IR 15-124

Orr&Reno

NHPUC OCT15'15 AM 8:45

October 15, 2015

Via Hand Delivery
Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301

Re: IR 15-124 – Electric Distribution Utilities Investigation into Potential Approaches to Ameliorate Adverse Wholesale Electricity Market Conditions in New Hampshire – Tennessee Gas Pipeline Company, L.L.C., Comments regarding the September 15, 2015 Report on Investigation into Potential Approaches to Mitigate Wholesale Electricity Prices Prepared by The Staff of the New Hampshire Public Utilities Commission.

Dear Director Howland:

On behalf of Tennessee Gas Pipeline Company, L.L.C. ("Tennessee"), in accordance with your letter of September 18, 2015 in the above-captioned docket, enclosed please find an original and six copies of the Comments of Tennessee to the September 15, 2015 Report on Investigation into Potential Approaches to Mitigate Wholesale Electricity Prices Prepared by The Staff of the New Hampshire Public Utilities Commission.

Please contact me if there are any questions about this filing. Thank you.

Very truly yours,

Douglas L. Patch

Enclosure
1382357_1

P 603 224-2381 F 603 224-2318 W orr-reno.com | 45 S. Main Street | PO Box 3550 | Concord, NH 03302-3550

THE STATE OF 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

Comments of Tennessee Gas Pipeline Company, L.L.C. regarding the September 15, 2015 Report on Investigation into Potential Approaches to Mitigate Wholesale Electricity Prices Prepared by The Staff of the New Hampshire Public Utilities Commission

October 15, 2015

I. Procedural History

The Commission opened this docket on April 17, 2015 through an Order of Notice in which it announced an investigation into potential approaches to addressing cost and price volatility issues affecting wholesale electricity prices in New Hampshire. In that Order of Notice the Commission cited New Hampshire's electric restructuring law, RSA 374-F, and described how competitive electricity markets had developed in New Hampshire at both the wholesale and retail levels. The Commission further noted that until recently, market competition at the wholesale and retail levels had kept the price of electricity at reasonable levels. However, the Commission also noted that over the past two years, because of an increasing dependence on natural gas-fueled electric generation plants and significant constraints on natural gas resources, there has been extreme volatility in gas markets in the winter months and sharply higher wholesale and retail electricity prices. Citing its fundamental duty to ensure that rates are just and reasonable, as well as the New Hampshire Ten-Year Energy Strategy's multi-level approach to addressing New Hampshire's energy challenges, the Commission said that it shared ISO New England's view that the potential development of natural gas resources in our region should be carefully considered. Noting that a Staff investigation examining the gas-resource constraint problem may yield potential solutions to the market issues, the Commission directed Staff to inquire with the electric distribution companies ("EDCs") and other stakeholders into potential means of addressing the market problems.

Over the course of the summer Staff conducted the inquiry as directed by the Commission, soliciting initial comments from a broad spectrum of stakeholders, and following up with data requests and meetings with stakeholders as part of its information gathering effort. On July 10, 2015 the Staff issued a Memorandum, Gas Capacity Acquisitions by N.H. Electric Distribution Utilities ("the Memorandum"), in which it described the Commission's underlying legal authority to take action to address wholesale price volatility, and laid out preliminary criteria for the assessment of whether a proposal by an EDC for the acquisition of gas capacity resources for provision to merchant generators, and recovery of related costs, would be in the public interest, and result in just and reasonable rates for approval by the Commission. On September 15, 21015 Staff submitted The Report on Investigation into Potential Approaches to Mitigate Wholesale Electricity Prices Prepared by The Staff of the New Hampshire Public Utilities Commission ("the Report"). By letter of the Executive Director dated September 18, 2015 the Commission adopted Staff's recommendation that interested persons submit comments on the Report no later than October 15, 2015. Tennessee Gas Pipeline Company, L.L.C.

("Tennessee") submits these Comments on the Report in accordance with the Executive Director's September 18th letter in this docket.

II. Summary of the Report's Significant Findings

In summary, the Report found that while both the Northeast Energy Direct ("NED") and the Access Northeast natural gas pipeline projects are two very cost-effective projects that will moderate future winter electricity prices, the NED project will provide the greatest benefits to regional electricity customers.[1] Staff's principal recommendation in the Report was that if the Commission chooses to participate in regional procurement of natural gas capacity for the benefit of electric customers it should ensure that such procurement is conducted through an open and transparent process that is competitive and results in the lowest possible costs to consumers. The Report concluded that EDCs have the authority to enter into gas capacity contracts for the benefit of gas-fired generators. While the Report also found that the pipeline projects will enhance electric grid reliability by providing gas generators with access to firm fuel supplies through firm transportation and no-notice services, it placed less weight on reliability benefits and more weight on the benefits of price mitigation that the pipeline projects would bring to New Hampshire and the New England region.

The Report cited the ICF International studies conducted for both pipeline projects, using the same methodology to analyze future electric prices in New England both with and without the pipeline projects. The ICF studies showed that without the development of the pipeline

[1] While the Report did discuss the Portland Natural Gas Transmission System ("PNGTS") pipeline and the fact that it is in the early stages of developing a new expansion of its system, it said that PNGTS did not present any studies of the potential energy cost savings associated with its proposed expansion project and without such information Staff could offer no quantitative assessment of that project's ability to mitigate wholesale electricity prices. Report at 31.

projects, average natural gas prices would increase steadily due to expected growth in the demand for natural gas for heating and electric generation, as well as the decrease in gas supplies from Atlantic Canada and continued bottlenecks on the Algonquin pipeline. With the development of the pipeline projects, the ICF analyses showed significant savings in wholesale energy costs over the first ten years after each project is placed in service and beyond, providing a range of estimates depending on low and high price volatility scenarios, with the estimated savings being even larger in the case of high price volatility.

Staff estimated benefit to cost ratios for the NED pipeline to be 5.25 to 7.0 not including the value of enhanced electric grid reliability and the investment cost to provide enhanced transportation services. Staff's estimate of the benefit to cost ratio for the Access Northeast project was in the range of 1.3 to 2.0. The Report also estimated that the Commission would have to approve a distribution surcharge on all NH electricity customers of about 3.3 mills per kWh for the NED project, 4.8 mills for the Access Northeast project, noting that revenues from the release of pipeline capacity to gas generators or secondary market participants would further lower any distribution surcharge.

Staff's Report also noted that upon completion of the NED project Tennessee will have the ability to physically deliver natural gas into every pipeline system serving New England and to incrementally serve markets along its own pipeline system, thus allowing Tennessee through the NED project to play a critical role in serving future generation expected to be located in the Central Massachusetts Hub area, thereby lowering wholesale electricity prices.

Noting the Conservation Law Foundation's ("CLF") argument that the most cost-effective way to address the current shortage of pipeline capacity is to increase utilization of the region's liquefied natural gas ("LNG") infrastructure (through LDC-owned satellite LNG storage and vaporization facilities and onshore and offshore LNG import facilities) rather than constructing new natural gas pipelines, the Report said that CLF's position was based on an unrealistically low estimate of the volume of LNG required to meet the capacity deficits under normal and design weather conditions. The Report said that the volume of LNG required to meet capacity deficits would be far greater than CLF estimated thus reducing if not eliminating the claimed cost savings as compared with pipeline capacity purchases.

In the event that New England states decide as a group to proceed with procurement of incremental pipeline capacity on a regional basis, the Report strongly recommends that regulators ensure that the needed capacity be allocated among pipeline projects through an open and transparent process that is demonstrably competitive in order to provide the lowest possible cost to consumers. Citing the fact that most of the largest EDCs in New England are affiliated with the sponsors of one of the pipelines, the Report says that absent an arms-length competitive solicitation process, there is a significant risk that negotiations between a project sponsor and potential customers would not produce the most advantageous cost and commercial terms for consumers and that such a process could result in lengthy delays due to litigation.

III. Tennessee's Comments

Tennessee applauds Staff's efforts in conducting what Tennessee believes is an extremely comprehensive and detailed analysis of a significant amount of information, including many studies on this issue. Tennessee submits that Staff accurately summarized the positions of the different stakeholders and the impact that the NED pipeline and Access Northeast will have on wholesale and retail electric rates. While Tennessee recognizes that some stakeholders have a different view, it submits that Staff's findings in the Report are supported by the vast weight of the evidence not just in this proceeding, but also in parallel proceedings in the region.

Since the Report was issued, the Massachusetts Department of Public Utilities ("MDPU") on October 2, 2015 issued an Order Determining Department Authority Under G.L.C. 164, § 94A in Docket D.P.U. 15-37 ("the Order"), in which it found that increasing regional pipeline capacity will lead to lower gas and electric prices for Massachusetts ratepayers and in the region. Order at 12 and 26. The MDPU also recognized in this Order the need for a competitive, transparent procurement process that avoids conflicts of interest. Order at 44. Tennessee submits that the MDPU Order and findings confirm the Report's findings. Similarly, in three earlier orders in which it approved firm transportation agreements between local distribution companies and Tennessee, the MDPU found that imported LNG is too expensive compared to the NED capacity, would not offer the significant operational benefits of the NED project, that trucking LNG during the winter to increase overall vaporization while maintaining sufficient inventory would pose significant safety concerns, and that using LNG tankers from around the world in lieu of the NED capacity, would disregard safety, scheduling restrictions, and reliability concerns. Orders dated August 31, 2015 in Massachusetts D.P.U. 15-34; 15-39 and 15-48, Approving Precedent Agreements for Berkshire Gas Company, Boston Gas Company, and Bay State Gas Company.

These findings in Massachusetts proceedings support Staff's cautions against relying on LNG (in lieu of developing new pipelines) as being sufficient to address the cost and price volatility issues affecting wholesale electricity prices in New Hampshire and the region. In its recent Order approving Liberty Utilities' (EnergyNorth) precedent agreement with Tennessee, the Commission made a similar finding when it said that the LNG global market is "unstable" and that it might "compromise the reliability of service to EnergyNorth's customers at the least cost." Order No. 25,882 in DG 14-380 (October 2, 2015) at 29.

The Report included an analysis of the Commission's statutory authority and the EDCs' authority under New Hampshire law related to potential acquisition of gas infrastructure capacity by New Hampshire EDCs. Tennessee concurs with Staff's legal analysis contained in the Report. In addition to the statutes which the Report and the earlier Staff Memorandum cite supporting the authority of EDCs and the Commission to undertake an EDC capacity purchase program, Tennessee notes that the purpose clause of the electric restructuring law identifies the "development of competitive markets for wholesale and retail electricity services" as being "key elements in a restructured industry…" RSA 374-F:1, I. In addition, a provision of the restructuring law requires EDCs to "work to reduce rates for all customers." RSA 374-F:3, XI. Under RSA 374:26, the Commission has broad authority to prescribe terms and conditions that it considers to be in the public interest for the exercise of being a public utility. Moreover, under RSA 374-F:8, the Commission has the duty and responsibility to advance the interests of New Hampshire with respect to wholesale electric issues. Finally, the Legislature articulated in RSA 369:1, II that the transition to competitive markets for electricity is a "complex endeavor" that "requires the development of creative and flexible mechanisms…"

In support of the Report's reference to the Commission's broad regulatory authority and discretion to act in the public interest, Tennessee notes that there is a long line of New Hampshire Supreme Court cases that recognize the Commission's broad authority over its regulated utilities. *See, e.g., Allied New Hampshire Gas Co. v. Tri-State Gas & Supply Co.*, 107 N.H. 306, 308 (1966); *Appeal of Granite State Elec. Co.*, 120 N.H. 536, 539 (1980); *Harry K. Shepard, Inc. v. State*, 115 N.H. 184, 185 (1975).

Tennessee strongly supports the Report's conclusion that RFP-based competitive processes are critical to the economic procurement of gas capacity at the lowest cost by EDCs from pipeline developers in order to protect ratepayer interests to ensure that cost recovery is just, reasonable and in the public interest. Report at 12. Tennessee notes again that the Massachusetts DPU has come to a similar conclusion, and that such an approach is clearly consistent with least cost planning requirements embodied in New Hampshire law. RSA 378:37.

Tennessee wishes to call the Commission's attention to Staff's earlier Memorandum dated July 10, 2015 in this docket in which Staff laid out a list of preliminary criteria for the assessment of whether a proposal by an EDC for the acquisition of gas capacity and recovery of related costs would be in the public interest and result in just and reasonable rates. Those criteria included: there must be a clear, verifiable cost-benefit advantage for EDC customers, which could include a focus solely on default service customers or could include all EDC customers; gas capacity arrangements must be done at arm's length in compliance with affiliate transaction rules, through an RFP selection process to insure compliance with least cost and reliability criteria; there must be a demonstration that such an arrangement would not result in undue harm to competitive markets; and there must be a demonstration that the arrangement is unlikely to result in stranded or deferred costs for customers. TGP believes that the criteria Staff listed in the Memorandum provide a good foundation for the parameters of this program. For comparison purposes see also the Filing Requirements which the Massachusetts DPU included in its October 2, 2015 Order in P.P.U. 15-37, at 44. Tennessee submits that Commission articulation of specific filing requirements like those included in the Memorandum and the MDPU Oder would be of great assistance to an EDC in fulfilling its responsibility of providing just and reasonable rates and working to reduce rates for customers. See RSA 374:2 and RSA 374-F:3, XI.

IV. Conclusion

Tennessee urges the Commission to work expeditiously with other New England states toward regional procurement of natural gas capacity for the benefit of electric customers and in doing so to ensure that such procurement is conducted through an open and transparent process that is competitive and results in the lowest possible costs to consumers.

Tennessee appreciates the opportunity to provide comments on the Report and looks forward to continuing to work with the Commission, Staff and stakeholders on the important issues raised by this docket.

1380970_1