

1 **STATE OF NEW HAMPSHIRE**
2 **PUBLIC UTILITIES COMMISSION**

3
4 **March 9, 2018 - 9:06 a.m.**
5 Concord, New Hampshire

26 MAR '18 PM 4:04

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7 RE: **DG 17-152**
8 **LIBERTY UTILITIES (ENERGYNORTH**
9 **NATURAL GAS) CORP. d/b/a**
10 **LIBERTY UTILITIES:**
11 **Least Cost Integrated Resource Plan.**
12 **(Prehearing conference)**

13
14 **PRESENT:** Commissioner Kathryn M. Bailey, *Presiding*
15 Commissioner Michael S. Giaimo

16 Sandy Deno, Clerk

17 **APPEARANCES:** **Reptg. Liberty Utilities (EnergyNorth**
18 **Natural Gas) Corp. d/b/a Liberty**
19 **Utilities:**
20 R. J. Ritchie, Esq.

21 **Reptg. Terry Clark:**
22 Richard M. Husband, Esq.

23 **Reptg. Pipe Line Awareness Network**
24 **for the Northeast, Inc. (PLAN):**
 Richard A. Kanoff, Esq. (Burns...)

Reptg. Conservation Law Foundation:
 Melissa E. Birchard, Esq.

 Court Reporter: Steven E. Patnaude, LCR No. 52

**CERTIFIED
ORIGINAL TRANSCRIPT**

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APPEARANCES: (C o n t i n u e d)

Reptg. Residential Ratepayers:

D. Maurice Kreis, Esq., Consumer Adv.
Brian D. Buckley, Esq.
Pradip Chattopadhyay, Asst. Cons. Adv.
James Brennan, Finance Director
Office of Consumer Advocate

Reptg. PUC Staff:

Alexander F. Speidel, Esq.
Stephen Frink, Dir./Gas & Water Div.
Al-Azad Iqbal, Gas & Water Division

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P R O C E E D I N G

1
2 CMSR. BAILEY: Good morning,
3 everyone. We're here today in Docket Number DG
4 17-152 for Liberty Utilities (EnergyNorth
5 Natural Gas) Least Cost Integrated Plan. I
6 note for the record that we have received an
7 affidavit of publication on February 23rd.

8 As far as I can tell, we have
9 requests for intervention from three parties,
10 from three entities: CLF, PLAN, and Terry
11 Clark. And we have a Motion for Protective
12 Order on certain information contained in the
13 Company's modeling.

14 Before we get started, let's take
15 appearances.

16 MR. RITCHIE: On behalf of Liberty
17 Utilities (EnergyNorth Natural Gas) Corp. d/b/a
18 Liberty Utilities, R. J. Ritchie.

19 CMSR. BAILEY: Who's next? I guess
20 you are next. You can sit down.

21 MR. HUSBAND: Okay. On behalf of
22 Terry Clark, Richard Husband.

23 MR. KANOFF: On behalf of the Pipe
24 Line Awareness Network for the Northeast,

1 Richard Kanoff.

2 MS. BIRCHARD: Melissa Birchard,
3 representing the Conservation Law Foundation.

4 MR. KREIS: Good morning,
5 Commissioners. I am D. Maurice Kreis, the
6 Consumer Advocate, here on behalf of
7 residential utility customers. My co-counsel
8 is Brian Buckley, our staff attorney, and I
9 have the whole rest of my staff with me.

10 CMSR. BAILEY: Mr. Speidel.

11 MR. SPEIDEL: Anyone else over there?

12 CMSR. BAILEY: She already said it.

13 MR. SPEIDEL: Just being careful.
14 Alexander Speidel, representing the Staff of
15 the Commission. And I have with me Stephen
16 Frink, the Director of the Gas & Water
17 Division; and Al-Azad Iqbal, a Utility Analyst,
18 Gas and Water Division.

19 CMSR. BAILEY: Good morning. I note
20 for the record that the Chairman is not here
21 because of a family emergency, and he will be
22 participating in this docket.

23 Okay. Are there any objections to
24 the intervention requests? I don't think I

1 received any, we didn't receive anything in
2 writing.

3 MR. RITCHIE: No. We did not file a
4 motion to object to those interventions in this
5 proceeding. But, if possible, I would like to
6 enter an objection on the record right now.

7 CMSR. BAILEY: Okay.

8 MR. RITCHIE: Liberty
9 Utilities/EnergyNorth would like to object to
10 the interventions filed by PLAN and CLF in this
11 docket, mainly for the same reasons that the
12 Company objected to the interventions of PLAN
13 and CLF in the DG 17-198 docket.

14 Specifically, the Company believes
15 that, due to the appearance of the OCA in this
16 matter, the appearances of PLAN and CLF are
17 redundant and likely to impair the prompt and
18 orderly conduct of the proceeding.

19 What is more, the Company would like
20 to reiterate the argument that it made in its
21 motion in 17-198, with respect to the fact
22 that, if the Department -- I'm sorry, if the
23 Commission does decide to allow these two
24 entities to participate, that it should

1 condition their intervention upon the
2 Commission's holding in other -- in an order,
3 25,767, that they participate solely on behalf
4 of member organizations who are also customers
5 of Liberty, and that they should cabin their
6 intervention solely to the issues before the
7 PUC with respect to the IRP.

8 Finally, the Company would request
9 that the Commission require PLAN and CLF to
10 obtain affidavits from the member customers
11 attesting that they are, in fact, Liberty
12 customers and authorizing those entities to
13 participate in this docket. The Company
14 believes that this is a reasonable request that
15 will not unduly burden those parties. And if,
16 in fact, they do have members who are
17 customers, then that really shouldn't be a
18 problem for them to substantiate the fact that
19 they do have members who are customers.

20 CMSR. BAILEY: All right. Mr.
21 Kanoff, do you have a response?

22 MR. KANOFF: Yes. We have stated in
23 our Petition to Intervene grounds for
24 intervention. The grounds that we stated in

1 there are consistent with other cases that
2 we've participated in directly involving
3 Liberty. In those cases, the Commission
4 appreciated the interests of PLAN on behalf of
5 ratepayer customers and allowed intervention.
6 The precedents are cited in those petitions,
7 and I don't need to get into it here and to
8 take the time.

9 But relying on participation in other
10 cases, the precedents that allowed
11 intervention, and the similarity in those cases
12 to this one, we would urge the Commission to
13 allow intervention.

14 CMSR. BAILEY: Ms. Birchard.

15 MS. BIRCHARD: Thank you. As the
16 Commission is aware, --

17 CMSR. BAILEY: Is your mike on?

18 MS. BIRCHARD: It is, but let me
19 bring it closer. Thank you.

20 CMSR. BAILEY: Thanks.

21 MS. BIRCHARD: I am at a disadvantage
22 not having seen the other objection to which
23 Liberty has referenced. But, in any event, the
24 Commission is well aware that, in this

1 proceeding, the standard to be applied involves
2 not only end-user economic interests, but also
3 public health, environmental, and a range of
4 other concerns. And CLF brings specific
5 expertise, as well as a specific customer
6 interest, to those issues.

7 While we are certainly able to get
8 affidavits from our members, you know, I find
9 that request burdensome. I think it will set
10 back the process, it's unnecessary, and it
11 hasn't been required in many other proceedings
12 in which CLF has successfully intervened on
13 similar bases.

14 I find it unfortunate that Liberty
15 would request it in this case, when it has not
16 been requested in many other cases.

17 Thank you.

18 CMSR. BAILEY: Mr. Ritchie, this
19 docket is different than the docket that we'll
20 be hearing later today. It's a planning
21 docket, and the statute does require us to
22 consider things other than economic issues.

23 What's your response to that?

24 MR. RITCHIE: The Company understands

1 the Commissioner's perspective on that.

2 However, it's the Company's belief that, while
3 it understands that CLF does have expertise in
4 matters regarding public health, that the
5 Company isn't requesting that the Commission
6 make any decisions with respect to necessarily
7 public health in the IRP docket. It's really
8 more of an evaluation of resource adequacy for
9 the next five years.

10 And with respect to the earlier
11 statements from PLAN and CLF, I don't -- the
12 Company respectfully disagrees, that it would
13 be unduly burdensome for those entities just to
14 make a showing that they are, in fact,
15 customers and that they are representing -- or,
16 they do have members who are customers, and
17 that they are, in fact, representing those
18 interests and not the interests of individuals
19 who are not customers of the Company, may be
20 out-of-state. I don't think that's an
21 unreasonable request.

22 CMSR. BAILEY: All right. Mr. Kreis.

23 MR. KREIS: Thank you, Commissioner
24 Bailey. I would just like to make clear for

1 the record, since Mr. Ritchie mentioned the
2 Office of the Consumer Advocate, that our
3 enabling statute limits us to advancing the
4 interests of residential utility customers.
5 Therefore, we confine the positions we take to
6 matters that really affect what I think has
7 already been referred to as the "economics" and
8 other issues that directly impact our
9 ratepayers.

10 That is a very different set of
11 concerns than PLAN New England or CLF would
12 articulate in a proceeding like this. And for
13 this reason, I respectfully disagree with the
14 arguments that the Company is making here. And
15 I believe that the Commission should, in fact,
16 grant all of the pending intervention requests.

17 CMSR. BAILEY: Thank you.

18 Mr. Speidel, do you have anything to add?

19 MR. SPEIDEL: Yes. Yes, Commissioner
20 Bailey. Staff does not object to any of the
21 intervention requests. We believe that the
22 operative scope of intervention participation
23 at hand in this docket would be that delineated
24 in the Order of Notice, which talks about the

1 RSA 378:38 and RSA 378:39 requirements, as
2 recently amended by the Legislature, and also
3 the requirements set by forth by the Commission
4 in Order Number 25,762.

5 Within that scope, there is some
6 discussion of environmental concerns and public
7 health concerns. And, so, we find that the
8 participation by these intervenors would not be
9 inappropriate. And also, we would imagine that
10 they could provide some useful information for
11 the Commission's consideration.

12 That said, the limitation on scope is
13 delineated in the Order of Notice and so should
14 relate to the LCIRP factors that are required
15 by law.

16 And as far as the requirement for
17 affidavits, it's Staff's expectation that there
18 is at least one customer of Liberty among the
19 membership of these organizations within
20 central or in southern New Hampshire or in
21 Berlin. But we leave it to the Commission's
22 discretion as to whether that's warranted in
23 this case.

24 Thank you.

1 CMSR. BAILEY: All right. Thank you.
2 We'll take the intervention requests under
3 advisement and ruled on them shortly.

4 Okay. Are there any objections to
5 the Motions to Intervene? I'm sorry. To the
6 Motion on Confidentiality?

7 *[No verbal response.]*

8 CMSR. BAILEY: All right. Seeing
9 none. We will make our ruling on that in the
10 same document most likely.

11 Okay. Let's take initial positions.
12 Mr. Ritchie.

13 MR. RITCHIE: Thank you. The filing
14 of this IRP arises out of Order 25,762, issued
15 in February 2015, which found the Company's
16 prior IRP to meet the requirements of RSA
17 378:38. The Commission directed the Company to
18 file its next IRP in February 2017.

19 Liberty requested, and the Commission
20 granted, two extensions of that deadline until
21 October 2017. These extensions allowed the
22 Company to update its demand forecast, evaluate
23 its options for satisfying that demand, and
24 finalizing its decision to proceed with what is

1 known as the "Granite Bridge Project" as the
2 best cost option for serving Liberty's
3 customers over the planning period.

4 We are prepared to work with Staff,
5 the OCA, and the intervenors to respond to all
6 relevant questions, concerns, or issues that
7 they have with regard to the Plan. We believe
8 that the Plan satisfies the statutory
9 requirements, and we will ultimately ask that
10 the Commission enter an order finding that to
11 be the case later in this docket.

12 Thank you.

13 CMSR. BAILEY: Mr. Husband.

14 MR. HUSBAND: Thank you. While Mr.
15 Clark is entitled to explore and press Liberty
16 on all of its projections and demand forecasts
17 that is filed in this proceeding, Mr. Clark is
18 particularly interested in intervening to
19 contest the Petitioner's gas extension plans
20 under its IRP as being inconsistent with the
21 public interest, RSA 378:37, and New
22 Hampshire's commitments and obligations to act
23 responsibly in the face of climate change and
24 the health issues presented by fracked gas.

1 These positions are more thoroughly
2 laid out in the Petition to Intervene that
3 Mr. Clark has already filed in this proceeding.

4 Thank you.

5 CMSR. BAILEY: Mr. Kanoff.

6 MR. KANOFF: We are seeking to review
7 and evaluate the forecast that's filed and
8 specifically assess supply options and demand
9 response opportunities that Liberty may have
10 related to the forecast.

11 CMSR. BAILEY: Ms. Birchard.

12 MS. BIRCHARD: As the Commission is
13 aware, Conservation Law Foundation and its
14 members have a longstanding interest in
15 ensuring sound planning and investments by New
16 Hampshire's natural gas utilities, as well as
17 its electric utilities, and that includes
18 Liberty gas in New Hampshire.

19 We are concerned that natural gas is
20 a major contributor to climate change, and it's
21 also a major contributor to the costs in New
22 Hampshire. So, we will be taking a close
23 concern to Liberty's planning and investment
24 options in this proceeding, within the scope of

1 the statute as described previously by Staff.

2 Thank you.

3 CMSR. BAILEY: Mr. Kreis.

4 MR. KREIS: Thank you, Commissioner.

5 This lament will sound familiar to those who
6 have been in previous least cost integrated
7 resource planning dockets.

8 The Plan submitted by Liberty does
9 not meet the standards in RSA 378, Section 38
10 or 39. The overall purpose of least cost
11 integrated resource planning, as it has been
12 mandated by the New Hampshire Legislature, is
13 to require electric and gas utilities to make
14 their big capital and resource acquisition
15 decisions in a manner that is overall least
16 cost to customers. Sections 38 and 39 of the
17 statute talk about Commission scrutiny of
18 supply options considered and chosen by the
19 company. But here, the Company tees up the
20 processes and the information it uses to make
21 such choices, and it seems to suggest that it
22 has rigorous processes for making those
23 choices, but the Company doesn't actually make
24 any choices in the LCIRP, other than indicating

1 that it plans to renew most, if not all, of its
2 existing supply contracts.

3 How do I know that? Because I have
4 looked at Pages 48 and 49 of the Plan, which
5 appear at Bates Pages 052 and 053. That
6 discussion, entitled "Future Portfolio
7 Decisions", suggests that decisions will be
8 made in the future.

9 This is like Captain Ahab, fitting
10 out the Pequod, setting sail from Nantucket,
11 but not disclosing whether he's looking for
12 Moby Dick or Charlie the Tuna.

13 Admittedly, the Company does reveal
14 in the next docket that it has a very big whale
15 in its sights indeed. But it is doing that not
16 in an effort to subject its planning to public
17 scrutiny, but rather in an effort to insulate
18 itself from the business risk associated with
19 big decisions by insulating from prudence
20 review in the future.

21 Here's how it's supposed to work.
22 The plans are reviewed in the least cost
23 integrated resource planning process, and the
24 Company puts the assets into rate base, which

1 are okayed *post facto* in the prudency review
2 that is part of rate cases. This is a problem.
3 And I think it is going to have to be addressed
4 in this docket one way or another.

5 I look forward to working with the
6 Company and the other parties to get this thing
7 into a place where the Commission can approve
8 it.

9 CMSR. BAILEY: Mr. Speidel.

10 MR. SPEIDEL: Thank you,
11 Commissioner. Staff has conducted a
12 preliminary review of the Plan, and will
13 conduct a detailed review of this Plan during
14 this proceeding.

15 In Staff's view, and we've expressed
16 this through informal recommendations, this
17 docket is closely related to Docket DG 17-198,
18 the Granite Bridge proceeding. We believe a
19 lot of the issues regarding supply planning and
20 operational planning are common. We understand
21 that these two dockets have not been formally
22 consolidated. But Staff is going to be hiring
23 a consultant to advise us in both dockets, to
24 provide useful information about the Company's

1 planning processes and decision-making. So,
2 that's going to be an ongoing effort.

3 The magnitude of the Granite Bridge
4 proposal is adding a certain level of urgency
5 and importance to this LCIRP, as far as a
6 real-world check against some of the
7 hypothetical discussions within the IRP
8 presented by the Company, versus what the
9 Company is actually doing on the ground in
10 capital investment.

11 So, we do share Mr. Kreis's concerns
12 about the need to make sure that we probe and
13 test this Plan quite carefully, in light of
14 what the Company is saying in a parallel
15 docket.

16 We will work with the Company and
17 other intervenors to develop a schedule in due
18 course, involving features such as discovery,
19 technical sessions, and testimony, to enable
20 the parties to interact in an efficient and
21 effective way. And we will keep the Commission
22 advised about this effort through our own
23 filings and recommendations.

24 Thank you.

1 CMSR. BAILEY: All right. Is there
2 anything else we need to do before we let you
3 get to your technical session?

4 *[No verbal response.]*

5 CMSR. BAILEY: Okay. Seeing none. I
6 note that we will have another prehearing
7 conference at ten o'clock in 17-198, the
8 Granite Bridge case.

9 And, Mr. Ritchie, if you could get
10 copies of your objections to PLAN, CLF, Mr.
11 Clark, and the other intervenors as they come
12 in in advance of the hearing, that would be
13 helpful.

14 Seeing that we have nothing left to
15 do, I will adjourn the hearing for today and
16 leave you to your technical session. Thank
17 you.

18 ***(Whereupon the prehearing***
19 ***conference was adjourned at 9:26***
20 ***a.m. and a technical session was***
21 ***held thereafter.)***