
From: Richard Husband <rmhusband@gmail.com>
Sent: Tuesday, September 06, 2016 11:58 AM
To: PUC - Executive.Director
Subject: Comment letter for various PUC dockets - REPLACEMENT FILING TO CORRECT
TYPOGRAPHICAL ERRORS
Attachments: RMH comment letter re DG 16-770 (September 2, 2016).pdf

Please file the attached as a public comment in the following proceedings, replacing the same filing request I e-mailed the PUC on September 2, 2016 due to typographical errors:

Docket DG 16-769

Docket DG 16-770

Docket DE-16-241

Docket DG 15-289

Docket DG 15-362

Thank you,

Richard Husband

Richard Husband
10 Mallard Court
Litchfield, NH 03052

September 2, 2016

Debra Howland Executive Director and Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord New Hampshire 03301

**RE: DG 16-770
Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty
Utilities and Concord Steam Corporation
Joint Petition for Approval of an Asset Purchase Agreement**

Dear Ms. Howland:

Please file this letter as a public comment in the above-referenced docket.

This matter is disturbing for numerous reasons.

The joint petitioner, Liberty Utilities, seeks Public Utilities Commission (“PUC”) approval of an agreement which will tie New Hampshire to the company and a long-term substantial fracked gas and related infrastructure commitment, at enormous financial and other costs to the state. Yet, just last year, in PUC Docket No. DG 14-380, Liberty Utilities was crying gas poormouth—claiming huge supply deficiencies going forward, without even factoring in the gas needed for the matter at issue in this proceeding. Indeed, Liberty Utilities’ testimony in PUC Docket No. DG 14-380 represented that “Table II below provides a design day comparison of the Company’s current resource portfolio and the updated design day demand forecast provided previously ...”:

Table II

<u>Year</u>	<u>Design Day Resources</u>	<u>Design Day Demand</u>	<u>Reserve/(Deficiency)</u>
2014/15	155,033	146,968	8,065
2015/16	155,033	153,155	1,878
2016/17	155,033	157,039	-2,006
2017/18	155,033	160,686	-5,653
2018/19	155,033	164,526	-9,493
2019/20	155,033	167,773	-12,740
2020/21	155,033	171,229	-16,196
2021/22	155,033	174,088	-19,055
2022/23	155,033	176,851	-21,818
2023/24	155,033	179,790	-24,757
2024/25	155,033	182,421	-27,388
2025/26	155,033	184,768	-29,735
2026/27	155,033	187,295	-32,262
2027/28	155,033	189,944	-34,911
2028/29	155,033	192,341	-37,308
2029/30	155,033	194,851	-39,818
2030/31	155,033	197,886	-42,853

<u>Year</u>	<u>Design Day Resources</u>	<u>Design Day Demand</u>	<u>Reserve/(Deficiency)</u>
2031/32	155,033	200,609	-45,576
2032/33	155,033	203,366	-48,333
2033/34	155,033	206,238	-51,205
2034/35	155,033	209,190	-54,157
2034/36	155,033	212,101	-57,068
2036/37	155,033	214,790	-59,757
2037/38	155,033	217,519	-62,486

Following the above Table II, Liberty Utilities’ testimony concluded with:

“As shown in Table II above, [Liberty Utilities] reaches a deficiency in resources as 2 compared to its design day firm customer needs as early as the winter of 2016/17.”

[See Table II and related testimony on pages 16-17](#) (emphasis added).

Yet, despite the acknowledged imminent and vastly increasing shortage, Liberty Utilities is not only requesting that the state approve more of a shortage through this proceeding, but is ensuring shortages through service expansion requests in other proceedings. [See PUC Docket No. DG 15-289 \(petition for approval of a gas franchise in Lebanon and Hanover\)](#); [PUC Docket No. DG 15-362 \(petition for expansion of franchise to Lebanon and Hanover\)](#). Liberty Utilities even had the nerve to recently approach the citizens of the Town of Merrimack—which would have been devastated by the Kinder Morgan (“KM”) Northeast Energy Direct pipeline project (“NED”) that Liberty Utilities was demanding for more gas—asking whether ...

“... you would be interested in taking advantage of natural gas at ...<address> if it was available to you? **As a growing company, we are always looking for opportunities to extend our natural gas distribution system.....** While I cannot guarantee your neighborhood will be selected, **high participation rates can increase your chances.**”

(emphasis added).

“High participation rates can increase [Merrimack’s] chances” of what? Chances of a new pipeline; remember that, Merrimack...

But right now, Liberty Utilities does not have a new pipeline to meet its ever-expanding obligations and, when the rubber hits the road in cold crunches, residential gas customers, understandably—not state offices—will get all of the available gas first. The state should swallow long and hard before it swallows the current pitch. Do not be bullied into the “this is an emergency” snake-oil being peddled here to prevent carefully considered, all-alternatives decision-making: this case has not even been filed under an emergency petition, and rightfully so. All immediate concerns can be addressed by Concord Steam Corporation (“CSC”)’s emergency rate increase petition in the entirely appropriate separate proceeding, [PUC Docket No. DG 16-769](#). If CSC really does need an emergency rate increase to keep going, by all means, give it to them. But, by its request for such a rate increase in [PUC Docket No. DG 16-769](#), CSC is representing that it can keep going with it (otherwise, what grounds exist for

granting it?). Keeping CSC afloat may be an emergency issue, but it is an entirely separate issue from signing on to the “deal” proposed here, which requires far more thought.¹

As is acknowledged by the PUC, Liberty Utilities is owned by Algonquin Power & Utilities Corp. (“APUC”), which also owns Liberty Utilities (Pipeline and Transmission) Corp., which is a joint owner, with KM, of Northeast Expansion, LLC, which owns/owned NED. [See PUC Order No. 25,822 entered in PUC Docket No. DG 14-380, pp. 8-9](#). Bottom line: Liberty Utilities’ parent company has/had a huge interest in seeing NED to fruition; and there is an opportunity for influence.² Although NED is, hopefully, dead, [KM has only ruled out proceeding with NED “as it is currently configured,”](#) and another “configuration” of the same project would presumably have the same ownership, with the same opportunity for influence. Thus, one would not be crazily suspicious to wonder if the Liberty Utilities’ projected deficiencies may be “addressed” by a proposed new KM high-pressure gas pipeline project ripping through the state.³

Or, maybe Liberty Utilities is planning on buying a piece of the gas-pie in [PUC Docket No. DE 16-241](#), pertaining to the proposed Algonquin Access Northeast high-pressure gas pipeline project (“ANE”), which is not slated to run through New Hampshire, but is designed to substantially expand pipeline infrastructure in Massachusetts and other states, and bring a “pipeline tax” to ratepayers along with it. Although the utility requesting the gas contract in [PUC Docket No. DE 16-241](#) is Eversource Energy, recent filings by Algonquin and Eversource Energy certainly suggest that some of the gas capacity at issue in that matter may be made available to Liberty Utilities. *See* [Eversource Energy reply brief, p. 1 footnote 1](#) (“... the underlying contract is not for the benefit of any generating facility, generator, or group of generators, but may be used by **anyone** with need of it ...”); [Algonquin reply brief, p. 2](#) (“...New Hampshire law (at RSA 374:57) specifically authorizes EDCs to acquire

¹ Correspondingly, the PUC should not approve the discontinuation of the corporation’s services, as requested in [PUC Docket No. DG 16-769](#), unless and until it grants any relief in this proceeding.

² From the same PUC order:

"PLAN contends that [Liberty Utilities’] ultimate parent, APUC, influenced [Liberty Utilities’] decisions to enter into, and agree to the terms of, the Precedent Agreement. PLAN notes that the same individuals serve as members of the Boards of Directors and Officers for both entities, as well as Liberty Pipeline. PLAN also notes that the same individuals who decided to invest in the NED Pipeline authorized [Liberty Utilities] to enter into the Precedent Agreement. In PLAN’s view, essentially one board made both decisions, and those decisions resulted in [Liberty Utilities’] oversubscription of capacity, for the benefit of APUC."

[See PUC Order No. 25,822 entered in PUC Docket No. DG 14-380, p. 22.](#)

The PUC's consideration of this issue does not refute the opportunity for influence:

"We do not take a position on whether [Liberty Utilities’] relationship with affiliates biased [Liberty Utilities] to act contrary to the best interests of customers by oversubscribing to capacity contracted for in the Precedent Agreement ... Our decision is based on facts in the record that demonstrate that the Precedent Agreement and Settlement satisfy the standard of review as set forth above."

[See PUC Order No. 25,822 entered in PUC Docket No. DG 14-380, p. 30.](#)

³ The proposed agreement is signed on behalf of CSC, incidentally, by the Orr and Reno law firm, which has the three registered lobbyists for KM in New Hampshire. [See pages 33, 59 and 75.](#)

‘transmission capacity’, and does not specify that such transmission capacity must relate to electric transmission.”).⁴ However, ANE has taken some heavy hits recently: [the Massachusetts Supreme Judicial Court gave it a staggering right in Massachusetts](#); [the Federal Energy Regulatory Commission just countered with a hard left on the federal level](#). There is defiant insistence that ANE will fight on, but one has to wonder how long it can really stand on its feet.

The failure of ANE, though, coupled with the fracked gas commitments being taken on by Liberty Utilities, will only increase the chances that a NED 2.0 will soon be looming on the New Hampshire horizon.

Still ... **a new pipeline and supply of gas for Liberty Utilities is far from a certainty**, so how can the state rationally commit to gas use which seemingly relies on a new one?

Moreover, as was clearly established by the tremendous public and state political opposition to NED: New Hampshire does not want, and our trusted officials should not create any arguable need for, a new pipeline. We, locally, statewide, nationally, globally, cannot afford the infrastructure.

That is right: we cannot pay the *heavy price*.

“Ratepayer savings” are a well-marketed myth. The only quantifiable, arguable savings to citizens is a possible miniscule reduction in energy bills—\$5.00 or less a month. [See February 19, 2015 New Hampshire Business Review online article \(noting that two studies projected NED – associated ratepayer savings would only amount to the projected \\$4.16 per month savings associated with the Northern Pass project\)](#). Indeed, [a study undertaken by municipalities in NED’s projected path](#) concluded that the average Liberty Utilities’ ratepayer would not have realized any energy savings, but *would have actually paid roughly \$600 per month, or approximately \$12,000 total*, for the Liberty Utilities’ contract for the project.

Then, you get to the not-so-hidden but completely-ignored-by-public-utility-commissions costs of fracked gas infrastructure ...

Again, despite the marketing, high-pressure fracked gas pipelines are not safe, and their gas is not clean.

How can they reasonably be deemed “safe,” when [they keep exploding](#) and their “incineration zones” extend for hundreds of feet? [See p. 14 List of Explosions; Yet Another Recent Explosion](#). They are “safe,” when their infrastructure does [this](#)?

As for “clean”: today’s gas is as “natural” as Frankenstein’s monster. It is not “clean,” but contaminated by the unnatural hydraulic fracturing (“fracking”) process and contains carcinogens, hazardous chemicals, air pollutants, and other unhealthy impurities. *See, e.g., “California’s*

⁴ The relationships involved in the ANE proceeding merit consideration, too. As noted by the Office of Consumer Advocate (“OCA”) in that proceeding:

“... it is the OCA's understanding that Algonquin and an affiliate of Eversource (Eversource Gas Transmission LLC) each hold a 40 percent interest in the ANE Project (with a subsidiary of National Grid [also contracting for ANE Project gas], National Grid Algonquin LLC) owning the remaining 20 percent interest.”

[See page 13](#).

[Fracking Fluids: the Chemical Recipe,” by Tasha Stoiber, et. al. \(EWG; August 2015\).](#) Hydraulically fractured (“fracked”) gas releases, from pipeline and other infrastructure leaks and emissions, cause health problems. *See, e.g., id.,* [“Porter Ranch Gas Leak Triggers State of Emergency in California,”](#) January 7, 2016 CNN online news article; ["Potential Hazards of Air Pollutant Emissions from Unconventional Oil and Natural Gas Operations on the Respiratory Health of Children and Infants" by Ellen Webb, et. al. \(2014; published in Reviews on Environmental Health, 2016\);](#) [“Madison County, New York Department of Health Comments to the Federal Energy Regulatory Committee,”](#) prepared for Madison County Department of Health by Thimble Creek Research (September 30, 2014), pp. 14-28; [“Gas Patch Roulette: How Shale Gas Development Risks Public Health in Pennsylvania,”](#) by Nadia Steinzor, et. al. (October 2012); [“Human Health Impacts Associated with Chemicals and Pathways of Exposure from the Development of Shale Gas Plays,”](#) by Wilma Subra Subra Company (January 9, 2012).

The damage pipelines cause to the physical environment of a state and its resources—rivers, drinking water aquifers, wetlands, wildlife and conservation areas, *etc.*—is horrific in its own right.

Let us not forget, either, another major injury to citizens: [pipeline projects result in the taking of their property, against their will by federal eminent domain, for private profit--in violation of an amendment to the “Bill of Rights” of our state constitution passed by an overwhelming majority of 85% of New Hampshire voters just a decade ago.](#)

For pipelines are all about private profit: there is a “gas rush” going on, with gas companies scurrying to be the first to get their pipelines to our northeast shores for export to more lucrative foreign markets—and *it will only increase our energy costs by foreign competition.* [See Senator Markey's comments on pipeline exports.](#)

More fracked gas infrastructure is not the “energy solution” of the New Hampshire Office of Energy and Planning (“OEP”), author of the [“New Hampshire 10-Year State Energy Strategy”](#) issued just two years ago, which focuses, instead, on efficiency and cleaner, more diverse sources of energy. It is contrary to the OEP’s conclusion, just last year, that “increasing reliance on one fuel, namely natural gas, is what caused the wholesale price spikes in the winter of 2013-2014 in the first place ...” [See October 15, 2015 OEP letter to PUC, p. 2. Gas reliance is currently well over 50% .](#) Are we trying for 80%? 100%? **How “cheap” will gas be for New Hampshire when current gas capacity contracts term-out, and we have no alternative but to renew them, as everything depends on gas?** Moreover, more gas use and infrastructure is not consonant with the Legislature’s official “New Hampshire Energy Policy” under [R.S.A. 378:37](#), which requires energy choices that not only “protect the safety and health of the citizens,” but also “the physical environment of the state, and the future supplies of resources.” It also crashes against the pronouncements of Governor Hassan, who “strongly” encouraged the PUC, in a comment letter she filed in [PUC Docket No. DE 16-241](#), to “take a broad view and thoroughly review and examine the costs and benefits of [the ANE project] in contrast to other alternatives, including increasing small-scale renewable energy generation and increasing investments in cost-effective energy efficiency.” [See April 13, 2016 Governor Hassan letter to PUC.](#) In fact, just this past Monday, August 29th, [Governor Hassan raised environmental, global warming and health concerns relating to fracked gas](#) in warning:

“ ... the fracking process can leak methane and can contribute to carbon emissions and, therefore, global warming ... I think it’s very important that we take that into consideration in that it seems natural gas may not be as clean as people thought it was prior. And that should inform all policymakers.”

People clearly stand with the Governor on her global warming concerns, as [New Hampshire citizens “support a resolution asking the federal government to address climate change and to](#)

[develop research initiatives to create ‘innovative energy technologies’](#)”, by a [more than two-thirds majority of cities and towns \(more than 160 out of 234\)](#).

We do not have the time to keep committing to long-term gas use; nor should we as New Hampshire and American citizens who have never accepted an easy alternative to the “tough fight” for a better world for our children, *see, e.g.*, the Revolutionary War, or turned our backs on the children of others. *See, e.g.*, WWI and WWII. We are already experiencing the effects of global warming and are down to years, not decades, to clean up our act, to hold any chance of avoiding its most disastrous consequences. People are dying and, if we fail, [millions more will die](#),⁵ with [children among the most vulnerable](#). Governor Hassan—God Bless her for her leadership!—is right to raise concerns about gas reliance fueling the nightmare. [“We have a moral obligation to leave our children a planet that’s not irrevocably polluted or damaged.”](#) (see top of first page of text), and that means all of the world’s children. The only difference in gas infrastructure outside of New Hampshire, like ANE, is that [she](#) will be outside of our borders, and the [millions of deaths](#) will likely occur in some poor third world country, not New Hampshire—not good reasons for supporting such infrastructure, at all.

I do not claim to have any real knowledge of what may be going on behind the curtain, just suspicions, and resulting concerns. That is a major part of the problem here, and what must be really scrutinized: what *is* going on? At the August 19, 2016 technical session, the PUC indicated that the right to discovery will be denied in this proceeding, which is contrary to the PUC’s own [Rule 203.09](#), and the violation of that rule and denial of a meaningful opportunity to fairly prepare and present one’s case through discovery violates due process. *See Attitash Mt. Service Co. v. Schuck*, 135 N.H. 427, 429 (1992)(law well-settled that administrative agencies must follow their own rules and regulations); *In re Union Telephone Co.*, 160 N.H. 309, 317 (2010)(“[T]he PUC may not act contrary to the plain meaning of [its own] Rule 431.01.”); *Society for Protection of N.H. Forests v. Site Evaluation Comm.*, 115 N.H. 163, 168 (1975)(“Where issues of fact are presented for resolution by an administrative agency due process requires a meaningful opportunity to be heard.”); *Appeal of Lathrop*, 122 N.H. 262, 265 (1982)(parties must be afforded a fair opportunity to present their case). Moreover, although no motion for confidential treatment has yet been filed, the proposed Settlement Agreement pertaining to this matter provides the following:

“The discussions that produced this Agreement have been conducted on the understanding that all offers of settlement and settlement discussions relating to this docket shall be confidential, shall not be admissible as evidence in this proceeding, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.”

[See page 3.](#)

The PUC must allow discovery in this proceeding, and deny any confidentiality request—particularly as this is a public proceeding involving taxpayer money, especially given the state’s [Right to Know law](#). By the routine granting of confidentiality requests blanketing all significant underlying relevant information; the consequent “necessity” of cloistered consideration of all such information in a PUC backroom barred to the public; and the seemingly always “urgent need” to “rocket docket” every matter before it—without any reasonable opportunity for discovery or other

⁵ *See also* [World Health Organization \(WHO\) website](#); [WHO study titled “Quantitative risk assessment of the effects of climate change on selected causes of death, 2030s and 2050s”](#).

inquiry into what is really going on—PUC proceedings too often keep those of us who ultimately pay the bill in the dark. But, it is really important to pull the curtain back here: for the state to look at, and allow others to look at, the documentation and any negotiations underlying the transaction, to make sure that Liberty Utilities is paying a truly arms-length price, and not an inflated price to get CSC on board and the deal done quickly before the state finds a better alternative. An inflated price may possibly benefit those behind the curtain for the reasons discussed, but not citizens who will have to pay the inflated bill through taxes—and in many, many other ways discussed above. Particularly as it was freely acknowledged at the technical session for this proceeding that the CSC infrastructure comprising the subject matter of the proposed deal has only scrap metal value absent operational use: exactly why should anyone not CSC sign on to a \$1.9 million price tag for this deal—at 9% interest and any other “appropriate return” being requested by Liberty Utilities in the matter? If CSC *must* go out of business, as threatened, the same deal should be closer to a scrap metal price.

The PUC and other state agencies involved should reject the proposed Settlement Agreement, if at all possible, and find a better solution. I understand, however, that the state may ultimately conclude that it has no choice here but to sign on to the deal. But, please proceed with extreme caution, and only after careful consideration. If the state approves this deal, it will be feeding a voracious, insatiable animal devouring all competition providing any reasonable limitations on its demands, to the ultimate destruction of life as we know it on our planet. There is no emergency here requiring that result; the emergency is just the opposite.

Lastly, any acceptance of the proposed Settlement Agreement by the state should, minimally, require the following:

- an energy audit of all involved buildings, and performance of all viable energy efficiency measures pertaining to the same;
- the installation of Constant Emissions Monitoring Systems (“CEMS”) as scrubbers on any and all exhaust towers powering up fracked gas equipment, with the CEMS set to signal and shut off when emission limits have been reached (and other appropriate automatic adjustments in response to emissions);
- conversion to renewable power as soon as possible

If New Hampshire cannot immediately do the best thing, let it be a beacon in showing that it is always trying to do the right thing.

Thank you for your time and courtesy in considering my comments concerning this matter.

I am also requesting that this comment letter be recorded in [PUC Docket No. DG 16-769](#); [PUC Docket No. DE 16-241](#); [PUC Docket No. DG 15-289](#); and [PUC Docket No. DG 15-362](#).

Sincerely,

//s//Richard M. Husband

cc: The Honorable Governor Margaret Hassan
Vicki Quiram, Commissioner, N.H. Department of Administrative Services
Christopher G. Aslin, Esquire, Assistant Attorney General
Donald Kreis, Esquire, Office of Consumer Advocacy
NHPLAN
Concerned citizens