

**UNITED STATES OF AMERICA**

**BEFORE THE**

**FEDERAL ENERGY REGULATORY COMMISSION**

**PennEast Pipeline Company, LLC** ) **Docket No. CP15-558-000**  
**Garden State Expansion Project** )

**MOTION FOR LEAVE TO INTERVENE**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.212 and 385.214 (2007), the Delaware Riverkeeper Network ("DRN") files this motion to intervene in this proceeding.

On September 24, 2015, the PennEast Pipeline Company, LLC ("PennEast") filed its application under § 7 of the Natural Gas Act, 15 U.S.C. § 717f, and § 157 of FERC's regulations, 18 C.F.R. § 157.1 *et seq.*, for the proposed PennEast Project ("Project"), FERC Docket No. CP15-558-000. PennEast states that the proposed Project is a new greenfield 118 mile long pipeline project.

**I. COMMUNICATIONS AND SERVICE**

All communications, pleadings, and orders with respect to this proceeding should be sent to the following individual:

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**II. INTEREST OF PETITIONER**

In support of its motion to intervene, DRN states that it is a non-profit organization established in 1988 to protect and restore the Delaware River, its associated watershed, tributaries, and habitats. This area includes 13,539 square miles, draining parts of New Jersey, New York, Pennsylvania and Delaware, and it is within this region that a portion of the Project's construction activity will take place.

The Upper Delaware River is a federally designated "Scenic and Recreational River" administered by the National Park Service. The National Wild and Scenic Rivers System also includes large portions of the Lower Delaware and the Delaware Water Gap. The Lower, Middle, and Upper Delaware River have high water quality and are subject to Delaware River Basin Commission Special Protection Waters Designation. The Basin and River are home to a number of federal and state listed endangered or threatened species including, but not limited to, the dwarf wedgemussel, Indiana bat, bog turtle, atlantic sturgeon, shortnose sturgeon, loggerhead and Kemp's ridley sea turtles, and Northeastern bulrush. Over 200 species of migratory birds have been identified within the drainage area of the Upper Delaware River within the Basin, including the largest wintering population of bald eagles within the Northeastern United States. The federally endangered shortnose sturgeon migrate into the Lower Delaware River to spawn. The ecologically, recreationally and economically important American Shad population migrates up through the nontidal portions of the Delaware River to spawn, American Shad populations in the Delaware River are currently at depressed numbers. Migratory birds breed in or migrate through the high quality riparian corridors of the Basin. The Delaware River and Delaware Bay are also home to dozens of species of commercially and recreationally important fish and shellfish species.

In its efforts to protect and restore the watershed, DRN organizes and implements stream, wetland and habitat restorations, a volunteer monitoring program, educational programs, environmental advocacy initiatives, recreational activities, and environmental law enforcement efforts throughout the entire Delaware River Basin. DRN is a membership organization headquartered in Bristol, Pennsylvania, with more than 15,000 members with interests in the health and welfare of the Delaware River and its watershed. DRN is uniquely qualified to comment on and provide relevant information concerning associated impacts to human health and the environment as a result of this Project. DRN brings this action on its own behalf and on behalf of its members, board, and staff.

Among many other concerns, DRN is particularly troubled by the fact that the Project will negatively impact the recreational, aesthetic, and commercial interests of DRN's members. DRN is also concerned that PennEast and FERC have already, and will in the future, avoid their responsibilities under NEPA with regard to reviewing the Project's cumulative impacts. This concern has been amplified by numerous misstatements made by PennEast with regard to its flawed interpretation of what it believes must be considered in a cumulative impacts analysis.

Additionally, over the last several years the pipeline industry has developed a pattern of improperly segmenting pipeline upgrade projects to meet a perceived need of higher pipeline capacity for natural gas without conducting the proper environmental reviews. For example, the Tennessee Gas and Pipeline Company initiated four projects that effectively close loops along portions of its existing line in Pennsylvania and New Jersey (i.e. the 300 Line Extension, Northeast Upgrade, Northeast Diversification Project, and MPP Project). Each of these projects was brought individually before FERC, rather than as a unified project, despite the fact that they

were constructed within a short time period and perform the functional equivalent to one large upgrade project. In June of 2014 the Court of Appeals for the D.C. Circuit agreed with DRN that the Commission unlawfully segmented its review of the projects and that the projects should have been considered together. *See Delaware Riverkeeper Network et al. v. FERC*, 753 F.3d 1304 (D.C. Cir. 2014). The terminus of the proposed PennEast system will be located at a delivery point with the Transcontinental Pipeline Company's ("Transco") Leidy Line in Mercer County, New Jersey. This interconnect is located just north of Transco compressor station 205. The Commission must examine carefully to what extent Transco's proposed upgrade projects, including the Leidy Southeast Expansion Project, Northeast Supply Link Project, and the Atlantic Sunrise Project will rely on and interact with the PennEast Pipeline Project.

DRN also has concerns that PennEast's proposed permanent conversion of "Exceptional Value" wetlands from forested wetlands to emergent wetlands in Pennsylvania for the right-of-way for the Project expressly violates Chapter 105 of the Pennsylvania Code, and therefore the Project cannot lawfully receive a Section 401 Water Quality Certification from the Pennsylvania Department of Environmental Protection. Similarly, DRN is concerned about the impact of the project on New Jersey's C-1 designated waters and associated wetlands and habitats. Additionally, the Federal Energy Regulatory Commission has also developed an unlawful practice of issuing its Certificate prior to states issuing Section 401 Water Quality Certifications; such action is expressly prohibited by the Clean Water Act. To the extent the Federal Energy Regulatory Commission continues this practice, it is acting unlawfully.

It is in the public's interest that DRN takes part in this proceeding as a full participant.

### **III. CONCLUSION**

Wherefore, the Delaware Riverkeeper Network respectfully requests that the Commission to grant its Motion to Intervene as a party with full rights to participate in all further proceedings.

Respectfully submitted,

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