

**P♦L♦A♦N**  
**PIPE LINE AWARENESS NETWORK**  
FOR THE **NORTH EAST, INC.**

www.plan-ne.org

June 22, 2016

Secretary Matthew A. Beaton  
Executive Office of Energy and Environmental Affairs  
Attn: MEPA Office  
100 Cambridge Street  
Boston, MA 02114

Re: Town of Weymouth Request for an Advisory Opinion

Dear Secretary Beaton:

The Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”) submits these comments in support of the Town of Weymouth's request (the “Request”) for an Advisory Opinion, published in the *Environmental Monitor* on June 8, 2016. The Request concerns the need for a comprehensive environmental review of the Atlantic Bridge (“AB”) and Access Northeast (“ANE”) interstate natural gas infrastructure projects, of which Spectra Energy Corp (“Spectra” or the “Company”) is the lead proponent. PLAN is a broad-based coalition of municipalities, legislators, businesses, organizations, ratepayers and concerned citizens working to prevent the overbuild of natural gas infrastructure in the Northeast.

PLAN is in full agreement with the Town of Weymouth that separate review of the AB and ANE projects does not comport with the regulations promulgated under the Massachusetts Environmental Policy Act, M.G.L. c. 30 § 61 et seq. (“MEPA”) and that, even viewed in isolation, the AB project warrants MEPA review under the fail-safe review provisions of the MEPA regulations. PLAN has submitted comments to the Federal Energy Regulatory Commission (“FERC”) relating to the improper segmentation of these projects and the flawed federal process, as well as air quality and noise issues that should be considered in any legitimate regulatory review; those comments are attached hereto for reference. PLAN submits these additional comments below for your consideration, in support of the Town of Weymouth's Request for a comprehensive environmental review of the natural gas infrastructure projects proposed or underway in the Commonwealth.

***Segmentation***

There is no rationale consistent with MEPA to perpetuate the conceit that these projects are separate, independent undertakings. The very first section of the MEPA regulations addresses segmentation and provides as follows:

The Proponent may not phase or segment a Project to evade, defer or curtail MEPA review. The Proponent, any Participating Agency, and the Secretary shall consider all circumstances as to whether various work or activities constitute one Project,

including but not limited to: *whether the work or activities, taken together, comprise a common plan or independent undertakings*, regardless of whether there is more than one Proponent; *any time interval between the work or activities*; and *whether the environmental impacts caused by the work or activities are separable or cumulative*.

301 CMR 11.01(2)(c) (emphasis added). As your agencies are well aware, Spectra proposes to limit the Massachusetts footprint of new construction for the AB project to an approximately sixteen-acre parcel in Weymouth, where it proposes to construct a compressor station. Spectra then proposes to more than double in horsepower that compressor station as part of ANE, and also add a new compressor station in Rehoboth, as well as massive liquefaction and storage facilities in Acushnet, and pipeline loops and appurtenant infrastructure in more than twenty municipalities in the Commonwealth.<sup>1</sup>

Spectra suggests that the projects are unrelated because the customers of the AB project are all local gas distribution companies (“LDCs”), while ANE only has one LDC customer and is largely subscribed by electrical utilities.<sup>2</sup> This (imperfect) distinction based on customer type is absurd and ignores the physical connection and relationship between the two proposals. In addition to the proposed augmentation of the proposed compressor station, ANE would include a Q-1 system loop in Norfolk County; the AB project was originally presented as including a Q-1 system loop through six of the same Norfolk County towns.<sup>3</sup> To all appearances, the different components of the Algonquin expansion plan are being shifted around by the project proponents to evade comprehensive regulatory review, in direct contravention of the MEPA regulations.

The clear and documented relationship between the AB and ANE projects was noted by the Massachusetts Energy Facilities Siting Board (“EFSB”) in multiple comments to FERC. EFSB concluded that the AB and ANE projects are *“closely related”*<sup>4</sup> and *“represent essentially concurrent actions, with some overlapping locations and numerous potential interdependencies regarding optimal design and routing choices.”*<sup>5</sup> EFSB further notes:

[B]y evaluating the physical components together, the Company would have been able to minimize both the environmental impacts and the required infrastructure. By looking at each project independently, the Company has unduly narrowed the scope of its analysis, and overlooked potentially superior route and design options applicable to Atlantic Bridge and Access Northeast, in combination.<sup>6</sup>

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1 Both projects also would include substantial new infrastructure outside of the Commonwealth.

2 This suggestion was made most recently in the May 6, 2016 letter from Ralph Childs of Mintz Levin (the “Mintz Levin Letter”) to your office on behalf of the AB project's proponents.

3 See Algonquin Gas Transmission, LLC (“Algonquin”) and Maritimes & Northeast Pipeline, L.L.C. (“Maritimes”) Request for Use of Pre-Filing Procedures, January 30, 2015, PF15-12-000, October 22, 2015, Accession No. 20150130-5311, Attachment 1, Table 1 and Atlantic Bridge FERC Application, Resource Report 1, CP16-9-000, Accession No. 20151022-5282, at 1-2.

4 EFSB comments on FERC environmental assessment for AB, June 1, 2016, Docket No. CP16-9-000, Accession No. 20160602-5077, p. 2.

5 EFSB ANE scoping comments dated May 31, 2016, Docket No. PF16-1-000, Accession No. 20160601-5098, p. 18.

6 *Id.*, p. 19.

EFSB's comments to FERC also include several concerns relating to cumulative impacts, in particular air quality impacts in Weymouth from the two projects. EFSB's conclusions, and the facts set forth in Mayor Hedlund's letters, necessitate a finding by your office that the AB and ANE projects have been improperly segmented. When viewed objectively, the AB and ANE projects are phases two and three of the expansion of the Algonquin Gas Transmission system, phase one of which is the Algonquin Incremental Market project currently under construction in West Roxbury and Dedham (and other locations outside of the Commonwealth). A comprehensive review by your office should properly evaluate this Algonquin system expansion as a single project with respect to impact minimization and avoidance, project design and alternatives.

### ***Fail-Safe Review***

As Mayor Hedlund noted, even the AB project viewed alone triggers the fail-safe review provisions of 301 CMR 11.04.<sup>7</sup> In addition to the reasons cited by the Mayor, PLAN notes that compressor stations, by design, release the highly potent greenhouse gas (“GHG”) methane directly into the atmosphere. Fail-safe review is triggered when, among other things, a project “has the potential to cause Damage to the Environment and the potential Damage to the Environment . . . could not reasonably have been foreseen prior to or when 301 CMR 11.00 was promulgated”.<sup>8</sup> The MEPA statute was amended by the Global Warming Solutions Act in 2008, requiring that agencies “consider reasonably foreseeable climate change impacts, including additional greenhouse gas emissions, and effects, such as predicted sea level rise” in their project evaluations. M.G.L. c. 30, § 61. GHG impacts constitute a type of damage to the environment<sup>9</sup> that could not reasonably have been foreseen prior to the promulgation of the MEPA regulations, and the fail-safe review provisions are in place to ensure that projects characterized by such potential damage to the environmental do not evade MEPA review.

### ***Programmatic Review or Other Special Review***

The recent proliferation of gas infrastructure proposals in the Northeast requires a comprehensive, systemic review. Because the interstate pipeline companies have interdependent systems and these projects have cumulative impacts, numerous parties, including PLAN, have requested that FERC prepare a programmatic environmental impact statement for all interstate gas infrastructure expansion projects proposed for the region. While these requests continue to fall on deaf ears at the federal level, a Programmatic Review or other special review procedure under 301 CMR 11.09 would bring a commonsense approach to evaluating this phenomenon of massive gas infrastructure buildout.

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7 See p. 5 of March 15, 2016 Hedlund letter. That letter also notes that MEPA review is triggered because of the conservation restriction held by the Town of Weymouth on a portion of proposed the compressor station site. *Id.* pp. 5-6. The Mintz Levin Letter asserts that a change in the proposed AB project has eliminated the triggers for MEPA review relating to the conservation land.

8 301 CMR 11.04. The fail-safe review provisions also require that the project is subject to MEPA jurisdiction; that compliance with the MEPA regulations is essential to avoid or minimize damage to the environment; and that compliance will not result in undue hardship to its proponent. *Id.*

9 The Executive Office of Energy and Environmental Affairs (“EEA”) has concluded that GHG emissions are a form of “damage to the environment” under MEPA. *MEPA Greenhouse Gas Emissions Policy and Protocol (2007)* at 1.

Such a comprehensive review is particularly vital in Massachusetts, in light of the recent *Kain v. MassDEP* decision by the Supreme Judicial Court. As MassDEP works to fulfill the judicially affirmed statutory mandates relating to greenhouse gas emissions limits, extensive demand-side solutions and locally generated renewable energy must be considered as real and critical alternatives to much of the proposed gas infrastructure expansion. A comprehensive MEPA review would allow for a meaningful evaluation of GHG emissions and other impacts from the proposed buildout of gas infrastructure across the Commonwealth, as well as a meaningful alternatives analysis. Such an analysis would also help bring into focus the policy decisions currently faced by the Baker administration with respect to gas infrastructure financing and incentives that put ratepayers, communities and the environment at risk.

For the foregoing reasons, PLAN respectfully requests that you grant the Town of Weymouth's request for a comprehensive MEPA review of all natural gas infrastructure projects proposed or recently approved for construction in the Commonwealth.

Sincerely,



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cc: DEP Commissioner Martin Suuberg  
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