

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 20-105

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

Distribution Service Rate Case

**Motion for Protective Order and Confidential Treatment
Regarding Compensation Information, Customer Information, and Contract
Pricing**

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“EnergyNorth” or “the Company”), through counsel, respectfully moves the New Hampshire Public Utilities Commission pursuant to Puc 203.08 to grant confidential treatment of certain compensation information required by Puc 1604.01 that is included with the Company’s rate case filing made on this date, and of protected customer information and confidential pricing information contained within Attachment WJC-MRS-1(c) to the Clark/Stevens testimony.

In support of this motion, the Company states as follows:

1. Puc 1604 requires a petitioning utility to file certain documents with its rate case, including “[a] list of officers and directors of the utility and their compensation for the last 2 years.” Puc 1604.01(a)(14).

2. The Company included in the Puc 1604 filing requirements portion of its rate case both confidential and public versions of the single-page document (Bates I-120) that contains the salary and compensation information for officers and directors of EnergyNorth as required by Puc 1604.01(a)(14), as further specified in Order No. 26,271 (July 10, 2019) (the “Compensation Information”).

3. The Company also included Attachment WJC-MRS-1(c) to the Clark/Stevens testimony, Bates II-607, which is a table showing consumption by a customer, iNATGAS, and showing the “gross margin,” which is simply the consumption multiplied by the per-therm rate. The customer usage data is confidential pursuant to RSA 363:37 and :38 (“Privacy Policies for Individual Customer Data”) (the “iNATGAS usage data”), and the rate charged to iNATGAS is a special contract term that was granted confidential treatment in the docket that evaluated the special contract (the “iNATGAS rate”).

Compensation Information

4. EnergyNorth seeks confidential treatment of the Compensation Information regarding the Company’s directors, President, and the current and former Secretary/Treasurer because the Company holds that information in confidence and has not previously made the information available to the public.

5. Protective treatment of the Compensation Information is appropriate because the individuals have a privacy interest in their compensation and there is no corresponding public interest that tips the balance in favor of disclosure. RSA 91-A:5, IV (exempted from disclosure are “Records pertaining to internal personnel practices; confidential, commercial, or financial information,” and “personnel ... files whose disclosure would constitute invasion of privacy”).

6. In Order No. 26,271, the Commission applied the three-step test from *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008), to an identical filing of EnergyNorth’s affiliate, Liberty Utilities (Granite State Electric) Corp, and determined that the individual-specific information identified in this filing should enjoy confidential treatment, but that the Company should publicly disclose aggregated compensation information:

Liberty’s public report shall include: (1) the individual compensation information for Ian Robertson, whose 2017

information has already been disclosed in this docket, updated for 2018 information when that becomes public; (2) aggregate information for each class of Director (i.e. Directors, Directors - Class I, and Directors - Class II) with an indication which, if any, of the category of director contains Ian Robertson's compensation in the aggregate information; and (3) aggregate information for the other two officers (President and Secretary/Treasurer). For all this information, Liberty shall disaggregate the compensation information by three types, per Puc 1604.01(a)(14), as discussed above, and provide the amount and percentage charged to Liberty Utilities (Granite State Electric) Corp.

Order No. 26,271 at 6.

7. EnergyNorth's filing in this docket follows the Commission's directive quoted above – it redacts the individual information and provides the aggregated compensation information of the three categories (Class I Directors, Class II Directors, and EnergyNorth officers). The Company has disclosed Mr. Robertson's information because, as CEO of Algonquin Power & Utilities Corp., his compensation has been disclosed pursuant to the laws governing publicly traded companies.

8. For the reasons explained in Order No. 26,271, the Company asks that the Commission again grant confidential treatment to the individual compensation information, in light of the rules governing confidentiality and in light of the Company's disclosure of the aggregated data.

iNATGAS Usage Data

9. The iNATGAS Usage Data is statutorily deemed to be confidential. RSA 363:37, I, defines "individual customer data" as "information that is collected as part of providing ... natural gas ... services to a customer that can identify, singly or in combination, that specific customer, including the ... quantity ... of consumption by the customer." RSA 363:38, I(a), states: "No service provider [which includes public utilities] shall: (a) Share, disclose, or otherwise make

accessible to any third party a customer's individual customer data.”

10. The iNATGAS Usage Data can thus bypass the three step *Lambert* test because the Legislature has already made the determination that the iNATGAS Usage Data is confidential and not subject to disclosure.

11. One reason for the iNATGAS special contract was that iNATGAS and EnergyNorth agreed on a per therm transportation rate that was different than the otherwise applicable tariff rate. Charging rates different than those contained in Commission-approved tariffs require separate Commission approval. RSA 378:18.

12. In the iNATGAS docket, the parties sought to keep the agreed transportation rate for competitive reasons. “If the per therm transportation rate was made public, it would impair iNATGAS’ ability to sell its CNG from the facility at a competitive cost.” *Motion for Protective Order and Confidential Treatment*, filed April 4, 2014, in Docket No. DG 14-091, at pages 2–3.

13. The Commission approved this request by an oral order made during the prehearing conference in that docket. *See* Transcript of April 23, 2014, prehearing conference in Docket No. DG 14-091, at page 12.

14. Since the iNATGAS Rate was previously found to warrant confidential treatment, such treatment should continue to apply here.

WHEREFORE, EnergyNorth respectfully requests that the Commission:

- A. Grant confidential treatment to the Compensation Information as contained in the Puc 1604 filing;
- B. Grant confidential treatment of the iNATGAS Usage Data and the iNATGAS Rate as contained in Attachment WJC-MRS-1(c) to the Clark/Stevens testimony; 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 Attorney,



Date: July 31, 2020

By: _____

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Certificate of Service

I hereby certify that on July 31, 2020, a copy of this motion has been electronically forwarded to the service list in this docket.



Michael J. Sheehan