

## 1.0 INTRODUCTION

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On April 30, 2004, KeySpan LNG, L.P. (KeySpan LNG) filed applications with the Federal Energy Regulatory Commission (FERC or Commission) under sections 3 and 7(b) of the Natural Gas Act (NGA). In Docket No. CP04-223-000, KeySpan LNG seeks authorization to upgrade its existing liquefied natural gas (LNG) storage facility in Providence, Rhode Island by converting it to an LNG terminal capable of receiving marine deliveries and by augmenting the facility's existing vaporization system. In Docket No. CP04-293-000, KeySpan LNG seeks authorization to abandon certain facilities that would be replaced by the proposed upgrade. On June 14, 2004, Algonquin Gas Transmission, L.L.C. (Algonquin), formerly doing business as Algonquin Gas Transmission Company,<sup>1</sup> filed in Docket No. CP04-358-000 an application with the FERC for a Certificate of Public Convenience and Necessity (Certificate) under section 7(c) of the NGA to construct, own, and operate a new natural gas pipeline and ancillary facilities to connect the proposed KeySpan LNG terminal to Algonquin's interstate gas transmission facilities and to establish initial rates for the pipeline facilities. For convenience and readability, the activities proposed by KeySpan LNG and Algonquin will be referred to comprehensively in this Environmental Impact Statement (EIS), as the KeySpan LNG Facility Upgrade Project (KeySpan LNG Project).

KeySpan LNG's proposed upgrade would increase the existing LNG facility's current capacity from 150 million cubic feet per day (MMcfd) to a total of 525 MMcfd. The proposed pipeline facilities would be designed to provide firm transportation for BG LNG Services, L.L.C. (BG LNG) of up to 500,000 decatherms per day (Dth/day).

The LNG facility upgrade would include:

- a ship unloading facility with a single berth capable of receiving LNG ships with cargo capacities of 71,500 to 145,000 cubic meters (m<sup>3</sup>);
- two 16-inch-diameter liquid unloading arms and a 24-inch-diameter liquid unloading line from the arms to the LNG storage tank;
- two vapor return blowers, a 12-inch-diameter vapor arm, and an 8-inch-diameter vapor return line;
- four boil-off-gas (BOG) compressors and a boil-off gas condenser;
- a two-stage LNG pumping system;
- an indirect fired vaporizer system with a capacity of 375 MMcfd;
- operations control buildings; and
- ancillary utilities and LNG facilities.

The natural gas pipeline facilities would include:

- a 1.44-mile-long 24-inch-diameter natural gas pipeline;

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<sup>1</sup> Algonquin is an indirect, wholly owned subsidiary of Duke Energy Corporation.

- a receipt point meter station and 30-inch-diameter pig launcher; and
- a 24-inch-diameter tap valve and 30-inch-diameter pig receiver at the point where the new pipeline would tie into Algonquin’s existing G-12 Lateral pipeline system.

The vertical line in the margin identifies text that has been modified in the final EIS and differs from the corresponding text in the draft EIS.

## 1.1 PURPOSE AND SCOPE OF THIS STATEMENT

The FERC is the federal agency responsible for authorizing applications to construct and operate onshore LNG import and interstate natural gas transmission facilities. As such, the FERC is the lead federal agency for the preparation of this EIS in compliance with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations for implementing NEPA (40, Code of Federal Regulations (CFR) 1500-1508), and the FERC’s regulations implementing NEPA (18 CFR 380). A draft EIS was prepared and issued for public comment on November 30, 2004. This document is a final EIS that has been prepared to respond to comments received on the draft EIS. The distribution list for the final EIS is provided in Appendix A.

Our<sup>2</sup> principal purposes in preparing this EIS are to:

- identify and assess potential impacts on the natural and human environment that would result from the implementation of the proposed actions;
- describe and evaluate reasonable alternatives to the proposed actions that would avoid or minimize adverse effects on the human environment;
- identify and recommend specific mitigation measures, as necessary, to minimize the environmental impacts; and
- facilitate public involvement in identifying the significant environmental impacts.

During the preparation of the EIS, FERC staff consulted with other agencies to obtain their input on the project in their respective areas of expertise. The U.S. Army Corps of Engineers (COE) is a federal cooperating agency. A cooperating agency has jurisdiction by law, permitting authority, or special expertise to participate in the review of a proposal with respect to any environmental impact involved in the proposal. The U.S. Coast Guard (Coast Guard) within the U.S. Department of Homeland Security and the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the U.S. Department of Transportation (DOT) have participated in the NEPA analysis under the terms of an interagency agreement between these agencies and the FERC. The purpose of the interagency agreement is to ensure that the FERC, the Coast Guard, and the DOT PHMSA work in a coordinated manner to address land and marine safety and security issues at waterfront LNG facilities, including terminal facilities and vessel operations. A preliminary version of the draft EIS was provided to the COE and the Coast Guard, and their comments were incorporated into the document. The Coast Guard and DOT reviewed preliminary sections of the final EIS, and their comments have been incorporated into this document.

<sup>2</sup> The pronouns “we,” “us,” and “our” refer to the environmental staff of the FERC’s Office of Energy Projects.

The FERC will consider the findings in this final EIS in its determination of whether the project should be approved. A final approval will only be granted if, after a consideration of both environmental and non-environmental issues, the FERC finds that the proposed project is in the public interest. The environmental impact assessment and mitigation development discussed herein will be important factors in this final determination.

Our analysis in this EIS focuses on the facilities that are under the FERC's jurisdiction (i.e., the facilities proposed to be constructed at the existing KeySpan LNG plant and the pipeline proposed to be constructed by Algonquin). Because they are integral to the proposed project, the EIS will also consider certain proposed nonjurisdictional facilities, including new sewer and electric connections.

The topics addressed in this EIS include alternatives; geology; soils and sediments; water resources; wetlands; vegetation; wildlife and aquatic resources; threatened, endangered, and special-status species; land use, recreation, and visual resources; socioeconomics; cultural resources; air quality and noise; reliability and safety; and cumulative impacts. The EIS describes the affected environment as it currently exists, discusses the environmental consequences of the proposed project, and compares the project's potential impact to that of alternatives. The EIS also responds to public comments on the draft EIS and presents our conclusions and recommended mitigation measures.

## **1.2 PROJECT PURPOSE AND NEED**

The KeySpan LNG Project is proposed in order to convert the existing KeySpan LNG facility to an LNG terminal capable of receiving marine deliveries, augment the facility's existing vaporization capability, augment the supply of LNG to fill the region's LNG storage facilities to meet peak day needs (i.e., via truck delivery); and provide 375 MMcfd of new, firm, reliable baseload supply of natural gas to meet the increasing energy demand in Rhode Island and the New England region beginning with the 2005/2006 winter heating season.

The new natural gas supply would be made available through LNG marine deliveries to KeySpan LNG's existing facility in Providence and through the proposed pipeline, which would connect the KeySpan LNG facility to the interstate pipeline system. KeySpan LNG notes that the project would diversify the region's energy supply options and provide local supply access to a region that has traditionally been reliant on petroleum, electricity, and natural gas supplied by long-haul pipeline deliveries from domestic sources, Canada, and, more recently, offshore Nova Scotia. The project would also permit the baseload utilization of LNG, which has generally been used as a winter peaking fuel in the New England market.

Each year the U.S. Department of Energy/Energy Information Administration (DOE/EIA) assesses the key energy issues, including economic growth, energy prices, energy consumption, energy intensity, electricity generation, energy production and imports, and carbon dioxide emissions. According to DOE/EIA's Annual Energy Outlook 2005 with Projections to 2025 Report (EIA, 2005a), energy consumption is predicted to increase nationally an average of about 1.4 percent per year until 2025. Energy consumption is expected to increase in all sectors, particularly in the transportation sector (1.8 percent increase per year), electric generation sector (1.8 percent increase per year), and the commercial sector (1.9 percent increase per year). Nationally, the demand for natural gas is projected to increase during the same timeframe at an annual rate of 1.5 percent. Use of natural gas for electricity generation and industrial applications are expected to account for almost 75 percent of the projected growth in natural gas demand. This compares to increases in projected demand for coal for 1.5 percent per year, petroleum of 1.5 percent per year, and renewable fuels including ethanol and wind of 1.5 percent per year during the same period. As described in the report, the projections for natural gas demand and other fuels are sensitive to cost and other factors. For example, DOE/EIA reduced its projections for energy

consumption from all energy sources except nuclear energy between 2004 and 2005 due in part to higher energy prices; lower projected growth rates in industrial production; specific updates in the chemical, pulp, and paper industries; revisions to the capital cost of generating technologies; and revisions to transportation sector vehicle miles traveled. The DOE/EIA projections for New England are similar to the nation as a whole. DOE/EIA estimates that energy consumption in New England will rise from 3.565 quadrillion British thermal units (Btu) in 2003 to about 4.493 quadrillion Btu in 2025. Consumption of natural gas during this same period is expected to increase from 0.820 quadrillion Btu to about 1.110 quadrillion Btu, which represents an average annual increase in gas consumption of about 1.4 percent per year over 22 years. During this same period, consumption of energy from both petroleum and coal is predicted to increase 1.0 and 1.1 percent a year, respectively, whereas consumption of energy from nuclear power is only expected to increase 0.1 percent. The consumption of renewable energy is expected to increase by 1.1 percent a year. The majority of the increase in renewable energy generation in New England is expected to come from wind power.

Natural gas is used in New England for home heating and cooking, commercial heating, a variety of industrial applications, and, increasingly, for electrical power generation. In December 2003, the FERC issued the New England Gas Infrastructure Report, Docket No. PL04-01-000 (NE Report). This report analyzed the interstate natural gas supply and storage in New England. The purpose of the report was to determine if there is adequate natural gas pipeline and storage capacity to meet the increasing demand from gas-fired electric generation and other uses. The report was prepared by the Commission in consultation with the DOE and included contacts with state public utility commissions, the New England Conference of Public Utility Commissions, the New England Independent System Operator, and the Northeast Gas Association. The FERC also contracted with Energy and Environmental Analysis, Inc, and Merrimack Energy Group for pipeline, gas use, and transportation contract information.

As explained in the NE Report, natural gas provides approximately 18 percent of New England's energy needs, and natural gas is used to heat approximately one third of New England homes. Natural gas is also an important fuel for generating electricity. According to a March 2005 report to the New England Governors by the Power Planning Committee of the New England Governors' Conference, Inc. (Governors Conference Report), entitled *Meeting New England's Future Natural Gas Demands, Nine Scenarios and Their Impacts*, natural gas accounted for 40 percent of the fuel used to generate electricity in 2003. Natural gas is currently supplied to the region by four separate sources: eastern and south-central United States, which together provide approximately 55 percent of the region's supply; western Canada and Sable Island in eastern Canada, which together account for about 30 percent of the regions supply; and LNG from the Distrigas LNG terminal in Everett, Massachusetts, which provides about 15 percent of the region's supply.<sup>3</sup> The Distrigas facility is currently the only operating LNG import terminal in the region; it contains two storage tanks with a combined storage capacity of about 3.5 Bcf of natural gas.

In considering the current balance of gas supply to New England, it is important to recognize that the sources of natural gas are not static. Based on a review of historical well production data from the lower 48 states and western Canada that analyzed initial production rates, production decline rates, and total well recoveries for each major producing basin, a 2003 study by the National Petroleum Council (NPC) concluded that:

...conventional gas production will inevitably decline in the future, and that the overall level of indigenous production will be largely dependent on the industry's ability to increase its production of nonconventional gas. Nonconventional gas includes gas from tight formations, shales, and coal seams. Given the relatively low production rates from nonconventional wells,

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<sup>3</sup> The recent Governors Conference Report states that the Distrigas LNG terminal serves as a critical link in the region's energy infrastructure and supplies 20 percent of the region's annual natural gas.

the analysis further suggests that even in a robust future price environment, industry will be challenged to maintain overall production at its current level (NPC, 2003).

The situation is compounded in New England by the failure of production and reserves off of Sable Island, Nova Scotia to as yet fulfill initial expectations. In fact, current production offshore of Nova Scotia is already experiencing some decline. The supply available to New England may also be affected by other regional markets. For example, growth in the New York and mid-Atlantic areas will likely compete with New England for the natural gas from producing basins in the Gulf of Mexico. In short, there is strong evidence that indigenous sources of natural gas supplies will not be able to keep up with future demand without the addition of new sources of gas in the form of LNG from overseas.

The winter months from December through February are the peak natural gas use period in New England. During this period, New England's interstate pipeline systems, which include Algonquin, Granite State Gas Transmission, Inc., Iroquois Gas Transmission System, L.P., Maritime and Northeast Pipeline L.L.C., Portland Natural Gas Transmission System, and Tennessee Gas Pipeline Company, are running near full capacity. New England has no underground natural gas storage and relies on bulk underground storage in New York and Pennsylvania to augment supplies. For New England customers to have access to the gas in underground storage in New York and Pennsylvania, capacity must be available on interstate pipelines to carry the gas from storage to New England. However, interstate pipelines operating at or near full capacity between the storage fields and New England limit access to gas in underground storage, and many New England customers rely on aboveground storage located within New England and imported LNG to meet demand. The Distrigas facility receives between 60 and 70 LNG tanker shipments per year. In 2003, Distrigas received the equivalent of 158 Bcf of natural gas (Power Planning Committee, Inc., 2005). In addition to Distrigas' LNG import terminal, there are 46 liquefaction and satellite storage tanks in New England operated by local distribution companies, which have a combined LNG storage capacity of about 15 Bcf of natural gas. The LNG for these satellite LNG storage tanks is supplied by truck from the Distrigas facility. In 2003, Distrigas trucked about 14 Bcf of LNG to these satellite LNG storage tanks (Power Planning Committee, 2005). Cumulatively, the vaporization capacity of these storage tanks (which totals approximately 0.715 billion cubic feet per day (Bcfd) for Distrigas and 1.22 Bcfd for the satellite LNG storage tanks) can supply as much as 30 percent of the region's peak day needs according to the Northeast Gas Association.

The critical importance of Distrigas and the satellite LNG storage tanks, including the existing KeySpan LNG facility, has been widely recognized. In his February 2005 comments on the draft EIS, Governor Carcieri stated that on peak winter days, the existing KeySpan LNG peakshaving facility provides 25 percent of Rhode Island's natural gas. The importance of stored natural gas was also recognized in the March 2005 Governors Conference Report. This report states that the Distrigas LNG facility and the satellite LNG facilities are critical to meeting the region's peak winter natural gas demand. More specifically, the report indicates that:

Stored natural gas is a critical economic and engineering component of the region's natural gas delivery system. Were it not for gas storage, our economy would be constrained by the willingness of the market to invest in expansion of pipeline capacity to meet both long-term demand growth and the day-to-day demand fluctuations. Thus natural gas storage bolsters system reliability by allowing for an economic means to meet winter peak demand requirements by maintaining vital pressure in the pipeline system. Storage also contributes to the diversity of the regional gas supply portfolio and reduces our reliance on the availability and price-competitiveness of any individual supply source.

Our analysis indicates that natural gas infrastructure expansion to date has kept up with demand, yet with little margin for error. It appears that 1) the existing natural gas infrastructure capacity can meet

demand through 2005, 2) by 2009 there will be demand for an additional 500 MMcfd of additional peak day demand, and 3) with the addition of the proposed projects that either have certificates or are in some stage of the certification process, projected demand can be met through 2010.<sup>4</sup> These conclusions are generally supported by the Governors Conference Report. Specifically, the conference report indicates that the anticipated additional demand for natural gas by 2009 will be between 420 MMcfd and 590 MMcfd, and the region's existing gas delivery systems<sup>5</sup> will be able to meet peak day demands for gas for space heating and electric generation at least through 2010 if the region has continued use of the Distrigas LNG terminal and LNG satellite tanks. However, the region could have insufficient gas supply to meet the needs of all customers for space heating as early as 2005 or 2006 in the extreme case that gas from the LNG satellite tanks is unavailable as a result of an extended cold weather period lasting many days which depletes the stored LNG (Power Planning Committee, Inc., 2005).

The NE Report concludes that there is little opportunity for the existing natural gas system to rely on excess capacity as a buffer against curtailment. On the demand side, the New England market is characterized by relatively inelastic uses - residential and gas-fired generation - that do not provide meaningful opportunities for fuel switching in the event of supply disruption or high prices (Carcieri, 2004). Moreover, should the unexpected occur, a localized curtailment of service is the likely outcome. According to the Governors Conference Report, the consequences of a shortfall in pipeline capacity or supplies could be dire. Further, a pipeline reserve margin shortfall and subsequent pressure drop in the local distribution company's distribution pipelines could set off an extended gas outage that would risk public safety in freezing temperature conditions (Power Planning Committee, Inc., 2005). There is also some evidence that local infrastructure supply constraints can result in gas price spikes.

The NE Report also concludes that a new source of LNG in proximity to both Boston and Providence would be a valuable addition to New England's natural gas infrastructure, reducing, but not eliminating the need for new pipeline capacity. The report also indicates that construction of additional peak shaving LNG storage facilities, which are used by local distribution companies as a short-term hedge against service curtailment or higher than anticipated demand, would help to ensure more reliable service until additional pipeline capacity is constructed.

In summary, recent reports identify a future need for additional natural gas and natural gas infrastructure and highlight the important regional role of LNG in New England in terms of both storage and as a new source of natural gas supply. The NE Report, in particular, supports the purpose and need for the KeySpan LNG Project, which is to provide:

- a new LNG import terminal source of imported LNG in the New England market area;
- access to natural gas reserves in production areas throughout the world that are inaccessible by conventional pipelines;
- an enhanced source of LNG for delivery by truck to LNG storage facilities throughout the region;
- a new supply of natural gas to New England starting with the winter 2005/2006 heating season; and

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<sup>4</sup> We note that some of the projects assumed in the FERC's analysis such as the Islander East Pipeline Project have not yet been constructed. Additionally, it is possible that some of these projects may never be constructed.

<sup>5</sup> The Governors Conference Report assumed the existing gas delivery systems include one recently approved LNG tank in Connecticut and two already approved pipeline system expansions.

- strengthened gas supply to Rhode Island.

### **1.3 PERMITS, APPROVALS, AND REGULATORY REQUIREMENTS**

As the lead federal agency for the KeySpan LNG Project, the FERC is required to comply with section 7 of the Endangered Species Act of 1973 (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSA), section 106 of the National Historic Preservation Act (NHPA), and section 307 of the Coastal Zone Management Act of 1972 (CZMA). Each of these statutes has been taken into account in the preparation of this document.

Section 7 of the ESA, as amended, states that any project authorized, funded, or conducted by a federal agency (e.g., the FERC) should not “jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined...to be critical” (16 United States Code (USC) § 1536(a)(2)(1988)). The FERC, or the applicant as a non-federal party, is required to consult with the U.S. Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration (NOAA) Fisheries to determine whether any federally listed or proposed endangered or threatened species or their designated critical habitat occur in the vicinity of the proposed project. If, upon review of existing data or data provided by the applicant, the FERC determines that these species or habitats may be affected by the proposed project, the FERC is required to prepare a biological assessment to identify the nature and extent of adverse impact, and to recommend measures that would avoid the habitat and/or species, or would reduce potential impacts to acceptable levels. See section 4.7.1 of this EIS for the status of this review.

The MSA, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), established procedures designed to identify, conserve, and enhance Essential Fish Habitat (EFH) for those species regulated under a federal fisheries management plan. The MSA requires federal agencies to consult with NOAA Fisheries on all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH (MSA §305(b)(2)). Although absolute criteria have not been established for conducting EFH consultations, NOAA Fisheries recommends consolidated EFH consultations with interagency coordination procedures required by other statutes, such as NEPA, the Fish and Wildlife Coordination Act, or the ESA (50 CFR 600.920(e)) to reduce duplication and improve efficiency. EFH is addressed in section 4.6.2 of this EIS.

Section 106 of the NHPA requires the FERC to take into account the effects of its undertakings on properties listed on or eligible for listing on the National Register of Historic Places (NRHP), including prehistoric or historic sites, districts, buildings, structures, objects, or properties of traditional religious or cultural importance, and to afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on the undertaking. The FERC has requested that KeySpan LNG and Algonquin, as non-federal parties, assist in meeting the FERC’s obligation under section 106 by preparing the necessary information and analyses as required by the ACHP procedures in 36 CFR 800. See section 4.10 of this EIS for the status of this review.

The CZMA calls for the “effective management, beneficial use, protection, and development” of the nation’s coastal zone and promotes active state involvement in achieving those goals. As a means to reach those goals, the CZMA requires participating states to develop management programs that demonstrate how these states will meet their obligations and responsibilities in managing their coastal areas. Rhode Island has an approved coastal zone management program, referred to as the Rhode Island Coastal Resources Management Program (RICRMP), which is administered by the Coastal Resources Management Council (CRMC). Because section 307 of the CZMA requires federally licensed or permitted activities to be consistent to the maximum extent practicable with the enforceable policies of a management program, the FERC has requested that KeySpan LNG and Algonquin seek determinations of

consistency with the RICRMP from the CRMC. The specific process by which the CRMC will review the LNG terminal component of the KeySpan LNG Project is currently in dispute and is being evaluated in U.S. District Court. See section 4.8.4 of this EIS for additional discussion of the RICRMP and the status of the CRMC's review.

At the federal level, required permits and approval authority outside of the FERC's jurisdiction include compliance with the Clean Water Act (CWA), the Rivers and Harbors Act, the Clean Air Act, and Coast Guard regulations relating to shipping and LNG waterfront facilities. The DOT is responsible for ensuring that the construction and operation of LNG and natural gas pipeline facilities comply with applicable federal safety standards.

The COE has authority to issue permits pursuant to section 10 of the River and Harbors Act and section 404 of the CWA. For the proposed KeySpan LNG Project, KeySpan LNG would need to obtain authorization from the COE for activities associated with installing the mooring structures for the proposed ship berth. As such, the COE is reviewing the proposed marine berth not only as a cooperating agency for the NEPA process, but also as part of the COE permitting process. Although no dredging is included in KeySpan LNG's proposed action, the COE would also be the primary agency responsible for reviewing dredging impacts if the FERC authorized an alternative that required dredging. No COE authorization would be required for the proposed pipeline route; however, COE authorization would be necessary if the FERC authorized an alternative pipeline route that would involve trenching within the Providence River.

The Coast Guard has the primary responsibility for reviewing and approving the navigational and security aspects of the project in accordance with 33 CFR 127 and 66.

The DOT works with the FERC and the Coast Guard to review project designs. Throughout construction and operation of the proposed facilities, the DOT would have responsibility for ensuring that the LNG and pipeline facilities comply with the DOT's Federal Safety Standards for Liquefied Natural Gas Facilities (49 CFR 193), the National Fire Protection Association (NFPA) Standards for the Production, Storage, and Handling of Liquefied Natural Gas (NFPA 59A), and the Minimum Federal Safety Standards under the Natural Gas Pipeline Safety Act of 1968.

The U.S. Environmental Protection Agency (EPA) has the authority to review and veto COE decisions on section 404 permits. The EPA also has authority to issue National Pollutant Discharge Elimination System (NPDES) permits for stormwater and hydrostatic test water discharge activities pursuant to section 402 of the CWA. In Rhode Island, NPDES permitting authority is delegated to the Rhode Island Department of Environmental Management (DEM).

KeySpan LNG must also obtain Water Quality Certification pursuant to section 401 of the CWA. The federal authority to issue Water Quality Certifications in Rhode Island has been delegated to the DEM.

In addition to the federal permits and approvals discussed above, KeySpan LNG and Algonquin would obtain other applicable permits and approvals. Table 1.3-1 lists the major federal and state permits, approvals, and consultations for the KeySpan LNG Project.

The FERC encourages cooperation between applicants and state and local authorities, but this does not mean that state and local agencies, through application of state and local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by the FERC. Any state or local

permits issued with respect to jurisdictional facilities must be consistent with the conditions of any Certificate or other authorizations the FERC may issue.<sup>6</sup>

#### **1.4 PUBLIC AND AGENCY OUTREACH CONDUCTED BY KEYSpan LNG AND ALGONQUIN**

KeySpan LNG has contacted and/or met with state and local public officials, regulatory agencies, environmental groups, and business and community groups such as the Washington Park Citizens Association, the Northeast Pilot's Association, and the Port of Providence (ProvPort) to introduce the KeySpan LNG Project. Algonquin has conducted similar outreach activities with state and local public officials and regulatory agencies to provide briefings on the proposed pipeline and background information about the company, the project schedule, and alternative routes considered. Both companies have initiated consultations to obtain input from federal and state agencies. In addition to written correspondence and telephone calls, KeySpan LNG's consultations have included meetings with the COE, the Coast Guard, the CRMC, the Rhode Island Energy Facility Siting Board (EFSB), the DEM, and the Rhode Island Historic Preservation and Heritage Commission (RIHPHC). KeySpan LNG has also had several discussions and meetings with local police and fire departments and with state and local emergency management agencies, and has participated with these and other stakeholders in a workshop process conducted by the Coast Guard for safety and security planning.

Within 3 days of filing their respective applications with the FERC, and in accordance with the Commission's regulations, KeySpan LNG and Algonquin notified affected landowners that the applications had been filed. In KeySpan LNG's case, residents within 0.5 mile of the LNG terminal site were also notified. Both companies also published notices of the applications in newspapers that are in general circulation in the project area and placed copies of the applications at local libraries.

#### **1.5 PUBLIC REVIEW AND COMMENT**

On May 11, 2004, the FERC issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Proposed KeySpan LNG Facility Upgrade Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting* (NOI). The NOI was sent to 566 interested parties including federal, state, and local officials; agency representatives; conservation organizations; Native American tribes; local libraries and newspapers; residents within a 0.5 mile of the proposed LNG terminal; and property owners along the proposed pipeline route. Issuance of the NOI signified the start of the time period for receiving written comments. The NOI also provided the time and location of a public scoping meeting to be held in the project area. On May 19, 2004, the FERC issued a *Notice of Site Visit*, which provided the meeting time and location for interested parties wishing to attend FERC staff's inspection of the project site.

On June 3, 2004, FERC staff conducted a public scoping meeting in Providence to provide an opportunity for the general public to learn more about the proposed project and to participate in our analysis by commenting on issues to be included in the EIS. Eight people commented at the meeting. On June 4, 2004, FERC staff conducted an inspection of the KeySpan LNG facility, including the proposed marine terminal site and the proposed pipeline route. The site inspections were open to and attended by the public.

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<sup>6</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

TABLE 1.3-1

**Major Permits, Approvals, and Consultations for the KeySpan LNG Facility Upgrade Project**

Agency	Permit/Approval/ Consultation	Anticipated Application Filing/Consultation Date KeySpan LNG	Anticipated Application Filing/Consultation Date Algonquin
<b>FEDERAL</b>			
Federal Energy Regulatory Commission	Authorization to construct and operate an LNG import facility under section 3 (a) of the Natural Gas Act (NGA) (15 USC § 717b (a), and Part 153, 18 CFR §§153.1 <i>et seq.</i> )	Submitted April 2004	N/A
	Authorization to abandon certain existing facilities under section 7(b) of the NGA (15 USC § 717f(b))	Submitted April 2004	N/A
	Certificate of Public Convenience and Necessity to construct, install, own, operate, and maintain a pipeline under section 7(c) of the NGA (15 USC § 717(f) (c), and Part 157, 18 CFR §§ 157.7 <i>et seq.</i> )	N/A	Submitted June 2004
Advisory Council on Historic Preservation	Comment on the project under section 106 of the National Historic Preservation Act (NHPA) (16 USC § 470(f))	See Rhode Island Historic Preservation and Heritage Commission (RIHPHC) under state permit section	See RIHPHC under state permit section
U.S. Army Corps of Engineers (COE)	Authorization for activities for all work seaward of the mean high water of the United States that are subject to the ebb and flow of the tide and a few of the major waterways used to transport interstate or foreign commerce under section 10 of the Rivers and Harbors Act of 1899 (33 USC § 403)	Submitted August 2004	N/A
	Authorization to discharge dredged or fill material into waters of the United States under section 404 of the Clean Water Act (CWA) (33 USC § 1344)	Submitted August 2004	N/A
U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) Office of Coastal Zone Management	Federal Consistency Certification (1465 and 15 CFR Part 930, 16 USC §§ 145) (permitting authority delegated to the Rhode Island Coastal Resources Management Council (CRMC))	See CRMC under state permit section	See CRMC under state permit section

TABLE 1.3-1 (cont'd)

**Major Permits, Approvals, and Consultations for the KeySpan LNG Facility Upgrade Project**

Agency	Permit/Approval/ Consultation	Anticipated Application Filing/Consultation Date KeySpan LNG	Anticipated Application Filing/Consultation Date Algonquin
NOAA Fisheries	Consultation regarding compliance with section 7 of the Endangered Species Act (ESA); the Magnuson-Stevens Fishery Conservation and Management Act; and the Marine Mammal Protection Act (16 USC §§ 1856 et seq.)	Consultation ongoing	March 2004
U.S. Department of the Interior U.S. Fish and Wildlife Service	Consultation regarding compliance with section 7 of the ESA, the Migratory Bird Treaty Act, and the Fish and Wildlife Coordination Act (16 USC § 1531 et seq.)	August 2004	April 2004
U.S. Environmental Protection Agency	Water Quality Certification under section 401 of the CWA, (33 USC § 1341, 40 CFR § 131) (permitting authority delegated to the Rhode Island Department of Environmental Management (DEM))	See DEM under state permit section	See DEM under state permit section
	National Pollutant Discharge Elimination System permits for stormwater and wastewater under section 402 of the CWA, (33 USC § 1342 and 40 CFR §§ 122-125)	See DEM under state permit section	See DEM under state permit section
	Section 404 of the CWA (veto power for wetland permits issued by the COE)	See COE under federal permit section	N/A
U.S. Department of Homeland Security U.S. Coast Guard	Letter of Intent (33 CFR 127); Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas; Permission to establish Aids to Navigation (33 CFR Part 66, 14 USC §§ 84-86)	August 2004	N/A
<b>STATE</b>			
DEM	Clean Air Act, Minor Source Permit Modification	Submitted December 2004	N/A
	Water Quality Certification pursuant to section 401 of the CWA	Submitted November 2004	Submitted February 2005
	Soil management plan approval for soils disturbance on environmentally impacted sites	April 2005 (Remedial Action Work Plan)	April 2005 (Soils and Groundwater Management Plan)

TABLE 1.3-1 (cont'd)

**Major Permits, Approvals, and Consultations for the KeySpan LNG Facility Upgrade Project**

Agency	Permit/Approval/ Consultation	Anticipated Application Filing/Consultation Date KeySpan LNG	Anticipated Application Filing/Consultation Date Algonquin
	Rhode Island Pollution Discharge Elimination System (RIPDES) permits for construction stormwater discharge under section 402 of the CWA, (33 USC § 1342 and 40 CFR §§ 122-125)	November 2004	30 days prior to construction
	RIPDES permit for hydrostatic test water discharge under section 402 of the CWA	N/A	December 2004
	RIPDES permit for discharge of trench water under section 402 of the CWA	N/A	April 2005
	State-listed threatened and endangered species consultations	Consultation ongoing	No-effect letter received May 2004
CRMC	Federal Consistency Review with Rhode Island Coastal Resources Management Program (15 CFR 923, 15 CFR 930, sections 300.1, 300.8, and 300.9)	Submitted (revised) December 2004	Submitted (revised) April 2005
Rhode Island Department of Transportation	Utility Permit	N/A	Fourth quarter 2005
RIHPHC	Review and comment on undertakings potentially affecting cultural resources (section 106, NHPA)	No-effect letter received May 2004	No-effect letter received July 2004
Narragansett Tribe	Tribal Consultation	April 2004	June 2004
Narragansett Bay Commission	Sanitary Discharge Permit	To be determined based on development of architectural documents for proposed control building expansion	N/A
	Dewatering Discharge Permit	Prior to dewatering if necessary	N/A

Several of the early written comments and comments at the June scoping meeting addressed the scoping process, including the number and location of scoping meetings, the length of the scoping period, the extent of the FERC's notifications, and requests for translation assistance for participants with limited English language abilities. Requests for additional scoping meetings were made by elected officials on behalf of their constituents. On June 17, 2004, the FERC issued a *Notice of Extension of the Scoping Period for the Proposed KeySpan LNG Facility Upgrade Project*. This notice announced that the scoping period had been extended until July 12, 2004, and that FERC staff would hold additional scoping meetings before the end of the extended scoping period. On June 17, 2004, the FERC also sent copies of the NOI to 171 additional parties including local officials, local libraries, and newspapers in communities along the proposed shipping channel; individuals who requested at the June scoping meeting to be placed on the mailing list; authors of scoping comment letters; and intervenors. A total of 30 comment letters were received by the FERC in response to the notices.

On June 23, 2004, the FERC issued a *Notice of Public Scoping Meetings for the Proposed KeySpan LNG Facility Upgrade Project and Algonquin-KeySpan Interconnect Pipeline Project*, which provided the times and locations of two additional scoping meetings. The additional meetings were held on July 7, 2004, at a location recommended by a commentator near the KeySpan LNG site in Providence, and on July 8, 2004, in Middletown, Rhode Island at a location convenient for communities along the shipping channel. Three people commented at the Providence meeting, and four people commented at the Middletown meeting. Transcripts of the public comments provided at all three scoping meetings are part of the public record for the KeySpan LNG Project.

On September 9, 2004, the FERC held a cryogenic design and technical conference in Providence to discuss design and engineering aspects of the KeySpan LNG Project. The meeting was limited to existing parties to the proceeding (i.e., representatives of KeySpan LNG and Algonquin and others who specifically requested to intervene as a party), as well as agency personnel and elected officials.

In total, the FERC received 45 letters and oral statements during or shortly after the designated scoping period. Each of the written and oral statements were evaluated and divided into individual comments, which yielded a total of 189 individual comments about the project.

Additional correspondence received after the scoping period included letters from public and/or elected officials regarding the EIS process, the federal review and approval process for LNG facilities, and the processes for safety and emergency response planning. A letter was also received after the scoping period from a citizen requesting additional public meetings. In addition to the scoping comments for the KeySpan LNG Project, the FERC received one letter and 370 copies of signed postcards that were submitted as comments on the Weaver's Cove LNG Project draft EIS, but also had the KeySpan LNG Project docket number added. We also received a petition for Save Bristol Harbor, Inc. stating opposition to both projects. Although these comments and the petition were received outside of the designated comment period for the KeySpan LNG Project, we are noting them here because some of the issues on the two projects overlap (e.g., safety and security, LNG ship traffic) and because of the stated general opposition to LNG facilities in urban areas. Those issues are addressed in this EIS.

Table 1.5-1 summarizes the primary issues identified by comments received during the public scoping process, which helped us focus the analysis in the draft EIS on the potentially significant environment issues related to the proposed action. Several of the written and oral scoping comments pertained to the scoping process. As noted above, the FERC responded to these comments by expanding the notification process, extending the scoping period, and holding two additional scoping meetings.

TABLE 1.5-1

**Issues Identified and Comments Received During the Public Scoping Process for the KeySpan LNG Project**

Issue/Specific Comment	EIS Section Addressing Comment
<b>GENERAL</b>	
FERC's exclusive authority to site LNG facilities	1.5
Impacts on communities along tanker transit route	4.8, 4.12
Benefits of natural gas as a transition to renewable energy, need for a greater supply of natural gas in the Northeast region	1.2
Consider enactment of legislation against siting energy facilities in urban areas	1.1, 1.5
Solicitation of official comments on project from the Naval War College	1.5
Programmatic EIS; regional evaluation of energy needs and energy project impacts	1.5
Third-party contractor for EIS preparation	1.5
<b>PUBLIC REVIEW</b>	
Concerns regarding scoping meetings (e.g., attendance, date, directions, location, period of public notice, Spanish and Portuguese translators)	1.5
Request that FERC have additional scoping meetings at various locations	1.5
Request that public notice be published in Spanish and Portuguese	1.5
Requested that the FERC provide evidence of compliance Executive Order 13166	1.5
Request that KeySpan contribute to the community for the study of project-related issues	4.9.3, 4.12.5
Request that communities along tanker transit routes be included in EIS and meetings	1.5
<b>PROJECT DESCRIPTION</b>	
Proposed activities as significant alteration rather than an upgrade	4.12.2, 4.12.3
Removal or modification of existing LNG storage tank	1.5, 4.12.3
Description of the delivery times for the facility and impacts on transportation issues such as road, bridge closures, effects on recreational boaters.	4.8.5, 4.9.4, 4.12.5
Tanker size, capacity, and frequency	2.2.2, 4.9.4
Mooring systems used during construction	2.2.1
Existing impoundment system (e.g., capacity, containment wall, modifications, structure)	2.8.1, 4.12.3
Effect of proposed upgrades on LNG capacity	2.2.1
Potential activities related to the removal or renovation of existing on- and off-shore facilities	2.9
<b>ALTERNATIVES</b>	
Consider removal/relocation of existing KeySpan LNG facility to a less populated area	1.5
Include in the EIS an assessment of technological alternatives in the context of other proposals	3.2, 3.3
Consider alternative of connecting Providence to the "interstate LNG grid," thereby eliminating need for existing or replacement LNG facility	3.2.1, 3.5.1
Consider alternative ship berth locations to avoid potential negative impacts of shipping LNG in the channel	3.4
Consider land-based or underground LNG options to avoid LNG tankers in the bay	1.5, 3.2.1
Consider examination by regulatory agencies of all LNG projects regionally to determine strategy, feasibility, and energy needs.	1.5
Potential offshore or remote location and design for LNG terminal	3.2.2
Consider development of alternative energy sources that are less dangerous than LNG	3.1
<b>GEOLOGY</b>	
Integrity of existing LNG facility, particularly storage tank, during geological events (e.g., ground rupture, seismic shaking, mass wasting and slope instability, liquefaction, subsidence, and expansion or collapse of soil structures); involvement of Rhode Island Building Code Standard Committee in EIS process	1.5, 4.1, 4.12.3
Applicability of current seismic standards to existing storage tank	4.12.3
Assessment of the proposed facility to accommodate potential flooding and storm surge due to hurricanes and other storm scenarios	4.1.4

TABLE 1.5-1 (cont'd)

<b>Issues Identified and Comments Received During the Public Scoping Process for the KeySpan LNG Project</b>	
Issue/Specific Comment	EIS Section Addressing Comment
<b>SOILS AND SEDIMENTS</b>	
Identification of sites along pipeline route that should be analyzed for contaminated soils or groundwater	4.2.1, 4.3.1
Evaluation of impacts of constructing on fill material; soil borings	4.1.4
<b>WATER RESOURCES</b>	
Description of proposed water sources for construction, hydrostatic testing and operation activities, intake/discharge requirements	2.4.1, 4.3.2
Description of project impacts on water resources (e.g., effects of in-water construction, dredging and filling, removal or modification of existing facilities, ship berthing)	4.3.2, 4.6.2
<b>BIOLOGICAL RESOURCES</b>	
Potential impacts on terrestrial and marine resources including habitat loss; impacts associated with the importation of exotic species in ballast water of LNG ships	4.5, 4.6
Impacts on recreational boating and commercial fishing activities	4.8.5, 4.9.4, 4.12.5
<b>LAND USE, RECREATION, AND VISUAL RESOURCES</b>	
Impacts on existing, planned, and future land use in the area	4.8.2, 4.8.3
Impacts on recreational areas and activities in Providence and other affected communities	4.8.5
Impacts on use of the river, bay, and shorelines	4.3.2, 4.8
Description of, and impacts on, temporary workspace used in the construction of the facility	2.3, 4.8.1
Description of new lighting and impacts on visual resources	4.8.6
<b>SOCIOECONOMICS</b>	
Impacts on ratepayer costs due to evaporative LNG losses potentially reducing lifespan of NBC facilities	4.9.3
Impacts on emergency response services and costs in communities affected by the project and fire training programs specific to LNG	4.9.3, 4.12.5
Impacts on existing businesses and workers' unions	4.9.1
Expected project costs and funding	4.9.5
Concern that economic growth will be affected	4.8, 4.9
Potential to work with other companies in the area to cooperatively minimize environmental impacts	1.5
Environmental justice	4.9.8
<b>TRANSPORTATION</b>	
Impacts of potential increase in truck deliveries	4.9.4, 4.12.6
Describe restrictions on the use of the river, shorelines, bridges, and roads; restrictions on the passage of commercial and recreational vehicles; restrictions on boating due to security zones	4.9.4, 4.12.5
Analysis of impacts on marine navigation and the ability of navigational requirements of LNG tankers to be met; suggest the use of aerial images to show impacts of LNG tankers; request a schedule of marine deliveries and use to model safety and security zones around tankers	4.12.5
<b>AIR QUALITY</b>	
Potential localized increase in ozone level due to evaporative LNG losses may have detrimental effects on human health, vegetation, and materials	4.11.1
Combined impacts on air quality due to the increased trucking associated with the LNG facility, the expansion of Brown University science facilities, and the T.F. Green airport expansion.	4.11.1
Negative impact of the project on current air pollution problem in Providence.	4.11.1
Analysis of toxic air contaminant emissions associated with the project on human health	4.11.1
<b>NOISE</b>	
Request additional information regarding the basis for berm and building/enclosure noise losses	4.11.2
<b>RELIABILITY AND SAFETY</b>	
Reliability and safety of storing, shipping, and trucking LNG in densely populated areas and constricted waters; discussion of the potential impacts increased turnover will have on existing tank and LNG pipelines; the nature and adequacy of safety codes and regulations	4.12

TABLE 1.5-1 (cont'd)

<b>Issues Identified and Comments Received During the Public Scoping Process for the KeySpan LNG Project</b>	
Issue/Specific Comment	EIS Section Addressing Comment
Safety and security measures to protect ships and the terminal; the ability of the local community to provide these services. Security analysis should include the combined impacts of the Weaver's Cove Project.	4.12
Request information be included in the EIS discussing the fire protection requirements for the project	2.8.1, 4.12
Impact of thermal radiation and a vapor cloud in the event of an accident or attack; Emergency Response Plan	4.12
Concern about the integrity of the existing 30 year old facility and the increased stress associated with expanding the facility	4.12.9
Safety plan for hurricane or severe weather	4.12.9
Concern with siting the facility near adjacent electrical equipment that could be an ignition source	4.12
Analysis of risk involved in worst case scenarios; support for the USCG and COE to handle risks; risk tolerance	4.12
History and description of LNG safety record	4.12
Suggest the EIS include a comparison of potential impacts from an explosion at an off-shore loading facility compared to the proposed facility.	4.12
Suggest that the capacity of the existing impoundment should be increased to 110%.	2.8.1, 4.12.3
Discussion of terrorism and security issues (proximity to: hospitals, schools, densely populated areas, industrial facilities, sewage treatment facility, flight path of the T.F Green Airport)	4.12.7, 4.12.9
Liability, insurance concerns for KeySpan LNG facility	4.12.9
Request for information on fire-fighting capability of tugs	4.12.9
<b>CUMULATIVE IMPACTS</b>	
Cumulative impacts of FERC authorizing additional LNG marine facilities in coastal waters in the region including: human environment, traffic levels, ocean resources, fossil fuels, and downstream natural gas pipeline infrastructure	4.13
Analysis of cumulative effects in relation to past, present, and future projects	4.13

A particular procedural concern pertained to the opportunity for participation by members of environmental justice communities and Limited English Proficiency (LEP) persons. Concerns expressed in oral and written scoping comments included the location of the initial scoping meeting, which some felt was not easily accessible for low-income and LEP individuals; the notification process, which was conducted in English; the lack of translation services at the June 3, 2004 scoping meeting; and the length of the scoping period. The FERC, KeySpan LNG, and Algonquin took several steps to address these concerns. As noted previously, the FERC extended the scoping period and elected to hold additional scoping meetings. FERC staff solicited assistance from one of the commentors on this issue to identify a location for the July 7, 2004 Providence scoping meeting that would be closer to the project site and more accessible to lower-income and LEP persons; to identify Spanish and Portuguese newspapers that should be added to the mailing list; and to identify possible translators. Based on the commentor's recommendations, the second Providence meeting was held at the Roger Williams Middle School on Thurburs Avenue, close to the project site. As also suggested by the commentor, KeySpan LNG published information in Spanish in two Spanish newspapers, *Nuevos Horizontes* and *Providence en Español*, and in Portuguese in the *Portuguese Times*, detailing the times and locations of the July 2004 scoping meetings. At the July 2004 scoping meetings, FERC staff provided Spanish and Portuguese handouts describing the scoping process, and KeySpan LNG and Algonquin provided Spanish and Portuguese handouts describing the proposed activities. In addition, KeySpan LNG provided Spanish and Portuguese translators at the July 2004 Providence scoping meeting, although none of the participants requested translation. A staff member from *Nuevos Horizontes* attended the meeting.

During scoping, a commentor argued that FERC has a responsibility under Executive Order 13166, which requires federal agencies that provide financial assistance "to prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons...and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's program and activities." Executive Order 13166 also directed agencies subject to the Executive Order to develop and begin to implement these plans within 120 days of the date of the Executive Order, which was August 11, 2000. The commentor requested that the FERC provide evidence of compliance with this Executive Order.

Independent regulatory agencies are not subject to executive orders. Because the Commission is an independent regulatory agency, Executive Order 13166 does not apply to the Commission. Thus, the Commission is not required to prepare a plan, as contemplated by Executive Order 13166. Nevertheless, while not required to develop a plan, the Commission's staff, as described above, took the necessary steps to ensure that LEP individuals could participate in this proceeding, i.e., an additional scoping meeting was held near the project site that was more accessible to LEP persons, advertisements were published in two Spanish newspapers and one Portuguese newspaper, Spanish and Portuguese handouts were provided that described the scoping process, Spanish and Portuguese handouts were provided that described KeySpan's and Algonquin's applications, and Spanish and Portuguese interpreters were provided.

A commentor at the July 8, 2004 scoping meeting suggested that the FERC solicit comments on the projects from the Naval War College in Newport, Rhode Island. We contacted officials at the Naval War College and at the Newport Naval Station to invite their input on the KeySpan LNG Project and to obtain information necessary to add them to the project mailing list.

One commentor expressed concern that the third-party consultant assisting the FERC in preparing the EIS for the KeySpan LNG Project is also assisting with the EIS for the Weaver's Cove LNG Project. The FERC has employed third-party contractors for a number of years as a way to supplement the work of our own environmental staff. The FERC selects its contractors according to strict published guidelines. For each of the two referenced projects, the FERC reviewed proposals from several different companies and then selected the company it believed was most qualified to conduct the work based on the

qualifications of the company, the proposed project team, the technical approach for conducting the work, and the contractor's knowledge of the and experience in preparing EISs and working on LNG projects. Familiarity and specialized knowledge of the specific project area are additional components taken under consideration when selecting a contractor. Third-party contractors work under FERC staff's direct supervision. FERC staff directs, reviews, edits, and approves all work products developed by the contractor. The end result is that the EIS reflects the analysis and conclusions of FERC environmental staff.

The FERC prepared a draft EIS for the KeySpan LNG Project and issued a *Notice of Availability of the Draft Environmental Impact Statement for the Proposed KeySpan LNG Facility Upgrade Project* (NOA) on November 30, 2004. A formal notice was also published in the Federal Register on December 7, 2004. The NOA established a public comment period ending on January 24, 2005, described procedures for filing comments on the draft EIS, and indicated that additional project information could be obtained from the Commission's Office of External Affairs and on the FERC's website. In accordance with the Council on Environmental Quality's (CEQ's) regulations implementing NEPA, the public comment period was established as a 45-day period. A *Notice of Public Comment Meetings for the Proposed KeySpan Facility Upgrade Project* was issued on December 10, 2004, which announced the time, date, and locations of the public comment meetings.

The FERC mailed 800 copies of the draft EIS to interested parties, including federal, state, and local officials and agencies; special interest groups; parties to the proceeding; area libraries and newspapers; and individuals and affected landowners who requested a copy of the draft EIS. The FERC conducted two public comment meetings in Providence and Middletown on January 11 and 12, 2005, respectively. FERC staff provided Spanish and Portuguese handouts describing the public comment process, and KeySpan LNG provided Spanish and Portuguese translators, although none of the participants requested translation. A total of 38 people provided comments at these two meetings. In addition, we received 59 comment letters during the designated comment period. An additional 32 letters were received after the comment period ended. Of the letters we received, 28 were copies of the same form letter. Transcripts of the public meeting comments and the comment letters are part of the public record for the KeySpan LNG Project and are provided in Appendix F. Our responses to those comments are also provided in Appendix F. To the extent our schedule permitted, we have responded to late comments as well as timely comments. Our responses to comments are also provided in various sections of this final EIS. As noted previously, substantive changes in the final EIS are indicated by vertical bars that appear in the margins. These changes were made both in response to comments received on the draft EIS and as a result of updated information that became available after issuance of the draft EIS.

The final EIS was mailed to the agencies, individuals, and organizations on the mailing list provided in Appendix A and submitted to the EPA for formal issuance of a NOA. In accordance with CEQ's regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the EPA publishes a NOA of the final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal process that allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. Should the FERC issue authorization for the proposed KeySpan LNG Project, it would be subject to a 30-day rehearing period. Therefore, the FERC could issue its decision concurrently with the EPA's NOA.

There has been considerable opposition to the proposed project by elected and public officials, municipality representatives, special interest groups, and the public. Based on public meeting comments and comment letters on the draft EIS, elected and public officials that have identified themselves or have

been identified by others as opposed to the project include but are not necessarily limited to the following: U.S. Senator Jack Reed, U.S. Senator Lincoln Chafee, U.S. Congressman Patrick Kennedy, U.S. Congressman James Langevin, Rhode Island State Representative Bruce Long, Rhode Island State Representative Joseph Amaral, Rhode Island State Representative Raymond Gallison, Rhode Island State Representative Susan Story, Rhode Island State Representative Amy Rice, Rhode Island Governor Donald Carcieri, Rhode Island Lieutenant Governor Charles Fogarty, Rhode Island Attorney General Patrick Lynch, Mayor David Cicilline of Providence, the Providence City Council, the City of East Providence, Mayor Edward Lambert of Fall River, Massachusetts, the Jamestown Town Council, the Town of Narragansett Planning Board, the Barrington Town Council, the City of Warwick, and the Town of Bristol. On March 15, 2005, six Rhode Island representatives proposed a resolution in opposition to the proposed Weaver's Cove LNG and KeySpan LNG Projects and the associated LNG ship traffic in Narragansett and Mount Hope Bays.

At the request of several of the officials listed above, two members of the Commission met with the Rhode Island Congressional delegation and other public officials on March 17, 2005, to discuss concerns about the project. A transcript of the meeting is available on the FERC website.

The most frequently raised concerns about the project have focused on the safety of operating an LNG facility in a populated urban setting. Specific safety concerns were expressed regarding the impacts on the surrounding area if there were a fire at the proposed terminal or a fire associated with an LNG ship spill in route to the terminal. Considerable concern has also been raised about the potential for the terminal and LNG ships to be targets of a terrorist attack and the impact of such an attack on surrounding communities. We also received numerous comments regarding the regional need for natural gas; alternatives; the impacts of LNG ship transit on commercial and recreational vessels in the navigation channel; the impacts of potential bridge closures during LNG ship transit; the demand of the project on local services, especially the costs of providing police and fire protection or emergency response; environmental justice impacts; and other environmental issues, including the compatibility of the project with existing land uses and development plans; air quality impacts; seismic risk; and impacts on water quality and aquatic resources.

Some of the issues raised during scoping or in comments on the draft EIS are not environmental issues or are otherwise not within the scope of this EIS. Such issues include the removal or relocation of the existing KeySpan LNG facility; questions regarding the FERC's jurisdiction; the FERC's participation in processes that would be inconsistent with its regulatory obligation to consider proposals before the Commission (e.g., participation in a programmatic EIS or the regional siting of LNG facilities); the FERC's participation in a Memorandum of Agreement in which other signatories are intervenors in the FERC's EIS process; legislation regarding the siting of LNG facilities in urban areas; and the potential for benefits resulting from cooperation between KeySpan LNG and other prospective businesses that may become established.

One of the issues raised was the application of current building standards to existing facilities for which no modifications are proposed as part of the project. Specifically, during scoping, members of the State of Rhode Island and Providence Plantations, Department of Administration, Building Code Standards Committee (Building Code Committee) and others expressed concerns about the original design and construction of the existing LNG storage tank with respect to underlying soils and potential for liquefaction in the event of a significant seismic event. The existing tank was constructed in accordance with the building codes that were in place at the time it was constructed, which did not include the seismic standards that are in place today. The Building Code Committee and other scoping comments requested that the FERC require KeySpan LNG to conduct a seismic analysis of the tank to determine whether it would meet current seismic standards if it were built today. The Building Code Committee expressed interest in participating in the FERC's review as a cooperating agency; however,

the committee does not have obligations under NEPA and the project would not include modifications of the existing LNG storage tank. See section 4.12.3 for further discussion regarding the applicability of current federal safety standards to the proposed project.

## **1.6 NONJURISDICTIONAL FACILITIES**

The KeySpan LNG Project would include two nonjurisdictional components. The proposed project would require a new sewer connection from the control building at the LNG terminal to the Providence sanitary system. In addition, the project would require a new connection with Narragansett Electric's substation, transmission, and distribution facilities to meet the increased load resulting from the facility upgrades. KeySpan LNG and Narragansett Electric are evaluating potential designs for the new connection. Options under consideration include a combined overhead and underground configuration and an underground-only configuration. Additional discussion of these facilities is presented in section 2.4.1 of this EIS.