

Environmental coalition opposed to pipeline seeks halt to DPU proceedings on Berkshire Gas contract

By RICHIE DAVIS

An anti-pipeline environmental coalition is calling on the Supreme Judicial Court to halt state proceedings on a request by Berkshire Gas Co. to tap into the Northeast Energy Direct project proposed by the Tennessee Gas Pipeline. Coalition members are concerned that the state Department of Public Utilities is ignoring its appeal to intervene in the process.

With DPU's legal hearings scheduled for June 24, 25 and 26 in Boston on the proposed 20-year agreement by Berkshire Gas to buy gas from the pipeline, Northeast Energy Solutions (NEES) filed an "expedited petition" for a single judge to freeze further action in the matter. The pipeline would cut across 62 miles in Massachusetts and pass through Plainfield in Hampshire County and eight Franklin County towns on its way from Pennsylvania to Dracut.

NEES, representing Franklin Land Trust, a 130-member statewide alliance that includes Mount Grace Land Trust, as well as other conservation groups and legislative and municipal members, submitted one of two broad intervention petitions rejected by a DPU hearing officer on May 29.

Both were granted "limited intervenor" status, meaning they cannot require legal depositions to seek documents, testimony and other undisclosed evidence from Berkshire Gas.

Appeals were immediately filed by NEES and a coalition led by Pipeline Awareness Network for the Northeast (PLAN-NE), state Rep. Stephen Kulik, D-Worthington, the Town of Montague and Greenfield Town Council. Ashfield and Conway also agreed to join the PLAN-NE intervention, and Rep. Paul Mark, D-Peru, is among the legislative participants.

The DPU has not responded to either appeal. It also has not responded to a petition by Attorney General Maura Healey to freeze the pipeline contract agreement cases until the broader issue of the region's gas capacity needs is resolved in other pending cases before the commission.

"In the meantime, the DPU has moved forward with an accelerated procedural schedule, foreclosing NEES from any participation whatsoever in the proceeding,

causing irreparable harm to the rights of NEES and its members,” that group said in its petition to the court, citing the DPU’s “refusal” to render a final decision. “Without a final decision from the Commission, NEES has been deprived of any participation in the hearing process.”

PLAN-NE has not yet filed a court appeal of its DPU rejection, but Wednesday filed motions urging the DPU to expedite a decision on its appeal and slow the process to allow time to prepare for next week’s hearings. It also filed motions to compel Berkshire Gas, Columbia Gas and National Grid (Boston Gas) to provide unredacted copies of all testimony, pleadings, responses and correspondence in the pipeline-related cases.

The DPU could make the NEES court action moot by denying the group’s appeal, although the June 11 court petition asks the court to halt the commission’s process so that it could then take its case directly to the full Supreme Judicial Court.

In rejecting the two full interventions — an action that was protested loudly throughout last week’s four-hour public hearing in Greenfield — the DPU ruled that it and the Department of Energy Resources adequately represent the interests of the groups and their members on rates and energy-efficient infrastructure.

NEES, through its founding members, represents more than 100,000 people, with more than 50,000 acres either owned or in conservation restriction in all of the towns served by Berkshire Gas.

“NEES is not seeking to intervene in this matter in order to disrupt the proceedings or to otherwise cause unnecessary delay,” the group’s attorney, Vincent DeVito, writes in the petition. “NEES represents a large collection of ratepayers, landowners, municipalities, and a legislator with unique interests in this matter and will be a sophisticated and responsible party with relevant insight.”

The group was created last year to investigate and advocate on economic and environmental impacts of energy projects such as the planned natural gas pipeline “specifically because of its position that government agencies were not sufficiently acting to carry out this important mission,” according to DeVito.

At last week’s public hearing in Greenfield, a representative of the attorney general’s office reiterated its call to freeze the DPU process on the pipeline contract cases.

At next week’s scheduled DPU evidentiary hearings, the attorney general’s office plans to conduct “a thorough cross-examination of the company’s witnesses,” according to office spokeswoman Chloe Gotsis.