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

<u>Liberty's Objection to Intervenor Terry Clark's Motion to Strike Supplemental Filing</u>

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, through counsel, respectfully responds and objects to *Intervenor, Terry Clark's, Objection to, and Motion to Strike, Liberty's Supplemental Filing*, because Clark's filing is based on a fundamental misunderstanding of the LCIRP statutes.

In support of this response and objection, Liberty represents as follows:

1. Clark's filing asked the Commission to find that Liberty's LCIRP does not satisfy the requirements of RSA 378:38 and Order No. 26,225 (Mar. 13, 2019) because Liberty failed to provide sufficient information to:

a. "allow [for] informed comparison not just between the plan options, but with other forms of energy," Motion at 3;

b. to address the "environmental, health and safety concerns" of "hydraulically fractured ('fracked') natural gas," Motion at 7;

c. to address potential "stranded costs" that may result from the Granite Bridge Project, including the proposed Granite Bridge LNG Facility, Motion at 12; and

d. to address "economic harms to New Hampshire associated with climate change and the use of natural gas at issue in this proceeding … such as 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," Motion at 16

2. The motion should be denied because Clark misreads the LCIRP statutes, RSA 378:37 through RSA 378:40. These statutes do *not* require Liberty to compare natural gas options to other fuel source options, to assess the upstream impacts of its natural gas supply, or to address possible stranded costs. Rather, they require a comparison of the options available to satisfy Liberty's customers' demand for natural gas over the five-year planning period, which comparison is to address the options' relative environmental, economic, and health impacts.

3. The LCIRP statutes themselves provide little guidance as to how they apply to natural gas utilities. They were originally passed in 1990 when the electric utilities were vertically integrated and thus provided electric generation, transmission, and electric distribution service to their customers. There were no changes to the statutes as the electric utility industry began restructuring in 1996. *See* RSA 374-F. There were a few changes to the statutes when first made applicable to natural gas utilities in 2014, but those changes did not provide guidance as to which sections of RSA 378:38 did and did not apply to gas utilities. The Legislature simply left the phrase "as applicable" when listing a plan's requirements: "Each such plan shall include, but not be limited to, the following, as applicable."

4. However, the Commission provided some important guidance when it approved the first natural gas utility LCIRP filed after the 2014 statutory amendments.

5. In *Northern Utilities*, Order No. 26,027 (June 19, 2017),[1] after the Commission excused the company from complying with some requirements of RSA 378:38 "due to the guidance Northern received from our prior order and because the amended law now applies to natural gas distribution companies for the first time," *id.* at 5-6, the Commission made clear what was expected in the next LCIRP:

[1] Liberty's LCIRP was filed in this docket only four months later.

> We direct Northern to address all of the statutory elements of RSA 378:38 in its next LCIRP in sufficient detail so that reviewing parties may evaluate the plan against the relevant statutory standards. In addition to cost comparisons of the various alternatives considered, we will require more detailed evidence of reliability, environmental, economic, and health related impacts. Northern has the burden to meet the requirements of RSA 378:38, and to demonstrate that its planning process results in the adoption of least cost options that meet the standards articulated in RSA 378:39 by which the Commission is required to evaluate the plan.

Id. at 6.

6. A reasonable interpretation of this paragraph, and that adopted by Liberty in this docket, follows, with clarifying language in [brackets] to make Liberty's interpretation clear:

> In addition to cost comparisons of the various alternatives considered, we will [also] require more detailed [comparative] evidence of [the] reliability, environmental, economic, and health related impacts [of the various alternatives considered]. Northern has the burden to meet the requirements of RSA 378:38, and to demonstrate that its planning process results in the adoption of least cost [natural gas] options that [also] meet the standards articulated in RSA 378:39 by which the Commission is required to evaluate the plan.

This means that a gas utility's LCIRP is to identify the natural gas options to serve its customers, and is to compare those natural gas options against each other to determine their relative incremental impact on the environment, economy, and public health.

7. The other relevant lesson from Northern's LCIRP and its approval by Order No. 26,027 is that an LCIRP did *not* need to compare continued growth of natural gas service to electric options or even to a no-growth scenario for natural gas. Northern's 2015 LCIRP, similar to Liberty's in this docket, presented a demand forecast, listed current delivery and supply contracts, and discussed future supply and delivery options that would be available over the planning period. *See* the Executive Summary of Northern's 2015 Plan in Docket No. DG 15-033.

8. When approving Northern's 2015 Plan, the Commission found this basic approach to be consistent with the LCIRP statutes.

> [Northern's] LCIRP meets the standards of the Least Cost Integrated Resource Planning statutes that we have not waived, and we will approve this plan as satisfying the statutory scheme for natural gas utility LCIRP filings. Northern took a careful approach t<u>o preparing its demand forecast and developing a resource portfolio to meet those forecasted demands</u>.

Order No. 26,027 at 6 (emphasis added).

9. The Commission did <u>not</u> direct Northern to change how it "prepar[ed] its demand forecast and develop[ed] a resource portfolio to meet those forecasted demands," clearly indicating that Northern's approach of identifying the natural gas options to satisfy its customers' demand over the planning period was the appropriate analysis. That is, the Commission did not suggest Northern should have considered "other forms of energy," as Clark argued here, which alternatives, of course, Northern had no legal authority as a regulated natural gas distribution utility to sell to its current or prospective customers.

10. Where the Commission did find Northern's plan to need more work was in how Northern measured the identified natural gas options against each other in light of their environmental, health, and economic impacts. The Commission stated (again with [bracketed] language to illustrate Liberty's interpretation) that, "in addition to cost comparisons of the various [natural gas] alternatives considered" in the 2015 Plan, Northern must present "more detailed evidence of [the relative] reliability, environmental, economic, and health related impacts" of the various natural gas alternatives considered in an otherwise traditional LCIRP. Again, the Commission did not direct Northern to compare its natural gas options to non-gas options, which it was not legally allowed to provide to its customers.

11. The language in the *Northern Utilities* order discussed above is almost identical to what the Commission directed Liberty to do in this docket:

> Accordingly, we direct Liberty to submit a supplemental filing, including supporting testimony, to address each of the specific elements required under RSA 378:382 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 <u>of each option proposed in the LCIRP</u>, as required by RSA 378:39.

Order No. 26,225 at 7 (emphasis added). The Commission's directive was for Liberty to assess the relative impacts of its identified natural gas options on the environment, the economy, and public health.

12. Thus, the questions facing the Commission in this docket are: (1) whether Liberty prepared an appropriate demand forecast, (2) whether Liberty identified appropriate natural gas options to meet that forecasted demand, (3) whether Liberty evaluated the relative reliability, environmental, economic, and health impacts of "each option proposed in the LCIRP," and (4) whether Liberty's selections from those options was appropriate.[2]

13. Turning back to the statutory factors, the guidance provided by the *Northern* order supports Liberty's interpretation of how the LCIRP statutes reasonably apply to natural gas utilities in general, and to Liberty's LCIRP in particular.

14. The statutory statement of the "New Hampshire Energy Policy" lists the factors of an LCIRP in order of importance much as Liberty analyzed them:

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[2] In a May 20, 2019, filing, at page 2, the Office of the Consumer Advocate agreed that the above analysis is precisely what the Commission has required of utilities filing an LCIRP:

> The Commission has encouraged the utilities to focus on *how* they plan rather than on *what* they plan, even though RSA 378:39 instructs the Commission to focus its review on "potential environmental, economic, and health-related impacts of each proposed *option*" (emphasis added). The reference to the impacts of proposed options clearly contemplates that the Commission will consider the impacts of specific investment decisions in the course of reviewing an LCIRP.

(Emphasis in original.) There is no basis to critique Liberty's LCIRP on what others believe it "should have filed" under an arguably improved and broader LCIRP process.

> 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 [1] lowest reasonable cost while providing for the [2] reliability and [3] diversity of energy sources; to [4] maximize the use of cost effective energy efficiency and other demand side resources; and to [5] protect the safety and health of the citizens, the physical environment of the state, and the future supplies of resources, with [6] consideration of the financial stability of the state's utilities.

RSA 378:37 (bracketed numbers added). These factors were further itemized in RSA 378:38 and RSA 378:39, including the three basic topics at issue in Clark's motion – short and long term environmental impact, RSA 378:38, V, short and long term economic impact, RSA 378:38, VI, and health related impacts, RSA 379:39. Below is a description of the LCIRP's discussion of these factors.

15. Liberty's LCIRP first identified the "lowest reasonable" cost delivery and supply options for meeting its demand forecast, which is the economic assessment required by RSA 378:38, VI. Liberty next determined that these options also provided superior "reliability" and "diversity" (or flexibility) for its customers. Liberty included an aggressive implementation of "cost effective energy efficiency" measures to reduce the demand forecast and thus reduce the capacity of the required supply and delivery options. Finally, in its supplemental filing, Liberty presented a thorough discussion of the relative environmental and health impacts of these delivery and supply options (and had previously discussed their relative economic impacts in the original filing through the SENDOUT® model runs, as mentioned above). This last step confirmed that the chosen options were equal to or better than the alternatives.

16. The LCIRP statutes do not require any more. There is no statutory support for Clark's argument that, for example, Liberty had to assess the relative environmental impact of its customers' current usage of natural gas, then compare that environmental impact to potential impacts of "other forms of energy." Motion at 3. Liberty does not have the authority to sell

"other forms of energy" to its customers and does have to plan for such sales under the LCIRP statutes.

17. There is no requirement that Liberty must assess the upstream environmental impact of the production of natural gas that reaches Liberty's citygates, as Clark argued. Motion at 7. Those reviews are outside the purview of the LCIRP statutes, as described above, and the Commission has never previously addressed – or required natural gas utilities to address – the source of the natural gas that is delivered to their citygates. Indeed, natural gas distribution utilities are not privy to the precise source of the supplies that reach their systems and they have no control over the production source of those supplies.

18. There is also no requirement that Liberty must assess the "stranded costs" that may arise from the Granite Bridge Project.[3] The phrase "stranded cost" does not appear in the LCIRP statutes, nor does it appear in any of the recent orders approving natural gas utility LCIPRs.

19. Clark faults Liberty for not addressing the statutory elements in a sufficiently "granular" way, Motion at 2-4, which was the language used in Order No. 26,225 at 5 (quoting Order No. 25,762 in EnergyNorth's prior LCIRP). The Commission has provided some guidance on what it means to "address" the statutory elements in a "granular" way. The

[3] Clark discussed the proposed Granite Bridge LNG Facility at some length. However, the Granite Bridge LNG facility was not part of Liberty's LCIPR because its earliest projected in-service date was outside the five year planning window of this LCIRP, which is the planning period of all recent LCIRPs. *See Unitil Energy Systems*, Docket No. DE 16-463, Plan at 13 ("Summer and winter peak load projections for the five year study period are compared to these ratings"); *Liberty Utilities (Granite State Electric) Corp.*, Docket No. DE 16-097, Plan at 16 ("Over the five year planning period of 2016 to 2020, the summer peak is projected to grow from 202.4 MW in 2016 to 210.6 MW in 2020"); *Public Serv. Co. of N.H.*, Docket No. DE 15-248, Plan at 2 ("The planning horizon for this filing is the five-year period 2015-2019"); and *Northern Utilities*, Docket No. DG 15-033, Plan at I-1 ("The purpose of this Integrated Resource Plan … is to review Northern Utilities, Inc.'s … projected long-term resource needs over the coming five year planning period").

Commission has also interchangeably used the phrase "in sufficient detail" so that "the reviewing parties may evaluate the plan against the relevant statutory standards" in the four post-2014 LCIRP dockets. *See Unitil Energy Systems,* Order No. 26,098 at 8 (Jan. 9, 2018) ("we direct Unitil to address all of the statutory elements of RSA 378:38 in its next LCIRP in sufficient detailed and with supporting analysis, so that reviewing parties may evaluate the plan against the relevant statutory standards"); *Liberty Utilities (Granite State Electric) Corp.*, Order No. 26,039 at 6 (July 10, 2017) (same); *Northern Utilities*, Order No. 26,027 at 6 (June 19, 2017) (same); and *Public Serv. Co. of N.H.*, Order No. 26,050 at 8-9 (Aug. 25, 2017) (approving a settlement that "require[d] more detailed analysis of the costs and benefits of various solutions to distribution problems and additional planning information [which] will assist the Commission in the review required by RSA 378:39").

20. Thus the "granular" or "detailed" standard requires the LCIRP to provide enough information about the options that the Company evaluated "so that reviewing parties may track the correspondence of the plan with the relevant statutory standards." Order No. 26,225 at 6. Liberty provided sufficient "granular" or "detailed" information about its supply and delivery options, and analyzed how the comparative benefits and costs of those options may impact the statutory factors of cost, reliability, flexibility, the economy, health, and the environment.

21. As for cost, the Company provided detailed evidence and a thorough assessment of the delivery and supply options presented, identifying those with the lowest reasonable cost. There are two delivery options: (1) the Granite Bridge Pipeline, and (2) an upgrade of the Concord Lateral. There are three supply options: (1) CLNG (formerly ENGIE) delivered supply to the EnergyNorth city-gates and/or its existing on-system LNG facilities, (2) Repsol delivered supply to Dracut (i.e., the receipt point on the Concord Lateral) and/or directly to Granite Bridge

Pipeline, and (3) pipeline transportation capacity as part of the PNGTS's Portland XPress ("PXP") project, which is deliverable to Dracut and/or to the Granite Bridge Pipeline.[4]

22. The Company provided analyses using the SENDOUT® model's Resource Mix module, run with various growth and weather scenarios, which provided the volume by resource option that would meet the forecasted demand at the lowest cost portfolio.

23. The Company provided substantial analysis regarding the next statutory factor, reliability and diversity of the chosen energy sources. Unlike a vertically integrated electric utility that can increase reliability by diversifying its generation assets across various fuels and technologies, a natural gas distribution utility achieves diversity by owning or contracting for various supply and capacity assets. The Granite Bridge Pipeline is the perfect example of how diversity – a second feed – increases the reliability of service to all customers.

24. CLNG is the only supplier that has firm delivery capacity on the TGP Concord Lateral to the Company's citygate. Liberty's decision to contract with CLNG results in a supplier delivering under a firm capacity contract, which adds diversity to the portfolio. The Resource Mix module also identified the optimal volumes that the Company could contract for from Dawn, Ontario, and from Repsol over the forecast horizon, assuming the Granite Bridge Pipeline is available to deliver those supplies to the Company's system.

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[4] Contrary to the OCA's May 20, 2019, filing, at page 3, which faulted Liberty for not actually analyzing competing options for the needed increase in delivery capacity and supply capacity, the LCIRP states, first, that there are only two options to have more natural gas delivered to its customers – the Granite Bridge Pipeline or the Concord Lateral expansion. There are no others. The LCIRP thoroughly analyzed the options and chose the Granite Bridge Pipeline as least cost and equal or more favorable than the Concord Lateral expansion when reviewing the other statutory impacts. Second, and similarly, there are very few options that can provide additional supplies, only one of which can deliver on the Concord Lateral (the CLNG contract), and two that could provide the needed supply on the proposed Granite Bridge Pipeline (the PXP contract and Repsol). The Company chose the CLNG and PXP contracts for the many reasons discussed in the LCIRP.

25. The Company incorporated into the LCIRP the next statutory factor, “maximize … energy efficiency,” by including in its demand forecast the aggressive energy efficiency reductions arising from the Energy Efficiency Resource Standard.

26. The evidence supporting Liberty’s assessment of the relative impacts on the environment, the economy, and health, consisted of the Company’s demonstration, first, that converting customers to natural gas is positive for the State in all of these areas (which is also consistent with the State Energy Strategy, a requirement of RSA 378:38, VII[5]). Liberty demonstrated that the Granite Bridge Pipeline will not have an incrementally greater impact on the environment or health than an expansion of the TGP Concord Lateral. Both will allow for the transportation of similar amounts of natural gas, thus giving rise to similar environmental benefits of using natural gas instead of oil and propane. Both options would involve similar construction projects of similar size that involve site preparation and installation of pipelines in the ground. The Granite Bridge Pipeline will impact far fewer abutters given its proposed location in the Route 101 Energy Infrastructure Corridor, 2016 HB 626-FN-A, as opposed to an upgrade of the Concord Lateral, which now runs through many neighborhoods, past schools, along local roads, likely causing far greater disruptions and impacts. Thus, any health impacts

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[5] Note that it is through the development of the State Energy Strategy where the Legislature authorized a state agency to canvass expertise from many other agencies (including the ISO-NE, the Commission, the EESE Board, RSA 4-E:1, III) to develop a broad energy policy:

> The strategy shall include a review of all state policies related to energy, including the issues in paragraph I, and recommendations for policy changes and priorities necessary to ensure the reliability, safety, fuel diversity, and affordability of New Hampshire's energy sources, while protecting natural, historic, and aesthetic resources and encouraging local and renewable energy resources. The strategy shall also include consideration of the extent to which demand-side measures including efficiency, conservation, demand response, and load management can cost-effectively meet the state's energy needs, and proposals to increase the use of such demand resources to reduce energy costs and increase economic benefits to the state.

RSA 4-E:1, II.

resulting from the construction or from the increased use of natural gas will be similar, the environmental impacts resulting from increased use of natural gas will be similar, and the economic impacts of the two large construction projects will be similar as between these delivery options available to the Company. Therefore, assessing the totality of the economic, reliability, diversity, environmental, and health-related impacts, the Granite Bridge Pipeline option is superior to an expansion of the TGP Concord Lateral.

27. As for the supply options, while the Resource Mix module of the SENDOUT® model provided volume levels for each supply option, the delivery of those supply options does not vary, so among the supply options there are no incremental impacts associated with environment or health-related impacts. That is, Liberty's choice of supply from one source is the same as the supply from another source for purposes of this LCIRP analysis.

28. Liberty demonstrated that bringing the supplies called for in the CLNG contract would use existing pipeline capacity, so there are no incremental environmental or health-related impacts of any kind arising from the CLNG contract. The Company demonstrated that the options for supply reaching the Granite Bridge Pipeline, from Dawn or Repsol, would both be delivered on the Granite Bridge Pipeline, so the choice of one over the other would not result in any incremental environmental or health-related impact, again obviating the need for further analysis.

29. As to the economic impact on the state, providing customers a choice in energy supply increases the economic viability of businesses and meets the individual requirements of residents. To limit or preclude energy choices (either by delay or other avenues) will have negative financial implications in that other fuels will not face the price competition of natural gas, businesses may choose to locate in areas that have access to natural gas, towns will not

receive the property tax of new gas infrastructure, and existing natural gas customers will not benefit from growth.

30. There is no basis to support Clark's argument that the Company's economic assessment under RSA 378:38, VI, should have included an assessment of the "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." Motion at 16. The LCIRP statutes do not impose on a single natural gas utility the obligation to conduct such a wide-scale societal assessment of climate change policy.

31. Finally, Clark suggested that the Commission should stay both this and the Granite Bridge docket, No. DG 17-198, until the claimed deficiencies are resolved. Motion at 20. However, there is no authority for the Commission to stay its consideration of the Granite Bridge Project in Docket No. DG 17-198 based on alleged shortcomings in the LCIRP addressed here. The statute that comes closest is RSA 378:40:

> <u>No rate change shall be approved</u> or ordered with respect to any utility that does not have on file with the commission a plan that has been filed and approved in accordance with the provisions of RSA 378:38 and RSA 378:39. However, <u>nothing contained in this subdivision shall prevent the commission from approving a change, otherwise permitted by statute or agreement, where the utility has made the required plan filing in compliance with RSA 378:38 and the process of review is proceeding in the ordinary course but has not been completed</u>.

(Emphasis added.) The approvals sought in DG 17-198 do not include a "rate change," and Liberty "has made the required plan filing" in this docket, which is in "the process of review." Therefore, any alleged shortcomings in this LCIRP matter cannot be the basis for staying the Granite Bridge Project proceeding.

WHEREFORE, Liberty respectfully requests that the Commission:

A. Deny Intervenor Terry Clark's motion; and

B. Grant such other relief as is just and equitable.

Respectfully submitted,
Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities

By its Attorney,

Date: May 20, 2019 By: ______________________________

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Certificate of Service

I hereby certify that on May 20, 2019, a copy of this objection has been electronically forwarded to the service list.

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Michael J. Sheehan