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February 1, 2017

Acting Chair Cheryl A. LaFleur
Commissioner Norman C. Bay
Commissioner Collette D. Honorable
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: OPPOSITION to NEXUS Gas Transmission, LLC, Docket No. CP16-22-000 request
for Commission Action on Its Application

Dear Chairperson LaFleur, Commissioner Bay, and Commissioner Honorable:

On behalf of the Michigan Sierra Club and the Ohio organizations Sustainable Medina County ("SMC"), Neighbors Against NEXUS ("NAN"), United Communities for Protecting Our Water and Elevating Rights ("UC4POWER"), and the FreshWater Accountability Project ("FWAP"), we hereby object to the January 27, 2017 NEXUS "Request for Prompt Commission Action." The request lacks a procedural basis and this proceeding has not yet resulted in adjudicatory rulings by assigned administrative judges on pending dispositive motions.

There is no provision in the rules of procedure for proceedings under Section 7 of the Natural Gas Act for acceleration of a gas pipeline certificate request, and to the extent that one is inferred, we object.

The following matters all are presently open and have yet to be determined by the assigned administrative judge:

a) *The 43-page "Notice of Protest of Neighbors Against NEXUS, FreshWater Accountability Project and Sustainable Medina County Against Submission of Falsified DEIS Comment Statements Into Docket, and Motion to Strike," filed August 31, 2016.* In it, the Intervenor produced key evidence that some 15 public comment letters submitted in favor of building NEXUS were forged by a company contracted to orchestrate faux grassroots support corporate energy projects. This information, taken with the admission of the astroturf company which generated the letters that some 347 such letters were deposited in the NEXUS docket, suggested widespread fraud was committed during the NEPA comment period.

b) *The 17-page "Motion of Intervenor Sustainable Medina County, Neighbors*

Against NEXUS and FreshWater Accountability Project for Summary Disposition to Deny Certificate for NEPA Violations Arising from Eminent Domain Misuse,” filed November 3, 2016. By this Motion, the Intervenor alleged facts and law respecting NEXUS’ abuse of eminent domain to dictate the unlawful premature commitment by the company to its preferred route alternative and in turn, biasing the NEPA process in favor of approval.

c) ***The 66-page “Motion of Intervenor Sierra Club for Summary Disposition on Natural Gas Act and NEPA Contentions,” filed November 17, 2016.*** The Sierra Club has raised several critical arguments of fact and law concerning the alleged anticompetitive practices of DTE Electric, a 50% owners of NEXUS. DTE proposes to finance its portion of the construction; abuse of eminent domain to dictate the unlawful premature commitment by NEXUS to its preferred route alternative and in turn, biasing the NEPA process in favor of approval; legally inadequate consideration of alternatives to construction of the pipeline; and several other colorable grounds for summary disposition.

d) ***The 20-page “Motion to Intervene of United Communities for Protecting Our Water and Elevating Rights,” filed February 1, 2017.*** This Motion exposes a significant, false statement of scientific fact in the NEXUS FEIS regarding a seismic feature, the Bowling Green Fault in northwestern Ohio, across which NEXUS proposes to build its 36-inch pipeline. The Final Environmental Impact Statement incorrectly states that the Fault lies 2,200 to 2,300 feet below the surface of the Earth, which supports the FEIS conclusion that it has no implications for the construction of the pipeline. However, the Intervenor US4POWER has produced an expert declaration which states that the Fault is clearly visible and documented at the surface, where it will be perpendicularly crossed by the pipeline. From a risk management perspective the proposed Nexus pipeline location as it crosses the Fault and shortly thereafter, underneath the karst-ridden Maumee River bed poses a serious threat to public health and safety which has not been fully analyzed. FERC has a non-delegable responsibility to investigate all matters of significant environmental importance under NEPA, irrespective of when they are raised. Because the FERC staff have grossly misunderstood important scientific facts about the BG Fault, this significant new information must now be investigated.

There is simply no justification for the Commission to accelerate its merits determination regarding the pipeline certificate.

Under the Natural Gas Act, “the Commission will approve an application for a certificate only if the public benefits from the project outweigh any adverse effects.” *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 at 28 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000). Determination of genuine need for a proposed pipeline is a critical part of this balancing test, and the Commission has charged itself with considering “all relevant factors reflecting on the need for the project.” *Id.* at 23. The Commission “balances the public benefits against the potential adverse consequences” and must give “appropriate consideration to the enhancement of competitive transportation alternatives, the

possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction." *Natural Gas Pipeline Company of America LLC*, Docket No. CP15-505-000, Order on Certificate at 3 (March 17, 2016); NEXUS FEIS 1-3.

The four outstanding substantive and/or disposition motions touch upon each of these considerations. It would be premature, unfair to the parties and a denial of the due process rights of the various Intervenorers if FERC were to grant a certificate of convenience and necessity to Spectra Energy at this time.

Thank you.

Very truly yours,

/s/ Terry J. Lodge
For Michigan Sierra Club, NAN, SMC,
FWAP and UC4POWER