

July 4, 2012

FERC
888 First Street, NE
Washington, D.C. 20426

Re: comment on the use of eminent domain given the speculative need for the proposed Constitution Pipeline, Docket number: PF12-9-000.

Today, in honor of the founding of our Nation, I wish to comment on the taking of private property for the construction and operation of interstate gas pipelines. The Fifth Amendment of the United States Constitution states that “[n]o 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.”¹

The Federal Energy Regulatory Commission (FERC) has the power to authorize the use of eminent domain for interstate pipelines and, in its evaluation of proposed projects, must ensure both due process of law and public need. A determination to take someone’s property must be done with great deliberation as Americans still believe that their homes and land are sacred – a place free from government interference. The right to exclude others from our land is deeply rooted in our common law, and exceptions to that right should occur only when absolutely necessary. Therefore landowners who believe that their rights have been violated may have their grievances heard and decided by the courts.

Williams Partners, L.P. (“Williams”) and Cabot Pipeline Holdings, LLC (“Cabot”) are currently proposing the Constitution Pipeline to serve the northeast, and have been given permission by FERC to pre-file an application. I question the need for this new pipeline.

Over the past three and a half years, FERC has approved almost 8 billion cubic feet per day (Bcf/d) of new transmission capacity in the northeast.² Less than half of the certified projects are in operation, and already the country is facing an unprecedented glut of natural gas that has driven prices down to record lows, and storage up to record highs.³ What will happen when the other half of the certified projects come online?

¹ U.S. CONST. amend. V.

² For purposes of this comment, the northeast includes: Pennsylvania, New York, New Jersey, Connecticut, Maine, Maryland, Virginia, and West Virginia. (The gas industry considers many more states to be part of the northeast region.) Since the beginning of 2009, FERC has approved the operation of 3,793.1 MMcf/d of new gas transmission, and certified applications of public need for another 4,145.9 MMcf/d of transmission capacity in those eight states. The number of pipelines and compressors placed in operation can be found at <http://www.ferc.gov/industries/gas/indus-act/pipelines/approved-projects.asp> and those that have been certified, but not yet operational, can be found within the list available at <http://www.ferc.gov/industries/gas/indus-act/pipelines/pending-projects.asp>.

³ Strictly Business blog, *High natural-gas supply keeps growing*, July 2, 2012, BUFFALO NEWS, <http://www.buffalonews.com/business/article930927.ece> (last visited July 3, 2012) [hereinafter *High natural gas supply*].

In spite of the oversupply of natural gas, and the fact that an additional 4Bcf/d of gas will be in the pipeline in the northeast in the next couple of years, Williams and Cabot are now proposing to build yet another pipeline that would add 650 MMcf/day of gas to the existing glut. It is possible that when Williams first formulated their plans for a new gas hub in Susquehanna County, Pennsylvania, that it made sense, but that is no longer true.

The estimated size of recoverable gas from Marcellus shale rose from 2 trillion cubic feet (TCF) in 2002 – to 50 TCF in January 2008 – to 363 TCF in November 2008 – to 410 TCF by 2011. Then, in August 2011, the estimated size of recoverable gas from Marcellus shale plummeted to 84 TCF.⁴

Presumably Williams started planning their proposed northeast hub before the five-fold decrease in the estimated supplies were announced by the USGS and the US Energy Information Administration. Williams' plans were probably also formulated prior to the mass departure of drilling rigs from Pennsylvania, and the drastic decrease in the number of rigs in operation nationwide.⁵

Currently the supply of natural gas in the northeast vastly outstrips demand, and prices are lower than the cost of drilling for the gas and delivering it to market. Yet Williams and Cabot are being allowed to send their landsmen door to door, threatening landowners with the use of eminent domain, and attempting to deny them their right of counsel. Landowners who have no interest in having their land taken are being forced into submission because a figurative gun is being pointed at their heads. That weapon is called eminent domain, and FERC is the agency that empowers private companies to carry it.

As this project works its way through the regulatory system, I ask you to contemplate your mandate, the meaning of public use, and the fundamental rights of landowners. I doubt that our founding fathers ever intended the taking of private property for the speculative profiteering by private companies.

Sincerely yours,

Anne Marie Garti

⁴ Mary Esch, *Estimated gas yield from Marcellus shale goes up*, November 3, 2008, EVENING SUN, <http://www.evesun.com/news/stories/2008-11-04/5593/Gas-yield-from-Marcellus-shale-goes-up/> (last visited February 3, 2012); Erich Schwartzel, *Marcellus Shale gas estimate plummets*, January 24, 2012, PITTSBURGH POST-GAZETTE, <http://www.post-gazette.com/pg/12024/1205614-454.stm> (last visited February 3, 2012); Daniel J. Soeder and William M. Kappel, *Water Resources and Natural Gas Production from the Marcellus Shale*, 3, 2009-3032, USGS, <http://pubs.usgs.gov/fs/2009/3032/> (last visited February 3, 2012); U.S. Energy Information Administration, *AEO2012 Early Release Overview*, January 23, 2012, U.S.EIA, http://www.eia.gov/forecasts/aeo/er/early_production.cfm (last visited February 3, 2012). (In general, ten percent of the total amount of gas is considered recoverable. See, Science News, *Unconventional Natural Gas Reservoir In Pennsylvania Poised To Dramatically Increase US Production*, January 17, 2008, SCIENCE DAILY, <http://www.sciencedaily.com/releases/2008/01/080117094524.htm> (last visited February 3, 2012).

⁵ *High natural gas supply*, *supra* note 3.

Document Content(s)

AM Garti_7_4_12.PDF.....1-2