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April 7, 2014

VIA eFiling to FERC in Docket No. CP13-499
VIA email to US Army Corps of Engineers

Kimberly D. Bose, Secretary
The FERC
888 First Street NE, Room 1A
Washington, D.C. 20426

Jodi M. McDonald
Chief, Regulatory Branch
US Army Corps of Engineers
New York District, CENAN-OP-R
Upstate Regulatory Field Office
1 Buffington Street, Bldg. 10, 3rd Floor
Watervliet, New York 12189-4000

**Re: Report on the Need for the Proposed Constitution Pipeline
Comments on the Draft Environmental Impact Statement
Docket Nos. CP13-499 and CP13-502; NAN-2012-00449-UBR**

Dear Secretary Bose and Ms. McDonald:

Attached please find a Report on the Need for the Proposed Constitution Pipeline, which is being submitted as a comment on the Draft Environmental Impact Statement for the proposed Constitution Pipeline Project. Once FERC assigns an accession number for this report, I will upload supporting documentation to the docket, in case it is needed in future hearings.

Thank you for this opportunity to comment.

Sincerely,



Anne Marie Garti

**Report on the
Need for the Proposed Constitution Pipeline

Analysis of the
Draft Environmental Impact Statement
Federal Energy Regulatory Commission (FERC)

FERC EIS 0249D - - February 2014

Docket Nos.: CP13-499; CP13-502; PF12-9**

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Information Analyst
April 7, 2014

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I. Introduction

This report is an analysis of the need for the proposed Constitution Pipeline. The Federal Energy Regulatory Commission (“FERC”) repeatedly declares in its Draft Environmental Impact Statement (“DEIS”) that the market for this gas would be in New York City and New England. This statement, as well as others made in the DEIS, are compared with information found in other documents, such as studies performed by government agencies, information provided by the industry, and reports of industry consultants. The picture that emerges from this analysis is that the gas that would be shipped through the proposed pipeline would not be consumed in New York City and New England. Instead, most of it would be exported.

II. Credentials

Anne Marie Garti was an information analyst and an interface and software designer for over two decades. Her clients ranged from start-ups to established corporations and institutions, including Citibank, IBM, Lucent Technologies, RCA Labs, National Gallery of Art, and Metropolitan Museum of Art.

III. FERC states the market for the gas is in New York City and New England.

The statements made in FERC’s DEIS are consistent and repetitive: the gas in the proposed pipeline would be consumed in New York City and New England:

“According to Constitution, the proposed pipeline project was developed in response to natural gas market demands in the New York and the New England areas...”¹

“Any system alternative for the projects would need to be able to transport similar volumes of natural gas to the vicinity of the existing Wright compressor station or to the ultimate market destinations of New York and New England.”²

“According to Constitution, the proposed pipeline project was developed in response to market demands in New York and the New England area. . . .”³

“this new natural gas supply for New York and New England markets”⁴

FERC’s statements reflect what was included in the application and draft resource reports of the Constitution Pipeline Company, LLC (“Company”). It should be noted that the application was submitted under oath by Scott Turkington, Director, Rates and Regulatory,

¹ FERC, *Draft Environmental Impact Statement*, ES-1 (Feb. 2014), available at http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20140212-4002 [hereinafter DEIS].

² *Id.* at ES-11.

³ *Id.* at 1-1.

⁴ *Id.* at 3-2.

Williams Gas Pipeline Company, LLC.⁵ Submission under oath is a requirement of Rule 2011(c)(5) of the Commissions Rules of Practice and Procedure, 18 C.F.R. 385.2011(c)(5).

IV. FERC’s analysis is contingent upon a starting and end point for the proposed pipeline that appears unrelated to the use of gas in New York City and New England.

In the DEIS, FERC states “The proposed projects would deliver up to 650,000 dekatherms per day (Dth/d) of natural gas supply from Susquehanna County, Pennsylvania to the interconnect with the TGP and Iroquois systems at the existing Wright Compressor Station (to markets in New York and New England).”⁶ With that sentence, FERC appears to adopt the Company’s assumption that the project is contingent upon a starting point in Susquehanna County, Pennsylvania, near Williams’ new Central Compressor Station, which was authorized under state law, and ending in Wright, NY, near Iroquois’ Compressor Station, which would be expanded under a current, and simultaneous, environmental review by FERC, under docket no. CP13-502.

FERC reasserts its commitment to these starting and end points in Section **3.2 System Alternatives**. There FERC states that system alternatives would only be practical, and economical, if they start in Susquehanna County, Pennsylvania, and end in Wright, NY.

Two of the Applicants’ objectives that are **crucial** to the evaluation of system alternatives would be their ability to:

- deliver up to 650,000 Dth/d of natural gas supply from Susquehanna County, Pennsylvania to the interconnects with the Iroquois and TGP systems at the existing Wright Compressor Station (or otherwise delivery of the same amount of natural gas to the destination markets through other means); and
- expand access to new sources of natural gas supply, thereby increasing supply diversity and improving operational performance, system flexibility, and reliability in the New York and New England market areas.⁷

FERC does not justify why the proposed route must terminate approximately a hundred and fifty miles north of New York City, when the stated market for the gas is in New York City, except to say that it conforms to the Company’s stated objectives.

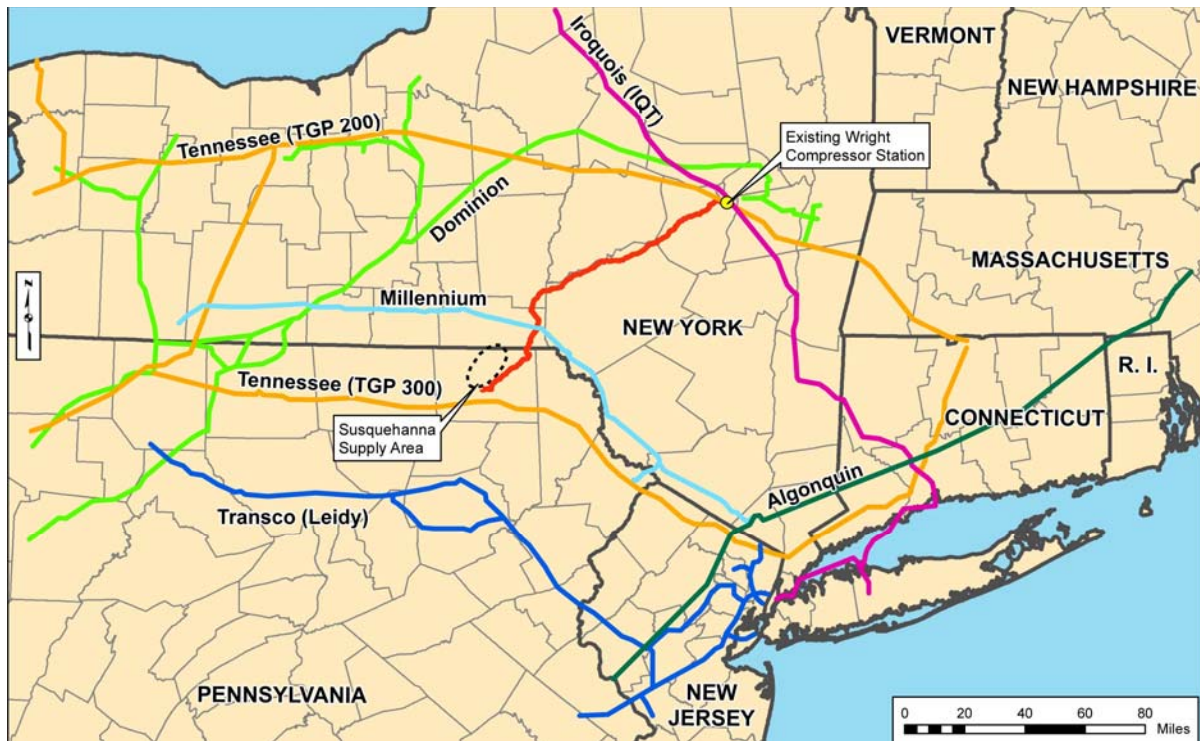
FERC then engages in an analysis of potential system enhancements and co-location options within and along a series of existing pipeline routes, depicted in **Figure 3.2.1-1, Constitution Pipeline Project, Relative Location to Other Projects Overview Map**:⁸

⁵ Constitution Pipeline Company, LLC, *Application for Certificate of Public Convenience and Necessity*, pdf p. 25 (June 13, 2013), available at http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20130613-5078 [hereinafter Application].

⁶ DEIS at ES-1. (TGP refers to the Tennessee Gas Pipeline.).

⁷ *Id.* at 3-13. (Emphasis added.)

⁸ DEIS, Figure 3.2.1-1.



FERC deems all of the options for system enhancements and alternatives infeasible, or not preferable to the proposed route. No detailed, side-by-side comparisons are made of environmental impacts of these alternate routes to the preferred route, and no explanation is made as to why all of the alternatives must end in Wright, NY.⁹

There is a clause contained within the Company’s objectives that states “(or otherwise delivery of the same amount of natural gas to the destination markets through other means)”.¹⁰ By including this clause, FERC implies that the goal of the proposed project is to deliver gas to New York City and New England. However, FERC dismisses the possibility of routing the pipe to the east, and only analyzes alternatives that would deliver gas from Susquehanna County, Pennsylvania to Wright, NY. This makes all of the alternative routes that FERC considers in the System Alternatives section longer and more expensive.

Many system alternatives are missing from the analysis. For example, if a 124-mile long pipeline were to run from Susquehanna County, Pennsylvania to the southeast, instead of to the northeast, it would almost reach its market destination in New York City. FERC’s dismissal of the possibility of moving the gas east to New York City, and then north to New England, along the existing Millennium, TGP 200, or Transco pipeline easements, is based on the opinion that those options “would be constrained by the high level of development within New York City and the surrounding area.”¹¹ However, recent events call that judgment into question. Williams, which owns Transco, and is a partner in the Company, recently announced its plans to construct a new pipeline, collocated with the Transco line

⁹ DEIS at 3-15 – 3-23.

¹⁰ *Id.* at 3-13.

¹¹ *Id.* at 3-19.

part of the distance towards New York City.¹² In addition, other pipelines were recently constructed through high-density areas into Manhattan, and surrounding areas.¹³ In June 2013 Spectra prefiled an application to increase its capacity on the Algonquin pipeline, which runs just north of New York City to New England.¹⁴ If these pipeline companies can move gas east and north, through areas with a “high level of development”, then FERC needs to explain why the Company whose application is under review in this DEIS cannot do the same.

V. Gas cannot reach NYC and New England from Wright, NY because the interconnecting pipelines do not have room to accept 650,000 Dth/day of gas.

FERC states in the DEIS that there is a need for additional pipelines to New York City and New England, but the supporting documentation provided in the DEIS is out-of-date and misleading. According to the project description, the “Iroquois’ project would provide additional compression allowing delivery of up to 650,000 Dth/d of natural gas from the terminus of the proposed Constitution pipeline into the existing Iroquois and the TGP systems.”¹⁵ However, both the Iroquois and Tennessee Gas Pipelines (“TGP”) are congested into New York City and New England, and are therefore incapable of moving the gas that would be transported in this new pipeline to those markets.

New pipeline capacity has been added in Pennsylvania, New Jersey, along the east coast of New York State, and in Western New York State, but no new projects have been built in Central New York State. Thus there are still constraints where the Company’s proposed pipeline would terminate. In other words, while FERC states that the proposed pipeline must terminate in Wright, NY, there is no way to move 650,000 Dth/day of gas from that point to New York City and New England because the two pipelines that would transport it are already full, particularly at the times of the year when gas is most critically needed.

In the fall of 2013, Levitan and Associates, Inc (“Levitan”) issued a study of pipeline capacity in the New York Control Area (“NYCA”).¹⁶ The Levitan assessment has three objectives, the first of which is “to analyze historical pipeline congestion patterns across NYCA.”¹⁷ The overall conclusion of the report is that “New York State’s natural gas infrastructure is large, dynamic and more than adequate to serve the requirements of entitlement holders.”¹⁸

¹² *Williams Partners Transco Receives Binding Commitments for 1.7 Million Dekatherms per Day of Firm Natural Gas Pipeline Capacity on Its Proposed Atlantic Sunrise Expansion*, MARKET WATCH (Feb. 20, 2014), available at http://www.marketwatch.com/story/skycross-reveals-new-products-and-technology-platform-as-well-as-partnership-program-to-advance-development-of-next-generation-wireless-broadband-front-end-solutions-2013-02-20?reflink=MW_news_stmp.

¹³ See Section VIII of this report.

¹⁴ *Algonquin Gas Transmission, LLC, Draft Resource Report 1 and Summary of Alternatives under PF13-16* (July 29, 2013), available at http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20130729-5146.

¹⁵ DEIS at 2-6.

¹⁶ *Levitan and Associates, Inc., NYCA Pipeline Congestion and Infrastructure Adequacy Assessment, New York Independent System Operator*, 3 (September 2013) [hereinafter Levitan]. (The Levitan assessment is attached.)

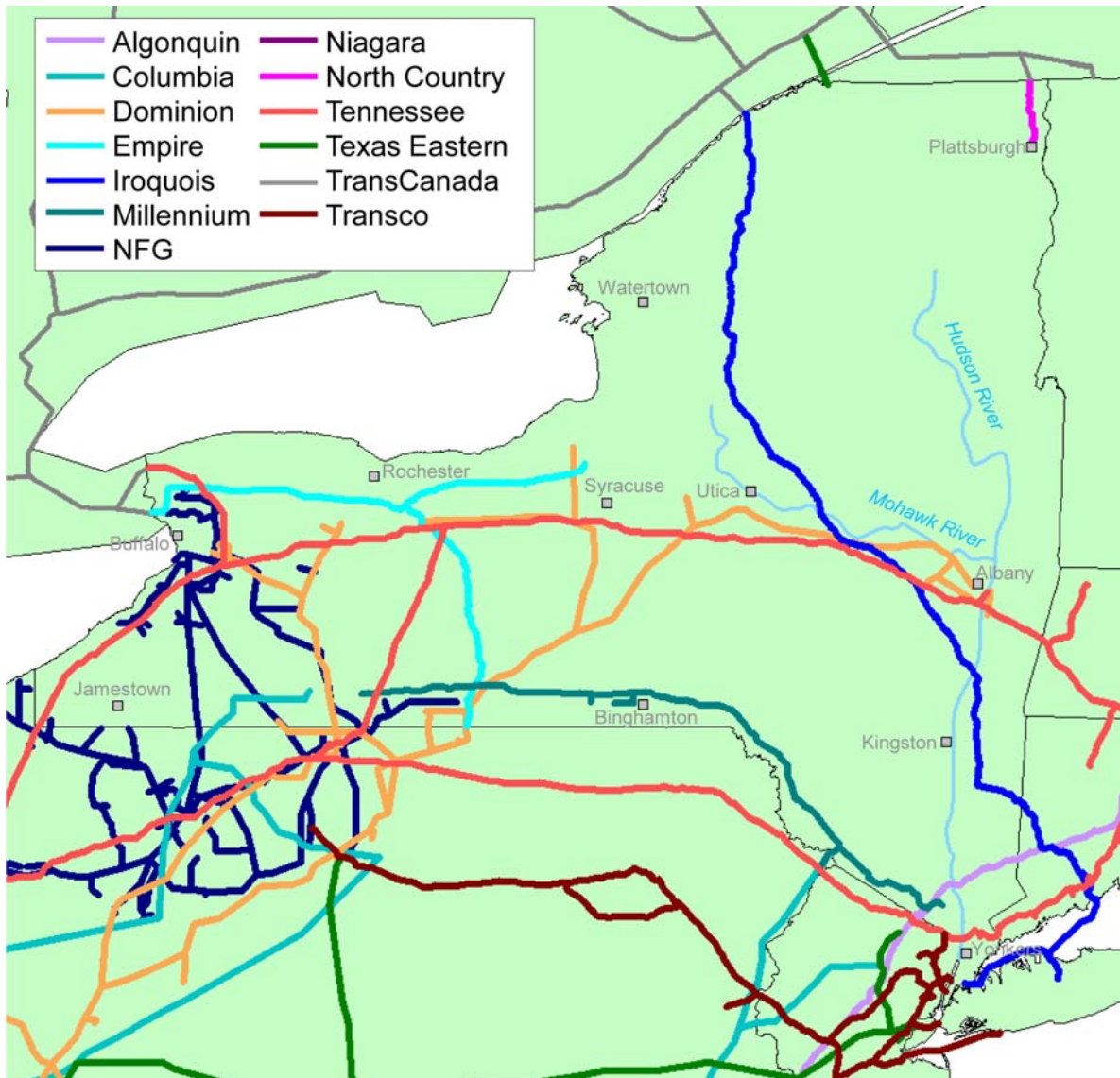
¹⁷ Levitan at 1.

¹⁸ *Id.* at 20.

Although NYCA has experienced increasing congestion levels on key transport paths in recent years, upcoming infrastructure expansions bringing Marcellus gas to market will materially increase infrastructure capability in the heart of the market, thereby lessening concerns over grid security related to fuel assurance.¹⁹

However, Wright, NY is not “in the heart of the market” and the Iroquois and Tennessee Gas Pipelines, which would interconnect with the “Constitution” pipeline, do not have room to accept the gas that would be transported by the proposed project to their stated destinations.

Figure 1. Natural Gas Pipeline Network in NYCA²⁰



¹⁹ Levitan at 1.

²⁰ *Id.* at 3.

For those unfamiliar with how the gas transmission business operates, pipeline companies generally have long-term firm contracts with Shippers, and short-term non-firm contracts with other purchasers, such as electric utility companies, who can buy gas on the spot market when there is sufficient room in the pipe above that day's demand by the firm Shippers. Once pipelines begin to reach full capacity, which normally occurs in the cold winter months in the north, prices can spike. During those periods, utility companies either use an alternative fuel, or pay a premium price for gas.

As part of its assessment, Levitan analyzed the congestion patterns of both the Iroquois and Tennessee Gas Pipeline 200 Line ("TGP"). Congestion doesn't have a precise definition, so Levitan applied utilization rates of 90% and 95% of available capacity as an indication of congestion.²¹ Rates higher than that "are most likely to constrain the flow of natural gas to non-firm shippers in the relevant zones."²²

The Iroquois Pipeline is owned by five corporations, including TransCanada Corp. ("TransCanada"), Dominion, and National Grid.²³ It runs from Waddington, at the New York and Canadian border, down to Long Island, and traditionally the gas flowed from Canada, at the north end, down to the New York metropolitan area at the south end. The Iroquois Pipeline has interconnections with TransCanada at Waddington, NY, with Dominion at Canajoharie, NY, with Tennessee at Wright, NY, and with the Algonquin at Brookfield, CT.²⁴ However, because it operates at higher pressures than some of these pipelines, Iroquois can only deliver gas at Waddington to TransCanada and at Brookfield to Algonquin, at its northern and southern ends.²⁵ It's capable of transporting 1,200,000 Dth/day of gas, almost twice the capacity of the proposed "Constitution" pipeline.

Both Brookfield and Waddington have high utilization rates during the winter months, with Brookfield also experiencing some congestion during the summer because of its proximity to the New York metropolitan area.²⁶ Therefore Iroquois could accept gas from the proposed "Constitution" pipeline from April through October, but gas is not needed during those seasons. During cold winter months, when there is a potential need for gas, there is not enough room on the Iroquois to accept the gas that would be transmitted on the proposed "Constitution" pipeline.

Congestion also exists on the Tennessee Gas Pipeline 200 Line, and at Station 245, near Wright, NY. **The congestion exists year round.**²⁷

²¹ Levitan at 38.

²² *Id.*

²³ *Partners in Natural Gas Transportation*, IROQUOIS, available at <http://www.iroquois.com/natural-gas-transporters.asp>.

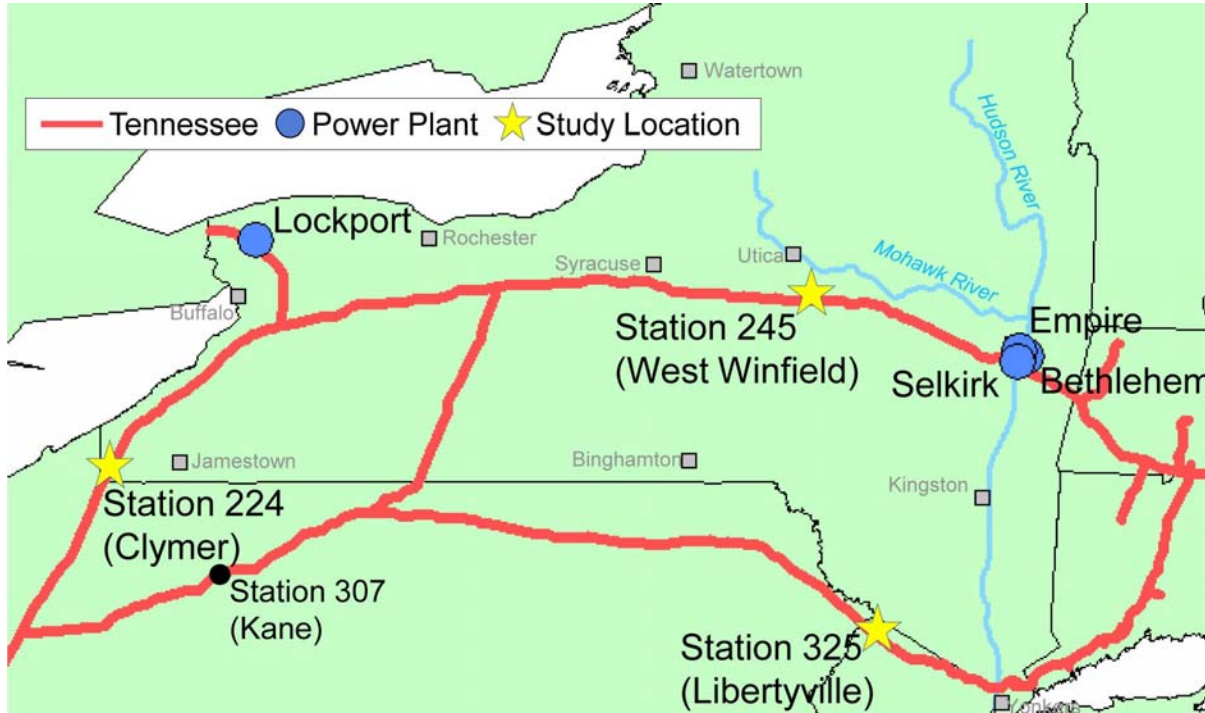
²⁴ Iroquois, *Natural Gas: Frequently Asked Questions*, available at <http://www.iroquois.com/natural-gas-questions.asp>.

²⁵ Levitan at 61-62.

²⁶ *Id.* at 60, 62, 66.

²⁷ *Id.* at 77. (Emphasis added.)

Figure 54. Tennessee Pipeline²⁸



According to Levitan’s assessment,

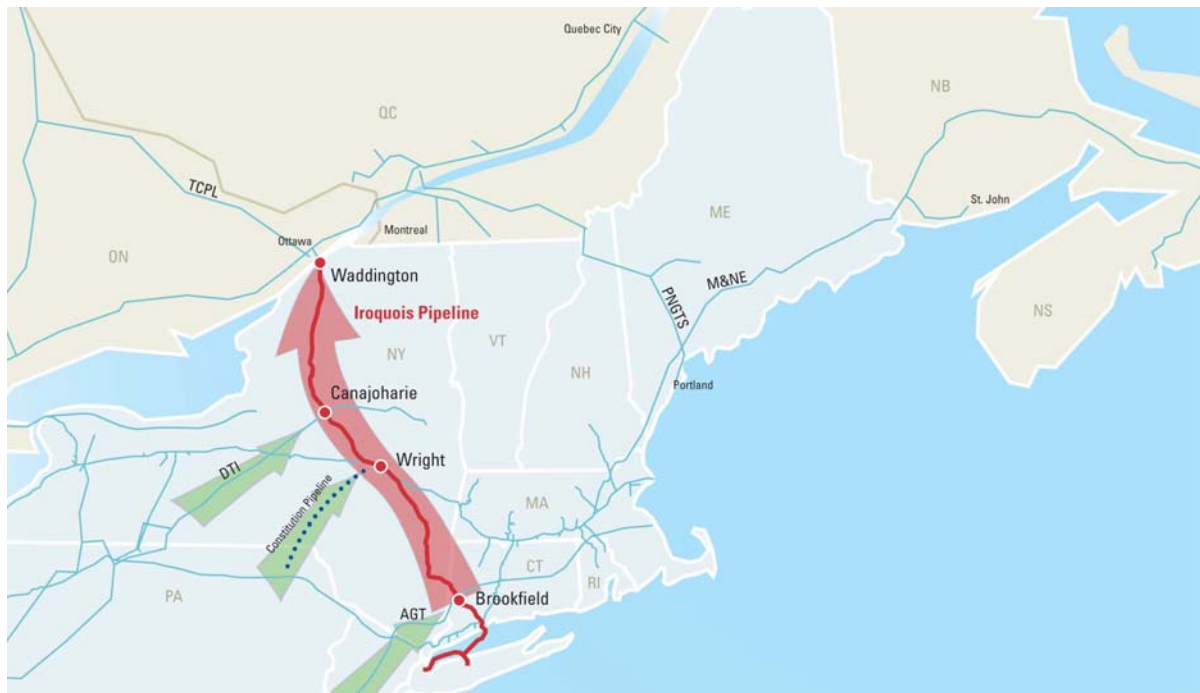
Station 245 is the principal bottleneck on Line 200, which causes deliveries on Tennessee downstream of Station 245 to be valued at the Tennessee Zone 6 pricing point, an index that is highly correlated with the Algonquin Citygates pricing point. Station 245 experienced pipeline utilization rates of 90% or greater on 588 days during the truncated time series, distributed roughly equally between the heating and cooling seasons.²⁹

Since there are no pipelines capable of transporting gas from the proposed “Constitution” pipeline to New York City and New England, those markets should be removed from further consideration in the DEIS. The question that needs to be answered is, if there is no room on the Iroquois and Tennessee Gas Pipelines, then where would the gas from the proposed “Constitution” pipeline go? The answer is on the corporate website of Iroquois. Instead of going to New York City, the gas in the Iroquois pipeline would be exported to Canada.³⁰

²⁸ Levitan at 73.

²⁹ *Id.* at 77.

³⁰ *South-to-North Open Season Brochure*, IROQUOIS, 1 (Dec. 2013), available at <http://www.iroquois.com/documents/SoNoOSBrochureFinal.pdf>.



VI. The gas will be exported to Canada, and from there can be transported overseas

The network of gas pipelines enables a smooth movement of gas from one pipe to another via established points of interconnection. Much like blood in our vascular system, gas within the network is mixed and mingled, and acts like an integrated and unified whole. This pipeline network is not limited to the United States, but crosses the border into Canada. Until recently gas flowed from Western Canada into the United States. In New York State gas moved from west to east on the TGP 200 Line, and from north to south on the Iroquois. However, over the past three years, these patterns started to change, as the production and distribution of shale gas developed in Pennsylvania and Ohio, and as natural gas supplies in Western Canada diminished and were shifted to extract tar sands oil.³¹ These developments were extensively covered in the oil, gas, and pipeline industry journals, and were therefore well known by the pipeline companies, and presumably by FERC. However, this dramatic change in the use of our resources is not in the public consciousness.

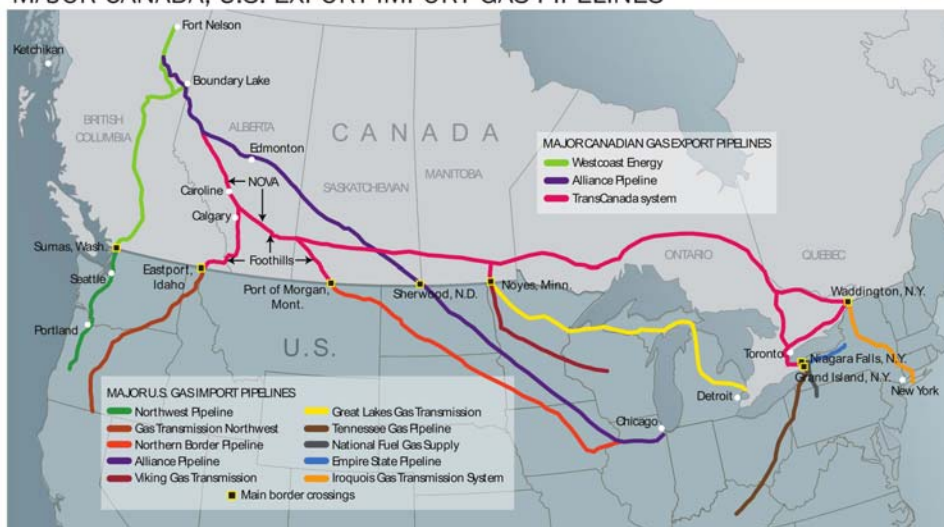
Iroquois began transporting gas from Canada into New York State in January 1992.³² TransCanada, which has a network of 42,500 miles of gas pipelines, owns almost 45% of Iroquois.³³

³¹ Sandy Fielden, *Return to Sender No Such Demand Canadian Gas Flows Reverse at Niagara*, RBN ENERGY, LLC (Jan. 24, 2013), available at <https://rbnenergy.com/return-to-sender-no-such-demand-canadian-gas-flows-reverse-at-niagara> [hereinafter *Return to Sender*].

³² *Iroquois Pipeline Operating Company*, INGAA FOUNDATION, available at <http://www.ingaa.org/Members/789.aspx>.

³³ *Natural Gas*, TransCanada, available at <http://www.transcanada.com/natural-gas-pipelines.html>.

MAJOR CANADA, U.S. EXPORT-IMPORT GAS PIPELINES



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On September 11, 2011, TransCanada announced its plans to begin reversing the flow of gas at Niagara Falls.³⁵ “U.S. shale gas is projected to cross the border via Canada's Niagara and Chippawa delivery points northwest of Buffalo, NY, reversing the flow at the TransCanada Mainline interconnects with the National Fuel Gas, Empire and Tennessee Gas Pipeline systems.”³⁶ Seven months later, the “Constitution” Pipeline Company, then owned by Williams and Cabot, requested permission from FERC to prefile an application for its “Constitution” pipeline.³⁷ The proposed pipeline would interconnect with the Tennessee and Iroquois, both of which have interconnections with TransCanada. Iroquois can also accept gas from the Algonquin and Dominion, and that gas could also be transported north to Canada. It therefore appears that the Company’s project was calculated to be part of a larger trend to move Appalachian shale gas north to Canada, which explains why it must terminate in Wright, NY.

Canada wants gas from the United States for a variety of reasons. The amount of gas being produced in Western Canada is diminishing, being diverted from Eastern Canadian markets to extract tar sands oil, and slated for export, where it can fetch higher prices.³⁸ In turn, Canada is planning to convert its Mainline from the transport of natural gas, to the transport

³⁴ *Alaska natural gas pipeline projects guide, maps*, ALASKA NATURAL GAS TRANSPORTATION PROJECTS (Oct. 7, 2013) available at <http://www.arcticgas.gov/sites/default/files/images/map-gas-pipeline-distribution-lower-48.png>.

³⁵ *Tide Turns at Niagara from U.S. Imports to Marcellus Shale Exports*, NGI Reports, BUSINESS WIRE, (September 11, 2011), available at <http://www.businesswire.com/news/home/20110913006702/en/Tide-Turns-Niagara-U.S.-Imports-Marcellus-Shale>.

³⁶ *Id.*

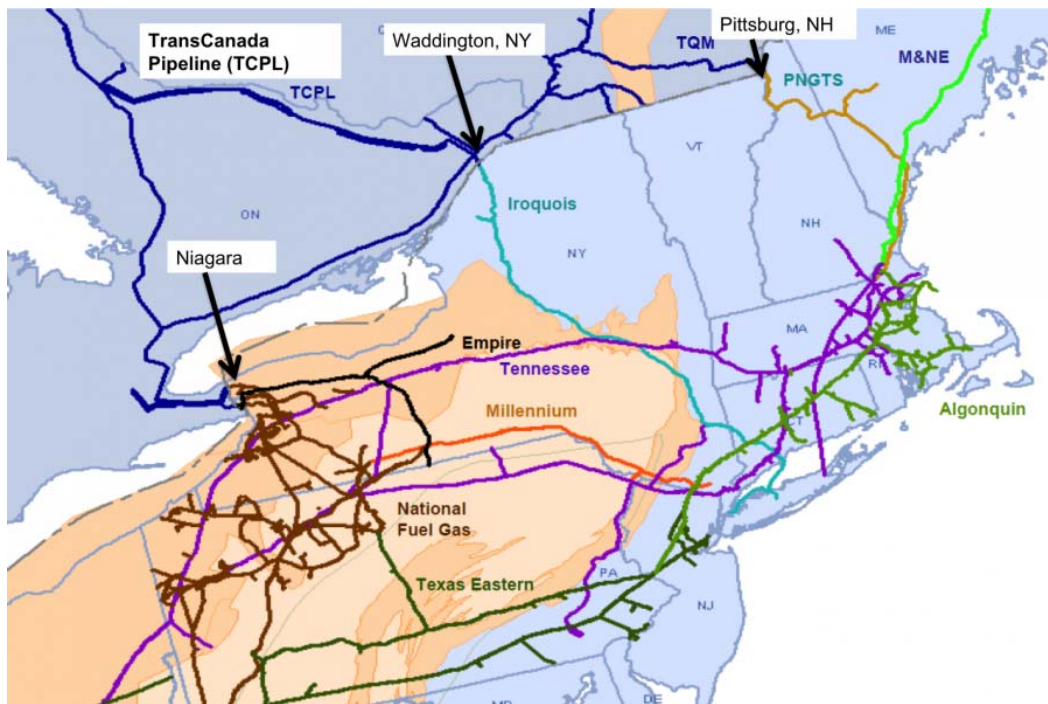
³⁷ Constitution Pipeline Company, LLC, *Request to Initiate Pre-Filing* (April 5, 2012), available at http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20120405-5066.

³⁸ Bob Bookstaber, ; *Deja vu all over again - Northeast Natural Gas, Pipelines and Big Decisions*, RBN ENERGY, LLC (Oct. 2, 2012), available at <https://rbnenergy.com/deja-vu-all-over-again%E2%80%93northeast-natural-gas-pipelines-and-big-decisions>; Return to Sender; *NEB Approves Jordan Cove LNG Natural Gas Export License*, NATIONAL ENERGY BOARD (Feb. 20, 2014), available at <http://www.neb-one.gc.ca/clf-nsi/rthnb/nws/nwsrls/2014/nwsrls08-eng.html>.

of tar sands oil, so it can be exported from the Maritimes, in Northeast Canada.³⁹ This means that shale gas from the United States is needed to replace the gas from Western Canada that used to supply major cities in Eastern Canada, such as Toronto, Montreal, and Quebec. Finally, shale gas from the United States is cheaper than what can be produced in Canada.⁴⁰

The convergence of these trends lead to an unusual coordination of Open Seasons over the past six months involving pipeline projects in and around Canada and the Northeast.⁴¹ When looked at in totality, there appears to be a master plan that includes overseas exports via existing and planned import and export facilities along the coasts of New England and Maritimes Canada. There are dozens of export applications pending in both countries, and two of the potential LNG facilities are in Nova Scotia.⁴² Therefore, an integrated look at the pipeline projects proposed for the Northeast shows that exports to Canada are assured, and LNG exports overseas are reasonably foreseeable.

Major pipelines in the northeast:⁴³



³⁹ *TransCanada To Transport Oil From Western To Eastern Canada*, PIPELINE & GAS JOURNAL (Sept. 2013), available at <http://pipelineandgasjournal.com/transcanada-transport-oil-western-eastern-canada>.

⁴⁰ *Tide Turns at Niagara from U.S. Imports to Marcellus Shale Exports*, NGI Reports, BUSINESS WIRE, (September 11, 2011), available at <http://www.businesswire.com/news/home/20110913006702/en/Tide-Turns-Niagara-U.S.-Imports-Marcellus-Shale>; ICF Consulting Canada, Inc., *The Future of Natural Gas Supply for Nova Scotia*, ICF, 4 (March 28, 2013).

⁴¹ An open season is used by pipeline companies to gauge the amount of market interest in existing pipelines, or in potential pipeline expansions. *Natural Gas Pipeline Development and Expansion*, EIA, available at http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/develop.html.

⁴² *LNG Export Licence Application Schedule*, NATIONAL ENERGY BOARD, available at <http://www.neb-one.gc.ca/clf-nsi/rthnb/pplctnsbfrthnb/lngxprtlnccpplctns/lngxprtlnccpplctns-eng.html#s2>; *North American LNG Import/Export Terminals, Proposed/Potential*, FERC (Sept. 12, 2013), available at <http://www.ferc.gov/industries/gas/indus-act/lng/lng-proposed-potential.pdf>.

⁴³ Return to Sender.

There are a number of existing LNG facilities in New England and the Maritimes.⁴⁴



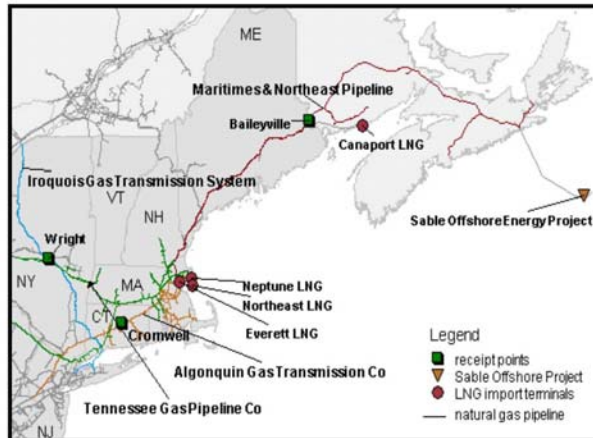
New England Gas Supply Paths

Canadian Supply

- East - declining production long term
- East - declining LNG imports
- West - supply constrained, transport cost very volatile

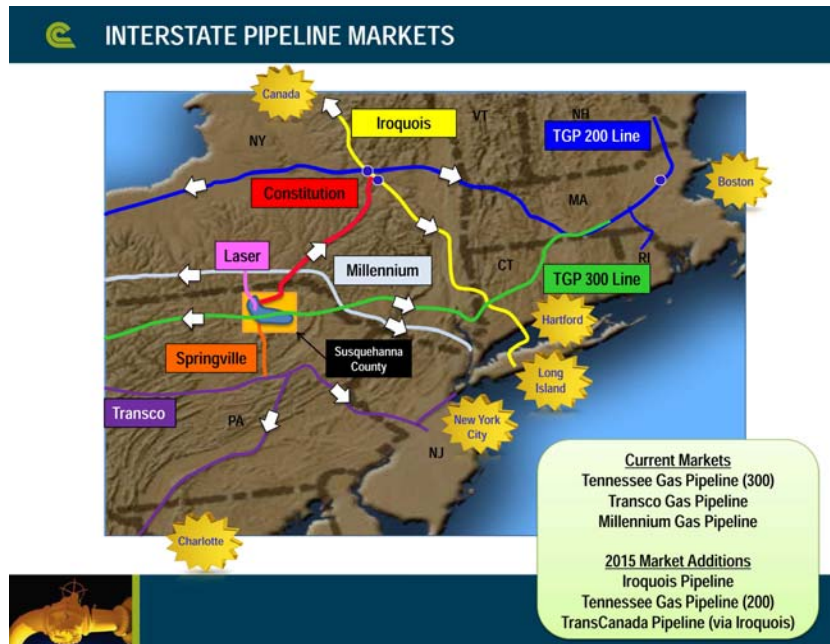
U.S. Supply

- Marcellus / Utica shale “game changer” prolific supplies
- Tennessee Gas Pipeline – one of two major suppliers to region
- Expanded infrastructure needed



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According to Cabot, Tennessee Gas Pipeline also plans to reverse the flow of its 200 Line at, or near, Wright, NY.⁴⁵ TGP has an interconnection with TransCanada near Niagara Falls.



⁴⁴ Tennessee Gas Pipeline, 2013 Shipper Meeting, 56, KINDER MORGAN (Aug. 14-16, 2013), available at <http://tebb.elpaso.com/TgpLookup/Presentations/08191312-111713-081913112518-2013%20Shipper%20Meeting%20Presentation.pdf>.

⁴⁵ Cabot Oil & Gas Corporation, Investor Presentation, 18 (Aug. 12, 2013), available at <http://www.enercominc.com/the-oil-and-gas-conference/presentation-pdf-downloads/>.

Following is a list of projects in New York and Pennsylvania that were recently announced, which would increase the flow of gas into Canada, near Niagara Falls, and connect with TransCanada. The first, which set the stage, was completed in 2012.

1. Tennessee Gas Pipeline Company (TGP)
Name: Northeast Supply Diversification Project⁴⁶
Amount: 250,000 Dth/day increase on 300 line.
Date: Placed in service on November 1, 2012.
Shippers: Cabot, Anadarko, and Seneca
2. Tennessee Gas Pipeline Company (TGP)
Name: Niagara Expansion Project⁴⁷
Amount: 153,000 Dth/day.
Date: Announced 12/19/13. Expected in-service date of 11/1/15.
Shipper: Seneca
3. National Fuel Gas Supply Corporation (NFGS)
Name: Northern Access 2015⁴⁸
Amount: 158,000 Dth/day
Date: Announced 12/17/13. Expected in-service date of 11/1/15.
Shipper: Seneca
4. National Fuel Gas Supply Corporation (NFGS)
Name: Westside Expansion and Modernization (West Side)⁴⁹
Amount: 175,000 Dth/day
Date: Announced 12/17/13. Expected in-service date of 11/1/15.
Shippers: Range and Seneca

Following is a list of coordinated Open Seasons that would expand and integrate gas pipelines in Eastern Canada and New England.

5. TransCanada Pipeline Limited (TCPL)⁵⁰
Owns: 44.5% of Iroquois
61.7% of Portland Natural Gas Transmission System (PNGTS)
Name: Eastern Triangle Natural Gas Pipeline Expansion Projects⁵¹
Location: Between North Bay, Toronto and Montreal.

⁴⁶ *Northeast Supply Diversification*, KINDER MORGAN, available at http://www.kindermorgan.com/business/gas_pipelines/east/TGP/NSD/.

⁴⁷ *Agreement reached to support Niagara Expansion Project*, PIPELINES INTERNATIONAL (Dec. 19, 2013), available at http://pipelinesinternational.com/news/agreement_reached_to_support_niagara_expansion_project/084875/.

⁴⁸ *National Fuel Executes Contracts on Major Pipeline Expansions And Long-Term Firm Transportation Capacity*, NATIONAL FUEL (Dec. 17, 2013), available at <http://investor.nationalfuelgas.com/mobile.view?c=90873&v=203&d=1&id=1885288>.

⁴⁹ *Id.*

⁵⁰ *Natural Gas*, TRANSCANADA, available at <http://www.transcanada.com/natural-gas-pipelines.html>.

⁵¹ *Eastern Triangle Natural Gas Pipeline Expansion Projects*, TRANSCANADA (Nov. 29, 2013), available at <http://www.transcanada.com/news-releases-article.html?id=1786765>.

Amount: Size would match interest and legal obligations
Dates: Open Season from 11/29/13 to 1/15/14

6. Iroquois

Owners: TransCanada owns 44.48% of Iroquois
Dominion owns 24.72% of Iroquois
National Grid owns 20.40% of Iroquois⁵²
Name: South-to-North Project⁵³
Location: Brookfield, CT to Waddington, NY
Interconnects with Algonquin at Brookfield, CT
Would interconnect with the “Constitution” at Wright, NY
Interconnects with Dominion at Canajoharie, NY
Interconnects with TransCanada at Waddington, NY
Serving: Eastern Canadian and Northern New England Markets
Amount: 300,000 Dth/day (available on this Open Season)
Dates: Open Season from 12/3/13 to 1/24/14.
Expected in-service date of November 2016.

7. Dominion Transmission

Owns: 24.72% of Iroquois
Name: Iroquois Access⁵⁴
Amount: 250,000 Dth/day
Location: Leidy, PA to Canajoharie, NY
Interconnects with Iroquois at Canajoharie, NY
Date: Completed Open Season. Expected in-service date of November 2016.

8. Spectra Energy

Owns: 77.6% of Maritimes and Northeast Pipeline⁵⁵
Name: Algonquin Incremental Market (AIM) Project⁵⁶
Amount: 342,000 Dth/day
Location: Ramapo, NY to Boston, MA
Interconnects with Iroquois at Brookfield, CT
Interconnects with Maritimes and Northeast Pipeline near Beverly, MA
Date: Pre-Filed 7/29/13 (PF13-16). Expected in-service date of November 2016.

⁵² *Partners in Natural Gas Transportation*, IROQUOIS, available at <http://www.iroquois.com/natural-gas-transporters.asp>.

⁵³ *South-to-North Open Season Brochure*, IROQUOIS, 1 (Dec. 2013), available at <http://www.iroquois.com/documents/SoNoOSBrochureFinal.pdf>.

⁵⁴ Josh Eakle, *Dominion - Expanding to Meet the Needs of the Marcellus and Utica Shales*, INGAA FOUNDATION, 12 (April 11-13, 2012); *South-to-North Open Season Brochure*, IROQUOIS, 2 (Dec. 2013), available at <http://www.iroquois.com/documents/SoNoOSBrochureFinal.pdf>.

⁵⁵ Canadian Natural Gas Pipelines, SPECTRA ENERGY, available at <http://www.spectraenergy.com/Operations/Canadian-Natural-Gas-Pipelines/MaritimeNortheast-Pipeline/>. (“The Maritimes & Northeast Pipeline brings offshore, onshore and LNG-sourced natural gas from Atlantic Canada to North American markets.”)

⁵⁶ *Algonquin Incremental Market (AIM) Project*, SPECTRA ENERGY (July 29, 2013), available at <http://www.spectraenergy.com/Operations/New-Projects-and-Our-Process/New-Projects-in-US/Algonquin-Incremental-Market-AIM-Project/>.

9. Spectra Energy

Owns: Algonquin and 77.6% of Maritimes and Northeast Pipeline⁵⁷

Name: Atlantic Bridge⁵⁸

Amount: 100,000 to 600,000 Dth/day expansion, based on interest.
Reversal of gas flow in the Maritimes and Northeast Pipeline

Location: Boston, MA to Nova Scotia

Interconnects with Maritimes and Northeast Pipeline near Beverly, MA

Date: Open Season from 2/5/14 to 3/31/14.

10. Portland Natural Gas Transmission System (PNGTS)

Owners: TransCanada owns 61.7% of Portland Natural Gas Transmission System

Name: Continent 2 Coast Expansion Project⁵⁹

Location: Pittsburg, NH to Westbrook, ME

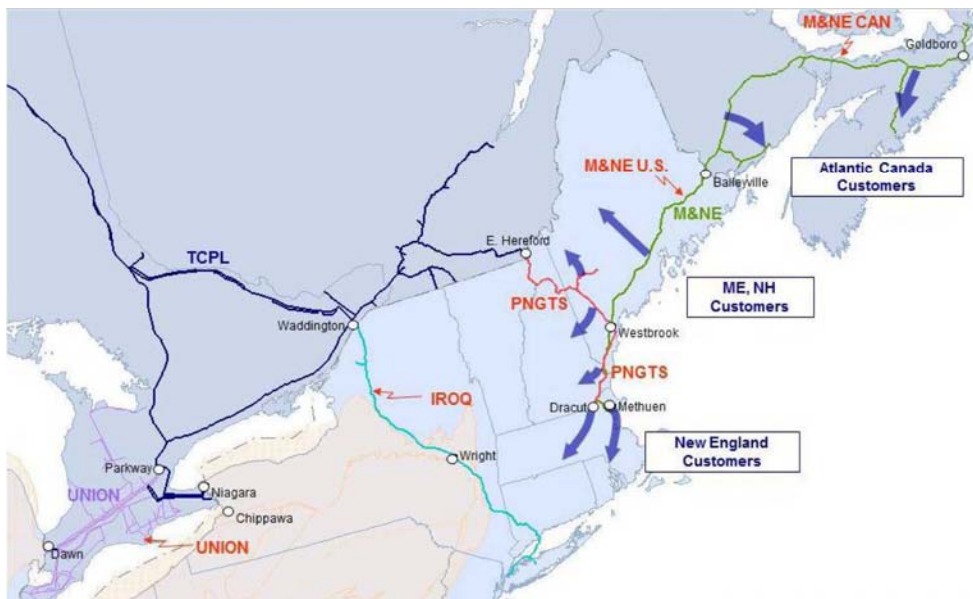
Interconnects with Trans-Quebec at E. Hereford

Interconnects with Maritimes & Northeast at Westbrook, ME

Interconnects with Tennessee Gas Pipeline in Dracut, MA

Amount: 132,000 Dth/day increase

Dates: Open Season from 12/3/13 to 1/24/14



⁵⁷ Canadian Natural Gas Pipelines, SPECTRA ENERGY, available at <http://www.spectraenergy.com/Operations/Canadian-Natural-Gas-Pipelines/MaritimeNortheast-Pipeline/>. (“The Maritimes & Northeast Pipeline brings offshore, onshore and LNG-sourced natural gas from Atlantic Canada to North American markets.”)

⁵⁸ Spectra Energy to Expand Pipeline Systems in New England, SPECTRA ENERGY (Feb. 5, 2014), available at <http://www.spectraenergy.com/Newsroom/News-Archive/Spectra-Energy-to-Expand-Pipeline-Systems-in-New-England/>.

⁵⁹ Open Season Notice, Portland Natural Gas Transmission System, <http://www.gasnom.com/ExternalFiles/SitesIP/pngts/OpenSeasonDocumentAndBindingRequest.pdf>.

11. Kinder Morgan – Tennessee Gas Pipeline (TGP)

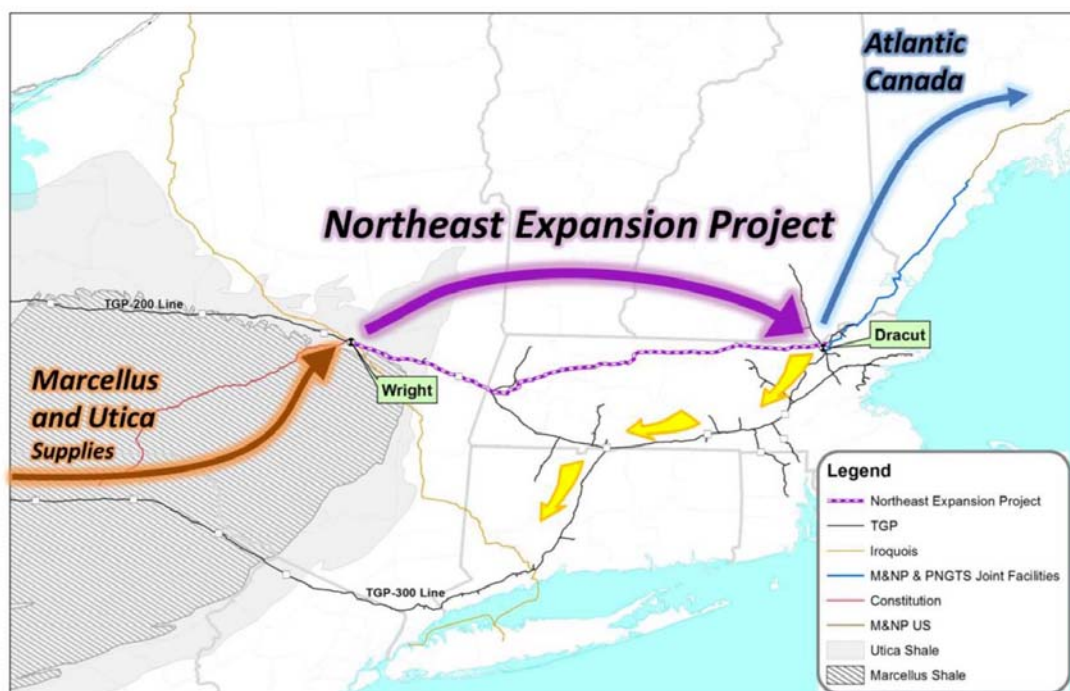
Name: Northeast Expansion Project⁶⁰

Location: Wright, NY to Dracut, MA
interconnects with PNGTS at Dracut, MA

Serving: Northern New England, Atlantic Canada, with ability to export from there

Amount: 600,000 to 2,200,000 Dth/day

Dates: Open Season from 2/13/14 to 3/28/14.



The dozen pipeline projects (including the “Constitution”) summarized above show the extent of the interest in moving large volumes of gas out of Pennsylvania (and New York) to Canada and overseas. In combination, these projects paint the big picture of where shale gas extracted in the Northeast is going, and that image mocks the industry’s ads that tout energy independence for the United States. Here we see a consortium of companies, many of them interrelated and with partial Canadian ownership, engaged in coordinated planning in order to export a massive amount of fracked shale gas to Canada and around the world.

It must be noted that the Acting Chair of FERC, Cheryl A. LaFleur, “served as executive vice president and acting CEO of National Grid USA.”⁶¹ National Grid owns 20.40% of Iroquois.⁶²

⁶⁰ Northeast Expansion Project Open Season, KINDER MORGAN, available at http://www.kindermorgan.com/business/gas_pipelines/east/neupopenseason/.

⁶¹ Biography, FERC, available at <https://www.ferc.gov/about/com-mem/Lafleur/bio.asp>.

⁶² *Partners in Natural Gas Transportation*, IROQUOIS, available at <http://www.iroquois.com/natural-gas-transporters.asp>.

Figure 2-2 Maritimes and Northeast Pipeline United States⁶³

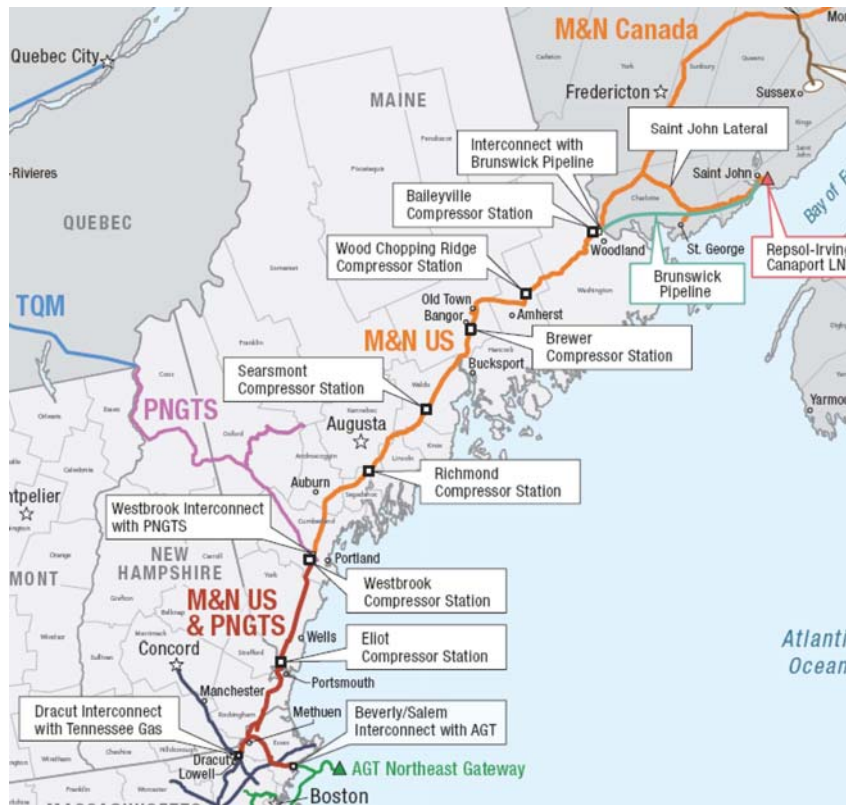
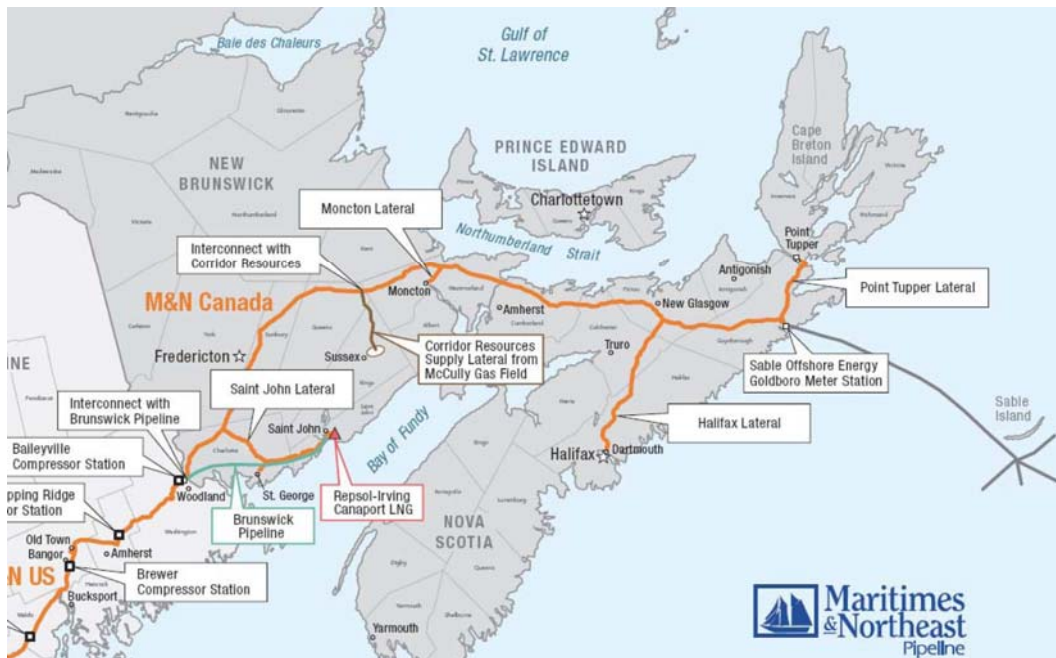


Figure 2-1 Maritimes and Northeast Pipeline Canada⁶⁴



⁶³ ICF Consulting Canada, Inc., *The Future of Natural Gas Supply for Nova Scotia*, ICF, 12 (March 28, 2013).

⁶⁴ *Id.* at 11.

VII. The proposed project is driven by excess supply, not market demand

The shale gas industry suffers from a glut of gas that comes from overproduction. This has driven down the price of gas, which forces gas companies to drill even more in order to meet their expenses. As a result of this vicious cycle, some companies that are drilling in Pennsylvania are integrating the transport of gas into their businesses. “Producers with large portfolios in Marcellus have been primarily responsible for the financial commitments on the new pipeline and storage facilities to accommodate soaring production from Marcellus, including new pipeline projects into the LHV and NYC.”⁶⁵

This is particularly true with the proposed “Constitution” pipeline because the entities that have partnered to form the Company, and the entity that has contracted to ship most of the gas through the proposed pipeline, have many interrelated shale gas business relationships. For example, Cabot Oil and Gas Corporation, which holds many gas drilling leases in north central Pennsylvania, will be shipping 500,000 of the 650,000 Dth/d in the proposed pipeline.⁶⁶ The gas driller’s wholly owned subsidiary, Cabot Pipeline Holdings, LLC, owns 25% of the Company.⁶⁷ Similarly, a number of companies owned by Williams are drilling, gathering, compressing, and distributing Pennsylvania gas, and are positioning themselves to play a similar role in New York.⁶⁸ Williams Field Services Company, LLC builds gathering lines and compressor stations, Williams Partners Operating, LLC currently owns 41% of the Company (down from 75% when the application was pre-filed), and Williams Pipeline Company, LLC will operate and maintain the pipeline once it is constructed.⁶⁹ In other words, these companies are proposing to drill for gas, to gather it, and to build an interstate pipeline through which they can transport the gas they have sold to themselves after they have extracted, gathered, and compressed it. Whether there is any public interest, or actual market need, in these arrangements is yet to be determined.

The Company more or less admits that it is seeking a market for its excess supply of gas in its application to FERC.

The Project will provide firm access to new sources of gas supply being developed in North Central Pennsylvania, which is experiencing a dramatic increase in natural gas production, primarily from the development of shale

⁶⁵ Levitan, 18-19. (LHV stands for Lower Hudson Valley.)

⁶⁶ Constitution Pipeline Company, LLC, Application for Certificate of Public Convenience and Necessity, Exhibit A, Articles of Incorporation and Bylaws, Exhibit C, pdf p. 66 (June 13, 2013), *available at* http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20130613-5078 [hereinafter Application].

⁶⁷ Application, Exhibit A, Articles of Incorporation and Bylaws, Exhibits A & D, pdf pp. 64, 67; Amendments to LLC Agreements, pdf pp. 68, 77; Application, Exhibit D, Subsidiaries and Affiliations, pdf p. 133.

⁶⁸ Application of Williams Field Services Company, LLC and DMP New York, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Construct an Approximately 9.5 Mile Natural Gas Gathering Pipeline in the Town of Windsor, Broome County, (Dec. 2, 2013), *available at* <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=44189>; Williams Field Services, Petition for Approval to NYSPSC, 4 (Feb. 7, 2013), *available at* <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={543877AE-3417-4535-8864-B3EA878498D2}>.

⁶⁹ Application, Exhibit A, Articles of Incorporation and Bylaws, Exhibits A & D, (pdf p. 64, 67); Exhibit D, Subsidiaries and Affiliations (pdf p. 133); Amendments to LLC Agreements (pdf pp. 68, 77); Construction, Operation and Maintenance Agreement (pdf p. 91).

deposits. This increased production has the potential to provide economic benefits to the region by increasing competition among fuel sources, and to increase the reliability and diversification of the nations supply of natural gas.⁷⁰

The Company is not alone in seeking a market for its shale gas. In a recent interview, Justin Carlson, an analyst of natural gas markets for Bentek EnergyBentek, was asked:

Q: So is there a demand for all this gas?

A: Right now, there's not. We've seen a substantial amount of basins that have had to pull back partially because gas prices are not high enough. . . .

Q: In your presentation you mentioned all the proposed LNG [liquefied natural gas] exports projects. Do those need to happen in order for the market to balance?

A: Right now, to balance the market, those need to happen. If you exclude those, we're going to have to reduce our production profile pretty substantially.⁷¹

Domestic gas companies have too much gas, with too low prices, to meet their overhead and investor demand for growth. In their search for new markets, they are forcing an unprecedented build out of gas pipelines, and reversing the flow of others, that will enable them to export gas to Canada, and overseas. Therefore statements in FERC's DEIS that the gas transported in the proposed "Constitution" Pipeline would be for the New York and New England markets are misrepresentations of the truth, and must be corrected.

VIII. Recently Completed Projects Satisfy Market Demand in New York City

One of FERC's roles is to ensure there is no overbuilding of pipeline capacity. Such an analysis requires the inclusion of the most current pipeline information. Instead, FERC's DEIS refers to a two-year old assessment and a five-year old report, both of which are extremely out of date because of the extensive amount of recent pipeline construction.

FERC's DEIS states:

The New York State Energy Planning Board (2009) assessment of natural gas markets in New York and in the northeast concluded that most of the interstate transmission pipelines in the region are at or near capacity on peak days, and that by 2018 unmet peak day natural gas demand for New York and New England could range between an estimated 300,000 to 900,000 Dth/d.⁷²

⁷⁰ Application at 8.

⁷¹ Marie Cusick, *With A Glut Of Gas, Industry Looks To Increase Demand*, STATEIMPACT, NPR (Sept. 10, 2013), available at <http://stateimpact.npr.org/pennsylvania/2013/09/10/with-a-glut-of-gas-industry-looks-to-increase-demand/>.

⁷² DEIS at 3-2.

This information, from a 2009 assessment, is no longer true, and more recent, and accurate, information is easily available. For example, in the fall of 2013 Levitan reported that “[s]everal noteworthy pipeline expansions have occurred in and around New York since November 2009, many of which are contracted by producers to transport Marcellus gas to the market center in New Jersey and NYC.”⁷³

FERC’s DEIS states:

Other reports have also documented increased demand for natural gas in New York and New England and the lack of adequate pipeline capacity to deliver required volumes of natural gas (ISO-New England 2012, ICF International 2012).⁷⁴

ICF updated the report FERC quotes in late 2013, finding New England has sufficient pipeline capacity to meet its firm contracts, but not enough for non-firm contracts of utility companies on hot summer, and cold winter days.⁷⁵ It is projected that there will be unmet demand for electric production on 24 to 34 days of the winter season in 2019/20.⁷⁶ The DEIS should consider whether new pipelines should be constructed through “greenfields” to meet a few weeks of shortage per year. Also, additional pipeline capacity is not the only way to meet that need, and the ICF analysis did not consider the possibilities of conservation, solar, and offshore wind to supply electricity for 24 to 34 days per year.

A review of recently completed projects in and near New York State show that market demand in New York City has been met. According to Levitan,

Spectra’s 800-MDth/d New Jersey – New York Expansion Project and Transco’s 250-MDth/d Northeast Supply Link Project, of which 200 MDth/d will flow to NYC, will increase deliverability into the New York Facilities System by approximately 30%. Both the New Jersey – New York Expansion Project and the Northeast Supply Link Project are designed to accommodate soaring gas production from Marcellus. These two projects represent 1,000 MDth/d, approximately 1 Bcf/d, of incremental deliverability into NYC.⁷⁷

The following tables list recent pipeline projects that were not included in FERC’s analysis. If they had been discussed, the conclusions about the need for more gas in the target markets would have been different.

⁷³ Levitan and Associates, Inc., *NYCA Pipeline Congestion and Infrastructure Adequacy Assessment, New York Independent System Operator*, 22 (September 2013) [hereinafter Levitan]. (The Levitan assessment is attached.)

⁷⁴ DEIS at 3-2, 3-3.

⁷⁵ Kevin R. Petak and Frank Brock, *Assessment of New England’s Natural Gas Pipeline Capacity to Satisfy Short and Near-Term Power Generation Needs, Phase II*, 7, ICF INTERNATIONAL (December 18, 2013).

⁷⁶ *Id.* at 29.

⁷⁷ Levitan at 8. (Spectra’s New York Expansion Project and Transco’s Northeast Supply Link Project came online in November 2013.)

**Recently completed pipelines and compressor stations (2010 - 2013)
Increased availability of gas in Southern and Eastern New York State, and beyond**

Name	Pipeline Co.	Docket	MDth/day	Interconnection, Destination
Laser Northeast	Williams	NYSPSC	400	Millennium, NY
Bluestone Gathering	Bluestone	NYSPSC	600	Millennium, NY Tennessee, PA
Minisink Compressor	Millennium	CP11-515	150	Algonquin, NY
300 Line Project	Tennessee	CP09-444	350	PA, NY, CT, MA 50 MDth White Plains
Bayonne Delivery Lateral Project	Transco	CP09-417	250	Bayonne, NJ, north of Staten Island
TEAM 2012	Texas Eastern	CP11-67	200	Transco and Eastern Shore, PA
MARC I	Inergy	CP10-480	550	Transco, PA to NY
NJ – NY Expansion Project	Spectra	CP11-56	800	Manhattan, NY
Northeast Upgrade Project	Tennessee	CP11-161	636	Algonquin in Mahway, NJ
Northeast Supply Link Project	Transco	CP12-30	250	NJ and NYC

**Recently Completed Pipelines and Compressor Stations (2010 - 2013)
Increased availability of gas in Western New York State, and Canada**

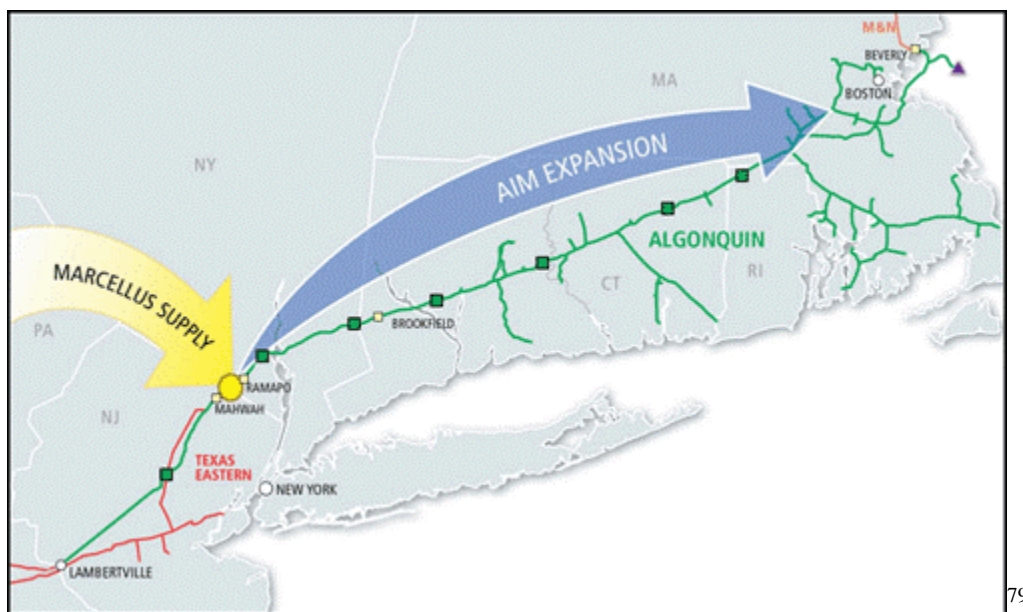
Name	Pipeline Co.	Docket	MDth/day	Interconnection, Destination
Tioga County Extension Project	Empire	CP10-493	350	Empire
Northeast Supply Diversification Proj.	Tennessee Dominion	CP11-30 CP11-41	250	Niagara, TransCanada Exports – Nov. 2012
Northern Access Project	NFG / Tennessee	CP11-128	250	Niagara, TransCanada Exports – Jan. 2013

Pending projects that may increase capacity in or through New York State.

Name	Pipeline Co.	Docket	MDth/day	Interconnection, Destination
Hancock Compressor Project	Millennium	CP13-14	107.5	Algonquin, Ramapo, NY
Northeast Connector	Transco	CP13- 132	100	Rockaway Lateral, NY
Rockaway Lateral Project	Transco	CP13-36	647	Ngrid, NY
Woodbridge Delivery Lateral	Transco	CP14-18	264	NJ
TEAM 2014	Texas Eastern	CP13-84	600	PA and NY

East Side Expansion Project	Columbia	CP14-17	312	Millennium and Tennessee
Algonquin Incremental Market	Algonquin	PF13-16	433	NY to New England

FERC’s DEIS fails to include current information on pipeline capacity and market need for gas in New York City. In addition, a major expansion of capacity from New York to New England, which is currently under review by FERC, is not mentioned in the DEIS.⁷⁸



These recent projects fulfill the need for gas in the markets the Company’s proposed pipeline is supposed to serve. Therefore the assessments and reports referred to by FERC are out-of-date. Since FERC is authorized to approve all of these pipeline projects, and maintains an extensive library of the material in its dockets, it raises questions about why the data in the DEIS is so dated. FERC should revise the DEIS to include up-to-date information on market need and pipeline capacity.

IX. Potential local use is overstated, speculative, and unfair to landowners

In order to take private property through eminent domain under the Natural Gas Act, and to fill wetlands under the Clean Water Act, there must be sufficient public need for the project. In the DEIS, Section 1.1 Project Purpose and Need is approximately one and a half pages long. A full paragraph, amounting to a third of a page, describes the potential use of gas by a local distribution company – a start-up that has never delivered gas in New York State.

⁷⁸ Algonquin Gas Transmission, LLC, *Draft Resource Report 1 and Summary of Alternatives under PF13-16* (July 29, 2013), available at http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20130729-5146.

⁷⁹ Chris Dubay, *New England Natural Gas Pipeline Projects Needed Sooner Than Later*, ENERGY BIZ (Dec. 12, 2013), available at <http://www.energybiz.com/article/13/12/new-england-natural-gas-pipeline-projects-needed-sooner-later>.

As noted in the second bullet above, Constitution has identified that the proposed pipeline could provide natural gas service to nearby municipalities that do not currently have access to natural gas. According to Leatherstocking Gas Company, LLC (Leatherstocking), Leatherstocking has entered into a Memorandum of Understanding with Constitution, which would allow Leatherstocking to interconnect with Constitution's pipeline at several delivery points (Leatherstocking 2013). Leatherstocking would then be able to deliver gas from Constitution's pipeline to homes and businesses within communities in Pennsylvania and New York. In New York, the Town of Bainbridge, the Village of Windsor, the Town of Windsor, the Village of Bainbridge, the Town of Unadilla, the Village of Unadilla, the Town of Sidney, the Village of Sidney, and the Village of Delhi have granted Leatherstocking approvals for the opportunity to serve their communities (Leatherstocking 2013). Leatherstocking would evaluate the need for gas in these communities and construct the necessary infrastructure as part of the New York State Department of Environmental Conservation's (NYSDEC) permitting process for natural gas gathering and local distribution lines and could be subject to other processes including review by the COE for impacts on waters of the United States.⁸⁰

Much has been made of this potential use, even though no firm contract exists between the Company and Leatherstocking. Instead, the Company has engaged in a public relations campaign to sell its high-pressure interstate pipeline project based on claims that gas might be utilized by people and businesses along the route. FERC does not mention the amount of gas that would be delivered, but this information was recently provided by Leatherstocking.

To provide some perspective, Leatherstocking Gas has estimated that throughput for the Village and Town of Sidney would be less than 1,000 Mcf/day even when the distribution system is fully built out. This amount is approximately 0.3% of the total Constitution throughput. . . . Even if the other distribution facilities that could follow the Sidney system are constructed, the total throughput for all Leatherstocking Gas distribution, including Sidney, would be in the range of 2,000 Mcf/day or approximately 0.6% of Constitution's total throughput. . . .⁸¹

In the DEIS, FERC never states that a mere 0.6% of the entire proposed project might be used to satisfy local need. Nor does FERC state that this is only a possibility, which would occur at some point in the future. Nor does FERC perform an analysis of whether there is, in fact, a local need for gas, and at what price. Such a study should include population densities of nearby villages and towns, potential volumes of gas that could be consumed, costs of delivery, and potential rates based on a range of future gas prices. The potential benefits of local use should then be balanced against the potential impacts of the required build out of

⁸⁰ DEIS at 1-1. (NYSDEC does not have permitting authority over gathering and distribution lines in NYS.)

⁸¹ Nixon Peabody LLP on behalf of Leatherstocking Gas Company LLC, *Answer in Opposition to the Motion for Extension of Time*, 5, Fn 8 (March 31, 2014), available at http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20140331-5183.

distribution pipelines to serve future customers, along with the potential impacts of induced development. Finally, an analysis of alternatives should be performed to determine whether there are other methods of delivering this energy, and what their impacts would be. While none of these factors are evaluated – or even mentioned in the DEIS – a simple internet search can uncover such a discussion.

On April 11, 2012, Leatherstocking testified at a hearing in Wysox, Pennsylvania about the potential of using locally produced gas in rural areas.⁸² Michael German, CEO and president of Corning Natural Gas Corporation and Leatherstocking gave a presentation in which he stated that Leatherstocking would be serving customers by tapping local gas drilling wells and gathering lines.⁸³ It took over a year and a half for Leatherstocking to connect its first customer.⁸⁴ Sonny Popowsky, Consumer Advocate of Pennsylvania, discussed the difficulties and high costs of bringing natural gas infrastructure to sparsely populated areas.⁸⁵ While supportive of the effort, he stated the project was controversial, a competing company had applied to serve the same community, and the Pennsylvania Public Utility Commission would “decide which, if either, of these applications is to be granted.”⁸⁶ Tony Ventello, Executive Director for the Central Bradford Progress Authority, discussed the need for public subsidies in order for these ventures like these to succeed.⁸⁷ He stated there simply aren’t enough customers to pay for the capital costs of building out the infrastructure.

The situation is more complicated in New York than in Pennsylvania because, for now, there are no gas wells or gathering lines to tap. Instead, Mr. German stated during presentations he made in Delaware County, NY, that Leatherstocking has a Memorandum of Understanding with the Company to be able to tap the proposed “Constitution” pipeline. He admitted that the agreement is not binding. However, five villages and five towns in New York State have signed franchise agreements with Leatherstocking. Since these agreements carry no obligation to proceed by either side, these ten municipalities are merely providing social support for this start-up.

There was also a recent flurry of press releases and photo opportunities regarding a \$750,000 grant from New York State to connect Amphenol, which is a manufacturing facility located in Sidney, NY, to the proposed pipeline, via a Leatherstocking distribution line.⁸⁸ What was

⁸² Senator Yaw, *Agenda* (April 11, 2012), available at <http://www.senatorgeneyaw.com/files/2013/06/Hearing-Natural-Gas-Extension-Services.pdf>.

⁸³ *Blueprint for Success*, 6, LEATHERSTOCKING GAS COMPANY (April 11, 2012), available at <http://www.northerntier.org/upload/11-14-12-3LGC%20WYSOX.pdf>.

⁸⁴ *Leatherstocking Gas Company Celebrates 1st Residential Natural Gas Customer*, BINGHAMTON HOMEPAGE (Nov. 14, 2013), available at http://www.binghamtonhomepage.com/story/leatherstocking-gas-company-celebrates-1st-residential-natural-gas-customer/d/story/ysTykQx_PEGLF-D1Xmfepg.

⁸⁵ Sonny Popowsky, *Testimony Regarding the Extension of Natural Gas Service in Rural Pennsylvania*, 4 OFFICE OF CONSUMER ADVOCATE (April 11, 2012), available at http://www.oca.state.pa.us/Testimony/2012/Testimony%20re%20Extension%20of%20Natural%20Gas%20Service%20_00154591_.pdf.

⁸⁶ *Id.* at 5.

⁸⁷ Johnny Williams, *Public hearing addresses issues in local distribution of natural gas*, THE DAILY REVIEW (April 12, 2012), available at <http://thedailyreview.com/news/public-hearing-addresses-issues-in-local-distribution-of-natural-gas-1.1298722>.

⁸⁸ Joe Mahoney, *Pipeline would send gas to Amphenol, towns*, THE DAILY STAR (March 19, 2014), available at <http://www.thedailystar.com/localnews/x1387873940/Pipeline-would-send-gas-to-Amphenol-towns>.

not included in the Company's press release, or the related news articles, was that this money was applied for by the Delaware County Industrial Development Agency to aid in the rebuilding of Amphenol after the devastating floods of 2011.⁸⁹

The Delaware County Industrial Development Agency, a public benefit corporation empowered to provide financial assistance to private entities through tax incentives, will use a grant of up to \$750,000 for a portion of the cost to construct a natural gas distribution line from the Constitution Pipeline to Amphenol Corporation's existing facility at 40-60 Delaware Avenue, **as well as the new manufacturing facility to be constructed at 171 Delaware Avenue.**⁹⁰

In other words, it appears the original grant application, which was written to assist in the rebuilding of the Amphenol facility, has simply been amended to include a connection to the proposed "Constitution" pipeline. According to the Governor's press release, the money can be spent entirely on the construction of the new building.

Amphenol has received over thirty-six million dollars in local, state, and federal grants and tax credits to rebuild in Sidney, rather than relocate out of state.⁹¹ Amphenol also received out-of-territory hydroelectric power service from the Delaware County Electric Coop.⁹² Now Amphenol, Leatherstocking, and the Company want local landowners to give up a portion of their land for their benefit. Many of the landowners are middle and working class citizens, who have invested their life savings in their property. Is it fair for the government to force these people to give up their assets so that a few private companies can increase their profits?

The question of the need for the project has profound implications – for over seven hundred directly affected landowners, and thousands of others. The analysis provided in the DEIS is insufficient to determine need under both the Natural Gas Act and the Clean Water Act.

X. Conclusion

The proposed "Constitution" Pipeline would not serve the New York City and New England markets as the two interconnecting pipelines, Iroquois and Tennessee, do not have room to accept the gas. Instead, as Iroquois' recently announced South to North project makes clear, the gas would be transported to Canada, and could be exported overseas from there. If Tennessee's Northeast Expansion is required to bring the gas to New England, then the impacts from that project must be integrated into this environmental review.

⁸⁹ Erika Eklund, *Efforts Continue To Rebuild Amphenol Plant In Sidney*, THE MOUNTAIN EAGLE (Aug. 30, 2012), available at http://www.registerstar.com/the_mountain_eagle/news/article_ac21b3c5-9cab-5bfd-bf56-4f1136236d46.html?mode=jqm.

⁹⁰ *Governor Cuomo Announces \$5.9 Million to Fund Projects That Will Spur Economic Opportunity in Four Regions* (Feb. 20, 2014), available at <http://www.governor.ny.gov/press/02202014-fund-economic-opportunity>. (Emphasis added.)

⁹¹ *Commissioner Adams, State and Local Officials, Break Ground on Amphenol's New Facility in Delaware County*, EMPIRE STATE DEVELOPMENT (May 13, 2013), available at http://esd.ny.gov/NewsRoom/Data/2013/05132013_AnphenolPR.pdf. (Emphasis added.)

⁹² Derrill Holly, *N.Y. Co-op Helps Preserve Jobs*, ECT (April 24, 2012), available at <http://www.ect.coop/industry/business-finance/n-y-co-op-helps-preserve-jobs/43002>.