

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

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**

**REPLY BRIEF
OF
THE COALITION TO LOWER ENERGY COSTS**

The Coalition to Lower Energy Costs (“CLEC”) files this Reply Brief in response to arguments made by NEXTERA Energy Resources, LLC (“NEER”) in its principal brief. To summarize, NEER erroneously attempts to recharacterize the question before this Commission. NEER argues that in order for the New Hampshire Public Utilities Commission (“Commission”) to proceed to investigate the Eversource proposal that is designed to reduce electric rates and costs, the Restructuring Act (RSA 374-E, et seq.) must be read to positively authorize investment in natural gas infrastructure by electric distribution companies (“EDC”). (NEER Brief, 9-11). Such an argument inverts the structure of New Hampshire utility regulation and thus turns the purposes and obligations of the Restructuring Act and other statutes governing EDCs and this Commission to assure lower costs and reliable service to consumers upside down.

The appropriate way to pose the issue presented in this phase of this proceeding is to ask: do the Restructuring Act, the statutes and case law conferring on the Commission longstanding and fundamental responsibilities to assure just and reasonable outcomes for entities the Commission regulates prohibit EDCs from contracting for natural gas pipeline capacity. Given

the state of the electric power markets and structures currently existing in New England, and the relevant statutes and law the resounding answer to this question is “NO.”

As this Reply Brief will demonstrate, what the Staff identified as the appropriate issue to raise in this proceeding and the result the Staff reached in answering this question is fully supported by the relevant statutory and case law and clearly authorizes the Commission to enter into its investigation of the merits of the Eversource proposal.

Read in the Context of the Legal Power of EDCs, the Purposes of the Restructuring Act and Other Provisions of Law, the Commission has the Right and Duty to Authorize EDCs to Enter into Contracts to Create Infrastructure Investments that will Benefit Consumers through Lower Rates, Improve System Stability and Reliability and Mitigate Environmental Harms.

At this stage of the proceeding the merits of the Eversource proposal are not an issue. That important inquiry is left to the second phase of this docket. What is before the Commission in this phase of the proceeding is whether the Commission may authorize and even require EDCs to enter into long-term contracts to support natural gas pipeline expansion into New England in light of the current state of the electric power markets in New England.¹ Of critical importance is the interpretation by this Commission of various statutory provisions of New Hampshire in this context.

First, CLEC incorporates by reference, as an essential starting point for this analysis our prior explication of EDC authority. With this grant of authority in mind, the CLEC Initial Brief has provided the proper perspective from which to read the relevant statutes.² One statutory provision that has been cited with great frequency in all of the briefs on this issue is the single sentence in the Restructuring Act (RSA 374-F:3, III):

¹ CLEC Initial Brief, at 18-19.

² Id. 6-10.

“Generation Services should be subject to market competition and minimal regulation and at least functionally separated from transmission and distribution services which should remain regulated for the foreseeable future.”

This sentence appears in the Restructuring Act as part of a series of “Restructuring Policy Principles” that include maintaining reliable service (374-F:3, I); that cite to the essential nature of electric service (374-F:3, V (a)); that restructuring should benefit all customers (374-F VI); that environmental protection and long-term environmental sustainability should be encouraged and increased competition should be implemented to support environmental improvement (374-F VIII); that the goal of restructuring is to create competitive markets that are expected to produce lower prices for all customers 374-F XI); given New Hampshire’s higher than average regional prices for electricity, utilities in the near term should work to reduce rates (374-F XI).

These “principles” are set forth in the context of the statement of the overarching purpose of the Restructuring Act which is:

The most compelling reason to restructure the New Hampshire utility industry is to reduce costs for all consumers ... (374-F:1, emphasis added).

The Commission as a fundamental aspect of its regulatory authority has broad powers to assure that services are safe, adequate, just and reasonable; meet the energy needs at the lowest reasonable cost and to order reasonable and just improvements in service.³

To conclude as NEER has done, that the Restructuring Act must authorize EDCs to enter into long-term pipeline capacity contracts before the Commission can consider the merits of the Eversource proposal is unfounded in light of the overriding purpose and principles of the Restructuring Act, and the Commission’s longstanding and fundamental authority to regulate the electric power industry in New Hampshire. What has been proposed by Eversource is an investment in infrastructure that will enable generating units in New England to obtain natural

³ Op. Cit. 18-26

gas at lower prices than otherwise has occurred and will occur and concomitantly will lower prices for New Hampshire's consumers.⁴

Respectfully Submitted,



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⁴ Id.