

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

Objection to CLF's Motion to Find Supplemental Filing Non-Compliant

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, through counsel, respectfully objects to the *Conservation Law Foundation Motion to Find Liberty's April 30 Supplement Non-Compliant* because CLF's motion is based on a fundamental misunderstanding of the LCIRP statutes.

In support of this motion, Liberty represents as follows:

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

provide baseline data setting forth the current environmental, public health, and economic status of the region impacted by its gas plans, indicate with specificity the difference between status quo impacts and the impacts of alternatives including such options as gas expansion, demand reduction^[1], or electrification.

Motion at 7.

2. The motion should be denied because CLF misreads the LCIRP statutes, RSA 378:37 through RSA 378:40. These statutes do *not* require Liberty to compare natural gas

¹ The Company did include demand reduction programs in its demand forecast and reduced its supply obligation by the amount of expected demand reduction. See LCIRP at Bates 27-28, and Appendix 2 at Bates 109-115. Thus, the Company has, in effect, already selected this option of demand reduction.

options to other fuel source options. 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 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),² 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:

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

² Liberty's LCIRP was filed in this docket only four months later.

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 preparing its LCIRP, 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 natural 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 2015 LCIRP and its approval by Order No. 26,027 is that an LCIRP need *not* 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. It did not evaluate other fuel options or a no-growth scenario.

8. When approving Northern's 2015 Plan, the Commission found this 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 to preparing its demand forecast and developing a resource portfolio to meet those forecasted demands.

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

9. The Commission did not 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 electric heat pumps, a no-growth strategy, or some other non-gas alternative to natural gas service, as CLF argued in its motion, 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 of each option proposed in the LCIRP, 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.³

13. Turning back to the statutory factors, the guidance provided by the *Northern* order confirms 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:

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

³ 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.

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. These factors were further itemized in RSA 378:38 and RSA 378:39, with the three basic topics at issue in CLF'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 summary 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 the chosen options 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 CLF's argument that, for example, Liberty had to measure the environmental impact of its customers' current usage of natural gas, then compare that environmental impact to potential impacts of increased natural gas use versus continued oil and propane use, versus electric heat pump use, or versus other non-natural gas options. Those reviews are outside the purview of the LCIRP statutes, as described above.

17. CLF faults Liberty for not addressing the statutory elements in a sufficiently “granular” way, Motion at 5, 6, 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 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”).

18. 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 least cost, reliability, flexibility, the economy, health, and the environment.

19. 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

20. 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.

21. 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.

22. 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

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.

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.

23. 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.

24. 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, VII⁵). 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

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.

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 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.

25. 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.

26. 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.

27. 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.

28. Finally, one of CLF's prayers for relief asked the Commission to "make clear that no major project proposal, including the Granite Bridge project, can be approved until" Liberty cures the alleged defects that CLF raised in its motion. Motion at 8. 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:

No rate change shall be approved 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, 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.

(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 delaying the Granite Bridge Project proceeding.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Deny CLF'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: _____
Michael J. Sheehan, Esq. #6590
116 North Main Street
Concord, NH 03301
Telephone (603) 724-2135
Michael.Sheehan@libertyutilites.com

Certificate of Service

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



Michael J. Sheehan