

NHPUC FEB08'17 PM 4:27



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

**DG 16-827**

**Petition for Approval of a Transition Fund  
For Concord Steam Non-Governmental Non-Profit Customers**

**DIRECT TESTIMONY**

**OF**

**DAN FELTES**

**February 8, 2017**

1 **Q. Please state your name, occupation and business address.**

2 A. My name is Dan Feltes. I serve as a State Senator for the 15<sup>th</sup> Senate District in New  
3 Hampshire. My business address is 107 North Main Street, Concord NH 03301.

4 **Q. Have you ever testified before the Commission?**

5 A. Yes, in the divestiture case: DE 14-238 & DE 11-250. Prior to that, I appeared before the  
6 Commission as an attorney for New Hampshire Legal Assistance.

7 **Q. What is the purpose of your testimony in this matter?**

8 A. My testimony supports the Settlement Agreement as well as responds to issues raised by  
9 Mr. Frink in his January 20, 2017 Pre-filed testimony.

10 The decision to shut down Concord Steam was not the decision of Concord Steam  
11 customers. It was a mandate not of their choosing and without any input. The short-term and  
12 unplanned Concord Steam shut down comes with unexpected expenses, which involves the  
13 necessary and imminent transition and interconnection from Concord Steam to another fuel  
14 source to ensure ongoing heat and hot water services, as well as a legal obligation for those  
15 accounts with tenants. The shutdown has a corresponding and significant negative impact on the  
16 community. It may be easier to just look away and cross our fingers, but doing so isn't in the  
17 public interest. A ruling that Concord Steam customers receive no help in transitioning and  
18 interconnecting would be counter to the public interest. The proposed Fund, as modified by the  
19 Settlement Agreement, is more than justified.

20 **Q. Please state your position on the Settlement Agreement.**

21 A. I respectfully request the Commission grant the Joint Petition, as modified by the  
22 Settlement Agreement and the Concord Steam Transition Fund Administration and Guidelines  
23 (Guidelines). The Joint Petitioners worked together with the Capital Regional Development

1 Council after carefully considering Mr. Frink's January 20, 2017 Pre-Filed testimony in crafting  
2 the Guidelines. I believe the Guidelines are responsive to the concerns raised by Mr. Frink, and I  
3 am also confident in the ability of the Capital Regional Development Council to administer the  
4 Fund in compliance with the Guidelines.

5 Per Commission order, Concord Steam intends to cease doing business on May 31, 2017.

6 Therefore, all of Concord Steam's customers must find alternate sources of heat, and in many  
7 cases, hot water, likely on or by that time. Concord Steam's wind down plan includes a  
8 proposed \$1.9 million payment from Liberty Utilities (EnergyNorth Natural Gas) Corp.  
9 ("Liberty"), as provided for in the Asset Purchase Agreement (APA), which is the subject of  
10 Docket No. DG 16-770 (the "APA Docket"). Concord Steam intends use the \$1.9 million  
11 payment from Liberty to pay off an existing loan from a local financial institution.

12 While Concord Steam's rates did not go up as much as they otherwise would in the short term,  
13 many of Concord Steam's non-governmental customers, including non-profit organizations, are  
14 facing sizable upfront costs associated with the conversions of their steam systems. This  
15 challenge is heightened due to the relatively short time period prior to Concord Steam's planned  
16 cessation of business. To assist these customers with their conversion and transition from  
17 Concord Steam to natural gas service provided by Liberty, the co-petitioners respectfully ask the  
18 Commission to establish a \$1 million interconnection/transition fund (the "Fund"). The co-  
19 petitioners in this case propose that the specific purpose of the Fund would be to make grants to  
20 non-governmental Concord Steam customers, including businesses and non-profit organizations,  
21 to pay for some or all of the direct costs, or assist with financing or refinancing costs, related to  
22 the infrastructure and/or equipment necessary to interconnect and transition from Concord Steam  
23 to natural gas. The co-petitioners have discussed the Fund with Liberty. Liberty is willing to

1 provide \$1 million for the Fund in accordance with the Joint Petition, as modified by the  
2 Settlement Agreement.

3 The updated DCF analysis, which is attached to the petition, shows that a payment of \$2.9  
4 million still results in a significant net benefit over ten years to Liberty customers. Consistent  
5 with testimony offered in the APA Docket, Liberty confirmed that it has sufficient capacity to  
6 serve all Concord Steam customers should they decide to convert to natural gas.

7 Overall, thousands of persons are served by the churches, non-profits and businesses that need to  
8 transition off of Concord Steam. These are organizations and businesses that are vital not only  
9 the local economy but to the Capital corridor's tourism and overall economy. And these are  
10 organizations that help serve low- income people and families as well as persons with  
11 disabilities. The Fund will help minimize, albeit not eliminate, the adverse impact on these  
12 organizations and businesses, as well as the many people they help serve.

13 The highly unique circumstances of this situation, including the imminent shutdown of a public  
14 utility on a short timeframe, merit the consideration of this Fund, as well as such other relief as is  
15 just.

16 **Q. How will the Fund be administered?**

17 A. Upon approval by the New Hampshire Public Utilities Commission, Liberty will remit  
18 \$1,000,000 to the Capital Regional Development Council (CRDC) for the purposes of creating a  
19 dedicated Concord Steam Interconnection & Transition Fund described in the Guidelines,  
20 attached hereto.

21 **Q. Why did you raise the issue of the Fund in the docket, DG 16-769 and DG 16-770?**

1 A. The voluntary abandonment of a public utility requires that some relief and protection is  
2 afforded to the customers of such public utility. In those dockets, it was apparent that non-  
3 governmental customers were afforded no relief or protections.

4 **Q. Should the transition fund requested here be considered in a completely separate**  
5 **DCF analysis from asset purchase agreement that the Commission approved in the DG-770**  
6 **Docket?**

7 A. No, and there are no practical or legal reasons to do so.

8 Additionally, in the DG 16-770 docket, Mr. Frink appeared to agree. He testified in no  
9 uncertain terms that the co-petitioner's request for Liberty to provide a transition fund could be  
10 addressed "after-the-fact." Specifically:

11 And, whether there's a fund to provide for the nonprofits or others that are having  
12 difficulty, they're going to have difficulty, tremendous difficulty, whether this is  
13 approved or not. And, so, I think it's -- we need to set emergency rates and collect money  
14 to decommission the plant and the distribution system. So, I think that's a proposal that  
15 can be made after-the-fact, and something can be established, if that's what -- if that's  
16 appropriate.  
17

18 Tr. hearing on Oct. 5, 2017; p. 79, ll. 11-22. Mr. Frink did not state his view that nothing could  
19 be added to the DCF analysis, an argument which renders the Joint Petition entirely pointless.

20 And, as articulated in our Memorandum of Law, it appears the Commission also relied upon Mr.  
21 Frink's testimony in assuming the Joint Petition could move forward in different docket.

22 Accordingly, PUC Staff waived the argument that the Fund arising from the Joint Petition must  
23 have been considered as part of the DCF in the prior case. However, if PUC Staff wishes to  
24 revisit its general justification of the DCF analysis as just and reasonable under RSA Chapter  
25 378 in the DG 16-770 Docket, then the PUC Staff is *de facto* arguing that the Commission  
26 should reopen its earlier decision. The Commission shouldn't. A rate or structure of rates

1 charged to customers is reasonable within meaning of the statute [RSA 378:27; RSA 378:28]  
2 when it will produce an amount of revenue that has been determined and limited, by balancing or  
3 relatively weighing investor and customer interests. *Appeal of Conservation Law Foundation of*  
4 *New England, Inc.*, 127 NH 606, 633 (1986). There should be no question that the  
5 Commission's prior decisions in DG 16-769 and DG 16-770 are supportable, just as there should  
6 be no question approving the Fund in this docket is supportable.

7 Indeed, the relief requested here is less than the relief the Commission approved in *Claremont*  
8 *Gas Corporation*, Order No. 21,309 (August 5, 1994), 79 NH PUC 426 (1994), where customers  
9 were afforded a no cost conversion option.

10 **Q. Is it appropriate to limit rate recovery for the Fund to Liberty's commercial and**  
11 **industrial customers?**

12 A. Yes. It is not an "unreasonable preference" by customer class under RSA 378:10, as  
13 suggested by Mr. Frink, to limit cost recovery of the Fund to Liberty's commercial and industrial  
14 customers because almost all of the accounts to be transferred to Liberty are commercial and  
15 industrial accounts, or non-profits and businesses. Moreover, with respect to the Fund itself,  
16 almost all of the Fund is likely to be used by commercial and industrial customers, with a  
17 miniscule fraction attributed to residential customers; i.e. even if all three (3) residential Concord  
18 Steam customers apply and receive about \$12,000 – a high estimate of residential transition –  
19 then about \$36,000 or 3.6% of the Fund would be attributed to residential customers. Thus, it is  
20 not unreasonable, and not in violation of RSA 378:10, to limit cost recovery of the Fund to  
21 accounts other than residential accounts.

22

23

1 **Q. Is it appropriate for the Fund to help downtown Concord?**

2 A. Yes. It is not an “unreasonable preference” by geography under RSA 378:10, as  
3 suggested by Mr. Frink. First, the Commission has already approved rate recovery over all  
4 Liberty customers, regardless of location, to help Concord Steam customers in Concord with an  
5 “orderly transition”. If PUC Staff wishes to argue the Fund unduly benefits Concord, then the  
6 PUC Staff is *de facto* arguing the Commission should reopen its earlier decision. It shouldn’t.  
7 Indeed, the Commission’s earlier decisions in DG 16-769 and DG 16-770 are sound, and they  
8 are not inconsistent with prior Commission decisions, including the approval of ratepayer funded  
9 “property tax stabilization” payments to certain municipalities as just and reasonable. *See* Order  
10 25, 920; pp. 40-41 & p. 90 in DE 14-238 & DE 11-250. Thus, it is not unreasonable, and not in  
11 violation of RSA 378:10, to help customers in Concord.

12 **Does this end your testimony?**

13 Yes.