

BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

_____)	
Eversource Energy Petition for approval of Gas)	
Infrastructure Contract with Algonquin Gas)	
Transmission, LLC)	DE 16-241
_____)	
_____)	

**PETITION FOR LEAVE TO INTERVENE OF
NEXTERA ENERGY RESOURCES, LLC**

Pursuant to New Hampshire Public Utilities Commission (“Commission”) Code Admin. Puc Rule 203.17 and RSA 541-A:32 and the Order of Notice dated March 24, 2016, NextEra Energy Resources, LLC (“NEER”) hereby petitions the Department for leave to intervene in the above-referenced proceeding.

BACKGROUND

In its *Investigation into Potential Approaches to Ameliorate Adverse Wholesale Electricity Market Conditions in New Hampshire*, Docket No. IR 15-124 (the “Investigation”), the Commission received preliminary views on the hypothetical question of whether an electric distribution company (“EDC”) in a restructured environment could under New Hampshire law nonetheless enter into a long-term contract to support development of gas pipeline infrastructure and thereby place the cost and risk of those investments on the EDC’s electricity ratepayers. In its January 19, 2016 *Order Accepting Staff Report and Stakeholder Comments, and Outlining Review Process for Any Petitions for Capacity Acquisitions and Associated Competitive Bidding* (Order No. 25,860), the Commission determined that the legal question should be analyzed and determined in the context of an actual petition following a competitive bid process and that the proceeding would be in two phases: the first to address the question of whether the proposed contract is lawful and, if so, a second phase would be opened “to examine the appropriate

economic, engineering, environmental, cost recovery, and other factors presented by the actual proposal.” (Order No. 25,860 at 3.)

On February 18, 2016, Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) filed a petition for approval of its proposed gas infrastructure contract with Algonquin Gas Transmission, LLC for the Access Northeast project (the “Petition” or “Eversource’s Petition”).

As reflected in Attachment A hereto, NEER subsidiaries produce power fueled by nuclear, natural gas, and oil in the existing competitive energy market in New England, including in New Hampshire. As a result, NEER’s rights, duties, privileges, immunities, or other substantial interests may be affected by this proceeding, and the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing NEER’s intervention. *See* RSA 541-A:32(I).

Eversource has filed a similar petition with the Massachusetts Department of Public Utilities for approval of its gas infrastructure contracts with Algonquin. *See Petition of NSTAR Electric Company and Western Massachusetts Electric Company, each doing business as Eversource Energy, for Approval of Firm Gas Transportation and Storage Agreements with Algonquin Gas Transmission Company, LLC, pursuant to G.L. c. 164, § 94A*, Docket Number D.P.U. 15-181 (the “MA Petition”). On March 8, 2016, the Hearing Officer in the MA Petition granted NEER’s request to intervene as a full intervenor in that docket, finding that NEER “is substantially and specifically affected by [the MA Petition].” *See* MA Petition, Hearing Officer Ruling on Petitions to Intervene (March 8, 2016) at pp. 2 and 7. For the same reasons, NEER satisfies the standards for full intervenor status set out in RSA 541-A:32(I).

In further support of this petition, NEER states as follows:

DISCUSSION

I. The Eversource Petition and Intervention Standards

1. In its February 18, 2016 Petition, Eversource requests the Commission’s approval of

(1) the ANE Contract, which is a 20-year interstate pipeline transportation and storage contract providing natural gas capacity for use by electric generation facilities in the ISO-NE region; (2) an Electric Reliability Service Program (“ERSP”) to set parameters for the release of capacity and the sale of liquefied natural gas (“LNG”) supply available by virtue of the ANE Contract; and (3) a Long-Term Gas Transportation and Storage Contract (“LGTSC”) tariff, which allows for recovery of costs associated with the ANE Contract.

See Eversource Petition at ¶ 5.

2. Intervention is mandatory where the “petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding . . . [and] [t]he presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.” RSA 541-A:32(I). NEER meets that standard.

II. NEER satisfies the standards for mandatory intervention in this proceeding.

A. NEER’s rights, duties, privileges, or other substantial interests may be affected by this proceeding.

3. As reflected in Attachment A, NEER participates in various aspects of the energy markets in New England and has substantial interests that may be affected by this proceeding in fundamental ways. The Eversource proposals are intended to interfere with existing market-based programs by using EDC ratepayer guarantees to subsidize investment in infrastructure that favors one type of fuel—natural gas—over all others. The ramifications of this will be felt by all electricity generators in the region (whether fueled by natural gas, nuclear, gas/oil or renewable sources). The potential changes in generation mix in the region resulting from EDC ratepayer subsidies for natural gas would be disruptive to the energy markets and may significantly affect

energy prices and state-level energy policies. As a significant participant in all of these markets, and with generation plants that rely on a mix of fuels, NEER's rights, duties, privileges, or other substantial interests may be affected by this proceeding.

4. NEER also has affiliates that buy and sell natural gas at wholesale in the region, both for its generating assets and for other customers. Because Eversource's Petition proposes an intervention in the market for natural gas in the region that will disrupt and distort that market, by positioning a new entity as an EDC-subsidized, privileged provider of natural gas commodities insulated from financial risk through the proposed Electric Reliability Service Program, it may affect NEER's substantial interest in conducting transactions in wholesale natural gas markets.

B. The interests of justice and the orderly and prompt conduct of this proceeding would not be impaired by allowing NEER to intervene.

5. The proposal presented by the Eversource Petition calls into question the underlying fundamentals of how a restructured energy market should operate. The Commission has established a two-phased process that will allow for deliberative thought and contemplation of the intended, and perhaps unintended, consequences to the market and its participants should the Eversource Petition be granted. (*See, e.g.*, February 24, 2016 Order of Notice, pp. 3-4.)

6. If its petition is granted, NEER will submit briefs in the Phase I process that it expects will assist the Commission in making the decision whether Eversource's proposal to fund gas pipeline infrastructure through Eversource electricity ratepayers is lawful and in compliance with the Commission's prior orders.

7. If the Commission determines that an EDC may lawfully contract to fund gas pipeline infrastructure, in Phase II NEER expects to present evidence supporting its contentions above, including but not limited to evidence relating to legal obstacles associated with approving or

implementing proposals included in Eversource's Petition, evidence relating to the costs and benefits of the proposals contained in Eversource's Petition and flaws in Eversource's analysis of such costs and benefits, evidence relating to the lack of ratepayer safeguards in Eversource's proposal, evidence relating to the process implemented by Eversource to select and develop the proposals contained in its Petition, evidence relating to the proposed affiliate transactions and conflicts of interest with regard to Eversource's Petition, evidence relating to the effect Eversource's proposals would have on energy markets, and evidence relating to how the proposals contained in Eversource's Petition are not in the public interest.

8. Given NEER's significant experience in these markets detailed in the Background Section and Attachment A, the interests of justice would be served by NEER's participation in this docket.

9. NEER's participation will not delay this proceeding or frustrate its purpose. As described above, NEER will contribute to the development of a full and complete record.

10. For the reasons stated above, NEER's participation in this proceeding is necessary and appropriate under RSA 541-A:32(I), without any conditions on NEER's participation.

WHEREFORE, NEER respectfully requests that the Commission GRANT this Petition for Leave to Intervene as a full party in the above-referenced docket.

Respectfully Submitted,

NEXTERA ENERGY RESOURCES, LLC,

By its attorneys,

A handwritten signature in blue ink, appearing to be 'C. Roach', written over a horizontal line.

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