

108 FERC ¶ 61,215  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, and Joseph T. Kelliher.

Algonquin Gas Transmission, LLC

Docket No. CP04-67-001

ORDER DENYING REHEARING

(Issued August 31, 2004)

1. On July 2, 2004, Algonquin Gas Transmission Company (Algonquin) filed a request for rehearing of the order issued in this docket on June 2, 2004 (Certificate order).<sup>1</sup> This order denies rehearing.

**Background**

2. On December 21, 2001, the Commission issued an order (December 21 Order) in Docket Nos. CP01-4-000, CP01-5-000 and CP01-5-001, certificating Maritimes & Northeast Pipeline, L.L.C.'s (Maritimes) proposed Phase III project and Algonquin's HubLine Project.<sup>2</sup> The December 21 Order found that the Phase III/HubLine Project would provide Maritimes' existing customers with greater access to domestic markets via the Algonquin system. Further, new and existing shippers on the east end of Algonquin's system would be provided access, via the Phase III facilities, to Canadian gas from offshore supplies located near Sable Island, a developing gas production area off the coast of Nova Scotia. The December 21 Order issued: (1) a certificate to Maritimes to construct and operate approximately 24 miles of 30-inch pipeline, 1.0 mile of 24-inch pipeline, and other facilities in Massachusetts, and; (2) a certificate to Algonquin to construct and operate approximately 29.4 miles of 24-inch pipeline, 5.4 miles of a 16-inch lateral (Deer Island Lateral), and other facilities in Massachusetts. On June 4, 2002,

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<sup>1</sup>Algonquin Gas Transmission Company, 107 FERC ¶ 61,251 (2004).

<sup>2</sup>Maritimes & Northeast Pipeline, L.L.C. and Algonquin Gas Transmission Company, 97 FERC ¶ 61,345 (2001). *See also* 95 FERC ¶ 61,077 (2001) (Preliminary Determination).

the Commission issued an order amending the certificates issued in the December 2, 2001 Order by authorizing an increase in the diameter of the pipeline facilities involved.<sup>3</sup>

3. On February 5, 2003, Algonquin filed, in Docket No. CP01-5-003, an application to further amend the certificate issued December 21, 2001. Specifically, Algonquin requested authorization to construct an additional approximately 6.64 miles of 24-inch pipeline and 0.31 miles of 8-inch pipeline, extending from the terminus of the originally certificated Deer Island Lateral portion of Algonquin's HubLine project across Boston Harbor, through portions of East Boston, Chelsea, and Everett, Massachusetts, to a connection with Algonquin's existing J-System. Algonquin also proposed to construct three meter stations and other related facilities. Algonquin referred to the proposed new facilities as the Everett Extension Project, while referring to the Everett Extension Project and the Deer Island Lateral, collectively, as HubLine Phase II. The estimated cost of the Everett Extension Project was \$110 million. Algonquin stated that the Everett Extension Project was designed to enhance Algonquin's operations by providing additional access to high pressure gas supplies on the eastern-most end of its system and to provide additional firm transportation capacity as requested by project customers. Distrigas of Massachusetts LLC (DOMAC) was a customer of the proposed Everett Extension Project with an agreement for firm transportation of 50,000 Dth/d. DOMAC has a liquefied natural gas (LNG) terminal in Everett, Massachusetts.

4. On August 25, 2003, Algonquin withdrew its application for the Everett Extension Project, deeming it no longer economically viable, while noting that Algonquin remained committed to exploring other alternatives to the project. Algonquin stated that DOMAC chose to continue to explore alternatives with Algonquin, but the other two shippers, Exelon Corporation (with 35,000 Dth/d) and KeySpan Corporation (with 25,000 Dth/d), chose not to participate.<sup>4</sup>

5. On February 26, 2004, in Docket No. CP04-67-000, Algonquin filed an application for authorization to install certain facility modifications (the Everett Alternative Project) in Connecticut, Massachusetts, and Rhode Island in order to provide 60,000 Dth/d of new firm transportation service to DOMAC. The Everett Alternative Project involves modifying existing compressor station piping and appurtenant facilities, installing gas quality equipment at existing measurement locations, and installing certain

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<sup>3</sup> Maritimes & Northeast Pipeline, L.L.C., Algonquin Gas Transmission Company, 99 FERC ¶ 61,277 (2002).

<sup>4</sup> See Algonquin's April 20, 2004 response to data request no. 2.

remote control valves and regulator valves. The Certificate order granted Algonquin authorization for the Everett Alternative Project.

6. Algonquin estimated the Everett Alternative Project's cost to be approximately \$11.5 million. Algonquin included in that cost estimate \$3.6 million of Preliminary Survey and Investigation Charges (PS&I) recorded in Account No. 183.2, Other Preliminary Survey and Investigation Charges, for development of the Everett Extension Project. On April 2, 2004, Commission staff sent a data request to Algonquin seeking, among other things, a detailed explanation for why it had included the entire \$3.6 million of PS&I cost associated with the Everett Extension Project in the costs for the Everett Alternative Project. Algonquin responded on April 20, 2004 (April 20 Data Response). In the Certificate order, the Commission found that Algonquin had not adequately shown how these costs contributed directly and without duplication to the cost of the Everett Alternative Project, as is required for capitalization of such costs.<sup>5</sup> Therefore, the Commission did not grant preapproval in the Certificate order for the inclusion of such costs in the cost of the Everett Alternative Project. Rather, the Certificate order provided that, if Algonquin desires to seek recovery of such costs in its next section 4 general rate case, it must further substantiate the relationship of such costs to the Everett Alternative Project.

### **Request for Rehearing**

7. The sole issue on rehearing is whether the Commission's determination that Algonquin could not include \$3.6 million of PS&I costs, first incurred in conjunction with the defunct Everett Extension Project, in the cost of the Everett Alternative Project at this time was reasonable. Algonquin's principal argument is that record evidence supported the inclusion of such costs.<sup>6</sup>

8. Algonquin argues that the April 20 Data Response provides clear evidence that the PS&I costs were directly and immediately related to the Everett Alternative Project and that they were not duplicative of other costs incurred for that project. Algonquin states that it provided details regarding the incurrence of the specific PS&I costs and explained

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<sup>5</sup>See 18 CFR Part 201 Account No 183.2 (2004).

<sup>6</sup>Algonquin lists other "points of error" claiming that the Commission's decision: is contrary to the Commission policy promoting timely construction of natural gas infrastructure and rate certainty, fails to comply with FERC accounting regulations, and fails to make a contrary factual demonstration to refute Algonquin's evidence. However, as discussed below, Algonquin has not provided any evidence or arguments that convince us to change the Certificate order.

how these particular reports and studies were used in the Everett Alternative Project. Algonquin asserts that enhanced access to the DOMAC supply was a key consideration in designing both projects, as were the challenging operational considerations for expanded DOMAC summer service. Thus, Algonquin states it used the reports and studies prepared for the Everett Extension Project in designing and developing the Everett Alternative Project.

9. Algonquin argues that the Everett Alternative Project evolved from the Everett Extension Project and that “the projects are neither separate nor distinct.” Algonquin states that conducting the studies for the Everett Extension Project obviated the need to conduct the same or similar studies for the Everett Alternative Project. Algonquin states that Attachments B and C to Responses 3 and 4, respectively, in the April 20 Data Response separate the reports and studies that were conducted specifically for the Everett Alternative Project and those that were carried forward from the Everett Extension Project. Algonquin states that none of the reports and studies listed in these attachments is duplicative and all of these reports and studies were required as part of its Everett Alternative Project application.

### **Discussion**

10. The Certificate order is consistent with the Commission’s regulations. In order to include, as part of the cost of the Everett Alternative Project, the \$3.6 million in Account 183.2 costs originally incurred for the Everett Extension Project, Algonquin must prove that the costs for the abandoned project directly and without duplication contributed to the alternative project.<sup>7</sup> The April 20 Data Response suggests the costs were not duplicative, but clearly fails to show how they were necessary to the Everett Alternative Project.

11. Account 183.2 is to be charged with all expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of utility projects under contemplation to provide a future supply of natural gas. If construction results, the appropriate utility plant account should be charged. If the work is abandoned, the costs should be written off to expense. Compliance with the accounting requirements

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<sup>7</sup> Further, the regulations give instructions for costs associated with abandoned projects. Account 183.2 provides that “if the work is abandoned, the charge shall be made to Account 426.5, Other Deductions, or the appropriate operating expense account.” Account 183.2 also provides that the portion of study costs not directly attributable to new construction or the entire cost if construction does not result shall be charged to Account 182.2, Unrecovered Plant and Regulatory Study costs, or the appropriate operating expense account.

with respect to the costs related to the construction of the Everett Extension Project would require that they be written off to expense when the Everett Extension Project was abandoned. There is no provision for maintaining the preliminary survey costs related to the abandoned Everett Extension Project in Account 183.2, or for capitalizing them as part of the cost of a different project, absent a showing that such costs contribute directly and immediately and without duplication to such project.

12. The Everett Extension Project, filed in Docket No. CP01-5-003, involved the installation and construction of approximately 6.95 miles of new natural gas pipeline across Boston Harbor and traversing the communities of Boston, Winthrop, Chelsea, and Everett, Massachusetts. In contrast, the Everett Alternative Project involves the installation and modification of certain station piping and appurtenant station equipment at Algonquin's existing Burrillville, Rhode Island compressor station. According to Algonquin, work on the Everett Alternative Project will take place in the existing station building or yard, meter stations or valve stations currently maintained by Algonquin. Thus, the two projects involve construction of different facilities in different locations.

13. Among the specific costs included in the \$3.6 million in PS&I costs for the Everett Extension Project are items relating to: 1) "Terrestrial and Marine Field Surveys" which consist of surveys along the original pipeline route (in Massachusetts); 2) "Federal and State Permitting Tasks" which consists, among other things, of water quality certifications, waterway license and applications under the Wetland Protection Act; and, 3) "Other Tasks" which include, among other things, on-shore and off-shore survey work of routes and alternatives and land acquisition work. Algonquin has failed to show how any of these costs relate directly to the Everett Alternative Project.

14. For example, Algonquin included the costs associated with Cultural Resource and Wetland Surveys performed along the pipeline route of the Everett Extension Project. As mentioned, work on the Everett Alternative Project, in Burrillville, Rhode Island, will take place in the existing station building or yard currently maintained by Algonquin. Further, Algonquin has not convinced the Commission that it would need to apply for any wetland permits or surveys for work on the Everett Alternative Project since the facilities in Burrillville, Rhode Island are not near a body of water. As stated in the Certificate order, Algonquin has not adequately shown how the costs related to the withdrawn project contribute directly and without duplication to the cost of the Everett Alternative Project. The Commission is mindful of the need for companies to have latitude and incentives to explore alternatives for necessary infrastructure expansions, and is therefore allowing Algonquin to seek recovery of such costs in its next section 4 general rate case; however, Algonquin must substantiate the relationship of such costs to the Everett Alternative Project. Without such substantiation, the "directly attributable" standard would be meaningless.

15. The claimed total cost of the Everett Alternative Project is approximately \$11.5 million (\$7.9 million plus the \$3.6 million in PS&I costs). The estimated cost of the Everett Extension Project was \$110 million including the same \$3.6 million in PS&I costs. The PS&I costs represented approximately 3% of the earlier project and 31% of the subject project. Thus, Algonquin needs to justify spending almost one-third of the cost of the project on preliminary studies.

The Commission orders:

The request for rehearing filed in this docket on July 2, 2004, is denied.

By the Commission. Commissioner Kelly not participating.

( S E A L )

Magalie R. Salas,  
Secretary.