

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 17-152

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

Least Cost Integrated Resource Plan

**Order Denying Motions to Strike and Motion to Find Non-Compliant
Supplemental Filing**

ORDER NO. 26,286

August 12, 2019

In this order, the Commission denies motions to strike and a motion to find non-compliant Liberty's April 20 and June 28, 2019, supplemental filings. The Commission also sets a procedural schedule for the remainder of this proceeding.

I. PROCEDURAL HISTORY

On October 2, 2017, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty or the Company) filed a Least Cost Integrated Resource Plan (LCIRP) for Commission review and approval pursuant to RSA 378:38. On March 13, 2019, the Commission issued Order No. 26,225, denying a motion by intervenor Terry Clark to dismiss the proceeding and the LCIRP. In the same order, the Commission directed Liberty to submit additional information to address specific elements of RSA 378:38 and :39 in support of its LCIRP.

On April 30, 2019, Liberty made a supplemental filing (April 30 Filing) in response to Commission Order No. 26,225. In its April 30 Filing, Liberty purported to address elements of RSA 378:38 and :39 not covered in its initial LCIRP filing.

On May 10, 2019, Mr. Clark filed an Objection to and Motion to Strike Liberty's April 30 Filing. On the same day, intervenor Conservation Law Foundation (CLF) filed a Motion to find Liberty's April 30 Filing non-compliant with law. On May 20, 2019, the Office of the Consumer Advocate (OCA) filed a response to the April 30 Filing and the motions filed by CLF and Mr. Clark.

On May 20, 2019, Liberty filed objections to the motions of Mr. Clark and CLF. Mr. Clark and CLF each filed a reply. Both replies reaffirmed prior arguments that the filing is non-compliant and should be rejected.

Following a technical session at which the parties discussed Liberty's April 30 Filing, the Company submitted additional supplemental materials on June 28, 2019, including testimony with attachments of three additional witnesses (June 28 Filing). In its June 28 Filing, Liberty included direct testimony and exhibits of Paul J. Hibbard, Sherrie Trefry, and Eric M. Stanley and proposed a revised procedural schedule. On July 8, Mr. Clark filed a response to the June 28 Filing; and on July 15, CLF filed a reply to the June 28 Filing and a motion to direct Liberty to refile its LCIRP with a meaningful alternatives and impacts analysis. On July 19, CLF filed a request to modify the schedule in this proceeding in light of the outstanding motions and Liberty's submittal of a second supplemental filing.

On July 18, 2019, the New Hampshire Department of Environmental Services (NHDES) filed a petition to intervene and, one day later, Liberty filed a letter stating that the Company did not object. On July 30, the Commission granted NHDES's petition.

On July 22, 2019, Liberty filed a response to the July filings of CLF and Mr. Clark and an objection to CLF's motion. With its response, Liberty included a motion to amend the procedural schedule.

On July 29, 2019, Mr. Clark filed an objection to Liberty's motion to amend the procedural schedule. On July 30, Liberty filed its statement of the positions of parties regarding the motion to amend the procedural schedule.

The motions and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at: <http://puc.nh.gov/Regulatory/Docketbk/2017/17-152.html>.

II. POSITIONS OF THE PARTIES

A. Motions to Strike Liberty's Filings and Motion to Find Filings Non-Compliant

Mr. Clark and CLF each request that the Commission reject Liberty's supplemental LCIRP filings.

1. Mr. Clark

Mr. Clark argues in his filings that Liberty's initial LCIRP and supplemental filings are not compliant with RSA 378:38, RSA 378:39, or Order No. 26,225. He requests that the Commission strike Liberty's filings in this proceeding and place a moratorium on Liberty's gas expansion plans including the Company's Granite Bridge Project in Docket No. DG 17-198. Mr. Clark maintains that Liberty's expansion plans violate the state energy policy set forth in RSA 378:37 and are inconsistent with the public interest with respect to environmental, health, and safety concerns. Citing Order No. 26,225 at 6-7, Mr. Clark argues that Liberty failed to heed the Commission's directive to "address all of the statutory elements ... in a granular way" to enable reviewing parties to track the plan's correspondence with the relevant statutory standards. Mr. Clark maintains that, as a result, Liberty's filings provide no information to address economic impacts of the supply and delivery options in the LCIRP or any assessment of the

plan's impacts on other energy prices and supplies, thereby shifting the burden of assessing the applicable statutory factors to the Commission.

2. CLF

CLF requests that the Commission reject Liberty's LCIRP and supplemental filings as untimely, inadequate, and non-compliant with RSA 378:38 requirements. CLF also requests that the Commission direct Liberty to integrate meaningful alternatives and impact analyses into the body of the LCIRP itself. CLF states that Liberty failed to include an assessment of the plan's compliance with environmental laws and the long- and short-term impacts of the plan on the State. CLF argues that Liberty did not compare non-gas alternatives, such as enhanced energy efficiency and electrification, or evaluate the extent to which gas demand could be reduced to defer or eliminate the need for massive capital investments. As a result, according to CLF, Liberty's analysis does not demonstrate lowest reasonable costs while providing for the reliability and diversity of energy sources, as required by RSA 378:37. CLF observes that Liberty bears the burden in this proceeding and has the ability and information needed to put forward a plan that meets applicable statutory requirements.

CLF argues that Liberty should provide baseline data on the health impacts of gas, data on the impacts of any proposed gas expansion, and data on the health impacts of reasonable alternatives to natural gas, including electrification, demand reduction, other fuels, or a reasonably projected mix of these. By not doing so, Liberty has failed to address an explicit statutory requirement to include an assessment of the plan under applicable state laws, including the plan's integration with the Clean Air Act and other environmental laws.

3. OCA

The OCA asserts that Liberty ignored the statutory directives in RSA 378:38 to assess supply options, including all available energy efficiency options. The OCA also agrees with CLF and Mr. Clark that the supplemental testimony of Mr. Killeen is a cursory treatment of the issues identified in Order No. 26,225 that warrant further elaboration. The OCA contends, however, that the relief requested by Mr. Clark and CLF in DG 17-152 is precluded by the Commission's determination in Order No. 26,225. In that Order, the Commission agreed that the LCIRP as filed was deficient, but ordered Liberty to make a corrective supplementary filing and declined to dismiss the LCIRP as requested in Mr. Clark's initial motion.

B. Liberty's Responses to the Motions

1. Supplemental Filings of April 30 and June 28

a. April 30 Testimony of Killeen

Liberty maintains that the filings it has made in this docket address each of the specific elements required under RSA 378:38 and :39 and are sufficient to allow the Commission to evaluate the impacts of the options proposed in its LCIRP. Liberty argues that its LCIRP evaluates identified natural gas supply options, and that the statute does not require it to consider non-gas alternatives. Liberty contends that, under RSA 378:40, there is no basis to change the existing, agreed-upon, and Commission-approved schedules in this docket and the Granite Bridge docket.

Liberty asserts that the LCIRP statutes, RSA 378:37 through RSA 378:40, provide little guidance as to how they apply to natural gas utilities. Liberty argues that they do not require Liberty to compare natural gas options to other fuel source options, to assess the upstream

impacts of its natural gas supply, or to address possible stranded costs, as Mr. Clark and CLF contend.

Liberty interprets the Commission's decision in *Northern Utilities*, Order No. 26,027 (June 19, 2017), to have determined that a natural gas utility LCIRP need not compare natural gas options to non-gas options or even to a no-growth scenario for natural gas. Liberty concludes that the LCIRP statutes do not impose on a single natural gas utility the obligation to conduct a wide-scale societal assessment of climate change policy, as suggested by Mr. Clark.

Liberty argues that the statutes do not require a natural gas distribution company to consider or evaluate non-gas alternatives in its LCIRP, and that the demand forecast in the LCIRP included an assumption that Liberty would meet the aggressive goals of the Energy Efficiency Resource Standard.

III. COMMISSION ANALYSIS

In Order No. 26,225, this Commission declined to dismiss Liberty's LCIRP petition while directing the Company to submit a supplemental filing to address each of the specific elements required under RSA 378:38 and RSA 378:39. The issue before us now is whether Liberty has complied with that directive, not whether to accept Liberty's plan. We find Liberty's supplemental filings comply with the directive contained in Order No. 26,225. We therefore deny Mr. Clark's and CLF's motions. This docket will proceed and we will determine whether Liberty has met its burden of proving the adequacy of its LCIRP based on the evidence presented at hearing, including not only the testimony presented by Liberty, but also the testimony presented by other parties.

We confirm our finding in Order No. 26,225 that we will consider any alleged deficiencies in Liberty's LCIRP through an adjudicative process and at hearing. We will

determine whether the plan should be approved at the end of the proceeding, based on the record developed by the parties.

The Commission has also reviewed the various filings from the parties regarding the procedural schedule. With certain changes to reflect the determinations made in this order, the Commission establishes the procedural schedule set forth below for the remainder of this proceeding based on the proposed revised schedule filed by Liberty on June 28, 2019, and related filings by CLF and Mr. Clark.

DG 17-152 Revised Procedural Schedule	
Discovery on DG 17-152 Supplemental Filings	8/12 – 8/16
Final Date for Responses	8/23
Staff/OCA/Intervenor Testimony	9/6
Discovery Requests	9/6 – 9/13
Final Date for Responses	9/27
Technical Session	10/14 (9:00 a.m. – 4:30 p.m.)
Liberty Rebuttal Testimony	10/18
Discovery Requests	10/18 – 10/25
Final Date for Responses	11/1
Technical Session/Settlement Conf	11/12-13 (9:00 a.m. – 4:30 p.m.)
Hearing on the Merits	11/21-22 (10:00 a.m.)

Based upon the foregoing, it is hereby

ORDERED, that Terry Clark’s motion and requests to strike Liberty’s supplemental filings in support of its Least Cost Integrated Resource Plan is **DENIED**; and it is

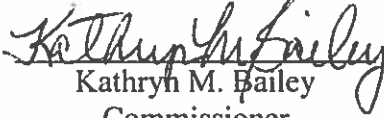
FURTHER ORDERED, that the Conservation Law Foundation’s motion to find Liberty’s supplemental filings in support of its Least Cost Integrated Resource Plan non-compliant and to direct Liberty to refile its plan with meaningful alternatives and impacts analysis is **DENIED**; and it is

FURTHER ORDERED, that the procedural schedule established in this order is **APPROVED**.

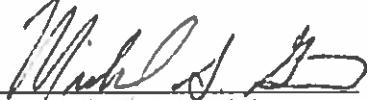
By order of the Public Utilities Commission of New Hampshire this twelfth day of August, 2019.



Martin F. Honigberg
Chairman

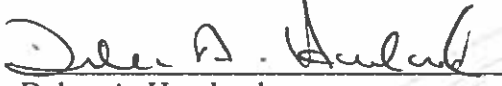


Kathryn M. Bailey
Commissioner

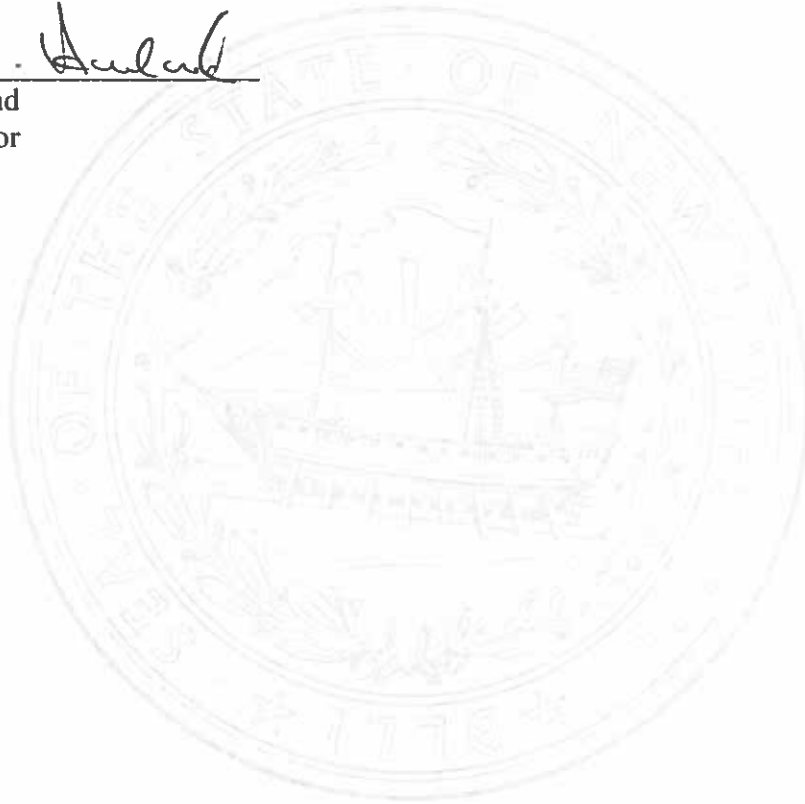


Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director



ExecutiveDirector@puc.nh.gov
pmartin2894@yahoo.com
aperry@scottmadden.com
bill.killeen@libertyutilities.com
chico.dafonte@libertyutilities.com
christopher.skoglund@des.nh.gov
craig.wright@des.nh.gov
donald.kreis@oca.nh.gov
drosen@kwplaw.com
eric.stanley@libertyutilities.com
jcusimano@clf.org
jroberge@clf.org
jvanrossum@clf.org
karen.sinville@libertyutilities.com
kimdao@scottmadden.com
Liz.stanton@aeclinic.org
maureen.karpf@libertyutilities.com
mkoehler@kwplaw.com
ocalitigation@oca.nh.gov
paul.hibbard@analysisgroup.com
pradip.chattopadhyay@oca.nh.gov
rebecca.ohler@des.nh.gov
rkanoff@burnslev.com
rmhusband@gmail.com
slevine@clf.org
steven.mullen@libertyutilities.com
STrefry@vhb.com
mhatfield@clf.org
michael.sheehan@libertyutilities.com
al-azad.iqbal@puc.nh.gov
amanda.noonan@puc.nh.gov
kerri-lyn.gilpatric@puc.nh.gov
lynn.fabrizio@puc.nh.gov
michael@libertyconsultinggroup.com
steve.frink@puc.nh.gov