

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DG 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

**Conservation Law Foundation’s Objection to Liberty Utilities’
Motion to Suspend Procedural Schedule**

Conservation Law Foundation (“CLF”) submits the following objection in response to Liberty Utilities’ (“Liberty”) Motion to Suspend Procedural Schedule (“Motion to Suspend”) filed with the New Hampshire Public Utilities Commission (“Commission”) on December 15, 2021. CLF objects to Liberty’s Motion to Suspend and in support of its objection avers as follows:

1. Granting Liberty’s Motion to Suspend would establish a bad precedent that has the potential to wreak havoc on the Commission’s dockets.
2. Often, proposed legislation that is considered by the New Hampshire General Court can substantially affect issues that arise in the Commission’s dockets. By way of example only, during the 2021 session, two bills were introduced (HB 351 and HB 549) that would have significantly altered New Hampshire’s energy efficiency resource standard, which was then being considered by the Commission in Docket No. DE 20-092. During that session, another bill (HB 213) would have made major changes to New Hampshire’s renewable portfolio standard, which is relevant in a number of Commission proceedings, including the instant matter. While none of these bills became law in 2021, they demonstrate both the breadth of Commission issues that can be affected by proposed legislation, as well as the general uncertainty of the legislative process.

3. Given the number of issues raised before the Commission that can be affected by proposed legislation in the General Court, it would set a harmful precedent for the Commission to suspend a docket merely because of the potential for a bill to become law. While Liberty asserts that the proposed legislation involving renewable natural gas has broad support among stakeholders and could become law in 2022, granting Liberty's motion would establish a precedent that encourages other parties to move to suspend procedural schedules every time proposed legislation could affect a docket.

4. Additionally, if this issue arises in the future, it may be difficult for the Commission to distinguish between proposed legislation that is likely to become law and proposed legislation that has only a remote chance of becoming law. Although Liberty points to the cosponsors of the proposed legislation as evidence that the bill could become law in 2022, there is considerable uncertainty in the overall legislative process that could negatively impact the bill's prospects. Because of this general uncertainty, in the future it may be difficult for the Commission to develop a standard for deciding similar motions that differentiates between plausible and implausible legislation.

5. Granting Liberty's motion also could encourage parties in Commission dockets to find sponsors of legislation affecting such dockets, no matter the likelihood of success of the legislation, to try to influence dockets and persuade the Commission to modify procedural schedules based on such pending legislation.

6. Further, if the Commission grants Liberty's motion because of the potential for proposed legislation in the General Court to become law, then it may encourage parties to move to modify procedural schedules based on potential federal legislation and may necessitate the

Commission granting such motions. For example, President Biden's Build Back Better Act,¹ which has already passed the U.S. House of Representatives and is currently being considered by the U.S. Senate, contains a number of provisions that relate to matters the Commission is examining in various dockets. More specifically, provisions in the Build Back Better Act directly relate to public electric vehicle supply equipment and,² currently, at least three Commission dockets involve electric vehicle supply equipment.³ If the Commission grants Liberty's motion it will set a precedent that may require the Commission to grant similar motions to suspend procedural schedules based on prospective federal legislation.

7. The examples that Liberty provide of other instances when the Commission granted suspensions of procedural schedules are different from this case. While the Commission has granted requests to suspend procedural schedules because of Commission staffing issues; to permit parties to make supplemental filings; to accommodate settlement discussions; and to address issues that have significant impact on a docket, Liberty has failed to provide a single example of the Commission suspending a procedural schedule because of potential legislation.

8. Finally, given the General Court's legislative schedule, even if the proposed legislation discussed in Liberty's Motion to Suspend were to become law, it is unlikely to take effect until June 2022 at the earliest, which would mean that the procedural schedule in this docket would be suspended for six months.

¹ See H.R. 5376, Build Back Better Act (November 3, 2021), *available at* <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5376RH-RCP117-18.pdf>.

² *Id.*

³ See Docket Nos: DE 20-170; DE 21-030; DE 21-078.

WHEREFORE, CLF respectfully requests that the Commission deny Liberty's Motion to Suspend for the reasons set forth in this Objection and to direct Liberty to withdraw and refile its Petition if Liberty requires Commission consideration of the proposed legislation.

Respectfully submitted,

By: /s/ Nick Krakoff
Nick Krakoff, Staff Attorney
Conservation Law Foundation
27 North Main Street
Concord, NH 03301
(603) 225-3060 x 3015
nkrakoff@clf.org

December 20, 2021

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Objection to Motion to Suspend Procedural Schedule has, on this 20th day of December 2021, been sent by email to the service list in Docket No. DG 21-036.

Respectfully submitted,

By: /s/ Nick Krakoff
Nick Krakoff, Staff Attorney
Conservation Law Foundation
27 North Main Street
Concord, NH 03301
(603) 225-3060 x 3015
nkrakoff@clf.org