

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

Docket No. DG 17-152

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.,
d/b/a LIBERTY UTILITIES**

Least Cost Integrated Resource Plan

CONSERVATION LAW FOUNDATION'S SUMMARY OF POSITION

NOW COMES the Conservation Law Foundation (“CLF”), an intervenor in this docket, and submits the following response to the settlement agreement filed by Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities (“Liberty”); the Office of Consumer Advocate (“OCA”), and the New Hampshire Department of Energy (“DOE”). The New Hampshire Public Utilities Commission (“Commission”) instructed parties to file responses to the Settlement Agreement in a procedural order dated July 20, 2022.

I. Background

This long outstanding matter raises important issues regarding the proper application of New Hampshire’s least cost energy planning laws to the investment decisions made by Liberty. It also concerns whether Liberty’s Least Cost Integrated Resource Plans (“LCIRPs”) function as mere reporting forms, or instead, serve their intended purpose under New Hampshire law of “allow[ing] the Commission the opportunity for input regarding [Liberty’s] current planning processes, procedures, criteria, and planned investments.” *Public Service Company of New Hampshire d/b/a Eversource Energy*, DE 19-139, Order No. 26,362, at 8 (June 3, 2020).

Liberty initiated this matter on October 2, 2017, when it filed its LCIRP for the period from November 1, 2017, to October 31, 2022. Thereafter, CLF, the Pipeline Awareness Network for the Northeast, Inc. (“PLAN”) and Terry Clark petitioned to intervene in the docket, which the Commission granted.

On May 15, 2018, Terry Clark moved to dismiss Liberty’s LCIRP on the ground that the filing failed to comport with the New Hampshire statutes governing LCIRPs, RSA 378:37-378:40. The Commission denied Mr. Clark’s motion; however, in ruling on the motion, the Commission concluded that Liberty had “overlooked” the Commission’s instruction in Order No. 25,762 that Liberty “address *all of the statutory elements of RSA 378:38 and RSA:39 in its plan development in a granular way*, so that reviewing parties may track the correspondence of the plan with the relevant statutory standards.” Order No. 26,225, at 6 (March 13, 2019) (emphasis added) (quoting *Liberty LCIRP*, Order No. 25,762 (February 9, 2015)). Accordingly, the Commission directed Liberty to:

[S]ubmit a supplemental filing, including supporting testimony, to address each of the specific elements required under RSA 378:38 and RSA 378:39 that are not already addressed in its LCIRP, with adequate sufficiency to permit the Commission’s assessment of potential environmental, economic, and health-related impacts of each option proposed in the LCIRP, as required by RSA 378:39.

Order No. 26,225, at 7 (March 13, 2019). The Commission explained that “those specific elements are set forth in RSA 378:38, V and VI, and in RSA 378:39” and that it would “review Liberty’s LCIRP and the supplemental filing to determine whether it meets the public interest, consistent with all applicable statutory requirements.” *Id.*

Liberty then submitted a supplemental filing. However, as argued by CLF in a motion filed in opposition, the supplemental filing failed to comply with New Hampshire’s LCIRP statutes, as well as the Commission’s March 13, 2019 order. In particular, CLF maintained that Liberty’s supplemental filing contained “no meaningful or detailed analysis of the public health, environmental, or economic impacts of its plan,” and that it failed to compare the impacts from gas expansion to other resources, including “any data to compare the impacts of gas expansion to

the impacts of electrification, demand reduction such as energy efficiency, oil usage, or some mixture of these other resources.” CLF Motion, at 5-6 (May 10, 2019).

Liberty subsequently filed a second supplemental filing, which CLF again challenged. CLF argued that it did not cure the previous deficiency because it failed to “compare gas expansion to any other resource options, including enhanced energy efficiency and electrification, or to evaluate the extent to which gas demand could be reduced to defer or eliminate the need for massive capital investments.” CLF Motion, at 1-2 (July 15, 2019).

The Commission denied CLF’s motion but stated that the docket would proceed and that it would “determine whether Liberty has met its burden of proving the adequacy of its LCIRP based on the evidence presented at hearing.” Order No. 26,286, at 6 (August 12, 2019). Subsequently, CLF, Mr. Clark, and PUC Staff filed testimony in this docket.

Thereafter, in late 2019, due to a development in the now-abandoned Granite Bridge Project that Liberty asserted affected its LCIRP, Liberty requested to suspend the LCIRP docket, including the scheduled hearing dates, which the Commission granted. Subsequently, on March 16, 2022, the Commission issued a procedural order in this docket, requesting that the parties file summaries of their positions. On June 21, 2022, the Commission conducted a status conference for the matter, and on July 20, 2022, Liberty, the OCA, and DOE filed a Settlement Agreement.

II. CLF’s Response to the Settlement Agreement

Although several of the provisions in the Settlement Agreement can help ensure that Liberty’s next LCIRP complies with the LCIRP statutes, the Settlement Agreement terms are deficient because they do not require Liberty to consider electrification alternatives to its future gas expansion plans. Further, the Settlement Agreement falls short by not requiring Liberty to

compare the environmental and public health impacts of its preferred resource alternative to the impacts from a strategic electrification alternative.

CLF believes that several of the recommendations in Section 2.3 of the Settlement Agreement, as well as the additional terms in Sections 2.4-2-7, address some of the concerns raised by CLF in its prior filings with respect to Liberty's current LCIRP and will lead to much needed LCIRP process improvements that can help facilitate Liberty's compliance with the LCIRP statutes, RSA 378:37-39, for its next LCIRP filing. However, the Commission should also require Liberty to consider electrification alternatives in its next LCIRP.

A. The Commission Should Require Liberty to Analyze Electrification Resource Alternatives in Its Next LCIRP

The language of RSA 378:37 provides support for requiring Liberty to assess electrification alternatives in its next LCIRP. Pursuant to RSA 378:37, the New Hampshire General Court has declared that:

[I]t shall be the energy policy of this state to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources; to maximize the use of cost effective energy efficiency and other demand-side resources; and to protect the safety and health of the citizens, the physical environment of the state, and the future supplies of resources, with consideration of the financial stability of the state's utilities.

Id.

Thus, RSA 378:37 establishes that it is the state's energy policy to meet the state's energy needs at the lowest reasonable cost while providing for the reliability and diversity of energy sources, as well as the protection of the environment. *Id.* RSA 378:37 does not provide that it is the energy policy of the state to meet the heating energy needs of the state with only traditional fossil fuel options. Further, neither the LCIRP statutes, nor any other New Hampshire statutes,

preclude a natural gas utility, like Liberty, from meeting the state’s energy needs, at the lowest cost, with alternatives to traditional fuels, like electrification alternatives.

The Settlement Agreement recognizes this to a certain extent by requiring Liberty, in its next LCIRP, to “[e]valuate energy efficiency as a potential resource alternative, incremental to any customer-funded programs offered via NHSaves”¹ and to “[e]valuate renewable natural gas (RNG) and other non-fossil fuels as alternatives to traditional fossil fuel-based supply and to explore Certified Gas.” Settlement Agreement, at Section 2.3. However, Liberty similarly should be required to evaluate strategic electrification options, like heat pumps, as part of its next LCIRP. Given the large increase and volatility in natural gas prices this year,² Liberty should analyze whether heat pumps have the potential to both meet “the energy needs of the citizens and businesses of the state at the lowest reasonable cost” and increase “the reliability and diversity of energy sources,” by decreasing New Hampshire’s overreliance on fossil fuels for heating.³ RSA 378:37. If Liberty is not required to analyze strategic electrification options in its next LCIRP, it will prevent the Commission from ensuring that Liberty’s preferred resource alternative is the least cost option and complies with the other requirements of RSA 378:37.

¹ CLF notes that the Settlement Agreement’s terms regarding energy efficiency would merely require Liberty to do what is already required by RSA 378:37. In 2014, the General Court amended a prior version of RSA 378:37 to specifically establish, for the first time, that it is the state’s energy policy to “maximize the use of cost effective energy efficiency and other demand-side resources.” PUBLIC UTILITIES—ELECTRICITY—ENERGY CONSERVATION, 2014 New Hampshire Laws Ch. 129 (H.B. 1540). Thus, by amending the statute, the legislature signaled its intention for energy efficiency and other demand-side resources to play as essential a role in accomplishing the state’s energy needs as the other policies outlined in RSA 378:37, including the requirement that energy needs be provided at the lowest reasonable cost. Pursuant to RSA 378:37, energy efficiency in New Hampshire is not only accomplished pursuant to filed and approved triennial energy efficiency plans; rather, the statute unambiguously establishes a policy to both meet energy needs at the lowest reasonable cost and to maximize cost-effective energy efficiency and other demand-side resources.

² See Short-Term Energy Outlook, U.S. Energy Information Administration (July 12, 2022), *available at* <https://www.eia.gov/outlooks/steo/report/natgas.php#:~:text=Natural%20gas%20prices%20have%20been,specific%20time%20in%20the%20past> (noting that natural gas prices have both risen and increased in volatility this year).

³ See New Hampshire 10-Year State Energy Strategy (“State Energy Strategy”), DOE, at 58 (July 2022) (estimating that over 80 percent of New Hampshire residents heat their homes with fossil fuels).

Requiring Liberty to explore electrification resource alternatives in its next LCIRP is further supported by RSA 378:38 (III), which requires a utility to include “[a]n assessment of supply options” in its LCIRP, as well as RSA 378:38 (VII), which requires a utility to include “[a]n assessment of plan integration and *consistency with the state energy strategy* under RSA 12-P.” *Id.* (emphasis added).

For example, the recent State Energy Strategy revision contains a number of provisions relating to electrification. First, the revised State Energy Strategy promotes “fuel diversity” for heating. State Energy Strategy, DOE, at 39 (July 2022). Second, the State Energy Strategy finds that “[i]n some circumstances, heat pumps make sense as a replacement for high-cost carbon intensive systems” and that “[h]eat pumps are very efficient and technological improvements have largely overcome the issues with keeping homes warm on the coldest days of the year.” *Id.* at 59. Finally, the State Energy Strategy discusses the positive environmental benefits of electrification, noting that “[t]he current move toward electrification—replacing fossil fuels with electricity to power our economy—is gaining momentum in many aspects of our everyday lives from building comfort to transportation. It promises lower emissions of air pollutants, a more decentralized grid, [and] greater customer choice and potential cost savings.” *Id.* at 21-22.

In its current LCIRP, Liberty forecasted that its number of residential heating customers and overall residential heating demand would increase over the five-year period of the LCIRP. Liberty 2017-2022 LCIRP, at 14-15. This increase was in large part based on Liberty expanding natural gas service to customers that currently heat their homes with heating oil and propane. *Id.* at 57-58. If Liberty, in its next LCIRP, continues to only evaluate ways to expand natural gas service to customers that currently rely on heating oil or propane for heating and fails to assess electrification resource alternatives, it would contradict the State Energy Strategy’s endorsement

of heat pumps “replac[ing] high-cost carbon intensive systems” in certain circumstances. State Energy Strategy, at 59. Accordingly, requiring Liberty to assess electrification resource alternatives in its next LCIRP is supported by the requirement in RSA 378: (III) that Liberty assess various supply options and would also help ensure that Liberty’s next LCIRP is consistent with the State Energy Strategy’s fuel diversity and electrification goals, as required under RSA 378 (VII).

B. The Commission Should Require Liberty to Compare the Environmental and Public Health Impacts of its Preferred Option to an Electrification Alternative in Its Next LCIRP

As previously argued in CLF’s Summary of Position, filed on June 1, as well as the Direct Testimony of CLF’s expert, Paul Chernick, Liberty’s current LCIRP failed to analyze the environmental and public health impacts of Liberty’s two preferred natural gas options, when compared to non-gas/non-pipeline alternatives, like increased energy efficiency or strategic electrification through increased heat pump use. CLF Summary of Position, DG 17-152, at 6 (June 1, 2022); Direct Testimony of Paul Chernick for CLF, DG 17-152, at 4, 10, 13 (Sept. 6, 2019). Only comparing Liberty’s preferred gas options to the status quo scenario of continued reliance on heating oil or propane, and not to lower greenhouse gas emissions heating alternatives, such as heat pumps or increased energy efficiency, fails to fully analyze a plan’s short-and long-term environmental and health impacts as required by the LCIRP statutes.⁴

⁴ Even though natural gas emits greenhouse gases that contribute to climate change and methane, the major component of natural gas, is an especially potent greenhouse gas (*see* Direct Testimony of Paul Chernick for CLF, DG 17-152, at 10 (Sept. 6, 2019); Direct Testimony of Elizabeth A. Stanton for CLF, DG 17-152, at 13-14 (Sept. 6, 2019)), Liberty implausibly claims in its supplemental LCIRP filings that its preferred gas options would reduce greenhouse gas emissions. *See* Direct Testimony of Paul J. Hibbard, DG 17-152, at 28-29 (June 28, 2019). Requiring Liberty to compare its preferred gas alternatives to a lower-emission electrification alternative would provide a more complete analysis of the environmental and health impacts of its plan.

The Settlement Agreement addresses this issue to some extent by requiring Liberty, in its next LCIRP, to compare the environmental and health impacts of its preferred resource alternative to (1) a status quo alternative quo of continued reliance on heating oil and/or propane to serve Liberty’s customers needs; (2) an enhanced energy efficiency alternative; and (3) any RNG and/or Certified Gas alternative. Settlement Agreement, at Section 2.5. However, if Liberty does not also compare the environmental and public health effects of its preferred resource alternative to an electrification alternative, Liberty will present an incomplete assessment that may fail to adequately address “the plan’s long-and short-term environmental . . . impact on the state,” RSA 378:38 (VI), and fail to provide sufficient information for the Commission to determine that the plan will meet the energy needs of the state while “protect[ing] the safety and health of the citizens [and] the physical environment of the state.” RSA 378:37 (VI). Such an incomplete assessment may also prevent the Commission from fully considering “the potential environmental, economic, and health-related impacts of *each proposed option*,” as required by RSA 378:39 (emphasis added).⁵ Therefore, to ensure that Liberty’s next LCIRP fully complies

⁵ CLF notes that the provisions in the Settlement Agreement regarding the requirements for Liberty’s assessments of environmental and public health impacts in its next LCIRP (*see* Section 2.3, Recommendations 4-5, 7; Section 2.5) would largely require Liberty to do what is already mandated by RSA 378:37-40. It is axiomatic that an environmental assessment conducted pursuant to the LCIRP statutes would include an assessment of the greenhouse gas emissions resulting from the natural gas sold by Liberty in its service territory, *given that greenhouse gases are responsible for climate change and climate change poses the greatest environmental threat to New Hampshire today*. *See* Direct Testimony of Paul Chernick for CLF, DG 17-152, at 10 (Sept. 6, 2019); Direct Testimony of Elizabeth A. Stanton for CLF, DG 17-152, at 4-9 (Sept. 6, 2019). Thus, an environmental assessment conducted for an LCIRP would violate RSA 378:37-39 if it did not include a full assessment of the greenhouse gas emissions impacts from the natural gas sold by Liberty. Likewise, requiring Liberty to compare its preferred resource alternative to alternatives with potentially less greenhouse gas emissions impacts (*see, e.g.*, Section 2.5 of the Settlement Agreement), would merely require Liberty to follow the LCIRP statutes, and particularly the requirement in RSA 378:39 that Liberty present the “potential environmental . . . impacts of *each proposed option*” so that the Commission may determine the environmental impacts for each option. RSA 378:39 (emphasis added). Similarly, requiring Liberty, in its next LCIRP, to “assess public health impacts in terms of the health effects of local air quality (AQ) impacts of evaluated resources by documenting sulfur oxides (SOx), nitrous oxides (NOx), and particulate matter (PM2.5) emissions,” (*see* Section 2.3, Recommendation 5 of the Settlement Agreement) would largely require Liberty to follow the requirements of the LCIRP statutes, which mandate that the Commission protect the “*health of the citizens*” of the state, RSA 378:37 (emphasis added), and that the Commission “consider . . . *the health-related impacts of each proposed option*,” RSA 378:39. It is beyond cavil that an analysis of public

with the environmental and public health impact assessment requirements of RSA 378:37-RSA 378:39, Liberty should be required to compare the environmental and public health impacts of its preferred resource alternative to the environmental and public health impacts of an electrification alternative.

III. Conclusion

For the foregoing reasons, CLF is unable to support the Settlement Agreement because it does not contain terms that would require Liberty, in its next LCIRP, to (1) analyze electrification alternatives to its preferred resource option(s); and (2) analyze the environmental and public health impacts of its preferred resource option(s) to an electrification alternative.

By: /s/ Nick Krakoff
Nick Krakoff, Staff Attorney
Conservation Law Foundation
27 North Main Street
Concord, NH 03301
(603) 225-3060 x 3015
nkrakoff@clf.org

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health impacts, as mandated by RSA 378:37-39, must include an assessment of the impact to air quality from the combustion of natural gas by Liberty's customers.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Summary of Position has, on this 11th day of August 2022, been sent by email to the service list in Docket No. DG 17-152.

Respectfully submitted,

By: */s/Nick Krakoff*
Nick, Staff Attorney
Conservation Law Foundation
27 North Main Street
Concord, NH 03301
(603) 225-3060 x 3015
nkrakoff@clf.org