

THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

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

Docket No. DG 18-092

Petition for a License to Construct and Maintain a  
Natural Gas Pipeline beneath Ashuelot River in Keene

**Motion for Protective Order Related to Discovery Responses**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, through counsel, respectfully moves the Commission pursuant to Puc 203.08 for a protective order precluding the disclosure of certain data responses and confidential attachments provided during discovery in this matter.

In support of this motion, Liberty represents as follows:

1. Liberty notified the parties pursuant to Puc 203.08 to consider the data responses and attachments listed below to be confidential without then filing a motion. The rule allows such a claim of confidentiality:

In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

Puc 203.08(d).

2. The rule requires the party asserting confidentiality to file a motion to ensure the documents remain confidential:

Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

Puc 203.08(e).

3. Liberty thus files this motion for confidential treatment of the following data responses and attachments:

- a. Response to Clark 1-17, asserting confidentiality of the bid price for a horizontal directional drill (“HDD”) at Winchester Street;
- b. Response to Clark 1-18, asserting confidentiality of the estimated price to replace the West Street bridge pipe; and
- c. Confidential Attachment Clark 1-20, asserting confidentiality of a Liberty-prepared map of the Keene distribution system.

4. The confidential information in response to Clark 1-17 and Clark 1-18 consists solely of the dollar amount of the third party pricing that the Company received as a bid for one HDD and the Company-estimated pricing for an alternative. The response to Clark 1-17 pertains to horizontal directional drilling costs for the crossing near the Winchester Street Bridge. The response to Clark 1-18 pertains to the costs to replace the West Street pipeline if the Winchester Street pipe was not in service.

5. Bid information is routinely treated as confidential pricing information of third parties. Also, since the Company has not accepted a bid and may have to re-bid the project in the future, disclosure of the bid information and of the Company-generated estimated information may result in less than competitive final bids, to the detriment of the Company’s

customers. Thus, the dollar figures in the responses described above are “confidential, commercial, or financial information” protected from disclosure by RSA 91-A:5, IV.

6. Confidential Attachment Clark 1-20 is the Company’s map of the Keene distribution system which shows precisely where the pipes and other facilities are located within the City of Keene.
7. As a security measure, the Company seeks to maintain confidentiality of the detailed maps of its distribution system, which is consistent with the federal Office of Pipeline Safety’s own practice of removing pipeline maps from its website. *See* <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Ascds%3AUS%3Ac346e4f3-c043-48dc-922c-c73b2a9dbe21> at 12 (“Soon [after September 11, 2001], because of national security concerns, the OPS removed from its web site detailed maps of the country’s pipeline infrastructure”).
8. The Company thus seeks confidential treatment of the distribution system map that was produced in discovery as Confidential Attachment Clark 1-20.

WHEREFORE, Liberty respectfully asks that the Commission:

- a. Grant confidential treatment to the discovery responses described above; and
- b. Grant such other relief as is just and reasonable.

Respectfully submitted,  
Liberty Utilities (EnergyNorth Natural Gas) Corp.  
By its Attorney,



Date: November 25, 2018

By: \_\_\_\_\_  
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Certificate of Service

I hereby certify that on November 25, 2018, a copy of this motion has been electronically forwarded to the service list.

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By: \_\_\_\_\_  
Michael J. Sheehan