



# STATEMENT

## Statement of Commissioner Richard Glick on PennEast Pipeline Co., LLC

Date: May 30, 2018

Docket No.: CP15-558-002

"Today's order affirms the Commission's authority under the Natural Gas Act (NGA) to toll the date for issuing a merits determination on a request for rehearing. As the Commission explains, the rehearing process affords it an opportunity to review the underlying decision and further explain the basis for its actions. This process frequently requires more than the thirty-day period set forth in section 19(a) of the NGA, particularly when parties have submitted requests for rehearing raising significant and complex arguments.<sup>1</sup> It is nonetheless critical that the Commission respond to rehearing requests as quickly as possible, especially where—as here—parties have raised serious questions regarding the Commission's conclusion that a new natural gas pipeline facility is needed and in the public interest.

"Until the Commission issues its ultimate order on rehearing, the NGA precludes parties from challenging the Commission's decision in federal court.<sup>2</sup> However, the pipeline developer has the right to pursue eminent domain<sup>3</sup> and, in many cases, to begin construction on the new pipeline facility while the Commission addresses the rehearing requests. As a result, landowners, communities, and the environment may suffer needless and avoidable harm while the parties await their opportunity to challenge the Commission's certificate decision in court.

"This proceeding, in particular, illustrates the need for prompt action on rehearing requests. As I explained in my dissent from the underlying order, I disagree with the Commission's finding that the PennEast Project is needed and in the public interest. I believe that the Commission's reliance on affiliate precedent agreements is, without more, insufficient to demonstrate that a new natural gas pipeline is needed.<sup>4</sup> I also have serious concerns regarding the Commission's practice of issuing conditional certificates—which, notwithstanding their name, vest the pipeline developer with full eminent domain authority—in cases where the record does not contain adequate evidence to conclude definitively that the pipeline is in the public interest.<sup>5</sup>

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<sup>1</sup> 15 U.S.C. § 717r(a) (2012).

<sup>2</sup> *Id.* § 717r(b).

<sup>3</sup> *Id.* § 717f(h).

<sup>4</sup> *PennEast Pipeline Company, LLC*, 162 FERC ¶ 61,053, at 1-2 (2018) (Glick, Comm'r, dissenting).

<sup>5</sup> *Id.* at 2-4 (Glick, Comm'r, dissenting).



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In short, when the Commission issues a tolling order, it is critical that the Commission issue a subsequent order addressing the merits of the rehearing request as expeditiously as reasonably possible in order to both protect the public from unnecessary harm and permit the parties to timely seek their day in court.<sup>6</sup>

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<sup>6</sup> This statement is not intended to reflect in any way concerns regarding how timely Commission staff currently processes rehearing orders for Commission consideration.