KELLY A. AYOTTE
NEW HAMPSHIRE

COMMITTEES:
ARMED SERVICES
COMMERCE
HOMELAND SECURITY & GOVERNMENTAL AFFAIRS
BUDGET
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510
(202) 224-3324

144 RUSSELL BUILDING
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

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DEC 04 2015
TOWN OF MERRIMACK
TOWN MANAGER'S OFFICE

December 2, 2015

Eileen Cabanel, Town Manager
6 Baboosic Lake Road
Merrimack, NH03054

Dear Mrs. Cabanel:

I am writing to follow up on your recent letter regarding Kinder Morgan's proposed Northeast Energy Direct (NED) pipeline. As leaders in your respective communities, I understand how important this issue is to you and local residents, and I appreciated the opportunity to meet with representatives from the New Hampshire Municipal Pipeline Coalition in August and hear concerns.

As you know, I have joined members of the New Hampshire congressional delegation in repeatedly pushing federal regulators and Kinder Morgan to provide answers to questions that you and other residents have raised regarding the proposed pipeline - particularly questions regarding the threshold need for this project, the safety concerns involved, and potential interactions with other projects, as well as the potentially significant impact on local communities.

Most recently, on September 10, 2015, I joined the New Hampshire delegation in sending a letter to Federal Energy Regulatory Commission (FERC) Chairman Norman Bay requesting a substantive response to several specific concerns raised by citizens, including the following:

- 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?

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- 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?

Previously, on July 15, 2015, I joined the New Hampshire delegation in writing to the Inspector General for the Department of Energy (DOE), raising concerns with the complexity of FERC's permitting process for new interstate natural gas pipelines and the Commission's consideration of public comments during that process. Specifically, the letter requested an examination of FERC's permitting process and requested answers to the following questions:

- 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?

- 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?

- Does FERC have in place performance measures and controls to provide reasonable assurance that it fully meets it obligations under Executive Order 13604 and other applicable statures to promote the exchange of information among stakeholders?

- 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?

- In what manner are comments from state and local official and agencies considered during the permitting process?

The Inspector General responded that it was reviewing FERC's permitting process as part of its audit plan for fiscal year 2016, but did not provide answers to the questions raised by the delegation. On September 24, 2015, the delegation again wrote the DOE Inspector General reiterating the same questions. Once again, the Inspector General declined to answer the questions raised by the delegation.

I also joined the New Hampshire delegation in writing Kinder Morgan asking for a detailed explanation as to why the original route, which ran mainly through Massachusetts, was

suddenly shifted to New Hampshire. While Kinder Morgan responded to the delegation's letter, I remain concerned about the shift in the route.

It is disappointing that despite requests from both the delegation and local residents, FERC and the DOE Inspector General have thus far failed to provide meaningful answers to these concerns, let alone provide assurance that they will take them into account. These are important questions and New Hampshire residents deserve substantive answers. Unless and until these questions are sufficiently answered and the concerns of local residents are meaningfully addressed, I oppose this project going forward.

I hope you find this information helpful, and I will continue to stay in touch with you regarding this issue.

Sincerely,

Kelly A. Ayotte

Kelly A. Ayotte
U.S. Senator