

LAW OFFICES
ARTHUR B. CUNNINGHAM
79 Checkerberry Lane, Hopkinton, NH 03229

NHPUC OCT15'15 PM12:27

October 15, 2015

Debra A. Howland
Executive Director and Secretary
Public Utilities Commission
21 South Fruit Street
Concord, NH 03301-2429

Re: IR 15-124, Electric Distribution Utilities

Dear Secretary Howland:

In accordance with Puc 203.02, I enclose an original and 6 paper copies of the comments of the Town of Fitzwilliam, New Hampshire, to the Report of Investigation into Potential Approaches to Mitigate Wholesale Electricity Prices (Report) filed by Public Utilities Commission Staff on September 15, 2015.

The concern¹ of the Town of Fitzwilliam regarding the April 17, 2015, Order of Notice in the captioned docket, was that the docket, styled “investigatory” would impair the rights of the Town in future adjudicative proceedings including the Federal Energy Regulatory Commission (FERC) and the New Hampshire Site Evaluation Committee (SEC) regarding the Northeast Energy Direct (NED) project. Adjudicative proceedings in those bodies are statutorily charged with the responsibility of determining the necessity of energy projects and the impacts of those projects on towns such as Fitzwilliam. The Public Utilities Commission has no such role.

The Town concern was predicated on the language of the Order of Notice which expressed a manifest bias in favor of pipeline expansion.

The pipeline bias was evidenced by this language a page 3 of the Order of Notice:

“A targeted Staff investigation to examine the gas-resource constraint problem that is affecting New Hampshire’s EDCs and electricity consumers generally may yield potential solutions to these market issues. To that end, we direct Staff to enquire with the EDC’s—which are to be mandatory participants in this investigation—regarding potential means of addressing these market problems, using legal authorities such as , but not limited to, RSA Chapter 374-F; RSA Chapter 374-A; RSA Chapter 378; RSA 378:37-41; and, RSA 374:57.” That bias was reflected in the conclusions reached by Commission Staff in the Report that the “...that NED will provide the greatest benefit to regional electricity customers.... (Report, Executive Summary, page 4).

¹ Town concern was expressed in its Petition for Intervention filed May 11, 2015, well in advance of any “investigatory” processes in the docket.

That bias was reflected in the conclusions reached by Commission Staff in the Report that the "...that NED will provide the greatest benefit to regional electricity customers..." (Report, Executive Summary, page 4).

The "investigative process" conducted by Commission Staff was done *in camera* by privately interviewing pipe line developers, including Kinder Morgan, sponsor of the NED project. The interviews were done off record, without right of discovery or cross-examination.

The lack of transparent and fair process was compounded by Staff when it encouraged the developers to submit confidential materials for consideration. The Commission, over the objection of the Town, approved the secrecy.

The process was opaque with a pre-determined outcome, unfair to the town of Fitzwilliam which will be adversely impacted by the NED project.²

Please place this letter in the docket.

Should the NED project developer use the Report as a finding of or evidence of necessity in any venue charged with the adjudicative responsibility to make a necessity determination, it will be met with the strongest possible objection by the Town of Fitzwilliam.

Very truly yours,


Arthur B. Cunningham

² The NED project will have substantial impacts on southern New Hampshire, not Fitzwilliam alone, yet the Report makes no analysis of the destination of the gas that may be transported in the NED pipeline. There is no data of record regarding New Hampshire uses of the gas, the identities of its end users or customers. Who in New Hampshire will benefit? Will it be used for electricity generation, residential use and/or industrial use?