



December 29, 2020

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Mr. Dave Barnett
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Dear Mr. Majumdar, Mr. Markell, Mr. Washington and Mr. Barnett:

The Distribution Contractors Association (DCA) represents contractors, suppliers and manufacturers who provide distribution construction services including installation, replacement and rehabilitation of gas distribution pipelines in communities across the country. As the transition team prepares the incoming Biden Administration to take office next month, DCA offers perspective on energy and pipeline transportation policies we hope will be considered before the administration begins to implement its policy priorities in January.

DCA has been in a lead position pushing for sound government policy related to natural gas and other American energy resources for decades. However, many believe that the pipeline industry, meaning developers, operators, contractors, manufacturers, distributors, and other service providers, and their associations, must do a better job of working together to rebut false claims made by opponents to natural gas and oil pipelines. While this is true, policymakers need to understand the importance of a robust network of natural gas transmission pipelines and distribution systems, which actually enable the use of renewable energies. Federal policies should reflect that.

Permitting Challenges

The permitting process to approve pipeline projects remains a hurdle to delivering valuable energy to communities that need it. Although the Federal Energy Regulatory Commission (FERC) had traditionally been the lead organization in overseeing the permitting process for transmission pipelines, many of the seemingly countless federal and state agencies with a role in the permitting process sometimes delay consideration of permit applications for illicit reasons.

Section 401 of the Clean Water Act (CWA 401) is especially problematic. CWA 401 provides states the authority to determine whether any discharges from infrastructure projects are in compliance with water quality standards in that state. While the intent is to ensure that states can more effectively regulate local land and infrastructure, in several states this has become a method to delay or create cost-prohibitive roadblocks to the development of interstate natural gas and oil pipelines.

Cancelled Projects Present Grim Precedents

In addition to the ongoing national pandemic that has obviously presented a range of challenges, 2020 has presented a significant amount of bad news regarding a variety of pipeline projects. Only few years ago, the main problem facing pipeline construction was securing the necessary permits needed to get projects off the ground. Today permitting processes have improved, but a whole new set of problems seems to have surfaced. The problem is, when sometimes hundreds of permits are necessary to get a project off the ground, pipeline opponents only have to win once in court to disrupt and even terminate an entire pipeline project.

While the process of permitting a pipeline project has been updated, relentless protesting and endless litigation are now main culprits in killing energy infrastructure projects. In other words, the problem now lies in the courts, often as a result of grievances related to federal statutes such as the Clean Water Act, Clean Air Act, and Endangered Species Act, where the true opposition has little to do with the true intent of those statutes.

Importance of Natural Gas in Enabling Use of Renewables

The concept of having to choose between using natural gas or other traditional energy sources presents a false choice. In fact, use of abundant, clean-burning natural gas actually *enables* the use of renewable fuels.

According to the Energy Equipment and Infrastructure Alliance (EEIA), which represents the supply chain delivering products and services in a range of energy sectors, America cannot achieve its clean energy ambitions without substantial growth of natural gas production and gas-fired electric generation, an equally large expansion of the natural gas pipeline network, and a major scale-up of carbon capture and the pipelines to carry it.

While it's true that most opposition is with interstate transmission pipelines, geographic bottlenecks that block natural gas in states like New York and into New England can disrupt the distribution sector. On top of that, a significant number of DCA members engage in the interstate pipeline market, so we have a vested interest in supporting policies that encourage investments in energy infrastructure.

President-elect Biden's energy platform includes increasing the availability of electric vehicles exponentially and to work with state and local governments to "support the deployment of more than 500,000 new public charging outlets by the end of 2030." The President-elect's energy plan also looks to "ensure our agricultural sector is the first in the world to achieve net-zero emissions." All of this will require a significant role for natural gas. The bottom line is if we're looking for a significant increase in the number of natural gas vehicles on the roads and substantial increased in the use of renewable energy, we'll need natural gas to get there.

Pipeline Safety / Damage Prevention

DCA was pleased to see pipeline safety reauthorization included in the omnibus/Covid-19 relief package that was recently enacted into law. DCA fully supported provisions that would require operators of gas distribution pipelines to "identify and manage traceable, reliable, and complete records, including maps and other drawings," and language that will ensure that this documentation is "accessible to all personnel responsible for performing or overseeing relevant construction or engineering work."

DCA supports several fundamental pillars of underground facility damage prevention to underground facilities during excavation activities. These pillars include mandatory participation in the one-call process (both one-call notification *and membership*); accurate and timely locating of underground facilities prior to excavation; and “potholing” by excavators so that underground facilities are exposed in order to determine their exact location. The recordkeeping requirements described above will take important steps to bolster pipeline safety and provide for safer excavation construction worksites.

Full and Balanced Enforcement of State Damage Prevention Laws Needed

DCA has seen far too many examples over the past few years where underground facility operators fail to meet their responsibilities to locate and accurately mark their facilities in a timely fashion (as determined in state law). In too many of these cases the state authorities responsible for enforcing damage prevention laws often fined these operators with only meager fines. This amounts to more than shirking of responsibilities on the part of these authorities – these paltry fines essentially *incentivize* operators of these facilities to decide what infrastructure gets marked and when, regardless of what the law requires.

Therefore, DCA would support language that would bolster state enforcement of damage prevention statutes. This concept will likely be further considered as the 117th Congress develops and advances a comprehensive infrastructure package and policies that will be included in it.

DCA appreciates the opportunity to weigh in with perspectives from the construction entities who build the natural gas distribution and transmission pipelines, as well as other underground infrastructure. The vast majority of this construction work is contracted out, meaning the true expertise of building these facilities lies with the construction entities who are doing the work.

DCA thanks you for your consideration.

Best Regards,

A handwritten signature in black ink, appearing to read 'Rob Darden', with a stylized flourish at the end.

Rob Darden
Executive Vice President