BEFORE THE UNITED STATES
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company (TGP), a
wholly owned subsidiary of Kinder Morgan
Northeast Energy Direct (NED) Pipeline

Docket No. CP 16-21-000

MOTION TO INTERVENE OF THE FRANKLIN REGIONAL COUNCIL OF
GOVERNMENTS

Pursuant to Rule 214 of the Federal Energy Regulatory Commission’s
(Commission) Rules of Practice and Procedure, 18 C.F.R. §385.214, the Franklin
Regional Council of Governments (FRCOG) files this Motion to Intervene in the above-
captioned proceeding. The FRCOG has significant concerns about the environmental,
safety and socioeconomic impacts of the NED pipeline project. The resources in
Franklin County, Massachusetts that could be directly impacted by the proposed
pipeline include: public and private drinking water supplies, permanently protected
open space, farmland, forestland, rare and endangered species habitats, wetlands,
vernal pools, coldwater fisheries, public infrastructure, private homes and businesses,
and historic resources. The short and long-term impacts that the proposed project
could have on our communities and region are profound. The FRCOG seeks to
intervene on the NED Project to monitor the progress of the proceedings and expects to
take a position on the Project once we complete our review of the KM-TGP Application
filed with FERC.

I. STATEMENT OF INTEREST

A. Description of INTERVENOR

The Franklin Regional Council of Governments is the Regional Planning Commission
for the 26 communities of Franklin County Massachusetts, of which eight are slated to
be directly impacted by, and several others indirectly impacted by, approximately 34
miles of pipeline, a large scale compressor station and other above ground facilities.
The FRCOG provides technical assistance and analysis to our member communities. The FRCOG is also responsible for addressing regional issues and large scale development that cross town boundaries and impact multiple communities. We are assisting our towns to understand the potential impacts of the pipeline and represent their needs and issues during the scoping and EIS processes.

Franklin County is the most rural region in Massachusetts with a total population of approximately 71,408 and is located in the western portion of the State bordering Vermont and New Hampshire (see attached map). The eight towns directly impacted by the pipeline are largely rural communities. The largest is Montague with a population of 8,422¹ and the smallest is Warwick with a population of 642¹. The total population of the 8 towns is 24,225¹. While the largest employment sectors in the 8-town region are education, health care services, manufacturing, and retail trade, there has been significant growth in agricultural, forestry and other natural-resource based employment that will be negatively impacted by the proposed pipeline. The pipeline is located in primarily rural areas zoned for residential, agriculture and forestry and is largely comprised of farmland and forest with sensitive habitat areas and other natural resources.

B. Description of Impacts

The resources in Franklin County, Massachusetts that could be directly impacted by the proposed pipeline include: public and private drinking water supplies, permanently protected open space, farmland, forestland, rare, threatened and endangered species habitats, wetlands, vernal pools, coldwater fisheries, public infrastructure, private homes and businesses, and historic resources described in more detail in the Table and text below.

¹ U.S. Census Bureau 2009-2013 Five Year Estimates
Our rural communities are increasingly reliant on natural resources for their economic strength and diversity and have less income and resources to address the short and long term cumulative impacts from the proposed NED pipeline project. The economic and public health of rural residents is closely tied to the health and viability of the region’s natural resource base. Further, the NED pipeline project is proposed to be sited in several Environmental Justice (EJ) Areas, according to a study recently completed by the FRCOG, which are areas of high poverty or minority populations in the region. These EJ Areas include the Northern portion of Deerfield, Western portion of Erving, Non-Urban Area of Montague, the Millers Falls Area of Montague and the Northern portion of Northfield. Consequently, the proposed NED project in Franklin County raises serious economic, public health and Environmental Justice issues.

Based on publicly available data, the FRCOG prepared GIS mapping and compiled statistics utilizing GIS information on the proposed pipeline route and above ground facilities locations provided by AECOM, a subcontractor to KM-TGP dated June 2015. The GIS information includes the pipeline route, a compressor station, access roads and workspace, contractor yards, pig launchers and receivers, main line valves, and metering stations. As shown in Table 1 below, there will be significant impacts to regional environmental resource areas including Permanently Protected Open Space, rare and endangered species habitat (e.g. MA Natural Heritage & Endangered Species Program (NHESP) Priority Habitat Areas), unfragmented forests, active farmland, coldwater fisheries, vernal pools, water supply areas, and water bodies. Because these figures are based on publicly available data, it is likely that this analysis underestimates

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2 Regional Transportation Equity Analysis for Franklin County, MA; Franklin Regional Council of Governments; July 2015; Environmental Justice Areas are defined as areas where minorities comprise 9% or more of the block group’s total population or where at least 12% of the area’s population lives below the poverty level (see Tables 1 & 2 and Narrative; Pages 6-8); These definitions have been in use by FRCOG since 2012 for compliance with Title VI of the Civil Rights Act and while the minority percentage figure is lower than the Statewide average, it is the Franklin County average reflecting our rural region; www.frcog.org
the resources that could be impacted. Field surveys for a major portion of the proposed pipeline route are needed to accurately reflect the resource impacts. The above ground facilities further increase the resource areas impacted. Based on our mapping analysis, there will also be impacts to farming and forestry businesses and recreational and heritage tourism businesses.

<table>
<thead>
<tr>
<th>Table 1 - Franklin County, MA Resource Areas</th>
<th>Resource Areas Within 300 foot Buffer</th>
<th>Resource Areas Within 1/4 Mile Buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanently Protected Open Space</td>
<td>440 acres</td>
<td>1,749 acres</td>
</tr>
<tr>
<td>Outstanding Resource Waters</td>
<td>117 acres</td>
<td>493 acres</td>
</tr>
<tr>
<td>Public Water Supply Recharge Area</td>
<td>110 acres</td>
<td>528 acres</td>
</tr>
<tr>
<td>Public Water Supplies</td>
<td>2 PWS</td>
<td>6 PWS</td>
</tr>
<tr>
<td>Aquifers</td>
<td>344 acres</td>
<td>1,398 acres</td>
</tr>
<tr>
<td>Agricultural Land Use, Prime Farmland Soils</td>
<td>780 acres</td>
<td>2,893 acres</td>
</tr>
<tr>
<td>NHESP Priority Habitat Rare Species</td>
<td>692 acres</td>
<td>2,731 acres</td>
</tr>
<tr>
<td>Wetlands</td>
<td>97 acres</td>
<td>459 acres</td>
</tr>
<tr>
<td>NHESP &amp; Nature Conservancy BioMap2 Core Habitat</td>
<td>970 acres</td>
<td>4,114 acres</td>
</tr>
<tr>
<td>Cold Water Fisheries (# of Streams or Rivers Crossed or within the Buffer Area)</td>
<td>15</td>
<td>20</td>
</tr>
<tr>
<td>Total # of Streams or Rivers Crossed or within the Buffer Area (includes Cold Water Fisheries)</td>
<td>27</td>
<td>43</td>
</tr>
<tr>
<td>Federally Designated National Scenic Trails Crossed</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Ponds, Lakes or Reservoirs</td>
<td>10</td>
<td>35</td>
</tr>
<tr>
<td>Federally Designated American Heritage River Crossed</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>State or Federally Designated Scenic Byways Crossed</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

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3 Data based on publicly available information. There are additional resources not included in the table which are located along the proposed pipeline route that require field work and/or prior permission from property owners, including but not limited to: private drinking water wells, private septic systems, historic structures, cemeteries, residential homes, parks and recreation areas including ball fields and trails, churches, private schools, pre-schools and daycare centers, vernal pools, delineated wetlands, endangered species habitat, and recently protected open space. Native American and other archeological resources may be present.

4 Data compiled is based on digital GIS shapefiles of the pipeline route and above ground facilities provided by AECOM, a subcontractor to KM-TGP dated June 2015 and includes above ground facilities such as the compressor station, access roads, contractor yards, and metering and venting stations. Additional route changes have occurred in Warwick based on correspondence received from AECOM dated October 27, 2015, but digital information has not been provided.
The pipeline is expected to impact air and water quality and will generate significant noise pollution. The pipeline also has the potential to impact private property including the private wells and septic systems of approximately 250+ homes or businesses within ¼ mile of the proposed pipeline route based on a review of available mapping of water and sewer infrastructure. Overall there are approximately 1,319 structures located within ¼ mile of the NED project including approximately 710 residential or business structures that could be impacted.

There are significant public safety and infrastructure concerns. In the eight towns directly impacted by the proposed pipeline, fire protection is provided primarily by local volunteer fire departments, with forest fire support from State agencies, and most areas do not have public water systems that provide fire protection. Much of the road network consists of rural two-lane roads and these local roads and rural bridges, in some cases one lane bridges, are not suitable for heavy construction equipment or vehicles. Construction will occur along a corridor of rural towns with significant areas of protected open space in state and non-profit ownership.

The NED project violates the local zoning of the communities in Franklin County, Massachusetts. Most of the land along the proposed NED pipeline route is zoned for residential and agricultural use and also includes permanently protected open space. These Residential – Agricultural zoning districts are not suitable for industrial uses. There are approximately 2,893 acres of prime farmland soils and/or agricultural land use and many farms within a ¼ mile of the proposed NED project that will be impacted.

Even without more specific parcel-level detail of the actual proposed path of the pipeline and related surveying, it is clear that there will be impacts to Franklin County’s natural resources, infrastructure and ability to adequately protect public safety.
C. **Standard for Intervention**

The Franklin Regional Council of Governments satisfies the standard for intervention under the Commission’s regulations. As discussed above, the Franklin Regional Council of Government’s region is directly impacted by the proposed project, and no other individual or organization can adequately represent the Franklin Regional Council of Governments unique regional interest in this proceeding. The FRCOG’s intervention is also in the public interest because it represents the interests of governmental bodies. Accordingly, the Franklin Regional Council of Governments respectfully requests that the Commission grant this Motion to Intervene.

II. **CONTACT INFORMATION**

The following individuals representing the Franklin Regional Council of Governments should be added to the Official Service List, with all notice and communications in this proceeding addressed to the contacts listed below:

<table>
<thead>
<tr>
<th>Name: Linda Dunlavy, Franklin Regional Council of Governments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address: 12 Olive Street, Suite 2</td>
</tr>
<tr>
<td>Phone: 413-774-3167 x103</td>
</tr>
<tr>
<td>Email: <a href="mailto:lindad@frcog.org">lindad@frcog.org</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name: Peggy Sloan, Franklin Regional Council of Governments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address: 12 Olive Street, Suite 2</td>
</tr>
<tr>
<td>Phone: 413-774-3167 x133</td>
</tr>
<tr>
<td>Email: <a href="mailto:psloan@frcog.org">psloan@frcog.org</a></td>
</tr>
</tbody>
</table>
III. COMMENTS

Based on an initial review of the Application submitted by TGP on November 20, 2015, it is deficient in at least five key areas: 1) Demonstration of the need for the NED Project; 2) Comprehensive Analysis of Alternatives based on Environmental Resource Impacts; 3) Analysis of Environmental Justice Impacts; 4) Lack of Real Co-Location and 5) Inadequate Information on Insurance & Public Safety Threats.

1) Demonstration of the need for the NED Project

Under the Commission’s Certificate Policy Statement, an applicant must demonstrate a need for the proposed project. Further, where a proposed project - such as Northeast Energy Direct - will have significant, adverse effects on the surrounding environment, and private and municipal property rights and state constitutionally-protected parklands, the amount of evidence necessary to establish project need for a proposed project is heightened.

The Applicant admits that the NED Project is not fully subscribed. According to the Application, the market path component of the NED Project has a total capacity of 1,332,500 Dth/day, but only 552,261 Dth/day -- or 41 percent -- is committed under what the Applicant claims are binding precedent agreements. For the supply path component, the Applicant has executed precedent agreements for 751,650 Dth/day - or roughly 61 percent of the Supply Path Component’s capacity of 1,230,000 Dth/day. A cursory review of the project subscribers shows that at least one, UIL Holdings is an affiliate of the project - and precedent agreements with affiliated


6 Id.

7 The Applicant attached heavily redacted versions of the Precedent Agreements to its application, and the FRCOG is currently reviewing them to determine whether the Applicant accurately characterized the binding nature of the commitments, and whether access to an unredacted version of the agreements might be necessary.
entities are not considered as probative of need as unaffiliated, arms-length contracts. In addition, there are no firm commitments from gas fired electric generators for the market path component even after the most recent “Power Serve” Open Season that closed on October 29, 2015 (Pages 24-26 - Application). The shippers listed in the Application (Pg. 26) include LDCs (such as Berkshire Gas), one municipal light department, one industrial end user and one holding company. The speculative nature of the NED Project is particularly problematic given the large amount of private property expected to be taken by eminent domain to build the NED pipeline in light of the very low survey permission rate. Further, there are vast amounts of critical environmental resources that will be impacted, including public water supplies, endangered species habitat, and permanently protected open space.

Even so, where a pipeline is not fully subscribed, the Certificate Policy statement allows a showing of need through alternative evidence of market demand for the project. Here too, the NED Project falls short. According to a 2015 Department of Energy Report, only 54 percent of current pipeline capacity is being used - and higher utilization of existing interstate natural gas pipelines will reduce the need for new pipelines. Moreover, while the DOE Report finds that at most, 8.4 bcf/d are needed, the Commission is currently considering applications for 48 bcf/d. Even the Commission’s own projections from its March 2015 State of the Market Report

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8 Certificate Policy Statement at 25-26 (“Certificate Policy Statement at 25-26 (“A project that has precedent agreements with multiple new customers may present a greater indication of need than a project with only a precedent agreement with an affiliate.”)

9 See also Sierra Club Comments, Docket CP16-22, (December 21, 2015)(discussing lack of market demand for pipelines).

10 See Department of Energy report (“Natural Gas Infrastructure Implications of Increased Demand from the Electric Power Sector” (February 2015), online at http://energy.gov/sites/prod/files/2015/02/f19/DOE%20Report%20Natural%20Gas%20Infrastructure%20V_02-02.pdf).

11 Id.
likewise show that by 2016, sufficient pipeline capacity will be in place to handle Marcellus production.

Chart from FERC State of Markets Presentation (March 2015) at 8 online at http://www.ferc.gov/CalendarFiles/20150319162231-A-3.pdf (lines show growth in pipeline capacity)

The DOE and Commission studies are in line with the Massachusetts Attorney General’s recent report, which determined that increased gas supply is not needed to meet the state’s electricity needs.12

The Certificate Policy Statement also allows a project sponsor to attempt a showing of project need based on potential benefits, such as lowered gas or electric rates. But “vague assertions of public benefits” are not sufficient; any claimed benefits must be backed up by a market study that explains the basis for the projections.13 Many of the project benefits listed in the application – notably avoidance of another costly...

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Polar Vortex\textsuperscript{14} and savings of between $1.7 billion and $2.4 billion in electric costs - preliminarily, seem speculative.\textsuperscript{15} For example, an ICF Report commissioned by Kinder Morgan found that the NED pipeline would have saved consumers $3.7 million in costs associated with the Polar Vortex\textsuperscript{16} -- even though two reports by the Northeast Energy Reliability Council (NERC) conclude that the Polar Vortex resulted from lack of coordination, and that similar scenarios have and may be avoided through coordination and advance planning.\textsuperscript{17} Moreover, these improved coordination efforts are far less costly than the $5.2 billion price tag to achieve added savings as a result of the NED Project.

i) TGP has failed to demonstrate sufficient need for the NED Project to justify either the substantial adverse impacts to the environment and communities, or the taking of private and municipally-owned property and state constitutionally protected parklands. As such, the Commission should find that the project will not serve the "present or future convenience and necessity" and deny the Application. Alternatively, even if the Commission finds that TGP has offered some evidence to support project need for the project, the evidence is disputed,

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\textsuperscript{14} A polar vortex is a large area of low pressure cold air that ordinarily surrounds the Earth's poles, but which migrated south during the winter of 2014, accounting for record-breaking freezing temperatures and price spikes throughout the Northeast, and in particular in the New England area due to increased power use. \textit{See} https://en.wikipedia.org/wiki/Early_2014_North_American_cold_wave (describing polar vortex phenomenon); \textit{also} \textit{We’re Not Facing An Energy Crisis in New England}, http://commonwealthmagazine.org/environment/were-not-facing-an-energy-crisis-in-new-england/ (June 1, 2015) (describing impact of polar vortex on New England power markets)

\textsuperscript{15} The FRCOG is still in the process of a detailed review of the reports submitted by TGP to support the project and will supplement these comments further.


and as such, the Commission must hold a hearing to adjudicate the issue of whether there is a need for the project.\textsuperscript{18}

ii.) The Applicant cites the need for this gas pipeline to serve the electric utility industry but does not have firm commitments from electric generating companies to purchase gas from the NED project. The pipeline, after a lengthy period of TGP conducting open seasons, still has only 41\% (552,262 Dth per day) of the market path pipeline capacity (1,332,500 Dth per day) committed. The recent study sponsored by the Massachusetts Attorney General’s Office found that the NED Project as proposed by TGP is not needed to meet electricity reliability needs in New England\textsuperscript{19}.

2) Comprehensive Analysis of Alternatives based on Environmental Resource Impacts

The Alternatives Analysis, Resource Report 10, is deficient and the information is incomplete making it impossible to adequately assess the environmental impacts and select the alternative with the least impacts. The analysis relies primarily on “desktop” data (RR10; Pg. 10-23) for the Preferred Route obtained from aerial photographs and/or publicly available GIS datalayers, and resource impacts are significantly underestimated. The tables do not present the information clearly and should list both miles or linear feet, as well as acreage of each resource area within 300 feet and ¼ of a mile of the centerline of the pipeline. Further there is still information missing in the Alternative Tables including Vernal Pools, Minor Stream Crossings, Public Water Supply Recharge Areas, and Permanently Protected Open Space. For example, in Massachusetts alone (Resource Report 2 Page 2-57) there are

\textsuperscript{18} See Environmental Action v. FERC, 996 F.2d 401, 413 (D.C. Cir.1993 – requiring adjudicative hearing when the disputed issues may not be resolved through an examination of written submissions.”). As FRCOG will discuss in a separate motion, assertions of project require credibility assessments of the underlying analyses and therefore, are not susceptible to resolution on the papers.

\textsuperscript{19} Power System Reliability in New England; November 2015; Analysis Group Inc. for MA AGO
64 Certified Vernal Pools and 91 Potential Vernal Pools within 750 feet of the proposed NED pipeline which are not reflected in the Alternatives Analysis. The information contained in the Alternatives Analysis should be consistent with the information presented in the other Resource Reports.

Although FRCOG is still evaluating the Alternatives Analysis more closely, one obvious alternative is omitted: closer gas-electric coordination between pipelines and generators, and through the New England ISO to avoid situations like the Polar Vortex and keep rates in check. At least two NERC studies have suggested that increased coordination would resolve many of the problems that gave rise to the Polar Vortex.\(^{20}\) The omission is surprising given that the ICF Report purporting to show a need for the NED Project touts the $3.7 billion savings that would have resulted had the NED Project been online when the Polar Vortex occurred. Likewise, many of the options identified in the Massachusetts Attorney General’s Report also warrant discussion as lower cost alternatives to the NED Project.

The Cumulative Impact Assessments presented in the Resource Reports are still deficient and provide limited quantitative assessment of water quality, critical wildlife habitat, fisheries or rare and endangered species impacts caused by construction and clearing of forested areas (e.g. erosion and sedimentation impacts on water quality of streams including cold water fisheries, increased stormwater runoff and nutrient loading to water bodies, estimated increase in water temperature in cold water fisheries streams as a result of forest land cleared, reduction of rare or endangered species as a result of lost or fragmented habitat, etc.). Approximately 11,000 acres of land will be disturbed by the project yet on Page 2-157 of Resource Report 2, the proponent states that “the cumulative effect on

\(^{20}\) See NERC Reports, supra.
groundwater, surface water, sensitive waters, and wetlands resources will be temporary and minor.”

The data, assessments, and discussion of cumulative impacts presented in the Resource Reports are not adequate to provide a foundation for the Cumulative Effects analysis that is required under National Environmental Policy Act (NEPA). The Council on Environmental Quality’s (CEQ) “Considering Cumulative Effects under the National Environmental Policy Act” provides a framework that project proponents can use to evaluate the cumulative effects of a project on specific resources, ecosystems and human populations of all related activities.\(^{21}\) The D.C. Circuit has since amplified the scope of cumulative impacts analysis, stating that a meaningful assessment of cumulative impacts must identify:

the area in which the effects of the proposed project will be felt; (2) the impacts that are expected in that area from the proposed project; (3) other actions — past, present, and proposed, and reasonably foreseeable — that have had or are expected to have impacts in the same area; (4) the impacts or expected impacts from these other actions; and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate."\(^{22}\) Grand Canyon Trust v. FAA, 290 F.3d 339, 345 (D.C. Cir. 2002).

The Resource Reports are both conclusory and deficient in terms of data and assessment and these deficiencies, if not corrected, will limit or preclude a useful analysis of the cumulative effects of the proposed project. The Resource Reports should contain adequate information to establish the environmental baseline and thresholds of environmental change. This is especially critical in Franklin County where the proposed pipeline route crosses large tracts of undeveloped, unfragmented landscape.

\(^{21}\) [https://ceq.doe.gov/nepa/ccenepa/exec.pdf](https://ceq.doe.gov/nepa/ccenepa/exec.pdf)

\(^{22}\) Delaware Riverkeeper v. FERC.
The CEQ regulations require the Commission to consider indirect impacts of the proposed actions. Indirect impacts are caused by the proposed action and occur later in time or are farther removed in distance than direct project impacts, but are still reasonably foreseeable. 40 C.F.R. §1508.8(b).

Increased Marcellus development is an indirect project impact that the Application does not discuss. Instead, TGP states that the Commission need not consider the environmental effects of production at Marcellus because shale extraction is regulated by the state and outside the Commission’s jurisdiction. However, if an impact falls outside the scope of the Commission’s regulatory jurisdiction, that is no basis for ignoring it.23

In fact, the Commission itself has never asserted jurisdictional limits as a basis for ignoring indirect impacts of increased Marcellus production in a Certificate proceeding. Rather, the Commission previously declined to consider indirect impacts associated with Marcellus production because of a lack of causal connection between pipeline construction and Marcellus extraction.24 However, here, because the NED project is overbuilt and affords access to export markets, it is far more likely to induce Marcellus production – thus giving rise to a causal connection between pipeline construction and increased shale extraction activity that was lacking in prior cases.25

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23 For example, the Commission must consider the impacts of a project on greenhouse gas emission and climate change even though it has no regulatory jurisdiction over them. See Whitehouse Statement on Greenhouse Gas and Climate Change, https://www.whitehouse.gov/administration/eop/ceq/Press_Releases/December_18_2014.

24 See, e.g., Coalition for Responsive Growth and Conservation v. FERC, Docket No. 12-566 (2nd Cir 2012)(affirming Commission’s conclusion that impacts of Marcellus development are not sufficiently “causally-related” to pipeline project to warrant a more in-depth analysis.”).

25 The D.C. Circuit is currently reviewing the issue of whether the Commission should have reviewed the environmental impacts associated with induced project as a result of authorization of the Cameron LNG export
Given the inadequacy of the Alternatives and Cumulative Effects Analysis it is questionable whether TGP has chosen the alternative that minimizes impacts to environmental resources that are protected by NEPA.

3) Analysis of Environmental Justice Impacts

The NED pipeline project is proposed to be sited in several Environmental Justice (EJ) Areas, according to a study recently completed by the FRCOG, which are areas of high poverty or minority populations. These EJ Areas include the Northern portion of Deerfield, Western portion of Erving, Non-Urban Area of Montague, the Millers Falls Area of Montague and the Northern portion of Northfield.\(^{26}\) Consequently, the proposed NED project in Franklin County raises a serious Environmental Justice issue if rural low income or minority populations are impacted by a project that is expected to have adverse air and water quality impacts and which may have a depressing effect on property values given health and public safety concerns. The Environmental Justice Analysis conducted by TGP is inadequate because it only examines this issue at the community scale not at the neighborhood level.

The Northeast Energy Direct Project’s Resource Report 5 (Socioeconomics) conducted an environmental justice analysis for the project region. Specifically, they

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\(^{26}\) Regional Transportation Equity Analysis for Franklin County, MA; Franklin Regional Council of Governments; July 2015; Environmental Justice Areas are defined as areas where minorities comprise 9% or more of the block group’s total population or where at least 12% of the area’s population lives below the poverty level (see Tables 1 & 2 and Narrative; Pages 6-8); These definitions have been in use by FRCOG since 2012 for compliance with Title VI of the Civil Rights Act and while the minority percentage figure is lower than the Statewide average, it is the Franklin County average reflecting our rural region; www.frcog.org
examined the poverty and minority statistics at state, county, and municipal level. For their analysis, the criteria for determining low-income areas and minority populations is defined as “(1) the minority/poverty population of the affected area exceeds 50 percent, or (2) the minority/poverty percentage of the affected area is meaningful greater than the minority/poverty percentage in the general population or other appropriate unit of geographic analysis.” In their analysis, the term “meaningful greater” is defined as 25 percent or greater than the applicable statewide average.

This criteria is slightly different than that which the Franklin Regional Council of Governments (FRCOG) traditionally uses to determine low-income areas and minority populations, since federal guidance on defining “meaningful greater” varies between federal agencies. The FRCOG follows the Federal Highway Administration’s guidance, in which “meaningful greater” is defined on a project-by-project basis. The FRCOG also uses as the unit of geographic analysis the Census-defined block group, rather than the town, since the impacts of a large project can have significant impacts at the neighborhood level and demographics can vary greatly at the sub-municipal level.

Using FRCOG’s criteria for defining Environmental Justice areas, there are five affected areas in the proposed project region that are classified as either low-income areas or have high minority populations. Applying the different criteria used by the TGP’s analysis, there are four affected areas that meet the CEQ and USEPA defined minority and low-income Environmental Justice populations. See Table below for comparison.

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27 According to Council on Environmental Quality (CEQ) and U.S. Environmental Protection Agency (USEPA) guidelines.
<table>
<thead>
<tr>
<th>Location (blockgroup)</th>
<th>Percent Minority (population)</th>
<th>Percent Below Poverty Level (households)</th>
<th>Met FRCOG Criteria</th>
<th>Met NE Direct Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deerfield(^{28}) (northern portion)</td>
<td>22%</td>
<td>4%</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Erving(^{29}) (western portion)</td>
<td>10%</td>
<td>8%</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Montague(^{30}) (Millers Falls area)</td>
<td>5%</td>
<td>16%</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Montague(^{31}) (non-urban portion)</td>
<td>12%</td>
<td>9%</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Northfield(^{32}) (northern portion)</td>
<td>4%</td>
<td>16%</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

To apply the definition of "meaningful greater" in the same way as TGP, the FRCOG used Franklin County as the general population comparison unit. An area was defined as a minority population if it was 25% or greater than the county's average of 9% nonwhite residents (25% greater = 11.2%). An area was defined as a low-income area if it was 25% or greater than the county average of 11% households under the poverty level (25% greater = 13.7%). The data used for the FRCOG analysis was the 2013 American Community Survey, Five-Year Estimates. The Environmental Justice Analysis is deficient and should address neighborhood level impacts by using Block Group Information.

4) Lack of Real Co-Location

The Commission regulations encourage applicants to minimize project impacts through co-location. Applicants are directed to undertake siting, construction and

\(^{28}\) Deerfield area includes the following Block groups: Block Group 1, Census Tract 409.

\(^{29}\) Erving area includes the following Block groups: Block Group 2, Census Tract 404.

\(^{30}\) Millers Falls area includes the following Block Groups: Block Group 3, Census Tract 407.02

\(^{31}\) Montague non-urban area includes the following Block Groups: Block Group 4, Census Tract 407.02 and Block Group 2, Census Tract 407.02,

\(^{32}\) Northfield area includes the following Block Groups: Block Group 1, Census Tract 403.
maintenance of facilities to “avoid or minimize effects on scenic, historic and recreational values,” (18 C.F.R. § 380.15(a)), to consider “use and widening of existing rights of way” and limit ROW clearing to a minimum width (18 C.F.R. §380.15(e)).

What is troubling about the proposed NED Wright to Dracut pipeline segment is that it is presented as “co-located” with the electric transmission lines when it really is not. Only 20 feet of the 50 foot permanent NED ROW easement is proposed to overlap with the existing electric transmission line easement with the centerline of the pipeline expected to be located 5 feet outside of the utility ROW (Page 54 of the Application). Additional construction work space will further impact environmental resources and TGP states on Page 55 of the Application that the centerline may move further out given ongoing discussions with the electric utility. This could result in a 100% Greenfield project that essentially parallels the utility R.O.W but is not co-located on even a portion of the electric utility ROW.

Instead of minimizing the size of the right of way – which is the purpose of colocation, the NED project expands the existing ROW well beyond what is necessary and contrary to the purpose of Section 380.15. As a result of doubling, instead of co-locating the pipeline easement and electric transmission right-of-way additional damage – such as deforestation, erosion, loss of endangered species habitat and wetlands, and impairment of rivers and streams, including highly sensitive cold water fisheries will result.
5) Inadequate Information on Insurance & Public Safety Threats

The Commission has previously indicated a willingness to study the impact of a pipeline on insurance premium costs.\textsuperscript{33} Tennessee Gas Pipeline – by its own admission (albeit in its SEC 10-K filing and not the Certificate Application) - does not carry sufficient insurance coverage against the various inherent risks associated with operation of gas pipeline infrastructure. From the TGP SEC Report:

Our operations are subject to the inherent risks normally associated with those operations, including pipeline ruptures, explosions, pollution, release of toxic substances, fires and adverse weather conditions, and other hazards, each of which could result in damage to or destruction of our facilities or damages to persons and property. In addition, our operations face possible risks associated with acts of aggression on our assets. If any of these events were to occur, we could suffer substantial losses. While we maintain insurance against many of these risks, to the extent and in amounts that we believe are reasonable, our financial condition and operations could be adversely affected if a significant event occurs that is not fully covered by insurance.\textsuperscript{34}

Because TGP lacks adequate insurance, municipalities must now explore whether they will need to procure additional and potentially costly liability coverage to protect its property and residents, while landowners are likely to face premium hikes. These impacts are not adequately discussed in the Application. In addition, the Applicant should address whether or not they carry adequate insurance to cover serious or catastrophic events and information identifying the limits of their current insurance coverage per incident should be provided.

\textsuperscript{33} Constitution Pipeline, Environmental Impact Statement, Docket CP14-499 [DATE] (requiring applicant to study effect of pipeline on residential insurance premiums for a two year period post-certificate).

\textsuperscript{34} See TGP SEC 10-K Filing (2014) at 10, online at 10, http://www.sec.gov/Archives/edgar/data/97142/000095012904001309/h11515e10kpdf.pdf.
The Applicant has not adequately addressed potential safety issues that could be caused by cyber terrorism or severe storm events (e.g. tornadoes, earthquakes, hurricanes) given that the pipeline is primarily operated remotely from the Tennessee Gas Control Center in Houston, Texas. A more comprehensive analysis of the public safety threats and security measures to be undertaken should be provided to FERC.

These comments are based on a preliminary review of the voluminous Application materials. The FRCOG and its member communities continue review of the Application which may require Consultants to assist with evaluating the more technical portions of the Application on noise, air quality, wetlands impacts, etc. Accordingly, the FRCOG reserves the right to file additional comments on the Application and/or other supplemental materials filed by the Applicant.

IV. CONCLUSION

Wherefore, in light of the foregoing, the Franklin Regional Council of Governments respectfully requests that the Commission (1) GRANT this motion to intervene and (2) allow the INTERVENOR to participate in this proceeding with full rights of party status, including the right to request a hearing, cross examine witnesses and seek rehearing and appeal.

Respectfully submitted,

Bill Perlman, Chair - FRCOG Executive Committee

1/4/2016
CERTIFICATE OF SERVICE

Wherefore on this January 4th, 2016, I caused to be served the foregoing Motion to Intervene electronically on all parties on the Commission’s electronic service list in this proceeding, in accordance with Commission regulations.

[Signature]

Bill Perlman, Chair – FRCOG Executive Committee