



July 24, 2018

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

Re: Docket No. PL18-1-000 Certification of New Interstate Natural Gas Facilities
Via Electronic Filing at www.ferc.gov

Dear Secretary Bose:

The Marcellus Shale Coalition (MSC) was formed in 2008 and is comprised of approximately 200 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the safe development of natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, gathering, processing and transmission in the country, as well as the suppliers and contractors who service the industry.

The MSC appreciates the opportunity to offer input to the Federal Energy Regulatory Commission (FERC or Commission) regarding the Certification of New Interstate Natural Gas Facilities. The MSC comments will focus on the following areas where the Commission seeks input:

- 1) The methodology for determining whether there is a need for a proposed project, including the Commission's consideration of precedent agreements and contracts for service as evidence of such need;
- 2) Consideration of the potential exercise of eminent domain and of landowner interests related to a proposed project; and
- 3) The evaluation of the environmental impact of a proposed project.

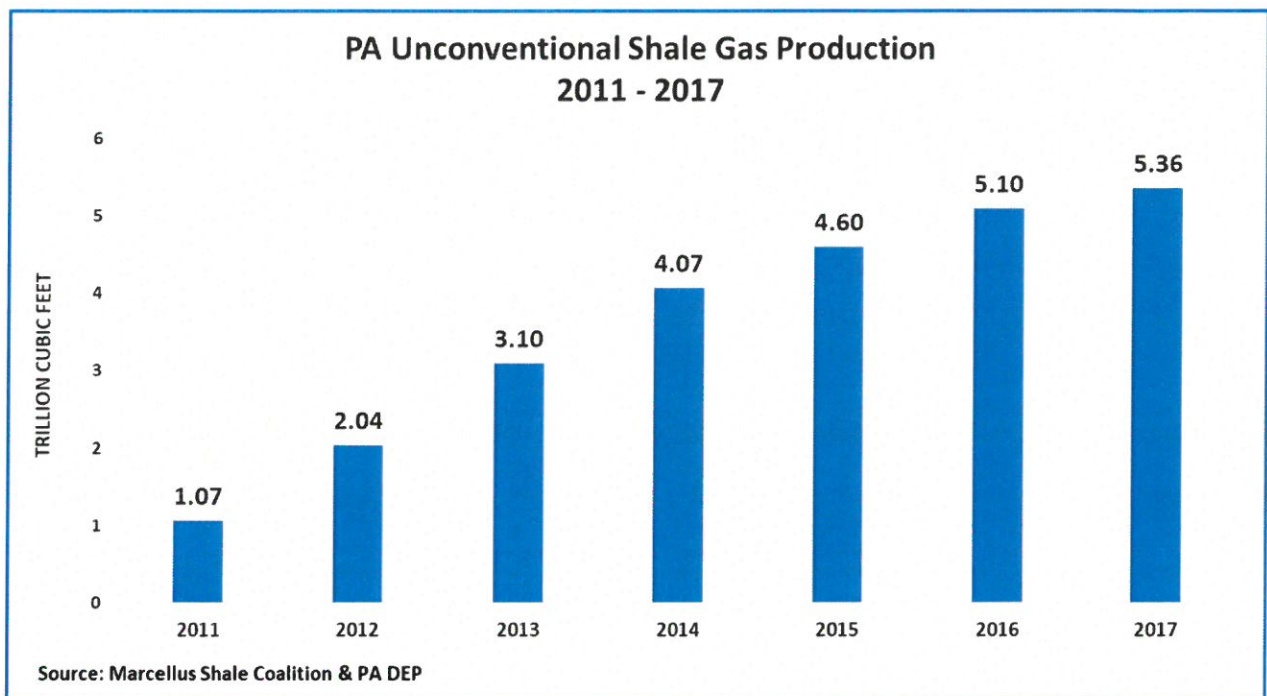
Introduction

As the Commission notes, the United States has seen a resurgence in natural gas production over the past decade. Nowhere is this more evident than in Pennsylvania, which has seen a historical increase in natural gas production due to the abundant resources now being tapped within the Marcellus, Utica and other unconventional geologic formations. Between 2008 and 2018, Pennsylvania has grown from being the 15th largest natural gas producer in the nation, to the 2nd largest producer.¹ In total, Pennsylvania now produces nearly 20% of all natural gas in the nation. A recent report by IHS Markit suggests that the pace of domestic natural gas production

¹ U.S. Energy Information Administration (2017 Dry Gas Production)

continues to accelerate, and that U.S. production is expected to grow by another 60% over the next twenty years.² While the pace of growth is projected to be less than the frenetic pace of the past decade, geologic estimates suggest that the current natural gas reserves of just the Marcellus Shale formation could equate to a 100-year supply of natural gas.³ These estimates do not include recent growth of production from other unconventional shale gas formations in Pennsylvania, such as the Utica Shale, which become more economical to develop due to technological and drilling efficiency advancements.

The following chart demonstrates the exponential growth of natural gas production in Pennsylvania:

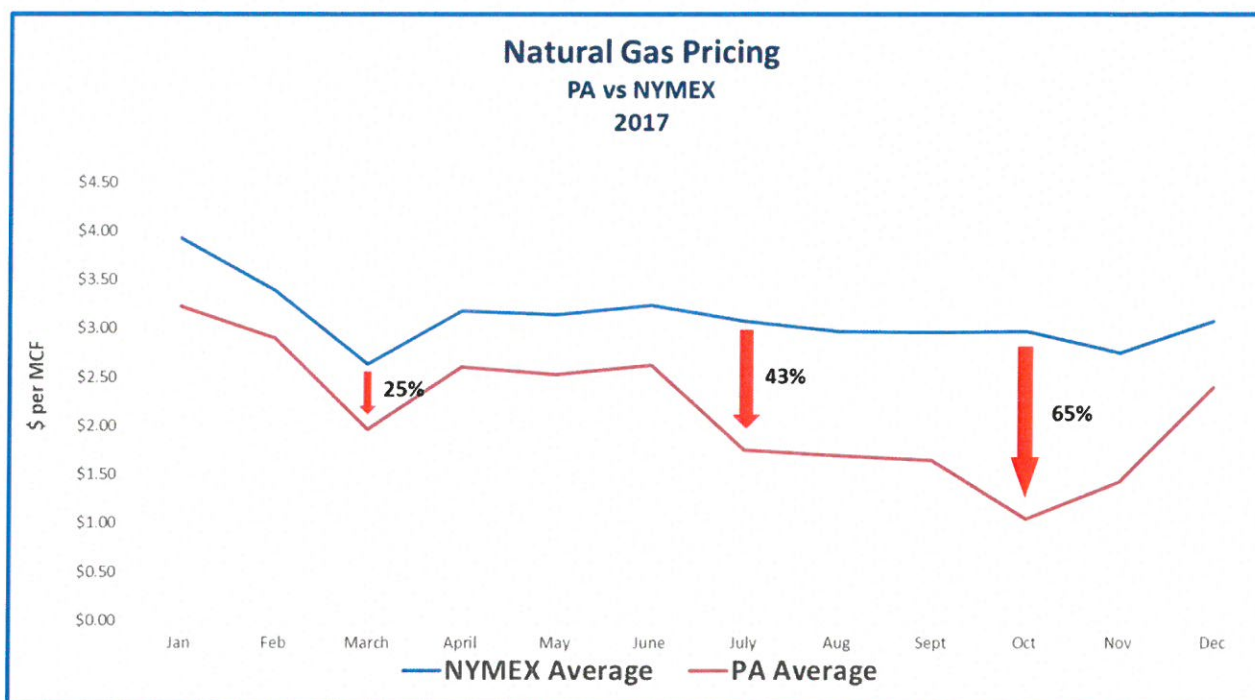


This abundant production has led to a significant price disparity whereby natural gas produced in some regions of Pennsylvania has sold for over 65% *less* than natural gas produced and sold in other basins across the nation. While efforts continue in Pennsylvania and throughout the Appalachian Basin to grow natural gas demand and usage, it is clear that the natural gas produced in Pennsylvania must also be transported to larger, more established markets where demand is greater. Doing so can provide a competitive energy cost advantage for manufacturers and other businesses, as well as significant savings to consumers, while still encouraging continued investment in domestic production.

² IHS Markit – The Shale Gas Turns 10: A Powerful Wind at America’s Back. June 20, 2018 – <https://ihsmarkit.com/Info/0618/shale-gale-turns.html>

³ Pennsylvania State University – Marcellus Center for Outreach and Research: How Much Gas Can the Marcellus Shale Produce? <http://www.marcellus.psu.edu/news-events/docs-pdfs/day-gas-reserves-2009.pdf>

The following chart, comparing average Pennsylvania prices received by producers with those received on national index markets, illustrates the price disparity discussed above:



It is imperative to note that while low natural gas prices have been the norm in the United States for several years, as shale gas production has upended the market, the disparity in basin prices cited above is a unique problem plaguing the Appalachian Basin, and more specifically, Pennsylvania.

The only viable means to reach markets is through the expansion of natural gas gathering, processing and transmission infrastructure. Many of these projects will by necessity cross state lines and therefore be subject to FERC jurisdiction under the Natural Gas Act of 1938.⁴ This is especially true in constrained markets, like Pennsylvania. Project operators seeking FERC authorization, and the citizens who ultimately rely upon and utilize the natural gas processed and transported by authorized projects, depend upon FERC's diligent and timely review of applications for critical infrastructure. FERC's current process has largely proven to be efficient, effective, and predictable. FERC's process discourages, and effectively bars, operators from building new infrastructure based upon market speculation, and instead imposes a robust but predictable threshold to demonstrate that a proposed project is responsive to market demand and will deliver natural gas to end use consumers in an affordable manner.

⁴ 15 U.S.C. § 717f

The Methodology for Determining Whether There is a Need for a Proposed Project, Including the Commission's Consideration of Precedent Agreements and Contracts for Service as Evidence of Such Need

The MSC believes that FERC's consideration of precedent agreements and contracts for service are appropriate and a viable means of ascertaining need and public benefit for proposed natural gas infrastructure projects. Precedent agreements provide a reliable demonstration of market need, and a well-understood and established mechanism for both infrastructure operators and energy consumers when they are utilized to propose new infrastructure or enhancement of existing infrastructure.

Moreover, these agreements are tangible evidence to help inform the public and affected stakeholders that a proposed infrastructure project is necessary and appropriate, and that it will fulfill a public need by delivering crucial energy resources to market demand centers. Put simply, these agreements dispel the notion that pipeline projects are being built on market speculation. They also have the ancillary benefit of providing assurances to potential financial investors that a sufficient market exists to be supported by the project, which is critical to being able to raise private capital for the project.

Furthermore, state public utility commissions also can serve an important role in ascertaining whether there is a need for a proposed natural gas infrastructure project. For example, while the Pennsylvania Public Utility Commission (PA PUC) does not have jurisdiction over the siting or approval of FERC-regulated natural gas infrastructure, the PA PUC does examine market trends and developments, including those related to natural gas infrastructure, and formally publishes this information on an annual basis⁵.

Reports such as these from neutral state regulators can provide important information for use by all parties, including FERC, when evaluating the unique circumstances related to a proposed infrastructure project. These reports are particularly noteworthy when FERC is evaluating information other than precedent agreements to determine whether there is sufficient market demand for a proposed infrastructure project.

With respect to precedent agreements, it is worthwhile noting that some entities that oppose domestic natural gas development and utilization are questioning the validity of FERC's use of precedent agreements. By focusing on precedent agreements as contracts between private parties, opponents of domestic energy production assert, incorrectly, that the benefits of such contracts are private, and therefore the underlying natural gas infrastructure project has no public benefit. This argument purposefully ignores the fact that the users of natural gas resources ultimately are the public.

⁵ PA PUC – Natural Gas Trends and Development Report:
http://www.puc.state.pa.us/filing_resources/natural_gas_reports.aspx

Indeed, the Natural Gas Act explicitly recognizes the public interest in such projects generally⁶. Therefore, it is important that both FERC and project applicants continue to educate the public and affected stakeholders on this critical point.

Consideration of the Potential Exercise of Eminent Domain and of Landowner Interests Related to a Proposed Project

The MSC and its member companies appreciate the significance surrounding the authority and use of the power of eminent domain. MSC operators engaged in FERC-regulated projects view the utilization of eminent domain as a last resort and strive to work cooperatively and in good-faith with landowners affected by a proposed project. In most projects, the vast majority of landowners reach an agreement with the operator of the project well in advance of any contemplation of eminent domain use. Operators understand that pipeline and related infrastructure projects are a long-term proposition and recognize the inherent value in developing productive relationships with landowners along the pipeline route.

The ability to utilize eminent domain, however, is critical when necessary to advance a project that has been determined to be in the public interest. As prior court decisions have determined, a principal of the Natural Gas Act is “*to encourage the orderly development of plentiful supplies of...natural gas at reasonable prices.*”⁷ The MSC supports FERC’s current policies related to the judicious use of eminent domain authority to further the purpose of the Natural Gas Act, with due and fair consideration of the interests of affected landowners. The MSC believes that FERC’s current process provides for thorough consideration of landowner interests.

The Evaluation of the Environmental Impact of a Proposed Project

The current Commission rightfully has recognized the appropriate bounds of FERC’s review prerogative with respect to interstate natural gas infrastructure projects. The MSC and its member companies take very seriously, and take great pride in, their obligation and commitment to protect the environment, natural resources and local communities throughout the planning, construction and operation of any infrastructure project. These obligations are overseen and fulfilled through a host of both state and federal environmental laws and agencies. It is important, therefore, that duplication in the authorization process be avoided, and that the relevant state and federal agencies charged with implementing various laws remain focused on their particular responsibility.

At the federal level, the National Environmental Policy Act⁸ lays out the roles and responsibilities of various federal agencies with respect to the assessment and impacts on the environment of various projects or actions and charges the Council on Environmental Quality with promulgating rules to implement the act. Too often, federal agencies have strayed beyond

⁶ 15 U.S.C. § 717(a) – “...it is declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest.”

⁷ *NAACP v. Fed. Power Comm’n*, 425 U.S. 662, 669-70 (1976)

⁸ 42 U.S.C. §4321



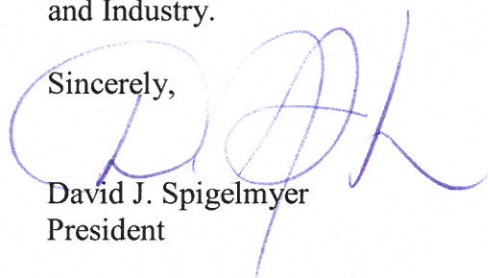
the intention of this act and have imposed requirements as part of the agency's own scope of project review that deviates beyond the agency's purpose, and often duplicates the responsibility of another state or federal agency. The MSC therefore was pleased to see FERC's recent order⁹ earlier this year which properly recalibrated the Commission's scope of environmental review, and specifically moved away from including upstream and downstream indirect and non-cumulative effects in its review process. Those effects which are still causally connected and reasonably foreseeable will continue to be included in the environmental impacts assessment. The MSC urges FERC to maintain this standard of review.

Congress has had numerous opportunities during its periodic reauthorizations of the Natural Gas Act to expand FERC's scope of responsibilities in this regard and has declined to do so. FERC should continue to recognize the primary authority of other state and federal agencies to administer the environmental laws of both the states and federal government and remain focused upon its charge of regulating the transportation of natural gas in interstate commerce, to include the certification of construction and operation of natural gas infrastructure which operates in the conduct of interstate commerce. In addition to enhancing predictability in the project authorization process, such a charge is consistent with Executive Order 13807¹⁰ issued by President Donald Trump, which seeks to streamline the environmental review and permitting process for energy infrastructure projects.

Conclusion

The MSC appreciates the opportunity to provide comments regarding the certification of new interstate natural gas facilities and stands ready to assist FERC with any questions or requests for clarification. The MSC also endorses and expresses its support for the comments submitted by the Interstate Natural Gas Association of America and the Pennsylvania Chamber of Business and Industry.

Sincerely,



David J. Spigelmyer
President

⁹ FERC Docket No. CP14-497-001 – Dominion Transmission, Inc. – May 18, 2018

¹⁰ Presidential Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure (Executive Order 13807) – August 15, 2017:
<https://www.whitehouse.gov/presidential-actions/presidential-executive-order-establishing-discipline-accountability-environmental-review-permitting-process-infrastructure/>