

People's Dossier of FERC Abuses of Power and Law → Consultant Conflicts of Interest

FERC Routinely Uses Conflicted Consultants to Conduct Project Reviews and Make Recommendations

FERC routinely hires third party consultants to lead its project reviews knowing full well that these same consultants are simultaneously working as consultants for the pipeline companies seeking FERC approval for their projects. The use of these conflicted consultants, that are operating on both sides of the FERC approval process at the same moment in time, sometimes even on directly related projects, injects an obvious source of bias and concern.

For example:

The FERC Environmental Assessment (EA) for Spectra Energy's [now Enbridge] Atlantic Bridge project was prepared with the help of NRG [now Environmental Resource Management (ERM)], a third party contractor hired by FERC. At the same time, Spectra had also retained NRG as a "public outreach and relations" consultant on the PennEast pipeline project, of which Spectra owns 10% interest. This means that NRG was hired by FERC to conduct an objective, unbiased review of Spectra's Atlantic Bridge project, while at the same time receiving money from Spectra Energy to conduct the preliminary review for another of the company's proposed pipelines (i.e. PennEast pipeline). Additionally, the two projects (PennEast and Atlantic Bridge) are physically connected, further entrenching the conflict of interest. It is no stretch of the imagination that NRG would financially benefit from Spectra's Atlantic Bridge project if the project were approved, a project which NRG was partially tasked by FERC with "objectively" reviewing. In fact, while NRG was conducting its "review", Spectra hired NRG for *no less than five other projects*.¹

FERC's own handbook defines such a situation as a conflict of interest, stating a conflict of interest exists when a contractor has an ongoing relationship with an applicant. The conflicts involving NRG, Spectra, the PennEast Pipeline (*FERC Docket No. CP15-558*), and the Atlantic Bridge Pipeline (*FERC Docket No. CP16-9*) were brought to FERC's attention by concerned community members and two U.S. Senators. Instead of conducting a new, unbiased review, FERC's then-Chairman Norman Bay simply responded by quoting sections of FERC's handbook on hiring third-party contractors. NRG's review still stands intact because despite clear evidence to the contrary, FERC took NRG's word that no conflicts existed.² Documents revealed after these comments were made and FERC had approved the project reveal that FERC had clear information that a contractor [NRG] hired to review Spectra Energy's proposed Atlantic Bridge gas project did not fully disclose its work for Spectra on a related project [PennEast]."³

¹ Consultant Conflicts of Interest Attachment 1, DeSmog Blog, *Revealed: Contractors Hired by FERC to Review a New Spectra Energy Pipeline Work for Spectra on a Related Project*, May 26, 2016.

² Consultant Conflicts of Interest Attachment 2, DeSmog Blog, *Despite Senate Inquiry into Potential Conflicts of Interest, FERC Approves Spectra Energy's Atlantic Bridge Project*, January 26, 2017.

³ Consultant Conflicts of Interest Attachment 3, DeSmog Blog, *Documents Suggest FERC Approved Spectra's Atlantic Bridge Project Despite Knowing of Contractor's Flawed Conflict Disclosure*, April 7, 2017.

Recently, Canada's Enbridge purchased Spectra Energy. Because ERM currently works for Enbridge on several other projects, the contractor is conflicted and required to get special approval from FERC to continue working on Atlantic Bridge, providing construction compliance monitoring in the state of New York. FERC staff acknowledged in an internal memo "that ERM currently works for Enbridge and thus has a conflict of interest."⁴ But instead of finally taking corrective action regarding the extensive conflicts of interest involved in the project, FERC ultimately ruled that the company may serve as third-party contractor to monitor Atlantic Bridge's construction phase, "reasoning that hiring a new contractor would have 'detrimental consequences' for the project, which 'would be contrary to the public interest'" and would impose further significant delays on the construction of this project" (specifically citing the construction schedule's limited tree-clearing window),⁵ and that because "ERM reported it had received less than one percent of its income from Enbridge in each of the previous three years."⁶ However, FERC does not independently verify financial reporting from third-party contractors and documents obtained by DeSmog Blog reveal that ERM's relationship with Enbridge may in fact be more extensive.⁷

By way of further example:

Tetra Tech is a known consultant for FERC, most recently on the PennEast Pipeline project. Tetra Tech is also a member of the Marcellus Shale Coalition. Founded in 2008, the Marcellus Shale Coalition works to advance production and distribution of gas fracked from the Marcellus and Utica Shales. The support of the Marcellus Shale Coalition is not just well known, but is touted by the PennEast Pipeline company raising another significant conflict for FERC on the PennEast Pipeline project.⁸

In addition to Tetra Tech's clear bias for natural gas infrastructure, FERC was aware of the company's history of bias and misconduct and that "a federal court previously found evidence indicating that Tetra-Tech tried to influence agency policy in the course of preparing an EIS:"⁹

In the case involving Tetra-Tech's preparation of an environmental impact statement for the U.S. Forest Service ("USFS"), a federal judge also found that evidence of Tetra-Tech's bias and improper conduct raised such serious problems that it authorized the extraordinary

⁴ Consultant Conflicts of Interest Attachment 4, DeSmog Blog, *Government Contractor Monitoring Enbridge's Atlantic Gas Project Works Extensively for the Company*, January 14, 2018.

⁵ Consultant Conflicts of Interest Attachment 5, DeSmog Blog, *FERC Allows Conflicted Contractor to Supervise Enbridge's Atlantic Bridge Gas Project*, October 8, 2017.

⁶ Consultant Conflicts of Interest Attachment 4, DeSmog Blog, *Government Contractor Monitoring Enbridge's Atlantic Gas Project Works Extensively for the Company*, January 14, 2018.

⁷ Consultant Conflicts of Interest Attachment 4, DeSmog Blog, *Government Contractor Monitoring Enbridge's Atlantic Gas Project Works Extensively for the Company*, January 14, 2018.

⁸ Consultant Conflicts of Interest Attachment 6, Times of Trenton, *PennEast Natural Gas Pipeline Environmental Study Firm's Connection to Shale Coalition is Questioned*, February 28, 2015.

⁹ See *Colorado Wild, Inc. v. U.S. Forest Serv.*, as paraphrased in Lower Saucon, Pennsylvania's Request for Rehearing and Motion for Stay re PennEast Pipeline Company, LLC.) Docket No. CP15-558-000, Before the Federal Energy Regulatory Commission.

remedy of preliminary injunction against a USFS decision to grant special use authorization to a real estate developer for certain rights-of-way across National Forest System (NFS) lands.

Even worse, a federal magistrate judge found that Tetra-Tech destroyed evidence relating to the claims of improper email communications concerning the EIS with the project proponent by erasing the computer hard drive of its employee. In the Colorado Wild case, the Court found the agency administrative record filed with the Court to have been “incomplete”, due to Tetra-Tech’s destruction of documents by erasing a computer hard drive.¹⁰

In response to Tetra Tech’s role in PennEast, FERC acknowledged the conflicts while claiming it did not constitute their disqualification, adding that this sort of bias is the norm for third-party contractors working on pipeline proposals:

“...allegations that Tetra Tech has a “financial, business, and corporate interest” in promoting natural gas infrastructure in the Marcellus Shale region do not demonstrate that Tetra Tech has an OCI that necessitates an invalidation of the Final EIS. ...Nor do we believe that Tetra Tech’s membership in, or role as a technical consultant to, a trade organization that promotes the development of natural gas supplies in the Marcellus Shale region constitutes a disqualifying OCI. It would be inappropriate to disqualify Tetra Tech from serving as a third-party contractor for belonging to a professional organization. Were this the standard for conflicts of interest, nearly all third-party contracts would likely be disqualified for conflicts of interest.”¹¹

Attachments:

Consultant Conflicts of Interest Attachment 1, DeSmog Blog, *Revealed: Contractors Hired by FERC to Review a New Spectra Energy Pipeline Work for Spectra on a Related Project*, May 26, 2016.

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¹⁰ See *Colorado Wild, Inc. v. U.S. Forest Serv.*, as paraphrased in Lower Saucon, Pennsylvania’s Request for Rehearing and Motion for Stay re PennEast Pipeline Company, LLC.) Docket No. CP15-558-000, Before the Federal Energy Regulatory Commission.

¹¹ See Federal Energy Regulatory Commission’s Order on Rehearing, PennEast Pipeline Company, LLC Docket No. CP15-558-001 (Issued August 10, 2018).

Consultant Conflicts of Interest Attachment 5, DeSmog Blog, *FERC Allows Conflicted Contractor to Supervise Enbridge's Atlantic Bridge Gas Project*, October 8, 2017.

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Revealed: Contractors Hired by FERC to Review a New Spectra Energy Pipeline Work for Spectra on a Related Project

www.desmogblog.com/2016/05/26/revealed-contractors-hired-ferc-review-new-spectra-energy-pipeline-work-spectra-related-project

Itai Vardi | May 26, 2016

By Itai Vardi • Thursday, May 26, 2016 - 13:25



A contractor hired last year by the Federal Energy Regulatory Commission (FERC) to review a proposed gas pipeline by Spectra Energy, had already been working for the company on a related project, a DeSmog investigation has found.

Such an alleged conflict of interest suggests that the contractor had a financial stake in approving the project it was hired to review.

As part of a formal Pre-Filing Review Process for Spectra Energy's Atlantic Bridge project, FERC hired in early 2015 a third-party contractor to review the pipeline. A [proposed](#) expansion of the company's existing Algonquin Pipeline carrying fracked gas from Pennsylvania to the Northeast US and Canada, the project involves the construction of several new pipeline segments in New York and New England and a new compressor station in the town of Weymouth, Massachusetts.

The contractor, Natural Resource Group (NRG), is a subsidiary of ERM, an international consulting company that previously provided the favorable environmental review for the northern part of TransCanada's Keystone XL Pipeline. DeSmog has prolifically [documented](#) ERM's deep ties to the fossil fuel and tobacco industries and [shady](#) international operations. ERM is owned by two Canadian investment firms – [OMERS Private Equity](#) and [AIMCo](#) – with investments in energy infrastructure

FERC hired NRG to conduct an Environmental Assessment (EA) for the Atlantic Bridge pipeline, manage public outreach and engagement, and review the project's alternatives.

According to FERC's [guidelines](#), while third-party contractors work under the supervision and control of FERC staff, they are paid by the pipeline company seeking FERC's approval. The company is also responsible for bidding potential contractors, with FERC approving the eventual hire.

According to financial reports submitted by Spectra to FERC, since 2011 the company has paid NRG a total of over \$2.5 million for services on a number of its projects under FERC review.

NRG's Other Spectra-related Project

DeSmog has found that apart from being funded by Spectra to review Atlantic Bridge, NRG seems to be in an even more glaring conflict of interest in the project.

On February 20, 2015, FERC sent a letter to Spectra, announcing the selection of NRG as contractor for Atlantic Bridge. Yet at the time, NRG was already [working](#) directly for PennEast LLC, a major pipeline consortium of which Spectra is a member. NRG has been conducting public affairs for PennEast since at least 2014. A year earlier, NRG [opened](#) an office in the Marcellus Shale to represent energy companies operating in the region.

My staff has reviewed the proposals submitted for the selection of a third-party contractor to assist us in preparing the National Environmental Policy Act documentation. We have selected Natural Resource Group (NRG) as the third-party contractor to work under the direct supervision and control of the Commission staff. I request that you proceed with executing a contract with NRG so work may begin as soon as possible.

If you have any questions, please contact the Office of Energy Projects' Environmental Project Manager for your project, Maggie Suter at (202) 502-6463.

Sincerely,

Jeff C. Wright
Director
Office of Energy Projects

(Image from a February 2015 letter from FERC to Spectra, announcing the hiring of NRG to review Atlantic Bridge. Source: ferc.gov)

When Spectra joined the PennEast Pipeline consortium in October 2014, Spectra executives made clear their [purpose](#) was to bring fracked gas from the Marcellus Shale to its Algonquin Pipeline, of which the Atlantic Bridge project is a part.

In other words, NRG, which works directly for PennEast, has a financial stake in the approval of Atlantic Bridge, the project it was hired by FERC to review as third-party contractor.

According to FERC's own [guidelines](#) for hiring third-party contractors, a conflict of interest exists when the contractor "has a past, present, or ongoing financial interest in a project to be covered by the third-party contractor." This exists, for instance, when the contractor "has a financial or other interest in the outcome of the Commission's decision."

Chapter 4. FERC's ORGANIZATIONAL CONFLICT OF INTEREST AND OFF-THE-RECORD COMMUNICATIONS (EX PARTE) REQUIREMENTS

An OCI exists when the nature of the work to be performed may, without some restriction on future activities:

- result in an unfair competitive advantage to a contractor; or
- impair the contractor's objectivity in performing the contract work.

OCIs typically exist where the contractor and/or its employees have a past, present, or ongoing financial interest in a project to be covered by the third-party contract. For example, an OCI exists if the contractor:

- has been involved with the applicant on the project before it is proposed to the Commission, or while it is pending before the Commission;
- has an ongoing relationship with the applicant;
- would be called on to review its own prior work; or
- has a financial or other interest in the outcome of the Commission's decision.

The contractor may work on the project for the applicant after the Commission has decided whether to approve the project as long as there was no prior agreement or expectation that approval of the project would result in such involvement.

(Image from FERC's own guidelines on the use of third-party contractor, suggesting a conflict of interests between NRG and Spectra. Source: ferc.gov)

NRG Helps Write an Environmental Assessment Beneficial to Spectra

Atlantic Bridge's Environmental Assessment (EA), [published](#) by FERC in May this year, is favorable to Spectra. The EA – prepared largely by NRG staff, who were funded by Spectra – found the project not to “constitute a major federal action significantly affecting the quality of the human environment.”

Along with a host of recommended mitigating actions, the report concludes that Atlantic Bridge will have “no significant impact,” essentially paving the way for an ultimate FERC approval of the project.

The EA also denied multiple demands by residents near the project and other stakeholders to conduct a more thorough Environmental Impact Statement (EIS).

Atlantic Bridge is currently pending final FERC approval. In the meantime, Spectra submitted filings for a separate, but linked, [project](#) in the area – Access Northeast. NRG, in its capacity as third-party contractor, is reviewing this project as well.

Opponents of the two pipelines have demanded that FERC review both projects as one, in the hope of receiving a more comprehensive environmental and health analysis. Thus far, FERC has declined to unite the two projects.

Industry-funded Contractors are Presented as FERC's

This case – where a contractor hired to review a pipeline is not only funded by the company seeking FERC approval but also has a financial interest in approving the project – highlights the broader [question](#) of how FERC maintains its

independence from the industry it regulates.

FERC's website publishes a handbook on how to use third-party contractors. In order to navigate the odd situation whereby such contractors work for FERC but are paid by the company under FERC's review, the text includes a variety of guidelines on how to choose contractors and demarcate the division of labor between them and FERC.

According to the guidelines, FERC staff will "have complete control over the scope, content, and quality of the contractor's work" and "sole ownership of all documents (other than those related to financial aspects) produced under the contract."

The guidelines also prohibit the energy company funding the contractor to review the work product before its release to the public.

Yet given the constant contact between the contractor and the applicant's employees during the review process, this seems a difficult feat to accomplish. For instance, FERC documents show that NRG and Spectra representatives engaged in regular bi-weekly meetings during the Pre-Filing Review Process for Atlantic Bridge.

DeSmog also discovered that while the review was ongoing, Spectra and NRG participated in a [panel](#) at an industry-funded conference on the Marcellus Shale in September 2015.

The panel, titled "How Applicants Can Manage Effectively a FERC Project," was moderated by PennEast's spokesperson Patricia Kornick, who is an NRG employee. Panelists included Larry Brown, an NRG senior vice president who at the time was leading the EA on Atlantic Bridge, and Andrea Grover, Spectra's Director for Stakeholder Outreach.

To connect the dots: while Spectra-funded contractor NRG was conducting the EA for FERC on Spectra's Atlantic Bridge project, both companies met with other industry representatives to offer tips on successfully maneuvering a FERC application. All while being moderated by an NRG public affairs specialist who was simultaneously working for a Spectra pipeline related to Atlantic Bridge.

10:00 am – 12:00 pm

119 AB

How Applicants Can Manage Effectively a FERC Project: Permitting, Communication and Compliance

Sponsored by UGI Energy Services

The United States is now the largest producer of hydrocarbons in the world; however, this distinction retains its significance only to the extent that oil and gas can be delivered safely to meet the energy needs of consumers. This workshop will aid operators in navigating the comprehensive review process of the Federal Energy Regulatory Commission (FERC), which has jurisdictional review of interstate natural gas pipelines and other related energy infrastructure projects.

1.0 Professional Development Hour

Moderator

*Patricia Kornick, Senior Public Affairs Consultant
Natural Resource Group (NRG) LLC*

Panel

*Larry Brown, Partner
Natural Resource Group (NRG) LLC*

*Andrea Grover, Director, Stakeholder Outreach
Spectra Energy*

(Image from the program of Shale Insight Conference 2015, showing collaboration between NRG and Spectra)

Another problem relates to contractors' transparency. During public scoping meetings, where contractors are present alongside FERC officials to hear local residents' concerns, FERC does not acknowledge the contractor's funding source.

DeSmog reviewed numerous scoping meeting transcripts from the past 8 years, and in none of them did FERC staff clarify that contractors are funded by the industry. Instead, contractors are presented to the audience in these meetings as "working for FERC," "assisting FERC," "an extension of FERC," or "with us" [i.e. FERC].

This is, at the least, a selective description. At worst, it is outright misleading.

To further confuse matters, in a document on FERC's website announcing a training seminar, several NRG employees are [listed](#) under the inaccurate title of "FERC Staff Bios."

At Weymouth Public Meeting, Spectra-funded Contractor Presented as FERC Staff

Two such public meetings were held in the past year in Weymouth, Massachusetts, where Spectra plans to construct a gas compressor station in the middle of town as part of the Atlantic Bridge project. Both meetings, which were held in the town's middle school auditorium, were attended by hundreds of residents and other stakeholders from the area.

NRG employees sat on the stage alongside FERC officials, facing the audience.

In the first meeting, NRG employees were [presented](#) as "third party consultants assisting us". In a public meeting last week on the Access Northeast project, FERC officials [introduced](#) NRG employees as "representing FERC."

11 13, 2015. My name is Maggie Suter and I am the
12 Environmental Project Manager for the Atlantic Bridge
13 Project with the Federal Energy Regulatory Commission's
14 Office of Energy Projects.

15 With me tonight at the table here is Larry Brown
16 who is with Natural Resource Group, an environmental
17 consulting firm working as a third party consultant to
18 assist us in preparing the environmental assessment or "EA"
19 for this project. Also at the sign-in table are Andrew
20 Thorton and Mike Douglas who are also with NRG.

21 I know a lot of you have signed up to speak
22 tonight so I am going to try to make my opening remarks as

(Image from the minutes of a FERC public meeting in Weymouth MA, May 2015. Spectra-funded contractor's staff are presented as "assisting FERC," with no mention of their funding source. Source: ferc.gov)

Both meetings were highly charged, with a great majority of speakers strongly demanding that FERC deny the project. A smaller number of people voiced support.

Yet all Weymouth residents DeSmog spoke with assumed they were addressing FERC staff.

Weymouth Town Councilor, Becky Haugh, who has been a vocal opponent of the Atlantic Bridge and Access Northeast projects, was stunned to learn from DeSmog that Spectra has funded NRG's work on the EA.

"I had no clue," says Haugh. "This is news to me."

Haugh is also surprised to learn that NRG employees sat alongside FERC staff at the town's public meetings. "I thought they were all direct employees of FERC," she told DeSmog.

When contacted by DeSmog for comment, NRG's senior vice president Larry Brown, who was present in both the Weymouth meetings, said he could not respond to the issues raised in this article since his company is under contract by FERC. Brown referred DeSmog to FERC.

A FERC spokesperson denied third-party contractors are generally in a conflict of interest and said that such relationships are transparent. She referred DeSmog to the Commission's handbook guiding the hiring and use of such contractors.

FERC was asked specifically to comment on NRG's alleged conflict of interest in the Atlantic Bridge project. Again, the spokesperson referred DeSmog to the handbook.

Spectra Energy did not return several requests for comment.

Blog image credit: www.nocompressor.com



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Consultant Conflicts of Interest Attachment 2,
DeSmog Blog, *Despite Senate Inquiry into Potential
Conflicts of Interest, FERC Approves Spectra Energy's
Atlantic Bridge Project*, January 26, 2017.



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Despite Senate Inquiry into Potential Conflicts of Interest, FERC Approves Spectra Energy's Atlantic Bridge Project ^[1]

Itai Vardi ^[2] | January 26, 2017

By [Itai Vardi](#) ^[2] • Thursday, January 26, 2017 - 11:10



The Federal Energy Regulatory Commission (FERC) has [approved](#) ^[3] the construction of a new gas pipeline project, despite an ongoing inquiry by two U.S. senators into a possible conflict of interest in its environmental review.

On Wednesday, FERC authorized Spectra Energy to build its Atlantic Bridge project, one of several recent upgrades to its Algonquin pipeline in the U.S. Northeast. The ruling is conditional on the approval of the project by the National Oceanic and Atmospheric Administration's Office of Coastal Zone Management, which is expected to finalize a decision by August this year.

Questions About the Review Process

Yet FERC's crucial greenlighting of Atlantic Bridge comes as the project, which includes a gas compressor station in

Weymouth, Massachusetts, remains under scrutiny by Massachusetts Senators Elizabeth Warren and Ed Markey following [revelations](#) [4] by DeSmog about a possible conflict of interest in the environmental review process.

“With this decision, FERC continues to ignore the safety concern of Weymouth residents,” Sen. Warren told DeSmog. “The agency also has not answered my questions about conflicts of interest in the permitting process. To be clear: this compressor has more to do with pumping gas north for export to distant markets than with helping Massachusetts residents. FERC works for the people, and we need to keep fighting to force them to prioritize safety of our working families over industry profits.”

The third-party contractor that assisted FERC in the project’s environmental assessment, Natural Resource Group (NRG), had been working simultaneously for Spectra on a related project, the proposed PennEast Pipeline. Internal FERC documents [show](#) [5] that when hired by the commission to review Atlantic Bridge in early 2015, NRG did not disclose its work on PennEast. Since PennEast is planned to connect to Algonquin and enhance its capabilities, NRG may thus have had an interest in the approval of Atlantic Bridge.

These revelations prompted Warren and Markey to [send](#) [6] three inquiries in recent months to FERC Chairman Norman Bay, demanding answers about the project and FERC’s general vetting procedures of third-party contractors. The senators called on FERC to issue a new and objective review. Bay has yet to respond to their most recent letter, which raised further concerns about conflicts of interest.

In their written authorization of the Atlantic Bridge project, FERC Commissioners Norman Bay, Cheryl LaFleur, and Collette Honorable included a response to the conflicts of interest charge. The three repeated their earlier claim to Senators Warren and Markey that in hiring NRG, FERC’s staff followed its own guidelines for vetting contractors. Based on disclosures provided by NRG, staff found no conflicts. The commissioners continued to quote NRG’s own words stated in its original disclosure form, where it admitted it was working at the time for Spectra Energy on “various expansion projects and pipeline operations and maintenance programs.”

Yet this statement cannot encompass the work NRG provided for Spectra as a member of the PennEast Pipeline consortium. For one, because PennEast is still on the drawing boards and has yet to be built, it cannot either be considered an “expansion project” or a “pipeline operations and maintenance program,” as these refer to existing pipelines. Second, NRG provides PennEast with public affairs and stakeholder outreach services, which differ from the stated “pipeline operations and maintenance programs” in NRG’s disclosures.

⁴⁵ The third-party contractor (Natural Resource Group [NRG], a wholly owned subsidiary of Environmental Resource Management) disclosed its relationship with Spectra Energy Corporation in its proposal to work on the Commission’s environmental review of the Atlantic Bridge Project. Specifically, it disclosed that it provided Spectra Energy Corporation with services in support of various expansion projects and pipeline operations and maintenance programs. NRG indicated that the services were provided starting on January 12, 2012, and lasted until at least the date of the OCI review on January 12, 2015. NRG represented that revenues from this work totaled less than one percent of NRG’s total revenue in each of the past three fiscal years.

A passage from FERC’s authorization to construct the Atlantic Bridge project. Though FERC quotes NRG’s disclosure, the description does not encompass the contractor’s work for PennEast.

Project Opponents Vow to Fight On

One of the main points of contention surrounding the Atlantic Bridge pipeline project is the construction of a natural gas compressor station in the town of Weymouth, Massachusetts. The station has [faced fierce opposition](#) [7] from residents and local leaders, who are concerned about potential negative health and environmental impacts in an area already burdened by heavy industry and power generation.

“We are grossly disappointed in FERC’s decision,” says Alice Arena, a Weymouth resident and leading activist with the citizens group FRRACS (Fore River Residents Against the Compressor Station). “We have been expecting some action from FERC, but were stunned to receive the conditional order without a public meeting on the vote. We have been watching the FERC monthly meeting agendas and have not seen the Atlantic Bridge under discussion.”

Arena claims that “FERC’s ethical issues with the conflicts of interest continue unabated and should have been taken far

more seriously by the agency when reviewing this and other projects. FERC is thumbing its nose at Senators Warren and Markey by ignoring their requests for further inquiry.”

FRRACS activists say they will continue to oppose the project through all avenues possible, including “in the streets.”

The Mayor of Weymouth, Robert Hedlund, announced on Wednesday evening that the town will appeal FERC’s decision to the agency itself.

Main image: A protester at a September 2015 Beyond Extreme Energy (BXE) rally against new fossil fuel project permits [8] at the Federal Energy Regulatory Commission (FERC). Credit: Elvert Barnes Protest Photography [9], CC BY-SA 2.0 [10]

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[5] <https://www.desmogblog.com/2016/08/09/exclusive-documents-show-ferc-hired-contractor-did-not-disclose-work-related-spectra-pipeline-atlantic-bridge-project>

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Documents Suggest FERC Approved Spectra's Atlantic Bridge Project Despite Knowing of Contractor's Flawed Conflict Disclosure

A document submitted to the Federal Energy Regulatory Commission (FERC) suggests the agency had clear information that a contractor hired to review Spectra Energy's proposed Atlantic Bridge gas project did not fully disclose its work for Spectra on a related project. FERC recently approved Atlantic Bridge, which would expand the existing Algonquin gas pipeline through northeastern states. The documents were obtained by DeSmog through an open records request.

As reported [extensively](#) by DeSmog, Natural Resource Group (NRG) — a wholly-owned subsidiary of international environmental consulting firm ERM — was hired in early 2015 by FERC as third party contractor to review the then-proposed Atlantic Bridge project. Such contractors, who are considered by FERC as independent consultants working on the government's behalf, must disclose any potential conflict of interest.

Contradictory Disclosures of Pipeline Public Relations Work

NRG disclosed it was working at the time for Spectra on several unrelated projects. Yet crucially, it did not include the public relations services it had been providing since mid 2014 for the proposed PennEast pipeline, a partnership which includes Spectra. If approved, PennEast will connect to Spectra's Algonquin pipeline, which the Atlantic Bridge project will upgrade. This link suggests NRG had an interest in the approval of Atlantic Bridge.

Based on the positive environmental assessment conducted in large part by NRG employees, FERC went on to approve Atlantic Bridge earlier this year. This approval came despite Massachusetts Senators Elizabeth Warren and Ed Markey pursuing an ongoing inquiry into the project's potential conflicts of interest.

Yet a later document, which NRG filed with the commission and DeSmog has reviewed, shows that when FERC approved the project, it already had clear evidence NRG did not disclose its work for PennEast when first hired as Atlantic Bridge's third party contractor. In the document, a supplemental disclosure submitted to FERC in August 2016, NRG now listed its work on PennEast. As the disclosure claims, "this project is not related to the Atlantic Bridge Project."

states; and bid support for a pipeline project in [REDACTED]. Revenues from this work totaled [REDACTED]. None of this work is related to the Atlantic Bridge Project.

- [REDACTED]. During FY15, FY16, and FY17, NRG/ERM has provided public affairs services in support of the [REDACTED]. The project will deliver natural gas from the [REDACTED] markets. [REDACTED] is one of six partners in the project and holds a 10% stake. Pro-rata share of NRG/ERM revenues attributable to [REDACTED] total [REDACTED]. This project is not related to the Atlantic Bridge Project.

[REDACTED] During the period covered by this review, NRG was contracted by [REDACTED] to provide third-party NEPA services to the FERC to assist with the review of the [REDACTED] Atlantic Bridge and [REDACTED]

From an August 2016 supplemental disclosure to FERC by NRG, which now includes NRG's work for the PennEast pipeline. Despite the redactions, the information fits the work NRG is performing for PennEast.

This means that FERC had on file two contradictory disclosures pertaining to work NRG conducted for Spectra in 2015: one where it does not disclose its work on PennEast, and another where it does.

Still, the commission went on to approve Atlantic Bridge five months later.

FERC, Spectra Contend No Conflict of Interest

In its January 2017 authorization of the project, FERC commissioners Norman Bay, Cheryl LaFleur, and Colette Honorable responded to the conflicts of interest charges. They cited both the original disclosure and the supplemental one, stating that FERC staff reviewed these documents and found no conflict.

Yet it is unclear how the commissioners concluded there is no conflict when — as the documents reveal — the full extent of NRG's work for Spectra was not disclosed at the time FERC hired the contractor. They also say nothing of the fact that NRG did not originally disclose its work on PennEast, yet did report that work more than a year and a half later.

The commissioners also refuted the conflict of interest charge by stating that since the work NRG provided for Spectra was less than one percent of the firm's total revenue in the previous three years, NRG was not in conflict as third party contractor in Atlantic Bridge. Yet if the full extent of NRG's work for Spectra was not originally disclosed, it remains unclear how FERC can be sure Spectra indeed fell below that threshold.

Spectra recently replied to FERC on the conflicts of interest allegations following rehearing requests on Atlantic Bridge's certification by the project's opponents. In its answer to FERC, Spectra denied the case amounts to a conflict of interest under the National Environmental Policy Act.

In doing so, the company sought to minimize its involvement in PennEast, stating it is a "small (10%) minority owner" in the project and "as such, Spectra Energy is not responsible for managing the PennEast project, which would include coordination with NRG regarding public affairs work for the PennEast project."

Interestingly, Spectra further argued that even if a conflict were present, it would still not undermine the environmental assessment for Atlantic Bridge. According to Spectra, there's no evidence that NRG's work on PennEast affected its "objectivity and integrity" in the project's review process, as FERC staff "directly supervised and controlled NRG as third party contractor."

Neither FERC nor Spectra Energy has responded to DeSmog's requests for comment.

Ethics Experts Alarmed by FERC's Actions

DeSmog spoke with experts in the field of regulatory law and ethics who were alarmed by this case.

Daniel Guttman, a fellow at Johns Hopkins University and professor at New York University Shanghai, has been studying the use of third party contractors in government for nearly four decades.

"My research has found that in practice, the conflict review process is generally broken in two core respects," Guttman told DeSmog.

"First, too often contractors do not adequately disclose — and where they do, they are too often hired without regard for conflicts. Second, and this is the deeper problem, there has been little or no systematic audit — by the U.S. Government Accountability Office or Inspectors General, for example — of the conflict disclosure and review process."

"In the case of the Atlantic Bridge project," Guttman said, "if there was not full disclosure of relevant existing relations prior to the contract award, FERC should explain how it could have awarded the contract."

Robert Verchick, an environmental law expert at Loyola University at New Orleans, agreed that this case raises serious red flags. "There definitely seems to be a problem here," Verchick said. "If there's even an appearance of a conflict, as this case shows, people's trust in the government erodes and they cannot feel safe with new major infrastructure projects in their vicinity."

"It seems to me," added Verchick, who also served in Obama's Environmental Protection Agency, "that this case could have been solved fairly easily with proper disclosures and an independent verification by FERC of the information provided by the contractor. There needs to be deeper examination of this entire issue."

Sit-in at Massachusetts Governor's Office

Despite FERC's approval of Atlantic Bridge, opponents of the project are keeping up their fight, as they pin their hopes on several outstanding certificates on the state level. One activist, Andrea Honore from Weymouth, Massachusetts, where [one of Atlantic Bridge's compressor stations](#) will be built, has been sitting in daily at the entrance to the office of Governor Charlie Baker since early March.

Honore is hoping to sway Gov. Baker to intervene against the project, which he has staunchly supported since taking office in 2015.

"The governor's lack of action on behalf of his constituents, combined with a consistent and glaring lack of communication was humiliating and insulting," said Honore.

Honore, as documented on her [blog](#), has yet to receive a meeting with the governor. As DeSmog previously [reported](#), Baker has close ties to Spectra's lobbying and legal firm in Massachusetts, Mintz Levin.

Those who are attempting to stop Atlantic Bridge, like Honore, are facing an increasingly formidable opponent. In February, Canadian energy giant Enbridge purchased Spectra, making it the [largest oil and gas pipeline and infrastructure company in North America](#).

Main image: A 2015 open house about Spectra Energy's Atlantic Bridge natural gas project. Credit: Nancy Vann, [Safe Energy Rights Group](#), used with permission

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Consultant Conflicts of Interest Attachment 4,
DeSmog Blog, *Government Contractor Monitoring*
Enbridge's Atlantic Gas Project Works Extensively for
the Company, January 14, 2018.

Government Contractor Monitoring Enbridge's Atlantic Bridge Gas Project Works Extensively for the Company

A contractor working for the federal government to monitor construction of Enbridge's Atlantic Bridge natural gas project works for the company in various other capacities, according to documents DeSmog obtained through an open records request.

Early last year, the Federal Energy Regulatory Commission (FERC) approved the project, which aims to upgrade Enbridge's natural gas capacity in the Northeast U.S. The Atlantic Bridge project was originally initiated by Spectra Energy, which was purchased by Enbridge last February.

As [DeSmog previously reported](#), FERC hired Environmental Resource Management (ERM), a multinational environmental consulting firm that works extensively with the oil and gas industry, to oversee construction compliance of the project despite knowing ERM had a business relationship with Enbridge. Since ERM served as FERC's third-party contractor for the environmental review process during the project's application phase, Enbridge asked FERC to continue using the contractor.

FERC's legal arm paved the way for this to happen. In a memorandum dated October 4, 2017, Charles Beamon, FERC's associate general counsel, acknowledged that ERM currently works for Enbridge and thus has a conflict of interest. Yet since ERM reported it had received less than one percent of its income from Enbridge in each of the previous three years, Beamon ruled that the company may serve as third-party contractor to monitor Atlantic Bridge's construction phase. FERC does not independently verify financial reporting from third-party contractors.

Yet documents obtained by DeSmog reveal that ERM's relationship with Enbridge is extensive. Disclosures ERM submitted to FERC in September 2017 show that the contractor had been working at the time for Enbridge on multiple oil and gas pipelines projects, both in the U.S. and Canada.

These include the following activities:

- environmental permitting on the transnational Alliance pipeline, in which Enbridge is a 50 percent owner.
- air permitting and risk assessments on Enbridge facilities in Canada.
- public relations, environmental permitting and inspection services for several Enbridge oil pipelines in the Midwest.
- public affairs for the PennEast pipeline, in which Enbridge obtained a 10 percent stake after acquiring Spectra Energy early last year.
- environmental consulting for Westcoast Energy, an Enbridge subsidiary in Canada.
- environmental consulting for the Valley Crossing pipeline, an Enbridge project to transport gas from Texas to Mexico.

The disclosures also indicate ERM was still working on Spectra Energy projects that began before its corporate takeover by Enbridge. Those include assistance with a pipeline abandonment project and the production of a training DVD for Spectra.

requirements associated with placing anchors in Mexican waters during construction of the southern end of Valley Crossing Pipeline, which will occur in the Gulf of Mexico east of Brownsville, Texas. This project is not related to the Atlantic Bridge Project.

- **Spectra Energy** – ERM has worked on Spectra Energy projects that continued once Enbridge acquired Spectra Energy in CY17. During CY17, revenues from these projects as been [REDACTED]. **ERM's work has included third-party NEPA and construction compliance monitoring services, assistance with an assistance with an abandonment project, and production of a training DVD.**

From an ERM disclosure submitted to FERC, detailing the contractor's continued work for Spectra Energy, including the production of a DVD.

History of Potential Conflicts of Interest

This is not the first potential conflict of interest in the Atlantic Bridge gas project. [As DeSmog has extensively reported](#), NRG, an environmental consultant which conducted the environmental review on FERC's behalf and was later acquired by ERM, was working at the time for the PennEast pipeline. Spectra (now Enbridge) had a stake in that pipeline too.

[Documents published by DeSmog](#) revealed that when hired by FERC, NRG did not specifically disclose its work on PennEast. Current plans have PennEast connecting to Enbridge's Algonquin pipeline, which Atlantic Bridge intends to upgrade – suggesting NRG may have had an interest in the approval of Atlantic Bridge.

Still, in its [approval of the project](#), FERC's commissioners claimed the commission had properly vetted the contractor and found no conflicts.

[FERC reiterated](#) this problematic claim last month when it denied a rehearing on its authorization of the Atlantic Bridge project submitted by several activist groups, citizens, and the town of Weymouth, Massachusetts – all of which oppose the project. The commissioners stated that “[I]n this case, NRG disclosed its relationship with Spectra in its proposal to work on the Commission's environmental review of the Atlantic Bridge Project.” NRG's disclosures submitted to FERC and published by DeSmog in the past year indicate that this simply is not the case.

Help From FERC Lawyers

Other documents DeSmog obtained via an open records request indicate that FERC worked to speed up Enbridge's request to approve ERM as the contractor monitoring construction compliance.

In one email, FERC official Alisa Lykens, who heads a natural gas branch within FERC, wrote to ERM and to FERC's project manager, Maggie Suter, that "Rich [Rich McGuire, director of environment and engineering in FERC's gas division] had a meeting with OAL [FERC's legal arm] to expedite their review."

Other emails show that in response to ERM's inquiries, FERC's legal division provided the contractor with guidance on how to fill out the disclosure. In one exchange, a FERC lawyer indicated that ERM should respond to the question on whether the compliance monitoring will consist of a future business relationship by stating "yes."

Though Enbridge began construction on the portion of Atlantic Bridge running through the state of New York, the company still cannot complete the entire project. Stiff opposition in Massachusetts has led Governor Charlie Baker to instruct state permitting agencies to conduct more thorough reviews of the impacts of a planned gas compressor station in Weymouth. Those reviews are still ongoing.

DeSmog did not receive responses for a request for comment from FERC, ERM, or Enbridge.

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Main image: [Enbridge Liquids Pipelines Head Office, Edmonton, Canada](#). Credit: [Mack Male, CC BY-SA 2.0](#)

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Consultant Conflicts of Interest Attachment 5,
DeSmog Blog, *FERC Allows Conflicted Contractor to*
Supervise Enbridge's Atlantic Bridge Gas Project,
October 8, 2017.

FERC Allows Conflicted Contractor to Supervise Enbridge's Atlantic Bridge Gas Project

The Federal Energy Regulatory Commission (FERC) is permitting a contractor with a known conflict of interest to monitor Enbridge's Atlantic Bridge natural gas project. This decision joins a growing list of apparent conflicts of interest involved in the project, as DeSmog has extensively [reported](#).

In an [internal FERC memorandum](#) sent this week, FERC's ethics officer authorized the commission's Office of Energy Projects to continue using a third-party contractor, [Environmental Resources Management](#) (ERM), that had produced the project's environmental assessment. While the work of such contractors is paid for by the pipeline company, they are considered independent reviewers laboring under the supervision of FERC staff who must vet for possible conflicts of interest.

In early 2015, when FERC first hired ERM to review the then-proposed Atlantic Bridge, Spectra Energy was promoting the project. Yet last year, Canada's Enbridge purchased Spectra. Since ERM currently works for Enbridge on several other projects, the contractor is conflicted and requires special approval by FERC's legal division to continue working on Atlantic Bridge.

The project, which would transport fracked gas from Pennsylvania through New York and into New England, was approved on the federal level by FERC earlier this year. Having received state permits from New York and Connecticut but pending those from Massachusetts and a federal Coastal Zone Management permit for a compressor station in Weymouth, Massachusetts, Enbridge is eager to begin tree clearing and construction in the approved areas.

"Detrimental Consequences"

In the internal [memorandum](#) sent this week, FERC's designated ethics officer Charles Beamon indicates that Enbridge has requested the continuation of ERM's services as third-party contractor to provide construction compliance monitoring in the state of New York. Writing to Rich McGuire from FERC's Office of Energy Projects, Beamon admits that a review of ERM's recent disclosures to the commission shows it has an ongoing business relationship with Enbridge.

"ERM's proposed work as the Commission's third-party contractor for the Atlantic Bridge Project would require ERM to provide services for a project in which its business associate, Enbridge, has an ownership interest through its acquisition of Spectra and Algonquin," Beamon writes. "ERM's on-going business relationship with Enbridge includes providing technical and public affairs services in connection with other projects. ERM's income from its on-going business relationship with Enbridge is less than 1 % of its total revenue for each of the past three years."

Yet Beamon concurs with McGuire's reasoning that hiring a new contractor would have "detrimental consequences" for the project, which "would be contrary to the public interest." Beamon writes, "[N]otwithstanding the above conflict of interest, you have asked that I authorize

ERM to proceed immediately with the specified work."

Specifically, McGuire cited the construction schedule's limited tree-clearing window, presumably referring to the upcoming winter weather conditions.

"Pursuing a competitive solicitation process to obtain a different third-party contractor at this juncture would impose further significant delays on the construction of this project," Beamon writes.

In addition, Beamon notes ERM's existing knowledge of the project infrastructure and full access to the project environmental survey reports. Finally, he argues that since ERM's disclosures indicate the work it provides Enbridge is less than one percent of its total revenue for each of the past three calendar years, the contractor does not cross the threshold FERC considers a considerable conflict.

Another Conflict Added to the List

This is not the first problematic relationship surrounding the Atlantic Bridge project.

As DeSmog previously revealed, ERM was already in an apparent conflict of interest since the earliest stages of the project's environmental review. Through its then-subsidiary Natural Resource Group, the contractor was [working](#) for Spectra on its proposed PennEast pipeline, which is related to the Atlantic Bridge project. Despite holding clear evidence Natural Resource Group did not originally reveal its work on PennEast to FERC, the commission [ignored](#) this detail when it approved Atlantic Bridge.

Furthermore, the husband of FERC's environmental project manager for Atlantic Bridge who oversaw the environmental review process, was [consulting](#) at the same time on a related gas project led by Spectra, Access Northeast.

Meanwhile, the project's critics are still mounting an active opposition. On October 3, several organizations sent a [protest letter](#) to FERC asking the commission to rescind its approval for Enbridge to begin pre-construction activities in New York. Safe Energy Rights Group, Food & Water Watch, Fore River Residents Against the Compressor Station, Stop the Algonquin Pipeline Expansion, and Resist Spectra argue that the approval is premature since Enbridge has yet to receive the federal Coastal Zone Management permit and two Massachusetts state permits. Additionally, they note, the project still faces several court challenges.

Image Credit: [Elvert Barnes Protest Photography](#). CC BY-SA 2.0

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Consultant Conflicts of Interest Attachment 6, Times
of Trenton, *PennEast Natural Gas Pipeline*
Environmental Study Firm's Connection to Shale
Coalition is Questioned, February 28, 2015

PennEast natural gas pipeline environmental study firm's connection to shale coalition is questioned



By **Keith Brown** | For NJ.com
Email the author | Follow on Twitter

on February 28, 2015 at 8:12 AM, updated February 28, 2015 at 10:43 AM

The federal agency tasked with reviewing the proposed \$1.2 billion PennEast natural gas pipeline has hired a company that is a paid member of the Marcellus Shale Coalition, which advocates for gas drilling, to conduct the environmental impact study for the project.

Tetra Tech, based in Pasadena, California, is an associate member of the Marcellus Shale Coalition, a trade association of 300 companies organized "to advance responsible shale development," according to the association's website.

The proposed 114-mile pipeline would be capable of transporting 1 billion cubic feet of natural gas per day from the Marcellus Shale area of northeastern Pennsylvania to Hopewell Township in Mercer County.

Hopewell Mayor Harvey Lester said the connection between Tetra Tech and Marcellus Shale Coalition has at least the appearance of a conflict of interest and that should be enough to disqualify Tetra Tech from conducting the environmental impact study.

"I am concerned about a potential conflict of interest by this environmental consultant performing the PennEast environmental impact statement, whose business interests support pipelines," Lester said. "I'm concerned we're not getting a fair shake."

David Spigelmyer, president of the Marcellus Shale Coalition, has publicly endorsed the PennEast project.

"The PennEast Pipeline project further demonstrates the far-reaching regional benefits of shale development," Spigelmyer is quoted as saying on the PennEast website. "PennEast, led by Pennsylvania and New Jersey consumer-focused companies, will not only create good paying jobs, it will deliver clean energy in a safe, cost-effective and responsible manner."

The pipeline proposal has drawn criticism for cutting through environmentally sensitive areas as it traverses Hunterdon and Mercer counties. Leaders in every New Jersey town where the PennEast Pipeline would be built have passed resolutions opposing the project.

The only public hearing held by the Federal Energy Regulatory Commission in Mercer County, held Wednesday in Ewing, **drew hundreds of residents expressing concerns about environmental and safety aspects of the plan.**

PennEast, a consortium of East Coast natural gas providers, submitted the names of at least two companies bidding to produce the environmental study to FERC, which is tasked with reviewing the PennEast application.

FERC selected Tetra Tech based on those applications, Teresa Young-Allen, FERC spokeswoman.

"It was based on who was best qualified to help us," she said.

Tetra Tech works under the energy commission's supervision but the company's bills are paid by PennEast, Young-Allen said.

All applications to the energy commission are set up in this way to avoid the appearance of influence by the company making the application, while also not expending taxpayer money, Young-Allen said.

"It's to keep it as objective as possible," she said.

As part of submitting the applications, PennEast was required to certify to FERC that the companies being considered were free from direct or indirect conflicts of interest.

But the connection between Tetra Tech and the Marcellus Shale Coalition was never revealed to the energy commission because the coalition is a trade association, according to PennEast spokeswoman Patricia Kornick.

"Involvement in industry trade groups is not a factor in that decision," Kornick said. "And there would be no need to disclose that."

MORE PENNEAST PIPELINE NEWS

[Hopewell wants antitrust investigation of PennEast pipeline](#)

[Hike part of the PennEast pipeline, and taste some beer](#)

[PennEast Pipeline delayed 2 months for route change review](#)

[Rural town's municipal race gets big bucks from unions](#)

[PennEast Pipeline blasts ratepayer advocate's assessment](#)

I know there is some question on this. But no matter what the industry, trade group association is not a factor."

Jeff Tittel, director of the New Jersey chapter of the Sierra Club, said the connection smacks of impropriety that should bar Tetra Tech from the project.

"This is not just the fox guarding the hen house," said Jeff Tittel, director of the New Jersey chapter of the Sierra Club. "This is the fox doing the (environmental study) on the hen house and saying the hen house is safe."

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