No. 19-42

In the
# Supreme Court of the United States

NORTH CAROLINA UTILITIES COMMISSION,
*Petitioner*,

v.

FEDERAL ENERGY REGULATORY COMMISSION,
*Respondent.*

**On Petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit**

## Brief in Opposition for Respondent Transcontinental Gas Pipe Line Company, LLC


Stephen A. Hatridge,
Vice President and
Assistant General Counsel
Nicole M. Turpen,
Managing Attorney
Transcontinental Gas
Pipe Line Company, LLC
P.O. Box 1396
Houston, Texas 77251
(713) 215-2000
Stephen.A.Hatridge@Williams.com
Nicole.Turpen@Williams.com

Michael J. Thompson
*Counsel of Record*
Andrew T. Swers
Wright & Talisman, P.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005-3802
(202) 393-1200
thompson@wrightlaw.com
swers@wrightlaw.com

*Counsel for Respondent*
*Transcontinental Gas Pipe Line Company, LLC*



Becker Gallagher · Cincinnati, OH · Washington, D.C. · 800.890.5001

## QUESTIONS PRESENTED

1. Did the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) err by requiring petitioner, a state agency, to demonstrate injury in fact, or do *Massachusetts v. Environmental Protection Agency*, 594 U.S. 497 (2007) and *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992) offer alternative criteria to establish standing for state litigants under Article III of the U.S. Constitution?

2. Did the D.C. Circuit err by not addressing in its per curiam judgement petitioner's argument that, as a state agency, it was entitled to "solicitude" under *Massachusetts*, when the Court had already determined that petitioner failed to demonstrate injury in fact and therefore lacked standing under Article III?

## PARTIES TO THE PROCEEDING

Petitioner in this case is the North Carolina Utilities Commission (NCUC), which was the petitioner in the D.C. Circuit. Respondent is the Federal Energy Regulatory Commission (FERC or Commission), which was the respondent in the D.C. Circuit. Transcontinental Gas Pipe Line Company, LLC (Transco) was an intervenor in the D.C. Circuit, supporting FERC. The New York State Public Service Commission participated as an intervenor in the D.C. Circuit in support of NCUC. Also, Oglethorpe Power Corporation was an intervenor in one of the consolidated dockets in the D.C. Circuit.

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of the Rules of the Supreme Court of the United States, Transcontinental Gas Pipe Line Company, LLC, (Transco) hereby provides this Disclosure Statement.

1. Transco is a limited liability company organized under the laws of the State of Delaware. Transco's principal place of business is 2800 Post Oak Boulevard, Houston, TX 77056-6106.

2. Transco is an indirect, wholly owned subsidiary of The Williams Companies, Inc., a publicly traded Delaware corporation.

3. The general nature and purpose of Transco is the transportation of natural gas in interstate commerce by means of its interstate natural gas transmission pipeline system. Transco is the interstate natural gas pipeline company applicant in the Federal Energy Regulatory Commission proceedings that led to the decision regarding which the petitioner in this matter seeks a writ of certiorari.

## STATEMENT OF RELATED PROCEEDINGS

*North Carolina Utilities Commission v. FERC*, Nos. 18-1018, 18-1019, 18-1020 (consolidated) (D.C. Cir.) (judgment entered April 3, 2019, mandate issued June 3, 2019).

*Transcontinental Gas Pipe Line Co.*, Federal Energy Regulatory Commission Docket Nos. CP15-138-000, -001, and -004, 158 FERC ¶ 61,125 (certificate order issued February 3, 2017); 161 FERC ¶ 61,250 (2017) (order on rehearing issued December 6, 2017).

*Transcontinental Gas Pipe Line Co.*, Federal Energy Regulatory Commission Docket Nos. CP15-117-000 and -001, 156 FERC ¶ 61,092 (certificate order issued August 3, 2016); 161 FERC ¶ 61,211 (order denying rehearing issued November 21, 2017).

*Transcontinental Gas Pipe Line Co.*, Federal Energy Regulatory Commission Docket Nos. CP15-118-000 and -001, 156 FERC ¶ 61,022 (certificate order issued July 7, 2016); 161 FERC ¶ 61,212 (order denying rehearing issued November 21, 2017).

There are no additional proceedings in any court that are directly related to this case.

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## OPINIONS BELOW

The opinion of the D.C. Circuit (App. to Pet. for Cert. 1a-4a) was not published, in accordance with D.C. Circuit Rule 36. It is available at *North Carolina Utilities Commission v. FERC*, 761 Fed. App'x. 9 (D.C. Cir. 2019) (*NCUC*). The orders of the Federal Energy Regulatory Commission (FERC or Commission) are reported at:

(1) *Transcontinental Gas Pipe Line Co.*, 156 FERC ¶ 61,092 (2016) (App. to Pet. for Cert. 5a-80a);

(2) *Transcontinental Gas Pipe Line Co.*, 161 FERC ¶ 61,211 (2017) (App. to Pet. for Cert. 81a-90a);

(3) *Transcontinental Gas Pipe Line Co.*, 156 FERC ¶ 61,022 (2016) (App. to Pet. for Cert. 91a-129a);

(4) *Transcontinental Gas Pipe Line Co.*, 161 FERC ¶ 61,212 (2017) (App. to Pet. for Cert. 130a-135a);

(5) *Transcontinental Gas Pipe Line Co.*, 158 FERC ¶ 61,125 (2017) (App. to Pet. for Cert. 136a-273a); and

(6) *Transcontinental Gas Pipe Line Co.*, 161 FERC ¶ 61,250 (2017) (App. to Pet. for Cert. 274a-344a).

## JURISDICTION

The judgment of the D.C. Circuit was entered on April 3, 2019. The petition for a writ of certiorari was filed on July 2, 2019. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

## STATEMENT OF THE CASE

NCUC has never identified any ratepayer or customer in North Carolina who would be harmed by the recourse rates approved in FERC's orders granting certificates of public convenience and necessity to construct and operate Transco's Atlantic Sunrise, Dalton, and Virginia Southside expansion projects. Nonetheless, NCUC appealed FERC's orders granting certificates for these projects. The D.C. Circuit dismissed NCUC's petitions for review because NCUC "failed to provide sufficient evidence to establish injury in fact" and therefore, lacked standing. *NCUC* at *10 (App. to Pet. for Cert. 3a).

### A. Transco's Expansion Projects

In March 2015, Transco filed applications for certificates of public convenience under section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c), for three proposals to expand its pipeline system: the Virginia Southside Expansion Project II, the Dalton Expansion Project, and the Atlantic Sunrise Project. These projects generally are designed to ship natural gas produced from the Marcellus Shale region of Pennsylvania to various delivery points in the southern United States. The Virginia Southside Expansion Project II provides transportation service from pipeline interconnections in New Jersey and Virginia to a

delivery point in Virginia, serving a single Virginia electricity generation plant. *Transcontinental Gas Pipe Line Co.*, 156 FERC ¶ 61,022, at P 4 (2016) (App. to Pet. for Cert. 92a). The Dalton Expansion Project transports gas from a pipeline interconnection in New Jersey to delivery points in Mississippi and Georgia, and the capacity is fully subscribed by two Georgia utilities. *Transcontinental Gas Pipe Line Co.*, 156 FERC ¶ 61,092, at PP 4-5 (2016) (App. to Pet. for Cert. 8a). The Atlantic Sunrise Project transports gas from northern Pennsylvania to Alabama and Florida. *Transcontinental Gas Pipe Line Co.*, 158 FERC ¶ 61,125, at P 4 (2017) (App. to Pet. for Cert. 137a).

NCUC has not shown that any of the nine Atlantic Sunrise shippers will sell or deliver gas in North Carolina. All three expansion projects are incrementally priced, meaning that only the shippers using the expansion capacity of each particular project will pay rates that include the costs of the incremental capacity created by that project. *See "Complex" Consol. Ed. Co. of N.Y., Inc. v. FERC*, 165 F.3d 992, 995 n.2 (D.C. Cir. 1999) (explaining incremental pricing of pipeline expansion services). The incremental capacity created by each of these expansion projects is fully subscribed by shippers that have agreed to pay negotiated rates under long-term, firm transportation contracts. None of these contracts is for shipment of gas to North Carolina. And, because all of the capacity created by the expansion projects is fully subscribed under negotiated rates, no shipper will pay the "recourse" rates approved for such projects. The recourse rates were the sole focus of NCUC's challenge to FERC's orders.

### B. Proceedings Below

NCUC regulates the retail rates for natural gas service paid by North Carolina customers. As NCUC explained in its initial brief before the D.C. Circuit, "[i]ts sphere of interest includes the rates that North Carolina public utilities, including local distribution companies, pay to interstate natural gas pipelines because those costs are passed on to North Carolina customers." Final Initial Brief of Petitioner at 27, *N.C. Utils. Comm'n v. FERC* (D.C. Cir., Sept. 4, 2018) (Nos. 18-1018, et al.) (citing N.C. Gen. Stat. §§ 62-32, 62-36.01, 62-133.4). Under FERC policy, pipelines may negotiate rates with shippers so long as the shippers have the opportunity to take service at cost-based "recourse" rates published in the pipeline's tariff. *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134, at P 2 (2003). The shippers' option to take service at the cost-based recourse rate forecloses the pipeline's ability to exercise market power in rate negotiations. *Id.* NCUC, along with another state regulatory agency, protested Transco's certificate applications on the ground that the initial recourse rates proposed in the certificate applications were based on an allegedly excessive pre-tax rate of return.

The Commission denied NCUC's challenges. *Transcontinental Gas Pipe Line Co.*, 158 FERC ¶ 61,125 (2017) (App. to Pet. for Cert. 136a-273a), *order on reh'g*, 161 FERC ¶ 61,250 (2017) (App. to Pet. for Cert. 274a-344a); *Transcontinental Gas Pipe Line Co.*, 156 FERC ¶ 61,092 (2016) (App. to Pet. for Cert. 5a-80a), *order denying reh'g*, 161 FERC ¶ 61,211 (2017)

(App. to Pet. for Cert. 81a-90a); *Transcontinental Gas Pipe Line Co.*, 156 FERC ¶ 61,022 (2016) (App. to Pet. for Cert. 91a-129a), *order denying reh'g*, 161 FERC ¶ 61,212 (2017) (App. to Pet. for Cert. 130a-135a). The Commission applied the same reasoning to all three proceedings, holding that the proposed pre-tax return was consistent with longstanding FERC precedent and this Court's decision in *Atlantic Refining Co. v. Public Service Commission of New York*, 360 U.S. 378 (1959). *See, e.g.*, *Transcontinental Gas Pipe Line Co.*, 158 FERC ¶ 61,125, at PP 38-41 (App. to Pet. for Cert. 159a-163a).

Despite the fact that no utility subject to the regulatory oversight of NCUC, nor any North Carolina customer, will pay, directly or indirectly, the recourse rates approved by the Commission for these three expansion projects, and despite the fact that there is no evidence that any of the capacity of these expansion projects will serve North Carolina customers, NCUC appealed FERC's orders granting the certificates of public convenience and necessity. Both FERC and Transco challenged NCUC's standing to obtain judicial review of FERC's orders.

In a per curiam judgment issued on April 3, 2019, the D.C. Circuit dismissed NCUC's petition for review, finding that NCUC lacked standing because it "failed to provide sufficient evidence to establish injury in fact." *NCUC* at *10 (App. to Pet. for Cert. 3a). The D.C. Circuit pointed out that, "with respect to the Dalton Expansion or Virginia Southside Expansion Projects, [NCUC] offer[ed] no evidence of injury." *Id.* at *11 (App. to Pet. for Cert. 3a). Regarding the Atlantic

Sunrise Project, the D.C. Circuit ruled that NCUC failed to show a "'substantial probability' that any capacity . . . will flow into [North Carolina], nor ha[s] [NCUC] shown that any end-users in the[] state[] will pay higher rates as a result of the project." *Id.* (App. to Pet. for Cert. 3a) (quoting *Kan. Corp. Comm'n v. FERC*, 881 F.3d 924, 930 (D.C. Cir. 2018).

## ARGUMENT

NCUC's petition to this Court does not challenge the D.C. Circuit's judgment that NCUC "failed to provide sufficient evidence to establish injury in fact." *NCUC* at *10 (App. to Pet. for Cert. 3a). Indeed, NCUC premises its questions presented on, and does not contest, the D.C. Circuit's holding that NCUC failed to demonstrate injury in fact. Pet. for Cert. at i-ii. Since NCUC does not claim that this holding is incorrect, its sole argument to this Court is that, because it is a state agency that has a statutory procedural right to appeal a FERC action if aggrieved, it *does not have to demonstrate injury in fact. Id.* However, neither *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), nor *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007), on which NCUC principally relies, supports NCUC's claim that a State can meet the Article III standing requirements without showing it has suffered harm.

### A. Neither *Lujan* Nor *Massachusetts* Supports NCUC's Contention That a State May Exercise a Procedural Right to Challenge Agency Action Absent a Showing of Injury in Fact

In *Lujan*, this Court stated that "the core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III." *Lujan*, 504 U.S. at 560. Injury in fact is one of three factors constituting the "irreducible constitutional minimum of standing." *Id.* Such an injury must be "concrete and particularized" and "actual or imminent, not conjectural or hypothetical." *Id.* (citation omitted). The Court further recognized that each element of standing is "an indispensable part of the plaintiff's case" which "[t]he party invoking federal jurisdiction bears the burden of establishing." *Id.* at 561. As the D.C. Circuit's decision confirms and NCUC implicitly concedes, NCUC has failed to carry its burden to establish this "indispensable" aspect of its case. Accordingly, NCUC's petition could be denied on this ground alone.

Ignoring the unmistakable instruction of *Lujan*, NCUC focuses on the Court's statement that, "[t]he person who has been accorded a procedural right to protect his concrete interests can assert that right without meeting all of the normal standards for redressability and immediacy." Pet. for Cert. at 10-11 (quoting *Lujan*, 504 U.S. at 572 n.7). NCUC points out that the Natural Gas Act provides a party "aggrieved" by a FERC order with the right to obtain rehearing by the Commission and judicial review by the court of

appeals. Pet. for Cert. at 1, 4, 6, 11 (referencing 15 U.S.C. §§ 717r(a), (b) (App. to Pet. for Cert. 347a-349a)). However, as footnote seven in *Lujan* explains, the mere existence of a procedural right to challenge a government action does not mean any party may invoke that procedural right. The existence of a procedural right does not grant "standing for persons who have no concrete interests affected." *Lujan*, 504 U.S. at 572 n.7. The Court added that a party can exercise procedural rights "so long as the procedures in question are designed to protect some threatened concrete interest of his that is the ultimate basis of his standing." *Id.* at 573 n.8.

Contrary to NCUC's suggestion, nothing in *Massachusetts* changes these bedrock principles of Article III standing. In *Massachusetts*, the Court found that Massachusetts had standing to challenge the Environmental Protection Agency's denial of a rulemaking petition to regulate greenhouse gas emissions from new motor vehicles. In reaching this conclusion, the Court examined all three elements of Article III standing set forth in *Lujan*, including injury in fact. The Court determined that Massachusetts "has alleged a particularized injury in its capacity as a landowner" because it "owns a substantial portion of the state's coastal property," which is threatened by the rise in "global sea levels" associated with climate change. *Massachusetts*, 549 U.S. at 522 (citation omitted). Thus, "EPA's steadfast refusal to regulate greenhouse gas emissions presents a risk of harm to Massachusetts that is both 'actual' and 'imminent.'" *Id.* at 521 (quoting *Lujan*, 504 U.S. at 560). The harm

Massachusetts alleged was therefore integral to the Court's finding of standing.

NCUC's characterization of the D.C. Circuit's judgment below as "in direct conflict with this Court's decision in *Massachusetts,*" Pet. for Cert. at 7, is plainly incorrect. It is true that the Court stated, "the Commonwealth is entitled to special solicitude in our standing analysis" because it possesses a procedural right under the Clean Air Act to challenge the EPA's decision and because it has a "stake in protecting its quasi-sovereign interests." *Massachusetts*, 549 U.S. at 520. But, whatever "solicitude" the Court afforded Massachusetts, it clearly did not obviate or circumvent the Article III requirement that a State must allege an "actual," "imminent," and "concrete" injury as a predicate to exercising its procedural right under the Clean Air Act. *Massachusetts* does not suggest that a state litigant which has suffered no injury, such as NCUC, can exercise a procedural right to challenge an agency action simply because it is a State.

Indeed, NCUC itself cannot articulate the purpose for its petition without acknowledging that injury is necessary to its case. For example, NCUC states that *Massachusetts* "requires courts to afford State litigants special solicitude . . . to challenge federal agency actions that *negatively impact* the State[]." Pet. for Cert. at 7 (emphasis added). Likewise, "it is imperative that North Carolina be afforded access to federal courts to challenge FERC actions that *harm* North Carolina's . . . interests." *Id.* at 9 (emphasis added). Also, NCUC alleges the D.C. Circuit's decision "deprives a State litigant of access to federal courts to challenge federal

agency actions that *impact* the State's . . . interests." *Id.* at 12 (emphasis added). However, NCUC did not show any "negative impact," "harm," or "impact" to its interests because it failed to demonstrate that any of the capacity of Transco's expansion projects will serve North Carolina customers, or that North Carolina customers will pay higher rates as a result of any of the projects as FERC approved them. *NCUC* at *11 (App. to Pet. for Cert. 3a).

Importantly, NCUC neglects that the procedural right to appeal FERC orders under the Natural Gas Act—which it here invokes—is reserved for parties "aggrieved by an order issued by the Commission." 15 U.S.C. § 717r(b) (App. to Pet. for Cert. 348a-349a). To be "aggrieved," a party must satisfy the criteria for Article III standing. *City of Orrville v. FERC*, 147 F.3d 979, 985-86 (D.C. Cir. 1998). NCUC is not aggrieved because it has suffered no harm from FERC's orders. The fact that NCUC intervened in the underlying FERC proceedings does not confer Article III standing because "the constitutional requirement that [a petitioner] have standing kicks in" when "the petitioner later seeks judicial review." *Sierra Club v. EPA*, 292 F.3d 895, 899 (D.C. Cir. 2002); *see N.Y. Reg'l Interconnect, Inc. v. FERC*, 634 F.3d 581, 586 (D.C. Cir. 2001) ("[A] party does not acquire a 'direct stake in a litigation' simply by participating in antecedent administrative proceedings."); *City of Orrville*, 147 F.3d at 985 (same). Thus, the procedural right on which NCUC relies, of itself, requires that NCUC establish injury in fact.

NCUC attempts to obscure the lack of injury to any North Carolina gas customer or ratepayer by repeatedly pointing out that some of Transco's expansion facilities are located in North Carolina. *See, e.g.*, Pet. for Cert. at 2, 3, 5, 7, 9-10, 11, 12. While capacity created by Transco's expansion projects may flow through North Carolina, and a limited number of facilities in North Carolina were upgraded as part of the expansions, these facts do not indicate that anyone in North Carolina will pay, or be affected by, the rates negotiated by the shippers subscribing to this capacity or the recourse rates included in the certificates FERC issued. Because the services provided on the expansion facilities are incrementally priced, the expansion certificates do not affect the rates and services on other portions of Transco's system, including the portions that actually serve North Carolina.

NCUC challenged the FERC orders below based on an allegedly excessive pre-tax rate of return, asserting a *parens patriae* interest in protecting ratepayers under its jurisdiction from excessive rates. But NCUC did not allege that the physical presence of Transco's facilities within North Carolina affected any proprietary interest of the State, nor did it even allege that it is the proper North Carolina entity to assert any such proprietary interest. Thus, the *parens patriae* interest NCUC purported to assert clearly diverged from the proprietary interest in coastal land that the Court recognized in *Massachusetts*.

The D.C. Circuit did not err. Because NCUC did not establish injury, it lacked standing regardless of any "solicitude" under *Massachusetts*. In the absence

of injury in fact, there is no case or controversy under Article III. Thus, the Court need not examine here the nature of any solicitude that might be accorded to a State under *Massachusetts*.

### B. There Exists No Split Among the Circuits Concerning the Fundamental Requirement that a Petitioner Must Establish Injury in Fact

NCUC alleges that the Circuits are split on the meaning of *Massachusetts*, particularly the decision's impact on *parens patriae* standing. Pet. for Cert. at 12-14. NCUC also asserts that, "had the North Carolina Commission's appeal been addressed by the Fifth Circuit, instead of the District of Columbia Circuit, it is likely that North Carolina would not have been denied the ability to challenge FERC orders that directly impact its quasi-sovereign and *parens patriae* interests." *Id.* at 14. However, even putting aside NCUC's erroneous assertion of any impact to its interests, there is no split among the Circuits on the centrality of injury in fact to the standing analysis, regardless of whatever "solicitude" a State may be afforded.

The courts of appeals have uniformly required state litigants to demonstrate injury in fact, and none have indicated that solicitude under *Massachusetts* is a free pass to avoid the Article III standing criteria set forth in *Lujan*. *E.g.*, *Wyo. v. U.S. Dept. of Interior*, 674 F.3d 1220, 1238 (10th Cir. 2012) (solicitude does not exempt state petitioner from establishing injury); *Conn. v. Am. Elec. Power Co.*, 582 F.3d 309, 340-44 (2d Cir. 2009) (finding state litigants demonstrated both present and

future injury due to greenhouse gas emissions), *jurisdiction aff'd by an equally divided Court*, 564 U.S. 410, 420 (2011); *Del. Dep't of Nat. Res. & Envtl. Control v. FERC*, 558 F.3d 575, 579 n.6 (D.C. Cir. 2009) (under the Natural Gas Act, "special solicitude does *not* eliminate the state petitioner's obligation to establish concrete injury"). Even in the case NCUC highlights as indicative of a Circuit split, the U.S. Court of Appeals for the Fifth Circuit (Fifth Circuit) applied the traditional standing criteria and found that Texas demonstrated injury in fact. *Tex. v. U.S.*, 809 F.3d 134, 155 (5th Cir. 2015), *aff'd by an equally divided Court*, 136 S. Ct. 2271, 2272 (2016). Because the *Texas* Court expressly required injury sufficient to confer Article III standing, it is far from likely that NCUC's appeal would have fared differently in the Fifth Circuit.

NCUC further notes, Pet. for Cert. at 13, that the U.S. Court of Appeals for the Second Circuit (Second Circuit), in *Connecticut*, questioned whether *Massachusetts* "muddled" the distinction between State proprietary and *parens patriae* standing, pointing out that this Court "analyzed state standing . . . in Massachusetts' capacity as a property owner, not as a quasi-sovereign." *Connecticut*, 582 F.3d at 337-38. But the Second Circuit is hardly alone in its view that the solicitude afforded by *Massachusetts* is limited to state litigants that sue to protect their proprietary interests. *See In re Trump*, 928 F.3d 360, 377 (4th Cir. 2019) (stating that, in *Massachusetts*, "the Supreme Court relied on Massachusetts's own 'particularized injury in its capacity as a landowner'"); *Gov't of Manitoba v. Bernhardt*, 923 F.3d 173, 182 (D.C. Cir. 2019) ("Massachusetts did not sue in its *parens patriae*

capacity."); *Ctr. for Biological Diversity v. U.S. Dep't of the Interior*, 563 F.3d 466, 476 (D.C. Cir. 2009) ("[I]t was critical that Massachusetts sought to assert its own rights as a state . . . and was not seeking to protect the rights of its citizens."). However, the Court need not delve into this issue here, because NCUC has shown no injury at all. For the purposes of NCUC's petition, the Court need only recognize that there is no divergence in the lower courts regarding a state agency's need to establish injury in fact to demonstrate Article III standing.

### C. Petitioner Failed to Raise Below the Questions It Now Presents to this Court

An additional ground for denying NCUC's petition is that NCUC did not argue before the D.C. Circuit that, under *Massachusetts*, a State has standing even if it fails to demonstrate injury. Rather, NCUC argued below that "affording special solicitude to NCUC means, at a minimum, that close calls as to whether NCUC met each prong of the traditional standing test should be decided in NCUC's favor." Final Reply Brief of Petitioner at 20, *N.C. Utils. Comm'n v. FERC* (D.C. Cir., Sept. 4, 2018) (Nos. 18-1018, et al.). The D.C. Circuit did not find that this case was a "close call," in which state solicitude would tip the balance in favor of NCUC, and the facts would not support such a conclusion. NCUC did not argue below that, in this situation, the D.C. Circuit should rule that NCUC has standing notwithstanding the *absence* of injury. NCUC's failure to clearly articulate this argument below is fatal to its petition for certiorari. *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec.*, 549 U.S.

443, 455 (2007) ("[W]e ordinarily do not consider claims that were neither raised nor addressed below.").

## CONCLUSION

For the foregoing reasons, the Court should deny the petition for a writ of certiorari.

Respectfully submitted,

Michael J. Thompson
*Counsel of Record*
Andrew T. Swers
Wright & Talisman, P.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005-3802
(202) 393-1200
thompson@wrightlaw.com
swers@wrightlaw.com

Stephen A. Hatridge,
Vice President and
Assistant General Counsel
Nicole M. Turpen,
Managing Attorney
Transcontinental Gas Pipe Line Company, LLC
P.O. Box 1396
Houston, Texas 77251
(713) 215-2000
Stephen.A.Hatridge@Williams.com
Nicole.Turpen@Williams.com

*Counsel for Respondent*
*Transcontinental Gas*
*Pipe Line Company, LLC*