

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

ELECTRIC AND GAS UTILITIES

2021-2023 Triennial Energy Efficiency Plan

Docket No. DE 20-092

**Motion for Immediate Stay and, in the Alternative, Clarification
of Order No. 26,553**

Liberty Utilities (EnergyNorth Natural Gas) Corp. and Liberty Utilities (Granite State Electric) Corp. (collectively “Liberty”), through counsel, respectfully move the Commission for an immediate stay of Order No. 26,553 (Nov. 12, 2021) (“Order”) and, in the alternative, for immediate clarification of Liberty’s authority to continue offering energy efficiency programs from the date of the Order through the date that the Commission acts on the revised plans to be filed December 15, 2021.

Request for Immediate Stay

1. An immediate stay of the Order is warranted because of the significant legal and policy concerns raised by the Order, which will be addressed in separate pleadings to be filed by Liberty and others.¹ If the Order is implemented prior to resolution of these issues, it will cause irreparable harm.

2. The impacts on Liberty’s customers cannot yet be known precisely, but they are certain to be large. For 2022, the plan filed jointly with the other New Hampshire utilities would

¹ Liberty does not waive any right to seek rehearing of the Order in its entirety.

have created \$12.7 million in savings for Liberty's gas customers and savings of \$13.3 million for its electric customers. The Order reduces the EE components of the LDAC and the SBC that year by 43% and 63% respectively for residential customers, and 31% and 62% respectively for C&I customers. Assuming that the reduction in savings is proportional to the diminution of the EE programs' funding levels through these charges, Liberty expects that its gas customers' costs to increase by \$4.4 million and its electric customers' costs to increase by \$8.3M, compared to the plan. In 2023, the same calculation shows that by reducing the LDAC and the SBC by 46% and 74% for residential customers and 50% and 77% for C&I customers, respectively, gas customers' costs will increase by \$7.5 million, based on savings projected in the Plan of \$15.3 million, and electric customers' costs by \$12.1 million, based on planned savings of \$15.9 million. These estimates almost certainly understate the extra costs that Liberty's customers will bear since its EE programs have been demonstrated to have a cost-benefit ratio greater than 1.0, meaning that each dollar invested creates more than a dollar in total benefits.

3. In addition to burdening Liberty's customers with additional costs, the Order poses very real practical difficulties in modifying Liberty's energy efficiency programs. Liberty's EE programs were designed on the basis of tremendously complex analyses that were undertaken and validated over many months within the framework of a Commission-sponsored proceeding and in close collaboration with technical experts from the other utilities serving New Hampshire, Commission Staff, the Office of the Consumer Advocate, our customers, and other stakeholders. Now, Liberty is being directed to completely re-define its plan in just a few weeks. The development of a new EE plan under these conditions creates risks to its customers that are entirely avoidable.

4. The Order also has broad reaching and deleterious effects on the trade allies who have partnered with Liberty for many years to deliver EE programs to our customers. Those partners rely heavily on their participation in Liberty's EE programs whose sudden diminution threatens their solvency and gives rise to the real risk of job losses. Liberty remains very concerned that without swift and immediate action by the Commission to stay its Order, significant and irreparable damage will be done to Liberty's ability to deliver these important programs in a predictable and rationale manner to the customers they serve.²

Request for Clarification

5. Should the Commission decline to immediately grant the stay, Liberty alternatively seeks clarification of a critical issue left unresolved by the Order.

6. The Order rejected the utilities' proposed 2021-2023 Plan and Settlement Agreement and requires the utilities to file new plans on December 15 consistent with the directives in the Order, which new plans will obviously require some time for the Commission's "review and approval." Order at 47-48. However, the Order did not specifically grant authority for Liberty to continue its EE programs between the date of the Order and the date of the Commission's order on the December 15 filings.

- a. Is Liberty's current authority to operate EE program under the "2020 energy efficiency program structure" as approved in Order No. 26,440 (Dec. 29, 2020) subject to the new SBC and LDAC rates approved in the Order?
- b. If so, does that authority extend until the Commission acts on the December 15, 2021, filings?

² The energy efficiency programs administered by the New Hampshire utilities under the NHSaves umbrella have received EPA's Energy Star Partner of the Year Sustained Excellence Award for eight consecutive years, demonstrating recognition of the programs' excellence by state and federal administrations on a bipartisan basis.

Conclusion

7. Liberty believes that the public interest dictates an immediate stay to prevent the harm that will certainly flow from the Order. To avoid whipsawing Liberty’s customers, trade partners, and others involved in the delivery of the energy efficiency programs, Liberty requests an immediate stay while these complicated public policy considerations can be carefully addressed. In the event that a stay is not issued, Liberty requests immediate clarification of its authority to operate the EE programs while the Commission reviews the December 15, 2021, filings.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Immediately stay the Order;
- B. In the alternative, immediately clarify Liberty’s authority to operate the EE programs for the period November 12, 2021, through the date that the Commission acts on the revised EE plans to be filed December 15, 2021, and;
- C. Grant such further relief as is just and equitable.

Respectfully submitted,

Liberty Utilities (EnergyNorth Natural Gas) Corp. and
Liberty Utilities (Granite State Electric) Corp.

By its Attorney,



Date: December 3, 2021

By: _____

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Certificate of Service

I hereby certify that on December 3, 2021, a copy of this Motion has been electronically forwarded to the service list.

A handwritten signature in black ink, appearing to read "M. Sheehan", written in a cursive style.

Michael J. Sheehan