

State of New Hampshire
Public Utilities Commission

Docket No. DG 17-152

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities

Least Cost Integrated Resource Plan

**Liberty's Response to the Filings of CLF and Mr. Clark, and Liberty's
Objection to CLF's Motion**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, through counsel, respectfully responds to *Intervenor, Terry Clark's, Response to Liberty Utilities' June 28, 2019 Filing and Correspondence*, and responds and objects to *Conservation Law Foundation's Response to Liberty Utilities' June 28, 2019 Filing and Motion to Direct Liberty to Refile its Plan With Meaningful Alternatives and Impacts Analysis*.

In support of these responses and objection, Liberty represents as follows:

Response to Mr. Clark's Filing.

1. The overarching argument in Mr. Clark's Response is that Liberty's June 28 filing is "inadequate and non-compliant with RSA 378," Clark Response at 1, which is essentially the same argument Mr. Clark made in his May 15, 2018, motion to dismiss (and which is similar to Mr. Clark's May 10, 2019, *Objection to, and Motion to Strike, Liberty's Supplemental Filing*, to which Liberty filed a comprehensive objection on May 20, 2019, which Liberty incorporates here). None of Mr. Clark's arguments in this Response are substantively different than those raised in the May 2018 motion to dismiss (or in his May 2019 pleading), which arguments the Commission rejected as premature in Order No. 26,225 at 6 (Mar. 13,

2019) (“Any party may assert arguments concerning dismissal or denial at the end of the proceeding after the record has been closed, if the facts warrant such action”).

2. Although titled a “Response,” and although Mr. Clark’s Response contains no specific prayers for relief, to the extent the response asserts a new request to deny or dismiss Liberty’s LCIRP, Liberty objects. In support of this objection Liberty incorporates here its May 25, 2018, *Objection to Motion to Dismiss*, its May 20, 2019, *Objection to Intervenor Terry Clark’s Motion to Strike Supplemental Filing*, and the Commission’s directive quoted above to raise these arguments after the Commission has an opportunity to review a full record.

3. As discussed in in Liberty’s prior responses and below, Liberty’s filings comply with the requirements of RSA 378 and the Commission’s orders in this docket.

Response and Objection to CLF’s Filing.

4. CLF’s filing makes three arguments. First, CLF claims that Liberty’s supplemental filing is deficient because it is untimely and because it does not consider “non-gas alternatives.” CLF argues the LCIRP “fails to compare gas expansion to any other resource option, including enhanced energy efficiency and electrification, or to evaluate the extent to which gas demand could be reduced.” CLF Motion at 1-2.

5. As stated in Liberty’s earlier filings, a natural gas distribution utility is not required to assess electrification as a means of satisfying its customers’ needs over the five year period covered by an LCIRP. The statutes do not require a natural gas distribution company submitting a natural gas IRP to consider or evaluate non-gas alternatives. Rather, it evaluates the identified natural gas options. The Commission expressly said so in its March 2019 order in this docket:

Accordingly, we direct Liberty to submit a supplemental filing, including supporting testimony, to address each of the specific elements required under

RSA 378:382 and RSA 378:39 that are not already addressed in its LCIRP, with adequate sufficiency to permit the Commission's assessment of potential environmental, economic, and health-related impacts of each option proposed in the LCIRP, as required by RSA 378:39.

Order No. 26,225 at 7 (Mar. 13, 2019) (emphasis added). The options “proposed in the LCIRP” were natural gas options, not electric options. Liberty does not have the authority to invest in electrification nor to recover costs so invested.

6. As for “enhanced energy efficiency,” Liberty’s demand forecast *did* include the assumption that Liberty would meet the aggressive goals of the Energy Efficiency Resource Standard, which is geared toward achieving “all cost effective energy efficiency,” and the funding for which comes from the LDAC. CLF does not explain what is meant by “enhanced” energy efficiency, nor does CLF explain how Liberty has authority to recover its investments in such measures. To the extent CLF believes this to be insufficient, the existing discovery, testimony, and hearing process provides CLF the opportunity to make its case on the facts and the law. Dismissal now is not the appropriate procedural course.

7. And as for an alleged failure “to evaluate the extent to which gas demand could be reduced,” CLF is again arguing that Liberty should have considered non-gas alternatives to achieve this goal. As stated above, a natural gas distribution company’s IRP need not assess non-gas options for reducing demand.

8. As stated above in response to Mr. Clark’s filing, the Commission should allow the adjudicative process to run its course and require CLF to file testimony, respond to discovery, and be subjected to cross examination so that the Commission can determine if there is support for CLF’s otherwise assertions that Liberty’s LCIRP is “inadequate.” “Any party may assert arguments concerning dismissal or denial at the end of the proceeding after the record has

been closed, if the facts warrant such action.” Order No. 26,225 at 6 (Mar. 13, 2019). There is nothing ripe for the Commission to decide now.

9. Second, CLF argues that the Commission cannot decide the Granite Bridge docket, DG 17-198, until it resolves this LCIRP docket: “Liberty should not be allowed to advance infrastructure proposals that fail to align with an adequate LCIRP.” CLF Motion at 2. This is an incorrect statement as a matter of law.

10. The only statutory limitation that governing the effect of an LCIRP approval on some other utility action arises from RSA 378:40, which reads, in its entirety, as follows:

Plans Required. – No rate change shall be approved or ordered with respect to any utility that does not have on file with the commission a plan that has been filed and approved in accordance with the provisions of RSA 378:38 and RSA 378:39. However, nothing contained in this subdivision shall prevent the commission from approving a change, otherwise permitted by statute or agreement, where the utility has made the required plan filing in compliance with RSA 378:38 and the process of review is proceeding in the ordinary course but has not been completed.

11. The petition in the Granite Bridge docket, DG 17-198, does not request a “rate change.” The analysis ends there. There is nothing that requires the Commission to resolve the LCIRP docket before the Granite Bridge docket.

12. Third, CLF argues that the Commission “should rule on pending objections and require Liberty to integrate real impacts and alternative analyses into its resource plan.” CLF Motion at 3. Liberty disagrees.

13. The Commission unambiguously stated the scope of this docket, as quoted above: “we direct Liberty to submit a supplemental filing [that will] permit the Commission’s assessment of [certain] impacts of each option proposed in the LCIRP.” Order No. 26,225 at 7.

14. Liberty has made filings that it believes are sufficient to allow the Commission to evaluate the impacts “of each option proposed in the LCIRP.” It is now time for CLF and the other parties to this docket to make their cases in support of or opposing Liberty’s LCIRP. The legal arguments made in CLF’s and Mr. Clark’s filings can be addressed as part of the hearing and post-hearing process. There is no need to issue any orders now.

15. Finally, CLF asks the Commission to adopt a “reasonable” schedule for this and for the Granite Bridge docket.

16. In a separate filing that Liberty will make in response to CLF’s separate *Request to Modify Schedule*, Liberty will argue that there is no basis to change the existing, agreed-upon, and Commission approved schedule in the Granite Bridge docket, although Liberty will not object to a modest change in this docket to allow for discovery on Liberty’s recent filing.¹

WHEREFORE, Liberty respectfully requests that the Commission:

- A. To the extent asserted, deny Mr. Clark’s request to deny or dismiss Liberty’s filing;
- B. Deny CLF’s motion; and
- C. Grant such other relief as is just and equitable.

¹ Note that three weeks have passed since Liberty’s June 28 supplemental filing, during which time an approved procedural schedule allowed for discovery (the discovery period ran from June 21 to July 12), yet CLF has asked *no* discovery questions and, until now, sought no extension of the discovery deadline. Arguably, CLF has waived its right to seek an extension of the discovery schedule in this docket. Note also that nothing has happened in the Granite Bridge docket to support any change in that agreed and approved schedule. No supplemental filing was made in the Granite Bridge docket, discovery closed shortly after the June 20 technical session, and the Staff/OCA/intervenor testimony is due July 31.

Respectfully submitted,
Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a
Liberty Utilities

By its Attorney,



Date: July 22, 2019

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Certificate of Service

I hereby certify that on July 22, 2019, a copy of this filing has been electronically forwarded to the service list.



Michael J. Sheehan