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July 28, 2022

New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301

Re: Docket No. DG 17-152  
Energy North Natural Gas Corp. d/b/a Liberty Utilities  
Least Cost Integrated Resource Plans  
“Notice of Counsel Concerns”

To the Commission:

Please treat this letter as the response of the Office of the Consumer Advocate (“OCA”) to the pleading filed in the above-referenced docket on July 18, 2022 (tab 124) by Attorney Richard M. Husband, captioned “Notice of Counsel Concerns.”

As an initial matter, the OCA respectfully requests that the Commission take note of the fact that although Mr. Husband is counsel to one of the parties to this proceeding (Energy North Natural Gas customer Terry M. Clark), Mr. Husband made clear in the first sentence of his pleading that he made his filing in his personal capacity. Mr. Husband, as distinct from his client, is not a party to this docket. Mr. Husband therefore lacks standing to file actionable pleadings with the Commission in this case. *See RSA 541-A:31* (reserving participatory rights in adjudicative proceedings to “parties”); RSA 541-A:1, XII (defining “[p]arty” as “each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party”); N.H. Code Admin. Rules Puc 203.13 (authorizing a “party” to request postponement of hearings in adjudicative proceedings); Puc 203.07 (authorizing the submission of motions by “any party”). Indeed, all of the conceivably relevant provisions of the Puc 200 rules limit procedural rights to parties, in a manner fully consistent with section 31 of RSA 541-A, the Administrative Procedure Act.

Assuming the Commission does not reject Mr. Husband’s pleading on that basis, the OCA is at a loss to understand the nature of the pleading, the relief requested by the pleading, and the authority for granting such relief. The final paragraph of Mr. Husband’s pleading invokes Rule Puc 203.07 and requests that the Commission deny the request of the subject utility for a hearing (which the Commission recently scheduled for August 18, 2022). Assuming that Mr. Husband’s pleading is properly treated as a motion to cancel or postpone the hearing in this docket, the pleading is not compliant with Rule Puc 203.07(b) (because the pleading does not have the requisite word, “motion,” in its title) and Rule Puc 203.07(d) (because the pleading does not “clearly and concisely” state the facts and law that support the motion as well as the specific relief requested).

The concerns described in the motion seem to center around allegedly fraudulent advertising by the subject utility and whether facts and circumstances of that allegedly fraudulent advertising implicate certain ethical obligations of attorneys participating in this proceeding. The Commission does not have the authority to enforce or even to interpret the Rules of Professional Conduct, which is the code of conduct applicable to attorneys admitted to the practice of law in New Hampshire. The Commission does have plenary authority over the state's public utilities, and thus does have authority to investigate a utility's advertising practices. But those practices are not fairly within the issues noticed for decisionmaking in this proceeding, which concerns Liberty's compliance with the Least Cost Integrated Resource Planning statute (RSA 378:37 *et seq.*). Therefore, the Commission cannot address the concerns raised in Mr. Husband's pleading.

The Office of the Consumer Advocate expresses no opinion about any advertising efforts conducted by the subject utility; we have not investigated Mr. Husband's allegations and do not intend to do so because we lack investigative authority. I do want to assure the Commission, however, that the undersigned attorney, fully subject to New Hampshire's Rules of Professional Conduct, has participated in this docket throughout its long and tortured history and is aware of no facts whatsoever that would raise any issue as to the ethical or professional obligations of the lawyers representing the subject utility, Conservation Law Foundation, the Pipe Line Awareness Network for the Northeast (PLAN-NE), or the Office of the Consumer Advocate.

In light of the foregoing, the OCA respectfully requests that the Commission move forward with the hearing presently scheduled for August 18. We look forward to the opportunity to explain our support for the Settlement Agreement filed on July 20, 2022 (tab 125). Presumably, there will be ample opportunity at the hearing (and via any written filing he may make by the August 11 deadline established by the Commission in its July 20 procedural order, tab 126) for Mr. Clark to explain any objections he may have to the agreement, either personally or through counsel.

Sincerely,



Donald M. Kreis  
Consumer Advocate  
Bar No. 12895

cc: Service List via electronic mail