

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

**DG 15-362
DG 16-852**

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

**Petition for Expansion of Franchise to Towns of Pelham and Windham
and
Petition for Expansion of Franchise to the Town of Hanover and City of Lebanon**

**Order Recognizing Expiration of Franchise Authority
in Windham, Hanover, and Lebanon**

ORDER NO. 26,399

August 28, 2020

This order recognizes that Liberty Utilities' franchise authority to serve natural gas to customers in Hanover, Lebanon, and Windham, New Hampshire, has expired by operation of law.

On February 8, 2017, the Commission granted Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty, or the Company) permission and approval to serve natural gas to customers in Pelham and Windham, New Hampshire. *See* Order No. 25,987, Docket No. DG 15-362.

On March 5, 2018, the Commission granted Liberty permission and approval to serve natural gas to customers in Hanover and Lebanon, New Hampshire. *See* Order No. 26,109, Docket No. DG 16-852.

In Order Nos. 25,987 and 26,109, the Commission granted Liberty franchise authority pursuant to RSA 374:26, which states that the Commission "may prescribe such terms and conditions for the exercise of the privilege granted under such permission as it shall consider for

the public interest.” In those orders, the Commission also cited RSA 374:27, which states that the franchise authority “may only be exercised within 2 years after the same shall be granted, and shall not be exercised thereafter.”

In Order No. 26,109 granting Liberty’s requests for franchise authority in Hanover and Lebanon, the Commission stated, “under RSA 374:27, our grant of a franchise to Liberty must be exercised within two years of the date of this order or such authority will expire. In the event Liberty has begun but not completed construction and is not flowing gas *within* two years of the date of this order, it shall file a status update, and petition the Commission to continue the franchise authority.” Order No. 26,109 at 22 (emphasis added).

On August 6, 2020, Commission Staff filed a recommendation that the expiration of franchise authority be noted by Commission order, and that certain requirements be met in the event that Liberty chooses to renew its request for franchise authority in Windham, Hanover, and Lebanon. Staff reported that, to the best of its knowledge, based on review of Company filings and reports to the Commission’s Safety Division relative to project activities, the Company has not yet initiated construction, operation, or service in those municipalities. In addition, Liberty did not file a status update, or petition the Commission to extend its franchise authority in Hanover or Lebanon within two years of the order granting franchise authority, as required by Order No. 26,109, or a status update or petition to extend its authority in Windham within two years of the issuance of Order No. 25,987.

Liberty’s authority to operate and serve customers in Windham expired by statute on February 8, 2019, and its authority to operate and serve customers in Hanover and Lebanon expired by statute on March 5, 2020. We therefore permanently close Docket Nos. DG 15-362 and DG 16-852.

We construe the statutory expiration of Liberty's franchise authority pursuant to RSA 374:27 to be without prejudice. We therefore accept Staff's recommendation that Liberty submit new petitions if the Company again seeks franchise authority in any of the three towns. As Staff noted, the Commission granted Liberty franchise authority in the towns based on settlement agreements that included agreed upon conditions for the Company's authority to operate in each municipality. Given that history, prior to filing a new petition or petitions, we direct Liberty to reach out to each municipality and other signatories of the applicable settlement agreement(s) to discuss the conditions approved in Commission Orders 25,987 and 26,109, and any other then relevant issues. *See* RSA 374:26 (Commission may grant franchise authority without hearing only when all interested parties are in agreement). Also, given the history of these dockets, as noted above, we direct that Liberty include a business plan and demonstration of customer interest sufficient to support a finding that the franchise(s) sought would be for the public good. *See id.* (Commission may grant franchise authority upon a finding that it would be for the public good, and not otherwise).

Based upon the foregoing, it is hereby

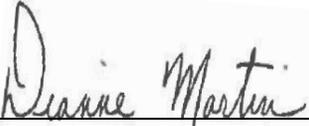
ORDERED, that Liberty's franchise authority to serve natural gas to customers in the Towns of Windham and Hanover, and the City of Lebanon has expired in each municipality, as outlined above; and it is

FURTHER ORDERED, that if Liberty wishes to renew its requests for authority to serve natural gas in Windham, Hanover, or Lebanon, it must submit new petitions requesting such authority; and it is

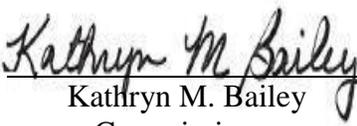
FURTHER ORDERED, that any such new petition for renewed authority to serve natural gas in Windham, Hanover, or Lebanon shall include a report of its discussions with each municipality, as applicable, and new settlement agreements, if reached; and it is

FURTHER ORDERED, that Liberty support any such new petition for franchise authority in Windham, Hanover, or Lebanon with a business plan and demonstration of current customer interest in natural gas service.

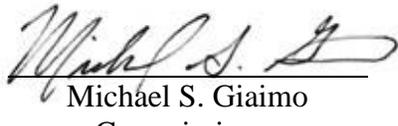
By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of August, 2020.



Dianne Martin
Chairwoman

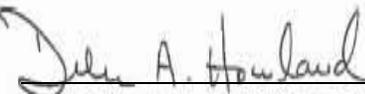


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 15-362

Printed: 8/28/2020

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