



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, including back up information, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: December 2, 2015
Submitted by: Town Manager Eileen Cabanel
Department:

Date of Meeting: December 17, 2015

Speakers:

Time Required: 25 minutes

Background Info. Supplied: Yes: No:

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input checked="" type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Motion to Intervene - FERC Proceedings

DESCRIPTION OF ITEM

Town Council to discuss intervening in the FERC's proceedings on the Kinder Morgan application.

REFERENCE (IF KNOWN)

RSA:	Warrant Article:	
Charter Article:	Town Meeting:	
Other:	N/A	

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name:	<u>Eileen Cabanel</u>	Address:	<u>6 Baboosic Lake Road</u>
Phone Number:	<u>424-2331</u>	Email Address:	<u>ecabanel@merrimacknh.gov</u>

APPROVAL

Town Manager: Yes No: Chair/Vice Chair: Yes No:
Hold for Meeting Date: _____

From: Joanna B. Tourangeau [<mailto:JTourangeau@dwmlaw.com>]
Sent: Tuesday, December 01, 2015 3:18 PM
To: Eileen Cabanel
Subject: FERC Intervention

Eileen:

You requested a brief summary of the benefits of intervening in the FERC proceedings on Kinder Morgan's application. Here is that summary.

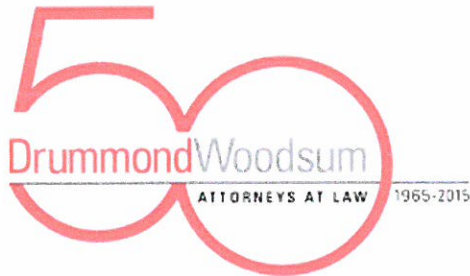
In order to obtain status as an intervenor, the Town must file a motion to intervene in FERC's proceedings on the KM application.

The motion to intervene must contain a demonstration of the Town's interest in the proceedings and that it will be impacted by the proceedings in a unique and significant manner. When this showing is made, FERC generally grants intervening party status.

Intervenor status means that the Town is a party to the proceedings. Parties to the proceedings must be served with all pleadings filed in the docket and are entitled to request rehearing of or appeal any FERC decision on the KM application.

Intervenor status differs significantly from that of an interested party (that status obtained by anyone filing comments on the application). Interested parties do not receive service, are not parties to the application, cannot request rehearing or any other action by FERC and cannot appeal any FERC decision.

Let me know if additional detail would be helpful.



YEARS OF SERVICE TO OUR CLIENTS AND COMMUNITIES

Joanna B. Tourangeau
Attorney

207.253.0567 Direct
207.939.4224 Cell
JTourangeau@dwmlaw.com

84 Marginal Way, Suite 600, Portland, Maine, 04101-2480
800.727.1941 | 207.772.3627 Fax | dwmlaw.com

The information transmitted herein is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Unintended transmission shall not constitute waiver of any privilege, including, without limitation, the attorney-client privilege if applicable. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the e-mail and any attachments from any computer.

BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, LLC.)
) Docket No. PF14-22-00
)

TOWN OF MERRIMACK’S
MOTION TO INTERVENE

The Town of Merrimack (“Merrimack”) is directly and uniquely impacted by the pipeline construction proposed pursuant to the above captioned proceedings. Specifically, as discussed in further detail below, Merrimack owns conservation properties that will experience immediate impacts due to these proceedings including becoming subject to takings. Further, Merrimack facilities such as an elementary school, water supply and fire station~~§~~ will each be endangered should these proceedings result in approval of the current pipeline route through Merrimack. Finally, many businesses and residential neighborhoods inhabited by Merrimack citizens are also threatened by the propose pipeline route through Merrimack.

Pursuant to Rule 214 (18 C.F.R. § 385.214) of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice, the Town of Merrimack (hereinafter “Merrimack”), files this Motion to Intervene in the above-captioned proceeding.

MERRIMACK’S INTEREST

I. Merrimack’s Motion to Intervene is Supported by its Interests which will be directly affected by the outcome of these Proceedings.

Merrimack moves to intervene at this time for the purpose of becoming a party pursuant to Rule 214(b)(2)(ii) to Tennessee Gas Pipeline Company, LLC’s (“TGP”) application to the Commission for a Certificate of Public Convenience and Necessity for the Northeast Energy

Direct Project (“Certificate”), a natural gas pipeline (“NED Project”). 18 C.F.R. § 385.214(b)(2)(ii). Merrimack’s Motion to Intervene meets each of the intervention criteria of Rule 214(b), 18 C.F.R. § 385.214(b).

On November 20, 2015 TGP filed with the Commission its Application for the Certificate for the NED Project. The NED Project directly and uniquely impacts Merrimack. A portion of the NED Project known as a the New Hampshire Powerline Alternative travels directly through Merrimack, impacting one hundred and fifty three landowners (the majority of whom are Merrimack tax payers) in Merrimack. The proposed route runs within 200-300 feet of several large residential neighborhoods including: Whittier Place, Camp Sargent Acres, Tinker Road, and Thornton Road West. The proposed route also impacts several other neighborhoods including: Cambridge Drive/Wethersfield, Holts Landing, Castleton Ridge, Eric and Greenleaf Streets. Multiple businesses will be impacted by the proposed route including: PC Connection, Dunkin Donuts, Pizza Hut, Home Depot, O’Reilly Auto Parts/VIP Tire and Service Auto Fair – VW, Pennichuck Square retail area with multiple retail businesses, Fidelity, the Merrimack Premium Outlets, Elbit Systems LTC, the All Basics Stove Shop, Meineke Car Care Center, Merrimack Veterinary Hospital, Anheuser-Busch and Innovations Salon and Spa.

The New Hampshire Powerline Alternative also directly impacts Merrimack properties. The routing through Merrimack traverses much of a wetland system and the Naticook Brook Aquifer that serves to provide water for Merrimack’s Village District wells and areas slated for expansion of the wellhead protection area, MVD well and water treatment facility planned for near term construction. The New Hampshire Powerline Alternative jeopardizes the entirety of Merrimack’s public water supply. The New Hampshire Powerline Alternative also crosses the nearby Pennichuck Water watershed.

In addition to traversing the Merrimack aquifer and wellhead properties which provide the entirety of the municipal water supply, the New Hampshire Powerline Alternative travels within approximately 1200-1500 feet of the elementary school, and immediately adjacent to a site proposed for the new Merrimack fire station as well as the current location of Merrimack South Fire Station. The route also includes impacts to several properties owned directly by or held as conservation lands by Merrimack which contain multiple rare and uncommon species. Certain of these habitats in Merrimack are scored as part of the Highest Ranked Habitat in New Hampshire.

Merrimack actively participated in the pre-filing docket for this matter in order to provide the information necessary to allow TGP to avoid or minimize unacceptable impacts. This participation is essential to protect Merrimack's interests, detailed above, which cannot be adequately protected by any other party or participant in these proceedings. As a municipality with an obligation to protect the public, Merrimack's participation as a party to these proceedings is also in the public interest.

II. Changes to Service List

Should the Commission grant Merrimack's motion to intervene, the names and addresses of the Merrimack's representatives to be placed on the Service List for this proceeding pursuant to 18 C.F.R. § 385.2010 are as follows:

Town of Merrimack, NH

Joanna B. Tourangeau, Esq.
Drummond Woodsum
84 Marginal Way, Ste 600
Portland, ME 04101-2480

III. Conclusion

Merrimack respectfully requests that the Commission grant its Motion to Intervene as compliant with Commission Rule 214.

Dated: December __, 2015

Drummond Woodsum & MacMahon
84 Marginal Way, Ste 600
Portland, Maine 04101-2480
Tel: (207) 772-1941
Fax: (207) 772-3627

Joanna B. Tourangeau, Esq.,
Counsel for Town of Merrimack

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served by regular mail upon each person designated on the official service list compiled by the Secretary in this proceeding this ____ day of December, 2015.

Joanna B. Tourangeau, Esq.
Counsel for Town of Merrimack



Frequently Asked Questions (FAQs)

Active Participation/Intervention in FERC Cases

[Print this page](#)

[\[Expand All\]](#)

[1. How can I actively participate in a FERC proceeding?](#)

There are several ways to actively participate:

1. Subscribe to the proceeding using [eSubscription](#);
2. Send materials and comments using [eFiling](#);
3. File comments on draft regulations or when FERC prepares environmental analyses of proposed projects;
4. Attend public meetings about the the project or topic of interest;
5. Participate in planned site visits in the proposed project area; or
6. Become an [intervenor](#) in the proceeding.

[Top of page](#)

[2. What do I really need to actively participate in FERC's decision making process?](#)

FERC assigns a unique docket number to every proceeding. You will need the docket number. If you are interested in a hydroelectric or natural gas project, you can find it in the [Resources](#) section. More complex cases also have sub-docket numbers.

If you need help finding the docket number of any case or project, call the Office of the Secretary toll free at 1-888-847-8885 or 202-502-8400.

[Top of page](#)

[3. What is an intervenor?](#)

An intervenor is an official party to a proceeding and enjoys distinct advantages over those who only file comments.

Intervenors have the right to:

1. Participate in hearings before FERC's administrative law judges;
2. File briefs;
3. File for rehearing of a Commission decision;
4. Have legal standing in a Court of Appeals if they challenge the Commission's final decision; and
5. Be placed on a service list to receive copies of case-related Commission documents and filings by other intervenors.

[Top of page](#)

[4. When is an intervention appropriate?](#)

It depends on your unique circumstances.

As a general rule, you should intervene when you may be materially affected by FERC's decision on a specific case, project or policy.

Intervention gives you the right to challenge FERC's decisions in Court. Non-intervenors can not

CONTACT

Office of External Affairs
Telephone: 202-502-8004
Toll-free: 1-866-208-3372
Email: customer@ferc.gov

[FAQS](#)

About FERC
Accounting - Material Deviations
Active Participation/Intervention in FERC Cases

Citizen Information about FERC
Code of Federal Regulations (CFR)
Commission Meetings
Court Cases

Gas Pre-Filing
GIS Maps

Market Oversight

Power Marketers
Public Reference Room

Qualifying Facilities (QF)

Shoreline Management

Tree Trimming and Vegetation Management Landowners

Demand Response
2012 Survey

Documents & Filing
eFiling/FERC Online
Forms
eLibrary

Electric Quarterly Reports (EQRs) for 2nd Quarter 2013 and Earlier
Electric Quarterly Reports (EQRs) for 3rd Quarter 2013 and Beyond
Electric Quarterly Reports (EQRs) Software

FERC Forms
No. 549D
No. 552
No. 561
FERC-566
FERC-580

Hydrokinetics
Hydrokinetic Projects - Conditioned License - General
Coordination with Federal and State Resource Agencies and Indian Tribes
NEPA Analysis and Treatment of Resource Agency Recommendations
Hydrokinetic - Rehearings, License Transfers, and Other Post-License Issuance Matters

take the FERC to court.

If you wish to only keep track of case-related correspondence, please use [eSubscription](#).

[Top of page](#)

[5. When should I intervene?](#)

If you are going to intervene, we encourage you to do so as early as possible. The time period for intervention varies. Please look at the particular notice for the deadline to intervene. Generally, you can intervene when the Commission issues a public notice about a proposed project, case or a policy issue.

FERC also allows interventions for a limited time after it releases draft Environmental Impact Statements on a proposed projects.

FERC also will consider late interventions.

[Top of page](#)

[6. What are my obligations when I intervene?](#)

An intervenor must serve other parties in the case.

This means that anytime you send correspondence to FERC about a specific case or project, you must also send copies of it to the Applicant and all the intervenors on the Service List. You are obligated to do this no matter how many intervenors are on the [Service List](#), whether it is 10 or 700. Other intervenors also are obligated to do the same to you.

There is no obligation to send copies of correspondence to other intervenors when you are not sending material to FERC.

[Top of page](#)

[7. What is the easiest way to keep track of a specific project or proceeding?](#)

If you have an email address, the easiest way is to subscribe to a case using [eSubscription](#). You will need the docket number to do that. After you subscribe, FERC will email you when it receives or issues correspondence about the proceeding.

You can also search for correspondence in our [eLibrary](#).

[Top of page](#)

[8. Will FERC notify me if my intervention is accepted?](#)

Timely interventions are automatically accepted as long as no one protests their filing within 15 days of being filed.

Timely and out-of-time interventions are mentioned when the Commission issues its order or decision. FERC seldom mentions an intervention beforehand except in rare circumstances when Staff requests it.

If you efile your request, you will receive an email acknowledging receipt of your request.

[Top of page](#)

[9. Who can I contact if I have questions?](#)

Contact the Office of the Secretary toll free at 1-888-847-8885 or at 202-502-8400 if your question pertains to interventions.

[Top of page](#)

[10. How do I become an intervenor?](#)

Detailed instructions on how to [intervene](#) are included in our Help Section under [How To](#). You can also view our [flowchart](#) that explains how to intervene.

[Top of page](#)

[Print this page](#)

Intervene

Motions to Intervene

Individuals have the option to intervene in Commission proceedings. Intervenor becomes participants in a proceeding and have the right to request rehearing of Commission orders and seek relief of final agency actions in the U.S. Circuit Courts of Appeal. All motions to intervene should be submitted to the Commission pursuant to [18 C.F.R. § 385.214](#). The Commission expects parties to intervene in a timely manner based on the reasonably foreseeable issues arising from the applicant's filing and the Commission's notice of filing.

Motions to intervene must be served on the applicant. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the [eService](#) link on FERC Online. Service can be via email with a link to the document.

Intervention is not applicable in two instances:

- Intervention is not permitted during Pre-Filing Activity (PF and PT Dockets) because there is no application officially before the Commission. Comments may be filed during the Pre-Filing phase.
- Intervention is not necessary for persons submitting comments in a rulemaking, administrative, or policy proceeding (RM, AD, and PL Dockets). Commenters in these dockets are considered parties with the same rights as intervenors in application-related dockets. There are no service requirements for comments filed in RM, AD, or PL dockets.

Motion to Intervene Out of Time

A key purpose of the intervention deadline is to determine, early on, who the interested parties are and what information and arguments they can bring to bear. Interested parties are not entitled to hold back awaiting the outcome of the proceeding, or to intervene when events take a turn not to their liking.

The Commission's regulations dealing with motions for late intervention state that, in acting on such a motion, the decisional authority may consider:

- Whether the movants had good cause for not filing timely;
- Any disruption of the proceeding that might result from permitting intervention;
- Whether the movant's interest is adequately represented by other parties; and
- Whether any prejudice to, or additional burden on, existing parties might result from permitting intervention.