UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, LLC	**)))**	**Docket No. RP16-618-000**

POST-CONFERENCE COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION AND NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.

The Electric Power Supply Association ("EPSA")[1] and the New England Power Generators Association, Inc. ("NEPGA")[2] (collectively, "Joint Associations") respectfully submits these comments in response to the Federal Energy Regulatory Commission's ("FERC" or "Commission") May 12, 2016 notice establishing a date for submittal of post-conference comments following the May 9, 2016 technical conference in the above-captioned proceeding.[3] The purpose of the May 9 technical conference was to examine the issues raised in the protests and comments regarding the February 19, 2016 filing made by Algonquin Gas Transmission, LLC ("Algonquin").[4] In that filing, Algonquin

---

1 EPSA is the national trade association representing leading competitive power suppliers, including generators and marketers. Competitive suppliers, which collectively account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue. EPSA filed a timely (doc-less) Motion to Intervene in this proceeding on March 2, 2016.

2 NEPGA is a private, non-profit trade association advocating for the business interests of competitive electric power generators in New England. NEPGA's member companies represent approximately 26,000 megawatts of installed capacity throughout the New England region. NEPGA's mission is to promote sound energy policies which will further economic development, jobs, and balanced environmental policy. NEPGA's member companies are responsible for generating and supplying electric power for sale within the New England bulk power system. The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member. NEPGA filed a timely (doc-less) Motion to Intervene in this proceeding on March 2, 2016.

3 *Notice Establishing Comment Period,* Algonquin Gas Transmission, LLC, Docket No. RP16-618-000, (issued May 12, 2016) ("May 12 Notice").

4 *Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,269 (2016) ("February 19 Filing").

proposed to exempt from the natural gas interstate pipeline capacity release bidding requirements certain types of capacity releases of firm transportation by specific electric distribution companies ("EDCs") to satisfy state electric reliability programs. This would allow certain EDCs with existing or new firm pipeline transportation to release their capacity on a *prearranged, priority* basis to natural-gas fired generators pursuant to a state electric reliability program. The waiver would permit the EDCs to forego current capacity release bidding requirements in order to assign their released capacity directly to particular generators.

Joint Associations commend the Commission for scheduling this conference, which was beneficial in highlighting the impacts of Algonquin's proposal on the natural gas capacity release market and more generally on reliability and pricing in the natural gas market. In particular, the conference highlighted that the tariff language setting out the Algonquin capacity release waiver request lacks sufficient detail regarding how the "new" capability would function, which entities may participate, and how those entities would participate, all of which highlight that the proposal is premature. Further, despite claims that the proposal was designed to benefit electric generators, the generators that commented on the proposal and/or participated in the technical conference explained that the proposal threatens to do the following: distort markets on which they rely; interfere with the existing primary and secondary firm capacity markets by granting preferential and subsidized access to released capacity for certain generators; distort interruptible capacity markets by allowing unduly discriminatory access by a select few; and, upend the competitiveness of the natural gas pipeline and commodity markets.

Moreover, there has been no showing that the proposed program will achieve its purported goal – to improve gas reliability or support electric reliability. Accordingly, Joint Associations oppose implementation of the proposed waiver.

To that end, the wholesale electric markets have been addressing market reforms to improve the coordination of the gas and electric industries, as well as developing and implementing broader power market reforms to ensure that wholesale prices better reflect system needs and operations.[5] These energy and ancillary service price formation reforms are under way or under consideration by the Commission for all of the Independent System Operator/Regional Transmission Organization ("ISO/RTO") markets and will improve signals to generators that support the investment necessary to ensure they can meet power market obligations. Additionally, individual regional markets have made or are making rule changes to improve reliability and system operations within their particular region, as ISO New England has done with the implementation of its pay-for-performance enhancements to the Forward Capacity

---

[5] *See,* e.g., *Price Formation in Energy and Ancillary Service Markets Operated by Regional Transmission Organizations and Independent System Operators,* Docket No. AD14-14-000 (June 19, 2014).

Notice Inviting Post-Technical Workshop Comments, Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators, Docket No. AD14-14-000, (issued January 16, 2015).

Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators 153 FERC ¶ 61,221 ("Order Directing Reports") (2015).

Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators, Notice of Proposed Rulemaking, Docket No. RM15-24-000 (September 17, 2015), 80 Fed. Reg. 58, 3893 (Sept 29, 2015), 152 FERC ¶ 61,218 (2015).

PJM Interconnection, L.L.C., *Compliance Filing to Implement Hourly Offers,* Docket No. ER16-372-000 (filed November 20, 2015).

Offer Caps in Markets Operated by Regional Transmission Operators and Independent System Operators, Notice of Proposed Rulemaking, Docket No. RM16-5-000 (January 21, 2016), 81 FR 5951, https://federalregister.gov/a/2016-01813 (Feb 4, 2016), 154 FERC ¶ 61,038.

Market construct to provide clear incentives for increased reliability.[6] Such power market improvements are critical to ensuring performance in wholesale electricity markets, and should be allowed to play out without risk that their intended effect will be compromised by other market design changes, like the Algonquin filing, that have not been fully thought through and whose impacts are impossible to predict.

Due to these numerous concerns and factors, Joint Associations believe it is important that the Commission preserve the current, effective capacity release program by rejecting the proposed waiver request and related changes to how pipeline capacity release functions.

I. EXECUTIVE SUMMARY AND OVERVIEW

In recent years, the Commission has recognized the interdependence of the natural gas and electricity industries and, in light of growing dependence on natural gas as a fuel for electricity generation, has taken actions to improve coordination between the electricity and gas industries to support reliability of the bulk power system. The New England region, in particular, has experienced increased reliance on natural gas-fired generation, and therefore has been at the epicenter of the gas/electric coordination discussion.[7] In this light, Algonquin has positioned its proposal to establish capacity release priorities to accommodate expected EDC state programs as another tool to meet the growing use of gas-fired generation in the New England region.

The Algonquin proposed tariff provisions seek to exempt specific entities from competitively bidding as to direct or indirect releases of pipeline capacity so that they

---

6 *ISO New England Inc. and New England Power Pool,* 147 FERC ¶ 61,172, *order on compliance,* 149 FERC ¶ 61,009 (2014), *order denying reh'g,* 153 FERC ¶ 61,223 (2015), *order denying reh'g,* 153 FERC ¶ 61,224 (2015).

7 https://www.ferc.gov/industries/electric/indus-act/electric-coord.asp

may assign that pipeline capacity to electric generators pursuant to proposed state-regulated reliability programs. Algonquin claims that its proposal is in the public interest because it supports such EDC programs and, in doing so, will increase the reliability of "natural-gas fired electric generation facilities in New England and address high electricity prices during peak periods in New England."[8] While the proposal acknowledges that Commission policy is to allocate capacity to the entity offering the highest rate, based solely on that rate, Algonquin contends that the Proposal's exemptions are predicated on the same reasoning as exemptions created in Order No. 712 for state gas retail access programs.[9] However, this explanation overlooks important differences between the state retail access programs considered in Order No. 712 and the state electric reliability programs that have been proposed (but not yet approved) in New England. Further, the Algonquin filing assumes incorrectly that Algonquin's goals, and the goals of the EDCs, can't be met by the currently well-established and well-functioning capacity release program.

As demonstrated in the discussion at the May 9 technical conference, despite Algonquin assertions that prioritizing certain capacity release is needed to maintain reliability for electric generation, the very generators that could receive such preferential treatment believe that this approach will distort the robust, transparent capacity release market, create an unlevel playing field among secondary shippers, and inhibit the services provided by an array of market participants, some of whom manage the natural gas supply and transportation portfolios for natural gas-fueled generators, particularly in New England. The existing natural gas market rules, including capacity release, are

---

8 February 19 Filing at 1.
9 Id. at 6-7.

consistent and transparent, and support long-term investment in both the natural gas and electric markets. Consequently, administrative “fixes” such as the Algonquin and EDC programs present an unnecessary risk of market disruption and uncertainty, especially if other entities begin to propose similar approaches or fixes in New England or elsewhere. Competitive markets necessarily balance risk and reward; the Algonquin proposal offers numerous risks without demonstrating commensurate benefits to warrant the assumption of such risks.

Wholesale power market reforms under consideration or underway at both the ISO and federal level are addressing improvements to energy, ancillary services and operating reserve price formation policies and practices in both day-ahead and real-time energy markets which are critical to establishing price signals that reflect actual system conditions and support investment which maintains system reliability. Action on these reforms – lifting the generic offer cap of $1000/MWh which restricts needed cost recovery for the provision of power during peak periods; pricing all resources and capabilities that are dispatched to serve the system; minimizing reliance on uplift payments which mask the needs and operations of the system – must not be put at risk by tweaks to the market like that proposed by Algonquin, where the impact of the change has not been thoroughly considered.

II. POST-CONFERENCE COMMENTS

A. Algonquin's Proposed Exemption Would Undermine the Commission's Capacity Release Program

The Commission's capacity release regime facilitates the reallocation of pipeline capacity to the entities that place the highest value on that capacity through a competitive market. The Algonquin proposed exemption from competitive bidding would result in inefficient use of capacity and denial of access to capacity by market participants who are not electric generators interconnected to Algonquin, or electric generators not chosen by the EDC to receive the assigned capacity. As was highlighted at the technical conference, how potential replacement shippers are designated has not been spelled out, creating confusion regarding how the proposed exemption works to assign capacity to certain generators, or how it would impact the entire potential secondary market participant pool. Additionally, as was clear from discussion at the conference, the generators which will be selected to receive the new capacity are not expected to utilize it 100% of the time. The process by which that unused capacity will be made available to the market was not specifically defined in the Algonquin filing (or in the state proposals made by the EDCs for that matter) and cannot be assumed to be either effective, efficient or non-discriminatory. Indeed, one suggestion was made at the conference that the EDCs would somehow reclaim that capacity unneeded by generators and would themselves use it to make sales of gas in the unregulated bundled market throughout New England. There are many unknowns regarding the proposal and how it will work. One thing that is known is that elimination of the posting and bidding requirement for a new category of pipeline capacity will create barriers to the benefits realized from the current competitive construct of the Commission's competitive capacity release program.

The current market construct allows all secondary market participants in New England who highly value the EDCs' Algonquin firm capacity to receive such released capacity by paying the maximum applicable rate. Notably, this maximum applicable rate would be in excess of that charged to generators pursuant to the contemplated state reliability programs. That below-maximum rate charge therefore represents a subsidy for certain designated secondary shippers, and removes valuable capacity releases from the secondary market through posting and competitive bidding. Further, limiting the amount of secondary capacity available to the market could increase the price necessary to procure that smaller sliver of remaining competitively available capacity. Consequently, the requested waiver would circumvent the Commission capacity market release rules and in turn distort capacity release market prices by establishing "tiers" or a hierarchy of capacity release recipients not based on value or price, but on direct assignment by the firm capacity holder. Such an approach undermines the Commission's well-functioning capacity release market, and could lead to distinguishing further special categories or classes of capacity release recipients.

B. The Proposal is Harmful to Competitive Markets and Undermines Order No. 712

Algonquin's proposal seeks to provide New England gas-fired generators with ratepayer-subsidized investment in and access to natural gas infrastructure, outside the normal operation of competitive markets. The proposal as explained at the technical conference would skew bidding for substantial portions of the natural gas market. Therefore, the rates, terms and conditions of the non-biddable capacity releases that

Algonquin proposes would be subject to the oversight of state regulators and be administered by EDCs and their agents or asset managers. It would also result in suppressed price signals and a lack of transparency to the market for natural gas supply and transportation in New England. While claims to the contrary have been made, discussion at the technical conference demonstrated that the requested exemption is different from the retail access program exemption approved by the Commission in Order No. 712.[10] In that order, the exemption for state supported retail access programs was based on extending the benefits of competitive market forces to retail-level gas sales customers by offering them more suppliers from whom to purchase. The Algonquin proposal does not comport with that pro-competitive intent underlying Order No. 712 in that it *removes* significant capacity from the competitive secondary market in order to administratively suppress prices in New England's wholesale power market. This is true as to the expected new pipeline and LNG capacity associated with Algonquin's Access Northeast project, but also potentially as to current Algonquin capacity.[11] The stated basis for the exemption is to facilitate construction of new pipeline capacity into New England to address perceived shortage. That rationale does not apply to extending the proposed waiver to currently existing capacity, however. Accordingly, even if the Algonquin proposal is approved with respect to newly constructed capacity (which Joint Associations oppose), it should not be extended to previously existing firm pipeline capacity.

---

[10] *Promotion of a More Efficient Capacity Market,* FERC Stats & Regs ¶ 31,271, 123 FERC ¶ 61,286 (2008) ("Order No. 712").

[11] See February 19 filing at 6.

Additionally, the Order No. 712 retail access program exemption was implemented after many state programs were approved and in place. The Commission action there helped facilitate those existing programs and increase liquidity in the capacity release market. Conversely, there are <u>no</u> state programs that address natural gas market issues to maintain electric reliability which require the support or changes as proposed by Algonquin. That in mind, the proper approach for the type of capacity release changes sought by Algonquin and the New England EDCs is to examine the details, implications and impacts of any such exemption through a broad, industry-wide rulemaking proceeding so that any and all market participants may weigh in and carefully consider the implementation of such a program. Particularly where the existing program has run successfully, transparently and efficiently for decades, as is the case here, any significant changes to the current regime deserve thorough review and assessment by stakeholders to ensure that existing competitive programs, and the needs of market participants utilizing those programs, are not harmed.

C. Algonquin's Proposed Capacity Release Exemption Is Not Needed to Enhance Supply Reliability to Gas-Fired Generators in New England

The Algonquin proposal asserts that there is a need for improving the reliability of natural gas supplies to New England's gas-fired generators. At the technical conference, Algonquin representative Richard Kruse of Spectra Energy stated that the majority of New England gas-fired generators rely on interruptible pipeline capacity or the secondary market for natural gas deliveries, utilizing the capacity designed for and assigned on a firm basis to natural gas Local Distribution Companies ("LDCs"). Kruse and the EDC representatives contended that when secondary capacity is unavailable, the resulting competition for capacity in the spot market increases spot prices, creating challenges for electric reliability. However, technical conference presentations by Algonquin and the EDCs failed to provide evidence of specific electric reliability problems that would be resolved by the proposed exemption. Nor was data or evidence offered regarding reliability interruptions caused by constrained access to gas supplies. Rather, the exemption creates an administrative preference for generators who are not requesting such a preference as they rely on the current efficient and transparent market construct to obtain natural gas service for generation. In fact, by excluding potential secondary market participants, the insular approach of the program has the potential to contribute to the electric reliability problems elsewhere in the Northeast.

Electric generators, whose livelihood depends on the reliable provision of electricity, do not agree with the assessment by Algonquin and the EDCs regarding electric reliability. New England has not experienced fuel-related reliability disruptions, even during the Polar Vortex and the February 2015 cold weather events. A recent Short-Term assessment done by NERC concluded that New England "might experience tight operational conditions for the 2016 and 2017 summer seasons if there was a loss of a major pipeline" but that even under those extreme circumstances, ISO-NE has emergency operating procedures in place to deal with this extreme scenario.[12]

EPSA and NEPGA members have firm natural gas pipeline contracts in their portfolios, but also balance those with the other options available to them in the natural gas market. Apart from whatever pipeline capacity an individual generator may hold, firm delivered products provided by marketing entities are widely available and commonly used by generators. When these product options are utilized, the generator

[12] *Short-Term Special Assessment*, Operational Risk Assessment with High Penetration of Natural Gas-Fired Generation, NERC, May 2016.

does not hold pipeline capacity in its own name; rather, the marketer owns the pipeline capacity and sells the generator gas at its plant (i.e., a "delivered product"). There are multiple options available to generators for obtaining fuel supplies for their plants such as firm deliveries, dual fuel, and interruptible, firm or secondary firm capacity. In fact, marketers often can provide more flexible, bundled delivered fuel products than can pipelines. Consequently generators already have an array of market options. The Algonquin proposal, by creating preferences among secondary shippers, would in fact distort both the existing gas and electric markets.

Further supporting the reliable provision of electricity, the Commission and independent market operators have implemented market rules and requirements to ensure generators will meet their obligations to provide power. Specifically in New England, the ISO recently implemented pay-for-performance capacity market revisions which go into effect starting in 2018. That program assesses extensive monetary penalties for not producing power when needed; the penalty amounts increase year over year. At the conference Kathleen Barron of Exelon encouraged the Commission to let that program work:

> "But the point here is if the electric rules, if there's a problem with them we should address the problem with the electric rules, not create exceptions to the gas rules. One of the points, of course, of pay-for-performance was to put the risk of non-performance on generators, not on customers, and these state programs sort of flip that and put the cost of the pipeline expansion on customers instead."[13]

Joint Associations believe the Commission should not prematurely approve the administrative interference at the heart of the Algonquin waiver, particularly as there are

---

[13] Transcript of the 5/9/16 hearing held in Washington, D.C re Algonquin Gas Transmission under RP16-618, page 129, lines 3 – 10. Available at: http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20160517-4014

other Commission actions being implemented to address suppliers' performance obligations. As discussed above, the Commission and individual ISOs/RTOs been addressing market reforms to improve the coordination of the gas and electric industries, as well as developing and implementing broader power market reforms to ensure that wholesale prices better reflect system needs and operations.[14] These energy and ancillary service price formation reforms will improve signals to generators that support the investment necessary to ensure they can meet power market obligations. Additionally, ISO New England has already put in place pay-for-performance enhancements to the Forward Capacity Market construct to provide clear incentives for increased reliability. These are the type of power market improvements that will better ensure and support performance in wholesale electricity markets, and therefore should not be compromised by hasty administrative fixes.

D. The Waiver Lacks Sufficient Detail and is Premature

As noted several times by many participants at the technical conference, the proposal lacks sufficient and important detail. Questions at the conference seeking further clarifications, information and details seemed to in fact simply produce further questions and confusion. An important if not critical question is how FERC should and can consider the proposed exemption in light of the lack of related state approvals and programs. This problem with the sequencing of the needed federal and state approvals poses a crucial concern with the instant proposal. For example, the process by which the EDCs will reclaim and redeploy any capacity that the generators don't use from time

---

[14] *See* footnote 5 above.

to time has not been explained. It is therefore not possible to conclude that any such redeployment will be fair, transparent and non-discriminatory. Further, the EDCs would need approval from state authorities for cost recovery related to the acquisition of reliability program-related pipeline capacity, and such charges would be subject to regulatory review regarding the prudency of the EDCs to purchase and pay for that capacity. As filed, the Commission cannot assess whether the requested waiver would accomplish its intended purpose, or potentially create unintended consequences or a slippery slope of further administrative intrusions into the competitive capacity release markets. Notably, any negative consequences felt in those markets would necessarily ripple across related markets, including the very wholesale electricity market the exemption purports to assist. Not only does the instant proposal lack the detail or risk/benefit assessment necessary for Commission approval in this proceeding, the type of changes included in the proposal require full and detailed consideration broadly under the auspices of a rulemaking proceeding. Joint Associations therefore oppose Algonquin's request and urge the Commission to reject the filing to ensure that stakeholders retain certainty regarding access to capacity release and that distortions are not created for the natural gas and wholesale electric markets.

III. CONCLUSION

WHEREFORE, for the reasons set forth herein, Joint Associations oppose Algonquin's request for waiver of its capacity release provisions, and urge the Commission to reject the request in order to ensure certainty for New England electric and natural gas market participants, as well as market participants across the ISO/RTO markets who utilize and depend upon the transparent, market-based capacity release regime in place.

Respectfully submitted,

________________/s/_______________
Nancy E. Bagot, Senior Vice President
Jack Cashin, Director, Regulatory Affairs
Electric Power Supply Association
1401 New York Avenue, NW, 12th Floor
Washington, DC 20005
(202) 628-8200
NancyB@epsa.org

________________/s/_______________
Bruce Anderson, Vice President, Market & Regulatory Affairs
New England Power Generators Association, Inc.
141 Tremont Street, Floor 5
Boston, MA 02111
(617) 902-2347
banderson@nepga.org

Dated: May 31, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via electronic transmission foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 31st day of May, 2016.

________________/s/_______________

Nancy Bagot
Electric Power Supply Association
Washington, DC 20005