

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

ORIGINAL
N.H.P.U.C. Case No. DG 13-198
Exhibit No. 2
Witness W. Sherry, S Hall, S Frink
DO NOT REMOVE FROM FILE

RE: ENERGYNORTH NATURAL GAS, INC. D/B/A LIBERTY UTILITIES

DOCKET NO. DG 13-198

Settlement Agreement

This Settlement Agreement (the "Agreement") is entered into this 21 day of November, 2013 by EnergyNorth Natural Gas, Inc. d/b/a Liberty Utilities ("Liberty" or the "Company"), the Office of Consumer Advocate ("OCA") and the Staff of the Public Utilities Commission ("Staff") (hereinafter referred to collectively as the "Settling Parties"). This Agreement is intended to resolve all issues arising out of the Commission's July 24, 2013 Order of Notice in this docket.

I. INTRODUCTION

On June 20, 2013, the Staff filed a letter requesting that the Commission open an investigation, pursuant to RSA 365:5 and 374:4, regarding potential irregularities in tariff compliance by the Company. Specifically, the Staff alleged that the Company was not in compliance with the provisions of Section 7 of its tariff governing service extensions and the development of a contribution in aid of construction ("CIAC") calculation. The Company had been charging residential customers a flat \$900 fee for service extensions under Section 7 of the tariff, which Staff alleged may have caused the potential for over-assessment of CIAC amounts to customers. In a July 8, 2013 letter to the Commission, Liberty disputed Staff's contentions and voluntarily ceased charging the \$900 flat fee. The Commission subsequently opened this docket on July 24, 2013 to investigate the Company's application of Section 7 of its tariff.

On August 7, 2013, the Company, Staff and OCA entered into a partial settlement agreement in which: (a) the Company committed to apply the CIAC calculations of Section 7 of its tariff for commercial and industrial customers and residential customers with service extensions beyond 100 feet until the final disposition of this docket; (b) the Company was authorized to continue to assess a \$900 flat fee to residential customers for service line extensions of 100 feet or less; (c) no fines or penalties would be assessed against Liberty for use of the \$900 flat fee or the Section 7 CIAC calculations during the applicability of the partial settlement; (d) if any residential customer had been over-assessed for CIAC during the applicability of the partial settlement, the Company would refund any over-assessment to the customer, and; (e) the Company would honor all outstanding contracts for service extensions as of the date of the partial settlement. On September 20, 2013, by Order No. 25,574, the Commission approved the partial settlement agreement, “with the understanding that the partial settlement will terminate on the earlier date of our approval of the final disposition of this investigation, or December 31, 2013.” Order 25,574 at 8.

In accordance with the procedural schedule, the parties engaged in discovery and participated in technical sessions, and as a result, developed this Agreement for the Commission’s consideration.

II. TERMS OF SETTLEMENT

The Settling Parties agree to resolve all issues arising out of the Commission’s July 24, 2013 Order of Notice in this docket as follows:

- a. Effective January 1, 2014, the Company shall replace the existing Section 7 of its tariff with the new Section 7 set forth in Attachment A to this Agreement.

- b. Within ten days of issuance of an order on this Agreement, the Company shall refund to any residential customer that had a service extension of more than 100 feet installed between July 24, 2013 and the date of Commission approval of the final disposition of this docket the positive difference between the amount charged for such extension and the cost as determined by the new “Extra Footage” charge as defined in Section 7(A) 4 of Attachment A.
- c. The “Extra Footage” charge defined in Section 7(A) 4 of Attachment A shall be revised annually. A revised tariff page specifying the updated charge will be filed with the New Hampshire Public Utilities Commission no later than April 1 of each year for effect on and after April 1. The filing will include the annual computation and supporting schedules.
- d. Other than the obligation to refund in Section II (b) of this Agreement, there shall be no fines, penalties, reparations, or disallowances to the Company and its current service affiliate relating to the application of Section 7 of the tariff.

III. MISCELLANEOUS PROVISIONS

The Settling Parties agree to the following miscellaneous provisions:

- a. Binding on Parties. Each of the Settling Parties agrees to support the terms and conditions contained herein, and understand that this Agreement is subject to Commission approval.
- b. Integrated Terms of Settlement. The effectiveness of this Agreement is conditioned upon the Commission adopting this Agreement in its entirety, without condition or modification. If the Commission does not approve this Agreement in

its entirety and without modification or condition, Liberty, OCA, and Staff shall have an opportunity to amend or terminate this Agreement. If terminated, this Agreement shall be deemed withdrawn and shall not constitute a part of the record in any proceeding or used for any purpose.

- c. Procedure. The Settling Parties shall cooperate in submitting this Agreement promptly to the Commission for approval so that it may be implemented on January 1, 2014. The Settling Parties shall request that the Commission consider this Agreement at the previously scheduled hearing on the merits to be held December 4, 2013, and shall make a witness or witnesses available as necessary to answer questions in support of this Agreement, or provide such other support as the Commission requests. The Settling Parties agree to cooperate, in good faith, in the development of such other information as may be necessary to support and explain the basis of this Agreement and to supplement the record accordingly.
- d. No Precedent. The Settling Parties agree that the Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent for, any particular issue in this proceeding. Acceptance of this Agreement by the Commission shall not be deemed to constrain the Commission's exercise of its authority to promulgate future orders, regulations or rules that resolve similar matters affecting other parties in a different fashion.
- e. No Admission. This Agreement shall not be deemed an admission by any of the Settling Parties that any allegation or contention in this proceeding by any other party, other than those specifically agreed to herein, is true and valid. This Agreement shall not be construed to represent any concession by any Settling

Party hereto regarding positions taken with respect to the issues in this docket, nor shall this Agreement be deemed to foreclose any Settling Party in the future from taking any position in any subsequent proceedings.

- f. Confidentiality. This Agreement is the product of confidential settlement negotiations. The content of these negotiations, including any documents prepared during the course of such negotiations for the purpose of reaching a settlement, shall be privileged and all offers of settlement shall be without prejudice to the position of any party presenting such offer.
- g. Execution. This Agreement may be executed by each of the Settling Parties in several counterparts, through original and/or facsimile signature, and as executed shall constitute one agreement.

WHEREFORE, Liberty, OCA, and Staff recommend that the Commission issue an order approving the terms and conditions of this Agreement in its entirety.

Dated: November 20, 2013

ENERGYNORTH NATURAL GAS, INC. D/B/A
LIBERTY UTILITIES



By its Attorney
Sarah B. Knowlton

Dated: November __, 2013

STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

By its Attorney
Alexander F. Speidel

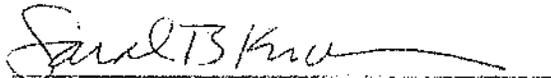
Dated: November __, 2013

OFFICE OF CONSUMER ADVOCATE

By its Attorney
Rorie E.P. Hollenberg

Dated: November 20, 2013

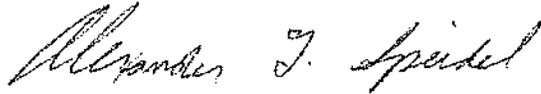
ENERGYNORTH NATURAL GAS, INC. D/B/A
LIBERTY UTILITIES



By its Attorney
Sarah B. Knowlton

Dated: November 21, 2013

STAFF OF THE NEW HAMPSHIRE PUBLIC
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By its Attorney
Alexander F. Speidel

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By its Attorney
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7 - SERVICE AND MAIN EXTENSIONS

7(A) Definitions. The following are definitions of terms used in these provisions relative to main and service extensions and are applicable only in such provisions.

- 1) Service and Main Extensions. Extensions for which both an extension of a service and an extension of a main are required to be constructed to provide requested gas service to a customer.
- 2) Service Extensions. Extensions from a main to the point of delivery on the customer's premises.
- 3) Abnormal Costs. Abnormal Costs are service and/or main construction costs that are attributable to frost or ledge (including ditching or backfilling necessitated as a result of the presence of frost or ledge), and/or other conditions not typically encountered in service and/or main construction that are peculiar to the particular service and/or main construction concerned. Abnormal Costs are to be paid by the customer.
- 4) Extra Footage. The charge (contribution in aid of construction) for Extra Footage is \$xx.xx per foot. The charge will be updated annually by calculating the historical average cost per foot for Service Extensions, excluding overheads, for the most recent calendar year and the updated charge shall be effective April 1.
- 5) Estimated Annual Margin. The Estimated Annual Margin is equal to the estimated revenue to be derived from the monthly Customer Charge and delivery charge to be received from the customer for gas service utilizing the particular main and/or service extension concerned during the first twelve (12) months after completion of the extension. The Estimated Annual Margin does not include revenue received by the Company for the cost of gas and local distribution adjustment factor.
- 6) Estimated Cost of Construction. For the purpose of determining the cost of Service and Main Extensions, Estimated Cost of Construction of mains and/or services includes not only the cost of labor and materials for such construction, but also miscellaneous costs incidental thereto or associated therewith, but excluding overheads. Miscellaneous costs include, but are not limited to, meter(s), traffic control and city and town road permits and degradation fees. The customer may perform on-site trenching and backfilling in accordance with the Company's specifications, in which case the Estimated Cost of Construction will be reduced to reflect the costs avoided by the Company as a result of the customer's performance of the work.

7(B) Costs of Extensions. In areas where the Company is authorized to operate, subject to the Application for Service provisions of this tariff, service is available as follows:

- 1) Residential Service Extensions. Residential Service Extensions up to 100 feet in length will be installed at no charge to the customer, unless there are Abnormal Costs associated with such extensions, in which case the customer shall be charged for the Abnormal Costs. For residential Service Extensions in excess of 100 feet, the customer will be charged for the Extra Footage, plus any Abnormal Costs.
- 2) Commercial and Industrial Service Extensions. Commercial and industrial Service Extensions will be installed at no charge to the customer provided that the Estimated Annual Margin is at least one-sixth of the Estimated Cost of Construction, excluding any Abnormal Costs. If the Estimated Annual Margin is less than one-sixth of the Estimated Cost of Construction, the customer will be required to pay to the Company, in advance, any amount by which the Estimated Cost of Construction of the Service Extension exceeds six times the Estimated Annual Margin. Abnormal Costs are charged separately and are not included in the Estimated Cost of Construction for the purpose of this calculation.

3) Service and Main Extensions.

- a. Residential. Residential Service and Main Extensions will be installed at no charge to the customer provided that the Estimated Annual Margin is at least one-eighth of the Estimated Cost of Construction of the Service and Main extensions. If the Estimated Annual Margin is less than one-eighth of the Estimated Cost of Construction, the customer will be required to pay to the Company the difference between the Estimated Cost of Construction and eight times the Estimated Annual Margin, plus any Abnormal Costs.

If the main extension will serve more than one location, the Company will calculate the sum of the Estimated Annual Margin from all metered services and the sum of the Estimated Cost of Construction for the main extension and all service extensions to determine whether any payment will be required from the customers to be served. The Company will also include the Estimated Annual Margin and the Estimated Cost of Construction for service extensions for all existing premises for which the Company reasonably anticipates will take service, using the assumption that 60% of such premises will take service. If any payment is required, it will be allocated equally among all current metered services. Abnormal Costs associated with main extensions will be allocated equally among all customers, unless such costs can be attributed to specific customers.

- b. Commercial and Industrial. Commercial and industrial Service and Main extensions will be installed at no charge to the customer provided that the Estimated Annual Margin is at least one-sixth of the Estimated Cost of Construction of the Service and Main extensions. If the Estimated Annual Margin is less than one-sixth of the cost of construction of the Service and Main extensions, the customer will be required to pay to the Company the difference between the Estimated Cost of Construction and six times the Estimated Annual Margin, plus any Abnormal Costs.

If the main extension will serve more than one location, the Company will calculate the sum of the Estimated Annual Margin from all metered services and the sum of the Estimated Cost of Construction for the main extension and all service extensions to determine whether any payment will be required from the customers to be served. The Company will also include in such calculations the Estimated Annual Margin and the Estimated Cost of Construction for service extensions for all existing premises for which the Company reasonably anticipates will take service, using the assumption that 60% of such premises will take service. If any payment is required, it will be allocated among all current metered services based on each customer's proportional share of the Estimated Annual Margin. Abnormal Costs associated with main extensions will also be allocated based on each customer's proportional share of the Estimated Annual Margin, unless such costs can be attributed to specific customers, in which case the costs shall be allocated appropriately to specific customers.

- c. Extensions Serving Customers in More Than One Rate Class. If the main extension will serve both residential and commercial or industrial customers, the Company will determine whether a contribution will be required by the customers by calculating the difference between the Estimated Cost of Construction of the main and service extensions and (i) six times the Estimated Annual Margin for all commercial and industrial customers to be served, plus (ii) eight times the Estimated Annual Margin for all residential customers to be served. The Company will also include in the above calculations the Estimated Annual Margin and the Estimated Cost of Construction of service extensions for all existing premises for which the Company reasonably anticipates will take service. If the difference described above is positive, the customers will be required to pay to the Company such difference. The amount of payment will be

allocated among all metered services based on each customer's proportional share of the Estimated Annual Margin. Abnormal Costs associated with main extensions will also be allocated based on each customer's proportional share of the Estimated Annual Margin, unless such costs can be attributed to specific customers, in which case the costs shall be allocated appropriately to specific customers.

- 7(C) Failure to Use Installed Gas Service. If a customer fails, within nine months after the date a service is installed under this Section 7, either in whole or in part, to make use of the service, the customer will reimburse the Company for all costs of constructing, removing and retiring the service less any contribution in aid of construction made by the customer for the service, which will be forfeited.
- 7(D) Easements, Etc. The Company is not required to construct extensions other than in public ways unless the customer provides, in advance and without expense or cost to the Company, all necessary permits, consents, authorizations and right-of-way easements, satisfactory to the Company, for the construction, maintenance and operation of the pipeline.
- 7(E) Shortest Distance. Services are run the shortest practical safe distance to the meter location. However, a customer may have the Company install a longer alternate service provided that the customer pays for the extra expense in advance of installation.
- 7(F) Winter Construction. Ordinarily, no new service pipes or main extensions are installed during the winter conditions (when frost is in the ground) unless the customer defrays the extra expenses.
- 7(G) Timing and Refunding of Contribution. Except as otherwise agreed by the Company under unusual circumstances, any required contribution in aid of construction will be made prior to installation by the Company of a service. To help cover the Company's expenses, damages and lost business, if substantial construction of the building or buildings for which gas service has been sought is not commenced by the earlier of (1) November 30th next following submission of the application; or (2) the date when the Company commences construction of the main and service concerned prior to withdrawal of the application, ten percent (10%) of the contribution will be forfeited to the Company and will not be returned to the customer. The balance of the contribution will be refunded if and when the application is withdrawn, or will be applied toward the new contribution if the customer submits a new application for service or subsequently commences construction of the building or buildings. A new application may be submitted at any time.
- 7(H) Reasonable Duration and Non-Discrimination. Under none of the foregoing provisions will the Company be required to install service pipes or to contract main extensions where the business to be secured may not be of reasonable duration or will tend, in any way, to constitute unreasonable discrimination.
- 7(I) Title. Title of all extensions constructed in accordance with the above shall be vested in the Company.
- 7(J) Other Requirements. The Company generally will not approve any application or, if it shall have given such approval, will not proceed or continue with main and/or service construction unless the Company is satisfied:
- 1) That the final site plans, sub-division plans and plans and specification for building or buildings to be served by the main and/or service concerned, including plans for waste disposal, water and other associated systems and facilities, have been prepared and approved by owner;
 - 2) That all permits, exceptions, approvals and authorizations of governmental bodies or agencies required for construction of such building or buildings and associated systems and facilities have been obtained;

ATTACHMENT A

- 3) That the customer is proceeding or plans promptly to proceed with such construction; and
- 4) That nothing has occurred or failed to occur which will or is likely to prevent or interfere with such construction.