

ELECTRONICALLY FILED

STATE OF MAINE

Docket No. 2014-00071

PUBLIC UTILITIES COMMISSION

March 1, 2015

MAINE PUBLIC UTILITIES COMMISSION
Investigation of Parameters for Exercising
Authority Pursuant to the Maine Energy
Cost Reduction Act, 35-A M.R.S. § 1901

NORTHEAST ENERGY
SOLUTIONS, INC.'S
CONSOLIDATED RESPONSE IN
SUPPORT OF PNGTS' RESPONSE
AND OPPOSITION TO
TENNESSEE GAS PIPELINE'S
AND THE INDUSTRIAL ENERGY
CONSUMER GROUP'S MOTIONS

Northeast Energy Solutions, Inc. ("NEES") hereby files this consolidated response, in the above-captioned proceeding, concerning the Maine Energy Cost Reduction Act, 35-A M.R.S. § 1901 *et seq.*, (the "Act"), in support of Portland Natural Gas Transmission System's ("PNGTS") response (February 26, 2015) to the Industrial Consumer Group's ("IECG") motion (February 20, 2015) and opposing said IECG motion and Tennessee Gas Pipelines Company, L.L.C.'s ("TGP") motion (February 27, 2015).

NEES agrees that the Phase 2 procedure established in the Phase 1 Order is appropriate, and rejects TGP's assertion that "the Commission has taken virtually no substantive steps

towards the selection of one or more successful [Energy Cost Reduction Contract ('ECRC')] proposals" since the Commission's Phase 1 Order. In fact, the converse is true, the Commission and its staff have kept apace with the expedited schedule set forth in its Phase 1 Order despite having to tend to urgent, procedural disputes of questionable motive and value to the Commission's investigation. That notwithstanding, TGP apparently takes exception with staff questions arriving to developers only eight days after the comment period for proposals closed. It is unusual that TGP believes that an eight day period of staff review, before directly engaging developers, is somehow a delay or, as alluded, a dereliction of duty by the Commission or its staff. TGP has also, apparently, taken the position that a single meeting with each developer is somehow enough for the Commission to make a determination as to which proposal, if any at all, is acceptable.

NEES is stymied by other parties' suggestions to the Commission of abandoning its due procedures, which are in-place for the protection of ratepayers, and short-circuit transparency and, perhaps, more importantly, the public trust. Were the Commission to adopt those suggestions, there is only one decision that can be made in the short order demanded by TGP and IECG: "Based on the evidence in this proceeding, we find that it is unlikely that the benefits to Maine consumers will exceed the costs of pipeline capacity if the State of Maine (or designated counterparties) enters into an Energy Cost Reduction Contract..." (Examiners' Report, October 1, 2014).

IECG's motion is as equally unreserved as TGP's. IECG states that the Commission's "further delay... risks adding yet another winter season to the ratepayer burden." IECG should not stoke the political fires and simply accept the current state of affairs, such as the recent rate

reduction for hundreds of thousands of Maine consumers. Factually, Maine's electricity rate reduction is a result of the Commission's due diligence and patience. Had the Commission acted sooner or "expeditiously," as suggested here by IECG and TGP, with regard to standard offer proposals, Maine's customers would not have received the benefits delivered to them by the Commission this year. NEES supports continuance of the "Schedule in Place" as referenced in PNGTS' motion.

Incredibly, TGP seems to believe that it is the Commission's responsibility to oblige TGP's proposed project, so-called Northeast Direct ("NED"). As TGP argued in its ECRC proposal: "TGP believes that substantial benefits would be derived from Maine's execution of an ECRC for long term service on the NED Project *resulting from Maine's role in assisting the project in reach[sic] full commercial viability* [emphasis added]. As noted, LDCs have already committed to subscribe approximately 500 MMcf/day of capacity on the NED Project facilities. *A commitment by Maine would help ensure that the Project is developed* and therefore that this 500 MMcf/day of capacity is brought on line [emphasis added]." Undeniably, it is not the Commission's responsibility or the objective of the Act or of this proceeding to assist or ensure that the NED project becomes commercially viable. TGP's own assertions during this proceeding establish that TGP is seeking a subsidy from the state of Maine and its ratepayers to achieve commercial viability for its NED project. In today's market, if an energy infrastructure project cannot stand upon its own merit, government or government mandated contracts should not fill the gap. The most recent example is the proposed Cape Wind project. For that project, the Commonwealth of Massachusetts essentially mandated the utilities to fundamentally finance the project with a substantial burden on the ratepayers. Should the Commission follow a similar course in this proceeding, NED could easily be Maine's equivalent to Cape Wind. NEES brings

the Cape Wind example into this proceeding because TGP's motion is splattered with references to legislative intent and public policy dictates. Although such references place the Act in an appropriate historical context, while ignoring that the Act stretches the Commission's ECRC authorization until 2018, they are only likely placed in TGP's motion as an attempt to bring political pressure to bear on the Commission. NEES submits that the political fallout from a Cape Wind style decision, here, would be much greater than that from a determination, made by the Commission, resultant of a thorough, open, and, robust regulatory proceeding. NEES supports continuance of the Schedule in Place.

During this proceeding, TGP has all but admitted that it cannot meet its self-imposed Federal Energy Regulatory Commission ("FERC") Certificate of Public Convenience and Necessity application deadline of September 2015 without an award of an ECRC, by the state of Maine, no later than June 15, 2015. The challenge of meeting TGP's deadline lies solely with TGP and not with the rate-payers of Maine via the ME Public Utility Commission. Nonetheless, TGP also tries to further the same argument by stating in their motion that the FERC application is "an extensive filing and requires substantial time to prepare." Such a gratuitous statement flies in the face of the Commission and its staff. Does TGP believe participation in the FERC process to be more important or that it should be more deliberative than the proceeding in which we are currently participating? To NEES, it appears so. How else can TGP's and IECG's articulated desire to leap over the Schedule in Place be explained? In fact, TGP and IECG seem to believe that an ECRC is a matter-of-fact and that the Commission does not have an option to decide against advancing an ECRC. Nothing can be further from reality.

According to the Examiners' Report, "[b]efore the Commission may execute an ECRC, it must have pursued, in the appropriate regional and federal forums, market and rule changes that will reduce the basis differential cost for natural gas delivered into New England and increase the efficiency with which gas brought into New England and Maine is distributed and used. 35-A M.R.S. §1904(1)(A). The Commission may not execute an ECRC if it concludes that: 1) market and rule changes will, within the same timeframe, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of the ECRC; and 2) private transactions will achieve, within the same timeframe, substantially the same cost reduction effects for Maine electricity and gas customers. 35-A M.R.S. §1904(1)(A) and (B)." Only a true adjudicatory proceeding, as required by the Act, can position the Commission to meet these mandates. In fact, the Act requires the Commission to evaluate ECRCs in an adjudicatory proceeding (see: 35-A M.R.S. § 1904(2)). While TGP and IECG are requesting the Commission to move forward without building a materially substantive evidentiary record, such a request cannot be accommodated without circumventing the law.

In brief: The Act does not require or suggest that the Commission solely execute a provincial endeavor (with only speculative benefits to Maine ratepayers) without a complete evaluation of all proposals, pursuit of market and rule alternatives (both regional and federal), establishing a full evidentiary record, and a process that duly preserves matters for appeal.

Therefore, NEES believes that the Commission should conclude Phase 2 without advancing an ECRC or, alternatively, continue with the Schedule in Place and protect the public safeguards embedded in the Act.

Respectfully submitted on this 1st day of March, 2015.



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