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Clash continues over New England's energy future after pipeline ruling

By [Andrew Coffman Smith](#)

All sides agree that a regional, state-by-state push in New England to build new pipelines in support of natural gas generation is now dead after an [Aug. 17](#) court decision, but environmental and consumer groups still disagree on what that ruling means for ratepayers and what the future still holds for the Access Northeast gas expansion [project](#).

The Massachusetts Supreme Judicial Court ruling, which vacated an [October 2015](#) order by the Massachusetts Department of Public Utilities that OK'd the purchase of pipeline capacity by electric distribution companies, dashed hopes held by consumer groups of lowering and stabilizing New England's energy prices, which are among the highest in the U.S.

"The irony of the Massachusetts decision is that it says it is unlawful to put the burden of gas pipelines on the back of ratepayers," Anthony Buxton, a Maine-based attorney, said in an interview on behalf of the Coalition to Lower Energy Costs. "Those ratepayers already have on their backs the burdens of these price spikes during the winter when the pipelines can't carry enough gas to power generation."

For instance, Buxton said the "brutal" 2014-2015 winter alone ended up costing New England ratepayers more than \$3 billion in excess of energy costs as a result of constraints in the natural gas supply to the increasingly gas-dependent region. "The only reason that anyone proposed building the gas pipelines is that it would dramatically decrease the burden on ratepayers and that is the opportunity that this decision misses," he explained.

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The pro-renewable Conservation Law Foundation, or CLF, which challenged the DPU order, sees the court ruling as a victory for Massachusetts ratepayers. "This decision protects me and every other family and business in Massachusetts that buys electricity from having to pay for these pipelines on these electricity bills," David Ismay, a Boston attorney with the CLF said in an interview. Ismay admitted that the 2013-2014 polar vortex that sent energy prices skyrocketing caught everyone by surprise, but argued that building a new pipeline is a "very expensive" way to resolve "episodic deliverability issues" in New England's natural gas supply. "On a few days, we have a deliverability constraint which means that we maybe need more for a few hours of a day, regionally, than our pipes can deliver during those few hours. It's quite a stretch to say: 'Well, let's build a 3-foot diameter new pipeline that will be unused for ... 330 days out of every cold winter and potentially 365 days out of warm winters,'" he said.

All eyes are now on the fate of the proposed Access Northeast storage and transportation project to expand [Spectra Energy Partners LP](#)'s existing [Algonquin Gas Transmission LLC](#) network and deliver up to 925,000 Dth/d of Appalachian shale gas to the northeast U.S. Until the ruling, Access Northeast, along with a competing expansion project by [Portland Natural Gas Transmission System LP](#) and a now-canceled proposal for a new line by [Kinder Morgan Inc.](#), sought to benefit from the regional, state-by-state [effort](#) led by Massachusetts to spur pipeline construction through capacity contacts with electric utilities. Access Northeast is currently in the FERC prefilling review process

and has an in-service date of late 2018.

In wake of the verdict, Ismay said he would not be surprised if the Access Northeast project is withdrawn. "It will be difficult for the project to go forward, difficult to demonstrate need to FERC [and] difficult to demonstrate project viability to private investors or shareholders," the CLF attorney argued. "Massachusetts typically accounts between 46[%] and 50% [of] all energy use in New England and, essentially, their anchor tenant just walked out of the mall."

In stark contrast to the CLF's verdict on the fate of the project, Buxton is adamant that there is a significant need to increase New England's gas pipeline capacity as power plants continue to retire in coming years. Buxton believes a smaller, 200 MMcf/d to 500 MMcf/d version of the already "relatively small" 900 MMcf/d Access Northeast project can still go forward as cost-justifiable. However, he said the big question is whether the project can find banks willing to undertake the pipeline's financing without an absolute guarantee that they will recover their investments. Others believe that Access Northeast's future largely [depends](#) on Massachusetts Gov. Charlie Baker continuing his support for the project by pushing for legislation to adjust state law to allow pipeline capacity contracts with utilities.

Citing an Analysis Group report commissioned by Massachusetts Attorney General Maura Healey, which concluded New England does not need any new pipelines, Ismay said he does not see any grid reliability threat posed by the region's gas supply constraints until 2025 under a "stressed system" scenario. He also noted that the [November 2015](#) report does not take into account a recently signed [law](#) that mandates Massachusetts electric utilities procure 1,600 MW of offshore wind by mid-2027 and a hydro and renewable mix of 1,200 MW by 2023. In the meantime, Ismay said it would be best to continue leaving it up to generators to secure their own fuel including LNG in cases of extreme winter weather.

Buxton dismissed the idea that enough hydropower and offshore wind can be procured in time and also questioned whether provincial-owned utility and expected hydropower supplier [Hydro-Québec](#), which he said has a history of putting Canadian energy needs first over others, can be depended upon to supply electricity in the event of cold snaps. As for LNG also being an alternative solution, Buxton said the only time it is cheap is

“It will be difficult for the [Access Northeast] project to go forward,

when New England does not need it. "When it is cold in North America, it is almost always cold in Europe and they're much more reliant on LNG than we are. LNG is a fuel of opportunity. It is not a fuel to build a future on," he said.

Likewise, the consumer advocacy group Consumer Energy Alliance, in a news release criticizing the court decision, warned that the failure to increase New England's gas supply would threaten grid reliability and limit integrating more renewables, which require flexible backup generation from nonintermittent sources like gas.

So what is next in New England for backers of pipeline projects? Buxton sees utilities, such as [Eversource Energy](#) and [National Grid plc](#), which have stakes in Access Northeast, taking the fight to [ISO New England Inc.](#) to argue for a ratepayer-funded open-access transmission tariff to cover the carrying costs of new pipelines. Ismay countered that the grid operator only has the authority over electricity transmission and would be reluctant to consider pipelines as such.

"It's a long war, but it's far from over," said Buxton.

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