



THE  
**POWER**  
BEHIND THE  
**PIPELINES:**

**NORTHERN ACCESS PIPELINE**



public  
accountability  
initiative

**N**ational Fuel Gas Company, a vertically-integrated natural gas corporation whose holdings include a regional natural gas utility, a transmission pipeline company, and an oil and gas driller, is planning a 96-mile pipeline project, called Northern Access Pipeline, through Western Pennsylvania and New York. The pipeline is proposed to [cross 206 bodies of water and impact 389 wetlands](#) and to include a new 22,000 horsepower compressor station, the expansion of an existing compressor station to ten times its current capacity, and the construction of a gas dehydration plant in order to export gas from National Fuel's Western Pennsylvania fracking sites to what the company calls "premium markets" in Canada.

Because of the threat posed by the pipeline to the streams and wetlands it is meant to cross, the air quality threat from emissions from the compressor and dehydration stations, and the global climate threat posed by increasing fossil fuel infrastructure, [the Seneca Nation](#), [local governments](#), and [several environmental groups](#) have organized to oppose the Northern Access Pipeline.

This report analyzes the forces pushing the Northern Access Pipeline and the interests that would benefit from its construction. It is the second in PAI's "Power Behind the Pipelines" series, which examines the financial interests and political influence operations behind controversial oil and gas pipeline projects.

## KEY FINDINGS

- **Revolving door lobbyists.** National Fuel has hired two former Cuomo environmental attorneys – Robert Rosenthal, Cuomo's former assistant counsel for energy and environment, and Steven Russo, former deputy commissioner at the Department of Environmental Conservation – to lobby for the Northern Access Pipeline. The DEC is the agency now deliberating on whether to issue water quality permits for the project. Other pipeline lobbyists include former State Senator George Maziarz, who resigned suddenly in 2016 amid a campaign finance investigation, and Samantha Diliberti, who represented Cuomo in the Hudson Valley.
- **Backed by global capital and regional banks.** National Fuel has a \$1.25 billion credit facility with a syndicate of banks. The largest lenders are large global banks such as HSBC, Wells Fargo, and Bank of America. Smaller regional banks such as Buffalo's M&T Bank and Pittsburgh's PNC Bank are also financing the gas company.
- **Executives earn more in less than two weeks than average family does in a year.** National Fuel's top executives earned \$17.2 million in 2016. Each earned more than the median household income for an Erie County, NY family in less than two weeks. National Fuel CEO Ronald Tanski was paid \$7.2 million in 2016; this means he made more in two days than the average family in his service area earned in a year.
- **\$1.2 billion in dividend payouts come from home heating monopoly.** National Fuel has increased its dividend payout to shareholders for 46 years running, supported by cash generated by its natural gas utility, which has an effective monopoly on home heating in the Buffalo, NY region. National Fuel is currently asking the New York State Public Service Commission to hike rates for Buffalo-area customers to generate an additional \$41.7 million per year in revenue. Since the last time National Fuel hiked rates, it has paid out \$1.2 billion in dividends.

# I. NATIONAL FUEL

National Fuel Gas is a vertically integrated energy company, comprising drilling (Seneca Resources), midstream (National Fuel Gas Midstream Corp, National Fuel Gas Supply Corp, Energy Pipeline Inc), natural gas utility (National Fuel Gas Distribution Corp), and energy marketing (National Fuel Resources Inc) segments.

National Fuel is extremely profitable for its leadership and major shareholders. The corporation's executives are [routinely listed among](#) the highest-paid in the region, often topping those lists. National Fuel prides itself on its dividend, which it has paid for 114 years running (and increased for 46 years), earning top individual shareholder Mario Gabelli \$12 million in 2016 for simply owning the stock.

Payouts to National Fuel's owners and executives are supported by the company's utility subsidiary, which has a near-monopoly on home heating in the Buffalo, NY region; 87% of households in the Buffalo-Cheektowaga-Niagara Falls metro area rely on utility gas to heat their homes, [according to the US Census Bureau](#).

Concurrent to National Fuel's proposal for its pipeline segment to build the Northern Access Pipeline, the company is also asking for approval from the New York State Public Service Commission to raise the rates on the captive customers of its utility segment. These customers are most concentrated in Erie County, New York, where Buffalo, one of the poorest cities in the country, is located.

## Company ownership and executive pay

National Fuel's largest individual shareholder is Mario Gabelli, a Westchester County investor who controls 7.76% of the company's stock, according to National Fuel's [most recent proxy statement](#) filed with the Securities and Exchange Commission (SEC).

Other major investors that own more than five percent of National Fuel stock include some of the largest investment firms in the United States. The Vanguard Group, a Philadelphia-area firm, controls 11% of National Fuel stock. BlackRock, the New York City investment firm led by Larry Fink, controls 7.01% of the stock. State Street Corporation, based in Boston, owns 6.76% of the company's stock.

Further, former National Fuel CEO and chairman Philip Ackerman owns 1.1% of the company's stock.

In 2016, National Fuel [paid its top executives](#) \$17.2 million. National Fuel CEO Ronald Tanski brought home \$7.1 million of that money.

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By contrast, the median household income in Erie County, New York, where National Fuel is headquartered and where many of its customers reside, is \$52,214 per year, meaning that Tanski is paid more in two days than a family of his average customers earns in a year. In fact, all of the top paid executives of National Fuel make more in two weeks than the average Erie County household does in a year.

The table below shows the salaries of National Fuel’s top executives in relation to the median household income in the area where they operate.

**Table 1. National Fuel 2016 executive compensation compared to Erie County median household income**

Time it took to outearn average Erie County household in 2016	2016 Compensation	Position	National Fuel Executive
2 days	\$7,136,026	CEO	Ronald J Tanski
5 days	\$3,065,714	COO; former President of National Fuel Gas Supply	John Pustulka
7 days	\$2,175,435	President of National Fuel Gas Distribution	Carl M Carlotti
8 days	\$1,810,248	Former President of Seneca Resources	Matthew D Cabell
9 days	\$1,563,292	President of Seneca Resources	John McGinnis
10 days	\$1,508,037	Treasurer; President of National Fuel Gas Supply	David P Bauer

## Rate hikes and dividends

In April 2016, National Fuel applied to the New York Public Service Commission (PSC) to increase the rates it charges its utility customers in order to generate an additional \$41.7 million in annual revenue. [According to National Fuel](#), this rate hike would pay for a “modernization” of the company’s pipelines and customer information systems.

However, it’s worth noting that National Fuel has the funds to make these supposed improvements without asking customers to foot the bill. The company chooses instead to dole out dividend to its wealthy owners. Indeed, National Fuel’s SEC filings and statements to financial analysts indicate that utility customers prop up the company’s 114-year trend of dividend payments, passing revenue directly to shareholders.

In 2016, National Fuel paid out [\\$134.8 million in dividends](#) to its shareholders, including \$12 million to Mario Gabelli. Since 2007, the last time that the Public Service Commission approved a rate hike, National Fuel has paid \$1.2 billion.

These dividends, according to National Fuel’s [2016 proxy statement](#), are supported by “[t]he financial stability of our regulated Pipeline & Storage and Utility segments.”

National Fuel executives have made similar statements to financial analysts. In 2010, Ronald Tanski described the

utility as “the jewel of the organization” and then-CEO David Smith said earnings from the utility and the pipeline company “cover our entire dividend.” David Bauer said in 2013 that cash generated by the utility and pipeline businesses “fund a good chunk of our dividend,” which he repeated in 2016.

National Fuel has been touting that the stable cash flow from its utility business – which as mentioned above controls 87% of the home heating market in an area of intense poverty – subsidizes its dividend since at least 2007, the last year that the PSC approved a rate hike.

The rates paid by utility customers also support National Fuel’s lending, indirectly subsidizing pipeline construction as described below.

### Banking on National Fuel

National Fuel is backed by a range of global and regional banks hoping to profit from financing the company’s operations. In September 2016, National Fuel signed a [\\$1.25 billion credit agreement](#) with a syndicate of 14 banks. The company [plans to tap these funds](#) in order to pay the [\\$455 million estimated cost](#) of the Northern Access Pipeline.

This lending is supported by the revenue from bills paid by National Fuel’s utility customers. In the same analyst calls where National Fuel executives tout their consistent and ever-increasing dividend payouts, they also describe how customers support the company’s borrowing. Steady cash flow from customers reliant on National Fuel to heat their homes supports National Fuel’s credit rating, allowing it to borrow more money at lower interest rates.

Megabanks are the biggest lenders to National Fuel and its pipeline project. Four of the largest banks in the world – JPMorgan Chase, HSBC, Wells Fargo, and Bank of America – are each committing to lend a maximum of \$150 million.

A number of smaller regional banks are also in on the credit arrangement for National Fuel. CIBC, Citizens Bank, and US Bank are each committing up to \$97.5 million as part of the line of credit. M&T Bank and PNC Bank are committing up to \$75 million each, and KeyBank is committing up to \$72.5 million. Even at the lower levels, BB&T is providing \$52.5 million in financing, while First Niagara Bank is providing \$32.5 million. The Bank of New York Mellon and Comerica are providing \$25 million each.

In total, banks with a presence in Buffalo have committed \$677.5 million as part of the credit agreement, more than half of the total credit facility. This funding, however, appears to conflict with the professed environmental philosophies of some of the local banks providing the credit.

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[M&T Bank](#), for example, says it is “committed to being an environmentally conscious corporate citizen” and that it takes “environmental impact into consideration whenever special project teams implement new initiatives.”

[KeyBank](#) proclaims that it “helps its business clients make smart decisions, especially ones that involve energy efficiency and renewable energy investments,” and touts its financing for a California solar array in its corporate social responsibility report.

KeyBank merged with First Niagara in 2016, and it appears that the combined bank, headquartered in Cleveland, is now the biggest regional lender to National Fuel. The two banks loaned National Fuel a total of \$105 million, more than any other bank besides the four global megabanks.

It is also worth noting that eight of the 14 banks financing the Northern Access pipeline are also funding the highly-controversial Dakota Access pipeline being built by Energy Transfer Partners and Sunoco Logistics Partners.

## II. NORTHERN ACCESS PIPELINE

The Northern Access Pipeline is part of an “Integrated Vision for Long-Term Growth in Appalachia” described by National Fuel [in a quarterly investor presentation](#). The plan involves accumulating a “vast acreage” in the Marcellus and Utica shale plays for drilling, connecting drill sites to its interstate pipeline system, and expanding the pipeline system “to reach premium markets.”

In the case of the Northern Access pipeline, the specific intent is to ship natural gas produced in National Fuel’s wells in Western Pennsylvania across the Niagara River to Canada. According to the same presentation, 350,000 decatherms per day (Dth/day) of the pipeline’s 490,000 Dth/day capacity – 71% – would be exported to Canada.

National Fuel needs the approval of several regulatory agencies to build the Northern Access Pipeline. In addition to approval from the Federal Energy Regulatory Commission (FERC), National Fuel also needs approval from the New York State Department of Environmental Conservation (DEC).

While FERC approved the pipeline in February, the DEC has until April 7, 2017 to decide on National Fuel’s application. In the face of widespread opposition from local communities and environmental groups, National Fuel hired lobbyists from four different firms to advance its interests in 2016 in New York State alone. It also engaged the high-powered firm Sidley Austin to push the pipeline through the FERC approval process.

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## Opposition from communities and environmental groups

Because the pipeline's primary purpose is to export gas to "premium markets" where National Fuel can derive a larger profit, the Town of Pendleton in Niagara County, where National Fuel wants to build the larger of the compressor stations for the project, argued to FERC that the project is "[speculative and unnecessary](#)" and not worth the community impact. The town is currently [being sued in federal court by National Fuel](#) for refusing to issue a building permit for the compressor station.

The [Seneca Nation](#) has raised concerns about the pipeline's impact on Cattaraugus Creek, a stream that flows through the Cattaraugus Reservation to Lake Erie as well as the possibility of National Fuel seizing Native land through eminent domain. Environmental groups such as [Sierra Club](#) and [Buffalo Niagara Riverkeeper](#) have also objected to the pipeline due to its impacts on water bodies, air quality, and the climate.

## Regulatory approvals

The Northern Access Pipeline was approved by the Federal Energy Regulatory Commission along with several other pipelines in a blitz of proposals before Commissioner Norman Bay stepped down and left the Commission without a quorum. [As PAI has reported](#), FERC approves nearly 100% of pipeline applications and has been dominated by veterans of the oil and gas industry.

[The Sierra Club objected](#) to FERC's approval of the pipeline, saying that it had been rushed through the process without sufficient environmental review. Sierra Club accused FERC of "rush[ing] to issue the Certificate Order in response to National Fuel's desired construction schedule." As mentioned above, the Town of Pendleton also objected to FERC's approval, questioning whether the pipeline's impacts were justified by the benefit of bringing National Fuel's gas to Canadian markets.

Appended to the order approving the Northern Access Pipeline was [a separate statement](#) by outgoing commissioner Norman Bay encouraging that, "in the interests of good government," FERC conduct an environmental review of the cumulative environmental impacts of the pipelines it approves. Bay acknowledged that in just his last week at FERC, the commission "approved more than several billion cubic feet of new gas pipeline capacity."

Bay's concerns about increases in drilling driven by FERC pipeline approvals, which the commission is not currently required to consider, are especially relevant considering how the Northern Access Pipeline fits into National Fuel's plan for "long-term growth" in Appalachia and the "vast acreage" the company seeks to drill.

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National Fuel also needs the approval of the New York Department of Environmental Conservation, which has authority to award or deny air and water quality permits, though National Fuel claims that federal approval of the project preempts any state authority to regulate it, as described below.

## Lawyers and lobbyists

To usher the Northern Access Pipeline project through the regulatory process, National Fuel has hired a multitude of legal and government affairs firms. National Fuel has four firms – Ascension Consulting, E3 Communications, Greenberg Traurig, and Statewide Public Affairs – lobbying state and local governments in New York in addition to its in-house lobbyists. The company has also hired the high-powered law firm Sidley Austin to argue its case to the Federal Energy Regulatory Commission.

National Fuel’s lobbying team includes several veterans of New York State government, including two former environmental attorneys from New York Governor Andrew Cuomo’s administration and a former state senator who remains influential in Niagara County politics.

## ROBERT ROSENTHAL AND STEVEN RUSSO

[Disclosures](#) with the New York State Joint Commission on Public Ethics (JCOPE) reveal that National Fuel has hired the firm Greenberg Traurig to lobby [on a number of issues](#). Two of the Greenberg Traurig attorneys lobbying for National Fuel, [Robert Rosenthal](#) and [Steven Russo](#), are former members of Governor Cuomo’s administration. Rosenthal worked in the governor’s office as assistant counsel for energy and environment while Russo was formerly the chief legal officer of the Department of Environmental Conservation.

While he still worked at the DEC, Russo worked on proposed rules that would regulate hydraulic fracturing in New York State should the state lift its moratorium on the controversial drilling practice. Russo was [criticized by environmental groups in 2012](#) for giving oil and gas companies advance access to the proposed state regulations, which in one instance a driller used to propose weaker environmental standards.

[Correspondence](#) between the DEC and National Fuel reveals that Russo is now lobbying his old agency on National Fuel’s behalf, advocating for the Northern Access Pipeline water quality along with Rosenthal.

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## GEORGE MAZIARZ

Ascension Consulting LLC, one of the firms listed on National Fuel's lobbying disclosure, is a recently-launched venture for George Maziarz, a long-time state senator from Niagara County who [stepped down in 2014](#) amid a probe into campaign finance violations.

Maziarz represented Niagara County in the New York State Senate for nearly 20 years, from 1995 to 2014, and he was [extremely influential in county politics](#), presiding over a Republican political machine that controlled the county legislature and had several seats on the board of trustees of Niagara County Community College.

Maziarz has been representing National Fuel to the town of Pendleton “regarding the location of a natural gas compressor station,” [according to a filing with JCOPE](#). Part of the Northern Access Pipeline plan is a 22,000 horsepower compressor station in Pendleton, which the town opposes.

## WILLIAM A WILLIAMS

National Fuel has hired William A Williams, [a partner](#) at the high-powered law firm Sidley Austin and a veteran of the debate over the Keystone XL pipeline as its regulatory counsel to FERC. According to his Sidley Austin biography, Williams is also currently representing Alliance Pipeline and has previously worked for ExxonMobil and TransCanada on their Alaska Pipeline Project.

After FERC approved National Fuel's Northern Access Pipeline, Williams [filed a motion on](#) behalf of National Fuel asking that the Commission rule that New York State had waived its right to regulate the project since it had not yet acted on National Fuel's water and air quality applications and that federal approval of the pipeline should prevent the state from exercising any regulatory authority over the project. That motion, which has not yet been acted on since FERC does not have enough commissioners to form a quorum, was stridently opposed by the New York State Department of Environmental Conservation.

## SAMANTHA DILIBERTI

Another Cuomo administration veteran lobbying for National Fuel is Samantha Diliberti of Statewide Public Affairs. Diliberti represented Governor Cuomo in the Hudson Valley, liaising between the administration and local stakeholders, [according to her profile at Statewide](#). Diliberti has also worked in the same capacity for Senator Kirsten Gillibrand.

Before joining Statewide Public Affairs, Diliberti was an associate publisher at City & State NY, a website and magazine about politics in New York City and statewide.

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