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West Amwell, New Jersey

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

February 9, 2015

SUBJECT: Project Compliance with the National Environmental Policy Act. PennEast Pipeline Project from Luzerne County, Pennsylvania, to Mercer County, New Jersey. Docket No. PF15-1-000.

Dear Ms. Bose,

Please accept these comments in opposition to the Preferred Alternative currently proposed for PennEast Pipeline Project involving the construction of a 36-inch diameter, 108-mile pipeline from Luzerne County, Pennsylvania to Mercer County, New Jersey. I am opposed to the project as proposed and note that PennEast's promotion of a Preferred Alternative circumvents public involvement, alternatives analysis, and impact assessment components of the National Environmental Policy Act (NEPA) of 1968, as amended.

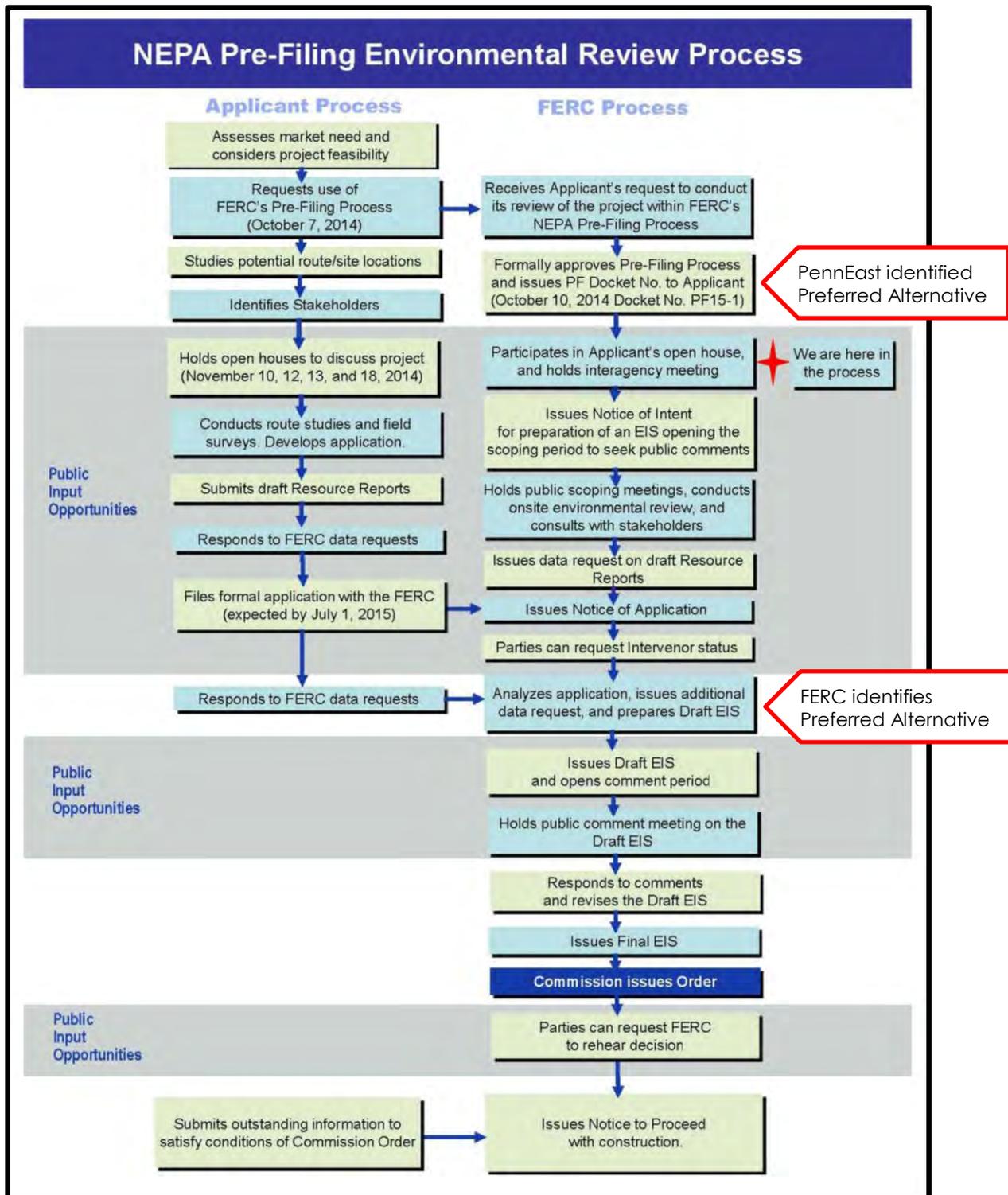
I understand that PennEast's application process parallels the Federal Energy Regulatory Commission's NEPA process, but it is apparent that PennEast's preliminary studies and prejudiced conclusions have precluded a meaningful analysis under NEPA. I respectfully request that FERC: 1) direct PennEast to make a distinction in their public involvement materials between PennEast's identification of a Preferred Alternative versus the formal identification of a Preferred Alternative under NEPA; and, 2) request additional information from PennEast regarding their alternatives analysis. I offer the following information as justification for these requests.

I. Public Involvement

"NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." 40 CFR 1500.1(b).

Although the environmental review process was only initiated last month, it is apparent that many citizens have the impression that the Preferred Alternative is only route being studied and that any alternate alignments would be short reroutes along the Preferred Alternative. This misconception is largely due to the materials PennEast is presenting at public meetings, including very detailed information on their Preferred Alternative and the easement acquisition process.

PennEast's public outreach materials include a "NEPA Pre-filing Environmental Review Process" flow chart (copied on the following page) that is extremely complicated for a layperson to follow and which does not give a true indication of the project's current status under NEPA. "High quality" information should include better information on where the project stands with respect to the NEPA process – most notably, very clear information on when the NEPA Preferred Alternative is identified and how it's approved.



To study and refine one alignment prior to the issuance of the Draft Environmental Impact Statement (Draft EIS) conveys a false impression to the public that the project is further along than it actually is and violates the requirement that high quality information be made available "before decisions are made." This assertion is corroborated by PennEast statement in its pre-filing application: "... PennEast is committed to continuing to review the route alignment with

stakeholders and working to accommodate their concerns. As PennEast continues these ongoing efforts to refine the route alignment, updates to the maps will be submitted to Commission.”¹ These types of statements are being made to the public as well, which has undoubtedly created a misunderstanding of the NEPA process and inhibited public scrutiny of key elements of the project development process, namely the alternatives analysis.

II. Alternatives Analysis & Impact Assessment

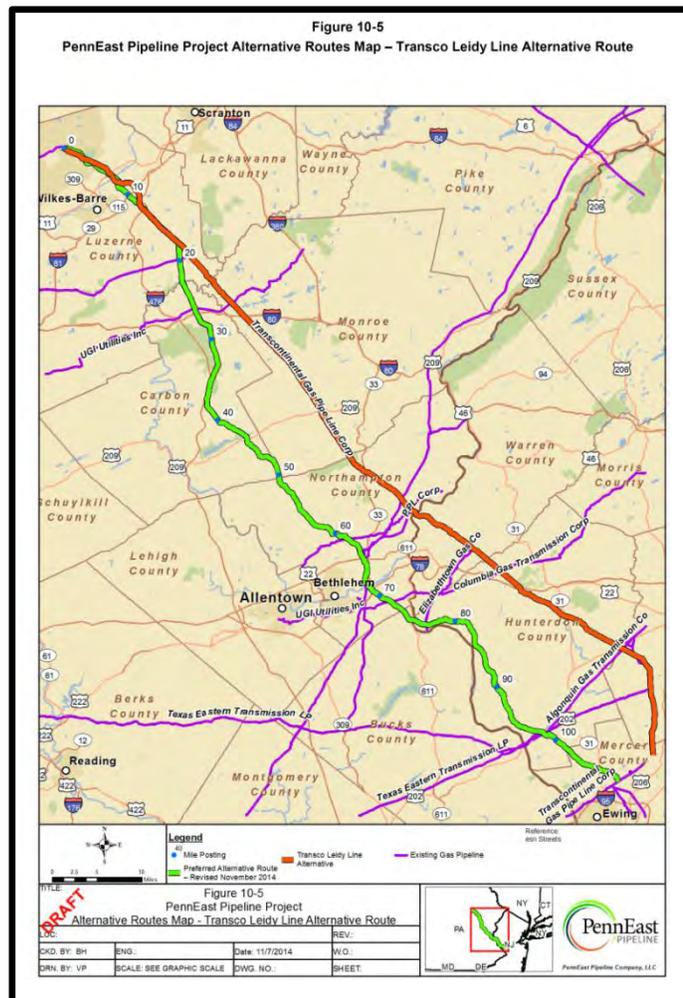
As I understand, NEPA requires agencies to:

“Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” (40 CFR 1512.14(a))

Preliminary Draft Resources Report 10: Alternatives submitted by PennEast on November 7, 2014² describes the range of alternatives studied for the project. I presume this analysis will be the basis of the alternatives analysis presented in the Environmental Impact Statement (EIS). The report includes descriptions of alternate corridor alignments and their basis for elimination, including the Transco Leidy Line Loop (“Transco Alternative”). The report also includes identification of a Preferred Alternative, which utilizes a portion of the Transco corridor in Pennsylvania. This Preferred Alternative is the only alternative that PennEast is currently studying in detail, based on materials being presented to the public and supplied to FERC.

1) A Transco Alternative can be developed as a “reasonable” alternative under NEPA. The report states, “Because the Transco Leidy Line cannot make [these] direct deliveries to UGI Utilities and Elizabethtown and Transco does not access Algonquin and Texas Eastern at one location, any Transco system alternative does not satisfy the purpose and need of the PennEast Project.”

The purpose and need of the project is to “provide the volumes of natural gas transportation service to the expanding mid-Atlantic market in an efficient, safe, reliable, and environmentally sound manner.”² This purpose and need statement does not list access to specific delivery point locations and an



¹ PennEast Request for Approval of Pre-filing Review, dated October 7, 2014.

² PennEast Preliminary Draft Resource Report 10: Alternatives, dated November 7, 2014.

interconnection with Algonquin and Texan Eastern at one location – but even if it did, there are possible modifications of the Transco Alternative that could meet the project purpose and need.

Potential alternatives could include: 1) co-locating with the existing east-west Algonquin or Texas Eastern corridors; 2) co-locating with powerline or other existing utility corridors; or, 3) evaluating westward new location extensions off the Transco corridor. The Transco Alternative loosely parallels the Preferred Alternative, so it is understood that the existing Transco line cannot provide direct access to a point on a parallel alignment; however, the amount of existing infrastructure between the Transco line and these locations certainly must present at least one potential option.

None of the materials presented by PennEast support the determination that there are zero options for a westward alignment off the southern portion of the existing Transco line. PennEast has not sufficiently examined or presented an evaluation of westward connectivity options for the Transco Alternative. FERC is required to include information on “any alternative to the proposed action that would have a less severe environmental impact or impacts and the action preferred by the staff.” 18 CFR 380.7(b). As discussed in the following section, a Transco Alternative would have a “less severe environmental impact” therefore, additional analysis of a Transco Alternative is needed for compliance with this regulation and to allow FERC to make a well-informed decision regarding their preferred action.

2) The Transco Alternative as proposed has less potential for impacts in a majority of the CIA categories. It is understood that the Transco Alternative as proposed does not provide the same connectivity benefits as the Preferred Alternative and would need modification prior to impact assessment; however, in the absence of well-developed Transco Alternative(s) that would meet connectivity needs, my comments reference the Transco Alternative as presented.

A comparison of the Critical Issues Analysis (CIA) items in Tables 10-2 and 10-7 shows that the Transco Alternative has less potential impacts within its 400-foot study corridor than the Preferred Alternative. The Transco Alternative:

- Crosses one less municipality;
- Fewer streams;
- Fewer cold water fishes/fewer warm water fishes;
- Fewer naturally producing trout waters;
- Fewer Non-Chapter 93 Designated Streams;
- Fewer Category 1 Streams;
- 26 less acres of NWI wetlands within its corridor;
- Fewer centerline crossings of NWI wetlands;
- Fewer wells;
- 777 less acres of CNHI-designated habitat (Core Habitat/Supporting Landscapes);
- Zero acres of Natural Heritage Priority Sites (compared to 3 acres for the Preferred Alternative);
- 15 less acres of wellhead protection area within its corridor;
- Zero acres within the Delaware and Raritan Canal Commission Review Zone B (compared to 669 with the Preferred Alternative);
- 225 less acres of State Parks (PA) within its corridor (6 acres compared to 231 with the Preferred Alternative);
- 58 less acres of State Game Lands (PA);
- 203 less acres of NJ Farmland Preserved Parcels;
- 18 less acres of Agricultural Security Areas;
- Zero acres of Karst (PA) (compared to 197 acres within the Preferred Alternative); and,
- Lower percentage of wetland acres within its corridor

3) The presence of karst formations along the Preferred Alternative should be a larger factor in the alternatives analysis. This comparison is limited to potential direct impacts based on a 400-foot corridor and does not evaluate indirect impacts such as placing the pipeline through karst areas. In addition to the fact that karst's cavernous geology is prone to sinkholes,³ the natural conduits in karst facilitate the fast travel of liquids and gases.⁴ Given the instability of karst geologic formations, their ability to quickly disperse liquids and gases, and technological limitations in leak detection and repair, the presence of karst should be weighed more heavily when considering the feasibility of system alternatives. The Preferred Alternative's alignment would cross, at minimum, 4 miles of karst geology.

4) Habitat within Transco's existing 50-foot right-of-way is already compromised, further minimizing direct, indirect, and cumulative impacts to natural resources. The Transco Alternative has less potential for impacts than the Preferred Data presented in Tables 10-2 and 10-7 indicates that several CIA item categories have more acreage within the Transco Alternative corridor than the Preferred Alternative corridor. Does this acreage exclude the amount of land already altered by the construction/maintenance of the existing Transco line? There is no footnote or other source indicating such. Since Transco is required to maintain a 50-foot right-of-way to facilitate inspection, what is the quality of reemerging habitat in an area that was previously clear cut/graded for used as a construction site and that is now routinely cleared and/or sprayed with herbicides? Future studies should not consider these altered/maintained areas in natural resources impact comparisons.

5) The Transco Alternative minimizes the potential for future groundwater/soil contamination by impacting fewer greenfields. It is worthy to note that the Transco Alternative as presented would cross 4 known contamination sites (NJ), compared to 1 site for the Preferred Alternative. Given the hazardous nature of the materials associated with the proposed pipeline, the fact the Transco Alternative crosses more brownfields is preferred over impacting greenfields along the Preferred Alternative corridor, particularly when evaluating cumulative effects.

NEPA regulations define the scope of an EIS to include "cumulative actions" that, when considered with other actions, can have cumulatively significant impacts (40 CFR 1508.25(a)(2)). Cumulative impacts are defined as "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions" (40 CFR 1508.7).

The EIS should consider the cumulative impacts of two parallel interstate pipelines within close proximity⁵ and acknowledge that placing the proposed pipeline along the existing Transco line would avoid/minimize new location impacts. In addition, the cumulative impact assessment should assess current technology as it relates to leak detection and emergency procedures. It is my understanding that leak detection and response logistics can still allow the release high quantities of hazardous materials due to technology limitations and logistics associated with accessing sites and executing repairs. Cumulative impacts assessment should also give serious consideration to logistics associated with right-of-way maintenance, given PennEast's assertion that this factor prohibits the concentration of impacts along an already disturbed corridor. How will PennEast – or a different natural gas carrier – not make the same claim in 20 years when

³ <http://www.wolfenotes.com/2013/07/tennessee-gas-pipeline-drilling-causes-sinkhole-road-collapse/>

⁴ <http://publicsource.org/investigations/new-pipeline-from-pa-fracking-fields-stirs-controversy-bluegrass-state#.VHamrYvF9A0>
<http://wfpl.org/post/gas-explosion-corvette-museum-sinkhole-underscore-opposition-bluegrass-pipeline>

⁵ The southernmost points appear to be roughly 20 miles apart based on the mapping in PennEast reports.

poor land management practices along the new corridor seemingly prohibit expansion and necessitate yet another new pipeline in the region?

The cumulative impact assessment must contrast the Preferred Alternative against a Transco Alternative when evaluating impacts such as economic effects on communities, land use/zoning changes, additional habitat fragmentation, hydrologic effects, thermal effects on soil, and a number of other factors. The potential to minimize cumulative impacts by utilizing (more of) the existing Transco corridor provides further justification to study Transco Alternatives in detail in the EIS.

PennEast's limited analysis does not meet Clean Water Act Section (CWA) 404(b)(1) regulations requiring the examination of "practicable alternatives." CWA 404(b)(1) regulations state:

"... no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences."
40 CFR 230.10(a)

"An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered." 40 CFR 230.10(a) (2)

As shown in Table 10-2, the Transco Alternative corridor crosses less streams and NWI wetlands while still encountering less CIA items than the Preferred Alternative. Study of a Transco Alternative – to the same level as the other preliminary systems alternatives (i.e., aerial reconnaissance and site visits) – is merited at this stage due to the fact that it presents less adverse effects than the Preferred Alternative. Data should be presented that compare the costs and logistics of a well-developed Transco Alternative (or range of Transco Alternatives with various extension or rerouting options) against the cost and logistics associated with 70+ miles of new location pipeline.

PennEast's determination that the existing Transco line cannot be expanded is unsubstantiated.

The report states, "a loop of Transco's Leidy Line is not a viable alternative in light of the current circumstances and the environmental impact associated with constructing the facilities." What exactly are the "current circumstances" as they relate to a NEPA-compliant alternatives assessment? This qualitative, catch-all statement is not substantiated by the data presented in Tables 10-2 and 10-7 nor does it allow for a meaningful comparison of the Transco Alternative.

Transco's statement regarding expansion is insufficient justification for elimination of the Transco Alternative. The report states that PennEast has performed its analysis and agrees with Transco's own statement that the existing line cannot be expanded. The report references Transco's letter as stating: *"The existing Transco pipeline system is extremely capacity constrained in New Jersey and Southern Pennsylvania, operating in very densely populated areas. [...] due to encroachment of residential and commercial structures along the Transco system, certain areas would be nearly impossible to loop and would require other greenfield portions to be constructed, further increasing the overall impact of the project."* There is concern with this reference serving as part of the basis for elimination of the Transco Alternative:

- 1) **The Transco letter is not part of the Administrative Record for the project.** The letter from Transco referenced in the Alternatives Report should be appended to the report or separately included as part of the Administrative Record for the project.
- 2) **PennEast should not reference Transco's unsubstantiated information as part of their alternatives analysis.** The report indicates that Transco's statement was provided in a letter, suggesting that PennEast was not provided a report prepared by Transco. Without a copy of this report, it can't be assumed that an analysis was developed to a sufficient degree under NEPA.
- 3) **Encroachments on the existing Transco pipeline should not be weighed equally against relocation impacts of the Preferred Alternative.** It is my understanding that pipeline right-of-way agreements can vary from pipeline to pipeline and state to state, but it appears that the responsibility of maintaining pipeline right-of-ways falls on the pipeline company. Federal regulations state, " *Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.*" (49 CFR 192.715) Construction activity associated with new development and encroachments are undoubtedly factors that affect public safety and restrict future pipeline operations. Transco should have taken action on these activities in the past. Encroachments due to Transco's inability to maintain their right-of-way should not be considered as justification to drop the alternative from consideration, particularly in contrast to the relocations and other land use impacts of the Preferred Alternative.
- 4) **The relocation of existing development should be considered for the Transco Alternative as it is for the Preferred Alternative.** Relocations are anticipated for the Preferred Alternative; however, potential relocations due to encroachment are being cited as one reason to eliminate the Transco Alternative. Regulations on the use of eminent domain for pipelines state that eminent domain can be used to acquire the "necessary right-of-way to construct, operate, and maintain a pipe line..." Under this language, the relocation of encroachments and/or the relocation of adjacent development for pipeline construction is permissible and therefore worthy of evaluation. If the right of eminent domain is likely to be used to acquire right-of-way for the Preferred Alternative, why were potential relocations not examined with the Transco Alternative? PennEast's report summarily dismisses the potential for co-locating along existing utility corridors by stating, "assessment found that some of these ROWs had been encroached upon by residential and commercial development resulting in inadequate area for the staging and construction of an additional pipeline between the existing facilities and the neighboring developments."

This qualitative assessment should be expanded to describe potential relocations associated with expansion along the existing Transco line and these relocations should be weighed against the environmental impacts associated with 70+ miles of new location pipeline.

- 5) The report cites "environmental impact associated with constructing the facilities" and quotes Transco's deduction that "certain areas would be nearly impossible to loop and would require other greenfield portions to be constructed..." How was this conclusion reached? PennEast states that the Transco Alternative does not meet the project purpose and need and was therefore dropped from study, so how can this statement be valid when, at best, impact quantities are based on a desktop assessment that didn't consider environmental degradation from the existing pipeline?

As mentioned previously, the data in Tables 10-2 show less CIA items for the Transco Alternative, so where are these impacts specifically? If this alternative had been carried forward to the same extent as the other preliminary systems alternatives (i.e., aerial reconnaissance and site visits), perhaps reroute options would have been found to better avoid and minimize impacts (which would already be less than the Preferred Alternative based on the data in Tables 10-2 and 10-7). Further, are greenfields really the only other option at every location where it “would be nearly impossible to loop”? There’s no land suitability mapping included in the report to corroborate the statement.

- 6) The deduction that the Transco Alternative would necessitate greenfield construction, “further increasing the overall impact of the project” is disingenuous and misleading. “Further increasing” with respect to what “overall impacts” exactly? Table 10-2 shows that the Transco Alternative has less potential environmental factors within its 400-foot corridor⁶, so even if rerouting is required in some areas, it is very likely that the impacts associated with these reroutes would still not begin to compare with the “overall impacts” of 70+ miles of new location pipeline.

Consistent with NEPA requirements, the report includes the reason the Transco Alternative was eliminated; however, to say that “any Transco system alternative does not satisfy the purpose and need” is short-sighted, particularly in light of the potential for significantly less impacts with the Transco Alternative, as presented in Table 10-2.

A Transco Alternative (or multiple Transco Alternatives with extensions or other reroutes) should be “rigorously explored” as a reasonable alternative in accordance with NEPA. The report describes how the assessment of some alternatives included aerial reconnaissance and site visits.

The Transco Alternative was not included in this portion of the study, having already been prematurely eliminated from study at this point. A well-developed Transco Alternative should have been considered a reasonable alternative and included in these studies. NEPA requires agencies to:

“Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” (40 CFR 1512.14(a))

The report states, “Both the aerial and ground reconnaissance highlighted areas of potential concern and allowed for further investigation into solutions, such as reroutes.” Because reasonable Transco Alternatives were not developed and included in this analysis, the discussion contained in the Alternatives Report does not give enough detail to satisfy the requirement that all reasonable alternatives have been “rigorously explored.” The report states, “the primary objective in evaluating alternatives for siting was to avoid, minimize, and if necessary, mitigate adverse effects” while satisfying customer need. How can PennEast meet its own stated objective – or the NEPA requirement to rigorously explore reasonable alternatives – without better evaluation of an existing route? Certainly short new location extensions westward from the Transco line or westward reroutes along existing utility corridors would create less environmental impacts than 70+ miles of new location pipeline.

The “desktop” analyses performed for the Transco Alternative and other system alternatives are disproportionate to the level of effort being exerted to study the Preferred Alternative.

⁶ Even if quantities shown for the Transco Alternative include degraded habitat within Transco’s existing 50-foot right-of-way, this alternative still presents less environment impacts than the Preferred Alternative.

"Agencies shall not commit resources prejudicing selection of alternatives before making a final decision." 40 CFR 1502.2(f)

PennEast's Pre-filing application states, "In accordance with the NEPA Pre-Filing Process, PennEast is committed to continuing to review the route alignment with stakeholders and working to accommodate their concerns. As PennEast continues these ongoing efforts to refine the route alignment, updates to the maps will be submitted to Commission." I understand that it is permissible to identify a Preferred Alternative in the Draft EIS, but to make a statement of this nature before the DEIS is prepared clearly conveys PennEast's lack of intent to study any other alternative to a comparable level of detail.

If this is the case, how can the Preferred Alternative be demonstrated to be compliant with CWA Section 404(b)(1) regulations when there is no meaningful comparison of impacts, or avoidance and minimization measures to reduce potential impacts to field-delineated wetlands (not just NWI wetlands) along any other reasonable alternative? NEPA requires reasonable alternatives to be studied at the same level of detail. How can the overwhelmingly disproportionate level of resources being committed to the Preferred Alternative NOT prejudice the selection of alternatives prior to the final decision (i.e., Record of Decision)?

"Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made." 40 CFR 1502.2(g)

It is disingenuous to move through the NEPA process while concurrently conducting detailed studies and pursuing land agreements for the Preferred Alternative. PennEast has not satisfied environmental regulations under NEPA and the Clean Water Act. FERC should more effectively administer NEPA regulations before it considers granting the power of eminent domain for a Preferred Alternative that has been predetermined by a very short-sighted analysis of other reasonable alternatives.

In closing, I would like to reiterate my request that FERC: 1) direct PennEast to make a distinction in their public involvement materials between PennEast's identification of a Preferred Alternative versus the formal identification of a Preferred Alternative under NEPA; and, 2) request additional information from PennEast regarding their alternatives.

Sincerely,



Pamela Bordwick

cc: Honorable Chris Christie	Mr. Domenic Rocco, PADEP
Senator Shirley Turner	Mr. Thomas Uybarreta, EPA
Senator Robert Menendez	Mr. Lingard Knutson, EPA
Senator Cory Booker	Ms. Pamela Bush, DRBC
Congressman Leonard Lance	Mr. Steven Tambini, DRBC
Assemblyman Reed Gusciora	Ms. Kayla Easler, USFWS PA
Assemblywoman Bonnie Watson-Coleman	Mr. Jeremy Markuson, USFWS NJ
Mr. Robert Martin, NJDEP	Mr. Glenn Weitknecht, USACE
Mr. John Gray, NJDEP	Mr. Wade Chandler, USACE

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