

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, L.L.C.

Atlantic Bridge Pipeline

Docket No. CPF16-9-000

**Comments of Massachusetts Attorney General Maura Healey on the
Environmental Assessment for Algonquin’s Atlantic Bridge Project**

The Office of Massachusetts Attorney General Maura Healey (“AGO”) is pleased to submit the following comments pursuant to the National Environmental Policy Act (“NEPA”) for the Environmental Assessment (“EA”) issued by the Federal Energy Regulatory Commission’s (“FERC”) on May 2, 2016, for the Atlantic Bridge natural gas pipeline incremental expansion project (“Atlantic Bridge Project”) proposed by Algonquin Gas Transmission, L.L.C. (“Algonquin”).¹

As proposed, the Atlantic Bridge Project calls for construction of four miles of 42-inch diameter pipeline to replace existing 26-inch pipeline in Westchester County, New York, and about two miles of 42-inch pipeline to replace existing 26-inch pipeline in Fairfield County, Connecticut.² The Project includes construction of a new 7,700 horsepower (“hp”) compressor station in Weymouth, Massachusetts (“Weymouth Compressor Station”), along with other pipeline facilities.³ Algonquin has also recently proposed to build out and expand the capacity of the Weymouth Compressor Station for its planned Access Northeast pipeline project (“ANE Project”), currently in FERC pre-filing, docket PF16-1-000.⁴

**About The Attorney General’s Office And
The Energy and Environment Bureau**

Attorney General Maura Healey is the chief law enforcement officer for the Commonwealth of Massachusetts. The AGO, through its Energy and Environment Bureau (“Bureau”), acts to protect both utility ratepayers and our environment, including by working to reduce the threat of climate change for the people and families of the

¹ Maritimes & Northeast Pipeline, L.L.C. has jointly proposed the Atlantic Bridge Project with Algonquin. *See* EA at pp. 1-1 to 1-2, 1-4.

² *See* EA at pp. 1-1 to 1-9.

³ *Id.*, at pp. 1-8, 2-28.

⁴ *See* Resource Report 1 filed for the ANE Project in PF16-1-000 (“ANE RR 1”) at pp. 1-18, 1-20, 1-30, 1-49 and Table 1.3-2.

Commonwealth. As the state's Ratepayer Advocate, the Bureau's Energy and Telecommunications Division represents consumers in matters involving the price and delivery of natural gas, electricity, water, and telecommunication services before state and federal regulators. The Bureau's Environmental Protection Division and Environmental Crimes Strike Force enforce the laws that protect our air and water, preserve our lands and open space, require the clean-up of contaminated sites, and govern the use of pesticides and the handling and disposal of hazardous waste. The Bureau's integration of energy and environmental advocacy ensures that our office speaks with one voice in addressing the intertwined ratepayer and environmental protection matters that impact the Commonwealth and our residents.

The AGO is committed to a clean energy future in Massachusetts built around cleaner, renewable energy sources that allow Massachusetts to achieve regional and federal climate goals, as well as to meet the mandates of the Global Warming Solutions Act ("GWSA").⁵ Attorney General Healey also is seeking to protect ratepayers by ensuring that when the Commonwealth makes long-term decisions about additional gas capacity investments, it is done on the basis of facts that quantify future natural gas demand, and take into account all cost-effective sources that can be deployed to meet that demand, including energy efficiency, renewables, large scale hydropower, LNG, and natural gas.

FERC Should Address Segmentation Concerns Raised by Stakeholders Regarding Expansion of the Weymouth Compressor Station Proposed for Algonquin's ANE Project

The Weymouth Compressor Station Algonquin proposes to construct for the Atlantic Bridge Project is also slated to be expanded by Algonquin to serve its proposed ANE Project.⁶ Algonquin proposes a build out of the Weymouth Compressor Station for the ANE Project that dramatically increases the station's footprint and more than doubles its compression facilities.⁷ The ANE Project cannot proceed without the Weymouth compressor station proposed to be constructed for Algonquin's Atlantic Bridge Project.⁸

Pursuant to 40 C.F.R. § 1508.25(a), an EIS must include other "connected," "cumulative," and "similar" actions.⁹ Under NEPA, an action is connected if it (i) automatically triggers other actions which may require environmental impact statements;

⁵ See M.G.L. c. 21N, §§ 1-9.

⁶ See EA at 1-120 - 2-144. See also ANE RR 1 at pp. 1-18, 1-20, 1-30, 1-49 and Table 1.3-2.

⁷ In addition to the 7,700 hp, gas-fired compressor unit for the proposed for the Atlantic Bridge Project Weymouth Compressor Station, the ANE Project would add another 10,320 hp compressor unit to the proposed station, for a combined compression capability of 18,020 hp. See *Id.*

⁸ See *Id.*

⁹ Cf. *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976) ("When several proposals for [] actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together.").

(ii) cannot or will not proceed unless other actions are taken previously or simultaneously; (iii) is an interdependent part of a larger action and depends on the larger action for its justification.¹⁰ NEPA prohibits agencies from unduly segmenting a single project into multiple projects when preparing an EA or EIS.¹¹

Because the Algonquin's ANE Project depends upon— and cannot proceed without— construction of the Weymouth Compressor Station proposed for the Atlantic Bridge Project, many stakeholders have argued that station is “connected” to the ANE Project and FERC must therefore review Algonquin's proposal to construct the new compressor station during preparation of an Environmental Impact Statement (EIS) during NEPA environmental review for the ANE Project. Both the Atlantic Bridge and ANE projects' reliance on a single piece of new infrastructure—the Weymouth Compressor Station—and their overlapping timing indicate that FERC may be obliged under NEPA to evaluate the Weymouth compressor station's proposed construction, not just its expansion, in the ANE Project EIS.

In scoping comments filed on May 31, 2016, with FERC in docket PF16-1-000 for the ANE Project, the AGO urged FERC to carefully review all project segmentation claims raised by stakeholders concerning the proposed build out of the Weymouth Compressor Station proposed for Atlantic Bridge to serve the ANE Project. In particular, the AGO urged FERC to scrutinize Algonquin's claim that the Access Northeast Project is independent of the Atlantic Bridge Project because Atlantic Bridge serves natural gas local distribution companies (“LDC”) customers, while Access Northeast was separately designed to serve electric utilities, and was proposed after the Atlantic Bridge Project.¹² In *Delaware Riverkeeper Network v. FERC*, the D.C. Circuit Court rejected just such an “independent utility” test used by FERC to determine that four different upgrade projects phased over several years along an already existing Tennessee pipeline in the Northeast were not connected and thus could undergo separate environmental review under NEPA.¹³ FERC reviewed and approved each phase separately after a streamlined environmental review through preparation of EAs.¹⁴ Despite the fact that Tennessee had secured separate gas delivery precedent agreements for each of the phased projects, the Court found that the four projects were financially interdependent because each phase made the other project phases less costly. The court held that FERC impermissibly segmented the environmental

¹⁰ 40 C.F.R. § 1508.25(a) (1)–(3).

¹¹ See *Myersville Citizens for a Rural Community, Inc. v. FERC*, 783 F.3d 1301, 1322 (D.C. Cir. 2015).

¹² See ANE RR 1 at p. 1-2; EA at p. 1-2.

¹³ See 753 F.3d 1304, 1308-10 (D.C. Cir. 2014). *Id.* FERC should reject Algonquin claims that the ANE Project is independent of the Atlantic Bridge Project because Atlantic Bridge serves LDC customers, while the ANE Project was separately designed to serve EDCs and was proposed after the Atlantic Bridge Project.

¹⁴ *Id.*

review in violation of NEPA because there was a “clear physical, functional, and temporal nexus between [] projects.”¹⁵

The EA for the Atlantic Bridge Project briefly discusses the cumulative impacts of the Weymouth Compressor Station proposed for Atlantic Bridge and the expansion of that station proposed to serve the ANE Project.¹⁶ This cursory discussion does not satisfy NEPA’s requirements for a full and robust analysis of cumulative impacts, especially for projects sharing common facilities with overlapping timelines and geographic areas.

Environmental Impacts

Many stake holders have also raised serious public health and safety concerns about the new compressor station proposed for Weymouth. The AGO shares many of these environmental, public health and safety concerns, which we discuss briefly below:

Public Safety

Many residents, public safety officials, and elected town officials have raised concerns and questions about public safety and emergency preparedness regarding the Weymouth Compressor Station. Dozens of residents living in or near Weymouth, Massachusetts live within a couple miles of the Proposed Weymouth Compressor Station. Multiple residents have thus far commented on the FERC CP16-9-000 docket for Atlantic Bridge, expressing concern about local emergency response capacity in the event of a leak, explosion or fire at the Weymouth Compressor Station. Public safety is of paramount importance, thus the AGO urges FERC to include a rigorous analysis of all these issues in the draft EIS and final EIS for the ANE Project.

Public Health and Air Emissions

Many residents, especially those living near the proposed Weymouth Compressor Station, have expressed concern over air emissions, including from pipeline blowdowns and compressor station blowdowns. FERC should condition any Certificate of Public Convenience and Necessity (“CPCN”) for the Atlantic Bridge Project on Algonquin making publicly available all chemical constituents of transported gas. Algonquin must ensure that those living within a mile of compressor stations will suffer no increased adverse health risk from blowdown or other emissions of criteria pollutant levels, including carbon monoxide, lead, oxides of nitrogen, ground-level ozone, particle pollution (both small particle, PM_{2.5}, and large, PM₁₀), and sulfur oxides, as well as VOC emissions.

¹⁵ *Id.*

¹⁶ See EA at pp. 2-123 to 2-144.

Methane Emission Reduction Technology and Efforts

Any CPCN for the Atlantic Bridge Project must be conditioned on full compliance with all applicable requirements of federal Clean Air Act regulations recently issued by the Environmental Protection Agency ("EPA") governing methane emissions from new, reconstructed, and modified oil and gas sector processes and equipment ("Methane Rule").¹⁷ The Methane Rule requires emissions reductions from new, reconstructed, and modified oil and gas sector sources, including new natural gas compressor stations, pneumatic pumps, pneumatic controllers, and storage vessels.¹⁸ The new rules allow for use of innovative leak-detection technologies and require leak-detection inspection of natural gas compressor stations four times a year, and leak repair within thirty days of detection (with certain exceptions).¹⁹

The AGO thanks FERC for the opportunity to submit these comments for the Atlantic Bridge EA.

Respectfully submitted,



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¹⁷ See Final Rule for Oil and Natural Gas Sector: Emissions Standards for New, Reconstructed, and Modified Sources, issued May 12, 2016, and amending 40 C.F.R. part 60, subpart 0000 and establishing new standard at 40 C.F.R. part 60, subpart 0000a, *available at* <https://www3.epa.gov/airquality/oilandgas/may2016/nsps-finalrule.pdf>

¹⁸ The NSPS rules issued May 12, 2016, along with EPA fact sheets and other information, are available at <https://www3.epa.gov/airquality/oilandgas/actions.html>.

¹⁹ See *Id.*