

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

Docket No. DG 17-198

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities;	)	
Petition to Approve Firm Supply and Transportation Agreements and the Granite Bridge Project	)	Calpine Corporation's Petition to Intervene and Preliminary Objection to Amendment of Petition

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Pursuant to RSA 541-A:32 and NH Admin. R. Puc 203.17, Calpine Corporation ("Calpine") respectfully petitions the New Hampshire Public Utilities Commission (the "Commission") to intervene as a full party in the above-captioned proceeding and objects preliminarily to the July 31, 2020 Motion to Amend Petition of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty"). For the reasons stated below, Calpine respectfully requests that the Commission grant it intervenor status in this proceeding and, after ruling its intervention, allow Calpine to file a more fulsome objection to Liberty's Motion to Amend Petition.

**BACKGROUND**

**A. Granite Ridge Has Been the Exclusive Customer Served by the 2.7 Mile Granite Ridge Lateral Since it Was Placed in Service Two Decades Ago.**

Calpine owns and operates a 745 MW natural gas-fired, combined cycle electric generating facility in Londonderry, New Hampshire commonly known as Granite Ridge ("Granite Ridge"), which operates pursuant to a Capacity Supply Obligation under the ISO-New England tariff.<sup>1</sup> Granite Ridge generates electricity via two electricity-producing natural gas turbines as well as a steam turbine driven by two recovery heat steam

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<sup>1</sup> Calpine acquired Granite Ridge in 2016. Granite Ridge was initially developed in the early 2000's by AES Londonderry, LLC.

generators. This highly fuel-efficient approach enables Granite Ridge to consume 30 percent less natural gas per megawatt-hour-produced than older technology plants, making it a cost-effective and low-carbon source of electricity for New Hampshire and the ISO-New England control area.

On May 26, 1999, the New Hampshire Site Evaluation Committee (“SEC”) granted AES Londonderry LLC a Certificate of Site and Facility for the Granite Ridge generating facility and “the lateral gas pipeline connection to the existing Tennessee Gas Pipeline.” *Application of AES Londonderry LLC*, SEC Docket No. 98-02. For approximately the last 19 years, Granite Ridge has had exclusive access to the lateral (the “Granite Ridge Lateral”) to meet its operational needs and power supply obligations. While Calpine and the predecessor owners of Granite Ridge purchased and managed the commodity gas supply for the plant, Liberty (and its predecessors<sup>2</sup>) operated the lateral on behalf of Granite Ridge pursuant to a Gas Transportation Agreement (the “GTA”) approved by this Commission by a March 22, 2001 Order issued in *In re EnergyNorth Natural Gas, Inc.*, Docket No. DG 00-207 (Order No. 23,657). Pursuant to the GTA and the AES Londonderry Certificate, Liberty constructed the 2.7 mile Granite Ridge Lateral that interconnects a meter station in Londonderry off the interstate natural gas transmission line owned by Tennessee Gas Pipeline Company (“Tennessee”) to Granite Ridge. The sole purpose of the Granite Ridge Lateral was to transport natural gas reliably from Tennessee’s system to Granite Ridge, and the GTA has provided the terms and conditions of those services. Pursuant to the GTA, Liberty was required to design the Granite Ridge Lateral with sufficient capacity to deliver

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<sup>2</sup> For convenience, Liberty and its predecessors are referenced herein collectively as Liberty.

130,000 Dth/day of natural gas to Granite Ridge. The Granite Ridge Lateral was placed into service in 2001 and cost approximately \$ 3.6 million to construct.

During the past 19 or so years, Granite Ridge has been the sole customer on the Granite Ridge Lateral. Over that time, Calpine and its predecessors have paid Liberty in excess of \$15 million for transportation services provided pursuant to the GTA. Calpine presently has no reasonable alternative to the Granite Ridge Lateral to transport natural gas from Tennessee's interstate pipeline (or any other interstate pipeline for that matter) to Granite Ridge, and Liberty's customers have benefitted considerably from having Calpine as a customer of the public utility.

**B. Liberty Terminates the GTA with Granite Ridge and Provides No Assurance as to How it Will Provide Future Gas Transportation Services to Granite Ridge or the Terms and Conditions Related to Such Service.**

By letter dated July 23, 2020, Liberty notified Calpine that Liberty was "terminat[ing] the [GTA] as of September 14, 2021" (the "July 23 Liberty Notice").

Although Liberty knows that Calpine has no other reasonable alternative to the Granite Ridge Lateral to transport natural gas to Granite Ridge, the July 23 Liberty Notice provides no assurance or explanation as to how Liberty intends to continue providing public utility transportation service at the level required to operate Granite Ridge safely, efficiently and reliably, or the terms and conditions associated with such service. Instead, the July 23 Liberty Notice merely refers Calpine to Liberty personnel "to discuss the new terms under which [Liberty] can continue to provide service" post-termination.

**C. Liberty Seeks to Amend its Petition in this Proceeding to Obtain Commission Approval of a Capacity Contract with Tennessee and the Granite Ridge Lateral Will be Repurposed to Transport Significant Quantities of Gas to Other Liberty Customers.**

On July 31, 2020 (six business days after serving the July 23 Liberty Notice), Liberty filed in this proceeding a Motion to Amend Petition (the “Motion to Amend”). A central purpose of Liberty’s Motion to Amend is to obtain Commission approval of a new gas capacity contract with Tennessee (the “Capacity Contract”). Testimony filed by Liberty in support of the Motion to Amend<sup>3</sup> describes the proposed Capacity Contract as “a standard Gas Transportation Agreement” with an effective date of November 1, 2021, a 20-year term, a quantity of up to 40,000 Dth/day and, importantly, a delivery point at “the Calpine Granite Ridge gate station in Londonderry.” (DaFonte-Killeen Second Supp. Dir. Test’y at 6-7.) This gate station is the precise location where the Granite Ridge Lateral interconnects with Tennessee’s transmission line.

Moreover, the testimony of Messrs. DaFonte and Killeen makes clear that Liberty now intends to use a portion of capacity available on the Granite Ridge Lateral (approximately 40,000 Dth/day) to accommodate the deliveries of natural gas associated with the Capacity Contract:

Q. Given the on-system distribution enhancements required to optimize the deliveries associated with the TGP Contract, is the Company concerned regarding potential delays in the proposed in-service date for the on-system enhancement projects?

A. As discussed above, the Company has identified certain on-system distribution enhancements necessary to optimize the incremental supply from TGP. These on-system enhancements would be phased in over time to reduce construction delays and minimize costs for customers, while ensuring the benefits of the new TGP volumes are available to meet system demand.<sup>21</sup>

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<sup>3</sup> Second Supplemental Direct Testimony of Francisco C. DaFonte and William R. Killeen (July 31, 2020) (“DaFonte-Killeen Second Supp. Dir. Test’y”).

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<sup>21</sup>The Company's current schedule for these on system enhancements is as follows:

2021 - Complete design and permitting;

2022 - Rebuild the point of delivery from TGP in Manchester at Candia Road, **build a new point of delivery into the distribution system from the Granite Ridge transmission pipeline, and then build a pipeline from the new point of delivery into the Manchester distribution system;**

2023 - Uprate the pressure of the existing 130 psig sub-transmission feeder in Manchester, and build a river crossing from the new pipeline into the distribution system in Merrimack; and

2024 - **Build a pipeline that connects the Granite Ridge transmission station constructed in 2022 to the end of the existing Nashua sub-transmission feeder near the Budweiser plant in Merrimack.**

DaFonte-Killeen Second Supp. Dir. Test'y at 28 & n.21 (emphasis added.)

The July 23 Liberty Notice made no mention of the fact that Liberty intended to terminate the existing GTA so Liberty could use the Granite Ridge Lateral for other gas distribution purposes. Nor did Liberty's July 31 filing provide any information to the Commission about the implications of repurposing the Granite Ridge Lateral. Based on Liberty's testimony, however, it is clear that Liberty intends to reduce Granite Ridge's historic access to capacity on the lateral by 40,000 Dth/day, notwithstanding that the lateral was initially designed, permitted and constructed specifically for the needs of Granite Ridge with a capacity of 130,000 Dth/day. Calpine has significant concerns that Liberty's plan to repurpose the Granite Ridge Lateral will negatively affect Calpine's ability to operate the Granite Ridge facility safely, efficiently and reliably and in a manner consistent with ISO-New England tariff requirements.

## **ARGUMENT**

### **A. The Commission Should Grant Calpine's Petition to Intervene.**

By this Petition, Calpine seeks full intervention status in the instant proceeding. The statutory standards for intervention are set forth in RSA 541-A:32, I. A petition for

intervention must be granted if the petitioner states facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding (or the petitioner qualifies under any provision of law) and the interests of justice and orderly and prompt conduct of the proceedings would not be impaired by allowing intervention. *See* RSA 541-A:32, I(b) & (c). *See also* N.H. Admin. R. Puc 203.17 (requiring the Commission to grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32).

Here, Calpine meets the standards for intervention. The Granite Ridge generation facility has been served by Liberty for nearly 20 years via the Granite Ridge Lateral. To Granite Ridge's knowledge, no other customer of Liberty has ever taken service from the Granite Ridge Lateral since it was placed in service. Moreover, over the past two decades, Granite Ridge has provided financial support to Liberty of more than \$15 million for a lateral that cost approximately \$3.6 million to construct.

Liberty now seeks Commission approval of a 40,000 Dth/day capacity contract with Tennessee. Liberty clearly intends to flow the gas associated with the Capacity Contract over the Granite Ridge Lateral, taking up more than 30% of its design capacity. There is no discussion in Liberty's Motion to Amend or supporting testimony, however, that provides any explanation or assurance that Liberty will be able to maintain the level of service that Calpine requires to operate Granite Ridge safely, efficiently and reliably, or the terms and conditions pursuant to which such service would be provided.<sup>4</sup>

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<sup>4</sup> Although Liberty has benefitted from having Granite Ridge as a significant customer during the past two decades, Liberty's abrupt termination of the GTA, followed closely by a proposed repurposing of the Granite Ridge Lateral, have created unwarranted operational uncertainty for Granite Ridge. Thus, while Calpine appreciates the long-term and mutually beneficial relationship with Liberty, it may be necessary to assess non-utility solutions to preserve Granite Ridge's ability to operate safely, reliably and in accordance with its

Calpine has made a significant investment in Granite Ridge. This 745 MW gas-fired generator plays an important role in electric reliability in New Hampshire and the New England region and has historically been a significant customer of Liberty, which has benefitted all of Liberty's customers. Given the importance of Granite Ridge's access to the interstate gas transmission system through the Granite Ridge Lateral, Calpine has a substantial interest in the Commission's approval of Liberty's proposed capacity contract with Tennessee and Liberty's intention to transport the 40,000 Dth/day of gas related to the Capacity Contract across the Granite Ridge Lateral and other on-system enhancements described in Liberty's testimony. Although Liberty is not requesting Commission authorizations specific to the on-system enhancements, the delivery point for the proposed Capacity Contract is the Granite Ridge city gate, and the 40,000 Dth/day of gas commodity associated with the capacity reservation must necessarily flow on the Granite Ridge Lateral. There is simply nowhere else for it to go.

For the reasons stated above, Calpine is concerned that the Granite Ridge Lateral that has served Granite Ridge reliably for nearly two decades will not have sufficient capacity to serve both Granite Ridge's needs and Liberty's expansion plans. Thus, Calpine qualifies for intervention under the mandatory provisions of RSA 541-A:32, I because its substantial interest in safe and reliable service may be affected by the proceeding. Moreover, Calpine's participation is in the interests of justice and the orderly and the prompt conduct of the proceeding would not be impaired by allowing Calpine's intervention.

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obligations to ISO-New England. In the near term, however, Granite Ridge has no reasonable alternative to the Granite Ridge Lateral for access to the interstate natural gas pipeline system.

**B. Calpine Intends to Object to Liberty's July 31, 2020 Motion to Amend Petition.**

On July 31, 2020, Liberty filed a Motion to Amend Petition in this proceeding.

Liberty reasons that its Motion should be granted primarily because the approval of the Tennessee Capacity Contract “fall[s] comfortably within the scope of the Commission’s February 8, 2018, Order of Notice.” (Motion to Amend at 3.) Calpine respectfully requests that the Commission defer ruling on Liberty’s Motion to Amend until 14-days after ruling on Calpine’s Petition to Intervene. In the meantime, Calpine offers preliminary observations on Liberty’s Motion.

Contrary to Liberty’s assertion, Calpine and other potential intervenors were not provided with any notice at the commencement of this proceeding that the Commission would be asked to approve a 40,000 Dth/day capacity contract with Tennessee that would result in Liberty repurposing the Granite Ridge Lateral. Had Calpine received such notice at the commencement of this proceeding, Calpine would have intervened at that time and had an opportunity to participate in the development of the record for this proceeding. Instead, the issue has been raised late in the proceeding and has put Calpine in the position of seeking intervention in a Commission docket that has been ongoing for more than two years. To ensure that proper notice is provided consistent with the Commission’s Procedural Rules,<sup>5</sup> the Commission should deny Liberty’s Motion to Amend and open a new, properly noticed docket to adjudicate the proposed Capacity Contract. Calpine respectfully requests an opportunity to provide a more fulsome objection to Liberty’s Motion after the Commission has ruled on Calpine’s Petition to Intervene.

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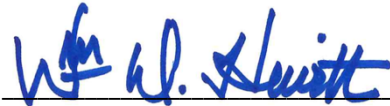
<sup>5</sup> See N.H. Admin. R. Puc 203.12 (requiring public notice that includes “[a] short and plain statement of the issues presented”).



**CONCLUSION**

For all of the reasons stated herein, Calpine respectfully requests that the Commission grant it intervention in this proceeding and allow it to respond formally to Liberty's July 31, 2020 Motion to Amend Petition 14 days after ruling on Calpine's Petition to Intervene.

Dated: August 7, 2020



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**CERTIFICATE OF SERVICE**

I, William D. Hewitt, certify that a copy of this filing has been served on the electronic service list for the above-captioned proceeding consistent with the Commission's March 17, 2020 Secretarial Letter.

Dated: August 7, 2020



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William D. Hewitt