

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
DG 15-155
VALLEY GREEN NATURAL GAS, LLC
Petition for Franchise Approval

OBJECTION TO MOTION TO STRIKE HEARING TESTIMONY

Now comes Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“EnergyNorth” or “the Company”), an intervenor in DG 15-155, by and through its attorneys, Orr & Reno, P.A., and pursuant to Admin. Rule Puc 203.07(e) objects to Valley Green Natural Gas, LLC’s (“Valley Green”) Motion to Strike Hearing Testimony (“Motion to Strike”) filed on April 29, 2016 in the above-captioned docket. In support of this Objection EnergyNorth states as follows:

1. In accordance with the procedural schedule adopted in this docket the hearing commenced on March 2, 2016. The Commission suspended the March 2, 2016 hearing after approximately two and one-half hours were spent on an opening statement by Valley Green’s counsel and direct examination of their witnesses. Transcript of March 2, 2016, DG 15-155 (“Transcript”) at 76. Valley Green is now asking that the Commission strike all of the testimony that was presented through direct examination on that day. Valley Green claims that because their witness panel will be reconvened when the hearing resumes on May 5 this “makes moot the testimony provided on March 2...” Motion to Strike at 1. Valley Green goes on to say that it wants to eliminate “duplicative testimony in the record” and that granting the motion “will promote the orderly and efficient conduct” of the hearing. In a separate motion Valley Green has asked for leave to file supplemental testimony.

2. What Valley Green is requesting of the Commission is essentially a do over. They want the Commission to grant them the opportunity to go back in the procedural schedule to a time before when their rebuttal testimony was due and before they started to put their case into the record. They want leave to file testimony they should have filed in February and they want the Commission and the parties to ignore the testimony they provided on the record on March 2nd and essentially start all over again. In effect they are asking the Commission to let them retract their own testimony that was provided under oath, on the record now almost two months ago. For the same reasons that they should not be allowed to submit new supplemental testimony (see EnergyNorth's Objection to Motion for Leave to File Supplemental Testimony) they should not be allowed to strike the record they created.

3. Valley Green cites no precedent to support the Motion to Strike, because there really is no precedent for such an approach. Just because they made certain choices like ignoring the deadline for rebuttal testimony and then spending an inordinate amount of time trying to introduce responses to data requests into the record to make their case (see Transcript at 51), thereby prolonging the direct examination of their witnesses, doesn't mean they should be allowed to start over. Granting this motion will in fact impede the orderly flow of the proceeding going forward by confirming that the time and resources that the parties spent preparing for and then participating in March 2nd hearing was a waste of time and giving them a chance to do it over again. Granting the Motion to Strike will in fact result in duplicating time that has already been spent by the Commission and the parties.

4. The record that was created on March 2nd should stand and Valley Green should be required to pick up where they left off. The record created presents evidence on

which the parties should be allowed to conduct cross examination. Striking this testimony may prejudice other parties and the preparation of their cases. Granting the motion would set a dangerous precedent by allowing parties who wished to change or eliminate a significant portion of a record already created to just erase what was done and start over. Granting the Motion to Strike would also encourage administrative inefficiency and reward ignoring established procedural practices that encourage the efficient use of time in the hearing room. It would not aid in the orderly disposition of the proceeding.

Wherefore, EnergyNorth respectfully requests that the New Hampshire Public Utilities Commission:

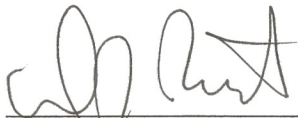
- A) Deny Valley Green's request to strike hearing testimony; and
- B) Grant such other relief as the Commission deems just and equitable.

Respectfully submitted,

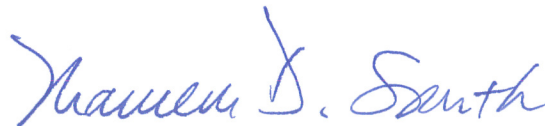
Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities

By Its Attorneys

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Dated: May 2, 2016

Certificate of Service

A copy of this Objection has been served by email this 2nd day of May on the service list in DG 15-155.

Dated: May 2, 2016



Douglas L. Patch

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