

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION



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

Petition for Expansion of Franchise to Towns of Pelham and Windham

Docket No. DG 15-362

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is entered into as of the 12th day of August, 2016, by and among the Office of Consumer Advocate (OCA), the Town of Pelham, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“EnergyNorth”), and the Staff (“Staff”) of the New Hampshire Public Utilities Commission (“Commission”) (collectively, the “Settling Parties”). This Settlement Agreement resolves all issues regarding EnergyNorth’s request for the rights to provide retail natural gas service in the Towns of Pelham and Windham that is the subject of this docket.

I. INTRODUCTION

On August 31, 2015, EnergyNorth filed the petition in this docket, with supporting testimony and schedules, seeking authority under RSA 374:22 and RSA 374:26 to provide gas service in the Towns of Pelham and Windham. The OCA notified the Commission of its intent to participate in this docket pursuant to RSA 363:28, and the Commission granted the Town of Pelham’s petition to intervene. After discovery, Staff filed testimony on April 22, 2016. Staff recommended that the “Commission should deny the petition and direct Liberty to include a Discounted Cash Flow (DCF) analysis when seeking approval of a major expansion outside its franchise territory.” Staff testimony at 2.

After review of the petition and supporting evidence, Staff testimony, and various settlement discussions, the Settling Parties have agreed to the terms of this Settlement Agreement. The Settling Parties recommend that the Commission approve this Settlement Agreement without condition or modification.

II. TERMS OF AGREEMENT

A. Franchise Rights

The Settling Parties recommend that the Commission grant EnergyNorth the franchise rights to serve the towns of Pelham and Windham.

B. Distribution Rates to be Charged to Customers

EnergyNorth will provide service to customers located in the Phase 1 build in Windham under EnergyNorth's standard distribution rates.

EnergyNorth will provide service to customers in Pelham under EnergyNorth's Managed Expansion Plan (MEP) rates, approved by Order No. 25,933 issued August 4, 2016 in (Docket No. DG 16-447).

C. Commencement of Construction

Construction of either project will not commence unless the sum of the revenue from committed commercial and industrial (C&I) load for the first six years, plus the revenue from committed residential load for the first eight years, is at least 25% of the cost of construction, excluding overheads, for the project.

D. Take Station Cost Recovery

EnergyNorth will recover the costs incurred to construct a take station in Pelham through its distribution rates as part of a rate case. These costs will be amortized over 10 years,

including a pre-tax return, based on the Commission approved capital structure and cost of capital.

E. Risk Sharing

EnergyNorth will reduce its revenue deficiency in all future rate cases filed within five years of the in-service date of the first phase of the Pelham project as follows (*see* Appendix B for an illustration of how a reduction in the revenue requirement would be calculated):

1. In the first rate case the amount of reduction to the revenue deficiency will be one-half of the difference between the anticipated average annual revenue from Pelham customers over the three years following the date of implementation of permanent rates and the average annual revenue requirement over the same period of the Pelham construction costs and amortization of the Pelham take station, if such difference is negative. If a second rate case is filed within five years, the amount of the reduction to the revenue deficiency will be the full difference between the anticipated Pelham revenue requirement and projected revenues (calculated as described above).

2. For purposes of this risk sharing section, costs will include actual direct capital costs to date, the Pelham take station amortization expense, and projected direct capital costs for system reinforcement and customer growth to serve Pelham.

3. For purposes of this risk sharing section, anticipated revenue will include committed revenue plus Estimated Annual Margin as defined in EnergyNorth's main extension provision in its tariff.

4. This risk sharing provision will terminate if the difference between anticipated average annual revenue and average annual revenue requirement over the same period is positive, *i.e.*, if average annual revenue exceeds average annual revenue requirement.

EnergyNorth will file annual updated Pelham and Windham DCF analyses in January of each year following the first full year of commencement of service until the projects achieve a positive annual return, or for a maximum of five years, but no less than three years (*see* Appendix C for an illustration of such an annual report). The annual reports are to include the following:

1. A comparison of the original and updated DCF analyses;
2. A comparison of the original annual projected residential and C&I customer conversions and gross profit margin, by fuel type, with the actual annual conversions and gross profit margin; and
3. A Current Heating Fuel Value table comparing the annual average residential heating rate calculated using the EnergyNorth bill impact schedule in its winter cost of gas filing and the cost of alternative fuels in effect at that time as reported by the N.H. Office of Energy and Planning.

III. CONDITIONS

This Settlement Agreement is expressly conditioned on the Commission's acceptance of all its terms, without change or condition. If the Commission does not accept this Settlement Agreement in its entirety, without change or condition, or if the Commission makes any findings that go beyond the scope of this Settlement 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 Settlement 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 Settlement Agreement will not constitute continuing approval of or precedent for, any particular principle or issue, but such acceptance does constitute a determination that the Settlement Agreement's provisions in their totality are just and reasonable and consistent with the public interest.

The discussions that produced this Settlement 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 Settlement Agreement. This Settlement 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. Because they have entered into this Settlement Agreement, the Settling Parties agree 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 Settlement 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 Settlement 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: August __, 2016

Town of Pelham

By its Town Administrator
Brian McCarthy

Dated: August 15, 2016

Office of Consumer Advocate



By the Consumer Advocate
Donald M. Kreis

Dated: August 12, 2016

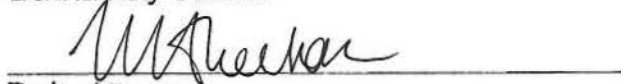
Staff of the New Hampshire Public Utilities
Commission



By its Attorney
Alexander Speidel

Dated: August 16, 2016

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



By its Attorney
Michael J. Sheehan