

Testimony of FERC Commissioner Philip D. Moeller

**Before the U.S. House of Representatives
Committee on Energy and Power
Subcommittee on Energy and Power**

**Regarding H.R. 1900
“Natural Gas Pipeline Permitting Reform Act”**

July 9, 2013

Chairman Whitfield, Ranking Member Rush and members of the committee, I am Phil Moeller, a sitting commissioner on the Federal Energy Regulatory Commission. Thank you for inviting me to testify on HR 1900, the Natural Gas Pipeline Permitting Reform Act. My testimony today reflects only my views on HR 1900.

From the outset, I thank you for shining the light on the need for additional energy infrastructure, specifically natural gas pipelines. Consumers universally enjoy the benefits of reliable, safe and affordable energy, but generally consumers do not like to look at the necessary infrastructure that delivers this energy to them. Building additional energy infrastructure through communities is increasingly difficult, and focusing on efficient government action when these projects are being considered is relevant and timely, especially given the rapid shift by the electric utility industry to favor the use of more natural gas to produce electricity.

I believe FERC generally performs very well at considering energy projects, an observation that I believe was largely supported in the February 2013 report from the Government Accountability Office entitled, “*Pipeline Permitting: Interstate and Intrastate Natural Gas Permitting Processes Include Multiple Steps, and Time Frames Vary*”. Our Commission’s siting jurisdiction under Section 7 of the Natural Gas Act applies only to those natural gas pipelines that cross state lines. The siting jurisdiction of intrastate natural gas pipelines rests solely with the states in which such pipelines are proposed.

Specific to natural gas pipeline certificates, project applications cover the range from relatively minor and uncontested upgrades for existing interstate pipelines all the way to new pipelines crossing a

number of state lines, and covering hundreds of miles. Naturally, the smaller and uncontested projects can be reviewed with determinations in a shorter amount of time, and the more complex applications usually take longer.

Commission staff's internal review of the time to process applications documents this observation. Since Federal Fiscal Year 2009, a total of 548 applications have been submitted to the Commission. Projects in the "Prior Notice/No Protests" category average 75 days for a Commission decision; those projects in the "Protests, Policy Issues, and/or Major Construction" category average 375 days for a Commission decision.

We stress to project developers the importance of public involvement when considering applications, although some project developers are better at outreach than others. Developers that employ aggressive public outreach tend to be rewarded with less contentiousness and faster Commission decisions. In my time at the Commission, I believe every new major pipeline project has made at least some changes to proposed routes based on public reaction and input to the pipeline's initial proposal.

We are often dependent on other state and federal agencies to perform their jurisdictional reviews on aspects of the proposed projects. Federal agencies include the Advisory Council on Historic Preservation, the Bureau of Indian Affairs, the Bureau of Land Management, the Army Corps of Engineers, the Environmental Protection Agency, the Fish and Wildlife Service, the Forest Service, and the National Marine Fisheries Service. Other governmental agencies are often involved including state resource agencies, Tribal governments, and local governments.

Specific to HR 1900, I have been informed by Commission staff that the twelve-month timeline for action is achievable once the Commission determines that an application is complete. I respectfully suggest that language clarifying this aspect would improve the bill's effectiveness.

The timeline for resource agencies adds an admirable level of accountability for the resource agencies involved in our process. My only caution is that without high level agency oversight directing

the agencies to prioritize these permits, a timeline could result in agencies either denying certain permits or adding burdensome conditions as a way to protect themselves from accusations of insufficient review. Vigilant oversight of resource agency actions will be necessary if these requirements become law.

Apart from HR 1900, other actions would assist a more timely consideration of proposed pipelines. As I mentioned earlier, it is essential that management of federal resource agencies monitor agency action at the regional level pertaining to proposed projects. We have seen a wide range of agency response to proposed infrastructure projects affecting federal lands. If regional managers of resource agencies make it a priority to review permits for proposed projects, timely decisions can result. If such reviews are not a priority, reviews can create extended delays.

All natural gas pipeline developers should take advantage of the Commission's "Pre-filing" process, but not all do so. This process allows many issues to be resolved with the Commission and various stakeholders before the formal application process begins. Once an application is filed, all communication must be formally filed in the public record.

As noted in the GAO report referenced earlier, some states have designated a "one-stop" resource agency to coordinate state decisions on proposed pipelines. Those states that have taken such actions are viewed as providing additional regulatory certainty for proposed projects. Given the need to develop more natural gas pipeline infrastructure throughout the nation based on increasing demand, I respectfully suggest that all states without such "one-stop" agency designations consider the value of taking such action.