TESTIMONY OF N. JONATHAN PERESS
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BEFORE THE HOUSE COMMITTEE ON ENERGY AND COMMERCE

"MODERNIZING THE NATURAL GAS ACT
TO ENSURE IT WORKS FOR EVERYONE"

WEDNESDAY, FEBRUARY 5, 2020

Chairman Rush, Ranking Member Upton and members of the Committee. My name is Jonathan Peress and I am the Senior Director for Energy Markets and Utility Regulation at the Environmental Defense Fund (EDF). Thank you for the opportunity to appear before you today on this important topic.

EDF is a national environmental advocacy organization with more than 2.5 million members and supporters. We are dedicated to finding innovative approaches to solving some of the most difficult national and international environmental challenges. Whenever possible, we collaborate with private-sector partners, state and federal leaders, and other environmental organizations interested in maximizing incentives for market-based solutions to environmental problems.

EDF is devoting considerable attention to our nation's natural gas pipeline infrastructure. EDF is represented on the Pipeline and Hazardous Material Safety Administration's (PHMSA) citizen advisory board for gas pipelines. We are active before the Federal Energy Regulatory Commission (FERC or the Commission) and for the past five years have been encouraging the Commission to refine and improve the market rules governing natural gas pipeline operation and capacity expansion. EDF is a member of the North American Energy Standards Board (NAESB), where I have a seat on its Board of Directors and its Executive Committee.

In all of our work, EDF has a proven track record of working constructively with oil and gas industry market participants, federal and state policymakers and regulators, environmental and consumer advocates, and other stakeholders to achieve a gas delivery system in this country that is safe, reliable, efficient, and configured to support progress toward a low carbon future. Fundamentally, EDF asserts that well designed markets, which stimulate competition and reward innovation, advance the public interest and foster environmental improvement. Before FERC, EDF has long advocated that competitive market outcomes, structured and optimized within FERC's rubric of cost of service regulation, will safeguard energy customers, efficiently allocate capital, channel economic energy infrastructure investment and facilitate beneficial environmental outcomes. EDF has also presented extensive analyses to FERC in support of its suggested natural gas market refinements in pursuit of these goals.

My testimony will focus on the history of FERC's policy relating to development of the natural gas markets, including recent developments and shortfalls in the Commission's review of applications for new pipeline certificates.

1. FERC Policy is Designed to Efficiently Allocate Capital for the Deployment of Pipeline Infrastructure.

The NGA's purpose is to encourage the "orderly development of plentiful supplies of . . . natural gas at reasonable prices."[1] The Commission's primary duty under the Natural Gas Act is the protection of energy consumers.[2] The NGA's certificate provisions, found in Section 7, form the "heart of the Act."[3] Those provisions require every pipeline project proponent to demonstrate that the project "is or will be required by the present or future public convenience and necessity."[4] Shortly after the NGA was codified, FERC began relying on signed contracts with shippers, in the form of "precedent" agreements, as indicative of market need in determining that a project was required by the public convenience and necessity.

Beginning in 1989, and at the urging of Congress, the Commission began to take significant steps to increase competition in the natural gas transportation market. Orders 436 and 636 functionally unbundled the market so that pipeline operators were no longer merchants proposing new facilities to conduct sales activities. The market restructuring created a natural gas transportation marketplace as distinct from the sales of natural gas. The Commission's primary aim in issuing Order No. 636 was "to improve the competitive structure of the natural gas industry."[5] Functional separation of the pipelines sought to ensure that all shippers would have non-discriminatory access to the pipeline transportation grid, and was intended by the Commission to maximize competition.

As part of the ongoing transformation of the markets, on September 15, 1999, the Commission issued a Policy Statement on the Certification of New Interstate Pipeline Facilities (Policy Statement) to provide guidance concerning how the Commission would evaluate certificate applications to determine whether such proposals meet the public convenience and necessity test of NGA Section 7.[6] The purpose of the Policy Statement was to determine how best to balance "market demand against potential adverse environmental impacts and private property rights" in order to decide whether a project was in the public convenience and necessity.[7] Its goals and objectives were "to foster competitive markets, protect captive customers, and avoid unnecessary environmental and community impacts while serving increasing demands for natural gas" and "provide appropriate incentives for the optimal level of construction and efficient customer choices."[8]

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1 *See* NAACP v. FERC, 425 U.S. 662, 669-70 (1976).

2 *Cal. Gas Producers Ass'n v. FPC*, 421 F.2d 422, 428-29 (9th Cir. 1970).

3 *Atl. Ref. Co. v. Pub. Serv. Comm'n of N.Y.*, 360 U.S. 378, 388 (1959).

4 15 U.S.C. § 717f(e).

5 *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, FERC Stats. & Regs. ¶ 30,939 (1992).

6 *Certification of New Interstate Natural Gas Pipeline Facilities, Statement of Policy*, 88 FERC ¶ 61,227, *modified by*, 89 FERC ¶ 61,040 (1999), *Order Clarifying Statement of Policy*, 90 FERC ¶ 61,128, *Order Further Clarifying Statement of Policy*, 92 FERC ¶ 61,094 (2000).

7 Policy Statement at p. 61,737.

8 *Id.* at p. 61,743.

Under the Policy Statement, FERC begins its review by assessing whether the new pipeline will be able to financially support itself without subsidies from existing customers.[9] If the proposal satisfies that threshold inquiry, the applicant must then demonstrate that it has made efforts to mitigate adverse impacts on three specific categories of affected interests: (1) the applicant's own existing customers, (2) other existing pipelines and their captive customers, and (3) affected landowners and communities.[10]

If adverse impacts on any of the three protected interests persist, the Policy Statement calls on FERC to evaluate the "public benefits" of the project and balance such benefits against the adverse impacts.[11] If the benefits outweigh the adverse impacts, FERC then evaluates the environmental impacts through a separate Environmental Assessment (EA) or Environmental Impact Statement (EIS).[12]

Today, to show public benefit, the pipeline certificate applicant typically demonstrates that there is quantifiable demand for the natural gas transportation service to be provided. In practice, applicants almost always rely on precedent agreements signed by prospective shippers to support a finding of market need. Market need is expressed by shippers risking their respective capital in order to earn returns. Pipeline customers voluntarily enter take-or-pay contracts for "firm" transportation capacity over long periods of time when they determine that the cost of the new capacity is less than the price differential between their respective supply and delivery points (the price differential is sometimes referred to as the "basis differential"), thus capturing an arbitrage opportunity across a transportation network. In other words, if the aggregate investment in contracting for new capacity is less than the projected aggregate basis differential over the term of the contract, new pipeline capacity is economically justified.

When functioning properly, price signals provided by basis differentials provide an investment signal to the market regarding the amount and types of natural gas transportation capacity and services that are needed, efficiently channeling capital to its best use. When functioning properly, the underlying cost of service model provides pipelines with access to capital, and the competitive elements within the natural gas transportation marketplace should efficiently signal the need/opportunity for pipeline capacity investment to call forth the right infrastructure mix as between natural gas supply and demand points.

The Commission has reiterated, time and again, the significant benefits associated with its pro-market regulatory model. The gas market's transition to being largely driven by competitive market forces has furthered the public interest through energy abundance, emission reductions, and economic and geopolitical benefits.[13] This pro-competition, market-driven system has enabled the Commission to most efficiently satisfy the principal purposes of the Natural Gas Act.

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9 *Id.* at pp. 61,746-47.

10 *Id.* at pp. 61,747-48.

11 *Id.* at p. 61,747.

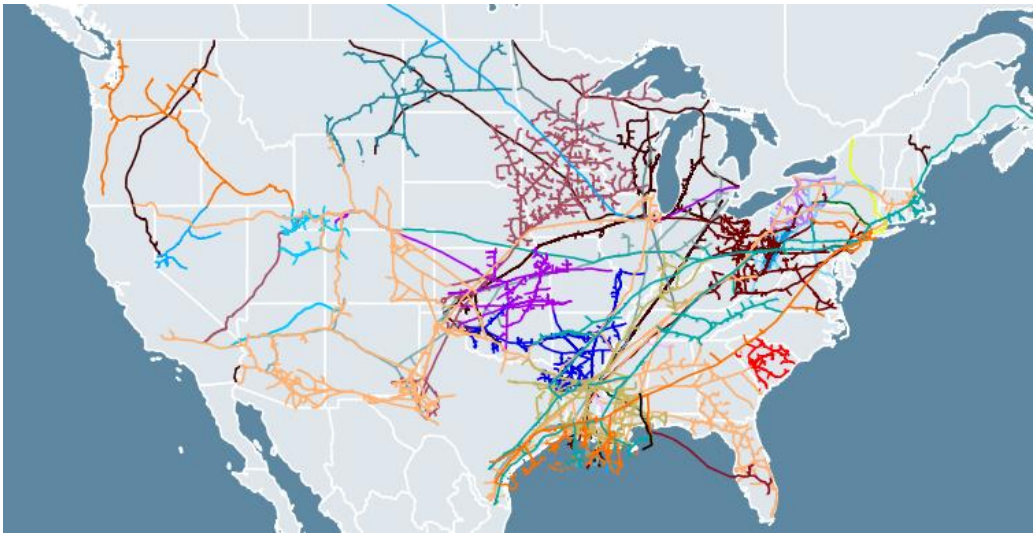
12 *Id.* at p. 61,745.

13 While not the focus of this hearing, EDF supports policies and legislative efforts to achieve net zero greenhouse gas emissions economy-wide by 2050. Moreover, my testimony does not seek to gloss over the significant environmental costs to the communities where gas is produced and the many troublesome issues associated with unconventional oil and gas development. They are real, but I respect the fact that this is not the topic of this hearing today.

2. The Recent, Extensive Buildout of the Pipeline System is Diminishing Market Signals for New Pipeline Infrastructure.

The Commission's pro-competition policies, including its reliance on precedent agreements to establish market need, have led to a robust pipeline network. Since 1999, FERC has approved more than 400 pipeline applications for an additional 180 billion cubic feet per day ("Bcfd") of pipeline capacity. In 2017 alone, the Commission certificated 49 pipeline projects encompassing 30.8 Bcfd of capacity and 2,739 miles of pipelines. As a point of comparison, average consumption of natural gas in the United States during January 2017 was 93.1 Bcfd, and peak consumption was 137 Bcfd during the 2014 Polar Vortex.

The massive buildout, providing conduits for supply from geographically dispersed production areas, has created a far more reticulated pipeline system where shippers now have more options and choices for obtaining and transporting gas.



Source: http://custom.envisionmaps.com/ingaa/default.html

But this unprecedented buildout of capacity also presents risks to pipeline developers, investors, and captive energy customers in cases where they are the financial obligors—risks that are already emerging in the market today.

In its annual state-of-the-markets reports, FERC Staff has repeatedly expressed that the new natural gas pipeline capacity is contributing to shrinking price differentials between regions throughout the U.S. and helping to keep natural gas prices relatively low. FERC Staff noted, in 2016, that with a few exceptions such as in New England, "regional price differences across the country were not large, a sign that midstream investments over the past 10 years have largely relieved natural gas transportation constraints."[14] It is those shrinking price differences that have historically provided the impetus for investing capital to develop new pipeline infrastructure. In effect, the substantial growth in the pipeline system is, over time, diminishing the value of additional point-to-point delivery capacity.

[14] 2016 State of the Markets Report.

In several recent FERC proceedings, pipeline operators have identified challenges caused by expanded pipeline capacity as diminishing asset value. For example, Great Lakes Transmission Limited Partnership explained that because of the significant new and planned infrastructure from the Marcellus and Utica shale plays, "it will no longer be economic to ship on Great Lakes on a long-term firm basis at or near maximum recourse rates" from the Western Canada Sedimentary Basin to Dawn.[15] Tallgrass Interstate Gas Transmission, LLC similarly observed that "[d]emand for long-haul off-system transportation, previously a significant driver of TIGT's revenues, has receded in the wake of the narrowing basis differential between the Rocky Mountain production area and Midcontinent markets."[16] Kinder Morgan recently took a $250 million writedown on its investment because of throughput declines.[17]

Additional challenges have been posed by capacity turnback and re-contracting risk, which has caught the attention of investors and the capital markets. As explained by Barclays Capital Inc.:

> The shale boom, which started in 2005 with the Barnett, sparked a wave of natural gas pipeline construction. . . All of the 'supply-push' pipelines were underpinned by marketers and producers with the former taking on capacity to play spreads while the latter needed to get their production to a liquid point . . . With volatility dead in the natural gas space and natural gas production levels well below the takeaway out of these regions, these will be the pipelines that will generally likely see some negative impact.[18]

Many pipeline operators have been protected from volume declines because of take-or-pay structures requiring customers to pay reservation charges regardless of how much gas flows on the pipeline.[19] As Bain Capital observes, however, "[m]any of these contracts are soon to expire and are likely to be renewed at much lower volumes and rates."[20] Pipelines have made similar points to FERC, noting that "the economic risks with the greatest potential impacts . . . are related to potential de-contracting of long-term firm transportation contracts."[21]

In recent comments to FERC in its docket examining rate of return calculations for pipeline developers (i.e., Docket No. PL19-4), EDF suggested that the interstate natural gas pipeline industry's health, and the willingness of the capital markets to continue to invest, depends on evolving rates of return predicated on putting more steel into the ground to a commercial design that provides enhanced rates of return based on the value of delivery services. We recommended that FERC allow and incentivize pipeline operators to profit from

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15 Great Lakes Transmission Limited Partnership, Section 4 Rate Case, Docket No. RP17-598 at 6-7 (March 31, 2017).

16 Tallgrass Interstate Gas Transmission, LLC, Section 4 Rate Case, Docket No. RP16-137 at 3 (October 30, 2015).

17 Joe Fisher, "Kinder Weathers Throughput Declines and Takes Writedown on Ruby Pipeline," Natural Gas Intelligence (January 19, 2017).

18 *Id.*

19 Riccardo Bertocco, Bain Brief: North American Midstream Strategy in a Time of Uncertainty (August 23, 2017), http://www.bain.com/publications/articles/north-american-midstream-strategy-in-uncertainty.aspx.

20 *Id.*

21 Eastern Shore Natural Gas Company, General Section 4 Rate Case Filing, Docket No. RP17-363, Exhibit No. ES-2 at page 10, lines 8-10 (January 27, 2017).

the market value of transportation services, while staying faithful to regulated rate of return principles, so that the industry's financial health is not so dependent on infrastructure growth at a time when commercially rational growth opportunities are diminishing.

In the face of declining opportunities for new infrastructure investment, EDF urged the Commission to use its longstanding tools for incentivizing beneficial market behaviors to ensure that the market continues to efficiently allocate capital based on demonstrable market opportunities. Our recommendations would clarify investment signals for capacity expansion, enhance utilization of existing infrastructure, and align the market design with a more renewable, lower carbon energy system.

3. Gas Utilities Have Sought to Overcome Rational Market Signals and Garner New Revenue by Developing Pipelines Using Affiliate-Tainted Transactions.

Across the country, utilities are facing stagnant load growth and in many areas diminishing opportunities for investment on which to earn shareholder returns. More recently, as domestic natural gas production has skyrocketed, utilities are increasingly chasing shareholder returns by creating midstream entities to invest in new interstate pipeline capacity. In fact, the main takeaway from the 2017 American Gas Association conference was that "[p]ipeline and midstream investments look increasingly popular for their low risk and steady earnings profile."

To justify new midstream expansion, at a time when unprecedented levels of "midstream investments over the past 10 years have largely relieved natural gas transportation constraints," numerous utility holding companies are transacting on both sides of pipeline expansion projects, as both pipeline developer and long-term shipper. By so doing, midstream developer utility affiliates are asserting "market need" in reliance on contracts entered into by members of the same corporate group and often times with the same management overseeing both sides of the transaction, but with the long term contract costs imposed on their retail ratepayers.

Project Name	Capacity (dth)	Utilities and Ownership Stake (%)	Affiliated Shippers' Subscriptions (dth/day)
Sabal Trail	1,071,081	NextEra: 42.5%; Duke 7.5%	Florida Power & Light: 600,000 Duke Energy Florida: 400,000
Florida Southeast Connection	640,000	NextEra: 100%	Florida Power & Light: 600,000
Mountain Valley Pipeline	2,000,000	NextEra: 31%; ConEdison: 12.5%; WGL Holding: 10%	EQT Energy, LLC: 1,290,000 Roanoke Gas Company: 10,000 USG Properties Marcellus Holdings, LLC: 250,000 WGL Midstream, Inc.: 200,000 ConEdison: 250,000
Nexus Pipeline	1,460,565	DTE Energy: 50%	DTE Gas: 75,000 DTE Electric Company: 75,000
PennEast Pipeline	1,071,081	New Jersey Natural Resources: 20%; South Jersey Industries: 20%; Southern Co. Natural Gas: 20%	New Jersey Natural Gas Company: 180,000 PSEG Power, LLC: 125,000 Texas Eastern Transmission, LP: 125,000 South Jersey Gas Company: 105,000 Elizabethtown Gas: 100,000 UGI Energy Services, Inc.: 100,000
Atlantic Coast Pipeline	1,500,000	Dominion Energy: 48%; Duke Energy: 47%; Southern Co. Natural Gas: 5%	Virginia Power Services: 300,000 Duke Energy Progress, Duke Energy Carolinas, and Piedmont Natural Gas: 885,000 Virginia Natural Gas: 155,000
Spire STL Pipeline	400,000	Spire: 100%	LaClede Gas: 350,000

The recent prevalence of affiliate-backed capacity expansions has major implications to the Commission's application of its Policy Statement. Basis differentials have substantially diminished suggesting that, under the economic theory underpinning the certificate Policy Statement, continuing to expand the interstate system may not be economically rational. Reluctance by a majority of the Commission to "look behind" affiliate precedent agreements and engage in a robust consideration of factors bearing on the public interest comes at significant risk to ratepayers, who, in an affiliate-tainted capacity expansion, may be bearing risk in excess of benefits, and with utility shareholders as the beneficiary (earning returns in excess of risk).

The perils associated with self-dealing affiliate transactions have been widely detailed at both the state and federal level. Self-dealing is akin to the exercise of market power, which longstanding FERC precedent abhors. Yet a majority of the Commission has been unwilling to look behind affiliate-tainted precedent agreements and has continued to find them indicative of bona-fide market need even when the facts suggest otherwise. Overlooking the impacts this emergent utility strategy has on the Commission's public convenience and necessity determinations contravenes the NGA's primary purpose—to protect consumers from excessive rates.

FERC's 2014-2018 Strategic Plan explains that: "[w]hen competitive markets exist and there are assurances against the exercise of market power, FERC leverages competitive market forces to promote efficiency for consumers while taking measures to make those markets more

efficient."[22] But FERC's competitive market model will continue to reap benefits only if the Commission promotes the efficiency of those markets and takes steps to protect against the exercise of self-dealing and market power, including by examining the facts underlying market need when presented with credible evidence of affiliate-tainted contracts.

As I previously expressed in testimony to your colleagues in the Senate, "where new pipeline capacity is financed by market participants who choose to risk their capital to capture benefits, the prospects of an overbuild are not particularly troublesome from the economic standpoint of society as a whole. However, a pipeline capacity build-out induced by policies designed to spread the costs of new infrastructure on captive retail gas or electric ratepayers will almost surely become un-economic, undermine market drivers for more efficient solutions and impose unacceptable long term environmental and economic costs."

4. FERC is Obligated to Rigorously Assess Pipeline Certificate Applications, and It Failed to Do So in Approving the Spire STL Pipeline.

In carrying out its statutory responsibilities under the Natural Gas Act, FERC must determine whether a pipeline is genuinely needed, a process that is informed by its Certificate Policy Statement. EDF has advocated for improvements to this review to ensure efficient allocation of capital. Accepting precedent agreements between affiliated companies as sufficient evidence of purported market need, without further scrutiny, can taint the Commission's assessment of applications for new pipeline certificates. By abdicating its responsibility to conduct a meaningful review of market need, FERC promotes overbuilding due to inequitable distribution of risks versus benefits between captive ratepayers and shareholders. Allowing affiliates to transfer risk from shareholders to ratepayers will foster, if not compel, bad economic and environmental consequences. The Commission's approval of the Spire STL pipeline is such an instance of allowing an affiliate contract to justify a new project without thorough review.

On January 26, 2017, Spire STL Pipeline filed an application with the Commission seeking a Certificate of Public Convenience and Necessity under Section 7(c) of the Natural Gas Act to construct and operate a new natural gas pipeline system in Illinois and Missouri.[23] To establish market need, Spire STL Pipeline pointed to a single twenty-year precedent agreement with its affiliate, Spire Missouri (previously known as Laclede Gas) for firm transportation service for 350,000 Dth/day.

Numerous parties protested Spire's application, including the Missouri Public Service Commission, Ameren Services Company, Inc., Enable Mississippi River Transmission, LLC (MRT) and EDF. Both EDF and MRT requested that the Commission set Spire STL's application for evidentiary hearing to consider whether "market need" could be established by a single precedent agreement signed by an affiliated retail utility (with captive customers), and within a market for which there is existing excess capacity. The aforementioned intervenors each requested that FERC more deeply scrutinize conflicting evidence on market need:

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[22] Federal Energy Regulatory Commission, FY 2014-2018 Strategic Plan at 7 (March 2014), https://www.ferc.gov/about/strat-docs/FY-2014-FY-2018-strat-plan.pdf.

[23] On April 21, 2017, Spire filed an amended application, reflecting a change in its proposed action to adopt a pipeline route alternative (the North County Extension) in lieu of the purchase and modification of Laclede's Line 880 in St. Louis County, Missouri.

- The state regulator of Spire STL Pipeline's affiliate, the Missouri Public Service Commission, stated that "Spire's application for a new pipeline does not contain sufficient detail reflecting new demand for gas capacity."[24]

- Spire STL Pipeline's competitor, MRT, submitted evidence that Spire STL Pipeline engaged in unfair competition by intermixing of roles played by personnel within the Spire family: "Two individuals, each serving as Spire STL executives, also served as the lead negotiators in representing Laclede Gas Company in contract negotiations with MRT."[25]

- Ameren Services Company, a customer of MRT, detailed the drastic rate impacts it will inevitably face if the project is approved: "The impact on MRT will be significant, as MRT's last rate case settlement in Docket No. RP12-955, provided for an annual cost of service of $84 million. A decision by Laclede Gas to terminate its firm transportation contract on MRT, could reduce MRT's annual revenue by 27% to approximately $61.7 million. This revenue deficiency will undoubtedly cause MRT to seek a significant rate increase when it makes its next NGA Section 4 rate filing, which, under the terms of its last rate case settlement, is required to be filed with a proposed effective date of July 1, 2018 for the new rates."[26]

On August 3, 2018, FERC issued a 3-2 decision approving Spire STL Pipeline's certificate application. FERC denied requests for an evidentiary hearing.[27] FERC disagreed that heightened scrutiny of the project was warranted, finding that an affiliated shipper's need for capacity is not lessened because it is affiliated with the project sponsor, and also finding that its policy "is not to second guess the business decisions of pipeline shippers, [local distribution companies] or end users…."[28] The Commission stated that any attempt to look behind the precedent agreements could "interfere with state regulators' role in determining the prudence of expenditures by the utilities that they regulate."[29] The Commission concluded that the Spire STL project would provide benefits that outweigh the potential adverse effects on existing shippers, other pipelines and their captive customers, and landowners or surrounding communities.[30] Commissioners LaFleur and Glick both dissented, with Commissioner LaFleur observing that the "Spire Project is the unusual case of a pipeline application that squarely fails the threshold economic test." Commissioner Glick stated that the order "lends credence to the critique that the Commission does not meaningfully review Section 7 applications."[31]

On September 4, 2018, EDF submitted a request for rehearing of FERC's August 3 Order, asserting that multiple errors rendered it arbitrary and capricious. EDF argued, in part, that the Order's grant of a certificate to Spire STL Pipeline was not supported by substantial evidence because the record does not demonstrate that the project is "required" by genuine

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[24] Feb 27 MPSC Protest at 11.

[25] MRT April 3 Answer at 8.

[26] Comments and Protest of Ameren Services Company on Application for Certificates of Public Convenience and Necessity, Docket No. CP17-40 at 5-6 February 27, 2017).

[27] August 3 Order at P 22.

[28] *Id.* at PP 75, 83.

[29] *Id.* at P 87.

[30] *Id.* at P 123.

[31] *Id.*, (LaFleur, Comm'r, dissenting at 2); *id.*, (Glick, Comm'r, dissenting at 1).

market demand where the application relied on a sole affiliate precedent agreement; and that the Order failed to adequately balance the adverse impacts and public benefits of the Spire STL Pipeline project. The Missouri Public Service Commission, MRT,[32] and an affected local resident also filed requests for rehearing, raising a number of related and discrete challenges.

On November 21, 2019—after Spire STL Pipeline had constructed and placed in service approximately 99% of the proposed facilities—FERC issued an order (by 2 to 1 vote) denying the requests for rehearing. FERC upheld its reliance on Spire STL's precedent agreement with its affiliate to find need for the project and concluded that it had adequately balanced the adverse impacts and public benefits.[33] Commissioner Glick issued a strong dissent on many of the issues raised by EDF.

As one example, on the subject of market need, Commissioner Glick's dissent states:

> The relevant evidence is straightforward and largely undisputed. The parties agree that demand for natural gas in the region is flat and that Spire Missouri is merely shifting its capacity subscription from an existing pipeline to a new one owned by its affiliate. Indeed, some record evidence suggests that natural gas demand in the region may actually be declining. . . In short, the record does not contain any evidence—let alone substantial evidence—suggesting a need for additional interstate natural gas pipeline capacity in the St. Louis region.[34]

On FERC's balancing of project benefits versus adverse impacts, Commissioner Glick's dissent states: "the Commission failed to seriously weigh the meager evidence of the need for the pipeline against the harms caused by its construction, including the harms to ratepayers, landowners and communities (e.g., through eminent domain), and the environment."[35]

EDF has petitioned the U.S. Court of Appeals for the D.C. Circuit to review FERC's approval of the Spire STL project.[36] FERC concluded that there was need for the project based on information presented by the developer—a contract between Spire STL and an affiliated company, Spire Missouri—without rigorous investigation and without reasoned consideration of information presented by other parties. Furthermore, FERC has allowed Spire STL to undertake construction and operations notwithstanding serious legal concerns. People living in the region are experiencing direct harm to their land that is in the pathway of the pipeline, including deforestation and loss of cropland.

EDF believes FERC should have conducted a rigorous review to assess actual market need, and that FERC unlawfully approved Spire STL Pipeline's proposal without a sound determination that the project is in fact needed. More rigorous oversight by FERC of affiliate contracts, such as the affiliate contract at issue in this case, could prevent the imposition of unnecessary costs on utility customers; and could prevent locking in long-term greenhouse gas pollution and locking out clean energy alternatives over the 50-year life of new pipelines.

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[32] MRT withdrew its rehearing request on September 9, 2019.

[33] November 1 Order at PP 10, 14-21, 26-28, 30-31, 33-37, 54-56.

[34] Order Denying Rehearing, Commissioner Glick Dissent, at 2-3 (Nov. 21, 2019), Docket No. CP17-40-002.

[35] Order Denying Rehearing, Commissioner Glick Dissent, at 18 (Nov. 21, 2019) (citations omitted).

[36] Petition for Review, *Envtl. Def. Fund v. FERC*, Case No. 20-1016 (D.C. Cir., filed Jan. 21, 2020), https://www.edf.org/sites/default/files/documents/EDF_Petition_2020-01-21.pdf.

Thank you for the opportunity to present EDF's perspectives and policy advocacy which are designed and intended to ensure that natural gas infrastructure is deployed and used in a manner that broadly advances economic, public safety, and environmental interests.