

Cullen and Dykman LLP
1101 Fourteenth Street, N.W. / Suite 550
Washington, D.C. 20005
(202) 223-8890 / fax: (202) 457-1405

August 15, 2005

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1A
Washington, D.C. 20426

**Re: Weavers Cove Energy, LLC - Docket No. CP04-36-000
Mill River Pipeline, LLC – Docket Nos. CP04-41-000, CP04-42-000,
and CP04-43-000**

Dear Secretary Salas:

Enclosed for electronic filing please find the KeySpan Delivery Companies Request For Clarification, Or In The Alternative, Rehearing in the above referenced dockets.

Thank you for your cooperation in this matter.

Yours truly,

Kenneth J. Maloney

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

In The Matter Of:)		
)		
Weavers Cove Energy, LLC)	Docket No.	CP04-36-000
)		
Mill River Pipeline, LLC)	Docket Nos.	CP04-41-000
)		CP04-42-000
)		CP04-43-000

**REQUEST FOR CLARIFICATION, OR
IN THE ALTERNATIVE, REHEARING OF
THE KEYSpan DELIVERY COMPANIES**

Pursuant to Rule 713 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §385.713, the KeySpan Delivery Companies¹ (“KeySpan”) hereby request clarification or, in the alternative, rehearing of the Commission’s “Order Granting Authority Under Section 3 Of The Natural Gas Act And Issuing Certificate” issued July 15, 2005 in the above-captioned proceeding (“July 15 Order”).² Specifically, KeySpan requests the Commission to clarify that (i) the Commission did not intend in the July 15 Order to make any finding concerning the impact that deliveries of regasified liquefied natural gas (“LNG”) from the Weaver’s Cove Energy, LLC (“Weavers Cove”) and Mill River Pipeline, LLC (“Mill River”) facilities (collectively “Weavers Cove facilities”) may have on Algonquin Gas Transmission Company’s (“Algonquin”) system or the customers served by Algonquin, and (ii) the Commission’s approval of Mill Rivers *pro forma* tariff, including the gas quality provisions of that tariff,³ will in no way affect or influence the Commission’s consideration of any future proposals to modify the quality provisions of Algonquin’s tariff. In support of these requests for clarification, KeySpan states as follows:

¹ The KeySpan Delivery Companies consist of The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York, KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island; and Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc. and Essex Gas Company, which collectively are referred to as KeySpan Energy Delivery New England.

² 112 FERC ¶ 61,070 (2005).

³ See Mill River’s *pro forma* tariff, Section 2 of the General Terms and Conditions.

1. In its July 15 Order, the Commission granted Weavers Cove authority to construct and operate an LNG terminal in Fall River, Massachusetts. The Commission also approved Mill River's application to construct and operate two new lateral pipelines designed to transport revaporized LNG from the Weaver's Cove facility to two separate interconnections with Algonquin. Finally, the Commission approved a *pro forma* tariff for Mill River which contained gas quality provisions⁴ which:

- (a) impose no upper limit on the heating value of the gas;
- (b) establish no Wobbe index number;
- (c) establish no limits for carbon dioxide, nitrogen, Mercaptan, pentanes, butane, ethane or propane; and
- (d) establish no hydrocarbon dewpoint limit.

2. To KeySpan's knowledge, Algonquin has not yet filed an application with the Commission seeking to construct and operate facilities necessary to accommodate receipts and re-deliveries of regasified LNG from the Weaver's Cove facilities. However, during the course of this proceeding, the Commission Staff submitted data requests to Algonquin requesting information as to whether Algonquin's system was capable of providing take-away capacity from the Weaver's Cove facilities. Of particular relevance here, Algonquin's responses stated that:

Algonquin has not performed hydraulic studies regarding the ability of its existing G-System to provide adequate take-away capacity to delivery points on its system for the base-load amount of 400,000 Dth per day and peak-day deliveries of up to 800,000 Dth per day as proposed by Mill River and Weaver's Cove in their certificate applications. Some level of additional facilities on the Algonquin system and a related cost recovery mechanism may prove to be necessary but, at this time, neither Mill River nor Weaver's Cove have identified specific delivery points on the Algonquin system or the markets that they intend to serve. Without such information, Algonquin cannot prepare meaningful hydraulic studies.

⁴ Original Sheet Nos. 106-108.

With respect to the G-System laterals only and based on the limited information available, Algonquin has identified the following as necessary facility modifications:

Hydrostatic testing would be necessary on the G-20 lateral pipeline and the G-22 lateral pipeline. As shown below, certain tap valves and check valves would need to be replaced. Further, minor valve work and pipeline modification would be necessary to replace a remote control valve.

G-20 Lateral	
3.5 miles of 16-inch diameter pipeline	Uprate MAOP from 750 psig to 980 psig
G201-1 (12-inch plug valve)	Replace with ball valves
G201-2 (16-inch plug valve)	
G-22 Lateral	
8.4 miles of 20-inch diameter pipeline	Uprate MAOP from 750 psig to 970 psig
Two check valves (12-inch and 20-inch valves)	Replace with straight pipe
G221-1X2	Replace 12-inch remote control valve

Algonquin has not performed other studies relating to system operations in connection with Mill River/Weaver's Cove proposals.

See Algonquin's Responses To FERC Data Requests Nos. 1 and 2 dated March 2, 2004.

3. On the basis of this limited information, the Commission concluded in its July 15 Order that (i) "our analysis shows that the entire 836,000 Dth per day could flow into Algonquin's system as a new source of supply,"⁵ and (ii) "Without more specific information regarding potential shippers and location of delivery points, we cannot determine if additional mainline facilities would be required to effectuate delivery of regasified LNG downstream of the G-System's interconnect with Algonquin's mainline. Nonetheless, we note, that even without mainline capacity, Algonquin could transport the regasified LNG through displacement/backhaul or as an alternate supply source for an existing shipper."⁶

4. KeySpan requests clarification that by making the above-quoted statements, the Commission did not intend to make any finding as to (i) whether the public convenience and

⁵ July 15 Order, para. 74, *mimeo* at 27.

⁶ *Id.*, para. 75, *mimeo* at 27-28.

necessity requires or permits Algonquin to receive and transport volumes received from the Weaver's Cove facilities, (ii) whether the receipt and transportation of such volumes would have any adverse impact on Algonquin or its customers, or (iii) the nature and extent of the facilities that may be necessary for Algonquin to receive and transport volumes delivered from the Weavers Cove facilities in a manner that will not adversely affect Algonquin's ability to continue to provide service to its existing customers. Given the absence of any certificate filing by Algonquin seeking to construct and operate facilities necessary to receive and redeliver volumes that would be received from the Weaver's Cove facilities, and the paucity of information filed by Algonquin in response to Staff's data requests,⁷ the Commission could not have made a reasoned finding concerning the impact of deliveries from the Weaver's Cove facilities on Algonquin and its customers. Accordingly, the requested clarification is appropriate. 5.

In the event that the Commission refuses to grant the requested clarification, then KeySpan respectfully requests rehearing of the July 15 Order. The Commission's Certificate Policy requires the Commission to consider the impact of proposed new pipeline projects on other affected pipelines and the captive customers they serve.⁸ Such findings must be supported by substantial evidence which is defined as such evidence "as a reasonable mind might accept as adequate to support a conclusion."⁹ In this case, the data responses supplied by Algonquin are simply insufficient to support a conclusion that deliveries of LNG from the Weaver's Cove facilities would not adversely affect Algonquin and its captive customers.¹⁰

⁷ KeySpan recognizes that the lack of information provided by Algonquin was attributable to the fact that Weaver's Cove had not provided Algonquin with information about specific delivery points or markets.

⁸ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 at 61,737 (1999); *order clarifying Statement of Policy*, 90 FERC ¶ 61,128 (2000); *order further clarifying Statement of Policy*, 92 FERC ¶ 61,094 (2000).

⁹ *See, Columbia LNG Corp. v. FPC*, 491 F.2d 651, 654 (5th Cir. 1975)("Columbia"), *citing Consolidated Edison Company v. NLRB*, 305 U.S. 197 (1938).

¹⁰ As the Court further stated in *Columbia*, "Substantial evidence as defined by the Supreme Court, means more than a mere scintilla and must do more than create a suspicion of the fact to be established. 491 F.2d at 654 *citing NLRB v. Columbia Enameling and Stamping Company*, 306 U.S. 292 (1939).

6. KeySpan also seeks clarification that approval of Mill River's *pro forma* tariff, including the gas quality provisions set forth in Section 2 of its General Terms and Conditions, will in no way adversely affect the Commission's consideration of any changes to the quality provisions of Algonquin's tariff that may be proposed in the future by Algonquin, its customers or other interested parties. In other proceedings¹¹ in which Algonquin has proposed to construct facilities to enable it to receive and redeliver regasified LNG, KeySpan has proposed that the Commission require Algonquin to revise its tariff to include parameters for the following gas quality/interchangeability criteria: (a) a Wobbe index number, (b) a maximum heating value, (c) a nitrogen limit, (d) a carbon dioxide limit, (e) a Mercaptan limit, (f) a pentanes (+) limit, (g) a butane (+) limit, (h) an ethane limit, (i) a propane limit, and (j) a hydrocarbon dewpoint limit. In that proceeding, KeySpan also proposed that Algonquin include a tariff provision requiring deliveries of gas to remain merchantable and that the Commission establish procedures enabling Algonquin, its customers and other affected parties to begin the process of developing appropriate gas quality and interchangeability parameters for inclusion in Algonquin's tariff. In response to KeySpan's proposals, Algonquin indicated in that proceeding that it is "fully cognizant" of the issue and "continues to solicit input in order to increase its understanding of the customers' gas quality limitations."¹²

7. KeySpan's concern in this proceeding is that the Commission's approval of the gas quality provisions set forth in Mill River's *pro forma* tariff should not provide justification for a future claim by Weaver's Cove or Mill River that they have relied upon the Commission's approval of those provisions to their detriment in proceeding with the development of the Weaver's Cove project. Additionally, neither Algonquin nor the Commission should somehow be estopped from modifying Algonquin's tariff in a manner that will create a need for

¹¹ See "Motion to Intervene, Comments and Request For Further Information and Conditions of the KeySpan Delivery Companies," p. 5, Docket No. CP05-383 (July 14, 2005).

¹² See "Motion For Leave To Answer And Answer Of Algonquin Gas Transmission, LLC" filed in *Algonquin Gas Transmission, LLC*, Docket No. CP05-383-000, dated July 29, 2005, at pp. 4-5.

modifications to the Weaver's Cove facilities and/or Mill River's tariff. Weaver's Cove and Mill River should be aware that (i) the Commission is considering gas quality and interchangeability issues on a generic basis in Docket No. PL04-3, and (ii) Algonquin's customers have significant concerns about the impact that deliveries of regasified LNG may have on Algonquin's ability to continue to deliver gas that is consistent with the merchantable commodity that Algonquin has delivered in the past. Under these circumstances, the Commission should confirm that its approval of Mill River's *pro forma* tariff will in no way affect or influence its consideration of any gas quality-related tariff modification on Algonquin's system that may be submitted for the Commission's consideration in the future.¹³

8. To the extent that the Commission declines to grant this requested clarification, KeySpan requests rehearing of the Commission's approval of Mill River's *pro forma* tariff as set forth in the July 15 Order. As discussed *supra*, under the *Certificate Policy*, the Commission is required to evaluate the impact of new construction proposals on other affected pipelines and their captive customers.¹⁴ In this proceeding, the Commission has not considered in any meaningful manner whether deliveries of regasified LNG from the Weaver's Cove facilities to Algonquin may adversely affect Algonquin and its customers. Given the fact that the Commission has been made aware of the problems that deliveries of imported LNG may cause to distributors, electric generators and other end users, the Commission cannot continue to avoid addressing this issue in proceedings in which it is being requested to certificate new imported LNG facilities. The Commission should establish procedures to resolve gas quality and interchangeability issues on affected pipeline systems before new LNG import facilities are constructed.

¹³ In making this request, KeySpan is not suggesting that Weaver's Cove, Mill River or any other party should be precluded from participating in any proceedings in which Algonquin's gas quality provisions will be considered.

¹⁴ See fn. 8.

9. In making this request, KeySpan wishes to emphasize that it fully supports the development of new LNG import facilities as a general matter and has no desire to impose unnecessary obstacles on the development of such projects by Weaver's Cove or any other project developer. KeySpan merely wishes to ensure that new LNG import projects do not adversely affect KeySpan's distribution systems or the customers of those systems. Prompt Commission action to establish procedures to resolve gas quality/interchangeability issues on individual pipelines will ensure that LNG project developers have the information they need to successfully proceed with the development of their projects.

CONCLUSION

For the foregoing reasons, the KeySpan Delivery Companies respectfully request the Commission to clarify that:

- (1) the Commission did not intend in its July 15 Order to make any finding concerning the impact that the receipt and redelivery by Algonquin of regasified LNG from the Weaver's Cove facilities may have on Algonquin's operations or its ability to serve its firm customers; and

- (2) the Commission's approval of Mill River's *pro forma* tariff, including the gas quality specifications set forth therein, will not adversely affect or influence the Commission's consideration of any modifications to Algonquin's gas quality provisions that may be proposed in the future by the pipeline, its customers or other interested parties.

Respectfully submitted,

The KeySpan Delivery Companies

/s/Kenneth T. Maloney

Kenneth T. Maloney

Christopher M. Heywood

Cullen and Dykman LLP

1101 Fourteenth Street, NW, Suite 550

Washington, D.C. 20005

(202) 223-8890

Dated: August 15, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties to this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. this 15th day of August, 2005.

/s/ Kenneth T. Maloney

Kenneth T. Maloney
Cullen and Dykman LLP
1101 Fourteenth Street, NW, Suite 550
Washington, D.C. 20005
(202) 223-8890

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