

EDO Principal Correspondence Control

FROM: DUE: 07/27/00

EDO CONTROL: G20000353

DOC DT: 07/17/00

FINAL REPLY:

Richard F. Herbek
Village of Croton-on-Hudson, NY

TO:

Chairman Meserve

FOR SIGNATURE OF :

** GRN **

CRC NO: 00-0479

Collins, NRR

DESC:

ROUTING:

Emergency Evacuation Routes for Indian Point 2 & 3
(Due: 7/28/00)

Travers
Paperiello
Miraglia
Norry
Craig
Burns/Cyr
Miller, RI

DATE: 07/21/00

ASSIGNED TO:

CONTACT:

NRR

Collins

SPECIAL INSTRUCTIONS OR REMARKS:

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Jul 20, 2000 11:12

PAPER NUMBER: LTR-00-0479 **LOGGING DATE:** 07/20/2000
ACTION OFFICE: ~~EDO~~ EDO
AUTHOR: RICHARD HERBEK
AFFILIATION: NY
ADDRESSEE: RICHARD MESERVE
SUBJECT: MILLENNIUM NATURAL GAS PIPELINE AND INDIAN POINT 2 AND 3 EVACUATION ROUTES.....
ACTION: Appropriate
DISTRIBUTION: CHAIRMAN, COMRS, OGC, RF
LETTER DATE: 07/17/2000
ACKNOWLEDGED: No
SPECIAL HANDLING:
NOTES:
FILE LOCATION: ADAMS
DATE DUE: **DATE SIGNED:**

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Village of Croton-on-Hudson, New York



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One Van Wyck Street
Croton-on-Hudson,
NY 10520

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Mayor
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JAMES HARKINS
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SAM R. WATKINS Jr.

Manager-Clerk
RICHARD F. HERBEK

Treasurer-Deputy Village Clerk
ROBERT T. REARDON

Attorney
SEYMOUR M. WALDMAN

Engineer
KARY IOANNOU, P.E.
271-4783

July 17, 2000

Richard A. Meserve, Chairman
Nuclear Regulatory Commission
1155 Rockville Pike
D1/16/C1 OCM
Rockville, MD 20852

Dear Mr. Meserve:

Enclosed is a copy of a letter being filed by the Village of Croton-on-Hudson (the Village) with the Federal Energy Regulatory Commission (FERC) regarding the proposed Millennium natural gas pipeline. The newly proposed route for the pipeline in Westchester County, New York would render unusable for an extended period of time the evacuation routes for Indian Point nuclear power plant units 2 and 3, operated by the consolidated Edison Company and the New York Power Authority.

We are especially distressed that Consolidated Edison has actively opposed the originally proposed route, which would not have affected the evacuation routes, because it would have involved construction in their electric transmission line right-of-way. We believe that in doing so Con Edison has placed their commercial concerns above the need to protect the health and safety of the people of Westchester County.

We would urge you to communicate any concerns you have to the FERC before July 28, 2000 the final date for receipt of comments on this matter. In the event that the approved route is one that would result in the disruption of the emergency evacuation routes we would urge the NRC to require that operation of Indian Point 2 and 3 be suspended while pipeline construction is affecting evacuation routes.

Sincerely,

Richard F. Herbek
Village Manager

Village of Croton-on-Hudson, New York



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July 13, 2000

Mr. David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**RE: Millenium Pipeline Company, L.P.
Docket No. CP98-150-002
Motion to Intervene and Protest**

Dear Mr. Boergers:

In its recent revised application, Millenium Pipeline Company, L.P. (Millenium) has proposed a major route alternative for the portion of its proposed project in Westchester County. The basis for the change in the route are concerns raised by the New York State Public Service Commission (PSC) and Consolidated Edison Company (ConEd) regarding system reliability issues associated with ConEd's electric transmission lines. Specifically, ConEd and the PSC maintain that blasting required during construction along the ConEd right-of-way in Westchester County, and/or the possibility of a pipeline rupture during operation would result in a catastrophic failure of ConEd's system resulting in a blackout of New York City. However, ConEd, the PSC, Millenium, and thus far the Commission, have all completely failed to address, let alone evaluate, any of the significant environmental consequences associated with the new route (the Route 9/9A alternative) proposed as a solution to the concerns raised by the PSC and ConEd. Among the most significant concerns is the fact that the proposed route change would place the lives of tens of thousands of Westchester residents at risk by rendering unusable for an extended period of time the portions of the designated evacuation routes for the nuclear power plants operated by ConEd and the New York Power Authority at Indian Point in the Town of Cortlandt.

The original proposed route, which followed a ConEd electric transmission line right-of-way did not directly affect the Village of Croton-on-Hudson (the Village). For that reason, although the Village has intervenor status, we did not closely follow project proceedings. Last month the Village was contacted by representatives of Millenium who indicated that they were seeking to develop a new route that would avoid use of the ConEd right-of-way. The new proposed route (either along Route 9 or along a narrow piece of property between Route 9 and the Hudson River) would directly affect the Village. Millenium officials indicated to us at that time that they still preferred the original route, but that the Commission staff had "indicated" that the Commission staff wanted

the route changed to avoid the ConEd right-of-way. In addition to raising concerns about whether the Commission's *ex-parte* rules have been violated, this position is directly contrary to the conclusion reached in the Commission's DEIS issued in April of 1999 (FERC/EIS-0123D). The DEIS (page 3-25) concluded that "because Westchester County is densely populated, we were unable to identify an alternative route that would not increase impact on residential and commercial development in the area. In addition, we believe that the ConEd corridor offers the best route because it is generally away from populated areas. Therefore we found no alternative route for this segment of pipeline." Nothing in any of the arguments presented by PSC and ConEd provides a basis for changing this conclusion.

At a meeting between Millennium and Village officials, Millennium was specifically asked to provide a side by side comparison of the environmental effects associated with the original route along the ConEd right-of-way and whatever new route through the Village might be proposed. Not only has Millennium failed to provide this information, but our review of their Amended Environmental Report (which only became available to us through the Commission's RIMS system after July 6) completely fails to address the most significant environmental concerns associated with the new route. Most of these (including the disruption of Westchester County's emergency evacuation route) relate to impacts associated with proposed construction activities with the rights-of-way and roadbeds of Routes 9 and 9A.

Millennium's statement in their Amended Environmental Report (page 1-5) that the construction, operation and maintenance of the proposed facilities will have only limited impacts on the human and natural environments" is totally unfounded and is contradicted by the facts. In discussing their communication efforts in Westchester County Millennium notes that officials in the Towns of Cortlandt and Ossining, and the Villages of Croton-on-Hudson and Briarcliff Manor, separately indicated that they had major concerns regarding traffic impacts which would result from the closure of one or more lanes of traffic on Routes 9 and 9A. These concerns have not been addressed.

As of this date the Village has still not received copies of detailed photo-alignment sheets showing the portions of the new route in the Village and the adjoining towns of Cortlandt and Ossining. Based on our review of the amended environmental report it appears that at a minimum of one lane of traffic on Routes 9 and 9A would have to be closed at new Mileposts 391.8-392.6, 392.9-394.2, 397.0-401.3, and 401.6-404.0. The temporary closing of one or more lanes of traffic along almost nine miles of state highways designated for use as evacuation routes in the event of a nuclear or natural disaster is a significant environmental impact that must be addressed.

In addition to the areas where lane closures would be required, construction would take place immediately adjacent to highways for virtually all other portions of the Route 9/9A alternate. It is unrealistic to think that this would not also have an impact on traffic in those areas. Millennium has not provided any information discussing the length of time that would be associated with lane closures along the Route 9/9A route alternate, but has indicated informally to Village officials that it would be on the order of months rather than days or weeks.

The statement in Resource Report 8 of the Amended Environmental Report dismisses the traffic issue by merely noting that Millennium will coordinate with NYSDOT regarding traffic concerns and has committed to maintain traffic flow. This is totally inadequate and

does not constitute a proper assessment of traffic-related environmental impacts. The Commission's *Guidance Manual for Environmental Report Preparation* (1995) notes that Resource Report 5 (Socioeconomics) should "determine the effect of the movement of construction equipment, materials, and workers on the local road network." In a March 23, 1998 letter filed with the Commission in response to the Notice of Intent to prepare an EIS for the project the Westchester County Planning Department specifically calls out as a scoping issue the need to provide "details and assess impacts (including temporary closing of lanes, traffic management and safety, etc) of the proposed pipeline on local roadways." This issue was never addressed in the DEIS.

Attendant with the closing of traffic lanes on Routes 9 and 9A may be significant air quality impacts associated with traffic congestion, and economic impacts associated with lost wages and work productivity associated with traffic-induced delays experienced by commuters. The loss of significant amounts of vegetation which would have to be removed and which presently provides visual and noise buffers for residences adjacent to these highways is also of concern and needs to be addressed.

Other health and safety concerns, in addition to those regarding the Indian Point evacuation route, include the fact that the portions of Routes 9 and 9A where lane closures are proposed are used by the Croton-Ossining paramedic flycar operated by the Ossining Volunteer Ambulance Corps. Lane closures would significantly affect response time for this emergency service. In addition, the proposed route change would result in the residences of approximately 3,600 more people being located within 220 yards of the pipeline than would the original route.

The Commission's *Guidance Manual for Environmental Report Preparation* (1995) notes that Resource Report 11 (Reliability and Safety) "should develop an emergency plan with local fire departments and other agencies to identify personnel to be contacted, equipment to be mobilized, and procedures to be followed to respond to hazardous conditions caused by the pipeline." Millenium's amended Resource Report 11 consists of two sentences. The first sentence states that all information in the original resource report applies to the Route 9/9A alternative. Conditions along the Route 9/9A alternative are so qualitatively and quantitatively different from those along other portions of the route in terms of numbers/density of individuals potentially affected, that the lack of information makes it impossible for the Commission to render an opinion regarding the reliability and safety of the proposed Route 9/9A alternative.

The second and last sentence of amended Resource Report 11 refers to mitigation measures related to work in the vicinity of the ConEd right-of-way. Those mitigation measures are set forth in a Memorandum of Understanding (MOU) between Millenium and PSC filed as Exhibit Z-5 to Millennium's amended application. Although the Village is an intervenor in this proceeding we have not received a copy of that Exhibit. On May 9, 2000 attorneys for Millenium filed with the Commission a request that Exhibit Z-5 be given privileged treatment and that its disclosure be exempted from the mandatory public disclosure requirements of the Freedom of Information Act. The Village strongly objects to this request by Millenium. We are at a loss to understand how construction mitigation techniques can constitute "sensitive and confidential commercial information." While the MOU may contain such information, that is not a reason to consider the entire MOU privileged. The Village has initiated a separate request to obtain a copy of the MOU from the PSC under New York State's Freedom of Information Law. (We are also seeking to determine if the PSC violated New York State's Environmental Quality

Review Act by entering into the MOU without going through proper environmental review procedures). We believe that public disclosure of this information is necessary in order for the Commission to be in compliance with the intent and requirements of the National Environmental Policy Act (NEPA) and the implementing regulations of the Council on Environmental Quality.

In a January 19, 2000 filing the PSC stated that they opposed the proposed route in Westchester County "because it creates an unacceptably high risk that electric service to millions of New York City residents would be disrupted both during construction and after the pipeline is in place." Millenium, in a February 3, 2000 filing, responded and referred to testimony from their own experts and the U.S. Department of Transportation indicating that the pipeline could be constructed and operated safely if the route along the ConEd right-of-way were used. The affidavit of David Macks submitted in support of the PSC's filing states that "construction methods exist to address severe terrain, pervasive rock and pipeline placement near overhead high voltage lines" and that "Based on my experience and years of observation in this field I understand that, taken singularly, the impediments to pipeline construction outlined above can be overcome by properly planned and executed construction." PSC's contention is that the presence of all three conditions make the proposed route unsuitable, but they do not address the "methods" referred to, nor do they indicate how the methods involved in mitigating one concern would render ineffective the methods used to address either of the other two concerns.

In a February 2, 2000 filing ConEd supported the PSC's position that the original route would create "an unacceptably high risk that electric service to millions of New York City residents would be disrupted during both the construction and after the pipeline is in place." Apparently ConEd and PSC have determined that that risk is less acceptable to the risk that would result from an inability to evacuate northern Westchester County in the event of an accident at one or both of the Indian Point nuclear units. Given the history of accidents at Indian Point, we believe that a quantitative risk assessment should be prepared that compares the estimated loss of life associated with a disruption of ConEd's power lines in the Town of Cortlandt, with the number of lives that would be lost were an accident to occur at Indian Point while the evacuation route was rendered inoperable because of pipeline construction. A similar quantified assessment should be made comparing the effects of a pipeline rupture along the ConEd right-of-way with those associated with a rupture along the Route 9/9A alternative which by Millenium's estimate would place 3,600 more people in close proximity to the pipeline than would the original route.

We believe that the information provided by Millenium is insufficient to allow evaluation of the proposed changes on public safety, traffic, and air quality. We believe that the environmental issues raised here are of such a significant nature that the Commission should not proceed to finalize the DEIS. Instead, a Supplemental DEIS should be prepared. The SDEIS would allow for the first time a side by side comparison, as required by NEPA, of the environmental impacts associated with the originally proposed and newly proposed routes in Westchester.

The Commission should solicit the comments of Nuclear Regulatory Commission and the Federal Emergency Management Agency regarding the effects if the route change before making any final decision.

The Village's position and the basis for it may be summarized as follows:

- The Village prefers the pipeline route identified in the DEIS and deemed by FERC in that document to be superior to the Route 9/9A alternative.
- The Route 9/9A alternative is associated environmental impacts far more significant than those associated with the original route. These include an increase of approximately 3,600 in the number of Westchester County residents who will be living in close proximity to the pipeline; disruption of major portions of the County's emergency evacuation route; and significant but as yet unquantified traffic related impacts, including resulting economic impacts.
- The PSC and ConEd have argued that the original route presents unacceptable risks to the reliability of the system, but have acknowledged that construction mitigation techniques do exist which would address the individual concerns about construction and operation of the pipeline in the ConEd right-of-way. Both parties have indicated that it is the combination of factors which makes this case special, but have not provided any data to support this contention.
- The PSC and ConEd have taken their position without any regard to the equally if not more unacceptable risks associated with the Route 9/9A alternative.
- The proposed route change is associated with such significant and qualitatively different impacts from those identified in the DEIS that a full Supplemental DEIS should be prepared.
- The legitimacy of the PSC/ConEd argument and the ability of Millenium to construct their pipeline in a manner that address the concerns of the PSC can not be evaluated without the full disclosure of the "secret" MOU between Millennium and the PSC.

Sincerely,



Robert W. Elliott
Mayor

Cc: Village of Briarcliff Manor
Village of Ossining
Town of Ossining
Town of Cortlandt
New York Public Service Commission
Nuclear Regulatory Commission
New York Power Authority
Con Edison
Assemblywoman Sandra Galef
Congresswoman Sue Kelly

Elliot Spitzer, Attorney General
Governor George Pataki
County Legislator Michael Kaplowitz
Westchester County Office of Emergency Management
New York State Disaster Preparedness Commission
Federal Emergency Management Agency
County Legislator Richard Wishnie
State Senator Vincent Leibell
State Senator Suzi Oppenheimer