

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 16-770

Liberty Utilities (EnergyNorth Natural Gas) Corp., dba Liberty Utilities
and Concord Steam Corporation

Join Petition for Approval of an Asset Purchase Agreement

MOTION TO CONTINUE

The petitioning intervenor, Richard M. Husband, hereby respectfully moves that the New Hampshire Public Utilities Commission (“PUC”) reschedule the September 9, 2016 hearing on the merits for this matter to a date which allows sufficient time for discovery and other appropriate final hearing preparation for involved parties, including intervenors, on grounds as follows:

1. The movant is a Litchfield, New Hampshire citizen who is simultaneously filing a petition to intervene, with all intervention rights including the right of discovery, in this proceeding.
2. On July 21, 2016, Liberty Utilities, *etc.* (“Liberty Utilities”) and the Concord Steam Corporation (“CSC”) commenced this proceeding, as a non-emergency matter, by filing a [Joint Petition for Approval of an Asset Purchase Agreement](#) seeking PUC approval of the agreement as part of a plan to convert CSC operations to fracked (natural) gas use. *See generally id.*
3. Under the [July 26, 2016 Order of Notice](#) for this proceeding, the hearing on the merits is scheduled for September 9, 2016, just seven weeks and one day from commencement of the matter, without any opportunity for discovery, despite the lack of any request for emergency treatment under the commencing petition, any indication of the necessity for such treatment in the Order of Notice, or any other

reasonable grounds for such treatment—especially without notice. As CSC is requesting an emergency rate increase to keep it going in an entirely separate proceeding, [PUC Docket No. DG 16-769](#), and thus will presumably remain operational with it, there seems to be no urgent need to address the petition in this matter—certainly none that has been articulated (and with a proper request for such treatment that plainly places others on notice of the request and grounds therefore).

4. As is set forth in the movant’s accompanying petition to intervene and September 2, 2016 comment letter filed in this proceeding, the contents of both of which are hereby incorporated herein in full by reference, there are issues meriting discovery, for which the movant is entitled to discovery under the PUC’s rules, *see* PUC [Rule 203.09](#) and [Rule 203.23](#), which cannot be properly explored by discovery under the current final hearing date. Denial of the right of discovery in contravention of the PUC’s own rules and the corresponding denial of a meaningful opportunity to fairly prepare and present one’s case through discovery violates due process. *See Attitash Mt. Service Co. v. Schuck*, 135 N.H. 427, 429 (1992)(law well-settled that administrative agencies must follow their own rules and regulations); *In re Union Telephone Co.*, 160 N.H. 309, 317 (2010)(“[T]he PUC may not act contrary to the plain meaning of [its own] Rule 431.01.”); *Society for Protection of N.H. Forests v. Site Evaluation Comm.*, 115 N.H. 163, 168 (1975)(“Where issues of fact are presented for resolution by an administrative agency due process requires a meaningful opportunity to be heard.”); *Appeal of*

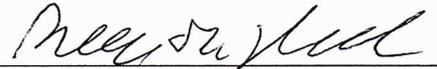
Lathrop, 122 N.H. 262, 265 (1982)(parties must be afforded a fair opportunity to present their case).

5. Rescheduling this hearing to allow the opportunity for discovery and a meaningful opportunity for final hearing preparation would promote the orderly and efficient conduct of the proceeding by conducting it in accordance with the PUC's own rules and as is otherwise required by law.

WHEREFORE, for the reasons expressed, the movant respectfully requests that the PUC:

- A. Grant this motion and reschedule the hearing on the merits in this proceeding to allow a reasonable opportunity for discovery and final hearing preparation; or
- B. Schedule a hearing on this matter; and
- C. Grant such other and further relief as is just, lawful and otherwise appropriate.

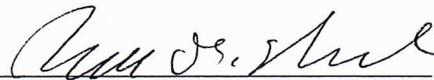
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have, on this 6th day of September, 2016, submitted seven copies of this motion to the PUC by hand delivery, with copies e-mailed to Liberty Utilities, CSC and the Consumer Advocate. I further certify that I have, on this 6th day of September, 2016, served an electronic copy of this motion on every other person/party identified on the PUC's service list for this docket by delivering it to the e-mail address identified on the PUC's service list for the docket.



Richard M. Husband