

STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION

DE 21-036

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.,
d/b/a LIBERTY UTILITIES

Petition for Approval of a Renewable Natural Gas Supply and Transportation Agreement

**THE DEPARTMENT OF ENERGY’S RESPONSE TO LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP.’S MOTION TO SUSPEND PROCEDURAL SCHEDULE**

NOW COMES the New Hampshire Department of Energy (Energy) and states that it does not object to the relief requested in Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities’ *Motion to Suspend Procedural Schedule*.

In support, Energy states as follows:

1. On December 15, 2021, Liberty Utilities (EnergyNorth Natural Gas) Corp. (Liberty or the Company) filed a *Motion to Suspend Procedural Schedule (Mot. Suspend)* seeking time for the New Hampshire Legislature to act on a pending legislative service request (LSR) that, Liberty asserts, would substantially change the standard under which the Commission would review the Renewable Natural Gas Supply and Transportation Agreement (RNG Agreement) at issue in this docket.
2. On December 15, 2021, when Liberty made its filing, the LSR in question, LSR 2022-2878 entitled “relative to renewable energy and natural gas,” had not been posted on the Legislature’s website, and therefore was not public. As of the filing date of Energy’s response, the LSR has yet to be made public. [See New Hampshire Legislative Service Requests \(LSR's\) \(state.nh.us\)](https://www.state.nh.us/leg/legislative-service-requests/).
3. Liberty’s motion indicated that the Office of Consumer Advocate (OCA) and the Conservation Law Foundation (CLF) objected to the relief requested.
4. On December 20, 2021, CLF filed an objection, asserting that granting Liberty’s motion would establish a bad precedent because many issues before the Public Utilities Commission (Commission) can

be affected by proposed state and federal legislation, and because of the general uncertainty of the legislative process. CLF sought to distinguish the reason Liberty identified--a pending LSR--from reasons that have served as the basis for suspension in other Commission dockets. CLF argued that Liberty failed to provide an example of the Commission suspending a procedural schedule due to potential legislation. Finally, CLF argued that suspension, if granted, would result in a delay of at least six months. CLF therefore asked the Commission to deny Liberty's motion and direct Liberty to withdraw and refile its Petition "if Liberty requires Commission consideration of the proposed legislation." See CLF Objection (December 20, 2021).

5. Energy is sympathetic to CLF's position. It would administratively inefficient, however, were this docket to be fully adjudicated and were legislation then passed that altered the Commission's standard of review for renewable gas agreements. With a different standard in place, the utility could immediately file a new petition. The Commission and the parties would then have to begin anew, essentially doubling the investment of time and resources.

6. Moreover, Liberty has indicated that even if the proposed LSR should not become law, Liberty will proceed to hearing to argue that the RNG Agreement is just, reasonable, in the public interest, and prudent under current standards. See *Mot. Suspend*, para 15-17; Petition (filed March 4, 2021) in Dkt. No. DG 21-036. Accordingly, if Liberty withdrew its petition and the legislation did not pass, the parties would still have to duplicate the time and resource expended to date, simply to get back to where the docket now stands. Accordingly, and in opposition to CLF's view urging Liberty to withdraw its petition, Energy believes suspension is more administratively efficient, even if the bill does not pass.

7. Liberty, CLF, and now Energy, acknowledge the uncertainty of the legislative process. See Liberty's *Mot Suspend* para. 5; CLF Obj. para. 3-4. In this docket, however, because Liberty intends to proceed whether the LSR become law or not, that uncertainty cuts both ways. In several future scenarios, the Commission's and the parties' time and resources will have to be duplicated. This is inefficient.

8. Further, denying the suspension may disrupt legislative discussion by presenting a moving target regarding the issues to be addressed. See Order No. 25,755 (January 15, 2015) at 2-3 (granting a utility's request for stay based on a confidential LRS in Dkt. No. 11-250).

9. In Energy's view, granting the stay will not harm ratepayers, as expenses associated with Liberty's docket and resulting costs, if any, are subject to reconciliation and a Commission prudence review should Liberty decide to pursue its RNG Agreement or should the suspension result in imprudent costs.

10. Finally, Liberty's request is not without precedent. See Order No. 25,755 (January 15, 2015) (imposing stay); Order No. 25, 831 (October 28, 2015) (lifting stay).

11. Balancing the above factors, in Energy's view suspending this docket will not impair the orderly and efficient conduct of the proceedings. Neither will it impair the rights of others. Compare with N.H. Code of Administrative Rules Puc 203.13(c) ("The commission shall grant a request for postponement of a hearing if it finds that to do so would promote the orderly and efficient conduct of the proceeding").

12. In Energy's opinion, whether the prospect of legislation supports suspension requires a case-by-case review. New Hampshire entities that are not, and cannot be, parties to this docket seem poised to work through the legislative process in order to address the role and value of renewable energy more broadly, and according to Liberty, to change the Commission's standard of review. In this instance, therefore, Energy does not oppose Liberty's motion to suspend the procedural schedule for the indefinite future, pending further development of the LSR in question, in the form of a relatively identical Senate or House bill that changes the Commission's standard of review

WHEREFORE, Energy respectfully states that:

- A. Energy does not object to the procedural relief Liberty Utilities requests, *i.e.*, suspension of this docket pending further development of LSR 2022-2878, in the form of a relatively identical Senate or House bill that changes the Commission's standard of review;

- B. Energy takes no position on the substantive arguments Liberty raised in its motion, including but not limited to the actual changes LRS 2022-2878 might make in the Commission’s review of the RNG Agreement were that LRS to become law; and
- C. Energy asks the Commission to grant such other and further relief as is equitable and just.

Respectfully submitted,

Date: December 27, 2021

/s Mary E. Schwarzer

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Certificate of Service

I hereby certify that on December 27, 2021, a copy of this objection has been electronically forwarded to the service list.

Mary E. Schwarzer

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