

**UNITED STATES OF AMERICA**  
**BEFORE THE**  
**FEDERAL ENERGY REGULATORY COMMISSION**

In the Matter Of )  
Columbia Gas Transmission, LLC ) Docket No. CP18-137-000

**Motion to Intervene of the**  
**Ohio Environmental Council, Sierra Club, and the Center for Biological Diversity**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC”), 18 C.F.R. §§ 385.212, 385.214, and regulations under the Natural Gas Act (“NGA”), 18 C.F.R. § 157.10, the Ohio Environmental Council (“OEC”), Sierra Club, and the Center for Biological Diversity (“CBD”) (collectively, “the Conservation Organizations”) respectfully move to intervene in the above-captioned proceeding on Columbia Gas Transmission, LLC’s (“Columbia”) Buckeye XPress Project (“the Project”).<sup>1</sup>

**I. Contact Information**

All communications, pleadings, service, and orders with respect to this proceeding should be addressed to:

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<sup>1</sup> Pursuant to Rules 212 and 213(a)(2), 18 C.F.R. §§ 385.212, 385.213(a)(2), the Conservation Organizations respectfully move for permission to respond to any answer that may be filed in opposition to their Motion to Intervene.

## II. Background

Columbia, a subsidiary of TransCanada Corporation, has applied for a Certificate of Public Convenience and Necessity and Abandonment Authority under Sections 7(c) and 7(b) of the Natural Gas Act for the construction, abandonment, operation, and maintenance of the Project in Vinton, Jackson, Gallia, and Lawrence counties, Ohio and Wayne County, West Virginia. FERC has jurisdiction to approve or deny the Certificate of Public Convenience and Necessity.

Specifically, Columbia proposes to construct approximately 65.7 miles of new 36-inch-diameter natural gas pipeline, increasing the transportation capacity on the R-801 pipeline by an additional 275,000 dekatherms per day (“Dth/d”). The Project would also abandon approximately 60.8 miles of existing 20-inch and 24-inch natural gas pipeline.<sup>2</sup> The pipeline would run south from the Leach XPress, an already completed pipeline project also owned by Columbia, and cross the Ohio River to delivery points in Kentucky and West Virginia.<sup>3</sup>

The Project would cross 12.6 miles of the Wayne National Forest (“the Wayne”). In the Wayne, the Project is projected to impact 244.9 acres during construction and 87.6 acres during operation.<sup>4</sup> In total, the Project would impact 336 streams, 120 of which are perennial.<sup>5</sup> It would also cross 134 wetlands for a total of 5,180 feet, affecting 5.48 acres of wetlands.<sup>6</sup>

## III. Intervention

### **A. The Conservation Organizations have concrete interests in the Project’s environmental impacts, including impacts to the Wayne National Forest.**

The OEC is a not-for-profit 501(c)(3) public interest organization whose mission is to secure healthy air, land, and water for all who call Ohio home. OEC has over 100 environmental and conservation member organizations and thousands of individual members throughout the state of Ohio. The OEC and its members have interests that will be affected by this proceeding.

The OEC has a long history of working to protect the ecological integrity, and recreational and aesthetic qualities of the Wayne. Numerous OEC members recreate in the areas that will be directly impacted by the proposed Project, including on and near the proposed route through the Wayne’s Ironton Unit. Construction and operation of this project will impact and diminish some of the Wayne’s aesthetic, recreational, and ecological values that our members currently enjoy.

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<sup>2</sup> *Resource Report 10 - Alternatives*, Columbia Gas Transmission, LLC - Buckeye XPress Project (March 2018), at 10-1 to 10-2, available at: <https://elibrary.ferc.gov/IDMWS/common/OpenNat.asp?fileID=14849820>.

<sup>3</sup> See *Leach XPress Project: Delivering Appalachia’s Energy Potential*, Columbia Pipeline Group, (2017), <https://www.transcanada.com/globalassets/pdfs/natural-gas/leach-xpress-project/transcanada---leach-xpress-brochure--2017.pdf>.

<sup>4</sup> *Resource Report 8, - Land Use, Recreation, and Aesthetics*, Columbia Gas Transmission, LLC - Buckeye XPress Project, (March 2018), Table 8.2-3, at 8-12, available at: <https://elibrary.ferc.gov/IDMWS/common/OpenNat.asp?fileID=14849820>.

<sup>5</sup> See *Resource Report 2 - Water Use and Quality*, Columbia Gas Transmission, LLC - Buckeye XPress Project (March 2018), at 2-28, available at <https://elibrary.ferc.gov/IDMWS/common/OpenNat.asp?fileID=14849794>.

<sup>6</sup> *Id.* at 2-42.

The OEC and its members would thus suffer immediate and permanent harm from the Project's impacts.

Sierra Club is a national nonprofit organization with more than 800,000 members dedicated to enjoying the wild places of the earth, responsibly using the earth's ecosystems and resources, and enlisting humanity to protect the natural and human environment. Sierra Club will use all lawful means to carry out these objectives.

Sierra Club and its members have interests that will be affected by this proceeding. Sierra Club members live, work, and recreate in and around areas that will be impacted by the proposed Project. This includes places along the proposed route and overlying the shale plays that will likely see increased production if Columbia were to build and operate the Project.

In particular, the Ohio Chapter of the Sierra Club has more than 22,000 members in the state of Ohio. For many decades, the Sierra Club has worked to protect the Wayne National Forest and Ohio's other public lands from harmful activities such as clear-cutting, mineral extraction, commercial development, pipelines, and oil and gas drilling. Sierra Club members use the public lands in Ohio, including the Wayne National Forest, for quiet recreation, aesthetic pursuits, and spiritual renewal. These areas would be threatened by the Project's impacts. Sierra Club, its members, and its supporters also advocate reducing the impacts of fossil fuel extraction, transportation, and combustion activities because they have an interest in minimizing the harms to the environment and the public from those activities.

The Center for Biological Diversity (the Center) is a non-profit membership corporation with offices in Arizona, Colorado, Alaska, California, Florida, Hawaii, Minnesota, Oregon, Washington, Washington D.C., and Mexico. The Center works through science, law, and policy to secure a future for all species, great or small, hovering on the brink of extinction. The Center is actively involved in species and habitat protection issues worldwide, in the United States, and in Ohio's Wayne, where ongoing administrative, legal, media, and public organizing advocacy aims to protect imperiled species, habitats and biological diversity of the Wayne from oil and gas development.

The Center also works to reduce greenhouse gas emissions to protect biological diversity, the environment, and public health, including by working to prevent new leases for oil and gas fracking on the Wayne and on other public lands across the United States. The Center has over 61,000 members, including many in Ohio who visit the Wayne for recreational, scientific, educational, and other pursuits. They and members of the Center's staff intend to continue to visit the Wayne in the future, and are particularly interested in protecting the many native, imperiled, and sensitive species and their habitats that may be affected by the Project.

As noted, the Conservation Organizations have a demonstrated interest in engaging with oil and gas issues involving the Wayne National Forest. This includes the Bureau of Land Management's ("BLM") recent decision to open 40,000 acres of the Wayne's Marietta Unit to oil and gas development. The Conservation Organizations are presently challenging this decision in federal district court in the Southern District of Ohio (Case No. 2:17-cv-372). A central

component of this litigation is the U.S. Forest Service (“USFS”) and BLM’s failure to adequately consider surface disturbance from new pipelines and other infrastructure resulting from the agencies’ decisions. The Buckeye XPress Project would directly impact the Wayne and contribute to cumulative impacts in the region, as well as induce additional development of shale gas plays in the region.

**B. The Conservation Organizations’ participation in this proceeding is in the public interest.**

The Conservation Organizations’ intervention is in the public interest because they and their members represent interests shared with the public at large. In particular, Conservation Organizations intervene to ensure FERC and other federal decisionmakers comply with the requirements of the National Environmental Policy Act (“NEPA”), the Natural Gas Act (“NGA”), and other laws that require FERC and Columbia to fully consider and disclose the Project’s impacts. This includes, but is not limited to, the direct, indirect, and cumulative environmental impacts of pipeline construction and operation (including impacts to the Wayne National Forest); environmental, health, and other consequences of any expansion or change in natural gas production, including increased development of shale gas plays and additional downstream greenhouse-gas emissions; and public disclosure of all environmental, social, economic, and other consequences of the Project.

Columbia has proposed this Project as including an expansion component due to “anticipated market expansion.” FERC and Columbia must provide an adequate accounting of all upstream and downstream greenhouse-gas emissions that will result from the approval of both the replacement and expansion portions of this Project. The Conservation Organizations represent the public’s interest in ensuring that FERC adequately considers the role that the Buckeye XPress Project and other related projects play in contributing to climate change.

**C. Conservation Organizations do not support Columbia’s Project as proposed in its Application.**

Rule 214 of FERC’s Rules of Practice and Procedure states that motions to intervene “must state, to the extent known, the position taken by the movant and the basis in fact and law for that position.”<sup>7</sup> While the Conservation Organizations reserve the right to raise additional concerns about the Project as more information is made available during the pendency of this proceeding, the Conservation Organizations’ opposition to the Application stems from the significant environmental impact the Project poses to the Wayne specifically and to the region more generally. Furthermore, the Project would result in increased greenhouse-gas emissions, and Columbia has not demonstrated a need for expanded capacity.

FERC must develop an Environmental Impact Statement (“EIS”), rather than an Environmental Assessment (“EA”), because, *inter alia*, the Project will have direct, indirect, and cumulative effects on the Wayne, result in increased greenhouse-gas emissions and consequent climate

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<sup>7</sup> 18 C.F.R. § 385.214(b)(2).

impacts, and induce further oil and gas development throughout Southeast Ohio and the greater Appalachian region. A thorough consideration and disclosure of all environmental impacts is required, and FERC must carefully weigh these adverse impacts when deciding whether to grant a Certificate of Convenience and Necessity for the Project.

18 C.F.R. § 380.6(a)(3) states that FERC will normally prepare an environmental impact statement for a pipeline project using a right-of-way in which there is no existing gas pipeline. While the path of this Project has an older pipeline, most of the proposed route will require either an entirely new right-of-way or an expansion of the current right-of-way, resulting in significant new impacts to the surrounding environment.<sup>8</sup>

Furthermore, expanding this pipeline will induce further lease sales for oil and gas development in the region, and likely in the Wayne -- a significant indirect impact that FERC must consider. Companies such as Eclipse Resources Corporation (“Eclipse”) have contracted with Columbia for transportation of their natural gas;<sup>9</sup> Eclipse purchased approximately 60% of the leases available when the Wayne first began leasing its land for oil and gas development.<sup>10</sup>

Columbia has also failed to demonstrate that this Project is necessary. Columbia references only “an *anticipated* growth” in demand to justify expanding the pipeline’s capacity.<sup>11</sup> Recent studies show that industry is overbuilding gas pipelines; just a little over 50% of current pipeline

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<sup>8</sup> Based on a close look at the maps provided by Columbia in its Application, the new pipeline will follow a significantly different path than the abandoned pipeline, even along portions where the new pipeline follows the path of the old pipeline fairly closely. See *BXP App Vol II RR 02 Appdx 2A\_03\_WDR\_Report\_3 of 4*, Columbia Gas Transmission, LLC - Buckeye XPress Project (March 2018), available at: <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14849797>.

<sup>9</sup> See *Eclipse Resources Corporation: Form 10k*, Commission File No. 001-36511, available at: <http://secfilings.nasdaq.com/filingFrameset.asp?FilingID=12597891&RcvdDate=3/2/2018&CoName=ECLIPSE%20RESOURCES%20CORP&FormType=10-K&View=html>.

<sup>10</sup> Conservation Groups also oppose the improper segmentation of the Leach, Buckeye, and other connected actions, which has allowed Columbia to downplay the cumulative environmental effects of these pipelines. The Leach XPress Pipeline, completed last year, was also “modernized” from old 20-inch pipe to new 36-inch pipe, which increased the capacity of that pipeline. See *Abbreviated Application of Columbia Gas Transmission, LLC*, CP15-514-000, available at: <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=13897245>. Like the Buckeye XPress Project, the Leach XPress is part of Columbia’s R-801 system, and the southern portion of the Leach XPress connects to the northern-most portion of the proposed Buckeye XPress Project. When segmented, the environmental impacts of these two pipelines seem less severe than if the projects had been proposed together; yet the two pipelines are connected actions, interdependent, and essentially the same pipeline. The Leach XPress will not be able to transport gas to some or all of its final destinations without utilizing the Buckeye XPress. See also *Leach XPress Project: Delivering Appalachia’s Energy Potential*, Columbia Pipeline Group, (2017), <https://www.transcanada.com/globalassets/pdfs/natural-gas/leach-xpress-project/transcanada---leach-xpress-brochure--2017.pdf>

<sup>11</sup> See, e.g., *Abbreviated Application of Columbia Gas Transmission, LLC for a Certificate of Public Convenience and Necessity and Abandonment Authority* (March 2018) at 1-2 (“The use of the larger diameter replacement pipeline will allow Columbia to be ready to meet an *anticipated* growth in transportation demand from the Appalachian production area to delivery points in Kentucky and West Virginia....”) (emphasis added).

capacity is utilized even in peak months.<sup>12</sup> Demand for gas will further decrease as the country continues to transition to a clean energy future.

The Conservation Organizations are also concerned that this Project, if approved, would violate the Wayne's 2006 Forest Plan. Federal law mandates that projects authorized by USFS "must be consistent with the [applicable forest] plan."<sup>13</sup> The Wayne's 2006 Forest Plan contemplates an "upper limit" of 50 acres total for utility corridor development across all three units of the forest, with 36 acres remaining as of the Wayne's 2012 Supplemental Information Report ("SIR").<sup>14</sup> As noted above, the proposed Project would impact 244.9 acres the Wayne during construction and 87.6 acres during operation.<sup>15</sup> It thus appears that this Project is not compatible with the Wayne's forest plan or with federal forest planning law.

Pipeline construction and operation can devastate ecosystems and communities. These risks include, but are not limited to, impacts to waterways and wetlands, forests, sensitive species, and public health. Pipeline ruptures and inadvertent returns during horizontal directional drilling ("HDD") activities threaten both human lives and ecologically significant resources. Ohio's environment has suffered several of these oil and gas pipeline pollution events recently. For example, over the past year, the construction of the Rover Pipeline has resulted in discharges to Ohio waterways and wetlands multiple times, including a 2 million gallon spill in a wetland along the Tuscarawas River.<sup>16</sup> Ohio has filed a lawsuit against Rover Pipeline, LLC regarding that spill and other violations.<sup>17</sup> Also, in January 2018 the Seneca Lateral Pipeline (a section of the Rockies Express pipeline system) exploded in Noble County.<sup>18</sup>

Finally, FERC must fully disclose and consider the Project's climate impacts, including due to upstream and downstream greenhouse gas emissions.<sup>19</sup> These impacts must be adequately scrutinized in an EIS.

Due to the severity of the Project's anticipated environmental impacts, the Conservation Organizations request that FERC develop an EIS prior to acting on Columbia's Application for a

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<sup>12</sup> Analysis Group notes that since 1999, FERC has approved over 400 pipelines for a total capacity of 180 billion cubic feet per day, while the peak use during that time period was 137 billion cubic feet per day during the 2014 "Polar Vortex." *Natural Gas Pipeline Certification: Policy Considerations for a Changing Industry*, Analysis Group (November 6, 2017), available at: [http://www.analysisgroup.com/uploadedfiles/content/insights/publishing/ag\\_ferc\\_natural\\_gas\\_pipeline\\_certification.pdf](http://www.analysisgroup.com/uploadedfiles/content/insights/publishing/ag_ferc_natural_gas_pipeline_certification.pdf), citing *Natural Gas Monthly*, Energy Information Administration, (March 2017), [https://www.eia.gov/naturalgas/monthly/archive/2017/2017\\_03/ngm\\_2017\\_03.php](https://www.eia.gov/naturalgas/monthly/archive/2017/2017_03/ngm_2017_03.php).

<sup>13</sup> 36 C.F.R. § 219.15(b).

<sup>14</sup> See, e.g., *Supplemental Information Report* at 75.

<sup>15</sup> *Resource Report 8, - Land Use, Recreation, and Aesthetics*, Columbia Gas Transmission, LLC - Buckeye XPress Project (March 2018), Table 8.2-3, at 8-12, available at <https://elibrary.ferc.gov/IDMWS/common/OpenNat.asp?fileID=14849820>.

<sup>16</sup> "Complaint for Injunctive Relief and Civil Penalties," *State of Ohio v. Rover Pipeline, LLC*, Case No. 2017CV02216, Stark County Court of Common Pleas, available at: <http://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/Environmental-Enforcement/2017-11-03-Rover-Complaint-Signed-for-Filing.aspx>.

<sup>17</sup> *Id.*

<sup>18</sup> *Tallgrass isolates Ohio natgas pipeline segment after rupture*, Reuters, (January 31, 2018), <https://www.reuters.com/article/us-pipeline-fire-ohio/tallgrass-isolates-ohio-natgas-pipeline-segment-after-rupture-idUSKBN1FK2EU>.

<sup>19</sup> See also *Sierra Club v. Federal Energy Regulatory Commission*, 867 F.3d 1357, 1374 (D.C. Cir. 2017).

Certificate of Public Convenience and Necessity. The Conservation Organizations reserve the right to raise additional grounds to protest the Project as further information regarding its impacts becomes available.

#### **IV. Request for Formal Hearing**

18 C.F.R. § 157.10(a)(1) requires parties to state specifically in a motion to intervene whether they seek a formal hearing before FERC regarding the application. Pursuant to that regulation, the Conservation Organizations formally request an evidentiary hearing to resolve contested issues of fact regarding whether the project is in the public convenience and necessity, including but not limited to whether the Project's adverse environmental effects outweigh any public benefits.

#### **V. Conclusion**

The Conservation Organizations respectfully request that the Commission grant this Motion to Intervene and authorize the Ohio Environmental Council, Sierra Club, and the Center for Biological Diversity to participate fully in this proceeding.

Respectfully submitted,

April 30, 2018

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## Certificate of Service

Pursuant to Rule 2010 of FERC's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for Docket No. CP18-137-000.

Dated: April 30, 2018

/s/Chris Tavenor

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Law Fellow

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