

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

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

DOCKET NO. DG 15-494

**OBJECTION TO THE NEW HAMPSHIRE MUNICIPAL PIPELINE
COALITION'S PETITION TO INTERVENE**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“EnergyNorth” or the “Company”), in accordance with Puc 203.07 and RSA 541-A, hereby objects to the petition to intervene filed by the New Hampshire Municipal Pipeline Coalition (the “Coalition”) in the above-captioned docket (the “Petition”). In support of this objection, the Company states as follows:

1. Through its Petition, the Coalition seeks to intervene in this docket which was opened by the Commission to consider the Company’s request to purchase firm transportation capacity for natural gas on the portion of the Northeast Energy Direct (“NED”) pipeline proposed to be constructed from Susquehanna County, Pennsylvania to Wright, New York (the “Supply Path”). The Coalition consists of thirteen New Hampshire towns (Brookline, Fitzwilliam, Greenville, Litchfield, Mason, Milford, New Ipswich, Pelham, Richmond, Rindge, Temple, Troy and Winchester) that are along the proposed route of a pipeline that has been proposed to be constructed from Wright, New York to the western side of the Company’s distribution system near Nashua, New Hampshire. The Coalition seeks to participate in order to “allow the Coalition Towns to protect their interests in the financial, physical, and environmental impacts resulting from Liberty’s Precedent Agreement with Tennessee and the ramifications of

constructing and operating the NED pipeline across property owned by the Coalition Towns and their citizens.” Petition at 5. The Commission should deny the Petition because the Coalition has not demonstrated that its “rights, duties and privileges” would be affected by this proceeding which is limited to a consideration of whether the Company’s purchase of firm transportation capacity along a pipeline that will traverse Pennsylvania and New York – not New Hampshire - is prudent and reasonable.

2. RSA 541-A:32 provides that a petition to intervene shall be granted where “(b) [t]he petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law and (c) [t]he presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.”

3. The Coalition’s articulated basis for participating in this docket is that citizens of its member towns “...will be substantially impacted by the construction, operation and maintenance of the NED pipeline” and because “[t]he Coalition Towns and their citizens own property that will be adversely impacted and taken by Tennessee, either by sale or by eminent domain – to facilitate construction of the NED Project.” Petition at 4-5. The Petition fails to acknowledge that the construction, operation and maintenance of the Supply Path portion of the Northeast Direct pipeline cannot impact the property or environmental rights of the Coalition towns as the pipeline at issue will not be located in New Hampshire.¹ Even if it were, the

¹ This is similar in many regards to the request by the Town of Dracut to intervene in DG 14-380 in which it alleged that “Energy delivery plans in the Northeast impact Dracut's citizenry, property values, preparedness, its fire department, and municipal services amongst other things.” Town of Dracut Petition to Intervene at 1. The Hearing Examiner denied that petition, which was affirmed by a February 19, 2015 Secretarial Letter.

Commission has repeatedly held that concerns about property rights potentially affected by the procurement of pipeline capacity are not the proper subject of consideration by the Commission. In DG 14-380, in which the Commission considered the Company's proposed purchase of capacity on the Market Path portion of the NED pipeline, the Commission held that "[t]his proceeding does not concern and will not result in any approval of, or permissions for, siting or construction of TGP's NED project. Those matters are pending determination by other regulatory agencies, including the Federal Energy Regulatory Commission (FERC)." Order 25,767 at 3. *See also* Order 25,822 at 24 ("The important issues raised in the public comments, including the impact of the NED Pipeline on the communities through which the pipeline will run, are solely within the province of FERC. Consequently, we do not consider those siting issues in our review of the Precedent Agreement."); Order 25,843 at 3 ("While we recognize that his interests in the siting of the NED Pipeline are important, they are not directly affected by our approval of EnergyNorth's contract for capacity with TGP."). The same reasoning should apply here, and as a result, the Petition should be denied.

4. The Coalition also seeks intervention on the basis that "[t]he Coalition Towns are also substantially affected by Liberty's franchise expansion plans in connection with the NED Project." Petition at 5. The Petition cites to six of its member towns which are in areas in which the Company may have an interest in serving in the future (Richmond, Troy, Fitzwilliam, New Ipswich, Greenville, and Brookline) though there currently is no franchise request pending to serve those towns. Such an interest, if it exists at all, does not rise to the level of a "substantial interest" as required by RSA 541-A:32. If the Company were to seek to serve those towns in the future, presumably the towns would have the opportunity to participate in any franchise proceeding initiated by the Company. Their participation here would be based on a speculative

interest, at best, which does not meet the statutory standard. Other Coalition members that are in areas for which franchise proceedings are pending (*see* DG 15-442 regarding Rindge and Winchester, and DG 15-362 regarding Pelham), are already participants in those dockets. Those dockets are the most appropriate venue in which to express their views regarding potential natural gas distribution service within their town limits, not this docket. *Id.* at 5.² *Id.* The Towns of Mason and Temple for which no franchise request has been contemplated or is pending, plainly have no legally recognizable interest in this proceeding.

5. The Petition further asserts that “[a] few of the Coalition Towns are also existing Liberty ratepayers, including Litchfield, Merrimack, and Milford.” Petition at 5. However, the Petition does not identify Merrimack as a member of the Coalition, and thus it is unclear as to its membership status. *See id.* at 1 (listing Coalition towns). Nevertheless, the Company would note that it does provide gas service to town buildings in Merrimack and Milford, and thus would not object to their participation in the docket to the extent it related to their role as customers affected by the potential purchase of firm transportation capacity. The Company does not provide gas service to the Town of Litchfield itself, and would thus want to understand further the basis for its proposed intervention, since its property rights and environmental interests are not the proper subject of this docket, and it does not have any financial interests implicated since it is not a customer.

6. The Coalition alternatively argues that it should be granted intervention status “in order to have real time access to the record and the ability to examine issues of concern to them.” Petition at 6. The Company requests that the Commission also deny this request, as the Coalition can obtain timely, publicly available, information about the proceeding from the Commission’s

² For Mason and Temple, presumably the only stated basis for intervention are the towns’ concerns associated with being along the proposed route of the NED pipeline.

docket book. The Commission should not exercise its discretionary authority to permit intervention so that the Coalition can “examine issues of concern” to it since as described above, the Petition does not identify or state issues validly within the scope of this proceeding.

7. For these reasons, the Company requests that the Commission deny the Coalition’s petition to intervene.

WHEREFORE, EnergyNorth respectfully requests that the Commission:

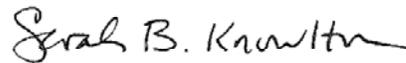
- A. Deny the Coalition’s Petition to Intervene;
- B. Grant the Towns of Merrimack and Milford the right to intervene but limit their intervention to their interests as retail gas customers, and;
- C. Grant such other relief as is just and equitable.

Respectfully submitted,

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

By Its Attorneys,

RATH, YOUNG AND PIGNATELLI,
Professional Association
One Capital Plaza
Post Office Box 1500
Concord, New Hampshire 03302-1500
(603) 226-2600

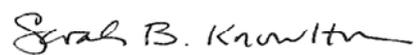


January 4, 2016

By: _____
Sarah B. Knowlton, Esquire

Certificate of Service

I hereby certify that on January 4, 2016, a copy of this Objection to the Coalition's Petition to Intervene has been forwarded to the service list in this docket and Richard A. Kanoff, Esq.



Sarah B. Knowlton