

**Reasons for the New Jersey Department of Environmental Protection (NJDEP) to  
Deny Permits for the Northeast Supply Enhancement (NESE) Project**

## **APPLICATIONS FOR NESE DO NOT ADHERE TO REGULATION'S REQUIREMENT THAT THE PROJECT BE IN THE PUBLIC INTEREST / SHOW A COMPELLING PUBLIC NEED**

NJDEP explained that Williams/Transco did not demonstrate (1) that the proposed NESE Project serves an essential health or safety need of the municipality in which it is proposed; (2) that the proposed NESE Project serves existing needs of residents of the State; and (3) that there is no other means available to meet the established public need.

NESE does not meet the "public interest" criteria because:

There is no "compelling public need" for it - It does not provide a public health or safety benefit, and, additionally, NY does not need this gas. Rather, NESE:

- threatens our air and water quality from methane and other toxic releases,
- negatively impacts our health from Compressor Station 206 emissions,
- poses safety risks (fires or explosions) from increased velocity of transporting natural gas through pipelines that are 50+ year old which will impact the rate of corrosion, and
- increases risks of flooding at the CS206 site from an inadequately designed retention basin.
- doesn't preserve natural resources, and
- would negatively impact the shore economy by dredging up toxins from the floor of the Bay which would harm the health and safety of marine life and of Bayshore communities.

**NOTE: FERC's 5/3/19 Certificate of Public Convenience & Necessity was not based on criteria NJDEP needs to use to determine public interest / compelling public need.**

### **There is no "compelling public need" for NESE under the public interest criteria**

Williams/Transco has not demonstrated that NESE meets the standards of the Freshwater Wetlands Protection Act and its Rules which require consideration of:

- need to preserve natural resources
- relative extent of the public and private need for the regulated activity
- practicability of using reasonable alternative locations and methods
- economic value
- ecological value of the freshwater wetlands and probable impact on public health and fish and wildlife.

The NJDEP's determination of "public interest" must consider the "**relative extent of the public and private need for the proposed regulated activity.**" [N.J.S.A. 13:9B-11(b) and N.J.A.C. 7:7A-10.2(b)12ii]. NJDEP may only issue a Freshwater Wetlands Individual Permit if the agency determines that the regulated activity is **in the public interest** after considering the "**economic value, both public and private, of the proposed regulated activity to the general area.**" [N.J.A.C. 7:7A-10.2(b)12vi].

#### **Freshwater Wetlands Protection Act Rules 7:7A-1.3 Definitions**

"Compelling public need" means that based on specific facts, the proposed regulated activity will serve an essential health or safety need of the municipality in which the proposed regulated activity is located, that the public health and safety benefit from the proposed use and that the proposed use is required to serve existing needs of the residents of the State, and that there is no other means available to meet the established public need.

- There is no benefit from a project that hampers efforts of NJ and NY to rapidly address the dangers of climate change impacts and transition to clean, renewable energy and increased energy efficiency to protect residents since it ensures continued reliance on fossil fuel and leaks methane, a very potent short-term contributor to greenhouse gas.

- There is no benefit from a project that purports to generate revenue from wages and taxes with inflated estimates and does not also calculate and compare it to the costs to our health, the environment, the tourism and fishing industry, and to first responders.
- NESE does not serve essential health or safety needs of the municipality in which the proposed regulated activity is located, and the proposed use does not serve existing needs of the residents of the State.

**There is no benefit to air quality in New Jersey from the NESE Project.**

**William/Transco claimed that there would be economic and air quality benefits to New Jersey from the NESE Project, and they listed reduced ozone precursors, reduced carbon emissions, implementation of emissions reductions projects, and retiring of Emissions Reductions Credits in their responses to comments to the NJDEP on 9/4/19.**

**However:**

- They have purchased credits and will not be funding air pollution reduction projects in the area where their construction emissions exceed allowable levels. (noted on page 9 of this 9/14/19 document)
- Williams/Transco’s requirement to offset the excess air pollutants does not provide a net benefit to the communities that will be impacted by NESE’s construction and operational emissions.
- Emissions from the proposed Compressor Station 206 threaten the health of nearby residents, workers and visitors. (See the table on the next page for estimated YEARLY emissions.)

Northeast Supply Enhancement Project - Application to FERC – 3/27/17 (Resource Report 9) FERC Accession No. 20170327-5102(32053902) Pages 9-30 & 9-31						
Table 9.2-14: Operational Potential to Emit – Tons per Year (tpy) – Compressor Station 206						
Pollutant	Gas Compressor Turbines (tpy) <sup>a</sup>	Emergency Generator	Condensate Tank	Fugitive <sup>b</sup>	Blowdown	Total
CO	56.86	0.52	N/A	N/A	N/A	57.38
NO <sub>x</sub>	22.74	0.26	N/A	N/A	N/A	23.00
VOC	8.35	0.13	1.00	0.43	0.26	10.17
PM <sub>10</sub>	18.94	0.004	N/A	N/A	N/A	18.94
PM <sub>2.5</sub>	18.94	0.004	N/A	N/A	N/A	18.94
SO <sub>2</sub>	3.07	0.0002	N/A	N/A	N/A	3.07
<b>GHG as CO<sub>2</sub>e</b>	<b>132,720</b>	<b>53</b>	<b>N/A</b>	<b>456</b>	<b>2,914</b>	<b>136,143*</b>
Ammonia	14.79	0.00	N/A	0.00	N/A	14.79
Formaldehyde (largest single HAP emitted from gas turbines)	0.33	0.02	N/A	0.00	0.00	0.35
Total HAPs	0.68	0.02	N/A	0.01	0.00	0.71

<sup>a</sup> Includes annual PTE for two gas turbines in normal operational mode, sub-zero mode and startup/shutdown mode  
<sup>b</sup> Fugitive emissions from pipeline valves and flanges within Compressor Station 206.

**Key:**  
CO = Carbon monoxide  
CO<sub>2</sub>e = Carbon dioxide equivalent  
GHG = Greenhouse gas  
HAPs = Hazardous air pollutants  
N/A = Not applicable – pollutant not produced by this source  
NO<sub>x</sub> = Nitrogen oxide  
PM<sub>10</sub> = Particulate matter less than or equal to 10 microns in diameter  
PM<sub>2.5</sub> = Particulate matter less than or equal to 2.5 microns in diameter  
PSD = Prevention of significant deterioration  
SO<sub>2</sub> = Sulfur dioxide  
tpy = Tons per year  
VOC = Volatile organic compound

\* In the FEIS (1/25/19), FERC’s Table 4.10.1-5 listed the total GHG as CO<sub>2</sub>e as 140,935 ton per year.

In the DEIS, it is also noted that the **Potential to Emit for Carbon Dioxide (CO<sub>2</sub>) is 130,943 tons per year**, based on continuous operation of 8,760 hours per year (365 days/year). (Table 3.5-2, page 3-41)

## Negative Economic Impacts of NESE

- New Jersey’s Bayshore community relies on income from recreational and commercial fishing, tourism, and the ancillary businesses that support and benefit from this industry. This includes, among other things, recreational fishing and boating, whale-watching, scuba diving, commercial cruises, and commercial fishing with its network of wholesale and retail purchasers.
- Nowhere in any document provided to the NJDEP or to FERC is there an accurate and comprehensive analysis comparing the anticipated number of jobs and revenue for the months of in-water construction period of the NESE Project in this area to the revenue that would be lost by those who rely on access to New Jersey’s seashore and to clean water.
- According to the May 14, 2018 Goodman Group Ltd. report for the Eastern Environmental Law Center (EELC), the estimates that the NESE Project would support more than 2,400 New Jersey jobs (direct construction, other direct jobs & indirect jobs - onsite and offsite), that was stated in the May 24, 2017 report by people at Rutgers’ Edward J. Bloustein School of Planning and Public Policy, is overstated by approximately 40-60%. It would actually result in only about 980 to 1,450 such jobs according to The Goodman Group Ltd.
- Indirect offsite jobs anticipated to benefit from the NESE construction (retail / wholesale trade, manufacturing, financial activities and services such as engineering, architect, accounting, legal services, education & health services, leisure & hospitality, and information sectors) were projected by the Rutgers report to total 1,427 job-years, while the Goodman Group Ltd. found it would likely be 760 to 1,160 jobs.
- The Goodman Group Ltd. used Williams/Transco’s Construction Workforce Data and converted it to Job-Years. On the next page is their report of the projected construction jobs in New Jersey for the NESE Project.

New Jersey		Construction Job-Years	
Construction Duration	NESE component	Local Workers	Non-Local Workers
5 months	Madison Loop	49 - 88	26 - 47
9 months	Raritan Bay Loop (offshore)	20 - 52	177 - 210
10 months	Compressor Station 206	22 - 20	51 - 46
<b>TOTALS:</b>		<b>90 - 160</b>	<b>255 - 303</b>

- As shown above and according to Williams/Transco’s Application to FERC (03/27/2017), Supplement (06/06/2017), and their contracted report from Rutgers (05/24/2017), the construction jobs would not totally be for local workers.
- Of the jobs, the most highly paid are the offshore workers for the Raritan Bay Loop which would hire 10% to 20% of the needed workforce from local workers. The next highest paid workers would be those constructing the compressor station, and these would be 30% local workers. The lowest paid workers would construct the Madison Loop, and 65% of that workforce would be local hires.

*See: The Goodman Group Ltd. Report for EELC (May 14, 2018). Expert Report on the Northeast Supply Enhancement (NESE) Project Economic Impact for New Jersey, New York and Pennsylvania. Published in FERC Docket # CP-17-101 in Accession No. 20180514-6168.*

- Risks to loss of jobs from construction of the NESE Project in and near the Raritan Bay are not just from loss of immediate access to the **14,165.5 acre workspace** of the offshore Raritan Bay Loop that would occur from longer transit times, rerouting, or lacked access to waters that are relied upon for economic and recreational activity.
- Threats to jobs would likely persist for years from damage and pollution caused by construction that will unearth and redistribute toxins from beneath the seafloor that will be ingested by bottom feeders, bury benthic communities, and impact the food chain and habits for an undetermined period of time. According to FERC’s FEIS, the NESE Project would **directly disturb 87.8 acres of seafloor** from excavations, pipelay, anchoring systems, and backfilling, and it would **indirectly affect 947.4 acres of seafloor** by suspension and

redeposition of at least 0.12" of sediment. **Excavation of 1,091,734 cubic yards of sediment** is projected to happen for the trenching operations alone.

*Source: FERC's Final Environmental Impact Statement (01/25/2019) on pages ES-10, ES-11 and 2-45 in NESE's FERC Docket No. CP17-101, Accession No. 20190125-3001(33359066).*

- Threats to the shore economy were also not calculated to account for impacts from climate change driven events. For New Jersey's coastal communities to be sustainable and resilient, a review of the applications for the NESE Project needs to consider climate change impacts such as ocean acidification and warming as well as sea level rise vulnerabilities seen in risks from flooding, storm surges, shoreline erosion, increases in floodplains, and saltwater intrusion.

According to the New Jersey Coastal Management Program Section 309 Assessment & Strategy 2016 – 2020 (August 31, 2015), **accessed at** <https://www.state.nj.us/dep/cmp/docs/new-309-strategy-assessment-%202016-2020.pdf> -

Coastal erosion can result in significant economic loss through the destruction of buildings, roads, infrastructure, natural resources, and wildlife habitats. Damage often results from an episodic event with the combination of severe storm waves and dune or coastal bluff erosion.

Sea levels along the New Jersey coastline have been rising faster than the global average. Flooding events associated with storm surge caused by hurricanes and tropical storms could therefore also increase.

- Risks to jobs in the Bayshore community would also come from the addition of air pollutants from the construction in and by the Raritan Bay. There was no calculation provided regarding the lost wages from impacts of this added air pollution while in-water construction would persist 24/7 for seven to eight months (increased construction intensity from a compressed schedule). There are ways to calculate the Social Cost of Carbon that could estimate costs from lost time at work, lost time at school, and costs of increased medical issues from being exposed to this air pollution for nine months straight.
- There was no assessment of the costs to New Jersey's aquaculture industry from the unearthing and spreading of toxins in the water and on the seafloor from construction of the NESE Project in Raritan Bay.

According to the New Jersey Coastal Management Program Section 309 Assessment & Strategy 2016 – 2020(August 31, 2015), information compiled by the New Jersey Department of Agriculture indicated that New Jersey's hard clam and oyster aquaculture industry suffered nearly \$1,347,500 in damages to property, buildings, gear, structures and product as a result of Superstorm Sandy.

**Accessed at:** <https://www.state.nj.us/dep/cmp/docs/new-309-strategy-assessment-%202016-2020.pdf>

Specifically, it is estimated that the hard clam aquaculture industry, which is the largest aquaculture sector and valued at \$3.5 million, suffered approximately \$1,118,000 in property damage, with an estimated \$130,000 in lost hard clams. New Jersey's second largest aquaculture sector, oysters, incurred approximately \$33,000 in property damage and \$66,500 in oyster loss. According to the 2012 Hurricane Sandy Fishery Disaster Declaration the total shellfish industry losses amounted to \$3,632,264.

- Basing decisions upon modeling that only looks at the short-term direct impacts by estimating the length of time and spread of turbidity plumes does not account for the compounded, cumulative and long-term direct and indirect impacts from unearthing, suspending and spreading toxins that have been buried beneath the seabed for years. Without truly knowing the **long-term cumulative and secondary impacts** of suspending and re-depositing buried toxins on the seafloor, taking into account the fact that there was no study or modeling of synergistic impacts from combinations of toxins to different habitats and sea life that are intertwined in the food chain, the impact from construction in the Raritan Bay should be considered to be permanent until proven otherwise.

**The economic and social viability of the bayshore community**, previously harmed by toxic dumping and Superstorm Sandy, would be adversely impacted by NESE. The risks from NESE do not support goals of NJDEP's regulations to preserve and protect our environment for the benefit and enjoyment of future generations. Though construction of the in-water Raritan Bay Loop of the NESE Project would last for seven to eight months, the impact from limiting access to the bay and its shore for navigation, commerce, and fishing and recreational activities like swimming, surfing, sport diving, bird watching, walking, boating and whale watching, was not assessed. Additionally, the negative impacts to the Bayshore economy could be felt for many years as a result of unearthed, suspended and redistributed toxins from the seafloor that would harm habitats and enter the food chain. Long-term impacts were not assessed or modeled, and effects on marinelife and the environment from exposure to multiple toxins at the same time was not assessed or modeled. To approve a Project without this information would not protect, conserve and manage the natural resources of the State, and it would not protect the health of residents or ensure that our natural resources are free from interference by pollution and contamination.

**There is a Questionable "Need" for additional natural gas in National Grid's NY area. Thus, the purported economic benefit of providing gas for peak demand and phase-out of oil, along with increased reliability, is not demonstrated.**

**Williams/Transco's assertion that the NESE Project would provide reliability and resiliency is predicated on the assumption that there is a true need for the additional gas. However, they have not provided important information to verify this claim.**

Williams/Transco and National Grid have not provided data to support the "need" for extra gas supply in New York even though National Grid has subscribed to the gas. Though FERC has declared that the NESE Project is needed, and Williams/Transco asserts that this conclusion - based on incomplete and misleading information - overrules the requirement for the NJDEP to enforce the Freshwater Wetlands Protection Rules, the fact that the NESE Project will harm the health and safety of residents and wildlife cannot be ignored by the NJDEP in their determination of "compelling public need".

- Williams/Transco used old 2014 NYSERDA data on the capacity of energy efficiency to claim that natural gas demand must increase, and the U.S. Energy Information Administration (EIA) and the New York Independent System Operator (NYISO) project a flat or declining need for natural gas in that area over the next ten years.
- There was a gross overestimation of the required oil-to-gas conversions in New York City that formed the basis for the purported need for more gas.
- Their assertions that the NESE Project would aid National Grid in converting a specified number of boilers from oil to gas avoids truthful revelation of the possible number of boilers that might convert to gas (though this might not happen) as well as the finding that use of No. 2 oil in NYC is required to be mixed with at least 10% biodiesel by 2025 which essentially renders the CO<sub>2</sub> emissions from both fuel sources as equal. Williams/Transco claims that National Grid could convert 8,000 oil-burning boilers to gas each year, but there are fewer than 450 oil-burning boilers in National Grid's service area that the NESE Project could serve.
- National Grid claims that it needs more access to gas because of ongoing boiler conversions from heating oil to natural gas, but this is overstated. In the short term, New York City regulations requiring building boilers to convert from No. 6 and No. 4 heating oil to a less polluting fuel, and Williams/Transco claims that this will continue to encourage conversions to natural gas. However, even if every boiler so affected were to convert to natural gas, this would only raise demand by 6% - and many of these are in Con Ed's service area, not National Grid's. Moreover, NYC is moving ahead with plans to mandate building retrofits to improve energy efficiency. In addition, New York State is now encouraging the conversion of fossil fuel heating systems to ground-source heat pumps, a development particularly relevant to areas with stand-alone homes and commercial buildings like much of Staten Island, Brooklyn, Queens, and Long Island. All of these factors translate into only a modest increase in demand for natural gas, if at all.

- There is no proof that converting from dirty oils to natural gas provides climate benefits, since even small amounts of methane leakage (which exists in all natural gas pipelines) erodes the benefits of switching from oil to natural gas.

**Source:** The greenhouse gas impacts of proposed pipeline buildout in New York. (28 February 2018). PSE Healthy Energy. **Accessed at:**

<https://earthworks.org/cms/assets/uploads/2018/02/NY-Pipelines-PSE-TECHNICAL-REPORT.pdf>

- NESE is not needed to replace the most polluting No.6 fuel oil as they originally claimed. The No.6 oil furnaces in NYC have already been removed as part of the NYC DEP OneNYC goals of an 80 percent reduction in greenhouse gas emissions by 2050. **Accessed at:** <https://www1.nyc.gov/office-of-the-mayor/news/152-16/mayor-de-blasio-dep-that-all-5-300-buildings-have-discontinued-use-most-polluting>
- Despite moratoriums on new gas hookups in New York and the inaccurate assertions of Williams/Transco that the natural gas is needed in New York and would reduce greenhouse gases, studies, Executive Orders and other legislation have shown that both New York and New Jersey are committed to addressing the threats to the economy, health, safety and well-being of their environments and people by investing in plans to decrease fossil fuel use and increase use of clean, renewable energy.
- In the notes from a 6/20/19 meeting with Williams/Transco, NJDEP and others, it is noted that National Grid claimed they would need to move on to other options if they did not get the gas from NESE by December 2020.
- The questionable need for the gas in New York was documented in the following reports that have already been submitted to NJDEP. Furthermore, the New York City Council questioned the need for NESE in a recently adopted Resolution opposing the Project – See: Resolution No. 0845, New York City Council, **available at** <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3913765&GUID=E13F1BA3-7EB8-420F-BDEE-FB142E95BE4C&Options=&Search=>

Aucott, Michael. (10 May 2018). Report by M. Aucott of Environmental Science and Energy Consulting to EELC that was submitted to FERC on 5/14/18 as Exhibit B. For CP17-101, see FERC Accession No. 20180514-6168(32885359) – see *pages 3-6 of the report*.

Mattei, Suzanne. (19 March 2019). False Demand: The case against the Williams fracked gas pipeline. 350.org. **Available at:** [http://350.org/wp-content/uploads/2019/03/Stop\\_Williams\\_False\\_Demand.pdf](http://350.org/wp-content/uploads/2019/03/Stop_Williams_False_Demand.pdf)

- Many studies (including Skipping Stone, "Analysis of Regional Pipeline System's Ability to Deliver Sufficient Quantities of Natural Gas During Prolonged and Extreme Cold Weather (Winter 2017-2018)") indicate that any issues the city might have with insufficient gas supply (and thus the ability to convert boilers more quickly) stem from the distribution networks within the city, not with the amount of gas available to them via pipelines like the Williams/Transco NESE. To claim that Williams/Transco's NESE will help to mitigate climate change and help NYC meet its emissions goals by expediting boiler conversions is thus highly misleading since Williams/Transco's NESE will have little to do with those conversions. Even if it did, its contributions would be minuscule—particularly compared to the damages that will be done by the overall warming produced over the decades-long, methane-releasing lifespan of this pipeline.

**In Williams/Transco's 9/9/19 response to comment #44, sent to the NJDEP, they note that the "... exact level of [oil to gas conversion] adoption in unknown."**

Though the NJDEP is not required to **determine if there is a need for the gas in New York**, misleading information is being published, along with threats and moratoriums, which should not sway decisions about meeting the regulations for NJ's Freshwater Wetlands Act Protection Rules.

- National Grid, the contracted customer for NESE's gas, issued a moratorium in May 2019 for granting access to gas service for over 3,700 applications for connections from new customers as well as prior customers who wanted to reconnect after making renovations that required them to shut off service temporarily. Denial of



service actually began in November 2018 and was escalated in May 2019. This was done after the NYSDEC denied the second set of applications for NESE permits. Additionally, National Grid sent messages to their customers encouraging them to push for approval of the NESE Project by the NYSDEC.

- On WYNC's September 24, 2019 Brian Lehrer Show, NY's Governor Cuomo said the following about the NESE Project: "We have taken a position: We're against the pipeline. That's our position." About National Grid, he said that the investigation should be complete in a few weeks and, when asked about negotiating with National Grid, he stated, "... If they're extorting people and wrongly turning off gas service to homes to create political pressure, I'm not negotiating over that. That's extortion. That's a crime." Listen to the interview, and hear more about his comments on the NESE Project and National Grid at <https://www.wnyc.org/story/gov-cuomo-vaping-legal-pot/> (starting at 7:00 minutes).
- Following an investigation into National Grid's moratorium, New York's Public Service Commission issued an order on October 11, 2019 requiring National Grid to immediately provide service to 1,157 customers with an Implementation Plan as well as a Contingency Plan for providing service to the others who were denied service. The Commissioner noted that National Grid's denial of service to more than 3,700 existing and new customers in its Brooklyn, Queens, and Long Island service areas, beginning in November 2018, expanded in May 2019 and continuing to date, was found to have created undue hardship for customers by failing to provide service and a lack of appropriate notice of the moratorium. Further investigation by the NY Attorney General's office is being competed to determine if National Grid violated state law with their moratorium as well as the questionable action of outreach to their customers seeking support for the NESE pipeline.

Commissioner Rhodes also wrote:

"The Department is also concerned that National Grid did not pursue a portfolio of alternative supply and demand reduction measures before determining that a moratorium on new or expanded service connections was warranted for large customers in November 2018 and all customers in May 2019. For more than two years, National Grid has known that, if permitted, the proposal for new pipeline capacity into the downstate region would not be in-service until the winter of 2020-2021. . . . Given the current situation, it is clear that relying solely on peaking services for contingencies is a questionable approach to ensuring reliability. The Department's investigation indicates that, had National Grid invested more heavily over the past two or more years in demand response, energy efficiency, and local compressed natural gas and renewable natural gas solutions, then there would be a greater cushion to absorb unanticipated operational changes on the interstate pipeline system."

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- Below is a letter sent to the New York's Public Service Commission that is investigating National Grid. It provides information about concerns raised by many over the past three years about any actual "need" for additional gas in New York.

September 2, 2019

Chairman Rhodes and Deputy Director McCarran,

To begin, thank you once again for agreeing to investigate the gas supply situation in New York City as well as the appropriateness of National Grid's unilateral actions in the wake of the rejection of the NESE pipeline. Given the financial and emotional damage currently being inflicted on small businesses and other ratepayers because of their de facto gas moratorium, and given the lack of evidence National Grid has put forth to justify it, we trust that the PSC will side with ratepayers and take action accordingly.

We are writing today with new evidence that we hope will be useful in the PSC investigation. It should provide further evidence that National Grid has either severely mismanaged or spectacularly misrepresented its gas supply, thereby forfeiting its right to manipulate customers in the manner it has over the past few months. This information supplements our previous findings—best represented in our [False Demand report](#), authored by Suzanne Mattei, a former regional director at the DEC, now with Lookout Hill Public Policy Associates—which alone provides sufficient evidence that National Grid has been misrepresenting the gas supply situation in New York for its corporate benefit.

## 1. National Grid originally contracted for only 350,000 dth/day of gas, agreeing to 400,000 dth/d only when there were no other takers.

In Transco's document notifying potential gas buyers of NESE's available gas, it stated that the "anchor shipper," National Grid, would agree to reduce its share of the pipeline's gas by 50,000 dth/d—to 350,000 dth/d—if there were other shippers, yet none emerged. National Grid proceeded to contract for 400,000 dth/d only because there weren't other takers. ([Source](#))

This proves that at least 15% of the gas that NESE would carry isn't needed—much less wanted—by National Grid. When we consider the additional fact that this pipeline has been proposed to satisfy demand on only the most energy-intensive days out of the year—a practice frowned upon and considered inefficient by industry and the *State Energy Plan* ([Source](#), pg.22)—it becomes clear that this pipeline would be an extreme exercise in wastefulness.

## 2. National Grid recently cancelled contracts with three pipelines that might have ameliorated its supposed gas shortage.

According to a 2012 ICF report on the gas market in NYC, much of National Grid-LI's gas has come from the Iroquois Gas Transmission system, which delivers directly to Northport on Long Island. As of 2012, the Iroquois system was also providing a substantial portion of New York City's peak day capacity. In other words, National Grid-LI was transferring capacity to National Grid-NY on the most energy-intensive days.

Until recently, the Iroquois system received gas from its intersection with a TransCanada pipeline in Waddington. Yet National Grid recently let its contract with TransCanada expire. In her April 2019 testimony given as part of National Grid's current rate case, Elizabeth Arangio, Director of Gas Supply Planning for National Grid-NY, noted:

As supplies from the Marcellus shale region became abundant and readily accessible, **[National Grid] did not renew expiring long-haul contracts with Union, TransCanada, and Empire pipelines that delivered more expensive supplies from Dawn, Canada.** (Arangio testimony, April 2019, pg.20)

The Iroquois Gas Transmission System does not connect with the existing Transco pipeline running from New Jersey to New York. In other words, it provided a [completely separate supply route](#) to areas currently affected by National Grid's moratorium. Therefore, by substituting Marcellus Shale supplies (coming through the existing Transco pipeline) for Canadian supplies (coming through the Iroquois pipeline), **National Grid increased demand on the existing Transco pipeline system and eliminated a peak-shaving measure that NYC previously had** ([Source](#), pg. 29-30). It also completely eliminated one of Long Island's chief sources of gas.

National Grid seems to have also intentionally reduced its capacity in other ways as well. Arangio testified that

While the current level of Transco long haul capacity is required to serve the Companies' peak day and peak season needs, it is not always the least cost option for supply. Recently, the Companies were able to reduce the path on Transco long-haul contracts to reduce fixed costs. Effective March 1, 2019, the Companies have agreed to turn back 40 percent (27,473 Dth/day) of their combined entitlements from Zone 1 (Sta 30). Transco will allow the remaining portion (41,210 Dth/day) to be turned back as early as October 2020. After the turnbacks, **the Companies will still be able to reliably fill 100 percent of the original contract volumes at downstream points.** The option to reduce capacity paths is not one typically offered by the pipelines, so, when the opportunities occur, **the Companies will seek to take full advantage of such de-contracting providing such options do not have an adverse effect on the reliability and economics of the portfolio.** (Arangio testimony, April 2019, emphasis ours)

It is difficult to see how these actions haven't had "an adverse effect on the reliability and economics of the portfolio," given the company's claims of a gas shortage.

In addition, we must note the connection of off-system sales to the practice of inefficiently hoarding supplies, as outlined here:

Consistent with its NGPA authority, the F.E.R.C. has liberally endorsed off-system sales from the interstate market into the intrastate market. [...] As a result [...] of these two policies, the interstate market has had a dual advantage. By allowing surpluses to be sold into the intrastate market, the F.E.R.C. is provided a virtually penalty-free environment for interstate pipelines to hoard supplies. Interstates have bought available supplies at almost any price, paying no penalties for such inefficient buying behavior because



short-term surpluses may be sold in the off-system intrastate market when their markets collapse." ([Source](#), pg. 46-7)

Relatedly, through off-system sales,

pipelines may sell cheap gas to non-core customers but continue to charge high rates to captive customers. In that scenario, a pipeline takes advantage of its monopoly power over its captive customers to enhance its competitive position in the non-monopolized market. ([Source](#), pg.89)

In sum, many signs point to National Grid wanting the NESE pipeline for reasons having little to do with satisfying local demand. We look to you, the PSC, to determine this.

### **3. National Grid sold \$284 million worth of gas to third parties while keeping 15% for its bottom line.**

National Grid has not only cancelled contracts for additional gas supply; it has been selling what gas it does have to third-party buyers. In her testimony from April 2019, Arangio states that, from April 2014–January 2019

**the revenues [National Grid] received from off-system sales transactions, WSS transactions and AMAs totaled \$284.2 million**, of which \$241.7 million (85 percent) was credited to customers and **the remaining \$42.5 million (15 percent) was retained by the Companies**. (Arangio testimony, April 2019, emphasis ours)

FERC has defined off-system sales as the sale of gas

that is **excess to the pipeline's current demand**, that is of a short-term, interruptible nature, and that is made to a customer outside or away from the pipeline's traditional or historic market area. ([Source](#), pg. 86)

Precisely in order to address customer concerns that off-system sales might dilute supplies best saved for their future use, FERC established rules

**requir[ing] that off-system sales only be made when a pipeline has reserves that are surplus to its long-term needs** and only when needed to avoid take-or-pay liability. ([Source](#), pg.87)

It would appear, then, that National Grid likely either “has reserves that are surplus to its long-term needs,” thus keeping it from being able to justify its current moratorium, or has severely mismanaged its supply in order to profit in the short term.

It is unclear whether National Grid makes off-system sales using gas from its LNG storage facilities. In any case, Arangio notes that National Grid’s ability, in 2022, to shut down its LNG storage facility in Holtsville for repair is entirely contingent on the NESE pipeline being approved. Yet she also notes that “LNG provides the Companies with on-system services that cannot be easily duplicated with other assets,” i.e. pipelines (Arangio testimony).

How, then, could NESE be made to duplicate those services? More importantly, why would such a massive pipeline be required to replace a source of gas that makes up only a fraction of National Grid’s peak day delivery? If it is to maintain system pressure, as Arangio suggests (Arangio testimony, pg.10), then this is hardly the same as a gas shortage. It is a problem of pressure, and could surely be solved through more practical means than the construction of an entirely new, ecosystem-destroying \$1 billion pipeline. How, for example, might those formerly contracted Canadian pipelines be recruited to solve this problem? All of these questions must be answered by the PSC.

### **4. National Grid has claimed that its de facto gas moratorium is necessary because the NESE pipeline was rejected. Yet construction on the pipeline wouldn’t be completed for at least another year.**

The PSC must determine how National Grid can justify refusing gas service to thousands of businesses over gas that it wouldn’t be able to access for well over a year. The company is on record in multiple places saying that it expects gas shortages beginning in the Winter of 2020. In its 2019 application for a rate hike, for example, they state:

If the [NESE] project does not become available by the 2020/21 winter season, the companies will not be able to prudently satisfy new or additional service requests without jeopardizing the companies’ ability to provide safe, reliable service to its existing firm customers. In that case, National Grid will have no choice but to impose a moratorium on new and additional gas service in affected areas to maintain system reliability. ([Source](#))

Yet just a few months later, we read in the media that

The infrastructure serving the region with gas supply has reached full capacity and is unable to meet growing demand. To add additional service without NESE would pose a risk to the operational integrity of our system and jeopardize reliability of service for the existing 1.8 million customers. (Source)

We question whether either statement is actually true. Yet we're also left to ask: what changed in the mere weeks separating these statements? How is it that National Grid could suddenly need its moratorium to begin well over a year earlier than anticipated? The answer, of course, is that when a monopoly utility is insufficiently regulated, it can say and do whatever it wants. Yet ratepayers and small businesses deserve better—especially those currently hemorrhaging money because they're paying rent on businesses that they can no longer open.

Many thanks in advance, Commissioner Rhodes, for your attention to these matters. We trust that your commission will explore each and every one of these issues with the rigor that this situation demands and deserves. We look forward to the results, and we also look forward to working with you to build energy systems that skirt these issues entirely by avoiding gas and pipelines altogether. The renewable future is here. We only need to implement it.

Regards,

The Stop the Williams Pipeline Coalition

*The Stop the Williams Pipeline coalition is organized by 350Brooklyn, 350.org, Food and Water Watch, New York Communities for Change, Rockaway Beach Civic Association, Sane Energy Project, and Surfrider NYC Chapter*