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I N D E X

PAGE NO.

ISSUE RE: MOTIONS TO INTERVENE

6

STATEMENTS OF INITIAL POSITION BY:

Mr. Venora	7
Mr. Krakoff	12
Mr. Kanoff	15
Mr. Kreis	16
Ms. Fabrizio	18

QUESTIONS BY:

Commissioner Bailey	19
Chairwoman Martin	20

1
2
3
4
5
6
7
8
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P R O C E E D I N G

CHAIRWOMAN MARTIN: We're here this afternoon in Docket DG 21-008 for a prehearing conference regarding the Liberty Utilities' Petition for Approval of a Firm Transmission Transportation Agreement with Tennessee Gas Pipeline Company.

I have to make the necessary findings for a remote hearing.

As Chairwoman of the Public Utilities Commission, I find that due to the State of Emergency declared by the Governor as the result of the COVID-19 pandemic, and in accordance with the Governor's Emergency Order Number 12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this hearing, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are utilizing Webex for this electronic hearing. All members of the Commission have the ability to

1 communicate contemporaneously during this
2 hearing, and the public has access to
3 contemporaneously listen and, if necessary,
4 participate. We previously gave notice to the
5 public of the necessary information for accessing
6 the hearing in the Order of Notice. If anyone
7 has a problem during the hearing, please call
8 (603) 271-2431. In the event the public is
9 unable to access the hearing, the hearing will be
10 adjourned and rescheduled.

11 Okay. We have to take a roll call
12 attendance, because this is a remote hearing. My
13 name is Dianne Martin. I am the Chairwoman of
14 the Public Utilities Commission. And I am alone.

15 Commissioner Bailey.

16 CMSR. BAILEY: Good afternoon,
17 everyone. I am Kathryn Bailey, Commissioner at
18 the Public Utilities Commission. And my mother,
19 Sheila Mosher, is present in the house with me.

20 CHAIRWOMAN MARTIN: Okay. Thank you.
21 And appearances, let's start with Mr. Sheehan.

22 MR. SHEEHAN: Good afternoon, everyone.
23 Michael Sheehan, for Liberty Utilities
24 (EnergyNorth Natural Gas) Corp. I'm joined today

1 by co-counsel Daniel Venora and Jessica Ralston.
2 And Mr. Venora is going to be handling the
3 balance of this hearing.

4 CHAIRWOMAN MARTIN: Okay. Thank you
5 for that. And let's move on to CLF, Mr. Krakoff.

6 MR. KANOFF: Good afternoon, Chairwoman
7 Martin and Commissioner Bailey. Nick Krakoff,
8 from Conservation Law Foundation. And I am alone
9 today.

10 CHAIRWOMAN MARTIN: Thank you. And for
11 Pipe Line Awareness Network, Mr. Kanoff? You're
12 on mute.

13 MR. KANOFF: Sorry. Good afternoon.
14 I'm Richard Kanoff. I represent the Pipe Line
15 Awareness Network. And I'm here by myself.

16 CHAIRWOMAN MARTIN: Great. Thank you.
17 And Mr. Kreis.

18 MR. KREIS: Good afternoon, Chairwoman
19 Martin, Commissioner Bailey, fellow
20 practitioners. I am Donald Kreis, the Consumer
21 Advocate, here on behalf of the residential
22 customers of Liberty Utilities.

23 CHAIRWOMAN MARTIN: Okay. Thank you.
24 And Ms. Fabrizio.

1 MS. FABRIZIO: Thank you. And good
2 morning [sic], Chairwoman Martin and Commissioner
3 Bailey. My name is Lynn Fabrizio. I am the
4 Staff Attorney representing Staff in this
5 proceeding. And with me today are Stephen Frink,
6 the Director of the Commission's Gas and Water
7 Division, and Randall Knepper, the Director of
8 Safety and Security for the Commission's Safety
9 Division.

10 Thank you.

11 CHAIRWOMAN MARTIN: Great. Thank you,
12 everyone.

13 Okay. For preliminary matters, I note
14 that we have two pending motions to intervene.
15 And we've heard from the counsel for those folks.
16 Are there any objections to either of those
17 petitions?

18 MR. VENORA: Chairwoman Martin, the
19 Company has no objection to either petition.

20 MS. FABRIZIO: And Staff has no
21 objection to either petition as well.

22 CHAIRWOMAN MARTIN: Okay. Thank you.
23 We will take both of those under advisement and
24 issue an order. For purposes of today's

1 prehearing conference though, and for the
2 technical session, we will treat those that have
3 moved to intervene as parties.

4 Any other preliminary matters before we
5 hear initial positions?

6 *[No verbal response.]*

7 CHAIRWOMAN MARTIN: Okay. Seeing none.
8 Let's move to initial positions, starting with
9 Mr. Venora.

10 MR. VENORA: Thank you very much. And
11 good afternoon. The Company's opening statement
12 is as follows:

13 The Commission initiated this docket in
14 response to Liberty's filing on January 20th,
15 2021, which was a Petition for Approval of a Firm
16 Transportation Agreement with Tennessee Gas
17 Pipeline Company. The Petition asked the
18 Commission to determine that Liberty's decision
19 to enter into the TGP contract was reasonable and
20 prudent, and to approve the contract.

21 The Company's position is set forth in
22 detail in its Petition and in the Direct
23 Testimony of Mr. DaFonte and Mr. Killeen that
24 accompanied the Petition. I will highlight just

1 a few aspects of the filing.

2 The TGP Contract is for a term of 20
3 years and was executed by the parties on July
4 14th, 2020. Under the term of the contract --
5 under the contract, the Company purchased, on a
6 firm basis, 40,000 decatherms per day of capacity
7 on TGP's Concord Lateral, which runs from the
8 Dracut, Massachusetts receipt point to the
9 Londonderry, New Hampshire delivery point.

10 The Company entered into this contract
11 because it needs additional capacity to reliably
12 meet existing and future customer load
13 requirements in its service area. The TGP
14 Contract emerged as the prudent and reasonable
15 option because it is the least cost resource to
16 meet the capacity needs.

17 By way of background, the Commission
18 issued an order in October 2015 that recognized
19 the Company's capacity needs. Specifically,
20 Order Number 25,822 approved a precedent
21 agreement with TGP related to the Northeast
22 Energy Direct or the so-called "NED" project.
23 And, in its approval, the Commission acknowledged
24 the Company's need for additional pipeline

1 capacity. However, as the Commission will
2 recall, TGP subsequently cancelled the NED
3 project in May 2016, leaving Liberty without a
4 solution to its impending capacity shortfall.

5 After the NED project was cancelled,
6 the Company evaluated its alternatives for
7 securing additional capacity and identified two
8 viable options, which were either to enter into a
9 contract with TGP for an expansion of the Concord
10 Lateral, or to build its own pipeline to provide
11 the additional capacity, which became known as
12 the "Granite Bridge project".

13 Liberty began work on the Granite
14 Bridge project because cost estimates at the time
15 showed it to be the least cost alternative as
16 compared to indicative pricing from TGP to obtain
17 a contract on the Concord Lateral.

18 As an aside, the Concord Lateral is the
19 TGP-owned transmission line that travels from
20 Dracut, Massachusetts to Concord, New Hampshire,
21 and is the only existing transmission line that
22 can serve Liberty's distribution system. The
23 Concord Lateral at the time was fully subscribed,
24 which meant that a capacity contract on the

1 Lateral would have required TGP to build new
2 facilities to serve the Company's capacity need.
3 Thus, the pricing that TGP quoted Liberty at the
4 time was very high.

5 As Liberty proceeded with its
6 engineering and planning work for Granite Bridge,
7 its estimates for the Granite Bridge project
8 remained lower than TGP's indicative pricing,
9 meaning that it continued to be the least cost
10 alternative to meet the capacity need. This was
11 the case from the inception of the Granite Bridge
12 project in the 2016-2017 time period, and through
13 several years of progressively more advanced
14 planning into mid-2019.

15 The potential turning point was in May
16 2019, when TGP provided reduced price estimates
17 for capacity on the Concord Lateral that for the
18 first time indicated that a contract with TGP may
19 be achievable at a lower cost than its previous
20 estimates. TGP's new pricing suggested that it
21 would make existing capacity available to Liberty
22 that had previously been held by another customer
23 on the Concord Lateral. And this meant that an
24 agreement with TGP for additional capacity would

1 no longer require TGP to construct new
2 facilities, and therefore resulted in lower
3 indicative pricing.

4 However, even with those estimates in
5 May 2019, the Granite Bridge project continued to
6 be the least cost alternative. TGP had closed
7 the gap, but it was still higher than Granite
8 Bridge.

9 Then, in October 2019, TGP provided
10 further revised pricing that was lower than its
11 May 2019 estimates, and for the first time
12 indicated that a capacity contract with TGP could
13 be achievable at a lower cost than the Granite
14 Bridge project. Thus, the TGP Contract became
15 the least cost alternative as compared to Granite
16 Bridge. The Company therefore suspended its
17 Granite Bridge activities and pursued the TGP
18 Contract, continuously negotiating with TGP over
19 the next eight months to bring the price even
20 lower. The contract now before you for approval
21 is the result of those negotiations.

22 In summary, the TGP Contract provides
23 an additional 40,000 decatherms per day in
24 capacity at favorable pricing. The contract will

1 alleviate the constraint that customer growth has
2 placed on Liberty's existing capacity portfolio.
3 The Company has experienced substantial load
4 growth and currently relies extensively on
5 trucking of LNG and the full nameplate capacity
6 or capability of its propane facilities in order
7 to meet design day demand, neither of which are
8 sustainable long-term strategies. The new
9 capacity provided by the TGP Contract will allow
10 for a more sustainable solution. And, for these
11 reasons, the Company respectfully requests the
12 Commission's approval of the Contract.

13 Thank you.

14 CHAIRWOMAN MARTIN: Thank you, Mr.
15 Venora. Okay. Mr. Krakoff.

16 MR. KRAKOFF: Thank you, Chairwoman
17 Martin and Commissioner Bailey.

18 CLF appreciates the opportunity to
19 participate in today's hearing. At this time,
20 CLF currently opposes the proposed capacity
21 contract for a number of reasons.

22 First, CLF continues to believe that
23 Liberty's gas demand forecasts for the next 20
24 years are unrealistic and overly aggressive. Due

1 to uncertainty in gas demand over so long a long
2 planning period, a shorter contract term for a
3 smaller amount of capacity is preferable to what
4 has been proposed by Liberty in this docket.

5 Specifically, given the possibility
6 that the state and federal government will enact
7 statutory or regulatory reforms in response to
8 climate change, which can reduce gas demand, a
9 shorter term and smaller capacity amount is
10 warranted.

11 Additionally, CLF opposes the project
12 because it will require 45 million in on-system
13 enhancements. Liberty is likely to argue that
14 this isn't really material to this docket,
15 however it raised it in their filing, and
16 approval of the contract would be -- would also
17 signal implicit approval of likely rate recovery
18 for that investment amount.

19 We oppose that investment because
20 there's a significant risk that the proposed
21 investments will result in future stranded costs
22 and higher consumer costs as the region and New
23 Hampshire transition away from the use of fossil
24 fuels for heating to clean energy resources.

1 As New Hampshire faces increased
2 pressure to reduce its greenhouse gas emissions
3 from future national regulation, Liberty's future
4 load will likely decrease, which will decrease
5 the need for the proposed capacity contract.
6 This would burden ratepayers with the stranded
7 costs of the proposed contract and related
8 on-system investments. A shorter term, smaller
9 capacity contract could avoid some of the risks
10 of stranded costs.

11 Further, pursuant to New Hampshire's
12 least cost integrated planning statutes, the
13 Commission is required to consider the
14 environmental, economic, and health-related
15 impacts of utility actions. Thus, in deciding
16 whether to approve Liberty's proposed contract,
17 the Commission must consider its climate change
18 and public health impacts. Greenhouse gas
19 emissions reductions are necessary to limit
20 future temperature increases from climate change.
21 Reducing greenhouse gas emissions in order to
22 limit the effects of climate change is only
23 possible through reducing gas usage.
24 Accordingly, in deciding whether to approve the

1 proposed capacity contract, the Commission must
2 take into account the proposed contract's climate
3 change impacts.

4 Finally, the Liberty LCIRP docket, DG
5 17-152, has laid dormant over the past year in
6 relation to Liberty's withdrawal of the Granite
7 Bridge project. Because Liberty is proposing a
8 new project, a 20-year/40,000 decatherm a day
9 capacity contract, and \$45 million in on-system
10 investments related to that contract, pursuant to
11 RSA 378:38, Liberty has to file an amended LCIRP
12 that includes the new proposal. That docket
13 should also be reviewed and should proceed in
14 tandem with this docket.

15 Thank you.

16 CHAIRWOMAN MARTIN: Thank you, Mr.
17 Krakoff. Mr. Kanoff.

18 MR. KANOFF: Thank you.

19 Our position is based upon the
20 Company's opening statement and in their filing
21 is that the capacity needs as they have requested
22 here of 40,000 decatherms a day is too high. The
23 upgrade costs and the need for the upgrades may
24 be overstated. The term of 20 years is too long.

1 And the rate impacts associated with the project
2 may be inflated.

3 As we have in prior cases, we would
4 anticipate hiring and presenting a witness in
5 this case to evaluate all those factors. And we
6 look forward to participating.

7 Thank you.

8 CHAIRWOMAN MARTIN: Thank you, Mr.
9 Kanoff. Mr. Kreis.

10 MR. KREIS: Thank you, Chairwoman
11 Martin.

12 The issues that Mr. Krakoff and Mr.
13 Kanoff just laid out are significant and well
14 worthy of investigation in this docket, and we
15 intend to participate in that investigation.

16 That said, the proposed contract with
17 the Tennessee Natural Gas Pipeline is such a vast
18 improvement over the Granite Bridge project that
19 we are, I guess I would say, favorably inclined
20 with respect to this particular approach to
21 meeting the Company's future supply needs. And,
22 clearly, this Company does have some future
23 supply needs that it needs to -- that it needs to
24 meet.

1 Beyond that, the only other point I
2 would make is that I think the Commission should
3 deny the pending confidentiality motion.
4 Basically, the Company seeks to redact all of the
5 really important and significant numbers in the
6 docket that relate to costs. And, while that
7 information as it relates to Tennessee Natural
8 Gas Pipeline might have been appropriately
9 treated as confidential, when it was just
10 indicative pricing against which to evaluate the
11 cost of the Granite Bridge project, now that the
12 Company is directly contracting with Tennessee
13 Natural Gas Pipeline, treating the key terms of
14 their contract as confidential essentially means
15 this entire docket is confidential. And that
16 fails to take into account the balancing test
17 that the New Hampshire Supreme Court has directed
18 the PUC and other Right-to-Know law
19 decision-makers to apply in determining whether
20 material should be exempt from public disclosure.
21 We look forward to working with all of
22 the parties in this docket. And I have a fair
23 degree of optimism that we'll be able to achieve
24 a settlement that will meet all of the concerns

1 that have been laid out today, and will allow the
2 Company to meet its supply needs going forward.

3 CHAIRWOMAN MARTIN: Thank you, Mr.
4 Kreis. And Ms. Fabrizio.

5 MS. FABRIZIO: Thank you, Madam Chair.
6 Staff has conducted a preliminary
7 review of Liberty's Petition and Contract, and
8 will conduct a thorough review of the details of
9 each during this proceeding through technical
10 sessions and discovery.

11 At today's technical session, we will
12 work with the Company, the Office of the Consumer
13 Advocate, and intervenors to develop an expedited
14 schedule involving discovery, further tech
15 sessions, and testimony, with a goal of allowing
16 a final order by September 1st, as requested by
17 the Company. Staff is optimistic that this
18 docket can be reviewed in a timely manner, since
19 much of the materials and subject matter have
20 been discussed in prior dockets.

21 Staff recognizes Liberty's need for
22 additional capacity, and the TGP contract for
23 supply delivery appears to provide that. Based
24 on a preliminary review, Staff is generally

1 supportive of the Company's request, but will be
2 exploring whether 40,000 decatherms is the
3 optimal amount to Liberty's current and future
4 supply needs. And Staff will also be reviewing
5 the timing and need for Liberty's capital
6 projects related to additional TGP capacity.

7 However, Staff would note that the
8 Petition refers to the potential future capital
9 investments associated with the proposed
10 contract, and we believe that any Commission
11 approval of the contract itself as presented in
12 the Petition should not be construed as tacit
13 approval of any future, proposed capital
14 expenditures related to the contract to deliver
15 gas on the existing Concord Lateral owned by the
16 Tennessee Gas Pipeline Company.

17 Thank you.

18 CHAIRWOMAN MARTIN: Thank you, Ms.
19 Fabrizio.

20 Commissioner Bailey, do you have
21 questions for anyone?

22 CMSR. BAILEY: I think I'd like to ask
23 the OCA and Staff if they are thinking about
24 looking into the length of the contract at all?

1 MR. KREIS: On behalf of the OCA, I
2 would say absolutely that's a subject for some
3 thoughtful consideration here. We are always
4 concerned about long-term supply arrangements
5 into which gas companies enter that exceed what
6 we consider to be a reasonable planning horizon.

7 We've already had some discussions with
8 Liberty on that very subject. And I guess it
9 wouldn't be appropriate for me to represent those
10 conversations here. But this is a subject of
11 ongoing inquiry and discussion, from our
12 perspective.

13 MS. FABRIZIO: And Staff would agree
14 with that position. We certainly will be looking
15 at the length of the contract as an element of
16 the contract review.

17 CMSR. BAILEY: Thank you. I'm sure
18 there are trade-offs for making it shorter and
19 there are trade-offs for making it longer.
20 Appreciate the review.

21 CHAIRWOMAN MARTIN: I just have one
22 follow-up question. If Attorney Sheehan or
23 Attorney Venora could respond to Attorney Kreis's
24 objection regarding the Motion for Confidential

1 Treatment, I would appreciate that. And anybody
2 else who wants to weigh in on that, I think it
3 would be helpful to hear.

4 MR. VENORA: Yes. Thank you,
5 Chairwoman Martin.

6 Yes. The Company, in its motion,
7 identified the specific information for which it
8 seeks confidential treatment. Just to clarify,
9 the contract price itself is not confidential.
10 What is confidential are the various indicative
11 pricing estimates. And the Company's motion
12 indicates that these are the same estimates that
13 were granted confidential treatment in a prior
14 order by the Commission, as well as updates to
15 those estimates. So, they fall into the same
16 category. And then, secondly -- so, that's all
17 competitive market-based information that led
18 ultimately to the contract. And then, also, the
19 other category of confidential information would
20 be the Company's pricing estimates relating to
21 its projects.

22 And, so, you know, it's a limited swath
23 of information. It's specifically identified in
24 Mr. DaFonte and Mr. Killeen's testimony. And it

1 won't in any way stymie any open discussion and
2 consideration of the issues.

3 CHAIRWOMAN MARTIN: Could you respond,
4 though, to Mr. Kreis's reference to the
5 "balancing test"?

6 MR. VENORA: Sure. I mean, in the
7 motion, what we did was try to limit the request
8 for confidentiality only to the information, you
9 know, that is sensitive and competitive. And, in
10 doing so, you know, that reflects the balancing
11 test. You know, that the information that would
12 be protected is limited. And it doesn't -- and
13 the information, you know, that the Commission
14 has to evaluate the contract in public is far --
15 is sufficient, that, you know, and on the balance
16 of those considerations, and consistent with the
17 Commission's prior order that granted
18 confidential treatment for these same types of
19 estimates.

20 That's why we believe that confidential
21 treatment is warranted.

22 CHAIRWOMAN MARTIN: Okay. Thank you,
23 Mr. Venora.

24 MR. VENORA: Thank you.

1 CHAIRWOMAN MARTIN: Does anyone else
2 want to be heard on that motion?

3 *[No verbal response.]*

4 CHAIRWOMAN MARTIN: Anything else we
5 need to cover before the technical session?

6 *[No verbal response.]*

7 CHAIRWOMAN MARTIN: All right. Then,
8 we'll let you go to the technical session. Thank
9 you, everyone. We are adjourned for today.

10 ***(Whereupon the prehearing conference***
11 ***was adjourned at 2:20 p.m., and a***
12 ***technical session was held***
13 ***thereafter.)***

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