

**STATE OF MAINE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

NORTHERN UTILITIES, INC.

DOCKET NO. 2023-00254

Petition for Expedited Approval of Empress Capacity Agreements

NOW COMES Northern Utilities, Inc. (“Northern” or the “Company”) and respectfully requests the Maine Public Utilities Commission (the “Commission”) approve, on an expedited basis, certain agreements with Portland Natural Gas Transmission System (“PNGTS”) and TransCanada Pipelines Limited (“TCPL”) that will provide a firm natural gas pipeline transportation path from Empress, Alberta to Granite State Gas Transmission, Inc. (“Granite”) interconnects (the full capacity path is referred to herein as “Empress Capacity”; the agreements are collectively referred to herein as the “Empress Capacity Agreements” or the “Agreements”). For the reasons set forth below, the Company requests that the Commission find, by January 26, 2024, that the Empress Capacity Agreements are prudent, reasonable and consistent with the public interest. In support hereof, the Company states as follows:

1. By this Petition and the accompanying Pre-Filed Direct Testimony of Francis X. Wells (Exhibit Unutil-FXW-1) and Empress Capacity Resource Assessment (Exhibit Unutil-FXW-2), the Company seeks approval to enter into the Empress Capacity Agreements that will provide Northern the ability to add 12,500 Dth per day of incremental capacity to Northern’s gas supply portfolio with service beginning on April 1, 2024 for a thirty (30) year term. Applying the Company’s latest design year forecast for the 2023-2024 gas year, approximately 5,007 Dth/day of the proposed capacity will be supported by New Hampshire Division customers and 7,493

Dth/Day of the proposed capacity will be supported by Maine Division customers.¹ Given the term of the Agreements and the conditions precedent contained therein, the Company respectfully asks the Commission’s approval prior to the so-called “regulatory out” date of February 1, 2024 for the PNGTS agreement – i.e., the date prior to which the Company can withdraw from the agreements without a penalty - and therefore requests that the Commission complete its review by Friday, January 26, 2024. Complete copies of the Empress Capacity Agreements are attached the Empress Capacity Resource Assessment Appendix to Mr. Wells’ testimony as Attachment 2 (PNGTS) and Attachments 4 – 6 (TCPL).

2. The Empress Capacity Resource Assessment describes the terms and conditions of the Empress Capacity Agreements, which will provide Northern the ability to transport 12,500 Dth / day of natural gas from Empress to Granite for a 30-year term. The proposed Empress Capacity Path provides access to supply that is not reliant on imported Liquefied Natural Gas (“LNG”) during a time when natural gas pipelines to New England are heavily constrained and there is significant uncertainty surrounding the long-term future of the Everett Marine and St. John LNG terminals. The proposed Empress Capacity would be releasable to retail marketers under the Company’s Delivery Service Terms and Conditions.

3. The agreement with PNGTS allows Northern to terminate the agreement without liability if the Company has not obtained regulatory approval from the New Hampshire Public Utilities Commission and the Maine Public Utilities Commission in form and substance acceptable to the Company by February 1, 2024. Thus, the Company respectfully requests that the Commission conduct an expedited review of the Empress Capacity Agreements and issue an Order by Friday, January 26, 2024 to enable Northern to provide timely notice of satisfaction of

¹ The Modified Proportional Responsibility Allocator, which is used to allocate demand costs, is based on Design Year utilization.

the conditions precedent (or lack thereof).

4. As explained in greater detail in the Empress Capacity Resource Assessment, Northern acquired the TCPL portion of the Empress Capacity through an open season in which TCPL offered delivery capacity to East Hereford, which is the point at which TCPL delivers gas onto PNGTS. This capacity offering was available as early as April 1, 2024, subject to TCPL's ability to secure "necessary commercial and operational arrangements" until new facilities are constructed. TCPL expects to construct new facilities to support this capacity offering prior to November 1, 2027. Though the TCPL open season required a minimum service request term equal to 15-years, Northern decided to request service for a thirty-year term due to the limited amount of capacity available and the scarcity of available incremental supply options in New England. Northern has entered into several agreements with TCPL: a precedent agreement and firm transportation agreement for service from April 1, 2024 through October 31, 2027 (the 2024 TCPL Agreements) and a precedent agreement for service from November 2027 through March 2054 (the 2027 TCPL PA).

5. The 2024 TCPL Agreements are subject to certain conditions precedent, including that TCPL has determined that it has sufficient facilities and/or operational or other arrangements to provide service under the 2024 TCPL firm transportation contract, and that the 2027 TCPL PA has not been cancelled. The 2027 TCPL is also subject to conditions precedent, including TCPL receiving authorization to increase its capacity in order to provide the service awarded to Northern. TCPL must use all reasonable efforts to obtain the required authorizations and increase its capacity. The 2027 TCPL PA requires Northern to enter into a Firm Transportation Service Contract for service from November 2027 through March 2054 upon TCPL either satisfying or waiving its conditions precedent.

6. If TCPL is unable to obtain required authorizations to increase its capacity from the Canadian Energy Regulator and other various provincial agencies prior to May 1, 2027, then the 2027 TCPL PA will be cancelled. If Northern is unable to obtain approval of the 2027 TCPL PA from the New Hampshire and Maine Public Utilities Commissions, fails to execute the Firm Transportation Service Contract, or withdraws its service request, then the 2027 TCPL PA will be cancelled. If the 2027 TCPL PA is cancelled for any reason, TCPL will have the right to recover pre-service and cancellation costs from Northern, including the portion of the project development costs attributable to Northern's service request at the time of cancellation. The estimated pre-service and cancellation costs, which are confidential, are described on a quarterly basis in the Empress Capacity Resource Assessment and Attachment 7 thereto.

7. The Commission has previously found capacity commitments similar to the Empress Capacity Agreements to be prudent. *Northern Utilities, Inc.*, 2023-00254 Order at 21 (November 7, 2019) (approving Northern's commitment to 10,000 Dth / day for an initial term of 15 years with an option to extend). The Commission has also found that pre-service and cancellation costs may be deemed prudent and reasonable and recoverable through the Company's rates. *Id.* at 24.

8. As described in detail in the Empress Capacity Resource Assessment, the Empress Capacity Agreements: (a) will provide cost-effective and reliable natural gas supply for Northern's customers; (b) will reduce reliance upon delivered supplies; (c) will provide not only savings but price stability; and (d) will provide greater access to more attractive and liquid supply markets. In light of these benefits, the Company requests that the Commission open a docket to consider the Empress Capacity Agreements, and find by January 26, 2024 that the Empress Agreements are prudent, reasonable, consistent with the public interest and that

associated costs, including pre-service and cancellation costs, are prudent and reasonable and appropriate for recovery through Northern's gas supply rates.

WHEREFORE, Northern respectfully requests that the Commission:

- A. Open a proceeding to conduct a review of this matter and determine that Northern's decision to enter into the Empress Capacity Agreements is prudent, reasonable and consistent with the public interest, and that costs associated with the Empress Capacity Agreements are, subject to the Company's ongoing obligation to act prudently, appropriate for recovery through the Company's annually approved Cost of Gas rates;
- B. Complete the review and issue a final order no later than January 26, 2024; and
- C. Grant such other relief as is just and reasonable and consistent with the public interest.

Dated October 5, 2023.

Respectfully submitted,

NORTHERN UTILITIES, INC.

By Its Attorney,



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