

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

DG 17-152

Liberty Utilities (EnergyNorth Natural Gas) Corp., dba Liberty Utilities
Least Cost Integrated Resource Plan

**INTERVENOR, TERRY CLARK’S, OBJECTION TO,
AND MOTION TO STRIKE, LIBERTY’S SUPPLEMENTAL FILING**

Intervenor, Terry Clark (“Clark”), by and through undersigned counsel, Richard M. Husband, Esquire, hereby respectfully objects to the April 30, 2019 supplemental filing of the petitioner, Liberty Utilities (EnergyNorth Natural Gas) Corp., dba Liberty Utilities (“Liberty”), submitted in this proceeding, and moves to strike the filing, as noncompliant, and for such other relief as the Commission deems just and appropriate. In support thereof, Clark states as follows:

I. BACKGROUND

1. In this proceeding, commenced on October 2, 2017, Liberty seeks approval of its [Least Cost Integrated Resource Plan \(“LCIRP”\)](#) for the planning years 2017/2018 through 2021/2022. Filed pursuant to [Order No. 25,762 \(Feb. 9, 2015\)](#), [R.S.A. 378:38](#) and [R.S.A. 378:39](#), the Commission found Liberty’s filing to be inadequate under [Order No. 26,225 \(Mar. 13, 2019\)](#), and “ORDERED, that Liberty shall supplement its LCIRP filing to address the requirements and issues set forth in RSA 378:38, V and VI and RSA 378:39, by no later than April 30, 2019.” [Id. at 6-8](#).

2. Section V of [R.S.A. 378:38](#) requires:

“An **assessment** of plan integration and impact on state compliance with the Clean Air Act of 1990, as amended, and other environmental laws that may impact a utility's assets or customers.”

[Id.](#) (emphasis added).

3. Section VI of [R.S.A. 378:38](#) requires:

“An **assessment** of the plan's long- and short-term environmental, economic, and energy price and supply impact on the state.”

[Id.](#) (emphasis added).

4. [R.S.A. 378:39](#) provides:

“378:39 Commission Evaluation of Plans. –

The commission shall review integrated least-cost resource plans in order to evaluate the consistency of each utility's plan with this subdivision, in an adjudicative proceeding. In deciding whether or not to approve the utility's plan, the commission shall consider potential environmental, economic, and health-related impacts of each proposed option. The commission is encouraged to consult with appropriate state and federal agencies, alternative and renewable fuel industries, and other organizations in evaluating such impacts. The commission's approval of a utility's plan shall not be deemed a pre-approval of any actions taken or proposed by the utility in implementing the plan. Where the commission determines the options have equivalent financial costs, equivalent reliability, and equivalent environmental, economic, and health-related impacts, the following order of energy policy priorities shall guide the commission's evaluation:

- I. Energy efficiency and other demand-side management resources;
- II. Renewable energy sources;
- III. All other energy sources.”

[Id.](#)

5. To ensure that “the burden of assessing the applicable statutory factors” did not shift from Liberty to the Commission, [Order No. 26,225 \(Mar. 13, 2019\)](#) expressly directed Liberty to “address all of the statutory elements ... in a *granular* way, so that reviewing parties may track the correspondence of the plan with the relevant statutory standards.” [Id. at 6-7](#)

(emphasis added). In its [LCIRP](#), Liberty acknowledges the breadth and complexity of information that its filings were required to provide to meet its burden:

“The Commission’s charge in this docket, therefore, is to evaluate whether EnergyNorth’s LCIRP is consistent with the State’s energy policy as articulated in RSA 378:37.”

Id. at 55.

6. The Commission plainly chose the term “granular,” meaning “finely detailed,”¹ to convey the degree of data and analysis required of Liberty’s filings because it is the level of information that the Commission needs to perform its own job. Any proper evaluation under R.S.A. 378:39 of a plan’s consistency with the state’s energy policy under R.S.A. 378:37 requires a deep, in-the-weeds, assessment of the short- and long-term impacts of each option of the plan on the environment, health and safety of citizens and other concerns of the statute, quantified in emissions and other concrete data of the type normally considered for such impacts, to allow informed comparison not just between the plan options, but with other forms of energy, as the policy is to make good energy choices from such comparisons:

“378:37 New Hampshire Energy Policy. – The general court declares that it 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, Section III of R.S.A. 378:38 requires a broad assessment of all supply options beyond just the energy option that is the business of a utility, *i.e.*, natural gas in the case of Liberty, “including owned capacity, market procurements, renewable energy, and distributed energy resources.” Id.

7. Consequently, in clear anticipation of a detailed, informative, *compliant* filing that would allow it to properly perform its own statutory task of evaluation, the Commission afforded Liberty nearly seven weeks from Order No. 26,225 (Mar. 13, 2019) to submit a supplemental

¹ See the online *Merriam-Webster Dictionary* entry for “granular” at the URL <https://www.merriam-webster.com/dictionary/granular>.

filing that properly assessed the short- and long-term impacts of the [LCIRP](#) as required under R.S.A. 378.

8. Yet, despite all of the time afforded for compliance and all of the resources available to the utility, Liberty's April 30, 2019 supplemental filing does not comply with the requirements of [R.S.A. 378:38](#) and [R.S.A. 378:39](#), or the directives of [Order No. 26,225 \(Mar. 13, 2019\)](#), or come close to providing the information that Liberty itself acknowledges is needed for the Commission to meet its charge in evaluating whether Liberty's plans are consistent with [R.S.A. 378:37](#). Rather, Liberty's granular "assessments" are just a few pages of puffery, providing no information on emissions, particulates, river and reservoir crossings, effects on respiratory, heart and other potential associated health problems, no reports, no studies, no data, no legal opinions or other concrete support of any kind whatsoever adequate to meet its burden of establishing that its plan is in the public interest and in compliance with [R.S.A. 378:37](#), but only self-serving testimony steeped in cursory comparisons and conclusions like:

"... the increased use of natural gas will have a positive contribution toward achieving New Hampshire's required emissions levels under the [Clean Air Act of 1990] ... [Since] increased natural gas usage is specifically and favorably referenced in the Act (likely because natural gas most often displaces other more polluting fuels such as oil and propane for heating, as will likely be the case with most of EnergyNorth's new customers), the LCIRP would likely have a positive impact on New Hampshire's compliance with the Act ... all else being equal, the Granite Bridge Pipeline would provide more opportunity for the State of New Hampshire to meet its objectives under the Act ... it is the Company's position that any choices that increase the likelihood of expanded natural gas usage would have a positive impact on New Hampshire's achievement of its requirements under the Act ... since both supply options have access to both delivery options (i.e., they are delivered in the same fashion using the Granite Bridge Pipeline or Concord Lateral expansion), there are no unique differences that would result in one supply option having more environmental and health-related impacts than the other as result of the delivery of that supply option ... the Company has provided sufficient information for the Commission to assess the environmental and health-related impacts of each option in the testimony above, and the Company

provided substantial economic information to address the economic impacts of the supply and delivery options in the LCIRP.”²

9. Contrary to the last statement quoted above from Liberty’s testimony, the utility’s supplementation provided no “economic information to address the economic impacts of the supply and delivery options in the LCIRP”; nor did the supplementation provide any assessment of the plan’s impacts on other energy prices and supplies. Thus, while Liberty’s filing at least paid (inadequate) lip service to the Section V requirements of [R.S.A. 378:38](#),³ it offered nothing in response to the requirements under Section VI. Accordingly, the Commission has no filing complying with the [R.S.A. 378:38, VI](#) mandate that Liberty provide “An assessment of the plan’s long- and short-term environmental, economic, and energy price and supply impact on the state.” Since the LCIRP’s long-term expansion plans will only increase our dependence on natural gas, which is already overdependence,⁴ and would contribute to established substantial economic harms to New Hampshire discussed below, the economic/pricing/supply impact assessment is critical to a determination that Liberty’s plans are consistent with the [R.S.A. 378:37](#) objectives 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 ... demand side resources; and to protect the ... future supplies of resources ...”

² See Direct Testimony of William Killeen (April 30, 2019), at [Bates 010-014](#).

³ Liberty’s filings acknowledge that positive impacts under the Clean Air Act of 1990 are measured in concrete, quantified emissions data showing *continuing, substantial decreases* in emissions over time. See Direct Testimony of William Killeen (April 30, 2019), at [Bates 010](#) (“To achieve [its] goals, and relevant here, the Act ‘requires states to make **constant formidable progress** in reducing emissions ...’”)(emphasis added). Yet, Liberty has offered no emissions projections to support its bald conclusion that its plan “will have a positive contribution toward achieving New Hampshire’s required emissions levels under the [Clean Air Act of 1990]”; and, in fact, as discussed below, Liberty’s LCIRP expansion plans will result in *substantial increases* in emissions for at least the next two decades.

⁴ See [Intervenor, Terry Clark’s, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶ 36](#).

10. Liberty's "assessments" of the impacts and issues required to be considered under Sections V and VI of [R.S.A. 378:38](#) and [R.S.A. 378:39](#) are superficial and uninformative, vacuous not granular, shift "the burden of assessing the applicable statutory factors" completely to the Commission, and are thus non-compliant with its statutory obligations and [Order No. 26,225 \(Mar. 13, 2019\)](#), and should be found as such by the Commission.

II. THE ISSUES

11. This proceeding continues Liberty's aggressive expansion plans. Over the past few years, the utility has sought approval to expand its natural gas infrastructure, supply commitments and customer base through a number of Commission proceedings. *See, e.g.,* [Order No. 25,965 \(Nov. 10, 2016\)](#)(Order entered in Docket No. DG 16-770 approving settlement agreement and transfer of assets between Concord Steam and Liberty to convert Concord Steam customers to Liberty gas service); [Order No. 25,987 \(Feb. 8, 2017\)](#)(Order entered in Docket No. DG 15-362 approving settlement agreement and Liberty franchise petition for Pelham and Windham); [Order No. 26,109 \(Mar. 5, 2018\)](#)(Order entered in Docket No. DG 16-852 approving settlement agreement and a Liberty franchise extension to expand its natural gas services in Hanover and Lebanon to include CNG and LNG through a new pipeline distribution system); [Order No. 26,065 \(Oct. 20, 2016\)](#)(Order finding that Liberty can add CNG and LNG services in Keene under its franchise that has never before offered such services and has sold only propane-air since 1974)(reconsidered in part by Order No. 26,087 (Dec. 18, 2017), and still being adjudicated). Per the utility itself, Liberty's plans are all about "growth":

"The Company has grown in recent years and will continue to add customers who choose natural gas service. EnergyNorth added approximately 1,200 customers in 2014, 1,817 new customers in 2015, 1,637 new customers in 2016, and 1,621 new customers in 2017. In addition to organic growth within current service areas, the Company is expanding into its new service territories of Windham and Pelham,

has plans to grow natural gas service in Keene, and hopes to have the opportunity to serve Hanover and Lebanon.”

[Petition to Approve Firm Supply and Transportation Agreements and the Granite Bridge Project](#)

filed in Docket No. DG 17-068, ¶ 2.

12. Liberty’s [LCIRP](#) forecasts a compound annual growth rate (CAGR) of 1.4% for its residential heating customer base, increasing from 77,675 customers to 82,177 customers, over the life of the plan. *See id.* at Bates 019 (Table 5). From 2018/2019 to 2038/2039, Liberty forecasts an even greater CAGR for demand, increasing total demand by approximately 40-50% for that period. *See* Supplemental Direct Testimony of Francisco C. DaFonte and William R. Killeen (March 15, 2019) filed in Docket No. DG 17-198, at [Bates 053](#) (Table 1).

13. On information and belief, much, if not the vast majority, of the natural gas that Liberty is currently distributing and will distribute under its [LCIRP](#) expansion plans is hydraulically fractured (“fracked”) natural gas. Thus, this case raises environmental, health and safety concerns associated with Liberty’s plans, as Clark informed the utility at the outset. *See [Intervenor, Terry Clark’s, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶¶ 3-14](#)*. Indeed, before issuing its supplemental filing directive, [Order No. 26,225 \(Mar. 13, 2019\)](#) noted that Clark had “described in detail studies that have been conducted regarding the effects of natural gas emissions and the need for climate actions to address those effects,” as well as “the potential impact on public health from fracked gas releases resulting from drilling, production, and infrastructure leaks, and ... safety concerns.” *See id. at 4*. As they are not only apparent on the face of its LCIRP, but were raised by Clark and expressly acknowledged by the Commission’s order, these concerns should have been thoroughly assessed and addressed in Liberty’s supplemental filing.

14. That is the purpose of the R.S.A. 378 filing requirements: to ensure informed decision-making on these and other critical energy issues in compliance with the state energy policies articulated in [R.S.A. 378:37](#). That is why our legislature required “assessments,” not just puffery; real quantified information concerning impacts, not just superficial discussions providing no meaningful consideration of the issues—and why compliance with the filing requirements is so essential: non-compliance with the filing requirements increases the likelihood of non-compliance with our state energy policy, as decisions are not as informed as they should be. Indeed, the harm permeates the entire proceeding and process. When filings are inadequate, not just the Commission, but Commission Staff, the OCA and other parties to the proceedings are all deprived of information critical to their analyses and positions on case issues. This not only prejudices the litigants’ own case preparation and presentation but, by their involvement in the proceedings, diminishes the quality of party input that the Commission relies on for its decision-making. Moreover, cursory filings that are not responsive to issues clearly raised by an LCIRP taint the public’s perception of the actual analyses involved in the process, fostering the conclusion that the decision-making was just “rubber-stamping.” Thus, it is clearly inappropriate to interpret R.S.A. 378, as Liberty’s supplemental filing has, as not demanding filings that are detailed, substantive, helpful and responsive to obvious issues, but just something short and sweet to paper the file. The legislature was serious about the filing requirements; Liberty should have been, too.

15. A major cog of Liberty’s expansion plans is the Granite Bridge Project. Hence, it is at issue in this proceeding, as well as in [Docket No. DG 17-198](#), the case seeking project approval.

16. There are three components to the project: (1) a 2.0 Bcf liquid natural gas (LNG) facility located in Epping, New Hampshire, with roughly half of the storage capacity for all of the LNG used in the entire, far more populous, state of New Jersey, *see* http://www.northeastgas.org/about_lng.php. As discussed below, Liberty plans on using this facility well beyond 2063; (2) an approximately 26.5-mile long, 16-inch diameter pipeline running from Manchester, New Hampshire to Exeter, New Hampshire, with 200,000 Dth/day capacity, nearly twice the capacity that Liberty would have acquired from the Northeast Energy Direct (NED) pipeline.⁵ The pipeline is planned for operation well beyond 2077, as discussed below; and (3) two complementary (5,000 Dth/day and 7,000 Dth/day) gas supply contracts which collectively extend until about 2040. *See* [Petition to Approve Firm Supply and Transportation Agreements and the Granite Bridge Project](#) filed in Docket No. DG 17-068, ¶¶ 6 and 7. According to Liberty:

“The Granite Bridge LNG facility provides a physical hedge in that the Company can: (i) purchase natural gas in the off-peak period (i.e., summer) at prices that are typically much lower and with significantly less volatility compared to peak winter prices; (ii) liquefy and store that purchased quantity of natural in the LNG tank; and (iii) dispatch or re-vaporize the stored LNG during the highest demand days (or hours) that also have the highest potential price exposure for our customers. This physical hedge attribute of the Granite Bridge LNG facility allows the Company to dispatch a Design Day or peak period supply at a fixed and known price reflecting lower cost off-peak purchases, thus providing price stability for our customers.”

Supplemental Direct Testimony of Francisco C. DaFonte and William R. Killeen (March 15, 2019) filed in Docket No. DG 17-198, at [Bates 064](#). From the standpoint of those concerned with the environmental (particularly climate), health and safety impacts of natural gas, though, the project is not about “providing price stability for [Liberty’s] customers,” but about getting as much natural gas infrastructure approved, and as many citizens committed to natural gas as

⁵ “[U]p to 115,000 dekatherms (‘Dth’) per day.” [Order No. 25,822 \(Oct. 2, 2017\), at 4](#).

possible, before the climate crisis compels a complete moratorium on all new infrastructure and customer expansion plans. Indeed, Liberty hopes to pick up several new town franchises as a result of the project. *See* Supplemental Direct Testimony of Francisco C. DaFonte and William R. Killeen (March 15, 2019) filed in Docket No. DG 17-198, at [Bates 051-052](#).

17. Liberty’s supplemental filing does not provide adequate information to support a determination that the Granite Bridge Project and Liberty’s other expansion plans under its [LCIRP](#) are consistent with [R.S.A. 378:37](#) and in the public interest.

18. Liberty’s supplemental filing should have met all requirements under [Order No. 26,225 \(Mar. 13, 2019\)](#) and [R.S.A. 378:38, V and VI](#) and [R.S.A. 378:39](#), but should have specifically addressed, “in a granular way,” several issues in particular, either because they are expressly required under the statutes, are clearly issues on the face of the [LCIRP](#), were raised by Clark and/or [Order No. 26,225 \(Mar. 13, 2019\)](#) prior to the filing, or because they are clearly otherwise germane to the issue of whether Liberty’s plan reflects the “lowest reasonable cost” for its gas supplies and otherwise comports with the state’s energy policy under [R.S.A. 378:37](#).

These issues are as follows:

A. Liberty’s supplemental filing failed to provide required impact information for all proposed options. *See* R.S.A. 378:39; R.S.A. 378:38, III, V, VI; R.S.A. 378:37; Order No. 26,225 (Mar. 13, 2019), at 1, 7

19. This omission is patent and, perhaps, the most inexplicable. [R.S.A. 378:39](#) expressly requires an impact assessment of “**each** proposed option.” *Id.* (emphasis added). Accordingly, [Order No. 26,225 \(Mar. 13, 2019\)](#), not once, but twice, specifically directed Liberty to submit a supplemental filing which would “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.” [Id. at 1, 7](#). This would, obviously, include [R.S.A. 378:38, V and VI](#) impact assessments. Again, these assessments are absolutely necessary to provide the Commission and parties with information critical to case analysis, as they offer a comparison of the impacts of a proffered energy choice with those of other options, which is required for determination of consistency with [R.S.A. 378:37](#). Thus, the obligation to provide the required impact assessments for each “proposed” option under [R.S.A. 378:39](#) should be read broadly. As “proposed” cannot be read to mean just the “chosen” option, or the word “each” would be meaningless and superfluous,⁶ the only reasonable meaning to give it in the context of the statute is its broader meaning of “considered” or “discussed.” This would include not only the Granite Bridge Project chosen as the option in this case, but the Concord Lateral extension and all of the other options “discussed” and/or considered in the [LCIRP](#), specifically including, but not limited to, these supply options:

- ENGIE delivered supply to the EnergyNorth city-gates and LNG facilities;
- Repsol delivered supply to Dracut, Massachusetts;
- Pipeline transportation capacity from the Dawn Hub on the TCPL Mainline and PNGTS pipeline systems to Dracut, Massachusetts; and
- Increasing on-system LNG storage and vaporization capacity with additional infrastructure to access new gas supplies.”

See id. at [Bates 053-054, 056](#). This interpretation is consistent with the [R.S.A. 378:38, III](#) requirement that LCIRP’s include an “assessment” of *all* supply options. *See id.*

20. In terms of emissions, Clark suggests that this impact assessment should have included not only annual emissions projections for each option (including the Granite Bridge Project), but emissions projections for the full term of the lifespan of its use provided for under

⁶ *See Petition of State of N.H. (State v. Milner)*, 159 N.H. 456, 457 (2009)(“We must give effect to all words in a statute, and presume that the legislature did not enact superfluous or redundant words.”).

the plan,⁷ to allow the Commission a comprehensive comparison evaluation, as is intended under R.S.A. 378.

21. In any event, for the reasons already discussed, Liberty did not meet its impact assessment obligations for any of the options proposed in its LCIRP, including the Granite Bridge Project.

B. How do Liberty’s expansion plans and the Granite Bridge Project comport with, and not result in substantial stranded costs from the need for responsive efforts to, climate change? See R.S.A. 378:38, VI; R.S.A. 378:39; R.S.A. 378:37; Order No. 26,225 (Mar. 13, 2019), at 2-4

22. Liberty should have provided a granular assessment of this issue for each option in the [LCIRP](#) as part of the long-term impact assessment required under Section VI of [R.S.A. 378:38](#), and as part of the information needed for the Commission’s broader analysis under [R.S.A. 378:39](#), which includes consideration of financial costs associated with an LCIRP. Moreover, [Order No. 26,225 \(Mar. 13, 2019\)](#) specifically identified stranded costs and climate concerns as issues raised in the proceeding, [see id. at 2-4](#), making it even more inexcusable that Liberty did not address them in its supplemental filing, although give seven weeks. Indeed, the word “climate” is not even found in Liberty’s [LCIRP](#) and supplemental filing. *See generally* [LCIRP](#) and [supplemental filing](#).

23. The projected cost of the Granite Bridge Project now totals well over \$400 million dollars,⁸ which Liberty has factored into its rate analyses with an assigned 55-year lifespan for the pipeline and an assigned 40-year lifespan for the LNG facility. *See* Liberty’s Revised Response to Clark Data Request 2-1, attached as Exhibit “A”; Liberty’s Revised

⁷ 2063 for the LNG facility and 2077 for the pipeline. *See* discussion, *infra*.

⁸ *See* Supplemental Direct Testimony of Francisco C. DaFonte and William R. Killeen (March 15, 2019) filed in Docket No. DG 17-198, at [Bates 010-011](#) (revised cost of the pipeline is \$168 million and the revised cost of the LNG facility is approximately \$246 million, totaling \$414 million).

Response to Clark Data Request 2-2, attached as Exhibit “B”; In fact, Liberty expects the actual life expectancies of the Granite Bridge pipeline and LNG facility to be “much greater” than their assigned lifespans. *See* Liberty’s (6-22-18) Response to Clark Data Request 2-1, attached as Exhibit “C.” Thus, as the project is not currently slated to begin service until 2022/2023,⁹ New Hampshire will still be producing greenhouse gas emissions from the Granite Bridge Project well beyond 2078.

24. Yet, according to all credible studies, including, most notably, the [United Nations report](#) released last fall, the world’s climate crisis must be addressed by an immediate, concerted, monumental acceleration in the world effort to *reduce* greenhouse gas emissions—and the complete elimination of natural gas use by the circa 2040-2050 time frame (depending upon the targeted goals)—to prevent the worst of climate harms. *See* [United Nations report](#); *see also* discussion and studies cited in [Intervenor, Terry Clark’s, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶ 7](#).

25. Does Liberty dispute the [United Nations report](#) and similar studies and the dire need for immediate, aggressive climate action to reduce greenhouse gas emissions, culminating in the complete elimination of natural gas use by circa 2040-2050? The utility’s position on this issue is critical to evaluating its plans. If Liberty does dispute the science, warnings and 2040-2050 fossil fuel termination deadline of the studies, which certainly seems to be the case from its plans, the [LCIRP](#) filings should have provided ample, credible support for Liberty’s position, as it runs counter to the overwhelming consensus of scientific and public opinion on the matter, and is thus facially inconsistent with [R.S.A. 378:37](#) and unsupportive of a finding that long-term gas expansion plans are, indeed, in the public interest. If not, how can Liberty possibly contend that

⁹ *See* Supplemental Direct Testimony of Francisco C. DaFonte and William R. Killeen (March 15, 2019) filed in Docket No. DG 17-198, at [Bates 44, 51-52](#) (LNG facility to open in 2023, pipeline in-service in late 2022).

its expansion plans are consistent with [R.S.A. 378:37](#) an in the public interest? This is science, not politics, the Commission is an agency grounded in science which cannot ignore the mountain of studies screaming against increasing natural gas use and long-term commitments, and Liberty's expansion plans are the acme of both, so it really needed to weigh in—with a lot in its back pocket—on the issue.

26. Contending that natural gas is better for the environment than oil, which is essentially the entirety of the impact “assessment” of Liberty's plans,¹⁰ leaves the utility far short of meeting its burden. Gas is certainly not better than oil for climate change, as Liberty was well-aware from Clark's pleadings *before* its supplemental filing. [Intervenor, Terry Clark's, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶ 9](#). Nor, given the climate crisis and numerous associated harms, can any plan which calls for its continued use well beyond 2050 be nakedly deemed “good.” [Order No. 26,225 \(Mar. 13, 2019\)](#) provided as broad of a hint as possible to Liberty that it needed to substantively address these issues in its supplemental filing:

“Mr. Clark described in detail studies that have been conducted regarding the effects of natural gas emissions and the need for climate actions to address those effects, concluding that the ‘climate crisis’ and state energy policies and national greenhouse gas reduction commitments compel a freeze on the expansion of gas production and infrastructure.”

[Id. at 4](#). In response, Liberty just whistled a little louder.

27. If, contrary to Liberty's expansion plans, and whether the product of climate legislation or climate concern—or both—increasing numbers of citizens eschew natural gas such that the Epping 2 Bcf gas storage tank and its related infrastructure are phased out of service before their projected lifespans, there would be unrecovered, stranded costs. *See* Exhibits “A” and “B.” As the discrepancy between the projected and actual lifespans should be decades, if we

¹⁰ *See* Direct Testimony of William Killeen (April 30, 2019), at [Bates 010-014](#).

responsibly address climate change, these stranded costs should be substantial for a \$400+ million project.

28. Liberty's supplemental filing should have provided a thorough, *quantified* assessment of these not just potential, but seemingly likely, stranded costs under the Granite Bridge Project, as well as such an assessment for all other options under the [LCIRP](#).

C. Liberty failed to adequately assess each plan option's consistency with R.S.A. 378:37 health and safety concerns. See R.S.A. 378:38, V, VI; R.S.A. 378:39; R.S.A. 378:37; Order No. 26,225 (Mar. 13, 2019), at 1-4, 7

29. These concerns are well-known public concerns and were also specifically raised in this proceeding by Clark before Liberty submitted its supplemental filing.¹¹

[Order No. 26,225 \(Mar. 13, 2019\)](#) was clear that Liberty needed to thoroughly assess the concerns in its supplemental filing. But, the filing completely "subsumed" its entire health discussion in its environmental "assessment,"¹² which, again, was a meaningless discussion, and the word "safety," like "climate," never found its way into Liberty's analysis.

30. Liberty's [LCIRP](#) filings failed to assess the plan's short- and long-term potential health impacts associated with "fracked gas releases resulting from drilling, production, and infrastructure leaks,"¹³ particulate emissions, the particulate pollution problem in Keene and the more than 100,000 asthma sufferers in New Hampshire.¹⁴ They failed to respond to the many studies identifying numerous toxins found in fracked gas, and the various respiratory, heart and

¹¹ See [Intervenor, Terry Clark's, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶¶ 16-27](#).

¹² See Direct Testimony of William Killeen (April 30, 2019), at [Bates 011-012](#).

¹³ [Order No. 26,225 \(Mar. 13, 2019\)](#), at 4.

¹⁴ See [Intervenor, Terry Clark's, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶¶ 21-23](#).

other serious health problems associated with fracked gas use.¹⁵ Then, again, how could they, when Liberty claims that it cannot even tell us what is in its gas?¹⁶

D. Liberty failed to adequately assess the potential negative economic impacts to New Hampshire associated with the Granite Bridge Project and every other plan option. See R.S.A. 378:38, VI; R.S.A. 378:39; R.S.A. 378:37; Order No. 26,225 (Mar. 13, 2019), at 1, 7

31. Nearly a year prior to Liberty's supplemental filing, Clark firmly placed a number of economic harms to New Hampshire associated with climate change and the use of natural gas at issue in this proceeding in his motion to dismiss and for a moratorium. See [Intervenor, Terry Clark's, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶ 30](#). These include losses suffered by our tourism, sugar and dairy industries, agriculture, seacoast homeowners and towns, increased health costs and taxpayers and ratepayers saddled with the remedial costs of addressing storms, droughts and other weather events associated with climate change—with one study determining that it will cost between \$1.9 million and \$2.9 million to address the climate impacts to just three New Hampshire coastal towns. [Intervenor, Terry Clark's, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶ 30](#) As with all of the other [R.S.A. 378:37](#) concerns associated with natural gas use that Clark also raised at the time, Liberty failed to address these potential harms then, or in its supplemental filing.

32. A 13-agency federal government report¹⁷ released by the Trump Administration subsequent to the above-referenced Clark filing further establishes the economic harm to New Hampshire, along with the rest of the country, that will be caused by climate change.

33. In summary, this report found that:

¹⁵ [Id. at ¶¶ 17-21](#).

¹⁶ [Id. at ¶¶ 19-20](#).

¹⁷ ["The Fourth National Climate Assessment," Vol. 2](#).

“In the absence of significant global mitigation action and regional adaptation efforts, rising temperatures, sea level rise, and changes in extreme events are expected to increasingly disrupt and damage critical infrastructure and property, labor productivity, and the vitality of our communities. Regional economies and industries that depend on natural resources and favorable climate conditions, such as agriculture, tourism, and fisheries, are vulnerable to the growing impacts of climate change. Rising temperatures are projected to reduce the efficiency of power generation while increasing energy demands, resulting in higher electricity costs. The impacts of climate change beyond our borders are expected to increasingly affect our trade and economy, including import and export prices and U.S. businesses with overseas operations and supply chains. Some aspects of our economy may see slight near-term improvements in a modestly warmer world. However, the continued warming that is projected to occur without substantial and sustained reductions in global greenhouse gas emissions is expected to cause substantial net damage to the U.S. economy throughout this century, especially in the absence of increased adaptation efforts. With continued growth in emissions at historic rates, annual losses in some economic sectors are projected to reach hundreds of billions of dollars by the end of the century—more than the current gross domestic product (GDP) of many U.S. states.”

[Id. at 25-26.](#)

34. Although this government report was widely publicly discussed, Liberty’s supplemental filing did not assess the potential harm to New Hampshire detailed in the report, either.

35. New Hampshire has a burgeoning economy based on renewable development, sales, installations, *etc.* which would likely also be greatly impacted by the Granite Bridge Project and Liberty’s expansion plans, but this issue was not assessed in Liberty’s filings.

36. Liberty’s filings do not adequately assess the potential short- and long-term economic harm to New Hampshire associated with its expansion plans and each of the options proposed under its [LCIRP](#), as required by [R.S.A. 378:38, VI](#) and [Order No. 26,225 \(Mar. 13, 2019\)](#), and necessary for a proper [R.S.A. 378:39](#) and [R.S.A. 378:37](#) review.

E. Liberty failed to adequately assess each plan option’s consistency with the R.S.A. 378:37 concern for maintaining proper fuel diversity. R.S.A. 378:39; R.S.A. 378:37

37. In particular, how are Liberty’s expansion plans and the Granite Bridge Project option consistent with this concern? Again, this issue was before Liberty long before its supplemental filing:

“... [O]ur current overdependence on gas is already inconsistent with the energy source diversification requirement of R.S.A. 378:37. Our gas reliance is usually more than half of the total share of all of the available energy alternatives. *See* current use percentage at <https://www.iso-ne.com/>. Are we trying for 80% reliance? 100%? How ‘cheap’ will gas be when all of the gas contracts term-out, and we have no alternative but to renew them, as everything depends on gas? Those arguing a gas ‘need’ usually point to the gas shortages and price spikes of the winter of 2013-2014 as proof positive. However, the New Hampshire Office of Energy and Planning (‘OEP’) concluded that ‘increasing reliance on one fuel, namely natural gas, is what caused the wholesale price spikes in the winter of 2013-2014 in the first place ...’ *See* [October 15, 2015 OEP letter to Commission, p. 2, filed in Commission Docket No. IR 15-124](#) ...”

[Intervenor, Terry Clark’s, Motion to Dismiss and for a Moratorium on Gas Expansion Plans, ¶](#)

[36.](#)

38. Again, Liberty’s filings failed to provide the required assessment of this issue.

F. Particularly given the fuel diversity issue, Liberty failed to adequately assess how each plan option, including the Granite Bridge Project, is consistent with the R.S.A. 378:38, Section V and VI concerns regarding energy price and supply impact on the state. See id.; R.S.A. 378:38, VI; R.S.A. 378:39; R.S.A. 378:37; Order No. 26,225 (Mar. 13, 2019)

39. Liberty’s filings do not assess, as statutorily required and directed by [Order No. 26,225 \(Mar. 13, 2019\)](#), the short- and long-term impacts on energy pricing and supplies that the utility’s aggressive expansion plans, including the Granite Bridge Project, will have on the state compared to the other options discussed in the [LCIRP](#), including such impacts on the growth, supply and pricing of renewable forms of energy.

III. CONCLUSION

40. Given their failure to adequately assess and rebut all of the environmental, health, safety and other concerns, and “hidden costs,” associated with its expansion plans, Liberty’s filings are facially inadequate to support a determination that the [LCIRP](#) will “meet the energy needs of the citizens and businesses of the state at the lowest **reasonable** cost,” as required by [R.S.A. 378:37](#) (emphasis added).

41. The solution to Liberty’s non-compliance is not discovery, as the utility may be expected to suggest: compliance is statutorily mandated (for good reasons, as previously discussed) and the statutes provide no argument for any legislative intent to allow “compliance by discovery.” Moreover, discovery responses are not posted for public review by the Commission and the public is absolutely entitled to review Liberty’s assessments pertaining to matters of such great public interest. Public review of *compliant, substantive* filings is also critical to fostering public confidence in the outcome.

42. Clark leaves it to the Commission to decide the proper response to Liberty’s noncompliance. However, Clark notes that Liberty should have met its R.S.A. 378 filing requirements a year and a half ago in its initial filings, failed again to meet them when given a second chance, and ignored the Commission’s order: at some point, statutes and Commission orders must be given meaning, a decision must be made on what has been filed, and when it involves a prolonged failure to meet initial filing requirements, with glaring insufficiencies, a summary denial should be sufficient. At the beginning and end of its supplemental filing directive in [Order No. 26,225 \(Mar. 13, 2019\)](#), the Commission indicated 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. at 1, 7](#). The Commission now has the supplemental filing and enough to reject, in an appropriate manner, the [LCIRP](#), Granite Bridge Project, and Liberty's expansion plans.

43. If the Commission provides Liberty more time to submit a compliant filing, both this proceeding and [Docket No. DG 17-198](#) concerning approval for the Granite Bridge Project should be procedurally stayed until the Commission has determined that there has been compliance. This case should obviously be stayed as it cannot go forward with discovery, case preparation and a hearing without a noncompliant filing allowing for meaningful discovery and preparation (nor does it make sense to move forward, when the schedule will have to start over upon compliance to allow the parties meaningful discovery and preparation). The Granite Bridge Project case should be stayed, as well, though, as the information in the [LCIRP](#) filings is certainly germane to [Docket No. DG 17-198](#) and case preparation for that matter, would be discoverable to participants in that proceeding if available, and it would be unfairly prejudicial to deprive litigants otherwise entitled to the information its benefit due to noncompliance. Moreover, the Commission needs the information for an informed decision in the Granite Bridge Project case. This case and [Docket No. DG 17-198](#) have been scheduled in procedural unison from the start and should not be allowed to potentially drift apart, as the potential for a decision in one before the evidence has even been presented at the hearing for the other could result in inconsistent, potentially unsustainable results.

WHEREFORE, for the reasons expressed, Clark respectfully requests that the Commission:

- A. Adjudge that Liberty's supplement filing and [LCIRP](#) filings are noncompliant; and
- B. Grant such other and further relief as is just and appropriate; and/or

C. Schedule a hearing on this matter.

Respectfully submitted,

Terry Clark,

By his Attorney:

Dated: May 10, 2019

//s//Richard M. Husband, Esquire
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CERTIFICATE OF SERVICE

I hereby certify that I have, on this 10th day of May, 2019, submitted seven copies of this pleading to the Commission by hand delivery, with copies e-mailed to the petitioner and the Consumer Advocate. I further certify that I have, on this 10th day of May, 2019, served an electronic copy of this pleading on every other person/party identified on the Commission's service list for this docket by delivering it to the e-mail address identified on the Commission's service list for the docket.

//s//Richard M. Husband, Esquire
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