

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Concord Steam Corporation Non-Governmental Customers
Joint Petition to Establish Interconnection/Transition Fund for
Non-Governmental Concord Steam Customers

Docket No. DG 16-827

STAFF'S MOTION TO DISMISS PETITION WITHOUT PREJUDICE

NOW comes the Staff of the Public Utilities Commission (Staff), and files this timely motion to dismiss the above-captioned petition filed in Docket No. DG 16-827, pursuant to N.H. Admin. Rules Puc 203.07(e), as follows:

1. Staff notes in the first instance that the final Commission Orders in Docket Nos. DG 16-769 and DG 16-770 have not yet been issued. Therefore, there is a problem of ripeness with the relief sought by petitioners, insofar as there is no Commission Order granting approval to the transfer of assets from Concord Steam Corporation (Concord Steam) to Liberty Utilities (EnergyNorth Natural Gas) Corp. (Liberty). Also, the Commission has not yet issued an approval Order for the emergency rates for Concord Steam partly derived from the \$1.9 million payment from Liberty to Concord Steam contemplated by the agreement governing the transfer of assets. In light of this, the petitioners' assumption that Liberty will have an ongoing role in the affairs of Concord Steam, and Concord Steam's customers, is premature.

2. Notwithstanding the issue of ripeness, Staff brings to the Commission's attention a serious technical flaw within the petition. The petition presents a series of purported representations, or undertakings, by Liberty to the petitioners, including Senator Dan Feltes. References are made to: "...[b]ased on discussions with Senator Dan Feltes, one of the undersigned, Liberty is willing to provide \$1 million for the Fund provided the Commission

approves the conditions of Paragraph 11 below, which are similar to the conditions agreed upon by the settling parties in [Docket No. DG 16-770]...;” “...[a]t the request of Senator Dan Feltes, Liberty updated the discounted cash flow (DCF) analysis that Liberty provided in support of the \$1.9 million payment proposed in [Docket No. DG 16-770]...;” “...[f]inally, consistent with testimony offered in [Docket No. DG 16-770], Liberty confirmed that it has sufficient capacity to serve all Concord Steam customers should they decide to convert to natural gas...” Petition at 3.

These representations and undertakings originate from Liberty, a public utility over which the Commission has primary regulatory jurisdiction. Liberty is not a co-petitioner of the instant petition, and it is concerning to Staff that Liberty is apparently relying on third parties to convey information/positions to the Commission regarding a rate proposal. Staff does not question the veracity of the petitioners regarding Liberty’s representations; rather, Staff insists that Liberty be a co-petitioner for any Commission petition regarding which it has provided substantive information and guidance. This will ensure that utility positions and information regarding proposals are provided on a first-hand, sworn-statement basis, and that the Commission is made fully aware of a utility’s role in helping to develop proposals.

3. Staff therefore requests that the Commission dismiss the instant petition without prejudice, and that the Commission clearly indicate an expectation that Liberty join as a co-petitioner for any refiled petition relating to this proposal, as this proposal clearly bears Liberty’s imprimatur.

4. Staff wishes to emphasize that it bears no ill will against the petitioners, and that Staff sympathizes with the plight of Concord community organizations facing challenges related to the emergency business circumstances of Concord Steam. In particular, Staff understands and respects the role of Senator Feltes in his efforts to represent the needs and concerns of his

Concord constituents. However, Staff reiterates that it is critical that a reformed petition, with Liberty in its proper role as co-petitioner, be made to keep the Commission fully informed regarding this rate proposal and its implications.

5. The Office of the Consumer Advocate has granted its concurrence for this motion to dismiss.

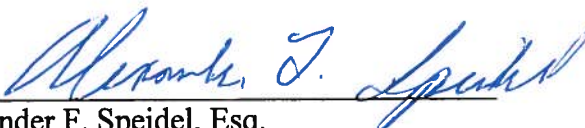
WHEREFORE, Staff respectfully states and requests:

- A. The Commission DISMISS the subject petition without prejudice; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,

Staff of the N.H. Public Utilities Commission

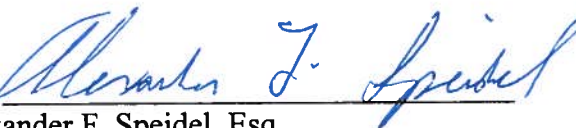
Date: October 19, 2016

By: 
Alexander F. Speidel, Esq.
Staff Attorney/Hearings Examiner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day forwarded to all parties on the official service list for Docket No. DG 16-827.

Date: October 19, 2016

By: 
Alexander F. Speidel, Esq.
Staff Attorney/Hearings Examiner