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PIPE LINE AWARENESS NETWORK
FOR THE NORTH EAST, INC.
www.plan-ne.org

To: Mark Porter, Canton Select Board
From: Kathryn R. Eiseman, PLAN-NE
Date: August 8, 2016
Re: Proposed Access Northeast Interstate Natural Gas Pipeline Project

You have asked me to provide information in response to four questions left unanswered after your recent meeting with local opponents to the Access Northeast interstate pipeline project (ANE). The information below is not exhaustive, but I hope that this summary helps the Board better understand the proposal in a broader context.

Feel free to contact me to follow up on these or any other questions, either via email or by phone, at (413) 320-0747.

K.R.E.

1) What makes this pipeline "tax" different from any company building the price of its infrastructure into the rates it charges consumers?

Typically, ***gas*** utility customers bear the costs of gas pipeline construction, and that is clearly authorized by state law; the attempt by ***electric*** utilities to contract for gas pipeline capacity is unprecedented. In Massachusetts, electric utilities own electrical distribution infrastructure ("poles and wires"), not fuel delivery infrastructure, and they purchase electricity, not gas. They do not own generation facilities and they do not purchase fuel for generation facilities. This is among the reasons that the legality of the ANE proposal is being questioned.

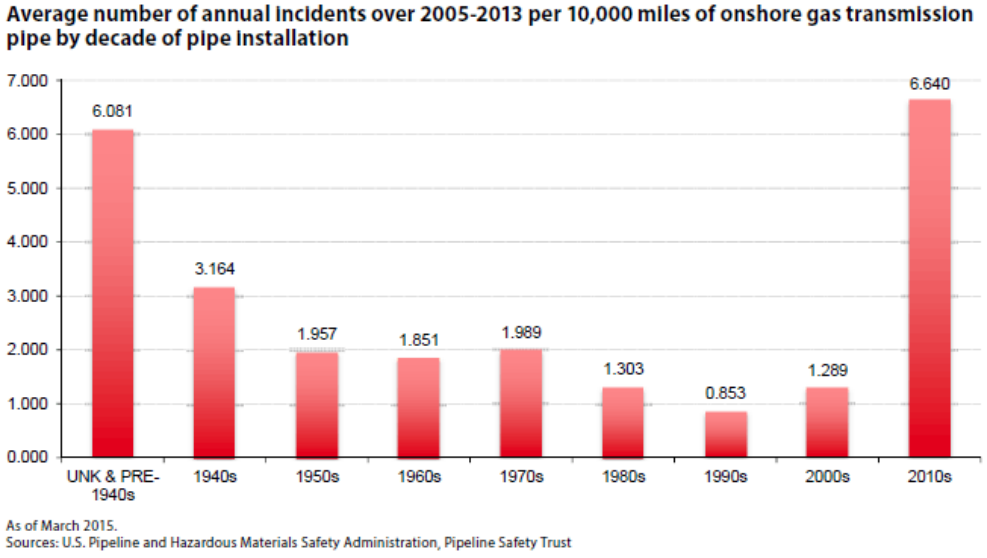
Beyond the legal question, the ANE proposal involves Eversource and National Grid affiliates acting both as pipeline developers and as the customers of the project. National Grid and Eversource each have ownership stakes in the ANE project: Eversource and Spectra each own forty percent shares, and National Grid owns the remaining twenty percent. With National Grid and Eversource affiliates as both buyers and sellers in the pipeline contracts, the utilities have a conflict of interest when they advocate for the ANE project at the Department of Public Utilities (DPU). They have an incentive to overstate the ratepayer benefit of the project because it will benefit the corporate shareholders even if ratepayer savings do not materialize.

Recent Congressional testimony notes that this is part of "a disturbing trend of utilities pursuing a capacity expansion strategy by imposing transportation contract costs on state-regulated retail utility ratepayers so that affiliates of those same utilities can earn shareholder returns as ***pipeline developers***. … Thus ratepayer costs which may not be justified by ratepayer demand are being converted into shareholder return."[1]

1 Testimony of Jonathan Peress of the Environmental Defense Fund, June 14, 2016, before the U.S. Senate Energy & Natural Resources Committee, June 14, 2016 (available at tinyurl.com/Peress-6-14-16) (emphasis in original).

2) Safety issues, generally (I understand that Canton residents have followed up on your specific questions about Spectra's record):

Separate from the widely reported failures in older pipelines,[2] often due to corrosion, recent analysis of data compiled by the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) indicates that ***pipelines built in the last few years*** have experienced "incidents" at a markedly higher rate than older pipelines.[3] According to the PHMSA data, not only do "incidents" on interstate pipelines occur with increased frequency on newer pipelines (which could be explained by the uptick in construction activity), the number of incidents ***per mile*** is significantly higher on pipelines build since 2010:



Officials at the National Transportation Safety Board speculate that this increased failure rate may be due both to the implementation of untested technologies in new pipeline construction and the rush to meet construction deadlines by cutting corners.[4]

"Significant incidents" – involving fatalities, injuries that require in-patient hospital treatment, or over $50,000 in property damage – occur on interstate natural gas transmission lines at a rate of more than once a week.[5]

2 See "NTSB warnings of systemic flaws in safety oversight of large gas transmission lines," January 27, 2015, *U.S. News & World Report* (available at http://www.usnews.com/news/business/articles/2015/01/27/safety-board-systemic-flaws-in-gas-pipelines-oversight)

3 "As US rushes to build gas lines, failure rate of new pipes has spiked," September 9, 2015, *SNL* (https://www.snl.com/InteractiveX/Article.aspx?cdid=A-33791090-11060).

4 *Id.*

5 See https://hip.phmsa.dot.gov/analyticsSOAP/saw.dll?Portalpages (last visited August 6, 2016). Specifically, in both 2014 and 2015, PHMSA data indicates 76 significant incident on interstate natural gas transmission infrastrucutre. *Id.*

3) Can you offer any alternative explanations as to why prices are higher here other than a lack of gas supply in the winter?

You are wise to question the pipeline proponent's framing of the electricity price issue. Spectra frames the "problem" as "inadequate pipeline capacity," so that it only has one solution – theirs. One could also frame the problem as over-reliance on natural gas to meet electric demand, which points to an opposite solution.

Framing the issue neutrally: The real question that decision makers should be asking is, How can the region best affordably meet our electricity needs? This is a policy question, which the Governor, the Attorney General, and the legislature have all answered by calling for increased energy diversity, including ramping up investment in energy efficiency, renewables, and energy storage. This answer is bolstered by the need to comply with the state's Global Warming Solutions Act – in other words, increasing our reliance on fossil fuels makes it harder for us to comply with the legislative mandate to reduce greenhouse gas emissions, while increases in demand-side and other carbon-neutral solutions make it easier.

Addressing specifically the price issue: Investing in energy solutions that have no ongoing fuel cost (e.g., energy efficiency, demand reponse, and renewables) is more cost-effective, and less risky, than entering into twenty-year contracts that subject consumers to the volatile natural gas commodity markets.[6] The pipeline companies and the utilities typically frame new interstate pipeline projects as a way to increase access to "cheap, abundant Marcellus gas." The boom-and-bust nature of the natural gas industry – along with the increased federal regulation of methane, and the rapid decline in capital costs for grid scale renewables and energy storage[7] – makes expanded reliance on natural gas as a longterm low-cost solution irrational.

The pipeline contracts put ratepayers on the hook for the twenty-year life of the contract, whether or not gas from the pipeline is actually used for electrical generation throughout that period. Thus the ratepayers bear the risk of stranded costs associated with the overbuild of natural gas infrastructure.

It is also important to consider electric bills versus electric rates: Massachusetts has the top-ranking energy efficiency program in the country (though we rank behind most of Europe, so greater efficiency is certainly achievable). Our energy efficiency programs are a reason that electric ***bills*** in Massachusetts are actually ***below*** average,[8] even as rates are on the higher end in the winter. In other words, though we pay more per kilowatt-hour in the winter, we use fewer kilowatt-hours overall, so we come out ahead by investing in energy efficiency.

6 *See generally* "Power System Reliability in New England: Meeting Electric Resource Needs in an Era of Growing Dependence on Natural Gas," Paul J. Hibbard Craig P. Aubuchon, November 2015, Analysis Group, In. (http://www.mass.gov/ago/docs/energy-utilities/reros-study-final.pdf), (http://www.mass.gov/ago/docs/energy-utilities/reros-infographic.pdf).

7 *See* "The factors driving wind and solar toward grid parity: A new analysis shows when, where, and why renewables can be cost-competitive," Dec. 10, 2015 (http://www.utilitydive.com/news/the-factors-driving-wind-and-solar-toward-grid-parity/410304/) ("Massachusetts utility-scale solar is at parity now");"Why battery storage is 'just about ready to take off': Costs are dropping, deployments are accelerating, and utilities are paying attention," Oct. 13, 2015, *Utility Drive*, (http://www.utilitydive.com/news/why-battery-storage-is-just-about-ready-to-take-off/407096/).

8 See http://www.eia.gov/electricity/sales_revenue_price/pdf/table5_a.pdf; see also "Your electric bill is pretty average," June 12, 2015, Ian Bowles, *Boston Globe* (https://www.bostonglobe.com/opinion/2015/06/12/your-electric-bill-pretty-average/ReIswO5WHsp1na7JYIninM/story.html).

In addition, retail electric rates are set only twice a year, so the rate hikes that we saw in 2014 were the result of price spikes in the wholesale market that took place during the "polar vortex" winter of 2013-14. Those price spikes occurred only a handful of days, and, due to a combination of energy market reforms and other factors, we did not see a repeat of those price spikes the following two winters. Spectra and other pipeline proponents continue to point to that single anomalous winter as evidence of an "energy cost crisis" because the more recent data does not back them up.

4) If we decided to oppose the pipeline as a Board of Selectman, what concrete steps can we take to stop the pipeline?

The longer you wait to engage in the process, the fewer options you have to either oppose the project, or to protect the Town even if you do not oppose the project. I have observed that often by the time a municipality learns enough about a project to want to oppose it, it has missed the opportunity to nip it in the bud. (Most notably, Boston and Dedham did not begin opposing the AIM project's West Roxbury Lateral until it was about to receive FERC approval, far too late in the process to have a strong chance of stopping it.)

Without going into detail that is better left for executive session with an attorney, I have a few recommendations:

- Whether or not you vote to oppose the project, make the necessary arrangements now to intervene at FERC. (I can send a sample board resolution as well as a sample intervention filing.) The window for intervening is only a few weeks, so authorizing someone in advance to make the online filing is advised. You do not need to state in the intervention whether you oppose the project – any impacted municipality should intervene, to have a seat at the table. Otherwise, you will have no legal standing to challenge FERC's decision if it approves the project without adequately addressing the Town's concerns.

- Coordinate with neighboring towns to share information, align strategies, pool resources. I would start by talking to Weymouth about their experiences dealing with Spectra – they have engaged at the DPU, DEP, MEPA, FERC, etc. – to get a sense of the different avenues and opportunities to influence the project.

- Spectra may lead you to believe that FERC is the only decision maker, but that is not the case. There are a number of permits that are not preempted that you should discuss with regulatory counsel.

- Hire special town counsel (an energy lawyer and/or an environmental lawyer, depending on the specific matters you are addressing), and clearly delineate the roles for your regular town counsel. We have seen town counsel for many towns convince local officials to negotiate with pipeline companies rather than oppose projects; there are definitely lawyers who will work with you to oppose the project.

- Allocate funds for attorneys and experts sooner rather than later. Some municipalities in New Hampshire allocated more than they ended up needing for the Kinder Morgan opposition, but it's always better to be prepared than to be scrambling.