

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

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Pettition of Eversource Energy, NiSource Inc.,)
Eversource Gas Company of Massachusetts,)
And Bay State Gas Company for Approval of)
Purchase and Sale of Assets Pursuant to)
General Laws Chapter 164 § 94 and § 96.)
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D.P.U. 20-59

PETITION TO INTERVENE OF GROUNDWORK LAWRENCE, INC.

1. Under 220 CMR § 1.03 and the Notice of Filing and Public Comment issued on July 24, 2020, Groundwork Lawrence, Inc. (“GWL”) petitions the Department of Public Utilities (the “Department”) to intervene in the above captioned proceeding.

2. On September 13, 2018, there was an over-pressurization of the gas distribution system which resulted in a series of explosions in the communities of Andover, Lawrence, and North Andover (the “Greater Lawrence Incident”), which resulted in significant property damage, injuries, and one fatality. Many residents and businesses of Lawrence (the “Affected Community”) were affected by the incident and its resulting aftermath.

3. There are currently two investigations pending before the Department, D.P.U. 19-140 and D.P.U 19-141 (the “Investigation Dockets”), that were opened in response to a series of related events that began on September 13, 2018 in the Merrimack Valley, in the service territory of Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“Bay State Gas”).

4. GWL petitioned for and was granted limited participant status in the Investigation Dockets.

5. This new proceeding is not only directly related to the Investigation Dockets, but raises new and significant issues which is why GWL seeks intervenor status here.

6. GWL is a 501(c)3 nonprofit organization, has been community building in Lawrence since 1999. Through its environmental and open space improvements, fresh food access programs, youth and adult education and employment initiatives, and community programming and events, GWL creates the building blocks of a healthy community, and empowers Lawrence residents to improve their quality of life. GWL also develops community-based partnerships which empower people, businesses and organizations to promote environmental, economic and social well-being.

7. The standard of review on granting a party's motion to intervene is whether that party is "substantially and significantly affected" by the proceeding.¹ The Department has broad discretion in determining whether to allow intervention in Department proceedings.²

8. GWL has been on the ground working with Bay State Gas since September 13, 2018 in the Affected Community to first in the immediate aftermath to staff emergency shelters, distribute resources, and coordinate the community response. As part of the initial response, one of GWL's open space projects the O'Connell South Common was rendered unusable after temporary housing was placed there for those that needed to evacuate their homes, and now GWL is serving as the lead organization in its restoration and renovation. GWL also continues to work with its community partners to understand the long-term impacts of the Greater Lawrence Incident and the individual and organization needs.

9. GWL, its staff, board, and constituents it serves in the Affected Community were all significantly impacted and continue to feel the ripple effects of the Greater Lawrence Incident. As a result of the Greater Lawrence Incident, GWL was forced to cancel its annual Spicket River Cleanup, an event with 600 volunteers that helps maintain eight parks along the

¹ 220 CMR § 1.03; M.G.L. c. 30A § 10.

² Boston Edison Co. v. Dept. of Public Utilities, 375 Mass. 1, 44-46 (1978).

Spicket River, a significant loss for community engagement and clean-up as well as in-kind contributions. Seven full time and eight part time employees of GWL live in the Affected Community.

10. As a result of the Greater Lawrence Incident, GWL's seasonal tree planting program, providing free trees for residents, could not operate at full capacity, which has both short term and long term impacts (less trees planted) for the Affected Community.

11. As one example of business impacts, three bodega shops, participants in GWL's Healthy on the Block Bodega Program, were directly and negatively affected by the Greater Lawrence Incident and forced to close during the shutdown. This caused not only the economic losses to the individual businesses, but the societal impacts of losing access to one of the few locations to purchase healthy food for many residents during this period.

12. Part of GWL's outreach and response during the immediate aftermath of the Greater Lawrence Incident was going door-to-door with blankets, hot plates, and related equipment and its staff was able to witness first-hand the electric infrastructure limits, lack of weatherization and other available efficiency improvement in many affected homes.

13. The Affected Community has been further detrimentally impacted by the COVID-19 pandemic. The drastic increase in unemployment has caused significant increases in housing insecurity and food insecurity. Students are missing valuable classroom time, and many families do not have the technology at home needed for remote learning. The living situations of many families in the Affected Community contributes to increased infection rates, as many households are home to multiple generations of family members and work in essential occupations, such as health care and transportation.

14. As part of the proposed Settlement Agreement (“Settlement”) and Asset Purchase Agreement (“APA”) (collectively “the Agreements”), Eversource Gas of Massachusetts d/b/a Eversource Energy will purchase all of the assets, including franchise rights, of Bay State Gas, with the result that residents and businesses in the Affected Community will become Eversource customers.

15. As part of the Agreements, Bay State Gas must close out all relevant proceedings, including the Investigation Dockets. Bay State Gas has proposed to make a payment in lieu of a penalty or fine of \$56 million which, according to it, is the maximum amount that would be permitted to be imposed by the Department.

16. The Agreements provide that Eversource will not assume any liability arising from the Greater Lawrence Incident.

17. GWL has a substantial and specific interest in ensuring that the Investigation Dockets have appropriately addressed the harms and needs of the Affected Community before they are closed by the Department.

18. As noted, the Settlement provides for \$56 million to create an Energy Relief Fund (the “ER Fund”) with two sub-funds: (1) \$41 million for the Merrimack Valley Renewal Fund (the “MV Fund”); and (2) \$15 million for an Arrearage Forgiveness Fund (the “AF Fund”). The MV Fund would be administered by the Attorney General and the Department of Energy Resources, both parties to the Settlement.³

19. The Settlement provides a chart showing in broad strokes how the MV Fund resources would be allocated with the goal of deploying clean energy resources to benefit the residents, businesses, and municipal governments of Andover, North Andover, and Lawrence.⁴

³ Joint Petition at 7-8.

⁴ Id.

20. The Settlement also provides a plan for Eversource working with the Attorney General to manage the AF Fund – focusing on providing forgiveness to those customers on the R-2 and R-4 rate classes.⁵ As GWL has community level insight into the various types of customers who have arrearage issues outside those rate classes, it also has the ability to provide important input on what guidelines should be imposed by the Department to ensure appropriate distribution of the AF Fund within the Affected Community.

21. There is no other party moving to intervene to date that has the knowledge and presence in the Affected Community that GWL has or is as intimately aware of the direct, indirect, and lingering impacts of the Greater Lawrence Incident.

22. GWL is uniquely positioned to participate in this proceeding and inform the Department and the parties as to the needs of the Affected Community and whether the Agreements have appropriately addressed them through, among other things, the ER Fund and the resolution of the Investigation Dockets.

23. GWL because of its unique position to speak directly to the needs of the Affected Community is substantially and specifically impacted by the evidence that will be introduced in this proceeding relative to the Settlement and proposed Funds.

24. The Department in its review of the proposed Settlement must find that it is in the public interest applying a net benefits test. G.L. c. 164, § 96. Among other factors, the net benefit test includes consideration of: (1) the effect of economic development; (2) societal costs; and (3) other factors that may negatively impact customer service.

25. The Affected Community has specifically seen economic and societal harm as well as broken trust with Bay State Gas due to the Greater Lawrence Incident. The Affected

⁵ Id.

Community is also an environmental justice community. The long-term economic and societal damage from of the Greater Lawrence Incident and the restoration attempts exposed the realities of an environmental justice community and its challenges in accessing clean energy resources, such as renewable distributed generation, energy efficiency, renewable thermal resources, and demand response services.

26. Environmental justice communities are more likely to require costly infrastructure improvements to deploy clean energy resources than other communities.⁶

27. The Commonwealth’s emission mandates under the Global Warming Solutions Act (“GWSA”)⁷ will require massive changes to our electric and thermal delivery system in order to meet not only interim targets but also net zero greenhouse gas emissions by 2050.⁸

28. To meet the needs of the Affected Community as an environmental justice community, to repair harm caused by the Greater Lawrence Incident, and to ensure that Commonwealth is positioned to meets its GWSA obligations, it is necessary that the Funds be spent prudently and appropriately.

29. As the Settlement is ultimately a result of the Greater Lawrence Incident, and as the scale of the incident was so unprecedented, the precise needs of the Affected Community should be specifically understood and considered by the Department in its determination of whether the Settlement is in the public interest.

⁶ Baker, Shalanda Helen, *Anti-Resilience: A Roadmap for Transformational Justice within the Energy System* (2019). *Harvard Civil Rights- Civil Liberties Law Review* (CR-CL), Vol. 54, pp. 1-48 (2019), Northeastern University School of Law Research Paper No. 346-2019, Available at SSRN: <https://ssrn.com/abstract=3362355>.

⁷ St. 2008, Chapter 298, codified in relevant part at M.G.L. c. 21N and M.G.L. c. 30, § 61.

⁸ *See* COMMONWEALTH OF MASS., EXEC. OFFICE OF ENERGY AND ENVTL. AFFAIRS, DETERMINATION OF STATEWIDE EMISSIONS LIMITS FOR 2050 (2020), <https://www.mass.gov/doc/final-signed-letter-of-determination-for-2050-emissions-limit/download>.

30. GWL is uniquely positioned to provide evidence of the impacts, harms, and future needs of the Affected Community to ensure that the Department can appropriately weigh the net benefits of the Settlement and APA. GWL along with its constituencies in the Affected Community will be substantially and specifically affected by the Settlement and APA.

For the reasons stated herein, GWL respectfully requests the Department grant its petition for intervention in this proceeding.

Respectfully Submitted,

GROUNDWORK LAWRENCE, INC.

By its attorneys,



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DATED: August 18, 2020

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document on all parties of record in the above-captioned proceeding in accordance with the requirements of 220 C.M.R. § 1.05.



Courtney Feeley Karp

DATED: August 18, 2020