



November 1, 2007

J. Mark Robinson  
Director, Office of Energy Products  
Federal Energy Regulatory Commission  
888 1st Street N.E.  
Washington, DC 20426

Re: Mid-Atlantic Express's Pipeline Proposal in U.S. Interstate (I)-695

Dear Mr. Robinson:

This letter responds to your letter of October 22, 2007 on this subject. We were surprised to read that the Maryland Department of Transportation's State Highway Administration ("SHA") made statements to the staff of the Federal Energy Regulatory Commission that SHA would not allow either temporary or permanent longitudinal easements for the Mid-Atlantic Express pipeline within the I-695 corridor. We were not aware of any communication from SHA to FERC or of any interagency meeting on this subject. Moreover, the stated SHA position is contrary to what SHA told representatives of AES in their meeting on February 14, 2006. At that time and up to the time we received your October 22 letter, it was our understanding that SHA would permit AES to use interstate highway right-of-way ("ROW") for location of AES's proposed pipeline, both with respect to crossing of the I-695 corridor and for the longitudinal placement of the pipeline within the ROW.<sup>1</sup>

As reflected in the Resource Reports submitted by AES, AES has met with SHA and MDTA several times and found them to be co-operative in helping AES sort through the pipeline placement options. See RR-8 at Section 8.5.2; RR-1 at Section 1.3.2. Neither during these meetings nor anytime thereafter was the Utility Policy cited as an impediment to granting easements to permit the installation of a gas pipeline within the I-695 ROW or any conflict with the AES proposed pipeline alignment brought to our attention. This is consistent with

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<sup>1</sup> AES also had previously met with the Maryland Transportation Authority ("MDTA") on January 20, 2006 and, after the February 14 meeting with SHA, held follow-up meetings with the Maryland Department of Transportation ("MDOT") on March 2, 2006 and with MDTA again on March 14, 2006. These meetings, like the SHA meeting, were positive and at no time was there a reference to the Utility Policy or use prohibition. Since these meetings, and prior to your letter, no MDOT, MDTA, or SHA officials have raised any issues with AES regarding use of I-695 ROW.

our reading of the Utility Policy – SHA, through an exemption process, may allow longitudinal placement of utility lines within the ROW of Maryland interstate highways

Putting AES's past understanding of the situation aside, your letter suggests that the effort needed to comply with the Utility Policy will require significant effort on the part of both AES and Commission staff. This is not the case. A cursory review of the pipeline alignment in the subject area using information previously submitted to FERC shows that minor variations (less than 50 feet) in most areas could easily be made such that the provisions of the Utility Policy are met. In fact, approximately 70% of the existing alignment between the referenced mileposts will not need to be relocated at all to comply with the Utility Policy. These minor adjustments would be made entirely within the corridor previously surveyed by AES and would not impact additional landowners. Accordingly, rather than engage SHA in the exemption process with the "unlikely" result that an exemption would be granted, AES will submit to FERC a minor route variation for this segment of the pipeline as is typically done with other pipeline projects. We expect that the information required to fully describe the variation will be completed shortly. Because these adjustments would take the pipeline outside of the SHA ROW, and because AES does not plan to utilize I-695 to access the temporary or permanent easements associated with the changed route, we do not anticipate the need for any traffic study related to use of I-695.

Importantly, the minor route variation does not require that we "avoid the I-695 corridor altogether" as proposed in your letter. By continuing to parallel the I-695 ROW as will be more fully described in our submittal, while at the same time avoiding placement of the pipeline within the ROW as prohibited by the Utility Policy, we will continue to abide by FERC policy of locating new utility lines in or near existing utility corridors.<sup>2</sup> The new alignment will also generally accord with the policies of the U.S. Department of Transportation, Federal Highway Administration ("FHWA") that provide for the accommodation of utilities, including natural gas pipeline facilities, within the right-of-way for federal-aid or direct federal highways. See 23 C.F.R. Part 645. See also Response 34 to ACOE Data Request dated July 3, 2007.

We were more surprised, and disappointed, that SHA's apparent recent reversal of their position to allow placement of the pipeline within the ROW would be a basis for FERC to decline to set the required schedule for completion of the environmental review of the Sparrow's Point LNG and Mid-Atlantic Express pipeline project.<sup>3</sup> This seems inappropriate based on the minor nature of the pipeline alignment necessary to comply with the Utility Policy. First, FERC has been aware of AES's discussions with SHA concerning use of the I-

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<sup>2</sup> Section 3.01B of the Utility Policy addresses only "longitudinal utility lines" located within highway ROWs; it does not preclude easements (whether temporary or permanent) within the ROW, as your letter states.

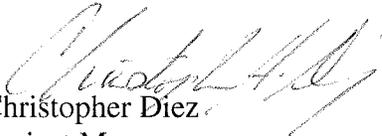
<sup>3</sup> We note that, since AES's application was noticed on January 30, 2007, under FERC regulations the Scheduling Order applicable to completion of the environmental review process should have been issued on or before April 30, 2007.

695 corridor, as described above, and that AES has acknowledged the need to coordinate with SHA for this purpose.

AES has scheduled a meeting with SHA to update SHA on the status of the project and to generally discuss the minor route variation we intend to submit to FERC. Given the urgent tone of your letter, we will submit the supporting materials as soon as possible thereafter.

In light of the foregoing, AES respectfully urges FERC to reconsider its delay in issuance of the scheduling order. For its part, AES remains committed to compliance with all aspects of FERC's application process.

Sincerely,



Christopher Diez  
Project Manager  
AES Sparrows Point LNG, LLC

cc: Kimberly D. Bose, FERC Secretary  
Medha Kochhar, FERC  
All Parties to Docket Nos. CP07-62 and CP07-63  
Richard McLean, Maryland Department of Natural Resources  
LCDR Laura Weems, U.S. Coast Guard  
Joseph DaVia, U.S. Army Corps of Engineers  
Elder Ghigiarelli, Maryland Department of the Environment  
Kevin Magerr, Environmental Protection Agency  
Greg Czarnecki, Department of Conservation and Natural Resources  
Nelson Smith, Maryland State Highway Administration  
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Douglas Simmons, Maryland State Highway Administration  
Edward Harris, Maryland State Highway Administration  
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