

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 16-852

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

Motion for Reconsideration of Order No. 26,109

Order Denying Motion

ORDER NO. 26,130

May 3, 2018

In this order, the Commission denies Dr. Jonathan Chafee's motion to reconsider Order No. 26,109, which approved Liberty's petition for an extension of its franchise into Hanover and Lebanon.

I. PROCEDURAL HISTORY

This matter arises out of a petition by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty") for approval of a franchise in Hanover and Lebanon. Order No. 26,109 (March 5, 2018) granted, with conditions, Liberty's petition in the context of approval of a settlement agreement among Liberty, the Office of the Consumer Advocate ("OCA"), and Commission Staff ("Staff"). Dr. Jonathan Chafee, an intervenor in this proceeding, filed a timely motion for rehearing, asking the Commission to reconsider Order No. 26,109. Liberty objected. Dr. Chafee also filed a companion pleading, a motion for contempt, which will be addressed in a separate Commission Order.

II. POSITIONS

A. Dr. Chafee

In his motion, Dr. Chafee referred to the instant franchise review proceeding as “a part of Liberty’s aggressive plans to expand its gas infrastructure, supply commitments and customer base.” Motion at 1. Dr. Chafee asserted that, due to the pendency of Liberty’s 2017 Least Cost Integrated Resource Plan (“LCIRP”) (Docket No. DG 17-152), and new evidence allegedly presented in that docket, rehearing of this matter would be appropriate. *Id.* at 2. As an alternative form of relief, Dr. Chaffee requested that, “should the Commission disagree, to ensure that there is consistency in its decision-making, a uniformity of results, and that it acts in accord with the law, the Commission should vacate or stay the order until such time as the LCIRP case has been decided, and then rule in this matter consistent with the LCIRP determination.” *Id.*

Dr. Chafee contests Order No. 26,109 “because it fails to provide a proper, necessary procedure for confirming that Liberty has met customer commitment requirements under the settlement agreement ... as was reasonably requested at the hearing [Dr.] Chaffee opposes the approvals sought in this proceeding, but should they be allowed with conditions, compliance must be assured through a full hearing subject to scrutiny before the approvals become final.” *Id.* at 3. Dr. Chafee further referenced a dispute with Liberty regarding the scope of redactions ordered by the Commission within the terms of Order 26,109 and in the companion motion for contempt. *Id.* at 4.

B. Liberty

In its objection, Liberty argued that (1) no new evidence was submitted as part of the 2017 LCIRP proceeding that would justify reconsideration of Order No. 26,109; (2) there is no

necessity for an additional hearing regarding Liberty's compliance with the terms of Order No. 26,109; and (3) Liberty had filed, as of April 12, documents with fewer redactions for the inspection of Dr. Chafee, thereby rendering his companion motion for contempt moot.

C. OCA and Staff

The OCA and Staff did not respond to Dr. Chafee's motion for reconsideration.

III. COMMISSION ANALYSIS

RSA 541:3 provides that rehearing or reconsideration of an order may be granted when a party states good reason for such relief. Good reason may be shown by identifying new evidence or specific matters that could not have been presented in the underlying proceeding or that were overlooked or mistakenly conceived by the deciding tribunal. *See Public Service Company of New Hampshire d/b/a Eversource Energy*, Order No. 26,127 at 5 (May 1, 2018). To prevail, a party filing a motion for reconsideration should not merely reassert prior arguments and request a different outcome. *Id.* Having reviewed Dr. Chafee's arguments and the arguments of Liberty, we find that Dr. Chafee has failed to establish grounds for rehearing.


In his motion, Dr. Chafee did not present any facts that were "mistakenly conceived" by the Commission. The information presented in Liberty's LCIRP filing regarding its plans for expansion around the state does not constitute "new evidence" under the governing standard. Liberty's petition for a franchise in Hanover and Lebanon, and the settlement agreement arising therefrom, were considered on their own merits, and a full evidentiary record was developed in this proceeding regarding the franchise expansion. Additional hearings to review Liberty's compliance with the terms of Order No. 26,109 are not required. The order sets forth the consequences should Liberty fail to comply.

As noted above, Dr. Chafee's motion for contempt will be addressed separately.

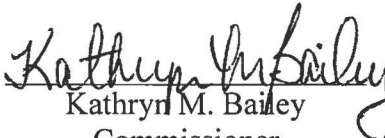
Based upon the foregoing, it is hereby

ORDERED, that Dr. Jonathan Chafee's motion for reconsideration is hereby DENIED.

By order of the Public Utilities Commission of New Hampshire this third day of May,
2018.



Martin P. Honigberg
Chairman

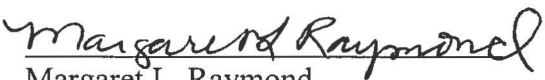


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Margaret L. Raymond
Assistant Secretary

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Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) **Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:** DEBRA A HOWLAND
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21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) **Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) **Serve a written copy on each person on the service list not able to receive electronic mail.**