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April 3, 2020

VIA ELECTRONIC MAIL

Melanie Bachman
Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Iroquois Gas Transmission System, L.P.

Dear Ms. Bachman:

On February 3, 2020, Iroquois Gas Transmission System, L.P., pursuant to Section 7 of the Natural Gas Act (“NGA”), 15 U.S.C. §717f, and Part 157 of the regulations of the Federal Energy Regulatory Commission (the “FERC” or “Commission”), 18 C.F.R. Part 157, filed with the FERC its abbreviated application for a federal Certificate of Public Convenience and Necessity. Iroquois seeks FERC authorization to construct, own, operate, and maintain certain new natural gas compression and cooling facilities to be located at the sites of four existing Iroquois compressor stations in Brookfield, Connecticut; Milford, Connecticut; Athens, New York; and Dover, New York. The purpose of these new facilities is to support Iroquois’ Enhancement by Compression (the “ExC Project” or “Project”).

As has long been recognized by the Connecticut Siting Council (the “Council”), FERC has exclusive jurisdiction over interstate natural gas pipelines. Accordingly, pursuant to the Council’s direction on its website as relates to COVID-19 filing procedures, please find attached a pdf of Iroquois’ Petition for a Declaratory Ruling of no jurisdiction over the ExC Project facilities in Connecticut. I have also attached proposed site plans for the Brookfield and Milford compressor stations. Consistent with such direction, the filing fee is not due at this time and will be directly invoiced by the Council at a later date.

Despite the absence of the Council’s jurisdiction, Iroquois encourages the Council to provide FERC with any comments it deems appropriate concerning the ExC Project. In this regard, we note that

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FERC issued its Notice of Intent to Prepare an Environmental Assessment for the proposed Enhancement by Compression Project and Request for Comments on Environmental Issues, dated March 25, 2020, in Docket No. CP20-48-000. Comments are due on or before April 24, 2020. In the meantime, Iroquois will certainly provide any additional information requested by the Council or Council staff.

For the Council's information, Iroquois has included the Council on its stakeholder list so the Council will receive any stakeholder mailings sent by Iroquois. Iroquois has also included the Council on the stakeholder list provided to FERC so the Council may receive any ExC Project communications sent by FERC to the stakeholders.

Please contact me should you have any questions.

Very truly yours,



Harold M. Blinderman

Enclosures

cc: (Via Electronic-Mail)

Honorable Stephen C. Dunn, First Selectman, Town of Brookfield
Honorable Benjamin G. Blake, Mayor, City of Milford
Kimberly A.E. Pritchard, Esq., Iroquois
Robert Perless, Iroquois

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IROQUOIS GAS TRANSMISSION SYSTEM, L.P. : PETITION NO. _____
PETITION FOR A DECLARATORY RULING :
REGARDING THE JURISDICTION OF THE :
CONNECTICUT SITING COUNCIL OVER :
COMPRESSOR STATION MODIFICATIONS :
IN BROOKFIELD AND MILFORD, :
CONNECTICUT : April 3, 2020

PETITION FOR A DECLARATORY RULING
OF IROQUOIS GAS TRANSMISSION SYSTEM, L.P.

I. INTRODUCTION

Pursuant to Conn. Gen. Stat. §§ 4-176(a) and 16-50k(d) and Conn. Agencies Regs. § 1650j-38 *et seq.*, Iroquois Gas Transmission System, L.P. ("Iroquois") hereby petitions the Connecticut Siting Council (the "Council" or "CSC") for a declaratory ruling that it does not have jurisdiction over compressor station modifications in Brookfield and Milford, Connecticut, all as part of the Enhancement by Compressor Project ("ExC Project" or "Project"). As demonstrated below, under the Natural Gas Act ("NGA"), 15 U.S.C. § 717 *et seq.*; the Federal Energy Regulatory Commission ("FERC" or "Commission") has "exclusive jurisdiction" over the Project, except with respect to the safety of the Project facilities, which is within the exclusive jurisdiction of the United States Department of Transportation. Therefore, under Conn. Gen. Stat. § 16-50k(d), the Council has no jurisdiction over the Project.¹

Notwithstanding the absence of the Council's jurisdiction, Iroquois encourages the CSC to participate in the National Environmental Policy Act ("NEPA") scoping process for the ExC Project,

¹ Under Conn. Gen. Stat. § 16-50k(d), the Public Utility Environmental Standards Act ("PUESA"), chapter 277a of the Connecticut General Statutes "shall not apply to any matter over which any agency, department or instrumentality of the federal government has exclusive jurisdiction, or has jurisdiction concurrent with that of the state and has exercised such jurisdiction, to the exclusion of regulation of such matter by the state."

which provides the Council with the opportunity to provide comments and recommendations to FERC on environmental issues.²

II. BACKGROUND

Iroquois is engaged in the business of transporting natural gas in interstate commerce under authorizations granted by, and subject to the jurisdiction of, the FERC. The Iroquois system is 414 miles long and extends from the U.S.-Canadian border at Iroquois, Ontario and Waddington, New York through New York State, western Connecticut and under the Long Island Sound to South Commack, New York, and then extending back under the Sound to a terminus at Hunts Point in the Bronx.

Iroquois has U.S. interstate gas pipeline interconnections with: (1) Tennessee Gas Pipeline Company, LLC (“Tennessee”) at Wright, New York and Shelton, Connecticut; (2) Dominion Energy Transmission, Inc. (“DETI”) at Iroquois’ Canajoharie meter station located near Fort Plain, New York; and (3) Algonquin Gas Transmission, LLC (“Algonquin”) in the Town of Brookfield, Connecticut.

Iroquois’ pipeline system is divided into two rate zones, Zone 1 on the northern end of Iroquois’ system from Waddington to Wright, New York and Zone 2 on the southern end, which runs from Wright to Hunts Point, New York. In recent years, Iroquois has experienced significant increases in demand for service in Zone 2 while capacity in Zone 1 has become undersubscribed. Demand for winter period service in Iroquois’ Zone 2 between Athens and South Commack has been intense, and that portion of Iroquois’ system is both fully subscribed on a firm basis and utilized at a high load factor throughout the winter.

Iroquois has determined that the most advantageous method of adding such incremental capacity from an environmental and efficiency standpoint is through the addition of compression and cooling equipment at its Brookfield, Connecticut compressor station and the installation of cooling facilities at

² See FERC Notice of Intent to Prepare an Environmental Assessment for the Proposed Enhancement by Compression Project and Request for Comments on Environmental Issues, dated March 25, 2020 in Docket No. CP20-48-000.

its Milford, Connecticut compressor station.³ As such, this is a “compression-only” project, requiring no expansion of Iroquois’ pipeline footprint, no looping of the existing Iroquois pipeline system, and no need to acquire additional pipeline right of way (“ROW”). In Connecticut, Iroquois proposes to construct the following new facilities or equipment:

- Brookfield, Connecticut – Iroquois will construct a control/office building and two new turbines with approximately 12,000 horsepower (HP)⁴ each (Unit B1 & Unit B2) with associated cooling, filter separators and other typical facilities connecting to Iroquois’ 24-inch mainline at Brookfield, to be installed downstream and independent of Iroquois’ existing transfer compressors Unit A1 (Solar T-60) and Unit A2 (Solar T-70) located in the Town of Brookfield, Fairfield County, Connecticut; additionally, incremental cooling equipment will be added to Plant A;⁵ and
- Milford, Connecticut – Iroquois will install new gas cooling equipment to the existing Milford Plant A units and associated piping to allow for compressed discharge gas to be cooled; no gas cooling facilities currently exist at the Milford compressor station, which is located in the City of Milford, New Haven County, Connecticut.

Further, the Project facilities to be constructed at the Brookfield, Connecticut compressor station include certain modifications to the Units A1 and A2 compressor facilities, the purpose of which is to address noise levels to maintain compliance with FERC standards for the entire Brookfield compressor station. Such noise compliance facility modifications will include replacement of existing turbine stacks on

³ Upgrades are also proposed by Iroquois for its Athens and Dover, New York compressor stations.

⁴ The HP rating is calculated based on sea level elevation and 0 degrees Fahrenheit (consistent with applicable air permit application requirements).

⁵ A “plant” as used here refers to one or more compressor units and all facilities associated with such unit(s).

Units A1 and A2, and other noise reduction measures.⁶ Iroquois has acquired the two residential properties located closest to the current and proposed Brookfield compressor station facilities to create a contiguous buffer zone around the facility. The residential structures on one of these properties will be utilized for construction support in lieu of a construction trailer; the residential structure on the other property will be demolished and the property used as a construction lay down area. Following construction of the Project, the remaining standing residential structure that was utilized for construction support will be demolished and both properties allowed to return to forested upland conditions similar to that which surrounds the two properties today.

Iroquois plans to install oxidation catalysts (“OC”) in the exhaust system of each newly proposed ExC Project compressor, as well as at the two existing gas compressors at Brookfield. OC media react with the exhaust gas produced by the gas turbines to reduce carbon monoxide up to 90 percent or more, as well as reductions in volatile organic compounds including formaldehyde and other hazardous area pollutants.

Iroquois also plans to install vent recovery systems (“VRS”) at both the Brookfield and Milford compressor stations. This equipment will be designed and installed to capture the dry seal gas and reinject the gas downstream of the compressor station isolation valves. In addition, the VRS will also capture gas vented during normal controlled unit compressor blowdowns. This will reduce the aggregate gas emissions from all of the ExC Project compressor stations, collectively, by an estimated 70 percent from historical levels.

⁶ Those additional noise reduction measures may include the use of high performance acoustically designed compressor buildings as well as turbine unit exhaust and air inlet systems, low noise lube oil coolers, low noise gas coolers, acoustical pipe lagging for the aboveground gas piping, and unit blowdown silencers. See Resource Report 9 (at Section 9.3.7) and Exhibit 9-E.

III. COMMUNICATIONS

Communications regarding this Petition should be directed to the following:

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IV. DISCUSSION

A. A COMPREHENSIVE FEDERAL REGULATORY SCHEME PREEMPTS STATE REGULATION OF INTERSTATE NATURAL GAS TRANSPORTATION FACILITIES

1. The NGA

Section 1(b) of the NGA, 15 U.S.C. § 717(b), grants FERC jurisdiction over: (1) the "transportation of natural gas in interstate commerce," (2) the "sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use," and (3) "natural-gas companies engaged in such transportation or sale." A "natural-gas company" is a "person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale." 15 U.S.C. § 717a(6).

Section 7 of the NGA provides that a natural-gas company must obtain a certificate of public convenience and necessity ("CPCN") from FERC before it constructs, extends, acquires or operates any facility for the transportation or sale of natural gas in interstate commerce:

No natural-gas company or person which will be a natural-gas company upon completion of any proposed construction or extension shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of facilities therefor ... unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations.

15 U.S.C. § 717f(c)(1)(A). FERC will only issue a CPCN where it finds that:

. . the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.

15 U.S.C. § 717f(e). Acting under the NGA, FERC has promulgated detailed regulations setting forth application requirements for such CPCNs. *See* 18 C.F.R. Parts 157 and 380.

Since the NGA's passage in 1938, the U.S. Supreme Court has repeatedly held that the NGA preempts state regulation over the interstate transportation and sale of natural gas. *Illinois Natural Gas Co. v. Central Illinois Public Service Co.*, 314 U.S. 498, 506-08 (1942); *Federal Power Comm 'n v. Panhandle Eastern Pipeline Co.*, 337 U.S. 498, 503 (1949); *Northern Natural Gas Co. v. State Corp. Comm 'n of Kansas*, 372 U.S. 84, 89-91 (1963). "[It] is now well settled: Congress *occupied the field* of matters relating to wholesale sales and transportation of natural gas in interstate commerce." *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 305 (1988) (emphasis added) ("*Schneidewind*"). Thus, "the NGA confers upon FERC *exclusive jurisdiction* over the transportation and sale of natural gas in interstate commerce for resale." *Id.* at 300-01 (emphasis added). Regulations promulgated by FERC pursuant to its delegated authority under the NGA also preempt state law. *National Fuel*, 894 F.2d at 576.

2. The Natural Gas Pipeline Safety Act ("NGPSA")

In 1968, Congress enacted the NGPSA, 49 U.S.C. § 60101, *et seq.* Section 2 of this act requires the Secretary of Transportation to adopt federal safety standards for pipeline facilities and the transportation of natural gas. Section 3(a) of the act explicitly prohibits state agencies from adopting or

continuing in force, after federal safety standards become effective, "any such standards applicable to interstate transmission facilities." *Id.*, § 49 U.S.C. § 60104(c). This prohibition has been uniformly recognized by the courts. *National Fuel*, 894 F.2d at 577; *ANR Pipeline Co. v. Iowa State Commerce Comm 'n*, 828 F.2d 465 (8th Cir. 1987) (Congress intended to preclude states from regulating "in any manner whatsoever" the safety of interstate gas pipelines and therefore Iowa safety standards were preempted by Natural Gas Pipeline Safety Act); *Natural Gas Pipeline Co. v. Railroad Comm 'n of Texas*, 679 F.2d 51 (5th Cir. 1982) (safety regulations promulgated pursuant to Natural Gas Pipeline Safety Act preempt state and local regulation of safety issues); *Northern Border Pipeline Co. v. Jackson County*, 513 F. Supp. 1261 (D. Minn. 1981) (zoning requirement regarding depth of burial of pipeline preempted by federal safety regulation); *United Gas Pipeline Co. v. Terrebone Parish Police Jury*, 319 F. Supp. 1138 (D. La. 1970), *affd*, 115 F.2d 301 (5th Cir. 1971) ("Congress by completely preempting this area of interstate pipeline safety has specifically prohibited the states from doing anything in this regard").

Accordingly, this comprehensive federal regulatory scheme governs every aspect of the transportation and sale of natural gas in interstate commerce, preempting state regulation of such matters as the prices at which natural gas may be sold in interstate commerce, whether interstate natural gas pipelines may be constructed or modified, where such pipelines may be located, and the methods of construction and applicable safety standards for such pipelines.

B. AS THE COUNCIL HAS PREVIOUSLY ACKNOWLEDGED, FERC HAS EXCLUSIVE JURISDICTION OVER THE IROQUOIS PIPELINE SYSTEM

In response to prior Iroquois filings, the Council has long recognized that FERC has exclusive jurisdiction over facilities used for the transportation of natural gas in interstate commerce and that its own role is wholly advisory.

For example, in its 2002 *Decision and Order* on the Iroquois Brookfield Compressor Station and Brookfield Additions, the Council wrote that:

The Connecticut Siting Council (Council) does not have jurisdiction to rule whether or not there is a need for the proposed projects (Petitions 540 & 555). The projects are under the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC). The FERC encourages the applicants to cooperate with agencies, such as the Council, regarding the siting of pipeline facilities, environmental mitigation, and construction procedures. The FERC alone will decide whether there is a need for the proposed projects, and whether this project or another one can best provide that service.

Petition Nos. 540 and 555, *Decision and Order* (September 25, 2002).

The Council has reaffirmed this view numerous times over the years. See Petition No. 755 (for declaratory ruling that the Connecticut Siting Council does not have jurisdiction over additions to Iroquois' authorized Natural Gas Compressor Station located off of High Meadow Road in Brookfield, Connecticut), *Declaratory Ruling* (February 22, 2006); Petition No. 947 (for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the planned addition of an Odorant System to the Iroquois pipeline located at 840 Oronoque Road, Milford, Connecticut), *Staff Report* (June 7, 2010), approved June 7, 2010; Petition No. 947A (for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed modifications to an Odorant System to the Iroquois Pipeline located at 840 Oronoque Road, Milford, Connecticut), *Staff Report* (April 28, 2011), approved April 28, 2011; Petition No. 1239 (for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the planned addition of an impressed current cathodic protection system to the Iroquois Pipeline located parallel to Webb Circle, Monroe, Connecticut), *Decision Letter* (August 5, 2016); Petition No. 1249 (for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the planned addition of a launcher and a mainline valve along the existing Iroquois Pipeline right of way located off of Canterbury Lane in Newtown, Connecticut, and an above ground receiver and fuel cell generator to power the cathodic protection system along the existing Iroquois

Pipeline right of way located off of Stonebridge Trail in Newtown, Connecticut), *Decision Letter* (September 2, 2016).

Notwithstanding this exclusive federal jurisdiction, FERC policy "encourage[s] applicants to cooperate with state and local agencies with regard to the siting of pipeline facilities, environmental mitigation measures, and construction procedures." *Maritimes & Northeast Pipeline, LLC*, 81 FERC ¶ 61,166, at 61,729 (1997). Such cooperation allows opportunities for state and local authorities to provide recommendations to an applicant and FERC regarding its proposed pipeline route and construction plan. *Id.* at 61,730. As the Council is aware, Iroquois adheres to this policy. *See supra*, Petition No. 1239, *Decision Letter* (August 5, 2016); Petition No. 1249, *Decision Letter* (September 2, 2016).

V. CONCLUSION

Based on the foregoing, and pursuant to Conn. Gen. Stat. §§ 4-176(a) and 16-50k(d) and Conn. Agencies Regs. § 16-50j-38, *et seq.*, Iroquois respectfully requests that the Council issue a declaratory ruling that it does not have jurisdiction over the Project.

Respectfully submitted,

IROQUOIS GAS TRANSMISSION SYSTEM, L.P.

By: 

Harold M. Blinderman

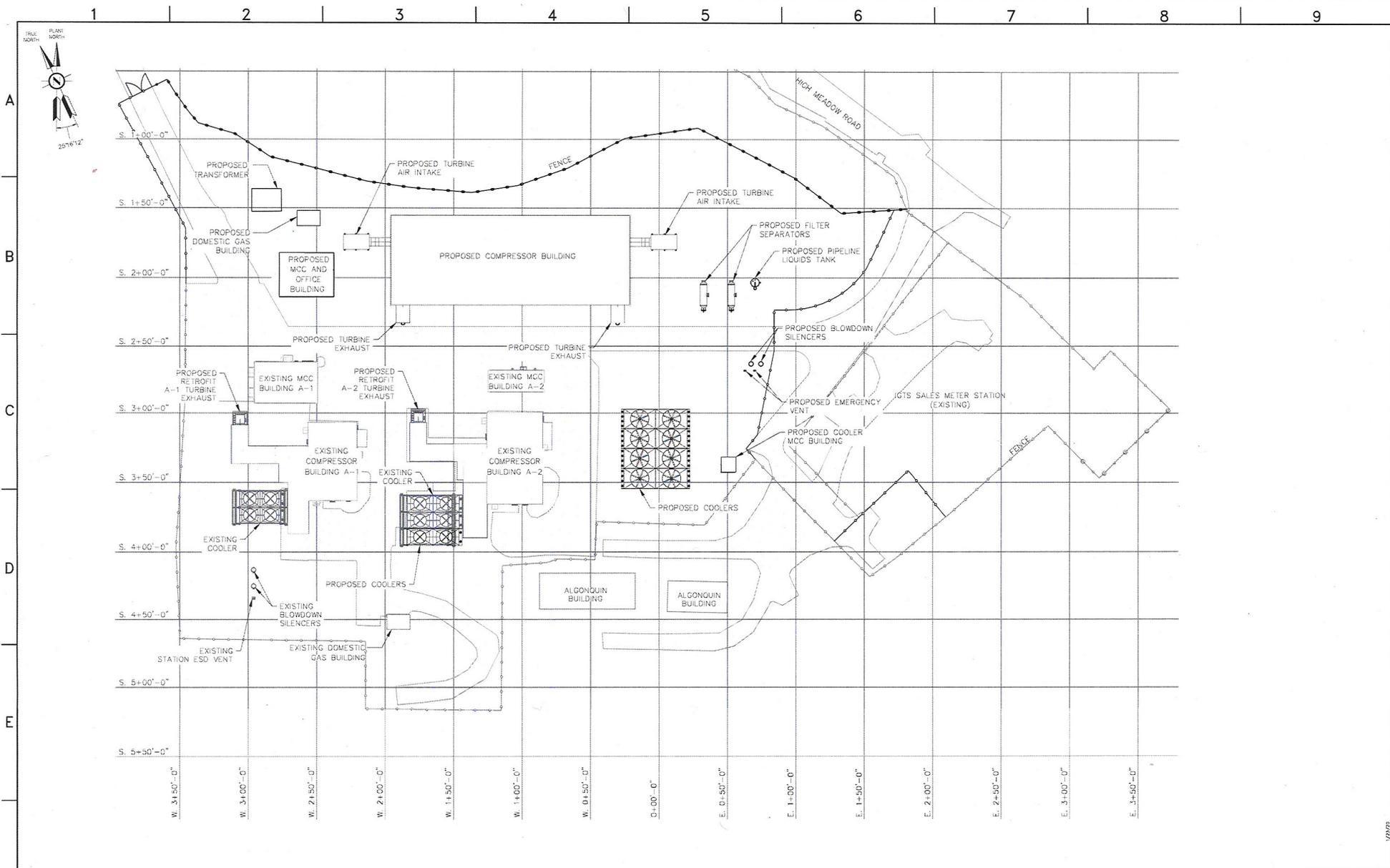
Its Attorney

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| B | 01/31/20 | ISSUED FOR 30% - GAS PROJECT | RJR | KVS | KVS | MAF |

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 WEST SPRINGFIELD, MA 01089

Iroquois
 GAS TRANSMISSION SYSTEM
 PROJECT FOR THE OPERATING COMPANY
 SUPERVISOR

APPROVED BY: _____
 ENGINEERING MANAGER

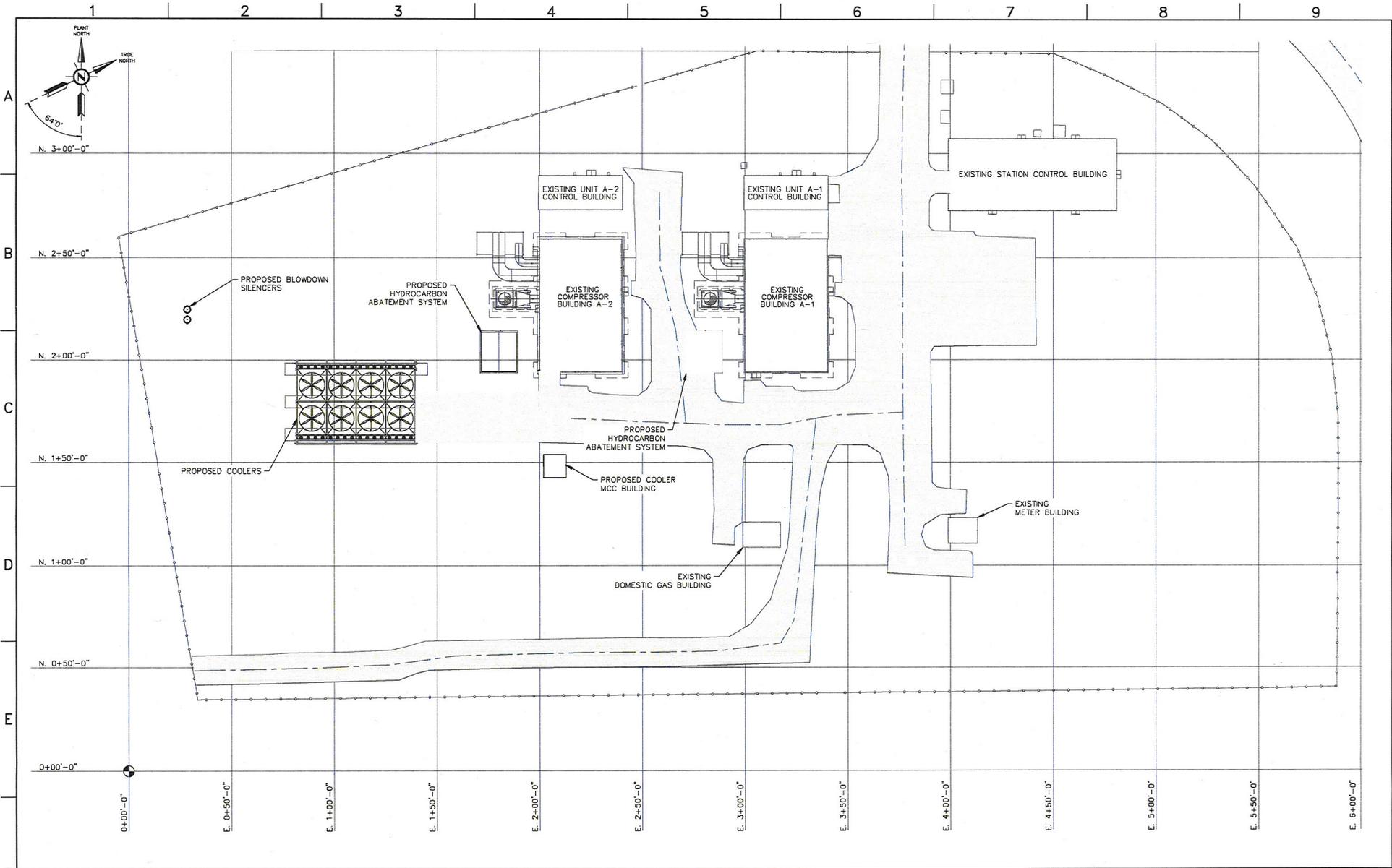
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SITE PLAN
BROOKFIELD COMPRESSOR STATION
 TOWN OF BROOKFIELD, FAIRFIELD COUNTY, CONNECTICUT

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Iroquois
 GAS TRANSMISSION SYSTEM
 MODERN PUBLIC OPERATING COMPANY

| DESIGN BY | DATE |
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| RJR | 12/16/2019 |
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SITE PLAN
MILFORD COMPRESSOR STATION
 TOWN OF MILFORD NEW HAVEN COUNTY, CONNECTICUT
 DWG. NO. **C-MID3-D-C-023** REVISION **B**