



THE COMMONWEALTH OF MASSACHUSETTS
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November 9, 2022

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: NSTAR Gas Company d/b/a Eversource Energy, D.P.U. 22-107

Dear Secretary Marini:

Pursuant to the briefing schedule established in the above-referenced matter, the Office of the Attorney General (“AGO”) submits this letter in lieu of Reply Comments. By this letter, the AGO responds to the Initial Comments made by NSTAR Gas Company d/b/a Eversource Energy (“NSTAR Gas” or “Company”) and the Sierra Club, dated November 2, 2022. For the reasons discussed below, the AGO supports the Company’s petition and recommends that the Department of Public Utilities (“Department”) grant the Company a gas franchise in the Town of Douglas (“Douglas”).

G.L. c. 164, § 30 grants the Department the authority to expand a gas company’s service territory. Specifically, the Department “may, after notice and a public hearing, authorize a gas or electric company to carry on its business in any town in the commonwealth other than the town named in its agreement of association or charter, subject to sections eighty-six to eighty-eight, inclusive, and it may purchase, hold and convey real and personal estate in such other town necessary for carrying on its business therein.” G.L. c. 164, § 30.

In past reviews of petitions filed pursuant to G.L. c. 164, § 30, the Department applied a reasonableness standard to determine whether it was in the public interest to grant a company’s petition to extend gas service to a municipality. *Bay State Gas Company*, D.P.U. 87-62, at 4 (1987). To assess the reasonableness of a company’s request, the Department must review the record compiled during its investigation of a company’s petition. Specifically, the Department has considered whether: (1) the town currently has a local gas distribution company providing service to its residents; (2) the company has received support from town officials and potential customers;

and (3) the company can provide the requested gas service to the town without adversely affecting service to its existing customers.¹

Under this standard of review, the record supports a finding that the requested natural gas franchise is reasonable. Douglas does not have an LDC providing natural gas service to its residents (Exh. ES-1, at 2); Town officials and potential customers support NSTAR Gas' petition (Exhs. ES-3C, ES-4A, ES-4-B); and NSTAR Gas indicates that gas service to Douglas will not adversely affect service to its existing customers (Exh. ES-1, at 5–6). *See also, NSTAR Gas Initial Comments*, at 3–6.

Even if, as suggested by the Sierra Club, the Department updates its standard for reviewing decisions related to new gas system infrastructure to include consideration of the Commonwealth's energy policies² (which the AGO agrees the Department should do³), the Company's request for a franchise is reasonable and the Department should approve it.

The proposed projects have the potential to increase Douglas' tax revenue, fund various social services, and bring new jobs to Douglas. 94 percent of Douglas' tax base is residential, and thus Douglas is seeking new economic development opportunities from new C&I operations to not only reduce its residents' tax burden by increasing its commercial tax base, but also sustain existing town services. *Minarik Comments*, at 1–2. The proposed 1.1 million SF project at 123 Gilboa Street is estimated to create 200 construction jobs and 450 new full-time jobs. Exh. ES-7. The proposed 3.1 million SF project at 150 Gilboa Street will be nearly three times larger, which

¹ *See e.g., Commonwealth Gas Company/Bay State Gas Company*, D.P.U. 86-138/179, Town of Mendon, at 6 (1987); *Bay State Gas Company*, D.P.U. 87-46, Town of Monson, at 3–4 (1987); *Bay State Gas Company*, D.P.U. 87-62, Town of Palmer, at 3–4 (1987); *Blackstone Gas Company*, D.P.U. 88-159, Town of Millville, at 3 (1996); *Colonial Gas Company*, D.P.U. 92-171, Town of Eastham, at 4 (1992); *Berkshire Gas Company*, D.T.E. 99-116, Town of Sunderland, at 3 (2000); *Boston Gas Company*, D.T.E. 03-49, Town of Oxford, at 3–4 (2003).

² *See Sierra Club Initial Comments*, at 3; *see also* An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, St. 2021, c. 8.; An Act Driving Clean Energy and Offshore Wind, St. 2022, c. 179; Mass. Exec. Office of Energy & Env't Affairs, Massachusetts Clean Energy and Climate Plan for 2025 and 2030. <https://www.mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download>.

³ The AGO has urged the Department to adopt a new standard for reviewing decisions related to new gas system infrastructure. Specifically, in the Department's pending gas future docket (D.P.U. 20-80), the AGO has proposed that review of new gas infrastructure include: (1) a comparison of alternative investment scenarios utilizing updated inputs such as the cost of avoided GHG emissions and expected stranded costs; (2) consideration of the environmental and equity impacts of the proposed investment; and (3) a demonstration that the new investment is consistent with the current health, environmental protection and resource use and development policies of the Commonwealth. *Investigation by the Department of Public Utilities on Its Own Motion into the Role of Gas Local Distribution Companies as the Commonwealth Achieves Its Target 2050 Climate Goals*, D.P.U. 20-80, AGO report, *Regulating Uncertainty*, at 34 (May 6, 2022).

suggests that it will likely create even more construction and new full-time jobs than the project at 123 Gilboa Street.

While approving the petition will result in additional gas usage at two new commercial properties⁴ as well as at existing C&I properties,⁵ Douglas has demonstrated a commitment to the Commonwealth's clean energy policies. Douglas has opted-in to the Commonwealth's Stretch Energy Code, is a designated Green Community, and has a high penetration of rooftop solar. In addition, during discussions with the AGO, representatives of Douglas expressed a willingness to pursue avenues for Douglas to opt-in to the Commonwealth's Specialized Stretch Energy Code.⁶ As an additional environmental mitigation factor, CRG (the developer of the 123 Gilboa Street parcel) agreed to design and strengthen one-half of the proposed warehouse rooftop area, 550,00 sq. ft. or approximately 12.6 acres, "to accept the installation of roof mounted solar panels." *Minarik Comments*, at 3.⁷

For all the reasons stated above, NSTAR Gas' petition to distribute natural gas and carry on its business in Douglas pursuant to G.L. c. 164, §30 is reasonable and in the public interest.

Sincerely,

/s/ Matthew E. Saunders
Matthew E. Saunders
Assistant Attorney General

cc: Katie Zilgme, Hearing Officer
Service List

⁴ It is unclear whether denying the Company's petition would ultimately have an impact on the Commonwealth's emissions goal as a practical matter. The developer could have, and may if approval is not granted, opted to build in the neighboring Towns of Sutton and Uxbridge, or similarly situated communities that already have natural gas service. That is, under existing Department practice, the gas company already serving such towns could provide natural gas to a new customer so long as "it is economic to do so." Exh. DPU-1-1(c).

⁵ Exhs. ES-3B; ES-3C.

⁶ See, <https://www.mass.gov/info-details/stretch-energy-code-development-2022>. The Department of Energy Resources is requiring the specialized code to be available for adoption by December 24, 2022.

⁷ The AGO has also encouraged representatives of Douglas to secure a similar agreement with CRG for rooftop solar capability for the proposed warehouses at 150 Gilboa Street.

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DEPARTMENT OF PUBLIC UTILITIES**

**NSTAR GAS COMPANY D/B/A
EVERSOURCE ENERGY**

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. 1.05(1) (Department's Rules of Practice and Procedure). Dated at Boston this 9th day of November 2022.

/s/ Matthew E. Saunders
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