

***Federal Energy Regulatory Commission  
Process for Siting  
Natural Gas Infrastructure***



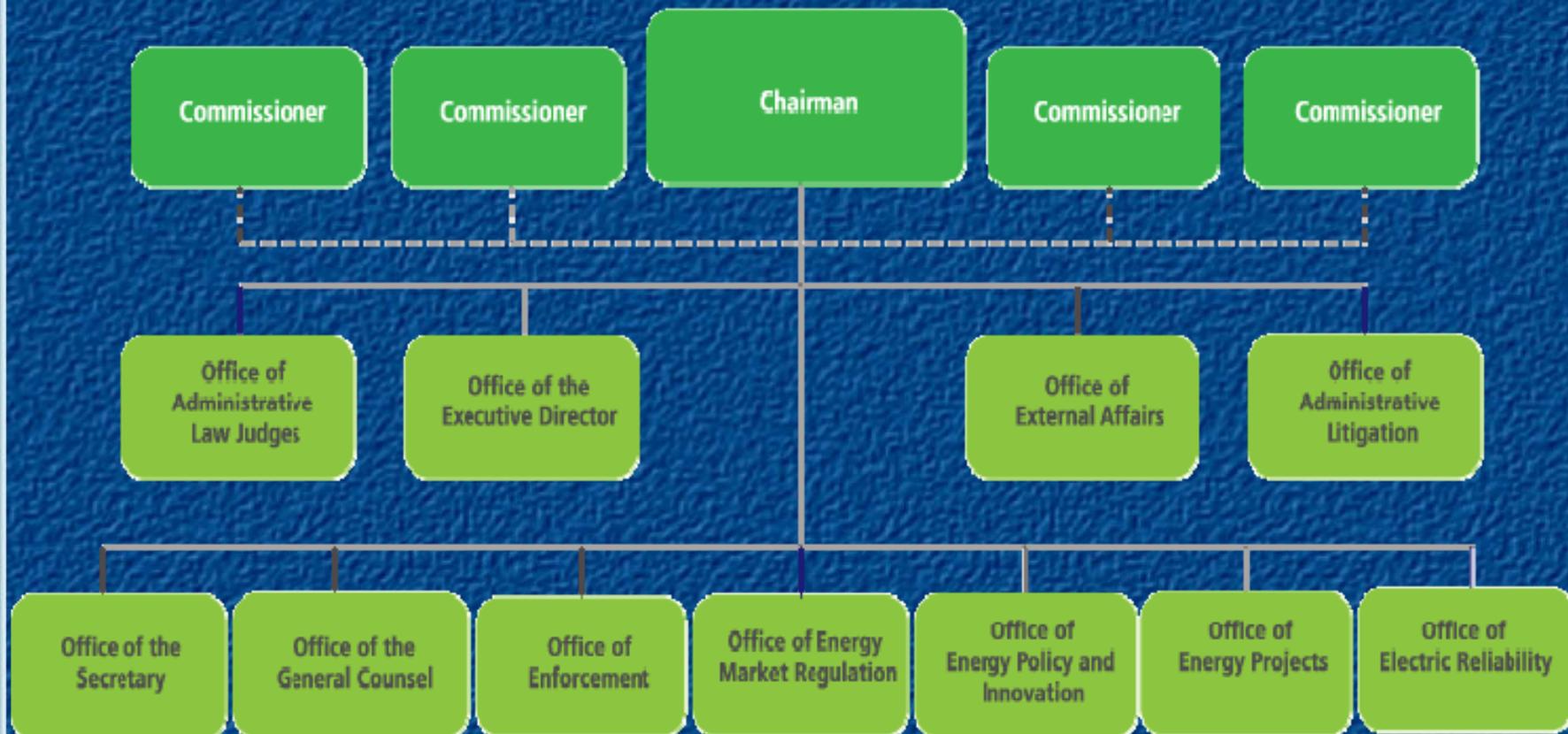
**2010 Marcellus Summit:  
Building a Sustainable Future  
October 12, 2010**

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Office of Energy Projects

# FERC Organizational Structure



## Federal Energy Regulatory Commission



# FERC Facts

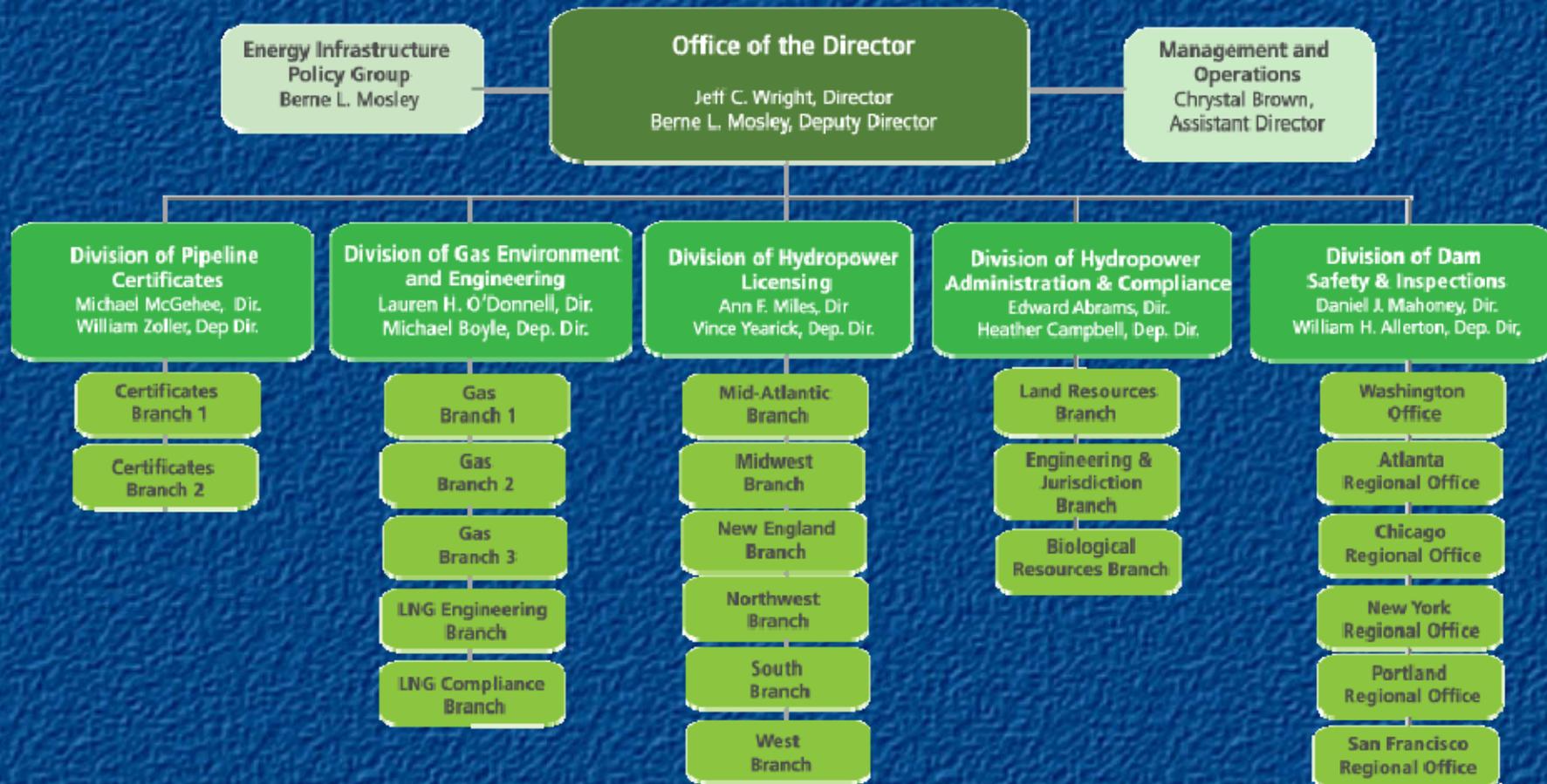


- The Commission is composed of five Commissioners, appointed by the President and confirmed by the Senate.
- One member of the Commission is designated by the President to serve as Chair and FERC's administrative head.
- Commissioners serve 5-year staggered terms and have an equal vote on regulatory matters.
- No more than three Commissioners may belong to the same political party.
- As an independent regulatory agency, the Commission's decisions are not subject to review by the President or Congress.
- The Commission is funded through costs recovered by fees and annual charges from the industries it regulates.

# Office of Energy Projects



## Office of Energy Projects (OEP)



# Natural Gas Act



The Natural Gas Act is the law that sets out FERC's areas of responsibilities:

- Section 1 – Identifies projects exempt from FERC jurisdiction
- Section 3 – Allows FERC to authorize import / export projects
- Section 7 – Allows FERC to authorize interstate pipeline projects (including storage)

# Projects Exempt from FERC Jurisdiction



Local Distribution Company facilities (e.g., UGI, Philadelphia Gas Works, etc.)

Intrastate pipelines (where gas is produced, transported and consumed within a single state)

Hinshaw pipelines (gas is produced in one state, but is received at the state border of another and transported and consumed within that state)

Gathering facilities

# Project Evaluation



How Does FERC Evaluate All  
Of These Major Projects?

What Are The Criteria Used in  
This Evaluation?

# Balancing Interests



People Like...		But They Also Want...
Due Process	↔	Expedited Process
Smaller Government	↔	Effective Government
Less Regulation	↔	Assurance of Fair Markets
Market-dictated Outcomes	↔	Protection from Market Dysfunctions, Unexpected Risk, and Unjust Rates
Protection for the Environment and Property Interests	↔	Ample Supplies of Low-cost Energy

# FERC's Internal Review Process



Initial review for completeness

(10 business days)

Issue notice of application

Assign review team

- Environmental
- Certificates
- Rates
- Attorney
- Engineering

# Certificate Process Overview



## Non-Environmental Review and Analysis

- Engineering – GQI, storage, hydraulic flow
- Tariff – rates, terms & conditions of service
- Policy – precedents, rules, regulations
- Accounting

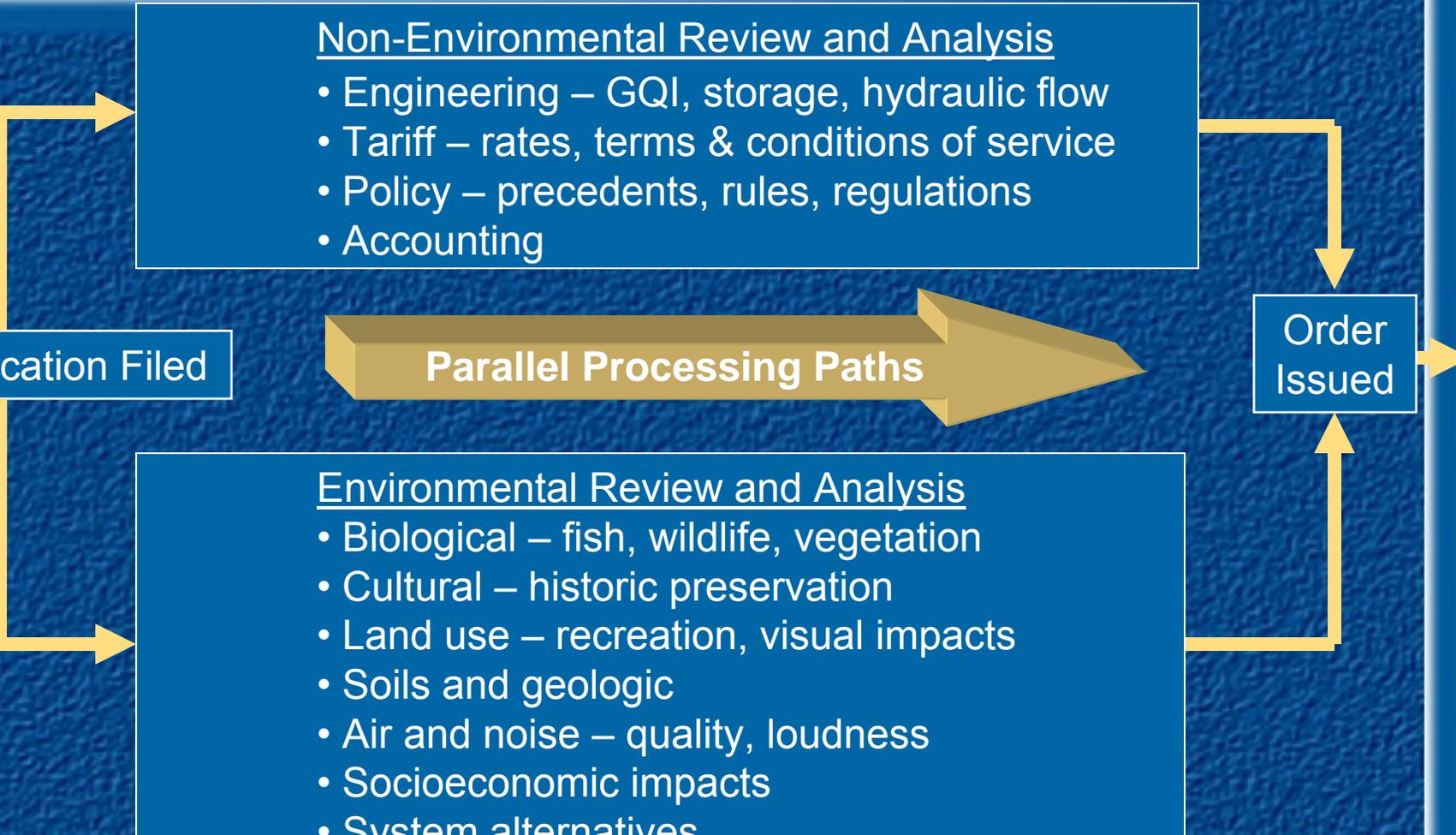
Application Filed

Parallel Processing Paths

## Environmental Review and Analysis

- Biological – fish, wildlife, vegetation
- Cultural – historic preservation
- Land use – recreation, visual impacts
- Soils and geologic
- Air and noise – quality, loudness
- Socioeconomic impacts
- System alternatives

Order Issued



# Final Steps of the FERC Process



Environmental and non-environmental aspects are brought together into a draft Commission Order

The draft Order contains analysis and staff-recommended, project-specific requirements, for consideration by the Commission

The Commission can reject, accept, and/or modify staff's recommendation

If a project is approved, the project proponent is issued a certificate of public convenience and necessity

# Final Steps of the FERC Process



For approved pipeline and storage projects, the right of eminent domain is automatically conferred by section 7(h) of the NGA

Authority issued to import / export projects (including LNG terminals) under Section 3 of the NGA does NOT include eminent domain

The certificate is valid for the life of the project (i.e., the certificate never expires)

Abandonment of facilities must be approved by the Commission under section 7(b) of the NGA

# Is the FERC Final Decision Really Final?



Intervenors (i.e., those who have filed a formal motion to intervene) may seek rehearing of the FERC decision

The Commission may grant in full, grant in part, deny in part or deny in full any rehearing requests

If Intervenors are not satisfied the result of FERC's Order on Rehearing, they may seek judicial review at the Court of Appeals.

If not satisfied with the Appellate Decision, parties may seek judicial review at the Supreme Court – this is a very

# State and Local Permits



FERC encourages cooperation between interstate pipelines and local authorities.

During the environmental review, staff works with state and local permitting agencies to identify and minimize conflicting requirements

If the Commission approves a project, state or local permits must be consistent with the conditions of any FERC certificate

State and local agencies may not prohibit or unreasonably delay the construction or operation of facilities approved by the Commission

# The Environmental Review Process



# National Environmental Policy Act



Is the project categorically excluded?

- Projects with little or no impact (e.g., sale of pipe or abandonment in place)

Environmental Assessment or Environmental Impact Statement

- Level of environmental impacts
  - significant (EIS) or less than significant (EA)
- Applicant-proposed mitigation
- Anticipated public controversy

# Phases of Project Review



## Project Preparation

- The applicant working on its own

## Pre-Filing

- FERC staff working with the applicant and stakeholders before the filing of an application

## Application Review

- FERC staff working with the applicant and stakeholders after the filing of an application

## Post-Authorization

- FERC staff working with the applicant and stakeholders to ensure compliance with conditions to the FERC approval



# The Pre-Filing Process

Voluntary for pipelines, required for LNG facilities

Used for projects requiring an EIS, or an EA where controversy is likely

Normally requires the applicant to hire and fund a contractor to prepare EA/EIS

- Staff selects contractor from list of three provided by the applicant
- Contractor works solely under Staff's direction

# Goals of the Pre-Filing Process



Early identification and resolution of environmental issues

More direct interaction between FERC staff and stakeholders

Interactive, concurrent NEPA/permitting process, no shortcuts

FERC staff are advocates of the Process, not the Project!

Goal of “no surprises” when application is filed

# FERC Staff Pre-Filing Activities



Identify affected parties:

- landowners
- agencies
- other stakeholders

Facilitate identification of issues

Identify study needs

Facilitate resolution of issues

- Issue scoping notice
- Examine alternatives
- Arrange and attend site visits and meetings
- Initiate preparation of preliminary NEPA document
- Review draft resource reports

# Public Involvement During Pre-Filing Review



## The FERC Process

Project sponsor holds  
Open Houses; FERC  
staff participates

Issue Notice of Intent to  
Prepare the NEPA  
Document (i.e., scoping)

Hold scoping meetings

## Public Input

- Contact the project sponsor w/questions, concerns; contact FERC
- Send letters expressing concerns about environmental impact
- Attend scoping meetings

# The Environmental Report

## (13 Resource Reports)



- |                             |  |
|-----------------------------|--|
| General Project Description | 8. Land Use, Recreation & Visual Impacts   |
| Water Use & Quality         | 9. Air & Noise Quality                     |
| Fish, Wildlife & Vegetation | 10. Alternatives                           |
| Cultural Resources          | 11. Reliability & Safety                   |
| Socioeconomics              | 12. PCB Contamination (for pipelines only) |
| Geological Resources        | 13. LNG Engineering & Design Details       |
| Soils                       |  |

# Public Involvement During Application Review



## The FERC Process

Issue Notice of the Application

Issue Notice of Availability of the DEIS

Hold Public Meetings on DEIS

Issue a Commission Order

## Public Input

- File an Intervention; register for e-subscription
- File comments on the adequacy of DEIS
- Attend public meetings to give comments on DEIS
- Interveners can file a request for rehearing of the Commission Order

# Timelines: Traditional vs. Pre-Filing Process



# Working Together



Pre-filing works when all stakeholders participate in the process

Benefits to FERC

Benefits to the stakeholders

Coordination with other permitting agencies

- Federal agencies
- State agencies
- Local agencies

# After FERC Approval...



Staff ensures compliance with any conditions to the approval

Staff conducts regular inspections during and construction and restoration

Opportunities still exist for minor route adjustments per landowner needs

- Cannot affect other landowners
- Cannot impact sensitive environmental resources

# Why Gas? Why Now?

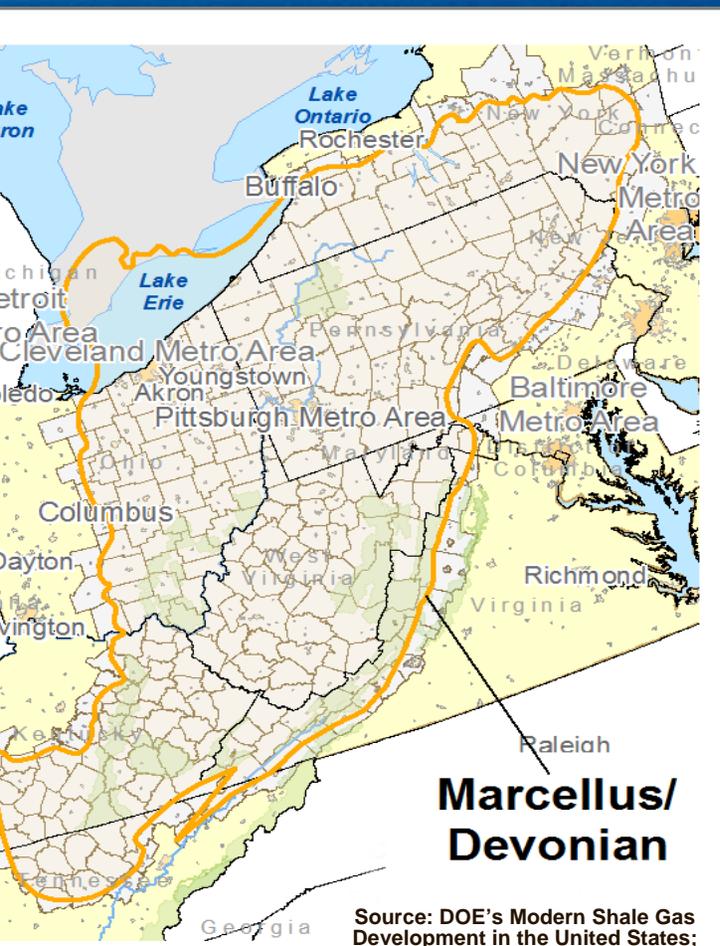


Projects in Pennsylvania

Project drivers

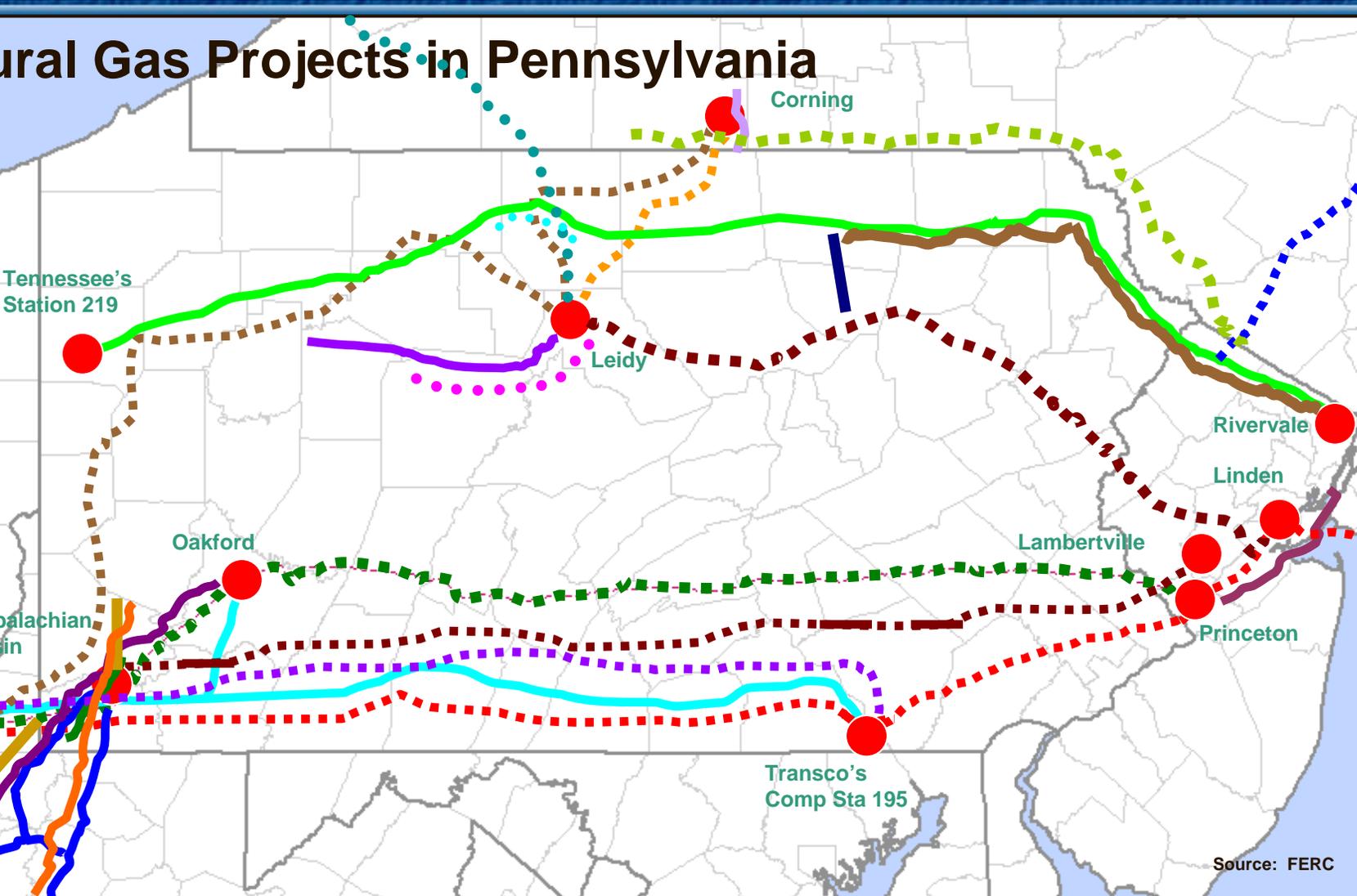
- Market
- Supply

# Marcellus Shale in the Appalachian Basin



- Spans 6 states in the northeastern U.S.; covers 95,000 square miles
- Amount of gas in place is estimated to be up to 1,500 Tcf
- Recoverable resources estimated to be 262 Tcf
- Thickness ranges from 50 ft to 200 ft
- As of 10/08, a total of 518 wells permitted in PA; 277 drilled
- Depth of production from 4,000 ft to 8,500 ft
- Average well spacing is 40 to 160 acres

# Natural Gas Projects in Pennsylvania



Source: FERC

## Approved or Pending Projects

- Appalachian Expansion (NiSource)
- 300 Exp (Tennessee)
- Source/MarkWest & NiSource
- Edge, TIME 3, TEMAX (TETCO)
- Appalachian Gateway (Dominion)
- N, R & I Project (NFG)

- Sunrise Project (Equitrans)
- TEAM 2012 Project (TETCO)
- Northeast Upgrade (Tennessee)
- Marc I (Central NY)

## Potential Projects

- NiSource & UGI
- NYMarc (Iroquois)
- New Penn (NiSource)
- REX Northeast Express

- Appalachia to Market & TEAM 2013 (TETCO)
- Northeast Supply (Williams)\*
- Marcellus to Manhattan (Millennium)
- Keystone (Dominion/Williams)
- Northeast Supply Link (Tennessee)

# Questions



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