REPLY COMMENTS OF CONCENTRIC ENERGY ADVISORS TO COMMENTS SUBMITTED BY THE NEW JERSEY DIVISION OF RATE COUNSEL REGARDING PENNEAST PIPELINE COMPANY, LLC

PREPARED FOR
PENNEAST PIPELINE COMPANY, LLC

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I. INTRODUCTION

1. Concentric Energy Advisors, Inc. ("Concentric") has been retained by PennEast Pipeline Company, LLC ("PennEast") to independently review and reply to the comments submitted by the New Jersey Division of Rate Counsel ("NJDRC"), including the accompanying affidavit of Dr. David E. Dismukes, Ph.D., filed in Docket No. CP15-558 ("NJDRC Comments").[1]

2. Concentric is a management consulting and financial advisory firm focused on the North American energy industry. Concentric offers a broad range of advisory and support services, and our expertise spans the natural gas, power, and oil markets. In particular, Concentric's experts have extensive experience in natural gas pipeline matters for a broad range of clients, including utilities, electric generators, pipelines, producers, natural gas storage providers, LNG developers, and lenders. Our engagements have spanned regulatory and litigation support at the federal, state and provincial levels, in-depth assessments of North American energy markets and all aspects of the regulatory process, from policy matters to cost of service, cost allocation and rate design issues.

3. These reply comments have been prepared by Mr. Toby Bishop, Vice President, and Ms. Ann Bulkley, Vice President, of Concentric.

   Mr. Bishop has over 20 years of management and economic consulting experience advising energy industry clients throughout the United States and Canada. Mr. Bishop has a broad range of experience covering strategic, regulatory, financial, and transactional matters. Specifically, Mr. Bishop has extensive regulatory and litigation experience regarding both natural gas and electric issues, including federal and state rate case proceedings, contractual disputes, regulatory strategy and policy formulation, market power and competitive concerns, and asset development. In addition, Mr. Bishop has substantial experience assisting clients with market and asset evaluations, including due diligence for acquisitions and divestitures, market entry/exit and competitive assessments, and asset valuation. Mr. Bishop has testified before the Federal Energy Regulatory Commission ("FERC" or "Commission") and the National Energy Board of Canada.

   Ms. Bulkley has over 20 years of management and economic consulting experience in the energy industry. Ms. Bulkley has extensive state and federal regulatory experience on both electric and natural gas issues including rate of return, cost of equity and capital structure issues, valuation, and regulatory and litigation support. Ms. Bulkley was instrumental in developing Concentric's cost of capital practice including developing the analytical

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[1] New Jersey Division of Rate Counsel, Comments of the New Jersey Division of Rate Counsel, Federal Energy Regulatory Commission, Docket No. CP15-558, September 12, 2016. While Concentric's reply comments address a number of issues raised in the NJDRC Comments, simply because an issue is not addressed herein does not indicate that we support the analysis or conclusions of such issues in the NJDRC Comments.

foundation, providing strategic advice to clients and providing expert testimony. Ms. Bulkley has assisted investors seeking to acquire utility assets, providing valuation services including an understanding of regulation, market expected returns, and the assessment of utility risk factors. In addition, Ms. Bulkley has assisted clients with valuations of public utility and industrial properties for ratemaking, purchase and sale considerations, ad valorem tax assessments, and accounting and financial purposes. Ms. Bulkley has also assisted clients in the areas of contract and business unit valuation, strategic alliances, market restructuring and regulatory and litigation support. Ms. Bulkley has testified in numerous jurisdictions throughout the U.S., and is a Certified General Appraiser licensed in the Commonwealth of Massachusetts.

4. PennEast is proposed to be an approximately 120-mile, primarily 36-inch natural gas transmission pipeline capable of transporting approximately 1,100 MDth/d of natural gas from northeastern Pennsylvania to southeastern Pennsylvania, central New Jersey and surrounding states, with numerous receipt and delivery points, as well as various interconnections with other natural gas transmission pipelines along the route.[2] Currently, PennEast is nearly fully subscribed, having firm contractual commitments with 12 different shippers totaling 990 MDth/d of the approximately 1,100 MDth/d of capacity on the proposed pipeline project.[3] These contractual commitments are with local natural gas distribution companies ("LDCs"), natural gas producers, marketers, independent power producers, and an interstate natural gas pipeline.

A. OVERVIEW OF THE NJDRC COMMENTS

5. The NJDRC Comments assert that:

- PennEast has failed to demonstrate "whether the Mid-Atlantic region in fact needs the proposed additional pipeline capacity," and whether an increased demand for natural gas in the region in fact exists.[4] NJDRC purports to support this assertion on the basis that:

[2] PennEast is currently projected to have delivery interconnections with UGI Central Penn Gas, Inc., UGI Utilities, Inc., Columbia Gas Transmission L.L.C, Elizabethtown Gas, NRG REMA, LLC, Texas Eastern Transmission, LP, Algonquin Gas Transmission LLC, and Transcontinental Gas Pipe Line Company, LLC (*see*, FERC, Docket No. CP15-558, PennEast Pipeline Project, FERC Section 7(c) Application Resource Report 1, September 24, 2015, p. 1-2).

[3] *Id.*, p. 1-3.

[4] NJDRC Comments, pp. 2-3.

- The forecasted supply and demand requirements for New Jersey and Pennsylvania local gas distribution companies ("LDCs") can be met through existing supply arrangements, indicating that there is no imminent need for significant amounts of additional pipeline capacity.[5]
- There is underutilized upstream pipeline capacity due to increased natural gas production in the Marcellus Shale and Utica Shale and LDCs have turned back pipeline capacity in recent years, thus suggesting that the market does not demand additional access to the Marcellus Shale.[6]

- PennEast's proposed rate of return on equity ("ROE"), cost of debt and 60% equity capital structure upon which the recourse rates are based are excessive, and the need for the pipeline appears to be driven more by a higher return on investment than any actual deficiency in gas supply or pipeline capacity to transport it.[7]
- If the Commission authorizes PennEast's proposed ROE of 14%, then the Commission should limit the pipeline's equity capital structure to 50%.[8]

6. The NJDRC asks that its comments be taken into consideration when the Commission determines the actions that should be taken regarding PennEast's application for authorization to construct the proposed pipeline facilities.

B. EXECUTIVE SUMMARY

7. Based on our review of the NJDRC Comments, we conclude that:

- The premise of NJDRC's assessment regarding the "need" for PennEast is flawed. NJDRC incorrectly concludes that PennEast is not needed based solely from the perspective of the ability of LDCs to meet peak demand requirements when many other factors are relevant.
- The NJDRC Comments overlook the numerous reasons that LDCs (and other shippers) contract for pipeline capacity (*e.g.*, cost savings, supply security and reliability, supply diversity, supply flexibility, price stability); it is not simply to meet peak demand requirements as suggested by the NJDRC Comments.
- The numerous benefits that pipeline capacity diversification can provide to shippers have been widely recognized and considered by state regulators

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5 *Id.*, pp. 5-6.

6 *Id.*, pp. 6-8.

7 *Id.*, p. 8.

8 *Id.*, p. 14.

when assessing the reasonableness of LDC contracting decisions. In New Jersey and Pennsylvania in particular, the LDCs' gas supply plans are reviewed on an annual basis.

- While alleging the proposed ROE and cost of debt underlying the recourse rate are excessive, the NJDRC Comments make a number of incorrect assumptions and are not instructive for assessing the ROE or cost of debt for PennEast.
- As a threshold matter, PennEast's existing shippers will not pay the recourse rate as assumed by the NJDRC Comments, since all shippers have elected to pay a negotiated rate. Thus, there is no basis to NJDRC's claim that New Jersey LDCs will pay the proposed 14% ROE reflected in the recourse rate, nor that the proposed ROE is a motivating factor for the project – not the need for the infrastructure.
- Moreover, the NJDRC Comments focus on the authorized returns of New Jersey and other LDCs, as well as other projects that are not greenfield pipeline projects, in evaluating the proposed ROE. The examples cited by the NJDRC Comments are not instructive and are inconsistent with the risk comparability standards established in *Hope* and *Bluefield*. The Commission has historically not relied on LDCs as a risk-comparable proxy group for existing or greenfield pipeline projects. Thus, the examples offered by the NJDRC Comments are not relevant to establishing the cost of equity for a greenfield pipeline project.
- Lastly, PennEast's proposed debt cost is consistent with, and lower than, the costs of debt that the Commission has approved for other recent greenfield pipelines, including pipelines in the same region as PennEast.

II. CONCENTRIC'S RESPONSE TO THE NJDRC COMMENTS

A. NJDRC's RATIONALE FOR WHY PENNEAST IS NOT NEEDED IS FLAWED

i. The NJDRC Comments Ignore the Numerous Reasons Why LDCs Contract for Pipeline Capacity Beyond Simply Matching Supply with Demand

8. Based on a review of projected peak day load and projected gas supply resources for Pennsylvania and New Jersey LDCs, NJDRC states that these LDCs have stable loads with little forecasted growth, and that their forecasted supply and demand requirements can be

met through existing supply arrangements.[9] In addition, the NJDRC Comments state that one New Jersey LDC (*i.e.*, Public Service Electric & Gas Co. ("PSE&G")) has recently turned back pipeline capacity, and several have reported having "sufficient access to production from the Marcellus Shale."[10] Accordingly, the NJDRC Comments state that there is no need for the additional pipeline capacity to be provided by PennEast, and conclude that PennEast has not demonstrated that the pipeline is needed.

9. However, there are critical flaws with the NJDRC's conclusion regarding a lack of need for PennEast. Most importantly, the NJDRC is questioning the business decisions of the LDCs to execute the service commitments on PennEast; however, the Commission has repeatedly found that "service commitments constitute strong evidence that there is market demand for the project."[11]

10. Notwithstanding that the service commitments alone support the need for PennEast, the NJDRC Comments narrowly equate the "need" for pipeline infrastructure strictly on the basis of LDCs having sufficient transportation capacity to meet the peak needs of their LDC customers. In other words, the NJDRC Comments ignore the numerous reasons that LDCs and other shippers contract for pipeline capacity, and the benefits associated with those decisions, beyond simply being able to meet peak demands. As discussed below, these various other factors that LDCs evaluate when deciding to contract for pipeline capacity have been viewed by state regulators as prudent and rational considerations that can provide benefits to utility customers, and consequently, should not be ignored.

11. Clearly, matching delivery capability with projected peak demand in order to facilitate reliable gas service is an important aspect of LDCs' provision of service. However, NJDRC's assessment of the need for PennEast ignores that LDCs and other shippers make specific pipeline contracting decisions for many reasons. Factors such as cost savings, supply security and reliability, supply diversity, supply flexibility, price stability, and the ability to grow and meet incremental demand, also play an important role in the decision-making. PennEast provides shippers the opportunity to take advantage of these benefits.

12. LDCs have an obligation, as overseen by their state regulator, to procure natural gas supply and associated delivery capacity for their customers at reasonable prices and terms while

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[9] NJDRC Comments, p. 5.

[10] *Id.*, p. 7.

[11] *See, e.g.*, *Algonquin Gas Transmission, LLC*, 150 FERC ¶ 61,163, at P 23 (2015) (citing Certificate Policy Statement at p. 61,748); *see also Transcontinental Gas Pipe Line Co., LLC*, 147 FERC ¶ 61,102, at P 42 (2014); *Sierrita Gas Pipeline, LLC*, 147 FERC ¶ 61,192, at P 36 n.26 (2014); *Dominion Transmission, Inc.*, 141 FERC ¶ 61,240, at P 23 (2012).

continuing to provide safe and reliable service.[12] One benefit that PennEast provides is the opportunity for LDCs and other shippers to replace natural gas supplies purchased in one production area (*e.g*., the Gulf Coast) with less costly supplies in another production area (e*.g*., the Marcellus Shale). Shippers on PennEast, including Consolidated Edison, PSEG Power, South Jersey Gas, and UGI Energy Services, specifically cite the opportunity to lower gas costs for customers as a reason for contractually committing to capacity on PennEast.[13]

13. PennEast shippers have also cited many other reasons for making long-term contractual commitments for this capacity, including:

    (i) reliability (cited by New Jersey Natural Gas and South Jersey Gas);

    (ii) supply and pipeline diversity (cited by Elizabethtown Gas, New Jersey Natural Gas, Texas Eastern, and Consolidated Edison);

    (iii) flexibility (cited by PSEG Power, South Jersey Gas, Texas Eastern, and Consolidated Edison);

    (iv) price stability (cited by New Jersey Natural Gas and South Jersey Gas); and

    (v) expansion opportunities (cited by Elizabethtown Gas and South Jersey Gas). [14]

14. There are numerous examples of state regulators recognizing the value and importance of these many price and non-price factors when evaluating utilities' decisions to contract for pipeline capacity.

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12 Both the Pennsylvania Public Utilities Commission ("PAPUC") and the New Jersey Board of Public Utilities ("NJBPU") cite in their mission statements the goal of ensuring cost-effective energy for consumers. For example, the PAPUC's mission is to balance "the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner." (Pennsylvania Public Utility Commission, http://www.puc.state.pa.us/about_puc.aspx; accessed October 7, 2016). In addition, the NJBPU's mission statement is, "[t]o ensure that safe, adequate, and proper utility services are provided at reasonable, non-discriminatory rates to all members of the public who desire such services. To develop and regulate a competitive, economically cost effective energy policy that promotes responsible growth and clean renewable energy sources while maintaining a high quality of life in New Jersey." (New Jersey Board of Public Utilities, http://www.state.nj.us/bpu/about/mission/; accessed October 7, 2016).

13 Resource Report 1, PennEast Pipeline Company LLC, Federal Energy Regulatory Commission, Docket No. CP15-558, September 24, 2015, pp. 1-3 through 1-5; Motion to Intervene and Supporting Comments of Consolidated Edison Company of New York, Inc., Federal Energy Regulatory Commission, Docket No. CP15-558, October 29, 2015.

14 *Id*.

15. For example, in New Jersey, the NJBPU recently approved the construction of the Southern Reliability Link Project ("SRL"), an approximately 30-mile pipeline project proposed by New Jersey Natural Gas Company ("NJNG"). In approving the proposed project, the NJBPU found that the project was consistent with the legal framework for reviewing proposed pipeline infrastructure, and that NJNG had shown that the project was "reasonably necessary for the service, convenience or welfare of the public."[15] In making this determination, the NJBPU concluded that the additional capacity was necessary due to "the potential for an upstream supply interruption or disruption" on NJNG's system, and that, "[t]he SRL will provide a significant, diverse feed to NJNG's transmission system and support the integrity of such, while minimizing the risk of an interstate supply interruption."[16] The NJBPU made a similar finding in a recent South Jersey Gas Company case as well.[17]

16. The PAPUC has approved programs proposed by LDCs in the state in order to facilitate an increased access to natural gas. In the recommended decision regarding the proposal put forward by the UGI utilities, which was subsequently approved by the PAPUC, the Administrative Law Judge recognized the benefit that increased access to natural gas can provide to customers:

> The GET Gas Pilot Programs appear to provide public benefits by allowing approximately 10,000 or more new customers to receive the benefits of natural gas service. Natural gas is a relatively clean, inexpensive and abundant energy sources in Pennsylvania and across the United States. Over the past several years, the production of natural gas in the United States has increased substantially due to the extraction of gas from shale formations. One of the biggest shale gas formations, the Marcellus Shale, is located in large part in the western and northern portions of Pennsylvania, which is estimated by the United States Energy Information Association to contain 141 trillion cubic feet of technically recoverable natural gas.
>
> The massive influx of new gas production has caused a substantial decrease in the price of natural gas, which has caused a significant divergence between natural gas and alternate fuel prices in recent years. This substantial price difference means that Pennsylvania consumers currently heating with oil and other heating sources who can gain access to natural gas distribution service have the opportunity to save substantial sums of money over time. The increase in new gas production and the substantial decrease in the price of

[15] Decision and Order, New Jersey Board of Public Utilities, Docket No. GO15040403, March 18, 2016.

[16] *Id.*

[17] Decision and Order, New Jersey Board of Public Utilities, Docket No. GO13111049, December 16, 2015.

> natural gas are projected to remain relatively stable for the foreseeable future.[18]

A similar finding was made in the subsequent proposal by PECO Energy to also facilitate increased access to natural gas for its LDC customers.[19]

17. Also, the Massachusetts Department of Public Utilities ("Department") has noted that their well-established standard of review in considering LDCs' pipeline contracts includes both price and non-price factors, including the various reasons cited by the LDC shippers contracting on PennEast:

> In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. As part of the review of relevant price and non-price attributes, the Department considers whether the pricing terms are competitive with those for the broad range of capacity, storage, and commodity options that were available to the LDC at the time of the acquisition, as well as with those opportunities that were available to other LDCs in the region. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives including, but not limited to, flexibility of nominations and reliability and diversity of supplies.[20]

18. Similarly, in a rulemaking regarding pipeline contracting and pipeline access by California utilities coming out of the California energy crisis, the California Public Utilities Commission found that:

> A diverse portfolio approach for the holding of interstate capacity across supply basins and interstate pipelines with staggered terms maximizes opportunities to benefit core customers with enhanced supply reliability and gas price stability.[21]

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18 Recommended Decision, Pennsylvania Public Utility Commission, Docket No. P-2013-2356232, January 23, 2014; approved by the PAPUC on February 20, 2014.

19 Recommended Decision, Pennsylvania Public Utility Commission, Docket No. P-2014-2451772, September 9, 2015 ("The new abundance of shale natural gas affords Pennsylvanians an economic alternative over traditional competing fuels."); approved by the PAPUC on October 1, 2015.

20 Order, Massachusetts Department of Public Utilities, D.P.U. 15-48, August 31, 2015.

21 Order Instituting Rulemaking to Establish Policies and Rules to Ensure Reliable, Long-Term Supplies of Natural Gas to California, California Public Utilities Commission, Rulemaking 04-01-025, Decision 04-09-022, September 2, 2004.

After the rulemaking, when approving Pacific Gas and Electric Company's request to contract for capacity on the new greenfield Ruby Pipeline, the CPUC concluded:

> Acquiring Ruby capacity will provide needed diversification for the Core Gas Supply portfolio by adding a fourth interstate pipeline and a third major gas supply region. The added diversification will increase supply security, reliability, and price stability. It should also help PG&E to exploit differences in the price of gas among supply regions, thereby lowering costs for ratepayers.
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> .....
>
> The additional security and reliability afforded by the Ruby Pipeline will provide significant benefits.
>
> .....
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> While the ultimate outcome 15 years hence cannot be known, PG&E' analysis suggests that it is likely the proposed Ruby Pipeline capacity will advance the Commission's policy objectives of gas supply security, reliability, and price stability at no additional cost – or even less cost – to core gas customers.[22]

19. Likewise, the Florida Public Service Commission also highlighted both price and non-price factors in approving the decision by Florida Power & Light ("FPL") to contract on the new greenfield pipeline Sabal Trail:

> In addition to the economic evaluation, FPL also conducted a non-economic evaluation based on a comparative analysis of each project with respect to attributes that could not be measured in terms of cost. These attributes, while perhaps not as crucial in the overall evaluation, are also important components of the project and must therefore be taken into consideration. For example, a project that offers more opportunities for future expansion would offer a non-economic benefit. The selected Sabal Trail and FSC combined project meets FPL's strong preferences for Greenfield infrastructure and increased diversity of natural gas supply. In addition, the throughput volumes of the selected projects are easily increased using compression. However, in light of the considerable margin of cost-effectiveness for the Sabal Trail and FSC combined project, the significance of any non-economic factors was minimal.[23]

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[22] Decision Approving Gas Transportation Arrangements, California Public Utilities Commission, Decision 08-11-032, November 6, 2008.

[23] Proposed Agency Action Order on Florida Power & Light Company's Proposed Sabal Trail Transmission, LLC and Florida Southeast Connection Pipelines, Florida Public Service Commission, Order No. PSC-13-0505-PAA-EI, October 28, 2013.

20. The North Carolina Utilities Commission ("NCUC") recently approved Piedmont Natural Gas Company's contracts on the proposed greenfield Atlantic Coast Pipeline, of which Piedmont is an equity investor. In its order approving the contracts, the NCUC noted that Piedmont indicated the pipeline would provide numerous benefits:

> Piedmont stated that this pipeline will provide a multitude of benefits to the State, including access to substantial quantities of shale gas supply from the Marcellus and Utica formations at highly liquid receipt points, access to significant new interstate transportation capacity at favorable rates, and significant operational benefits to Piedmont resulting from the interconnection of Piedmont facilities in the eastern part of North Carolina to ACP's new high pressure facilities, which will support significant additional natural gas deliverability in eastern North Carolina at substantial cost-savings compared to other available options.[24]

21. Also, when the greenfield Portland Natural Gas Transmission System ("PNGTS") was originally proposed, the New Hampshire Public Utilities Commission approved a contract for capacity by Northern Utilities ("Northern"), recognizing it as a least-cost option:

> Our approval of this revised agreement is not an endorsement of the PNGTS project, but a recognition that Northern's process in evaluating and selecting PNGTS as a supply resource is consistent with least cost planning.[25]

22. Clearly, both price and non-price factors are considered by shippers and regulators, and are reasonable aspects in an evaluation of "need" for pipeline infrastructure, regardless of whether the capacity is used by a shipper to replace existing capacity or to meet projected incremental demand requirements.

23. It is also important to note that, since approximately 2012, Pennsylvania natural gas production has surpassed the traditional production areas of Louisiana, Oklahoma, and Federal offshore gas production, becoming the second largest gas producing state in the United States.[26] In fact, the Marcellus basin is by far the largest and most productive natural

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[24] Order Accepting Affiliated Agreements for Filing and Permitting Operation Thereunder Pursuant to G.S. 62-153 and Authorizing Piedmont to Enter Into Related Redelivery Agreements, North Carolina Utilities Commission, Docket No. G-9, Sub 655, October 28, 2014.

[25] Order, New Hampshire Public Utilities Commission, Order No. 22,436, December 9, 1996.

[26] *See Natural Gas Gross Withdrawals and Production*, U.S. Energy Information Administration ("EIA"), released September 30, 2016; accessed at: http://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_FPD_mmcf_a.htm, by comparing dry natural gas in the following areas: Louisiana, Colorado, Pennsylvania, Wyoming, Arkansas, Federal Offshore--Gulf of Mexico, Oklahoma, and Texas.

gas producing basin in the US, and is widely expected to continue to be the dominant natural gas producing region.[27] The recent development of abundant natural gas supplies near high-value gas markets in southeastern Pennsylvania, New York, New Jersey, New England, and the Mid-Atlantic states has completely changed the United States' gas flows and created unprecedented cost savings and reliability advantages for Northeastern markets. As a result, strictly from a supply security standpoint, it is reasonable for shippers in the Northeast, located relatively close to this prolific and economic basin, to shift their portfolios to provide access to a substantial and growing source of supply.

24. While the NJDRC Comments equate turned back capacity to a lack of need for PennEast, this is not the case. Rather, the filing made by PSE&G and cited by the NJDRC Comments regarding the LDC's decision to turn back existing pipeline capacity highlights the economic rationale for the utility's action to lower costs to its customers:

> The Company periodically reviews its pipeline transportation, storage and peaking capacity supplies to ensure that the optimal mix of capacity assets are maintained to meet its forecasted peak day requirements. Several changes in pipeline capacity have been made which are reflected in the instant BGSS Filing. First, approximately 56,000 Dth/d of firm transportation capacity which the Company held on Dominion was turned back effective November 1, 2015. The Company uses transportation capacity on Dominion to move gas supplies to downstream capacity that it holds on both Transco and Texas Eastern which then is delivered to the Company's city gate. *With the increased reliance on gas from the Marcellus region, the need to hold transportation capacity on Dominion has decreased.* *As a result, the Company was able to reduce its Dominion transportation capacity and has reflected those savings herein*.
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> In addition, the Company has approximately 89,000 Dth/d of firm transportation capacity on both the Trunkline and Panhandle pipeline systems. These transportation contracts have been relied upon to move gas supplies from the gulf coast to Texas Eastern for delivery to the Company's city gate. *The ability of the Company to buy more economical gas supplies in the Marcellus region has provided the ability to turn back this capacity at the expiration of these pipeline contracts*. The Company has notified both

[27] *See, e.g.*, *Shale in the United* States, EIA, updated September 15, 2016; accessed at: https://www.eia.gov/energy_in_brief/article/shale_in_the_united_states.cfm; *The Growth of U.S. Natural Gas: An Uncertain Outlook for U.S. and World Supply*, EIA, June 15, 2015; accessed at: http://www.eia.gov/conference/2015/pdf/presentations/staub.pdf.

> Trunkline and Panhandle that it will terminate these contracts effective October 31, 2016 *and has reflected the associated savings herein*.[28]

25. In contrast to NJDRC's suggestion, rather than demonstrating that PennEast is not needed, the NJDRC's own example demonstrates exactly why LDC's periodically review their pipeline transportation, storage and peaking capacity supplies and participate in projects like PennEast. A primary driver of the demand for Marcellus gas by LDCs and other shippers is the cost competitiveness of that supply relative to other basins. For example, the futures prices for Gulf Coast production average approximately $0.75/dth (*i.e*., 34%) higher over the next 36 months as compared to prices in northeast Pennsylvania to be accessed by PennEast.[29] In addition, it is Concentric's understanding that the transportation cost on PennEast is effectively the same as accessing the Gulf Coast supplies. Consequently, there is a clear market incentive for parties in New Jersey, Pennsylvania and elsewhere to displace natural gas purchases from other regions (*e.g*., Gulf of Mexico) with purchases in the Marcellus to lower their gas commodity costs, including by LDCs for the benefit of their residential and non-residential customers. Thus, PSE&G's statements demonstrate that pipeline competition and new entrants can provide LDCs such as PSE&G with access to lower cost natural gas, enhanced reliability, gas supply security and the ability to grow, all for the benefit of their utility customers.[30]

26. It is also important to highlight that, even though the focus of the NJDRC Comments on whether PennEast is needed is unnecessarily limited, the analysis to review LDCs' supply/transportation and demand requirements was also limited to a view as of 2020. As stated in the NJDRC Comments:

> A forecast through 2020 may seem to be a short period given the time necessary to permit, construct, and place an interstate pipeline in service.

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[28] In the Matter of Pub. Serv. Elec. & Gas Co.'s 2016/2017 Annual BGSS Commodity Charge Filing for its Residential Gas Customers Under its Periodic Pricing Mechanism and for Changes in its Balancing Charge, PSE&G, Docket No. GR16060486, June 1, 2016; *see, also*, NJDRC Comments, p. 7, footnote 7.

[29] SNL Energy. Natural gas futures prices as of October 6, 2016 for Henry Hub and Tennessee Gas Pipeline Zone 4, 200 Leg, as published by OTC Global Holdings.

[30] In addition, as discussed in Concentric's reply to comments previously submitted by the New Jersey Conservation Foundation, the Commission has a long history of supporting the development of competitive pipeline markets and pipeline-on-pipeline competition, and there is no evidence that turned back capacity on these pipelines would go unsold, or would require a significant discount, considering the substantial demand for new capacity out of the Marcellus to the Gulf Coast. (Reply Comments of Concentric Energy Advisors to Comments Submitted By the New Jersey Conservation Foundation Regarding PennEast Pipeline Company, LLC, PennEast Pipeline Company LLC, Docket No. CP15-558, April 13, 2016, pp. 19-21 and 23-26).

> However, the 2020 forecast is appropriate because it reflects a reasonable time period in which an LDC could identify and procure capacity resource needs and alternatives.[31]

Due to the significant length of time that is becoming required to develop pipeline infrastructure in many parts of the U.S., and in particular along the East Coast, commitments must be made to cover anticipated design day peak requirements that are well beyond 2020. As stated in the PennEast certificate application, the majority of the service contractually committed to the pipeline project at this point is for a term of 15 years, or for service well beyond 2020.[32]

ii. NJDRC's Claim of Lower Pipeline Utilization is Both Irrelevant to A Demonstration of Need for PennEast and Is Contradicted by the Article Cited by NJDRC

27. The NJDRC Comments also purport that PennEast is not needed because an industry analyst's article shows that pipeline utilization on the long-haul pipelines from the Gulf Coast to Northeast was lower in 2013 than in 2007. The NJDRC Comments refer to this information as supporting that there is a "glut of underutilized capacity on existing gas transmission systems into the Mid-Atlantic."[33] The implication of NJDRC's allegation is that, because of low pipeline utilization, there is sufficient pipeline capacity in New Jersey to serve the LDCs without PennEast. However, there are a number of flaws in the logic of NJDRC's conclusion.

28. First, there is a fundamental misunderstanding by NJDRC of the difference between pipeline utilization and contracted capacity. There is a significant difference between pipeline "utilization" and the amount of pipeline capacity that can otherwise be "contracted" by the LDCs in New Jersey to meet their firm demands. Pipeline "utilization" provides no insight into and is irrelevant for determining whether existing pipeline capacity is available for contracting by LDCs, or can provide the benefits of new proposed pipeline capacity.

29. Specifically, pipeline utilization represents the amount of gas that flows through a pipeline over any given period, yet does not indicate whether, how much or how long capacity is available to be contracted by an LDC or other shipper, and whether that would adequately meet the requirements for an LDC's supply portfolio. For example, while utilization on a

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[31] NJDRC Comments, Dismukes Affidavit, p. 3.

[32] Application of PennEast Pipeline Company, LLC for Certificates of Public Convenience and Necessity and Related Authorizations, PennEast Pipeline Company, LLC, Docket No. CP15-558, September 24, 2015, p. 10.

[33] NJDRC Comments, p. 6.

pipeline can be relatively low, a pipeline's firm capacity could be fully contracted. In such a circumstance, low utilization clearly does not equate to availability of longer-term capacity that an LDC could rely upon to serve its firm customers. In fact, even if the capacity was available on an interruptible basis, on a shorter-term capacity release, or a capacity release subject to recall rights, LDCs cannot rely on such capacity for meeting design day requirements.

30. Second, if there were in fact a "glut of underutilized capacity", then there would not be the spikes in natural gas prices during peak demand periods that have been experienced in the Mid-Atlantic. As we have discussed previously,[34] the high winter basis differentials that have been experienced in New Jersey and eastern Pennsylvania relative to the Marcellus and Gulf Coast indicates that there are pipeline constraints between producing areas and these markets when demand increases. For example, if all of the pipeline capacity was not fully utilized during the winter of 2013/2014, then natural gas prices in New Jersey and eastern Pennsylvania would not have climbed to over $120/dth, which is over 70 times higher than the average price of natural gas this summer in this same region when there have not been constraints. Rather, if the magnitude of such purported surplus capacity was so substantial, then the basis differential to New Jersey and eastern Pennsylvania would be consistently lower than what has been experienced. Instead, there have been high and sustained basis differentials experienced in this market area during peak demand periods. While pipeline capacity is not fully utilized during off-peak periods, it is clearly so during peak demand periods. In addition, all of the pipelines identified in the NJDRC Comments (*i.e.*, Tennessee Gas Pipeline, Transcontinental Gas Pipeline and Texas Eastern Gas Transmission) have constructed and are proposing further expansion projects in recent years,[35] demonstrating the lack of unused firm capacity available to serve LDCs. All of these factors are market evidence that is directly contrary to the allegation that PennEast is not needed because current pipeline capacity is more than sufficient to meet peak demand requirements.

31. Third, the industry analyst's article cited in the NJDRC Comments completely contradicts the conclusion that NJDRC attempted to draw from that article – *i.e.*, low utilization on long-haul pipelines into the Mid-Atlantic region equates to pipeline capacity availability, thus supporting that there is no need for new pipeline capacity. As stated in that article, as of mid-2013 when it was published, utilization on traditional long-haul pipelines from the Gulf Coast to the U.S. Northeast showed a decline since the advent of shale production in the

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[34] Reply Comments of Concentric Energy Advisors to Comments Submitted By the New Jersey Conservation Foundation Regarding PennEast Pipeline Company, LLC, PennEast Pipeline Company LLC, Docket No. CP15-558, April 13, 2016, p. 7.

[35] *See, e.g.,* the following listing: https://www.ferc.gov/industries/gas/indus-act/pipelines/approved-projects.asp and https://www.ferc.gov/industries/gas/indus-act/pipelines/pending-projects.asp.

Marcellus and Utica. However, what the NJDRC Comments do not acknowledge, yet which is stated clearly in the article, is that the analyst found pipeline shippers had not relinquished their existing pipeline capacity, but rather were only using the portion of such capacity in the Northeast, leaving the upstream Gulf Coast portion of such capacity underutilized:

> Pipeline shippers have taken advantage of these low-cost gas supplies by *keeping their existing pipeline capacity back to the Gulf Coast*, while only *utilizing* their capacity from the Marcellus/Utica. On one hand, pipeline capacity holders save on pipeline commodity and fuel costs with the shorter haul. On the other hand, interstate pipelines that have developed commodity rates based on the long-haul will begin to "under-collect" on these costs.[36]

32. In other words, the article cited by NJDRC highlights that shippers (at least as of mid-2013) had retained their existing pipeline capacity, meaning such capacity was not available to be contracted by other shippers, such as the LDCs in New Jersey. This directly contradicts the conclusion of the NJDRC Comments that there is a "glut of underutilized capacity on existing gas transmission systems into the Mid-Atlantic."[37]

33. As just explained, while pipeline utilization provides no indication as to contracting levels and assessing pipeline need, a subsequent article published by the same analyst also even contradicts the NJDRC's premise of lower pipeline utilization on long-haul pipelines to the Mid-Atlantic:

> New natural gas pipeline construction is progressing in portions of the U.S. – such as the Texas Eastern Appalachia project, the Columbia Gas Transmission West Side Expansion, and the Rockies Express Seneca Lateral Reversal project – and it demonstrates the difference in the industry's outlook from just a year ago. *Pipeline owners have experienced a nearly 180-degree turnaround from one year ago when capacity was underutilized*, capital was underperforming and convergence was undefined…. Today, demand for pipeline capacity out of the Marcellus and Utica shale plays has completely reversed the natural gas transportation paradigm. …*This reversal of fortune – considering some pipelines were recently viewed as possible candidates for retirement or conversion to oil or natural gas liquids transport – now finds large amounts of*

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36 *Has Emerging Natural Gas Shale Production Affected Financial Performances of Interstate Pipelines?,* Black & Veatch, August 2013. (http://bv.com/energy-strategies-report/august-2013-issue/has-emerging-natural-gas-shale-production-affected-financial-performances-of-interstate-pipelines).

37 NJDRC Comments, p. 6.

natural gas supply chasing limited pipeline capacity…. This *promotes higher pipeline usage*, better rates and higher operating margins.[38]

Additional articles by the same analyst also highlight the relatively low cost of Marcellus gas as a driver behind new greenfield projects, and the numerous project expansions to flow gas from the Marcellus back to the Gulf Coast.[39] In other words, the NJDRC Comments cite to an article and do not accurately represent the content of that article, as well as use dated information that was subsequently modified to reflect more current circumstances.

34. Lastly, the NJDRC Comments also state that production in the Marcellus has resulted in "underutilized upstream capacity,"[40] but provide no explanation as to how such upstream capacity on these long-haul pipelines (*i.e.*, capacity in the Gulf and upstream of the Mid-Atlantic) would benefit LDCs in New Jersey in the absence of downstream capacity to the city-gate. The recent PSE&G turnback of upstream capacity cited previously illustrates that *downstream* capacity must be retained by the LDC to its city-gate to meet its design day needs, but that less economical *upstream* capacity can be turned back in favor of other upstream transportation and supply alternatives that are more beneficial to the utility's customers. Moreover, capacity upstream of the market area relinquished by shippers is being repurposed to transport Marcellus and Utica production back to the Gulf Coast through a whole host of projects.

35. Even when pipeline capacity is turned back by LDCs in the Mid-Atlantic in favor of other options to gain more access to economical Marcellus supplies, just as PSE&G has done, such actions emphasize the benefit provided by access to production closer to the market-area and the alternative transportation options that provide that access such as PennEast. Thus, the fact remains that simply ensuring pipeline capacity and associated gas supply is sufficient to meet demand is not the only goal. As described, there are numerous factors considered by LDCs and other pipeline shippers when contracting on a pipeline, including

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38 *Rapid Shifts Occurring in U.S. Gas Pipeline Construction*, Black & Veatch, 2014 (emphasis added) (as noted in the video at the site, this article is part of the *2014 Strategic Directions: U.S. Natural Gas Industry* report; http://bv.com/Home/news/solutions/energy/rapid-shifts-occurring-in-u-s-gas-pipeline-construction/).

39 *See, e.g.*, *Will a New Transportation Concept Drive the Next Wave of Gas Pipeline Infrastructure Projects?*, Black & Veatch, October 2014 (http://bv.com/energy-strategies-report/october-2014-issue/fuels-focus-will-a-new-transportation-concept-drive-the-next-wave-of-gas-pipeline-infrastructure-projects); *How Far South Will Marcellus/Utica Gas Go?*, Black & Veatch, August 2014 (http://bv.com/energy-strategies-report/august-2014-issue/fuels-focus-how-far-south-will-marcellus-utica-gas-go); *Marcellus, Utica Gas Heads South for the Long Haul*, Black & Veatch, March 2014 (http://bv.com/energy-strategies-report/march-2014-issue/marcellus-utica-gas-heads-south-for-the-long-haul).

40 NJDRC Comments, p. 6.

achieving a lower cost delivered product. These factors are entirely absent from the NJDRC Comments and go directly to whether there is a "need" for PennEast.

B. NJDRC's CLAIM REGARDING PENNEAST's PROPOSED ROE IS UNSUPPORTED AND BASED ON IMPROPER ANALYSIS

36. The NJDRC Comments assert that PennEast's proposed ROE is excessive; however, there are a number of problems with NJDRC's positions.

i. The NJDRC Comments Incorrectly Link the Proposed ROE to the Costs to be Paid by New Jersey LDC Customers

37. First, NJDRC claims that "if these New Jersey LDCs buy transport on PennEast under Commission-regulated rates that provide a 14% ROE, New Jersey retail customers will pay that 14% return, not the return authorized by New Jersey regulators."[41] NJDRC's conclusion is not correct. As stated by PennEast, all of the initial project shippers have elected to pay a negotiated rate for service, and such negotiated rates will be filed with the Commission in accordance with the negotiated rate provisions of PennEast's *pro forma* tariff and Commission policy.[42] Accordingly, the initial project shippers will not be paying the proposed cost-based recourse rates that reflect the proposed 14% ROE.[43]

38. As the Commission is well aware, there is a fundamental difference between negotiated rates and cost-based recourse rates. Pursuant to well-established Commission policy, pipelines have the opportunity to negotiate rates with their shippers that reflect differences relative to the recourse rates, for example, in the rate level and underlying rate design. While all pipelines without market-based rate authority are required to have a cost-based recourse rate in the tariff, negotiated rates are used extensively for contracting of capacity on greenfield pipeline projects. The New Jersey LDCs elected a negotiated rate for transportation on PennEast, and therefore will not be subject to PennEast's recourse rates.

39. Thus, it is inaccurate for the NJDRC Comments to state that, "New Jersey retail customers will pay that 14% return," as the New Jersey LDCs that have contracted for capacity on PennEast will be subject to the agreed-upon negotiated rate for service on the pipeline, not

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41 *Id.*, p. 10.

42 Motion for Leave to Answer and Answer of PennEast Pipeline Co., LLC, Docket No. CP15-558, November 13, 2015, p. 5.

43 Note, as discussed earlier, it is Concentric's understanding that PennEast's negotiated rate agreements are confidential at this time, but pursuant to Commission policy, will be required to be filed with FERC at least 30 days, but not more than 60 days, before the proposed effective date for such rates.

the initial recourse rate, or any changes to the recourse rate over the term of the negotiated rate agreement. Consequently, it is also erroneous to suggest that the opportunity for a 14% ROE "may be a key motivating factor behind the Project."[44]

ii. Pipeline and LDC Operations Are Not Risk Comparable

40. The NJDRC Comments also suggest that the proposed ROE on which the filed initial recourse rate is based is not appropriate because it is higher than the return that has been authorized for LDCs in New Jersey and is also inconsistent with ROEs approved by other state regulatory commissions.[45] In addition, the NJDRC Comments imply that the appropriate ROE should reflect that PennEast is owned, in part, by affiliates of LDCs. Specifically, the NJDRC Comments state:

> The data show that, over the last five years, state regulators have consistently approved ROEs of less than 10% for natural gas utilities. If FERC uses a 14% ROE, however to establish transportation rates, state regulators must permit LDCs to recover those costs. When a pipeline is owned by an affiliate of an LDC, and the affiliate is permitted by the Commission to recover an ROE above that approved by the state regulator, the end result is that the parent of the affiliates receives a substantially higher return awarded by the Commission – the state commission decision notwithstanding.[46]

41. First, the authorized returns of LDCs in New Jersey are not relevant to what the appropriate ROE should be for purposes of PennEast's initial recourse rates. The return that is established in this proceeding should meet the *Hope* and *Bluefield* standards.[47] *Hope* requires that the return established be commensurate with the return available in the market on risk-comparable investments. However, the Commission has not considered the operations of pipelines and LDCs to be comparable in risk when establishing the proxy group used to set the ROE for existing natural gas pipelines, let alone new greenfield pipelines.

42. The development of a greenfield pipeline project has numerous risks that neither an LDC nor an established operating pipeline company face. The NJDRC Comments note there would seem to be little or no risk of either unsubscribed capacity or customer default.[48]

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[44] NJDRC Comments, p. 9.

[45] *Id.*, pp. 9-10.

[46] *Id.*, pp. 10-11.

[47] *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) (*Hope*); *Bluefield Water Works and Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*).

[48] NJDRC Comments, p. 11.

While the level of capacity subscriptions may be known for a greenfield pipeline, the risks associated with differences between projected and actual costs, including the impact of timing delays and/or cancelations associated with opposition and permitting, are significant and not present for an existing natural gas pipeline.

43. For example, prior to the construction of a greenfield pipeline project, the sponsors are at risk for many costs, including siting, permitting, materials acquisition, public acceptance and regulatory approval. Even if a project is approved and construction can commence, a greenfield pipeline project's risks include construction cost overruns related to both the physical construction of the project and delays in the development schedule. The NJDRC Comments have not taken into consideration any of the development and construction risks associated with a new pipeline project.

44. In addition, pursuant to Commission precedent, the proposed recourse rates are calculated on the full capacity of PennEast, and include $10 million of interruptible revenue. As noted, PennEast is not entirely subscribed, and is thus at-risk for selling the capacity that is not currently contracted, as well as generating the interruptible revenue included in the recourse rate. Thus, even after development and construction, there are also operational risks for which PennEast is at-risk.

45. Since the FERC has not considered LDCs to be "risk comparable" to an existing pipeline, the authorized ROEs for the LDCs in New Jersey are clearly not comparable to the risk associated with a greenfield pipeline project such as PennEast. Thus, to the extent that the NJDRC is recommending that PennEast's ROE should be limited by the state jurisdictional return on the distribution assets, that position is inconsistent with the regulation of every other transmission pipeline that is under FERC jurisdiction. There is substantial precedent regarding the approval of ROEs for greenfield pipelines, and in the last decade, the Commission has regularly approved a 14% ROE for greenfield pipelines.[49]

46. Likewise, the NJDRC's suggestion that the return of the pipeline should match the risk profile of its affiliated LDC shippers has no basis in Commission precedent or financial theory. That is not a principle in *Hope*, nor has FERC ever relied on that standard in establishing an ROE for a new or established pipeline. Rather, the recourse rates that are developed for the project should reflect the risk to the pipeline's investors, not the risk of its shippers or other affiliated business. Neither the ownership structure of PennEast's sponsors nor the returns on any of their respective other business segments should be reflected in the return that is established for the greenfield pipeline project. The fact that

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[49] *See e.g., Florida Southeast Connection, LLC, et al.*, 154 FERC ¶ 61,080, at PP 117-18 (2016); *Constitution Pipeline Company, LLC*, 149 FERC ¶ 61,199, at PP 48-49 (2014); *ETC Tiger Pipeline, LLC*, 131 FERC ¶ 61,010, at PP 25-26 (2010); *Bison Pipeline*, 131 FERC ¶ 61,013, at P 24 (2010); *Fayetteville Express Pipeline LLC*, 129 FERC ¶ 61,235 (2009); *MarkWest Pioneer, L.L.C.*, 125 FERC ¶ 61,165, at P 27 (2008).

the parent company of one of PennEast's sponsors also owns an LDC does not mean that the return for PennEast or other relatively higher risk investments should be deemed comparable to the return on the regulated LDC as suggested by the NJDRC's Comments.

ii. The Example of ROEs in the Range of 8% is Not Instructive

47. In addition to citing authorized ROEs of LDCs in New Jersey and those approved by other state regulators, the NJDRC Comments also state that, "[t]he Commission has been presented with applications of its Discounted Cash Flow ("DCF") methodology that support ROEs in the 8% range," and cite a recent submission by a party in a Southwest Power Pool proceeding.[50]

48. Submissions in a rate case provide no guidance as to what the Commission believes is an appropriate cost of equity in those proceedings. Nor has the NJDRC provided any evidence that demonstrates that the risk of a group of electric transmission owners is relevant in setting the return for a greenfield natural gas pipeline project. Accordingly, the NJDRC Comments provide no basis for the Commission to set aside its long-standing precedent of approving a 14% ROE for greenfield natural gas pipelines.

49. The difference in risk between an existing operating pipeline and a greenfield pipeline was highlighted by the Commission in the *First ECA Midstream*[51] proceeding also referenced in the NJDRC Comments, albeit raised by NJDRC relating to PennEast's proposed debt cost. While First ECA Midstream ("FECAM") proposed a 15% ROE, the Commission concluded that, as an existing pipeline, FECAM's should be comparable to that of other existing pipelines, and required FECAM to utilize the most recent ROE approved in a litigated section 4 rate proceeding (*i.e.*, the 10.55% in the EPNG rate proceeding just discussed):

> While the Commission has allowed returns up to 14 percent for new greenfield pipeline projects, FECAM is not constructing new pipeline facilities but is continuing to operate facilities that are already in service and have been operating for many years. FECAM has not provided a discounted cash flow analysis or any evidence in support of its requested 15 percent ROE, other than providing references to returns the Commission has previously approved for new pipelines. *We find FECAM has more in common with existing pipelines than with the greenfield pipeline projects that have received returns of 14 percent*.[52]

50. Thus, the Commission has recognized that the risks faced by PennEast as a new, large diameter greenfield pipeline are not comparable to an existing pipeline, and nor is there

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[50] NJDRC Comments, p. 9.

[51] *First ECA Midstream LLC*, 155 FERC ¶ 61,222 (2016).

[52] *Id.*, at P 23.

any evidence that the risks faced by PennEast are comparable to a group of electric transmission owners as suggested by NJDRC. The fact that the Commission has been presented with DCF results in the range of 8% does not suggest that those results would be determined to be consistent with *Hope* and *Bluefield* either in the Southwest Power Pool case, nor that this level of return would be appropriate for a greenfield pipeline project. In addition, although the Commission was presented a midpoint return in the EPNG case cited in the NJDRC Comments, in three recent cases, the Commission has established a return that was well above the midpoint of the DCF results.[53] Consequently, as NJDRC recognizes may be the case, its purported examples of comparable ROEs are not instructive.

iii. The Proposed Cost of Debt is Consistent With – And Lower Than – The Costs of Debt Approved for Other Recent Greenfield Pipelines

51. The NJDRC Comments also state that PennEast has not supported its proposed 6% cost of debt, and has only done so with reference to other pipelines certificated more than five years ago and that involve different markets.[54]

52. However, the Commission has approved at least six greenfield natural gas pipeline projects since 2014 (excluding very short-distance pipelines), and of those six, all have similar or higher costs of debt underlying their recourse rates than proposed by PennEast, and two of the projects (*i.e.*, UGI Sunbury and Constitution Pipeline) are in the same region as PennEast.[55] These decisions are more analogous than the single case NJ Rate Counsel cites in which a company sought a 3% cost of debt in connection with its proposal to operate an existing 16-mile gathering line as an interstate pipeline.

53. The NJDRC Comments cite the 3.0% imputed debt cost applied for and approved in the recent *First ECA Midstream* proceeding as an applicable example for PennEast's recourse

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[53] *Opinion No. 5*51, 156 FERC ¶ 61,234 (2016); 155 FERC ¶ 63,030 (2016); *Opinion No. 531-B*, 150 FERC ¶ 61,165 (2015).

[54] NJDRC Comments, p. 14.

[55] *See, e.g., UGI Sunbury, LLC*, 155 FERC ¶ 61,115 at P 20 (2016) (approving a 7.0% cost of debt and 14% ROE); *Florida Southeast Connection, LLC et. al.,* 154 FERC ¶ 61,080, at P 118 (2016) (approving a 6.2% cost of debt and 14% ROE); *American Midstream (Midla) , LLC*, 153 FERC ¶ 61,310 (2015) (approving a 7.5% cost of debt and 14% ROE; *see also*, Exhibit P, Part 1, p. 4 of 12 of applicant's certificate application); *Constitution Pipeline Co., LLC*, 149 FERC ¶ 61,199, at PP 48-49 (2014) (approving a 7.0% cost of debt and 14% ROE); *Sierrita Gas Pipeline, LLC*, 147 FERC ¶ 61,192, at PP 39-40 & n.28 (2014) (approving a 6% cost of debt and 14% ROE); *Cheniere Corpus Christi Pipeline, L.P., et. al.*, 149 FERC ¶ 61,283, at PP 30, 37 (2014) (approving a 7.75% cost of debt and 14% ROE).

rates.[56] However, as just discussed, the Commission has recognized that the risk of an existing pipeline such as FECAM and of a new greenfield pipeline such as PennEast are not comparable. In addition, while FECAM proposed and the Commission approved a 3% cost of debt, the NJDRC Comments fail to disclose that FECAM also proposed, and the Commission approved, a capital structure reflecting over 67% equity.[57]

III. CONCLUSION

54. In questioning the need for PennEast, the NJDRC Comments demonstrate a lack of understanding of how LDCs (and other shippers) contract for pipeline capacity for a myriad of reasons, and not solely to meet their demand requirements. Clearly, the price of transportation capacity and the delivered cost of natural gas to a shipper are important considerations, as well as numerous non-price factors such as reliability, diversity and flexibility, which are attributes sought by state regulatory commissions. The numerous benefits that pipeline capacity options can provide have been widely recognized. These are substantial and important benefits that are relevant in a public interest determination.

55. While alleging the proposed ROE underlying the recourse rate is excessive, the NJDRC Comments make a number of incorrect assumptions and are not instructive for assessing the ROE for PennEast. As a threshold matter, PennEast's existing shippers will not pay the recourse rate as assumed by the NJDRC Comments, but rather all have elected to pay a negotiated rate. Thus, there is no basis to NJDRC's claim that New Jersey LDCs will pay the proposed 14% ROE reflected in the recourse rate. Moreover, the NJDRC Comments focus on the authorized returns of New Jersey and other LDCs, as well as other projects that are not greenfield pipeline projects, in evaluating the proposed ROE. The examples cited by the NJDRC Comments are not instructive and are inconsistent with the risk comparability standards established in *Hope* and *Bluefield*. The Commission has historically not relied on LDCs as a risk-comparable proxy group for existing or greenfield pipeline projects. Thus, the examples offered by the NJDRC Comments are not relevant to establishing the cost of equity for a greenfield pipeline project. Moreover, there is significant precedent of the Commission approving the ROE proposed by PennEast for other greenfield natural gas projects, including those in the same region.

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[56] NJDRC Comments, p. 15.

[57] *Id.*, p. 14.

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