

State of New Hampshire  
Public Utilities Commission

Docket No. DG 17-152

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty  
**Least Cost Integrated Resource Plan**

**Motion to Extend Deadline for Filing Liberty’s Next Least Cost Integrated Resource Plan**

Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty (“Liberty” or the “Company”), through counsel, respectfully moves the New Hampshire Public Utilities Commission pursuant to RSA 378:38-a to extend the deadline for the Company to file its next least cost integrated resource plan (“LCIRP”), which is currently October 2, 2022. The Commission has not yet resolved the contested issues raised in this docket as to whether the 2017 LCIRP complied with the statutory requirements and thus the Company does not have the necessary guidance to ensure its next LCIRP is compliant.

Liberty requests an extension of the deadline for its next LCIRP until six months after the Commission issues an order resolving this docket.

In support of this motion, Liberty states as follows:

1. On October 2, 2017, the Company filed its LCIRP for the five-year planning period of the 2017/2018 winter through the 2021-2022 peak season. In preparing the 2017 LCIRP, the Company carefully considered its prior LCIRP, Docket No. DG 13-313, Commission

Staff's and the Commission's recommendations in that docket,<sup>1</sup> and the Commission's order finding the 2013 LCIRP adequate. Order No. 25,762 (Feb. 9, 2015).

2. Order No. 25,762 recognized that the LCIRP statute had changed from the time the 2013 LCIRP was filed until the time of hearing and order in 2015:

Effective August 15, 2014, the Legislature explicitly extended the LCIRP statutes, RSA 378:37 through RSA 378:40, to include natural gas utilities such as Liberty. See Laws of 2014, ch. 129. (Previous to this amendment of the LCIRP statutes, the Commission required gas utilities to submit integrated resource plans by order. *See, e.g.*, National Grid NH, Order No. 25,317 (January 11, 2012)).

*Id.* at 2. The contents of gas LCIRPs had been governed by longstanding practice and a history of Commission orders suggesting incremental modifications to the LCIRP process.

3. Even though Liberty became subject to the new law after filing its 2013 LCIRP, the Commission nonetheless measured the 2013 plan against the newly applicable requirements contained in RSA 378:38:

As a threshold matter, we recognize that the current Liberty LCIRP represents a transitional phase in gas utility integrated resource planning, as a result of the Legislature adding natural gas utilities to the filing requirements of RSA Chapter 378 as of August 15, 2014. The statute changed after the Liberty plan was filed, but before our hearing on the merits. For administrative efficiency and clarity, we will assess the instant plan under the statutory standards of RSA Chapter 378, with the understanding that Liberty did not prepare the instant plan with the expectation that these statutes, rather than our past orders (*e.g.* Order No. 25,317) would govern our assessment.

Order No. 25,762 at 4.

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<sup>1</sup> These recommendations included “a few minor technical concerns” from Commission Staff, Staff’s suggestion that the Company “needed to apply a more nuanced approach in evaluating its energy-efficiency options,” and that Liberty “apply a cross-check on a company-wide basis to its modelling output.” Order No. 25,762 at 4.

4. The Commission concluded that the 2013 LCIRP complied with RSA 378:38 and was adequate:

In any event, we concur with Staff that this LCIRP meets the standards of RSA Chapter 378, and we will accept this plan as adequate under the new statutory scheme for natural gas utility LCIRP filing. Liberty plainly took a careful approach to examining its demand- and supply-side planning forecasting needs, including through its integration of energy efficiency measures. We appreciate Liberty's application of an open-source software approach to this LCIRP, and look forward to Staff's methodological suggestions being implemented by Liberty for its next filing.

*Id.* at 5.

5. Order No. 25,762 also directed Liberty's next LCIRP to "address all of the statutory elements of RSA 378:38 and RSA 378:39 in its plan development in a granular way, so that reviewing parties may track the correspondence of the plan with the relevant statutory standards." *Id.* Order No. 25,762 did not provide guidance on how Liberty should measure the environmental and health related impacts of its next plan.
6. Liberty included in its 2017 LCIRP a good faith attempt to satisfy the requirements of RSA 378:38. *See* the 2017 LCIRP at Bates 059 - 062.
7. However, the parties to this docket argued that the 2017 LCIRP did not satisfy the requirements of RSA 378:38, focusing on that statute's requirement that the LCIRP include 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," and an "assessment of the plan's long- and short-term environmental, economic, and energy price and supply impact on the state." RSA 378:38, V and VI.

8. Intervenor Terry Clark filed a motion to dismiss the LCIRP and to find it non-complaint. Order No. 26,225 (Mar. 13, 2019) denied Mr. Clark’s motion, but directed Liberty to supplement its filing:

The Commission also directs Liberty to submit a supplemental filing to address each of the specific elements required under RSA 378:38 and RSA 378:39 that are not already addressed in its LCIRP with adequate sufficiency to permit the Commission’s assessment of potential environmental, economic, and health-related impacts of each option proposed in the LCIRP

Order No. 26,225 at 1. The order did not provide guidance on how Liberty should measure environmental, economic, or health-related impacts of its plan.

9. Liberty made its supplemental filing, consisting of the testimony of Liberty employee William Killeen, again making a good faith effort to comply with RSA 378:38.
10. Mr. Clark and intervenor Conservation Law Foundation (“CLF”) both filed motions arguing the supplemental filing still did not satisfy the statutory requirements. After Liberty objected to those motions and before the Commission issued an order, the parties met in technical session to discuss how Liberty could address the parties’ concerns. The result of that conversation was Liberty’s agreement to further supplement its filing. On June 28, 2019, Liberty filed the testimony of Paul J. Hibbard of The Analysis Group, Sherrie Trefry of the environmental consulting firm VHB, and Eric Stanley, the energy efficiency manager at Liberty.
11. Mr. Hibbard’s testimony chose specific metrics against which he measured the health and environmental impacts of Liberty’s LCIRP. Mr. Hibbard assessed the environmental impacts of the plan by “focus[ing] on how the projects would affect the state’s compliance

with the [Clean Air Act], and would alter emissions that affect public health and the environment, including emissions of SO<sub>2</sub> [sulfur dioxide], NO<sub>x</sub> [nitrous oxides], PM [particulate matter], and Hg [mercury].” Hibbard Testimony at Bates 017. Mr. Hibbard assessed the health impacts of the plan by measuring changes in similar pollutants that vary on whether customers consume natural gas or its alternatives.<sup>2</sup>

12. Ms. Trefry described the environmental permits that would be required for Liberty to proceed with the Granite Bridge project and for Tennessee Gas Pipeline (“TGP”) to proceed with an expansion of the Concord Lateral, the two options for new capacity presented in the LCIRP. Mr. Stanley’s testimony supported the reasonableness of the Company’s energy efficiency gains included in the LCIRP’s demand forecast.

13. Mr. Clark and CLF made subsequent filings in July 2019 arguing the LCIRP, as supplemented, remained non-compliant. In Order No. 26,286 (Aug. 12, 2019), the Commission found that the supplemental testimony described above complied with the earlier directive for Liberty to supplement its LCIRP, denied Mr. Clark’s and CLF’s motions, and stated that “we will consider any alleged deficiencies in Liberty’s LCIRP through an adjudicative process and at hearing.” *Id.* at 6.

14. Mr. Clark, CLF, and Commission Staff filed testimony in September 2019, and Liberty filed rebuttal testimony in October 2019.

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<sup>2</sup> “Meeting customer service needs can result in local and regional health impacts. This is because the combustion of fuel to meet home and business heating (and other service needs) is a source of harmful pollutants - including NO<sub>x</sub>, SO<sub>2</sub>, PM, Hg, and CO<sub>2</sub>. CO<sub>2</sub> (and other GHGs involved in energy production and use, such as methane) contribute to the risks associated with climate change. The rest of the pollutants can have local and regional impacts, and can lead to or exacerbate premature deaths, asthma, and other major health problems for the state’s residents.” Hibbard Testimony at Bates 027.

15. On December 2, 2019, the Commission granted Liberty’s request to suspend the procedural schedule to allow time for Liberty to explore “an issue that may have significant impact on this docket.”<sup>3</sup> The Commission required Liberty to file status reports and, when appropriate, to propose a new procedural schedule, which Liberty filed through the first half of 2020.
16. No hearing has been held on the merits of the 2017 LCIRP and thus the Commission has not issued an order adopting metrics for determining compliance with RSA 378:38 and whether the 2017 LCIRP complies with those standards.
17. Without the Commission direction that will flow from an order in this docket, Liberty will likely prepare its next LCIRP in the same manner as the 2017 LCIRP, as supplemented. Of course, such a filing would likely meet the same resistance from the parties as the 2017 LCIRP and the opportunity for improvement and refinement of the LCIRP process will have been lost.
18. Therefore, Liberty respectfully asks the Commission to extend the current deadline of October 2, 2022 (five years from the filing of its prior LCIRP, RSA 378:38), for a period of six months after the date of an order resolving the issues in this docket.
19. RSA 378:38-a authorizes the Commission to extend the deadline for an upcoming LCIRP “for good cause.” “We read the plain language of RSA 378:38-a as allowing the Commission to waive both the specific content elements of an LCIRP and the timelines for filing. We will not grant any waivers without good reason, and we will require a compelling

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<sup>3</sup> This “issue” was later disclosed to be negotiations that resulted in the capacity contract with TGP that the Commission approved in Order No 26,551 (Nov. 12, 2021).

demonstration of good cause before waiving the timeline for filing an LCIRP.” Order No. 26,261 at 5 (June 14, 2019).

20. The chronology described above, and the absence of resolution of the contested issues of whether Liberty’s 2017 LCIRP complies with RSA 378:38 constitutes “good cause” to extend the deadline for Liberty’s next LCIRP.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Extend the deadline for Liberty Utilities’ next LCIRP until six months after an order on Liberty’s 2017 LCIRP in this docket; and
- B. Grant such further relief as is just and equitable.

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

By its Attorney,



Date: June 1, 2022

By: \_\_\_\_\_  
Michael J. Sheehan, Esq. #6590  
114 North Main Street  
Concord, NH 03301  
Telephone (603) 724-2135  
[Michael.Sheehan@libertyutilites.com](mailto:Michael.Sheehan@libertyutilites.com)

Certificate of Service

I hereby certify that on June 1, 2022, a copy of this Motion has been forwarded to the service list.



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Michael J. Sheehan