

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 21-008

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

**Petition for Approval of a Firm Transportation Agreement with Tennessee Gas
Pipeline Company, LLC**

Order Denying Motion for Rehearing of Order No. 26,551

O R D E R N O. 26,564

January 10, 2022

I. Background

In Order No. 26,551 (November 12, 2021) (Order 26,551), the Commission approved a capacity agreement between Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (Liberty) and Tennessee Gas Pipeline Company, a 20-year agreement at \$2,044,000 per year in exchange for firm transportation rights to 40,000 Dth of capacity for natural gas per day between Dracut, MA and Londonderry, NH.

On December 10, 2021, Conservation Law Foundation (CLF) filed a Motion for Rehearing of Order 26,551.

On December 16, 2021, the Office of the Consumer Advocate filed an objection to CLF's Motion for Motion for Rehearing of Order 26,551.

On December 17, 2021, both Liberty and the New Hampshire Department of Energy filed objections to CLF's Motion for Motion for Rehearing of Order 26,551.

Order 26,551, CLF's Motion for Rehearing of Order 26,551, the various objections, and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-008.html>.

II. Positions of the Parties

a. Conservation Law Foundation

CLF argued the Commission erred in approving the firm transportation agreement between Liberty and Tennessee Gas Pipeline Company and requested that the Commission rehear Order 26,551. In support of its position, CLF made four arguments: 1) that the Commission erred in finding that Liberty met its burden of proof demonstrating that the contract is prudent, reasonable, and consistent with the public interest because Liberty did not demonstrate that it considered increasing demand side alternatives such as energy efficiency; 2) that the Commission erred in approving cost recovery because, pursuant to RSA 378:40, no rate change is allowed due to lack of proceedings in the ordinary course in Liberty's open Least Cost Integrated Resource Plan docket; 3) that the approved contract does not align with contents of Liberty's Least Cost Integrated Resource Plan docket; and 4) that Liberty's Least Cost Integrated Resource Plan filing is deficient.

b. Office of Consumer Advocate

The Office of the Consumer Advocate (OCA) objected to CLF's Motion for Rehearing of Order 26,551. In support of its objection, the OCA argued that CLF did not state good reason for rehearing because it did not make any new arguments, and specifically rebuffed the "ordinary course" argument.

c. Department of Energy

The New Hampshire Department of Energy (Energy) objected to CLF's Motion for Rehearing of Order 26,551. In support of its objection, Energy argued that CLF did not state good reason for rehearing because Order 26,551 was not based on mistake or overlooked matters, and that the proper forum for CLF to raise its concerns with the

contents of Liberty's Least Cost Integrated Resource Plan is in a Least Cost Integrated Resource Plan docket.

d. Liberty

Liberty objected to CLF's Motion for Rehearing of Order 26,551. In support of its objection, Liberty argued that CLF did not state good reason for rehearing because: 1) the Commission did not overlook or mistakenly conceive any matters in Order 26,551; 2) CLF presented no new evidence that was unavailable prior to the issuance of Order 26,551; 3) CLF asked for a different outcome based on arguments the Commission previously considered and rejected; and 4) Order 26,551 is neither unlawful nor unreasonable.

III. Commission Analysis

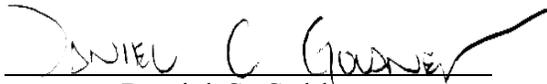
The Commission may grant rehearing or reconsideration for "good reason" if the moving party shows that an order is unlawful or unreasonable. RSA 541:3; RSA 541:4; *Rural Telephone Companies*, Order No. 25,291 (November 21, 2011); *see also Public Service Company of New Hampshire d/b/a Eversource Energy*, Order No. 25,970 at 4-5 (December 7, 2016). A successful motion must establish "good reason" by showing that there are matters that the Commission "overlooked or mistakenly conceived in the original decision," *Dumais v. State*, 118 N.H. 309, 311 (1978) (quotation and citations omitted), or by presenting new evidence that was "unavailable prior to the issuance of the underlying decision," *Hollis Telephone Inc.*, Order No. 25,088 at 14 (April 2, 2010). A successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome. *Public Service Co. of N.H.*, Order No. 25,970, at 4-5 (citing *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *Freedom Energy Logistics*, Order No. 25,810 at 4 (September 8, 2015)).

We do not agree that CLF stated good cause to grant rehearing because CLF did not present new evidence, nor did it establish that the Commission overlooked or misunderstood issues in connection with its approval of the capacity contract between Liberty and the Tennessee Gas Pipeline Company. In Order 26,551, the Commission reviewed CLF's various arguments relating to Least Cost Integrated Resource Planning and determined that approval of the contract was not prohibited by the LCIRP statute. It is apparent that the Commission heard and relied on historical context, determined that Liberty had a long-standing design day capacity shortfall, and approved the instant capacity contract under the appropriate legal standard, namely that the contract was prudently incurred, reasonable, and is consistent with the public interest. We do not agree that CLF stated good cause to rehear this determination.

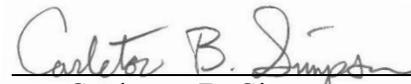
Based upon the foregoing, it is hereby

ORDERED, the Conservation Law Foundation's Motion for Rehearing of Order 26,551 (November 12, 2021) is DENIED.

By order of the Public Utilities Commission of New Hampshire this tenth day of January, 2022.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 21-008

Printed: 1/10/2022

Email Addresses

ClerksOffice@puc.nh.gov
chico.dafonte@libertyutilities.com
kimdao@scottmadden.com
Energy-Litigation@energy.nh.gov
julianne.m.desmet@oca.nh.gov
paul.b.dexter@energy.nh.gov
thomas.c.frantz@energy.nh.gov
dhill@energyfuturesgroup.com
rkanoff@princelobel.com
maureen.karpf@libertyutilities.com
bill.killeen@libertyutilities.com
nkrakoff@clf.org
donald.m.kreis@oca.nh.gov
jayson.p.laflamme@energy.nh.gov
steven.mullen@libertyutilities.com
amanda.o.noonan@energy.nh.gov
ocalitigation@oca.nh.gov
jralston@keeganwerlin.com
Maureen.l.reno@oca.nh.gov
michael.sheehan@libertyutilities.com
karen.sinville@libertyutilities.com
jstephens@scottmadden.com
jvanrossum@clf.org
dvenora@keeganwerlin.com