

IN THE SUPREME COURT OF THE UNITED STATES

No. A-_____

TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC,
APPLICANT

v.

NEW JERSEY CONSERVATION FOUNDATION;
NEW JERSEY LEAGUE OF CONSERVATION VOTERS;
AQUASHICOLA POHOPOCO WATERSHED CONSERVANCY;
NEW JERSEY DIVISION OF RATE COUNSEL;
DELAWARE RIVERKEEPER NETWORK; SIERRA CLUB; FOOD & WATER WATCH;
MAYA K. VAN ROSSUM; CATHERINE FOLIO; EXELON CORPORATION;
FEDERAL ENERGY REGULATORY COMMISSION

APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

To the Honorable John G. Roberts, Jr., Circuit Justice:

Pursuant to Rules 13.5 and 30.2 of this Court, Transcontinental Gas Pipe Line Company, LLC, applies for a 60-day extension of time, to and including June 20, 2025, within which to file a petition for writ of certiorari to review the judgment of the United States Court of Appeals for the District of Columbia Circuit. The judgment of the court of appeals was entered on July 30, 2024, App., infra, 1a-33a, and a petition for rehearing was denied on January 21, 2025, id. at 34a-35a. Unless extended, the time for filing a petition for a writ of certiorari will expire on April 21, 2025. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. The National Environmental Policy Act (NEPA) requires federal agencies to prepare an environmental impact statement for all "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. 4332(2)(C). NEPA's regulations further provide that an environmental impact statement must contain a "discussion" of the "significance" of environmental consequences. 40 C.F.R. 1502.16(a). This case presents the question whether NEPA requires the Federal Energy Regulatory Commission, when preparing an environmental impact statement, to make an additional finding as to whether the anticipated greenhouse-gas emissions from a project are "significant," where the Commission has otherwise adequately discussed the effect of those emissions.

2. Applicant operates natural-gas transportation facilities extending from Texas through the New York City metropolitan area. In March 2021, applicant applied to the Commission for a certificate of public convenience and necessity under the Natural Gas Act, 15 U.S.C. 717f(c), to construct and operate the Regional Energy Access Expansion Project. App., infra, 8a. That project would expand delivery of natural gas primarily to New Jersey, with additional natural gas also being delivered to New York, Delaware, Maryland, and Pennsylvania. Ibid. It would consist of expanding existing pipeline networks, constructing a new compressor station, and modifying existing stations. Ibid.

The Commission prepared an environmental impact statement that included a discussion of the anticipated greenhouse-gas emissions attributable to the project and a quantified estimate of the effects of those emissions. App., infra, 13a. For example, the

Commission calculated that the project would increase downstream emissions in Delaware, Maryland, New Jersey, New York, and Pennsylvania to varying degrees and would impose social costs of \$46 billion. Ibid. Having included the discussion of the anticipated greenhouse-gas emissions and their predicted effects, the Commission then concluded that it did not need to take the additional step of labeling those emissions as “significant or insignificant.” Id. at 14a.

In January 2023, the Commission authorized the project subject to the conditions that the project comply with various mitigation measures and complete construction by January 11, 2026. App., infra, 9a. After a rehearing proceeding, the project was approved for construction in March 2023. Id. at 9a-10a.

3. Respondents include six environmental organizations and two individuals. App., infra, 3a. In the proceedings below, they petitioned the District of Columbia Circuit to set aside the certificate of public convenience and necessity on the ground that, inter alia, the Commission was required to make a determination as to whether the project’s anticipated greenhouse-gas emissions themselves were significant or insignificant. Id. at 3a, 12a. Applicant argued that, under D.C. Circuit precedent, a significance determination was required only to assess whether an ESI needs to be prepared. Id. at 14a-15a; see Food & Water Watch v. FERC, 104 F.4th 336, 346 (D.C. Cir. 2024). Applicant also noted the Commission’s explanation that it was “actively conducting a generic proceeding to determine whether and how the Commission

will conduct significance determinations [as to greenhouse-gas emissions] going forward." App., infra, 14a.

The D.C. Circuit granted the petitions for review, vacated the Commission's orders, and remanded the matter to the agency. App., infra, 33a. The court held in relevant part that "[the Commission's] decision not to make a case-specific determination about the significance of the Project's anticipated [greenhouse-gas] emissions, in light of its own stated precedent that it can do so, nor to explain why it believed it could not do so, was arbitrary and capricious." Id. at 12a. The court departed from prior circuit precedent by reasoning that, "where 'significance' has material effects in a particular case, most notably as triggering the obligation to prepare an EIS, it is essential under NEPA that the Commission make a significance determination notwithstanding the pendency of any generic proceeding to set a numeric significance threshold." Id. at 15a. Accordingly, the court of appeals concluded that the Commission's order was arbitrary and capricious for the failure to make the significance determination. Id. at 16a.

4. Counsel for applicant respectfully requests a 60-day extension of time, to and including June 20, 2025, within which to file a petition for a writ of certiorari. Counsel has a number of competing obligations before and soon after the current deadline of April 21, 2025, including several arguments and briefing deadlines. See Flores v. National Football League, No. 22-871 (2d Cir.) (oral argument March 25); American Multi-Cinema v. National CineMedia, No. 24-20386 (5th Cir.) (oral argument March 31); Snow

v. Align Technology, Inc., Nos. 24-1703, 24-1783 (9th Cir.) (oral argument April 10); Hohn v. United States (S. Ct.) (cert. petition due April 15); Baldeo v. Airbnb, Inc., No. 24-1238 (2d Cir.) (brief of appellee due April 23). Additional time is therefore needed to prepare and print the petition in this case.

Respectfully submitted,

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