

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Millennium Pipeline Company, L.L.C.)
)
) **Docket No. CP11-515-000**

**COMMENTS OF
MILLENNIUM PIPELINE COMPANY, L.L.C.
REGARDING ENVIRONMENTAL ASSESSMENT**

Pursuant to instructions in the Environmental Assessment (**EA**) issued by the Staff of the Federal Energy Regulatory Commission (**Commission**) on March 2, 2012, regarding the Minisink Compressor Project (**Project**), Millennium Pipeline Company, L.L.C. (**Millennium**) hereby submits comments regarding the EA.

I. INTRODUCTION

Millennium supports the EA, which reflects a comprehensive and detailed environmental review of the Project. The EA addresses all major environmental resources and concerns, including air, noise, water and wetlands, soils, geology, wildlife, threatened and endangered species, land use, socioeconomics, and reliability and safety, as well as alternatives to the Project. Based on its review, the Staff concludes that, with appropriate mitigation, the Project would not constitute a major federal action significantly affecting the quality of the human environment.¹ The Staff recommends the adoption of 17 Environmental Conditions as mitigation measures.

Millennium's comments regarding the EA are limited. Millennium notes a few corrections and updates to certain information contained in the EA and requests clarification and/or modification of Environmental Conditions Nos. 11 and 15. With

¹ EA cover letter at 1; EA at 55.

these changes, Millennium requests that the EA be adopted by the Commission in the certificate order.

II. COMMENTS

A. Environmental Conditions

The EA recommends 17 Environmental Conditions. Millennium requests limited clarification and/or modification regarding Environmental Condition No. 11 (tree clearing) and No. 15 (noise).

1. Environmental Condition No. 11 (Tree Clearing)

Environmental Condition No. 11 in the EA states:

*Millennium shall conduct all tree removal greater than 5-inch-diameter breast height **between October 1 and March 31 and not begin construction** of facilities and/or use of any work areas until:*

- a. the staff completes ESA Section 7 consultation with the FWS relating to the Indiana bat; and*
- b. Millennium has received written notification from the Director of the Office of Energy Projects (OEP) that construction or use of mitigation may begin.*

Millennium requests clarification that Environmental Condition No. 11 stands apart from other pre-construction conditions and that tree clearing may proceed upon satisfaction of requirements: (a) - completion of consultation with U.S Fish and Wildlife Service (**FWS**); and (b) - written notification from the Director of OEP, notwithstanding that other aspects of Millennium's Implementation Plan may not have been approved at that time.

Millennium believes that its requested clarification accurately reflects the Staff's intent with respect to Environmental Condition No. 11. In similar cases, the Commission and the Staff have recognized that tree clearing should be treated separately from other

pre-construction conditions and that tree clearing may proceed prior to approval of the more general Implementation Plan.²

As Millennium has explained throughout this proceeding, tree clearing is a particularly time-sensitive threshold requirement due to the potential presence of the endangered Indiana bat and related time restrictions on tree clearing recommended by FWS.³ As noted in the EA (at 14), Millennium has been engaged in informal consultation with the FWS regarding mitigation measures to accommodate the Indiana bat while allowing at least selective tree clearing to proceed in a timely manner. Given the extreme time sensitivity of tree clearing and its potential to disrupt the construction schedule and in-service date required by Project shippers, Millennium is requesting clarification to ensure that it may proceed with tree clearing upon completion of the FWS consultation, and with authorization from the Director of OEP, even if other aspects of Millennium's Implementation Plan are not yet approved.

2. Environmental Condition No. 15 (Noise Survey)

Environmental Condition No. 15 in the EA states:

*Millennium shall make all reasonable efforts to ensure its predicted noise levels from the Minisink Compressor Station are not exceeded at the nearby NSAs and file noise surveys showing this with the Secretary **no later than 60 days** after placing the Minisink Compressor Station in service. If the noise attributable to the operation of the Minisink*

² See e.g., *Central N.Y. Oil and Gas Co.*, Letter Order, Docket No. CP10-480-000 (Feb. 13, 2012) (authorizing pre-construction tree clearing activities in advance of approval of other authorizations); *Rockies Express Pipeline LLC*, 119 FERC ¶ 61,069, at PP 78-80 (2007) (adding environmental condition to permit pre-construction tree clearing in advance of other authorizations); *Southern Natural Gas Co.*, Letter Order, Docket No. CP96-153-000 (Mar. 26, 1999) (authorizing pre-construction tree clearing activities in advance of approval of other authorizations).

³ See Millennium's July 14, 2011 certificate application at 10-11; Millennium's January 6, 2012 comments at 28-30 on the Staff's December 22, 2011 NOI.

*Compressor Station at full load exceeds the predicted noise level at any nearby NSAs, Millennium shall file a report identifying what modifications it intends to make in order to meet the predicted level **within 1 year** of the in-service date. Millennium shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs any additional noise controls.*

Millennium requests clarification, or if necessary modification, of Environmental Condition No. 15 to ensure that so long as Millennium “make[s] all reasonable efforts to ensure its predicted noise levels from the Minisink Compressor Station are not exceeded at nearby NSAs,” the Commission is not in this proceeding changing its longstanding criterion that the noise attributable to the proposed compressor station must not exceed an Ldn of 55 dBA at nearby NSAs, rather than the predicted noise level.

This clarification is consistent with Commission longstanding policy and precedent of adopting 55 dBA as the ultimate noise standard for compressor stations, while at the same time requiring applicants to use all reasonable efforts to achieve lower predicted noise levels. Indeed, Commission regulations require that the “noise attributable to any new compressor station, compression added to an existing station, or any modification, upgrade or update of an existing station, must not exceed a day-night level (L[dn]) of 55 dBA at any pre-existing noise-sensitive area.” 18 C.F.R. § 380.12(k)(4)(v)(A). The EA (at 32) notes that EPA has determined that an Ldn of 55 dBA “protects the public from indoor and outdoor activity interference,” and that the Commission has “adopted this criterion and use[s] it to evaluate the potential noise impact from operation of compressor facilities.” In numerous cases, the Commission has adopted and affirmed use of 55 dBA as the standard applicable to compressor stations.⁴

⁴ *SG Resources Miss., L.L.C.*, 119 FERC ¶ 61,257, at P 8 (2007) (“The Commission’s regulations have long required that the noise attributable to the operation of any new compressor station or modifications to an existing station not exceed 55 dBA Ldn at any preexisting NSA.”); *East Tenn. Natural Gas Co.*,

Moreover, Millennium's requested clarification is consistent with the recent environmental assessment addressing a similar circumstance in *National Fuel Gas Supply Corporation*, Docket No. CP11-128.⁵ In addressing National Fuel's proposed East Aurora compressor station in rural/residential setting in upstate New York, Environmental Condition No. 14 of the National Fuel EA states that National Fuel "should make all reasonable efforts to ensure [that] predicted noise levels from the East Aurora Compressor Station are not exceeded at nearby NSAs."⁶ The National Fuel EA continues: "However, if the noise attributable to the operation of the East Aurora Compressor Station at full load *exceeds an Ldn of 55 dBA* at nearby NSAs, National Fuel should file a report on what changes are needed and should install additional noise

101 FERC ¶ 61,188, at P 99 (2002) ("The Commission adopted the 55 dBA standard for existing NSAs because it adequately protects the public from existing outdoor activity interference and annoyance in residential areas."); *Williams Gas Pipelines Central, Inc.*, 93 FERC ¶ 61,159, at 61,531-32 (2000) ("The EPA guidelines identified an Ldn of 55 dBA as the maximum noise level that will not affect public health and welfare by interfering with speech or other activities in outdoor areas. These guidelines also found that maintaining an outdoor Ldn below 55 dBA would ensure adequate protection for the indoor noise environment. In certificating facilities, the Commission has consistently required that noise attributable to the authorized facilities not exceed an Ldn of 55 dBA at nearby noise sensitive areas."); *Columbia Gas Transmission Corp.*, 7 FERC ¶ 61,105, at 61,164 (1979) ("Because the Environmental Protection Agency (EPA) has identified a noise level of Ldn (day-night level) less than or equal to 55 dba as being necessary to ensure protection of public health and welfare from all known adverse effects of noise, noise reduction techniques, which would reduce the sound level at the nearest residence to a Ldn of 55 dba, should be applied to the compressor units.").

⁵ Northern Access and Station 230C Projects Environmental Assessment, Docket No. CP11-128-000 (Aug. 16, 2011) ("National Fuel EA"). Like the Minisink Compressor Station, National Fuel proposed to construct a new compressor station in a rural/residential setting similar to that for Millennium's Minisink Compressor Station.

⁶ National Fuel EA at 30 and Environmental Condition No. 14.

controls to meet the level within 1 year of the in-service date.”⁷ The noise condition in the National Fuel EA is reasonable, consistent with established precedent, and should be followed for Millennium’s Minisink Compressor Station, i.e., requiring “all reasonable efforts” to meet the predicted noise level, while adopting the longstanding 55 dBA as the ultimate certificate standard.

Additionally, from a public policy perspective, this approach maintains incentives for applicants to be proactive in proposing noise abatement in their applications. As noted in the EA (at 35), Millennium’s noise study predicts very low noise levels from the Minisink Compressor Station due to a number of special noise-abatement measures that Millennium voluntarily agreed to implement (i.e., addition of internal mass septum layer for the compressor building walls and roof; additional baffle length for the first and second stage exhaust silencers; high performance turbine exhaust and air inlet systems; low noise turbine lube oil coolers; and unit blowdown silencers). Millennium’s expert study originally predicted higher noise levels, but Millennium subsequently investigated and adopted the additional noise-abatement measures in response to concerns raised by the Town of Minisink and local residents. Millennium submitted an Updated Noise Impact Analysis predicting lower noise levels attributable to the additional noise-abatement measures.⁸

Millennium remains committed to implementing these additional noise-abatement measures and understands and accepts the condition in the EA that Millennium “should

⁷ *Id.* (emphasis added).

⁸ *See* Millennium’s October 11, 2011 response to Request 25 of the Commission Staff’s Data Request dated September 21, 2011 (Updated Noise Impact Analysis); Millennium Application, Appendix 9-B to Resource Report 9 (original Noise Impact Analysis).

make all reasonable efforts” to attain the predicted noise levels. However, like any “prediction,” the noise prediction is subject to variables and factors that cannot be quantified with absolute precision. For example, Millennium cannot be responsible for natural variations in predicted noise levels that may occur under various meteorological conditions, which may increase or decrease the sound level contribution of the Station. Additionally, predictions are based on assumptions about equipment performance that are subject to reasonable variations and margins of error. Accordingly, even reasonable, good faith predictions are not guarantees.

If the Commission were to adopt a policy that an applicant’s predicted noise level will ultimately become the certificate standard, as Environmental Condition No. 15 could be read to suggest, applicants will have a strong incentive *not* to voluntarily adopt special noise-abatement measures as part of their applications. Rather, applicants would have an incentive to hold back cost-effective abatement measures for implementation in the event they later become necessary. Such a policy could also lead to gamesmanship in developing predicted noise levels, by creating an incentive for applicants to establish a predicted level just under the 55 dBA rather than the lowest predicted level that can reasonably be achieved. Accordingly, a policy of making the predicted level the ultimate certificate standard would be counterproductive.

Millennium took what it believes to be a responsible approach of proposing in the application process a number of special abatement measures to attempt to achieve the lowest reasonable noise level for the Minisink Compressor Station. Millennium may have few, if any, additional cost-effective abatement options in the event that actual field levels exceed the predicted levels. Millennium should not be penalized for voluntarily

adopting aggressive measures up front that result in the lowest reasonable predicted noise levels.

Accordingly, for all these reasons, the Commission should clarify, or if necessary modify, Environmental Condition No. 15 to be consistent with National Fuel EA Environmental Condition No. 14, by stating that Millennium “should make all reasonable efforts to ensure that its predicted noise levels from the Minisink Compressor Station Compressor Station are not exceeded at nearby NSAs,” but that “[i]f the noise attributable to the operation of the Minisink Compressor Station at full load exceeds an *Ldn of 55 dBA* at any nearby NSAs, Millennium shall file a report identifying what modifications it intends to make in order to meet that level within 1 year of the in-service date.”

B. Corrections and Updates to Information in the EA

Millennium’s review of the EA noted a few items that require minor correction. These items are discussed below, with the proposed corrections reflected in redline format.

1. Cover Letter to the EA:

Millennium proposes the following changes to the third paragraph of the cover letter to the EA to update and correct the description of the Project:

- Millennium’s proposed Minisink Compressor Project consists of two 6,130-horsepower gas fired compressor units that would be housed within a new building, as well as an access driveway parking areas, a station control/auxiliary building, intake and exhaust silencers, turbine lube oil coolers, unit and station blowdown silencers, a-2 filter-separators with a liquids tank, and an emergency electrical power generator.

2. *Table 1: Permits and Approvals for Millennium’s Minisink Compressor Project (page 4):*

Millennium proposes the following changes to update the permit and approval table in section A.5 of the EA to reflect all the permits sought and obtained to date:

- In the “Federal” section, the following row should be inserted:

New York State Department of Environmental Conservation (NYSDEC)	Clean Water Act, 33 U.S.C. 1251 et seq., Section 401	Application submitted in 3 rd quarter 2011.
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3. *Land Use, recreation, and Visual Resources (page 19):*

Millennium proposes the following change to section B.5 of the EA to update the acreage impacts associated with the Project to be consistent with the final design acreages shown in Millennium’s response to Request 11 of the Commission Staff’s Data Request dated November 23, 2011:

- Overall, ~~0.09027~~ acre of forested lands and ~~3.08413~~ acres of open lands would be converted to permanent industrial land use.

4. *Air Quality and Noise (page 23):*

Millennium proposes the following change to section B.7.1 of the EA to correct an inaccurate statement of the state of New York’s air quality standards:

- The state of New York has adopted the NAAQS, ~~but maintains a more stringent standard of 0.050 parts per million (PPM) for the annual averaging period for NO₂.~~

5. *Table 6: Estimated PTE Operation Emissions (page 27):*

Millennium proposes the following changes to the table presenting the estimated emissions of the Project to reflect the information submitted in Millennium’s New York Air State Facility Permit (as filed with the Commission on August 23, 2011):

Table 6: Estimated PTE Operation Emissions								
Pollutant	Tons per Year							
	NOx	CO	SO2	PM10	PM2.5	VOC	GHG	HAPs
Proposed Turbines	47.428 3	39.928 7	7.2	10.961 1.0	10.961 1.0	3.433	61,071 61,066	0.52
Emergency Generator	0.902	1.804	0.0010 0.0002	0.0200 004	0.0200 04	0.501	21944	0.050 40
Fuel Gas Heater	0.3	0.5	0.003	0.04	0.04	0.03	641	0.120 01
TOTAL	48.628 8	42.129 6	7.20	11.021 1.04	11.021 1.04	3.933 43	61,931 61,751	0.690 63
Major Source Thresholds (NNSR/PSD)	50/250	NA/250	NA/250	NA/250	NA/250	50/NA	NA/ 100,000	NA/25
NNSR/PSD – Non-attainment New Source Review/Prevention of Significant Deterioration								

6. *System Alternatives (page 40):*

Millennium proposes the following change to revise the description of its pipeline system in section C.2 of the EA:

- Millennium's existing system ~~consists of~~ approximately 250 miles long. Between Millennium's Corning Compressor Station and the Ramapo delivery point, there is 182 miles of 30-inch-diameter pipe built in 2007 and 2008, with the exception of a 7.52-mile-long segment of 24-inch-diameter pipeline built in 1987 and 2008. The 7.52-mile segment known as the Neversink Segment, is located in Orange County, New York, just upstream of the proposed Minisink Compressor Station site.

III. CONCLUSION

Millennium respectfully requests that the Commission's certificate order adopt the EA with the changes and clarifications proposed herein.

Respectfully submitted,

/s/ Joseph S. Koury

Gary A. Kruse
Vice President - General Counsel & Secretary
Millennium Pipeline Company, L.L.C.
One Blue Hill Plaza, Seventh Floor
P.O. Box 1565
Pearl River, New York 10965
Tel: (845) 620-1300
Fax: (845) 620-1320
kruse@millenniumpipeline.com

Joseph S. Koury
Ryan J. Collins
Wright & Talisman, P.C.
1200 G Street N.W., Suite 600
Washington, D.C. 20005
Tel: (202) 393-1200
Fax: (202) 393-1240
koury@wrightlaw.com
collins@wrightlaw.com

April 4, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 4th day of April, 2012.

/s/ Ryan J. Collins

Ryan J. Collins

Document Content(s)

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