



December 16, 2016

VIA EMAIL

Hon. Kathleen Burgess
Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

95 Allens
Creek Road
Suite 300

Rochester, NY
14618-3251

Application: CM-5 Article VII Application – Case 16-T-0473
Applicant: RG&E
Regarding: Tax Id. #s 159.03-1-9.11

Dear Secretary Burgess:

585.241.5999

Fax:

585.241.5989

The law firm of Evans & Fox LLP represents John A. Hellaby and Joseph D. Hellaby (collectively, the “Hellabys”). On behalf of the Hellabys, I submit this comment letter in response to RG&E’s application (Case 16-T-0473) to build a new natural gas pipeline in the Town of Chili.

John A. Hellaby and Joseph D. Hellaby own the real property more commonly known as 816 Ballantyne Road, in the Town of Chili, New York with Tax Id. 159.03-1-9.11 (the “Hellaby Farm”). The Hellaby Farm is approximately 62.5 acres in size, of which approximately 35 acres is used for agricultural purposes. This land has been farmed for well over fifty (50) years. Initially, the Hellaby Farm was used as a horse farm and for raising livestock. In the mid-1960s the owners switched to planting crops. The last few years, soybeans and winter wheat are among the crops that have been planted on the Hellaby Farm.

To the immediate east, Joseph D. Hellaby and his wife own and operate a “Christmas” tree farm. “Christmas” trees have about a seven to ten year growth cycle which is requiring the farm to plant more trees to meet current demand. As a result, my clients have agreed that Joseph D. Hellaby may expand his tree farm by planting “Christmas” trees on the Hellaby Farm. In addition to the growing of “Christmas” trees, my clients intend use the Hellaby Farm for hay farming.

RG&E, however, has proposed to construct a portion of a new gas line (CM-5) right through the agricultural fields on my clients’ property. At a minimum, the gas easement will permanently remove approximately 1.69 acres of active agricultural land from production and potentially another 1.13 acres as a result of the temporary easement. RG&E’s proposed easement explicitly states that RG&E reserves the right to “trim, cut and remove...trees and other vegetation” within the right of way and “such other trees, vegetation, growth...elsewhere on the property” that may interfere with RG&E’s rights under the easement. As a result, my clients will not plant, and cannot lease to another farmer, the areas subject to the permanent and temporary easements given the risk

Hon. Kathleen Burgess
December 16, 2016
Page 2

that RG&E may need to access the gas line, and in doing so, RG&E may cause damage to the crops and to the soil in those areas.

Also, the proposed location of the gas line does not run along the tree line, and instead cuts off two separate “triangle” shaped parcels from the rest of the Hellaby Farm. These areas, while potentially tillable, would be too small for my clients to efficiently use for agriculture. As a result, my clients will lose an additional 6 acres of active agricultural land. Altogether, my clients stand to lose approximately 9 acres of agricultural land as a result of this project. To avoid this unnecessary impact on agriculture, RG&E should move the gas line further north on the Hellaby Farm into and/or along the tree line.

At the public hearing in Chili, Mr. Bovee, Project Manager for RG&E, stated that RG&E considered three (3) other routes and conducted feasibility studies for each route. My clients question why RG&E is not sharing these other routes and studies with the public. We understand that RG&E is not obligated to do so in this case, but my clients ask that they do as a sign of good faith and because a good neighbor would do so. Without this disclosure my clients and other members of the community question what other considerations such as cost, ownership of the underlying properties along the other routes, etc. caused RG&E to pick the proposed route. If RG&E chose this route because of cost but another route is more appealing to the community, then the Commission should take that into consideration. My clients strongly believe that RG&E should not avoid a self-created hardship by picking the cheapest route available.

Lastly, my clients are extremely concerned with the safety aspect of this pipeline. At the public hearing Mr. Bovee stated that RG&E operates thousands of miles of pipeline but has never had a safety problem. A quick internet search, however, yields numerous stories of gas line explosions over the past year, some of which are quite chilling. If RG&E does in fact construct this new 24 inch pipeline over my clients’ property, disconcerting news articles now become a potential reality for my clients. My clients are eager to learn more about what safety precautions RG&E will take and what precautions the Commission will require.

My clients would like to thank the Commission for the opportunity to share their concerns as affected property owners and look forward to working with RG&E and the Commission on solutions to these issues.

Very truly yours,



Stephen G. Bennett

cc: John D. Hellaby and Joseph D. Hellaby (via email)