

# Revealed: Contractors Hired by FERC to Review a New Spectra Energy Pipeline Work for Spectra on a Related Project

[www.desmogblog.com/2016/05/26/revealed-contractors-hired-ferc-review-new-spectra-energy-pipeline-work-spectra-related-project](http://www.desmogblog.com/2016/05/26/revealed-contractors-hired-ferc-review-new-spectra-energy-pipeline-work-spectra-related-project)

Itai Vardi | May 26, 2016

By Itai Vardi • Thursday, May 26, 2016 - 13:25



A contractor hired last year by the Federal Energy Regulatory Commission (FERC) to review a proposed gas pipeline by Spectra Energy, had already been working for the company on a related project, a DeSmog investigation has found.

Such an alleged conflict of interest suggests that the contractor had a financial stake in approving the project it was hired to review.

As part of a formal Pre-Filing Review Process for Spectra Energy's Atlantic Bridge project, FERC hired in early 2015 a third-party contractor to review the pipeline. A [proposed](#) expansion of the company's existing Algonquin Pipeline carrying fracked gas from Pennsylvania to the Northeast US and Canada, the project involves the construction of several new pipeline segments in New York and New England and a new compressor station in the town of Weymouth, Massachusetts.

The contractor, Natural Resource Group (NRG), is a subsidiary of ERM, an international consulting company that previously provided the favorable environmental review for the northern part of TransCanada's Keystone XL Pipeline. DeSmog has prolifically [documented](#) ERM's deep ties to the fossil fuel and tobacco industries and [shady](#) international operations. ERM is owned by two Canadian investment firms – [OMERS Private Equity](#) and [AIMCo](#) – with investments in energy infrastructure

FERC hired NRG to conduct an Environmental Assessment (EA) for the Atlantic Bridge pipeline, manage public outreach and engagement, and review the project's alternatives.

According to FERC's [guidelines](#), while third-party contractors work under the supervision and control of FERC staff, they are paid by the pipeline company seeking FERC's approval. The company is also responsible for bidding potential contractors, with FERC approving the eventual hire.

According to financial reports submitted by Spectra to FERC, since 2011 the company has paid NRG a total of over \$2.5 million for services on a number of its projects under FERC review.

### **NRG's Other Spectra-related Project**

DeSmog has found that apart from being funded by Spectra to review Atlantic Bridge, NRG seems to be in an even more glaring conflict of interest in the project.

On February 20, 2015, FERC sent a letter to Spectra, announcing the selection of NRG as contractor for Atlantic Bridge. Yet at the time, NRG was already [working](#) directly for PennEast LLC, a major pipeline consortium of which Spectra is a member. NRG has been conducting public affairs for PennEast since at least 2014. A year earlier, NRG [opened](#) an office in the Marcellus Shale to represent energy companies operating in the region.

My staff has reviewed the proposals submitted for the selection of a third-party contractor to assist us in preparing the National Environmental Policy Act documentation. We have selected Natural Resource Group (NRG) as the third-party contractor to work under the direct supervision and control of the Commission staff. I request that you proceed with executing a contract with NRG so work may begin as soon as possible.

If you have any questions, please contact the Office of Energy Projects' Environmental Project Manager for your project, Maggie Suter at (202) 502-6463.

Sincerely,

Jeff C. Wright  
Director  
Office of Energy Projects

*(Image from a February 2015 letter from FERC to Spectra, announcing the hiring of NRG to review Atlantic Bridge. Source: ferc.gov)*

When Spectra joined the PennEast Pipeline consortium in October 2014, Spectra executives made clear their purpose was to bring fracked gas from the Marcellus Shale to its Algonquin Pipeline, of which the Atlantic Bridge project is a part.

In other words, NRG, which works directly for PennEast, has a financial stake in the approval of Atlantic Bridge, the project it was hired by FERC to review as third-party contractor.

According to FERC's own guidelines for hiring third-party contractors, a conflict of interest exists when the contractor "has a past, present, or ongoing financial interest in a project to be covered by the third-party contractor." This exists, for instance, when the contractor "has a financial or other interest in the outcome of the Commission's decision."

## Chapter 4. FERC's ORGANIZATIONAL CONFLICT OF INTEREST AND OFF-THE-RECORD COMMUNICATIONS (EX PARTE) REQUIREMENTS

An OCI exists when the nature of the work to be performed may, without some restriction on future activities:

- result in an unfair competitive advantage to a contractor; or
- impair the contractor's objectivity in performing the contract work.

OCIs typically exist where the contractor and/or its employees have a past, present, or ongoing financial interest in a project to be covered by the third-party contract. For example, an OCI exists if the contractor:

- has been involved with the applicant on the project before it is proposed to the Commission, or while it is pending before the Commission;
- has an ongoing relationship with the applicant;
- would be called on to review its own prior work; or
- has a financial or other interest in the outcome of the Commission's decision.

The contractor may work on the project for the applicant after the Commission has decided whether to approve the project as long as there was no prior agreement or expectation that approval of the project would result in such involvement.

*(Image from FERC's own guidelines on the use of third-party contractor, suggesting a conflict of interests between NRG and Spectra. Source: ferc.gov)*

### NRG Helps Write an Environmental Assessment Beneficial to Spectra

Atlantic Bridge's Environmental Assessment (EA), [published](#) by FERC in May this year, is favorable to Spectra. The EA – prepared largely by NRG staff, who were funded by Spectra – found the project not to “constitute a major federal action significantly affecting the quality of the human environment.”

Along with a host of recommended mitigating actions, the report concludes that Atlantic Bridge will have “no significant impact,” essentially paving the way for an ultimate FERC approval of the project.

The EA also denied multiple demands by residents near the project and other stakeholders to conduct a more thorough Environmental Impact Statement (EIS).

Atlantic Bridge is currently pending final FERC approval. In the meantime, Spectra submitted filings for a separate, but linked, [project](#) in the area – Access Northeast. NRG, in its capacity as third-party contractor, is reviewing this project as well.

Opponents of the two pipelines have demanded that FERC review both projects as one, in the hope of receiving a more comprehensive environmental and health analysis. Thus far, FERC has declined to unite the two projects.

### Industry-funded Contractors are Presented as FERC's

This case – where a contractor hired to review a pipeline is not only funded by the company seeking FERC approval but also has a financial interest in approving the project – highlights the broader [question](#) of how FERC maintains its

independence from the industry it regulates.

FERC's website publishes a handbook on how to use third-party contractors. In order to navigate the odd situation whereby such contractors work for FERC but are paid by the company under FERC's review, the text includes a variety of guidelines on how to choose contractors and demarcate the division of labor between them and FERC.

According to the guidelines, FERC staff will "have complete control over the scope, content, and quality of the contractor's work" and "sole ownership of all documents (other than those related to financial aspects) produced under the contract."

The guidelines also prohibit the energy company funding the contractor to review the work product before its release to the public.

Yet given the constant contact between the contractor and the applicant's employees during the review process, this seems a difficult feat to accomplish. For instance, FERC documents show that NRG and Spectra representatives engaged in regular bi-weekly meetings during the Pre-Filing Review Process for Atlantic Bridge.

DeSmog also discovered that while the review was ongoing, Spectra and NRG participated in a [panel](#) at an industry-funded conference on the Marcellus Shale in September 2015.

The panel, titled "How Applicants Can Manage Effectively a FERC Project," was moderated by PennEast's spokesperson Patricia Kornick, who is an NRG employee. Panelists included Larry Brown, an NRG senior vice president who at the time was leading the EA on Atlantic Bridge, and Andrea Grover, Spectra's Director for Stakeholder Outreach.

To connect the dots: while Spectra-funded contractor NRG was conducting the EA for FERC on Spectra's Atlantic Bridge project, both companies met with other industry representatives to offer tips on successfully maneuvering a FERC application. All while being moderated by an NRG public affairs specialist who was simultaneously working for a Spectra pipeline related to Atlantic Bridge.

10:00 am – 12:00 pm

119 AB

**How Applicants Can Manage Effectively a FERC Project: Permitting, Communication and Compliance**

*Sponsored by UGI Energy Services*

The United States is now the largest producer of hydrocarbons in the world; however, this distinction retains its significance only to the extent that oil and gas can be delivered safely to meet the energy needs of consumers. This workshop will aid operators in navigating the comprehensive review process of the Federal Energy Regulatory Commission (FERC), which has jurisdictional review of interstate natural gas pipelines and other related energy infrastructure projects.

**1.0 Professional Development Hour**

**Moderator**

*Patricia Kornick, Senior Public Affairs Consultant  
Natural Resource Group (NRG) LLC*

**Panel**

*Larry Brown, Partner  
Natural Resource Group (NRG) LLC*

*Andrea Grover, Director, Stakeholder Outreach  
Spectra Energy*

*(Image from the program of Shale Insight Conference 2015, showing collaboration between NRG and Spectra)*

Another problem relates to contractors' transparency. During public scoping meetings, where contractors are present alongside FERC officials to hear local residents' concerns, FERC does not acknowledge the contractor's funding source.

DeSmog reviewed numerous scoping meeting transcripts from the past 8 years, and in none of them did FERC staff clarify that contractors are funded by the industry. Instead, contractors are presented to the audience in these meetings as "working for FERC," "assisting FERC," "an extension of FERC," or "with us" [i.e. FERC].

This is, at the least, a selective description. At worst, it is outright misleading.

To further confuse matters, in a document on FERC's website announcing a training seminar, several NRG employees are [listed](#) under the inaccurate title of "FERC Staff Bios."

**At Weymouth Public Meeting, Spectra-funded Contractor Presented as FERC Staff**

Two such public meetings were held in the past year in Weymouth, Massachusetts, where Spectra plans to construct a gas compressor station in the middle of town as part of the Atlantic Bridge project. Both meetings, which were held in the town's middle school auditorium, were attended by hundreds of residents and other stakeholders from the area.

NRG employees sat on the stage alongside FERC officials, facing the audience.

In the first meeting, NRG employees were [presented](#) as "third party consultants assisting us". In a public meeting last week on the Access Northeast project, FERC officials [introduced](#) NRG employees as "representing FERC."

11 13, 2015. My name is Maggie Suter and I am the  
12 Environmental Project Manager for the Atlantic Bridge  
13 Project with the Federal Energy Regulatory Commission's  
14 Office of Energy Projects.

15 With me tonight at the table here is Larry Brown  
16 who is with Natural Resource Group, an environmental  
17 consulting firm working as a third party consultant to  
18 assist us in preparing the environmental assessment or "EA"  
19 for this project. Also at the sign-in table are Andrew  
20 Thorton and Mike Douglas who are also with NRG.

21 I know a lot of you have signed up to speak  
22 tonight so I am going to try to make my opening remarks as

*(Image from the minutes of a FERC public meeting in Weymouth MA, May 2015. Spectra-funded contractor's staff are presented as "assisting FERC," with no mention of their funding source. Source: ferc.gov)*

Both meetings were highly charged, with a great majority of speakers strongly demanding that FERC deny the project. A smaller number of people voiced support.

Yet all Weymouth residents DeSmog spoke with assumed they were addressing FERC staff.

Weymouth Town Councilor, Becky Haugh, who has been a vocal opponent of the Atlantic Bridge and Access Northeast projects, was stunned to learn from DeSmog that Spectra has funded NRG's work on the EA.

"I had no clue," says Haugh. "This is news to me."

Haugh is also surprised to learn that NRG employees sat alongside FERC staff at the town's public meetings. "I thought they were all direct employees of FERC," she told DeSmog.

When contacted by DeSmog for comment, NRG's senior vice president Larry Brown, who was present in both the Weymouth meetings, said he could not respond to the issues raised in this article since his company is under contract by FERC. Brown referred DeSmog to FERC.

A FERC spokesperson denied third-party contractors are generally in a conflict of interest and said that such relationships are transparent. She referred DeSmog to the Commission's handbook guiding the hiring and use of such contractors.

FERC was asked specifically to comment on NRG's alleged conflict of interest in the Atlantic Bridge project. Again, the spokesperson referred DeSmog to the handbook.

Spectra Energy did not return several requests for comment.

*Blog image credit: [www.nocompressor.com](http://www.nocompressor.com)*

