

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PennEast Pipeline Company, LLC
PennEast Pipeline Project
Docket No. PF15-1-000

SUPPLEMENTAL COMMENTS OF LOWER SAUCON TOWNSHIP,
NORTHAMPTON COUNTY, PENNSYLVANIA RE: DEFICIENCIES AND ERRORS
IN PENNEAST'S RESPONSE TO ENVIRONMENTAL SCOPING COMMENTS

Via Electronic Filing to:
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PENNEAST PIPELINE COMPANY, LLC
PENNEAST PIPELINE PROJECT
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IN PENNEAST PIPELINE’S RESPONSE TO SCOPING COMMENTS**

The Township filed its “Comments Of Lower Saucon Township, Northampton County, Pennsylvania On Environmental Issues And The Scope Of The Draft Environmental Impact Statement” with FERC on or about February 25, 2015.¹ In response to public comments, on March 13, 2015 PennEast filed its Response to Scoping Comments² On or about March 26, 2015 and April 27, 2015, PennEast filed additional supplemental responses to scoping comments.³

In its April 27, 2015 filing to FERC Secretary Bose, PennEast stated:

Specifically, Table 1 of Appendix A responds to comments from federal, state, and local agencies, Table 2 responds to comments from non-governmental organizations, Table 3 responds to comments from affected landowners and abutters, and Table 4 responds to comments from other individuals. Each table groups the comments by issue, specifically identifies the commenters that raised the particular concern, and indicates the scoping meeting at which the commenter raised the concern.

With respect to Lower Saucon Township and other units of government, these statements are incorrect. Table 1 of Appendix A fails to respond to numerous comments from Lower Saucon and other units of government. Table 2 misattributes governmental comments to non-governmental organizations. Moreover, even where an item in the tables purports to address a comment, the response is frequently unresponsive boilerplate.

Therefore, Lower Saucon Township, Northampton County, PA, submits the following supplemental comments relating to these errors, misattributions, and deficiencies in PennEast’s responses to scoping comments filed by Lower Saucon Township. These are merely examples. We did not undertake to identify each and every omission or deficiency in PennEast’s responses.

¹ FERC accession number 20150225-5312. Hereafter, we refer to these comments as “Township Scoping Comments.”

² FERC accession number 20150313-5167.

³ FERC accession numbers 20150326-5206 and 20150427-5482, respectively.

PENNEAST PIPELINE'S RESPONSES TO SCOPING COMMENTS CONTAIN ERRORS, MISATTRIBUTIONS, AND MISCHARACTERIZATIONS OF COMMENTS

PennEast failed to fully and accurately identify and attribute the public scoping comments. For example, it incorrectly attributes to Lower Saucon Township comments regarding potential indoor air contamination from radon. See April 27, 2015, PennEast supplemental responses, Table 1, FSL 19. This is wrong; there were no comments by Lower Saucon Township regarding radon. In other places, it incorrectly identifies Lower Saucon Township as a non-governmental organization (NGO) although self-evidently a *Township* is a unit of local government. See, e.g., *id.*, Table 2, NGO 40, NGO 42, NGO 43. By mischaracterizing the comments of Lower Saucon Township as those of an NGO and tabulating them as NGO comments, the readers of PennEast's responses will be misled. The mischaracterization is not limited to Lower Saucon's comments: PennEast similarly mischaracterized a number of comments of other municipalities and even U.S. EPA as those of "non-governmental organizations." See, e.g., Table 2, NGO 40. These types of errors draw into question PennEast's tabulation and responses to public comments.

PENNEAST PIPELINE'S RESPONSES TO SCOPING COMMENTS FAIL TO IDENTIFY AND ADDRESS SCOPING COMMENTS OF LOWER SAUCON TOWNSHIP

Table 1 of Appendix A in PennEast's supplemental responses purports to identify and respond to the comments and concerns of federal, state, and local government. But because of the fundamental mischaracterization of numerous governmental comments as those of NGOs and their omission from Table 1, the table is inadequate and seriously flawed as a general matter. But PennEast's failure to identify, address, and meaningfully respond to government comments is also very particularized.

PennEast failed to respond to the Township Scoping Comments regarding the timing of the scoping process and PennEast's failure to provide clear mapping and other information regarding the proposed route and its conduct in providing contradictory and misleading information to the public. See, Township Scoping Comments, pp. 2-3.

PennEast has also failed to respond to the Township Scoping Comments regarding the inappropriate selection of Tetra-Tech as FERC's third-party EIS contractor and the documented evidence of bias and misconduct. See, Township Scoping Comments, pp. 3-10.

PennEast completely failed to identify or address the Township's comments questioning the need for the project, and its comments regarding the duty to avoid a narrow definition of project purpose. See, e.g., Township Scoping Comments, pp. 18-23; 72-74.

PennEast has not responded to the Township's comments regarding the need to utilize actual historical data of non-compliance and regulatory violations in evaluating project impacts. See, Township Scoping Comments, pp. 50-53.

PennEast's failure to properly identify concerns of local and state government is not limited to Lower Saucon Township. For example, PennEast failed to identify the Commonwealth of Pennsylvania itself as raising comments and concerns regarding the pipeline's potential impacts to endangered and threatened species. The Pennsylvania Game Commission was omitted from those units of government that have commented on this issue. See, Table 1, FSL 8. This omission is particularly striking because the Commission's Northeast Regional Office's letter of February 2, 2015 to FERC (accession number 20150209-0072) explicitly stated that endangered and threatened species will be negatively impacted by this Project.

PENNEAST'S BOILERPLATE RESPONSES FAIL TO MEANINGFULLY RESPOND TO LOWER SAUCON'S COMMENTS.

PennEast failed to meaningfully respond to Lower Saucon Township's comments regarding specific historic/cultural resources within the Township. See, Township Scoping Comments, pp. 12-17; 69-71. In particular, PennEast fails to address what steps it will take to comply with FERC Guidelines that "FERC prefers that projects avoid historic properties *wherever possible*." See, *Guidelines For Reporting On Cultural Resources Investigations For Pipeline Projects*. PennEast's responses – and its Draft Resource Report 4 - do not clarify what impacts the project will have on the historic resources identified by the Township nor what mitigation/avoidance measures PennEast will take to protect those resources. Instead, PennEast's response includes only boilerplate generalized statements that PennEast "considered potential impacts to culturally sensitive areas" and "will continue to consult" with relevant state and federal agencies. See, PennEast Response Document, Table 1, FSL 10.

Similarly, PennEast failed to meaningfully address the Township's comments regarding natural areas and forest fragmentation. See, e.g., Township Scoping Comments, pp. 17-18; 15; 32; 65-68. Instead, PennEast offers a boilerplate and vague response that does not address the permanent fragmentation caused by the permanent right of way. It merely recites that trees destroyed by construction will be "allowed to re-vegetate naturally within the temporary pipeline construction ROW and extra workspaces" (but not the permanent pipeline ROW) and that it will "implement restoration measures in accordance with its agency approved E&S and Site Restoration Plan." (FSL 9). If PennEast's response is intended to refer to FERC's "Upland Erosion Control, Revegetation, And Maintenance Plan", it is unresponsive to the comment, because that plan also fails to address the impacts of long-term and permanent forest fragmentation caused by pipeline construction.

PennEast fails to include Lower Saucon Township in FSL 24 regarding comments on climate change impacts. See, Township Scoping Comments, pp. 24-25; 63-65. In its

responses in Table 1, FSL 24, PennEast improperly truncates the scope of the concerns regarding climate change/GHG emissions as limited to “impacts from pipeline construction” rather than the climate change/GHG impacts of the entire scope of interconnected natural gas production and transmission activities. Nonetheless, Lower Saucon’s comments did in fact include GHG impacts from pipeline construction. *See*, Township Scoping Comments, p. 64 (“This analysis should include all emissions (vented and fugitive) from the proposed compressor station, pipeline and other infrastructure, all construction emissions, and all emissions from indirectly-related activities.”) Thus, PennEast’s Table 1 fails to identify or respond to the Township GHG/climate change scoping comments.

PennEast also fails to identify Lower Saucon Township’s scoping comments as they relate to FSL 15, Impacts to national, state and county parks. Lower Saucon Township’s Scoping Comments identified potential for adverse impacts to visitors and tourists to the Appalachian National Scenic Trail, a unit of the National Park System.

PennEast failed to identify Lower Saucon Township’s comments regarding air quality impacts from compressor stations. *See* PennEast supplemental responses, Table 1, FSL 17. PennEast ignored Lower Saucon’s comments at pp. 12 and 64:

The PennEast Pipeline will further induce the development of access roads, a compressor station, and other supporting infrastructure, which will further degrade the region’s natural environment. These sources, together with construction equipment and other operational facilities, will emit air pollution, including criteria pollutants such as nitrogen oxides (“NOx”), and hazardous air pollutants such as volatile organic compounds (“VOCs”), which also are ozone precursors. The project also will result in the direct emission of climate-change-causing greenhouse gases (“GHGs”): carbon dioxide (“CO₂”) and nitrous oxide from compressor engines, line heaters, and generators; fugitive methane emissions from compressors and the pipeline; and black carbon emissions from diesel vehicles and equipment.

Lower Saucon Township Scoping Comments, p. 12

This analysis should include all emissions (vented and fugitive) from the proposed compressor station, pipeline and other infrastructure, all construction emissions, and all emissions from indirectly-related activity.

Lower Saucon Township Scoping Comments, p. 64.

Similarly, PennEast also ignores Lower Saucon’s comments regarding compressor station noise. For example, see Township Scoping Comments, p. 33:

Compressor stations, which are located along pipelines and are used to compress gas to facilitate movement through the pipelines, are a long term

source of noise and continuous disturbance (Table 1). Because chronic noise has been shown to have numerous costs to wildlife, compressors have potential to have long-term effects on habitat quality. Id

For many species of wildlife, sound is important for communication, and noise from compressors can affect this process through acoustical masking and reduced transmission distances.

Township Scoping Comments, p. 33. While ignoring the Township’s specific comments regarding impacts to wildlife, acoustical masking, and reduced transmission distances for acoustical communication, PennEast’s general response to FSL 17 is substantively inadequate in any event. PennEast’s response that it plans to meet “applicable regulatory requirements” does not address impacts to wildlife, which are not addressed by standard noise regulatory requirements.

PennEast’s boilerplate responses to Township comments about public safety similarly ignore Lower Saucon’s specific concerns:

The EIS should evaluate risks and accident impacts to residents, property, and resources. This evaluation should also include visitors and tourists at significant locations such as the Appalachian National Scenic Trail and other recreational facilities the pipeline is proposed to cross. Cf., e.g., Letter from the National Park Service to FERC, Oregon LNG Export Project and Washington Expansion Project, FERC Nos. PF12-18-000, PF12-20-000 (Nov. 7, 2012) (National Park Service comments to FERC that the EIS must analyze safety impacts to visitors of the nearby Lewis and Clark National Historical Park and the Lewis and Clark National Historical Trail.)

Recent natural gas pipeline explosions demonstrate that, even with modern safety standards and inspections, deadly pipeline explosions continue to occur, causing loss of life and enormous economic losses. The proposed PennEast main pipeline will have a potential impact radius (PIR) as defined by 49 C.F.R. §192.903 of nearly 1,000 feet, as determined by Appendix C of the “Pipeline Emergency Response Guidelines” (2014) (see Appendix 15) for the Pipeline Association for Public Awareness, of which PennEast affiliate UGI is a member, the *minimum evacuation zone for the PennEast main pipeline for thermal exposure would exceed 3,000 feet in radius*. In the case of an accident requiring evacuation within Lower Saucon Township, the evacuation zone would include I-78 and Rt. 33, the two primary regional transportation routes.

Township Scoping Comments, p. 68 [internal footnotes omitted].

The Township Scoping Comments cited specific PHMSA data:

Appendix 14, PHMSA, Pipeline Significant Incident 20 Year Trend, Data as of 2/17/2015. From 1995 to the present, significant pipeline incidents have resulted in 360 fatalities, 1,368 injuries, and \$6,983,415,589 in property damage (Data Source: PHMSA). The PHMSA database indicates that: From 1994 through 2013, the U.S. had 745 serious incidents with gas distribution, causing 278 fatalities and 1059 injuries, with \$110,658,083 in property damage. From 1994 through 2013, there were an additional 110 serious incidents with gas transmission, resulting in 41 fatalities, 195 injuries, and \$448,900,333 in property damage. From 1994 through 2013, there were an additional 941 serious incidents with gas all system type, resulting in 363 fatalities, 1392 injuries, and \$823,970,000 in property damage. These figures do not fully account for the total economic losses attributable to these accidents.

Township Scoping Comments, p. 68, fn. 78.

PennEast's boilerplate response (FSL 11) consists of four sentences that ignore the actual risk and essentially treats actual historical data as though it did not exist. For example, PennEast claims that "serious pipeline incidents have decreased by 90 percent over the past three decades alone." This claim is either demonstrably false or materially misleading as to the past two decades, and is contradicted by PHMSA data. See Appendix 14 of Lower Saucon Township Scoping Comments. PHMSA data show that since 1995 to 2013, a period of 18 years, the number of significant incidents, the number of fatalities, the number of injuries and the amount of property damage has barely changed year to year. Even if PennEast's claim were true, this does not speak well for the industry, given PHMSA data showing that from 1994 through 2013, there were 110 serious incidents with gas transmission pipeline facilities, resulting in 41 fatalities, 195 injuries, and \$448,900,333 in property damage. We also noted that "these figures do *not* fully account for the total economic losses attributable to these accidents."

PennEast's response also fails to identify or address the Township's socio-economics comments in Table 1, FSL 22 ("socioeconomics"). For example, the Township's scoping comments stated:

These impacts – as with all other adverse environmental impacts - should be monetarily quantified so as to provide an apples-to-apples offset against the purported economic benefit of the project.

Township Scoping Comments, p. 64. An "economic benefit" analysis that ignores externalized costs is worthless. PennEast should be required to provide a response that addresses the Township comments about monetary quantification of adverse impacts.

IV. CONCLUSION

For all of these reasons, PennEast should be required to correct and supplement its responses to the Township Scoping Comments, and to amend its April 27, 2015 supplemental responses to comments, Appendix A, Table 1.

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