



Renewable Energy in New England

The Role of Natural Gas as New England Moves Towards Decarbonization

**Dianne R. Phillips, Holland & Knight LLP
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Holland & Knight

Overview

Current and likely future legal issues arising from legislative and regulatory initiatives in New England

- Historical Perspective
- Current Market & Constraints
- Legal Developments

Historical Perspective

- 1990s Expansion
 - Clean Air Act amendments
 - Natural Gas became the fuel of choice for new power plants
- September 11th Terrorist Attacks
 - City of Boston sues to ban LNG tankers
- Climate Change
 - Emphasis on renewable energy for electricity
 - Environmental, social & governance (ESG)

2020 Regional Electricity Outlook

- In March 2020 ISO-NE released its [2020 Regional Electricity Outlook](#)
- The Clean Energy Transition: How to Get There From Here
 - “Decarbonizing Electricity Well Underway”
 - Dramatic Shift Since 2016 when NG was approximately 60% of Proposed Projects
 - Now 95% of proposals are grid-scale wind, solar and battery projects

2020 Regional Electricity Outlook

- Transportation & Building HVAC “Really Only Just Begun”
 - “During cold weather, most natural gas is committed to local utilities for residential, commercial, and industrial heating. As a result, we are finding that during severe winter weather, many power plants in New England cannot obtain fuel to generate electricity.” (p.28)
 - Natural Gas & LNG is currently needed for grid reliability

FERC Decision: ISO New England Inc.

- [Docket No. ER19-1428-003](#) (June 18, 2020)
- 171 FERC ¶ 61,235, *reh 'g denied*, 2020 WL 4915870 (Aug. 20, 2020)
- May 1, 2018: ISO-NE filed a petition to retain two retiring generating units, Mystic Units 8 and 9, for the 2022-2023 and 2023-2024 winter periods to maintain fuel security.
- Mystic Units 8 and 9 are fueled solely by LNG from the Everett, MA LNG terminal.

FERC Decision: ISO New England Inc.

- Decision (¶ 32): “We find the Inventoried Energy Program is just and reasonable and accept the proposed Tariff revisions, to become effective May 28, 2019, as discussed below. We find that the Inventoried Energy Program is a reasonable short-term solution to compensating, in a technology-neutral manner, resources that provide fuel security.”

Commissioner Glick’s Dissent

- “I agree that New England has a fuel security issue. During a handful of especially cold winter days when gas demand for residential and commercial heating peaks, the region’s natural gas transportation capacity can become constrained, potentially limiting the natural gas supply available to the gas-fired power plants that would otherwise help power the grid.”

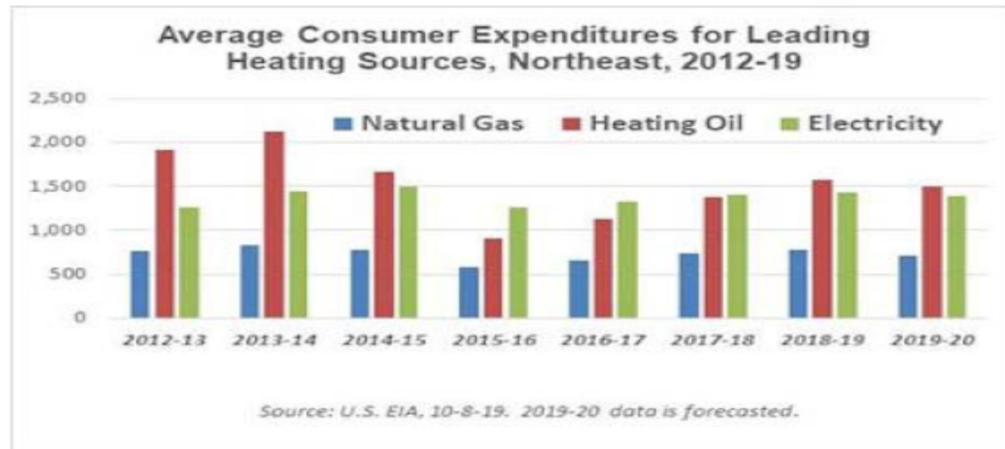
FERC's July 17, 2020 Decisions

- Three Companion Cases:
 - 172 FERC ¶ 61,043
 - 172 FERC ¶ 61,044
 - 172 FERC ¶ 61,045
- Support prior decision finding Mystic 8 & 9 and the Everett LNG Terminal are Needed for Reliability and Energy Security

HVAC Demand

- According to Northeast Gas Association, over 50% of Massachusetts homes and businesses rely on natural gas for heat
 - The rate is almost 60% when considering the entire Northeast
 - Home heating oil is the next largest percentage ranging between 20-35% depending on location
 - Electricity is 14-16%

NGA Regional Market Outlook, July 2020



NGA Regional Market Outlook, July 2020

- *As illustrated in the chart, natural gas in the Northeast (shown in blue) maintains a price advantage over heating oil and electricity for heating fuel costs.*
- *Natural gas remains the heating fuel of choice: over 90% of new single-family homes built in the Northeast in 2019 with furnaces ran on natural gas, according to the U.S. Census.*

- Chart source: U.S. Energy Information Administration, Oct. 2019

Town of Brookline's Attempt to Ban NG Hookups in New Construction

- November 19, 2019 Town Meeting voted to adopt a new general by-law, 8.39 “Prohibition on New Fossil Fuel Infrastructure in Major Construction.” The by-law establishes that “no permits shall be issued by the Town for the construction of New Buildings or Significant Rehabilitations that include the installation of new On-Site Fossil Fuel Infrastructure” with certain exceptions outlined in the by-law.
- Several other Massachusetts communities considering similar bans

Northeast Gas Association Response

- NGA op-ed in "[Commonwealth Magazine](#)" on key role of natural gas in state & regional systems, May 2020
- NGA op-ed in "[Boston Globe](#)" on continued sustaining role of natural gas in multiple sectors in Massachusetts, April 2020

Town of Brookline's By-Law Disapproved

- July 21, 2020: The Massachusetts Attorney General Municipal Law Unit Disapproved a Brookline by-law prohibiting any permits for construction of certain buildings with fossil fuel infrastructure (Article 21 of the Brookline Special Town Meeting of November 19, 2019).
- Finding the State Building Code, the Gas Code, and G.L. c. 164 occupy the field of regulation and preempt local by-laws in their respective fields.

Other Municipal Attempts to Limit Fossil Fuels and New Infrastructure Development

- Town of Longmeadow (May 14, 2019): Article 42 amends the Town's zoning by-laws to add a new Article XV, "Restrictions for Facilities of Natural Gas Utilities."
- November 25, 2019: The Massachusetts Attorney General Municipal Law Unit Approved the Longmeadow by-law because it did not conflict with state law.
- Federal preemption risk acknowledged

Other Municipal Attempts to Limit Fossil Fuels and New Infrastructure Development

- Rehoboth Special Town Meeting of November 6, 2017
- Article 5 amends the Town's zoning by-laws to add a new Section 4.11 entitled "Natural Gas Compressor Stations."
- April 10, 2018: The Massachusetts Attorney General Municipal Law Unit Approved the Rehoboth by-law because it did not conflict with state law.
- Federal preemption risk acknowledged
- Compressor Station proposal relocated to Weymouth

MA AG Petition for Investigation by DPU

- Filed June 4, 2020
- Attorney General Maura Healey has called on the Department of Public Utilities (DPU) to open an investigation into the future of the natural gas industry as Massachusetts transitions away from fossil fuels and toward a clean renewable energy future by 2050.
- Urges the DPU to work with stakeholders to develop a nation-leading regulatory and policy roadmap that protects customers during the necessary transition away from reliance on natural gas and other fossil fuels.

MA AG Petition for Investigation by DPU

- Follows Similar Efforts in NY & CA
- CA PUC R.20-01-007 (January 2020)
 - Designed to consider challenges relating to natural gas safety and reliability while pursuing decarbonization goals
- NY PSC Case 20-G-0131 (March 2020)
 - Establishment of planning and operational practices to support transition to net-zero GHG emissions under Climate Leadership and Community Protection Act

DPU Docket # 20-80

- June 18, 2020: Assigned to Sarah Smegal, Hearing Officer.
- To date, approximately 20 stakeholders have filed comments
- The vast majority support the Attorney General's Petition
- Several offer suggestions on procedure
- To date, the DPU Hearing Officer has not issued any documents

LNG By Rail Procedural History

- January 2017: American Association of Railroads (AAR) Petition for Rulemaking filed with the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA)
- April 2019: Executive Order
- October 2019: PHMSA Notice of Proposed Rulemaking
- June 2020: PHMSA Issues Final Rule
 - Authorizes shipments in enhanced tank cars with additional operational controls

LNG By Rail: Final Rule Appealed

- Sierra Club et al (6 environmental organizations)
 - U.S. Ct of Appeals, D.C. Cir. Dket No. 20-1317
- State of Maryland et al (14 states & District of Columbia) Dket No. 20-1318 (consolidated with 20-1317)
- The Puyallup Tribe of Indians
 - U.S. Court of Appeals, 9th Cir. Dket No. 20-72472

Concluding Thoughts

- Massachusetts & New England are not California
 - Very cold winters & many areas not served by LDCs
- Natural Gas & LNG will play an important role for the foreseeable future
 - Grid Reliability (Mystic 8 & 9)
 - Building HVAC
 - LNG for pipeline pressure support
 - LNG for areas not served by pipeline

Questions?

Dianne R. Phillips | Holland & Knight

Partner

10 St. James Avenue, 11th Floor | Boston MA 02116

Phone 617.573.5818 | Fax 617.523.6850 | Cell 339-221-0975

dianne.phillips@hklaw.com