KELLY A. AYOTTE
NEW HAMPSHIRE

COMMITTEES:
ARMED SERVICES
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SMALL BUSINESS

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OCT 26 2015
TOWN OF MERRIMACK
TOWN COUNCIL'S OFFICE

United States Senate
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(202) 224-3324

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WASHINGTON, DC 20510

1200 ELM STREET, SUITE 2
MANCHESTER, NH 03101

144 MAIN STREET
NASHUA, NH 03060

14 MANCHESTER SQUARE, SUITE 140
PORTSMOUTH, NH 03801

19 PLEASANT STREET, SUITE 13B
BERLIN, NH 03570

October 20, 2015

Ms. Eileen Cabanel
Town Manager
Town of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054

Dear Ms. Cabanel:

Thank you for contacting me regarding Kinder Morgan's proposed Northeast Energy Direct (NED) natural gas pipeline. Knowing of your interest in this issue, I wanted to share with you letters that I and fellow members of the New Hampshire delegation recently sent to the Federal Energy Regulatory Commission (FERC), Kinder Morgan and the Department of Energy (DOE) Inspector General.

Along with the rest of the New Hampshire delegation, I have sent multiple letters to Kinder Morgan and FERC calling on the company and regulators to hold public meetings and hear from Granite Staters regarding the proposed pipeline project. Most recently, on September 10, 2015, I led the New Hampshire delegation in writing to FERC Chairman Norman Bay regarding the Commission's permitting process and consideration of public comments, and whether the Pipeline and Hazardous Materials Safety Administration (PHMSA) has conducted a safety review for the proposed NED pipeline. The same day, the delegation sent a letter to Kinder Morgan requesting a full written explanation as to why the company modified the preferred route for the proposed pipeline from primarily through Massachusetts to New Hampshire.

In addition, on September 24, 2015, I joined the New Hampshire delegation in sending a follow up letter to the DOE Inspector General requesting a detailed response as to how the Inspector General would address the delegation's questions previously raised regarding FERC's consideration of public input during the permitting process.

For your convenience, I have attached copies of these letters. These letters follow previous requests from the delegation to both FERC and Kinder Morgan asking that they seek appropriate input from New Hampshire residents on the proposed pipeline.

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I appreciate hearing your views and input regarding this issue. As the FERC process moves forward, please continue to share with me your concerns and insights.

Sincerely,

Kelly

Kelly A. Ayotte
U. S. Senator

KAA/mf

Congress of the United States

Washington, DC 20510

September 24, 2015

The Honorable Gregory H. Friedman
Inspector General
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Friedman:

Thank you for your timely response to our July 2015 letter regarding the interstate natural gas permitting process administered by the Federal Energy Regulatory Commission (FERC). We also appreciate the conversations you had with our staffs about this very important issue, and are pleased that your Fiscal Year 2016 audit plan includes a review of FERC's permitting process. However, the written response we received from your office did not address the five specific questions we asked in our recent letter.

New Hampshire residents and stakeholders remain concerned with how public input is considered during FERC's permitting process for energy infrastructure projects. Since the Certificate of Public Convenience and Necessity issued by the Commission authorizes the construction of a project, preempting any state or local law, it is imperative that the public play a prominent role in the permitting process.

For this reason, we respectfully request a written response detailing how your review of FERC's permitting process will incorporate the questions below previously posed by the New Hampshire congressional delegation:

1. What actions is FERC taking to ensure that it fully complies with its statutory mandate to ensure all interstate natural gas infrastructure projects permitted by the Commission are consistent with public interest?
2. Has FERC put in place proper tools and conducted sufficient outreach efforts to ensure that all affected stakeholders have accurate information and instruction on the ways in which they can participate in the interstate natural gas permitting process?
3. Does FERC have in place performance measures and controls to provide reasonable assurance that it fully meets its obligations under Executive Order 13604 and other applicable statutes to promote the exchange of information among stakeholders?
4. In what way does FERC ensure that the opportunities for public comment currently required in the interstate natural gas permitting process allow for all stakeholders to meaningfully express their concerns about the potential impacts (environmental and otherwise) of a proposed pipeline project?

5. In what manner are comments from state and local officials and agencies considered during the permitting process?

Thank you for your attention to this important matter. We look forward to your timely response.

Sincerely,

Jeanne Shaheen
United States Senator

Kelly Ayotte
United States Senator

Ann McLane Kuster
Member of Congress

Frank Guinta
Member of Congress

Congress of the United States
Washington, DC 20515

September 10, 2015

The Honorable Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Bay:

We write regarding concerns with the Federal Energy Regulatory Commission's (FERC's) permitting process for natural gas pipelines. In meetings across New Hampshire, our constituents continue to raise questions and concerns with the Commission's permitting process. We respectfully request explanations to the following concerns as posed by our constituents:

- Do you agree that FERC should make the threshold determination for "public need" before siting a proposed pipeline? Has FERC made that threshold determination in the case of Kinder Morgan's proposed Northeast Energy Direct (NED) pipeline? If so, please share with us your detailed analysis regarding the determination.
- Do you agree that in determining the "public need" for a proposed pipeline in a particular region, FERC should evaluate the potential impact of other proposed projects in the region, which may collectively provide unneeded excess capacity? Has it done so for the proposed NED project?
- Do you agree that FERC should give strong consideration during its "public need" review to a project's economic and environmental impact on communities? Has it done so for the proposed NED project?
- The public comment system is receiving a very high volume of comments. What steps do the Commissioners take to directly review information on "public need" submitted via that system? Does FERC staff review, analyze, and brief Commissioners on those submissions?
- How do stakeholders with information relevant to the determination of "public need" ensure Commissioners will directly review that information?
- Do you agree that the Pipeline and Hazardous Materials Safety Administration (PHMSA) should have a role in FERC's determination of whether to permit a proposed pipeline? Has PHMSA provided FERC with safety analysis for the proposed NED project?

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Additionally, enclosed is a copy of a letter from our congressional delegation to the Inspector General of the Department of Energy (DOE) dated July 15, 2015, regarding the proposed Northeast Energy Direct project. The letter requested that the Inspector General address and answer five questions related to FERC's permitting process. We are separately writing the Inspector General and asking for immediate answers to the questions raised in our previous letter.

New Hampshire residents deserve a fully transparent process and should be guaranteed that the Commissioners will consider and respond to their concerns. To date, FERC's interactions with the public have been unsuccessful in answering these relevant and important questions. We strongly urge FERC to provide clear and complete answers to these questions by September 18, 2015.

Thank you for your attention to this important matter. We look forward to your timely response.

Sincerely,

Jeanne Shaheen
U.S. Senator

Kelly A. Ayotte
U.S. Senator

Ann McLane Kuster
Member of Congress

Frank Guinta
Member of Congress

Congress of the United States
Washington, DC 20515

September 10, 2015

Mr. Allen Fore, Director
Public Affairs
Kinder Morgan
3250 Lacey Road, Suite 700
Downers Grove, Il 60515

Dear Mr. Fore:

We write regarding concerns with Kinder Morgan's proposed Northeast Energy Direct (NED) pipeline project. In meetings across New Hampshire, our constituents continue to raise questions as to why Kinder Morgan modified the preferred route for the proposed pipeline from primarily through Massachusetts to New Hampshire.

As you know, on December 8, 2014, Kinder Morgan notified the Federal Energy Regulatory Commission (FERC) that it was seeking to change the preferred route of the proposed NED pipeline, including relocating approximately 80 miles from Massachusetts to southern New Hampshire. We respectfully request that you explain in written detail the analysis and rationale Kinder Morgan used to arrive at this determination.

New Hampshire residents deserve complete and thorough information regarding Kinder Morgan's decision to move the preferred route for the NED pipeline from Massachusetts to New Hampshire. For Granite Staters to fully understand and assess this project, transparent information regarding the decision to move the preferred route is pertinent and necessary. We strongly urge you to provide a written explanation detailing the company's rationale for moving the preferred route for the NED pipeline by September 18, 2015.

Thank you for your attention to this important matter. We look forward to your timely response.

Sincerely,

Jeanne Shaheen
U.S. Senator

Kelly A. Ayotte
U.S. Senator

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Ann McLane Kuster
Member of Congress

Frank Guinta
Member of Congress