

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DG 15-289

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
d/b/a LIBERTY UTILITIES

Petition for Franchise Approval

Motion for Confidential Treatment of Portion of Rebuttal Testimony

Now comes Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“EnergyNorth” or “the Company”), by and through its attorneys, Orr & Reno, P.A., and moves for confidential treatment of a portion of the Rebuttal Testimony of William J. Clark and Steven E. Mullen pursuant to RSA 91-A:5 and Admin. Rule Puc 203.08. In support of this Motion, EnergyNorth states the following:

1. In accordance with the procedural schedule in the above-captioned docket outlined in the secretarial letter in this docket dated December 8, 2015, EnergyNorth is filing the Rebuttal Testimony of William J. Clark and Steven E. Mullen. That testimony contains a reference to a Letter of Intent with one potential anchor customer with whom EnergyNorth has an exclusive right to negotiate for natural gas services. The portion of the testimony for which EnergyNorth is requesting confidential treatment is that customer’s annual dekatherm usage at its commercial facility. The Company does not make customer usage information available to the public.

2. The Company moves at this time for confidential treatment of this information contained in the Rebuttal Testimony. The Company has filed along with this

motion seven (7) redacted copies of the Rebuttal Testimony as well as seven (7) unredacted copies which have been labeled as confidential and packaged separately.

3. The standard the Commission uses in determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure is the analysis articulated in *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008) and *Lamy v. N.H. Public Utilities Commission*, 152 N.H. 106 (2005). Under this analysis the Commission first determines “whether the information is confidential, commercial or financial information, ‘and whether disclosure would constitute an invasion of privacy.’” *Unitil Energy Systems, Inc.*, DE 10-055, Order No. 25,214 (April 26, 2011), p. 35. If a privacy interest is implicated, the Commission then balances the asserted private confidential, commercial or financial interest against the public’s interest in disclosure in order to determine if disclosure would inform the public of the government’s conduct. *Id.* If it does not, then “disclosure is not warranted.” *Id.* See, e.g. *Public Service Company of New Hampshire*, Order No. 25,313 at 11-12 (December 30, 2011); see also, *Power New England, LLC*, Order No. 25,528 at 5-7 (June 25, 2013) (“disclosure of private contractual terms could result in a competitive disadvantage to both NAPG and its vendor”).

4. EnergyNorth submits that the customer’s annual dekatherm usage at its commercial facility should be confidential information, and that it meets the foregoing test. For the reasons presented above, this information is clearly confidential, commercial or financial, and public disclosure would pose economic harm. Because disclosure would also constitute an invasion of privacy, a privacy interest is implicated. Both EnergyNorth and the customer must safeguard this information to protect their respective positions in commercial transactions. Because EnergyNorth’s private, confidential, commercial and financial

interests and those of the customer outweigh the public's interest in disclosure, the information should be protected. Conversely, disclosure will not inform the public of the government's conduct. Public disclosure of this information would not materially advance the public's understanding of the Commission or this particular proceeding at this point in the proceeding. Finally, the harm that would occur to EnergyNorth's and the customer's interests outweighs the interest in disclosure. It would be extremely disadvantageous to EnergyNorth and the customer if it were required to disclose this information.

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

- A) Grant EnergyNorth's motion for confidential treatment of the customer's annual dekatherm usage at its commercial facility; and
- B) Grant such other relief as may be just and equitable.

Respectfully submitted,

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

By Its Attorneys

Orr & Reno, P.A.



Douglas L. Patch, NH Bar #1977
Orr & Reno, P.A.
45 South Main St.
Concord, N.H. 03302-3550
(603) 223-9161
dpatch@orr-reno.com



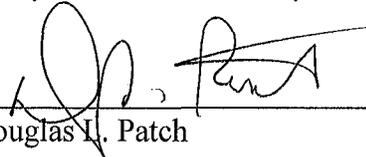
Maureen D. Smith, NH Bar #4857
Orr & Reno, P.A.
45 South Main St.
Concord, N.H. 03302-3550
(603) 223-9166
msmith@orr-reno.com

Dated: February 26, 2016

Certificate of Service

A copy of this Motion has been served by email this 26th day of February 2016 on the service list in DG 15-289.

Dated: February 26, 2016



Douglas L. Patch

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