

THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

Docket No. DG 15-442

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

**Petition for Approval of a Gas Franchise in Jaffrey, Rindge, Swanzey, and Winchester**

Objection to Petition to Intervene of Northern Utilities, Inc.

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (EnergyNorth), through counsel, respectfully objects to the petition to intervene filed by Northern Utilities, Inc. (Northern).

In support of this objection, EnergyNorth states as follows:

1. This docket involves EnergyNorth's request for the franchise rights to provide natural gas service to four towns in southwestern New Hampshire: Jaffrey, Rindge, Swanzey, and Winchester. The issue in this docket is whether EnergyNorth "would be in a position to furnish reasonably safe and adequate, and in all other respects just and reasonable, gas service and facilities in Jaffrey, Rindge, Swanzey, and Winchester." Order of Notice at 2.
2. Northern filed a petition to intervene in this docket. EnergyNorth objects.
3. The statute governing intervention mandates intervention if the movant's "rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding," but grants the Commission discretion to determine whether others may intervene using the "interests of justice" standard. RSA 541-A:32, I and II.

4. Northern's petition apparently seeks intervention under both the mandatory and permissive clauses of RSA 541-A:32. Its opening paragraph cites language from both sections: "Northern's interests are likely to be affected by this proceeding and the interests of justice ... will not be impaired by allowing the intervention."
5. Northern makes three statements in support of its interests in this docket:
  - a. "[P]ositions taken by Liberty, Commission Staff, the [OCA], or other intervenors, as well as the Commission's ultimate analysis in this docket, may impact Northern's business and its ability or efforts to expand and extend gas service to New Hampshire customers in the future." Petition at 1-2.
  - b. "As a natural gas utility that may seek to extend its gas distribution system and franchise in the future, Northern has a substantial and direct interest in the policy developments implicated by Liberty's petition." Petition at 2.
  - c. "Liberty's proposal raises several important policy concerns including, but not limited to .... As a natural gas utility operating in New Hampshire that may seek to extend its gas distribution system and franchise territory, Northern has a substantial and direct interest in the ability of a natural gas utility to obtain a franchise to expand service to customers." *Id.*
6. Summarized, Northern's claimed interest is that policy questions that "may" be addressed and resolved in this docket "may" affect requests that Northern "may" make to expand its franchise "in the future."
7. Northern's service territory is limited to the state's seacoast region, far from the towns at issue in this docket. See <http://unitil.com/company/territory-map>.
8. Northern does not express an intent to serve Jaffrey, Rindge, Swanzey, or Winchester now or in the future.
9. The Commission has allowed the intervention of parties with little direct interest in a docket if they "raise[]" certain issues that are relevant to this proceeding that will not

necessarily be addressed by other parties.” *Public Serv. Co. of New Hampshire*, Order No. 25,132 at 2 (July 20, 2010) (Commission allowed Sierra Club and Conservation Law Foundation to intervene into a reconciliation docket because the issues they intended to raise will “serve the purposes of justice if pursued”).

10. Northern’s petition does not describe issues “that will not necessarily be addressed by other parties.” Indeed, Northern acknowledges that the issues of interest *will* be addressed by the parties.
11. Northern’s sole interest is to comment on policy questions in this docket. The Commission has rejected similar intervention requests.
12. In *Clean Power Development*, Order No. 25,075 (Feb. 24, 2010), a small power producer in Berlin filed a complaint against PSNH for refusing to negotiate the purchase of power from its proposed biomass facility. The Commission denied several petitions to intervene for reasons that apply to Northern’s request:

The Town of Winchester stated it has been approached by CPD concerning a possible biomass facility within Winchester and finds the “bad behavior on the part of PSNH” to be indicative of the need to move to the final stages of deregulation in the State. While the outcome of this docket will be of interest to the Town of Winchester, we find that it has not met the standards of RSA 541-A:32 and, therefore, we will deny its petition to intervene. We welcome the Town’s input regarding the CPD plant, energy policy and deregulation, through written statements submitted to the file.

State Representatives David Borden, Robin Read, Judith Spang and James McClammer sought intervention as PSNH ratepayers and legislators interested in advancement of renewable power, while protecting environmental and rate impacts. We find their policy perspectives to be valuable but not sufficient to constitute the interest required by RSA 541-A:32 to intervene as parties with full rights of participation. We will, therefore, deny their requests to intervene. We welcome their input, however, through written submissions to the file.

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Robert Perry, a resident of Strafford, also states an interest in environmentally sound biomass facilities and his view that the CPD project

would be of benefit to the City of Berlin and the state. He further argued that PSNH has not been acting in the public good in its dealings with CPD. We do not find a direct interest affected by the complaint and will deny the request to intervene, though we welcome his views through written statements submitted to the file.

Carbon Action Alliance and the Sierra Club are advocacy organizations that promote the sound development of renewable power, environmental protection and reduction of carbon dioxide emissions but are otherwise not directly affected by the complaint. We find they have not met the standards of RSA 541-A:32 and will deny their requests to intervene. We of course welcome their input on policy issues through written statements submitted to the file.

*Id.* at 3-4 (emphasis added).

13. Similarly, the Commission has denied one utility's request to intervene in the docket of another utility for "informational purposes" and to "learn how [the other utility's] approach will work and whether it is acceptable to" the Commission, *Unitil Energy Systems*, Order No. 25,079 at 10 (Feb. 26, 2010), when the purpose for intervention was to "monitor" the docket, *Unitil Energy Systems*, Docket DE 10-001 (Feb.23, 2010, secretarial letter), and when a non-utility had a "general interest in competitive markets or in a bidding process that has not yet occurred," *Liberty Utilities (Granite State Electric) Corp.*, Order No. 25,715 at 3 (Sept. 8, 2014).
14. Northern has every right to monitor this docket and file written comments or briefs that address the policy issues of concern. Northern has not, however, met the intervention standards of RSA 541-A:32.

WHEREFORE, EnergyNorth respectfully requests that the Commission:

- A. Deny Northern's petition to intervene; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

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

By its Attorney,



Date: December 3, 2015

By: \_\_\_\_\_

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Certificate of Service

I hereby certify that on December 3, 2015, a copy of this Motion has been forwarded to the service list in this docket.



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Michael J. Sheehan