

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

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March 23, 2017 - 10:03 a.m.
Concord, New Hampshire

RE: DG 16-852
LIBERTY UTILITIES (ENERGYNORTH
NATURAL GAS) CORP. d/b/a
LIBERTY UTILITIES, INC.:
Petition for Expansion of Franchise
to the Town of Hanover and City
of Lebanon. (Prehearing conference)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp. d/b/a Liberty
Utilities:
Michael J. Sheehan, Esq.

Ariel Arwen & Jonathan Chaffee, *pro se*

Samantha White, *pro se*

Reptg. Residential Ratepayers:

Brian Buckley, Esq.
Pradip Chattopadhyay, Asst. Cons. Adv.
Office of Consumer Advocate

Reptg. PUC Staff:

Alexander F. Speidel, Esq.
Stephen Frink, Asst. Dir./Gas & Water

Court Reporter: Steven E. Patnaude, LCR No. 52

**CERTIFIED
ORIGINAL TRANSCRIPT**

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P R O C E E D I N G

1
2 CHAIRMAN HONIGBERG: Good morning,
3 everyone. We're here in Docket DG 16-852,
4 which is a Petition by Liberty Utilities
5 (EnergyNorth Natural Gas) Corp. to expand its
6 franchise territory to the Town of Hanover and
7 the City of Lebanon. We have some intervention
8 petitions, we have a Motion for Confidential
9 Treatment of certain information.

10 Let's start by taking appearances
11 from Liberty, the OCA, and Staff, and then
12 we'll start talking with the intervenors.

13 MR. SHEEHAN: Good morning,
14 Commissioners. Mike Sheehan, on behalf of
15 Liberty Utilities (EnergyNorth Natural Gas)
16 Corp.

17 MR. BUCKLEY: Good morning,
18 Commissioners. Brian Buckley, on behalf of the
19 Office of the Consumer Advocate. And with me
20 today is Pradip Chattopadhyay, the Assistant
21 Consumer Advocate.

22 CHAIRMAN HONIGBERG: As I told you,
23 Mr. Buckley, it gets easier and easier every
24 time you do it.

1 MR. SPEIDEL: Good morning,
2 Commissioners. Alexander Speidel, representing
3 the Staff of the Commission. And I have with
4 me Stephen Frink, who is the Assistant Director
5 of the Gas & Water Division.

6 I also have a couple of small items
7 of interest for the Commissioners. Mr. Corwin,
8 of the City of Lebanon, gave me a telephone
9 call yesterday afternoon indicating that no one
10 from the City will be able to attend today's
11 prehearing conference. But he indicates that
12 that is not an indication of lack of interest,
13 but rather personnel requirements and prior
14 commitments. So, he does wish to have been
15 able to have been here, but he couldn't make
16 it.

17 And, also, there is no technical
18 session following this prehearing conference.
19 There is a great deal going on right now. And
20 Staff will be developing a procedural schedule
21 and sharing it with the service list by e-mail
22 in short order.

23 Thank you.

24 CHAIRMAN HONIGBERG: Both helpful.

1 Thank you. I appreciate that.

2 So, let's talk about intervenors.

3 You've already told us that no one is here for
4 the City of Lebanon. Is there any objection to
5 the City of Lebanon's participation?

6 MR. SHEEHAN: No, sir.

7 CHAIRMAN HONIGBERG: I wouldn't have
8 thought so. All right. Well, that's going to
9 be granted.

10 All right. Let's find out who else
11 is here. I have an intervention motion from
12 Ms. Arwen and Mr. Chaffee. I see Ms. Arwen, I
13 recognize her. And you're Mr. Chaffee,
14 welcome.

15 You don't necessarily need to say
16 anything, let's just find out. Does anybody
17 object to the intervention motion filed Ariel
18 Arwen and Jonathan Chaffee?

19 MR. SHEEHAN: The Company does not
20 object. The only comment I was going to make
21 is to request that that intervention, and the
22 other one pending, that they make efforts to
23 combine their -- it seems like their interests
24 are very similar. And, if we could have an

1 understanding that they combine discovery
2 requests, *etcetera*, that would be appreciated.

3 But we do not object to their
4 intervention.

5 CHAIRMAN HONIGBERG: Staff or the
6 OCA, any position on the individuals?

7 Mr. Buckley, you look like you're
8 ready to say something.

9 MR. BUCKLEY: We're fine with them,
10 either in combination or as individuals.

11 CHAIRMAN HONIGBERG: Mr. Speidel?

12 MR. SPEIDEL: No objection to the
13 intervenors' participation. The idea of
14 combining their discovery is appealing to us,
15 but we don't demand it as a requirement of
16 their intervention.

17 CHAIRMAN HONIGBERG: And, then, Devin
18 Wilkie and Samantha White, anybody here? Yes.

19 MS. WHITE: Yes.

20 CHAIRMAN HONIGBERG: Who are you,
21 ma'am?

22 MS. WHITE: I'm Samantha White.

23 CHAIRMAN HONIGBERG: Welcome.

24 MS. WHITE: Yes. Thank you.

1 CHAIRMAN HONIGBERG: So, you're
2 taking the same position, Mr. Sheehan?

3 MR. SHEEHAN: Yes, sir. Thank you.

4 CHAIRMAN HONIGBERG: All right. I
5 think we're going to grant the intervention
6 petitions. At this point, I don't think we're
7 going to require the combination or
8 coordination. I kind of expect that that will
9 happen naturally at some level.

10 If it becomes a problem, if there's
11 undue repetition, then, certainly, I would
12 expect the Parties to come back to us to look
13 for some structure.

14 What else have we got? We've got
15 confidentiality motions, correct, Mr. Sheehan?

16 MR. SHEEHAN: Yes, sir. And I spent
17 some time on the motion to try to lay out all
18 the details. Whether you wish to address it
19 today, orally, it's certainly up to you. It
20 could certainly be an issue we take up later as
21 well.

22 CHAIRMAN HONIGBERG: Do either the
23 OCA, Staff, or any of the individual
24 intervenors have a position on the

1 confidentiality motion?

2 MS. ARWEN: Yes.

3 CHAIRMAN HONIGBERG: Who's speaking?

4 Ah.

5 MS. ARWEN: Ariel Arwen.

6 CHAIRMAN HONIGBERG: Ms. Arwen, Yes.

7 MS. ARWEN: On behalf of Mr. Chaffee
8 and myself. Yes. We -- first of all, we're
9 approved as intervenors at this point?

10 CHAIRMAN HONIGBERG: Correct.

11 MS. ARWEN: Okay. So, we would like
12 to ask your guidance as to the deadline for
13 submitting an objection to that motion?

14 CHAIRMAN HONIGBERG: Okay. Well,
15 what's reasonable? How much time do you need?
16 In the normal course, on an objection to a
17 motion, would be due in ten days of filing.
18 Here, obviously, that happened a long time ago.
19 So, it would seem that the maximum, as I'm
20 sitting here, is likely to be ten days that
21 we'd be talking about. Is that -- are you able
22 to do it sooner than that or you want us to say
23 "respond in ten days"?

24 MS. ARWEN: I think ten days is all

1 right.

2 CHAIRMAN HONIGBERG: All right. You,
3 and for all the intervenors, this is true,
4 you've been here before, so you know a little
5 bit about how this works. That we expect that
6 there will be a discussion of and probably be
7 entering into confidentiality agreements that
8 would allow intervenors access to the
9 documents, even if they are deemed
10 confidential.

11 Does that obviate the need for your
12 objection or do you still feel that it's not
13 appropriate to treat as confidential the
14 information filed by the Company?

15 MS. ARWEN: I'd like to make sure I
16 understand what you're saying. Which is that,
17 if I were to sign -- if we were to sign a
18 confidentiality agreement, then we could see
19 certain documents. Is that what you're
20 referring to?

21 CHAIRMAN HONIGBERG: That's correct.

22 MS. ARWEN: Yes. I am aware of that.
23 But still we're interested in making an
24 objection.

1 CHAIRMAN HONIGBERG: Okay. Staff?

2 OCA?

3 Mr. Speidel.

4 MR. SPEIDEL: Staff supports the
5 Company's Motion for Confidential Treatment as
6 reasonable.

7 CHAIRMAN HONIGBERG: Mr. Buckley, you
8 have any position on this?

9 MR. BUCKLEY: No position.

10 CHAIRMAN HONIGBERG: All right. So,
11 what we'll do, Mr. Sheehan, I think is allow
12 the intervenors to file an objection, if that's
13 what they choose to do, within ten days. Today
14 is the 23rd. So, that would -- ten days would
15 put us on April 2nd, which I think is a
16 weekend, isn't it?

17 (Chairman Honigberg and
18 Commissioner Bailey conferring.)

19 CHAIRMAN HONIGBERG: Yes. So, I
20 think the Monday, April 3rd, then is the due
21 date.

22 Anything else then, in the nature of
23 preliminary matters, before we give the Parties
24 an opportunity to state their preliminary

1 positions on the docket?

2 *[No verbal response.]*

3 CHAIRMAN HONIGBERG: All right.
4 Seeing none, Mr. Sheehan, you get to go first.

5 MR. SHEEHAN: Thank you. We're
6 pleased to be here to renew our request to
7 serve the City of Lebanon and the Town of
8 Hanover with natural gas service. The request
9 we have before the Commission is for the
10 franchise rights or simply the right to conduct
11 that business. Our plans are the same as they
12 were in our last filing. That we intend to
13 build a CNG/LNG facility in the Town of
14 Lebanon. That we intend to construct an
15 otherwise traditional underground pipeline
16 system serving those two communities and
17 building them out over a number of years. We
18 intend to request approval of the normal,
19 standard EnergyNorth distribution rates for
20 these customers, and a separate cost of gas
21 rate, because the costs for these customers
22 will be unique to this particular area,
23 depending on the facility we build and the
24 mechanism for getting the gas to them.

1 This is a new docket. It will stand
2 on its own merits. But we do hope that there
3 will be some efficiency gained by the work done
4 in the prior cases that involved the same
5 issue. To the extent there were shortcomings
6 in the Staff's and Commission's view from the
7 last filing, we hope to have cured them with
8 this renewed filing and through the discovery
9 that will follow today.

10 So, we look forward to working with
11 the Parties to showing the Commission that we
12 do meet the standards for a franchise in this
13 area. And, in some years down the road, we'll
14 be coming back for a recovery of the costs
15 incurred to build out the system.

16 Thank you.

17 CHAIRMAN HONIGBERG: Thank you,
18 Mr. Sheehan. Ms. Arwen, why don't you go next.

19 MS. ARWEN: Thank you, Commissioner.
20 Perhaps I'll let Mr. Chaffee speak first, since
21 we're together, and then I'll add something?

22 CHAIRMAN HONIGBERG: Fair enough.

23 MS. ARWEN: If that's all right?

24 CHAIRMAN HONIGBERG: Fair enough.

1 Mr. Chaffee.

2 MR. CHAFFEE: Thank you. I'm here as
3 a ratepayer and as a member of the Lebanon
4 Energy Advisory Committee. And, in the time
5 since this first -- Liberty Utilities' first
6 application, there's been increasing concern on
7 the parts of the municipal governments of
8 Lebanon and Hanover and of citizens about this
9 proposal.

10 I'm asking for intervenor status
11 because of this concern that the decision,
12 which is being offered to perhaps 9,000
13 businesses and individual households in the two
14 towns, to scrap their current heating apparatus
15 and make an investment, which would be an
16 investment over 25, 35 years in new natural gas
17 heating equipment, making that commitment would
18 -- might turn out to be a bad decision on the
19 parts of Lebanon and Hanover residents, one
20 which would be regretted in the future.

21 CHAIRMAN HONIGBERG: Ms. Arwen.

22 MS. ARWEN: I think I echo that. And
23 one of our concerns is the economic
24 consequences should those customers retrofit.

1 Whether the future pricing of natural gas is
2 projected to be volatile or stable is
3 debatable, and there's a lot of research around
4 that. And, so, that's one of our concerns on
5 behalf of our community members.

6 I wanted the Commission to be aware
7 that, beginning with the last year and a half
8 of Liberty Utilities competing with Valley
9 Green Natural Gas, there was growing citizen
10 awareness and concern about this possible
11 franchise, and it continues to grow.

12 And one of the outcomes of that
13 concern was a funded grant, written so that
14 Hanover, New Hampshire became one of -- I think
15 it's up to 23 cities now nationally, as part of
16 the Sierra Club's Ready for 100 Percent
17 Renewable Campaign. The goals of which are to
18 really try to bring about a renewable society,
19 with specific goals of working toward a
20 renewable electric grid by 2030, and adding in
21 heat and transportation by 2050.

22 And Sustainable Hanover, which is the
23 Town's appointed energy committee, embraced
24 those goals on December 14th. And the

1 Selectboard in Hanover, on March 6th, formally
2 adopted a resolution supporting those goals,
3 which are headed toward a vote at town meeting
4 May 7th.

5 So, there's a very strong awareness
6 of the issues at hand, in Hanover, in
7 particular. And logic would have one realize
8 that, if this system comes to Lebanon and
9 Hanover, with an average depreciation life of
10 around 40 to 50 years, that one cannot have
11 both. One cannot be renewable and have this
12 system as well.

13 So, there was a large op-ed on March
14 2nd revealing some of the anchor customers, and
15 people have been calling the author and wanting
16 to make phone calls. There's a variety of
17 community groups, different from the last time
18 around, that are really looking at this
19 situation.

20 Lebanon also, just last Thursday, the
21 Lebanon Energy Advisory Committee passed a
22 motion asking the planning office to propose a
23 draft addendum removing all references to
24 "natural gas" in the Energy chapter of the City

1 of Lebanon's Master Plan. The Master Plan,
2 that Energy chapter was written around 2012,
3 and it's a great -- a great chapter in, like,
4 incredible ways. But it does have specific
5 citations lauding natural gas, because, at that
6 time, important research hadn't developed.
7 And, so, it was still considered to be a good
8 thing, a bridge fuel.

9 And the fact that LEAC moved to ask
10 the Planning Office to begin the process, which
11 will take a while, it has to go to City Council
12 and back to the Planning Board. So, it's just
13 the beginning step. But the fact that they
14 approved the motion is significant.

15 And, so, then, since I'm supposed to
16 be explaining why I'm intervening, I am a
17 ratepayer --

18 CHAIRMAN HONIGBERG: Well, just let
19 me stop you there.

20 MS. ARWEN: Ah.

21 CHAIRMAN HONIGBERG: You're an
22 intervenor.

23 MS. ARWEN: Okay. Okay.

24 CHAIRMAN HONIGBERG: You don't need

1 to explain that anymore.

2 MS. ARWEN: Okay. So, I guess that
3 sums it up.

4 CHAIRMAN HONIGBERG: All right.

5 MS. ARWEN: Thank you very much.

6 CHAIRMAN HONIGBERG: Thank you, Ms.
7 Arwen.

8 Ms. White, just before you start, I
9 want to clarify something about the
10 intervention for you and Devin Wilkie.
11 Mr. Wilkie -- or, your petition indicates that
12 Mr. Wilkie wants to intervene also on behalf of
13 the Upper Valley Young Liberals --

14 MS. WHITE: Yes.

15 CHAIRMAN HONIGBERG: -- as a group,
16 is that --

17 MS. WHITE: Yes.

18 CHAIRMAN HONIGBERG: Mr. Sheehan, do
19 you have a position on that?

20 MR. SHEEHAN: We're not sure who the
21 group is, what they consist of, how many people
22 there are. Whether it is, in fact, a
23 recognized -- something more than just an
24 affiliation of people. If, for example, it was

1 a -- the Sierra Club, we're dealing with a
2 club, and we know -- I mean, a corporation.
3 So, we have some concerns about the undefined
4 nature of this group.

5 Certainly, if the individuals meet
6 the intervention requirements, they could
7 intervene on their own. So, we would prefer
8 that it be, absent more information, be
9 intervention of these individuals.

10 CHAIRMAN HONIGBERG: Yes. Can you
11 clarify a little bit who we're talking about
12 here?

13 MS. WHITE: So, the Upper Valley
14 Young Liberals is a local group. And I believe
15 that he is intervening -- or, requesting to
16 intervene on behalf of just the eight -- there
17 are eight other members on a steering committee
18 as part of the Upper Valley Young Liberals.

19 MS. ARWEN: Who are Lebanon --

20 MS. WHITE: Yes. Who are all Lebanon
21 residents.

22 CHAIRMAN HONIGBERG: So, it's a
23 larger group, but there's eight who are Lebanon
24 residents.

1 MS. WHITE: Yes.

2 CHAIRMAN HONIGBERG: And he wants to
3 speak for those eight?

4 MS. WHITE: Yes. Though, I am
5 intervening just on behalf of myself as a
6 resident of Lebanon. I am not part of the
7 Upper Valley Young Liberals.

8 CHAIRMAN HONIGBERG: Is he planning
9 on coming to these things in the future?

10 MS. WHITE: I believe so, yes.

11 CHAIRMAN HONIGBERG: I think it would
12 be appropriate then for him to identify who the
13 individuals are.

14 MS. WHITE: Okay.

15 CHAIRMAN HONIGBERG: And I think
16 we're going to hold off on them.

17 MS. WHITE: Okay.

18 CHAIRMAN HONIGBERG: The other seven.

19 MS. WHITE: Yes.

20 CHAIRMAN HONIGBERG: Because I don't
21 know that the Company knows who they are or
22 anybody else knows who they are. I think that
23 the position is likely to be from the
24 Commission that, as an organization, the

1 organization probably has no appropriate
2 standing, interest officially, structurally, to
3 be an intervenor. But it's quite likely that
4 all of the individuals do.

5 MS. WHITE: Okay.

6 CHAIRMAN HONIGBERG: And, if
7 Mr. Wilkie is in a position to speak for all of
8 them, working with you and working with or in
9 coordination with Ms. Arwen, or separately, or
10 however that works out, that that's going to be
11 fine.

12 MS. WHITE: Okay.

13 CHAIRMAN HONIGBERG: But the
14 organization is maybe a little bit different,
15 and that's something that we probably don't
16 have to resolve today. But, I guess, if you
17 can convey back to him, and maybe what we'll
18 need to do, Mr. Speidel, in a secretarial
19 letter, is request that information from
20 Mr. Wilkie.

21 All right. So, now, turning back to
22 you, Ms. White. Why don't you give us your
23 preliminary view of this matter.

24 MS. WHITE: So, I would just like to

1 echo and agree with, first of all, what Ms.
2 Arwen and Mr. Chaffee said.

3 And then just add that, as a resident
4 of Lebanon, I think that expanding into natural
5 gas, and especially in the Upper Valley, where
6 we are looking into renewables heavily, and
7 believe that that is the way forward, expanding
8 into natural gas would not be in the long-term
9 interest of the public good.

10 CHAIRMAN HONIGBERG: Thank you.

11 MS. WHITE: Yes.

12 CHAIRMAN HONIGBERG: Mr. Buckley.

13 MR. BUCKLEY: While the OCA is still
14 evaluating the issues presented within this
15 Petition, we are cautiously optimistic about
16 the opportunities for franchise expansion, that
17 might offer a low-cost fuel for residential
18 populations in the Hanover/Lebanon area.

19 We are also interested in a closer
20 examination of several issues in this docket,
21 including the Company's managerial, technical,
22 and financial ability to operate an
23 off-pipeline CNG/LNG facility. Proposed
24 limitations requiring, at least initially, that

1 all customers be sales customers, rather than
2 transportation customers. And how the proposed
3 expansion might help residents of the Lebanon
4 and Hanover areas meet their needs in a
5 cost-effective manner during the lifetime of
6 the investment, while also protecting the
7 interests of the Company's existing residential
8 ratepayers.

9 We look forward to working with the
10 Staff, Company, and other interested
11 stakeholders to reach the best possible outcome
12 in this docket.

13 CHAIRMAN HONIGBERG: Thank you, Mr.
14 Buckley.

15 Mr. Speidel.

16 MR. SPEIDEL: Thank you, Mr.
17 Chairman. While Liberty's filing is far more
18 comprehensive and greatly reduces the financial
19 risks presented in the previous DG 15-289
20 proposal, Staff does note that Liberty still
21 does not have a firm commitment from an anchor
22 customer.

23 That said, as an initial position,
24 based on Staff's initial review, it appears

1 that granting the request would be in the
2 public interest. Staff will be conducting a
3 thorough review of the supporting analysis and
4 underlying assumptions, and will provide a
5 recommendation at the conclusion of its review.

6 Thank you.

7 CHAIRMAN HONIGBERG: Thank you,
8 Mr. Speidel.

9 Is there anything else we need to do?
10 I understood from what you said earlier that
11 there is no technical session following this,
12 but that Staff will be working with the Parties
13 and Intervenors to develop a schedule?

14 MR. SPEIDEL: Yes. We'll e-mail a
15 proposal to the group, and we will invite them
16 to weigh in on it, and we'll adjust it
17 accordingly. And, hopefully, the requested
18 schedule will come in at some point mid next
19 week.

20 CHAIRMAN HONIGBERG: And,
21 Mr. Sheehan, you'll be working up an
22 appropriate confidentiality agreement. I
23 understand that there's going to -- potentially
24 an objection to the motion for confidential

1 treatment. But, in all likelihood, some of
2 what you have filed will likely be granted some
3 level of protection. But you'll be working up
4 an appropriate confidentiality treatment?

5 MR. SHEEHAN: Yes, sir. And we will
6 make an effort to resolve the objection with
7 that. But, short of that, we'll have an
8 agreement available for whatever is left to do
9 with that confidential.

10 CHAIRMAN HONIGBERG: All right. Is
11 there anything else we need to do before we
12 conclude the prehearing conference?

13 *[No verbal response.]*

14 CHAIRMAN HONIGBERG: All right.
15 Seeing none. Thank you, all. We will adjourn.

16 ***(Whereupon the prehearing***
17 ***conference was adjourned at***
18 ***10:26 a.m.)***

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