

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, LLC)	
Maritimes and Northeast Pipeline LLC)	Docket No. CP16-9-000
)	

**Comment of Michael Hayden, Esq. Concerning
Approval For Extension of Time to Complete Project**

NOW COMES the intervenor, Michael Hayden, Esq., and hereby respectfully submits the following Comment in response to the Federal Energy Regulatory Commission's ("FERC") Approval for Extension of Time to Complete Project issued on December 26, 2018 in response to a Request for Certificate Extension filed by Chris Harvey, Manager, Rates and Certificates for Algonquin Gas Transmission, LLC ("Applicant") on the same date, December 26, 2018.

I. FERC Response to Congressman Lynch's Request to Deny Any Request for Extension of Time

Earlier this year, on January 3, 2018, Congressman Stephen F. Lynch wrote to FERC stating, in pertinent part, "I respectfully request that you deny any application by Spectra Energy for an extension of the timeline to begin work on the compressor." (CP16-9-000, 20180223-0007, attached hereto as Exhibit 1). In response, FERC Chairman, Kevin J. McIntyre, wrote to Congressmen Lynch, on March 21, 2018, stating, in pertinent part, "Algonquin has not to date made any requests for an extension of time, so there is no matter pending before the Commission for consideration." (CP16-9-000, 20180323-0018, attached hereto as Exhibit 2).

II. Subdelegation of Authority to Issue Approval for Extension of Time to Complete Project

The Approval for Extension of Time to Complete Project cites 18 CFR § 375.308(w)(4) for subdelegation authority. This regulation, however, expressly relates to delegations to the Director of the Office of Energy Projects (“OEP”). Although 18 CFR § 375.308(w)(4) authorizes “the Director or the Director’s designee to. . .take appropriate action on the following...Applications for extensions of time to. . .perform other acts required at or within a specific time by any. . .order by the Commission”, evidence that the Director of OEP expressly subdelegated authority to approve an extension of time to complete the Applicant’s project to Chief, Certificate Branch 1, OEP Division of Pipeline Certificates, must be expressly designated:

The Commission authorizes the Director [of OEP] or the Director’s designee to:

(w) Take appropriate action on the following:

(4) Applications for extensions of time to file required reports, data, and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission;

18 CFR § 375.308(w)(4). Furthermore, as discussed below, the subdelegation of authority under 18 CFR § 375.308(w)(4) does not diminish the level of review required by FERC in response to a Request for Certificate Extension.

III. Level of Review Completed Prior to Issuance of Approval for Extension of Time to Complete Project

The Applicant’s Request for Certificate Extension filed by Chris Harvey, Manager, Rates and Certificates for Algonquin Gas Transmission, LLC was distributed to FERC’s distribution list at 11:17 a.m. on December 26, 2018:

From: 'FERC eSubscription' [mailto:eSubscription@ferc.gov]
Sent: Wednesday, December 26, 2018 11:17 AM
Subject: Request for Delay of Action/Extension of Time submitted in FERC CP16-9-000 by Algonquin Gas Transmission, LLC, et al.

On 12/26/2018, the following Filing was submitted to the Federal Energy Regulatory Commission (FERC), Washington D.C.:

Filer: Algonquin Gas Transmission, LLC
Enbridge (U.S.) Inc. (as Agent)

Docket(s): CP16-9-000
Lead Applicant: Algonquin Gas Transmission, LLC
Filing Type: Request for Delay of Action/Extension of Time
Description: Algonquin Gas Transmission, LLC hereby submits a request for an extension of time under CP16-9.

To view the document for this Filing, click here
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20181226-5024

FERC's Approval for Extension of Time to Complete Project was distributed to FERC's distribution list at 11:51 a.m. on December 26, 2018, only 34 minutes after the Applicant's Request for Certificate Extension was distributed to FERC's distribution list (at 11:17 a.m.):

From: eService@ferc.gov [mailto:eService@ferc.gov]
Sent: Wednesday, December 26, 2018 11:51 AM
To: Hayden, Michael <MHayden@morrisonmahoney.com>
Subject: Document Service in CP16-9-000

This notification is served on you in accordance with the requirements set forth in Section 385.2010 of the Commission's rules.

On 12/26/2018, the Federal Energy Regulatory Commission (FERC), Washington D.C., published the following issuance:

Docket(s): CP16-9-000
Description: Letter order granting Algonquin Gas Transmission, LLC's 12/26/18 request for Extension of Time to Complete Project under CP16-9.

You can view the issuance at:
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20181226-3004

Whether FERC's Approval for Extension of Time to Complete Project was completed in 34 minutes or not, the fact that the Applicant's Request for Certificate Extension was dated

December 26, 2018 necessarily means that during the same morning the Applicant's Request for Certificate Extension was received by FERC, the Applicant's Request for Certificate Extension was then conveyed from its recipient at FERC (Kimberly D. Bose, Secretary) to the OEP Division of Pipeline Certificates, which then somehow drafted the Approval for Extension of Time to Complete Project and distributed it to the FERC distribution list, all by 11:51 a.m. on the same date the Request for Certificate Extension was received (December 26, 2018). Nowhere in this timeline was the Applicant's Request for Certificate Extension "pending before the Commission for consideration" as noted by FERC Chairman, Kevin J. McIntyre as an express prerequisite for FERC to respond to Congressmen Lynch only nine months ago (*see* Exhibit 2), nor could any level of review have been completed by the Director of OEP and/or Chief, Certificate Branch 1, OEP Division of Pipeline Certificates between receipt of the Applicant's Request for Certificate Extension and the issuance of FERC's Approval for Extension of Time to Complete Project. Consistent with *Rockies Express Pipeline LLC*, 128 FERC ¶61,045 (2009), and especially where FERC Chairman, Kevin J. McIntyre expressly corresponded with Congressmen Lynch on the subject of extending the time to complete the Applicant's project, FERC is required to document the level of review completed by Chief, Certificate Branch 1, OEP Division of Pipeline Certificates, including what additional staff in his division participated in such review, prior to issuing Approval for Extension of Time to Complete Project. *See Rockies Express Pipeline LLC, supra.*

WHEREFORE the intervenor, Michael Hayden, Esq., respectfully submits the Comment concerning Approval for Extension of Time to Complete Project set forth above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael H. Hayden", written in a cursive style.

Michael H. Hayden

December 28, 2018

EXHIBIT 1

STEPHEN F. LYNCH
8TH DISTRICT, MASSACHUSETTS

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS AND
GOVERNMENT SPONSORED ENTERPRISES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM

RANKING MEMBER, SUBCOMMITTEE ON
NATIONAL SECURITY
SUBCOMMITTEE ON GOVERNMENT OPERATIONS

ASSISTANT DEMOCRATIC WHIP

Congress of the United States
House of Representatives
Washington, DC 20515-2108

2268 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202-225-8273
202-225-3984 FAX

1 HARBOR STREET
SUITE 304
BOSTON, MA 02210
617-428-2000
617-428-2011 FAX

PLYMOUTH COUNTY REGISTRY BUILDING
155 WEST ELM STREET
SUITE 200

BROCKTON, MA 02301
508-586-5555
508-586-4692 FAX

15 HARBOR STREET
SUITE 304
BOSTON, MA 02210
617-428-2000
617-428-2011 FAX

LYNCH.HOUSE.GOV

FEDERAL ENERGY
REGULATORY COMMISSION

OFFICE OF
LEGISLATIVE
AFFAIRS
2018 FEB 22 P 2:35

January 3, 2018

Ms. Cheryl LaFleur
Chair, FERC
888 First St., NE
Washington, DC 20426

Dear Ms. LaFleur:

It is with serious concern for the public's health and safety that I write you regarding the compressor station proposed by Spectra Energy located at 3 Bridge St., Weymouth, MA. As the Congressman from the Massachusetts' Eighth District, I represent the Town of Weymouth and several municipalities which will be adversely impacted by the proposed compressor station.

The proposed location for the compressor station is a small peninsula bordered by the Fore River Basin, King's Cove and the densely populated neighborhoods of Quincy, Braintree, and North Weymouth. There are nearly one thousand homes, thirty-eight schools, a water treatment facility, and a public park located within a half mile of the proposed location. Also, an estimated three thousand one hundred children live within a mile of the proposed site, and thirteen thousand two hundred children attend school within three miles of the proposed location.

Further, recent testing conducted by Dr. Curt Nordgaard in April, 2017, revealed that the air quality in the affected area is poor. The test results showed that several carcinogens: Benzene, Methyl Chloride, Acetone, Ethanol, and Butanone are present in the air in amounts that already exceed state guidelines. By Spectra's own admission in its Air Report, the compressor will admit at least ten carcinogens into the air: Formaldehyde, Benzene, Acrolein, Naphthalene, and Propylene Oxide among them. Therefore, this compressor station will increase the level of carcinogens in the air that already violate state guidelines. If I may speak plainly, it seems reckless and absurd that this proposal is still under active consideration given these facts.

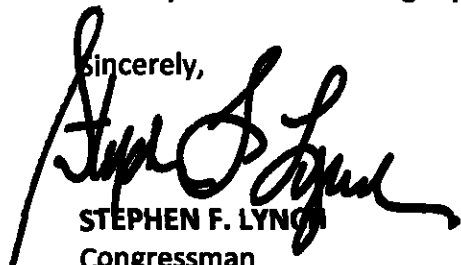
Notably, our Massachusetts' Governor, Charlie Baker, has recently directed several state agencies to conduct an air quality impact review, a public safety threat review, and a climate resilience review prior to issuing any state permits that will allow the proposal to proceed.

2618-00025

It is well documented that this proposed site will not work in Weymouth and will cause irrevocable harm to residents in the region. I respectfully request that you deny any application by Spectra Energy for an extension of the timeline to begin work on the compressor.

Thank you for considering my request.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen F. Lynch", written over the printed name.

STEPHEN F. LYNCH
Congressman
8th District
Massachusetts

EXHIBIT 2

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, DC 20426

March 21, 2018

OFFICE OF THE CHAIRMAN

The Honorable Stephen F. Lynch
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Lynch:

Thank you for your January 3, 2018, letter regarding Algonquin Gas Transmission L.L.C.'s (Algonquin) Atlantic Bridge Project (Docket No. CP16-9-000). Your comments have been placed in the Commission's official record.

On May 2, 2016, the Commission issued for public comment an Environmental Assessment (EA) that independently evaluates the environmental impacts of the Atlantic Bridge Project, including impacts from the Weymouth Compressor Station. The EA includes a thorough evaluation of impacts on air quality, noise, aesthetics, and safety from construction and operation of the Weymouth Compressor Station. The EA recognizes that although the compressor station site is located adjacent to numerous other industrial facilities, it is also within one half mile of residences and schools.

All comments submitted to the Commission during review of the project were addressed either in the EA or in the Commission's January 25, 2017, order authorizing the project. The Commission's order, and the subsequent order denying rehearing on December 17, 2017, found that the Weymouth Compressor Station would not significantly affect air quality or safety. In addition, the Commission orders found that Algonquin's proposed Weymouth Compressor Station is designed to operate in compliance with the Clean Air Act, and that Algonquin has committed to complying with the U.S. Department of Transportation's safety siting and operation standards.

The Commission's order precludes Algonquin from beginning project construction until it has obtained all necessary federal permits. Algonquin submitted applications for federal permits to the applicable Massachusetts permitting agencies in October 2015. To date, these agencies have not acted in any way on an air permit or coastal zone consistency determination. Algonquin has not to date made any requests for an extension of time, so there is no matter pending before the Commission for consideration.

If I can be of further assistance in this or any other Commission matter, please let me know.

Sincerely,



Kevin J. McIntyre
Chairman