

**BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES
COMMISSION**

IR 15-124

Electric Distribution Utilities

**Investigation into Potential Approaches to Ameliorate Adverse Wholesale
Electricity Market Conditions in New Hampshire**

Petition for Intervention

The Town of Fitzwilliam, New Hampshire, as invited by the April 17, 2015, Order of Notice, respectfully petitions to intervene in the captioned docket as an interested party and stakeholder.

The Order of Notice describes the subject of investigative enquiry as:

“A targeted Staff investigation to examine the gas-resource constraint problem that is affecting New Hampshire EDCs and electricity consumers generally may yield potential solutions to these market issues....” (Page 3, Order of Notice).

The Town will be impacted by the Northeast Energy Direct (NED) high pressure gas pipeline project proposed by the Kinder-Morgan and Tennessee Gas Pipeline Company, LLC, the subject of Federal Energy Regulatory Commission Docket No. PF-14-22-000.

The NED project has been proposed as solution to the claimed energy restraint; therefore, the Town of Fitzwilliam is an interested party and stakeholder as described in the Order of Notice. (Page 3, Order of Notice).

The purpose of the Town of Fitzwilliam's intervention in this investigatory docket is to ensure that any findings or orders made by the Public Utilities Commission in this investigative docket do not impair the rights of the Town of Fitzwilliam in any state or federal adjudicative bodies, including, but not limited to the Federal Energy Regulatory Commission, the Public Utilities Commission and the Site Evaluation Committee and the state and federal courts.

Memorandum

Fitzwilliam is a town of 2,396 people located in Cheshire County. The Town was founded in 1764. The Town has retained its historic character with a Village Common very much like it was in the 19th century. The town's citizens and visitors treasure and enjoy the history, rural character and aesthetics of the Town and wish to preserve its priceless character.

Because of the threat posed by the NED pipeline project, the citizens of Fitzwilliam, at the March 10, 2015, Town Meeting, adopted the following Article:

ARTICLE 8. To see if the Town of Fitzwilliam will adopt the following resolution regarding the proposed Tennessee Gas Pipeline Company LLC project (the Northeast Energy Direct Project "Project") to construct and operate a 30-36 inch

design capacity high pressure natural gas pipeline through the Town of Fitzwilliam projected to be co-located with a Public Service Company of New Hampshire (PSNH), now known as Eversource high voltage power transmission corridor, to wit:

Whereas, because of the adverse impacts construction, operation and maintenance of the Project will have on the Town of Fitzwilliam, its historic, rural character and aesthetics; the threat the project poses to Town surface waters, groundwater aquifers, wetlands, lakes, ponds, rivers and streams; the threat of contamination of Town water supplies and the water wells of Town citizens; the threat to Town recreational and conservation areas; the threat of the taking Town and private property by eminent domain; and the threat to the economic well-being and tax base of the Town and to the property values of property owners; the threat to the health and safety of the Town residents and property posed by a large capacity high pressure gas pipeline carrying flammable liquid natural gas in close proximity to high voltage power transmission lines; and,

Whereas, the Project violates the carefully crafted letter and spirit of the 2012 Fitzwilliam New Hampshire Master Plan which bears the theme: "Growth is inevitable and desirable, but the destruction of community character is not. The question is not whether your part of the world is going to change. The question is how"; and,

Whereas, the Project violates the carefully crafted provisions of the Town of Fitzwilliam Planning and Zoning Ordinances; and,

Whereas, the Project, because the preemptive effect of Chapter RSA 162-H, Energy Facility Evaluation, Siting, Construction and Operation, violates the inherent right of the people of the Town of Fitzwilliam to govern their own community, including, without limitation, the rights guaranteed by Article 1 of the New Hampshire Constitution-Bill of Rights that all government of right originates from the people, is founded in consent, and is instituted for the general good; and

Whereas, the people of the Town of Fitzwilliam find that the construction of the Project violates the rights of the people of the Town of Fitzwilliam, their environment and neighborhoods by threatening their health, safety and welfare; and,

Whereas, by the adoption of this Warrant, the voters of the Town of Fitzwilliam direct the Board of Selectmen to challenge the Project in such judicial, legislative and administrative bodies, both federal and state, as have jurisdiction over the project because:

1. Construction, operation and maintenance of the Project will include drilling, blasting, rock crushing and excavation using heavy equipment and trucks, causing the contamination of surface and ground water from blasting emulsions and compounds; air contamination from dust and debris; and air contamination from diesel exhaust from crushers, heavy equipment and trucks; and,

2. Construction, operation and maintenance of the Project threatens injury and damage to the health and safety of Town residents and their property because of the proximity of a large high pressure gas pipeline carrying flammable natural gas to high voltage power transmission lines; and,
3. Operation and maintenance of the Project threatens injury and damage to wildlife and indigenous plants and trees because of the use of herbicides and poisons in the pipeline right of way both from air born transmission and from leaching into surface and ground waters; and,
4. Construction, operation and maintenance of the Project threatens injury and damage to the irreplaceable historical and rural character of the Town and aesthetics of the Town, in violation of the letter and spirit of the 2012 Fitzwilliam Master Plan, and Town Planning and Zoning Ordinances; and,
5. Construction, operation and maintenance of the Project threatens adverse impacts on Town lakes, rivers, streams, brooks, estuaries, wetlands, surface and ground waters; and,
6. Construction, operation and maintenance of the Project threatens adverse impacts to Town forest lands, recreational and conservation areas; and,
7. Construction, operation and maintenance of the Project will require the involuntary taking of Town property by the pipeline company, including precious conservation and recreation property, by eminent domain in violation of Article 12-a of the New Hampshire Constitution the provision that property cannot be taken for private use; and,
8. Construction, operation and maintenance of the Project will require the involuntary taking of private property by the pipeline company by eminent domain in violation of Article 12-a of the New Hampshire Constitution the provision that property cannot be taken for private use; and,
9. Construction, operation and maintenance of the Project threatens the economic well-being and aggregate tax base of the Town.

Therefore, be it resolved that the Town of Fitzwilliam, acting through its Board of Selectmen, shall undertake such action as necessary to protect the Town of Fitzwilliam from the threat to the Town of Fitzwilliam's right to govern the conduct of projects within its borders and to protect the Town and its residents from the adverse impacts of the Project in such judicial, legislative and administrative bodies, both federal and state, as have jurisdiction in the matter, or take any action thereon.


The intervention of the Town of Fitzwilliam will not impair the interests of justice and the prompt conduct of the proceedings. On the contrary, justice will be served

by the conduct of a full, open and transparent investigation of the issues defined in the Order of Notice while having due regard for the interests of the Town of Fitzwilliam and its citizens.

Wherefore

The Town of Fitzwilliam requests that it be granted the right to intervene in this docket including, but not limited to, the right to seek discovery pursuant to Puc 203.09 and to fully participate in all docket proceedings.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'A. B. Cunningham'.A handwritten signature in dark ink, appearing to be 'A. B. Cunningham'.

Arthur B. Cunningham

Reg. No. 18301

Attorney for the Town of Fitzwilliam

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Certificate

I certify that this filing was served pursuant to Puc 203.02 and Puc 203.03 this 15th
day of May, 2015.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line and a small upward curve.

Arthur B. Cunningham