

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
DG 21-050

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY, KEENE
DIVISION**

Summer 2021 Cost of Gas—Bifurcated- Contract Terms

STAFF’S MOTION TO WITHDRAW “STAFF’S MOTION TO COMPEL DISCOVERY” AS MOOT

NOW COMES Commission Staff (Staff) pursuant to New Hampshire Administrative Rule Puc 203.09 (i), and respectfully requests this honorable Commission to grant Staff’s Motion to Withdraw “Staff’s Motion to Compel Discovery” as Moot. In support, Staff states as follows:

1. In its expedited Summer 2021 Cost of Gas (COG) filing, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty, Keene Division (Liberty or Company) informed Commission Staff (Staff) that Liberty had executed a new compressed natural gas (CNG) agreement on January 6, 2021, to be effective July 1, 2021. (January 2021 CNG Agreement). *See* Petition (March 15, 2021), Prefiled Testimony of Deborah Gilbertson and Catherine McNamara at 11-12.

2. On April 5, 2021, Staff issued data requests to Liberty in order to understand the meaning and terms appearing in the Company’s January 2021 CNG Agreement (issues parallel to some of the issues the parties considered in Docket No. DG 20-152, the Winter 2020-21 COG, with regard to Liberty’s current CNG contract). The Company’s data responses were due on April 12, 2021.

3. Liberty did not provide meaningful responses to several Staff data requests regarding the January 2021 CNG Agreement. *See* Staff’s Letter requesting the Commission to direct Liberty to produce witnesses on April 19, 2021 (filed April 14, 2021); “Staff’s Motion to Compel Liberty Utilities d/b/a Liberty, Keene Division, to Fully Answer Data Requests Propounded by Staff April 5, 2021” (filed April 21, 2021) (Hearinafter “Staff’s Motion to Compel Discovery”).

4. At the April 19, 2021 hearing, and subsequently in Order No. 26,475 at 10-11 (April 30, 2021), the Commission bifurcated the non-rate contract matters, and directed Liberty, Staff, and the Office of Consumer Advocate, to engage in expedited and meaningful conversation regarding the January 2021 CNG Agreement terms at issue. *See* Hearing Transcript of April 19, 2021 at 12-35.

5. The Commission also directed Liberty to file an amended version of the January 2021 CNG Agreement that “is consistent with applicable laws and rules,” on or before June 1, 2021. *See* Order No. 26,475 at 10-11.

6. Staff subsequently filed a motion to compel Liberty to produce responses to data requests so that Staff could meaningfully participate in expedited discussions. *See* Staff’s Motion to Compel Discovery; Staff’s Reply to Liberty’s Objection (filed May 10, 2021).

7. Liberty has not provided any additional information about Liberty’s current CNG contract or the January 2021 CNG Agreement.

8. During the period May 18, 2021 through June 1, the parties discussed the Company’s new proposed CNG contract amendment. Specifically, the parties considered how a new CNG Agreement, pre-approved by the CNG supplier, might become consistent with Liberty’s CNG facility’s operating and emergency management procedures. The parties also considered whether the proposed contract was consistent with New Hampshire Administrative Rule Puc 506.01. Liberty filed a redacted version of that proposed (unexecuted) contract into the docket on June 1, 2021; that version red-lines new language and terms from the version pre-approved by the CNG supplier, and subsequent changes made at Staff’s request after May 18, 2021.

9. On June 10, 2021, Liberty filed a new executed CNG Agreement dated June 2, 2021, to be effective July 1, 2021 (June 2021 CNG Agreement). In that filing, Liberty stated that the June 2021 CNG Agreement “is consistent with applicable rules and laws.” Based upon information and belief, the Company’s executed June 2021 CNG Agreement contains the changes shown in the redacted red-lined Agreement Liberty filed on June 1, 2021, and no other changes (other than a different date of execution).

10. In Staff's view, the June 2021 CNG Agreement is consistent with the Liberty CNG facility's operating and emergency management procedures. Further, in Staff's view, the June 2021 CNG Agreement is not inconsistent with Puc 506.01. See Staff's Letter dated June 12, 2021 (with a presumed filing date of Monday June 14, 2021). Staff asserts that Staff has met the requirements of Order No. 26,475.

11. As described above, the June 2021 CNG Agreement wholly replaces the January 2021 CNG Agreement. Therefore, the meaning of terms and phrases in Liberty's January 2021 CNG Agreement, which is the focus of Staff's pending motion to compel discovery, is no longer relevant to this docket. Accordingly, Staff moves to withdraw "Staff's Motion to Compel Discovery" as moot.

WHEREFORE, Commission Staff respectfully request that this honorable Commission:

- A. GRANT Staff's Motion to Withdraw "Staff's Motion to Compel Discovery" as Moot; and
- B. GRANT such other and further relief as may be just and equitable.

Respectfully submitted,

/s/ Mary.E.Schwarzer

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CERTIFICATE OF SERVICE

I hereby certify that this 12 day of June, 2021, an electronic copy of the foregoing motion is being sent to the Service List, consistent with the Commission's Temporary Changes in Filing Requirements (March 17, 2020) due to the COVID -19 state of emergency.

/s/ Mary E. Schwarzer

Mary E. Schwarzer, Staff Attorney