

RETURN DATE: NOVEMBER 4, 2014

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CONNECTICUT ENERGY MARKETERS ASSOCIATION	:	SUPERIOR COURT
	:	JUDICIAL DISTRICT OF HARTFORD
Plaintiff,	:	
	:	AT HARTFORD
v.	:	
	:	
CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION	:	OCTOBER 7, 2014
	:	
and	:	
	:	
CONNECTICUT PUBLIC UTILITIES REGULATORY AUTHORITY	:	
	:	
Defendants.	:	
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action for declaratory and injunctive relief challenging the failure of the Department of Energy and Environmental Protection (“DEEP”) and DEEP’s Public Utilities Regulatory Authority (“PURA”) to assess the environmental consequences of DEEP’s plan for a massive expansion of Connecticut’s natural gas infrastructure, as required by the Environmental Policy Act, Conn. Gen. Stat. §§22a-1a to 22a-1h (the “Act”).

2. The Act requires every state-approved or state-funded activity that may significantly affect the environment to be evaluated in a detailed written report, known as an Environmental Impact Evaluation (“EIE”). It also requires agencies that are responsible for the primary recommendation or initiation of such activities to perform an early public scoping process to determine the environmental significance of the proposed activities.

3. In accordance with Conn. Gen. Stat. §16a-3d, DEEP issued a Comprehensive Energy Plan (the “Plan”) in February of 2013 that included, among other things, a substantial

expansion of access to natural gas in Connecticut. The Plan also identified goals which DEEP would seek to advance, including “decreased greenhouse gas emissions.”

4. The Plan proposed these specific steps, among other things:
 - (a) Expansion of the natural gas pipeline capacity into Connecticut.
 - (b) 900 miles of new gas mains.
 - (c) Incentives for the state’s gas companies (“LDCs”) to begin construction quickly.
 - (d) The conversion to natural gas usage of some 300,000 residential and commercial customers.

5. The Plan was to give “due regard” to a number of factors, including *environmental goals and standards*, and it was also to include “recommendations for administrative and legislative actions to implement [its] policies, objectives and strategies.” Section 16a-3d(a).

6. The natural gas distribution system in Connecticut is leaking quantities of natural gas, which is composed primarily of the Green House Gas (“GHG”) methane. According to reports submitted to the U.S. Environmental Protection Agency (“US EPA”) by the LDCs, they emitted over 200,000 metric tons of greenhouse gases in each of the years 2011 and 2012 while supplying the State's 415,000 existing natural gas customers. Continuing increases in greenhouse gases or “CHG’s,” including methane, are causing and will continue to cause a range of environmental, economic, and social effects. For this reason, Connecticut has established targets for decreased greenhouse gas emissions in the State’s Global Warming Solutions Act (PA 08-98), Conn. Gen. Stat. §§ 22a-200-201.

7. Despite significant identified environmental impacts arising from the anticipated

increase in service to 300,000 new customers, and adding 900 miles of gas mains, and the conclusion of the U.S. EPA that methane is more than 20 times as effective as carbon dioxide in trapping heat in the atmosphere, DEEP failed to evaluate the environmental impacts of the expansion plan and the specific series of steps proposed by DEEP to implement it. In particular, DEEP failed to perform an assessment of the direct, indirect, and cumulative impacts of methane leakage from the State's natural gas distribution system.

8. DEEP did not make *any* written determination of environmental significance, eschewing the process established by the Act and sections 22a-1a-1 to 22a-1a-12 of the Regulations of Connecticut State Agencies to determine whether a substantial adverse impact on the environment may occur as a result of the planned sequence of activities, and, consequently, whether an EIE is required to be prepared. The failure of DEEP to perform the assessment violates the Act. Had it performed the required assessment, the evidence indicates that DEEP would have concluded that the sequence of planned activities it proposed for implementation is more likely than not to have a significant adverse effect on the environment.

9. The failure of DEEP to prepare an EIE violates the Act. Any implementation of the infrastructure expansion plan will have a significant adverse effect on the environment. The Act requires the preparation of an EIE where the planned activity "may" or would arguably have a significant environmental effect. The threshold for requiring an EIE has been met with respect to the Plan which triggers the requirement that DEEP prepare an EIE before any entity undertakes any of the sequence of activities proposed by DEEP in furtherance of the Plan.

10. PURA also considered and approved measures to implement the Plan without assessing whether an EIE was required to be performed. Had it performed the required assessment, the evidence indicates that PURA would have concluded that the implementation

measures before it were more likely than not to have a significant adverse effect on the environment.

11. The failure of PURA to prepare an EIE violates the Act.

12. For these and other reasons set forth below, plaintiff seeks a judicial declaration that DEEP and PURA each violated the Environmental Policy Act through its failure to perform an assessment of environmental significance and an injunction requiring DEEP to comply fully with the Environmental Policy Act before any further action to implement the Plan's proposals is undertaken.

JURISDICTION AND VENUE

13. This Court has jurisdiction pursuant to Conn. Gen. Stat. § 22a-16.

14. The Court may also issue a declaratory judgment pursuant to Conn. Gen. Stat. § 52-29.

15. Venue is proper in the judicial district of Hartford pursuant to Conn. Gen. Stat. § 22a-16.

PARTIES

16. Plaintiff Connecticut Energy Marketers Association (“CEMA”) is a trade association comprised of 585 energy marketers involved primarily in sales of gasoline at wholesale and retail and heating fuel to residential and commercial customers in the State of Connecticut. CEMA members consist primarily of small family-run businesses that employ over 13,000 individuals in the State. The Association was formed in 1950 as the Independent Connecticut Petroleum Association for the purpose of strengthening and protecting the State’s petroleum industry. CEMA keeps its members up to date on the latest legislative and regulatory proposals affecting the interests of energy marketers and serves as an advocate for these interests

in various legislative and regulatory bodies. As business owners and residents of the State of Connecticut, CEMA members and their employees have a strong interest in protecting the State's environment and in ensuring the continued viability of its natural resources. CEMA members are heavily regulated in their business activities by federal and state agencies charged with promulgating and enforcing environmental regulations governing the petroleum industry. They expect that other business entities, including their competitors, achieve the same level of environmental compliance, and that state agencies charged with implementing environmental rules do so evenhandedly, and without regard to the nature of the energy products marketed to Connecticut consumers. In furtherance of these interests, CEMA instituted this action to ensure that the State's natural gas expansion plan is undertaken with knowledge of its impacts on the environment and in full compliance with laws designed to mitigate the harmful effects to the environment that are likely to ensue as a result of the Plan's implementation.

17. Defendant Connecticut Department of Energy and Environmental Protection is a department of the State of Connecticut established pursuant to Conn. Gen. Stat. § 4-38c.

18. Defendant Connecticut Public Utilities Regulatory Authority is a regulatory agency of the State of Connecticut established within the Department of Energy and Environmental Protection pursuant to Conn. Gen. Stat. § 16-2a.

LEGAL BACKGROUND

19. The Environmental Policy Act, Conn. Gen. Stat. §§ 22a-1a to § 22a-1h (the "Act"), was enacted in 1973 and modeled after the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. §§ 4331 to 4335. The Act's regulations are codified in Regulations of Connecticut State Agencies ("RCSA") §§ 22a-1a-1 to 22a-1a-12.

20. The Act provides that "[e]ach state department ... responsible for the primary

recommendation or initiation of actions which *may* significantly affect the environment ... *shall* make a written evaluation of environmental impact before deciding whether to undertake or approve such action.” Conn. Gen. Stat. § 22a-1b(c) (emphasis added).

21. The Act defines “actions which *may* significantly affect the environment” to mean individual activities or a sequence of planned activities proposed to be undertaken by the State, *which could have a major impact* on the state’s land, water, air ... or other environmental resources, or could serve short term to the disadvantage of long term environmental goals.” Conn. Gen. Stat. § 22a-1c (emphasis added).

22. In determining whether an action is environmentally significant, the DEEP regulations direct the agency to consider “its setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope and its magnitude,” RCSA §§ 22a-1a-3.

23. The DEEP regulations also identify 14 separate direct and indirect effects of the action which must be evaluated, RCSA §§ 22a-1a-3(a).

24. In making this assessment, the DEEP regulations require consideration of cumulative impacts, which the regulations define as impacts on the environment that result from the incremental impact of the action when added to other past, present or reasonably foreseeable future actions. The regulations state that cumulative impacts include the incremental effects of similar actions with similar environmental impacts and the incremental effects of a sequence of actions which may, together, have a significant environmental impact even if the individual component actions would not. RCSA §§ 22a-1a-3(b).

25. In the event of a finding of “no significant impact,” no environmental impact evaluation need be prepared, but the sponsoring agency is required to prepare a written finding of no significant impact, stating its assessment of probable impact on the environment, and the

agency must accept comments on its finding from the public and other State agencies. RCSA §§ 22a-1a-10(a).

26. In the event the agency determines that the action or series of planned activities might or could arguably have such an adverse impact, the sponsoring agency must prepare an Environmental Impact Evaluation (“EIE”). Prior to the preparation of the EIE, the sponsoring agency must conduct an early scoping process. Conn. Gen. Stat. § 22a-1b(b)(1). The purpose of the early scoping process is to select the proposed actions and substantive issues to be addressed in an environmental impact evaluation. Conn. Gen. Stat. § 22a-1b(b)(7).

27. An EIE must evaluate in detail, *inter alia*: (i) the proposed action, including its purpose and the need for it; (ii) the environmental consequences of the proposed action, including direct, indirect and cumulative effects on ecological, cultural and recreational resources; (iii) consistency with the State Plan of Conservation and Development; (iv) the relationship of the proposed action to approved land use plans, policies, controls for the affected area; (v) reasonable alternatives including alternative sites that might avoid adverse environmental effects; (vi) measures to mitigate environmental effects; and (vii) the short term and long term economic, social and environmental costs and benefits of the proposed action. Conn. Gen. Stat. § 22a-1b(c); RCSA § 22a-1a-7.

28. EIEs must be submitted to certain state agencies, including the Council on Environmental Quality, Commission on Culture and Tourism, and Office of Policy and Management, as well as to the town clerk of each affected municipality, and be made available to the public for review and comment, and a public hearing must be held upon the request of twenty-five persons. Conn. Gen. Stat. § 22a-1d.

29. The sponsoring agency must review all public and agency comments submitted

on an EIE and any other pertinent information it obtains following circulation of an EIE, and conduct further environmental study and analysis or amend the evaluation if appropriate. RCSA § 22a-1a-9(a).

30. The sponsoring agency also must prepare written responses to all substantive issues raised in review of the EIE, and it must forward the comments, responses, and any supplemental materials or amendments to the Office of Policy and Management. *Id.*

31. Further, the sponsoring agency must prepare a public record of the decision, taking into consideration its findings in the EIE and all comments received. RCSA § 22a-1a-9(b).

32. The public record of decision must state: (1) the agency's decision relative to proceeding with the proposed action; and (ii) "[w]hether *all practicable means* to avoid or minimize environmental harm have been adopted, and if not, why they were not." *Id.* (emphasis added).

33. The Office of Policy and Management must make a written determination as to whether the EIE satisfies the Environmental Policy Act and its regulations and may require revision of the EIE to correct any inadequacies. Conn. Gen. Stat. § 22a-1e.

34. It must also take into account all public and agency comments on the EIE when making its final decision on the project. *Id.*

35. Under the Act, an EIE required by the statute is to be prepared as close as possible to the time an agency proposes an action. The evaluation is to be prepared early enough so that it can practically serve as an important contribution to the decision-making process as the series of planned activities proposed by the agency are implemented.

FACTUAL BACKGROUND

36. Natural gas is sent to Connecticut by interstate transmission lines.

37. Compressor stations are located approximately every 50 to 60 miles along these transmission pipelines to boost the pressure that is lost through the friction of the natural gas moving through the steel pipe. The operators of the compressor stations continuously adjust the mix of engines at each compressor station to maximize the efficiency and safety of the pipeline.

38. Inside the State, natural gas is delivered to three LDCs at over 60 gate stations throughout Connecticut. The three Connecticut LDCs are: Connecticut Natural Gas (subsidiary of UI Corporation); Southern Connecticut Gas Company (subsidiary of UI Corporation); and, Yankee Gas (subsidiary of Northeast Utilities).

39. Gate stations serve three purposes:

(a) They allow the pressure in the line to be reduced from transmission levels to distribution levels.

(b) An odorant is added so that even very small quantities of natural gas can be smelled.

(c) The gate station meters the flow rate of the gas so that the LDC can determine how much gas it received.

40. The LDC's distribution mains, which generally run down public streets, are usually between two inches and 20 inches in diameter and typically operate at .25 to 200 pounds per square inch gauge ("psig"). Service lines then run from the distribution mains to homes and businesses. These service lines are usually between one-half inch and four inches in diameter and typically operate at .25 to 60 psig.

41. The distribution system in Connecticut presently allows quantities of natural gas to escape into the atmosphere. The escaping gas is composed primarily of the greenhouse gas methane, endangering human health and the environment, risking explosions and creating other

safety hazards in the State. These leaks, known as “fugitive emissions,” comprise a significant source of GHG that should have been quantified and mitigated by DEEP as part of an EIE to ensure that the Plan is consistent with Connecticut’s climate change mandates.

42. Such fugitive emissions account for as much as nine percent of all the gas entering the natural gas distribution systems.

43. There are currently approximately 415,000 natural gas customers in the State of Connecticut. The Plan proposed to make gas available to 300,000 additional customers.

44. There are currently approximately 7,700 miles of gas mains in the state of Connecticut. The Plan proposed to add 900 miles of new gas mains.

45. The Plan proposed the expansion of the natural gas pipeline capacity into Connecticut, necessitating additional production of natural gas in adjacent states.

46. Anthropogenic climate change is an important and urgent policy issue addressed in the Plan. The U.S. Government recognizes the Intergovernmental Panel on Climate Change (“IPCC”) as the preeminent international body established to provide objective scientific and technical assessments of climate change. Successive IPCC reports have elevated the certainty and severity of climate change.

47. The U.S. EPA, in implementing the rulemaking required by *Massachusetts v. EPA*, 549 U.S. 497 (2007), formally acknowledged that climate change substantially impacts human health and the environment, 74 Fed. Reg. 66496 (2009).

48. According to EPA’s Inventory of U.S. Greenhouse Gas Emissions and Sinks, the GHG methane is more than 20 times as effective as carbon dioxide at trapping heat in the atmosphere and the second largest source of methane emissions in the United States is natural gas distribution systems.

49. Connecticut has recognized the need to reduce greenhouse gas emissions by establishing emission targets in the Global Warming Solutions Act (PA 08-98)(“GWSA”), Conn. Gen. Stat. § 22a-200-201. The GWSA establishes *mandatory* targets for the State of 10% reductions below 1990 GHG levels by 2020, and 80% reductions below 2001 GHG emission levels by January 2050. According to reports submitted by the LDCs to US EPA, *the Connecticut LDCs emitted over 200,000 metric tons of greenhouse gases in each of the two recent years 2011 and 2012 while supplying the current customer base.*

50. There was no attempt to quantify or estimate the increase in methane leakage into the atmosphere that the nearly doubling of Connecticut natural gas customers in the State under the Plan would entail. Nor did DEEP attempt to determine the cumulative impact of the anticipated additional methane leakage on the already severe problems associated with existing methane leakage and its impact on the environment, including the mandatory GWSA targets. In short, DEEP made no finding of environmental significance, eschewing completely the statutory and regulatory process designed to determine the impact of proposed actions on the environment and to require an EIS when such impacts “may” have a significant adverse impact.

51. Nor was any consideration given by DEEP to the impacts of the implementation of the Plan on:

- The presence of federally-listed or proposed endangered or threatened species and their critical habitats in the area of proposed work.
- Whether any of the pipelines or mains will cross freshwater wetlands and whether any mitigation measures need to be implemented to minimize impacts.
- Whether the installation of the pipelines or mains will disturb soils,

increasing the potential for soil erosion, compaction, loss of soil productivity and damage to existing soil tiles.

- Whether any of the work will occur over groundwater aquifers or near private water supply wells, and the LDCs plans to minimize any potential for groundwater impacts.

- Whether appropriate erosion and sediment controls and Spill Prevention, Control and Countermeasure Plans are adequate to minimize and control runoff into surface waters.

- Whether the construction and operation of the pipelines or mains, such as clearing of trees, would result in temporary or permanent alteration of wildlife habitat.

- Whether any of the work will create temporary or permanent air or noise quality impacts, such as emissions from equipment installing pipelines or mains or the emission of criteria air pollutants from compressor stations.

52. DEEP is the “sponsoring agency” within the meaning of the Act and its implementing regulations. It proposed a series of prescribed activities to implement a Plan devised by DEEP to expand Connecticut’s natural gas infrastructure. In developing the Plan and the steps to implement it, DEEP was indifferent to the environmental consequences of the Plan. PURA is also the sponsoring agency, either as part of DEEP or independently. PURA exercised judgment or discretion as to the propriety of the Expansion Plan, thus initiating an “action” within the meaning of the applicable DEEP regulations.

53. Before transmitting the Plan to the General Assembly for implementation, DEEP was required to perform an assessment to determine whether the sequence of activities it

proposed may, or would arguably have a significant environmental effect on the environment. DEEP performed no such assessment or any other process to determine the environmental significance of the Plan.

54. Before transmitting the Plan to the General Assembly and other State agencies for implementation, DEEP should have performed an EIE to evaluate the proposed activities, the environmental consequences of the proposed activities, including their direct, indirect and cumulative effects on ecological, cultural and recreational resources, the consistency of the Plan with other State environmental mandates, like the GWSA, reasonable alternatives that might avoid adverse environmental consequences, including areas that should be off limits to the excavation and other work necessary to implement the Plan, measures to mitigate environmental effects, and the short-term and long-term economic, social and environmental costs and benefits of the proposed action. DEEP performed no EIE.

55. On June 14, 2013, the LDCs submitted to DEEP a jointly prepared detailed plan to implement the Plan (“Expansion Plan”).

56. On July 16, 2013, the DEEP Commissioner issued a determination that the LDCs’ Expansion Plan was consistent with the Plan, thereby initiating consideration of the LDCs’ Expansion Plan by PURA.

57. In the course of its consideration of the LDC’s Expansion Plan, PURA received public comments urging it to prepare an EIE prior to issuing a decision on the LDC’s Expansion Plan.

58. Despite the facts set forth above and the comments urging it to prepare an EIE, PURA did not assess whether either the Plan or the Expansion Plan might have a significant

environmental effect. Nor did PURA prepare an EIE. PURA issued a final decision approving the LDCs' Expansion Plan on November 22, 2013.

59. The LDCs are now implementing the Expansion Plan.

60. At no point either prior to or subsequent to DEEP's issuance of the Plan has DEEP assessed the environmental consequences of its Plan, considered the scope of the necessary EIE, or undertaken an EIE of the Plan.

61. At no point either prior to or subsequent to PURA's approval of the Expansion Plan has PURA assessed the environmental consequences of the Plan, performed the required scoping process, or prepared an EIE.

62. DEEP's and PURA's failure to assess the environmental consequences of the Plan or the Expansion Plan and to prepare an EIE violates the Act. Such violations have resulted in injury to plaintiff and other citizens of the State of Connecticut who will bear the effects of the Plan without adequate assessment.

FIRST COUNT

For a Declaratory Judgment that DEEP Has Violated the Environmental Policy Act and an Injunction Requiring Compliance With the Act.

(DEEP's Failure to Prepare an Assessment of Environmental Significance)

63. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 62 of this Complaint as if fully stated herein.

64. DEEP is a State department, institution, or agency within the meaning of the Environmental Policy Act, Sec. 22a-1c. The Plan issued by DEEP proposed a sequence of planned activities which could have a major impact on the State's environmental resources and could serve short term to the disadvantage of long term environmental goals.

65. Because DEEP failed to determine the environmental significance of the Plan, including the impact of increased methane leakage on the State's environment and environmental goals and objectives, and the impacts of construction activities on the State's freshwater wetlands, soils, water, groundwater acquirers, trees and wildlife habitat, plaintiff has been denied its procedural and substantive rights under the Act.

66. This failure presents a *bona fide* controversy between plaintiff and DEEP, justifiable in character, that requires a judicial determination in order for plaintiff and other citizens and agencies of the State to participate in the public environmental review process and to be informed of and to protect themselves from the above-stated environmental consequences of the Plan. Such a judicial resolution is also necessary to protect the concrete interests of plaintiff in its health, environmental protection, and economic security, which are being and will continue to be threatened by the continued failure of DEEP to determine the environmental significance of the Plan.

67. Plaintiff is unable to avail itself of any other forum or proceeding through which immediate relief may be granted.

SECOND COUNT

For a Declaratory Judgment that PURA Has Violated the Environmental Policy Act and an Injunction Requiring Compliance With the Act.

(PURA's Failure to Prepare an Assessment of Environmental Significance)

68. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 67 of this Complaint as if fully stated herein.

69. PURA is a State department, institution, or agency within the meaning of the Environmental Policy Act, Sec. 22a-1c. The Plan issued by DEEP and the LDC's Expansion

Plan both proposed sequences of planned activities which could have a major impact on the State's environmental resources and could serve short term to the disadvantage of long term environmental goals.

70. Because PURA failed to determine the environmental significance of the Plan and the LDC's Expansion Plan, including the impact of increased methane leakage on the State's environment and environmental goals and objectives, and the impacts of construction activities on the State's freshwater wetlands, soils, water, groundwater acquirers, trees and wildlife habitat, plaintiff has been denied its procedural and substantive rights under the Act.

71. This failure presents a *bona fide* controversy between plaintiff and PURA, justifiable in character, that requires a judicial determination in order for plaintiff and other citizens and agencies of the State to participate in the public environmental review process and to be informed of and to protect themselves from the above-stated environmental consequences of the Plan and the LDC's Expansion Plan. Such a judicial resolution is also necessary to protect the concrete interests of plaintiff in its health, environmental protection, and economic security, which are being and will continue to be threatened by the continued failure of PURA to determine the environmental significance of the Plan and the LDC's Expansion Plan.

72. Plaintiff is unable to avail itself of any other forum or proceeding through which immediate relief may be granted.

THIRD COUNT

For a Declaratory Judgment that DEEP Has Violated the Environmental Policy Act and an Injunction Requiring Compliance With the Act.

(DEEP's Failure to Prepare an EIE)

73. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 72 of this Complaint as if fully set forth herein.

74. DEEP's failure to prepare an EIE in connection with the infrastructure expansion Plan constitutes a violation of the Environmental Policy Act. The Plan proposed by DEEP and the sequence of activities proposed by DEEP to implement it may have a significant adverse effect on the environment.

75. The Plan is now being implemented pursuant to a timetable established in part by the defendants and without the benefit of an EIE to guide the decisions of the gas companies in taking actions that could impact the environment in a negative way. Under the Environmental Policy Act and its implementing regulations, an EIE should be prepared as close as possible to the time an agency proposes an action. The evaluation is to be prepared early enough so that it can practically serve as an important contribution to the decision-making process. It is not to be used to rationalize or justify decisions already made.

76. Plaintiff seeks a judicial declaration that the natural gas distribution expansion Plan may have a significant adverse effect on the environment, necessitating the preparation of an EIE before any further action is taken by DEEP, PURA, or the gas companies to implement the Plan. The requested relief would redress the harms caused by DEEP's failure to prepare an EIE by providing all concerned with the necessary information on environmental impacts and the guidance necessary to assess reasonable alternatives to the gas companies' implementation plans and to prepare the measures necessary to mitigate its harmful effects.

77. A concrete controversy exists between plaintiff and DEEP with respect to the requirements of the Environmental Policy Act and, in particular, the requirement that DEEP prepare an EIE. The outcome of the controversy has important consequences for the

health of the State's environment and the fulfillment of the rights of its citizens to the benefits of the Act's mandates.

FOURTH COUNT

For a Declaratory Judgment that PURA Has Violated the Environmental Policy Act and an Injunction Requiring Compliance With the Act.

(PURA's Failure to Prepare an EIE)

78. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 77 of this Complaint as if fully set forth herein.

79. PURA's failure to prepare an EIE in connection with the LDC's Expansion Plan constitutes a violation of the Environmental Policy Act. The Plan proposed by PURA and the sequence of activities proposed by PURA to implement it may have a significant adverse effect on the environment.

80. The LDC's Expansion Plan is now being implemented pursuant to a timetable established in part by the defendants and without the benefit of an EIE to guide the decisions of the gas companies in taking actions that could impact the environment in a negative way. Under the Environmental Policy Act and its implementing regulations, an EIE should be prepared as close as possible to the time an agency proposes an action. The evaluation is to be prepared early enough so that it can practically serve as an important contribution to the decision-making process. It is not to be used to rationalize or justify decisions already made.

81. Plaintiff seeks a judicial declaration that the natural gas LDC's Expansion Plan may have a significant adverse effect on the environment, necessitating the preparation of an EIE before any further action is taken by DEEP, PURA, or the gas companies to implement the LDC's Expansion Plan. The requested relief would redress the harms caused by PURA's failure

to prepare an EIE by providing all concerned with the necessary information on environmental impacts and the guidance necessary to assess reasonable alternatives to the LDC's Expansion Plan and to prepare the measures necessary to mitigate its harmful effects.

82. A concrete controversy exists between plaintiff and PURA with respect to the requirements of the Environmental Policy Act and, in particular, the requirement that PURA prepare an EIE. The outcome of the controversy has important consequences for the health of the State's environment and the fulfillment of the rights of its citizens to the benefits of the Act's mandates.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CEMA respectfully claims and prays for the following:

With respect to the First Count:

1. A declaratory judgment declaring that DEEP has violated the Environmental Policy Act by failing to perform the required assessment to determine whether the Plan may, or would arguably have a significant effect on the environment, requiring the preparation of EIE;

2. An injunction enjoining DEEP: (i) from taking any action approving, authorizing, or directing any work to be conducted by the LDCs to implement the Plan; (ii) from taking any decision or action necessary to its implementation; and (iii) to direct the LDCs to suspend any work in furtherance of the Plan, until DEEP has made an assessment in full procedural and substantive compliance with the Environmental Policy Act;

3. Costs of suit, including reasonable costs for witnesses and a reasonable attorney's fee, pursuant to Section 22a-18(e) of the Environmental Protection Act, Conn. Gen. Stat. § 22a-18(e), or other authority; and

4. Such further and additional relief as the Court deems just and proper.

With respect to the Second Count:

1. A declaratory judgment declaring that PURA has violated the Environmental Policy Act by failing to perform the required assessment to determine whether the LDC's Expansion Plan may, or would arguably have a significant effect on the environment, requiring the preparation of EIE;

2. An injunction enjoining PURA: (i) from taking any action approving, authorizing, or directing any work to be conducted by the LDCs to implement the Expansion Plan; (ii) from taking any decision or action necessary to its implementation; and (iii) to direct the LDCs to

suspend any work in furtherance of the Expansion Plan, until DEEP or PURA has made an assessment in full procedural and substantive compliance with the Environmental Policy Act;

3. Costs of suit, including reasonable costs for witnesses and a reasonable attorney's fee, pursuant to Section 22a-18(e) of the Environmental Protection Act, Conn. Gen. Stat. § 22a-18(e), or other authority; and

4. Such further and additional relief as the Court deems just and proper.

With respect to the Third Count:

1. A declaratory judgment declaring that DEEP has violated the Environmental Policy Act by failing to conduct the statutorily-mandated scoping process, and failing to prepare an EIE for the Plan;

2. An injunction enjoining DEEP: (i) from taking any action approving, authorizing, or directing any work to be conducted by the LDCs to implement the Plan; (ii) from taking any decision or action necessary to its implementation; and (iii) to direct the LDCs to suspend any work in furtherance of the Plan, until DEEP has prepared an EIE in full procedural and substantive compliance with the Environmental Policy Act, including the initiation of the aforementioned scoping process and the preparation of an EIE;

3. Costs of suit, including reasonable costs for witnesses and a reasonable attorney's fee, pursuant to Section 22a-18(e) of the Environmental Protection Act, Conn. Gen. Stat. § 22a-18(e), or other authority; and

4. Such further and additional relief as the Court deems just and proper.

With respect to the Fourth Count:

1. A declaratory judgment declaring that PURA has violated the Environmental Policy Act by failing to conduct the statutorily-mandated scoping process, and failing to prepare an EIE for the Expansion Plan;
2. An injunction enjoining PURA: (i) from taking any action approving, authorizing, or directing any work to be conducted by the LDCs to implement the Expansion Plan; (ii) from taking any decision or action necessary to its implementation; and (iii) to direct the LDCs to suspend any work in furtherance of the Expansion Plan, until DEEP or PURA has prepared an EIE in full procedural and substantive compliance with the Environmental Policy Act, including the initiation of the aforementioned scoping process and the preparation of an EIE;
3. Costs of suit, including reasonable costs for witnesses and a reasonable attorney's fee, pursuant to Section 22a-18(e) of the Environmental Protection Act, Conn. Gen. Stat. § 22a-18(e), or other authority; and
4. Such further and additional relief as the Court deems just and proper.

THE PLAINTIFF,
CONNECTICUT ENERGY MARKETERS
ASSOCIATION

By: /s/416009

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**CERTIFICATE OF JOINDER OF/OR
NOTICE TO INTERESTED PERSONS**

Pursuant to Connecticut Practice Book § 17-56(b), the Plaintiff, Connecticut Energy Marketers Association, hereby certifies that all persons interested in the subject matter of the attached complaint have either been joined as parties to the action or given reasonable notice thereof. The parties to whom notice was given by certified mail, return receipt requested, the addresses to which notice was sent, and the nature of their interests are as follows:

1. Connecticut Natural Gas Corporation [76 Meadow Street, East Hartford, CT 06108, Attn: Office of Legal Counsel] is an interested party because, *inter alia*, it is one of the local distribution companies in the State of Connecticut to which natural gas is delivered for residential and commercial customers throughout the state and, as such, will be engaged in the expansion of the natural gas pipeline capacity in the state and the conversion of natural gas usage of its customers.
2. Southern Connecticut Gas Company [60 Marsh Hill Rd., Orange, CT 06477, Attn: Office of Legal Counsel] is an interested party because, *inter alia*, it is one of the local distribution companies in the State of Connecticut to which natural gas is delivered for residential and commercial customers throughout the state and, as such, will be engaged in the expansion of the natural gas pipeline capacity in the state and the conversion of natural gas usage of its customers.
3. United Illuminating Company [157 Church St., #16, New Haven, CT 06510, Attn: Office of Legal Counsel] is an interested party because, *inter alia*, Connecticut Natural Gas Corporation and Southern Connecticut Gas Company are its subsidiaries.

4. Yankee Gas [P.O. Box 270, Hartford, CT 06141-0270, Attn: Office of Legal Counsel] is an interested party because, *inter alia*, it is one of the local distribution companies in the State of Connecticut to which natural gas is delivered for residential and commercial customers throughout the state and, as such, will be engaged in the expansion of the natural gas pipeline capacity in the state and the conversion of natural gas usage of its customers.
5. Northeast Utilities [56 Prospect Street, Hartford, CT 06103, Attn: Office of Legal Counsel] is an interested party because, *inter alia*, Yankee Gas is its subsidiary.

THE PLAINTIFF,
CONNECTICUT ENERGY MARKETERS
ASSOCIATION

By: /s/ 416009 _____

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