following comments be considered in addition to previously filed comments.

Mass Audubon is a directly affected landowner, as the proposed NED project corridor crosses four parcels it holds for conservation purposes in Plainfield (Municipal Map/Block/Lot #s 19/0/1, 20/0/3, 25/0/3, and 20/0/1). Numerous other lands held by public and private entities for permanent conservation purposes will also be impacted, along with extensive areas of sensitive land and water resources. Mass Audubon also played a direct role in assisting the Massachusetts Department of Conservation and Recreation in protecting lands at Otis State Forest around Lower Spectacle Pond that are proposed to be impacted by the CEP.

The Scope of review for these projects should be thorough and complete, including:

- evaluation of the need for increased gas transmission capacity in the region;
- alternatives to meet energy needs while minimizing environmental impacts;
- analysis of the full life-cycle greenhouse gas (GHG) impacts of gas production and transmission through the proposed pipelines and associated equipment, and burning by the end users;
- site-specific evaluation of impacts to land and water resources;
- evaluation of alternatives to avoid impacts to protected private and public conservation lands, sensitive habitats on lands under any ownership, farmlands, wetlands and water resources, and other impacts to environmental and public health and well-being;
- detailed site-specific mitigation plans for any unavoidable impacts;
- compensation for unavoidable impacts to conservation lands, including protection of specific lands of equal or greater conservation value; and
- plans and commitments for ongoing monitoring and maintenance including habitat-based vegetation management and invasive species control on a continuing basis for the life of the project

All information should be presented on maps as well as in narrative form that is easily found and understood by the reader based on each specific affected location.

The EIS should fully employ use of all reasonably reliable available sources of information such as MassGIS datalayers and the UMass Conservation Assessment and Prioritization System.<sup>1</sup> Analysis of impacts and mitigation should also be based on actual site-specific conditions, not generic procedures e.g. standard procedures for crossing all types of wetlands or streams.

### **Project Need and Alternatives**

The need for alternatives to the project must be more fully and objectively analyzed, before any further steps are taken toward proceeding with this massive, expensive, and environmentally destructive project. This should include consideration of the study that Massachusetts Attorney General Maura Healey has commissioned on electricity reliability needs in the New England region through 2030 and the options for meeting those needs. This study, conducted by the Analysis Group and Raab Associates, will fill a pressing need for analysis of the costs and benefits of various alternatives including energy efficiency, demand response, renewables, natural gas, and oil. The study is expected to be completed this fall. It is vitally important from both an economic and environmental perspective to consider the results of this study before advancing environmental review of the proposed gas transmission infrastructure being proposed in the NED project as well as the Algonquin/Spectra Access Northeast Project.

Through the *Massachusetts Global Warming Solutions Act* of 2008, the Massachusetts legislature and Executive Branch set ambitious targets for reductions of GHG emissions by 25 percent by 2020 and 80 percent by 2050. This law and the *Massachusetts Green Communities Act* have catalyzed rapid progress in energy efficiency and development of renewable energy

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<sup>1</sup> UMass, Amherst, *A Natural Resources Assessment of the Tennessee Gas Pipeline Company's Proposed Northeast Energy Direct Project's Pipeline Route Within Massachusetts*, 2015.

sources, both of which are making important contributions to our economy and environmental health. For the past four consecutive years, Massachusetts ranked 1st in the nation in American Council for an Energy-Efficient Economy's scorecard of the states.<sup>2</sup> Meanwhile, a recent report indicates that as a result of the Regional Greenhouse Gas Initiative (RGGI), in which Massachusetts participates, nine states in New England and the Mid-Atlantic region have gained \$1.3 billion in economic benefits and saved electric ratepayers \$460 million while reducing carbon emissions by 15 percent.<sup>3</sup> The clean energy economy (renewables and energy efficiency) in Massachusetts has added more than 28,000 jobs since 2010 and is now a \$10 billion industry sector.<sup>4</sup> The NED project is incompatible with national, regional, and state policies and goals for GHG reductions, and comes with enormous, long term, avoidable environmental and economic consequences. Major new pipelines increasing our dependence on natural gas will make it more difficult, not less, to meet GHG reduction goals over both the short and longer term. Life-cycle emissions from gas often exceed that of other fossil fuels they replace, while also causing other major environmental impacts that can be avoided through greater emphasis on energy efficiency and renewables.<sup>5</sup> Furthermore, if gas is exported through the proposed pipeline, the purported energy price benefits to consumers in New England will most likely evaporate, since gas prices are much higher in global markets.

### **Project Scope and Impacts; Segmentation of NED and Connecticut Expansion**

TGP has recently announced significant changes to the NED project, including the elimination of several laterals and the reduction of the diameter of the main line from 36" to 30". While these may somewhat reduce the environmental impacts of the project, those impacts remain at an unprecedented scale. Meanwhile, it also is proposing the Connecticut Expansion project, which is directly connected with components of the NED project. A federal court ruling last year (*Delaware Riverkeeper Network v. FERC*, 753 F.3d 1304 (D.C. Cir. 2014)) found that FERC may not segment review under the National Environmental Policy Act when "it divides connected, cumulative or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration."

The Final Environmental Impact Report (FEIR) filed with the Massachusetts Environmental Policy Act office this year on the Connecticut Expansion project contains contradictory statements claiming on the one hand that it is a stand-alone project serving only three specific customers in Connecticut, but then also stating:

*The northeast, including Massachusetts and Connecticut, has the "highest natural gas prices" and price volatility in the United States because of a significant lack of pipeline capacity. The rise in natural gas prices experienced in the New England region over the past two winters "suggest a natural gas delivery system that is stretched significantly"*

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<sup>2</sup> <http://aceee.org/files/pdf/state-sheet/massachusetts.pdf>

<sup>3</sup> The Analysis Group, *The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States - Review of RGGI's Second Three-Year Compliance Period (2012-2014)*, 2015.

<sup>4</sup> Massachusetts Clean Energy Center, *2014 Massachusetts Clean Energy Industry Report*.

<sup>5</sup> [http://www.ucsusa.org/clean\\_energy/our-energy-choices/coal-and-other-fossil-fuels/environmental-impacts-of-natural-gas.html#.Va-DhvlViko](http://www.ucsusa.org/clean_energy/our-energy-choices/coal-and-other-fossil-fuels/environmental-impacts-of-natural-gas.html#.Va-DhvlViko)

*and is inadequate to meet the growing demand in the New England region; gas prices in New England are the highest in the United States. MADOER's Low Demand Study/Report dated January 7, 2015 acknowledged that the Northeast's natural gas infrastructure is stressed during peak winter periods and that there is insufficient natural gas capacity for the electricity sector which has contributed to high prices.*

(Purpose and Need Statement, CEP FEIR, March, 2014)

Setting aside for the moment the fact that we believe that this statement exaggerates the extent and impact of any short term gas “shortages” and price spikes, it is clear that the company sees the CEP as part of its larger scheme to increase gas transmission capacity to the region.

### **Conservation Lands Impacted**

More than one hundred parcels of “permanently protected” lands conserved by public and private entities will be impacted by this project. Massachusetts has a long history of thoughtful land and water conservation based on scientifically-based priorities. This carefully constructed matrix of protected lands encompasses 25 percent of the state. These lands are protected by Article 97 of the State Constitution and/or are held in public trust by charitable land trusts. It is ironic that a private, out-of-state company now views these areas as convenient for the construction of energy infrastructure at an unprecedented scale. A 2013 report on *The Return on Investment in Parks and Open Space in Massachusetts* found that every dollar invested in land conservation returned \$4 in natural goods and services to the Massachusetts economy, including clean air and water, recreation and tourism, and fish and wildlife habitat.<sup>6</sup> The Massachusetts Supreme Judicial Court has also recognized that lands held in conservation use by charitable trusts support a wide range of public benefits.<sup>7</sup> Before any further consideration of impacts to valuable conservation lands is considered, alternative means of meeting state and regional energy needs must be considered.

Article 97 states that:

*The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.*

The construction, operation, and maintenance of a gas pipeline and associated structures including compressor stations on or adjacent to conservation lands will clearly impact the natural, scenic, historic, and aesthetic values of those lands, and interfere with the public’s enjoyment of associated natural resources.

The conversion of lands held for permanent conservation purposes under Article 97 of the State Constitution and/or public charitable trust provisions is a serious matter that must only be considered in unusual circumstances where there is a clear showing of a lack of alternatives to address an important public interest. In this case, both the need for the pipeline and potential

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<sup>6</sup> [www.tpl.org/return-investment-parks-and-open-space-massachusetts](http://www.tpl.org/return-investment-parks-and-open-space-massachusetts)

<sup>7</sup> New England Forestry Foundation, Inc. vs. Board of Assessors of Hawley  
468 Mass. 138, <http://masscases.com/cases/sjc/468/468mass138.html>

alternative alignments must be analyzed in relation to each specific conservation parcel impacted.

Mass Audubon acquired and holds land at West Mountain Wildlife Sanctuary in Plainfield for conservation purposes. The proposed gas pipeline project is not compatible with our mission as a charitable trust of protecting and maintaining natural habitats for the benefit of people and wildlife. Nor is it consistent with our commitment to Mass Audubon's supporters and the many generous individuals who donate land or interests in land with the expectation that the natural characteristics of the land will be permanently protected.

The specific areas at West Mountain Wildlife Sanctuary in question contain mature, diverse forests with complex structural habitat features. The area also is characterized by steep topographic relief with exposed ledges and boulders as well as groundwater seeps and other microhabitat features. Blasting would be required. The forest habitat and supporting geology of the proposed pipeline corridor would be permanently and irreparably altered and degraded by the project. Even portions of the corridor termed "temporary" impact by the company would result in removal of the mature forest which would require more than a century to recover, if at all. Soil erosion and sedimentation, and alterations of ground and surface water flow patterns, water quality impacts, and temperature changes will occur even with the company's proposed environmental construction and restoration practices. Disturbed areas are also highly vulnerable to the spread of invasive species, the control of which is a costly and long-term endeavor.

Each parcel of land impacted by the proposed project, whether under public or private ownership, has its own unique attributes which must be carefully and separately considered.

### **Failure to Use Publicly Available Resource Data in Draft Resource Reports**

Massachusetts has an extensive, advanced land use and environmental database with information publicly available through MassGIS. Mass Audubon met with representatives of Kinder Morgan/TGP as early as April 28, 2014, and communicated to the company at that time about the wealth of natural resources data available that could assist in analyzing impacts of the proposed project and how to minimize those impacts. We also attended other meetings in 2014 with company representatives hosted by state agencies, and are aware of several communications from agencies and other environmental groups to the company informing them of these resources and how to utilize them. This information was not in fact employed as it could and should have been in the Resource Reports. Datalayers are available including BioMap2 and Priority Habitat maps documenting the most ecologically sensitive locations in the state, along with associated information explaining each of the features in those maps including the natural communities and species associated with them. The failure to utilize the available, scientifically-based resource information is a deficiency resulting in incomplete and superficial analysis of the potential significant impacts of the project.

Mass Audubon respectfully requests that FERC require, through its scoping and review of these projects, that best available data be utilized in preparing the EIS. We are also concerned that much of the information presented to date regarding proposed construction methods and follow-up monitoring and maintenance are generic in nature and not tailored to each specific site and the associated resources located there. The EIS should address each specific location, not generic resource categories.

## **Protection of the Environment to Massachusetts Standards**

Massachusetts has long been a leader in environmental protection. Its citizens are fortunate to have an environment protected by state laws including but not limited to the Massachusetts Wetlands Protection Act, Massachusetts Endangered Species Act, and Global Warming Solutions Act. The EIS should evaluate each element of the project in relation to state as well as federal standards, and the state standards should be upheld to the fullest extent possible. While we understand that interstate gas pipelines may be subject to federal preemption, this authority should be exercised in a limited manner and only when and where it is essential for an overriding public interest. Many other corporations operate on a regular basis in full compliance with these rules, and we expect the same from energy companies.

Sincerely,



Gary R. Clayton  
Acting President

Cc: Energy Facilities Siting Board  
MA Department of Public Utilities  
Attorney General Maura Healey  
MA Energy and Environmental Affairs Secretary Mathew Beaton  
Senate President Stanley Rosenberg  
Representative Stephen Kulik