

DG 00-145

ENERGYNORTH NATURAL GAS, INC.

**Petition for Approval of Gas Transportation Agreement and
Natural Gas Firm Peaking Agreement with AES Londonderry, LLC
and Approval of Plans for Construction of
Natural Gas Pipeline to Serve AES Londonderry, LLC**

**Order Addressing Scope, Approving Consolidation of Hearings
and Approving Procedural Schedule**

O R D E R N O. 23,600

December 12, 2000

On July 3, 2000, EnergyNorth Natural Gas, Inc. (ENGI or the Company) filed with the New Hampshire Public Utilities Commission (Commission), pursuant to RSA 378:18, a Petition for Approval of Agreements with AES Londonderry, LLC (AES). In the petition, ENGI seeks approval of a Gas Transportation Agreement and Natural Gas Firm Peaking Agreement with AES in order to proceed with construction of an approximately 2.8 mile natural gas pipeline, along a route previously approved by the New Hampshire Site Evaluation Committee (NHSEC) in its Docket No. 98-02, from a take station on the Tennessee Gas Pipeline Company's Concord lateral, in Londonderry, to AES' planned 720 megawatt gas-fired electric generating station on North Wentworth Road in the Town of Londonderry. ENGI also filed a set of plans and specifications for a natural gas pipeline to be constructed by ENGI in order to provide service to the Facility. ENGI is also seeking authority to utilize a

20-year depreciation schedule with regard to its capital investment in the project in order to match the 20-year term of the Transportation Agreement.

On September 18, 2000, the Commission issued Order No. 23,556 in Docket No. DG 00-145 approving an interim procedural schedule for the proceeding consisting of discovery and technical sessions/ settlement conferences. The Order also discussed ENGI's and Commission Staff's (Staff) opposing positions on whether ENGI is required to petition the Commission, pursuant to RSA 371:17, for a license to cross Little Cohas Brook in the Town of Londonderry. Staff recommended that the Commission defer action until the parties and Staff had an opportunity to discuss the matter further. The Commission did not make a determination in Order No. 23,556 regarding whether the petition was necessary.

On September 27, 2000, ENGI filed with the Commission, pursuant to RSA 371:17, a verified Petition for a License to Construct and Maintain a Natural Gas Pipeline Beneath Little Cohas Brook and to Cross State Property Located in the Town of Londonderry. Docket DG 00-207, *EnergyNorth Natural Gas, Inc.* The terms and conditions on which ENGI plans to provide service to AES are the subject of Docket DG 00-145.

By an Order of Notice issued October 10, 2000 in Docket DG 00-207, the Commission scheduled a Prehearing Conference and Technical Session for November 16, 2000. At the Prehearing Conference in Docket DG 00-207, Staff recommended that the hearings in Docket DG 00-145 and Docket DG 00-207 be consolidated and heard on a common record pursuant to NH Admin. Rule Puc Rule 203.08. On December 7, 2000, Staff notified the Commission that the Parties and Staff agreed to a procedural schedule which included consolidated hearings for January 24, 2001 and January 25, 2001.

Docket DG 00-207 comes as a result of a Petition filed by ENGI in connection with its petition in DG 00-145 for approval of certain agreements with AES and for approval of plans for construction of a natural gas pipeline to serve AES. The Petition in Docket DG 00-207 requests only that the Commission issue a license, pursuant to RSA 371:17, to construct and maintain a natural gas pipeline beneath Little Cohas Brook and certain property of the State of New Hampshire in the Town of Londonderry.

As we noted in the Order of Notice in Docket DG 00-145 (July 28, 2000), at p. 2, and in Order No. 23,556, at p. 2, in that proceeding,

Under an order of the New Hampshire Site Evaluation Committee (NHSEC) dated May 25, 1999,

in NHSEC Docket No. 98-02, the NHSEC, pursuant to RSA 162-H:4, III and III-a, delegated to the Commission authority "to monitor the construction safety aspects of the natural gas pipeline". In addition, the NHSEC Order provided that "The Application and Petitions are referred to ... the Public Utilities Commission for the issuance of such permits and licenses as required by law to be included in the Certificate of Site and Facility" (at p. 29).

Consequently, the authority delegated to this Commission by the NHSEC and granted by RSA 371:17, as far as Docket DG 00-207 is concerned, relates to the issuance of the license referred to in RSA 371:17. In our companion order in Docket DG 00-207 issued this day, we agreed with Staff and ENGI that the scope of Docket DG 00-207 relates to the issues of water and land use that may be affected by the crossing, not environmental impacts associated with the crossing, and whether the license "may be exercised without substantially affecting the public rights in said waters or lands". RSA 371:20. We will not address issues, in Docket DG 00-207 or in this proceeding, properly decided by the NHSEC or those which should be brought before other agencies. Therefore, construction safety aspects, as delegated by the NHSEC, and issues related to the agreements between ENGI and AES, will continue to be addressed in the context of Docket DG 00-145, and Docket DG 00-207 shall be limited to license issues of public safety and public functional use of said waters, See

Re Portland Natural Gas Transmission System, 82 NH PUC 533, (1997), as well as the issue raised by Londonderry in its Petition to Intervene and at the Prehearing Conference with regard to the statutory requirement "in order to meet the reasonable requirements of service to the public". RSA 371:17.

As none of the Parties objects to the recommendation by Staff, consistent with our companion order issued this day in Docket DG 00-207, we will adopt the procedural schedule agreed to by the Parties and Staff and consolidate the hearings in Docket DG 00-145 and Docket DG 00-207 pursuant to NH Admin. Rule Puc 203.08. In addition, Londonderry and ENGI agreed that any additional discovery requests would be discussed informally. If no agreement is reached regarding additional discovery, Londonderry reserved the right to request additional discovery pursuant to Puc 203.04, and ENGI reserved the right to object to such a request.

Based upon the foregoing, it is hereby

ORDERED, that the scope of this proceeding shall be limited to those issues indicated above; and it is

FURTHER ORDERED, that the hearings in Docket DG 00-145 and Docket DG 00-207 shall be consolidated pursuant to NH Admin. Rule Puc 203.08; and it is

FURTHER ORDERED, that the following procedural schedule proposed by the Parties and Staff shall be adopted for the remainder of this proceeding:

Discovery by Town of Londonderry of ENGI	December 7, 2000
Responses by ENGI to Discovery	December 18, 2000
Direct Testimony by Intervenors and Staff (E-mail same day to all Parties and Staff)	January 10, 2001
Settlement and/or stipulations (if any) Filed with the Commission	January 16, 2001
Hearings Consolidated with Docket DG 00-207 (Commencing 2:00 pm)	January 24, 2001
(Commencing 9:00 am)	January 25, 2001

By order of the Public Utilities Commission of New Hampshire this twelfth day of December, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary