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Ms. Kimberly D. Bose
Secretary of the Commission
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Docket No. PL18-1-000

Dear Ms. Bose:

Thank you for this opportunity to submit comments regarding the Federal Energy Regulatory Commission's review of its 1999 policy statement on the certification of new natural gas transportation facilities. Given the forecasts which show a continued reliance on natural gas in this country, and because of the often contentious siting process for natural gas pipelines, this review is a timely opportunity to identify ways to better balance the demand for natural gas with the need to protect the natural environment. As you move forward with this initiative, we would ask FERC to place far greater weight on the avoidance of conservation land and sensitive ecological areas in order to more effectively achieve this balance.

As we understand, FERC's current evaluation process calls for it to first answer the threshold question of whether the project can proceed without subsidies from its existing customers. After resolving that issue, the Commission will then determine if the applicant has made efforts to eliminate or minimize any adverse effects the project might have on its existing customers, existing pipelines in the market, or the economic interests of landowners and communities affected by the route of the new pipeline. Ultimately, the Commission will only deny an application if the balancing of all of these factors weighs against authorization of the proposed project.

While the Forest Society takes no position on the issue of whether a project should proceed without subsidies from its existing customers, we do believe FERC must broaden the criteria it uses to make the threshold determination. Because environmental stewardship is especially important in New Hampshire, the need to refocus the approval criteria became evident during the consideration of the since withdrawn Northeast Energy Direct (NED) project. NED's proposed 71 mile route in New Hampshire would have crossed significant land, water and wildlife habitat resources, including three parcels of permanently conserved land owned by the Forest Society. One of the central goals of this permanent land conservation work is to prevent uses of the land that would adversely affect the intrinsic natural systems located on and within the land. In addition to fee title ownership, conservation easements are a central land protection tool. As you know, conservation easements are placed on land that has been identified as having significant and/or unique conservation or historic value. These lands therefore constitute charitable trusts that exist for public benefit.

Siting a gas pipeline on conservation easement land undermines the policy which supports the protection of these high value areas. Furthermore, prospective easement grantors and the general public could lose confidence in conservation easements as a land protection tool, especially if the lands are taken without consideration of the natural resource values that led to their permanent protection. In short, FERC should not establish and follow a process which breaks this public trust.

We recommend that the Commission institute a policy which places the avoidance and minimization of impacts to protected conservation lands and other sensitive natural areas on par with the current threshold issue of project subsidization by existing customers. In short, the use of permanently protected conservation lands for such facilities can and should be avoided. An example of how FERC can promote this avoidance principal is to give priority consideration to a project which plans to use an existing transportation corridor where the ground is already disturbed and natural resource impacts are already mitigated. Such a proposal demonstrates a commitment to upholding the public trust and certainly is of equal weight to one that will not tap existing customers for subsidy support. Incorporating that kind of thinking into the updated policy statement will allow FERC to more effectively balance all of the factors needed to either authorize or deny an application.

New Hampshire's law (NH RSA 162-H) on the siting of energy facilities can be instructive to FERC as you seek to reach that goal. 162-H:1 Declaration of Purpose reads, in part, "the legislature finds that it is in the public interest to maintain a balance among those potential significant impacts and benefits in decisions about the siting, construction, and operation of energy facilities in New Hampshire;" and that "the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic, and technical issues are resolved in an integrated fashion."

Thank you for considering these comments. We would welcome the opportunity to further discuss them with FERC representatives.

Sincerely,

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