



**For Immediate Release**

January 24, 2018

**Contacts:**

Maya van Rossum, the Delaware Riverkeeper, 215-369-1188 x102 (office), 215-801-3043 (cell)

## **PennEast Rehearing Request to FERC Filed by Delaware Riverkeeper Network**

### **The First Step Towards Litigation**

**Washington, DC** – The Delaware Riverkeeper Network (DRN) filed a Rehearing Request with the Federal Energy Regulatory Commission (FERC), asking the agency to reconsider its decision to issue a Certificate of Public Convenience and Necessity for the highly controversial PennEast pipeline project.

Before a FERC Certification can be challenged in federal court, a rehearing request must be submitted and either approved or denied by the agency. FERC has 30 days to respond. Unfortunately, according to a [Dossier of FERC Abuses](#) crafted by the Delaware Riverkeeper Network, FERC traditionally responds to rehearing requests with a tolling order, which neither grants nor denies the request, and as a result places challengers like the Delaware Riverkeeper Network in legal limbo for months, sometimes over a year.

The Delaware Riverkeeper Network filed the rehearing request on January 24, 2018.

“Unfortunately, from the day the PennEast pipeline project was first announced in 2014, we knew FERC would rubber stamp its approval, it was just a matter of when. And so every comment filed by the Delaware Riverkeeper Network has been with an eye towards challenging FERC’s approval in the courts. As a result, we are well positioned to win,” said **Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network**. “From a lack of need to its devastating impacts on the environment, to the demonstrated false, misleading and missing information provided by the PennEast companies to FERC, there is no way to support approval of this project.”

“Based on FERC’s historical habitual denial of Motions for Stay and Rehearing Requests by third parties, our submissions today are functionally nothing more than administrative requirements to get into court to challenge this Project,” said **Aaron Stemplewicz, Senior Attorney at Delaware Riverkeeper Network**.

DELAWARE RIVERKEEPER NETWORK  
925 Canal Street, Suite 3701  
Bristol, PA 19007  
Office: (215) 369-1188  
fax: (215) 369-1181  
dm@delawareriverkeeper.org  
www.delawareriverkeeper.org

Delaware Riverkeeper Network also submitted to FERC a Motion for Stay to halt construction and any other land disturbance pending the rehearing request. The motion states, “Unless a stay is issued by the Commission, construction of the Project will go forward without the benefit of the meaningful environmental analysis that the National Environmental Policy Act requires.”

The Rehearing Request asserts:

- ⇒ *The Commission erred because the EIS is unable to support its conclusion that construction of PennEast as proposed by the company and FERC will not have significant adverse environmental impacts*
- ⇒ *The Commission erred because the EIS assertion of need is contradicted by the preponderance of the evidence and is largely a statement of industry desires rather than public need*
- ⇒ *The Commission erred because the EIS fails to consider cumulative impacts across the Project and across multiple other projects, including the source and end use of the natural gas*
- ⇒ *The Commission erred because the induced shale gas production and impacts must be considered by the EIS*
- ⇒ *The Commission erred because the economic benefits asserted in the EIS are indefensible and unsupported, and the economic harms are entirely overlooked*
- ⇒ *The Commission erred because the EIS fails in its legal obligation to consider greenhouse gas emissions and climate change implications of the PennEast Pipeline*
- ⇒ *The Commission erred because the EIS Alternatives Analysis is fundamentally flawed*
- ⇒ *The Commission erred because of the continued use of Segmentation in this EIS is improper*
- ⇒ *The Commission erred because the EIS fails to address comments and experience that shows use of standard constructions practices will result in environmental violations and degradation*
- ⇒ *The Commission erred because the DRBC’s legal authority is misrepresented in the EIS – thereby misleading the public and decision-making officials*
- ⇒ *The Commission erred because the EIS data and information gaps makes the document legally deficient and incomplete – a new and complete Supplemental EIS is required*
- ⇒ *The Commission erred because the EIS is filled with assertions that are false, inaccurate, misleading and/or deficient*
- ⇒ *The Commission erred because the EIS is riddled with Threatened and Endangered (T&E) species data that is inconsistent, wrong, missing, or misleading thus failing to establish an effective baseline for the review*
- ⇒ *The Commission erred because the EIS is legally inadequate in its failure to consider alternative routes or construction practices that could avoid and/or mitigate harm*
- ⇒ *The Commission erred because the EIS fails to undertake a complete and accurate analysis of the economic impacts of the PennEast Pipeline if constructed*
- ⇒ *The Commission erred because the EIS fails to undertake a healthy and safety impacts analysis of the PennEast Pipeline if constructed*
- ⇒ *The Commission erred because the construction of the PennEast Pipeline will bring demonstrable threats and harms to life, property, property rights and riparian rights*
- ⇒ *The Commission erred by failing to provide an accurate baseline from which to conduct its environmental review of the Project*

If built, the PennEast pipeline would cut through creeks, wetlands, forests and communities in Luzerne County; Carbon County; Northampton County; and Bucks County, Pennsylvania, and through communities in Mercer and Hunterdon Counties, New Jersey. The 116-mile fracked gas pipeline would include three laterals extending off the mainline, a compression station, and appurtenant above ground facilities.

Pennsylvania has issued Clean Water Act 401 Certification for the project, but not the underlying state permits necessary to support the Certification. The Delaware Riverkeeper Network is actively engaged in a legal challenge against Pennsylvania's certificate. New Jersey has not taken steps to issue its approval for the project. Approvals are also required from the Delaware River Basin Commission and the US Army Corps of Engineers.

The certificate was issued with a 4-1 vote. FERC Commissioner Glick, a recent appointee to the Commission, dissented from the decision questioning the asserted need for the project and the information provided by the company regarding its impacts:

"In today's order, the Commission relies exclusively on the existence of precedent agreements with shippers to conclude that the PennEast Project is needed. Pursuant to these agreements, PennEast's affiliates hold more than 75 percent of the pipeline's subscribed capacity. While I agree that precedent and service agreements are one of several measures for assessing the market demand for a pipeline, contracts among affiliates may be less probative of that need because they are not necessarily the result of an arms length negotiation."

"PennEast's certificate application lacks evidence that I believe is important to making the public interest determination. The Commission addresses this lack of evidence by conditionally granting the certificate, subject to PennEast's compliance with the environmental conditions. I recognize that the courts have upheld the Commission's authority to issue conditional certificates. Nevertheless, doing so comes with significant consequences for landowners whose properties lie in the path of the proposed pipeline."

Commissioners Chatterjee and Glick both questioned whether it was appropriate to issue the certificate as a means of allowing the company to gain access to properties for purposes of collecting the remaining data it needs to support permit applications.

A copy of the petition for rehearing can be found at:

<http://www.delawariverkeeper.org/ongoing-issues/ferc-certificate-challenge-drn>

The Dossier of Abuses regarding tolling orders can be found at:

<http://www.delawariverkeeper.org/ongoing-issues/peoples-dossier-ferc-abuses-stripping-peoples-rights>

###

### **About the Delaware Riverkeeper Network**

Delaware Riverkeeper Network (DRN) is a nonprofit membership organization working throughout the four states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.