

Richard Husband
10 Mallard Court
Litchfield, NH 03052

June 2, 2016

VIA E-MAIL (Executive.Director@puc.nh.gov and puc@puc.nh.gov)

Debra Howland Executive Director and Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord New Hampshire 03301

**RE: DE 16-241
Petition for Approval of Gas Infrastructure Contract with Algonquin
Gas Transmission, LLC**

Dear Ms. Howland:

Please file this with the public comments for the above-referenced proceeding.

As is set forth in the March 24, 2016 Order of Notice (“Order of Notice”) for this proceeding:

“In its petition, Eversource seeks approval of: (1) a 20-year interstate pipeline transportation and storage contract providing natural gas capacity for use by electric generation facilities in the New England region (Access Northeast Contract); (2) an Electric Reliability Service Program (ERSP) to set parameters for the release of capacity and the sale of LNG supply made available to electric generators through the Access Northeast Contract; and (3) a LongTerm Gas Transportation and Storage Contract (LGTSC) tariff for Eversource rates, to be applied through uniform cents-per-kWh rate on all retail electric customers served by Eversource, to provide for recovery of costs associated with the Access Northeast Contract. If Eversource were to receive the approval of the Commission, Eversource would release the natural gas capacity to the electric generation market in accordance with an Algonquin Electric Reliability Service tariff, approved by the Federal Energy Regulatory Commission (FERC) as a wholesale gas tariff that would reflect the ERSP structure approved by the Commission.”

We are currently in the first phase of the proceeding, which determines the legality of the proposed Access Northeast Contract and new LGTS tariff “to be applied ... on all retail electric customers served by Eversource, to provide for recovery of costs associated with the [pipeline project contract].” *See* above for quoted text.

In addition to all of the reasons compelling a conclusion of illegality discussed in the various briefs opposing the proposed contract and tariff, the Commission should find the contract and tariff to be legally untenable as contrary to the first requirement for FERC pipeline project certification.

According to the FERC itself, the policies set forth in Public Law of PL99-3 establish the key—if not sole—criteria for its legal approval of natural gas pipeline projects. *See* page 49 at http://www.mason-nh.org/FERC_Scoping_Transcripts.pdf.

Public Law of PL99-3 is clear:

“The threshold requirement in establishing the public convenience and necessity for existing pipelines proposing an expansion project is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers.”

See page 19 at <http://www.ferc.gov/legal/maj-ord-reg/PL99-3-000.pdf>, and discussion at 19-22.

The proposed Access Northeast Contract between Eversource and Algonquin Gas Transmission, LLC (“Algonquin”) is plainly an expansion project, as is acknowledged in Eversource’s underlying petition. *See* ¶ 18 at https://www.puc.nh.gov/Regulatory/Docketbk/2016/16-241/INITIAL%20FILING%20-%20PETITION/16-241_2016-02-18_PSNH_DBA_EVERSOURCE_PETITION_CONTRACT_AGTLCC.PDF (referencing two other Algonquin pipeline projects as ones “which **similarly expand** the capacity of the Algonquin system.”)(emphasis added).

As the natural gas purchased under the proposed contract will be used to generate electricity for existing Eversource customers, with the new LGTS tariff subsidizing the project at the expense of such customers, the project does not meet the first criteria for FERC approval, whether or not those customers are gas customers: the result is the same prohibited subsidization of an energy project under Public Law of PL99-3. The same, of course, would be true if the proposed new LGTS tariff were added to electric bills with respect to any other similar pipeline project—such as the previously proposed Northeast Energy Direct pipeline project (or any configuration thereof), for example.

Sincerely,

/s/Richard Husband
Richard Husband