

***Town of Weymouth
Massachusetts***

Robert L. Hedlund
Mayor

75 Middle Street
Weymouth, MA 02189



Office: 781.340.5012
Fax: 781.335.8184

www.weymouth.ma.us

November 8, 2019

By E-Mail (lisa.engler@state.ma.us)

Lisa Berry Engler, Director
Massachusetts Office of Coastal Zone Management
251 Causeway Street, Suite 800
Boston, Massachusetts 02114

***Re: Federal Consistency Review
Atlantic Bridge Project – Weymouth Compressor Station
Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC***

Dear Ms. Engler:

On behalf of the Town of Weymouth, I wish to bring to your attention a significant development regarding the referenced project, which involves a proposal by Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC (together, the “Natural Gas Companies”) to construct a compressor station within the Coastal Zone in Weymouth. The compressor station is part of the Atlantic Bridge project, the purpose of which is to increase capacity in natural gas pipelines owned by the Companies and to facilitate the delivery of gas supplies to shippers north of Massachusetts.

It has come to light very recently that two companies (the “project shippers”) that have contracted to ship natural gas using pipeline capacity that would be made available upon completion of the Atlantic Bridge Project have now withdrawn from the project and assigned some or all of their rights under project contracts to Boston Gas Company (d/b/a National Grid). (One of these shippers has also simply released some of its assigned capacity.) National Grid has stated that installation of the compressor station is not necessary for delivery of these new incremental gas supplies to its delivery point in East Braintree, Massachusetts. In addition, other project shippers have stated that the Weymouth compressor station is not necessary for their use of the increased capacity generated by the project.

Given that the Natural Gas Companies’ justification for construction of a compressor station within the Coastal Zone at the Weymouth site was already factually tenuous and, in the Town’s view, legally inadequate, the Town believes that the changed circumstances call for additional review before your Office makes its determination whether the construction of the Weymouth compressor station is consistent with the Commonwealth’s Coastal Zone Management Plan. Specifically, the Town believes that a new alternatives analysis under Energy Policy #1 of the Plan is required.

I. Recent Changes to Atlantic Bridge Project Shippers

In 2017, the Federal Energy Regulatory Commission (“FERC”) granted the Natural Gas Companies a conditional Certificate of Public Convenience and Necessity under the *Natural Gas Act* for the Atlantic Bridge Project.¹ This project includes a number of components in New York, Connecticut, and Massachusetts, one of which is the proposed 7,700-horsepower natural gas-fired compressor station on the Fore River Peninsula in Weymouth, Massachusetts, which is the subject of your Office’s federal consistency review.² Importantly, the FERC approval to construct the Weymouth compressor station is explicitly contingent on “the Massachusetts Office of Coastal Zone Management’s determination of consistency with the Coastal Zone Management Act.”³

The Atlantic Bridge project was intended to enable Algonquin to provide an additional capacity of 132,705 dekatherms per day (Dth/d) of firm transportation service for natural gas from Algonquin’s receipt points to various new and existing delivery points.⁴ It would also allow Maritimes to provide 106,276 Dth/d of firm transportation service from Beverly, Massachusetts to various existing delivery points on its system, including in Canada.⁵ As part of planning for the project, Algonquin executed precedent agreements with prospective project shippers for 100 percent of the firm transportation service to be made available by the project.⁶

In its decision to approve the Atlantic Bridge project, the Federal Energy Regulatory Commission (FERC) explicitly noted:

The Applicants proposed to construct the Atlantic Bridge Project based on commitments from the Project Shippers, which include five local distribution companies, two manufacturing companies, and a municipal utility. Applicants have executed precedent agreements with the Project Shippers for long-term, 15-year firm transportation service agreements for 100 percent of the new firm transmission service that will be created by the proposed project. These service commitments constitute strong evidence that there is a market demand for the project, and further, Ordering Paragraph (E) of this order requires that the Applicants execute final contracts for service at the levels provided for in their precedent agreements prior to commencing construction.⁷

¹ *Algonquin Natural Gas Transmission, LLC*, 158 FERC ¶ 61,061 (2017).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

In their filings with FERC, Algonquin and Maritimes provided the following breakdown of volumes committed to by each project shipper:

Algonquin Volumes in Precedent Agreements⁸

<u>Shipper</u>	<u>Volume (Dth/d)</u>
Heritage Gas Limited	10,160
NSTAR Gas Company d/b/a Eversource Energy	50,000
Exelon Generation Company, LLC	8,105
Irving Oil Terminal Operations, Inc.	30,487
Maine Natural Gas Company	6,586
New England NG Supply Limited	16,768
Norwich Public Utilities	3,000
TOTAL	125,106⁹

Maritimes Volumes in Precedent Agreements¹⁰

<u>Shipper</u>	<u>Volume (Dth/d)</u>
Heritage Gas Limited	10,030
Exelon Generation Company, LLC	8,000
Irving Oil Terminal Operations, Inc.	65,196
Maine Natural Gas Company	6,500
New England NG Supply Limited	16,550
TOTAL	106,276

In the last month, however, circumstances with respect to the Project Shippers have changed dramatically. In September 2019, one of those shippers, New England NG Supply Limited (“NENG”), requested the FERC approvals necessary for it to withdraw from the Atlantic Bridge project and assign the natural gas pipeline capacity under its agreements with Algonquin (16,768 Dth/d) and Maritimes (16,550 Dth/d) to National Grid.¹¹ Also in September 2019, Exelon Generation Company, LLC (ExGen) requested the FERC approvals necessary for it to assign some of its capacity under its agreements

⁸ *Algonquin Gas Transmission, LLC* Docket No. CP16-9-000, Response to April 13, 2016 Data Request. Attached hereto as “**Exhibit A.**”

⁹ Although the proposed new capacity for the Atlantic Bridge Project was 132,705 Dth/d on Algonquin’s pipeline, the total volume stated in its precedent agreements are 125,106 Dth/d, according to its Response to Staff Data Request Dated March 25, 2016 in Docket No. CP16-9-000.

¹⁰ *Algonquin Gas Transmission, LLC* Docket No. CP16-9-000, Response to April 13, 2016 Data Request.

¹¹ Joint Petition for Temporary Waiver and Capacity Release Regulations and Related Tariff Provisions and Request for Expedited Action and Shortened Comment Period, FERC Docket No. RP19-1581-000. Attached hereto as “**Exhibit B.**” Approved by FERC in *New England NG Supply Limited and Boston Gas Company*, 169 FERC ¶ 61,055 (October 17, 2019).

with Algonquin (2,232 Dth/d) and Maritimes (2,203 Dth/d) to National Grid.¹² Both of these requests were approved by FERC in October 2019.

On October 25, 2019, National Grid applied to the Massachusetts Department of Public Utilities for approval of a transportation contract with Algonquin for 19,000 Dth/d of gas from the Atlantic Bridge Project for a 14-year term beginning on or around November 1, 2020, and terminating October 31, 2024.¹³ In that filing, representatives from National Grid stated that the Weymouth Compressor Station was not necessary to meet National Grid's needs.¹⁴ The proposed Precedent Agreement between National Grid, Algonquin, and Maritimes appended to that filing would terminate the service on Maritimes' pipeline that had been assigned to National Grid by NENG and ExGen.¹⁵ The Town has filed a petition to intervene in the DPU proceeding in which National Grid's application will be considered.

Eversource, which also holds a large shipping contract for the Atlantic Bridge Project, has also publicly stated that it does not need the Weymouth Compressor Station to meet projected demands.¹⁶ In addition, Norwich Public Utilities in Connecticut has

¹² Joint Petition for Temporary and Limited Waivers of Capacity Release Policies, Etc., FERC Docket No. RP19-1644-000. Attached hereto as "Exhibit C." Approved by FERC in *Exelon Generation Company, LLC*, 169 FERC ¶ 61,060 (October 18, 2019). ExGen also sought approval to amend its agreements with Algonquin and Maritimes to reduce its own capacity to 3,039 Dth/d on the Algonquin pipeline and 3,000 Dth/d on the Maritimes pipeline. (See Exhibit C.) In other words, ExGen is returning 2,834 Dth/d of capacity to the Algonquin pipeline and 2,707 Dth/d of capacity to the Maritimes pipeline.

¹³ *Boston Gas Company d/b/a National Grid*, Petition for Approval of Gas Supply Contract with Algonquin Gas Transmission LLC ("Petition for Approval"), DPU 19-132 (2019), available at <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/11364814>.

¹⁴ *Boston Gas Company d/b/a National Grid*, DPU 19-132 (2019), Petition for Approval, Joint Testimony of Elizabeth D. Arangio, Deborah M. Whitney and Samara A. Jaffee (at p. 16):

Q. Is the Weymouth compressor station needed to deliver the incremental supplies to the Company's existing gate station at East Braintree, MA?

A. No. The incremental capacity of up to 19,000 Dth/day can be delivered on a primary firm basis to the Company's gate station without the installation of the Weymouth compressor station.

¹⁵ *Boston Gas Company d/b/a National Grid*, DPU 19-132 (2019), Petition for Approval. The proposed Precedent Agreement also releases National Grid from any obligations or liability related to, arising out of, or in connection with the Maritimes portion of the Atlantic Bridge project.

¹⁶ In an article published by WBUR, Eversource stated, "Our gas capacity associated with the Atlantic Bridge project is already flowing at full capacity, and we are meeting the reliability of our customers' needs. Our delivery does not depend on the Weymouth Compressor...." Bruce Gellerman et al., *National Grid, Eversource Say they Can Meet*

said that it does not need the proposed Weymouth Compressor Station in order to meet its customer demand for gas.¹⁷

The recent developments with respect to the Project Shippers boils down to this: Of the Algonquin pipeline capacity of 125,106 Dth/d assigned by precedent agreement, 2,834 Dth/d is no longer assigned, and 72,000 Dth/d is assigned to shippers who do not require the Weymouth compressor station.¹⁸ Thus, the compressor station is unnecessary for approximately 60% of the current assignment of Algonquin pipeline's capacity. Furthermore, the Precedent Agreement proposed in National Grid's DPU filing would terminate 18,753 Dth/d of capacity on the Maritimes pipeline, and ExGen has turned back 2,797 Dth/d of capacity on Maritimes; thus, 20% of the Maritimes pipeline capacity is currently unassigned.¹⁹ This is a dramatically different project from the one for which the alternatives analysis submitted to OCZM in 2015 was performed.

II. Compliance With Energy Policy #1

According to the *Policy Guide*, in its policies regarding energy, "CZM's objective is to ensure that the development and maintenance of energy resources are completed with minimal displacement of water-dependent industry and by the least environmentally damaging means practicable." To that end, Energy Policy #1 of the *Massachusetts Office of Coastal Zone Management Policy Guide*, published in October 2011 (the "*Policy Guide*") states:

For coastally dependent energy facilities, assess siting in alternative coastal locations. For non-coastally dependent energy facilities, assess siting in areas outside of the coastal zone. Weigh the environmental and safety impacts of locating proposed energy facilities at alternative sites.

The *Policy Guide* goes on to define "coastally dependent" and to provide detailed guidance regarding the alternatives analyses that must be performed. The compressor station does not meet any of the criteria for coastally dependent facilities listed in the

Natural Gas Demand Without Weymouth Compressor, WBUR, Nov. 1, 2019, available at <https://www.wbur.org/earthwhile/2019/11/01/weymouth-compressor-demand-national-grid-eversource>.

¹⁷ Barbara Moran & Miriam Wasser, *Shifting Demand Fuels Weymouth Compressor Debate*, WBUR, Nov. 5, 2019, available at <https://www.wbur.org/earthwhile/2019/11/05/weymouth-compressor-natural-gas-pipeline-demand>.

¹⁸ Eversource's 50,000 Dth/d and the capacity assigned to National Grid (19,000 Dth/d) would total 69,000 Dth/d. Norwich Public Utilities is contracted for 3,000 Dth/d. All told, 72,000 Dth/d of the Algonquin pipeline capacity assigned by precedent agreement is now held by shippers that have no need for the Weymouth compressor station.

¹⁹ National Grid will terminate the Maritimes capacity assigned to it by NENG (16,550 Dth/d) and ExGen (2,203 Dth/d) for a total of 18,753 Dth/d. Maritimes' assigned capacity is 106,276 Dth/d.

Policy Guide; moreover, the *Policy Guide* specifically states (at p. 32) that “[g]as facilities that are not coastally dependent include...gas processing facilities and storage facilities.” For non-coastally dependent facilities, the applicant must “propose, evaluate and compare at least one inland site.” The *Policy Guide* provides a list of nine factors that must be considered in all evaluations.

The alternatives analysis contained in the Natural Gas Companies’ 2015 filing with OCZM was already insufficient (as the Town noted in its March 30, 2016 comment letter); now it is also clearly outdated. It is apparent from the recent filings with FERC and the DPU that some of the Atlantic Bridge Project shippers with ultimate delivery points in Maine and Canada have been able to find alternative sources of gas to meet their needs. Conversely, National Grid’s DPU filing states that, even with the capacity transferred to it by NENG and Exelon, it still has remaining need for natural gas at its East Braintree delivery point. Clearly, therefore, the situation is in flux, and it appears quite possible that additional project shippers will seek to withdraw from their contracts with Maritimes and transfer their contracted-for capacity on the Algonquin system to National Grid or other shippers whose delivery points are not dependent on the compressor station.

This significant reconfiguration of anticipated pipeline flows and delivery points, as well as the distinct possibility that the compressor station could quickly become a superfluous “white elephant,” merits a complete reevaluation of possible alternatives to construction of the compressor station within the Coastal Zone. In particular, the “No Action Alternative” that was summarily dismissed in the Companies’ OCZM application (at p. 2-4) should be addressed in detail.

III. Conclusion

In view of the recent significant changes to the anticipated use of the Atlantic Bridge project facilities, OCZM should request that the Natural Gas Companies extend the deadline for OCZM action and submit a revised alternatives analysis under Energy Policy #1.

Thank you for your courtesy and attention to these comments.

Sincerely,



Robert L. Hedlund
Mayor

Enclosures

L. Engler
November 8, 2019
Page 7 of 7

cc: Joseph Callanan, Town Solicitor
J. Raymond Miyares, Special Counsel
Rebecca Haugh, Town Councilor
Ralph Child, Attorney for Algonquin Gas Transmission, LLC
Michael Tyrrell, Algonquin Gas Transmission, LLC
Charles D. Baker, Governor
Kathleen A. Theoharides, Secretary, EOEEA
Martin Suuberg, Commissioner, MassDEP
Elizabeth Warren, U.S. Senator
Edward Markey, U.S. Senator
Stephen Lynch, U.S. Representative
Patrick O'Connor, State Senator
James Murphy, State Representative
Ronald Mariano, State Representative

EXHIBIT A

ALGONQUIN GAS TRANSMISSION, LLC
5400 Westheimer Court
Houston, TX 77056-5310
713.627.5400 main

Mailing Address:
P.O. Box 1642
Houston, TX 77251-1642



April 19, 2016

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: OEP/DPC/CB-1
Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C.
Docket No. CP16-9-000
Response to April 13, 2016, Data Request

Dear Ms. Bose:

On October 22, 2015, Algonquin Gas Transmission, LLC (“Algonquin”) and Maritimes & Northeast Pipeline, L.L.C. (“Maritimes”) filed their Abbreviated Application for a Certificate of Public Convenience and Necessity and for Related Authorizations (“Application”) with the Federal Energy Regulatory Commission (“Commission”) for their Atlantic Bridge Project (“Project”). On April 13, 2016, the Commission staff issued a Data Request in the referenced proceeding to assist staff with its analysis of the Project. Staff requested a complete response within five (5) days of the issuance of the request. Algonquin and Maritimes hereby submit a complete response to all of the requests in the Data Request.

If you have any questions regarding this filing, please contact me at (713) 627-5113.

Sincerely,

/s/ Chris Harvey
Chris Harvey
Director, Rates and Certificates

Enclosures

cc: Andrya C. Torres Perez (FERC)

**ALGONQUIN GAS TRANSMISSION, LLC
MARITIMES & NORTHEAST PIPELINE,
L.L.C.**

ATLANTIC BRIDGE PROJECT

DOCKET NO. CP16-9-000

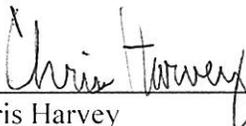
Verification

VERIFICATION

THE STATE OF TEXAS)
)
COUNTY OF HARRIS)

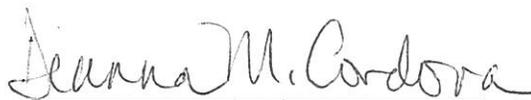
Chris Harvey, being first duly sworn, states that he is Director, Rates and Certificates, for Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C.; that he is authorized to execute this Verification; that he has read the foregoing document and is familiar with the contents thereof; and that all allegations of fact therein contained are true and correct to the best of his knowledge and belief.

ALGONQUIN GAS TRANSMISSION, LLC
MARITIMES & NORTHEAST PIPELINE, L.L.C.



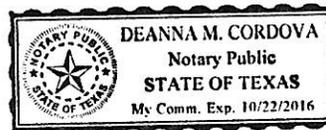
Chris Harvey
Director, Rates and Certificates

Subscribed and sworn to before me this 19th day of April, 2016.



Notary Public, State of Texas

My Commission Expires:
10/22/2016



Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C.
Docket No. CP16-9-000
Response to Staff Data Request
Dated April 13, 2016

Request 1

Reconcile the proposed new capacity (gas volumes), with the volumes stated in the precedent agreements, and explain if there is any existing unsubscribed capacity (by Algonquin or Maritimes) being used for this project. Please provide a shipper list or table showing your calculations.

Response 1

The proposed new capacity for the Atlantic Bridge Project is 132,705 dekatherms per day (“Dth/d”) on Algonquin and 106,276 Dth/d on Maritimes. As reflected in Algonquin’s and Maritimes’ “Response to Staff Data Request Dated March 25, 2016,” the volumes stated in the Atlantic Bridge precedent agreements are 125,106 Dth/d for Algonquin and 106,276, Dth/d for Maritimes. Below are charts showing volumes by shipper. Neither Algonquin nor Maritimes will use any existing unsubscribed capacity for this Project.

Algonquin Volumes in Precedent Agreements

<u>Shipper</u>	<u>Volume (Dth/d)</u>
Heritage Gas Limited	10,160
NSTAR Gas Company d/b/a Eversource Energy	50,000
Exelon Generation Company, LLC	8,105
Irving Oil Terminal Operations, Inc.	30,487
Maine Natural Gas Company	6,586
New England NG Supply Limited	16,768
Norwich Public Utilities	<u>3,000</u>
TOTAL	125,106

Maritimes Volumes in Precedent Agreements

<u>Shipper</u>	<u>Volume (Dth/d)</u>
Heritage Gas Limited	10,030
Exelon Generation Company, LLC	8,000
Irving Oil Terminal Operations, Inc.	65,196
Maine Natural Gas Company	6,500
New England NG Supply Limited	<u>16,550</u>
TOTAL	106,276

Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C.
Docket No. CP16-9-000
Response to Staff Data Request
Dated April 13, 2016

Request 2

Algonquin and Maritimes filed precedent agreements in their application as Privileged Information; however certain sections of the precedent agreements are not disclosed. Since the precedent agreements are filed as privileged, explain why Algonquin and Maritimes nevertheless decided to not disclose this information. Would any of the redacted sections of the precedent agreements have any relevance to issues pertaining to non-conforming service agreements?

Response 2

Algonquin and Maritimes submitted the precedent agreements in Exhibit I as market data supporting the need for the Project. Algonquin and Maritimes redacted limited information in two categories from these precedent agreements, specifically, the negotiated rates to be charged to the Project shippers and certain credit information, for the following reasons.

Algonquin and Maritimes, and their respective Project shippers, consider such redacted information to be highly sensitive. Although the Commission itself recognizes the sensitivity of this type of commercial information,¹ it is unclear whether Section 388.112(b)(2)² of the current regulations, governing the submission of privileged information, operates to protect sensitive commercial information from disclosure to participants who fail to demonstrate a legitimate need to review such information in order to meaningfully participate in a certificate proceeding.³

Moreover, the Commission does not approve negotiated rates or credit provisions in certificate proceedings. As stated in the Project application, all Atlantic Bridge Project shippers have agreed to pay negotiated rates, which will be reviewed by the Commission when Algonquin and Maritimes file the negotiated rate agreements or tariff records with the Commission at least 30, and not more than 60 days, before the proposed effective date of such rates.⁴ Likewise, the Commission historically has not reviewed specific credit support terms in certificate proceedings; pipelines post the credit support terms prior to the first nomination for project service.⁵ Algonquin and Maritimes plan to post the credit support terms in the precedent agreements in accordance with the Commission's regulations.

None of the redacted sections of the precedent agreements have any relevance to issues pertaining to non-conforming service agreements.

¹ *Kinder Morgan Interstate Gas Transmission LLC*, 122 FERC ¶ 61,154 at PP 40-42 (2008).

² 18 C.F.R. 388.112(b)(2).

³ Prior to promulgation of the revised regulation, requests for privileged information were handled through the Commission's Freedom of Information Act procedures which afforded applicants in certificate proceedings the ability to protect commercially sensitive information from disclosure.

⁴ *See, e.g. Algonquin Gas Transmission, LLC*, 151 FERC ¶ 61,118 at P 24 (2015).

⁵ 18 C.F.R. § 284.13(b)(1)(viii) (2015).

Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C.
Docket No. CP16-9-000
Response to Staff Data Request
Dated April 13, 2016

Request 3

Please reconsider making a list or chart showing the volumes for each shipper shown in the precedent agreements a public exhibit to your application, or explain specifically why the shipper volumes are considered by the shippers, Algonquin or Maritimes to be Privileged Information.

Response 3

Please see Response 1 for charts showing the volumes for each Atlantic Bridge Project shipper.

EXHIBIT B

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

NEW ENGLAND NG SUPPLY LIMITED)	
)	
AND)	DOCKET NO. RP19-____-000
)	<u>EXPEDITED ACTION</u>
THE BOSTON GAS COMPANY)	<u>REQUESTED</u>
D/B/A NATIONAL GRID)	
)	

**JOINT PETITION FOR TEMPORARY WAIVER OF
CAPACITY RELEASE REGULATIONS AND RELATED TARIFF PROVISIONS
AND REQUEST FOR EXPEDITED ACTION AND SHORTENED COMMENT PERIOD**

Pursuant to Rule 207(a)(5) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 385.207(a)(5) (2019), New England NG Supply Limited (“NENG”) and The Boston Gas Company d/b/a National Grid (“Boston Gas”) (jointly, “Petitioners”) hereby submit this Joint Petition for Temporary Waivers of Capacity Release Regulations and Related Tariff Provisions and Request for Expedited Action and Shortened Comment Period (“Petition”). As more fully described herein, Petitioners request that the Commission grant a waiver of its capacity release regulations in order to facilitate a permanent transfer by NENG to Boston Gas of the capacity under two firm transportation service agreements (“TSAs”) between NENG and Algonquin Gas Transmission, LLC (“Algonquin”) and NENG and Maritimes & Northeast

Pipeline, L.L.C. (“Maritimes”) that are associated with the pending Atlantic Bridge Project.

Petitioners respectfully request that the Commission issue an order by October 20, 2019, to enable the release to take place effective November 1, 2019. Petitioners further request that the Commission grant the requested waiver to remain in effect until the earlier of one-hundred and twenty (120) days following the date of the Commission’s order granting the waiver or the date the transaction described herein is complete. To permit the Commission to process the Petition within the requested time, Petitioners request a shortened comment period of seven (7) days.

I.
BACKGROUND

Pursuant to its TSA with Algonquin (Contract No. 510918-R1), dated February 27, 2017, NENG has contractual rights to 16,768 Dth/day of firm transportation capacity on Algonquin under Rate Schedule AFT-1 with a primary receipt point of Mahwah, NJ (Meter No. 00201) and a primary delivery point of Beverly, MA (Meter No. 01215). Pursuant to its TSA with Maritimes (Contract No. 210258-R1), dated February 27, 2017, NENG has contracted rights to 16,550 Dth/day of firm transportation capacity on Maritimes under Rate Schedule MN365

with a primary receipt point of Beverly – Essex Co., MA (Meter No. 30035) and a primary delivery point of Baileyville, ME (Meter No. 30012). NENG and Algonquin and NENG and Maritimes executed the TSAs as required (i) under a precedent agreement for the Atlantic Bridge Project dated October 21, 2015, as amended, and (ii) by the Atlantic Bridge certificate order which directs the parties to execute transportation agreements prior to the commencement of construction.¹ NENG and Algonquin and NENG and Maritimes entered into negotiated rates under the TSAs at rates lower than the firm recourse rates in Algonquin’s and Maritimes’ tariffs. Service under the TSAs was set to commence upon the in-service date of the Atlantic Bridge Project.

Because of uncertainty with the timing of state permitting, the Atlantic Bridge Project, including facilities applicable to NENG’s agreements with Algonquin and Maritimes, has not been completed and the pipelines are unable to determine with certainty when the project will be placed in service. Accordingly, NENG has pursued other gas supply and capacity options and, after consultation with Algonquin and Maritimes, intends to assign its Atlantic Bridge Project precedent

¹ *Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, L.L.C.*, 158 FERC ¶ 61,061 (2017) at Ordering Paragraph (E).

agreement and the TSAs to Boston Gas prior to the in-service date of the Atlantic Bridge Project.

As a result, NENG, Algonquin and Maritimes agreed to assign the precedent agreement, firm capacity, and service agreements to Boston Gas prior to the commencement of the Atlantic Bridge Project.² Upon assignment, Boston Gas also will enter into an amended precedent agreement. The assignments to Boston Gas and NENG's withdrawal from the Atlantic Bridge Project are referred to herein as the "Transaction." The Petitioners have determined that an assignment of the Precedent Agreement and the TSAs is preferable to a future permanent release as doing so will provide Boston Gas with greater certainty that it is afforded all the rights and privileges under the Precedent Agreement. For example, an assignment will remove any uncertainty regarding whether a permanent capacity release at rates different than the recourse rates in a pipeline's tariff can be accomplished absent a future Commission waiver of the posting and bidding requirements.

The Commission has held that "firm capacity", as referenced in § 284.8 of the Commission's regulations,³ refers to any executed natural gas transportation

² Boston Gas's agreement for the term beginning November 1, 2020 is predicated on receipt of approval by the Massachusetts Department of Public Utilities; in order to effectuate such regulatory approval, the replacement TSAs will be broken into a one-year contract and a 14-year contract reflecting this condition precedent. Additionally, Boston Gas and Maritimes will agree to terminate the Maritimes' TSA contemporaneous with the assignment.

³ 18 C.F.R § 284.8.

service agreement for firm service under a Natural Gas Act tariff, including a firm service agreement with a future effective date such as NENG's service agreements with Algonquin and Maritimes.⁴ Thus, the capacity release regulations apply to the transfer of firm capacity under the TSAs in the same manner as they do to any other executed service agreement for jurisdictional service. Accordingly, Petitioners are hereby filing this Petition seeking the waiver needed to effectuate the transfer of firm capacity.

Petitioners have contacted and consulted with Algonquin and Maritimes and are authorized to represent that neither interstate pipeline opposes this Petition. In support of the Petition, Petitioners state the following:

II. **PETITIONERS**

The exact legal name of NENG is New England NG Supply Limited. NENG is a corporation organized under the laws of the Province of New Brunswick, Canada and has its principal place of business at 300 Union Street, Saint John, NB E2L4M3. NENG is a wholly owned subsidiary of J.D. Irving, Limited. NENG purchases and sells natural gas at wholesale in the U.S. and Canada.

⁴ *USG Properties Marcellus Holdings, LLC, et al.*, 166 FERC ¶ 61,111, at P 4 (2019); *Chief Oil & Gas, LLC*, 162 FERC ¶ 61,284, at P 4 (2018); *MMGS Inc., et al.*, 154 FERC ¶ 61,018, at P 8 (2016).

The exact legal name of Boston Gas is The Boston Gas Company d/b/a National Grid. Boston Gas is a corporation existing under the laws of the Commonwealth of Massachusetts and has its principal place of business at 40 Sylvan Rd., Waltham, MA 02145. Boston Gas is a natural gas local gas distribution company that serves approximately 712,786 natural gas customers in Massachusetts.

III. COMMUNICATIONS

Petitioners request that service of all communications and pleadings in this proceeding be addressed to:

Corey MacKinnon
Associate General Counsel
New England NG Supply Ltd.
300 Union Street
Saint John, NB E2L4M3
(506) 632-7573
mackinnon.corey@jdirving.com

*Randall S. Rich
Pierce Atwood LLP
1875 K Street, NW
Suite 700
Washington, DC 20006
(202) 530-6420
rrich@pierceatwood.com

Dion Hanrahan
New England NG Supply Limited
300 Union Street
P.O. Box 5777
Saint John, NB, Canada E2L 4M3 02451
(506) 648-3590
trading@jdirving.com

*Patrick J. Tarmey
Senior Counsel
Boston Gas Company d/b/a
National Grid
40 Sylvan Rd.
Waltham, MA (781) 907-2190
Patrick.tarmey@nationalgrid.com

*Persons designed to receive service pursuant to Rule 2010 of the Commission's Rules of Practice and Procedures, 18 C.F.R. §385.2010 (2019).

IV. REQUEST FOR WAIVER

The Commission has held that an assignment of a TSA prior to the in-service date of a pipeline and after the issuance of the certificate requires Commission approval.⁵ In short, the Commission has determined that such an assignment is subject to the capacity release rules. Given that the Atlantic Bridge Project requires new facilities that are under construction and not yet in service, it is not possible to effectuate the assignment and capacity releases pursuant to Algonquin's and Maritimes' tariffs or capacity release websites. To effectuate a release of capacity on LINK[®], which is used by both pipelines, an agreement must be activated. However, the TSAs at issue here cannot be activated at this time because (i) the Atlantic Bridge Project facilities have not been completed, (ii) the project costs, and therefore the maximum recourse rates, are unknown, and (iii) the in-service date is unknown, so the contract term is not determinable. A capacity release posting would require all of this information.

Accordingly, to enable NENG to assign the capacity under the TSAs to Boston Gas, Petitioners request a waiver of Section 284.8 of the Commission's regulations. More specifically, Petitioners request waiver of the posting and bidding

⁵ *Supra*, note 2.

requirements of Section 284.8(d) and 284.8(e), the pipelines' applicable maximum recourse rates, and any other regulations that the Commission deems necessary to permit the proposed releases to occur. Petitioners further request a waiver of the prohibition against tying arrangements in order to ensure that the releases of capacity on two pipelines is not considered a violation of the Commission's prohibiting the tying of capacity releases to an extraneous condition. There is no assignment of gas supply associated with the capacity releases; however, in order to ensure that there are no capacity release-related issues with the Transaction, and out of an abundance of caution, Petitioners further request a temporary waiver of the shipper-must-have-title policy and the prohibition of buy/sell arrangements.

Additionally, Petitioners request a waiver of Algonquin's and Maritimes' FERC Gas Tariff capacity release requirements, including the posting and bidding requirements, maximum recourse rate, and any assignment provisions as may be necessary. A waiver of both the Commission's regulations and the pipeline's tariff provisions is necessary to complete the Transaction.

This Petition satisfies the Commission's procedural requirements for requests for waiver of the capacity release regulations.⁶ The Commission has stated that requests for waivers should: (1) identify with as much specificity as possible the regulations and policies for which they seek waiver; (2) identify the pipeline capacity at issue; (3) provide a sufficient description of the overall transaction and its claimed benefits to permit the Commission and other interested parties to analyze whether granting the requested waivers are in the public interest; and (4) be filed as far in advance of the requested action date as possible.

The temporary waivers requested herein will only be used for the limited purpose of consummating the transfer of the capacity under the TSAs under the transaction. The Algonquin and Maritimes firm capacity is necessary for Boston Gas to maintain service to its firm gas distribution customers in coming years. The Atlantic Bridge Project will provide increased access to Marcellus and Utica shale gas, and it will benefit consumers by giving Boston Gas additional options to select cost-effective supply sources. In addition, as explained above, it is not possible to release the capacity under the TSAs pursuant to the pipelines' tariffs or either

⁶ *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfers of Marketing Businesses*, 127 FERC ¶ 61,106, at P 10 (2009).

Algonquin's or Maritimes' LINK[®] websites, as the Atlantic Bridge Project is not yet in service and the in-service date is unknown, making it impossible to specify the appropriate commencement and end dates that are required for the releases to be posted on LINK[®].

V.

REQUEST FOR EXPEDITED ACTION AND SHORTENED COMMENT PERIOD

Petitioners request expedited action on this Petition. The waiver requested herein is an important and necessary step to fully implementing the Transaction at the earliest possible time. Accordingly, Petitioners respectfully request expedited treatment of this Petition, including expedited issuance of a notice of the Petition, a shortened comment period of seven (7) days, and issuance by the Commission of an order on this Petition no later than October 20, 2019.

VI.

CONCLUSION

WHEREFORE, for the foregoing reasons, Petitioners respectfully request that the Commission: (a) grant temporary waiver of its capacity release regulations and the related Algonquin and Maritimes tariff provisions as set forth herein; (b) establish a shortened comment period of seven (7) days; and (c) issue an order by October 20, 2019 granting the requested waivers to remain in effect until the earlier of one-hundred and twenty (120) days following the date of the

Commission's order or the date the capacity release transaction described herein is complete.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randall S. Rich", is written over a solid horizontal line.

Randall S. Rich
Pierce Atwood LLP
1875 K Street, NW, Suite 700
Washington, DC 20006
rrich@pierceatwood.com
(202) 530-6420

Attorneys for
NEW ENGLAND NG SUPPLY LIMITED

September 20, 2019

EXHIBIT C

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Exelon Generation Company, LLC)	
Summit Natural Gas of Maine, Inc.)	Docket No. RP19-____-000
Boston Gas Company d/b/a National Grid)	

**JOINT PETITION FOR TEMPORARY AND LIMITED WAIVERS
OF CAPACITY RELEASE POLICIES, REGULATIONS AND RELATED TARIFF
PROVISIONS, AMENDMENT OF 2015 WAIVER ORDER,
AND REQUEST FOR SHORTENED COMMENT PERIOD
AND EXPEDITED TREATMENT**

Pursuant to Rule 207(a)(5)¹ of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. 385.207(a)(5), Exelon Generation Company, LLC (“ExGen”), Summit Natural Gas of Maine, Inc. (“Summit”), and Boston Gas Company d/b/a National Grid (“National Grid”) (collectively, “Petitioners”) hereby jointly submit this Joint Petition for Temporary and Limited Waivers of Capacity Release Policies, Regulations and Related Tariff Provisions, Amendment of 2015 Waiver Order, and Request for Shortened Comment Period and Expedited Treatment (this “Waiver Petition”) to facilitate the permanent release or assignment, without posting and bidding, by ExGen to National Grid of a portion of certain firm natural gas transportation agreements entered into with Algonquin Gas Transmission, LLC (“Algonquin”) and Maritimes & Northeast Pipeline, L.L.C. (“Maritimes”) (collectively, “Pipelines”) that are part of the Atlantic Bridge Project, further identified herein. The Petitioners request the waivers remain in effect for a period of one hundred fifty (150) days from the date of the order. Petitioners also request a temporary and limited waiver, as applicable, of any specific FERC Gas Tariff provisions that implement these regulations and policies for the Pipelines. The Petitioners additionally

¹ 18 C.F.R. § 385.207(a)(5) (2019).

request an amendment to the 2015 Waiver Order (as defined below) to reflect the transactions for which the foregoing waivers are requested.

The Petitioners request expedited action by the Commission that includes a request for the Commission to establish a shortened comment period of seven (7) days, and waiver of the notice requirements of 18 C.F.R. §154.207 so that the Commission may issue the requested order on or before October 18, 2019. The expedited action would allow sufficient time for ExGen and the Pipelines to amend, *inter alia*, the Precedent Agreement and the Firm Transportation Agreements prior to the expiration of the condition precedent in the Precedent Agreement that the Atlantic Bridge Project be completed and in service on or before November 1, 2019. The requested expedited action is also necessary to allow time for National Grid to take the necessary steps with the Pipelines to be able to schedule the capacity to be released or assigned to National Grid for use as of the start of the Gas Day on November 1, 2019 as this portion of the Atlantic Bridge Project will be in-service and available for use.

I. COMMUNICATIONS AND CORRESPONDENCE

All communications and correspondence in this proceeding should be addressed to:

Susan B. Bergles
Assistant General Counsel
Exelon Corporation
1310 Point Street, 8th Floor
Baltimore, Maryland 21231
(410) 470-1553
susan.bergles@exeloncorp.com

Hallie Flint Gilman
Vice President & Chief Legal Officer
Summit Natural Gas of Maine, Inc.
7810 Shaffer Parkway
Littleton, Colorado 80127
(720) 981-2123
HGlman@summitutilitiesinc.com

Patrick J. Tarmey
Senior Counsel
Boston Gas Company d/b/a National Grid
40 Sylvan Rd.
Waltham, Massachusetts 02451
(781) 907-2190
Patrick.tarmey@nationalgrid.com

Thomas E. Hirsch III
Norton Rose Fulbright US LLP
799 9th Street, NW
Washington, DC 20001
(202) 974-5635
Thomas.hirsch@nortonrosefulbright.com
Counsel for Summit Natural Gas of Maine, Inc.

II. BACKGROUND

ExGen is a wholly-owned subsidiary of Exelon Corporation and, in addition to being one of the largest competitive power generators in the United States, ExGen holds interstate natural gas transportation service agreements, and purchases and sells natural gas in the wholesale market to and from third parties and other Exelon affiliates. ExGen is also a party, as asset manager, to numerous asset management agreements as defined in Section 284.8(h)(3) of the Commission's regulations.

Summit is a corporation existing under the law of the State of Colorado, has its principal place of business at 7810 Shaffer Parkway, Littleton, Colorado 80127, and operates as a foreign corporation in the State of Maine. Summit is a local gas distribution company ("LDC") operating in central and southern Maine that began providing services in April 2014. Summit currently provides service to over 3,800 residential and commercial customers, and transportation service to 8 industrial customers.

The exact legal name of Boston Gas is Boston Gas Company. Boston Gas is a corporation existing under the laws of the Commonwealth of Massachusetts and has its principal place of business at 40 Sylvan Rd., Waltham, MA 02145. Boston Gas is a local gas distribution company that serves approximately 712,786 natural gas customers in Massachusetts.

On October 23, 2015, ExGen and Summit filed a request for temporary and limited waivers of certain of the Commission's capacity release regulations and other applicable policies as well as applicable pipeline tariff provisions to facilitate a permanent assignment of capacity from ExGen to Summit of long-term firm natural gas transportation agreements on the Atlantic Bridge Project (the "2015 Petition"), as contemplated by a precedent agreement originally between Summit and the Pipelines (the "Precedent Agreement"), but assigned by Summit to ExGen.

By letter order issued on December 7, 2015,² for good cause shown, the Commission granted the requested waivers for the limited purpose of facilitating the permanent prearranged capacity release of the firm capacity by ExGen back to Summit once Summit complies with the Algonquin and Maritimes creditworthiness standards (“2015 Waiver Order”). The Commission found that the request was adequately supported and consistent with the basis for previous similar waivers that the Commission has granted to permit the prearranged capacity release. Additionally, the Commission stated that granting the waivers would allow ExGen and Summit “to execute their agreement, transfer and acquire the assets in an orderly and efficient manner, and ensure uninterrupted access to a new natural gas service.”³

On February 17, 2017, ExGen entered into a firm transportation service agreement with Algonquin for 8,105 Dth/d, and with Maritimes for 8,000 Dth/d (the “Firm Transportation Agreements”).⁴ The Firm Transportation Agreements have not been activated on the LINK® gas management systems used by Algonquin and Maritimes because, among other things, the Atlantic Bridge facilities associated with the agreements have not been completed, and the in-service date is not yet known.

Recently, ExGen, Summit, National Grid, and the Pipelines have discussed the further release or assignment by ExGen to National Grid of a portion of the capacity that is the subject of the Precedent Agreement, the Firm Transportation Agreements, and the 2015 Waiver Order. As discussed further below, Petitioners request temporary and limited waivers of certain of the Commission’s capacity release regulations and other applicable policies as well as applicable Pipeline tariff

² *Exelon Generation Company, LLC*, 153 FERC ¶ 61,282 at P 12 (2015).

³ *Id.*

⁴ ExGen’s Firm Transportation Agreements remain subject to surviving provisions of the Precedent Agreement.

provisions, to facilitate ExGen's permanent release or assignment to National Grid, of a portion of the capacity under the Precedent Agreement and the Firm Transportation Agreements.

Further, in addition to a reduction based on the amounts released or assigned to National Grid, ExGen and the Pipelines have discussed and intend that the MDTQ under ExGen's Precedent Agreement and Firm Transportation Agreements with the Pipelines will be further amended to reflect the following capacity amounts: 3,039 Dth/d on Algonquin and 3,000 Dth/d on Maritimes. Summit is in agreement with this separate ExGen capacity reduction. In this regard, the arrangement between ExGen and Summit would be amended such that, on meeting applicable creditworthiness requirements, ExGen would permanently release or assign the Firm Transportation Agreements back to Summit at the reduced capacity amounts described in this paragraph. As discussed herein, to the extent this further capacity reduction requires an amendment to the 2015 Waiver Order, ExGen and Summit request that amendment be included in the order requested herein.

The Petitioners have been authorized by Algonquin and Maritimes to state that the Pipelines do not oppose the waivers and potential need to amend the 2015 Waiver Order requested herein.

III. REQUEST FOR TEMPORARY AND LIMITED WAIVERS AND 2015 WAIVER ORDER AMENDMENT

As its policy has evolved over time, the Commission has recognized that strict application of the capacity release regulations and policies may have unintended consequences in the context of certain complex transactions, such as the subject of this request. Specifically, the Commission has clarified that:

The Commission [has] found that the capacity release mechanism is not suited to . . . complex, integrated deals that do not permit the disaggregation of assets. . . . Moreover, given the financial difficulties that many energy-related companies are facing, and the difficult environment facing U.S. and international credit and capital markets, the Commission needs to be able to respond to requests for waivers related to complex business transactions in a flexible and expedited manner. Therefore, a rigid adherence to certain

policies or regulations could have unintended, negative financial implications for the affected companies and their employees.⁵

Accordingly, the Commission has granted temporary waivers of the capacity release regulations and policies to permit parties to consummate complex transactions.⁶

The Commission also has clarified that, notwithstanding the fact that firm transportation agreements regard capacity, such as that on the Atlantic Bridge project, that is not yet in-service, the capacity release regulations apply to the subject capacity:

We clarify that “firm capacity” as referred to in 18 C.F.R. 284.8 refers to any executed natural gas transportation agreement for firm service under a Natural Gas Act tariff, including a firm service agreement with a future effective date....thus, the Commission’s capacity release regulations apply the same as they do to any other executed service agreement for jurisdictional service.⁷

Under the 2015 Waiver Order, ExGen and Summit received a temporary, limited waiver to facilitate the permanent release of 8,000 Dth of capacity on the Pipelines by ExGen back to Summit when Summit meets the creditworthiness requirements of Algonquin and Maritimes.⁸ Petitioners have filed this Waiver Petition because ExGen, Summit, National Grid, and the Pipelines have agreed to certain amendments to the arrangements regarding the subject capacity which add new circumstances and complexity.

Specifically, Petitioners request temporary and limited waivers of certain of the Commission’s capacity release regulations and other applicable policies as well as applicable Pipeline tariff provisions, to facilitate ExGen’s permanent prearranged release or assignment to National Grid of a

⁵ *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfer of Mktg. Bus.*, 127 FERC ¶ 61,106 at P 8 (2009).

⁶ See, e.g., *Mitsui & Co. Energy Marketing and Service (USA) Inc.*, 158 FERC ¶ 61,104 (2017); *Barclays Bank, PLC*, 152 FERC ¶ 61,069 (2015); *J.P. Morgan Ventures Energy Corp.*, 148 FERC ¶ 61,010 (2014); *Antero Resources Corp.*, 139 FERC ¶ 61,258 (2012); *Salmon Resources*, 138 FERC ¶ 61,059 (2012); *Big Sandy Pipeline, LLC*, 136 FERC ¶ 61,130 (2011).

⁷ *MMGS, Inc. and Mitsui & Co. Cameron LNG Sales, Inc.*, 154 FERC ¶ 61,018 at P 8 (2016); *Chief Oil & Gas Company LLC*, 162 FERC ¶ 61,284 at P 4 ((2018).

⁸ *Exelon Generation Company, LLC*, 153 FERC ¶ 61,282 at P 12 (2015).

portion of the capacity under the Precedent Agreement and the Firm Transportation Agreements: 2,232 Dth/d on Algonquin and 2,203 Dth/d on Maritimes. Additionally, ExGen's Precedent Agreement and Firm Transportation Agreements with the Pipelines would be amended to further reduce the capacity amounts to 3,039 Dth/d on Algonquin and 3,000 Dth/d on Maritimes. Furthermore, ExGen and Summit's arrangement would be amended such that, on meeting applicable creditworthiness requirements, ExGen will permanently release or assign the Firm Transportation Agreements back to Summit at the reduced capacity amounts. While the 2015 Waiver Order covers the permanent release by ExGen back to Summit, to the extent that order needs to be amended for the reduced capacity amounts, ExGen and Summit request that the Commission include this amended authorization in the order requested herein.

As stated in the 2015 Waiver Petition, given that the underlying arrangement between ExGen and Summit was to place Summit in its original contemplated position as party to the Precedent Agreement and primary holder of the Firm Transportation Agreements and the capacity on the Pipelines thereunder, Summit has joined this request as a Petitioner and notes its agreement to the reduction of ExGen's capacity in the Precedent Agreement and the Firm Transportation Service Agreements as discussed herein.

Additionally, the requested waiver is needed because, for ExGen to effectuate a partial release or assignment of the Precedent Agreement and the Firm Transportation Agreements, the agreements must be activated on the LINK® gas management system for each Pipeline.⁹ The Firm Transportation Agreements cannot be activated at this time for numerous reasons, including: the applicable project facilities have not yet been completed; the final project costs associated with the applicable project facilities are not yet known and thus the maximum recourse incremental project rate (which sets the

⁹ See, *USG Properties Marcellus Holdings, LLC, et al.*, 166 FERC ¶ 61,111 (2019).

maximum bid rate for capacity releases for terms greater than 1 year) could potentially be different than the maximum recourse rates currently on file with the Commission for the project and included in the applicable Pipeline tariff; and the in-service date is unknown. Thus, it is not possible for an offer and any associated bids for a release to specify the appropriate begin and end dates.

National Grid's Massachusetts LDCs require authorization from their state regulator, the Department of Public Utilities, in order to enter into transactions greater than one year. The assignment of the Precedent Agreement and Firm Transportation Agreements is therefore bifurcated into two terms: a one-year transaction that does not require approval, and a fourteen-year permanent assignment that is subject of receipt of such authorization in order to take effect. Accordingly, National Grid seeks a 1-year contract (beginning on the in-service date) and a 14-year contract which, if accomplished via capacity release, would contemplate a 1-year temporary release and a 14-year permanent release. The uncertainty in the in-service date would result in a need to amend both the begin date and the end date of the 1-year temporary release which is not supportable by the LINK® system's programming. This is because, consistent with Commission policy, temporary replacement contracts are not allowed to alter the terms of the released capacity with the exception of a temporary change to firm receipt/delivery points.

The requirements for applicants seeking a waiver such as in this Waiver Petition are to: (1) identify with as much specificity as possible the regulations and policies for which the waiver is sought; (2) identify the pipeline capacity involved; (3) provide a sufficient description of the overall transaction and its claimed benefits to permit the Commission and other interested parties to determine whether the waivers are in the public interest; and (4) file the request as much in advance of the requested action date as possible. For the reasons discussed herein, the Petitioners submit that the

request for temporary and limited waivers satisfies these requirements, is consistent with Commission precedent, and is in the public interest.

A. Regulations, Policies, and Tariff Provisions Subject to Requested Waiver

Petitioners seek temporary and limited waivers of the Commission’s capacity release rules as set forth in 18 C.F.R. 284.8 (2018) and Commission policies – including, competitive bidding requirements; maximum rate provisions; shipper-must-have-title requirement; the prohibition against tying and buy-sell arrangements – and any other authorizations or waivers deemed necessary to accomplish the capacity release transactions described herein. Additionally, the Petitioners seek temporary and limited waivers of applicable tariff provisions that implement the Commission’s capacity release regulations and policies with respect to the Pipelines.¹⁰ The Petitioners additionally request an amendment to the 2015 Waiver Order, if such an amendment is determined necessary, to reflect the transactions for which the foregoing waivers are requested. The Petitioners request the waivers remain in effect for a period of one hundred fifty (150) days from the date of the order.

B. Description of Transaction and Benefits to the Public Interest

As explained above, ExGen seeks to temporarily and permanently release or assign a portion of the Precedent Agreement and the Firm Transportation Agreement capacity on the Pipelines to National Grid and these releases or assignments would thus reduce, in part, the amount of the permanent release or assignment that will take place by ExGen back to Summit when Summit meets the applicable creditworthiness standards of the Pipelines. To the extent that the reduction in the amount of capacity to be permanently released or assigned back to Summit as discussed herein requires any additional waivers, the Petitioners submit that the request is in the public interest for the reasons stated in the 2015

¹⁰ See Algonquin Gas Transmission, LLC, FERC Gas Tariff, General Terms and Conditions (“GT&C”) section 14; Maritimes & Northeast Pipeline, L.L.C., FERC Gas Tariff, GT&C section 9.

Petition, including that ultimately, as the capacity holder of the permanently released or assigned capacity, Summit will be in the position to preserve the rights under the agreements for the benefit of its LDC customers in Maine. Similarly, with the releases and permanent assignments contemplated herein, National Grid will be acquiring additional capacity to serve the needs of its LDC customers, and will be in the position to preserve the rights under the agreements for the benefit of such customers.

As the Commission has recognized, the capacity release regulations and policies are not suited to this type of complex, integrated deal which does not permit the disaggregation of assets. Granting the requested waivers is in the public interest because it would enable the prearranged permanent releases or assignments of portions of ExGen's Precedent Agreement and the Firm Transportation Agreements to Summit and National Grid, as applicable, to the benefit of their customers. And, as stated herein, the releases or assignments of the portion of the Precedent Agreement and the Firm Transportation Agreements to National Grid cannot be currently effectuated via capacity release on the Pipelines' gas management system. The requested temporary and limited waivers will only be used for the limited purposes of effectuating the transactions described herein.

IV. REQUEST FOR EXPEDITED ACTION AND FOR WAIVER OF 18 C.F.R. 154.207

The Petitioners respectfully request expedited action on this Waiver Petition. Expedited action on the waiver request will allow sufficient time for ExGen and the Pipelines to amend, *inter alia*, the Precedent Agreement and the Firm Transportation Agreements prior to the expiration of the condition precedent in the Precedent Agreement that the Atlantic Bridge Project be completed and in service on or before November 1, 2019. The requested expedited action is also necessary to allow time for National Grid to take the necessary steps with the Pipelines to be able to schedule the capacity to be

released or assigned to National Grid for use as of the start of the Gas Day on November 1, 2019 as this portion of the Atlantic Bridge Project will be in-service and available for use.

Specifically, the Petitioners request that the Commission establish a shortened comment period of seven (7) days, and that the requested order be issued on or before October 18, 2019.

The Petitioners also respectfully request waiver of section 154.207¹¹ of the Commission's regulations which requires at least 30 days written notice of a proposed change to a tariff requirement. The Petitioners request that the Commission grant an order on or before October 18, 2019 in order to allow sufficient time to process the necessary agreements contemplated herein between Algonquin, ExGen, Summit and National Grid in LINK® for November 1st. The Commission has granted such waivers for good cause.¹²

V. CONCLUSION

Based on the foregoing discussion, the Petitioners respectfully request that the Commission grant the Waiver Petition for temporary and limited waivers of the Commission's capacity release posting and bidding requirements, the prohibition against tying, the maximum rate provisions, the shipper-must-have-title requirement, the prohibition on buy/sell arrangements, the applicable tariff provisions that implement these regulations and policies, and any other waivers of the Commission's capacity release regulations and related rules and policies or other authorizations deemed necessary to allow for the prearranged permanent releases or assignments as contemplated herein. Additionally, the Petitioners respectfully request that the 2015 Waiver Order be amended, as

¹¹ 18 C.F.R. §154.207

¹² *Columbia Gulf Transmission Company*, 163 FERC 61,186 (2018); *Colorado Interstate Gas Company*, 76 FERC 62,215 (1996); *Viking Gas Transmission Company*, 78 FERC 61,029 (1997).

necessary, to reflect the reduced amounts discussed herein of the capacity to be permanently released or assigned by ExGen back to Summit.

Respectfully submitted,

/s/ Susan B. Bergles

Susan B. Bergles
Assistant General Counsel
Exelon Corporation
1310 Point Street, 8th Floor
Baltimore, Maryland 21231
410-470-1553
susan.bergles@exeloncorp.com
Counsel for Exelon Generation Company, LLC

/s/ Hallie Flint Gilman

Hallie Flint Gilman
Vice President & Chief Legal Officer
Summit Natural Gas of Maine, Inc.
7810 Shaffer Parkway
Littleton, Colorado 80127
(720) 981-2123
HGlman@summitutilitiesinc.com

Thomas E. Hirsch III
Norton Rose Fulbright US LLP
799 9th Street, NW
Washington, DC 20001
(202) 974-5635
Thomas.hirsch@nortonrosefulbright.com

Counsel for Summit Natural Gas of Maine, Inc.

/s/ Patrick J. Tarmey

Patrick J. Tarmey
Senior Counsel
Boston Gas Company d/b/a National Grid
40 Sylvan Rd.
Waltham, Massachusetts 02451
(781) 907-2190
Patrick.tarmey@nationalgrid.com
Counsel for National Grid

Dated: September 30, 2019

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Exelon Generation Company, LLC)
Summit Natural Gas of Maine, Inc.) Docket No. RP19-____-000
Boston Gas Company d/b/a National Grid)

NOTICE OF FILING
(_____, 2019)

Exelon Generation Company, LLC (“ExGen”), Summit Natural Gas of Maine, Inc. (“Summit”), and Boston Gas Company d/b/a National Grid (collectively, “Petitioners”) filed a Petition for a limited waiver of the Commission’s capacity release regulations and policies, including the posting and bidding requirements and the prohibition against tying to the extent applicable, the maximum rate provisions, the shipper-must-have-title policy, the FERC Gas Tariff provisions that implement these regulations and policies, as well as any other authorizations or waivers deemed necessary to effectuate the capacity release transaction described in the Joint Petition. The Petitioners additionally request an amendment to the 2015 Waiver Order granted to ExGen and Summit to reflect the transactions for which the foregoing waivers are requested. Petitioners have also requested the Commission to shorten the comment period on this waiver request to seven (7) days and that the Commission act on this Petition on or before October 18, 2019.

Any person desiring to intervene or protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214 (2018). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioners. On or before the comment date, it is not necessary to serve motions to intervene or protests other than on the Petitioners.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on _____, 2019.

Kimberly D. Bose, Secretary