



April 29, 2024

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**Re: Iroquois Enhancement by Compression (ExC) Project, DEC Application IDs:
3-1326-00211/00001 (Dover Compression Station); 4-1922-00049/00004
(Athens Compressor Station) Comments of Save the Sound**

Save the Sound is a nonprofit organization representing over 4,480 member households and 19,000 activists throughout the Long Island Sound region. Our mission is to protect and improve the region's land, air, and water. We use legal and scientific expertise and bring communities together to achieve results that benefit our environment for current and future generations. On behalf of Save the Sound, I respectfully submit the following comments in response to the Department of Environmental Conservation's ("DEC's") February 28, 2024, Notice of Public Comment Period on the Department of Public Service's Assessment ("DPS Assessment") that the ExC Project is necessary and justified.

I. Summary

The Iroquois Enhancement by Compression ("ExC") Project involves the construction of new compression and associated facilities to provide 125,000 Dekatherms of additional gas per day to the Consolidated Edison Company of New York, Inc. ("Con Ed") and National Grid.¹ On February 26, 2024, DPS provided an assessment concluding that the ExC Project is "justified based on the role it would play in ensuring gas system reliability in the service areas of both [Con Ed] and National Grid."² However, this assessment fails to demonstrate a sufficient need for the ExC Project.

For one, the DPS Assessment inappropriately centers on natural gas demand over the next few years, failing to consider that Iroquois would not finish construction of the ExC Project until 2027.³ Importantly, this is the point at which Con Ed anticipates its demand for natural gas to begin a "steady glide path downward."⁴ The DPS Assessment fails to consider such projected demand reduction, nor does it consider pending actions that could dramatically reduce demand further, including legislation and additions to Con Ed's portfolio. Without evaluating the impact of these pending actions and before National Grid has even filed its long-term plan, DPS concludes that the ExC Project is necessary. This conclusion is unwarranted and premature.

¹ NYDEC, *Iroquois Enhancement by Compression (ExC) Project*, <https://dec.ny.gov/iroquois-enhancement-by-compression-exc-project>.

² NYDPS, Response Letter to D.E.C. re Assessment of Need (Feb. 26, 2024).

³ Iroquois, *A 'Compression Only' Alternative to Provide Additional Capacity to NYC: Proposed Timeline*, <https://www.iroquois.com/operations/projects/exc-project/>.

⁴ CONSOLIDATED EDISON CO. OF N. Y., GAS SYSTEM LONG-TERM PLAN 47 (Sept. 22, 2023).



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For these reasons, Save the Sound respectfully urges DEC to find that there is no compelling justification for the ExC Project or, at a minimum, to defer a final finding of justification until more information becomes available. If DEC determines that the ExC Project is justified, Save the Sound urges it to require additional evaluation of mitigation measures, particularly the proposed measure to reduce the Project's 20-year contract term.

II. The ExC Project is Inconsistent With and Will Interfere with the Emissions Mandates of the CLCPA.

Section 7(2) of the CLCPA requires state agencies to consider whether a decision is “inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established” in Article 75 of the environmental conservation law.⁵ Article 75 sets the greenhouse gas emission limit for 2030 at 60% of 1990 emissions.⁶ For 2050, this limit is 15% of 1990 emissions.⁷

Attaining these limits requires an unprecedentedly deep and rapid reduction in greenhouse gas emissions.⁸ The most recent data (from 2021) indicates that emissions in New York were only 9% below 1990 levels.⁹ Thus, attaining the 2030 emission limit would require a further reduction of about 51%. With six years left to achieve this goal, New York State must focus on making sustained reductions in greenhouse gas emissions limits.

However, the ExC Project, as proposed, would substantially increase greenhouse gas emissions by enabling the transport of 125,000 Dekatherms of additional gas into the New York City area per day.¹⁰ Iroquois anticipates that the annual lifecycle greenhouse gas (CO₂e) emissions for the year 2030 would total 859,057 tons.¹¹ These additional greenhouse gas emissions would plainly interfere with the attainment of the state's 2030 emission limits.

Moreover, a finding of interference would logically follow from DEC's previous analyses under the CLCPA. For instance, in analyzing a proposed fossil fuel-fired peaking combustion turbine generator in Astoria, a project with a potential to emit 723,872 tons of CO₂e annually, DEC found that it would result in “a substantial amount of potential GHG emissions,” concluding that this increase would interfere with the attainment of the 2030 emission limit.¹² As the ExC Project is anticipated to result in an even *greater* annual amount of GHG emissions than the Astoria

⁵ CLCPA § 7(2).

⁶ N.Y. ENV'T CONS. LAW § 75-0107(1).

⁷ *Id.*

⁸ See NYDEC, 2023 Statewide GHG Emissions Report vii (2023).

⁹ *Id.*

¹⁰ NYDEC, *Iroquois Enhancement by Compression (ExC) Project*, <https://dec.ny.gov/iroquois-enhancement-by-compression-exc-project>.

¹¹ Iroquois Response to DEC Request for Additional Information Number 2, Questions 1-4 (Apr. 29, 2022), at 4, Tbl. 4.

¹² NYDEC, Notice of Denial of Title V Air Permit, Astoria Gas Turbine Power (DEC ID: 2-6301-00191/00014) (Oct. 27, 2021).



project, the DEC should find that ExC Project interferes with the state's 2030 GHG emission limits.

III. The ExC Project Lacks Sufficient Justification.

Under the CLCPA, when a decision is “deemed to be inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits,” each agency “shall provide a detailed statement of justification as to why such limits/criteria may not be met.”¹³ On February 26, 2024, DPS provided its assessment on whether the ExC Project is “justified with respect to supporting the safety and reliability of the New York gas system.”¹⁴ However, for the following reasons, the DPS Assessment does not demonstrate a need for the ExC Project and prematurely concludes that this Project is justified.

A. The DPS Assessment Does not Adequately Consider Projected Demand Reductions.

The DPS Assessment states that over the past two decades, downstate gas demand has significantly grown.¹⁵ However, these historic trends do not forecast future demand. As DPS notes, utilities file long-term plans to assess future demand and options to meet that demand.¹⁶ While National Grid's long-term plan has not yet been filed, Con Ed's long-term plan forecasts peak demand to “reach its zenith in approximately 2027,” then to “begin a steady glide path downward from that point onward.”¹⁷ Iroquois anticipates that the ExC Project, if approved, will not be constructed until 2027,¹⁸ the year at which demand is expected to begin its decline.

This decline may be precipitated by pending legislation, which, if passed, could dramatically reduce New York's future natural gas demand. For instance, a bill titled the NY Home Energy Affordable Transition (HEAT) Act would eliminate the 100-foot rule, which “provides ratepayer-funded utility incentives for the expansion of utility system infrastructure.”¹⁹ Additionally, it would remove residential customer's current legal entitlement to utility gas services, “while maintaining this entitlement for electric services.”²⁰ It would also “[d]irect the commission to take any action necessary to facilitate achievement of the CLCPA mandates, actively encouraging a transition away from fuels with high life-cycle greenhouse gas emissions and on-site pollutant emissions.”²¹ The DPS Assessment does not evaluate the effect that this legislation would have on demand reductions.

¹³ CLCPA § 7(2).

¹⁴ NYDPS, Response Letter to D.E.C. re Assessment of Need (Feb. 26, 2024).

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 2.

¹⁷ CONSOLIDATED EDISON CO. OF N.Y., GAS SYSTEM LONG-TERM PLAN 47 (Sept. 22, 2023).

¹⁸ Iroquois, *A 'Compression Only' Alternative to Provide Additional Capacity to NYC: Proposed Timeline*, <https://www.iroquois.com/operations/projects/exc-project/>. This timeline could be subject to additional delays.

¹⁹ Senate Bill S2016A.

²⁰ *Id.*

²¹ *Id.*



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Nor does it consider the pending additions to Con Ed's portfolio aimed at increasing natural gas capacity, as described in Con Ed's long-term plan.²² One of these additions, the TGP East 300 Upgrade would increase this capacity "by 115,000 Dt/day to citygates in Westchester County."²³ If this project enters service, Con Ed anticipates that "remaining reliance on delivered services will be significantly diminished—and is forecasted to be eliminated altogether" in the next decade.²⁴ This information indicates a lack of need for the ExC Project, contrary to DPS Assessment.

B. The DPS Assessment Does Not Demonstrate that ExC is Necessary to Maintain Safety and Reliability.

As support for the conclusion that ExC is necessary, DPS relies on a FERC report on Winter Storm Elliot, which describes how this cold weather event impacted reliability and recommends measures to address future winter events.²⁵ DPS stated that it "takes seriously the findings and recommendations made in the FERC Report and believes that the report's findings and recommendations are directly relevant to the proposed ExC Project."²⁶

However, the recommendation DPS cites does not support the conclusion that ExC is necessary. Rather, the recommendation calls for "[a]n independent research group (e.g., selected National Laboratories from the Department of Energy), [to] perform one or more studies to analyze whether additional natural gas infrastructure, including interstate pipelines and storage, is needed."²⁷ The FERC Report did not recommend commencing projects such as ExC to increase natural gas supply, and critically, DPS does not cite any study by an independent research group analyzing whether additional natural gas infrastructure is needed. Based on information and belief, this study has not yet commenced.

C. At a Minimum, DEC Should Defer Any Final Finding of Justification.

As set forth above, the DPS Assessment fails to set forth a compelling justification for the ExC Project, and the DEC should find that there is no such justification or, at the very least, defer any final finding of justification until more information is made available.

There are several pending actions relevant to an assessment of future demand that warrant a deferred determination of need. First is the filing of National Grid's long-term plan. As DPS notes, National Grid has not yet filed this plan, which will inform whether ExC is necessary to meet future demand.²⁸ Second is the NY HEAT Act, a bill that would eliminate the 100-foot rule and remove residential customer's legal entitlement to utility gas services, is currently pending.

²² CONSOLIDATED EDISON CO. OF N.Y., GAS SYSTEM LONG-TERM PLAN 43 (Sept. 22, 2023).

²³ *Id.*

²⁴ *Id.* at 43-44.

²⁵ FERC, INQUIRY INTO BULK-POWER SYSTEM OPERATIONS DURING DECEMBER 2022 WINTER STORM ELLIOT (Oct. 2023).

²⁶ NYDPS, Response Letter to D.E.C. re Assessment of Need 10 (Feb. 26, 2024).

²⁷ FERC, INQUIRY INTO BULK-POWER SYSTEM OPERATIONS DURING DECEMBER 2022 WINTER STORM ELLIOT 144 (Oct. 2023).

²⁸ *See* NYDPS, Response Letter to D.E.C. re Assessment of Need 10 (Feb. 26, 2024).



Because of the impact that this legislation could have on future natural gas demand in New York, Save the Sound respectfully urges DEC to defer a final finding of justification until the fate of this bill is determined.

IV. Even if DEC Finds the Project Justified, It Should be Mitigated by Reducing the Project Contract Term.

If DEC finds that ExC is not justified, then it “need not reach the next stage of the CLCPA Section 7(2) analysis”²⁹ of identifying “alternatives or greenhouse gas mitigation measures to be required where such project is located.”³⁰ Save the Sound maintains that a finding of justification is not warranted for the ExC Project. However, in the event that DEC determines otherwise, Save the Sound urges it to require additional evaluation of mitigation measures, particularly the proposed measure to reduce the Project’s 20-year contract term.

As Iroquois noted, “[i]mplementation of this measure would reduce actual anticipated Project direct emissions and PTE GHG emissions for each year that the contract terms were reduced.”³¹ However, Iroquois eliminated this mitigation measure from further consideration.³² Its sole justification was that “[t]he Project Shippers advised Iroquois that they anticipate the Project need will continue throughout the entire 20-year contract term.”³³ However, this justification runs contrary to Con Ed’s long-term plan, which anticipates a decrease in demand following 2027 and states that after this time, it will “allow the expiration of capacity contracts that are currently needed to meet peak demand.”³⁴ Thus, Iroquois has not provided an adequate explanation for why the contract term cannot be reduced as a mitigation measure, and DEC should find that additional evaluation of this measure is required.

V. Conclusion

For the foregoing reasons, Save the Sound respectfully urges the DEC to find that there is no compelling justification for the ExC Project or, at a minimum, to defer a final finding of justification until more information becomes available. In the event that DEC determines that the Project is justified, Save the Sound urges it to require additional evaluation of mitigation measures, particularly the proposed measure to reduce the Project’s 20-year contract term.

Sincerely,

/s/ Jessica Roberts
Jessica Roberts
Staff Attorney

²⁹ NYDEC, CP-49 / Climate Change and DEC Action (last revised Dec. 14, 2022).

³⁰ CLCPA § 7(2).

³¹ Iroquois Response to DEC Request for Additional Information Number 2, Questions 1-4 (Apr. 29, 2022), at 19-20.

³² *Id.*

³³ *Id.*

³⁴ CONSOLIDATED EDISON CO. OF N.Y., GAS SYSTEM LONG-TERM PLAN 43-44 (Sept. 22, 2023).



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