

Support Montague's Intervention on Local Gas Distribution Contract with NED

• Berkshire Gas – DPU Docket 15-178

The town of Montague has taken a bold step, receiving status as a full intervenor in Dept. of Public Utilities (DPU) docket 15-178—a proceeding that will approve or disapprove Berkshire Gas's proposed contract ("precedent agreement") to buy gas transportation on the portion of the NED pipeline that would ship gas from Pennsylvania's fracking fields to Wright, NY. (This is the "supply path" section of NED.)

Challenging such contracts is an essential way to disprove the alleged "need" for this pipeline.

Being a full intervenor in this docket allows Montague's attorney and gas-industry expert to investigate the pipeline at its roots. Although the Federal Energy Regulatory Commission (FERC) has ultimate approval of the pipeline, FERC representatives have told us repeatedly that a pipeline that has enough contracts in place will be approved.

In two major rulings issued January 28, the FERC Commissioners confirmed that capacity contracts are the only criteria they currently consider in determining the need for an interstate natural-gas pipeline:

[Algonquin ruling](#), paragraph 39

[Constitution ruling](#), paragraphs 21-22

So far, local contracts—with gas companies and now (newly allowed by the DPU) with electric companies—make up most of the customer commitments Kinder Morgan has to show FERC. Discrediting any of these contracts at the state level will weaken the NED's ability to win FERC approval.

Montague is actively seeking donations from individuals and businesses, and grants from organizations other Towns, to sustain the intensive legal and technical work this case demands. A critical evaluation of this Berkshire Gas contract before the DPU should benefit all communities impacted, at risk from, or concerned about, the NED pipeline.

DONATE TO THE INTERVENTION:

Montague has opened a gift fund to receive grants and donations for this DPU intervention. (There is no online donation link at this time.) Checks should be made out to Town of Montague, with "pipeline fund" on the memo line. **Mail to: Town of Montague, One Avenue A, Turners Falls, MA 01376; ATTN: Board of Selectmen**

While you should consult your tax advisor, IRS Publication 526, Charitable Contributions (p.2), states that donations to a municipality "for a public purpose" are tax-deductible. The pipeline-intervention gift fund was opened for a public purpose of the Town.

[***Next page is a Printable Flyer About DPU 15-178***](#)

What if FERC finally meets a Pipeline it DOESN'T like?

What could make that happen?

As most opponents of the proposed Kinder Morgan pipeline understand, the Federal Energy Regulatory Commission has the governing authority to approve or disapprove interstate natural-gas pipelines like Kinder Morgan's NED (Northeast Energy Direct) project. Congress gave FERC this power by passing a series of laws and amendments from 1938 to 2005; and FERC's jurisdiction appears absolute unless & until the Federal courts rule otherwise.

But FERC does require a pipeline company to demonstrate one thing in order to receive FERC's green light (called a "certificate of public convenience and necessity"). The pipeline builder has to have firm contracts (*aka* "capacity contracts" or "precedent agreements") signed with companies seeking to transport gas on the pipeline.

Although the FERC Commissioners have the right to consider various factors in approving interstate natural-gas pipelines, the Commissioners in recent years consider only pipeline capacity contracts—and nothing else—to decide whether a pipeline is publicly convenient and necessary. In two major pipeline rulings on January 28th, 2016, FERC emphatically re-affirmed that it is looking only at capacity contracts to evaluate "need". (1)

→ **Contracts between Kinder Morgan and local utilities – including Berkshire Gas – will be the evidence Kinder Morgan brings to FERC to win approval for NED.**

→ **These contracts require state approval.** This is why examining and challenging capacity contracts *NOW*, at the Massachusetts Dept. of Public Utilities (DPU), is key to challenging the pipeline here *and* at FERC.

→ **The Town of Montague was accepted as a full intervenor in a proceeding at the Mass. DPU that will decide the fate of a precedent agreement for Berkshire Gas to use the "supply path" portion of the proposed Northeast Energy Direct (NED) pipeline.**

The NED "supply path" would run from the fracking fields of Pennsylvania to Wright, NY. (2)

As a full intervenor in DPU docket 15-178, Montague is entitled to have its attorney and a gas-industry expert examine the confidential aspects of Berkshire Gas's contract, the assumptions behind it, how the contract is related to multiple corporate interests that Berkshire and its parent company have in NED, and the reasons for the "moratorium" on new or expanded natural-gas service that Berkshire Gas is imposing on all eight of its Pioneer Valley ratepayer communities until the NED project is built.

Full intervenors also have the right to cross-examine witnesses, and to appeal a DPU decision to the Mass. courts.

→ **Because the case is moving quickly, Montague seeks to raise \$25,000 by mid-April.**

The Town has opened a gift fund to receive grants and donations of all types. (There is no online donation link at this time.) Checks should be made out to Town of Montague, with "pipeline fund" on the memo line. **Mail to: Town of Montague, One Avenue A, Turners Falls, MA 01376; ATTN: Board of Selectmen**

While you should consult your tax advisor, IRS Publication 526, *Charitable Contributions*, states that donations to a municipality "for a public purpose" are tax-deductible. (3) The pipeline-intervention gift fund was opened for a public purpose of the Town.

→ **A critical evaluation of this Berkshire Gas contract before the DPU should benefit all communities impacted or concerned about the NED pipeline.** Gill and Northfield have already stepped forward with grants for this intervention, and grants from other Town governments are encouraged--in addition to donations from individuals, businesses, and organizations. **Columbia Gas ratepayers and ratepayer communities should contact PLAN-NE about a similar NED contract proceeding: info@plan-ne.org**

→ **For more information, including online links to information, or to join the fundraising team, please contact Ariel Elan, Montague Pipeline Liaison: arielpublic@comcast.net**

Footnotes

(1) http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14423084, paragraph 39; and

http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14422989, paragraphs 21-22

(2) To read all public filings in this docket:

DPU File Room: <http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber>

Enter 15-178 in box for docket number

(3) <https://www.irs.gov/pub/irs-pdf/p526.pdf>

To receive an electronic copy of this flyer with live links, please email: arielpublic@comcast.net.



Board of Selectmen

Town of Montague

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FOR IMMEDIATE RELEASE

February 2, 2016

Montague has been accepted as a full intervenor in a proceeding at the Massachusetts Dept. of Public Utilities (DPU) that will decide the fate of a contract for Berkshire Gas to use the "supply path" portion of the proposed Northeast Energy Direct (NED) pipeline.

The "supply path" of the 408-mile pipeline would bring fracked gas from Pennsylvania across New York to a distribution hub at Wright, New York. A previous contract for Berkshire Gas to transport gas on the NED "market path" from Wright across northern Massachusetts and New Hampshire to Dracut, Massachusetts was approved by the DPU last summer. That DPU decision is being appealed to the Supreme Judicial Court by two organizations that were denied intervenor status in that proceeding despite having ratepayers or ratepayer communities as members.

"The current DPU case is an important opportunity for a ratepayer town to investigate Berkshire Gas's contract with NED and the Company's moratorium on new or expanded gas service in Montague and other Pioneer Valley towns," according to select-board chair Michael Nelson. "We think it is essential to have the contract reviewed in detail by the DPU. We plan to have an expert evaluate the Company's proposal."

"We can't know what the expert will find, and at this time the Town's counsel in this case is not even permitted to view Berkshire's confidential data--which is a key part of any analysis," selectman Rich Kuklewicz added. "We are disappointed that Berkshire Gas continues to object to our intervention and our access to critical information. As ratepayers, and on behalf of our citizen ratepayers, we will fight to stay in the case and evaluate the need for and alternatives to the moratorium and the NED project. We believe our expert will find that the Company had alternatives, not only to NED, but also to avoid the moratorium which has created a significant hardship for our community".

Berkshire Gas is also a partner with Tennessee Gas Pipeline Co. (TGP) in one of the two LLCs that would build the pipeline, along with other investor-owners. And Berkshire's parent company, recently re-organized as Avangrid, has other subsidiaries with proposed contracts and interests in the NED project. "There are so many different corporate relationships going on there, we could not let this final contract slip by without challenge," Kuklewicz stated.

Montague is seeking donations and grants from individuals, organizations, businesses, and other towns to support the intervention. "Montague is carrying out this intervention on behalf of all ratepayer towns that are subject to the moratorium, and all impacted communities as well," according to Ariel Elan, Montague's pipeline liaison. "This case is about the whole pipeline, not just 4-1/2 miles that would go through Montague.

"This is the only known opportunity to fully investigate this contract, one of a handful of contracts that brought this pipeline to our doorsteps in the first place," she added. "Anyone who may be impacted by NED or is concerned about its impact on our energy future should consider supporting the intervention."

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Board of Selectmen Town of Montague

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NEWS RELEASE

January 13, 2016

Montague Enters DPU Docket Concerning the Kinder Morgan NED Pipeline

FOR IMMEDIATE RELEASE: The Town of Montague, Massachusetts, has filed a Petition to Intervene in a regulatory proceeding at the Massachusetts Dept. of Public Utilities (DPU) that could influence the future of the Northeast Energy Direct (NED) pipeline. Tennessee Gas Pipeline Co. (TGP), a division of Kinder Morgan, has proposed to build this high-pressure natural-gas transmission line to carry 1.2-to-1.3 billion cubic feet (bcf) per day across New York State, parts of northern Massachusetts, and parts of southern New Hampshire.

In the proceeding known as DPU docket 15-178, the DPU will decide whether to approve a firm contract (precedent agreement) by Berkshire Gas Company to purchase gas transportation over the “supply path” segment of the pipeline—the section from the fracking fields in Pennsylvania where shale gas is extracted to a major gas-distribution hub in Wright, NY, near the Massachusetts border.

Montague is petitioning the DPU to grant the Town “full intervenor” status in the case. Full intervenors have the right for their attorneys and expert witnesses to examine and evaluate both the public and confidential aspects of the gas company’s proposed contract, to engage in discovery, to present expert testimony, to challenge the data and the assumptions behind a contract, and to present alternatives to the proposed contract.

“Montague is petitioning the DPU to intervene in this case because the proceeding will allow Montague to assert its important concerns about the cost and impacts of the proposed NED pipeline project and Berkshire Gas Company’s participation in that project,” according to Selectboard Chair Michael Nelson.

Montague is significantly and substantially impacted by Berkshire Gas’s proposed contract under review in this case. The Town is in the direct route of the pipeline, and both the Town and its citizens are Berkshire Gas Company ratepayers. Montague is also subject to an extended moratorium on gas service, which we believe is not justified.

This DPU docket is the Town’s opportunity to investigate whether a \$5.2-billion pipeline is in the best interests of ratepayers and whether the pipeline is the best solution to the moratorium imposed by Berkshire Gas.

“We need to act at the DPU to ensure that all of our interests as ratepayers and as a community are fully represented in this critical decision.”

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Montague’s Petition to Intervene is linked at:

http://web1.env.state.ma.us/DPU/FileRoomAPI/api/Attachments/Get/?path=15-178%2fMontague_intervention.pdf

To access all public filings in Docket 15-178, go to:

<http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber>

In the box near upper left of page that says "Enter docket number...", enter 15-178

For more information:

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