



OFFICE OF THE CONSUMER ADVOCATE

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January 24, 2022

New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. DE 20-092
Electric and Gas Utilities
2021-2023 Triennial Energy Efficiency Plan

To the Commission:

Please treat this letter as the opposition of the Office of the Consumer Advocate (“OCA”) to the scheduling proposal submitted on January 21, 2022 by counsel for Liberty Utilities on behalf of all six of the state’s electric and natural gas utilities in their capacities as administrators of the NHSaves energy efficiency programs.

The NHSaves utilities were responding to the Commission’s directive at page 20 of Order No. 26,560 (January 7, 2022) to submit a proposed procedural schedule that would “result in submission to the Commission of a Program Proposal for the remainder of the 2021-2023 triennium no later than March 31, 2022, for effect May 1, 2022 upon Commission approval.” The utilities proposed a technical session on April 5, responses to data requests posed during the technical session on April 12, testimony from non-utility parties on April 19, and an evidentiary hearing on April 25 and 26.

Neither the deadlines established by the Commission nor the timeline proposed by the utilities for meeting these deadlines are reasonable. Moving this proceeding forward from its present state of affairs (no triennial plan in place more than a year into the triennium, because the Commission was unable or unwilling to rule on the proposed triennial plan until 316 days into the triennium) at the aggressive pace mandated by the Commission raises profound issues of due process and fundamental fairness.

Since at least 2016, when the Commission endorsed the concept of having stakeholders collaborate with the utilities as they developed energy efficiency plans for eventual Commission approval, it has been understood by all involved that this degree of stakeholder input was useful because it built consensus and reduced the number and scope of issues requiring litigation on a contested basis. Yet, the schedule proposed by the utilities provides no such opportunities – nor, frankly, are such opportunities feasible given the magnitude of the work required to develop energy efficiency plans and the extremely limited time the Commission has allotted for the

completion of these tasks. The utilities' apparent willingness to acquiesce to such a timeline can only be attributed to a reluctance to irritate their regulator.

The utilities' acquiescence notwithstanding, it is neither fair nor reasonable to give other parties just 19 days to develop and file written testimony in response to the utilities' March 31 filing. Likewise, the extreme limitation on discovery opportunities – essentially, making data requests requires attendance at an April 5 technical session – drastically circumscribes the ability of parties to develop the information they need to litigate the next phase of the proceeding. Convening an evidentiary hearing just six days after the last submission of written testimony is unprecedented, at least in a proceeding that is not routine in nature.

Finally, the OCA wishes to advise the Commission that the Residential Ratepayers Advisory Board is scheduled to meet on April 25, 2022, in conflict with the first hearing date proposed by the utilities. Pursuant to RSA 363:28-a, the Consumer Advocate is required to attend meetings of the Advisory Board. I am not a member of the Advisory Board and I do not control the scheduling of its meetings. The OCA is therefore unavailable for a hearing on April 25.

Surely by now it has not escaped the Commission's notice that its decisions in this proceeding to date have wreaked havoc and engendered significant public controversy. Remedial legislation is pending; appellate proceedings are all but inevitable. In these circumstances, it is not too late for the Commission to return a semblance of order to the provision of ratepayer-funded energy efficiency in New Hampshire by restoring the energy efficiency charges that were applicable in 2020 and 2020, directing the utilities to maintain their existing programs through the remainder of the current triennium, and asking the parties to submit a joint proposal for the submission and consideration of a triennial plan for effect on January 1, 2024.

The Office of the Consumer Advocate remains steadfast in its view that the pursuit of all cost-effective energy efficiency is an essential component of regulated electric and natural gas service in New Hampshire. We respectfully but emphatically disagree with the perspective that seems to drive the Commission's order of November 12, 2021 – that ratepayer-funded energy efficiency can be phased out because the market economy will somehow produce this public good without regulatory intervention. The Commission should count on the OCA to be actively engaged in any proceedings that present an opportunity to defend and optimize the delivery of cost-effective energy efficiency to our state's utility customers. This is why we object to the proposed procedural schedule and, indeed, everything else about the trajectory this docket has taken over the past 13 months.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Donald M. Kreis', written in a cursive style.

Donald M. Kreis
Consumer Advocate

cc: Service List