

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No.: DE 16-241

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY

**Petition for Approval of Gas Capacity Contract with Algonquin Gas Transmission, LLC,
Gas Capacity Program Details, and Distribution Rate Tariff for Cost Recovery**

**INITIAL BRIEF
OF THE NEW HAMPSHIRE MUNICIPAL PIPELINE COALITION**

On February 18, 2016, Public Service of New Hampshire d/b/a Eversource (“Eversource” or “Company”) filed a petition (“Petition”) with the New Hampshire Public Utilities Commission (“Commission”) for approval of a 20 year contract between Eversource and Algonquin Gas Transmission, LLC (“Algonquin”) for natural gas capacity on Algonquin’s Access Northeast project, and recovery of associated costs through a new distribution rate tariff, to be assessed on all Eversource customers. *See* Petition at Bates 000003-4. Under the proposed Access Northeast contract, Eversource will hold contractual entitlements for firm gas transportation and storage deliverability up to a Maximum Daily Transportation Quantity of 66,600 MMBtu/day. *See* Petition at Bates 000010. Eversource states that this contract quantity reflects the electric load share of Eversource within the load served by all investor-owned electric distribution companies (“EDCs”) in New England. *Id.*

On March 24, 2016, the Commission issued an Order of Notice (“Notice”) in the above referenced matter. As stated in the Notice, the filing raises questions relating to whether this contract is allowed by and consistent with New Hampshire law, as well as with the Commission’s plenary authority with respect to utility rates. Notice at 3. The Commission directed as part of a two phase review that parties submit an initial brief with respect to whether the Access Northeast contract is allowed under New Hampshire law.

Pursuant to the Notice, the New Hampshire Municipal Pipeline Coalition (“Coalition”) submits this brief. As noted below, the Coalition concurs with the position of the Office of Consumer Advocate’s (“OCA”) brief in the above-reference proceeding. The Coalition submits that the Access Northeast contract is not authorized by New Hampshire statutes and there is no compelling reason to alter the traditional ratemaking regulatory scheme and the historic separation of the gas and electric markets.

I. The Proposed Contract Is Not Authorized by New Hampshire Law.

Eversource’s claim that the Commission is authorized to approve this contract and allow “for recovery of costs associated with agreements executed for the provision of interstate pipeline transportation and gas storage services for electric generation services in the ISO-NE region” is without merit. *See* Petition at Bates 000015. Existing New Hampshire statutes do not authorize electric utilities to enter into contracts with natural gas companies as proposed.

On the contrary, RSA Chapter 374-A, 374:57, RSA 378:37-38 and RSA 374-F, do not provide any authority for a regulated electric utility to recover costs incurred for gas capacity from its ratepayers. Specifically, as OCA correctly notes: (i) RSA 374-A cannot be equivocally read to authorize the execution of this contract; (ii) RSA 374:57 does not on its face suggest that “transmission capacity” includes natural gas transmission¹; (iii) RSA 378:37 and :38 does not

¹ Eversource cites RSA 374:57 in an effort to demonstrate the Commission’s authority to review electric utility contracts involving the purchase of transmission capacity, and suggests that “transmission capacity” can refer to both natural gas and electric “transmission.” *See* Comments of Public Service Company of New Hampshire d/b/a Eversource Energy Re: Staff’s July 10, 2015 Memorandum (“Eversource Memo”) in Docket IR 15-124 at 12-13. While the Company reaches the conclusion that the Legislature did not limit “transmission capacity” to only electric transmission capacity, it is unable to explicitly reference any *relevant* statutes to support this claim and the plain meaning and regulatory context of the statute indicates otherwise.

extend Eversource's planning obligation to include an expanded role in gas supply procurement;² and (iv) RSA 374-F, relating to restructuring, provides no support for the Eversource's proposal.³ In short, notwithstanding Eversource's assertions to the contrary, the Coalition agrees with OCA that Eversource's proposal contravenes the plain meaning of the statutes and is inconsistent with fundamental ratemaking principles requiring that customers are charged for "just and reasonable rates" as set forth in RSA 378:7.

II. There is No Compelling Reason to Fundamentally Alter the Traditional Regulatory Framework.

In support of its proposal, Eversource asserts that there is a regional need that justifies its unprecedented request to charge New Hampshire ratepayers costs associated with a regional gas transportation capacity contract. *See* Petition at Bates 000001-2. However, there is no demonstrated regional need for incremental interstate gas pipeline transportation and storage services. In November, 2015, the Massachusetts Attorney General, in its report prepared by Analysis Group, Inc. ("Report") determined, among other things, that new interstate gas pipeline capacity is not required for power system reliability in New England. As noted in the Report:

² Eversource notes that "EDCs are required to plan for adequate resources to meet the expected demands of their customers." Eversource Memo at 6. Relying on RSA 378:37-38, the Company extrapolates that "securing rights to an adequate gas supply, in light of the region's dependence upon gas supply for electric generation, is squarely within the scope of that obligation." *Id.* While EDCs do have a planning obligation, there is nothing in the statute that would extend this planning requirement to enable Eversource to recover costs for an investment that is unrelated to its traditional electric business.

³ Staff correctly noted in its memorandum in Docket IR 15-124 that that the "acquisition of gas capacity for use of gas-fired generators and, by extension, the benefit of EDC customers, would violate the principle of separation of distribution and generation functions, and is therefore prohibited." *See* Memorandum of Staff Attorney Alexander F. Speidel of July 10, 2015 in Docket IR 15-124 citing RSA 374-F:3, III at 2. The Coalition agrees with OCA, that by subsidizing an increased reliance on natural gas generation through its customers, Eversource has impermissibly crossed the statutory threshold separating generation from transmission and distribution.

“[] The combination of declining demand and the success of [recent changes to wholesale markets] will likely accomplish intended results: power system reliability will be maintained going forward, including at the time of winter peak demand.” Report at vi. The Coalition respectfully requests that the Commission undertake a similar study as part of its initial review in this docket and not rely upon unfounded assertions promulgated by Eversource.

Moreover, even assuming that there is a need, no explanation has been offered for why EDCs should contract for gas pipeline capacity instead of gas generators, as is traditionally done. In other words, why should established regulatory schemes and separation of gas and electric markets be disrupted when the existing regulatory framework provides a viable path forward? This is an especially salient consideration in light of Eversource’s claim that that they are not “proposing that any EDC would contract for pipeline or LNG capacity on behalf of one or more electric generators. Instead...the EDCs would be contracting for capacity that would be made available generally to electric generators, but no generator would be compelled to take or use it.” Eversource Memo at 10. Indeed, the objective of introducing additional gas resources into the market can be more readily achieved by continuing to allow generators to contract for gas supply, as provided for in the current unregulated regime.

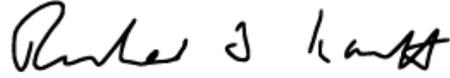
III. Conclusion.

For the above reasons, the Petition should be denied. There is no authority or demonstrated need for the Company’s proposal as filed.

Respectfully Submitted,

**New Hampshire Municipal Pipeline
Coalition.**

By its attorneys,

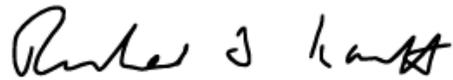


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Certificate of Service

I hereby certify that on April 28, 2016, pursuant to Puc 203.02 & 203.11, I served an electronic copy of the foregoing document on each person identified on the Commission's service list for this docket and with the Office of the Consumer Advocate, by delivering it to the email address specified on the Commission's service list for the docket.



Richard A. Kanoff