

**Written Remarks of
Kathryn Clay, Ph.D.
Vice President of Policy Strategy
American Gas Association
PUBLIC MEETING ON ENERGY INFRASTRUCTURE SITING
DEPARTMENT OF ENERGY QUADRENNIAL ENERGY REVIEW
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Good morning. I am Kathryn Clay, Vice President for Policy Strategy for the American Gas Association. It is my pleasure to appear before you today and to provide input from our industry on the important issue of energy infrastructure siting. I hope my remarks will provide useful insight to the Department on this important issue and contribute to the development of the Quadrennial Energy Review.

The American Gas Association, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. More than 65 million residential, commercial and industrial natural gas customers or more than 175 million Americans receive their gas from AGA members. Today, natural gas meets almost one-fourth of the United States' energy needs.

In his May 17 2013 Presidential Memorandum, President Obama issued a call to action for Federal agencies to continue working toward modernizing infrastructure permitting to support a “reliable, safe and resilient infrastructure” and noting that the quality of our infrastructure is critical to both maintaining our “Nation’s competitive edge...and to securing our path to energy independence.” These goals support the President’s 2012 Executive Order calling for improved

performance of Federal permitting for infrastructure projects that move people, goods and energy. We applaud the President's leadership in recognizing that enabling industry to build and maintain a modern and resilient energy infrastructure means providing a modernized permitting system.

AGA has been an active participant in the multi-agency process led by the Office of Management and Budget to follow on the Presidential Memorandum. AGA is also a participant in the Environmental Protection Agency's stakeholder process surrounding the Water of the United States (WOTUS) rulemaking, which also bears on questions of infrastructure expansion and maintenance. We commend the Administration, and all of the agencies involved, for actively seeking stakeholder engagement in each of these efforts.

Natural gas delivery companies share the goals expressed by the President in his Memorandum and call to action. Continued and expanded access to this clean, domestic, and affordable resource can help us improve our nation's energy productivity, environmental stewardship, and energy security. Natural gas utilities spend more than \$19 billion annually to help enhance the safety of natural gas transmission and distribution systems, and to upgrade systems and expand service so that more Americans can have access to this clean, affordable, domestic resource.

Our country benefits from an expansive network of more than 2.4 million miles of natural gas transmission and distribution pipelines. To get a sense of the scale of this infrastructure, consider that nationwide we have 2.1 million miles of paved roads – and that includes everything from interstates to country lanes. AGA member companies are responsible for carrying natural gas from interstate transportation and storage facilities to homes and businesses in every State – and in

doing so, are an integral part of the communities they serve. Every operational, maintenance, repair, integrity and safety testing, replacement, and expansion project activity, big or small, requires natural gas utilities to consider impacts on environmental, historical and cultural resources.

Natural gas delivery companies work with Federal, State, local and Tribal entities to obtain necessary permits and authorizations, and have developed best management practices and environmental mitigation strategies that are a proven success in reducing overall project timelines and environmental impacts.

The Federal government can play a critical role in coordinating and modernizing permitting processes so that natural gas infrastructure can be modernized, maintained, and expanded. Today, companies face serious challenges in trying to manage multiple overlapping, inconsistent, duplicative Federal, State and local permitting processes. These inefficiencies delay project reviews, drive up costs unnecessarily, and in some cases even impede the development of environmental mitigation strategies.

Many permit processes impose cumbersome and impractical requirements under a “one size fits all approach” that does not make sense for minor, temporary earth disturbance activity that take place on routine natural gas delivery infrastructure projects. The realities of multi-agency resource reviews and consultations often impose unanticipated, frequent delays and unenforceable deadlines. In many cases, timelines and deadlines exist on paper, but real-world execution looks quite different.

As I mentioned at the outset of my remarks, AGA has been an active participant in the multi-agency process led by the OMB to modernize energy infrastructure permitting in practice. As part of this effort, AGA has submitted a number of recommendations to OMB to assist it in developing best practices for Federal resource permitting agencies.

Many of these recommendations center on improved communication and joint actions between Federal, State and local authorities and could be put in place without need for regulatory changes. In all cases, these changes would facilitate greater consistency along all levels of government and would improve predictability for infrastructure providers. The main elements of these recommendations are summarized in the list below:

- Establish early process coordination and project mapping to determine permitting needs.
- Require formal pre-project consulting between local, State, Tribal, and Federal agencies.
- Allow pre-approval of mitigation techniques during first rounds of permit applications.
- Allow third-party liaisons to facilitate coordination between local, State, Tribal, and Federal authorities.

Additionally, AGA has identified a number of areas where regulatory reform could usefully address current impediments to energy infrastructure projects. These include:

- **Demonstrating leadership from the Federal level** by encouraging Federal agencies to lead all reviews that involve authorities from multiple levels of government, and improving enforcement of review deadlines for all agencies and authorities.

- **Facilitating prioritization of high significance projects** such as those addressing pipeline safety. Allowing project applicants to provide cost recovery to Federal agencies provide a useful means of prioritizing review, and the reauthorization of the Water Resources Development Act (WRDA) provides a notable example.
- **Moving away from a “one size fits all approach”** by establishing special permitting processes for specific categories of natural gas pipeline projects, such as emergency work, replacements and repeat projects in existing easements, and routine work.
- **Providing regional consistency** (e.g. across districts administered by the Army Corps of Engineers, and regarding permits for alternative methods for pipe installations.)
- **Considering Federal-level adoption of innovative State approaches** (e.g. fee programs, liaisons, and other models for expedited and prioritization of reviews).

Another pressing issue with great consequences for energy infrastructure investments is the recent rulemaking by EPA to revise aspects of the definition of Waters of the United States (WOTUS). We commend EPA’s decision earlier this summer to extend the public comment period on the rule until October 20, 2014. We view this extension as critical in allowing us to conduct a meaningful analysis of the proposal and related scientific findings.

AGA supports a rule that will produce better environmental outcomes, lend certainty to numerous Clean Water Act permitting programs our members rely on for their projects, and encourage the development of natural gas infrastructure to serve America's growing energy needs.

To this end, AGA is participating in coalition activities in support of reworking the current proposed rule. We are also engaging our member companies' environmental experts, consultants, and others who work closely with the EPA and Army Corps on day-to-day permitting issues.

As we have expressed throughout the EPA stakeholder process, AGA is concerned that the proposed rule would not provide the regulatory certainty natural gas distribution companies need to conduct normal operations in a timely and cost-effective manner. Over the past few months, AGA and other energy industry stakeholders have identified several aspects of the proposed rule that are either overly vague or impracticable to implement in the field, for regulators and regulated entities alike.

As just one example, the proposed rule would subjectively allow "other waters" to be defined based on a best professional judgment standard. The regulatory uncertainty this would introduce could significantly slow timelines for pipeline integrity management and maintenance projects conducted by natural gas utilities. This same aspect of the proposed rule would also create regional inconsistencies in permitting, and necessitate nearly constant jurisdictional reviews in the field to determine whether State or Federal jurisdiction applies.

In 38 States, natural gas utilities currently perform pipeline integrity management and maintenance across miles of pre-built infrastructure under specific, State-level regulatory authorization subject to those States' water resources jurisdiction. We are concerned that as proposed, this rulemaking will create new uncertainties and permitting roadblocks for these priority projects. AGA has encouraged EPA to ensure that the proposed rule provides adequate

regulatory certainty for our industry and implementing regulators alike and our industry remains committed to being an active participant in the rulemaking process going forward.

That concludes my testimony. Thank you again for the opportunity to speak today.

