

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

**Petition to Approve Firm Supply, Transportation Agreements,  
and the Granite Bridge Project**

**MOTION TO COMPEL LIBERTY UTILITIES' RESPONSES TO DATA REQUESTS**

Now comes the Staff of the New Hampshire Public Utilities Commission (Staff) and respectfully requests the N.H. Public Utilities Commission (Commission) to compel Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (Liberty or the Company) to respond to certain data requests propounded by Staff in this proceeding. In support, Staff states:

1. On July 9, 2018, Staff propounded a fifth set of data requests (Set 5) to Liberty in this docket.
2. Staff's Set 5 data requests included three requests (5-15, 5-17, and 5-18) for modeling runs based on a number of variable inputs to show potential forecasted outcomes of the proposed Granite Bridge Project based on potential capital cost overruns (over and above the capital outlays forecasted in Liberty's petition), customer growth, and load growth levels not provided in the petition.
3. Responses to the Set 5 data requests were due on Monday, July 23, 2018, in accordance with the procedural schedule approved on June 22, 2018, in this docket.
4. On July 13, 2018, Liberty sent an email informing Staff that all of the Staff Set 5 responses would be submitted by July 27.
5. On July 23, 2018, Liberty spoke with Staff's consultant, Liberty Consulting Group (LCG), and informed LCG that the Company would require two weeks to complete and submit the remaining responses to Staff's data requests.
6. During the July 23 call, Liberty suggested an alternative response to Staff request 5-18, including the substitution of a single modeling run based not on Staff's requests but on a response to a request that they answered for another party with a key parameter (the variable concerning the percentage of cost overruns for the Granite Bridge project) that differed from the one requested by Staff.

7. On July 26, 2018, Staff informed Liberty by email that Staff could not agree to the proposed reduction in modeling runs required in response to Staff data requests 5-17 and 5-18, based on a substitution of the Company's modeling runs provided to the Office of the Consumer Advocate (OCA) with different variables.
8. Also on July 26, 2018, Liberty responded by email that "staff needs to be reasonable, 40 or 50 SENDOUT [modeling] runs is patently unreasonable, especially when [the Company has] already done some of them in response to other DRs. We can have the runs that LCG thought were most important."
9. On July 27, 2018, LCG confirmed to Staff that it could not agree to the alternative responses proposed by Liberty to Staff data requests 5-17 and 5-18.
10. On July 30, 2018, Liberty sent an email to Staff stating that all responses would be provided on Thursday, August 2, 2018.
11. To date, no responses to Staff Set 5 data requests 5-15, 5-17, and 5-18 have been provided by Liberty.
12. Without the answers to Staff 5-15, 5-17, and 5-18, the Commission's review of the project plans presented in Liberty's petition will be missing critical analyses that would inform the Commission of potential costs to ratepayers as well as the Company's financial, managerial, and technical capabilities to construct, maintain, and operate the proposed Granite Bridge pipeline and its ancillary facilities, including the proposed natural gas storage facility, in the Commission's statutory assessment of the petition under RSA.
13. It is not clear from the record thus far whether Liberty conducted similar modeling runs as part of its presumed due diligence prior to filing its petition in this proceeding.
14. RSA 374:4 grants the Commission power and imposes the duty to keep informed as to all public utilities in the state, their capitalization, franchises, and the manner in which the property controlled or operated by them are managed and operated, not only with respect to the safety, adequacy, and accommodation offered by their service, but also with respect to their compliance with all provisions of law, orders of the Commission, and charter requirements.

15. Liberty's responses to Staff 5-15, 5-17, and 5-18 are critical to a complete and meaningful review of the transactions under review in this proceeding and, as a result, are fundamental to the Commission's public interest determination in this proceeding.
16. While Liberty has repeatedly promised that some form of response for each pending data request would be provided – most recently promising partial responses on Thursday, August 2, 2018 – it has not outright objected to the responses beyond calling Staff's requests "patently unreasonable."
17. Puc 203.09 requires motions to compel responses to data requests to be made within 15 business days of receiving the applicable response or objection, or the deadline for providing the response, whichever is sooner.
18. Responses to the pending data requests were due Monday, July 23, 2018; a motion to compel must be made within 15 business days of that date, or prior to August 13, 2018.
19. Discovery requests are routinely submitted with the following instruction:

Pursuant to N.H. RSA 365:10, 365:14, 365:15, and 365:19, the Commission shall have the power to obtain data and documents necessary to the performance of its duties as they are prescribed by law.

You are hereby requested to supply the Commission with the data and/or documents delineated in the attached data requests. If you are unable or unwilling to produce a response to a particular request, you must nonetheless provide a written response and state the basis for the inability or unwillingness to furnish the requested information. RSA 365:12 provides that willful failure to comply with this request will subject you to contempt proceedings in Superior Court pursuant to N.H. RSA 491:19 and 491:20.

20. The above instructions were included with Staff's Set 5 data requests propounded on July 9, 2018.
21. Due to the persistent discrepancy between what Staff has requested and what Liberty has promised to file, as well as the repeated delays in filing of these responses, which Staff deems critical to the Commission's review, Staff seeks to preserve its rights under Puc 203.09.


**Compliance with Puc 203.09(i)(4)**

22. Puc 203.09(i)(4) requires a motion to compel responses to data requests to “certify that the movant has made a good faith effort to resolve the dispute informally.”
23. The undersigned counsel contacted Liberty’s counsel numerous times by telephone and by e-mail in an effort to informally resolve the dispute detailed herein.
24. Despite this effort, Staff and Liberty have been unable to resolve the dispute.

Wherefore, Staff respectfully requests the Commission to provide the following relief:

- A. Compel Liberty’s responses to Staff 5-15, Staff 5-17, and Staff 5-18 data requests as propounded; and
- B. Grant such other relief as deemed just and equitable.

Respectfully submitted,

  
\_\_\_\_\_  
Lynn Fabrizio  
Staff Attorney

New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301  
(603)271-2431  
lynn.fabrizio@puc.nh.gov

Attachment

## Attachment A

- Staff 5-15.** Regarding the Company's response to Data Request No. Staff Tech 1-7:
- a. Please provide a new case that is the same in every respect as the Alternate Case Prime Sensitivity, the results of which are presented in Table 2 on page 3 of Attachment Staff Tech 1-7.1 in Docket No. DG 17-152, except that, for the new case, replace the Granite Bridge Pipeline with a 75,000 Dth/day expansion of the Concord Lateral. For the Concord Lateral expansion, use the capital costs and indicative rates that the Company received from Tennessee Gas Pipeline, as discussed on page 64 of the Killeen-Stephens testimony in Docket No. DG 17-198. Provide all outputs of both SENDOUT and financial model runs for both cases in live Excel format.
  - b. For the Company's Alternate Case Prime Sensitivity and the new case requested in a), please provide details of how the capital costs and variable costs of (i) the Granite Bridge Pipeline and (ii) the Concord Lateral expansion were specified to both SENDOUT and the financial model.
- Staff 5-17.** Per the discussions in the first Technical Session, please provide economic model runs for both the Granite Bridge Pipeline and LNG facility that use alternative inputs for capital costs, customer growth, and load growth that:
- a. Increases capital costs
    - i. Using 25% higher capital cost for each project
    - ii. Using 50% higher capital cost for each project
  - b. Decreases customer and load growth:
    - i. Using 50% of the sales and marketing adjustment
    - ii. Using no sales and marketing adjustment
  - c. Implements each scenario defined above individually then in combination (eight cases)
    - i. 25% higher capital cost and Company load growth
    - ii. 50% higher capital cost and Company load growth
    - iii. 25% higher capital cost and 50% sales and marketing adjustment
    - iv. 50% higher capital cost and 50% sales and marketing adjustment
    - v. 25% higher capital cost and no sales and marketing adjustment
    - vi. 50% higher capital cost and 50% sales and marketing adjustment
    - vii. Company capital cost and 50% sales and marketing adjustment
    - viii. Company capital cost and no sales and marketing adjustment
  - d. Includes
    - i. Levelized cost in dollars per year
    - ii. Cost per customer
    - iii. Cost impact to current customers
    - iv. Cost per dekatherm
    - v.
- Staff 5-18.** Please provide economic model runs for both the Granite Bridge Pipeline and LNG facility that:
- a. Delays the LNG facility
    - i. By 5 years
    - ii. By 10 years
  - b. Includes
    - i. Levelized cost in dollars per year
    - ii. Cost per customer
    - iii. Cost impact to current customers
    - iv. Cost per dekatherm