

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

(Docket No. SEC 96-01)
(Docket No. SEC 96-03)

DECISION

Amended Application of Portland Natural Gas Transmission System (PNGTS), for an Energy Facility Certificate to construct, operate and maintain a Natural Gas Pipeline, consisting of approximately 78.6 miles of 24 inch outside diameter pipeline extending from Pittsburg, New Hampshire across northern New Hampshire to Shelburne, New Hampshire, along with a lateral extending 0.7 mile to Groveton, New Hampshire (PNGTS project)

and Amended application of PNGTS and Maritime Northeast Pipeline, L.L.C. (M&N) to construct, operate and maintain 31.3 miles of 30 inch outside diameter mainline between Newington, New Hampshire and Plaistow, New Hampshire, along with two laterals, one extending 1.1 mile to Newington, New Hampshire, and the second extending 0.6 mile to Haverhill, MA. (Joint Facilities)

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I. INTRODUCTION

This certification proceeding under RSA 162-H arises out of two originally separate applications to construct natural gas pipelines extending through two areas of New Hampshire.¹ On May 2, 1996, Portland Natural Gas Transmission System ("PNGTS") filed its initial application with the Site Evaluation Committee. (PNGTS Exhibit 1.)² PNGTS proposed to construct, operate and maintain a 20 inch outside diameter ("O.D.") pipeline extending from an interconnect with TransCanada Pipelines Limited at the Vermont-Quebec border, near Troy, Vermont, to an interconnect with the Tennessee Gas Pipeline System at Haverhill, Massachusetts. Approximately 103.05 miles of the pipeline was proposed to extend through New Hampshire, 72.65 miles in Coos County (northern portion) and 31.4 miles in Rockingham County (southern portion).

On September 25, 1996, the second applicant, Maritimes & Northeast Pipeline, L.L.C. ("M&N") filed its application with the Committee. M&N proposed to construct, operate and maintain a 24 inch O.D. diameter natural gas pipeline from an intersection of the Tennessee Gas Pipeline System ("Tennessee") at Dracut, Massachusetts to Wells, Maine. M&N's proposed route through New Hampshire extended for 31.4 miles in Rockingham County and was similar to the southern portion of the proposed PNGTS route.

On November 15, 1996, PNGTS filed an amended application substantially changing the northern portion of its route. (PNGTS Exhibit 1a.) The amended proposed northern portion would consist of a 24-inch O.D. pipeline extending for 78.6 miles in Coos County, beginning in Pittsburg and transversing south to the Vermont border, MP 0.0 to MP 0.35 (0.35 miles), then entering New Hampshire again at the Connecticut River and transversing south from Stewartstown to Shelburne, MP 0.88 to MP 73.53 (72.65 miles). (PNGTS Exhibit 10, Revised prefiled direct testimony of Michael Minkos; PNGTS Exhibit 19, alignment sheets.)

On February 3, 1997, PNGTS and M&N filed a joint application to join in the construction of a single 30-inch O.D. diameter pipeline between Dracut, Massachusetts and Wells, Maine. The joint application superseded M&N's original proposal and the southern portion of PNGTS' proposal, and would run for approximately 31.3 miles in Rockingham County, with a 1.1 mile 16-inch diameter natural gas pipeline lateral in Newington, and a 0.6 mile 16 inch diameter lateral to Haverhill, MA. Overall, PNGTS and M&N jointly propose to construct approximately 101.26 miles of 30-inch O.D. natural gas pipeline and appurtenant facilities extending from a proposed interconnection with existing pipeline facilities of Tennessee in Dracut, Massachusetts, through a portion of New Hampshire to a termination point in Westbrook near Portland, Maine.

¹ A complete procedural history relating to this matter may be found in Attachment A.

² An exhibit list is attached as Attachment B. The referenced exhibits are those filed by the parties at the adversarial hearings on June 23, 24, and 25, 1997.

The Rockingham County mainline portion of the joint pipeline runs for approximately 31.3 miles between Plaistow and Newington, N.H., at the Piscataqua River (MPs 16.9 to 48.2). Additionally, the Joint Pipeline Amendment includes an approximately 1.1 miles of 16-inch O.D. diameter natural gas pipeline lateral and appurtenant facilities (Newington lateral) near Portsmouth, New Hampshire, at approximately MP 47.5 to service the existing Public Service Company of New Hampshire, Newington Power Plant and to interconnect with the Granite State Gas Transmission System (PNGTS Exhibit 15 & 19.) Further the joint pipeline includes 0.6 O.D. 20-inch diameter pipeline mile of the Haverhill lateral ("Joint Facilities"). (PNGTS Exhibit 10, Revised prefiled direct testimony of Michael Minkos.)

In addition to several earlier public hearings on the initial proposals, the Committee held public informational hearings on the PNGTS northern route on February 5, 1997 in Groveton and on the joint southern route on March 5, 1997 in Exeter. On June 23, 24, and 25, in Concord, the Committee held adversarial hearings on the PNGTS northern route and the joint southern route.

II. CRITERIA FOR PROJECT APPROVAL

Pursuant to the Declaration of Purpose set forth in RSA 162-H:1, the public interest requires the Site Evaluation Committee ("Committee") to maintain a balance between the environment and the need for new energy facilities; to avoid undue delay in construction of any needed facilities; to ensure that operation of energy facilities is consistent with the state's least cost energy policy; and to ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic and technical issues are resolved in an integrated fashion.

RSA 162-H:16, IV requires that the Committee, after considering available alternatives and fully reviewing the environmental impacts of the site or route, and other relevant factors bearing on whether the objectives of Chapter 162-H would be best served by the issuance of the certificate, must find that the site and facility:

- (a) Applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the Certificate.
- (b) Will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies.
- (c) Will not have an unreasonable adverse effect on esthetics, historic sites, air and water quality, the natural environment and public health and safety.
- (d) Operation is consistent with the state energy policy established in RSA 378:37.

(RSA 162-H:16, IV (a) - (d).) In making a determination as to whether a petitioner's present or proposed use is reasonably necessary, the Committee examines: (1) the present or proposed use and any alternatives or alternative sites identified; (2) the applicant's financial, technical and managerial capabilities to assure construction and operation; (3) the environmental or any other impacts of the proposed use- and (4) that the operation is consistent with the present state energy policy.

The relevant inquiry under the statute, regarding environmental and other impacts, is whether the proposed facility will have an unreasonable environmental impact. Whether the impacts are unreasonable depends on the assessment of the environment in which the facility will be located, an assessment of statutory or regulatory constraints, or prohibitions against certain impacts on the environment and determination as to whether the proposed facility exceeds those constraints or violates those prohibitions. In Re: New England Electric Transmission Corp, 67 NHPUC 910, pg.923: Public Service Company of New Hampshire, SEC Report issued Dec. 15, 1992.

III.SUMMARY OF CERTIFICATING PROCESS

In passing RSA 162-H, the Legislature recognized that the selection of sites for energy facilities has a significant impact upon the welfare of the population, the economic growth of the state and the environment of the state. (RSA 162-H:1, I.) It found that it is essential to the public interest to maintain a balance between the environment and the possible need for new energy facilities in New Hampshire; that undue delay in construction of any needed facilities should be avoided; that the operation of the facility should be consistent with the state's least cost energy policy; and that the state should ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic and technical issues are resolved in an integrated fashion. (RSA 162-H:1, I.)

To establish a procedure for the review, approval, monitoring and enforcement of the planning, siting, construction and operation of energy facilities, the Legislature created the Site Evaluation Committee, whose members are Commissioners, Directors or key personnel in various state agencies. (RSA 162-H:3.) To expedite the process, the legislature created time frames which provide for informational hearings, public adversarial hearing and a decision no later than eight months after the acceptance of the application. (RSA 162-H:6.) The public is represented throughout the proceeding by Public Council appointed by the Attorney General. (RSA 162-H:9.) Members of the public may attend hearings, file written comments, or present oral testimony. Written comments are accepted before, during and after the public hearings until the evidentiary hearings are closed. (RSA 162-H:10.)

The Committee's certificating process subsumes separate permitting procedures under several other state statutes. Ordinarily, the Department of Transportation has the authority to

issue permits for Highway Crossings, the NHPUC for railroad crossings, the DES for excavating and dredging permits and for a Section 401 Water Quality Certificate, Office of State Planning for Certificate of Consistency with the Coastal Zone Management Act, and the Pease Development Authority for uses affecting their property. Because of the integrated process under RSA 162-H, such permits will be incorporated in the Energy Facility Certificate. (RSA 162-H:16, I.)

IV. SUMMARY OF TESTIMONY AND PUBLIC PARTICIPATION

On June 23, 24 & 25, 1997, public adversarial hearings were held by the Site Evaluation Committee as required by RSA 162-H: 10. In this proceeding, General Appearances were granted to the Applicants, Public Counsel, the Town of Shelburne and Donald and Mary Robie. A Limited Appearance was granted to Claire Lamm. Following the testimony of the witnesses, members of the committee questioned the witnesses and received statements by members of the public. The Public Counsel, appointed by the Attorney General, represented the public interests during the entire proceeding and at the public hearings. Upon conclusion of the presentation of testimony and introduction of evidence by all parties, the evidentiary portion of the hearing was closed.

A. Applicants' Testimony

On February 14, 1997, the applicants submitted pre-filed direct written testimony. On June 19, 1997, the applicants submitted an updated version of their prefiled testimony, along with a proposed exhibit list. (Exhibit 10, updated prefiled testimony.) At the adversarial hearings, most of the applicants' witnesses offered live testimony in addition to their prefiled testimony.

In the updated prefiled testimony, Michael A. Minkos, President of PNGTS Operating Co, testified to the composition and expertise of PNGTS and the procedural history of the PNGTS application. John M. Flumerfelt, Vice President of Granite State Gas Transmission, Inc., and Director of Government and Public Affairs for PNGTS, testified about the need for the proposed project and its consistency with the region's orderly development and energy policy.

Edward D. Gonzales, serving as Director of Engineering for M&N, testified relating to M&N's plans for operation of the Joint Facility, and detailed the specific measures that M&N will take to protect the public. At the adversarial hearing, Mr. Gonzales's testimony was adopted by Jeryl Mohn. William C. Penney, Jr, Project Manager for M&N, testified to M&N's financial, technical, and managerial capabilities to assure the operation of the Joint Facility in accordance with anticipated permit terms and conditions.

In panel testimony, Michael Morgan, PNGTS Field Project Manager; John Auriemma, PNGTS Project Environmental Coordinator; Roger Trettel, PNGTS Project Field Environmental Coordinator; and Chris Wilber, PNGTS Project ROW Coordinator testified regarding field activities including engineering, environmental issues and acquisition of right of way. The

applicants also presented the live testimony of a new witness, Brent Evans, with respect to river crossings.

B. Public Counsel's Testimony

In both live and prefiled testimony, Public Counsel presented a number of witnesses. Richard Marini, the Safety Administrator of the New Hampshire NHPUC, commented on the construction standards imposed by the U.S. Department of Transportation under 49 C.F.R. Part 192, Pipeline Safety. (PC Exhibit 1, tab 4.) Mr. Marini made several recommendations and requested that the Committee provide for safety inspectors for each spread of the pipeline. Robert Allen of ARK Engineering and Technical Services, Inc., evaluated the pipeline companies' application to determine whether the proposed right of way design is reasonable, particularly with regard to the proximity of the various utilities in the corridor. (PC Exhibit 1, tab 6.) Daniel Dobbels and Richard Stulgis of Haley and Aldrich, Inc., provided a geotechnical peer review of the proposed pipeline project. (PC Exhibit 1a.) The peer review covered major river crossings, proposed blasting procedures, and preferred and alternative alignment through the Gorham-Shelburne area.

Public Counsel also offered the testimony of several municipal and regional planning officials. Preston Gilbert, Cathy Conway and Dorothy Weinstein of the North Country Council ("NCC") assessed the impact of the proposal on the North Country's economy, environment, and orderly development. (PC Exhibit 1, tab 2.) The NCC, which has an important regional role in both planning and economic development, offered recommendations regarding the construction and design of the proposal and submitted a detailed analysis of the procedures used by PNGTS to select its route alignment through Gorham and Shelburne. Clay Mitchell of the Rockingham Planning Commission ("RPC") testified with respect to the regional impacts of the southern route, including a number of specific routing concerns. (PC Exhibit 1, tab 1.) RPC's testimony included statements by the Town of East Kingston Conservation Committee, Town of Newington, Town of Exeter, and the Town of Plaistow. (PC Exhibit 1 tab 1.) Stephen Cushing, the Chair of the Newton Conservation Commission, explained Newton's concerns regarding environmental impacts, particularly on Town-owned conservation land and trails. (PC Exhibit 1, tab 3.) Carl Demrow of the Appalachian Mountain Club ("AMC") and John Tyler Horn of the Appalachian Trail Conference ("ATC") testified regarding their organizations' concerns about the proposed route through Shelburne. (PC Exhibit 1, tab 5.)

C. Town of Shelburne's Testimony

The Town of Shelburne offered testimony (S Exhibits 1-7) wherein they presented their position that the routing of the pipeline on the northerly side of the Androscoggin River would unduly interfere with the orderly development of the region with no regard to the views of municipal and regional planning commissions and the municipal governing bodies. Shelburne Selectman Stanley Judge and Planning Board Chair John Carpenter explained that the pipeline as

proposed would adversely affect aesthetics and the environment and cause unnecessary fragmentation of property and habitat. The proposed pipeline route would negatively impact the Town's planning efforts, such as zoning and the master plan which the Town of Shelburne has worked on since the 1960's, which all call for orderly development, the maintenance of the rural character of the town and aesthetics as the highest priority.

D. Members of the Public

In addition to the parties, the Committee heard from a number of members of the public. Public Counsel's prefiled testimony contained written testimony from JoAnn Boydston, Gerald And Shelia Bergeron, Bruce Blodgett Darlene Cassady, Edward and Lena Connary, Jon H. and Lynette A. Emerson, Herve Giguere, Patrick Giroux, Frances A. Hawley, Claire and H. Nile Lamm, John and Carolyn Livingstone, and Nancy L. Marier. (PC Exhibit 1, tab 8.)

On the first day of the public hearings, Mark Bezanson, a resident of Newton, New Hampshire, expressed concern about impacts on his well water system as well as concern that private citizens may not be getting all the information they need about the project. (6/23 transcript, p. 11.) Frederick Martin, a longtime landowner in Stratford, testified to his concerns including possible water problems and access to his lumber lot and fields. He testified in response to questioning that nobody from PNGTS had ever suggested to him that the company could provide sleeves across the pipeline for heavy equipment and access. He also expressed his concern for the pipeline's impacts on the character of the Connecticut River Valley and his fear that the company would put oil through the pipeline in the future which would cause contamination in the event of a leak. He further recommended a thorough cultural survey of historic structures and landscapes which might be affected by the project. (6/23 transcript, p. 35.)

Jim Simpson, Senior Vice President and head of the Regulated Utility Business Segment for Bay State Gas Company and Northern Utilities, testified that the timely approval and installation of the project is essential to meeting the energy needs of Northern Utilities' customers, in light of expected supply shortfalls during the 1998-99 winter season. (6/23 transcript, p. 15.) The Committee also heard from Tom Craven, Director of Wausau Papers in Groveton, New Hampshire, who testified that the company's plan for compliance with the Clean Air Act of 1990 relies on natural gas to be received through the pipeline and an in-service date no later than November, 1998. (6/23 transcript, p. 27.)

Claire Lamm, a property owner from Stratford, spoke on both the first and second days of the hearings. She expressed her fear that the pipeline project would have a destructive impact on ground water, aquifers, oxbows, swamps and wetlands in the Connecticut River Valley. She also expressed specific concerns about impact to her terraced land and the company's entry without permission onto her property. (6/23 transcript, p. 42; 6/24 transcript, p. 10.)

On the second day of hearings, William Jackson, Town Manager for the town of Gorham, testified that the town's concerns mirror those of Shelburne. (6/24 transcript, p. 7.) Rep. Lawrence Guay testified in strong support of the proposed construction by PNGTS and against any delay in the project. (6/24 transcript, p. 126.)

On the third and final day of hearings, Sheila Bergeron of Newton testified to her concerns about the terms of easements entered into with residents which would permit alternate uses of the pipeline and right of way. She urged the Committee to protect the rights of landowners, including limiting the use of the pipeline to natural gas only, and testified to what she felt to be deceptive practices of a PNGTS land agent. (6/25 transcript, p. 4.)

In addition to the public hearing testimony, many citizens spoke and gave their comments at the informational hearings. (Transcripts of Informational Hearings.) The following Public Officials submitted written statement or oral testimony: Governor Jeanne Shaheen, Executive Councilors Raymond S. Burton and Ruth L. Griffith, State Senator Frederick King, State Representatives Lawrence J. Guay and Paula Bradley, United States Senators Robert Smith and Judd Gregg, and Congressman William Zeliff.

The following members of the public sent letters to the Committee setting forth their concerns: Reid Merrill, H. Nile Lamm, Eugene Salvage, Peter Beale, William Donovan, David Auger, Dr. Christopher Betjemin, Beatrice & Frank Stefan, Peter & Sharon DesRosiers, Leatrice & Douglas Bacon. The Committee appreciates the time and effort members of the public devoted to this proceeding.

V. ANALYSIS AND FINDINGS

Considering a project of this magnitude is a momentous undertaking, involving minute analysis of the site-specific impacts of the 100 plus miles of pipeline, as well as thorough consideration of the overarching questions of public safety, public participation, and orderly development. The members of the Committee as well as many state employees, local officials, and members of the public, have devoted many, many hours to the applicants' pipeline proposal. The Committee will discuss in detail only those issues which were controversial. For uncontested matters, the Committee will adopt by reference filings made by various parties with which it agrees. In addition, pursuant to RSA 162-H:VII & VIII, the certificate will incorporate without significant discussion the certificate conditions recommended by the individual agencies which would, in the absence of RSA 162-H, have had sole jurisdiction over the project.

Need for an Energy Certificate

Before discussing the major findings which the Site Evaluation Committee must make under the statute, there is a preliminary matter to consider, that is whether the proposed facility should require a certificate of Site and Facility.

An energy facility is defined as:

Any industrial structure, other than bulk power supply facilities as defined in paragraph II, that may be used substantially to . . . transport . . . sources of energy, including ancillary facilities as may be used or useful in transporting . . . storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and
Energy facilities shall also include energy transmission pipelines, storage tanks or other facility which the applicant or 2 or more petition categories as defined in RSA 162-H:2 XI request and the Committee agrees or which the Committee determines in accordance with RSA 162-H:1 requires a certificate.

(RSA 162-H:2, VII.)

The proposed facility is a natural gas transmission pipeline and is located almost entirely in existing utility transmission rights of way. However there is a significant part of the pipeline that will impact the environment. The Committee finds that the proposed facility is a major project and one which should require a certificate. The reasons for this finding are that the existing right of way was developed so many years ago and present environmental standards and land use patterns should be reviewed and met for new construction and maintenance as well as an analysis that the existing rights of way can accommodate the proposed pipeline use. This proceeding provides a forum to make a proper examination.

A. Applicants' Capability

The first factor the Committee must consider is whether the applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the Certificate. (RSA 162-H:16, IV(a).)

PNGTS testified that it is a consortium of energy companies from the United States and Canada. It is a general partnership organized and existing under the laws of the State of Maine, with offices located at 43 Baxter Blvd., Portland, Maine and a principal place of business situated at 300 Friberg Parkway, Westborough, Massachusetts, 01581-5039. The six partners comprising PNGTS are MCNIC East Coast Pipeline Company; Gaz Metro Portland Corporation- JMC Portland (Investors), Inc.; Natural Gas Development, Inc. - TCPL Portland Inc.; and EPEC Portland Corporation (formerly known as Tenneco Portland Corporation). The partners are

subsidiaries (and/or affiliates) of MCN Corporation, Gaz Metropolitan, US Generating Co., Bay State Gas Company, TransCanada Pipelines Limited and El Paso Energy Corporation. (Testimony of Michael Minkos; PNGTS Exhibit 14.) The original PNGTS Application describes the financial, technical and managerial capabilities of PNGTS in detail. (PNGTS Exhibit 1, at p. 102.) PNGTS testified that Granite State Gas Transmission, a 17.8 percent equity partner in PNGTS, owns and operates an interstate natural gas pipeline connecting Haverhill, Massachusetts and Portland, Maine, and currently operates the Portland Natural Gas Pipeline, a converted crude oil pipeline that transports up to 31 million cubic feet of natural gas per day into Maine from Canada. (Revised prefiled testimony of John Flumerfelt, PNGTS Exhibit 10, at p. 2.)

M&N's testimony explained that it is a Delaware limited liability company, the members of which are affiliates of energy corporations with expertise in natural gas pipeline siting, permitting, construction, and operation. The M&N members are M&N Management Company, a wholly-owned subsidiary of Duke Energy (effective June 18, 1997, Pan Energy merged with Duke Power Company); Westcoast Energy (U.S.) Inc., a wholly-owned subsidiary of Westcoast Energy, Inc.; and Mobil Midstream Natural Gas Investments, Inc., a wholly-owned subsidiary of Mobil Oil Corporation. M&N Management Company is the managing member of M&N. According to M&N's testimony, Duke Energy owns and operates one of the largest natural gas transmission networks in the United States, including four interstate gas pipelines that transport approximately 12 percent of the nation's gas consumption using approximately 35,000 miles of installed pipeline. (Prefiled testimony of William C. Penney, PNGTS Exhibit 10.) Additional information, including PanEnergy Corp.'s 1995 Annual Report, detailing M&N's financial, technical and managerial capabilities is included in Appendix G of the Joint Pipeline Amendment to Energy Facility Certificate (Southern New Hampshire) dated February 1997.

According to the two applicants, the northern New Hampshire component extending from Pittsburg to Shelburne will be owned, constructed and operated by PNGTS. The southern New Hampshire component consisting of 31.3 miles of pipeline and appurtenant facilities located in Rockingham County, will be owned jointly by PNGTS and M&N, constructed by PNGTS, and operated by M&N. (Prefiled testimony of Edward Gonzales, adopted by Jeryl L. Mohn, Tr. 6/25/97 pg. 196.)

Based on the information submitted, the Committee concludes that the applicants have sufficient financial, technical, and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the Certificate. The Committee also notes that the Federal Energy Regulatory Commission ("FERC") has issued preliminary determination with respect to both applicants that issuance of a certificate of public convenience and necessity for the proposed projects would be appropriate under Section 7(c) of the Natural Gas Act ("NGA"), 15 U.S.C. § 717 et seq. See July 31, 1996 Orders, Dockets CP96-249 (Ex. 6) and CP96-178. The Committee agrees with FERC's preliminary decision that the applicants have adequate financial, technical, and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the NGA.

B. Orderly Development

RSA 162-H:16, IV (b) requires the Committee to consider whether the proposed project will "unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies." The proposed route passes through the Coos County municipalities of Pittsburg, Stewartstown, Colebrook, Columbia, Stratford, Northumberland, Stark, Dummer, Milan, Berlin, Gorham and Shelburne, and the Rockingham County municipalities of Newington, Portsmouth, Greenland, Stratham, Exeter, East Kingston, Newton and Plaistow. (Testimony of Michael Minkos.)

The Committee received significant input from affected municipalities and regional planning commissions with respect to the proposed pipeline's impact on regional development. The Town of Shelburne intervened in the proceedings due to concerns about the route through the Town. Representatives of the Towns of Gorham and Newton, as well as the North Country Council and the Rockingham Planning Commission, testified at the adversarial hearings. Several other municipalities, including Plaistow and Exeter, either submitted letters to the Committee, or made statements at the informational hearings. The applicants testified that, consistent with statutory requirements, they notified affected municipalities of the proposal. (PNGTS Exhibits 1 & 1a; Testimony of John Flumerfelt.)

According to the applicants' testimony, the proposed route relies significantly on existing utility rights of way ("ROW"). Of the 73.7 miles of the northern line in New Hampshire, 59.6 miles parallel existing corridors. As to the Joint Facility Project, the distance within or parallel to the existing ROW is approximately 24 miles of the 31.26 miles of the proposed joint pipeline. The use of existing ROW reduces the disturbance of otherwise virgin land during construction, and increases the likelihood that the area through which the pipeline passes will be consistent with such a use from a zoning perspective. The applicants contend that the pipelines will replace and expand existing natural gas services within the region, reducing oil dependence and possibly attracting additional economic development. (Testimony of John Flumerfelt.)

For most of the proposed route, the Committee agrees with the applicants' contention that the proposed pipeline is consistent with the orderly development of the region. However, in certain areas of Shelburne and Newton, the Committee finds that the proposed route is not consistent with the orderly development of the region. As explained further below, based on the input of affected municipalities and regional planning bodies, the Committee conditions its certificate to require modifications to the route in these areas, as specified below.

1. Shelburne

A substantial portion of the adversarial hearings was devoted to testimony on the Shelburne issue. In addition to extensive testimony by John Trettel and Michael Morgan on behalf of the applicants, evidence was submitted by the Town of Shelburne, the North Country Council, the Appalachian Mountain Club, the Appalachian Trail Conference, and the Town of Gorham. The Committee also visited the site for a visual observation of the area.

The applicant's proposed route through Shelburne would stay on the north side of the Androscoggin River. This area is currently undeveloped and it is intended to remain so under the Town's master plan and zoning ordinance. Development in the Town is concentrated on the southern side of the Androscoggin, which contains Route 2, a major interstate highway, as well as an existing natural gas pipeline, a railroad bed and an electric transmission line. A portion of the proposed route follows Hogan Road, an unpaved logging road which is privately owned and maintained. The proposed route runs through the Leadmine State Forest and crosses the Appalachian Trail at a location which is currently not a utility crossing. The cleared permanent maintenance right of way will be visible from the observation area for scenic Reflection Pond.

The Town of Shelburne contends that deviating from the existing Portland Pipeline Corridor to the Hogan Road area would unreasonably undermine town planning efforts, adversely affect aesthetics and the environment and cause unnecessary fragmentation of property and habitat.³ The Town has worked since the 1960's to develop its zoning and master plan, which call for orderly development, the maintenance of the rural character of the town and aesthetics as the highest priorities. The applicant's proposed route would add 5.7 miles of new right of way in the narrow river valley to the existing 8.7 miles of existing pipeline right of way on the southern side of the river. It would detract from scenic vistas including Reflection Pond whereas using the existing right of way will have little or no impact.

The applicant submitted evidence contending that its proposed route is preferable to the alternatives it considered. These alternatives included the Shelburne Variation, which would leave the proposed route at MP 69.5, the Gorham North Variation, which would leave the proposed route at MP 67.5, and the Gorham South Variation, which would also leave the proposed route at MP 67.5, but which would take a slightly different path through Gorham. See PNGTS Exhibit 10, pgs. 5-9, for a detailed description of the three alternatives. The applicants' exhibits included a diversion assessment matrix comparing the proposed route with alternatives based on nine environmental constraints criteria, four land use constraints criteria and eight engineering constraints criteria. The applicant's analysis included quantitative assessment of the Gorham route variation and the Shelburne route variation, in an attempt to address Shelburne's concerns that the

³The Town of Shelburne also argued for a diversion at the easterly side of Shelburne, beginning at MP 92.9 and continuing to the Maine state line. The Committee finds that the Town did not present sufficient evidence to show why the proposed route is not consistent with the orderly development of the region in this location. Therefore, the Committee approves the applicant's proposal for this portion of the route.

proposed route would create a new corridor along the north side of the Androscoggin river through both towns. The applicant concluded that the disadvantages clearly outweigh the purported advantages of the alternatives.

With respect to the applicants' diversion assessment matrices, the Town complains that the Route analysis work submitted by PNGTS is flawed and inconsistent and the ratings do not adequately address the long term environmental and aesthetic impacts of the project. (S1 page 4.) According to the Town, the parameters used in scoring the various routes do not adequately address the long-term goals of the Town of Shelburne to the same degree as the short term issues of engineering and environment. The Town argues that the scoring is subjective, and giving equal weight to all the parameters distorts the conclusions. Finally, the Town emphasized that PNGTS performed a number of comparisons of the alternative routes, the last of which, published in the May 9 responses to data requests, showed a score of 45 for the Gorham South route versus a score of 41 for the Revision. By correcting the scoring to reflect the correct amount of flood plain traversed by the Revision, this score would rise to 45 for the Revision and the two routes would have the same score. Then by weighting long-term effects such as visual impacts, the Town argues that the score would show Gorham South as the preferred route.

In addition to the evidence submitted by the Town, Public Counsel's Engineering Consultant, Haley and Aldrich performed its own evaluation adjusting the rankings among the proposed route and the alternatives advocated by Shelburne and Gorham and concluded the results "do not demonstrate a clear winner." (PC Exhibit 1 pg. 3-3.)

Testifying both in its capacity as a regional planning commission and as a consultant hired by Public Counsel, the NCC filed a detailed report criticizing the Diversion Assessment performed by the applicant. (PC Exhibit 1, tab 2, pp.19-33.) The NCC identified, then explained in detail, four major conclusions:

(1) PNGTS's Diversion Assessments do not properly consider or balance the objectives of minimizing the creation of new cleared rights-of-way and protection of the quality of the environment and orderly development in RSA 162-H: 16, IV (b) & (c) and the FERC's Guidelines in 18 C.F.R. §2.69.

(2) The raw data used to assign a value to many criteria do not accurately measure the impact represented by the criteria.

(3) The use of a relative value to measure the absolute constraint of route alternatives allows the applicant to manipulate the extent to which criteria will favor or disfavor a particular route.

(4) The individual values assigned to each alternative do not reflect the actual impacts.

Specifically, the NCC argued that in making its various assessments at different stages of the application process, PNGTS changed the criteria it used to assess the various routing options, resulting in a much greater weight being given to waterbody crossings in the analysis which was submitted to support the final proposed route. (PC Exhibit 1, tab 2, pp.20-21.) According to the NCC, the applicant included certain criteria as both environmental and engineering categories, resulting in these criteria being counted twice. (PC Exhibit 1, tab 2, p. 21.) In addition, several criteria considered as negative factors by PNGTS, such as pipeline crossovers and road/rail crossings, actually disfavored the use of existing right of way. (PC Exhibit 1, tab 2, p. 22.) In some cases, the NCC argued, the raw data was not accurately reflected in the criteria values. For instance, the impacts of forest clearing were minimized by using linear feet instead of square feet as the measure. (PC Exhibit 1, tab 2, p. 24.)

Overall, the NCC concluded that the March 21, 1997, "Minor Diversion Assessment for the Revision" appeared to be biased in favor of the applicant's preferred outcome by under-rating the land use constraints and exaggerating the engineering and environmental advantages of the applicant's preferred route as discussed above." (PC Exhibit 1, tab 2 p. 30.) The NCC also presented its own alternatives analysis, with parameters weighted differently from the applicant's. Using the NCC's revised criteria, the proposed route scored 48, while the southern route scored 41. (PC Exhibit 1, tab 2 p. 29.) The NCC closed its analysis with the statement that "[g]iven our preference for using the existing right-of-way wherever possible, our significant concern for applicant's scoring methodology, the under-rated visual impacts, landowner concerns and inconsistency with Shelburne's master plan, we cannot support the applicant's preferred route through Shelburne." (PC Exhibit 1, tab 2 p. 30.) Instead, the NCC recommended approval of either of the two Gorham alternatives, the only alternatives which had been presented at the time of its analysis. (PC Exhibit 1, tab 2 p. 30.)

The AMC and the ATC also support the location of the pipeline on the south side of the river. Both filed written statements (PC 1 tab 5) opposing the creation of a new pipeline corridor through Gorham and Shelburne and recommending that the PNGTS pursue the proposed Gorham bypass alternative. According to the ATC, its policy on utilities and communications facilities clearly states that "utility lines ... generally are considered incompatible with the purposes and scenic values of the Appalachian trail." The policy states that with respect to new facilities:

It is the policy of ATC to oppose any construction of new utility lines, communications site facilities, and mountaintop facilities on Appalachian Trail Corridor land unless it can be demonstrated that (1) the proposed project is of overriding public benefit, (2) locating the proposed project on or across Appalachian Trail corridor lands is the only feasible and prudent alternative, and (3) Adverse impacts to the scenic, cultural and natural resources of the Appalachian Trail can and will be adequately mitigated. (PC 1, Tab 5.)

The AMC and ATC argued that visual impacts of the proposed PNGTS route will change the remote experience currently enjoyed by hikers in the area. The Gorham and Shelburne area is home to or within view of many popular hiking trails, including the 2,159 mile Appalachian Natural Scenic Trail. The Appalachian Trail and associated side trails are visited and enjoyed by thousands of hikers and walkers each year. The AMC and ATC presented testimony that the 50-foot-wide permanently open corridor required for the pipeline would present a visual scar on the landscape to hikers on the Appalachian Trail, both where it would be bisected by the proposed pipeline within Leadmine State Forest (north of Hogan Road) and from prominent viewpoints along the ridgeline of the southern Mahoosuc range and the northern Carter-Moriah range, where hikers would no longer look down on an uninterrupted forest landscape on the north side of the Androscoggin River. Both the AMC and the ATC urged the Committee to adopt the Gorham bypass alternative.

The Town, as well as the NCC, also stressed that the importance of the scenic viewshed should not be under-rated, and directly linked the viewshed to the economy of the area generated by tourism. They further stressed that the Lead Mine State Forest and the Appalachian Trail should not be disturbed. Construction, permanent occupancy and maintenance of the land by a gas pipeline is not within the management objectives of DRED for a State Forest and certainly not allowed under the Appalachian Trail Protection Zone as defined by RSA 216-D.

Based on the record before it, the Committee concludes that the proposed Hogan Road route through Shelburne, as updated by the applicant's mitigation plan, is not consistent with the orderly development of the region. In addition to its visual observation of the area, the Committee has reviewed all of the testimony, exhibits, statements and concerns of Municipal and Regional Planning Commissions regarding the location of the Proposed Pipeline on the north side of the Androscoggin River.

The Committee finds that the disadvantages of locating the pipeline on the north side of the river outweigh the advantages. Our analysis of the criteria in the various matrices produce similar results for the all of the various alternative routes. A careful consideration of the orderly development of the area and impacts on aesthetics, water quality and wetlands favors the use of the existing energy right of way on the south side of the river in this area. Adopting the NCC's analysis on the Shelburne issue, the Committee finds that the visual impact of the pipeline on the northerly side of the river would have a serious permanent effect on the aesthetics of one of the most pristine panoramic views (over Reflection Pond) located in the North Country, could have a large impact on the tourist business, and would result in unreasonable permanent impacts to the natural environment, orderly development and land use of the area.

The Committee rejects the mitigation plan submitted by the applicant to support locating the pipeline on the north side of the river, and finds that Hogan Road is not a corridor that would accommodate a project of this size. Hogan Road is not a Town Road and to disturb its present character would cause permanent impacts on the natural environment of the area. The proposed

route also negatively impact the State Leadmine State Forest. The Committee further finds that the location of the pipeline on the north side of the river conflicts with the master plan and the zoning ordinance of the Town of Shelburne which have attempted to preserve the rural nature and charm of the area, and unduly interfere with the orderly development of the region by creating another utility corridor in the valley which would be open for further development in the future if it were to be approved in this proceeding. In summary, the Committee finds that the use of the existing right of way is much more consistent with the orderly development of the region and has less impact on the environment.

With respect to a specific route, the Committee finds that the route which best balances environmental and engineering concerns with the orderly development of the region is the "Shelburne route," which crosses the Androscoggin River at approximately MP 69.5, then travels across the golf course to the existing right of way, recrossing the river at MP 73.5. (See PNGTS Exhibit 7-a, Figure B-1, sheets 25-27.) The Shelburne route is the shortest of the southern alternatives, and the cheapest to construct. It will not pass through the populated center of Gorham, but will be close enough to Gorham's industrial areas to facilitate possible future development. All of the southern alternatives, like the applicant's preferred route, cross the Appalachian Trail and Leadmine State Forest. However, for the southern routes, the crossings have much less impact because they coincide with existing development.

The Committee directs the applicant to amend its alignment of the pipeline route so that it will cross the Androscoggin River in the area of MP 69.50 to intersect with the existing energy pipeline on the South side of the river. The Amended alignment sheets shall be filed with the appropriate State Agencies for approval within the next 30 days.

The Committee is aware that its conclusion with regard to routing in Shelburne differs from the recommendation made by the FERC staff in its Draft Environmental Impact Statement for the PNGTS northern route. (Exhibit 7a - Draft EIS, June 1997.) The Committee notes that the updated information presented in this proceeding was not available to the FERC staff when they supported the revised route along Hogan Road. FERC's conclusion is not yet final, and the Committee urges FERC to consider the updated information in reaching its final decision.

2. Newton

The Town of Newton Conservation Commission presented written comments (PC 1 tab 3), and Stephen Cushing of the Conservation Commission testified at the adversarial hearing on June 24 (Tr.6/24/97 at 238). The Town's main concern with respect to orderly development was that "the joint proposal ... [has] a section that crosses a piece of town owned property that is under the management of the Conservation Commission which is... currently being considered as a site for a new public library. It's the only centrally located parcel of property in the Town the Newton that is owned by the town and also undeveloped." (Tr. 6/24/97 at 244.) In response to

Cushing's testimony, the applicants stated that a line change was being discussed, but had not yet been finalized.

The Town was also very concerned that the Peanut Trail be retained as a handicapped-accessible trail. In addition, the Town noted that two of the roads crossed by the proposed route Heat Street and Thornell Road have been designated as Scenic Roads per RSA 231:157-158.

Newton also raised issues with respect to environmental issues and endangered species. The Town comments that there is an absence of generally available data about the Town, which they feel has been interpreted to mean an absence of impact. They submit there is a need of field studies regarding the Atlantic White Cedar, Small Whorled Pogonia, Deer Wintering Areas and Amphibian Breeding Habitat. (PC 1 tab 3 pg 4.) Various comments showed a concern over wetland impacts. They feel that the proposed route represents little concern for wetland impacts and was chosen as the most expedient way from one side of town to the other. They were also concerned over the wetland crossing methods, the impact on wells and the amount of work space in wetlands.

The Committee finds that bisecting Newton's "library parcel" would not be consistent with overly development in Newton. Accordingly, the Committee will require that the final route stay with the existing right of way at this location. (Alignment sheet PTE T- 14 5001-02 1, near Wetland B-63.) From the testimony at the adversarial hearing, it appeared that the alignment sheets currently do not reflect the route Newton prefers. (Tr. 6/23, pp.212-216 - Wilbur testimony.) The applicants should submit revised alignment sheets showing a route that addresses Newton's concerns within 30 days.

C. No Unreasonable Adverse Effect

RSA 162-H:16, IV(c) requires the Committee to find that the site and facility will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment and public health and safety. Within these environmental impacts analyses there are five specific category of impacts which the Committee must address. These five categories are (1) impacts on aesthetics, (2) impacts on historic sites, (3) impacts on air and water quality, (4) impacts on the natural environment, and (5) impacts on public health and safety. Each of the five categories are discussed as follows:⁴

1. Impacts on Aesthetics

The construction of the proposed pipeline on the north side of the Androscoggin River, and scarring of the high ground above the River, would be observed by residents, tourists and

⁴To the extent these criteria were analyzed in the "orderly development" section above, that analysis is incorporated by reference in the applicable discussion in this section.

hikers traveling on Route 2 and the hiking trails in the Shelburne area, and would have an adverse effect on the aesthetics of the region especially on the panoramic view across Reflection Pond. The remainder of the proposed natural gas transmission line will be primarily an underground facility with the majority of the line being located in the same rights-of-way that other utilities operate and maintain. With the modifications to the route in the Shelburne area as discussed above, the Committee finds that there will be no unreasonable aesthetic impact along the major portions of the pipeline.

2. Impacts On Historic Sites

PNGTS submitted two Archeological Resources Reports for the Northern route, prepared by Victoria Bunker, Inc. The first (IA) Report recommended a further Phase IB study and Phase II field studies in 55 locations along the northern route. The Second Report, which covered a 3.9 mile area, found one prehistoric site. The Southern report was made by Jay Miller Associates, Inc. and covered 74.4 miles. The report indicated there are two pre-historic and four historic sites covered in the Phase II Report. Phase IB and Phase II Field surveys are currently being compiled. A revised Unanticipated Discoveries Plan has been submitted to the State Historic Preservation Office for review and will be implemented during the construction of the pipeline (PNGTS Exhibit 36).

There are no known historic or archaeological sites within the area of the proposed facilities. Stratford landowner Frederick Martin recommended a cultural survey of historic structures and landscapes which might be affected by the project. (6/23 transcript, p. 35.) The proposed route is considered to have a low probability of impacting items of archaeological significance, but the State Historic Preservation Office has the authority to halt the construction when an archeological artifact, questionable artifact or unidentified burial is uncovered or discovered during construction. With these safeguards, the Committee finds no unreasonable adverse effect on historic sites.

3. Impacts On Air And Water Quality

With respect to air quality impacts, the applicants presented testimony that the use of natural gas reduces emissions of air pollutants and provides the opportunity to lower energy costs and economically meet strict, new environmental requirements. Flumerfelt testimony. PNGTS has prepared illustrations of how natural gas can provide direct air quality benefits to the northeast, which are set forth in its Response to FERC Staff Data Requests dated August 7, 1996. Question 75. See PNGTS Exhibit 58.

The applicants' panel also testified that the proposed route through New Hampshire follows existing utility corridors to the greatest extent practicable, thereby minimizing impacts to sensitive environmental resources. Despite the use of existing corridors, construction of the

pipeline will involve environmental impacts because the width of the corridor will be increased due to safety and maintenance concerns.

With the exception of wetlands and river crossings which will be discussed under environmental impacts, there are no unreasonable adverse impacts on air and water quality by the construction, operation or maintenance of the proposed, facilities. The DES has issued conditions to ensure that stream crossings and construction in wetlands comply with the agency's rules and regulations. The conditions are appended to this decision and incorporated into the final order issued by the Committee.

4. Impacts On The Natural Environment

The applicants testified that they have taken extensive measures to reduce impacts on sensitive environments. Mitigation measures important in protecting natural resources, including plant and animal habitat, are incorporated in the revised Environmental Construction Plan (PNGTS Exhibit 29) and are subject to construction monitoring and oversight under the third Party Inspector Program (PNGTS Exhibit 32). The mitigation measures address Spill Prevention and Control; Erosion and Sedimentation Control; Compaction Tests; Blast Rock; Revegetation; Equipment Crossings; Spoil Storage; and Routing/Construction. (PGNTS Exhibit 33.) DES differs to some extent with Applicants with respect to certain environmental issues. Those issues are further addressed in that department's conditions attached to this decision and order.

Some of the waterbodies crossed by the pipeline are cold water fisheries and warm water fisheries. In the Southern route there are sites of saltwater fisheries. The Fish and Game Department has classified certain sites of special concern. Through the cooperation of Fish and Game, eight crossings have been identified requiring site specific plans. Appropriate mitigation measures will be required through the DES conditions to minimize any effect on the State's fisheries.

Fish and Game, The New Hampshire Heritage Program and the U.S. Wildlife Service have been made aware of the project and information regarding unique ecosystems has been requested. As in any project of this size, considerable analysis, examination and studies of the effects on the natural resources of the state has been preformed. The various agencies have examined and studied the Applicant's Environmental Construction Plan and have advised, informed and directed the applicant to take certain measures to eliminate or mitigate, environmental impacts. The areas reviewed included wildlife habitats, state fisheries, river and stream crossings, threatened, endangered, and rare plant and animal species, sensitive and wetland habitats. The New Hampshire Natural Heritage Program, the Fish and Game Department and the DES have developed suitable mitigation measures for these areas.

The Committee finds the impact on the natural environment will be temporary and with mitigation measures imposed by the DES and other State Agencies as conditions to the Certificate

there will be no unreasonable adverse effect on the natural environment. The Committee notes that in April, 1997, the staff of the FERC issued a Draft Environmental Impact Statement (DEIS) regarding the Joint Facility, as required under the National Environmental Policy Act. (PNGTS Exhibit 7.) In June, 1997, the FERC issued a DEIS for the PNGTS project (PNGTS Exhibit 7a). For both areas, the FERC staff stated that the projects would be environmentally acceptable, with appropriate mitigation. Neither EIS has yet been issued in its final form, and the Committee anticipates that it will submit this decision to FERC to consider in finalizing their analysis.

5. Impacts On Public Health And Safety

In seeking to determine the health and safety impacts of construction, operation and maintenance of the natural gas transmission pipeline and the potential of harm to the public, the Committee heard testimony and reviewed reports from the applicants, NHPUC Safety Division Administrator Richard Marini (PC 1) and ARK Engineering and exhibits (PC 1).

Mr. Marini testified that the United States Department of Transportation ("USDOT") administers the Gas Pipeline Safety Standards, 49 C.F.R. Part 192. The common practice is for the USDOT to appoint an agent to inspect construction in the State of New Hampshire. The Administrator of the Safety Division of the NHPUC has requested to be appointed as the agent. The federal regulations governing the safety of natural gas pipelines are often written in "performance language," meaning that it is up to the applicant to formulate specific specifications or standards to be utilized in the construction of the facility. The applicants have not yet completed the Construction, Operations and Maintenance, or Emergency Plans required under Part 192, and Mr. Marini recommended that these plans be submitted to the SEC, or the NHPUC on behalf of the SEC, when they are completed.

After the testimony of Mr. Marini was filed, the applicant supplied additional materials for the NHPUC's Safety Division to review regarding the construction and installation of the pipeline. Many of the concerns were discussed at a staff meeting and permit conditions mentioned hereafter will address the remaining issues.

The applicants testified that their operating policies and procedures will be consistent with USDOT requirements and will include provisions addressing preventative maintenance and patrols of facilities, and actions to be followed in the event of accident or natural catastrophe (Prefiled revised testimony of Edward Gonzales, as adopted by Jeryl Mohn).

M&N testified that it will operate a gas dispatch center to monitor system pressures, flows and customer deliveries. It will be staffed 24 hours a day, 365 days a year. M&N will have ready access to heavy and specialized equipment and will employ qualified contractors and field personnel who can be immediately dispatched to the scene if an emergency should arise. M&N will also coordinate with each of the eight towns located along the Joint Pipeline Project, including

periodic firefighting demonstrations; special informational meetings and training- periodic literature distribution identifying emergency telephone numbers, contact persons and other pertinent data; and maps to police and fire departments and public officials that show the location and operating pressures of the pipeline within the boundaries of each town (Gonzales testimony, adopted by Jeryl Mohn).

The applicants have informed the Committee that 100% of the welds will be x-rayed. The Committee adopts this statement as a condition to do so. The Committee also requires that facilities constructed adjacent to electric power transmission lines be designed to protect employees and the public against shock. The Committee directs the applicant to obtain clearance from the electric power system dispatcher when working in proximity to electric power line. Finally, the Committee presumes that PNGTS also adopt the safety procedures outlined in the M&N testimony above.

Having reviewed the testimony, the Committee finds the project may be built in a safe manner if proper monitoring and inspections are performed. The Committee will impose conditions recommended by the NHPUC, and attached to the Certificate of Site and Facility. It is the Committee's understanding that the applicant proposed or agreed to these conditions during staff conferences or during the adversarial hearing. With compliance with the conditions attached, the Committee finds that there will be no unreasonable adverse public health and safety effects produced by the construction, operation or maintenance of the pipeline.

The Committee will recommend to the USDOT that the Administrator of the Safety Division at the NHPUC be appointed as its agent on this project. Because of the limited resources of the NHPUC, if the NHPUC is appointed as the USDOT's agent, the applicant will need to provide sufficient funding for at least one construction safety inspector for each spread.

D. Consistency With Energy Policy

In order to issue a certificate, the Committee must find that the proposed project is consistent with the state energy policy established in RSA 378:37. RSA 162-H: 16, IV(d). The state energy policy is as follows:

The general court declares that it shall be the energy policy of this state to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources; the protection of the safety and health of the citizens, the physical environment of the state, and the future supplies of nonrenewable resources; and consideration of the financial stability of the state's utilities.

(See RSA 378:37.)

The Committee finds that the proposed PNGTS project and Joint Facilities are consistent with the state energy policy established in RSA 378:37. The pipeline is being built to meet the energy needs of the citizens and businesses of the state, at the lowest reasonable cost while providing for the reliability and diversity of energy sources. Natural gas is a clean, economic energy source. The project will introduce new natural gas capacity to New Hampshire thereby diversifying existing energy sources and making new sources available to New Hampshire, its citizens and industry. Consonant with the environmental and safety measures which have been made conditions of the project, the pipeline will meet the state's energy needs in a manner which protects public safety and health as well as the natural environment. With respect to the financial stability of the state's utilities, the project will have a beneficial impact on Northern Utilities, which testified that construction of the pipeline will help address a potential shortfall. The Committee received no testimony indicating that construction of the pipeline would adversely affect other utilities in the state.

E. Public Participation/Protection of the Public's Interests

Under RSA 162-H:9, III, the Committee is obligated to "consider and weigh written information and reports submitted to it by members of the public before, during, and subsequent to public hearings." The Committee acknowledges the extent and quality of the public participation in this proceedings. Many of the statements made by members of the public related to the process used by the applicant in dealing with property owners and the way in which negotiations were handled for the procurement of easements. There was also testimony at the hearing with respect to the issue of wells, water and sewer systems and the method to test them for damages caused by the installation of the pipeline or the blasting requirements. See, e.g., testimony of Mark Bezanson (Tr.6/23/97, pg. 11).

The Committee is very concerned that land owners be treated fairly and consistently, and that the applicants be responsive to local concerns during construction of the pipeline. To ensure fair treatment of the public and relying on the applicants's representation during the proceedings, the Committee directs the applicants to take the following actions:

1. Within sixty days of the date of this decision, recontact all landowners, including those who have already executed easements, and offer them new easements in the new form submitted as part of PNGTS Exhibit 26 during the adversarial hearing. The new easement form limits the company's rights to operation of a natural gas pipeline and contains no language with respect to transportation of oil or other substances, or the installation of communication lines not related to the transport of natural gas.
2. Notify the public by public notice published in the local news media in advance of its construction schedule and blasting schedule.

3. Both PNGTS and M&N must arrange for a telephone number to be listed and maintained in the White pages and the Yellow pages in each phone book published for Rockingham and Coos Counties throughout the projects' life.

4. Construction is limited to the hours of 7 AM to 7 PM Monday through Saturday. Work may take place outside these hours only as necessary to comply with permit conditions and good construction practices.

5. Reimburse landowners for the value of forest products harvested on their property. Yield Taxes will be the responsibility of the applicants. Ensure that any existing logging roads are made passable for logging, without cost to the landowner. Generally, ensure that landowners be able to access and harvest forest products in the future without incurring additional costs which arise only because of construction of the pipeline.

6. Notify the public by public notice that wells within 300' of the project activities will be eligible for well tests, at no cost to the owner, before and after blasting and construction.

7. Prepare a landowners fact sheet and distribute a copy to each land owner whose property will be affected by the construction. The fact sheet should explain in clear, nontechnical language what the pipeline companies are willing to do with respect to landowners' concerns. During face-to-face interactions, the applicants should affirmatively explain the landowners' rights and answer any questions the landowners may have about the information in the fact sheet. The "Landowner Fact Sheet" submitted by PNGTS after the adversarial hearings, and attached as Attachment F. Bullet 9 of the PNGTS Fact Sheet shall be amended to make it consistent with condition 6 above.

8. All public and logging roads shall be clearly marked with pipeline locations - said markings shall be posted throughout project life.

9. PNGTS & M&N shall establish a procedure / forum for addressing complaints during construction. A monthly report shall be filed with the SEC listing unresolved complaints and the nature thereof.

10. Certificate approval does not grant authority to remove buildings in the Additional Temporary Work Space areas.

VI. CONCLUSION

The Site Evaluation Committee, pursuant to RSA 162-H:2 (c) finds that the proposed Natural Gas Pipeline transmission system requires a certificate to construct and operate the natural gas pipeline transmission system facilities.

After having considered available alternatives and fully reviewed the environmental impacts of the proposed pipeline and other factors bearing on whether the objectives of Chapter 162-H would be best served by the issuance of a certificate, the Committee finds the applicants, PNGTS and M&N have adequate financial, technical, and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the Certificate.

After due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies, the Committee finds that, with the route changes described above with respect to Newton and Shelburne, the project will not unduly interfere with the orderly development of the region.

The PNGTS Project and Joint Facilities will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment and public health and safety if all conditions attached to the Certificate and incorporated in this decision are complied with.

The proposed natural gas pipeline transmission system is consistent with the state energy policy established in RSA 378:37.

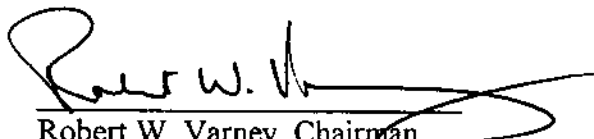
The undersigned members of the Supply Site Evaluation Committee, hereby adopt these findings pursuant to RSA-H 162:16.


The application and petitions are referred to the DES, the Department of Transportation, and the NHPUC for the issuance of such permits and licenses as required by law to be included in the Certificate of Site and Facility.

Pursuant to RSA 162-H:3, III, the Committee delegates to the NHPUC authority to inspect and monitor the safety aspects of construction of the pipeline as authorized under this certificate.

Pursuant to RSA 162-H:3, III, the Committee delegates to DES authority to inspect and monitor the environmental aspects of construction of the pipeline as authorized under this certificate. In addition, pursuant to RSA 162-H:3, III-a, as amended June 20, 1997, the Committee delegates to DES, including the NHDES EI specified in the final DES conditions, authority to specify the use of any technique, methodology, practice or procedure specified in the final DES conditions, and authority to specify minor changes in the route alignment in connection with the nonsurveyed and partially surveyed segments of the pipeline listed in condition #9 of the final DES conditions.

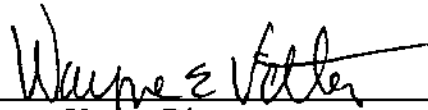
Pursuant to RSA 162-H:10, V, the Committee authorizes DES and the NHPUC to assess the applicants for the reasonable cost of their inspections.


Robert W. Varney, Chairman
Commissioner, Dept. of
Environmental Services


Douglas L. Patch, Chairman
Public Utilities Commission



Dr. Edward Schmidt, Director
Water Division, Department of
Environmental Services



Wayne Vetter, Director
Fish and Game Department



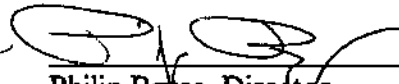
Jeffrey H. Taylor, Director
Office of State Planning



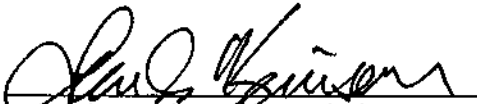
Kenneth A. Colburn, Director
Air Resources Division, Department
of Environmental Services



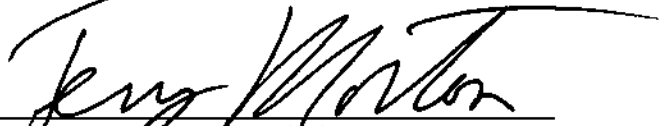
Deborah Schachter, Director
Governor's Office of Energy and
Community Services



Philip Bryce, Director
Division of Forest & Lands



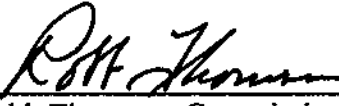
Leon S. Kenison, Commissioner
Department of Transportation



Terry L. Morton, Commissioner
Dept. of Public Health & Human Services



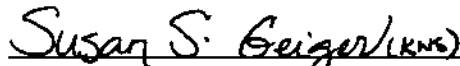
Richard McLeod Director
Division of Parks,
Dept. of Resources & Economic Development



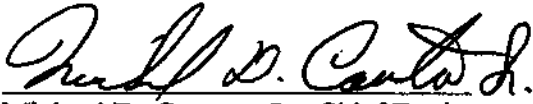
Robb Thomson, Commissioner
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Bruce B. Ellsworth, Commissioner
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Susan S. Geiger, Commissioner
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Michael D. Cannata Jr., Chief Engineer
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