REDACTED

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

May 8, 2020

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: Boston Gas Company d/b/a National Grid, D.P.U. 19-132

Dear Secretary Marini,

Enclosed for filing please find the Office of the Attorney General's Initial Brief in the above-referenced matter. Please do not hesitate to contact me if you have any questions. Thank you for your attention to this matter.

Respectfully submitted,

/s/ Joseph Dorfler

Joseph Dorfler
Assistant Attorney General

Encl.

Cc: Service List

REDACTED

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Boston Gas Company d/b/a National Grid	))))	**D.P.U. 19-132**

INITIAL BRIEF OF THE OFFICE OF THE ATTORNEY GENERAL

I. INTRODUCTION

On October 25, 2019, Boston Gas Company, d/b/a National Grid ("National Grid" or the "Company") filed a petition with the Department of Public Utilities ("Department") for approval of an agreement ("Agreement") pursuant to G.L. c. 164, § 94A for transportation of 19,000 Dekatherms per day ("Dth/day") of incremental capacity with Algonquin Gas Transmission Company, LLC ("Algonquin"). Exh. NGRID-EDA/DMW/SAJ-1, at 6-7, 15-16. The Agreement would deliver the incremental gas via Algonquin's Atlantic Bridge Project to the Company's distribution system at East Braintree, Massachusetts. *Id.* In support of its requested approval, the Company provided pre-filed testimony and supporting exhibits of Elizabeth D. Arangio, Deborah M. Whitney, Samara A. Jaffe, and Theodore Poe, Jr.

The Office of the Attorney General ("AGO") filed a notice to intervene in this matter pursuant to G.L. c. 12, § 11E(a), and was recognized by the Department as a full party to this proceeding. The Town of Weymouth ("Weymouth") also filed a notice to intervene in this matter and was recognized by the Department as a full party to this proceeding. Weymouth provided pre-filed testimony and supporting exhibits from Elizabeth A. Stanton. The following parties were granted status as limited participants: Town of Braintree, Town of Hingham, and Fore River

Residents Against the Compressor Station.

As addressed below, the Department should deny the Company's request for approval because the Agreement is not consistent with the public interest. The Company did not adequately consider potentially less expensive, yet reliable, alternatives to a pipeline precedent agreement whose costs include the Weymouth Compressor Station, a project that is not necessary to serve National Grid's customers in Massachusetts. Nor did the Company demonstrate a need for the pipeline precedent agreement to reliably serve its customers. National Grid will not experience unserved demand in a normal year until the 2024/25 heating season, at which time National Grid can call upon other resources to meet this demand. Att. AG 4-20, at 1. In the unlikely event of a design year, [redacted]. Exh. WEY-ES-1 (Confidential), at 28-29. Finally, the Company has not shown that this Agreement furthers the Commonwealth's Global Warming Solutions Act. Thus, the AGO asks that the Department not approve the proposed Agreement.

II. STANDARD OF REVIEW

In evaluating a gas company's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under Section 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. G.L. c. 164, § 94A; *Commonwealth Gas Company*, D.P.U. 94-174-A, at 27 (1996). In order to demonstrate that the proposed acquisition of a resource that provides commodity or incremental resources is consistent with the public interest, a local distribution company ("LDC") must show that the acquisition: (1) is consistent with the company's portfolio objectives; and (2) compares favorably to the range of alternative options reasonably available to the company at the time of the acquisition or contract negotiation. D.P.U. 94-174-A, at 27. In addition, as part of its public interest assessment, the Department considers whether a company has provided adequate evidence of the precedent agreement's consistency with the Global Warming Solutions Act ("GWSA").[1] *Boston Gas Company and Colonial Gas Company d/b/a National Grid*, D.P.U. 13-157, at 24 (2014).

To substantiate that a resource is consistent with a company's portfolio objectives, the company may refer to the portfolio objectives established in its most recent Department-approved forecast and supply or in a recent review of supply contracts under G.L. c. 164, § 94A, or the Company may describe its objectives in the filing accompanying the resource acquisition proposal. D.P.U. 94-174-A, at 27. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the LDC's overall supply portfolio. *Id.*, at 28. As part of the review of price and non-price attributes, the Department considers whether the pricing terms are competitive with those of the broad range of capacity, storage, and commodity options that were available to the LDC at the time of the acquisition, as well as those opportunities that were available to other LDCs in the region. *Id.* Also, the Department determines whether the acquisition satisfies the LDC's non-price objectives, including, but not limited to, flexibility of nominations and reliability and diversity of supplies. *Id.*, at 29.

[1] An Act Establishing the Global Warming Solutions Act, St. 2008 c. 298, § 7.

III. SUMMARY OF THE AGREEMENT

The Company and Algonquin entered into a 14-year contract, which requires Algonquin to provide up to 19,000 Dth/day of natural gas transportation to the Company's delivery point at East Braintree, Massachusetts from a primary receipt point of either Mahwah, New Jersey or Ramapo, New York. Exh. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 20. The contract term begins on or around November 1, 2020 and terminates on or around March 31, 2034. *Id.* The Company has the option to extend the contract for an additional five or ten years up to the full contract quantity. *Id.* at 22. The price terms include an annual fixed cost, the Reservation Rate, of [redacted], which is equal to the maximum daily quantity of 19,000 Dth at [redacted] per Dth a month, for twelve months (19,000 x [redacted] x 12). *Id.* at 26

The Agreement is for transportation of gas under the Atlantic Bridge Project, which was designed to provide additional capacity on the Algonquin and Maritimes & Northeast pipelines in order to transport more gas from the Mid-Atlantic region into New England and to specific end use markets in the Canadian Maritime provinces. *Id.*, at 14. The Company's receipt point of East Braintree, Massachusetts is located just upstream of the compressor station currently under construction in Weymouth, Massachusetts ("Weymouth Compressor Station"); thus, the Weymouth Compressor Station is not needed to deliver gas to the Company. *Id.*, at 16 ("The incremental capacity of up to 19,000 Dth/day can be delivered on primary firm basis to the Company's gate station without the installation of the Weymouth compressor station."). However, because the compressor station is part of the Atlantic Bridge Project, the cost of the Agreement includes all costs associated with the Project as a whole, including the construction of the Weymouth Compressor Station. *See* Exh. AG 1-2.

The Agreement contains no other conditions precedent other than the Department's approval on or before July 15, 2020. Exhs. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 21. The Company's stated purpose for the Agreement is to serve current customers and incremental load due to forecasted customer growth. *Id.* at 13.

IV. THE DEPARTMENT SHOULD FIND THE AGREEMENT IS NOT IN THE PUBLIC INTEREST AND DENY THE COMPANY'S PETITION FOR APPROVAL.

The Agreement submitted by the Company for approval by the Department secures gas supply via a long-term contract for pipeline capacity that ostensibly represents a least-cost, reliable option for the Company's supply portfolio. Exh. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 13. But the benefit of incremental pipeline capacity that may not even be needed or used, for at least the next five years, does not sufficiently offset the high annual cost of this Agreement, especially when considering there are other resources that can be more closely tailored to match the Company's design-year demand needs, such as city-gate deliveries and/or additional LNG contracts.

Any potential cost and reliability benefits of incremental pipeline capacity on the Atlantic Bridge Project are further diminished by the fact that, if approved by the Department, the Agreement would pass through the costs of the Weymouth Compressor Station to the Company's ratepayers residing in the neighborhoods directly affected by the station's construction and operation: North Weymouth, Quincy Point, and East Braintree are all served by Boston Gas Company. *See* Exh. AG 1-2 (explaining that the cost of the Weymouth Compressor Station is included in the contract rate for capacity). Adding insult to injury, the Weymouth Compressor Station is not needed to serve these customers or for this Agreement. Exh. NGRID-

EDA/DMW/SAJ-1 (Rev.), at 16. National Grid's customers should not have to shoulder the cost for a compressor station that provides them no benefit.

As explained more fully below, the Company has failed to show that the Agreement compares favorably to the alternative options reasonably available to the Company at the time of the acquisition or contract negotiation. First, it is unlikely that the benefit of the Agreement outweighs the cost, as asserted by the Company. *See* Revised Exh. NGRID-EDA/DMW/SAJ-1, at 27. The Company's cost-benefit analysis is misleading because the analysis assumes that there will be reoccurring design years—which, by definition, will not happen. Second, the Company's assertion that there are no other reliable options to meet its need for incremental supply is not based on facts, but rather responses to an outdated request for proposal ("RFP"). Third, the Company fails to explain why the incremental pipeline capacity on the Atlantic Bridge Project is any more or less reliable than the other options that the Company intends to utilize to meet its unmet demand regardless of this Agreement. Finally, the Company failed to provide adequate evidence that the Agreement is consistent with the GWSA. Accordingly, the Department should deny approval of the Agreement.

A. *The Agreement Represents a Costly Supply Option.*

The Company's assertion that customers will have cost savings by referencing eight consecutive design years is misleading because having eight consecutive design years is an unrealistic assumption. *Id.* The Company must plan and prepare to meet the demand during normal year forecasts and design year forecasts, among others. Exh. NG-Rebuttal, at 9 (citing *Boston Gas Company and Colonial Gas Company d/b/a National Grid*, D.P.U. 18-148 (2019), 4). National Grid designs its normal year forecasts to represent the "typical meteorological year by selecting, for each month, a historical month … that most closely approximated the 20-year average … for that month." D.P.U. 18-148, at 5-6. A design year, however, is a colder than average year that has "a one-in 34.4-year probability of occurrence." *Id.* at 6-7. Thus, by definition, if a design year occurred every year, it would not be a design year. Indeed, over the 14-year period, it is more likely that a design year will not occur than will occur.[2] The Company's representation that the capacity obtained through the Agreement will generate cost savings—which it supports by referencing eight consecutive design years—is misleading because that scenario is nearly impossible. *See* Exh. NGRID-EDA/DMW/SAJ-1 (Rev.), at 27-28 (Tables 3 and 4).

Rather, comparing the costs of the Agreement to consecutive normal years provides a more realistic assessment because normal years are by definition more likely to occur. This comparison depicts a much different scenario, wherein National Grid's customers are paying [redacted]. Exh. AG 5-11 (Confidential). This is consistent with the Company's forecast of resources and requirements for a normal year that projects no unserved demand until the 2024/25 heating season. Att. AG 4-20, at 3. And even then, in the 2024/25 heating season, National Grid's customers would be paying [redacted]. Exh. AG 5-11 (Confidential). There are some [redacted] under the normal year scenario, bu [redacted]. *Id.*

[2] A design year with one-in 34.4-year chance of occurring means that each year has a 2.9 percent chance of being a design year (1 divided by 34.4 equals 0.029). Over 14 years, the chance of having a design year only rises to 40.6 percent (14 times 0.029 equals 0.406). Thus, there is more of a chance that a design year will not occur during the lifetime of the Agreement than during the Agreement period.

Further, if a design year should come to pass, the Company's fear that it might be exposed to high city-gate pricing is misplaced because the price of the Agreement is already extremely high. The average spot market purchase price would have to reach [redacted] per MMBtu in 2027/28 to surpass the commodity and fix cost price of the Agreement. Exh. WEY-ES-1 (Confidential), at 28-29. As a comparison, Natural Gas Intelligence's ForwardLook data provides that [redacted] *Id.* (Confidential), at 29. Thus, the city-gate price would have to be [redacted] the cost of this Agreement.[3]

B. The Company Did Not Adequately Explore the Potential Alternatives to the Agreement.

The Company's assertion that the Agreement is the more reliable option is also suspect. To sustain its burden, the Company must show that the Agreement compares favorably to the range of alternative options reasonably available *at the time of the acquisition or contract negotiation*. D.P.U. 94-174-A, at 27 (emphasis added). The Company repeatedly states that "there are very few counterparties that can actually or are willing to deliver gas to the Company's distribution system[.]" Exhs. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 30; NG-Rebuttal, at 13. However, this is based upon the responses the Company received to an

---

[3] Indeed, this high average spot market price needed to surpass the Agreement price challenges the accuracy of the Company's design year cost comparisons provided in Exh. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 27-28 (Tables 3 and 4). When asked to further explain how the Company calculated these costs, the Company simply stated that they updated various data items in the SENDOUT model and received the results. Exh. WEY 2-5(e). The Company apparently did not conduct any independent analysis or calculation. In addition to being misleading, without more from the Company regarding how these figures in Tables 3 and 4 were determined or support for their accuracy, the Department should not rely on these tables.

RFP two years ago in a different docket that had different terms, including different delivery points and demand objectives, among others. Exh. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 30; *compare id.* at 18-20, *with Boston Gas Company d/b/a National Grid*, D.P.U. 18-104 (2019), Exh. NGRID-EDA-SAJ-2, at 1-7. The Company failed to provide any updated evidence, analysis, or other supporting documentation that, *at the time of the acquisition or contract negotiation*, "there are very few counterparties that can actually or are willing to deliver gas to the Company's distribution system." The Company's reliance upon the number of responses to an outdated RFP does not represent a sufficient analysis of reasonable alternative resources that may be available.

Further, the Company's position that the reliability of city-gate deliveries, or any other alternative, are inadequate is inconsistent with the Company's position in this proceeding that it will rely upon alternatives to make up for unserved design-year demand in the future. The Company is clear that even if the Agreement is approved, the Agreement will not deliver gas to adequately cover the Company's demand due to geographical constraints in the distribution system. Exhs. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 13; AG 4-4. Thus, the Company will have to obtain alternative resources, such as LNG and/or city gate supplies, in addition to the Agreement to meet this otherwise unserved demand. *Id.*; *see Boston Gas Company and Colonial Gas Company, each d/b/a National Grid*, D.P.U. 18-148, at 27 (2019). Indeed, the Department approved this supply plan in the Company's prior Forecast and Supply Plan. D.P.U. 18-148, at 27-28. It is inconsistent for the Company to claim here that alternatives to the Agreement are not sufficiently reliable, yet those same alternatives are reliable enough to meet demand elsewhere in the system.

The Company also fails to explain why its three-year contract with Constellation for LNG could not be renewed to help meet demand. The Company's contract with Constellation is a three-year gas supply option for a maximum daily quantity of 17,000 Dth, 27,000 Dth, and 37,000 Dth during the consecutive heating seasons beginning with the 2019/2020 season. D.P.U. 18-104, at 4. When asked about the status of the Constellation contract during discovery, the Company simply stated that "Constellation was only willing to offer firm deliveries for four winter heating seasons," with no explanation as to the Company's potential to enter into another contract after that time. Exh. AG 5-6. This failure reinforces the Company's lack of due diligence in considering reasonable alternatives.[4] Accordingly, the Agreement is not in the public interest and should not be approved.

C. The Company Fails to Show the Agreement is Consistent with the Global Warming Solutions Act.

The Company has provided very little evidence that the Agreement furthers the Commonwealth's goals of reducing greenhouse gas emissions pursuant to the GWSA. To be in the public interest, the Company must provide adequate evidence that the Agreement is consistent with the GWSA. D.P.U. 13-157, at 24. In D.P.U. 13-157, the Department accepted as adequate evidence that the need for additional capacity was mostly due to conversions from oil heating to natural gas, in combination with the termination of an existing capacity contract such

[4] The AGO further notes that the Company miscalculated the effect of its energy efficiency programs. Despite the Company's response in Exh. AG 1-10, the Company's actual 2015-2017 average savings was 15,805,019 therms. Exh. AG 3-20; *see Boston Gas Company and Colonial Gas Company, each d/b/a National Grid*, D.P.U. 16-123, Appendix A-3 2015 Gas BCR Screening Model, "Savings Sum" tab; *Boston Gas Company and Colonial Gas Company, each d/b/a National Grid*, D.P.U. 19-94, Appendix A National Grid Gas 2017 BCR Model, "Savings" tab. This difference of 3,273,385 therms brings the historical three-year average under the target for the forecast period at that time of 17,251,140 therms. Exh. AG 1-10. Thus, the Company's forecast should be reduced by 1,446,121 therms to account for energy efficiency programs. *See* Exh. AG 1-10.

that the "new" capacity was actually replacing already existing capacity and, therefore, not creating additional greenhouse gas emissions. *Id.* at 24-25 (citations omitted). In contrast, here, the Company did not model the conversion of customers from oil heating to natural gas, so it is not known whether the new load growth stems from oil heating to natural gas conversions, other non-gas to gas conversion, or new construction. Exh. AG 4-15. And the Company is not replacing any already existing contracts; it is entering into the Agreement in addition to its current portfolio. Exh. NGRID-EDA/DMW/SAJ-1 (Confidential) (Rev.), at 13.

Further, the Company's attempt to provide the amount of greenhouse gas emissions it expects to reduce as a result of the Agreement is flawed because it is not actually resulting from the Agreement. Exh. AG 4-18. Even if the Company's assumptions and calculations are correct,[5] this reduction would still occur if the load growth is served by reasonable alternatives to the Atlantic Bridge Project, such as LNG and/or city-gate supplies, as described above. It is possible that the alternative options, which will not require the same amount of annual capacity, would result in fewer greenhouse gas emissions as they could be more closely tailored to meet the Company's needs. Thus, any reduction cannot be credited to the Agreement.

The Company must show how the Agreement is consistent with reduced greenhouse gas emissions as required under the GWSA. It is not enough for the Company to rely on the difference between oil and gas emissions to justify a new, unneeded, and overpriced precedent agreement. If the Commonwealth intends to meet its goals under the GWSA, precedent agreements need to be scrutinized for their specific contributions to the reduction of greenhouse gas emissions.

[5] The Company assumes that existing natural gas non-heating customers becoming heating customers are conversions from oil heating. Exh. AG 4-15. However, this cannot be assumed because some customers could be converting from propane or electric heating.

V. CONCLUSION

For the aforementioned reasons, the AGO respectfully requests that the Department accept the AGO's recommendations as set forth in this Initial Brief because they are in the best interests of the Company's customers.

Respectfully submitted,

MAURA HEALEY
ATTORNEY GENERAL

By: *<u>/s/ Joseph Dorfler</u>*
Joseph Dorfler
Elizabeth A. Anderson
Assistant Attorneys General
Massachusetts Attorney General
Office of Ratepayer Advocacy
One Ashburton Place
Boston, MA 02108
(617) 727-2200

Dated: May 8, 2020

REDACTED

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Boston Gas Company, d/b/a National Grid	**D.P.U. 19-132**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. § 1.05(1) (Department's Rules of Practice and Procedure). Dated at Boston this 8th day of May, 2020.

/s/ Joseph Dorfler
Joseph Dorfler
Assistant Attorney General
Massachusetts Attorney General
Office of Ratepayer Advocacy
One Ashburton Place
Boston, MA 02108
(617) 727-2200