

December 11, 2017

Fred Krupp
President
EDF
257 Park Avenue South
New York, NY 10010

N. Jonathan Peress
Senior Director, Energy Market Policy
EDF
18 Tremont Street, Suite 850
Boston, MA 02108

**Via: Certified Mail-Return Receipt Requested &
Facsimile Copy**

Demand to Cease and Desist

Dear Messrs. Krupp and Peress:

I write to direct each of you, and EDF, immediately to cease and desist from all further publication of false and defamatory statements made by you in public writings, interviews, and presentations, and for you to direct all websites or other media outlets to whom you have circulated such statements to do the same and to remove the EDF Report described below from the internet. These statements and publications are irreparably harming the reputation of Eversource Energy. You have repeatedly published¹ assertions drawn from the so-called study

¹ By way of non-exhaustive examples, you have repeated falsehoods in the following publications, or caused the following republications of the false and misleading EDF Report:

- Kristina Mohlin, Dysfunctional gas market cost New England electric customers \$3.6 billion, EDF Market Forces Blog (Oct. 11, 2017), <http://blogs.edf.org/markets/2017/10/11/dysfunctional-gas-market-cost-new-england-electric-customers-3-6-billion/>;
- Gavin Bade, Eversource, Avangrid Artificially Constrained Gas Pipeline Capacity for Years, Report Argues, Utility Dive (Oct. 11, 2017), <https://www.utilitydive.com/news/eversource-avangrid-artificially-constrained-gas-pipeline-capacity-for-yea/507018/>;
- Bruce Mohl, *Report: Eversource Artificially Constrained Gas Pipeline Capacity*, COMMONWEALTH MAGAZINE (Oct. 11, 2017), <https://commonwealthmagazine.org/energy/report-eversource-artificially-constrained-gas-pipeline-capacity/>;
- Jared Anderson, *Mismatch in Natural Gas, Power Market Rules Costs New England Ratepayers: Study*, PLATTS (Oct. 12, 2017), <https://www.platts.com/latest-news/electric-power/houston/mismatch-in-natural-gas-power-market-rules-costs-26820015>;
- Mary Douglas, *Utilities Manipulated Natural Gas Supplies, Causing Artificial Shortages, Soaring Energy Prices, Study Finds*, THE BERKSHIRE EDGE (Nov. 9, 2017), <https://theberkshireedge.com/utilities-manipulated-natural-gas-supplies-causing-artificial-shortages-soaring-energy-prices-study-finds/>;

entitled, “Vertical Market Power in Interconnected Natural Gas and Electricity Markets,” co-authored by Levi Marks, Charles F. Mason, Kristina Mohlin and Matthew Zaragoza-Watkins (“EDF Report”) that are unsupported by fact. In particular, your repeated public assertions that Eversource has intentionally withheld gas pipeline capacity from the wholesale power market in order to profit from higher electricity prices are patently false.

Eversource adheres scrupulously to its state regulatory mandates to ensure that its customers – the people of Massachusetts and Connecticut – have uninterrupted access to sufficient natural gas to meet their needs, even on New England’s coldest winter days. The statements in the EDF Report that you have repeated ignore the most elementary principles of utility regulation and the regulation of utility fuel supply.


Eversource is not permitted to, and does not, profit from higher prices on natural gas or other fuels used to generate electricity, and has no incentive to increase prices. In fact, we strive to keep energy prices as low as possible for our customers. The “fuel adjustment clauses” in the states in which Eversource operates provide for a direct pass-through of the fuel costs of electricity generation; Eversource does not benefit from higher prices. The central tenet of the study on which you have relied for your public statements – that Eversource intentionally withheld pipeline capacity in order to increase wholesale power prices paid to Eversource’s own generating assets – is thus flatly inconsistent with the regulatory regime. Your publication of statements that are contradicted by statute and regulation is accordingly either knowingly false or in reckless disregard of easily ascertainable facts.

Your false and misleading statements are immediately actionable and expose you and those acting in concert with you to liability for substantial damages. If you do not cease and desist from all further publication of such statements, Eversource will take all appropriate action; indeed, we have retained outside counsel to protect our rights. Please note that our investigation is ongoing, and we will add claims as the facts demand. It’s important to add that we do not take this action lightly. Indeed, this is an extraordinary step we are taking on behalf of our employees and customers because we are so deeply concerned and offended about the serious and regrettable false narratives that EDF continues to perpetuate.

-
- Fred Krupp, *How Local Utilities Gamed the Natural-Gas Market*, THE WALL STREET JOURNAL (Nov. 16, 2017), <https://www.wsj.com/articles/how-local-utilities-gamed-the-natural-gas-market-1510869318>;
 - N. Jonathan Peress, Senior Director, Energy Market Policy, Environmental Defense Fund, Remarks at the Platts Pipeline Development and Expansion Conference, Panel Discussion: Continuing the Conversation on Need for Adequate Pipeline Infrastructure to Support Robust Gas Demand Growth and Gas-Electric Integration (Nov. 15, 2017);
 - Levi Marks, et al., *Vertical Market Power in Interconnected Natural Gas and Electricity Markets*, (Oct. 2017), <https://www.edf.org/sites/default/files/vertical-market-power.pdf>;
 - Levi Marks, et al., *Vertical Market Power in Interconnected Natural Gas and Electricity Markets* (Nov. 17, 2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3072237; and
 - Levi Marks, et al., *Vertical Market Power in Interconnected Natural Gas and Electricity Markets*, (2017), https://ideas.repec.org/p/ces/ceswps/_6687.html.

In addition, you are directed to preserve, and not to destroy, any and all records and documents, in any form and on any media, whether paper or electronic (including any and all emails), that are related in any way to the EDF Report or its subject matter.

Very truly yours,



Gregory B. Butler
Executive Vice President and General Counsel

CC: Vickie Patton, General Counsel
Carl Ferenbach, Chair, EDF Board of Trustees
Chris Cunio, Manion Gaynor & Manning LLP
Douglas G. Green, Steptoe & Johnson, LLP
Daniel A. Mullen, Steptoe & Johnson, LLP