

United States Senate  
WASHINGTON, DC 20510

June 9, 2016

The Honorable Norman Bay  
Chairman  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

Dear Chairman Bay:

On May 2, 2016, the Federal Energy Regulatory Commission (FERC) released its Environmental Assessment for Spectra Energy's Atlantic Bridge project, which would expand the Algonquin Gas Transmission and Maritimes & Northeast Pipeline systems in New England. The document, which concludes that the project "would not constitute a major federal action significantly affecting the quality of the human environment," was prepared with the assistance of the Natural Resource Group (NRG), a third-party contractor.<sup>1</sup> In recent days, information has come to light suggesting that NRG may be financially connected to Spectra and in violation of FERC's conflict of interest guidelines. This new information – highlighted by a recent report at DeSmogBlog – raises serious questions about the accuracy and objectivity of the Environmental Assessment that NRG helped to prepare.<sup>2</sup> To ensure the thoroughness and objectivity of the environmental review process, and to restore public confidence in that process, I urge you to issue an Environmental Impact Statement on the Atlantic Bridge project using only third-party contractors without ties to the natural gas industry.

While NRG was working on preparing the environmental review for the Atlantic Bridge project, it also appears to have been contracting with the PennEast project, a proposed pipeline that would stretch from northeastern Pennsylvania into New Jersey. In its FERC pre-filing request in October of 2014, PennEast lists NRG as a contractor it has been working with for "public outreach and relations,"<sup>3</sup> and the names of NRG staff have periodically appeared on PennEast documents in the years since.<sup>4</sup>

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<sup>1</sup> Federal Energy Regulatory Commission, Atlantic Bridge Project Environmental Assessment, May 2016  
[http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20160502-4001](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20160502-4001)

<sup>2</sup> Itai Vardi, DeSmogBlog, "Revealed: Contractors Hired by FERC to Review a New Spectra Energy Pipeline Work for Spectra on a Related Project," May 26, 2016  
<http://www.desmogblog.com/2016/05/26/revealed-contractors-hired-ferc-review-new-spectra-energy-pipeline-work-spectra-related-project>

<sup>3</sup> PennEast Pipeline Company, LLC, FERC Docket PF15-1, "Request of PennEast Pipeline Company, LLC for Approval of Pre-Filing Review under PF15-1," October 7, 2014  
[https://elibrary.ferc.gov/idmws/file\\_list.asp?document\\_id=14258543](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14258543)

<sup>4</sup> e.g. PennEast, "Stakeholder Contact Report," November 25, 2015

This relationship is problematic because Spectra is a 10% owner of PennEast,<sup>5</sup> meaning that NRG was employed by a pipeline project partially owned by Spectra at the same time that it was tasked with objectively reviewing a separate Spectra project. In addition, Spectra acquired an ownership stake in the PennEast project to “leverage our existing assets by directly connecting northeast Pennsylvania Marcellus shale production to our Texas Eastern Transmission and Algonquin Gas Transmission systems.”<sup>6</sup> In other words, the PennEast project is physically connected and financially intertwined with the Algonquin pipeline that the Atlantic Bridge project is intended to expand, raising the possibility that NRG could financially benefit from the approval of the Atlantic Bridge project.

By FERC’s standards, this relationship appears to constitute a conflict of interest. FERC’s handbook for third-party contractors states that a conflict of interest exists if a contractor “has an ongoing relationship with the applicant,” or “has a financial or other interest in the outcome of the Commission’s decision.”<sup>7</sup> If a real or perceived conflict of interest exists, the handbook requires contractors to outline a detailed mitigation plan, and prevents FERC from approving a contractor if no such mitigation plan exists. Given that NRG had an ongoing relationship with Spectra via the PennEast project for most of the time it was working on the Atlantic Bridge Environmental Assessment, and that its involvement with the PennEast project could create a financial interest in facilitating the Atlantic Bridge project’s approval, I am concerned that FERC nevertheless agreed to let NRG work on the environmental review.

Even if NRG managed to technically avoid or mitigate a conflict of interest, the company’s myriad ties to the natural gas industry make it difficult to believe that it could objectively evaluate the environmental impacts of the Atlantic Bridge project. NRG’s parent company, Environmental Resources Management (ERM), describes NRG as “provid[ing] high-calibre linear permitting advice... to Oil & Gas pipeline companies,”<sup>8</sup> and NRG itself has boasted about the “thousands of miles of pipeline” it helped get “in the ground for many of North America’s largest energy companies.”<sup>9</sup> NRG is also a member of the Marcellus Shale Coalition, “the primary public face of the natural gas drilling industry,”<sup>10</sup> which has advocated for pipeline

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[http://www.hopewellitwp.org/penn\\_east/PennEast%20Supplemental-Information-to-FERC-011316.pdf](http://www.hopewellitwp.org/penn_east/PennEast%20Supplemental-Information-to-FERC-011316.pdf)

<sup>5</sup> Spectra Energy, PennEast Pipeline Project

<http://www.spectraenergy.com/Operations/US-Natural-Gas-Operations/New-Projects-US/PennEast-Pipeline-Project/>

<sup>6</sup> Spectra Energy, “Spectra Energy Partners Becomes Newest member in PennEast Pipeline Project,” October 29, 2014

<http://www.spectraenergy.com/Newsroom/News-Archive/Spectra-Energy-Partners-Becomes-Newest-Member-in-PennEast-Pipeline-Project/>

<sup>7</sup> Federal Energy Regulatory Commission, *Handbook for Using Third-Party Contractors to Prepare Environmental Documents for Natural Gas Facilities and Hydropower Projects*, rev. December 2014

<http://www.ferc.gov/industries/hydropower/enviro/tpc/tpc-handbook.pdf>

<sup>8</sup> ERM, “ERM announces acquisition of Natural Resource Group,” September 30, 2014

<http://www.erm.com/en/news-events/news/erm-announces-acquisition-of-natural-resource-group/>

<sup>9</sup> Natural Resource Group, <http://nrg-llc.com/nrg-erm.htm>

<sup>10</sup> StateImpact Pennsylvania, “Who’s in The Marcellus Shale Coalition, and What Does It Do?”

<https://stateimpact.npr.org/pennsylvania/tag/marcellus-shale-coalition/>


expansion in the northeast.<sup>11</sup> FERC has been the target of widespread criticism for its ties with the industries it regulates<sup>12</sup>; its reliance on an environmental consultant with a business model built around helping gas companies construct more pipelines does little to change that perception.

As a result, I request that you respond to the following questions:

1. Did NRG disclose its relationship to Spectra when applying to work on the environmental review of the Atlantic Bridge project?
2. FERC's handbook requires contractors to outline a detailed mitigation plan if there is a real or perceived conflict of interest.
  - a. Did FERC consider that NRG's relationship with Spectra would create any real or perceived conflicts of interest? If not, why not?
  - b. Please outline any steps NRG took to mitigate any real or perceived conflicts of interest and describe why FERC believed these steps were sufficient.
3. In the last five years, how many times has FERC rejected third-party contractors for environmental review due to a conflict of interest?

The revelations about NRG's ties to Spectra – which were undisclosed in public scoping meetings with FERC and NRG staff – have already caused concern among residents of Massachusetts impacted by the pipeline and cast doubt about the validity of the Environmental Assessment that NRG helped prepare. In order to resolve these concerns, I urge you to issue a full Environmental Impact Statement on the Atlantic Bridge project, making sure that any third-party contractor used by FERC is free from any ties to industry that could create a conflict of interest or call its objectivity into question.

Sincerely,



Elizabeth Warren  
United States Senator



Edward J. Markey  
United States Senator

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<sup>11</sup> Marcellus Shale Coalition, "Pipelines Deliver Shale's Economic, Environmental Benefits," September 29, 2015  
<http://marcelluscoalition.org/2015/09/pipelines-deliver-shales-economic-environmental-benefits/>

<sup>12</sup> Hannah Northey and Kevin Bogardus, E&E, "Employees negotiate for industry jobs under agency's eye," April 7, 2015  
<http://www.eenews.net/stories/1060016380>