

March 14, 2016

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

Re: DE 16-241 Eversource Petition: Recent Actions Taken by the NH House of Representatives Relating to Long-Term Natural Gas Pipeline Capacity Contracts

Dear Ms. Howland,

I write to you regarding DE 16-241 in my capacity as a New Hampshire State Representative and member of the House Ways and Means Committee, but the views expressed are my own and do not purport to represent the views of the House or of the Ways and Means Committee unless otherwise stated herein. My purpose in writing is to ensure that the record in this matter includes, and that the PUC fully consider the import of, certain actions recently taken by the House that are directly germane to the issues presented by the Eversource Petition.

**1. House Votes “Refer for Interim Study” for House Bill 1101 (HB 1101):**

On March 9, 2016, the House approved by voice vote the following unanimous Ways and Means Committee recommendation, thereby referring HB 1101 back to the Committee for Interim Study ([http://www.gencourt.state.nh.us/house/caljournals/calendars/2016/HC\\_14.pdf](http://www.gencourt.state.nh.us/house/caljournals/calendars/2016/HC_14.pdf), at page 43):

**“HB 1101, prohibiting charges to New Hampshire residents for the construction of high pressure gas pipelines. REFER FOR INTERIM STUDY.**

Rep. Richard Ames for Ways and Means. The New Hampshire Public Utilities commission (PUC) is currently considering whether to allow electric utilities (also known as Electric Distribution companies or EDCs) to enter into long term contracts acquiring gas transportation capacity on new high pressure natural gas pipelines. Such contracts, if approved by the PUC, would help finance pipeline development costs. The development costs covered by such an approved contract would then be recovered through involuntary assessments on the electric utility’s customers or ratepayers. The central legal issue is whether or not such capacity acquisitions by EDCs would violate the state’s electric utility restructuring principles as set out in RSA 374-F, particularly the principle calling for the functional separation of generating services, which are to be subject to open market competition, from transmission and distribution services, which are to continue under state regulation. In a January 19, 2016 order, the PUC stated that no consensus exists regarding the potential legality of such an acquisition of gas capacity by a New Hampshire EDC and that it expected that such a capacity acquisition and the related cost recovery would be highly controversial. HB 1101, both as originally filed and as clarified and focused in an amendment considered by the committee, would resolve this legal dispute by simply prohibiting the imposition of all such charges on ratepayers. On February 18, 2016, Eversource filed a petition requesting the PUC’s approval of a 20-

year interstate pipeline capacity acquisition contract. Similar proposals have been presented for approval in neighboring states. In these circumstances, retention of HB 1101 for interim study will allow the committee time to monitor over the next six months all legal developments relating to these pipeline capacity acquisition contracts here in New Hampshire and in neighboring states. Also, during this time, the committee will be able to gain a better understanding of the likely impact of these pipeline developments on natural gas prices, electric utility pricing, and carbon emissions in New Hampshire. Whichever way the PUC comes out on the basic question of the legality or illegality of the pipeline acquisition contracts, a committee report in October 2016 on whether or not further legislation is needed will be based on far better information than is now available. **Vote 21-0.**”

The operative text of HB 1101, as presented in amended form (Amendment # 2016-0315h) by its sponsors at the Ways and Means Committee’s public hearing on the bill (originally proposed as an amendment to RSA 162-H:10-c but more properly positioned by consensus of those testifying as an amendment to RSA 374-F or RSA 378), was as follows:

“Agreements or proposals by an electric utility for the acquisition of natural gas transmission capacity on a high pressure gas pipeline, and any tariffs, rates, charges or fees based in whole or in part on such agreements or proposals, are prohibited.”

All Ways and Means HB 1101 Interim Study meetings will be publicly noticed. The House Rule identifying the deadline for all Interim Study reports has not yet been issued, but it will likely be October 31, 2016. The official Committee Interim Study report on HB 1101 will be headlined “Recommended for Future Legislation” or “Not Recommended for Future Legislation,” and will be printed in a mid-November House Calendar.

## **2. House Votes “Ought to Pass” for HB 1148**

On March 10, 2016, the House rejected by a 163-169 roll call vote the Science, Technology and Energy Committee’s Majority (11-10) Inexpedient to Legislate recommendation and then approved by a 208-124 roll call vote the Committee’s Minority Ought to Pass recommendation, each such recommendation as printed in the House calendar (see [http://www.gencourt.state.nh.us/house/caljournals/calendars/2016/HC\\_14.pdf](http://www.gencourt.state.nh.us/house/caljournals/calendars/2016/HC_14.pdf), at pages 70-71), as follows:

**HB 1148**, relative to pipeline capacity contracts. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Herbert Vadney for the **Majority** of Science, Technology and Energy. The Public Utilities commission (PUC) has broad powers to evaluate all manner of energy issues including needs for future capacities for fuel transportation via pipelines. The committee believes that nothing is gained by specifying a long list of specifics which, in effect, would be telling the PUC how to do its job. Current law (RSAs 374:1, 374:2 and 378:7) already requires the PUC to review pipeline capacity contracts for prudence and to determine whether the terms of such an agreement are reasonable. **Vote 11-10.**

Rep. Howard Moffett for the **Minority** of Science, Technology and Energy. The minority believes this bill raises an important concern that deserves far more attention than it has

received: why should New Hampshire electric ratepayers be asked to pay for long-term capacity contracts on gas pipelines? Even those of us who feel that New England needs new interstate gas pipeline capacity, to reduce high winter wholesale and retail electric rates and price volatility, question whether retail electric ratepayers should be asked to guarantee payment on 20 year gas capacity contracts like default service ratepayers were asked to do for the mercury scrubber installation at Merrimack Station.

The text of HB 1148, as approved by the House, is as follows (see [http://www.gencourt.state.nh.us/bill\\_status/billText.aspx?id=523&txtFormat=pdf&v=current](http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=523&txtFormat=pdf&v=current)):

1 New Section; Public Utilities; General Regulations; Pipeline Capacity Contracts; Determination of Public Interest by Commission. Amend RSA 374 by inserting after section 7-a the following new section:

374:7-b Pipeline Capacity Contracts; Public Interest Determination by Commission.

I. As part of any investigation under RSA 374:7 of any pipeline capacity contract with a term of more than one year, the commission shall determine whether such contract is in the public interest. In evaluating the public interest, the commission shall consider:

(a) Whether such capacity contract is necessary and cost effective for New Hampshire ratepayers;

(b) Whether such capacity contract compares favorably to other reasonably available options in terms of its impact on the economy, environment, and climate;

(c) Whether the applicant has exercised due diligence in exploring alternatives that would reduce the need for private land takings including, but not limited to, fuller and more long-term utilization of existing infrastructure, contracts for gas storage along unconstrained pipeline corridors, enhancement of peak shaving measures, and co-location of energy infrastructure with major roadways; and

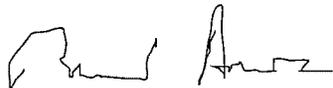
(d) Whether, for contracts exceeding a term of 3 years, the applicant has properly evaluated the potential for technological improvements in energy efficiency and storage to reduce or eliminate the need for new infrastructure.

II. The commission shall instruct applicants to consider alternative solutions that have a substantially lower overall impact on private property, including distribution system repairs or additions of laterals, provided that those alternatives would enable the delivery of comparable volumes of natural gas at prices which do not exceed historical norms.

2 Effective Date. This act shall take effect 60 days after its passage.

HB 1148 now goes to the Senate for further legislative action.

Thank you for your attention to this submission,



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