

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.

Joint Petition to Approve Sale of New Hampshire Gas Corporation

Docket No. DG 14-155

ORIGINAL	
N.H.P.U.C. Case No.	DG 14-155
Exhibit No.	# 5
Witness	Panel
DO NOT REMOVE FROM FILE	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into as of the ____ day of October, 2014, by and among Iberdrola USA Enterprises, Inc. (“Iberdrola”), Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“EnergyNorth”), the Staff (“Staff”) of the New Hampshire Public Utilities Commission (the “Commission”), the Office of Consumer Advocate (the “OCA”), and HotZero, LLC (hereinafter referred to collectively as the "Settling Parties"). This Agreement resolves all issues regarding Liberty’s proposed acquisition of New Hampshire Gas Corporation (“NH Gas”) in this docket.

I. INTRODUCTION

Iberdrola is a holding company incorporated in the state of Maine and is an indirect, wholly-owned subsidiary of Iberdrola, S.A., which is organized in Spain. Iberdrola, S.A.’s United States business is conducted through Iberdrola USA, Inc., with indirect subsidiaries, including NH Gas, that provide natural gas service to customers in New England and New York. NH Gas is a New Hampshire corporation and a public utility as defined in RSA 362:2. It provides retail gas service to approximately 1,200 customers in Keene, New Hampshire through a propane air system. EnergyNorth is a New Hampshire corporation and a public utility as

defined in RSA 362:2. It provides retail gas service to approximately 86,000 customers in 30 communities throughout Southern and Central New Hampshire and in Berlin, New Hampshire. EnergyNorth is wholly-owned by Liberty Energy Utilities (New Hampshire) Corp, which itself is indirectly owned by Algonquin Power & Utilities Corp.

On April 9, 2014, Iberdrola and EnergyNorth entered into a Stock Purchase Agreement for the sale and purchase of the capital stock of NH Gas. Pursuant to the Stock Purchase Agreement, Iberdrola will sell all of its shares in NH Gas to EnergyNorth for the aggregate purchase price of Three Million Dollars (\$3,000,000) in cash, adjusted based on the net working capital and financial indebtedness of NH Gas as of the date of closing. The Stock Purchase Agreement is subject to several customary closing conditions, including obtaining requisite regulatory approvals. On June 6, 2014, Iberdrola and EnergyNorth (the “Joint Petitioners”) filed a Joint Petition for Authority to Transfer Ownership of NH Gas to EnergyNorth (the “Joint Petition”). In support of the Joint Petition, the Joint Petitioners submitted the pre-filed direct testimony of the following witnesses: Richard Leehr; Stephen Hall; Francisco DaFonte; Daniel Saad, Mark Smith and William Sherry (jointly); and Thorn Dickinson. The OCA notified the Commission on June 20, 2014 that it would participate in the above-captioned docket on behalf of residential ratepayers consistent with RSA 363:28.

On June 13, 2014, the Commission issued an Order of Notice setting a prehearing conference and technical session for June 26, 2014, requiring that the Order of Notice be published in a newspaper of general circulation pursuant to Puc 203.12, and requiring intervenor petitions by June 24, 2014. The Joint Petitioners provided notice of the hearing through the publication of the Order of Notice in the Keene Sentinel on June 17, 2014 and the New Hampshire Union Leader on June 18, 2014.

One party, HotZero, LLC sought intervenor status. The Commission granted HotZero's request on a limited basis by order dated July 9, 2014. Following the prehearing conference held June 26, 2014, Staff, the Joint Petitioners, OCA and HotZero met in a technical session and agreed upon a proposed schedule to govern the remainder of the proceeding, which the Staff submitted to the Commission by letter dated June 26, 2014. On September 4, 2014, a technical session was held at the Commission to assist in the discovery process regarding the Joint Petitioners' filing. In addition, the Joint Petitioners responded to two rounds of data requests and one round of technical session requests from Staff and OCA. On September 25, 2014, Staff submitted written testimony of Stephen P. Frink, Assistant Director of the Commission's Gas & Water Division, and Randall S. Knepper, Director of the Commission's Safety Division. On the same date, the OCA filed written testimony of consultant Scott J. Rubin. On October 2, 2014, settlement discussions were held at the Commission. As a result of those discussions and subsequent communications, the Settling Parties have agreed to the terms of this Agreement. The Settling Parties recommend that the Commission approve this Agreement without modification.

II. TERMS OF AGREEMENT

1. The Settling Parties agree that the transfer of the stock of NH Gas to EnergyNorth and the merger of NH Gas into EnergyNorth is in the public interest.
2. The area currently served by NH Gas will be referred to as the "Keene Division" of EnergyNorth once the acquisition is complete. EnergyNorth shall maintain separate accounting records and shall file separate annual reports for the Keene Division, unless and until the Commission approves a rate consolidation plan in a future proceeding.

3. EnergyNorth will not charge any overhead to capital projects undertaken in the Keene Division, other than those associated with the Keene Division, unless and until the Commission approves a rate consolidation plan in a future proceeding.
4. EnergyNorth will not seek rate recovery for: (1) any transaction costs, which refers to financing, legal and regulatory costs incurred in connection with the closing of the transaction; (2) the acquisition premium; or (3) transition costs, which refers to one-time costs incurred to effect the transaction.
5. EnergyNorth will charge \$200,000 of corporate expenses annually to the Keene Division, which amount shall be adjusted annually for inflation, starting January 1, 2016. This charge shall include all costs for management services provided to the Keene Division, such as legal, regulatory, finance and human resources, but shall not include the cost of any mutual aid for emergency services or services for other events outside of normal business operations, which shall be billed separately by EnergyNorth to the Keene Division. EnergyNorth shall not charge customers additional costs to integrate the Keene Division into EnergyNorth without obtaining Commission approval to do so.
6. EnergyNorth shall maintain separate Cost of Gas rates and separate general distribution rates for the Keene Division.
7. EnergyNorth shall separately report all proposed capital projects for the Keene Division under Puc 509.11. EnergyNorth shall also notify the Staff and OCA of Keene Division capital projects other than those referenced in Puc 509.11(c) with projected costs greater than \$50,000 at least 60 days prior to commencement, where feasible.

8. EnergyNorth shall maintain and staff an area operational work center based in Keene or an adjacent town.
9. EnergyNorth shall maintain eight full time positions at the Keene work center. In the event that EnergyNorth seeks to revise the staffing levels at the Keene work center, it shall provide the Staff and OCA notice 180 days in advance of such proposed changes. EnergyNorth shall also provide notice 60 days in advance of material changes in job titles or job responsibilities for any of the Keene work center positions. In the event staffing falls below eight due to events such as an employee retirement or other separation for which a 180-day notice is not possible, such occurrence will not be deemed a failure to meet the 180-day notification requirement.
10. For purposes of Emergency Response requirements, EnergyNorth's Keene Division will comply with the requirements of Puc 504.07 as if it was a separate utility.
11. If the EnergyNorth dispatch or control center IT systems are utilized for the emergency response process for the Keene Division, the Keene Division shall file a monthly report with the Safety Division in .pdf and Excel format and include following details for each response:
 - A) Call initiation date;
 - B) Call completion date;
 - C) Call type (reflecting cause for call, e.g., odor inside at meter, odor outside, 3rd party damage, etc.);
 - D) Job code or work order number;
 - E) Classification (normal hours, after hours, weekends and holidays);

- F) Call receipt time (through dispatch, customer service representative or other type of notification);
- G) Time when dispatch notified responder;
- H) Time difference between F and G (also referred to as time held in dispatch);
- I) Emergency responder call receipt time;
- J) Arrival on scene time;
- K) Travel time of emergency responder (J minus I);
- L) Response completion time;
- M) Total job time (L minus J);
- N) Response time (J minus F);
- O) Dispatcher name or employee number;
- P) Emergency technician responding or employee number; and
- Q) Address of location (including street number, street and town).

12. EnergyNorth shall continue to use only in-house personnel for the locating and marking of underground facilities of the Keene Division.

13. EnergyNorth shall operate the Keene Division in compliance with Puc 508.04(m). Class III leaks currently documented and any new leaks discovered in the Keene Division shall be repaired no later than the end of the calendar year unless the main is scheduled for replacement in the subsequent construction season (April to November) or unless they occur after December 1, in which case they will be repaired within 30 days.

14. EnergyNorth will meet with Staff and the OCA within ninety days of a final order approving this transaction to develop a long-term plan for the annual replacement of

cast iron and wrought iron pipeline in the Keene Division. Such long-term plan shall include the following: (1) Liberty shall, where practicable, maximize the opportunities to replace the cast iron and wrought iron pipelines that lie within any municipal road project undertaken by the City of Keene; (2) Liberty shall replace a minimum of 500 feet of cast iron and wrought iron pipelines per year, which shall include replacements resulting from any municipal road projects; and (3) cast iron mains in the Keene Division shall not be eligible for the existing EnergyNorth CIBS program.

15. Unless it obtains the consent of the Commission, EnergyNorth will continue to own, operate and maintain the Keene distribution system upstream of the customer piping connection at the meter outlet. All meters shall be located at the customer's structure unless impractical. All new meter installation locations shall be located outside of the structure unless impractical.
16. Upon the closing, EnergyNorth will adopt and follow NH Gas policies and procedures for the operation of the Keene Division, which are attached to this Agreement and are as follows: (1) The Northeast Gas Association Regional Public Awareness and Education Program for Gas Distribution and Transmission Pipelines, Adopted by New Hampshire Gas Corporation, June 20, 2006, Revision 4 dated December 31, 2013; (2) the New Hampshire Gas Safety Manual Adopted June 2005; (3) the New Hampshire Gas Corporation Operations & Maintenance Manual, Revision No. 12 Dated December 30, 2013; (4) the New Hampshire Gas Corporation Construction Standards and Methods Revision January 2011; (5) the New Hampshire Gas Corporation Emergency Plan Revision 11, December 2013; and (6) The

Northeast Gas Association Regional Public Operator Qualification Compliance Program Adopted by New Hampshire Gas Corporation Revision F dated November 1, 2008. EnergyNorth shall notify Staff of any changes to the Keene Division policies within 14 days of the effective date of such changes. If any compliance issues exist as of the time of closing on EnergyNorth's purchase of NH Gas, EnergyNorth, Staff and OCA will work together on an appropriate timeline to correct any such issues. EnergyNorth shall be permitted to recover from the customers of the Keene Division, in a distribution rate case, prudently incurred costs to implement any operational changes that result from changes to the policies and procedures listed above.

17. The terms of this Settlement Agreement shall remain in effect until the Commission approves otherwise.

III. CONDITIONS

This Agreement is expressly conditioned upon the Commission's acceptance of all its terms, without change or condition. If the Commission does not accept this Agreement in its entirety, without change or condition, or if the Commission makes any findings that go beyond the scope of this Agreement, and any of the Settling Parties notify the Commission within five business days of their disagreement with any such changes, conditions or findings, the Agreement shall be deemed to be withdrawn, in which event it shall be deemed to be null and void and without effect, shall not constitute any part of the record in this proceeding, shall not be relied upon by Staff or any party to this proceeding or by the Commission for any other purpose.

The Settling Parties agree that the Commission's approval of this Agreement will not constitute continuing approval of or precedent for, any particular principle or issue, but such

acceptance does constitute a determination that the provisions set forth herein in their totality are just and reasonable and consistent with the public interest.

The discussions that produced this Agreement have been conducted on the understanding that all offers of settlement and settlement discussions relating to this docket shall be confidential, shall not be admissible as evidence in this proceeding, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

The information and testimony previously provided in this proceeding are not expected to be subject to cross-examination by the Settling Parties, which would normally occur in a fully litigated case. The Settling Parties agree that all direct testimony and supporting documentation should be admitted as full exhibits for purposes of consideration of this Agreement. Agreement to admit all direct testimony without challenge does not constitute agreement by the Settling Parties that the content of the written testimony filed on behalf of Staff or the other parties is accurate or what weight, if any, should be given to the views of any witness. The identification of the resolution of any specific issue in this Agreement does not indicate any of the Settling Parties' agreement to such resolution for purposes of any future proceeding, nor does the reference to any other document bind the Settling Parties to the contents of, or recommendations in, such document for purposes of any future proceeding. In light of the fact that they have entered into this Agreement, the Settling Parties have agreed to forego cross-examining witnesses regarding their pre-filed testimony and, therefore, the admission into evidence of any witness's testimony or supporting documentation shall not be deemed in any respect to constitute an admission by any party to this Agreement that any allegation or contention in this proceeding

is true or false, except that the sworn testimony of any witness shall constitute an admission by such witness.

This Agreement may be executed by facsimile and in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one agreement binding on all parties hereto.

Dated: October 27 2014

LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP.
D/B/A LIBERTY UTILITIES



By its Attorney
Sarah B. Knowlton

Dated: October __, 2014

IBERDROLA USA ENTERPRISES, INC.

By its Attorneys
McLane, Graf, Raulerson & Middleton, P.A.
Patrick H. Taylor

Dated: October 27, 2014

STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION



By its Attorney
Michael Sheehan

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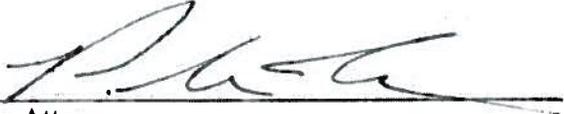
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D/B/A LIBERTY UTILITIES

By its Attorney
Sarah B. Knowlton

Dated: October 27, 2014

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STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

By its Attorney
Michael Sheehan

Dated: October 27, 2014

OFFICE OF CONSUMER ADVOCATE

R.E.P. Hollenberg

By its Attorney
Rorie E.P. Hollenberg

Dated: October ____, 2014

HOTZERO, LLC

Michael E. Jesanis
Managing Director

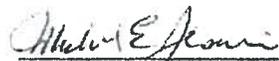
Dated: October __, 2014

OFFICE OF CONSUMER ADVOCATE

By its Attorney
Rorie E.P. Hollenberg

Dated: October 27, 2014

HOTZERO, LLC



Michael E. Jesanis
Managing Director