

STATE OF NEW HAMPSHIRE

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December 28, 2016

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301-7319

RE: Docket No. 16-827, Non-Governmental Customers of Concord Steam
Joint Petition to Establish Interconnection/Transition Fund for Non-Governmental
Concord Steam Customers

Dear Ms. Howland:

This follows up on the prehearing conference conducted on December 21, 2016 in the above-referenced proceeding, the technical session that immediately followed the prehearing conference, and the letter filed earlier today by Senator Feltes on behalf of the Joint Petitioners with a proposed procedural schedule.

The Commission's rule governing prehearing conferences is N.H. Code Admin. Rules Puc 203.15. Paragraph (d) of the rule provides that an initial prehearing conference in a contested case at the Commission "shall . . . include consideration of any one or more of the following:

- (1) Statement of preliminary, non-binding positions and other issues of concern of the parties identified after initial review of the filing;
- (2) Consideration of any petitions for intervention and any objection filed thereto;
- (3) Changes to standard procedures desired for discovery or during the hearing, if requested by a party;
- (4) Establishment of a procedural schedule to govern the remainder of the proceeding; and
- (5) Motions for confidential treatment of matters raised in the proceeding and otherwise to facilitate discovery."

At the prehearing conference, the Commission considered items (1) and (2), and no party raised any issues with respect to items (3) or (5). Consistent with longstanding Commission practice, the Commission left item (4) – the establishment of a procedural schedule to govern the remainder of the proceeding – to the parties and Staff to discuss during the technical session.

It was therefore to our surprise that when the subject of the procedural schedule came up at the technical session, Staff indicated that it was not willing to take up the issue. The parties are thus left in the difficult position of addressing scheduling proposals to the Commission without the opportunity to be heard as to which one is most consistent with the public interest. The Office of the Consumer Advocate (OCA) therefore requests that the Commission schedule a second prehearing conference for the purpose of determining a procedural schedule to govern the remainder of the proceeding.

The OCA is unable to agree to the procedural schedule set forth in the letter filed by Senator Feltes inasmuch as it does not include any opportunity for the OCA to press its contention that the relief sought in the petition is inconsistent with applicable New Hampshire law. Similar procedural schedules circulated by Staff via e-mail have likewise included no such opportunities. In our view, the Commission should either make provision for briefing at the conclusion of the merits hearing or should set a deadline for written motions prior to the submission of testimony, in which instance the OCA would file a motion to dismiss the petition. The latter approach would, in essence, follow the procedural arc of two pending Eversource cases -- Docket No. DE 16-241 (Access Northeast pipeline) and Docket No. DE 16-693 (Power Purchase Agreement with Hydro Renewable Energy) – which raised what the Commission regarded as threshold legal issues suitable for resolution at the beginning of the dockets.

As you know, the Commission heard some compelling stories at the prehearing conference from the Joint Petitioners and others – nonprofits struggling to advance laudable missions on limited budgets; small businesses that are likewise facing challenges. The petition, in essence, raises the question of what help the Commission is able to approve for them in light of the impending end of service from Concord Steam and the resulting financial challenges of converting to a different heat source at some point in 2017. The OCA urges the Commission to adopt a procedural schedule that is best calculated to get the Joint Petitioners an answer to their question as expeditiously as possible. As explained at the prehearing conference, the OCA is firmly of the view that, regrettably, the residential natural gas customers of Liberty Utilities are *not* the appropriate source of that help.

If you have any questions about this filing, please contact our office. Thank you.

Sincerely,



D. Maurice Kreis
Consumer Advocate

cc: Service list via electronic mail