

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Liberty Natural Gas, LLC : Docket No. CP11-10-000

NOTICE OF INTERVENTION AND MOTION TO INTERVENE
BY THE NEW JERSEY DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Pursuant to 18 C.F.R. 385.214 and 18 C.F.R. 157.10, the New Jersey Department of Environmental Protection ("NJDEP") hereby files a Notice of Intervention and moves to intervene in the above-captioned docket. This proceeding before the Federal Energy Regulatory Commission ("FERC") concerns the October 14, 2010 application by Liberty Natural Gas, LLC ("Liberty") to construct and operate a 9.2-mile natural gas pipeline and ancillary facilities ("Onshore Pipeline Project") in New Jersey. Liberty has requested that FERC issue a final determination by December 31, 2011. The deadline for filing this motion is November 16, 2010.

1. Notices and communication. All information concerning this application should be directed to: Bob Martin, NJDEP Commissioner, 401 East State Street, Trenton, NJ 08625.

2. Movant's Interest.

NJDEP is the State environmental protection agency, charged with regulating and enforcing the State's environmental laws. NJDEP includes the Division of Fish and Wildlife and the Division of Water Quality. The Division of Fish and Wildlife within the NJDEP is responsible for protecting endangered and threatened species, flora and fauna in New Jersey. Pursuant to its many and various statutes, NJDEP has the duty to protect its ground and surface waters for degradation. See, e.g., N.J.S.A. 12:5-3 et seq.; 13:1D-9 (general duties of DEP); 13:9A-1 et seq. (Coastal Wetlands Act); 13:19-1 et seq. (Coastal Area Facility Review Act); 58:10A-1 et seq. (Water Pollution Control Act); and 58:11A-1 et seq. (Water Quality Planning Act). Towards this end, NJDEP is responsible for issuance of the water quality certificates required by 33 U.S.C. § 1341 (section 401 of the Clean Water Act). Accordingly, pursuant to 18 C.F.R. 385.214(a)(2), NJDEP has a right to intervene and participate in these proceedings.

3. Interest Which May be Directly Affected

The proposed natural gas pipeline and ancillary facilities will traverse several New Jersey towns. As proposed, the Onshore Pipeline Project would extend from Amboy, Middlesex County, New Jersey to Linden, Union County, New Jersey. The Onshore Pipeline Project would transport natural gas, re-gasified from a liquid state, from Liberty's proposed deepwater port, proposed to be located approximately 16.2 miles offshore along the New Jersey coastline. The Onshore Pipeline Project as well as its proposed deepwater port would have adverse public health, environmental and economic impacts on New Jersey, its residents and environment. NJDEP is charged with environmental oversight of the State, to protect both the public health and natural resources of the State, and clearly has a direct and substantial interest in this proceeding, which concerns a proposed natural gas pipeline on New Jersey land. Accord Yakima Valley Cablevision, Inc. v. FCC, 794 F.2d 737, 744-45 (D.C. Cir. 1986)(granting intervention because movants were "directly affected by application" of agency policy); Bales v. NLRB, 914 F.2d 92, 94 (6th Cir. 1990)(intervention granted to a party with a "substantial interest in the outcome of the petition").

4. Public Interest.

The participation of the NJDEP in this proceeding is in the public interest. The Onshore Pipeline Project would cross towns and counties of New Jersey. The Onshore Pipeline Project additionally proposed to transport gas from a proposed deepwater port, to which liquefied natural gas would be transported from all over the world and re-gasified onboard at the proposed port. The Onshore Pipeline Project and the proposed deepwater port are part of one large plan. Because the Onshore Pipeline Project specifically proposes to transport gas from Liberty's proposed deepwater port off the New Jersey shore, the Onshore Pipeline Project and its environmental and public health impacts must be considered in the context of the entire project. The gas pipeline at issue in this particular proceeding only makes sense if the deepwater port - to which the Governor of New Jersey is steadfastly opposed - is ultimately allowed to proceed. The Governor however has indicated that he will exercise the full extent of his authority to prevent the deepwater port from moving forward. Therefore, NJDEP's participation is vital to ensure that the relevant legal and factual issues are fully briefed and considered.

NJDEP is a state agency with expertise in environmental and public health impacts from land construction activities, such as the Onshore Pipeline Project. As such, it is uniquely qualified

to comment upon and provide information concerning these impacts. NJDEP is also responsible to protect the public health and environment. Therefore, NJDEP's participation is in the public interest.

5. Position Taken.

NJDEP is opposed to Liberty's proposed deepwater port, which is inextricably intertwined with the above-captioned proceeding relating to the proposed Onshore Pipeline Project. The Governor of the State of New Jersey will exercise his full authority, including his veto authority under the Deepwater Port Act, to prevent the deepwater port from construction off the shore of New Jersey. Without the proposed deepwater port, the Onshore Pipeline Project is a bridge to nowhere, and its potential public health, environmental and economic impacts on New Jersey cannot therefore be justified.

NJDEP respectfully requests the Commission to acknowledge its notice of intervention and to grant this motion to intervene and allow it to become a full party to the above captioned proceeding.

Respectfully submitted,

Dated: November 16, 2010

/s/ Bob Martin
Bob Martin, Commissioner
New Jersey Department of
Environmental Protection

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2010, I sent the New Jersey Department of Environmental Protection's Notice of Intervention and Motion to Intervene to be served via electronic mail upon the following addresses:

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Dated: November 16, 2010

 /s/ Ruth Foster
Ruth Foster
New Jersey Department of
Environmental Protection