

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

Algonquin Gas Transmission, LLC) Docket No. CP16-9-012
Maritimes & Northeast Pipeline, LLC)

**INITIAL BRIEF
OF THE
NORTHEAST GAS ASSOCIATION**

The Northeast Gas Association (“NGA” or “Northeast Gas”)¹ hereby submits this Initial Brief in the above-captioned proceeding concerning Algonquin Gas Transmission, LLC (“Algonquin”) and Maritimes & Northeast Pipeline, LLC’s Atlantic Bridge Project. This Initial Brief is submitted pursuant to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Order Establishing Briefing Schedule issued in this proceeding on February 18, 2021.² The Commission has established a briefing schedule for purposes of evaluating “concerns expressed regarding public safety”³ associated with the Atlantic Bridge Project, and, more specifically, the Weymouth Compressor Station.

The Northeast Gas Association and its members are committed to the safe and reliable delivery of natural gas to millions of customers in the Northeast region, and to ensuring compliance with all public safety and environmental regulations. We welcome the opportunity to express our position that the continued operation of the Weymouth Compressor Station is appropriate,

¹ NGA is a regional trade association that focuses on education and training, technology research and development, operations, planning, and increasing public awareness of natural gas in the Northeast U.S. NGA represents natural gas distribution companies, transmission companies, liquefied and compressed natural gas suppliers, and associate member companies. Its member companies provide natural gas service to over 13 million customers in 9 states (CT, ME, MA, NH, NJ, NY, PA, RI, VT).

² *Algonquin Gas Transmission, LLC*, 174 FERC ¶ 61,126 (Feb. 18, 2021) (“Briefing Order”).

³ *Id.* at 1.

beneficial to the regional natural gas and energy networks, and consistent with public safety and environmental requirements. For the reasons discussed herein, the Northeast Gas Association urges the Commission against revisiting its orders in this proceeding. Instead, the Commission should permit the Weymouth Compressor Station to remain in service, subject to existing conditions.

I. INTRODUCTION AND BACKGROUND

Northeast Gas is a non-profit trade association based in Massachusetts (with a separate office in New Jersey) that represents the local natural gas distribution companies (LDCs) in nine Northeast states (CT, ME, MA, NH, NJ, NY, PA, RI, VT). Northeast Gas also represents interstate natural gas transmission companies that serve the region, as well as liquefied natural gas (LNG) import terminal operators, and other associated industry companies.

Our Association is directly interested in the reliable and safe operations of the regional natural gas industry. We administer a “Gas Supply Task Force” during the winter months (and potentially all year, should circumstances warrant), that monitors the deliverability, capability, and operability of the natural gas delivery system, to ensure reliable delivery to the region’s millions of natural gas customers. The Task Force is comprised of LDCs, pipelines, LNG terminal operators, and providers of LNG and compressed natural gas (CNG) trucking services (i.e., “virtual pipelines”). The Task Force provides updates on its meetings to state energy officials and to the three Regional Transmission Operators located in our region.

We also co-administer an “Electric-Gas Operations Committee” (EGOC) with ISO New England, which includes natural gas LDCs, interstate pipelines, LNG and CNG providers, NY ISO, PJM, NPCC, liquid fuel operators, power generators, and other market participants. The EGOC “promotes greater regional reliability of the electric and natural gas systems through improved education, understanding, communications, and coordination.” It was established in 2004 in recognition of the significant role that natural gas plays in power generation in the region.

The availability and operability of the region’s natural gas infrastructure remains of paramount concern and of direct interest to our Association and its members. It is a challenge to add any new energy infrastructure in this region, including new natural gas infrastructure. Each project goes through intensive review, appropriately, prior to advancement. Each project must meet federal and state standards and requirements.

Each part of the natural gas system in this region is valuable and essential to overall system capability and reliability, including the Weymouth Compressor Station. We urge its continued operation.

II. RESPONSE TO QUESTIONS POSED IN THE BRIEFING PAPER

The Briefing Order posed four questions for consideration regarding the Weymouth Compressor Station.⁴ Northeast Gas responds here to the following two questions posed in the Briefing Order: (1) in light of the concerns express regarding public safety, is it consistent with the Commission’s responsibilities under the NGA to allow the Weymouth Compressor Station to

⁴ Briefing Order at P 2.

enter and remain in service; and (2) what would the consequences be if the Commission were to stay or reverse the Authorization Order?⁵ We respectfully reserve the right to address additional questions in our Reply Brief.

Our essential view is that an order staying or reversing the Certificate Order and/or Authorization Order would result in unwarranted and adverse impacts, and would represent an unexplained departure from the Commission's precedent in the finality of such decisions and in relying on the expertise and appropriate jurisdiction of other federal and state agencies. For these reasons, we respectfully and strongly urge the Commission not to revisit the Certificate Order or Authorization Order.

1. In light of the concerns expressed regarding public safety, is it consistent with the Commission's responsibilities under the Natural Gas Act (NGA) to allow the Weymouth Compressor Station to enter and remain in service?

Northeast Gas submits that the answer to this question is "yes."

In a separate filing, the New England LDCs provide substantial analysis of the certificate proceeding for the entire Atlantic Bridge Project and more specifically the associated Weymouth Compressor Station. We refer the Commission to that filing for full context but wish to highlight several key points elucidated therein that encapsulate our position as well.

⁵ *Id.*

The Commission's authorization for the Weymouth Compressor Station began with the Certificate Order granting authorization for Algonquin and Maritimes to construct and operate the Atlantic Bridge Project, issued under NGA section 7(c). The Certificate Order states as follows:

Based on the benefits the project will provide, the lack of adverse effects on existing customers and other pipelines and their captive customer, and the minimal adverse effects on landowners and surrounding communities, the Commission finds that Algonquin and Maritimes' proposals are consistent with the Certificate Policy Statement. Based on this finding and the environmental law review . . . the Commission finds that the public convenience and necessity require approval and certification of the Atlantic Bridge Project under section 7 of the NGA, subject to the environmental and other conditions in this order.⁶

The Commission's environmental review of the Atlantic Bridge Project included a thorough review of public safety concerns regarding the Weymouth Compressor Station. The Commission noted that the Environmental Assessment (EA) for the proposed project "fully considered impacts of the project on air and water quality, health, safety, property values, odors and noise."⁷ The EA addressed all substantive issues raised during the scoping period, which included proximity to homes, schools and recreation areas, as well as safety, cumulative impacts and alternatives.⁸ Among other findings, the Commission addressed concerns over the cumulative impact of natural gas production,⁹ socioeconomics,¹⁰ environmental justice,¹¹ air quality,¹² and noise.¹³ The Commission also specifically addressed concerns over the reliability and safety of

⁶ Certificate Order at P 31, citing *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

⁷ *Id.* at P 18.

⁸ *Id.* at PP 51-52.

⁹ *Id.* at PP 115-122.

¹⁰ *Id.* at PP 174-184.

¹¹ *Id.* at PP 185-189.

¹² *Id.* at PP 194-216.

¹³ *Id.* at PP 217-224.

the proposed project, including concerns over the siting of a high-pressure pipeline in an urban or developed setting.¹⁴

The Commission also explained that the U.S. Department of Transportation – Pipeline and Hazardous Materials Safety Administration (“PHMSA”), not the Commission, has responsibility for addressing and ensuring compliance with ongoing safety measures. For example, the Certificate Order discusses the EA explanation that “PHMSA is responsible for prescribing pipeline safety standards” and “pursuant to PHMSA’s regulations, Algonquin will develop an Emergency Response Plan specific to the Weymouth Compressor Station prior to placing it into service.”¹⁵ In response to concerns that the EA failed to address the specific elements of Algonquin’s integrity management plan that applied to the Weymouth Compressor Station, the Commission clarified that the Weymouth Compressor Station was covered by PHMSA’s regulation of pipelines.¹⁶ The Commission also advised that “the integrity management program is a requirement of PHMSA’s regulations, and as such, PHMSA enforced compliance and applicability of specific measures” and that Algonquin had committed to complying with applicable PHMSA regulations.¹⁷ Further, Algonquin “committed to design, install, inspect, test, construct, operate, replace and maintain” the Weymouth Compressor Station in accordance with PHMSA safety standards.¹⁸

¹⁴ *Id.* at PP 225-238.

¹⁵ *Id.* at P 183. *See also* Certificate Order at P 226 (noting PHMSA’s “role in the development of safety regulations for the design and operation of natural gas pipeline facilities.”)

¹⁶ *Id.* at P 227.

¹⁷ *Id.*; *see also* Certificate Order at P 228 (finding that “Algonquin has committed to complying with PHMSA regulations, and PHMSA is responsible for ensuring compliance with its regulations.”).

¹⁸ *Id.* at P 230.

On the basis of the record and in consideration of concerns expressed, the Commission unanimously approved the certificate of public convenience and necessity for the Atlantic Bridge Project, including the Weymouth Compressor Station, conditioned as set forth in the Certificate Order. The Commission upheld its determinations on rehearing.

The U.S. Court of Appeals for the D.C. Circuit upheld the Certificate Order.¹⁹ Among other rulings, the Court found that the Commission considered each safety risk that had been identified by challengers.²⁰ Thus, the Court has confirmed that in granting the NGA section 7(c) certificate, the Commission thoroughly considered and addressed concerns regarding public safety.

The Commission should not rescind its decision to permit the Weymouth Compressor Station to be placed into service. Instead, the Weymouth Compressor Station should be permitted to remain in service, subject to the conditions in the Certificate Order. The Certificate Order included a thorough review of concerns regarding potential adverse impacts to public safety posed by the Weymouth Compressor Station.

Like the New England LDCs, we urge the Commission against infringing upon the expertise of other federal and state agencies.²¹ In its Certificate Order, the Commission relied upon PHMSA's expertise and the fact that the Applicants would be required to comply with PHMSA's regulations and requirements regarding public safety. The Commission specifically noted that PHMSA is responsible for "administering the national regulatory program to ensure the safe transportation of natural gas and other hazardous materials by pipeline" and that "the

¹⁹ *Town of Weymouth, Massachusetts*, No. 17-1135, 2018 WL 6921213 (D.C. Cir. Dec. 27, 2018) (unpublished opinion).

²⁰ *Id.*

²¹ See Commissioner Danly's dissent to the Briefing Order at P 31 ("The Commission's long-standing practice is to rely on PHMSA to regulate pipeline safety and the EPA, or its state delegated agency, to regulate air emissions.").

Commission may appropriately rely on PHMSA’s expertise . . .”²² The Commission further observed that “PHMSA is responsible for prescribing pipeline safety standards” and “pursuant to PHMSA’s regulations, Algonquin will develop an Emergency Response Plan specific to the Weymouth Compressor Station prior to placing it into service.”²³ In addressing safety and reliability, the Commission determined that “based on Algonquin’s commitment to comply with these regulations, we find that the siting of these facilities will not result in a significant increase in risk to the nearby public” and clarified that the integrity management program for the Weymouth Compressor Station is under PHMSA’s regulations “and, as such, PHMSA enforces compliance and applicability of specific measures.”²⁴ The Commission further found that “Algonquin has committed to complying with PHMSA regulations, and PHMSA is responsible for ensuring compliance with its regulations.”²⁵

With respect to environmental impacts, the Certificate Order explained that the U.S. Environmental Protection Agency (“EPA”) offered special expertise on some matters and was a “cooperating agency” in the preparation of the EA.²⁶ The Certificate Order also explained that the Massachusetts Department of Environmental Protection (“DEP”) conducted an environmental review of the project,²⁷ and the EPA delegated authority to the Massachusetts DEP to administer the Clean Air Act in Massachusetts.²⁸

²² Rehearing Order at P 27.

²³ *Id.* at P 183. *See also* Certificate Order at P 226 (noting PHMSA’s “role in the development of safety regulations for the design and operation of natural gas pipeline facilities.”); Certificate Order at P 228 (finding that “Algonquin has committed to complying with PHMSA regulations, and PHMSA is responsible for ensuring compliance with its regulations.”)

²⁴ *Id.* at P 227.

²⁵ *Id.* at P 228.

²⁶ *Id.* at P 186.

²⁷ *See* Certificate Order at P 189.

²⁸ *Id.* at P 198.

Since issuance of the Certificate Order, PHMSA and the Massachusetts DEP have continued to assess the public safety, health and environmental justice impacts of the Weymouth Compressor Station.²⁹ In fact, PHMSA has investigated the Weymouth Compressor Station, taken corrective action following two unplanned emergency shutdowns, and approved a restart plan for the Weymouth Compressor Station. We do not diminish the importance of ensuring continued safe operation of the Weymouth Compressor Station. However, there is no indication that PHMSA, EPA and/or the Massachusetts DEP have failed to do so. Moreover, the Commission has not provided any basis for departing from its policy and precedent of relying on PHMSA and EPA or its state delegated agency to ensure such continued safe operation of pipeline facilities. Any revisit of the safety of the Weymouth Compressor Station should remain with PHMSA, not FERC through the Certificate Order.

A Commission order that would revisit, let alone modify or rescind, the Certificate Order and/or Authorization Order, or otherwise result in the Weymouth Compressor Station not being permitted to remain in service, would be inconsistent with the Commission's responsibility under the NGA.

2. What would the consequences be if the Commission were to stay or reverse the Authorization Order?

²⁹ Commissioner Danly's dissent to the Briefing Order includes an Appendix that sets forth several post-Certificate Order actions by the Massachusetts DEP to continue to monitor and consider the health and environmental impacts of the Weymouth Compressor Station.

The consequences of the Commission staying or reversing the Authorization Order in this case would be harmful to the regional energy market and raise serious concerns about energy reliability, price volatility, and the stability of energy projects under the Commission's review.

The availability and operability of the region's natural gas infrastructure remains of paramount concern and of direct interest to our Association and its members. It is a challenge to add any new energy infrastructure in this region, including new natural gas infrastructure. Each project goes through intensive review, appropriately, prior to advancement. Each project must meet federal and state standards and requirements. Each part of the natural gas system in this region is valuable and essential to overall system capability and reliability.

As noted by the Commission in numerous assessments over many years, including in its October 2020 paper, "Winter Energy Market and Reliability Assessment 2020/2021," the Northeast and New England energy markets are recognized to be "constrained." The paper also notes that "During the winter months, prices in the Northeast electricity markets are strongly correlated with natural gas prices, with fluctuations in natural gas price impacting gas-fired generation. Because of this relationship, New England is the area with the greatest risk of fuel shortages and related market stress."

The Commission's March 2021 "State of the Markets 2020 Report" notes that "constrained pipelines [in New England] may be unable to meet market demand on peak winter days." (As noted, these constraints affect both the natural gas and electricity markets in this region.)

In March 2017, the U.S. Energy Information Administration (EIA) observed: "Historically, both the Boston and New York natural gas markets have experienced winter price spikes because of pipeline constraints during periods of peak demand. Natural gas pipeline expansion projects that were completed in recent years may have reduced, but did not eliminate, sharp price increases with anticipated cold weather."

Natural gas demand has continued to increase in this region. Natural gas has grown to represent 40% of the New England home heating market as of 2019 (most recent U.S. Census data). In Massachusetts natural gas currently represents 52% of the state home heating market. Gas LDC design day demand has grown by over 25% in the last decade.

At the same time, the New England states remain among the national leaders in natural gas efficiency program investments. Regional air emissions have improved considerably in recent decades with the increased role of natural gas as well as renewables and efficiency investments. In the power sector alone from 2000 to 2020, sulfur dioxide emissions are down 99%, nitrogen oxide emissions are down 78%, and carbon dioxide emissions are down 42%.

In the New England power generation market, natural gas has grown from 15% of installed generating capacity in the year 2000 to 50% in 2020. This has been a positive development for the electricity and energy markets (and air emissions), but there is a continuing challenge in the winter months when the lack of excess pipeline capacity poses risks for the power market, where the reliance on non-firm gas transportation arrangements is the norm.

In testimony before the U.S. Congress on March 11, 2021, the president and CEO of the North American Electric Reliability Corporation (NERC), Mr. James Robb, noted that “New England’s exposure to extreme weather is exacerbated by its limited pipeline capacity to import gas and its dependence on a handful of critical fuel assets. NERC has continually identified fuel supply risk in New England.”

It is a challenge to add any new energy infrastructure in this region, including new natural gas infrastructure. Each project goes through intensive review, appropriately, prior to advancement. Each project must meet federal and state standards and requirements.

Each part of the natural gas system in this region is valuable and essential to overall system capability and reliability, including the Weymouth Compressor Station. We urge its continued operation.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the Northeast Gas Association respectfully requests that the Commission consider this Initial Brief, forego any modification or stay of the Certificate Order or Authorization Order, and allow the Weymouth Compressor Station to remain in service, subject to the conditions in the Certificate Order.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas M. Kiley". The signature is fluid and cursive, with a large initial 'T' and 'K'.

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